

Return to:
Kristen E. Nelsen, Esq.
c/o Chase Properties
3333 Richmond Road, Suite 320
Beachwood, Ohio 44122

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS (“Declaration”), is made effective as of August 18, 2023 (“Effective Date”), by G&I X MONTCLAIR ON CENTER LLC, a Delaware limited liability company (“Declarant”), having an address and principal place of business at 3333 Richmond Road, Suite 320, Beachwood, Ohio 44122.

WHEREAS, Declarant is the fee owner of a certain parcel of real property located in the City of Omaha, County of Douglas and State of Nebraska, more particularly described in Exhibit “A” attached hereto and made a part hereof (“Parcel 1”);

WHEREAS, Declarant is the fee owner of a certain parcel of real property located in the City of Omaha, County of Douglas and State of Nebraska, more particularly described in Exhibit “B” attached hereto and made a part hereof (“Parcel 2”);

WHEREAS, Parcel 1 and Parcel 2 are individually referred to herein as a “Parcel” and together as the “Parcels” or the “Property” and are identified on the site plan attached hereto as Exhibit “C” and made a part hereof (“Site Plan”), identifying the Montclair on Center Shopping Center (the “Shopping Center”); and

WHEREAS, Declarant proposes in accordance with the terms hereof to create by this instrument certain rights, obligations and restrictions with respect to all or a portion of the Property.

NOW, THEREFORE, Declarant as the owner of the respective Parcels comprising the Property, for itself, its successors and assigns and for each party claiming by, through or under Declarant, hereby declares as follows:

1. Definitions.

Unless the context otherwise specifies or requires, the terms defined in this Section 1 shall, for all purposes of the Declaration, have the meanings herein specified.

(A) "Access Drive" shall mean the drive lane providing ingress and egress to South 132nd Street.

(B) "Building" shall mean any permanently enclosed structure placed, constructed or located on a Parcel and shall also include any appurtenant canopies, drive-throughs and supports.

(C) "Claims" shall mean claims, demands, causes of action, liabilities, liens, damages, losses, costs and expenses including court costs and reasonable attorneys' fees related thereto.

(D) "Common Area" shall mean those areas on the Property which are not from time to time covered by Buildings or Service Areas.

(E) "Constant Dollars" shall mean the then-current value of the dollars to which such phrase refers. Constant Dollars shall be determined by multiplying the dollar amount to be adjusted by a fraction, the numerator of which is the Current Index Number and the denominator of which is the Base Index Number. The "Base Index Number" shall be the level of the Index for the month during which the Effective Date occurs; the "Current Index Number" shall be the level of the Index for the most recent month for which the Index is available; and the "Index" means and refers to the U.S. City Average, All Items, of the National Consumer Price Index for All Urban Consumers (1982-1984=100) or any successor index thereto as provided herein. If publication of the Index is discontinued, or if the basis of calculating the Index is materially changed, then the parties shall substitute for the Index comparable statistics as computed by an agency of the United States government or, if none, by a substantial and responsible periodical or publication of recognized authority most closely approximating the result which would have been achieved by the Index.

(F) "Hazardous Materials" shall mean any substance which is or contains (i) any "hazardous substance" as now or hereafter defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.) ("CERCLA") or any regulations promulgated under CERCLA; (ii) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.) ("RCRA") or regulations promulgated under RCRA; (iii) any substance regulated by the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.); (iv) gasoline, diesel fuel or other petroleum hydrocarbons; (v) asbestos and asbestos-containing materials, in any form, whether friable or non-friable; (vi) polychlorinated biphenyls; (vii) radon gas; and (viii) any additional substances or materials which are now or hereafter classified or considered to be hazardous or toxic by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity or toxicity under any applicable environmental laws or the common law or any other applicable laws relating to the Shopping Center. Hazardous Materials shall include, without limitation, any substance, the presence of which on the Shopping Center (A) requires reporting, investigation or remediation under applicable laws, (B) causes or threatens to cause a nuisance on the Shopping Center or adjacent

property or poses or threatens to pose a hazard to the health or safety of persons on the Shopping Center or adjacent property or (C) which, if it emanated or migrated from the Shopping Center, could constitute a trespass.

(G) "Managing Owner" shall mean Declarant, for so long as Declarant is the owner of any portion of Parcel 1, and any subsequent owner of that portion of Parcel 1 upon which the area of Buildings under roof exceeds that of the area of Buildings under roof on any other portion of Parcel 1.

(H) "Occupant" or "User" shall mean any person from time to time entitled to the occupancy and use of any portion of a Building located on the Property under any lease, sublease, license, concession or other similar agreement.

(I) "Owner" shall mean any owner of any portion of Parcel 1 or any owner of Parcel 2.

(J) "Parcel 2 Owner" shall mean the owner of Parcel 2.

(K) "Parking Area" shall mean that portion of the Common Area used from time to time for the parking of motor vehicles, together with all incidental roadways, driveways, walkways, curbs and landscaping within such areas as are used for parking together with all such physical structures and facilities which are at any time erected thereon.

(L) "Permittee" shall mean all Occupants and Users and their respective officers, directors, employees, agents, partners, contractors, customers, vendors, suppliers, visitors, invitees, licensees, subtenants and concessionaires, insofar as their activities are related to the intended use of the Property.

(M) "Service Area" shall mean exterior lighting attached to a Building and drive-up or drive-through customer service facilities, outside seating areas, loading docks, truck ramps and other similar exclusive service facilities directly adjacent to, or in proximity with, a Building.

(N) "Tenant" shall mean Walgreen Co., an Illinois corporation, and its successors and assigns.

(O) "Utility Facilities" shall mean the existing, common exterior lighting utility lines and facilities serving both Parcel 1 and Parcel 2, as the same may be repaired, relocated or replaced in Managing Owner's discretion.

(P) "Walgreens Lease" shall mean that certain lease dated May 14, 2002, as amended by that certain First Amendment to Lease Agreement dated October 26, 2021 (together, the "Lease") as originally executed between Declarant's predecessor-in-interest and Tenant.

2. Grant of Rights.

Declarant for itself, its successors and assigns, hereby grants the following non-exclusive rights and privileges for the benefit of the Owners, Occupants, Users and Permittees, subject in each case to the restrictions, reservations and limitations set forth in this Declaration:

(A) Ingress and Egress. The right-of-way and easement for ingress and egress by motor vehicles (including delivery trucks) to and from any portion of the Common Area over and across the Parking Area and driveway areas on the Parcels, as well as pedestrian traffic between business establishments within the Shopping Center, between and in the Common Area, and between the Parcels and the adjoining sidewalks, pedestrian ways, driveways, roadways and streets, as the same may be constructed and maintained for such use. No walls, fences or barriers of any kind shall be constructed or erected on the Shopping Center by any Owner which shall prevent or impair the use or exercise of any of the easements granted herein, provided, however, that curb stops and other reasonable traffic controls including, without limitation, directional markers and parking stops, as may be reasonably necessary to guide and control the orderly flow of traffic may be installed so long as the access driveways to the Parking Area are not closed or blocked. Notwithstanding the foregoing, any Owner shall have the right to close off any portion of the Common Area located on such Owner's Parcel for reasonable periods of time as may be legally necessary to prevent any public dedication thereof or the acquisition of any prescriptive rights by the public therein; provided, however, that any such closure shall not occur between October 1 and December 31 in any calendar year and shall be limited in duration to only the period of time as shall be legally necessary in order to prevent a public dedication or the acquisition by the public of any prescriptive rights. Further, the foregoing provisions of this Section 2(A) are not intended to prevent any Owner from temporarily closing portions of the Common Area in order to perform maintenance and repair work or to comply with applicable laws, provided that such activities are not performed in such a manner as would unreasonably obstruct the free flow of vehicular or pedestrian access, ingress and egress to and from the Parcels, or the free flow of traffic circulation over and across the Common Area of the Shopping Center.

(B) Utility Facilities. The easement right to use the Utility Facilities in a manner necessary to minimize interference with the use of the affected portion of the Common Area accessed in connection with such use. To the extent required by governmental authorities each Owner shall grant all public easements over and across the Common Areas of its Parcel necessary for Utility Facilities servicing other Parcels on the Shopping Center but shall be permitted to reasonably approve the location thereof and the terms and form of the easement agreement. Notwithstanding the foregoing, any such easement shall be limited in width to only such area as may be reasonably necessary or required to undertake and complete the construction, maintenance, repair, replacement and operation activities contemplated by this Section 2(B) and such activities shall be performed in a manner necessary to minimize interference with the use of the affected portion of the Common Area. To the extent that any utility lines servicing any Parcel cross another Owner's Parcel, such utility lines shall be serviced, maintained, repaired and replaced by the party served by the utility lines, at such benefited party's sole cost and expense, subject to the other terms of this Agreement. Any disruption or demolition of a servient Parcel by reason of the use of the easements granted and created in this Section 2(B) shall be kept to a minimum and shall not exceed one (1) day in duration, unless such disruption or demolition cannot be reasonably completed within such one (1) day period, in which event the period will be extended to such time period as may be reasonable under the circumstances, and such area shall be promptly restored by the benefited Owner, as the case may be, to its original condition at no expense to the servient Owner.

(C) Tie-in to Utilities. The easement right in the Common Area, exercisable at the sole liability of the benefited Owner, to connect and tie into any and all utilities provided through the Utility Facilities to the extent of the then existing capacity thereof and, if then existing Utility

Facilities have insufficient capacity, to construct additional Utility Facilities as proximate as possible to existing Utility Facilities, subject, however, in either case to the tie-in fees and other charges of the providing utility, provided such Owner pays for the use of such Utility Facilities directly through a separate meter or submeter. Notwithstanding the foregoing, any such easement shall be limited in width to only such area as may be reasonably necessary or required to undertake and complete the construction, maintenance, repair, replacement and operation activities contemplated by this Section 2(C) and such activities shall be performed in a manner necessary to minimize interference with the use of the affected portion of the Common Area. Any disruption or demolition of a servient Parcel by reason of the use of the easements granted and created in this Section 2(C) shall be kept to a minimum and shall not exceed one (1) day in duration, unless such disruption or demolition cannot be reasonably completed within such one (1) day period, in which event the period will be extended to such time period as may be reasonable under the circumstances, and such area shall be promptly restored by the benefited Owner, as the case may be, to its original condition at no expense to the servient Owner.

(D) Parking. The easement right to park motor vehicles in the Parking Area, on a non-exclusive, first come, first served basis, while conducting business on the Shopping Center. The Owners shall not impose or allow to be imposed any charge or fee for parking in the Parking Area and each Owner shall be permitted to take whatever legal action may be necessary to prevent unauthorized parking on its Parcel. Parcel 1 Owner, without obtaining the prior written consent or approval of Parcel 2 Owner shall be permitted to (i) alter, erect or construct customary common area structures and improvements within Parcel 1, such as light poles, planters, cart corrals, benches and landscaping, so long as the same do not unreasonably interrupt or disturb access to and from the Building on Parcel 2, (ii) perform maintenance, repair and replacement obligations required to be performed by Parcel 1 Owner under any agreement with an Occupant or User of a Building on Parcel 1 and (iii) alter, erect or construct improvements within Parcel 1 as required by applicable laws, rules, regulations or codes.

(E) Drainage. The easement right for surface water drainage.

(F) No Public Dedication. No Occupants, Users or Permittees nor the public generally shall have any legal or equitable claim or right in and to the rights and privileges created by this Declaration.

3. Maintenance of the Property.

(A) For so long as HomeGoods is open and operating in the Shopping Center, no structure, façade, canopy, addition or repair to the Building located on Parcel 2 ("Existing Building") may be constructed to be higher than the façade of the Home Goods store of thirty-five feet (35'). In no event shall the Common Area on Parcel 2, including, without limitation, the drive lanes, parking spaces and landscaping islands be materially modified without the prior written consent of Managing Owner, which consent will not be unreasonably, withheld, conditioned or delayed.

(B) Each Owner will maintain the Buildings, Service Areas and Common Areas located on its respective Parcel, at its sole cost and expense (except as expressly set forth herein), in compliance with applicable laws, ordinances and regulations and in good order, condition and repair (comparable to the condition of buildings located in other first-class shopping centers in the

trade area) and will remove debris, ice and snow from their respective Common Area at reasonable intervals.

4. Rights and Obligations of Managing Owner.

(A) Managing Owner shall have the right, in its sole discretion, to construct, install, repair, alter, maintain, demolish, remove, relocate and replace any Building and any other improvement on Parcel 1 so long as such activity does not materially diminish, reduce, impair, relocate or remove any rights running in favor of Parcel 2 or the Parcel 2 Owner pursuant to this Declaration (including, but not limited to, access to 132nd Street). The foregoing shall not restrict Managing Owner from maintaining, repairing and replacing any portion of the Common Area providing access from 132nd Street to Parcel 2 so long as such work is temporary and performed in a commercially reasonable manner.

(B) Managing Owner shall have the right to subdivide or reconfigure Parcel 1 into any number of parcels as permitted by law, so long as such subdivision or reconfiguration does not materially diminish, reduce, impair, relocate or remove any rights running in favor of Parcel 2 or the Parcel 2 Owner pursuant this Declaration (including, but not limited to, access to 132nd Street through the Access Drive. An owner of any subdivided or reconfigured parcel within Parcel 1 shall be an Owner under this Declaration with respect to that portion of Parcel 1 owned by such Owner.

(C) Managing Owner will keep the Common Areas located on Parcel 1 lighted in accordance with how it is customarily lighted as of the Effective Date hereof, and open to the customers of the Property and pay before delinquency all utility and repair costs for the Access Drive, and Utility Facilities. Parcel 2 Owner will keep the Common Areas located on Parcel 2 lighted in accordance with how it is customarily lighted as of the Effective Date hereof, and open to the customers of the Property and pay before delinquency all utility and repair costs for the Utility Facilities located on Parcel 2. If either the Managing Owner or the Parcel 2 Owner (as applicable, a "Violating Owner") fails to maintain or repair the Common Areas located on its Parcel ("Common Area Violation"), the other party (the "Non-Violating Owner") shall provide the Violating Owner with written notice of such Common Area Violation. If the Violating Owner fails to (a) commence to cure the Common Area Violation within a reasonable period of time under the circumstances after receipt of written notice of same (not to exceed thirty (30) days), and (b) cure the Common Area Violation within sixty (60) days of receipt of written notice of the same, the Non-Violating Owner shall be entitled to (i) exercise any and all rights and remedies available at law and in equity (including seeking injunctive relief, and the parties hereby agree for the purpose of injunctive relief that the Non-Violating Owner would be irreparably harmed by Violating Owner's failure to cure a Common Area Violation within the time period provided herein), and (ii) proceed on its own to cure the Common Area Violation after expiration of the time period and the Violating Owner shall reimburse the Non-Violating Owner for the actual costs and expenses incurred by the Non-Violating Owner in completing such cure within fifteen (15) days after it's receipt of the Non-Violating Owner's invoice, provided that, if the Common Area Violation is such that it cannot be cured within sixty (60) days, the Non-Violating Owner shall not be entitled to the remedies set forth herein so long as the Violating Owner is diligently pursuing such cure to completion.

(D) Intentionally omitted.

(E) Intentionally omitted.

5. Intentionally omitted.

6. Restrictions on Use of Parcel 1.

(A) For so long as Parcel 2 is being used for the same or substantially similar use as Tenant's use (subject to temporary closures for casualty, remodeling, repairs or alterations associated with replacement tenants that will occupy Parcel 2 for the same or substantially similar use), no Owner of Parcel 1 or any portion thereof shall lease any space on Parcel 1 to an occupant who engages in any one or combination of the following uses: (i) the operation of a drug store or a so-called prescription pharmacy or for any other purpose requiring a qualified pharmacist or other person authorized by law to dispense medicinal drugs, directly or indirectly, for a fee or remuneration of any kind; (ii) the operation of a medical diagnostic lab and/or the provision of treatment services (other than as part of a medical, dental, physician, surgical or chiropractic office[s], which office[s] shall not be restricted by this subsection ii)); (iii) the sale of so-called health and/or beauty aids and/or drug sundries (except that no more than three hundred (300) square feet of combined sales or display area may be devoted to the incidental sale of such health and/or beauty aids and/or drug sundries); (iv) the operation of a business in which photo finishing services and/or photographic film are offered for sale (except that the sale of photographic film is not hereby restricted to the extent such sale is incidental to a business); (v) the operation of a business in which greeting cards and/or gift wrap are offered for sale (except that no more than three hundred (300) square feet of combined sales or display area may be devoted to the incidental sale of such greeting cards and/or gift wrap); (vi) the operation of a business in which prepackaged food items for off premises consumption are offered for sale (except that the sale of such food items is not hereby restricted to the extent such sale is incidental to a business not otherwise prohibited under the Walgreens Lease), and (vii) the operation of a cocktail lounge, bar, disco, bowling alley, pool hall, billiard parlor, skating rink, roller rink, amusement arcade, children's play or party facility, adult book store, adult theatre, adult amusement facility, any facility selling or displaying pornographic materials or having such displays, second hand store, odd lot, closeout or liquidation store, auction house, flea market, educational or training facility, blood bank, sleeping quarters or lodging, the outdoor housing or raising of animals, the sale, leasing or storage of automobiles, boats or other vehicles, any industrial use, a car wash, an assembly hall, off track betting establishment, bingo parlor, any use involving the use, storage, disposal or handling of hazardous materials or underground storage tanks, any office use (except incidental to a retail use), a restaurant, or any use which creates a nuisance. Notwithstanding the foregoing, a cocktail lounge, bar, children's play or party facility, educational or training facility, restaurant and/or any office use shall be permitted in those specific areas within the Shopping Center indicated on the Site Plan attached to the Walgreens Lease as of the date of this Declaration ("Permitted Use Area(s)") [except that only two (2) restaurants (one of which may be a bar or tavern), each not to exceed 1,600 square feet in size, shall be permitted within the first floor of any building area labeled the "Restaurant Restricted Area" on the Site Plan attached to the Walgreens Lease; provided, however, that only one such restaurant within the Restricted Restaurant Area shall be permitted to sell or serve alcoholic beverages at any given time, and the existing bar located within such Restricted Restaurant Area as of the execution date of the Walgreens Lease shall be counted towards such restriction. Notwithstanding the foregoing, the exclusive use restrictions contained in

subparagraphs (iii), (iv), (v), and (vi) shall not apply to incidental sales by any other Shopping Center tenant occupying at least thirty thousand (30,000) square feet.

(B) In addition to all other rights and remedies arising hereunder or otherwise arising at law or in equity, Parcel 2 Owner shall have the right to seek injunctive relief as a remedy to any violation of this Section 6. Each Owner of a portion of Parcel 1 hereby acknowledges that Parcel 2 Owner is likely to suffer irreparable injury because of a violation of the provisions of this Section 6 and each Owner of a portion of Parcel 1 waives any requirement that a bond be posted by Parcel 2 Owner in connection with a temporary restraining order issued as a remedy to a breach of this Section 6. Notwithstanding anything to the contrary contained herein, the potential liability of an Owner of a portion of Parcel 1 under this Section 6 ("Parcel 1 Owner Liability") shall be limited to that potential liability of the Owner of Parcel 2 arising under the Walgreens Lease. Parcel 1 Owner Liability may not be increased by any amendment to the Walgreens Lease.

7. Restrictions on Use of Parcel 2.

(A) No part of the Common Areas located on Parcel 2 shall ever be leased or the right to use the same granted to any other person or entity, except to Owners, Occupants, Users and Permittees.

(B) Except as otherwise approved by the Managing Owner, which approval may be withheld in the Managing Owner's sole discretion, all signage on Parcel 2 shall comply with the sign criteria described in Exhibit "D" attached hereto and made a part hereof ("Sign Criteria"), except that the Managing Owner agrees that the signage displayed by Walgreens on Parcel 2 as of the Effective Date has been approved by the Managing Member.

(C) No part of Parcel 2 shall be used by the Owner of Parcel 2 or by any Occupant, User or Permittee for any of the purposes described in Exhibit "E" attached hereto and made a part hereof.

(D) In addition to all other rights and remedies arising hereunder or otherwise arising at law or in equity, Managing Owner shall have the right to seek injunctive relief as a remedy to any violation of this Section 7. Parcel 2 Owner hereby acknowledges that Managing Owner is likely to suffer irreparable injury because of a violation of the provisions of this Section 7 and Parcel 2 Owner waives any requirement that a bond be posted by Managing Owner in connection with a temporary restraining order issued as a remedy to a breach of this Section 7.

8. Insurance and Indemnity.

(A) Each Owner shall carry or cause to be carried property insurance with respect to the Buildings and other improvements located on its Parcel insuring against all risks of physical loss, including, but not limited to fire, lightning, vandalism and malicious mischief and all other casualties covered by a standard form of fire and extended coverage insurance in the State of Nebraska, with coverage in an amount not less than one hundred percent (100%) of the full insurable value thereof (excluding footings, foundations or excavations) with a commercially reasonable deductible, on a replacement cost basis ("Casualty Insurance").

(B) Each Owner shall maintain or cause to be maintained general commercial public liability insurance insuring against Claims on account of loss of life, bodily injury or property damage that may arise from, or be occasioned by, the condition, use or occupancy of the Common Areas, Buildings, or other improvements within the Parcel owned by such Owner or caused by such Owner or by those persons or parties for whose acts and omissions such Owner is legally liable. Such policy or policies shall have limits for loss of life, bodily injury, or property damage in an amount of not less than Three Million Dollars (\$3,000,000.00) in Constant Dollars combined single limit for each occurrence. Each such policy or policies of insurance shall name as additional insureds thereunder all Owners of the Parcels comprising the Shopping Center and, upon request of an Owner, shall also name as an additional insured any User or Occupant required to be named as an additional insured under the terms of the lease or occupancy agreement of such User or Occupant. Each Owner shall also maintain workers' compensation insurance in an amount required by law.

(C) Each Owner hereby waives all rights of recovery it might have against another Owner for any liability and expense for loss, damage or destruction of property and business interests resulting from perils ordinarily covered by all-risk (special form) commercial property insurance and originating from any cause whatsoever, including negligence of an Owner. Each Owner shall use reasonable efforts to obtain, if needed, an appropriate endorsement to the Owner's Property Insurance with respect to the foregoing waiver; provided, however, that failure to obtain such endorsement shall not affect the waiver hereinabove given. In addition, each Owner shall cause each insurance company issuing the Owner's Property Insurance to waive any right of subrogation that said insurance company may have against the Owners.

(D) Subject to the provisions of Section 8(C), each Owner shall indemnify, defend and save harmless each other Owner from all Claims in connection with the loss of life, personal injury and damage to property (i) arising from or out of any occurrence in or upon the indemnifying Owner's Parcel; (ii) occasioned wholly by any negligent or willful act or omission of the indemnifying Owner, its Occupants or Users or their respective agents, contractors or employees or (iii) in connection with the failure to comply with the provisions of this Declaration.

9. Property Damage and Destruction.

If the Building or Common Area on Parcel 2 is damaged by fire or other casualty (whether insured or not), the Owner of Parcel 2 shall promptly remove the debris resulting from such event and within a reasonable time thereafter shall repair or restore the Building or Common Area so damaged to a condition existing immediately prior to the damage or destruction or perform one of the following alternatives:

(A) erect another building in such location; or

(B) demolish the damaged portion or the entire Building, fill any excavation, perform other work necessary to put such portion of the Property in a clean and safe condition, pave such area for parking in general conformity with the parking layout shown on the Site Plan and install adequate storm drainage and adequate lighting in general conformity with the lighting used in the Common Area.

10. Eminent Domain.

If the whole or any part of the Property shall be taken or damaged by right of eminent domain or any transfer in lieu thereof (a "Taking"), the entire award for the value of the land and improvements so taken shall belong to the Owner of the Parcel so taken, subject to rights of mortgagees and Occupants on the Parcel and no other Owner shall have a right to claim any portion of such award by virtue of any interest created by this Declaration. Any Owner of a Parcel which is not the subject of a Taking may, however, file a collateral claim with the condemning authority over and above the value of the Parcel (or portion thereof) so taken to the extent of any damage suffered by such Owner resulting from the severance of the land or improvements so taken. In the event of a partial Taking, the Owner of the portion of the Property so taken shall restore the improvements located on the Common Area of said Owner's Parcel as nearly as possible to the condition existing prior to the Taking to insure the continued ingress and egress to, from and between all areas of the Property to the extent reasonably feasible without contribution from any other Owner.

11. Hazardous Materials. In the event any Owner shall, in connection with its use of any portion of the Shopping Center, use, handle, store, display, dispose of or generate Hazardous Materials ("Hazardous Materials Activity"), such Owner shall ensure that such Hazardous Materials Activity is conducted in accordance with all applicable laws, including all applicable environmental laws. Without limiting the foregoing, each such Owner shall (or shall cause any applicable Occupant or User of such Owner's Parcel to): (i) prohibit any outside storage of Hazardous Materials; (ii) require that any area used for loading or unloading of Hazardous Materials be covered and equipped with a collection system to contain accidental spills; (iii) require all potential generators of Hazardous Materials to contract with a licensed public or private hazardous waste disposal service or processing facility and to provide to the appropriate governmental authorities such forms as may be required to comply with applicable laws and environmental permits; (iv) prohibit generation of hazardous effluents, unless adequate facilities approved by appropriate governmental authorities are constructed and used by Owner or its tenants or other users generating such effluents and such generation complies in all respects with applicable law; and (v) dispose of hazardous sludge materials generated by effluent pretreatment in a manner approved by applicable governmental authorities and otherwise in compliance with applicable law. Each Owner shall indemnify, defend, and hold the other Owners harmless from any claims, damages, losses, penalties, fines, or any other liabilities resulting from such Owner's breach of the foregoing obligations.

12. Taxes.

Each Owner shall pay, or cause to be paid, prior to delinquency, all taxes and assessments with respect to its Parcel, the Building and other improvements located thereon, and any personal property on its Parcel that is owned or leased by such Owner, provided, however, if the taxes or assessments or any part thereof may be paid in installments, the Owner responsible therefor may pay each such installment as and when the same becomes due and payable. Nothing contained in this Section shall prevent any Owner from contesting at its cost and expense any such taxes and assessments so long as such contest is maintained with reasonable diligence and in good faith, but only to the extent and on the condition that such contest does not expose the Parcel with respect to which such contest is brought to foreclosure or like forfeiture.

13. Duration.

This Declaration shall continue in full force and effect for a period of forty (40) years from the date hereof and shall be automatically reinstated in the same form at that time for a like period unless terminated by a unanimous vote of the Owners of the Parcels which is memorialized in writing and filed with the Recorder of Douglas County, Nebraska.

14. Amendment.

This Agreement may be amended at any time and from time to time hereafter by a written amendment duly executed by a unanimous vote of the Owners of all Parcels. Notwithstanding the foregoing, this Agreement may be amended at any time and from time to time hereafter by a written amendment duly executed by Managing Owner ("Managing Owner Amendment"). A Managing Owner Amendment need not be executed by any other Owner to be effective unless such Owner's rights hereunder are being reduced or its obligations or liabilities are being increased by the Managing Member Amendment. Any Managing Member Amendment that has the effect of reducing the rights or increasing the obligations or liabilities of another Owner shall not be binding as to such other Owner. Any amendment to this Agreement will contain a reference to this Agreement. Managing Owner will cause a copy of any amendment to this Agreement to be recorded in the public records of Douglas County, Nebraska and shall promptly deliver a written copy of such amendment to the other Owners.

15. Estoppel Certificate.

Any Owner may, at any time in connection with the sale, lease or financing of the Owner's Parcel, deliver written notice to the other Owners requesting that such Owners execute certificates certifying to their respective knowledge that (A) this Declaration is in full force and effect, the requesting Owner is not in default in the performance of its obligations under this Declaration or, if a default is alleged, specifically describing the nature thereof and (B) this Declaration has not been amended or, if so, identifying any amendments. Each Owner shall execute and deliver such a certificate within twenty (20) days after receipt of a request therefor.

16. Notices.

Any notice, request, demand, approval or consent ("Notice") given or required to be given under this Declaration shall be in writing and shall be deemed to have been given, except as otherwise expressly provided herein, when served personally or when mailed by United States registered or certified mail, postage prepaid, or when delivered by nationally recognized, receipted, overnight courier, to the other party at the last address given by the party to be notified. Any Owner, at any time, may change its address for the above purposes by mailing as aforesaid a notice stating the change and setting forth the new address which shall become effective when received.

17. Exculpation.

Except with respect to a violation of Section 6 or Section 7 or as otherwise provided in Section 5, (A) any Owner shall look solely to the equity of any other Owner in its respective Parcel for the satisfaction of any default and upon the exercise of any remedy and right granted hereunder and (B) there shall be no personal liability on the part of any Owner for the performance of any obligation hereunder.

18. Binding Effect and Severability.

All terms, covenants and conditions contained in this Declaration shall operate as covenants running with the land and this Declaration shall create privity of contract between the Owners and their respective heirs, personal representatives, successors and assigns. If any portion of this Declaration is invalidated by the order or judgment of a court of competent jurisdiction, such order or judgment shall not affect any of the remaining provisions of this Declaration which shall remain in full force and effect.

19. No Merger.

Unless otherwise clearly indicated to the contrary in a written, recorded document executed by the Owner of the Parcel affected, there shall in no event be a merger of the dominant and servient tenements in the Parcels by virtue of the present or future ownership of any portion of said tenements being vested in the same person or entity, but instead that the easements and servitudes created pursuant to this Declaration shall not be extinguished thereby and that said dominant and servient tenements be kept separate.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned on behalf of Declarant has executed this Declaration, being duly authorized, as of the day and year first above written.

G&I X MONTCLAIR ON CENTER LLC,
a Delaware limited liability company

By: G&I X Montclair on Center JV LLC, a Delaware limited liability company, its sole member

By: ROF Montclair LLC, an Ohio limited liability company, its Operating Manager

By: ROF IV, LLC, an Ohio limited liability company, its Managing Member

By: _____
Print Name: **Andrew Kline**
Title: **Vice President**

STATE OF OHIO)
) SS
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for the aforementioned County and State, personally appeared Andrew Kline, being the Vice President of ROF IV, LLC, an Ohio limited liability company, the Managing Member of ROF Montclair LLC, being the Operating Manager of G&I X Montclair on Center JV LLC, a Delaware limited liability company, sole member of G&I X MONTCLAIR ON CENTER LLC, a Delaware limited liability company, who acknowledged that he did sign the foregoing instrument on behalf of G&I X MONTCLAIR ON CENTER LLC for the purposes therein contained.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Beachwood, Ohio, this 15th day of August, 2023.

Phebe E. Parkin

Notary Public



PHEBE E. PARKIN
NOTARY PUBLIC • STATE OF OHIO
My Commission Expires Mar. 9, 2027

SUBORDINATION

The undersigned, Fifth Third Bank National Association ("Fifth Third"), for valuable consideration paid, subordinates the priority of that certain Deed of Trust, Security Agreement, Fixture Filing and Assignment of Leases and Rents dated as of September 30, 2022 and filed for record with the Douglas County, Nebraska Office of the Assessor/Register of Deeds on October 18, 2022, as Instrument Number 2022103592 ("Fifth Third Mortgage") to the within Declaration ("Declaration") in the same manner and effect as though the Declaration had been executed and recorded prior to the filing for record of the Fifth Third Mortgage, but without otherwise affecting the lien or priority of the Fifth Third Mortgage.

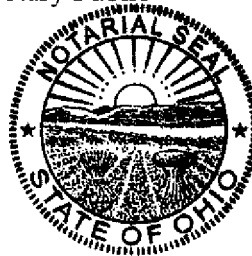
By: [Signature]
Its: [Signature]

STATE OF OHIO)
) SS
COUNTY OF Cuyahoga

BEFORE ME, a Notary Public in and for said County and State, personally appeared Tim Pace, the Vice President of Fifth Third Bank National Association, who acknowledged that he/she did sign the foregoing Subordination page on behalf of Fifth Third Bank, National Association for the purposes therein contained.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal this 16th day of August, 2023.

[Signature]
Notary Public



JENNIE L. CHURCH
NOTARY PUBLIC * STATE OF OHIO
My Commission does not expire
Section. 147.03 O.R.C.

Prepared By/Return To:
Kristen E. Nelsen, Esq.
Chase Properties
3333 Richmond Road, Suite 320
Beachwood, Ohio 44122

EXHIBIT A
Legal Description of Parcel 1

LOT 2, WESTWOOD HEIGHTS 15TH ADDITION REPLAT 4, AN ADDITION TO THE CITY OF OMAHA, DOUGLAS COUNTY, NEBRASKA.

AND

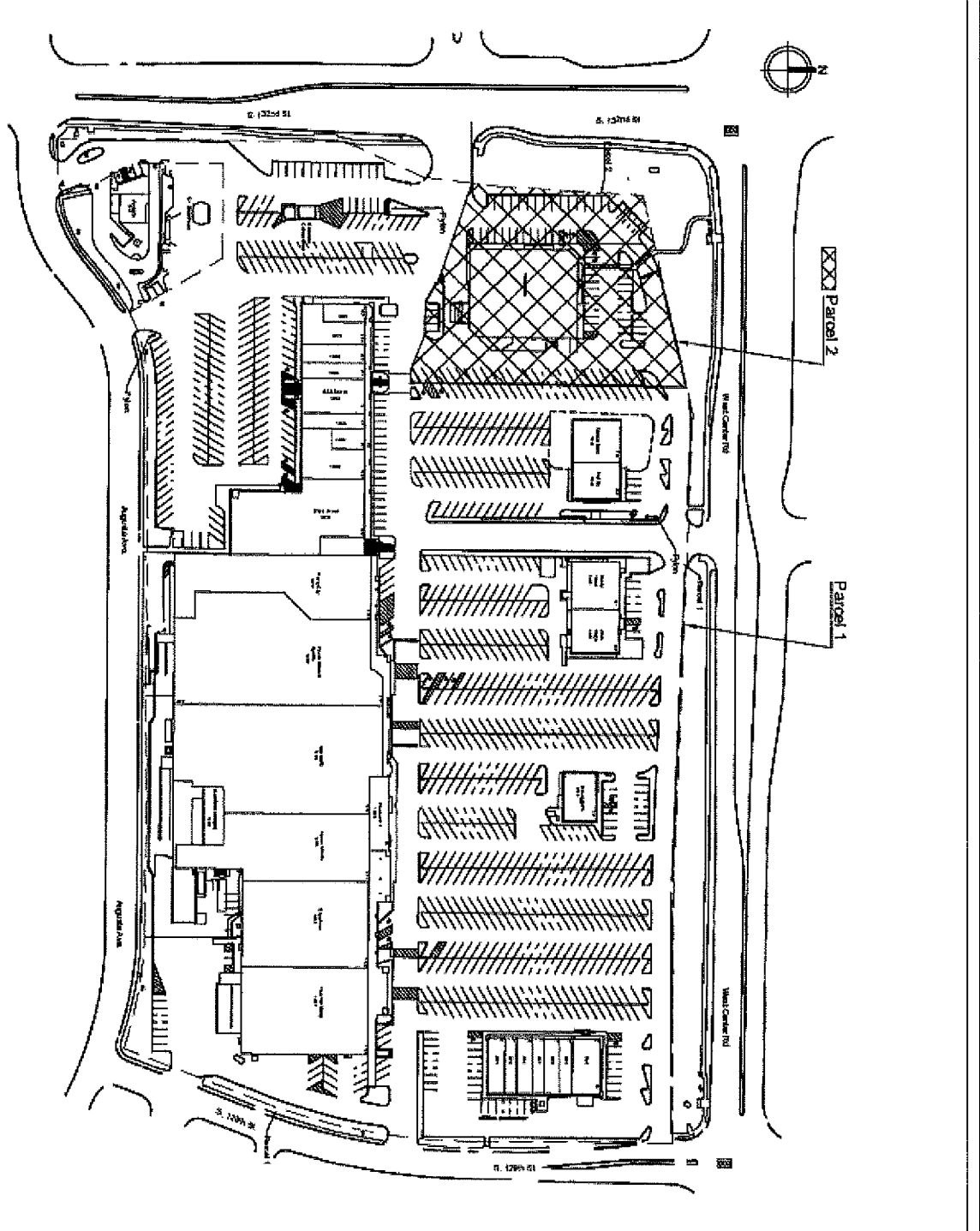
LOT 1, WESTWOOD HEIGHTS 15TH ADDITION REPLAT 3, AN ADDITION TO THE CITY OF OMAHA, DOUGLAS COUNTY, NEBRASKA.

EXHIBIT B
Legal Description of Parcel 2

LOT 1, WESTWOOD HEIGHTS 15TH ADDITION REPLAT 4, AN ADDITION TO THE
CITY OF OMAHA, DOUGLAS COUNTY, NEBRASKA.

EXHIBIT C

Site Plan



DATE	1/17/2024
BY	ALAN W. BOYD
FOR	CHASE PROPERTIES LTD.
PROJECT	MONTELAIR AT CENTER
SCALE	AS SHOWN
APPENDIX	SEE EXHIBIT C
REVISIONS	
NO.	DESCRIPTION
DATE	

CHASE PROPERTIES LTD.
 1233 RICHMOND ROAD
 SUITE 320
 BEACHWOOD, OHIO 44122
 (216-464-6626)

NO.	DESCRIPTION

DATE	1/17/2024
BY	ALAN W. BOYD
FOR	CHASE PROPERTIES LTD.
PROJECT	MONTELAIR AT CENTER
SCALE	AS SHOWN
APPENDIX	SEE EXHIBIT C
REVISIONS	
NO.	DESCRIPTION
DATE	

EXHIBIT D
Sign Criteria

A. General

1. Occupant or User will provide, at its sole cost and expense, a sign proposal and sign drawing which must receive the written approval of Managing Owner to conform to the criteria herein. Upon receipt of written approval from Managing Owner, Occupant or User must apply and have approved all necessary permits required by local governmental authorities prior to installation.
2. Intentionally deleted.
3. Occupant or User, at its sole cost and expense, shall furnish, install, maintain and repair its sign.
4. Sign design, size, location and construction must comply with the instructions, limitations and criteria contained herein.
5. Occupant or User shall not post any permanent signs other than its canopy sign and Parcel 2's monument/pylon sign.

B. Sign Criteria

1. Individual self-illuminated letters mounted on an extruded metal raceway shall be used on Occupant's or User's sign. Most of the copy of Occupant's or User's sign shall be limited to the store name. Copy for such items as are sold therein may be permitted, but only as minor portions of the copy, provided that such minor portions of the sign copy are integrated with the store name. Maximum raceway size shall not exceed seven inches (7") by seven inches (7").
2. The use of corporate shields, crests, logos or insignia shall be permitted (subject to Managing Owner's approval), provided that such corporate shields, crests, logos or insignia shall not exceed the average height for sign letters.
3. All signs and identifying marks shall be within the limitations of the sign fascia panel as set forth hereinafter.
4. The maximum height of sign letters or components on stores shall not exceed 36".
5. The extreme outer limits of sign letters, components or insignia shall fall within a rectangle, which rectangle shall be centered on the canopy in accordance with the frontage of the space occupied by Occupant or User ("Premises"). The maximum height of the rectangle shall not exceed thirty-six inches (36"). The maximum width of the rectangle shall not exceed seventy-five percent (75%) of the frontage of the Premises or twenty-four feet (24'), whichever is the lesser. The two (2) long sides of the rectangle shall not fall closer than six inches (6") to the top and bottom of the

canopy fascia panel.

6. Individual sign letter returns shall project between three inches (3") and six inches (6") and must be mounted on a raceway. Raceways and returns on letters or components must be painted to match fascia color.
7. The following design standards will be adhered to:
 - a. Sign letters shall have anodized metal sides, plastic or acrylic faces, trim caps, and be mounted on a raceway.
 - b. No illuminated box signs will be permitted.
 - c. All letters shall have concealed attachment devices, clips, wiring and transformer. No exposed tubing or lamps shall be permitted.
 - d. Sign letters shall be between three inches (3") and nine inches (9") stroke and contain rows of fifteen (15) millimeter neon tubing equal to one row per three inches (3") of stroke.
 - e. The color rendition of neon tubing shall be coordinated with the color of the translucent plastic face of the sign letter.
 - f. All neon tubing shall be controlled by a self- contained, 60 M.A., H.P.E., 120 or 277-volt transformer as may be required or placed behind the canopy.
 - g. It is recommended and preferred that sans serif style letters be used, and ornate or decorative styles shall be avoided. Italicized letters are prohibited.

C. Storefront Signage – LED Illumination Specifications.

1. All LED's used for illumination of the graphics outlined in the specification drawings shall utilize GE Tetra Power White XL LED's or Sloan Mini White (or approved equal).
2. Quantity, spacing and configuration of LED's used for illumination of the signs illustrated in the specification documents shall follow the guidelines, recommendations and specifications of the LED Manufacturer for the lighting techniques illustrated.
3. Solar grade Optical Bright Lexan faces SG308OB.

4. Interiors painted white (use light enhancing Starbrite paint or applied LEF film for greater brightness).
5. Distance from LED to sign face must be minimum 8" (if it is less than 8", other specifications must be adjusted to compensate and insure no hot spots).

D. Prohibited Types of Signs or Sign Components

1. Moving or rotating signs;
2. back-illuminated signs;
3. signs employing moving or flashing lights;
4. signs employing exposed ballast boxes or transformers;
5. signs exhibiting the names, stamps or decals of the sign manufacturer or installer;
6. signs employing painted and/or non-illuminated letters;
7. signs of box or cabinet type employing transparent, translucent or luminous plastic background panels;
8. signs employing luminous vacuum-formed type plastic letters;
9. cloth, wood, paper or cardboard signs, stickers, decals or painted signs around or on exterior surfaces (including exterior surfaces of all doors and/or windows) of the Premises;
10. signs employing noise making devices and components;
11. signs, letters, symbols or identification of any nature painted directly on the exterior surface of the Premises;
12. free-standing signs;
13. signs employing unedged or uncapped plastic letters or letters with no returns and exposed fastenings and
14. rooftop or exterior wall signs.

E. Procedure for Sign Drawings

1. Occupant or User shall submit to Managing Owner blue-line prints of its proposed sign drawings and specifications (including samples of materials and colors).
2. All drawings shall clearly show location of signs, graphics, color, construction and attachment details. Complete information regarding electrical load requirements and brightness in foot lamberts shall also be included.
3. Promptly after receipt of the sign drawings, Managing Owner shall return to Occupant or User one (1) set of such sign drawings with Managing Owner's suggested modification(s) and/or approval. If, upon receipt of approved sign drawings bearing Managing Owner's comments, Occupant or User wishes to take exception thereto, Occupant or User may do so in writing by certified or registered mail or by overnight courier addressed to Managing Owner within ten (10) days from the date of receipt of such commented upon sign drawings. Unless such action is taken, it will be deemed that all comments made by Managing Owner on the sign drawings are acceptable to and approved by Occupant or User.

EXHIBIT E
Use Restrictions on Parcel 2

The Restrictions are as follows:

1. So long as Gloria Deo is a tenant in the Shopping Center, Parcel 2 shall not be used as a Christian Book and Christian based gift store.
2. So long as Marshalls is a tenant in the Shopping Center, Parcel 2 shall not contain more than 25,000 square feet of floor area therein used or occupied for, or devoted to, the sale or display of brand name off-price apparel (defined as brand name or designer apparel (as opposed to private label apparel) available in department or specialty stores, but priced below department or specialty stores, it being understood and agreed, however, that "apparel" shall not include shoes) including in the computation of such floor area one-half (1/2) of all floor area in any aisles, corridors or similar spaces adjacent to or abutting any racks, gondolas, shelves, cabinets, counters or other fixtures or equipment containing or used for the sale or display of offprice apparel. The Premises shall not be used (a) for any non-retail purposes, or (b) for any entertainment purposes such as a bowling alley, skating rink, cinema, discotheque, amusement gallery, poolroom, health club, massage parlor, sporting event, sports or game facility, off-track betting club (c) or for any establishment which sells or displays pornographic materials or (d) for any establishment which displays or sells used merchandise or second hand goods. No bars or restaurants shall be located within 200 feet of the Marshalls premises. Restaurants shall include establishments selling food prepared on premises for consumption on or off premises, but shall not include sale of food within anchor tenants and bars shall include nightclubs or other establishments whose reasonably projected annual gross revenues from the sale of alcoholic beverages for on-premises consumption exceeds thirty percent (30%) of its total gross revenues.
3. So long as Zio's Pizzeria is a tenant in the Shopping Center, Parcel 2 shall not contain a pizzeria or "pizza" restaurant, including but not limited to Valentino's, Pizza Machine, Domino's, Pizza Hut, California Pizza Kitchen or Godfather's Pizza, or other restaurant in which their gross sales are derived primarily from the retail sales of pizza.
4. So long as The Tile Shop is a tenant in the Shopping Center, Parcel 2 shall not be used for the retail sale of natural stone surfaces, ceramic tile, porcelain tile, related products (other than decorative gifts or furniture that does not exceed more than five thousand [5,000] square feet of such product), or for installation services for any of such items.
5. So long as HomeGoods is a tenant in the Shopping Center, Parcel 2 shall not be used (a) for any non-retail purposes, or (b) for any entertainment purposes such as a bowling alley, skating rink, cinema, bar, nightclub, discotheque, amusement gallery, poolroom, health club, massage parlor (other than a first class operator offering therapeutic massage such as Massage Envy), sporting event, sports or game facility, off-track betting club (c) or for any establishment which sells or displays pornographic materials or (d) for any establishment which sells or displays used merchandise or second hand goods. No bars and restaurants. For purposes of the immediately preceding sentences, (i) "restaurants" shall include establishments selling food prepared on

premises for consumption on or off premises, but shall not include the incidental sale of food within anchor tenants and (ii) "bars" shall include nightclubs or other establishments whose reasonably projected annual gross revenues from the sale of alcoholic beverages for on-premises consumption exceeds thirty percent (30%) of its total gross revenues. No other premises in the Shopping Center, other than HomeGoods, Inc., shall at any time contain more than fifteen thousand (15,000) square feet of floor area therein used or occupied for, or devoted to, the sale or display of furnishings for the home including the following categories of items: linens, window treatments, rugs, bathroom items, bedding, furniture, wall decor, housewares, table top goods, glassware, flatware, cookware, kitchen Utensils , closet, shelving and storage items and home accessories ("homegoods"). The computation of such floor area shall include one half (1/2) of all floor area in any aisles, corridors or similar spaces adjacent to or abutting any racks, gondolas, shelves, cabinets, counters or other fixtures or equipment containing or used for the sale or display of homegoods.

6. So long as Party City is a tenant in the Shopping Center, Parcel 2 shall not be used (a) for the operation of a store in the lesser of (i) one hundred (100) square feet, or (ii) five percent (5%) of sales area for the sale (in the aggregate) of party goods and related supplies, Halloween costumes, novelty Halloween items and Halloween accessories, paper goods, and greeting cards sold primarily at a discount (a "Competing Use"). Notwithstanding anything contained herein to the contrary, stores operating under the tradename "Michael's" and "Dollar Tree" shall be deemed to expressly violate the Tenant Exclusive Right hereunder. (b) No premises in the Shopping Center shall be used or occupied as or for any of the following: theater, bowling alley, skating rink, massage parlor except therapeutic or legitimate massage (e.g. Massage Envy), "adult" bookstore or pornographic literature, off-track betting establishment, or funeral parlor. (c) No other premises within the Shopping Center shall be occupied for the operation of a seasonal Halloween store, such as (by way of example only) Spirit Halloween, Halloween Adventure or Halloween Express.

7. So long as R Taco is a tenant in the Shopping Center, Parcel 2 shall not contain a restaurant whose principal use is that of a fast casual Mexican restaurant between 1,500 and 3,000 square feet, where the primary business is tacos, burritos and Mexican style dishes.

8. So long as C A Nail Spa is a tenant in the Shopping Center, Parcel 2 shall not contain a retail business that derives more than 50% of its sales from manicure and pedicure services.

9. So long as SAS Shoes is a tenant in the Shopping Center, Parcel 2 shall not contain a retail business with the primary purpose of selling comfort and/or orthopedic shoes which derives more than fifty percent (50%) of its sales from the selling of comfort and/or orthopedic shoes.

10. So long as Hy-Vee is a tenant in the Shopping Center, Parcel 2 shall not be used for any of the following uses: adult bookstores and pornographic or sexually-explicit shops, bowling alleys, skating rinks, dance halls, flea markets re-sale shops, second hand stores, shops selling used and/or refurbished items, banquet halls, commercial or professional uses, classrooms, schools or other educational facilities, medical clinics, funeral parlors, off-track betting establishments, storage operations, auto or truck sales, the operation of auto and/or truck repair or service facilities, more than 2 bars or taverns (which are not part of a restaurant), night club, carnivals, health spas, health clubs, gymnasiums or other exercise or sports facilities, massage parlors (other than reputable operators offering therapeutic massage), any central laundry, dry cleaning plant or coin-operated

laundry, industrial, assembly or manufacturing plant, warehousing or distribution facilities, churches, auditoriums or convention centers, lodges, meeting halls, or sleeping or residential quarters.

11.

So long as Hy-Vee is a tenant in the Shopping Center, Parcel 2 shall not be used as a wine and spirits/liquor store.

12. So long as Schlotzsky's is a tenant in the Shopping Center, Parcel 2 shall not be used as a Jason's Deli, Panera Bread, Corner Bakery, Baker's Brothers, Newks' Express Café, or McAlister's Deli or any fast casual or QSR restaurants with more than 10% of sales coming from sandwiches.

13. So long as Chase Bank is a tenant in the Shopping Center, Parcel 2 shall not be used as a retail banking institution, consumer banking institution, savings and loan association credit union, stock brokerage company or other financial planning or wealth management company, and/or operation of exterior and interior ATM and/or drive through facilities, both directly and through subsidiaries and affiliates, including without limitation providing banking, mortgage lending insurance and securities services.

14. So long as Fed-Ex is a tenant in the Shopping Center, Parcel 2 shall not be used for any of the following uses:

(a) Any use that emits an obnoxious odor (excluding normal cooking odors associated with a restaurant or residence with proper ventilation), fume, dust, vapor, noise or sound which is not mitigated on-site or properly vented and can be heard or smelled within the Premises;

(b) Any noxious, dangerous or offensive trade or business use;

(c) An operation primarily used as a storage warehouse operation and any assembling, manufacturing, distilling, refining, smelting, agricultural or mining operation;

(d) Any "second hand" store, "surplus" store or pawn shop;

(e) A mobile home park, trailer court, labor camp, junkyard, or stockyard;

(f) Any dumping, disposing, incineration or reduction of garbage; provided, however, this prohibition shall not be applicable to garbage compactors or other facilities located in the garbage/recycling room of any premises;

(g) Any auction house operation;

(h) Any central laundry, dry cleaning plant, or laundromat;

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

(j) Any veterinary hospital or animal raising or boarding facility;

(k) A blood bank;

(l) Any mortuary or funeral home;

(m) Any establishment selling or exhibiting illegal drug related paraphernalia;

(n) Any establishment that sells vaping products;

(o) Any illegal marijuana dispensary, or any establishment illegally selling or exhibiting marijuana or other cannabis products;

(p) Any bowling alley or skating rink;

(q) Any other use that as a matter of course would lead to bothersome queuing that hinders access to the Premises including the Remote ATM Facility, or parking immediately

adjacent to the Premises;

- (r) Any government office;
- (s) Any embassy, consulate or similar operations;
- (t) Any establishment selling or exhibiting materials that are reasonably considered to be obscene or erotic;
- (u) Any establishment that exhibits, either live or by other means to any degree, nude or partially nude dancers or wait staff;
- (v) Any massage parlor or similar establishment, except reputable operations providing therapeutic massage or when an ancillary service to an otherwise permissible tanning center, spa, or health center;
- (w) Any flea market, amusement or video arcade, pool or billiard hall, car wash or dance hall;
- (x) Any gambling facility or operation, including by not limited to: off-track or sports betting parlor; table games such as blackjack or poker; slot machines, video poker/blackjack, keno machines or similar devices; or bingo hall.

15. So long as Fed-Ex is a tenant in the Shopping Center, Parcel 2 shall not be operated as a retail business services center and shall not provide the following services: photocopying; printing (including 3D printing); digital printing/imaging; binding; mounting; laminating; blueprinting; large format printing (including banners and cut vinyl signs); mail and facsimile services; overnight and/or same-day courier services; packaging, shipping and receiving services; and any business services that are the reasonable technological evolution of the foregoing.

16. So long as Fed-Ex is a tenant in the Shopping Center, Parcel 2 shall not be used for any of the following:

- (a) adult bookstore (except as incidental to a retail book store and typically sold in a Barnes and Noble);
- (b) condom/sex shop;
- (c) strip club;
- (d) massage parlor (provided therapeutic massage in connection with an upscale salon or spa such as Massage Envy is permitted);
- (e) gambling operation;
- (f) tattoo parlor;
- (g) so-called head shop;
- (h) cannabis dispensary, cultivator, manufacturer, distributor, tester, producer, or retailer, or similar use;
- (i) flea market;
- (j) arcade.