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16 DECEMBER 92 11:03 AM
KATIE L. DIXON
RECORDER, SALT LAKE COUNTY, UTAH
FIRST AMERICAN TITLE
REC BY: REBECCA GRAY , DEPUTY

RECORDED AT THE REQUEST OF,
AND WHEN RECORDED RETURN TO:

Wm. Shane Topham, Esq.
Jardine, Linebaugh, Brown & Dunn
370 East South Temple, Fourth Floor
Salt Lake City, UT 84111

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Declaration of Easements, Covenants and Restrictions

THIS DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS (this "Declaration") is made effective 25 September 1992 by TERRATRON MIDWEST, INC., a Wisconsin corporation f/k/a Terratron, Inc., whose principal local office is located at 7050 South 2000 East, Suite 300, Salt Lake City, Utah 84121 ("Terratron"), and by GFI, LTD. II-WVC INVESTMENTS, LTD., a Utah limited partnership whose address is c/o G. Walter Gasser, 74 East 500 South, Suite 200, Bountiful, Utah 84010 ("GFI").

R E C I T A L S:

A. Terratron owns fee title to certain real property (the "Terratron Parcel") that is located in the Gateway West shopping center at the northwest corner of 5600 West 3500 South in West Valley City, Salt Lake County, Utah, and that is particularly described as follows:

Beginning at a point 2 rods North and 2 Rods West from the Southeast Corner of Section 26 Township 1 South, Range 2 West, Salt Lake Base and Meridian, and running thence North 190 feet along the West line of 5600 West Street; thence West 190 feet; thence South 190 feet to the North line of 3500 South Street; thence East along said North line 190 feet to the point of beginning.

Less the following parcel: Beginning at a point North 0° 09' 50" West along the Section line 33.00 feet and South 89° 59' 10" West 33.00 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian and running thence South 89° 59' 10" West 190.00 feet; thence North 0° 09' 50" West 7.00 feet; thence North 89° 59' 10" East 170.00 feet; thence North 0° 09' 50" West 183.00 feet; thence North 89° 59' 10" East 20.00 feet; thence South 0° 09' 50" East 190.00 feet to the point of beginning.

B. As of the date hereof, Terratron has conveyed to GFI fee title to certain real property (the "Sale Parcel") that is contiguous to the Terratron Parcel and that is particularly described as follows:

FIRST AMERICAN TITLE
RMP# 2737-25

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Beginning a point which North 0° 09' 50" West along the section line 223.00 feet and South 89° 59' 10" West 53.00 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian and running thence South 89° 59' 10" West 170.00 feet; thence North 0° 09' 50" West 130.65 feet; thence North 89° 50' 10" East 170.00 feet; thence South 0° 09' 50" East 131.10 feet to the point of beginning.

C. As additional consideration for Terratron's conveyance to GFI of the Sale Parcel, Terratron has required, and GFI has agreed, that the Sale Parcel be burdened with certain easements, covenants and restrictions in favor of the Terratron Parcel.

D E C L A R A T I O N:

NOW, THEREFORE, for the foregoing purposes, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby declare and agree as follows:

1. Restriction on Use of Sale Parcel. From and after the date of this Declaration, no part of the Sale Parcel shall be occupied as, or used in connection with (whether as parking, a "drive-thru" area, or otherwise), a restaurant or other business or facility that derives five percent (5.0%) or more of its gross income from the sale of prepared, "ready-to-eat" and/or "fast" food items for on-premises or off-premises human consumption.

2. Grant of Easement. GFI hereby conveys and grants to Terratron a non-exclusive right-of-way and easement (the "Easement"), burdening the Sale Parcel and appurtenant to the Terratron Parcel, across that part of the Sale Parcel that is particularly described as follows:

Beginning at a point which is North 0°09'50" West along the section line 223.00 feet and South 89°59'10" West 53.00 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian, and running thence South 89°59'10" West 170.00 feet; thence North 0°09'50" West 36.0 feet; thence North 89°59'10" East 170.00 feet; thence South 0°09'50" East 36.0 feet to the point of beginning.

2.1. Purpose of the Easement. The purpose of the Easement is to provide general vehicular and pedestrian ingress and egress to the Terratron Parcel over the Sale Parcel, for use by the owner (at any time) of the Terratron Parcel and that owner's principals, employees, agents, lessees, licensees, invitees and permittees, without payment of any fee or charge.

2.2. Maintenance of the Easement. The owner of the Terratron Parcel shall be responsible for all normal maintenance to

the Easement, shall keep the Easement free from snow, ice, rubbish and other debris, and shall take such other actions in connection therewith as are commercially reasonable under the circumstances.

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

3. Effect of Declaration. The easements, covenants and restrictions created in this Declaration:

3.1. Duration. Shall be perpetual in duration; may be terminated only by the then owner of fee title to the Terratron Parcel; and may not be transferred, assigned or encumbered except as an appurtenance to the Terratron Parcel.

3.2. Benefit. Are appurtenant to the Terratron Parcel and are for the benefit of its owner and occupants and their respective licensees, invitee, employees and the like.

3.3. Equitable Servitude. Create an equitable servitude on the Sale Parcel in favor of the Terratron Parcel.

3.4. Covenants. Constitute covenants running with the land.

3.5. Binding Effect. Bind every person or entity having any fee, leasehold or any interest in any portion of the Sale Parcel and/or the Terratron Parcel, as appropriate, at any time or from time to time to the extent that such portion is affected or bound by such easements, covenants and restrictions, or to the extent that such easements, covenants and restrictions are to be performed with respect to such portion.

4. Insurance. So long as this Declaration is in effect, Terratron and its successors and assigns shall maintain in full force and effect a policy of comprehensive general liability insurance (the "Liability Policy") covering personal injury and/or death and damage to property arising out of the use and/or maintenance of the Easement by the owner of the Terratron Parcel or its principals, employees, agents, lessees, licensees, invitees and permittees. The Liability Policy shall be through a financially responsible insurance company or companies qualified to do business in the Utah; may be a "blanket" policy covering various parcels of realty owned/leased by Terratron; and shall name the owner and lessee (if any) of the Sale Parcel as additional named insureds. The Liability Policy shall initially be in the amount of not less than \$2 million combined single limit coverage for injury to person, loss of life and damage to property arising out of any

single occurrence. Upon the written requests of Terratron and/or the then owner of the Sale Parcel at the commencement of the sixth year after the date hereof and at five-year intervals thereafter, the coverage (in dollars) provided by the Liability Policy shall be adjusted to such limits as may be mutually agreed to by the then owners of the Sale Parcel and the Terratron Parcel, or, in the absence of such agreement, then by changes in the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items, over the pertinent time period. Upon written request by the owner of the Sale Parcel, the owner of the Terratron Parcel shall promptly provide a copy of a certificate of insurance evidencing such insurance, which certificate shall require at least thirty (30) days' written notice to the insureds before the insurance afforded by the Liability Policy can be reduced or cancelled.

5. Assumption of Obligations by Future Grantees. The acceptance of any transfer or conveyance of all or any part of the Sale Parcel shall be deemed to require the prospective grantee to agree not to use, occupy or allow any lessee or occupant of the Sale Parcel to use or occupy the Sale Parcel in any manner which would constitute a violation or breach of any of the covenants or restrictions contained herein.

6. Default. In the event of any violation or threatened violation by any owner or occupant of the Sale Parcel of any of the terms, restrictions, covenants and conditions provided herein, any owner or occupant of the Terratron Parcel shall have (in addition to the right to collect damages for such violation and the right of self-help) the right to enjoin such violation or threatened violation in a court of competent jurisdiction, by way of a temporary restraining order, a preliminary injunction and/or a permanent injunction. The parties acknowledge that any such breach or threatened breach of this Declaration will subject the owners or occupants of the Terratron Parcel to material, immediate and irreparable injury, without an adequate remedy at law.

7. No Partnership. Terratron and GFI do not by this Declaration or otherwise become partners or joint venturers of each other in the conduct of their respective businesses or otherwise.

8. General Provisions.

8.1. Captions. The headings used in this Declaration are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Declaration or the intent hereof.

8.2. Counterparts. This Declaration may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.

8.3. Severability. The provisions of this Declaration are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not affect the other provisions of this Declaration.

8.4. Waiver of Breach. Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to, any subsequent breach of this Declaration.

8.6. Cumulative Remedies. The rights and remedies of the parties hereto shall be construed cumulatively, and none of such rights and remedies shall be exclusive of, or in lieu or limitation of, any other right, remedy or priority allowed by law.

8.7. Interpretation. This Declaration shall be interpreted, construed and enforced according to the substantive laws of the state of Utah. The parties hereby submit to the jurisdiction of, and venue in, the Third Judicial District Court of Salt Lake County, Utah, in connection with any litigation arising from, or related to, this Declaration.

8.8. Attorneys' Fees. If any action or proceeding is brought by either party to enforce the provisions of this Declaration, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees, whether such sums are expended with or without suit, at trial, on appeal or in any bankruptcy or insolvency proceeding.

8.9. Notice. All notices provided for herein shall be in writing and shall be given by first class mail, certified or registered, postage prepaid, addressed to the parties at their respective addresses set forth above or at such other address(es) as may be designated by a party from time to time in writing.

8.10. Time of Essence. Time is the essence hereof.

8.11. Costs. All costs and expenses, including attorneys' fees, incurred by each party in conjunction with this Declaration shall be paid by the party which has incurred such costs and expenses.

8.12. Recordation. The parties shall record, or cause to be recorded, this Declaration in the office of the recorder of Salt Lake County, Utah.

DATED effective the date first above written.

TERRATRON:

TERRATRON MIDWEST, INC. a Wisconsin corporation f/k/a TERRATRON, INC.

By: [Signature]
KEVIN K. CUSHING, President

GFI:

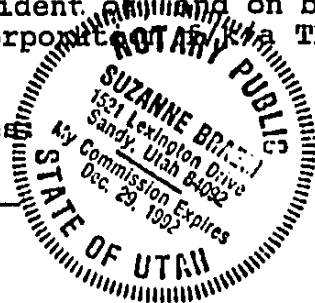
GFI, LTD. II-WVC INVESTMENTS, LTD., a Utah limited partnership

By: [Signature]
G. WALTER GASSER, general partner

STATE OF UTAH)
) ss:
COUNTY OF SALT LAKE)

On 29th September 1992, personally appeared before me KEVIN K. CUSHING, who duly acknowledged to me that he executed the foregoing document as the president of, and on behalf of, TERRATRON MIDWEST, INC., a Wisconsin corporation TERRATRON, INC.

My Commission Expires
Dec. 29, 1992



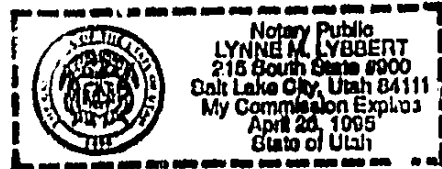
[Signature]
Notary Public
Residing in: Salt Lake County

STATE OF UTAH)
) ss:
COUNTY OF SALT LAKE)

On 5th Nov, 1992, personally appeared before me G. WALTER GASSER, who duly acknowledged to me that he executed the foregoing document as a general partner of, and on behalf of, GFI, LTD. II-WVC INVESTMENTS, LTD., a Utah limited partnership.

My Commission Expires:
April 26, 1995
NOT/D/2715.001

[Signature]
Notary Public
Residing in: S.L.C., UT.



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