

**DECLARATION OF RESTRICTIONS
AND GRANT OF EASEMENTS**

THIS DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENTS (this "Declaration") is made as of the 10th day of December, 1997, by and between ESNET PROPERTIES, L.C., a Utah limited liability company ("Developer") and HOME DEPOT U.S.A., INC., a Delaware corporation ("Home Depot").

1. PRELIMINARY

1.1 **Parties:** Developer is the Owner of all of the Parcels shown on the Site Plan except the Home Depot Parcel, and Home Depot is the Owner of the Home Depot Parcel. The Parcels are located at the intersection of the I-15 freeway and 1600 North in the City of Lindon, Utah County, State of Utah, as shown on the Site Plan.

1.2 **Purpose:** The Parties plan to develop the Shopping Center as an integrated retail sales complex for the mutual benefit of all real property in the Shopping Center and, therefore, do hereby fix and establish the Restrictions, upon and subject to which all of the Shopping Center, or any part thereof, shall be improved, held, leased, sold and/or conveyed. Such Restrictions shall run with the land and inure and pass with such property and shall apply to and bind the respective successors and interests thereof, and all and each thereof is imposed upon such property as a mutual equitable servitude in favor of such property and any portion thereof; provided, however, that notwithstanding anything in this Section 1.2 or in any other section of this Declaration to the contrary, the Restrictions set forth in Sections 5.1, 5.2(b) and 5.2(c) below, while being binding on and running with the entire Shopping Center, the North Parcel and the Additional Land, shall benefit only the Home Depot Parcel and no other land, and therefore the Restrictions set forth in Sections 5.1, 5.2(b) and 5.2(c) may be enforced, waived or modified only by the Consenting Owner.

1.3 **Definitions:** For the purposes of this Declaration, the terms defined in this Declaration shall have the meanings set forth below whenever such terms are used in this Declaration, unless the context clearly indicates a different meaning.

(a) **"Additional Land":** Any real property upon which a building or other office, warehouse, retail, or other commercial structure (herein a "Building") is located wherein any portion of the Building is located within five hundred (500) feet of any part of the Home Depot Parcel. Attached hereto as Exhibit "D" is a legal description of that part of the Additional Land owned by Developer on the date of this Agreement.

(b) **"Building Area":** The area on each Parcel which from time to time is covered by a building or other commercial structure.

(c) **"Common Area":** All of those areas in the Shopping Center depicted on the Site Plan as "Common Area," which Common Area generally consists of the road (the "Road") running from 1600 North Street to the north end of the Shopping Center, the median strips within

the Road, and all landscaped areas of up to 20 feet in width that are contiguous and adjacent to any portion of the Road that is contiguous to a Parcel; provided that such landscaping may exceed 20 feet and shall still be part of the Common Area where expanded landscaping areas are designed and built for turn-ins to the Parcels, all as shown on the Site Plan attached hereto.

(d) "Consenting Owner": The Owner of the Home Depot Parcel shall be the Consenting Owner; provided, however, that in the event such Owner sells its Parcel and becomes the Prime Lessee thereon, such Prime Lessee shall be deemed appointed as the entity to give the consent for the Parcel on behalf of the Owner so long as it is the Prime Lessee of said Parcel.

(e) "Declaration": This Declaration of Restrictions and Grant of Easements.

(f) "Default Rate": The greater of (i) ten percent (10%) per annum or (ii) five percent (5%) per annum plus the discount rate prevailing on the twenty-fifth (25th) day of the month preceding the date such payment was due, as established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as is now or hereafter in effect from time to time.

(g) "Developer": EsNet Properties, L.C., a Utah limited liability company, its successors and assigns.

(h) "Development Agreement": That certain Development Agreement between the Parties which encumbers the Shopping Center and is recorded concurrently herewith.

(i) "Floor Area": The total number of square feet of floor space in a building including basement, subterranean, balcony and mezzanine space, irrespective of whether actually occupied. Floor Area shall be measured from the exterior line of the exterior walls and from the center line of any party or common interior walls without deduction for columns, walls or other structural or non-structural components; provided, however, in no event shall an Outside Sales Area be included in such calculations. The Parties acknowledge that the garden center located on the Home Depot Parcel constitutes Outside Sales Area and is depicted on the Site Plan.

(j) "Governmental Regulations": Any or all laws, statutes, ordinances, codes, decrees, rulings, regulations, writs, injunctions, orders, rules, conditions of approval or authorizations of any governmental entity, agency or political subdivision, whether now in force or which may hereafter be in force.

(k) "Home Depot": Home Depot U.S.A., Inc., a Delaware corporation, its successors and assigns, together with any corporation succeeding thereto by consolidation, merger or acquisition of its assets substantially as an entirety, and any wholly owned subsidiary thereof, and whose current address is 601 South Placentia Avenue, Fullerton, California 92631, or any subsequent Owner or Occupant of the Home Depot Parcel.

(l) "Home Depot Parcel": Lot 1 as shown on the Site Plan and described in Exhibit "B" attached hereto.

(m) "Lienholder": Any mortgagee under a mortgage or a trustee or beneficiary under a deed of trust constituting a lien on any Parcel.

(n) "Maintenance Director": The Person responsible for the maintenance of the Common Areas under the provisions of Section 6.

(o) "North Parcel": The real property located immediately north of the Home Depot Parcel as more particularly described on Exhibit "C" attached hereto.

(p) "Occupant": Any Person (including any Prime Lessee) from time to time entitled to the use and occupancy of any portion of a building in the Shopping Center under an ownership right or any lease, sublease, assignment, license, concession, or other similar agreement.

(q) "Outside Sales Area": An area generally unprotected from the elements which may be used for sales and/or storage purposes (including without limitation the sale of Christmas trees on the Home Depot Parcel), and when used for such purposes shall be enclosed by a fence or other security barrier; an Outside Sales Area may only be located in the area(s) designated on the Site Plan.

(r) "Owner": The record holder of fee simple title to a Parcel, its heirs, personal representatives, successors and assigns.

(s) "Parcels": All of the parcels in the Shopping Center as shown on the Site Plan and more particularly described in Exhibit "B", including without limitation the Home Depot Parcel, as said Parcels may be reconfigured within the Shopping Center from time to time.

(t) "Party" or "Parties": The parties set forth in Section 1.1 above, their successors and assigns.

(u) "Permittee": All Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, subtenants, and concessionaires of Occupants insofar as their activities relate to the intended use of the Shopping Center. Among others, Persons engaging in the following activities on the Common Area will not be considered to be Permittees: (i) exhibiting any placard, sign, or notice; (ii) distributing any circular, handbill, placard, or booklet; (iii) soliciting memberships or contributions; (iv) parading, picketing, or demonstrating; and (v) failing to follow regulations relating to the use of the Shopping Center.

(v) "Person": Individuals, partnerships, firms, associations, corporations, limited liability companies, trusts, governmental agencies, administrative tribunals or any other form of business or legal entity.

(w) "Prime Lessee": A Person who formerly was an Owner of a Parcel who subsequently sold its Parcel to an unaffiliated third party and thereafter entered into a lease for the

Parcel with such third party or its lessee or sublessee, and its successors and assigns, and which Person now occupies said Parcel under such lease.

(x) "Restrictions": The easements, covenants, restrictions, liens and encumbrances fixed and established upon the Shopping Center pursuant to this Declaration.

(y) "Service Facilities": Loading docks, trash enclosures, bottle or pallet storage areas and other similar service facilities.

(z) "Shopping Center": All of the Parcels, collectively.

(aa) "Site Plan": The site plan of the Shopping Center shown on Exhibit "A" attached hereto.

2. BUILDING AND COMMON AREA DEVELOPMENT

2.1 Building Location: All buildings and other structures (except those permitted in Section 2.2 below) shall be placed or constructed upon the Parcels only in the Building Areas as permitted by law. All buildings and other structures constructed on the Parcels shall be constructed and maintained in accordance with all Governmental Regulations applicable thereto.

2.2 Common Area: The Common Area is hereby reserved for the sole and exclusive use of all Owners and Occupants of the Shopping Center, and their Permittees. The Common Area may be used for vehicular driving, pedestrian traffic, directional signs, sidewalks, walkways, landscaping, perimeter walls and fences, lighting, utilities and Service Facilities and for no other purpose unless otherwise specifically provided in this Declaration. No buildings or structures shall be placed or constructed in the Common Area except pylon, monument and directional signs (as provided in Section 4), paving, bumper guards or curbs, landscape planters, lighting standards, perimeter walls and fences, utility pads and equipment, and sidewalks. The Common Area shall be constructed in accordance with the Site Plan and shall be kept and maintained as provided for in Section 6 below. The sizes and arrangements of the Common Area improvements, including, without limitation, striping, traffic directional arrows and signs, concrete bumpers, lighting, perimeter walls and fences, sidewalks, and landscaped areas, together with necessary planting, may not be changed without the prior written consent of the Consenting Owner.

2.3 Type, Design and Site Plan of Building:

(a) Each building in the Shopping Center, now and in the future, shall be of first-class quality construction and architecturally designed so that its exterior elevations (including, without limitation, signs and color) will be architecturally and aesthetically compatible and harmonious with all other buildings in the Shopping Center. No building may be constructed nor the exterior of any existing building changed in any way (including, without limitation, signs and color) without the prior written approval of the Consenting Owner as to the site plan for the building and the exterior elevations (including, without limitation, signs and color) of the building

to be constructed or modified. Before the construction of any building or any modification of an existing building which requires approval is commenced, sufficient information shall be sent to the Consenting Owner to enable the Consenting Owner to make a reasonable determination as to the acceptability of the site plan for the proposed building, and the architectural and aesthetic compatibility of the proposed building or modification with all other buildings in the Shopping Center. The Consenting Owner may not arbitrarily or unreasonably withhold its approval of the site plan, or of the proposed building or modification if it is architecturally and aesthetically compatible and harmonious with all other buildings in the Shopping Center. The Consenting Owner must approve or disapprove the proposal within forty-five (45) days after receipt of the proposal, and, if the Consenting Owner disapproves the proposal, it shall provide a written explanation in reasonable detail of its reasons for disapproval. If the Consenting Owner rejects or disapproves the proposal and fails to provide such explanation within the forty-five (45) day period, the Consenting Owner shall be deemed to have approved the same provided that, when the approval was sought, the one seeking the approval stated in writing to the one whose approval was sought that, if a disapproval with explanation was not made within the forty-five (45) day period, approval would then be deemed to have been given. If the proposal is disapproved as provided herein, then an alternate proposal may be submitted, which alternate proposal shall be handled in the same manner as the initial proposal.

(b) Every building either shall be equipped with automatic sprinkler systems which meet all of the standards of applicable Governmental Regulations or shall be constructed in such a manner as not to adversely affect the fire rating as determined by local governing agencies of any building built upon any other Parcel.

(c) No building shall be built in such a manner as to adversely affect the structural integrity of any other building in the Shopping Center.

(d) All buildings on the Parcels shall be single story with mezzanine permitted and shall not exceed 22 feet in height, except that the building on the Home Depot Parcel may be 35 feet in general and 45 feet at its entry area, measured from finished floor at entryway of each building.

(e) Each Owner shall maintain or cause to be maintained the exterior of any building located on such Owner's Parcel(s), and shall improve and maintain all areas located on the Parcel outside of the building, including without limitation, all landscaping, parking and driveway areas, sidewalks and Service Facilities located on the Parcel, with all such maintenance to be of a quality and condition comparable to that of shopping centers of comparable size and nature located in the same geographic area as the Shopping Center.

(f) There shall not be constructed in the Shopping Center any parking structure, whether over or under ground level.

2.4 Construction Requirements:

(a) All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any building, sign or Common Area improvements located in the Shopping Center shall be effected as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct or delay (i) access to or from the Shopping Center, or any part thereof, to or from any public right-of-way, (ii) customer vehicular parking in that portion of the improved Common Area located in front of any building constructed in the Shopping Center, or (iii) the receiving of merchandise by any business in the Shopping Center including, without limitation, access to Service Facilities. Staging for the construction, replacement, alteration or expansion of any building, sign or Common Area improvements located in the Shopping Center including, without limitation, the location of any temporary buildings or construction sheds, the storage of building materials, and the parking of construction vehicles and equipment shall be limited to the Parcel upon which the improvements are being constructed. Unless otherwise specifically stated herein, the person contracting for the performance of such work ("Contracting Party") shall, at its sole cost and expense, promptly repair and restore or cause to be promptly repaired and restored to its prior condition all buildings, signs and Common Area improvements damaged or destroyed in the performance of such work.

(b) The Contracting Party shall indemnify, defend and hold harmless the Owners and Occupants for, from and against any and all liability, claims, damages, expenses (including reasonable attorneys' fees and reasonable attorneys' fees on any appeal), liens, claims of lien, judgments, proceedings and causes of action, arising out of or in any way connected with the performance of the work described in subparagraph (a) above, unless caused by the negligent or willful act or omission of the indemnified Person or its Permittees.

(c) Unless specifically approved in writing by the Consenting Owner, the grading of any Parcel shall not be modified, altered or otherwise changed. There shall be no interference with the established drainage pattern and system over any portion of the Parcels unless adequate provision is made for property drainage and such interference is approved by the Consenting Owner. All drains, gutters, downspouts, berms, swells, and other drainage facilities and systems shall be maintained by the Owner of such items in a neat, orderly, safe and sanitary condition, and in such a manner as to facilitate the orderly discharge of water by means thereof.

(d) Until a Parcel is developed, improved and constructed upon, the Owner thereof shall keep the same in an orderly condition, clean and free of rubbish and deterioration and attractively landscaped or otherwise maintained by keeping normal weeds and ground cover cut and controlled.

3. EASEMENTS

3.1 Ingress, Egress and Access: Each Owner and the fee title owner of the North Parcel (the "North Parcel Owner"), as grantor, hereby grants to the other Owners and the North Parcel

Owner, and their respective Permittees for the benefit of each Parcel and the North Parcel belonging to the other Owners and the North Parcel Owner, as grantees, a nonexclusive easement for ingress, egress and access by vehicular and pedestrian traffic upon, over and across that portion (the "Common Use Portion") of the grantor's Parcel that has been developed and improved as parking lots, roads, driveways and drive aisles, entrances and sidewalks, including without limitation all Common Area, except for those areas devoted to Service Facilities or driveup or drive through customer service facilities. The reciprocal rights of ingress and egress set forth in this Section 3.1 shall apply to the Common Use Portion of each Parcel and the North Parcel as such area shall be increased or decreased from time to time in accordance with Governmental Regulations.

3.2 Utility Lines and Facilities:

(a) Each Owner and the North Parcel Owner, each as grantor, hereby grants to the other Owners and the North Parcel Owner, and their respective Permittees, for the benefit of each Parcel and the North Parcel belonging to the other Owners and the North Parcel Owner, and their respective Permittees, as grantees, a nonexclusive easement under, through and across the common utilities easement area (the "Common Utility Easement Area") of the grantor's Parcel as depicted on the Site Plan, for the installation, operation, maintenance, repair and replacement of water drainage systems or structures, water mains, sewers, water sprinkler system lines, telephones, electrical conduits or systems, gas mains and other public or private utilities. All such systems, structures, mains, sewers, conduits, lines and other utilities shall be installed and maintained below the ground level or surface of such easements except for such facilities as are required to be above ground by the utility providing such service (including temporary service required during the construction, maintenance, repair, replacement, alteration or expansion of any buildings or improvements located in the Shopping Center or on the North Parcel). The installation, operation, maintenance, repair and replacement of such easement facilities shall not unreasonably interfere with the use of the improved Common Utilities Easement Area of any Parcel or the North Parcel or with the normal operation of any business in the Shopping Center or on the North Parcel. The grantee shall bear all costs related to the installation, operation, maintenance, repair and replacement of such easement facilities, shall repair to the original specifications any damage to the Common Utilities Easement Area of any Parcel or the North Parcel resulting from such use and shall provide as-built plans for all such facilities to the Owners and the North Parcel Owner if any such owner has located on its Parcel or North Parcel such utility lines and facilities, to be furnished within thirty (30) days after the date of completion of construction of the easement facilities.

(b) At any time and from time to time the Owner of a Parcel or the North Parcel Owner shall have the right to relocate on its Parcel or the North Parcel, respectively, any utility line or facility installed pursuant to the foregoing grant of easement which is then located on the Parcel of such Owner or the North Parcel, provided that any such relocation (i) shall be performed only after sixty (60) days notice in writing of the Owner's intention to undertake the relocation shall have been given to the Owner of each Parcel or the North Parcel Owner served by the utility line or facility, (ii) shall not unreasonably interfere with or diminish utility service to the Parcels or the North Parcel served by the utility line or facility, (iii) shall not reduce or unreasonably impair the

usefulness or function of the utility line or facility, (iv) shall be performed without cost or expense to the Owner, North Parcel Owner, or Occupant of any other Parcel or the North Parcel, as appropriate, (v) shall provide for the original and relocated area to be restored using materials and design standards which equal or exceed those originally used, and (vi) shall not interfere with the business operation of the Owners, North Parcel Owner, or Occupants served by the utility line or facility. The Owner or North Parcel Owner performing such relocation shall provide as-built plans for all such relocated utility lines and facilities to the Owners of all Parcels or the North Parcel Owner, as appropriate, served by such utility lines and facilities within thirty (30) days after the date of completion of such relocation.

3.3 Dedication to Public Entities: No Owner shall grant any easement for the benefit of any property not within the Shopping Center; provided, however, that the foregoing shall not prohibit the granting or dedicating of easements by an Owner on its Parcel, to governmental or quasi-governmental authorities or to public utilities. Nothing contained in this Declaration shall be deemed to be a gift or dedication of any portion of the Shopping Center or of any Parcel, or of the North Parcel or any portion thereof, to the general public, or for any public use or purpose whatsoever. Except as specifically set forth in this Declaration, no rights, privileges or immunities of any party shall inure to the benefit of any third party Person, nor shall any third-party Person be deemed to be a beneficiary of any of the provisions contained in this Declaration. Developer and Home Depot acknowledge that the road running through the Shopping Center and immediately to the West of the Home Depot Parcel is to be dedicated in part to the City of Lindon and in part to the Utah Department of Transportation. Developer and Home Depot agree to execute such documents as are necessary to accomplish that dedication. The Owners acknowledge that they will have certain maintenance obligations with respect to the landscaping of the medium of the road after such dedication, as set forth in this Declaration.

4. OPERATION OF COMMON AREA

4.1 Driveways: The driveways, roads and other improvements constituting Common Area shall be maintained in accordance with the provisions of Section 6 below.

4.2 Signs:

(a) Subject to Governmental Regulations, and in accordance with the rights and provisions of the Development Agreement, a free-standing sign may be erected by the Developer or Home Depot at a location either on Lot 3 of the Site Plan that is within fifty (50) feet of the southerly property line of said Lot 3 or adjacent to 1600 North on property owned by the Utah Department of Transportation, and which location is mutually and reasonably agreed upon by Developer and Home Depot (herein the "Pylon Sign"). To the extent the Pylon Sign is located on Lot 3, by this Declaration the Developer hereby grants a perpetual easement for location of the Pylon Sign at that location, together with a reasonable easement for access, ingress and egress to such Pylon Sign to install, repair and maintain the same. If erected, such Pylon Sign shall display the designation of the Owner of the Home Depot Parcel, and may display designations for other businesses located on the other Parcels in the Shopping Center or on other land located in the area

described in Section 9.2 as the "Power Center Area." The Owner of the Home Depot Parcel shall be entitled to have its display sign be the top display on the Pylon Sign, and in the upper left corner if the design of the Pylon sign does not provide for displays to go all the way from left to right on the sign. Further, no business or user shall be allowed a display on the Pylon Sign that has more square footage of display than the square footage of the display for the business occupying the Home Depot Parcel. Any such business, in order to display its designation on the Pylon Sign, must occupy not less than ten thousand (10,000) square feet of Floor Area. The cost of initially constructing and installing the Pylon Sign shall be paid for as provided in the Development Agreement, and the cost of maintaining, repairing and replacing the Pylon Sign structure shall be paid by the owners of all parcels entitled to display designations thereon in the proportion that the total square footage of each owner's designation or designations bears to the total square footage of all designations entitled to be displayed thereon. Each person displaying a designation on the Pylon Sign shall supply and maintain its own sign fascia and can. The design of the Pylon Sign structure shall be determined by the Developer but shall be subject to the approval of the Consenting Owner, as shall be the size, design and location of the sign fascia used; provided, however, that Home Depot may use such standard fascia as it from time to time uses generally in carrying on its business.

(b) In addition to the foregoing Pylon Sign, Home Depot may, subject to and as allowed by Governmental Regulations, erect one or more free-standing signs on the Home Depot Parcel (the "Home Depot Signs"). The Home Depot Signs may display the designation of Home Depot. The cost of constructing, installing, maintaining, repairing and replacing the Home Depot Signs shall be paid by Home Depot. The design of any of the Home Depot Signs and sign fascia used shall be subject to the approval of Home Depot only.

(c) Except as set forth in subsections (a) and (b) above, there shall be no other signs in the Shopping Center except (i) directional signs, (ii) signs located on a building, and (iii) monument signs not in excess of eight (8) feet in height.

(d) Except as set forth in subsections (a) and (b) above, all signs shall conform with the following standards:

(i) All exterior signs located on buildings shall be restricted to identification of the business or service located or provided therein.

(ii) No exterior building or free-standing sign shall utilize flashing, moving or audible lights or appurtenances.

(iii) No exterior identification sign attached to a building shall be of the type set forth below:

(A) Placed on canopy roofs extending above the building roof, placed on penthouse walls, or placed so as to project above the parapet, canopy or top of the wall upon which it is mounted;

(B) Placed at any angle to any building and not flush with the adjacent wall surface; provided, however, that the foregoing shall not apply to signs located under a sidewalk canopy, if such sign is at least eight (8) feet above the sidewalk; or

(C) Painted on any surface of any building.

(iv) Neither exterior identification signs attached to buildings nor freestanding signs shall be of the type set forth below:

(A) Signs employing exposed raceways (anywhere other than the garden center located on the Home Depot Parcel, exposed neon tubes, exposed ballast boxes, or exposed transformers; or

(B) Paper or cardboard signs, temporary signs (exclusive of contractors' signs), stickers or decals; provided, however, the foregoing shall not prohibit professionally produced advertising consistent with a first class shopping center or placement at the entrance of each Owner's or Occupant's space a small sticker or decal indicating acceptance of credit cards, hours of business, emergency telephone numbers, etc.

4.3 Common Area - Zone of Control: No person may change the entrances or exits to or from the Shopping Center or reconfigure or materially alter the area constituting Common Area without Home Depot's prior written consent, which may be withheld in Home Depot's sole and absolute discretion.

5. RESTRICTIONS ON USE

5.1 Exclusive Uses: No portion of the Shopping Center or any Additional Land, other than the Home Depot Parcel, shall be used for a home improvement center or for any business which sells, singly or in any combination, lumber, hardware, tools, plumbing supplies, pool supplies, electrical supplies, paint, wallpaper or other wallcoverings, carpeting or other floor coverings, tile including ceramic tile, ceiling fans, garden nursery supplies, plants, patio furniture, light fixtures, cabinets and unfinished and finished furniture, or other products generally sold in a retail home improvement center, except for the incidental sale of such items. An "incidental sale of such items" is one in which there is no more than 1,000 square feet of sales and/or display area relating to such items individually or in the aggregate.

5.2 Shopping Center Restrictions:

(a) No portion of the Shopping Center or the North Parcel shall be used for any non-retail use or for any of the following purposes: cemetery; mortuary; bookstore or other establishment engaged in the business of selling, exhibiting or delivering pornographic or obscene materials; a so-called "head shop"; video gameroom or other type of gameroom or arcade; off-track betting parlor; junk yard; flea market; recycling facility or stockyard; motor vehicle or boat dealership, repair shop (including lubrication and/or service center), body and fender shop, car wash facility, or motor vehicle or boat storage facility; theatres, auditorium, sports or other entertainment viewing facility (whether live, film, audio/visual or video); discotheque, dance hall, or night club; bowling alley; skating rink; billiard parlor; health spa or exercise facility; office usage other than incidental in connection with non-prohibited uses; industrial or manufacturing uses; school; or house of worship; provided, however, that (i) a health spa or exercise facility, or office usage, may be located on Lot 3 of the Site Plan, and (ii) a gas station (that does not include repair or service facilities), which may or may not include a convenience store, fast food restaurant or car wash as a part of its facility, or a vehicle lubrication and/or service center (such as a Pep Boy Automotive Supercenter), may be located on Lot 2 or 3 of the Site Plan as long as, with respect to Lot 2 only, the Consenting Owner has approved, in its sole discretion, the site plan for the proposed improvements.

(b) No portion of the Shopping Center or the North Parcel shall be used for a sit down restaurant (as opposed to a fast-food restaurant) unless the Owner or Occupant of the relevant Parcel (i) obtains the Consenting Owner's approval to the site plan for the location of the restaurant building on the Parcel, which approval may be given or withheld in the sole discretion of the Consenting Owner (notwithstanding the provisions of Section 2.3 to the contrary); and (ii) the development of the Parcel provides for the following minimum parking ratios, without reliance on the parking spaces located on any other Parcel:

(i) For each restaurant which has less than five thousand (5,000) square feet of Floor Area, ten (10) parking spaces for each one thousand (1,000) square feet of Floor Area;

(ii) For each restaurant which has five thousand (5,000) or more square feet of Floor Area, but less than seven thousand (7,000) square feet of Floor Area, fifteen (15) parking spaces for each one thousand (1,000) square feet of Floor Area; and

(iii) For each restaurant which has seven thousand (7,000) square feet or more of Floor Area, twenty (20) parking spaces for each one thousand (1,000) square feet of Floor Area.

(c) Without the prior written consent of Home Depot, the following shall not be allowed to operate in the Shopping Center or on the North Parcel: traveling carnivals, fairs, auctions, shows, kiosks, booths for the sale of fire works, sales by transient merchants utilizing vehicles or booths and other promotions of any nature.

(d) No portion of the Shopping Center or the North Parcel shall be used for a business or use which creates strong, unusual or offensive odors, fumes, dust or vapors; emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness; creates unusual fire, explosive or other hazards; or materially increases the rate of insurance for any other Parcel, Owner or Occupant.

(e) No oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any portion of the Shopping Center or the North Parcel, nor shall oil wells, tanks, tunnels, or mineral excavation or shafts be permitted upon the surface of any portion of the Shopping Center or the North Parcel, or below the surface of any of the Parcels or the North Parcel. No derrick or other structure designed for use in boring for water, oil, natural gas or other minerals shall be erected, maintained or permitted on any portion of the Shopping Center or the North Parcel; provided, however, that the foregoing shall not be construed to prohibit the facilities referred to in Section 5.2(a)(ii) above.

(f) Notwithstanding anything to the contrary contained herein, neither the North Parcel Owner nor any Owner or Occupant other than Home Depot shall be permitted to conduct the sale of Christmas trees within the Shopping Center or on the North Parcel.

(g) No portion of the Shopping Center or the North Parcel outside of buildings, except sidewalks, shall be used for the sale or display of merchandise; provided, however, that the seasonal sale of merchandise by Home Depot shall be permitted from the parking lot located on the Home Depot Parcel, subject to the following restrictions: (i) all booths, stands, displays and other structures erected in connection with seasonal sales shall be promptly removed by Home Depot upon termination of the seasonal sale activity; and (ii) the area used shall be promptly repaired to its condition immediately prior to the seasonal sale activity at the sole cost and expense of Home Depot.

(h) For purposes of this Agreement, all sidewalks located on a Parcel or the North Parcel shall be the sole exclusive property of the Owner of that Parcel or the North Parcel Owner, respectively, and each such Owner or North Parcel Owner shall have the exclusive right to use such sidewalks for whatever purpose such Owner or North Parcel Owner deems appropriate, including, without limitation, the sale and display of merchandise. Each Owner or North Parcel Owner shall have the obligation to maintain the sidewalks on its Parcel or the North Parcel, as applicable, in good repair and condition.

5.3 Driveup and Drive Through Facilities: No restaurant, bank or other facility featuring vehicular driveup or drive through customer service shall be located on the North Parcel if any portion of the drive-up or drive-through lanes or facilities are located within 200 feet of the Home Depot Parcel, unless the Consenting Owner has first given its written consent otherwise, which consent may be withheld in Home Depot's sole discretion.

5.4 Mall Restrictions: There shall be no open or enclosed malls in the Shopping Center or on the North Parcel unless the Consenting Owner has first given its written consent, which consent may be withheld in the sole and absolute discretion of the Consenting Owner.

6. MAINTENANCE STANDARDS.

6.1 Maintenance Obligations: On or before ninety (90) days prior to the date the first Owner or Occupant is scheduled to open its building for business, and at least ninety (90) days prior to the beginning of each calendar year thereafter, the Maintenance Director shall submit to each of the Owners an estimated budget ("Budget") for the projected CAM Costs and administrative fee for operating and maintaining the Common Area of the Shopping Center for the remaining/ensuing calendar year. Except as hereinafter provided, the Maintenance Director shall maintain the Common Area at all times in good and clean condition and repair, the maintenance to include, without limitation, the following:

- (a) Maintaining, repairing and resurfacing, when necessary, all paved surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal or superior in quality, use and durability; and restriping, when necessary;
- (b) Removing all snow, papers, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;
- (c) Maintaining, repairing and replacing, when necessary, all traffic directional signs, markers and lines;
- (d) Operating, maintaining, repairing and replacing, when necessary, artificial lighting facilities;
- (e) Maintaining all landscaped areas; maintaining, repairing and replacing, when necessary, automatic sprinkler systems and water lines; and replacing shrubs and other landscaping as necessary;
- (f) Maintaining, repairing and replacing, when necessary, all Common Area walls;
- (g) Maintaining, repairing and replacing, when necessary, all storm drains, sewers and other utility lines and facilities not dedicated to the public or conveyed to any public or private utility which are necessary for the operation of the Common Area;
- (h) Keeping the Pylon Sign lighted from dusk to dawn or during such other times as mutually agreed in writing by the businesses designated thereon;
- (i) Maintaining, repairing and replacing, when necessary, the Pylon Sign

(except for the sign fascia and cans which shall be supplied and maintained by the businesses designated thereon). Notwithstanding the other provisions of this Declaration, the cost of maintaining, repairing and replacing the Pylon Sign shall be paid as set forth in Section 4.2(a) above;

(j) Performing itself or contracting with a third party or parties to perform any of the services described herein; provided, however, that the Maintenance Director shall remain responsible and liable for the performance of all of said services in accordance with the terms of this Declaration and for the performance of any such third party or parties under any such contract or contracts; and

(k) Maintaining comprehensive general liability insurance as set forth in Section 17 hereof.

6.2 Exclusions from Common Area Maintenance Obligations: The Maintenance Director shall expend only such funds as are reasonably necessary for the operation, maintenance and insurance of the Common Area and shall promptly pay such costs ("CAM Costs") when incurred. For the purpose of this Declaration, CAM Costs shall not include:

(i) any late charges or fees, unless caused by an Owner or Occupant's delinquent payment of its monthly fee, in which case the late charges or fees shall be paid by the delinquent Owner or Occupant;

(ii) any costs to clean or repair the Common Area resulting from promotional activities or from construction, maintenance or replacement of buildings and other improvements in the Shopping Center;

(iii) real property taxes and assessments;

(iv) Maintenance Director's profit, administrative and overhead costs (such as rent, legal, supplies, utilities and wages or salaries paid to management or supervisory personnel), it being further agreed that if a person is involved with other than Common Area operational and maintenance matters at the Shopping Center or elsewhere, then the Maintenance Director shall allocate such person's time to properly reflect his/her varied duties;

(v) entertainment, transportation, meals and lodging of anyone;

(vi) depreciation and amortization, except as provided herein and except on materials, tools, supplies and vendor-type equipment purchased by Maintenance Director to enable the Maintenance Director to supply services the Maintenance Director might otherwise contract for with a third party and where such depreciation and amortization would otherwise have been included in the charge for such third party's services, and when depreciation or amortization is permitted or required, the item shall be amortized over its reasonably anticipated useful life and properly and reasonably allocated between the work to which it relates or performs;

(vii) costs incurred by Maintenance Director for alterations which are considered capital improvements and replacements (other than landscaping expenses) unless the prior written approval of the Consenting Owner has first been obtained;

(viii) expenses in connection with services or other benefits which are offered to one or more Owners and/or Occupants of the Shopping Center and who are charged directly for such services or other benefits;

(ix) interest, points and fees on debt or amortization on any mortgage or mortgages encumbering the Shopping Center;

(x) all items and services for which an Owner and/or Occupant in the Shopping Center reimburses the Maintenance Director or which the Maintenance Director provides selectively to one or more Owners and/or Occupants without reimbursement;

(xi) electrical power costs for which any Owner and/or Occupant directly contracts with the local public service company;

(xii) any penalties incurred as a result of Maintenance Director's negligence, inability or unwillingness to make any payments when due to the extent not caused by an Owner's and/or Occupant's failure to make timely payments;

(xiii) The cost to correct any part of the Common Area that was inadequately designed or defectively constructed;

(xiv) Costs exceeding those obtainable through competitive bidding;

(xv) Any expense representing an amount paid to a related corporation, entity, or person which is in excess of the amount which would be paid in the absence of such relationship; and

(xvi) earthquake and/or flood insurance.

6.3 Obligation to Keep Parcels Lien Free: Maintenance Director shall keep the Parcels free from any and all liens arising out of any work performed, materials furnished to or obligations incurred by the Maintenance Director in connection with the operation and maintenance of the Common Area hereunder. Maintenance Director shall, within thirty (30) days after the date of imposition of any such lien, pay the lien claim in full, unless Maintenance Director contests such lien claim in good faith, in which case Maintenance Director shall, within such 30-day period and as a condition precedent to Maintenance Director's right so to contest, record a bond of a responsible corporate surety in such amount and in such manner as may be required by applicable law to release the lien from the affected Parcel or Parcels. Maintenance Director shall indemnify, defend, protect and hold all Owners and Occupants harmless from any and all claims, liability,

losses, damages, injuries, costs or expenses (including reasonable attorneys' fees) in connection with any such lien claim or in connection with the injury or death of any Person or damage to property caused by the negligent or willful misconduct of Maintenance Director and its employees, agents and contractors.

7. [INTENTIONALLY LEFT BLANK].

8. PAYMENT OF TAXES.

Each Owner shall pay directly to the tax collector when due the real property taxes and other special taxes and assessments assessed against the Owner's Parcel, including the portion of any Common Area on such Owner's Parcel; subject, however, to the right of any such Owner to contest the amount or validity of all or any part of said taxes and assessments.

9. MAINTENANCE DIRECTOR.

9.1 Appointment: The Owners hereby initially appoint the Developer as Maintenance Director of the Shopping Center Common Area. Developer hereby accepts the appointment as Maintenance Director and assumes the obligations associated with such appointment.

9.2 Replacement of Maintenance Director: The Consenting Owner may remove the Maintenance Director for cause upon written notice to the Owners of the remaining Parcels, in which event the Consenting Owner shall be the Maintenance Director. Unless removed for cause, as "for cause" may be defined from time to time by the common laws of the State of Utah, the Developer shall be entitled to be the Maintenance Director for as long as Developer owns at least one acre of real property within that certain area bounded on the north by 200 South in Lindon, on the east by 400 West in Lindon, on the west by Interstate 15 and on the south by 600 South in Lindon, or within that certain parcel located east of the Home Depot Parcel that as of the date of this Declaration is owned by Stream International, all of said real property being located in the City of Lindon, State of Utah (all of the foregoing described lands being hereinafter referred to as the "Power Center Area"). At such time as the Developer no longer owns at least one acre in the foregoing described areas, then at that time the Owner of the Home Depot Parcel shall be designated the Maintenance Director. In the event any of the foregoing parties that are entitled to be the Maintenance Director resign or are removed for cause, then the Owners of the remaining Parcels in the Shopping Center (not including the Owner of the Home Depot Parcel) shall be entitled to appoint the Maintenance Director by majority vote, which vote shall be based upon the Floor Area within each of the Parcels entitled to vote. Any Maintenance Director serving under the terms of this Declaration shall have the right to delegate any and all of its responsibilities hereunder by contracting the same to a reputable property management company.

9.3 Resignation of Maintenance Director: The Maintenance Director shall have the right, upon giving ninety (90) days prior written notice to the Owners of the Shopping Center, to resign as Maintenance Director, in which event a successor Maintenance Director shall be

appointed in accordance with the provisions of Section 9.2 above. If no Owner of a Parcel will willingly serve as Maintenance Director in accordance with the foregoing provisions, then the Owner of Lot 2 as shown on the Site Plan shall serve as the Maintenance Director.

9.4 Transfer of Records and Equipment: Upon assumption by a new Maintenance Director of the Common Area maintenance duties, the previous Maintenance Director shall transfer to the new Maintenance Director all applicable books and records relating to such duties and shall provide any and all other information and documentation to effectuate the transfer of responsibility hereunder, including notification to insurers and transfer of insurance policies. The previous Maintenance Director shall also transfer to the new Maintenance Director any and all equipment and machinery used by the previous Maintenance Director in connection with the operation and maintenance of the Common Area hereunder that has been paid for the Owners and not such Maintenance Director.

10. BIDS FOR COMMON AREA MAINTENANCE WORK; SERVICE CHARGE.

10.1 Bids: If any Owner determines that the costs of services for maintaining the Common Area are not competitive, then upon thirty (30) days prior written notice from any Owner, the Maintenance Director shall have the Common Area maintenance work, or any portion thereof designated by the Owner, bid out to at least two bidders approved in writing by the Owner. The Owners' shares of said Common Area maintenance work shall thereafter be adjusted to reflect the amount of the lowest bid for all or a portion of such work unless the prior written consent of all Owners to award the contract to a higher bidder is first obtained by the Maintenance Director. The foregoing notwithstanding, the Maintenance Director shall not be required to bid any item before the expiration of the term of the applicable contract. In no event shall the Maintenance Director enter into any contract that cannot be terminated upon thirty (30) days prior written notice, without the prior written approval of the Owners.

10.2 Service Charge: Each Owner shall reimburse the Maintenance Director for its pro-rata share of all of the CAM Costs plus a maximum service charge of five percent (5%) of said expenses (exclusive of real estate taxes, insurance premiums and utilities) to cover management and administration costs ("Maintenance Fee"); provided, however, in determining the Maintenance Fee, any individual, non-recurring item of CAM Costs which exceeds \$1,000 shall not be included in establishing the Maintenance Fee. The CAM Costs may include costs incurred by the Maintenance Director for the reasonable services of a property management company. For all purposes herein other than determining the Maintenance Fee, CAM Costs include the Maintenance Fee.

10.3 Nonprofit: The Maintenance Director agrees to perform its duties under this Agreement on a nonprofit basis with an end to keeping such expenses at a reasonable minimum.

11. REIMBURSEMENT OF MAINTENANCE DIRECTOR; BILLING FOR EXPENSES.

11.1 Reimbursement: The Maintenance Director shall contract for and pay for all of the items enumerated as CAM Costs provided, however, that the Maintenance Director shall not be entitled to reimbursement for all or any portion of an Owner's pro rata share of any individual item of CAM Costs, the pro rata share of which for said Owner's Parcel exceeds Ten Thousand Dollars (\$10,000.00), without the prior written approval of the Owner of said Parcel, which consent shall not be unreasonably withheld, conditioned or delayed.

11.2 Pro Rata Share: The Owner of each Parcel (or its respective Occupants, as it may direct) shall be billed quarterly for its pro rata share of all CAM Costs incurred by the Maintenance Director in maintaining and insuring the Common Area as provided herein, with the first billing date being the last day of the first full calendar quarter following the date an Owner in the Shopping Center first opens its building for business. The Maintenance Director shall be entitled to budget bill based on estimated costs, with the estimated charges being adjusted at least annually for the actual costs incurred. Each bill shall be due and payable within thirty (30) days after receipt, and, if requested, copies of all invoices, statements or other documents supporting same. An Owner's pro rata share shall be determined by multiplying all of the CAM Costs by a fraction, the numerator of which shall be the Floor Area on such Owner's Parcel, and the denominator of which shall be equal to the aggregate of the Floor Area in the Shopping Center.

The Maintenance Director shall not be entitled to reimbursement from any Owner (or its Occupants) for any item of CAM Costs not included in the billing calculations by at least one hundred twenty (120) days after the end of the calendar year in which said expense is incurred.

11.3 Audit Rights: Any Owner may, upon not less than ten (10) days prior written notice to the Maintenance Director, inspect the Maintenance Director's records for all Common Area maintenance and insurance expenses incurred during the preceding calendar year at the Maintenance Director's general offices or at such other location reasonably designated by the Maintenance Director at any time during reasonable business hours within two (2) years after the end of said calendar year. If said inspection reveals an overpayment of CAM Costs, the Maintenance Director shall reimburse the Owner of each Parcel (or its respective tenants or agents, as it may direct) its proportionate share of any such overpayment together with accrued interest at the Default Rate within thirty (30) days after receipt of a notice of determination, and of the amount, of such overpayment. If the inspection reveals an underpayment of CAM Costs (including the Maintenance Fee but excluding all expenses for which a statement was not timely submitted pursuant to Section 11.2 above), the Owner of each Parcel shall reimburse the Maintenance Director its proportionate share of any such underpayment within thirty (30) days after receipt of proper billing in accordance with Section 11.2. If the inspection reveals that the Maintenance Director misstated CAM Costs by more than three percent (3%), the Maintenance Director shall also reimburse the Person making such inspection for all costs reasonably incurred in making such inspection within thirty (30) days after receipt of notice of determination, and of the amount, of any such misstatement.

12. EFFECT OF SALE BY OWNER.

In the event an Owner sells all or any portion of its interest in its Parcel, such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with such Parcel (or portion thereof) arising under this Declaration after the sale and conveyance of title but shall remain liable for all obligations arising under this Declaration prior to the sale and conveyance of title, provided both the Owner and the new Owner give written notice of the sale to the Maintenance Director, which notice shall contain addresses and billing contacts for the new Owner. The subsequent Owner of any such Parcel or any portion thereof (including, without limitation, any Owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all obligations arising under this Declaration with respect to such Parcel or portion thereof after the date of sale and conveyance of title.

13. DEFAULT.

13.1 CAM Costs: In the event any Owner fails or refuses to pay when due its share of any bill for the CAM Costs described above, which failure continues for a period of ten (10) days after receipt of written notice thereof from the Maintenance Director, such failure shall constitute a default and legal action may thereafter be instituted against the Defaulting Owner by the Maintenance Director or other person paying the Maintenance Costs (including the Maintenance Fee), of the Defaulting Owner ("Curing Party") for reimbursement plus interest from and after the date the bill was due and payable to and including the date the bill is paid at a the Default Rate. Furthermore, the Curing Party shall have a lien on the Parcel of the Defaulting Owner for the amount of the unpaid CAM Costs plus accrued interest at the Default Rate. Notwithstanding the foregoing, if there is a bona fide dispute as to the existence of such default or of the amount due and all undisputed amounts are paid, there shall be no right to place a lien on such Owner's Parcel until such dispute is settled by final court decree or mutual agreement.

13.2 Non-Monetary Default: In the event any Owner or Occupant fails to perform any other provision of this Declaration, which failure continues for a period of thirty (30) days after receipt of written notice specifying the particulars of such failure, such failure shall constitute a default and any other Owner or Prime Lessee may thereafter institute legal action against the defaulting Owner or Occupant for specific performance, declaratory or injunctive relief, monetary damages or any other remedy provided by law; provided, however, that the defaulting Owner or Occupant shall not be deemed to be in default if such failure to perform cannot be rectified within said thirty (30) day period and such Owner or Occupant is diligently proceeding to rectify the particulars of such failure.

13.3 Default By Maintenance Director: In the event the Maintenance Director fails to perform any of the provisions of this Declaration, which failure continues for a period of thirty (30) days after receipt of written notice from any Owner or Prime Lessee specifying the particulars of such failure, such failure shall constitute a default and any Owner or Prime Lessee may thereafter institute legal action against the Maintenance Director for specific performance, declaratory or injunctive relief, monetary damages or any other remedy provided by law and/or may perform the

obligations of the Maintenance Director specified in said notice of default and offset the cost thereof from amounts due the Maintenance Director; provided, however, that the Maintenance Director shall not be deemed to be in default if such failure to perform (excluding the payment of money) cannot be rectified within said thirty (30) day period and the Maintenance Director is diligently proceeding to rectify the particulars of such failure.

13.4 No Waiver: The failure of a Person to insist upon strict performance of any of the terms, covenants, conditions or agreements contained herein shall not be deemed a waiver of any rights or remedies that said Person may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the terms, covenants, conditions or agreements contained herein by the same or any other Person.

13.5 Remedies Cumulative: In addition to the remedies set forth in this Declaration, each Person entitled to enforce this Declaration shall have all other remedies provided by law to the same extent as if fully set forth herein word for word. No remedy herein conferred upon, or reserved to any Person shall exclude any other remedy herein or by law provided, but each shall be cumulative.

14. LIEN FOR EXPENSES OR TAXES.

14.1 Effectiveness of Lien: The lien provided for in Section 13.1 above shall only be effective when filed for record by the Curing Owner as a claim of lien against the Parcel owned by the defaulting Owner in the office of the recorder of the county in which the Shopping Center is located, signed and acknowledged, which shall contain at least:

- (a) An itemized statement of all amounts due and payable pursuant hereto;
- (b) A description of the Parcel owned by the defaulting Owner which is the subject of the lien;
- (c) The name of the Owner or reputed Owner of the property which is the subject of the lien; and
- (d) The name and address of the Curing Owner.

The lien shall attach from the date a claim of a lien is recorded and may be enforced in any manner allowed by law, including, but not limited to, by suit in the nature of an action to foreclose a mortgage under the applicable provisions of the laws of the State of Utah. The Curing Owner shall release the claim of lien once the costs and expenses secured by the lien have been paid in full.

14.2 Priority of Lien: The claim of lien, when so established against the real property described in the claim of lien, shall be prior and superior to any right, title, interest, lien or claim which may be or has been acquired or attached to such real property after the time of filing the

claim of lien. The claim of lien shall be for the use and benefit of the Curing Owner [or Affected Party] curing the default of the Defaulting Owner.

15. [INTENTIONALLY LEFT BLANK]

16. RESPONSIBILITY IF NO MAINTENANCE DIRECTOR.

16.1 Individual Owner Responsibility: In the event there should at any time cease to be a Maintenance Director, each Owner shall be responsible for the maintenance, insurance and lighting of those portions of the Common Area located on its own Parcel according to the standards herein enumerated. In the event any Owner defaults in the performance of such obligations, any other Owner may cause the performance of the obligations of the defaulting Owner and bill the defaulting Owner for the expenses incurred. In such event, the provisions and remedies of Sections 13.2, 14.1 and 14.2 shall apply.

17. LIABILITY INSURANCE; INDEMNIFICATION

17.1 Liability Insurance:

(a) Each Owner shall maintain or cause to be maintained commercial general liability insurance with broad form coverage endorsement (including broad form property damage endorsement) insuring against claims on account of loss of life, personal injury or property damage that may arise from, or be occasioned by the condition, use or occupancy of each Owner's building, including the Service Facilities on such Owner's Parcel, by each Owner and its Occupants (the "Owners Liability Insurance"). The insurance required pursuant to this Section 17.1(a) shall include the following provisions: (i) shall provide that the policy may not be canceled or reduced in amount or coverage below the requirements of this Declaration, without at least thirty (30) days' prior written notice by the insurer to the Maintenance Director; (ii) shall provide for severability of interests; (iii) shall provide that an act or omission of one of the insureds or additional insureds which would void or otherwise reduce coverage, shall not reduce or void the coverage as to the other insureds; and (iv) shall provide for contractual liability coverage, naming all other Owners as additional insureds, endorsed to cover said Owner's agreement to indemnify as set out in Section 17.4 below. Each Owner agrees to furnish to any other Owner requesting same a certificate affirming that: (i) such insurance is in full force and effect; (ii) the premiums have been paid in full; (iii) the appropriate parties are designated as additional insureds as required by this Agreement; (iv) the policy contains any required waiver of subrogation; and (v) such insurance may not be cancelled or coverage reduced below the levels required to be maintained hereunder without at least thirty (30) days' prior written notice to all insureds and additional insureds.

(b) The Owner's Liability Insurance shall be carried by an insurance company or

companies qualified to do business in the State in which the Shopping Center is located with a Best's Key Rating Guide Property-Casualty United States rating of at least an A- and a financial rating of XII, and having limits for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than Five Million Dollars (\$5,000,000) combined single limit per occurrence/aggregate. The Owner's Liability Insurance shall be made on an "occurrence" basis and not on a "claims made" basis. The insurance referenced in this Section 17.1, may be provided under (i) an individual policy covering this location, (ii) a blanket policy or policies which includes other liabilities, properties and locations of such Owner; so long as the amount and coverage of insurance required to be carried hereunder is not diminished, (iii) a plan of self-insurance satisfying the criteria set forth in Section 17.1(c) below, or (iv) a combination of any of the foregoing insurance programs. To the extent any deductible is permitted or allowed as a part of any insurance policy carried by an Owner in compliance with Section 17, such Owner shall be deemed to be covering the amount thereof under an informal plan of self-insurance; provided, however, that in no event shall any deductible exceed \$50,000.00 unless such Owner complies with the requirements regarding self-insurance pursuant to Section 17.1(c) below.

(c) Any insurance required to be maintained by an Owner hereunder may be maintained in whole or in part either under a plan of self-insurance, or from a carrier which specializes in providing coverage to or for such Owner or its affiliates, or firms in the same or related businesses, if such Owner's net worth exceeds \$100,000,000, as shown on an audited financial statement, or if such Owner's financial statements are reported on a consolidated basis with a parent corporation, then as certified by an officer of such Owner.

17.2 Common Area Liability Insurance: In addition to the foregoing insurance to be maintained by the Owners, the Maintenance Director (or, for purposes of this Section 17.2, if there is no Maintenance Director, then the individual Owners) shall provide and maintain commercial general liability insurance with broad form coverage endorsement (including broad form property damage endorsement) insuring the Maintenance Director against claims for loss of life, personal injury, or property damage, occurring in, on or about the Common Area ("Common Area Liability Insurance"). All Owners shall be named on the policy as additional insureds without limitation as to the scope of coverage or terms of the policy applicable to such party. Any Owner shall have the right to require that such insurance name any other Person as an additional insured, but only if any increase in premiums caused by such other Person is borne entirely by the requesting Owner, and not included in CAM Costs. The Common Area Liability Insurance shall be carried by an insurance company or companies qualified to do business in the State in which the Shopping Center is located with a Best Key Rating Guide Property-Casualty United States rating of at least an A- and a financial rating of XII, and having limits for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than Five Million Dollars (\$5,000,000) combined single limit per occurrence/aggregate. The Common Area Liability Insurance shall be made on an "occurrence basis" and not on a "claims made basis". Maintenance Director shall furnish to any Owner requesting the same, a certificate stating that: (i) such insurance is in full force and effect; (ii) the premiums have been paid in full; (iii) all Owners (and any other Person requested in

accordance with this Section) are designated as additional insureds; and (iv) such insurance may not be cancelled or coverage reduced below the levels required to be maintained hereunder without at least thirty (30) days' prior written notice to the Maintenance Director.

17.3 Insurance Coverage During Construction:

(a) Prior to commencing any construction activities within the Shopping Center, each Owner, Occupant and/or Maintenance Director shall obtain or require its contractor to obtain and thereafter maintain so long as such construction activity is occurring, at least the minimum insurance coverages set forth below:

(i) Workers' compensation and employer's liability insurance:

(a) Worker's compensation insurance as required by any applicable law or regulation.

(b) Employer's liability insurance in the amount of \$5,000,000 for each accident for bodily injury, \$5,000,000 policy limit for bodily injury by disease and \$5,000,000 each employee for bodily injury by disease.

(ii) General liability insurance: Commercial general liability insurance covering all operations by or on behalf of the general contractor, which shall include the following minimum limits of liability and coverages:

(a) Required coverages:

- (1) Premises and operations;
- (2) Products and completed operations;
- (3) Contractual liability, insuring the indemnity obligations assumed by contractor under the contract documents;
- (4) Broad form property damage (including completed operations);
- (5) Explosion, collapse and underground hazards; and
- (6) Personal injury liability.

(b) Minimum limits of liability:

- (1) \$5,000,000 each occurrence (for bodily injury and property damage);

- (2) \$5,000,000 for personal injury liability;
- (3) \$5,000,000 aggregate for products and completed operations (which shall be maintained for a three (3) year period following final completion of the work); and
- (4) \$5,000,000 general aggregate applying separately to this Shopping Center.

(iii) **Automobile Liability Insurance:** Any automobile liability insurance (bodily injury and property damage liability) including coverage for owned, hired, and non-owned automobiles, shall have limits of liability of not less than \$1,000,000 combined single limit each accident for bodily injury and property damage combined. The general contractor shall require each of its subcontractors to include in their liability insurance policies coverage for automobile contractual liability.

(iv) **Umbrella/Excess Liability Insurance:** The general contractor shall also carry umbrella/excess liability insurance in the amount of \$5,000,000. If there is not per project aggregate coverage under the commercial general liability policy, the limit shall be \$10,000,000.

(b) If the construction activity involves the use of another Owner's Parcel, then the Owner of such Parcel shall be an additional insured and such insurance shall provide that the insurance shall not be canceled, or reduced in amount or coverage below the requirements of this Declaration, without at least thirty (30) days prior written notice to each additional insured. If such insurance is canceled or expires, then the construction Owner shall immediately stop all work on or use of the other Owner's Parcel until either the required insurance is reinstated or replacement insurance obtained. The general contractor shall supply each Owner and the Maintenance Director with certificates with respect to all insurance required by this Section 17.3.

(c) Effective upon the commencement of construction of any building on its Parcel and so long as such building exists, an Owner shall carry, or cause to be carried, or may self-insure with respect to (subject to the requirements set forth in Section 17.2 above) property insurance with "all-risk" coverage, in the amount of 100% of full insurable replacement cost thereof (excluding footings, foundations and excavations).

17.4 Indemnification by Owners: To the extent not covered by any insurance required to be maintained by the Maintenance Director pursuant to this Declaration, each Owner shall defend, indemnify and hold every other Owner and its Permittees harmless for, from and against any and all damages, liabilities, actions, claims, costs and expenses (including reasonable attorneys' fees and reasonable attorneys' fees on appeal) (i) in connection with the loss of life, personal injury and/or damage to property arising from or out of any occurrence in or upon the indemnifying Owner's Parcel, or occasioned wholly or in part by any grossly negligent or willful act or omission of the

Owner or its Occupants; (ii) occurring in the interior of any building constructed on the indemnifying Owner's Parcel, unless caused by the grossly negligent or willful act or omission of the indemnified Owner or its Permittees.

17.5 Indemnification by Maintenance Director: The Maintenance Director agrees to indemnify, defend and hold harmless the Owners and Permittees of all Parcels for, from and against any and all damages, liability, actions, claims, costs and expenses (including reasonable attorneys' fees and reasonable attorneys' fees on appeal), judgments, proceedings and causes of action, for injury to or death of any person or damage to or destruction of any property occurring in, on or about the Common Area and arising out of the performance or nonperformance of any of the obligations of the Maintenance Director set forth in this Declaration, unless caused by the grossly negligent or willful act or omission of an indemnified Owner or its Permittees.

17.6 Mutual Release: Each Owner (the "Releasing Party") hereby releases and waives for itself, and each Person claiming by, through or under it, each other Owner (the "Released Party") from any liability for any loss or damage to all property of such Releasing Party located upon any portion of the Shopping Center, which loss or damage is of the type covered by the insurance required to be maintained under Sections 17.3(c) above and Section 18.3 below, irrespective either of any negligence on the part of the Released Party which may have contributed to or caused such loss, or of the amount of such insurance required or actually carried, including any deductible or self insurance reserve. Each Owner agrees to use its reasonable efforts to obtain, if needed, appropriate endorsements to its policies of insurance with respect to the foregoing release; provided, however, that failure to obtain such endorsements shall not affect the release hereinabove given. Each Owner ("Indemnitor") covenants and agrees to indemnify, defend and hold harmless each other Owner ("Indemnitee") from and against all claims asserted by or through any Permittees of the Indemnitor's Parcel for any loss or damage to the property of such Permittee located upon the Indemnitor's Parcel, which loss or damage is covered by the insurance required to be maintained under Sections 17.3(c) above and Section 18.3 below, irrespective of any negligence on the part of the Indemnitee which may have contributed to or caused such loss.

17.7 Waiver of Subrogation: The Owners and Occupants each hereby waive any rights one may have against the other on account of any loss or damage occasioned to an individual Owner or Occupant, or its respective property, either real or personal, arising from any risk generally covered by fire and extended coverage insurance and from any risk covered by insurance then in effect. In addition, the Owners and Occupants, for themselves and on behalf of their respective insurance companies, waive any right of subrogation that any insurance company may have against the Owners and Occupants. The foregoing waivers of subrogation shall be operative only so long as available in the State where the Shopping Center is situated and provided further that no policy of insurance is invalidated thereby.

18. PROPERTY DAMAGE AND EMINENT DOMAIN

18.1 Damage to Buildings: If any of the buildings located on any Parcel are damaged or destroyed by fire or other cause, the Owner of such Parcel shall promptly cause either: (i) the

repair, restorations, or rebuilding of the building or Common Areas so damaged or destroyed to a condition and an architectural style existing immediately prior to the damage or destruction, or (ii) the razing of any damaged building, the filling of any excavation, and performance of any other work necessary to put such portion of the Shopping Center in a clean, sightly and safe condition. All areas of a Parcel on which buildings are not reconstructed following a casualty or "Taking" (as defined in Section 18.4 below) shall be (i) graded or caused to be graded by the Owner thereof to the level of the adjoining property and in such a manner as not to adversely affect the drainage of the Shopping Center or any portion thereof, (ii) shall be covered by a one inch asphalt dust cap, and (iii) shall be kept weed free and clean at the Owner's sole cost and expense until buildings are reconstructed thereon.

18.2 Casualty Damage to Common Areas: In the event any of the Common Area is damaged or destroyed by any cause whatsoever, whether insured or uninsured, during the term of this Declaration, other than damage caused by ordinary use or wear and tear, the Owner upon whose Parcel such Common Area is located shall repair or restore such Common Area at its sole cost and expense with all due diligence. Except to the extent limited by Section 17 above, in the event such damage or destruction of Common Area is caused in whole or in part by the grossly negligent or willful act of another Owner, Occupant or third Person, the Owner obligated to make such repair or restoration reserves and retains the right to proceed against such other Owner or third Person for indemnity, contribution or damages.

18.3 Property Insurance: To assure performance of their respective obligations under Sections 18.1 and 18.2 above, the Owners of the respective Parcels shall cause to be carried 100% full insurable replacement cost fire and extended coverage "all risk" property insurance on all buildings and improvements (including Common Area improvements) on their respective Parcels in amounts at least sufficient to raze and demolish all the buildings and improvements located on the respective Parcel except if the Owner of said Parcel, or party responsible for any required restorations, is permitted to "self insure" pursuant to Section 17.2. Any such insurance shall otherwise conform to the provisions with respect to insurance contained in Section 17.1.

18.4 Eminent Domain: In the event the whole or any part of the Shopping Center shall be taken by right of eminent domain or any similar authority of law (a "Taking"), the entire award for the value of the land and improvements so taken shall belong to the Owner of the Parcel so taken or to such Owner's Lienholders or Occupants, as their interest may appear, and no other Owner shall have a right to claim any portion of such award by virtue of any interest created by this Declaration. Any Owner of a Parcel which is not the subject of a Taking may, however, file a collateral claim with the condemning authority over and above the value of the Parcel (or portion thereof) being so taken to the extent of any damage suffered by such Owner resulting from the severance of the land or improvements so taken if such claim shall not operate to reduce the award allocable to the Parcel taken. In the event of a partial Taking, the Owner of the portion of the Shopping Center so taken shall restore the improvements located on the Common Area of the Owner's Parcel as nearly as possible to the condition existing prior to the Taking to insure the continued ingress/egress to, from and between all areas of the Shopping Center to the extent reasonably feasible, without contribution from any other Owner.

19. GENERAL PROVISIONS

19.1 Covenants Run With the Land: Each Restriction on each Parcel shall be a burden on that Parcel, shall be appurtenant to and for the benefit of the other Parcels and each part thereof and shall run with the land, except as provided in Section 1.2 above to the contrary.

19.2 Successors and Assigns: This Declaration and the Restrictions created hereby shall inure to the benefit of and be binding upon the Owners, their heirs, personal representatives, successors and assigns, and upon any person acquiring a Parcel, or any portion thereof, or any interest therein, whether by operation of law or otherwise; provided, however, that if any Owner sells all or any portion of its interest in any Parcel, such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with the property sold by it arising under this Declaration after the sale and conveyance of title but shall remain liable for all obligations arising under this Declaration prior to the sale and conveyance of title. The new Owner of any such Parcel or any portion thereof (including, without limitation, any Owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all obligations arising under this Declaration with respect to such Parcel or portion thereof after the date of sale and conveyance of title.

19.3 Duration: Except as otherwise provided herein, the term of this Declaration shall be for seventy-five (75) years from the date hereof. Upon termination of this Declaration, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of the Declaration shall terminate and have no further force or effect; provided, however, that the termination of this Declaration shall not limit or affect any remedy at law or in equity that an Owner may have against any other Owner with respect to any liability or obligation arising or to be performed under this Declaration prior to the date of such termination, and, provided further, that the access easements and the rights and duties related thereto as provided in Section 3.1, the sign easements and the rights and duties related thereto as provided in Sections 3.3 and 4.2, and the utility easements and the rights and duties related thereto as provided in Section 3.2 shall continue in effect in perpetuity as to those utility lines actually in use at the time of the termination of this Declaration until such time as such utility lines are abandoned or ceased to be used to serve a building in the Shopping Center.

19.4 Injunctive Relief: In the event of any violation or threatened violation by any person of any of the Restrictions contained in this Declaration, any or all of the Owners and Prime Lessees of the property included within the Shopping Center shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The right of injunction shall be in addition to all other remedies set forth in this Declaration or provided by law.

19.5 Modification and Termination: This Declaration may not be modified in any respect whatsoever or terminated, in whole or in part, except with the consent of Owners owning at least 67% of the gross acreage in the Shopping Center at the time of such modification or termination, and then only by written instrument duly executed and acknowledged by the

Consenting Owners and recorded in the office of the recorder of the county in which the Shopping Center is located.

19.6 Method of Approval: Unless otherwise provided in this Agreement, and except for requests for a change in use (responses to which may be made by an Owner in its sole and absolute discretion), whenever approval, consent or satisfaction (collectively, an "approval") is required of an Owner pursuant to this Agreement (or any exhibit hereto), it shall not be unreasonably withheld. Unless provision is made for a specific time period, approval shall be given within thirty (30) days after receipt of written request for approval. If an Owner neither approves nor disapproves within the required time period, then the Owner requesting approval shall have the right to send a second written request for approval. If such second request states on its face in all capital letters that failure to respond thereto within thirty (30) days shall be deemed approval, then the failure to respond within such 30-day period shall constitute the approval of the Owner from whom approval was requested. Except with respect to approvals which are deemed approved pursuant to the preceding sentence, all approvals (including conditional approvals) and disapprovals shall be given or made in writing. If an Owner disapproves, the reasons therefor shall be stated in reasonable detail in writing. An Owner's approval of any act or request by another Owner shall not be deemed to waive or render unnecessary approval of any similar or subsequent acts or requests. Where Floor Area is applicable to voting power, each Parcel shall have only one (1) vote for each square foot of Floor Area on (or if no building is currently constructed on an Owner's Parcel, the maximum Floor Area permitted on the Owner's Parcel). The Owners (if consisting of more than one [1] person) of each Parcel shall agree among themselves and designate in writing to the Owners and Prime Lessees of each of the other Parcels a single person who is entitled to cast the votes or consent for that Parcel. If the Owners of any such Parcel cannot agree who shall be entitled to cast the votes or consent of that Parcel, or if the Owners fail to designate the single person who is entitled to cast the vote or consent for that Parcel within thirty (30) days after receipt of request for same from any other Owner or Prime Lessee, then that Parcel shall not be entitled to vote or consent. In the event a Parcel is not entitled to vote, its consent or approval shall not be necessary and the Floor Area located on said Parcel shall be disregarded for the purpose of computing any percentage requirement set forth in this Agreement (if any). In the event an Owner sells its Parcel and becomes the Prime Lessee thereon, said Prime Lessee is hereby appointed the entity to cast the vote or give the consent for said Parcel on behalf of the Owner thereof and is hereby granted all of the rights and remedies granted to the Owner of said Parcel so long as it is the Prime Lessee of said Parcel, anything in this Declaration to the contrary notwithstanding.

19.7 Not a Public Dedication: Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Shopping Center to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties that this Declaration shall be strictly limited to and for the purposes herein expressed.

19.8 Breach Shall Not Permit Termination: It is expressly agreed that no breach of this Declaration shall entitle any Owner to terminate this Declaration, 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 Declaration. Any breach of this Declaration shall not defeat or render invalid the

lien of any mortgage or deed of trust made in good faith for value, but this Declaration shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise.

19.9 Notices:

(a) All notices given pursuant to this Declaration shall be in writing and shall be given by personal delivery, by United States mail or by United States express mail or other established express delivery service (such as Federal Express), postage or delivery charge prepaid, return receipt requested, addressed to the person and address designated below or, in the absence of such designation, to the person and address shown on the then current real property tax rolls of the county in which the Shopping Center is located. All notices to Developer, Home Depot and Maintenance Director shall be sent to the person and address set forth below:

Developer and
Maintenance Director: EsNet Properties, L.C.
5152 North Edgewood Drive, Suite 350
Provo, Utah 84604

Home Depot: Home Depot U.S.A., Inc.
601 S. Placentia Avenue
Fullerton, California ~~92631~~ 92831
Attention: Real Estate and Legal Departments

With a copy to: Home Depot U.S.A., Inc.
2455 Paces Ferry Road
Atlanta, Georgia 30339-9998
Attention: Property Management

Other Owners: To the address for mailing tax bills set forth in the latest real property tax rolls available at the time the notice is given.

The person and address to which notices are to be given may be changed at any time by any party upon written notice to the other parties. All notices given pursuant to this Declaration shall be deemed given upon receipt.

(b) For the purpose of this Declaration, the term "receipt" shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document to the address specified pursuant to subparagraph (a) above as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified pursuant to this Section, or (iii) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (A) the date of the attempted delivery or refusal to accept delivery, (B) the date of the postmark on the return receipt, or (C) the date of receipt of notice of refusal or notice of nondelivery by the sending party.

19.11 Waiver: The failure of a Person to insist upon strict performance of any of the Restrictions contained herein shall not be deemed a waiver of any rights or remedies that said Person may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the Restrictions contained herein by the same or any other person.

19.12 Attorneys' Fees: In the event any Person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Declaration, the prevailing party in any such action or proceeding shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorneys' fees (including its reasonable costs and attorney's fees on any appeal).

19.13 Severability: If any term or provision of this Declaration or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Declaration or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Declaration shall be valid and shall be enforced to the extent permitted by law.

19.14 Not a Partnership: The provisions of this Declaration are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

19.15 Third Party Beneficiary Rights: This Declaration is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not a party hereto unless otherwise expressly provided herein.

19.16 Captions and Headings: The captions and headings in this Declaration are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein.

19.17 Entire Agreement: This Declaration contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject restrictions and easements affecting the Parcels. The provisions of this Declaration shall be construed as a whole and not strictly for or against any party.

19.18 Construction: In construing the provisions of this Declaration and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

19.19 Joint and Several Obligations: In the event any party hereto is composed of more than one person, the obligations of said party shall be joint and several.

19.20 Recordation: This Declaration shall be recorded in the office of the recorder of the County in which the Shopping Center is located.

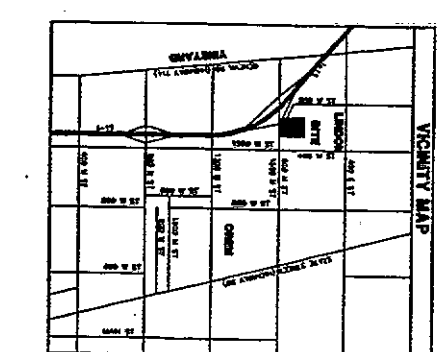
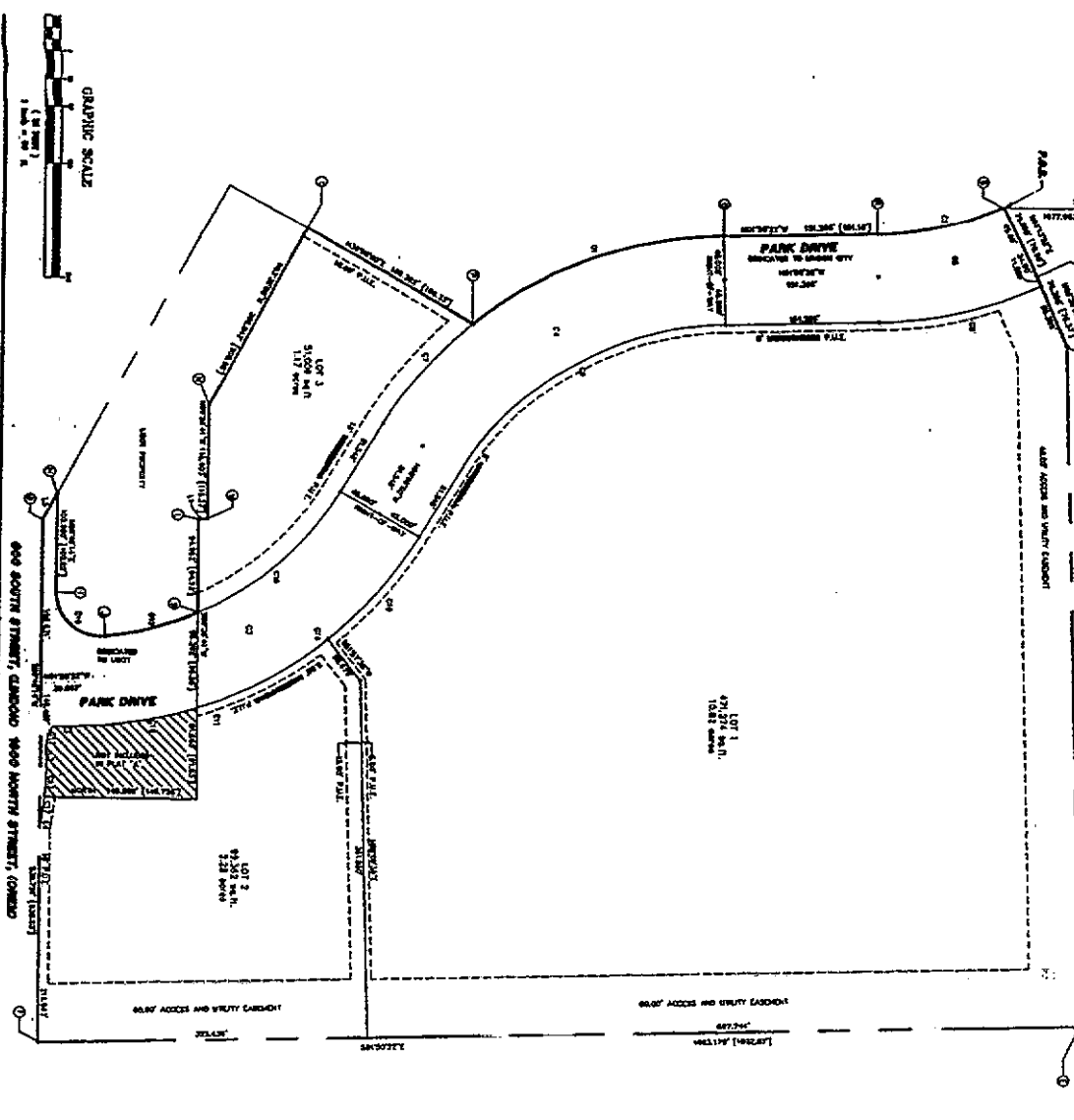
19.21 Lienholder Protection: This Declaration, and except for the lien rights set forth in Section 14.1 above, the rights, privileges, covenants, agreements and easements hereunder with respect to each Owner and Parcel, shall be superior and senior to any lien placed upon any Parcel, including the lien of any mortgage or deed of trust. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust made in good faith and for value, but all the covenants and restrictions, easements and conditions and other provisions, terms and conditions contained in this Declaration shall be binding upon and effective against any person (including, but not limited to, any mortgagee or beneficiary under a deed of trust) who acquires title to any Parcel or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

List of Exhibits

- A = Site Plan
- B = Legal Description of Shopping Center
- C = Legal Description of North Parcel
- D = Legal Description of Additional Land Owned by Developer



LINE	BEARING	DISTANCE	CURVE DATA	STATIONING
1	N 72° 45' 10" E	117.500		0+00
2	S 72° 45' 10" W	117.500		1+17.50
3	N 72° 45' 10" E	117.500		2+35.00
4	S 72° 45' 10" W	117.500		3+52.50
5	N 72° 45' 10" E	117.500		4+70.00
6	S 72° 45' 10" W	117.500		5+87.50
7	N 72° 45' 10" E	117.500		7+05.00
8	S 72° 45' 10" W	117.500		8+22.50
9	N 72° 45' 10" E	117.500		9+40.00
10	S 72° 45' 10" W	117.500		10+57.50
11	N 72° 45' 10" E	117.500		11+75.00
12	S 72° 45' 10" W	117.500		12+92.50
13	N 72° 45' 10" E	117.500		14+10.00
14	S 72° 45' 10" W	117.500		15+27.50
15	N 72° 45' 10" E	117.500		16+45.00
16	S 72° 45' 10" W	117.500		17+62.50
17	N 72° 45' 10" E	117.500		18+80.00
18	S 72° 45' 10" W	117.500		19+97.50
19	N 72° 45' 10" E	117.500		21+15.00
20	S 72° 45' 10" W	117.500		22+32.50
21	N 72° 45' 10" E	117.500		23+50.00
22	S 72° 45' 10" W	117.500		24+67.50
23	N 72° 45' 10" E	117.500		25+85.00
24	S 72° 45' 10" W	117.500		27+02.50
25	N 72° 45' 10" E	117.500		28+20.00
26	S 72° 45' 10" W	117.500		29+37.50
27	N 72° 45' 10" E	117.500		30+55.00
28	S 72° 45' 10" W	117.500		31+72.50
29	N 72° 45' 10" E	117.500		32+90.00
30	S 72° 45' 10" W	117.500		34+07.50
31	N 72° 45' 10" E	117.500		35+25.00
32	S 72° 45' 10" W	117.500		36+42.50
33	N 72° 45' 10" E	117.500		37+60.00
34	S 72° 45' 10" W	117.500		38+77.50
35	N 72° 45' 10" E	117.500		40+00.00



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STATE PLANE COORDINATES

LINE	BEARING	DISTANCE	STATIONING
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PLANNING DEPARTMENT

20 November 1987

OWNER'S DECLARATION

I, the undersigned, hereby certify that the information furnished herein is true and correct to the best of my knowledge and belief, and that I am the owner of the property described herein.

ACCEPTANCE OF LEGISLATIVE BODY

The City of Lindon, Utah, on this 20th day of November 1987, has adopted the following resolution:

APPROVED - COUNCIL _____

APPROVED - CITY CLERK _____

APPROVED - ENGINEER _____

PLANNING COMMISSION APPROVAL

CITY ATTORNEY APPROVAL

CONTRACTOR OF APPROVAL

PLANNING DEPARTMENT

LINDON PARK STATION

LINDON CITY _____

SCALE: 1" = 50 FEET

UTAH COUNTY, UTAH

Exhibit "A" - Site Plan - Page 2 of 2

EXHIBIT "B"

Parcel 1 [the "Home Depot Parcel"]

Lot 1, LINDON PARK STATION SUBDIVISION - PLAT "A", according to the official plat thereof as recorded with the Utah County Recorder's Office.

Parcel 2

Lot 2, LINDON PARK STATION SUBDIVISION - PLAT "A", according to the official plat thereof as recorded with the Utah County Recorder's Office.

Parcel 3

Lot 3, LINDON PARK STATION SUBDIVISION - PLAT "A", according to the official plat thereof as recorded with the Utah County Recorder's Office.



A.L.M. & Associates, Inc.

Engineering & Development

2230 North University Parkway, Building 6C, Provo, Utah 84604

Phone: (801) 374-6262

Fax: (801) 374-0085

Home Depot, Lindon, Utah
ALM-Desc-North-Boundary

Commencing at a point located North 89-45-36 East along the section line 972.92 feet and South 1639.57 feet from the Northwest Corner of Section 4, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence along an arc of a 395.00 foot radius curve to the left 62.67 feet (Chord Bears North 30-15-02 West 62.60 feet); thence North 34-47-45 West 31.38 feet; thence along an arc of a 312.00 foot radius curve to the left 17.27 feet (Chord Bears North 36-22-55 West 17.27 feet); thence along an arc of a 260.00 foot radius curve to the right 87.81 feet (Chord Bears North 28-17-35 West 87.39 feet); thence along an arc of a 53.00 foot radius curve to the right 25.96 feet (Chord Bears North 04-35-20 West 25.70 feet); thence along an arc of a 94.00 foot radius curve to the left 10.13 feet (Chord Bears North 06-21-12 East 10.13 feet); thence along an arc of a 53.00 foot radius curve to the right 42.75 feet (Chord Bears North 26-22-27 East 41.60 feet); thence along an arc of 400.00 foot radius curve to the right 6.73 feet (Chord Bears North 49-57-50 East 6.73 feet); thence North 51-34-40 East 58.31 feet; thence along an arc of a 294.00 foot radius curve to the right 18.61 feet (Chord Bears North 53-23-27 East 18.60 feet); thence North 55-12-15 East 105.94 feet; thence along an arc of a 317.00 foot radius curve to the right 182.34 feet (Chord Bears North 71-40-56 East 179.84 feet); thence North 88-09-38 East 339.52 feet; thence along an arc of a 317.00 foot radius curve to the right 96.29 feet (Chord Bears South 83-08-14 East 95.92 feet); thence South 74-26-07 East 69.59 feet; thence South 01-50-22 East 344.92 feet; thence South 88-09-38 West 693.00 feet; thence South 66-30-28 West 65.39 feet to the point of beginning.

Area = 6.74 Acres



A.L.M. & Associates, Inc.

Engineering & Development

2230 North University Parkway, Building 6C, Provo, Utah 84604

Phone: (801) 374-6262

Fax: (801) 374-0085

November 12, 1997

Home Depot, Lindon, Utah
ALM-DESC-500-HOMEDEPOT

Commencing at a point located North 89-45-36 East along the section line 495.60 feet and South 1299.85 feet from the Northwest corner, Section 4, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 66-30-28 East 464.13 feet; thence North 88-09-38 East 788.62 feet; thence South 01-50-22 East 500.00 feet; thence South 88-09-38 West 693.00 feet; thence South 66-30-28 West 65.39 feet; thence along the arc of a 395.00 foot radius curve to the right 164.53 feet (chord bears South 13-46-20 East 163.35 feet); thence South 01-50-22 East 151.21 feet; thence along the arc of a 305.00 foot radius curve to the left 309.60 feet (chord bears South 30-55-11 East 296.48 feet); thence South 60-00-00 East 81.55 feet; thence along the arc of a 395.00 foot radius curve to the right 137.98 feet (chord bears South 49-59-35 East 137.27 feet); thence North 51-57-35 East 52.68 feet; thence North 88-09-38 East 361.85 feet; thence South 01-50-22 East 325.43 feet; thence South 89-48-14 West 218.66 feet; thence North 80-28-07 West 9.84 feet; thence along the arc of a 300.00 foot radius curve to the left 21.91 feet (chord bears North 82-33-37 West 21.90 feet); thence North 149.80 feet; thence South 89-38-41 West 282.90 feet; thence North 04-20-28 West 8.61 feet; thence North 89-58-41 West 116.40 feet; thence North 62-38-00 West 522.86 feet; thence North 10.25 feet; thence North 61-26-11 West 113.73 feet; thence along the arc of a 805.00 foot radius curve to the right 185.56 feet (chord bears North 08-26-35 West 185.15 feet); thence North 01-50-22 West 663.89 feet to the point of beginning.

Area = 24.85 Acres