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DOCUMENT PREPARED BY AND
AFTER RECORDING RETURN TO:

O'BRIEN, O'ROURKE & HOGAN
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SUITE 2900
CHICAGO, ILLINOIS 60603
ATTN. HOWARD I. GOLDBLATT

09204794

9898/0212 27 001 Page 1 of 6
1999-12-29 15:14:37
Cook County Recorder 31.00



(Space Above this Line for County Recorder's Use Only)

DECLARATION OF RESTRICTIVE USE

This Declaration of Restrictive Use ("Declaration") is made as of this 22nd day of December, 1999, by Opus North Corporation, an Illinois corporation ("Declarant").

UNDERSTANDINGS

- A. Declarant is developer of a real estate development in the Village of Glenview, Cook County, Illinois commonly known as Willow Creek Shopping Center.
- B. That portion of the Willow Creek Shopping Center to be encumbered by this Declaration is legally described on Exhibit A, attached hereto and made a part hereof ("Shopping Center").
- C. Pursuant to the terms of a certain Lease dated 23 of February 26, 1998 by and between Kohl's Department Stores, Inc., as Tenant ("Tenant"), and Declarant, as Landlord ("Lease"), but subject to and in accordance with the terms and conditions of this Declaration, Declarant has agreed to restrict the uses permitted on the portion of the Shopping Center encumbered by this Declaration.

NOW THEREFORE, for and in consideration of the sum of ten and no/100 dollars in hand paid and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, Declarant hereby states as follows:

1. Until the expiration of the term of the Lease or the earlier termination of the term of the Lease, so long as Tenant is operating a specialty department store within the entire "Premises" (as defined in the Lease) and is not itself violating terms of this Declaration, no occupant of space within that portion of the Shopping Center that is subject to this Declaration will operate a retail operation in the Shopping Center in which more than twenty percent (20%) of such occupant's sales (based on dollar value) is derived from the display and sale of clothing commonly referred to as close outs, manufacturer's overruns, other retailer's returned or excess inventory or manufacturer's seconds or imperfect merchandise.

BOX 333-CT

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2. This Declaration will be binding upon and inure to the benefit of the respective successors and assigns of the Declarant and the owners of the portion of the Shopping Center encumbered hereby, together with the tenants from time to time at that portion of the Shopping Center and those claiming by, through or under any of them and will run with the land. This Declaration will be construed and enforceable in accordance with the laws of the State of Illinois.

3. This Declaration constitutes the full and complete agreement between the parties hereto regarding the subject matter hereof and supersedes all prior written agreements and all prior and contemporaneous oral agreements and understandings between the parties.

4. The failure of any party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that party may have at law or in equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions.

5. Invalidity of any of the provisions contained in this Declaration, or of the application thereof to any person by judgment or court order shall in no way affect any of the other provisions hereof or the application thereof to any other person and the same shall remain in full force and effect.

6. If any person shall bring suit against another to enforce the terms of this Declaration or for damages arising out of the breach hereof, the losing person shall pay to the prevailing person the prevailing person's costs and expenses (including, without limitation, reasonable attorneys' fees and costs) incurred in connection therewith. Notwithstanding anything in this Declaration to the contrary, no person shall be entitled to recover from another consequential, exemplary or punitive damages, all such damages are hereby expressly waived and released.

IN WITNESS WHEREOF, Declarant has caused this Declaration of Restrictive Use to have been executed and delivered as of the day and year first above written.

DECLARANT:

Opus North Corporation, an Illinois corporation

By John M. Crocchi
Its: President

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ACKNOWLEDGMENT

STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY THAT, John M. Crocker, Jr., the President of Opus North Corporation, an Illinois corporation, personally known to me to be the same person whose name is subscribed to the foregoing document, appeared before me this day in person and, acknowledged to me that, being so duly authorized, he/she signed and delivered that document as his/her free and voluntary act and as the free and voluntary act of that limited liability company, for the uses and purpose therein set forth.

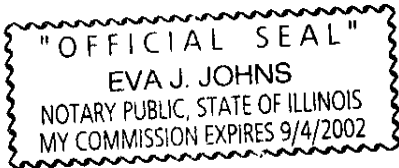
Given under my hand and Notarial Seal as of this 22 day of December, 1999.



Notary Public

My Commission expires:

9/4/2002



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Consent to Declaration of Restrictive Use

American National Bank and Trust Company of Chicago ("Lender") is the holder of a first mortgage lien on the Shopping Center. Lender hereby consents to and agrees to be bound by the terms and conditions of this Declaration of Restrictive Use as of this 22 day of December, 1999.

LENDER:

American National Bank and Trust Company of
Chicago

By: 
Its: MICHAEL J. MELIND
VICE PRESIDENT

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Exhibit A

Legal Description

Lot 1, Lot 2, Outlot 1, Outlot 2, Outlot 3 and Outlot 4 in Willow Creek Center, being a resubdivision of Lots R-1, R-2 and R-3 in North Shore Corporate Park, being a resubdivision recorded December 23, 1999 as Document No. 09192216, all in the South ½ of the Northeast ¼ of Section 22, Township 42 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

Commonly Known As Willow Creek Shopping Center located at the Southeast corner of Willow and Old Willow Roads, Glenview Illinois.

Tax Parcel ID No.: part of 04-22-202-004-0000
part of 04-22-202-005-0000

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Exhibit A

Legal Description

Lot 1, Lot 2, Outlot 1, Outlot 2, Outlot 3 and Outlot 4 in Willow Creek Center, being a resubdivision of part of the Northeast $\frac{1}{4}$ and the Southeast $\frac{1}{4}$ of Section 22, Township 42 North, Range 12 East of the Third Principal Meridian, according to the Plat thereof recorded on December 23, 1999 as Document Number 09192216, all in the Village of Glenview, Cook County, Illinois.

Commonly Known As: Willow Creek Shopping Center located at the Southeast corner of Willow and Old Willow Roads, Glenview Illinois.

Tax Parcel ID No.: part of 04-22-202-004-0000
part of 04-22-202-005-0000

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