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INSTRUMENT NUMBER

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County Clerk/Register of Deeds
Deb Houghtaling



RECORDING REQUESTED BY,
AND WHEN RECORDED, RETURN TO:

PREP Property Group LLC
5905 E. Galbraith Road,
Suite 1000
Cincinnati, OH 45236
Attn: Vivian M. Knight

AMENDED AND RESTATED **RESTRICTION AGREEMENT**

This Amended and Restated Restriction Agreement (hereinafter the "Agreement") is made and entered into this 19 day of March, 2019, by and between **PAPILLION DEVELOPMENT LAND, LLC**, a Nebraska limited liability company, having a mailing address c/o RED Development, LLC, One E. Washington Street, Suite 300, Phoenix, AZ 85004 ("Owner") and **PPG SHADOW REAL ESTATE LLC**, a Delaware limited liability company, having a mailing address c/o PREP Property Group LLC, 5905 E. Galbraith Road, Suite 1000, Cincinnati, Ohio 45236 ("PPG").

WHEREAS, Owner and PPG previously entered into that certain Restriction Agreement recorded on August 29, 2018 as Document No. 2018-20357 ("Original Restriction") following PPG's purchase from Shadow Lake Towne Center, LLC ("SLTC") certain parcels of land (the "Purchased Parcels") described in Exhibit A attached hereto comprising substantially all of a shopping center known as Shadow Lake Towne Center ("Shopping Center"),

WHEREAS, Owner is an affiliate of SLTC and is the fee simple owner of those certain parcels of land (hereinafter, the "Restricted Tracts") described in Exhibit B attached hereto, which Restricted Tracts are part of the Shopping Center.

WHEREAS, SLTC, as the previous owner of the Purchased Parcels has entered into various leases and has subjected the Shopping Center to certain restrictions and prohibited uses (the "Lease Dictated Restrictions and Prohibited Uses"), and the Owner and PPG have agreed to restrict the Restricted Tracts in accordance with the terms of this Agreement.

WHEREAS, the Purchased Property includes that certain parcel of land described in Exhibit C attached hereto (the "Leased Property"), which is subject to a Lease dated April 26, 2007 with Dick's Sporting Goods, Inc., a Delaware corporation, as has been or may be amended from time to time (collectively, the "Lease").

WHEREAS, the Lease puts certain restrictions, including without limitation designating “No-Build Areas” and “Permissible Building Areas” on selected parcels within the Shopping Center, including the Restricted Tracts; and Owner and PPG have agreed to restrict the Restricted Tracts in accordance with the provisions set forth in the Lease.

WHEREAS, the Restricted Tracts are subject and subordinate to the terms and conditions of that certain Declaration of Reciprocal Easements, Covenants and Restrictions by and between Papillion Development, LLC, a Nebraska limited liability company, and Hy-Vee, Inc., an Iowa corporation, and recorded in the Office of the Register of Deeds, Sarpy County, Nebraska, on June 20, 2006, as Instrument No. 2006 – 20802, as may be assigned and/or amended from time to time (the “REA”), as well as to certain other restrictions set forth hereinbelow.

WHEREAS, the Lease was amended by a First Amendment to Lease dated March 19, 2019 after the execution and recordation of the Original Restriction, and the parties hereto now desire to amend and restate the Original Restriction to reflect the terms of the amendment to the Lease, including the replacement of Exhibit D attached hereto.

NOW THEREFORE, in consideration of the premises, and good and valuable consideration given and the receipt of which is hereby acknowledged, the parties agree as follows:

1. Future Construction -No Build Area and Permissible Building Areas. Owner acknowledges that the Lease provides that “no buildings, monument or pylon signs, structures or obstructions (whether temporary or permanent) other than landscaping, canopies, building appurtenances and signs attached to store buildings, lighting equipment and directional and other signs, as shown on the Lease Plan attached to the Lease or as otherwise permitted by the provisions of the Lease, and comparable replacements and renewals of landscaping and other items generally depicted on the Lease Plan, may be located in any area of the Shopping Center identified on the Lease Plan as the “No-Build Areas” except as may be required by law or in case of emergency.” Owner acknowledges and agrees specifically to be bound by the terms of the Lease relative to construction of any buildings to be located on the Restricted Tracts (“Future Shopping Center Buildings”) all as further set forth below (collectively the “Building Restrictions”):

- a. the Future Shopping Center Buildings on the Restricted Tracts shall be located within the “Permissible Building Areas” and may not be located within the “No Build Areas”, each as depicted on the Lease Plan attached to the Lease and as duplicated on Exhibit D attached hereto and incorporated herein by reference (in the event of any discrepancy between the Lease Plan attached to the Lease and the attached Exhibit D, the Lease Plan shall govern);
- b. the Future Shopping Center Buildings to be located within the Permissible Building Area for the Restricted Tract identified as Lot 2 of Replat 4 shall not exceed twelve thousand five hundred (12,500) square feet, and the Future Shopping Center Building to be located within the “Permissible Building Area”

(as depicted on the attached Lease Plan) for the Restricted Tract identified as Lot 4 of Replat 4 shall not exceed four thousand (4,000) square feet;

- c. the development, construction and/or build-out of the Future Shopping Center Building to be located on the Restricted Tracts shall not occur during the holiday season, which is defined as from November 15 until the following January 15; provided, however, this restriction shall not apply to any construction on the interior of any Future Shopping Center Building;
- d. the overall height of each Future Shopping Center Building on the Restricted Tracts shall not exceed twenty-eight feet (28') measured from the finished floor elevation of such Future Shopping Center Building to the top of the parapet wall or roof of such Future Shopping Center Building, except that architectural elements may be up to thirty feet (30') in height measured from the finished floor elevation of said Future Shopping Center Building to the top of such architectural element(s), such architectural element(s) not to exceed thirty-three percent (33%) of the linear feet of such Future Shopping Center Building's total aggregate exposed wall area;
- e. any staging area for the Future Shopping Center Buildings to be located on the Restricted Tracts shall be self-contained within the parking areas located on the respective Restricted Tracts; and
- f. if the Demised Premises (as defined in the Lease) under the Lease is open for business during construction of Future Shopping Center Buildings on the Restricted parcels, Owner shall cause the erection of a fence, barricade or other device as may be required to ensure the safety of the Tenant (as defined in the Lease) and its employees, agents, licensees, customers, invitees, sublessees, concessionaires, successors and assigns."

Owner, on behalf of itself and its successors and assigns, hereby covenants and agrees, for the benefit of PPG and the "Tenant" under the Lease, that the Building Restrictions shall be binding on the Restricted Tracts and that Owner shall comply with the Building Restrictions as the same relate to the Restricted Tracts for so long as the Lease (including any renewals and/or extensions) is in effect.

2. Exclusives and Restrictions. Owner acknowledges that because the Restricted Tracts are part of the Shopping Center, the Restricted Tracts shall be subject to the Lease Dictated Restrictions and Prohibited Uses which are set forth on attached Exhibit E which is incorporated herein by reference. Owner, on behalf of itself and its successors and assigns, hereby covenants and agrees, for the benefit of PPG and the respective tenants under the various applicable leases, that the Lease Dictated Restrictions and Prohibited Uses shall be binding on the Restricted Tracts and that Owner shall comply with the Lease Dictated Restrictions and Prohibited Uses as the same relate to the Restricted Tracts for so long as the applicable lease (including any renewals and/or extensions) is in effect.

3. Parking Restrictions. Owner acknowledges that the Lease provides that the Restricted Tracts shall comply with the parking restrictions set forth in the Lease which provide that the following minimum parking ratios shall be maintained at all times: (a) five (5) parking spaces for each 1,000 square feet of leasable floor area of retail use; plus (B) ten (10) parking spaces for each 1,000 square feet of leasable floor area for **full service, sit down** restaurant use **in greater than 3,500 square feet** (the "Parking Restrictions"). The temporary loss of parking stalls as a result of construction staging, which staging area(s) shall be restricted to the respective Restricted Tract, shall not be considered a breach or default. The permanent loss of parking stalls as a result of construction within the "Permissible Building Areas" (as shown on the attached Lease Plan) shall not be considered a breach or default so long as the parking ratios described in this Section 3 are maintained. Owner, on behalf of itself and its successors and assigns, hereby covenants and agrees, for the benefit of PPG and the "Tenant" under the Lease, that the Parking Restrictions shall be binding on the Restricted Tracts and that Owner shall comply with the Parking Restrictions as the same relate to the Restricted Tracts for so long as the Lease (including any renewals and/or extensions) is in effect. All minimum parking ratios are subject to compliance with all applicable governmental regulations.

4. Signage. There shall be no building signage on the Future Shopping Center Buildings or on any other improvement within the Restricted Tracts that is larger than the Tenant's (as defined in the Lease) building signage.

5. Remedies. The parties hereto acknowledge that in the event of a breach of the covenants set forth herein, PPG will suffer irreparable harm, the damages from such breach of which may not be subject to computation. As such, the parties agree, in the event of a breach of the covenants as set forth herein, PPG shall be entitled to injunctive relief to prohibit the continued breach, without the necessity of showing of any irreparable harm, or inadequate remedy at law, which relief shall be in addition to any and all other rights and remedies that may be afforded by law.

6. Notices. Any notice, request or other communication to be given or to be served upon any party hereto in connection with this Agreement must be in writing and shall be given, served or sent by either party hereto to the other and shall be deemed to have been properly given if (a) delivered in person or by e-mail in a PDF attachment (with a confirmation copy delivered by overnight delivery with any reputable overnight courier service contemporaneously therewith at the address set forth above), (b) by overnight delivery with any reputable overnight courier service at the address set forth above, or (c) by deposit in any post office or mail depository regularly maintained by the United States Postal Office and sent by registered or certified mail, postage paid, return receipt requested at the address set forth above, and shall be effective upon receipt (whether refused or accepted).

Any notice from counsel for either party shall be deemed an official notice from such party. Such notice shall be given the parties hereto at the addresses set forth above.

Any party hereto may at any time, by giving five (5) days' written notice to the other party hereto, designate any other address in substitution of any of the foregoing addresses to which such notice shall be given and other parties to whom copies of all notices hereunder shall

be sent.

7. Other Restrictions. The covenants and restrictions set forth in this Agreement are separate from and in addition to any other covenants or restrictions governing the Restricted Tracts and set forth in any other applicable agreement, recorded or unrecorded, including without limitation the REA.

8. Binding Effect. This Agreement shall be binding upon the Purchased Property, the Leased Property and the Restricted Tracts and shall inure to the benefit and burden of the owners of the Purchased Property, the Leased Property and the Restricted Tracts.

9. Amendment and/or Modification. Neither this Agreement nor any term-or provision hereof may be changed, waived, discharged, amended or modified orally, or in any manner other than by an instrument in writing signed by all of the parties hereto.

10. Counterparts. This Agreement may be signed in counterparts, any one of which shall be deemed to be an original.

11. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and may be changed only by a written agreement signed by all parties hereto.

12. Restatement. This instrument restates the Original Restriction in its entirety.

13. Litigation. In the event of litigation or other proceedings arising out of this Agreement, the prevailing party shall, in addition to any other remedies available, be entitled to receive prompt reimbursement of its reasonable attorneys' fees from the non-prevailing party.

14. No Waiver. The failure of any party hereto to seek redress for any breach, or to insist upon the strict performance, of any covenant or condition of this agreement by the other shall not be, or be deemed to be, a waiver of the breach or failure to perform (unless the time specified herein for the exercise of such right, or satisfaction of such condition, has expired), nor prevent a subsequent act or omission in violation of, or not strictly complying with, the terms hereof from constituting a default hereunder.

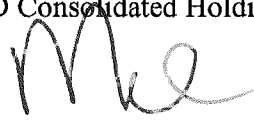
15. Governing Law. This Agreement shall be subject to the laws of the State of Nebraska.

IN WITNESS WHEREOF, Owner and PPG have caused this Agreement to be executed effective as of the day and year above referenced.

"OWNER"

PAPILLION DEVELOPMENT LAND, LLC,
a Nebraska limited liability company

By: RED Consolidated Holdings, LLC, its Manager



By: 
Michael L. Ebert, President

ACKNOWLEDGMENT

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

Now on this 19 day of March, 2019, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Michael L. Ebert, President of RED Consolidated Holdings, LLC, Manager of Papillion Development Land, LLC, a Nebraska limited liability company, who is personally known to me to be the same person who executed the within instrument on behalf of said company, and who duly acknowledged the execution of the same to be his free act and deed and the free act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

	<p>RAMONA ZAPUSTAS NOTARY PUBLIC, ARIZONA MARICOPA COUNTY My Commission Expires February 3, 2021</p>	<p><u></u> <u>RAMONA ZAPUSTAS</u> Notary Public (Print Name)</p>
<p>My Commission Expires: <u>2-3-21</u></p>		

[Signature Page to Restriction Agreement]

“PPG”:

PPG SHADOW REAL ESTATE LLC, a
Delaware limited liability company

By: *Sara J. Brennan*
Name: Sara J. Brennan
Its: Chief Operating Officer

COUNTY OF Hamilton)
~~SUMMIT~~)
STATE OF OHIO)
~~UTAH~~)

BE IT REMEMBERED that on this 11 day of march 2019, before me, a Notary Public in and for the said county and state, personally appeared Sara J. Brennan, Chief Operating Officer of PPG Shadow Real Estate LLC, a Delaware limited liability company, who is personally known to me and who acknowledged that he/she did sign the foregoing instrument and that the same is his/her free and voluntary act and deed as the COO of such limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and year above-mentioned.

Julie Rice Wolff
Notary Public

My Commission expires: February 8, 2020

[Signature Page to Restriction Agreement]



JULIE RICE WOLFF
NOTARY PUBLIC
STATE OF OHIO
Comm. Expires
February 08, 2020


CONSENT

KEYBANK NATIONAL ASSOCIATION, a national banking association ("Agent"), as Administrative Agent for the ratable benefit of KeyBank National Association, First Financial Bank and Mutual of Omaha Bank (collectively the "Noteholders"), is the beneficiary of that certain Construction Security Agreement, Deed of Trust, Assignment of Leases and Rents, Assignment of Contracts, Security Agreement, and Fixture Filing dated August 27, 2018, and recorded as Instrument No. 2018-20360 in the Official Records of Sarpy County, Nebraska (the "Security Instrument"), which Security Instrument secures the obligations owed by PPG Shadow Real Estate LLC, a Delaware limited liability company ("Grantor"), in favor of Noteholders under three separate promissory notes dated August 27, 2018 as well as those obligations owed by Grantor pursuant to that certain Loan Agreement dated August 27, 2018 among Grantor, Agent and Noteholders, and as such beneficiary and holder, Agent hereby consents and subordinates the lien of its Security Instrument to the annexed Amended and Restated Restriction Agreement (the "Agreement") and consents to the imposition of the covenants, restrictions, conditions and easements contained in the Agreement upon Grantor's property. Notwithstanding the immediately prior sentence, nothing contained in this Consent shall be deemed to subordinate the Security Instrument to any financial obligation set forth in the Agreement nor shall anything in this Consent be deemed to obligate Agent or Noteholders with respect to any financial obligation or payment for any lien that may arise from the Agreement, and the Security Instrument shall remain prior and superior to all financial obligations set forth or created therein.

Except as expressly stated herein, nothing contained herein shall be deemed to modify or amend the terms of the Security Instrument, and the Security Instrument shall remain in full force and effect without change. The Agreement shall not be amended without the prior written consent of Agent.

Dated as of March 15, 2019

KEYBANK NATIONAL ASSOCIATION,
a national banking association

By: 
Name: Peter J. Schmitt
Title: Sr. VP

**EXHIBIT A
TO AGREEMENT**

LEGAL DESCRIPTION OF THE PURCHASED PARCELS

Lots Four (4), Seven (7), Eight (8) and Nine (9), and Outlots A and B, Shadow Lake Towne Center, an Addition to the City of Papillion, in Sarpy County, Nebraska;

Lots One (1), Two (2) and Outlots A, B and C, Shadow Lake Towne Center Replat 1, an Administrative Subdivision, in Sarpy County, Nebraska;

Lot Two (2), Shadow Lake Towne Center Replat 2, an Administrative Subdivision in Sarpy County, Nebraska;

Lot (1), Shadow Lake Towne Center Replat 3, an Administrative Subdivision in Sarpy County, Nebraska; and

Lots One (1) and Two (2), Shadow Lake Town Center Replat 5, an Addition to the City of Papillion, in Sarpy County, Nebraska.

**EXHIBIT B
TO AGREEMENT**

LEGAL DESCRIPTION OF THE RESTRICTED TRACTS

Lot 2 and Lot 4, Shadow Lake Towne Center Replat 4, an Addition to the City of Papillion, in Sarpy County, Nebraska, according to the Plat recorded December 12, 2011 as Inst. No. 2011-31456 in the records of Sarpy County, Nebraska.

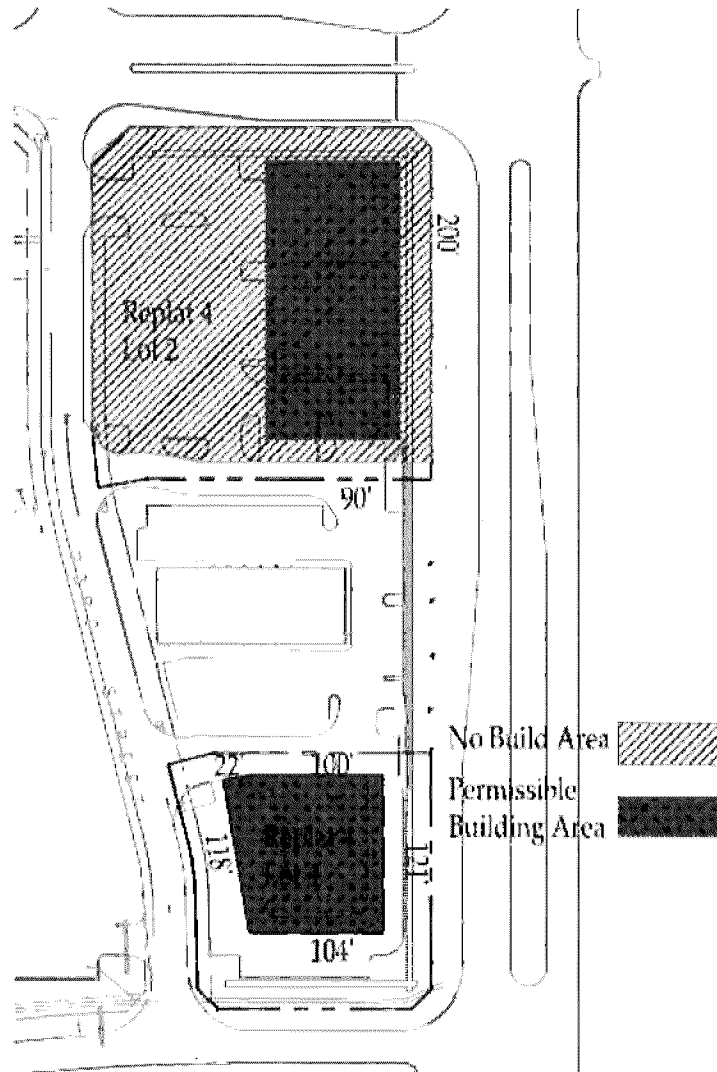
**EXHIBIT C
TO AGREEMENT**

LEGAL DESCRIPTION OF LEASED PROPERTY

Lot 1, Shadow Lake Towne Center Replat 3, an Addition to the City of Papillion in Sarpy County, Nebraska, according to the Plat recorded August 31, 2007 as Inst. No. 2007-26846 in the records of Sarpy County, Nebraska

**EXHIBIT D
TO AGREEMENT**

**LEASE PLAN SHOWING NO-BUILD AREAS AND PERMISSIBLE BUILDING AREAS
DEFINED IN THE LEASE**



**EXHIBIT E
TO AGREEMENT**

LEASE DICTATED RESTRICTIONS AND PROHIBITED USES

A. TENANT EXCLUSIVES

Owner agrees to be bound by the following exclusives as if such exclusive were expressly applicable to the Owner. A violation of these exclusives shall be deemed an event of default. With the exception of the terms "Restricted Tracts" and "Owner", all defined or capitalized terms set forth in the following exclusives shall have the same meaning given to such terms in the applicable lease or other occupancy agreement.

BED BATH & BEYOND, its successors and/or assigns

No tenant or occupant of any portion of the Restricted Tracts shall be granted any type of exclusive right to sell any of the following items (the "Exclusive Items"): (a) lines and domestics, (b) bathroom items, (c) housewares, (d) frames and wall art, (e) window treatments, and (f) closet shelving and storage items.

No exclusive use of any type shall be granted to or given to a tenant, occupant or purchaser of 10,000 square feet or more of any portion of the Restricted Tracts.

BLAZIN WINGS, INC., its successor and/or assigns, d/b/a **BUFFALO WILD WINGS**

No portion of the Restricted Tracts shall be used by a person or entity whose business is (i) a restaurant or bar with a sports theme or concept as a "sports bar" (defined below) or (ii) a restaurant or bar that derives 10% or more of its gross sales from the sale of chicken wings, or serves them with four or more types of sauces. A "Sports Bar" is defined as a restaurant or bar, which has five (5) or more televisions (excluding restroom televisions) for viewing sporting event and markets itself to the public for the viewing of sporting events. Competing businesses prohibited by the foregoing shall include, without limitation, Champs, Hooters, Wing Stop, Wing Zone, Quakers Steak & Lube, Indigo Joe's, Ice House, and Brewsky's. This exclusivity provision shall not be applicable to the extent that a restaurant derives less than ten percent (10%) of its gross sales from the sale of chicken wings.

DICKS SPORTING GOODS, INC., its successors and/or assigns, d/b/a **DICK'S SPORTING GOODS**

No exclusive use of any type shall be granted to or given to a tenant, occupant or purchaser of 10,000 square feet or more of any portion of the Restricted Tracts.

THE DRESS BARN, INC., its successors and/or assigns d/b/a **DRESSBARN**

No exclusive use of any type shall be granted to or given to a tenant, occupant or purchaser of 10,000 square feet or more of any portion of the Restricted Tracts.

HALLMARK RETAIL, INC., its successors and/or assigns, d/b/a **HALLMARK**

No portion of the Restricted Tracts shall be used for the sale of Restricted Items. "Restricted Items" are: Christmas ornaments, greeting cards, gift wrap and/or party supplies. "Temporary Store" shall mean any store or business in the Shopping Center operated by a tenant, licensee or occupant under a lease, license or agreement (oral or written) having a term of less than one (1) year or any store or business which is not contemplated to remain open to the public for business for twelve (12) or more consecutive months.

So long as Tenant, or its permitted sublessees or assigns, has opened the Premises in accordance with the Permitted Use Clause set forth in the Lease, and continues to operate its business for the Permitted Use, a "Use Restriction Violation" shall be deemed to exist upon the occurrence of either or both of the following events: (1) any tenant or occupant in the Shopping Center carries any Restricted Item for sale in its premises; or (2) the Shopping Center contains a Temporary Store that sells any Restricted Item.

The Use Restriction shall not apply to the following tenants: (a) Hy-Vee Grocery or any Suitable Replacement of Hy-Vee Grocery; or (b) any tenant provided such sale of Restricted Items total in the aggregate less than twenty-five (25) lineal feet of Restricted Item(s) (each spinner rack containing any Restricted Item shall be equal to six (6) lineal feet); or (c) Hallmark Cards Incorporated or any of its affiliates, subsidiaries, successors, assigns or third parties licensed to sell Hallmark products; or (d) any tenant or occupant in the Shopping Center whose Lease, purchase contract or other agreement for occupancy is executed prior to the execution date of this Lease whose lease permits the sale of such Restricted Items; or (e) any tenant or occupant in the Shopping Center whose premises is greater than 10,000 square feet of Floor Area.

STERLING JEWELERS INC., its successors and/or assigns, d/b/a **KAY JEWELERS**

No portion of the Restricted Tracts shall be used for the purpose of operating a "Prohibited Jewelry Store". For purposes hereof, the term "Prohibited Jewelry Store" shall mean a fine jewelry store similar to Tenant, which devotes more than ten (10%) of its retail sales floor area to the sale of fine jewelry including 10k, 14k, 18k, 24k Gold, white gold, platinum, diamonds and colored gemstones; clocks; watches; and incidental thereto, gift items and repair services for jewelry and watches (collectively, the "Exclusive Items/Services").

MICHAELS STORES, INC., its successors and/or assigns, d/b/a **MICHAEL'S**

No exclusive use of any type shall be granted to or given to a tenant, occupant or purchaser of 10,000 square feet or more of any portion of the Restricted Tracts.

NEBRASKA BREWING CO., its successor and/or assigns, d/b/a **NEBRASKA BREWING CO.**

No portion of the Restricted Tracts shall be used primarily for the operation of a micro-brewery and/or brew pub. Notwithstanding anything in this Section to the contrary, the provisions of this Section shall not apply to any tenant or occupant whose sale of micro-brewed beer does not make up more than 20% of its gross sales from its premises.

WADSWORTH OLD CHICAGO, INC., d/b/a Old Chicago or alternative d/b/as, its successors, assigns, and/or affiliates (herein "**OLD CHICAGO** "):

No portion of the Restricted Tracts shall be sold or leased to: (i) any of the restaurants operating under the following trade names: BJ's Pizza, Pizzeria Uno and Boston Pizza; or (ii) any other tenant operating a full-service, sit-down "pizza restaurant" that (1) markets itself as a restaurant featuring pizza as its primary menu item served on the premises and describes the business as a pizzeria or pizza restaurant, and (2) derives more than 20% of its total gross sales from the sale of pizza. The foregoing provisions of this Section shall not be applicable to: (1) any tenant or occupant that operates a restaurant that is not a "pizza restaurant" as specifically defined herein; (2) any tenant or occupant that primarily operates a so-called "take-out" or "delivery" pizza restaurant wherein customers either order pizza to be picked up at such restaurant and consumed off premises or the operator of such restaurant delivers pizza to an off premises location for consumption (by way of example only and not of limitation, the restaurants operated under the following trade names as of the date of this Lease constitute "take-out" or "delivery" pizza restaurants and are not subject to the provisions of this Section: Papa John's, Domino's, Papa Murphy's and Little Caesar's or any restaurant operated in a manner similar to the foregoing, although any take-out or delivery pizza restaurant may have tables and chairs, provided such restaurant does not provide wait service; (3) any grocery store or store selling pizza intended for off-premises consumption.

RED ROBIN INTERNATIONAL, INC., its successors and/or assigns, d/b/a **RED ROBIN**

No portion of the Restricted Tracts shall be used for any of the restaurants operating under the following trade names: Ruby Tuesday, Chili's, Fuddruckers and/or Cheeseburger in Paradise. The foregoing restriction shall not be applicable to any tenant or occupant that is not specifically named above.

TEXAS ROADHOUSE, INC., its successors and assigns, d/b/a **TEXAS ROADHOUSE**

The Restricted Tracts shall be restricted from operating as follows: **(A)** under the trade names Logan's Roadhouse, Longhorn Steakhouse, Lone Star Steakhouse, Outback Steakhouse, Texas Steakhouse, Golden Corral, Ryan's Steakhouse, Texas Land & Cattle or Saltgrass; or **(B)** as a "Steakhouse". For purposes of this Section, the term "**Steakhouse**" shall mean a full-service, sit-down restaurant whose sale of steaks make up at least 25% of Gross Sales from its premises.

THE TJX COMPANIES, INC., its successors and/or assigns, d/b/a **TJ MAXX**

No exclusive use of any type shall be granted to or given to a tenant, occupant or purchaser of 10,000 square feet or more of any portion of the Restricted Tracts.

ULTA SLON, COSMETICS & FRAGRANCE, INC., its successors and/or assigns, d/b/a **ULTA SALON**

No portion of the Restricted Tracts shall initially be leased or occupied to or by a tenant or occupant operating under the following brand names (or their successor's names): Beauty Brands, Beauty First, Pure Beauty and/or Sephora ("Prohibited Initial Tenants). This prohibition includes any sale or transfer or sublease to any of these Prohibited Initial Tenants provided that such Prohibited Initial Tenant is the initial or first operator in the applicable space.

VICTORIA'S SECRET STORES, LLC, its successors and/or assigns, d/b/a **VICTORIA'S SECRET**

No portion of the Restricted Tracts shall be used for the permitted purpose of conducting as a "primary business" the retail sale of any one or a combination of the Exclusive Items. "Exclusive Items" are lingerie, intimate apparel, sleepwear and loungewear. For purposes of this Article, the retail sale of any one or a combination of the Exclusive Items as a "primary business" shall mean that fifty percent (50%) or more of the sales floor area of such ... tenant's or occupant's premises is dedicated to) the retail sale of any one or a combination a combination of the Exclusive Items.

The forgoing use restriction shall not apply provided such sale of Restricted Items total in the aggregate less than twenty-five (25) lineal feet of Restricted Item(s) (each spinner rack containing any Restricted Item shall be equal to six (6) lineal feet).

B. USE RESTRICTIONS:

Owner agrees to be bound by the following use restrictions as if such use restrictions were expressly applicable to the Owner. A violation of these use restrictions shall be deemed an event of default. Except for the defined terms "Owner" and "Restricted Tracts", all defined or capitalized terms set forth in the following use restrictions shall have the same meaning given to such terms in the applicable lease or other agreement.

Owner shall not conduct or permit to be conducted on or with respect to all or any part of the Restricted Tracts any of the following uses:

1. Any public or private nuisance.
2. Any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness.
3. Any use which emits or results in strong, unusual or offensive odors (but not such odors as shall normally emit from restaurants) fumes, dust or vapors, is a public or private nuisance, creates a hazardous condition, or is used, in whole or in part, as or for warehousing or the dumping or disposing, incinerating or reduction of garbage or refuse, other than in enclosed receptacles intended for such purpose (which may include, without limitation, trash compactors).
4. Any use which emits excessive quantity of dust, dirt, or fly ash; provided however, this prohibition shall not preclude the sale of soils, fertilizers, or other garden materials or building materials in containers if incident to the operation of a home improvement, hardware or other similar store.
5. Any shooting gallery, gun shop or use which could result in, or cause fire, explosion or other damaging or dangerous hazard, including the storage, display or sale of explosives or fireworks, provided, however, in no event shall the foregoing prevent any occupant from selling guns, firearms, ammunition or other items typically found in a full-service sporting goods store.
6. Any operation primarily used as a storage facility, or assembly, manufacture, distillation, refining, smelting, agriculture or mining operations.
7. Any mobile home or trailer court, auction house, labor camp, junkyard, mortuary, funeral home, (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction, or maintenance).
8. Any drilling for and/or removal of subsurface substances (such as minerals, oil, etc.).
9. Any automobile, truck, trailer or recreational vehicle sales, rental, leasing or body and fender repair operation.
10. Any pawn shop, check cashing facility (not including commercial banks), flea market and/or swap meet or second hand or surplus store; provided, however, a consignment shop such as, but not limited to, Terri's Consign & Design or 2nd Swing shall not be prohibited.
11. Any massage parlor, adult book shop, movie house or other establishment selling or exhibiting pornographic materials or other pornographic use; provided, however, that such restrictions shall not preclude the (i) showing of films in any first rate motion picture theater

operated in the Shopping Center, so long as such motion picture theater does not show any picture that has received an "X-rating" or a "NC-17-rating" from the Motion Picture Association of America or any successor to the Motion Picture Association of America which rates motion pictures, or any other pictures that are considered pornographic, and (ii) sale or rental of adult books, magazines or videos as an incidental part of the business of a general purpose bookstore or video store such as Blockbuster, which is normally found in a first class shopping center.

12. Any gas or service station or automobile service facility, including repair services, body repair facilities and quick-lube and battery facilities, sale of automotive parts, including tires (other than as incidental use) or car-washing establishment; provided, however, the foregoing shall not prohibit the sale and/or installation of stereo, video and similar related equipment in motor vehicles in the Shopping Center.

13. Any tattoo parlor or any establishment selling drug related paraphernalia or any facility that's use is unlawful, immoral, obscene, pornographic, or which tends to create or maintain a nuisance or do any act tending to injure the reputation of the Shopping Center.

14. Any residential use.

15. Any hotel, motel, or other forms of short-term or temporary living quarters, sleeping apartments or lodging rooms.

16. Any bar, tavern or nightclub; PROVIDED, HOWEVER, the foregoing shall not be deemed to limit or otherwise restrict the operation of a bar, tavern or nightclub operated as a part of any restaurant otherwise permitted in the Shopping Center, provided that gross revenues generated from the sale of alcohol from such bar, tavern or nightclub does not exceed 60% of such restaurant's total gross revenues (each a "Permitted Bar"); and (iii) the foregoing shall not be deemed to limit or otherwise restrict the operation of a retail store selling specialty wines and/or liquor intended for off-premises consumption (and which may serve wine and/or liquor as an incidental part of its business) in the Shopping Center.

17. Any abortion clinic or drug rehabilitation clinic.

18. Any sales within an Outside Sales Area unless approved by Developer under the Declaration; provided, however, this shall not apply to the operation of any patio or outside seating area operated in connection with any restaurant

19. Any central laundry, dry cleaning plant, or laundromat; provided, however, this prohibition shall not be applicable to nominal supportive facilities for on-site service oriented to pick up and delivery by the ultimate consumer as the same may be found in a first-class shopping center.

20. Any bowling alley, pool or billiard hall, or skating rink unless otherwise approved by Developer under the Declaration.

21. Any discotheque or dance hall. Any amusement or video arcade, provided, however, the foregoing shall not prohibit such operation as a part of any restaurant being operated in the Shopping Center.

22. Any training or educational facility, including but not limited to: beauty schools, barber colleges, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers, including without limitation such uses as a Sylvan Learning Center; provided however, this prohibition shall not be applicable to on-site employee training or other customer-related educational seminars by an occupant incidental to the conduct of its business or to pet-training in connection with a pet shop or pet supply store.

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

24. No animal raising facility or stock yard. No veterinary hospital or pet shop. Notwithstanding the foregoing, the operation of a pet store and/or pet supply store, such as, by way of example only and not limitation, "PetSmart" and "Petco", shall not be prohibited under this paragraph; provided (i) and such occupant shall use reasonable efforts to prevent its customers from allowing their pets to urinate or defecate in the Common Areas and will promptly remove any "dog dirt" from the Common Areas, and (ii) odors emanating from such use are not perceptible on the outside of the premises.

25. Any children's entertainment or activity facility (such as a "Discovery Zone" or "Chuck E. Cheese's"), amusement or video arcade, without Developer approval; provided, however the foregoing shall not prohibit such operations as part of a restaurant.

26. Except as to Restricted Tract identified as Lot 2, any health club, fitness or gymnasium.

27. Except as to Restricted Tract identified as Lot 2, any spa; provided however, such restriction shall not restrict the operation of a spa in connection with a cosmetics retailer such as Ulta Cosmetics.

28. Any fire sale, bankruptcy sale or auction house operation, fictitious going-out-of-business sale, lost-our-lease sale or similarly advertised event.

29. Any movie theater, live performance theater, auditorium or sporting event.

30. Any church or other place of religious worship.

31. Any carnival, amusement park or circus.

32. Any catering or banquet hall.
33. Any daycare center or karate center.
34. The sale of Christmas trees or pumpkins in the Common Areas of the Restricted Tracts.
35. Any "dollar store" type retailer, including, but not limited to, Family Dollar, Dollar Tree, Dollar General, Big Lots and McCrory's.
36. Any auditorium, meeting hall, ballroom or other place of public assembly.
37. Any agency, department or bureau of any governmental authority or unemployment agency, service or commission whose operation is open to the general public and which allows for or otherwise involves the general public waiting in line for service outside the applicable premises or otherwise loitering in the Shopping Center, such as but not limited to, a department of motor vehicles office, welfare office, unemployment offices or other social security office open to the general public.
38. Any office uses on the ground floor of any building, except that incidental office use in connection with uses not prohibited by this exhibit ("Incidental Office Use") shall be permitted. Notwithstanding the foregoing, in addition to Incidental Office Use, ground floor office use consisting of retail and/or medical offices providing services commonly found in similar first-class shopping centers in the Omaha/Papillion, Nebraska metropolitan area (including, by way of example only and not of limitation, financial services, real estate brokerage, insurance agency, banking, travel agency, medical or dental services, collectively hereinafter referred to as "Retail Office Use"), shall be allowed. General and legal office use shall also be permitted.
39. All buildings located on the Restricted Tracts shall be used only for the operation of establishments selling goods, wares, merchandise, food, beverages and services to the public at retail and for such office and storage areas as may reasonably be needed in connection with the operation of the Shopping Center.

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