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This Instrument Prepared by and
After Recording Return to:

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Barack Ferrazzano Kirschbaum & Nagelberg LLP
200 West Madison Street, Suite 3900
Chicago, IL 60606



Doc#: 1104016057 Fee: \$46.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 02/09/2011 03:29 PM Pg: 1 of 6

DECLARATION OF USE RESTRICTIONS

THIS DECLARATION OF USE RESTRICTIONS (this "**Declaration**") is made this 16th day of December, 2010 by HIS Investment II, L.L.C., an Illinois limited liability company ("**Declarant**"), in favor of HIS Investment, L.L.C., an Illinois limited liability company ("**Benefited Party**").

RECITALS:

- A. Benefited Party is the owner of the real estate legally described on Exhibit A attached hereto and made a part hereof (the "**Property**").
- B. Declarant is the owner of the real estate legally described on Exhibit B attached hereto and made a part hereof (the "**Neighboring Parcel**").
- C. Declarant desires to cause a covenant relating to the Neighboring Parcel to be created for the benefit of the Benefited Party.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) in hand paid and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant does hereby declare that the Neighboring Parcel shall be transferred, held, sold, conveyed and occupied, subject to the restrictions hereinafter set forth.

1. **Use Restrictions.** Declarant agrees that, if and for so long as that certain Lease Agreement (the "**Lease**") dated October 19, 2010 between Benefited Party, as landlord, and Advance Stores Company, Incorporated, as tenant, remains in force with respect to the Property with no default thereunder by such tenant beyond any applicable notice or cure period, each owner of any portion of the Neighboring Parcel shall not allow any part of the Neighboring Parcel that is owned by it to be used for any of the following:

- (a) the sale, display or rental of automotive parts, accessories, supplies and/or maintenance items. Notwithstanding the foregoing, the restriction in this subsection (a) shall not apply to any use that sells, displays or rents automotive

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parts, accessories, supplies and/or maintenance items as an incidental part of its business. For purposes of this Declaration, "incidental part of its business" shall mean that automotive parts, accessories, supplies and/or maintenance items do not occupy more than the lesser of ten percent (10%) of the gross leaseable area of the individual demised premises or one thousand (1,000) square feet of gross leaseable area of the individual demised premises;

- (b) establishments providing adult-type entertainment or displays of a variety involving or depicting nudity or lewd acts;
- (c) a facility for the sale of paraphernalia for use with illicit drugs;
- (d) a facility for the sale or display of pornographic (as determined by community standards for the area in which the Property is located) material;
- (e) any exploration, drilling or similar operation of any kind;
- (f) any dangerous or unsafe uses;
- (g) any industrial uses, including, without limitation, any manufacturing, smelting, rendering, refining, chemical manufacturing or processing, or other manufacturing uses; or
- (h) any mining or mineral exploration or development except by non-surface means.

2. **Additional Restrictions Regarding East Sign.** Declarant agrees, if and for so long as (a) the Lease remains in full force and effect with respect to the Property with no default by the tenant thereunder beyond any applicable notice or cure period, (b) the tenant under the Lease has obtained any necessary variance for, and has installed, the "East Sign" referenced in the Lease, and (c) by the terms of the Lease, the right of the tenant thereunder to such "East Sign" has not terminated in accordance with the terms of the Lease, the owner of Parcel 1 of the Neighboring Parcel shall not be allowed to install a pylon, monument or similar freestanding sign that would materially block the visibility of such East Sign.

3. **Equitable Relief.** Declarant agrees that Benefited Party and/or tenants or other parties claiming through Benefited Party may suffer immediate and irreparable harm in the event of any breach of this Declaration by Declarant and/or parties claiming through Declarant, and, accordingly, that Benefited Party, for itself and/or any parties claiming through Benefited Party, shall be entitled in such an event to equitable relief, including, but not limited to, an injunction and an order of specific performance, in addition to all other remedies available to it.

4. **Binding Effect.** This Declaration and the rights and obligations set forth herein shall be binding upon Declarant and shall inure to the benefit of the Benefited Party.

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5. **Invalidity**. The restrictions contained in this Declaration shall be enforceable by the Benefited Party for the term of this Declaration, which shall expire upon the expiration of the Lease (or, if applicable law prescribes a shorter period, then upon expiration of such period).

6. **Severability**. If any provision of this Declaration shall be determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the other provisions of this Declaration, which shall be enforced to the fullest extent allowed by law.

7. **Costs of Dispute**. In any legal action or proceeding arising out of this Declaration, the successful or prevailing party therein will be entitled to recover from the other party reasonable attorneys' fees and other costs incurred in that action or proceeding, including those related to appeal of any such action. The recovery of attorneys' fees and costs will be in addition to any other relief to which the successful or prevailing party may be entitled.

8. **Governing Law**. This Declaration shall be governed by and construed in accordance with the laws of Illinois, without regard to conflicts of law principles.

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

PARCEL 1:

LOTS 51 AND 52 IN BLOCK 3 IN CHAXEL AND MECHAM'S SUBDIVISION OF BLOCK 3 AND THE NORTH ½ OF BLOCK 22 IN SOUTH LAWN, A SUBDIVISION OF PART OF THE SOUTH ½ OF SECTION 8 AND PART OF THE NORTH ½ OF SECTION 17, TOWNSHIP 36 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOTS 7 THROUGH 11 (EXCEPT THE NORTH 7 FEET THEREOF TAKEN BY THE STATE OF ILLINOIS FOR HIGHWAY PURPOSES) IN BLOCK 3 IN CHAXEL AND MECHAM'S SUBDIVISION OF BLOCK 3 AND THE NORTH ½ OF BLOCK 22 IN SOUTH LAWN, A SUBDIVISION OF SECTION 17 AND THE SOUTH ½ OF SECTION 8, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED SEPTEMBER 30, 1891, AS DOCUMENT 1544075 IN COOK COUNTY, ILLINOIS.

Property Address: Part of 272 E. 147th Street
14712 Washington
Harvey, Illinois

PIN: 29-08-403-026
29-08-403-027
Part of 29-08-403-051

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EXHIBIT B

LEGAL DESCRIPTION OF NEIGHBORING PARCEL

PARCEL 1

LOTS 3 THROUGH 6 (EXCEPT THE NORTH 7 FEET THEREOF TAKEN BY THE STATE OF ILLINOIS FOR HIGHWAY PURPOSES) IN BLOCK 3 IN CHAXEL AND MECHAM'S SUBDIVISION OF BLOCK 3 AND THE NORTH ½ OF BLOCK 22 IN SOUTH LAWN, A SUBDIVISION OF SECTION 17 AND THE SOUTH ½ OF SECTION 8, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED SEPTEMBER 30, 1891, AS DOCUMENT 1544075 IN COOK COUNTY, ILLINOIS.

PARCEL 2

LOTS 15 THROUGH 18 IN BLOCK 3 IN CHAXEL AND MECHAM'S SUBDIVISION OF BLOCK 3 AND THE NORTH ½ OF BLOCK 22 IN SOUTH LAWN, A SUBDIVISION OF SECTION 17 AND THE SOUTH ½ OF SECTION 8, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED SEPTEMBER 30, 1891, AS DOCUMENT 1544075 IN COOK COUNTY, ILLINOIS.

Property Address: Part of 272 E. 147th Street
14711-15 S. Halsted Street
Harvey, Illinois

PIN: 29-08-403-014
29-08-403-015
29-08-403-016
29-08-403-017
Part of 29-08-403-051