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DECLARATION OF COVENANTS RESTRICTIONS AND EASEMENTS

This Declaration of Covenants, Restrictions and Easements is made as of the 18th day of September, 1996 by ORCHARD PLACE L.L.C., an Illinois limited liability company (hereinafter referred to as "Orchard Place") and Orchard Place Retail L.L.C., an Illinois limited liability company (hereinafter referred to as "Retail"; Orchard Place and Retail are sometimes hereinafter collectively referred to as the "Declarant").

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COOK COUNTY RECORDER

RECITALS:

A. Retail is the owner of a parcel of land located in the Village of Skokie, Cook County, Illinois which will be improved with a building containing approximately 77,000 leasable square feet of space together with parking and access ways which land is legally described in Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Retail Parcel").

B. Orchard Place is the owner of a certain outlot parcel of land which is adjacent to the Retail Parcel and is legally described on Exhibit "B" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Outlot Parcel").

C. Declarant desires to establish for itself, its successors and assigns, and the owners and occupants from time to time of the Retail Parcel and the Outlot Parcel and their customers, employees, agents and invitees, certain easements, rights, privileges and restrictions in order to provide for the harmonious and complimentary use of the Retail Parcel and the Outlot Parcel.

NOW, THEREFORE, the Declarant as owners of the Retail Parcel and the Outlot Parcel hereby declares the following:

1. Common Area. For the purposes of this Declaration, all of the area within the Retail Parcel and the Outlot Parcel to be used in common shall be referred to as "Common Area", and said Common Area shall effectively include (i) all areas within the Retail Parcel and the Outlot Parcel other than "tenant building areas" and (ii) all portions of tenant building areas now or hereafter constructed on the Outlot Parcel and the Retail Parcel intended to be used for common ingress, egress and parking. The tenant building areas are those areas on which a building is now built or hereafter is constructed for use by a tenant or tenants. The Common Area shall include, but not be limited to all sidewalks, walkways, aisles, vehicular driveways, parking areas, entrances and exists and the landscaped areas, as well as common parking, ramps, elevators, elevator/stair towers, interior building spaces and systems located within buildings and intended

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for common use by tenants and occupants of the Retail Parcel and the Outlot Parcel.

2. Easements.

A. Declarant hereby establishes and grants to the owners, occupants and tenants from time to time of the Outlot Parcel and the Retail Parcel and their respective subtenants, licensees, concessionaires, suppliers, agents, employees, customers and invitees, a non-exclusive easement for pedestrian and vehicular use and the right and privilege to use in common with the Declarant all of the Common Areas now or at any time hereafter constructed for the purpose of ingress and egress, parking, deliveries, trash removal and providing access to and from public and private rights-of-way in connection with the use of the Retail Parcel and the Outlot Parcel except for the parking of delivery and service trucks and vehicles (other than on a temporary basis).

Subject to the terms, covenants, provisions and limitations of Subparagraph 2C hereof, Declarant hereby reserves to itself the following rights with respect to portions of the Retail Parcel and the Outlot Parcel encumbered by the foregoing easements:

(i) to make improvements and repairs to the Common Areas and to do all acts in connection therewith, including without limitation, the temporary closing of such areas;

(ii) to impose reasonable regulations relative to the use of such easement area; e.g., speed limits, prohibiting such use by heavy vehicles and the installation of traffic control devices;

(iii) to provide traffic lanes delineating and controlling the flow of traffic and providing for the striping of traffic and parking lanes;

(iv) to alter the location and dimensions of the driveways from time to time on the condition that the Declarant or its successors in interest shall provide an alternative means of ingress and egress of vehicular traffic to and from the adjoining public streets;

(v) to temporarily close any part of the Common Areas for the purpose of making repairs, changes or for the prevention of the acquisition of public rights in and to such areas;

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(vi) to require employees of the businesses operated on the Retail Parcel and the Outlot Parcel to park on roof deck areas specifically designated for employee parking; and
(vii) to designate parking within the Outlot Parcel for the exclusive use of the Outlot Parcel Owner and its tenants, customers and invitees.

B. The Declarant does hereby establish and grant non-exclusive easements under, through and across the Common Areas for such water system lines, telephone and/or electrical conduits or systems, gas mains, sewer lines, drainage lines and other public utilities which may be required in order to service any portion of the Retail Parcel and the Outlot Parcel. All such systems, structures, mains, sewers, conduits, lines and other public utilities and instrumentalities shall be installed and maintained below the ground level or surface for such easements. If the installation of a utility line shall only benefit one of the Parcel owners, then said party shall be solely responsible for the cost and expense of the installation of the utility line. In the event it is necessary for the owner, tenant and/or occupant of one of the respective parcels to excavate on the other parcel for the installation, maintenance and/or repair of said utilities, such excavation shall be done in a good and workmanlike manner and be scheduled so as not to interfere with the conduct of business or flow of traffic on such parcel.

C. Declarant covenants and agrees as follows:

(i) Declarant shall exercise the rights granted to Declarant under this Section 2 so as to minimize interference with the use of and business operations in the Retail Parcel and the Outlot Parcel to the minimum extent possible; (ii) Declarant shall use reasonable efforts to plan and coordinate any maintenance, repairs, replacements and changes to the Common Areas so that reasonable parking shall be available at all times to serve employees, guests, invitees and customers of the Retail Parcel and the Outlot Parcel; (iii) Declarant shall not make or permit to be made any change or alteration of the driveways or other Common Areas that materially affects the flow of pedestrian or vehicular traffic to or from the Retail Parcel and the Outlot Parcel or the parking areas without the prior consent of the tenants of such parcels which will not be unreasonably withheld or delayed; provided, however, the consent of tenants shall not be required to modifications of the Common Areas imposed by governmental authorities; and (iv) Declarant shall not initiate or acquiesce to any zoning change which materially affects access to the Common Areas or the Outlot Parcel without the prior consent of the tenants of such parcels which will not be unreasonably withheld or delayed.

D. Neither Declarant nor any tenant or occupant of the Retail Parcel or the Outlot Parcel shall grant any parking rights

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to any person or entity that is not an owner, tenant, occupant, customer or supplier of the Retail Property or the Outlot Parcel.

E. Retail hereby establishes and grants to the owner, tenant or occupant of the Outlot Parcel from time to time a perpetual non-exclusive easement for ingress and egress to and from the Retail Parcel for persons, vehicles and material over, on, across and through the Retail Parcel to the extent reasonably necessary to permit the construction, maintenance, repair, replacement restoration or reconstruction of any and all improvements located on the Outlot Parcel. Declarant may impose reasonable limitations on the use of such easements by the owner, tenant or occupant of the Outlot Parcel under this Subparagraph E including, without limitation, establishing paths of ingress and egress and hours of the day or days of the week during which the owner, tenant or occupant of the Outlot Parcel may use and enjoy the easement granted pursuant to this Subparagraph E. Notwithstanding anything to the contrary herein contained, owners, tenants and occupants of the Retail Parcel and the Outlot Parcel shall restrict the access route for heavy construction vehicles and equipment to the public alley which runs from Skokie Boulevard and abuts the Outlot Parcel and the Retail Parcel along the south exposure. Any damage to such area caused by such heavy construction vehicles and equipment shall be repaired at the sole cost of the party responsible for such damage.

3. Operation and Maintenance of Common Areas and Taxes.

A. Retail or its successors in interest agrees to keep and maintain the Common Areas in good order, condition and repair including, without limitation, keeping all sidewalks, walkways, landscaping and parking surfaces (including repaving and restriping as necessary), at all times, in a clean, uncluttered, orderly and sanitary condition, removing promptly all snow and ice, furnishing, installing and keeping in good repair the lighting equipment (including bulbs and ballasts) and repairing, replacing and renewing such Common Areas as may be required. The cost of such upkeep and maintenance shall be shared between the owners of the Retail Parcel and Outlot Parcel (hereinafter referred to as an "Owner or "Owners"). The Owner of each parcel shall pay its proportionate share of the entire cost of maintaining, insuring and repairing the Common Areas. The proportionate share of maintaining and repairing the Common Areas payable by the Outlot Parcel Owner shall be equal to a fraction the numerator of which is the square footage of the area in the buildings constructed on the Outlot Parcel and the denominator of which is the sum of the numerator plus the leasable area of the buildings constructed on the Retail Parcel. The proportionate share of maintaining and repairing the Common Areas payable by the Retail Parcel Owner shall be equal to a fraction the numerator of which is the leasable area of the buildings constructed on the

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Retail Parcel and the denominator of which is the sum of the numerator plus the square footage of the buildings constructed on the Outlot Parcel. As used herein, the leasable area of the buildings constructed on the Retail Parcel shall be defined as the total area of the aforementioned buildings excluding any Common Area. Each Owner agrees to pay its proportionate share of the cost of maintaining and repairing the Common Areas in monthly installments on the first day of each calendar month in advance based upon the amount reasonably estimated by Declarant or its successors in interest to be required for maintaining and repairing the Common Areas. At the end of each calendar year the Declarant shall adjust the monthly installments to be paid by each occupant based upon the actual amount of the cost of maintaining and repairing the Common Areas and a reasonable percentage increase to reflect current anticipated costs and expenses. Notwithstanding anything to the contrary herein contained, truck dock loading areas and other areas designated as part of the Common Area but used exclusively by occupants of either the Outlot Parcel or the Retail Parcel shall be maintained by Retail but the cost of such maintenance shall be paid by the Owner of the Outlot Parcel or Retail Parcel, as applicable, which uses said areas.

B. The Owners and their permitted occupants of the Retail Parcel and the Outlot Parcel, as applicable, shall not interfere with, obstruct, inhibit or otherwise adversely affect one another's use and enjoyment of the Common Areas or the rights granted under this Agreement with respect to the Common Areas. Further such parties shall not create any nuisance upon or illegally use the common areas and agree not to violate any applicable law, ordinance, rule, regulation, permit or code which would adversely affect the use and enjoyment of the Common Areas or the rights granted under this Agreement with respect to the Common Areas.

C. Declarant shall keep the Common Areas well-lighted during all periods of darkness when the occupants or tenants of the Outlot Parcel or the Retail Parcel are open for business and for not less than one-half (1/2) hour after said period. There shall be kept lighted for security purposes seven (7) days of each week during those hours of darkness when full lighting is not required those lights to be erected on the Common Areas which the Declarant determines in its reasonable judgment to be necessary to provide adequate security for the Retail Parcel and the Outlot Parcel.

D. The Owner of the Retail Parcel and the Outlot Parcel shall pay when due their respective proportionate shares of the Taxes for the Shopping Center. As used herein, the term "Taxes" shall be defined as all real estate taxes and assessments (whether general or special), including sewer rents; sales, use or other taxes now or hereafter imposed by any governmental authority

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upon rent received by an Owner; and other taxes, fees or assessments now or hereafter levied by a governmental authority on the buildings constructed on the Retail Parcel and the Outlot Parcel or their contents or on the operation or use thereof (but excluding all federal income taxes, state and local net income taxes, federal excess profit taxes, franchise, capital stock and federal or state estate or inheritance taxes of any Owner); and all fees and costs incurred in connection with the seeking of a reduction of any of the foregoing, levied and assessed against the Retail Parcel and the Outlot Parcel. The proportionate share of Taxes payable by the Outlot Parcel Owner shall be equal to a fraction a numerator of which is the square footage of the area in the buildings constructed on the Outlot Parcel and the denominator of which is the sum of the numerator plus the square footage of the leasable area of the buildings constructed on the Retail Parcel. The proportionate share of Taxes payable by the Owner of the Retail Parcel shall be equal to a fraction the numerator of which is the leasable area of the buildings constructed on the Retail Parcel and the denominator of which is the sum of the numerator plus the square footage of buildings constructed on the Outlot Parcel. As used herein, the leasable area of the buildings constructed on the Retail Parcel shall be defined as the total area of the aforementioned buildings excluding any Common Area. Notwithstanding anything to the contrary, Retail's obligation pursuant to this paragraph shall not exceed an amount equal to the Taxes connected with the Retail Parcel along with all fees and costs incurred in connection with the Retail Parcel.

E. In the event that the improvements constructed in the Retail Parcel or the Outlot Parcel are demolished or otherwise reduced in size by 50% or more, then Declarant shall equitably adjust the proportionate share payable by each Owner for maintenance of the Common Areas and Taxes and Declarant's reasonable allocation shall be binding upon the Owners.

F. In the event the Owner of the Outlot Parcel fails to perform its obligations under the above Subparagraph A or D, then Retail shall have the right, at its option in addition to all other remedies available to it at law or in equity, to perform any or all of said party's obligations and such party shall, within ten (10) days after service of an invoice by Retail reimburse to Retail all costs incurred by Retail in connection with its performance of the covenants and obligations of the party provided in the above Subparagraph A. In such event Retail shall be entitled to receive interest at an annual interest rate equal to four (4%) percent per annum over and above the prime interest rate announced by The First National Bank of Chicago as its prime interest rate, as such rate may be changed from time-to-time, on all funds advanced by Retail to fulfill the obligations of such defaulting party. In the event that Retail commences an action to enforce this Declaration at law or in equity, then Retail shall be

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entitled to receive an award of all attorneys' fees and costs expended in such action against the Outlot Parcel Owner if said party is found to be in default of the covenants and obligations contained in this Declaration.

G. If Retail fails to operate, insure, manage, equip, protect, police, light, repair, replace and maintain the parking areas, driveways and Common Areas and their facilities, the Owner of the Outlot Parcel shall so notify Retail in writing of any such deficiencies and if such deficiencies continue for thirty (30) days after such notice (or if such deficiency cannot be cured within said thirty (30) day period or such additional time as may be required to permit Retail to cure such deficiency using due diligence in pursuing such cure), then the Owner of the Outlot Parcel may effect the cure of the deficiency and seek recovery from Retail for its costs so incurred in an action at law; provided, however, that if the Owner of the Outlot Parcel assigns its rights under this Paragraph 3G to Golf Skokie Real Property Company, Inc. ("GSRPCI"), as tenant under that certain Ground Lease dated _____, 1996 for the Outlot Parcel, then GSRPCI or its successor or permitted assigns shall have the right to exercise such rights on behalf of the Owner of the Outlot Parcel. The prevailing party in any such action shall be entitled to receive an award of its reasonable attorneys' fees and costs incurred in such action from the party found to be at fault by a court of competent jurisdiction. The parties acknowledge that the Outlot Parcel Owner's remedy hereunder shall not include any right of setoff against payments due to Retail pursuant to the terms of this Declaration. Notwithstanding anything to the contrary, in the event that Outlot fails to pay its proportionate share of the maintaining, repairing, and insuring of the common areas as required in this Agreement, Retail shall not be obligated to maintain, repair or insure items on the Outlot Parcel which are subject of said failure of Outlot to pay its proportional share.

4. Use Restrictions.

A. Neither the Declarant (or its successors in interest or assigns) nor any Owner or occupant of the Retail Parcel shall enter into a lease or sublease, or otherwise permit or suffer the use of any portion of the Retail Parcel as a banking or financial institution or operation (including, without limitation, any thrift or credit union, facility, automatic teller machine or drive-through banking facility), or permit the sale of insurance or financial products and services thereon, unless the Outlot Parcel or any portion thereof shall permanently cease to be used for any such banking purpose or is not used for banking purposes for a period of two (2) years.

B. Neither the Declarant (or its successors in interest or assigns) nor any Owner or occupant of the Outlot

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Parcel shall enter into a lease or sublease or otherwise permit or suffer the use of any portion of the Outlot Parcel for the sale of linens, bed and bath items or closet and container items unless the Retail Parcel or any portion thereof shall permanently cease to be used for such purposes or temporarily cease to be used for such purposes for a period of two (2) years.

5. Insurance. Retail shall at all times during the term of this Declaration maintain insurance coverage insuring Declarant, the Owner of the Retail Parcel and the Outlot Parcel and the tenants or occupants of the Retail Parcel and the Outlot Parcel with the following coverages:

A. Comprehensive general liability insurance for all legal liability in connection with claims for personal injury or death and property damage incurred upon the Common Areas, including a broad form or extended liability endorsement. Such insurance shall have limits of at least TWO MILLION AND NO/100 (\$2,000,000.00) DOLLARS for combined single limit personal injury and property damage liability per occurrence.

B. Insurance against fire, vandalism and the extended coverage perils for the full insurable value of all improvements to the Common Areas.

Each of Declarant and the Owners, tenants and occupants of the Retail Parcel and the Outlot Parcel shall be a named insured under such policy or policies. Retail is hereby designated the agent of the other parties for the purpose of obtaining such insurance. The premium for said policy or policies shall be apportioned among the parties in the same manner as the Common Area maintenance charges are apportioned and paid under Paragraph 3A of this Declaration and the Declarant shall equitably apportion premiums between Common Area and non-Common Area for portions of the building constructed on the Retail Parcel which contains Common Area parking and facilities.

6. General Provisions.

A. Covenants Run With the Land. The easements, rights, privileges, covenants, conditions and restrictions contained herein shall be deemed to be covenants running with the land. If either parcel is hereinafter divided into two or more parcels, all of the owners of said parcels shall be entitled to the benefits of the easements, rights and privileges granted hereunder and all of said owners shall be burdened by the easements, rights and privileges imposed hereunder.

The easements, covenants, rights, privileges, benefits and obligations created hereby shall inure to the benefit of and be binding upon the parties hereto, their successors and

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assigns; provided, however, that upon the transfer of ownership of either the Retail Parcel or the Outlot Parcel, the liability of the transferor for breach of any covenant or obligation occurring thereafter shall automatically terminate.

B. Duration. Except as otherwise provided herein, each easement, covenant, restriction and undertaking of this Agreement shall be for the term of seventy-five (75) years from the date hereof, after which time they shall be automatically extended for successive periods of ten (10) years each, unless terminated within one hundred eighty (180) days of the expiration of the initial seventy-five (75) year term or any extension thereof by an instrument recorded by the Retail Parcel Owner and the Outlot Parcel Owner.

C. Injunctive Relief. In the event of any violation or threatened violation by any owner, lessee, occupant or tenant from time to time of any portion of the Retail Parcel or the Outlot Parcel of any of the terms, covenants, and conditions herein contained, in addition to the other remedies herein provided, any or all of the owners or tenants of the Retail Parcel or the Outlot Parcel shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The court costs and the reasonable fees of the attorneys for the prevailing party in any legal proceedings seeking relief shall be paid by the party against whom judgment is entered in said legal proceedings.

D. Modification Provisions. This Agreement may not be modified in any respect whatsoever, or rescinded in whole or in part, except with the consent of all of the Owners of the Retail Parcel and the Outlot Parcel.

E. Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Retail Parcel or the Outlot Parcel to the general public or for the general public or for any public purposes whatsoever, it being the intention of the parties that this Agreement shall be strictly limited to and for the purposes herein expressed.

F. Breach Shall Not Permit Termination. It is expressly agreed that no breach of this Agreement shall entitle any owner to cancel, rescind or otherwise to terminate this Agreement, but such limitation shall not affect in any manner, any other rights or remedies which such owner may have hereunder by reason of any breach of this Agreement. Any breach of any of said covenants or restrictions, however, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value but such covenants or restrictions shall be binding upon and effective against such owner of any of said

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property or any portion thereof whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

G. Validity and Severance. If any clause, sentence or other portion of this Agreement shall become illegal, null or void for any reason, or shall be held by any court of competent jurisdiction to be so, the remaining portion thereof shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Covenants, Restrictions and Easements as of the date above first written.

ORCHARD PLACE L.L.C.

By:

Mitchell Saywitz
Mitchell Saywitz, its Managing Member

ORCHARD PLACE RETAIL L.L.C.

By:

Mitchell Saywitz
Orchard Place Retail, Inc. its Managing Member
Mitchell Saywitz, President

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EXHIBIT A

LOT 1 IN ORCHARD PLACE RESUBDIVISION, BEING A
RESUBDIVISION IN THE EAST HALF OF THE NORTHEAST
QUARTER OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 13,
EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY,
ILLINOIS.

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EXHIBIT B

LOT 2 IN ORCHARD PLACE RESUBDIVISION, BEING A
RESUBDIVISION IN THE EAST HALF OF THE NORTHEAST
QUARTER OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 13,
EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY,
ILLINOIS.

10-16-206-001

10-16-206-042

10-16-206-002

10-16-206-003

PETER HESS

KATZ WIONBERG & RANDALL

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