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 COOK COUNTY RECORDER

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AMENDMENT NO. 1

TO

DECLARATION OF COVENANTS AND RECIPROCAL EASEMENTS

FOR

GLENBROOK MARKET PLACE

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This instrument prepared by
and after recording return to:

Simon H. Aronson
Lord, Bissell & Brook
115 South LaSalle Street
Chicago, IL 60603



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AMENDMENT NO. 1 TO DECLARATION OF COVENANTS AND RECIPROCAL EASEMENTS

THIS AMENDMENT NO. 1 (the "Amendment") is made on and as of this 10th day of July, 1995, by and between GLENBROOK MARKET PLACE LIMITED PARTNERSHIP, an Illinois limited partnership, (the "Main Parcel Owner") and MELVIN M. WIRKUS and SHIRLEY M. WIRKUS, husband and wife (collectively, the "Outlot Parcel Owner").

WITNESSETH:

WHEREAS, the Main Parcel Owner is the owner of that certain parcel of real estate located in the Village of Glenview, Cook County, Illinois, legally described on Exhibit A attached hereto ("Main Parcel"); and

WHEREAS, the Outlot Parcel Owner is the owner of that certain parcel of real estate located in the Village of Glenview, Cook County, Illinois, legally described on Exhibit B attached hereto ("Outlot Parcel") and

WHEREAS, the Main Parcel and the Outlot Parcel are both subject to the terms, provisions and conditions of that certain Declaration of Covenants and Reciprocal Easements recorded in the Office of the Recorder of Cook County, Illinois, on August 29, 1991, as Document No. 91-446308 (the "Declaration"); and

WHEREAS, the Main Parcel Owner and the Outlot Parcel Owner desire to amend and supplement the Declaration in certain respects;

NOW, THEREFORE, in and for consideration of the mutual covenants set forth below, and other valuable considerations exchanged between the parties, the receipt and sufficiency of which are hereby acknowledged, the Main Parcel Owner and the Outlot Parcel Owner do hereby agree that the Declaration is hereby amended as follows:

1. As used herein, the following terms shall have the following meanings:
 - (a) "Cancelable Services" means those components of Common Area Maintenance consisting of (i) snowplowing, (ii) landscaping, and (iii) parking lot maintenance.
 - (b) "Common Area" means all areas within the exterior boundaries of the Shopping Center which are available for the common use and benefit of the Occupants, exclusive of (i) buildings and (ii) drive-in banking islands and canopies. The Common Areas expressly include all asphalt paved areas and all sidewalks (including such paved areas under the drive-in banking canopies).
 - (c) "Common Area Maintenance" means and includes only the following, with respect to the Common Area portions of the Shopping Center:

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(i) *Drive and Parking Areas.* Maintaining all paved surfaces and curbs in a smooth and evenly covered condition including, without limitation, periodic replacement of base, skin patch, resealing and resurfacing.

(ii) *Debris and Refuse.* Periodic removal of all papers, debris, filth, refuse, ice and snow including vacuuming and broom sweeping to the extent necessary to keep the Common Area in a clean and orderly condition; provided, however, that trash and/or garbage removal shall not be a component of Common Area Maintenance.

(iii) *Non-Occupant Signs and Markers.* Maintaining, cleaning, and replacing any appropriate directional, stop or handicapped parking signs; restripe parking lots and drive lanes and keep clearly marked fire lanes, loading zones, no parking areas and pedestrian crosswalks.

(iv) *Landscaped Areas.* Maintaining and replacing all landscaped areas (including without limitation around the Willow and Pfingsten perimeter, and at entry drives) in an attractive and thriving condition, trimmed and weed-free. Maintaining and replacing landscape planters, including those adjacent to exterior walls of buildings. If any Occupant requires "special" landscaping (i.e., beyond the standard landscaping requirements for the remainder of the Shopping Center), or if landscaping additions/modifications are required as a result of a building addition, expansion or remodel, the cost of installation, replacement and maintenance of such special or required landscaping shall be done solely by such Occupant and shall not be included as a component of Common Area Maintenance.

(v) *Detention Areas.* Maintain, repair, and if necessary modify the detention pond and irrigation system to satisfy governmental, water allocation, or emergency requirements.

Common Area Maintenance shall not include any other activities with respect to the Common Area, and expressly excludes: (i) lighting, (ii) utilities, (iii) pylon signs, (iv) liability insurance, (v) casualty insurance, (vi) traffic control, and (vii) policing or security; each of the foregoing activities, and any other activity with respect to the Common Area not expressly included as a component of Common Area Maintenance herein, shall be and remain the sole responsibility of the Owner of that respective portion of the Common Area.

(d) "Constant Dollars" shall mean the present value of the dollars to which such phrase refers. An adjustment shall occur on January 1 of the sixth calendar year following the date of this Amendment, and thereafter at five (5) year intervals. 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 this Amendment is dated; the "Current Index Number" shall be the level of the Index for the month of September of the year preceding the adjustment year; the "Index" shall be the Consumer Price

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Index for all Urban Consumers (CPI-U) for the Chicago-Gary-Lake County, IIL-IN-WI metropolitan area, published by the Bureau of Labor Statistics of the United States Department of Labor (base year 1982-84 = 100), or any successor index thereto as hereinafter provided. If publication of the Index is discontinued, or if the basis of calculating the Index is materially changed, then the Approving 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.

(e) "Occupant" means either the Main Parcel Owner or the Outlot Owner, and their respective tenants, agents, employees, contractors, officers, directors, partners, members, customers and invitees.

(f) "Operator" means the Main Parcel Owner.

(g) "Owner" means each of the Main Parcel Owner and the Outlot Parcel Owner.

(h) "Parcel" means each of the Main Parcel and the Outlot Parcel.

(i) "Proportionate Share" means (i) with respect to the Main Parcel, 86%, and (ii) with respect to the Outlot Parcel, 14%.

(j) "Shopping Center" means the entire shopping center project constructed and operated on the Main Parcel and the Outlot Parcel, taken together.

2. From and after the date hereof, subject to the limitations set forth in paragraph 8 below, the Operator shall have the power, right, authority, duty and responsibility to perform, or cause to be performed, the Common Area Maintenance. Operator may hire companies affiliated with it to perform all or portions of the Common Area Maintenance, but only if the rates charged by such companies are competitive with those of other companies furnishing similar services in the metropolitan area in or about the Shopping Center. Each Owner hereby grants to Operator, its agents and employees a license to enter upon its Parcel to discharge its duties hereunder. Operator shall expend only such funds as are reasonably necessary for the Common Area Maintenance, and shall promptly pay such costs ("Common Area Maintenance Costs") when incurred. Common Area Maintenance Costs expressly shall not include:

- (i) any charge for electricity to an Owner that separately pays the electrical costs for lighting the Common Area on its Parcel;
- (ii) any costs to clean up or repair the Common Area resulting from promotional activities or from construction, maintenance or replacement of buildings;
- (iii) real property taxes and assessments;

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- (iv) insurance premiums;
- (v) Operator's profit, administrative and overhead costs (including, but not limited to, office space, equipment and utilities; legal, accounting or administrative services; and Operator's personnel who are not permanently located at the Shopping Center).

In lieu of Operator's profit, administrative and overhead costs, Operator shall be permitted to charge an amount ("Administration Fee") computed by multiplying the Common Area Maintenance Costs by fifteen percent (15%). If any of Operator's personnel at the Shopping Center perform services, functions or tasks in addition to Common Area duties, then the cost of such personnel shall be equitably allocated according to time spent performing such duties.

3. Operator shall, prior to the beginning of each calendar year, submit to each Owner an estimated budget ("Budget") for the Common Area Maintenance Costs and Administration Fee for the ensuing calendar year. If an item of maintenance or replacement is to be accomplished in phases over a period of calendar years, such as resurfacing of the drive and/or parking areas, then the Budget shall separately identify the cost attributable to such year (including the area of the Common Area affected) and shall note the anticipated cost and timing (indicating the area of the Common Area affected) of such phased work during succeeding calendar years. Operator shall use all reasonable efforts to tie the budget to the prior year's actual cost rates and expense items, except for non-recurring items which the parties agree are appropriate for that particular year. Each year's budget shall be subject to the approval of each Owner, and if either Owner disapproves of such budget, the Operator and the Owners shall meet, discuss and attempt to agree upon what revisions should be made, but Operator shall not be authorized to proceed hereunder until a budget has been approved. If a budget is submitted to an Owner, and no written disapproval of said budget is delivered by said Owner to Operator within 15 days after receipt thereof, then said Owner shall be deemed to have approved thereof.

Operator shall use its commercially reasonable efforts to perform the Common Area Maintenance in accordance with the Budget. Notwithstanding the foregoing, Operator shall have the right to make emergency repairs to the Common Area to prevent injury or damage to person or property, it being understood that Operator shall nevertheless advise each Owner of such emergency condition as soon as reasonably possible, including the corrective measures taken and the cost thereof. If the cost of any such emergency action exceeds \$5,000.00 in Constant Dollars, then Operator may submit a supplemental billing to each Owner, together with evidence supporting such payment, and each Owner shall pay its share thereof within thirty (30) days; if the cost limitation set forth above is not exceeded then such costs shall be included as part of the Common Area Maintenance Costs at the year end.

4. Common Area Maintenance Costs and the Administration Fee shall be allocated between the Owners according to their respective Proportionate Share. Each Owner shall pay to the Operator in equal quarterly payments, due on each January 1, April 1, July 1 and October

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1, in advance, its share of the Common Area Maintenance Costs and the Administration Fee based either upon the amount set forth in the current Budget, or if a current Budget is not in effect, then the quarterly payment established for the prior year. The Operator shall reasonably estimate such costs for the partial year during which its maintenance obligations commence and each Owner shall make its first payment in the quarter beginning thereafter. Within forty-five (45) days after the end of each calendar year, Operator shall provide each Owner with a statement certified by Operator, together with supporting invoices and other materials setting forth the actual Common Area Maintenance Costs paid by it for the prior years, and such Owner's share of the aggregate thereof. If the amount paid by an Owner for such calendar year shall have exceeded its share, Operator shall refund the excess to such Owner at the time such certified statement is delivered (unless said Owner is in default hereunder, in which case Operator may apply such excess towards any amounts owing from such Owner), or if the amount paid by a Owner for such calendar year shall be less than its share, such Owner shall pay the balance of its share to Operator within thirty (30) days after receipt of such certified statement. Any payment not paid within 30 days after the due date thereof shall bear interest, at a rate of 12% per annum, calculated from the date said payment was due until paid.

Within 90 days after receipt of any such certified statement, each Owner shall have the right to audit Operator's books and records pertaining to the Common Area Maintenance Costs for the calendar year covered by such certified statement; the Owner shall notify Operator of its intent to audit at least fifteen (15) days prior to the designated audit date. In the event that such audit shall disclose any error in the determination of the Common Area Maintenance Costs, the Administration Fee or in the allocation thereof to a Parcel, an appropriate adjustment shall be made forthwith. The cost of any audit shall be assumed by the auditing Owner unless such Owner shall be entitled to a refund in excess of four percent (4%) of the amount calculated by Operator as its share for the calendar year, in which case Operator shall pay the cost of such audit.

5. So long as an Owner has fully paid its share of Common Area Maintenance Costs hereunder, Operator agrees to defend, indemnify and hold such Owner harmless from and against any mechanic's, materialmen's and/or laborer's liens, and all costs, expenses and liabilities in connection therewith, including reasonable attorney's fees and court costs, arising out Operator's Common Area Maintenance duties hereunder, and in the event that any Parcel shall become subject to any such lien, Operator shall promptly cause such lien to be released and discharged of record, either by paying the indebtedness which gave rise to such lien or by posting such bond or other security as shall be required by law to obtain such release and discharge.

6. Operator shall use all reasonable efforts to perform the Common Area Maintenance in a manner and at such times so as to cause as little interference as possible with the business operations of each Parcel. Operator acknowledges that the Outlot Parcel Occupant expects to open for business at 8:00 a.m., and therefore customary cleaning, sweeping, shoveling and plowing operations shall be scheduled prior to such opening hours.

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7. Nothing in this Amendment or the Declaration shall be construed to prohibit or prevent any Owner from performing, at its own cost, additional, further, or extra services with respect to the portion of the Common Area on such Owner's respective Parcel.

8. Notwithstanding anything to the contrary contained elsewhere herein:

(a) Operator shall not execute a contract for any Cancelable Service without first receiving prior written approval with respect to such contract from the Outlot Parcel Owner. Outlot Parcel Owner agrees that its approval shall not be unreasonably withheld or delayed; provided, however, that the parties agree, without limitation, that it shall be reasonable for the Outlot Parcel Owner to withhold its approval if the contractor is not a high quality, reputable contractor, or if the contractor's fee is not at competitive rates. Any proposed contract shall be deemed approved if not expressly disapproved in writing by the Outlot Parcel Owner within five (5) days after receipt thereof.

(b) If at any time during the term hereof, the Outlot Parcel Owner is dissatisfied with the quality or timeliness of the services delivered under a contract for a Cancelable Service, the Outlot Parcel Owner may send its written notice (a "Complaint Notice") to the Operator, which Complaint Notice shall set forth in reasonable detail the nature of the dissatisfaction. Operator shall thereupon have ten (10) days in which to cure or correct the problems so noted, to the reasonable satisfaction of the Outlot Parcel Owner. If the Outlot Parcel Owner is not so satisfied, then the Outlot Parcel Owner shall have the right, for a period of fifteen (15) days following the expiration of the aforesaid ten (10) day period, in which to elect, by written notice (a "Withdrawal Notice") delivered to Operator, to withdraw the specified Cancelable Service from the definition and scope of Common Area Maintenance hereunder. Upon such a Withdrawal Notice, the definition of "Common Area Maintenance" shall be automatically amended, to delete the specified Cancelable Service from the terms hereof as of the date of the Withdrawal Notice, and each Owner shall thereupon become responsible for the performance of said Cancelable Service upon that portion of the Common Area on said Owner's respective Parcel; provided, however, that if Operator must continue to pay the terminated contractor for any charges under a contract terminated pursuant to this paragraph, then each Owner shall still be responsible for paying its Proportionate Share with respect to any such charges actually incurred, for a period not to exceed thirty (30) days after the date of such Withdrawal Notice. Notwithstanding the foregoing, no Complaint Notice, or ten (10) day cure period, shall be necessary or applicable in the event the matter giving rise to the Outlot Parcel Owner's dissatisfaction is of an emergency nature, and in the case of any such emergency, the Outlot Parcel Owner shall have the right, for a period of fifteen (15) days immediately following such an emergency, to deliver to the Operator a Withdrawal Notice, with respect to the Cancelable Service giving rise to such an emergency.

(c) The Outlot Parcel Owner may, by written notice delivered to Operator, delegate its rights under this paragraph 8, to any one (1) tenant of the Outlot Parcel Owner.

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(d) Either Owner may, at its sole discretion, elect to terminate having the Common Area Maintenance services performed by the Operator, as of the last day of December of any calendar year, by delivering to the other Owner its written notice of termination, which notice shall be delivered at least 90 and not more than 180 days prior to the designated termination date. Upon any such termination date (1) all payments due hereunder shall be allocated and be due through said termination date, and (2) thereafter the provisions of paragraphs 2, 3, 4, 5, 6 and 8 hereof shall be of no further force or effect, and (3) each Owner shall thereupon be responsible for the performance of the Common Area Maintenance services upon that position of the Common Area on said Owner's respective parcel.

9. Each Owner shall be responsible for procuring, maintaining, and keeping in effect comprehensive liability insurance with respect to that portion of the Common Area on its respective Parcel. Such insurance shall (i) be with companies, and in amounts, as are reasonably satisfactory to the other Owner, and (ii) name the other Owner (and the Operator, if other than the Main Parcel Owner) as an additional named insured. Upon request, either Owner shall furnish the other with a current certificate of its insurance.

10. The Owners, tenants, guests, customers, contractors, agents, employees and invitees of the Outlot Parcel shall at all times have, and are hereby granted, the non-exclusive right to park in the parking spaces located within the Main Parcel, as such spaces may from time to time exist and be available to tenants, guests, customers, contractors, agents, employees, and invitees of the Main Parcel.

11. The Owners, tenants, guest, customers, contractors, agents, employees and invitees of the Main Parcel shall at all times have, and are hereby granted, the non-exclusive right to park in the parking spaces located within the Outlot Parcel, as such spaces may from time to time exist and be available to all tenants, guests, customers, contractors, agents, employees, and invitees of the Outlot Parcel.

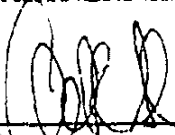
12. Except as amended hereby, the Declaration remains in full force and effect in accordance with its terms. To the extent of any conflict or ambiguity between the terms of the Declaration and those of this Amendment, the terms of this Amendment shall supersede, govern and control.

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IN WITNESS WHEREOF, the Main Parcel Owner and the Outlot Parcel Owner have executed this Amendment on and as of the date first written above.

MAIN PARCEL OWNER:

GLENBROOK MARKET PLACE
LIMITED PARTNERSHIP

By: 
Arthur Slaven, a general partner

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Laura Kendall, a Notary Public in and for said County, in the State aforesaid, do hereby certify that before me on this 13 day of July, 1995, personally appeared Arthur Slaven, to me known to be a general partner of Glenbrook Market Place Limited Partnership, the partnership that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein set forth, and on oath stated that he is authorized to execute the said instrument on behalf of said partnership.

Witness my hand and official seal this 13 day of July, 1995.


Notary Public

My Commission Expires:

11/17/98



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EXHIBIT A

Main Parcel Legal Description

Lot 1 in Glenbrook Market Place Subdivision being a resubdivision of part of Parcels 1 and 2 of Abel's Division in Section 21, Township 42 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 04-21-100-013

Common Address: Northeast corner of Pfingsten and Willow Roads, Glenview, Illinois

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EXHIBIT B

Outlot Parcel Legal Description

Lot 2 in Glenbrook Market Place Subdivision being a resubdivision of part of Parcels 1 and 2 of Abel's Division in Section 21, Township 42 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

PIN: ~~04-21-110-021~~ 04-21-110-021

Common Address: Northeast corner of Pfingsten and Willow Roads, Glenview, Illinois

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