



COVENANTS, CONDITIONS AND RESTRICTIONS AGREEMENT

BY AND BETWEEN

**OAK VIEW MALL CORPORATION,
a Delaware corporation**

and

**CENTER STREET PARTNERSHIP,
a Nebraska general partnership**

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**GEORGE J. SUCLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE**

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COVENANTS, CONDITIONS AND RESTRICTIONS AGREEMENT

THIS COVENANTS, CONDITIONS AND RESTRICTIONS AGREEMENT ("Agreement") is made as of the 7th day of October, 1994, between OAK VIEW MALL CORPORATION, a Delaware corporation ("Developer"), having an address at c/o Heitman Advisory Corporation, 180 North LaSalle Street, Suite 3600, Chicago, Illinois 60601, and CENTER STREET PARTNERSHIP, a Nebraska general partnership ("Outlot Owner"), having an address at 11506 Nicholas Street, Suite 200, Omaha, Nebraska 68154.

RECITALS:

A. Developer owns a certain tract of land located in Douglas County, Nebraska, and described in Exhibit "A" attached hereto (the "Developer Tract"), which Developer Tract, together with certain department store buildings and adjacent land owned by Construction Developers, Incorporated, an Arkansas corporation, and J.C. Penney Properties, Inc., a Delaware corporation (jointly, the "Department Store Owners"), respectively, and certain vacant and developed outlots owned by Developer and others, including the "Outlot Parcel" (as hereinafter defined), constitute a regional shopping mall known as Oak View Mall (the "Shopping Center"; the Shopping Center is referred to as the "Real Estate" in the "Second Amendment" [as hereinafter defined]). All of the Shopping Center is currently subject to certain requirements and restrictions concerning development, operation and use created pursuant to that certain Amended and Restated Reciprocal Easement and Operating Agreement dated June 30, 1992 and recorded July 1, 1992 in Book 1019, Page 240 in the Office of the Register of Deeds, Douglas County, Nebraska, by and among the Department Store Owners, Center Road Retail Developers Limited Partnership, an Indiana limited partnership, Dillard Department Stores, Inc., a Delaware corporation ("Dillard"), and Younkers, Inc., a Delaware corporation ("Younkers"), as amended by that certain First Amendment to Amended and Restated Reciprocal Easement and Operating Agreement dated as of September 2, 1993 and recorded September 8, 1993 in Book 1094, Page 407 in the Office of the Register of Deeds, Douglas County, Nebraska (the "First Amendment") made by the Department Store Owners, Dillard, Younkers and Developer and as further amended by that certain Second Amendment to Amended and Restated Reciprocal Easement and Operating Agreement of even date herewith (the "Second Amendment") made by the Department Store Owners, Dillard, Younkers and Developer (said Agreement, as amended by the First Amendment and as further amended by the Second Amendment, is hereinafter referred to as the "REA").

B. Concurrently with the execution of this Agreement, Outlot Owner is acquiring from Developer a certain tract of land

(the "Outlot Parcel"; the Outlot Parcel is referred to as a "Reserve Tract" in the Second Amendment) located in Douglas County, Nebraska, and described in Exhibit "B" attached hereto, upon which Outlot Owner plans to erect a Discovery Zone children's indoor play center and a Blockbuster Music store.

C. By reason of the proximity of the Outlot Parcel to the Developer Tract, Developer has a substantial interest in the manner in which the Outlot Parcel is developed.

D. A condition precedent to the sale of the Outlot Parcel by Developer to Outlot Owner is the execution and delivery of this Agreement providing for certain covenants, rights and obligations in connection with the development, construction, improvement, maintenance and use of the Outlot Parcel, and the imposition of certain conditions and restrictions on the Outlot Parcel and the use thereof, all in addition to the covenants, conditions and restrictions currently affecting the Outlot Parcel, including those set forth in the REA.

NOW, THEREFORE, to induce Developer to sell the Outlot Parcel to Outlot Owner, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer and Outlot Owner hereby covenant and agree as follows:

1. IMPROVEMENTS TO THE OUTLOT PARCEL

(a) Approval of Development.

(i) General. Developer and Outlot Owner acknowledge and agree that Developer has an interest in the manner in which all property constituting part of the Shopping Center is developed. Accordingly, Developer and its successors in title (as more fully provided in Sections 16 and 23 below) shall have the right to review and approve (or disapprove) any and all plans for the construction of any building or other improvements on the Outlot Parcel to confirm that such building and improvements will be compatible with and will not adversely affect other portions of the Shopping Center with respect to, without limitation, matters of signage, architectural compatibility, effect on visibility of other improvements, utilities and drainage, traffic circulation, parking, emergency access, landscaping and similar matters, provided that any such review or approval by Developer shall not be deemed to be an assumption of responsibility by Developer for the accuracy, sufficiency or propriety of such plans or a representation that such plans provide for construction of improvements that comply with applicable zoning, building, subdivision or other legal

requirements. As used in this Agreement, the term "construction" includes modernization, expansion, demolition, razing, new construction, reconstruction, alteration and replacement. The prior sentence is not intended to expand the type of plans over which Developer has approval rights, as more fully described in paragraph (ii) below (e.g. Outlot Owner shall not be required to obtain approval for interior features of buildings to be constructed on the Outlot Parcel except where the interior feature will be clearly visible from the outside and will have a significant impact on the aesthetics of the building exterior).

(ii) Plans and Specifications. No later than thirty (30) days prior to the "commencement of construction" (as defined in subsection 8(b)(ii) below) of any building or other improvements on the Outlot Parcel, Outlot Owner shall submit to Developer three complete sets of the plans and specifications for such construction (collectively, "Plans and Specifications"), which shall include: (A) a site plan showing, without limitation, (1) the location of the building to be constructed, (2) parking facilities and areas and related improvements (including ingress and egress, curb cuts, traffic flow, signage, lighting, parking spaces and sidewalks), (3) the location and nature of decorative features, including landscaping, planters, directories and benches, and the specifications for and location of all irrigation systems (4) setback lines and (5) building height and building area; (B) grading and drainage plans; (C) landscaping plans; (D) utility plans; (E) detailed signage plans; (F) plans of the building shell of such building to be constructed showing exterior dimensions, exterior design concept, exterior materials and other exterior finish, canopies, rooftop screening, and any and all exterior building signs or other signs contemplated for location on the Outlot Parcel; and (G) such other plans, specifications and details of the construction prepared by or for Outlot Owner and requested by Developer, except that Outlot Owner shall not be required to submit to Developer, and Developer shall not have approval rights with respect to, plans applicable only to interior features of the building to be constructed on the Outlot Parcel unless the interior feature will be clearly visible from the outside and will have a significant impact on the aesthetics of the building exterior. When the basic design of the initial development or any expansion or reconstruction is complete, but no later than thirty (30) days prior to the commencement of such development, expansion or reconstruction, Outlot Owner shall submit to Developer

an artist's rendering of the proposed project. All of the labor, services, materials and other aspects of any construction on the Outlot Parcel shall be referred to in this Agreement as the "Work".

(b) Approval Procedure.

(i) Within thirty (30) days after Developer's receipt of all of the documents constituting the Plans and Specifications for any construction on the Outlot Parcel, Developer shall review such documents to determine whether such construction and the proposed improvements described therein satisfy the standards set forth in subsection (a) above, including, without limitation, the assessment of whether such improvements will adversely affect any portion of the Shopping Center, and shall notify Outlot Owner whether Developer approves or disapproves the Plans and Specifications. Developer agrees not to unreasonably withhold its consent to any Plans and Specifications that conform to the criteria and requirements set forth in this Agreement and in the REA. If Developer fails to approve or disapprove the Plans and Specifications in writing within said thirty-day period, then Developer's approval shall be deemed to have been granted. If Developer disapproves any Plans and Specifications, such disapproval shall be in writing and shall include a reasonably detailed explanation or itemization of what particular aspects of the Plans and Specifications Developer believes are objectionable or non-conforming and, at Developer's option, shall also include Developer's suggestions for changes which will render the Plans and Specifications acceptable, whereupon Outlot Owner may make revisions to the previously submitted Plans and Specifications, and the revised Plans and Specifications shall be subject to all of the provisions of this Section 1. Except as otherwise provided above concerning Developer's deemed approval for failure to respond within 30 days, Developer's approval of the Plans and Specifications (or changes thereto) shall be evidenced by its initialing a copy thereof and returning the same to Outlot Owner. At Outlot Owner's written request, Developer shall review preliminary versions of Plans and Specifications for construction on the Outlot Parcel and shall advise Outlot Owner whether Developer approves or disapproves of same within the time and in accordance with the criteria and requirements specified in this Section 1 above; provided, however, that Developer's approval of any preliminary Plans and Specifications shall not affect Outlot Owner's obligations to submit final

versions thereof to Developer or affect Developer's approval rights with respect to such final versions.

(ii) The sale of the Outlot Parcel, or any part thereof, shall in no way be deemed to preclude Developer from exercising its right to approve (or disapprove) all Plans and Specifications prior to the commencement of any construction on the Outlot Parcel.

(c) Construction Regulations. In addition to the requirements described in this Section 1 above:

(i) The identity of each general contractor (and any other contractor hired by Outlot Owner) that will be performing Work on the Outlot Parcel, the aggregate cost of which exceeds \$50,000.00, shall be subject to Developer's prior written approval, which approval shall not be unreasonably withheld. Developer's approval or disapproval of a contractor shall be given to Outlot Owner within fifteen (15) days after Developer receives in writing the name and financial statements of such contractor and such other information concerning such contractor as Developer shall reasonably request.

(ii) All construction on the Outlot Parcel shall be performed in accordance with the rules and regulations therefor established and modified from time to time by Developer consistent with good and reasonable construction practices and to protect the Shopping Center against damage, liens and unreasonable interference with operations. Developer shall have the right to enforce all such rules and regulations against Outlot Owner and otherwise cause Outlot Owner to cease any activities which may damage the Shopping Center, arise in liens against the Shopping Center or unreasonably interfere with the operations of the Shopping Center.

(iii) Outlot Owner shall indemnify, defend and hold Developer harmless from and against any and all losses, costs, damages, liens, claims and expenses, including without limitation, damage to persons or property (including damage to the Developer Tract and any "Further Property" [as defined in Section 23 below] owned by Developer), reasonable attorneys' fees and court costs and mechanics' liens, which may arise from or in connection with any construction on or about the Outlot Parcel by Outlot Owner or by any contractor, subcontractor or employee or other agent working on behalf of Outlot Owner.

(iv) All costs and expenses relating to the construction on and development of the Outlot Parcel shall be the responsibility solely of Outlot Owner, including without limitation, all costs associated with construction and installation of the building, utilities and other improvements on or serving the Outlot Parcel.

(v) All construction on the Outlot Parcel shall be performed in a good and workmanlike manner, in compliance with the Plans and Specifications approved by Developer and shall meet the requirements of all building and fire codes and other applicable laws, rules and regulations.

(d) Sign Restrictions. Without limitation of any other provision hereof, the following restrictions shall apply with respect to signage on the Outlot Parcel:

(i) No sign shall be permitted upon the Outlot Parcel or the building situated thereon unless such sign has been first approved by Developer as part of the approved Plans and Specifications, or otherwise approved by Developer in writing; and

(ii) No temporary sign, paper sign, flag, banner or streamer shall be permitted upon any portion of the Outlot Parcel at any time. Notwithstanding the foregoing to the contrary, Outlot Owner may, prior to the initial opening of any business on the Outlot Parcel, display such temporary signs which are professionally lettered and prepared and are not otherwise in violation of the provisions contained in Paragraph 4.1(3) of the REA.

(e) Other Restrictions. No more than one building shall be situated on the Outlot Parcel and such building shall not contain more than (i) 30,000 square feet of "Gross Leasable Area" (as defined in the REA) or (ii) two (2) occupants which may be tenants, subtenants or licensees.

2. MAINTENANCE OF THE OUTLOT PARCEL

(a) Improvements. Outlot Owner shall, at its sole cost and expense, maintain (or cause to be maintained) the Outlot Parcel and all improvements located thereon, including, without limitation, the exterior of any building, parking areas, pedestrian walks, lighting facilities, landscaped and planted areas and signage, in good order, condition and repair and in a clean, sightly and safe condition. Without limiting the generality of the foregoing, Outlot Owner shall at all times cause the prompt

removal of all papers, debris, refuse, snow and ice and sweeping of paved areas when and as required in order to maintain the Outlot Parcel in the condition provided above.

(b) Restoration and Replacement. In the event of damage to or destruction of any improvement to or upon the Outlot Parcel by reason of fire or other casualty or the taking of any portion of the Outlot Parcel pursuant to the exercise of any power of eminent domain or any conveyance in lieu thereof, Outlot Owner shall thereafter either (i) restore such improvements and/or the Outlot Parcel to the condition existing prior to such damage, destruction or taking or replace the same with improvements approved by Developer in accordance with subsections 1(a) and (b) of this Agreement and constructed in accordance herewith, which restoration or replacement, as the case may be, shall be completed promptly and, in any event, no later than 180 days after the damage, destruction, taking or conveyance occurs, or (ii) raze the remaining improvements, including all paving and other site improvements and landscape the Outlot Parcel in a manner approved by Developer in its reasonable discretion, which razing and landscaping shall be completed promptly and, in any event, no later than thirty (30) days after the damage, destruction, taking or conveyance occurs.

(c) Outlot Owner's Failure to Perform. If Outlot Owner fails to maintain, restore, replace, raze or landscape the Outlot Parcel in the time and manner required under subsection 2(a) or (b) above and does not cure such failure within thirty (30) days after written notice of such failure is given to Outlot Owner by Developer, then, in any such event, Developer shall have the right to enter upon the Outlot Parcel and cure such failure, all in the name of, for the account of and at the sole expense of Outlot Owner. Developer shall not be liable or responsible to Outlot Owner for any losses or damages sustained by Outlot Owner or any occupants of the Outlot Parcel or anyone claiming by, through or under such occupant or Outlot Owner, unless such loss or damage arises from Developer's gross negligence or willful misconduct. The cost of curing such failure shall be paid by Outlot Owner to Developer upon demand.

3. MAINTENANCE AND MANAGEMENT OF PARKING AREA

(a) Standards. Without limiting the terms of Section 2 above, Outlot Owner shall observe and satisfy the following standards in operating and maintaining (or causing to be operated and maintained) all parking areas, roadways, pedestrian walkways, sidewalks and traffic lanes situated on the Outlot Parcel (hereinafter collectively referred to as "Parking Areas") and all lighting facilities, traffic lights and traffic, directional and other signs (hereinafter

collectively referred to as the "Ancillary Facilities"), and all landscaping situated on the Outlot Parcel:

(i) Outlot Owner shall maintain the surface of the Parking Areas in a smooth and evenly covered manner with the type of surfacing material originally installed thereon or on the parking areas of the Shopping Center, or such substitute thereof (A) as shall be in all respects equal thereto in quality, appearance and durability or (B) which is approved by Developer, which approval shall not be unreasonably withheld or delayed.

(ii) Outlot Owner shall keep the Parking Areas reasonably free of all papers, snow and ice, debris and refuse.

(iii) Outlot Owner shall maintain such appropriate parking lot entrance, exit and directional signs and markers in the Parking Areas as shall be reasonably required for public safety and as otherwise required by applicable laws and ordinances, and the practices prevailing in the operation of similar first class shopping centers in the metropolitan Omaha, Nebraska, area. Outlot Owner shall operate lighting facilities situated in the Parking Areas during all operating hours of any of the facilities operating on the Outlot Parcel, and as may be reasonably required by Developer during other hours.

(iv) Outlot Owner shall regularly clean all Ancillary Facilities and shall promptly relamp lighting fixtures as needed.

(v) Outlot Owner shall promptly repaint striping, markers, directional signs and other painted portions of the Parking Areas and Ancillary Facilities as necessary to maintain all markings thereon at all times in a neat and clearly visible first-class condition.

(vi) Outlot Owner shall trim, mow and weed, water and replace grass and landscaping situated on the Outlot Parcel as necessary to maintain the same in a neat, healthy, well-tended and attractive first-class condition.

(vii) Outlot Owner agrees to take no action which would reduce the parking ratio below that specified in the REA. The size of the vehicular parking spaces shall be no less than nine (9) feet in width and the layout of parking areas and traffic lanes shall be subject to approval by Developer as more fully

described in subsections 1(a) and 1(b) of this Agreement above.

(b) Outlot Owner's Failure to Perform. If Outlot Owner fails to maintain any portion of the Parking Areas, Ancillary Facilities or landscaping in the manner provided above, then Developer shall have the right to enter upon the Outlot Parcel and cure such failure at the expense of Outlot Owner upon the same terms and conditions set forth in subsection 2(c) above.

4. USE OF RING ROAD AND ENTRANCE DRIVES.

(a) Ring Road Charge. Outlot Owner shall pay to Developer, for the right of Outlot Owner and its tenants, employees, agents, customers and other invitees to use the ring road (the "Ring Road") and entrance drives (the "Entrance Drives") for the Shopping Center more fully described and identified in the REA, including Exhibit F thereto, the initial annual sum of \$2,700.00, without deduction, set-off or prior demand (the "Ring Road Charge"). The annual Ring Road Charge shall be calculated on a calendar year basis and shall be prorated for any partial calendar year after completion of the initial construction of any building on the Outlot Parcel. The Ring Road Charge shall be increased on the first January 1 after completion of construction of such building on the Outlot Parcel, and on January 1 every year thereafter (each such date being hereinafter referred to as an "Adjustment Date") by an amount equal to the product of (i) the Ring Road Charge in effect immediately prior to such Adjustment Date, multiplied by (ii) the percentage increase in the "Consumer Price Index" (defined below) for the calendar month immediately preceding such Adjustment Date over the Consumer Price Index for the calendar month immediately preceding (A) the date hereof, with respect to the increase effective on such first January 1, or (B) the last prior Adjustment Date with respect to all increases effective thereafter. As an example, the Ring Road Charge payable as of December 31, 2003, shall be increased on January 1, 2004, by the percentage increase in the Consumer Price Index between December 2002 and December 2003. Notwithstanding the foregoing, (x) under no circumstances whatsoever shall the Ring Road Charge payable during any calendar year (the "Applicable Calendar Year") be reduced below the Ring Road Charge payable during any prior calendar year, and (y) the Ring Road Charge for any Applicable Calendar Year, commencing with the calendar year immediately following the calendar year in which the initial construction of the building on the Outlot Parcel is completed, shall not exceed an amount determined by increasing the Ring Road Charge for the calendar year in which such construction was completed

(i.e., \$2,700.00) at the rate of five percent (5%) per year compounded through the Applicable Calendar Year (i.e., the maximum charge in such first calendar year shall be \$2,700.00 (as prorated), second calendar year shall be \$2,835.00, third calendar year shall be \$2,976.75 and so forth). The annual Ring Road Charge shall be payable in arrears in monthly installments on or before the first day of each calendar month commencing with the first day of the first month following the completion of initial construction of the building on the Outlot Parcel. For purposes of this Agreement, the term "Consumer Price Index" shall mean the Consumer Price Index for all Urban Consumers, U.S. City Average, All Items (1982 - 84 = 100) issued by the United States Department of Labor, Bureau of Labor Statistics; provided, however, if said index shall cease to exist or cease to be published or shall be materially changed, the term Consumer Price Index shall mean such other similar index or formula Developer reasonably selects (which, to the extent feasible, shall be an index or formula which measures general conditions of inflation). The Ring Road Charge shall be Outlot Owner's only regular charge for use of the Ring Road and Entrance Drives; however, the foregoing is not intended to limit Developer's rights in the event of a default by Outlot Owner nor is it intended to exculpate Outlot Owner from any liability or responsibility that it may have as a result of damage to the Ring Road or Entrance Drives resulting from the negligent or other wrongful acts of Outlot Owner or its employees, contractors or other agents. Notwithstanding the foregoing to the contrary, Outlot Owner shall not be obligated to pay any Ring Road charge to Developer during the period that the cost to maintain the Ring Road and Entrance Drives becomes solely the responsibility of a governmental authority rather than Developer.

(b) Access. Subject to the provisions of subsection 4(c) below, Outlot Owner and its tenants, employees, agents, customers and other invitees shall have the nonexclusive right to use the Ring Road and the Entrance Drives (but not any parking areas on the Shopping Center property other than the Outlot Parcel), in common with others, for access to the Outlot Parcel from the Shopping Center; provided, however, that all trucks and other vehicles, equipment and machinery used in connection with any construction on or about the Outlot Parcel (collectively, "Construction Vehicles") shall be restricted to obtaining access to the Outlot Parcel directly from Oak View Drive.

(c) Maintenance of Ring Road and Entrance Drives. Developer agrees that it shall repair and maintain the Ring Road and Entrance Drives subject to and in accordance with

the terms and conditions of the REA, as the same may be amended from time to time.

5. USE OF OUTLOT PARCEL

The Outlot Parcel shall be used only (a) for a Discovery Zone children's indoor play center and a Blockbuster Music store in the typical manner in which such operations conduct their respective businesses on a chain-wide basis throughout the United States as of the date of this Agreement (the "Permitted Uses"), and (b) for such other retail operations as may be approved by Developer in its reasonable discretion; provided, however, that Developer, in its sole discretion, may refuse to approve any use of the Outlot Parcel (1) that is in violation of the REA or any other restriction in effect at the time Outlot Owner proposes to commence such use, including, without limitation, any exclusive use provision of any lease, operating agreement or other agreement benefiting any owner or occupant of any part of the Shopping Center; provided, however, that under no circumstances shall Developer grant any exclusive use to any owner or occupant of the Shopping Center that will prohibit Outlot Owner from developing or using the Outlot Parcel for the Permitted Uses, or (2) for the sale of men's, women's or children's apparel, except for the sale of such apparel which (x) is an ancillary use of the Outlot Parcel and takes place in less than 10% of the floor area of the building(s) on the Outlot Parcel, and (y) consists of items sold for the purpose of advertising the Permitted Uses or advertising or promoting the sale of primary items to be sold pursuant to the operation of the Permitted Uses (e.g., T-shirts, sweatshirts, jackets and other items of apparel containing the Blockbuster or Discovery Zone logo or containing pictures or promotional material relating to music or video products being offered for sale in the Blockbuster music operation). Notwithstanding the foregoing, none of the following uses or operations shall be permitted on the Outlot Parcel:

- (i) Any obnoxious odor or noise or sound which is reasonably objectionable and constitutes a public or private nuisance;
- (ii) Any warehousing, assembling, manufacturing, distilling, refining, smelting, agricultural, mining operation or other industrial use;
- (iii) Any mobile home, trailer court, labor camp, junkyard, or animal raising establishment (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction);
- (iv) Any dumping, disposing, incineration or reduction of garbage (exclusive of garbage compactors approved by Developer pursuant to subsection 1(b) above);

- (v) Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation;
- (vi) Any dry cleaning plant;
- (vii) Any automobile, truck, motorcycle or recreational vehicles sales, leasing, display or repair;
- (viii) Any hotel, motel, living quarters, sleeping apartments or lodging rooms;
- (ix) Any mortuary;
- (x) Any amusement gallery, night club, game arcade, gameroom, billiard or pool room, dancehall, or discotheque, except for the Permitted Uses or if such use is less than ten percent (10%) of the total area and is an integrated part of a restaurant; or
- (xi) Any movie or other theaters.

6. VACANT BUILDING; RESTORATION

If any building or improvement constructed on the Outlot Parcel becomes vacant and (a) is not diligently maintained and policed in a first class manner for a period of thirty (30) consecutive days or (b) is not diligently maintained and policed in a first class manner for a period of ten (10) consecutive days on more than two occasions, then Outlot Owner, within thirty (30) days after written demand from Developer, shall cause such building or improvement to be diligently maintained and policed in a first class manner at all times thereafter, and if Outlot Owner fails to comply with such requirements it shall be deemed to be in default hereunder and shall not be entitled to any further notice with respect to any subsequent failure to maintain and police the Outlot Parcel and the improvements thereon. Furthermore, if Outlot Owner fails to comply with Developer's demand to maintain and police the Outlot Parcel and the improvements thereon, Developer may enter the Outlot Parcel and perform the demanded action at Outlot Owner's sole expense. Developer shall not be liable or responsible to Outlot Owner or any other person or entity for any loss or damage sustained by Outlot Owner or any occupant of the Outlot Parcel or of anyone claiming by or under such occupant or Outlot Owner, unless such loss or damage arose from Developer's willful misconduct or gross negligence. Outlot Owner agrees to reimburse Developer for all reasonable costs incurred by Developer pursuant to this Section 6 upon written demand by Developer.

7. INTENTIONALLY OMITTED

8. COMMENCEMENT AND COMPLETION OF CONSTRUCTION

(a) Construction Schedule. Subject to "Unavoidable Delays" (as hereinafter defined), Outlot Owner agrees to (i) complete construction (the "Initial Construction") of a building on the Outlot Parcel of at least 14,000 square feet and commence therein the operation of at least one of the Permitted Uses no later than one (1) year after the date hereof (the "Initial Construction Completion Date"); (ii) complete construction ("Restoration Construction") of a building on the Outlot Parcel of at least 14,000 square feet and commence therein the operation of at least one of the Permitted Uses no later than one (1) year after the date on which the improvements on the Outlot Parcel are razed pursuant to subsection 2(b) above ("Reconstruction Completion Date"); (iii) complete the repair of all improvements damaged or destroyed by casualty or condemnation and not razed pursuant to subsection 2(b) above within a reasonable period of time (not to exceed 180 days) after such casualty or condemnation occurs; and (iv) complete all construction promptly, with due diligence, without interruption and with the minimal amount of interference reasonably possible to the remainder of the Shopping Center. In no event shall Outlot Owner intentionally delay or abandon or intentionally permit the delay or abandonment of the construction of any improvements after such construction has been commenced (intentional delay or abandonment to include delay or abandonment arising from financial difficulties). In the event of any Unavoidable Delay, and provided Outlot Owner shall have taken reasonable steps to mitigate the effect thereof and shall have given written notice to Developer of the Unavoidable Delay within five days after the occurrence thereof, the time to complete construction shall be extended by the period of such Unavoidable Delay. Outlot Owner and Developer mutually agree that the Initial Construction Completion Date or any Reconstruction Completion Date, as the case may be, may be extended for a period of up to, but not more than, three (3) months as a result of Unavoidable Delays.

(b) Certain Definitions.

(i) As used in this Agreement, "Unavoidable Delay" shall mean delay not reasonably anticipatable by, and beyond the control of, Outlot Owner, caused solely by the following reasons: (A) strikes, lockouts or labor disputes, (B) fire or other casualty, (C) condemnation, (D) adverse weather conditions which differ from the normal weather conditions for the Omaha, Nebraska, area, and (E) acts of God.

(ii) As used in this Agreement, the term "commence construction" or "commencement of construction" shall mean the actual beginning of the physical process of such construction, including, without limitation, paving, grading, excavation, the installation of utilities or any other site work.

(iii) As used in this Agreement, "completion of construction" or "complete construction" shall be deemed to have occurred on the day that Outlot Owner delivers to Developer a certificate of occupancy for the facility constructed, along with a notice of substantial completion in the form of a sworn certificate from Outlot Owner and Outlot Owner's architect (who shall be a Nebraska licensed or registered architect) to Developer stating that the Work performed in connection with such construction has been substantially completed in accordance with the Plans and Specifications approved by Developer; provided, however, that if Developer or Developer's architect notifies Outlot Owner within thirty (30) days after Developer's receipt of the aforementioned certificate of occupancy and the foregoing notice of substantial completion that, in his or its reasonable judgment, the Work is not substantially complete or has not been completed in accordance with the approved Plans and Specifications, then completion of construction shall not be deemed to have occurred. If Outlot Owner and Developer cannot resolve their dispute concerning completion of the Work within fourteen (14) days after Developer's or its architect's notification to Outlot Owner that the Work is not substantially complete, then Outlot Owner and Developer shall mutually select a third architect who shall decide whether the Work is substantially complete in accordance with the approved Plans and Specifications. Such third architect's decision shall be rendered within fourteen (14) days after being selected and shall be final and binding upon the parties. Outlot Owner and Developer agree to share equally the costs of the selected architect. In the event that only a temporary certificate of occupancy is available at the time that Outlot Owner submits the notice of substantial completion, Outlot Owner agrees to deliver to Developer a copy of the permanent certificate of occupancy promptly after the same is available from the issuing authority.

(c) Without otherwise limiting Developer's rights and remedies hereunder, if Outlot Owner abandons construction of any building or other improvements on the Outlot Parcel, Developer shall have the right to go onto the Outlot Parcel

and complete the construction or raze the incomplete building and improvements, whichever Developer may elect, and Outlot Owner shall reimburse Developer, on demand, for all costs and expenses incurred by Developer in so razing or completing the incomplete building and improvements. For purposes hereof, the term "abandon construction" shall mean the cessation of construction for thirty (30) consecutive days for reasons other than Unavoidable Delays.

9. INTENTIONALLY OMITTED

10. REPURCHASE OPTIONS

(a) If the Initial Construction is not completed (or Outlot Owner does not commence the operation of at least one of the Permitted Uses therein) on or before the Initial Construction Completion Date or any Restoration Construction is not completed (or Outlot Owner does not commence the operation of at least one of the Permitted Uses therein) on or before the Restoration Completion Date applicable to such Restoration Construction, as such dates may be extended for up to three (3) months due to Unavoidable Delays, then, after the occurrence of any event described in this subsection (a) above (a "Construction Failure Event"), Developer may, at its option and in its sole discretion, (i) repurchase the Outlot Parcel, together with any improvements thereon, at the "Repurchase Price" (as determined in accordance with subsection 10(d) below) or (ii) allow Outlot Owner an additional time period to complete the Initial Construction, to complete the Restoration Construction or to otherwise correct such Construction Failure Event, as the case may be. If Developer elects to permit Outlot Owner to have additional time as provided in clause (ii) above, the amount of such additional time shall be within Developer's sole discretion and Developer may condition the granting of such additional time in any way that Developer deems appropriate. Developer may exercise its option to repurchase set forth in clause (i) above at any time prior to completion of the Initial Construction or the Restoration Construction, as the case may be, by delivering written notice thereof to Outlot Owner (such notice, together with the notice described in subsection 10(b) below, being hereinafter referred to as the "Repurchase Notice").

(b) If, at any time, (i) the building constructed on the Outlot Parcel has not been operated for business purposes for a period of nine (9) consecutive months as such date may be extended for up to three (3) months due to Unavoidable Delays, or (ii) Outlot Owner is in default under Section 5 above, subject to the cure period set forth in Section 17 below, Developer may, at its option, repurchase the Outlot Parcel, together with any improvements thereon,

at the Repurchase Price (as determined in accordance with subsection 10(d) below) by delivering a notice to Outlot Owner exercising such option.

(c) If Developer elects to repurchase the Outlot Parcel (and any improvements thereon) as hereinabove provided: (i) Outlot Owner shall convey good and marketable title to the Outlot Parcel (and such improvements) in the same condition of title as when the Outlot Parcel was conveyed to Outlot Owner, free and clear of any and all other liens and encumbrances other than (A) utility or similar easements, covenants and restrictions that have no material adverse effect on the marketability of the Outlot Parcel and (B) other encumbrances that have no material adverse effect on the marketability of the Outlot Parcel; provided, however, that if Developer elects to take title subject to liens or encumbrances in a liquidated or ascertainable amount that are recorded against the Outlot Parcel, the Repurchase Price otherwise payable by Developer pursuant to this Section 10 shall be reduced by the amount of any and all such liens and/or encumbrances; (ii) the closing of such repurchase shall take place sixty (60) days after the Repurchase Price of the Outlot Parcel (and any improvements thereon) has been determined pursuant to subsection 10(d) below; and (iii) Developer and Outlot Owner shall execute and deliver such deeds, transfer declarations, closing statements (which closing statements shall include customary prorations applicable to transactions similar to the sale of the Outlot Parcel, and any improvements thereon, to Developer as contemplated under this Section 10) and other documents customarily executed in connection with such transfers of property. Notwithstanding anything contained in this Section 10 to the contrary, in the event that, after Developer exercises a right to repurchase the Outlot Parcel (and any improvements thereon), Developer determines that it is not interested in acquiring the Outlot Parcel (and any improvements thereon) at the Repurchase Price, then Developer shall notify Outlot Owner thereof within thirty (30) days after the date on which such Repurchase Price is determined and, in such event, (x) Developer's election to repurchase the Outlot Parcel (and any improvements thereon) shall be deemed to be effectively rescinded, (y) Developer shall not have the right to exercise its repurchase option described in this Section 10 for at least six (6) months after such rescission, and (z) Developer shall pay the fees of the appraisers otherwise payable by Outlot Owner pursuant to subsection 10(d) below (or shall reimburse Outlot Owner therefor if already paid by Outlot Owner as of the time of such rescission).

(d) The "Repurchase Price" for the repurchase of the Outlot Parcel pursuant to subsections 10(a) and 10(b)(ii)

above, shall be the greater of: (1) an amount equal to the lesser of (A) the outstanding balance of all loans secured by a mortgage on the Outlot Parcel and/or any improvements thereon (other than any such loan made by an Affiliate), and (B) ninety percent (90%) of the cost of the Outlot Parcel and the improvements situated thereon (which cost shall consist only of (x) the purchase price of the Outlot Parcel, as reflected in the Agreement of Purchase and Sale dated February 8, 1994, between Developer, as seller, and the Outlot Owner, as purchaser, as amended by that certain First Amendment to Agreement of Purchase and Sale dated as of June 9, 1994, plus (y) the actual, verifiable and documented "hard" construction costs of any improvements constructed thereon); and (2) seventy-five percent (75%) of the fair market value of the Outlot Parcel (the "Fair Market Value"). The Repurchase Price for the repurchase of the Outlot Parcel pursuant to subsection 10(b)(i) above shall be the Fair Market Value. The Fair Market Value shall be determined as follows:

(i) Outlot Owner and Developer shall attempt to agree on the Fair Market Value for a period of fifteen (15) days following Outlot Owner's receipt of the Repurchase Notice;

(ii) If the parties fail to agree on the Fair Market Value within such 15-day period, then the Fair Market Value shall be determined by appraisal. In such case, unless the parties mutually designate in writing the same appraiser to appraise the Outlot Parcel within such 15-day period, each party shall give written notice to the other party, within ten (10) days after the expiration of such 15-day period, identifying an appraiser to appraise the Outlot Parcel. Within seventeen (17) days after the end of such 10-day period, the two appraisers thus designated shall select a third appraiser who shall be someone who has not been previously engaged by either party to perform an appraisal. If a party fails to appoint its appraiser within the applicable 10-day period, then the appraiser appointed by the other party shall be the sole appraiser and shall determine the Fair Market Value. If the two appraisers designated by the parties fail to select the third appraiser within the applicable 17-day period described above, then the parties shall join together (or if a party fails to join, then the other party may act alone) in sending a written request to the Nebraska Chapter of the Appraisal Institute, or its successor organization (the "Institute"), within five (5) days after the end

of such 17-day period, for the written recommendation of the Institute of five (5) independent, duly qualified appraisers. Any of such appraisers recommended by the Institute who have previously served or are then currently serving either party or are otherwise affiliated with either party or with either of the previously appointed appraisers shall be eliminated, and the names of the remaining recommended appraisers shall be placed in a hat with one name to be drawn therefrom in a so-called "blind draw" attended by both parties or their designated representatives. The name so drawn shall be the third appraiser (or if such appraiser is unavailable to perform the required appraisal within the designated time period, the blind draw shall be used to select another name, and so forth). Each appraiser selected by the parties or appointed as otherwise provided above shall be an independent, reputable and duly qualified commercial real estate appraiser and shall be a Nebraska General Certified appraiser with an MAI or SRPA designation (or then equivalent designation). Each party shall pay the fee of the appraiser appointed by it, and the fee of the third appraiser (or sole appraiser if the appraisal is performed by only one appraiser) shall be shared equally by the parties. The appraiser(s) thus appointed shall act promptly to determine the Fair Market Value, which determination shall in all events be done and delivered in writing, as described below, no later than one (1) month following the date of the appointment of the last of said appraisers. If any appraiser fails to deliver its written report within such one-month period, either party may notify such appraiser and the other party of such failure, and the delinquent appraiser shall have fifteen (15) days after receipt of such notice to deliver its written report, failing which such appraiser shall be disqualified and only the remaining appraisers' determinations shall be used to determine Fair Market Value as provided in the following sentence. If all of the appraisers do not agree on the Fair Market Value, then the Fair Market Value shall equal the average of the two appraisals closest in amount. The determination of each appraiser shall be rendered in a written report, a signed copy of which shall be provided to each of the parties hereto. The appraisers shall at all times act in a fair, impartial and ethical manner.

11. COMPLIANCE WITH LAWS

Outlot Owner shall operate and maintain the Outlot Parcel in accordance with all applicable laws, statutes, ordinances, judgments, decrees, injunctions, writs, orders, rules and regulations of any governmental body having jurisdiction over the Outlot Parcel, all as the same may be in effect from time to time, subject to any more detailed or extensive requirements set forth herein. Outlot Owner shall not apply for a modification of or exemption from any law, rule or regulation currently applicable to the operation, use, development, construction or maintenance of the Outlot Parcel without Developer's prior written consent.

12. INSURANCE REQUIREMENTS

(a) Comprehensive General Liability Insurance. Outlot Owner shall maintain comprehensive general liability insurance insuring against loss, damage and liability arising from occurrences on or about the Outlot Parcel or operations at the Outlot Parcel, including, without limitation, hazards of or created by (i) construction operations, (ii) elevators and escalators, (iii) subcontractors and independent contractors, (iv) completed operations, (v) explosion, collapse and underground hazards and (vi) personal injury liability (with the standard contractual and employee exclusions deleted). Such comprehensive general liability insurance shall be endorsed with a broad form property damage endorsement. The insurance required by this subsection 12(a) shall have a combined single limit in the amount of not less than \$5,000,000 per occurrence. Developer, Developer's mortgage lender, and such other parties as Developer may reasonably designate in writing to Outlot Owner shall be named as additional insured parties under the insurance policies described in this subsection 12(a).

(b) Certificates. Concurrently with the execution of this Agreement and at least thirty (30) days prior to the expiration of each policy, Outlot Owner shall furnish to Developer copies of policies of insurance evidencing that the required insurance has been obtained or renewed, as the case may be, and is in full force and effect, and providing that the insurance will not be cancelled, amended or not renewed except upon thirty (30) days prior written notice thereof having been delivered to Developer. All copies of policies of insurance submitted under this Section shall be in form and content reasonably acceptable to Developer.

(c) Standards. All liability insurance described in this Section shall be occurrence policies (rather than claims-made policies) except to the extent that occurrence policies are unavailable, and all insurance shall be written by a company or companies reasonably satisfactory to Developer. If Outlot Owner fails to procure and maintain the insurance required hereby,

Developer shall have the right, but not the obligation, to procure and maintain the required insurance for and in the name of Outlot Owner, and Outlot Owner shall reimburse Developer on demand for the cost thereof and shall furnish all information needed by Developer to acquire and maintain such insurance. Outlot Owner shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance described in this Section.

13. ARCHITECTURAL COMMITTEE

Outlot Owner, for itself and its successors and assigns, hereby grants and conveys to Developer the right to vote for members of the Architectural Committee described in that certain Declaration of Protective Covenants dated February 12, 1986, among Parcel 520 Associates, a Nebraska general partnership, KV International, Inc., a Nebraska corporation, 140th and Center Partnership, a Colorado general partnership, The County of Douglas, Nebraska, and May & Oxner Partnership, a Nebraska general partnership, and recorded May 20, 1987, in Miscellaneous Book 815, Page 326, in the office of the Register of Deeds of Douglas County, Nebraska (the "Declaration"), as the same may heretofore have been or may hereinafter be amended. The voting rights granted and conveyed herein by Outlot Owner may be exercised by Developer in its sole discretion and shall be irrevocable and perpetual. Outlot Owner, for itself and its successors and assigns, hereby agrees that Developer shall be entitled to exercise any right of Outlot Owner to vote for members of the Architectural Committee that Outlot Owner or its successors and assigns would otherwise have had under the Declaration, and hereby appoints Developer as its proxy for such purpose.

14. MODIFICATION OF REA

Outlot Owner hereby acknowledges and agrees that Developer shall have the right to modify or amend the REA without the consent of Outlot Owner provided that such modification or amendment does not have a material adverse effect on the use or operation of the Outlot Parcel as contemplated under the terms of this Agreement or the REA in effect as of the date hereof; provided, however, upon Developer's request, Outlot Owner shall execute and deliver to Developer a written consent to any such modification or amendment which does not have a material adverse effect on the use or operation of the Outlot Parcel. For purposes of the foregoing and not in limitation of other potentially materially adverse modifications, the following modifications of the REA will be deemed to have a material adverse effect on the use or operation of the Outlot Parcel:

- (a) an increase in the parking ratio applicable to the Outlot Parcel;

(b) a modification in the buildable area on the Outlot Parcel;

(c) a modification to the REA which materially adversely affects the ingress and egress to the Outlot Parcel;

(d) a modification to the REA that materially limits the uses currently permitted on the Outlot Parcel; and

(e) a modification to the REA that materially limits the signage that may be used at the Outlot Parcel.

15. SUPPLEMENTAL PROVISIONS

Outlot Owner hereby acknowledges and agrees that covenants, conditions and restrictions set forth in this Agreement are intended to supplement the provisions of any other agreements now or hereafter affecting the use, development or operation of the Outlot Parcel, including, without limitation, the REA and the Declaration. In the event of any conflicts between the provisions of this Agreement and the provisions of the REA, the Declaration or any other recorded agreements, the provision that is most restrictive on Outlot Owner shall govern and control.

16. COVENANTS TO RUN WITH THE LAND;
TERMINATION; CREATION OF LIEN

(a) All covenants, conditions, restrictions and other provisions of this Agreement (i) shall be binding on Outlot Owner and the owners from time to time of the Outlot Parcel and their tenants, employees, agents, customers and invitees and shall constitute covenants running with, and equitable servitudes upon, the Outlot Parcel, and (ii) shall inure to the benefit of Developer and the owners from time to time of the Developer Tract as covenants running with the land in favor of the Developer Tract (and the Further Property to the extent provided in Section 23 below). Without intending to limit the generality of the foregoing, the provisions of this Agreement (including, without limitation, the liens created pursuant to subsection 16(b) below) shall be prior to all mortgages and other liens and encumbrances against the Outlot Parcel, including the interests of any holder of a deed of trust whether now in existence or hereafter created.

(b) All amounts payable by Outlot Owner to Developer pursuant to or in connection with this Agreement, together with interest, costs and reasonable attorneys' fees, shall be a charge on the Outlot Parcel and shall constitute a continuing lien upon the Outlot Parcel as of the date this Agreement is recorded.

17. REMEDIES

If Outlot Owner (a) fails to pay to Developer any amount owed by Outlot Owner to Developer under this Agreement and fails to cure such monetary default within five (5) days after written notice to Outlot Owner of such default, or (b) fails to perform any of Outlot Owner's other agreements or obligations or otherwise defaults hereunder and fails to cure such non-monetary failure or default within thirty (30) days after written notice to Outlot Owner of such non-monetary failure or default, the unpaid amounts, if applicable, shall bear interest until paid at an annual rate equal to four percent (4%) plus the "prime rate" published from time to time in The Wall Street Journal (or an equivalent rate reasonably selected by Developer in the event that The Wall Street Journal ceases its publication of the prime rate), and Developer shall have the following additional rights and remedies:

(i) Developer may institute suit against Outlot Owner to enforce collection of the amounts owed to Developer pursuant hereto;

(ii) Developer may record against title to the Outlot Parcel a notice of delinquency and intent to foreclose lien and proceed to foreclose its lien for amounts owed under the terms hereof against the Outlot Parcel in the same manner as foreclosure of a mortgage in accordance with applicable law, with all of the rights and remedies afforded by the laws of the State of Nebraska to secured creditors in such proceedings; and/or

(iii) Developer may pursue any other rights or remedies available to it at law or in equity, including, without limitation, the rights of specific enforcement and injunctive relief. In connection therewith, the parties hereto acknowledge and agree that the breach or default of Outlot Owner may not be adequately remedied by actions at law.

In addition to the foregoing, Outlot Owner shall pay to Developer on demand all expenses, charges, fees and costs, including, without limitation, attorneys' fees and court costs, incurred in connection with the enforcement by Developer of the terms and conditions of this Agreement, including the rights and remedies set forth above.

18. PARTIES NOT PARTNERS

Nothing contained in this Agreement nor the acts of the parties hereto, shall be deemed or construed by either party hereto, or by any third parties, to make the parties hereto partners or joint venturers, or to create the relationship of

principal and agent or render either party liable for the debts or obligations of the other.

19. NO WAIVER

No delay or omission by any party in exercising any right or power accruing upon any non-compliance or failure of performance by the other party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by any party of any covenant, condition, provision or performance under this Agreement shall not be effective unless given in writing and shall not be construed to be a waiver of any succeeding breach thereof, or of any other covenant, condition, provision or performance of this Agreement, unless otherwise expressly provided by such waiver.

20. CAPTIONS

The Section headings, captions and other similar designations, are for convenience and reference only, and in no way define or limit the scope and content of this Agreement, or in any way affect its provisions.

21. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

22. SEVERABLE PROVISIONS

If any provision of this Agreement, or the application thereof to any person, entity or circumstance, shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall be severed therefrom and shall not be affected thereby, and the remaining provisions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

23. MODIFICATION; NO THIRD PARTY BENEFICIARY

No agreement shall be effective to add to, change, amend, modify, waive or discharge this Agreement, in whole or in part, unless such agreement is in writing and signed by the owners of the Outlot Parcel and the Developer Tract. Notwithstanding any provision of law to the contrary, but subject to the provisions of the last sentence of this Section 23, this Agreement benefits only Developer and the successors in title to the Developer Tract (i.e., does not benefit other owners of any outlot parcels or department stores at the Shopping Center) and any amendment hereto need only be signed by the owners of the Outlot Parcel and the Developer Tract and by no other party. No third party (except the successors in title to the Outlot Parcel and the Developer Tract) shall have any rights under or interests in this

Agreement. Notwithstanding anything contained herein to the contrary, Outlot Owner acknowledges that, in addition to the Developer Tract legally described in Exhibit A attached hereto, Developer owns the additional property in the Shopping Center legally described in Exhibit "C" attached hereto (the "Further Property"), and Outlot Owner agrees that so long as Developer (or any successor in title to the Developer Tract described in Exhibit A) owns the Further Property, or any part thereof, this Agreement shall also benefit Developer (or such successor to the Developer Tract), as owner of all or part of the Further Property; however, this Agreement shall not benefit any lessee or other occupant of the Further Property nor shall this Agreement benefit any owner (a "Separate Owner") of any portion of the Further Property if such owner does not also own the Developer Tract, and, accordingly, no such lessee, occupant or Separate Owner shall have any rights to enforce this Agreement or be required to sign any amendment or modification hereof.

24. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument.

25. LIMITED LIABILITY OF DEVELOPER

It is expressly understood and agreed, anything contained herein to the contrary notwithstanding, that each and all of the covenants, undertakings, indemnities and agreements made by Developer hereunder, if any, are not made for the purpose or with the intention of binding Developer or its shareholders, officers, directors, employees, trustees, beneficiaries or agents in their individual capacities, but are made and intended solely for the purpose of binding (and shall be enforceable against) only the Developer Tract, and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against Developer or any of its shareholders, officers, directors, employees, trustee, beneficiaries or agents in their individual capacities on account of any covenant, undertaking, indemnity or agreement of Developer, either express or implied, all such personal liability or responsibility, if any, being expressly waived and released by Outlot Owner and all persons claiming by, through or under Outlot Owner. The provisions of this Section also shall inure to the benefit of Developer's successors and assigns, including, without limitation, any mortgagee of the Developer Tract.

26. NOTICES

Any notices, communications and waivers under this Agreement shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified

mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

To Developer: Oak View Mall Corporation
c/o Heitman Advisory Corporation
180 North LaSalle Street, Suite 3600
Chicago, Illinois 60601
Attn: Howard Edelman

With copy to: Schwartz, Cooper, Greenberger & Krauss,
Chartered
180 North LaSalle Street, Suite 2700
Chicago, Illinois 60601
Attn: Ernest Greenberger and
David Berzon

To Outlot Owner: Center Street Partnership
11506 Nicholas Street, Suite 200
Omaha, Nebraska 68154
Attn: James R. Otis

With a copy to: Norwest Bank Nebraska, N.A.
1919 Douglas Street
P.O. Box 3408
Omaha, Nebraska 68103
Attn: J. Kirk Hanson

or to any other address designated by a party hereto in a written notice to the other party. All notices sent pursuant to the terms of this Section shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly authorized, signed and executed as of the day, month and year first above written.

DEVELOPER:

OAK VIEW MALL CORPORATION, a Delaware corporation

BY: [Signature]
TITLE: V.P.

OUTLOT OWNER:

CENTER STREET PARTNERSHIP, a Nebraska general partnership

BY: [Signature]
TITLE: General Partner

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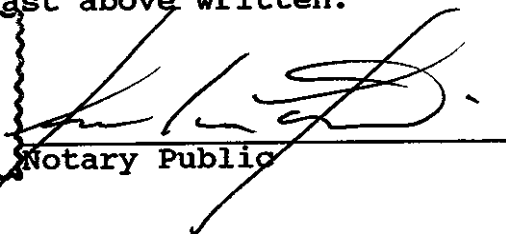
This Instrument Prepared by and
After Recording Return to:

Heidi J. Herman, Esq.
Schwartz, Cooper, Greenberger & Krauss, Chtd.
180 North LaSalle Street, Suite 2700
Chicago, Illinois 60601

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On this 6th day of October, 1994, before the undersigned, a Notary Public in and for said County, personally came Robert E. Smith, Vice President of OAK VIEW MALL CORPORATION, a Delaware corporation, personally known to be a Vice President of said corporation and the identical person whose name is affixed to the above Agreement, and he acknowledged the execution thereof to be his voluntary act and deed as such Vice President, and the voluntary act and deed of said corporation.

Witness my hand and notarial seal at Chicago, Illinois, in said County, ~~on the day and year last above written.~~

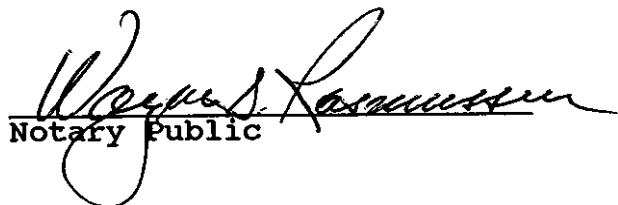
"OFFICIAL SEAL"
GRACE LEE SWANSON
Notary Public, State of Illinois
My Commission Expires April 12, 1995

Notary Public

STATE OF NEBRASKA)
) SS:
COUNTY OF DOUGLAS)

On this 26th day of September, 1994, before the undersigned, a Notary Public in and for said County, personally came James R. Otis, personally known to be a general partner of CENTER STREET PARTNERSHIP, a Nebraska general partnership and the identical person whose name is affixed to the above Agreement and he acknowledged the execution thereof to be his voluntary act and deed as such general partner, and the voluntary act and deed of said partnership.

Witness my hand and notarial seal at Omaha, Nebraska, in said County, on the day and year last above written.

WAYNE S. RASMUSSEN
GENERAL NOTARIAL
SEAL
STATE OF NEBRASKA
Commission Expires
May 21, 1996


Notary Public

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

EXHIBIT A

Legal Description of Developer Tract

A tract of land comprised of part of Lots 1 through 6, inclusive, OAK VIEW, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northeasterly corner of said Lot 1, Oak View, said point also being on the Westerly right-of-way (R.O.W.) line of Oak View Drive; thence $S1^{\circ}19'52''E$, along the said Westerly R.O.W. line of Oak View Drive, a distance of 22.34 feet to the True Point of Beginning; thence continuing $S1^{\circ}19'52''E$ along the said Westerly R.O.W. line of Oak View Drive, a distance of 83.58 feet; thence $N89^{\circ}36'36''W$, a distance of 89.06 feet; thence $N0^{\circ}23'24''E$, a distance of 57.30 feet; thence $N81^{\circ}16'21''W$, a distance of 215.55 feet; thence $S8^{\circ}45'30''W$, a distance of 123.42 feet; thence $N81^{\circ}15'43''W$, a distance of 85.34 feet; thence $S8^{\circ}18'35''W$, a distance of 271.49 feet; thence $S81^{\circ}21'25''E$, a distance of 66.55 feet; thence $S8^{\circ}43'39''W$, a distance of 63.44 feet; thence $S53^{\circ}43'39''W$, a distance of 147.02 feet; thence $S30^{\circ}20'43''E$, a distance of 357.40 feet; thence $N39^{\circ}39'17''E$, a distance of 29.27 feet; thence $S30^{\circ}20'43''E$, a distance of 269.04 feet to a point on the Northerly R.O.W. line of said Oak View Drive; thence $S49^{\circ}45'20''W$ along the said Northerly R.O.W. line of Oak View Drive, a distance of 30.66 feet to a point of curvature; thence Southwesterly along the said Northerly R.O.W. line of Oak View Drive, on a curve to the right, said curve having a radius of 280.00 feet, a long chord of 192.65 feet, bearing $S69^{\circ}52'40''W$ and an arc length of 196.67 feet to a point of tangency; thence $S90^{\circ}00'00''W$ along the North R.O.W. line of Oak View Drive, a distance of 255.64 feet; thence $N8^{\circ}46'00''E$, a distance of 718.39 feet; thence $N81^{\circ}14'01''W$, a distance of 245.85 feet; thence $S8^{\circ}46'00''W$, a distance of 154.45 feet; thence $S53^{\circ}47'17''W$, a distance of 427.14 feet; thence $S62^{\circ}06'17''E$, a distance of 152.85 feet; thence $S53^{\circ}47'17''W$, a distance of 198.51 feet to a point on the said Northerly R.O.W. line of Oak View Drive; thence $N58^{\circ}24'38''W$ along the said Northerly R.O.W. of Oak View Drive, a distance of 210.35 feet to a point of curvature; thence Northwesterly along the said Northerly R.O.W. of Oak View Drive, on a curve to the left, said curve having a radius of 340.00 feet, a long chord of 100.05 feet, bearing $N66^{\circ}52'16''W$ and an arc length of 100.41 feet; thence $N55^{\circ}03'58''E$, a distance of 124.56 feet to a point on the Northeasterly Lot line of said Lot 6, Oak View; thence Southeasterly along the said Northeasterly Lot line of Lot 6, Oak View, on a curve to the left, said curve having a radius of 248.00 feet, a long chord of 86.56 feet bearing $S44^{\circ}59'04''E$ and an arc length of 87.01 feet; thence $N53^{\circ}47'17''E$, a distance of 283.30 feet; thence $N16^{\circ}12'43''W$, a distance of 29.26 feet to a point on the Southeasterly Lot line of said Lot 3, Oak View; thence $N53^{\circ}47'17''E$ along the said Southeasterly Lot line of Lot 3, Oak View, a distance of 193.77 feet; thence

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N8°44'31"E, a distance of 120.20 feet; thence N81°15'30"W, a distance of 45.97 feet; thence N6°44'31"E, a distance of 366.5 feet; thence N81°16'31"W a distance of 253.29 feet; thence N39°33'32"W, a distance of 346.23 feet to a point on the Easterly Lot line of Lot 8 in said Oak View; thence N15°17'56"E along the said Easterly Lot line of Lot 8, Oak View, a distance of 58.83 feet to a point of curvature; thence Northeasterly, along the said easterly Lot line of Lot 8, Oak View, on a curve to the right, said curve having a radius of 385.51 feet, a long chord of 69.95 feet bearing N20°30'16"E and an arc length of 70.05 feet, to the Northeasterly Lot corner of said Lot 8, Oak View; thence N66°33'38"W along the Northerly Lot line of said Lot 8, Oak View, a distance of 288.07 feet to a point of curvature; thence Northwesterly, along the said Northerly Lot line of said Lot 8, Oak View on a curve to the left, said curve having a radius of 85.00 feet, a long chord of 34.53 feet, bearing N78°16'49"W and an arc length of 34.77 feet to a point of tangency; thence N90°00'00"W along the North Lot line of said Lot 8, Oak View, a distance of 2.78 feet to the Northwest Lot corner of said Lot 8, Oak View, also being on the East R.O.W. line of 144th Street; thence N0°00'00"E along the said East R.O.W. line of 144th Street, a distance of 93.86 feet to the most Northwesterly corner of said Lot 4, Oak View; thence S66°33'38"E, a distance of 372.91 feet to the most Southerly corner of Lot 9, said Oak View; thence Northeasterly, along the Southeasterly line of said Lot 9, Oak View on a curve to the right, said curve having a radius of 385.51 feet, a long chord of 17.42 feet, bearing N38°44'08"E and an arc length of 17.42 feet, to a point of compound curve; thence Northeasterly, along the Southeasterly line of said Lots 9 and 10, Oak View, on a curve to the right, said curve having a radius of 686.12 feet, a long chord of 247.76 feet, bearing N50°25'55"E and an arc length of 249.12 feet to a point of compound curvature; thence Northeasterly along the Southeasterly line of Lots 10, 11 and 13, of said Oak View, on a curve to the right, said curve having a radius of 811.38 feet, a long chord of 396.03 feet bearing N74°57'33"E and an arc length of 400.07 feet to the Southeasterly most Lot corner of said Lot 13, Oak View; thence N0°54'54"W along the Easterly line of said Lot 13, Oak View, a distance of 25.99 feet to a point of curvature; thence Northeasterly along the Southeasterly Lot line of said Lot 13, Oak View, on a curve to the right, said curve having a radius of 80.85 feet, a long chord of 77.99 feet bearing N27°55'11"E and an arc length of 81.38 feet; thence S33°14'33"E, a distance of 8.50 feet; thence N56°45'17"E, a distance of 212.24 feet to a point of curvature; thence on a curve to the left, said curve having a radius of 25.00 feet, a long chord of 16.13 feet bearing N37°55'58"E and an arc length of 16.43 feet to a point on the Westerly R.O.W. line of Oak View Drive; thence Southeasterly on a curve to the left along said Oak View Drive R.O.W., said curve having a radius of 650.76 feet, a long chord of 33.45 feet bearing S24°35'17"E, and an arc length of 33.45 feet; thence S56°45'17"W, a distance of 242.48 feet to a point of curvature; thence Southwesterly, on a curve to the left, said curve having a radius of 44.49 feet, a long chord of 42.9 feet bearing

S27°55'11"W and an arc length of 44.78 feet, to a point of tangency; thence S0°54'54"E, a distance of 44.55 feet; thence N89°47'07"W, a distance of 20.72 feet, to a point of curvature; thence Southwesterly on a curve to the left, said curve having a radius of 793.38 feet, a long chord of 402.40 feet bearing S75°31'27"W and an arc length of 406.84 feet, to a point of compound curvature; thence Southwesterly on a curve to the left, said curve having a radius of 668.12 feet, a long chord of 160.15 feet bearing S53°56'59"W and an arc length of 160.54 feet; thence S39°33'32"E, a distance of 149.47 feet; thence N70°26'28"E, a distance of 19.16 feet; thence S39°33'32"E, a distance of 519.78 feet; thence N8°42'31"E, a distance 142.83 feet; thence S81°17'29"E a distance of 353.01 feet; thence S8°42'31"W a distance of 56.09 feet; thence S81°16'21"E, a distance of 366.55 feet to the Point of Beginning; the total area of the tract is 17.045 acres, more or less.

EXHIBIT B

Legal Description of Outlot Parcel

Lot 15 in Oak View, a Subdivision located in the west half of Section 36, Township 15 North, Range 11 East, Douglas County Nebraska (Reserve Tract LL/01 shown in Exhibit F to REA)

EXHIBIT C

Legal Description of Further Property at
Shopping Center Owned by Developer

FUTURE DEPARTMENT STORE TRACT

A tract of land comprised of part of Lots 2 and 4, OAK VIEW, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, more particularly described as follows:

Commencing at the Southerly most corner of Lot 6, said Oak View, said point also being on the Northeasterly right-of-way (R.O.W.) line of Oak View Drive; thence S58°24'38"E, along the said Northeasterly R.O.W. line of Oak View Drive, a distance of 95.80 feet to the True Point of Beginning; thence N53°47'17"E, a distance of 198.51 feet; thence N62°06'17"W a distance of 152.85 feet; thence N53°47'17"E a distance of 427.14 feet; thence N8°46'00"E a distance of 154.45 feet; thence S81°14'01"E a distance of 245.85 feet; thence S6°46'00"W a distance of 718.39 feet to a point on the North R.O.W. of Oak View Drive; thence S90°00'00"W along the said North R.O.W. line of Oak View Drive a distance of 203.25 feet to a point of curvature; thence Northwestery along the said Northeasterly R.O.W. of Oak View Drive on a curve to the right, said curve having a radius of 260.00 feet, a long chord of 141.54 feet bearing N74°12'19"W and an arc length of 143.35 feet to a point of tangency; thence N58°24'38"W along the said Northeasterly R.O.W. line of Oak View Drive a distance of 219.87 to the point of beginning.

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YOUNKERS TRACT

A tract of land comprised of part of Lots 2, 3 and 4, inclusive, in OAK VIEW, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, more particularly described as follows:

Beginning at the Southerly most corner of said Lot 3, Oak View, thence Northwesterly along the Northeasterly Lot line of Lot 6, said Oak View, on a curve to the right, said curve having a radius of 248.00 feet, a long chord of 82.99 feet bearing N38°48'21"W and an arc length of 83.38 feet to a point of compound curvature; thence Northwesterly, along the said Northeasterly Lot line of Lot 6, Oak View, on a curve to the right, said curve having a radius of 979.81 feet, a long chord of 222.68 feet bearing N22°39'01"W and an arc length of 223.16 feet, to a point of compound curvature; thence Northerly along the Easterly line of Lots 6 and 7 of said Oak View, on a curve to the right, said curve having a radius of 640.82 feet, a long chord of 194.69 feet bearing N7°23'17"W and an arc length of 195.45 feet to a point of compound curvature; thence Northeasterly, along the said Easterly line of Lot 7, Oak View, on a curve to the right, said curve having a radius of 1655.00 feet a long chord of 304.39 feet bearing N6°37'34"E and an arc length of 304.82 feet, to the Northeasterly corner of said Lot 7, Oak View; thence N66°33'38"W along the Northerly line of said Lot 7, Oak View, a distance of 134.64 feet to a point of curvature; thence Northwesterly along the said Northerly line of Lot 7, Oak View, on a curve to the left, said curve having a radius of 85.00 feet, a long chord of 34.53 feet bearing N78°16'49"W and an arc length of 34.77 feet to a point of tangency; thence N90°00'00"W along the said Northerly line of Lot 7, Oak View, a distance of 19.07 feet to the Northwest corner of said Lot 7, Oak View, said point also being on the East R.O.W. line of 144th Street; thence N0°00'00"E, along the said East R.O.W. line of 144th Street, a distance of 80.00 feet to the Southwesterly corner of Lot 8, Oak View; thence S90°00'00"E along the Southerly line of said Lot 8, Oak View, a distance of 19.07 feet to a point of curvature; thence Southeasterly along the said Southerly line of Lot 8, Oak View, on a curve to the right, said curve having a radius of 165.00 feet, a long chord of 67.03 feet bearing S78°16'49"E and an arc length of 67.50 feet to a point of tangency; thence S66°33'38"E, along the said Southerly line of Lot 8, Oak View, a distance of 120.35 feet to the Southeasterly corner of said Lot 8, Oak View; thence Northeasterly, along the Easterly line of said Lot 8, Oak View on a curve to the right, said curve having a radius of 1655.00 feet, a long chord of 16.83 feet bearing N15°00'27"E and an arc length of 16.83 feet to a point of tangency; thence N15°17'57"E, along the said Easterly line of Lot 8, Oak View, a

YOUNKERS TRACT, CONT.

distance of 232.62 feet; thence $S39^{\circ}33'32''E$ a distance of 346.23 feet; thence $S81^{\circ}16'21''E$ a distance of 253.29 feet; thence $S8^{\circ}44'31''W$ a distance of 366.15 feet; thence $S81^{\circ}15'30''E$ a distance of 45.97 feet; thence $S8^{\circ}44'31''W$ a distance of 120.20 feet to a point on the Southeasterly Lot line of said Lot 3, Oak View; thence $S53^{\circ}47'17''W$ along the said Southeasterly Lot line of Lot 3, Oak View, a distance of 193.77 feet; thence $S16^{\circ}12'43''E$ a distance of 29.26 feet; thence $S53^{\circ}47'17''W$ a distance of 283.30 feet to a point on the said Northeasterly Lot line of Lot 6, said Oak View; thence Northwestery along the said Northeasterly Lot line of Lot 6, Oak View, on a curve to the right, said curve having a radius of 248.00 feet, a long chord of 28.54 feet bearing $N51^{\circ}44'11''W$ and an arc length of 28.56 feet to a point of beginning.

VILLAGE INN TRACT

These parts of Lots 6 and 7, OAK VIEW, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northwesterly most corner of said Lot 7, Oak View Subdivision; thence $S0^{\circ}00'00''E$ along the East right-of-way (R.O.W.) line of 144th Street, a distance of 331.50 feet to the true Point of Beginning; thence $S90^{\circ}00'00''E$ a distance of 142.33 feet; thence Southwesterly along the Easterly lot line of said Lot 7, on a curve to the left, said curve having a radius of 1,655.00 feet, a long chord of 31.45 feet bearing $S1^{\circ}53'39''W$ and an arc length of 31.45 feet to a point of compound curve; thence Southeasterly along the Easterly lot line of said Lots 6 and 7 on a curve to the left, said curve having a radius of 640.82 feet, a long chord of 194.69 feet bearing $S7^{\circ}23'17''E$ and an arc length of 195.45 feet to a point of compound curvature; thence Southeasterly along the Easterly lot line of said Lot 6 on a curve to the left, said curve having a radius of 979.81 feet, a long chord of 92.12 feet bearing $S18^{\circ}49'12''E$ and an arc length of 92.16 feet; thence $N90^{\circ}00'00''W$ a distance of 196.04 feet to the East R.O.W. line of 144th Street; thence $N0^{\circ}00'00''E$ along the East R.O.W. line of 144th Street a distance of 311.71 feet to the Point of Beginning.

CLIVE GARDEN TRACT

Lot 8 in Oak View, a Subdivision located in the west half
of Section 36, Township 15 North, Range 11 East, Douglas
County, Nebraska

LOT 14

Lot 14 in Oak View, a Subdivision located in the west half
of Section 36, Township 15 North, Range 11 East, Douglas
County Nebraska