

WINGER'S AND JIMMY JOHN'S PARCEL

When recorded, mail to:

David L. Lansky, Esq.
Clark Hill PLC
14850 N. Scottsdale Road, Suite 500
Scottsdale, Arizona 85254
Parcel No. 15-33-201-015-2000
Parcel No. 15-33-201-015-2001

13909685 B: 11316 P: 466 Total Pages: 50
03/11/2022 01:44 PM By: sarvizo Fees: \$50.00
SUPDEC- SUPPLEMENT TO DECLARATION
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: FIRST AMERICAN TITLE INSURANCE COMPANY - NCS PH
2425 E CAMELBACK RD STE 300PHOENIX, AZ 850169293

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS

This Supplemental Declaration of Covenants and Restrictions (this "Supplemental Declaration") is made as of the 11 day of March, 2022 ("Record Date"), by CF III SH VALLEY FAIR, LLC, a Delaware limited liability company ("Developer").

RECITALS

VIII. Developer is the owner and/or developer of the property located in the City of West Valley, Salt Lake County, Utah, described on Exhibit "A" (the "Developer Parcels").

IX. Developer is also the owner of the real property located in the City of West Valley, Salt Lake County, Utah, described on Exhibit "B" (the "Winger's/Jimmy John's Parcel").

X. The Developer Parcels and the Winger's/Jimmy John's Parcel are collectively referred to herein as the "Parcels" or as the "Shopping Center".

XI. A portion of the Winger's/Jimmy John's Parcel known as Suite P8 ("Suite P8") is leased to JJ of Broadway, LLC, a Utah limited liability company ("Jimmy John's"), pursuant to that certain Valley Fair Mall Lease Agreement dated September 24, 2014 (the "Jimmy John's Lease").

XII. A portion of the Winger's/Jimmy John's Parcel known as Suite P9 ("Suite P9") is leased to West Valley Winger's, LC, a Utah limited liability company ("Winger's"), pursuant to that certain Lease dated September 20, 2008, as amended by that certain Amendment to Lease dated March 9, 2009, as amended by that certain Second Amendment to Lease dated May 1, 2019 (as amended and assigned, the "Winger's Lease").

XIII. The Parcels are a portion of a larger development located at the southwest corner of 3500 South Street and Interstate 215, City of West Valley, Salt Lake County, Utah. The Shopping Center is subject to the Declaration. For the purposes of this Supplemental Declaration, the Declaration means together, that certain (A) (i) Construction, Operation and Reciprocal Easement Agreement between VFM-ALC LC, a Utah limited liability company, VFM-CPZ LC, a Utah limited liability company, River Ridge VFM, L.L.C., a Utah limited liability company and Hill Field Holding VFM, L.L.C. and Costco Wholesale Corporation, a Washington corporation ("Costco") recorded on July 17, 2006 as Entry No. 9784299 in Book 9322, beginning at Page 7622 in the Official Records of Salt Lake County, State of Utah; (ii) First

Amendment to Construction, Operation and Reciprocal Easement Agreement dated June 12, 2009 and recorded June 30, 2009 in the official records of Salt Lake County, Utah at Book 9741, Pages 6810-6819; (iii) Amendment to Construction, Operation and Reciprocal Easement Agreement dated June 6, 2011 and recorded June 9, 2011 in the official records of Salt Lake County, Utah at Book 9929, Page 9110; (iv) Third Amendment to Construction, Operation and Reciprocal Easement Agreement dated October 31, 2018 and recorded December 14, 2018 in the official records of Salt Lake County, Utah at Book 10741, Page 888 — 907A; (v) Fourth Amendment to Construction, Operation and Reciprocal Easement Agreement dated October 21, 2019 and recorded October 23, 2019 in the official records of Salt Lake County, Utah at Book 10849, Page 5496 - 5509 (the “COREA”); (B) Declaration of Easements and Restrictions dated January 7, 2010 and recorded January 7, 2010 in the official records of Salt Lake County Utah at Book 9795, Page 1537-1628 (the “DER”) and (C) all amendments, modifications, extensions and renewals and replacements thereof including (i) that certain Supplemental Declaration of Covenants and Restrictions dated July 1, 2019 and recorded July 1, 2019 in the official records of Salt Lake County, Utah at Book 10798, Page 7284-7349, and (ii) that certain Supplemental Declaration of Covenants and Restrictions dated October 25, 2019 and recorded October 25, 2019 in the official records of Salt Lake County, Utah at Book 10850, Page 7940-7993; all of which shall be binding upon the Shopping Center and the Winger’s/Jimmy John’s Parcel, bind Winger’s and Jimmy John’s and run with the land. For the sake of clarity, the COREA is not modified by this Supplemental Declaration and the owner of the Winger’s/Jimmy John’s Parcel shall comply with all terms and provisions of the COREA during the development, construction and operation of the Winger’s/Jimmy John’s Parcel.

XIV. Developer is the owner of the Mall Parcel under the DER, is the successor to the Declarant (as defined in the DER) under the DER and has executed and delivered this Supplemental Declaration in connection with the creation of the Winger’s/Jimmy John’s Parcel as a New Outparcel pursuant to the DER.

XV. Developer desires to establish additional covenants and restrictions upon the Parcels for the purpose of enhancing and protecting the value, desirability and attractiveness of the Parcels and the Shopping Center.

NOW, THEREFORE, for the purposes set forth above, the Developer declares that the Parcels shall hereafter be held, transferred, sold, conveyed, leased, occupied and used subject to the following covenants, conditions and restrictions:

AGREEMENT

A. Use Restrictions.

1. Suite P8 shall be used initially for the operation of a “Jimmy John’s Gourmet Sandwiches” fast casual (counter service only, with no table service) restaurant operating selling submarine and hoagie style sandwiches for on-premises and off-premises consumption and for no other purpose without the express written consent of Developer. In all events, the owner of the Winger’s/Jimmy John’s Parcel shall have the right to change the use of Suite P8 to any other use provided such use is not (i) in violation of the Declarations; (ii) in violation of any exclusive rights identified in Exhibit “C” which are then in full force and effect and by their terms applicable to the Winger’s/Jimmy John’s Parcel; (iii) a multifamily, lodging, or auto repair use or a use shown on Exhibit “C-1”.

2. Suite P9 shall be used initially for conducting thereon the business of a "Winger's" restaurant, and for incidental purposes related thereto and for no other purpose without the express written consent of Developer. In all events, the owner of the Winger's/Jimmy John's Parcel shall have the right to change the use of Suite P9 to any other use provided such use is not (i) in violation of the Declarations; (ii) in violation of any exclusive rights identified in Exhibit "C" which are then in full force and effect and by their terms applicable to the Winger's/Jimmy John's Parcel; (iii) a multifamily, lodging, or auto repair use or a use shown on Exhibit "C-1".

B. **Architectural Review.** Prior to the owner of the Winger's/Jimmy John's Parcel commencing reconstruction of the existing building or any additional building or improvements on the Winger's/Jimmy John's Parcel, the owner of the Winger's/Jimmy John's Parcel shall have first received Developer's approval of its proposed buildings and improvements. Developer's approval shall be based upon its determination, in its reasonable business judgment, that the building and improvements to be constructed on the Winger's/Jimmy John's Parcel are architecturally and aesthetically harmonious with the balance of the Shopping Center. At least forty-five (45) days prior to commencement of construction, the owner of the Winger's/Jimmy John's Parcel shall submit to Developer a site plan, grading and drainage plans, landscape plans and four (4) sided elevations of the proposed building and improvements (including building and free standing signage) showing in detail the dimensions, ingress, egress, parking and the landscaping. At all times prior to construction on the Winger's/Jimmy John's Parcel, the owner of the Winger's/Jimmy John's Parcel shall maintain the Winger's/Jimmy John's Parcel in a clean condition, free of dust and debris and the Winger's/Jimmy John's Parcel shall be planted with grass and/or decomposed granite and irrigated and mowed to maintain it in a condition consistent with the first class operation of the Shopping Center. Notwithstanding any other provisions in this Supplemental Declaration to the contrary, any building to be built on the Winger's/Jimmy John's Parcel shall not exceed a floor area of six thousand five hundred (6,500) square feet (exclusive of canopy area), and such building shall not exceed a height of twenty four (24) feet (inclusive of architectural treatments (which architectural treatments shall not exceed thirty percent (30%) of linear building frontage).

C. **Exclusive Rights.** The Exclusive Rights of the owner of Suite P8 and Suite P9 discussed in this Paragraph C are co-extensive with the terms of the Jimmy John's Lease (Suite P8) and Winger's Lease (Suite P9). Upon termination of the respective lease(s), the Exclusive Rights in this Paragraph C associated with such lease shall terminate.

1. So long as no Event of Default (as defined in the Jimmy John's Lease) by Jimmy John's has occurred and is continuing beyond any applicable cure periods under the Jimmy John's Lease, Developer will not lease space in the Shopping Center to Subway Sandwiches, Quizno's, or Firehouse Subs (the "Restricted Operators"), or to any operator with business operations in the Shopping Center substantially similar to that of any Restricted Operator, unless otherwise authorized by the owner of the Winger's/Jimmy John's Parcel in writing ("Jimmy John's Exclusive"). Except as to the Restricted Operators, Jimmy John's Exclusive shall not apply to any business in the Shopping Center primarily in the business of selling bagels or bagel sandwiches, wraps, gyros, hamburgers, or ethnic food, defined as foods derived primarily from cultures other than North American (excluding Mexico) and Western European, including, but not limited to, Mexican, South and Central American, Asian, African, Middle Eastern and Eastern European. Likewise, Jimmy John's Exclusive shall not apply to any of the following, regardless of menu items: (i) Cafe Zupas, Paradise Bakery, Corner Bakery, Panera

Bakery, Atlanta Bread Company, Apple Spice Junction, Jason's Deli, Kneaders Bakery, or Sweet Tomatoes, or any business operation which is substantially similar to any of the operations identified in this clause (i); (ii) any Shopping Center premises or occupant occupying three thousand two hundred (3,200) square feet or more of Gross Leasable Area (as defined in the Jimmy John's Lease) under a single trade name; (iii) any business that exclusively provides only full table service, and does not offer counter service in the Shopping Center or in any other of such business operator's locations; (iv) any occupant of the interior of the Shopping Center and/or the food court therein; (v) any existing Shopping Center occupant whose lease, as of the date of the September 24, 2014 (a) did not prohibit their premises from being used in violation of Jimmy John's Exclusive, (b) did not require Developer's consent for a change in use, or (c) requires Developer's consent for a change in use, but Developer is not entitled to withhold such consent in the circumstances; or (vi) the successor or assign of any of the tenants or occupants of the Shopping Center allowed pursuant to (i), (ii), (iii), (iv) and (v) above. Notwithstanding anything to the contrary contained herein, in no event shall Developer be deemed to be in breach of the foregoing, and shall have no liability to Jimmy John's or the owner of the Winger's/Jimmy John's Parcel in the event the covenants contained in this Paragraph C1 are violated by a Rogue Tenant (hereinafter defined), so long as Developer diligently pursues all reasonable rights and remedies available to Developer against such Rogue Tenant for the cessation of such violation. As used herein, "Rogue Tenant" shall mean and refer to any tenant or occupant of the Shopping Center that, pursuant to its lease, is prohibited from and/or not permitted to, engage in a use that would violate Jimmy John's Exclusive.

2. So long as Winger's is not in default, Developer will not use or lease, or permit, suffer, or allow any tenant to use or lease any property located within the Shopping Center to (i) an Iggy's Sports Grill, (ii) to a restaurant which primarily sells "wings" such as a Buffalo Wild Wings, Wing Stop or similar restaurant ("Winger's Exclusive Use"). Winger's Exclusive Use shall not be applicable to (i) any tenant occupying more than eighteen thousand (18,000) square feet of gross leasable area in the Shopping Center under a single trade name, (ii) any existing Shopping Center tenant ("Existing Tenant") whose lease, as of September 20, 2008, (a) did not prohibit the subject premises from being used in violation of Winger's Exclusive Use, (b) did not require Developer's consent for a change in use, or (c) requires Developer's consent for a change in use, but Developer is not entitled to withhold such consent in the circumstances; (iii) the successor or assign of any of the tenants or occupants of the Shopping Center allowed pursuant to (i) and (ii) above, (iv) any tenant or occupant of the Shopping Center, or (v) any tenant or occupant of any area within the Shopping Center east of the Mall Parcel. In addition, in the event that Developer sells any outparcel in the Shopping Center to a third party other than Iggy's Sports Grill (or any person or entity that as part of such sale transaction contemplates operating in violation of Winger's Exclusive Use on such outparcel (e.g., as an Iggy's Sports Grill or "wing" restaurant as described above), such outparcel shall not longer be subject to Winger's Exclusive Use. In the event that Developer determines to lease space in the Shopping Center in violation of this Paragraph C2, then if Winger's elects to pay the owner of the Winger's/Jimmy John's Parcel only the Annual Percentage Rent, then Developer shall pay to the owner of the Winger's/Jimmy John's Parcel the Minimum Annual Rent Winger's is not paying until Developer is no longer in violation of this Paragraph C2.

D. **Limitation on Common Area Maintenance Costs**. Notwithstanding the provisions of the Declaration to the contrary, including Section 3.3, maintenance and repairs of the Common Areas (as such term is defined in the Declaration) on the Winger's/Jimmy John's Parcel shall be performed by Developer.

1. The owner of the Winger's/Jimmy John's Parcel's obligation to pay Developer for the costs and expenses incurred for the maintenance and repair of the Common Areas (the "Common Area Maintenance Costs") for Suite P8 of the Winger's/Jimmy John's Parcel pursuant to this Supplemental Declaration for the 2022 calendar year shall be the amount allowed under the Jimmy John's Lease without regard to any amendment thereof subsequent to the Record Date. If the cost of security, snow removal, and utilities for the common facilities, and Developer's insurance for a fiscal year is greater than the budgeted amount from that year due to circumstances beyond Developer's control, then the owner of the Winger's/Jimmy John's Parcel shall pay the percentage attributable to Suite P8's amount in excess to Developer within thirty (30) days after receipt of an invoice. The limitation on the amount of Common Area Maintenance Costs levied and assessed against the owner of the Winger's/Jimmy John's Parcel pursuant to this Supplemental Declaration as set forth in this Paragraph D1 shall be of no further force and effect commencing upon the expiration or earlier termination of the Jimmy John's Lease ("Jimmy John's CAM Cap Term"). In the event that the Common Area Maintenance Costs levied and assessed against Suite P8 during any such twelve (12) month period during the Jimmy John's CAM Cap Term shall exceed the amounts set forth herein, then Developer shall be obligated to pay all amounts in excess of the amounts due from the owner of Suite P8 as set forth herein.

2. The owner of the Winger's/Jimmy John's Parcel's obligation to pay Developer for Common Area Maintenance Costs for Suite P9 of the Winger's/Jimmy John's Parcel pursuant to this Supplemental Declaration for the 2022 calendar year shall be the amount allowed under the Winger's Lease without regard to any amendment thereof subsequent to the Record Date. The cost of snow removal, security, utilities for the common areas, Developer's Insurance (as defined in the Winger's Lease) and non-capital maintenance and repair of the common facilities, is budgeted as a portion of Fixed CAM (as defined in the Winder's Lease), and such budgeted amount shall increase by three percent (3%) at the beginning of each Fiscal Year. If the cost of snow removal, security, utilities for the common areas, Developer's Insurance and non-capital parking maintenance and repair of the common facilities for a fiscal year is greater than the budgeted amount for that year, then the owner of the Winger's/Jimmy John's Parcel shall pay the amount attributed to Suite P9's of such excess amount to Developer within thirty (30) days after receipt of an invoice. The limitation on the amount of Common Area Maintenance Costs levied and assessed against Suite P9 pursuant to this Supplemental Declaration as set forth in this Paragraph D2 shall be of no further force and effect commencing upon the expiration or earlier termination of the Winger's Lease ("Winger's CAM Cap Term"). In the event that the Common Area Maintenance Costs levied and assessed against Suite P9 during any such twelve (12) month period during the Winger's CAM Cap Term shall exceed the amounts set forth herein, then Developer shall be obligated to pay all amounts in excess of the amounts due from the owner of Suite P9 as set forth herein.

3. Upon the expiration or earlier termination of each and any of the Jimmy's Johns Lease or the Winger's Lease, the Common Area Maintenance Costs for the suite related to each expired or terminated lease shall be adjusted on a go forward basis so as to be Seven and 47/100 Dollars (\$7.47) per square feet of gross leasable area but not less than the gross leasable area as of the Record Date (i.e. 4,505 for Suite P9 and 1,805 for Suite P8) subject to annual adjustment commencing on January 1, 2022 and each subsequent January 1st (each, an "Adjustment Date"), provided however that such adjustments shall be the lesser of (a) a three percent (3%) increase annually, and (b) the amount by which the Consumer Price Index (as defined in this Paragraph D3 below) for the month that is three (3) months prior to the Adjustment Date increased over the Consumer Price Index for the month that is fifteen (15) months prior to the Adjustment Date. Notwithstanding the provisions of this

Paragraph D3 to the contrary, the cost of snow removal shall not be limited or considered under the foregoing gap. The “Consumer Price Index” means the Unit States Department of Labor, Bureau of Labor Statistics Consumer Price Index for all Urban Consumer (CPI-U, the U.S. City Average (1982 – 1984 = 100). If at any time there shall not exist the consumer Price Index, Developer may substitute any official index published by the Bureau of Labor Statistics or by a successor or similar government agency as may then be in existence and which in Developer’s reasonable business judgment shall be most nearly equivalent thereto.

4. The owner of the Winger’s/Jimmy John’s Parcel shall pay to Developer on the first day of each calendar month one-twelfth (1/12) of the Common Area Maintenance Costs payable by the owner of the Winger’s/Jimmy John’s Parcel for that calendar year. Common Area Maintenance Costs shall continue to be payable in monthly installments at the rate previously payable under this Supplemental Declaration until Developer notifies the owner of the Winger’s/Jimmy John’s Parcel of the new payment of Common Area Maintenance Costs as a result of the adjustment in this Paragraph D. Developer shall endeavor to so notify the owner of the Winger’s/Jimmy John’s Parcel prior to the commencement of each calendar year; however, the failure by Developer to do so shall not be deemed a waiver by Developer of (a) any increase in Common Area Maintenance Costs; or (b) the obligation to reimburse an overpayment in Common Area Maintenance Costs by the owner of the Winger’s/Jimmy John’s Parcel; rather, the new monthly amount (or any portion not previously paid) shall be payable, retroactive to the first day of each calendar year, upon notification by Developer to the owner of the Winger’s/Jimmy John’s Parcel of the new Common Area Maintenance Costs and the monthly installment thereof, which notification shall occur no later than June 1st of the subsequent year.

E. **Covenants to Run with the Land.** The restrictions and provisions contained in this Supplemental Declaration: (a) are made for the mutual benefit of Developer and the owner of the Winger’s/Jimmy John’s Parcel; (b) will create a servitude upon the Winger’s/Jimmy John’s Parcel in favor of the Shopping Center; (c) will constitute covenants running with the land; (d) will bind or inure to the benefit of every person having any fee, leasehold, or other interest in any portion of the Winger’s/Jimmy John’s Parcel or the Shopping Center at any time or from time to time to the extent that such portion is bound by or benefited by the provisions of this Supplemental Declaration, provided, however, that only one legal entity may at any time have the rights of Developer under this Supplemental Declaration and, accordingly, in the event of a transfer of less than all of the Shopping Center by Developer, Developer must designate that party which shall continue to have the rights of Developer under this Supplemental Declaration (provided, however, that if the originally named Developer does not have any interest in the Developer Parcels then the rights of Developer under this Supplemental Declaration shall be deemed assigned to the owner of the Mall Parcel); and (e) will inure to the benefit and be binding upon Developer and the owner of the Winger’s/Jimmy John’s Parcel, their legal representatives, successors and assigns. In the event of any violation or threatened violation of any agreement contained in this Supplemental Declaration, any Party entitled to enforce this Supplemental Declaration shall have the substantive right (e.g., standing) to enjoin such violation or threatened violation in any court of competent jurisdiction.

F. **Specific Performance; Remedies.** If the owner of the Winger’s/Jimmy John’s Parcel fails to perform in a timely manner any duty or obligation under this Supplemental Declaration, Developer shall be entitled to the remedies for breach of contract that are available under applicable law, including specific performance. If Developer fails to perform in a timely manner any duty or obligation under this Supplemental Declaration, the owner of the Winger’s/Jimmy John’s Parcel shall be entitled

to the remedies for breach of contract that are available under applicable law, including specific performance.

G. **Recordation.** The Parties agree that this Supplemental Declaration shall be recorded in the official records of Salt Lake County, Utah.

H. **Rule Against Perpetuities.** If any interest purported to be created by this Supplemental Declaration is challenged under the Rule against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be the forty-fifth (45th) President of the United States, Donald J. Trump, and his children and grandchildren who are living at the time the period of perpetuities starts to run on the challenged interest.

I. **Modification and Termination.** This Supplemental Declaration may not be modified in any respect whatsoever or terminated, in whole or in part, except with the written consent of the owner(s) of the Developer Parcels and the owner(s) of the Winger's/Jimmy John's Parcel. Notwithstanding the provisions of this Paragraph I to the contrary, so long as the originally named Developer has any interest in the Developer Parcels, the originally named Developer shall have the sole right to grant the consent or approval on behalf of the Developer Parcels and the consent and/or approval of no other owner of Developer Parcel shall be required. From and after the date that the originally named Developer no longer has any interest in the Developer Parcels, the right to grant consent or approval on behalf of the owners of the Developer Parcels shall be vested in the owner of the Mall Parcel. Any such modification or termination must be by written instrument duly executed and acknowledged by all of the required owners and recorded in the office of the Salt Lake County Recorder. Developer may amend the Declaration from time to time before and after the date of this Supplemental Declaration as may be required by the sale of other parcels within the Developer Parcels and the owner of the Winger's/Jimmy John's Parcel shall execute and deliver such amendments provided such amendments do not (a) limit, prohibit, restrict or adversely affect in any material respect (i) the owner of the Winger's/Jimmy John's Parcel's use and enjoyment of the Winger's/Jimmy John's Parcel, (ii) access to, visibility of any improvements on or availability of parking in the immediate vicinity of the Winger's/Jimmy John's Parcel, (iii) any of the owner of the Winger's/Jimmy John's Parcel's rights under the Declaration as they exist on the date this Supplemental Declaration is recorded in the official records of Salt Lake County, Utah, (b) change, alter, limit (in any material respect), preclude the permitted uses of the Winger's/Jimmy John's Parcel, (c) materially increase the cost of Jimmy John's continued use and enjoyment of the Winger's/Jimmy John's Parcel, or (d) result in a reduction in the permitted height of the improvements that may be built by owner of the Winger's/Jimmy John's Parcel. No amendment to the Declaration shall be deemed effective as against the owner of the Winger's/Jimmy John's Parcel unless prior written notice (which notice contains a copy of the proposed amendment) and approval, which shall not be unreasonably withheld, conditioned, or delayed, has been delivered to the owner of the Winger's/Jimmy John's Parcel.

J. **Default.** The owner of a Parcel shall be deemed to be in default of this Supplemental Declaration upon the expiration of fifteen (15) days from receipt of written notice from the owner of another Parcel specifying the particulars in which such person has failed to observe the obligations of this Supplemental Declaration, unless the owner of such Parcel, prior to the expiration of said fifteen (15) day period, has rectified the matters specified in the notice of default; provided, however, that if such failure is of such a nature that it cannot reasonably be cured within such fifteen-day period, such

owner shall have such additional time as is reasonably necessary to cure such failure provided such owner commences the cure thereof within such fifteen-day period and diligently pursues same to completion.

K. **Notices.** All notices shall be in writing and shall be delivered personally (including delivery by hand or by express or courier service), expenses prepaid, with request for receipt or other proof of delivery or by certified or registered mail, postage prepaid, return receipt requested, to the address of the Developer. Any such notice shall be deemed given on the date on which it is actually delivered to the Developer's address as evidenced, if necessary, by the proof of delivery, the request for return receipt or other receipt. Developer may change its address by giving notice of such change to the other party in accordance with the provisions of this section. In no event shall any notice be transmitted by facsimile or by electronic mail.

Developer: Coventry Real Estate Advisors
Attention: Peter Henkel
1 East 52nd Street, 4th Floor
New York, New York 10022

With a copy to: CF III SH Valley Fair, LLC
3601 South 2700 West, #G128
West Valley City, Utah 84119
Attention: Manager

With a copy to: David L. Lansky, Esq.
Clark Hill PLC
14850 North Scottsdale Road
Suite 500
Scottsdale, Arizona 85254

L. **No Waiver.** The waiver by one Developer or the owner of the Winger's/Jimmy John's Parcel of the performance of any covenant or condition hereunder shall not invalidate this Supplemental Declaration, nor shall it be considered to be a waiver by such Party of any other covenant or condition hereunder. The waiver by Developer or the owner of the Winger's/Jimmy John's Parcel for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time. The exercise of any remedy provided by law and the provision of this Supplemental Declaration for any remedy shall not exclude other remedies unless they are expressly excluded. In no event, however, shall Developer be liable for special, consequential or punitive damages.

M. **Attorneys' Fees.** If either the owner of the Winger's/Jimmy John's Parcel or Developer shall bring suit against the other as a result of any alleged breach or failure by the other party to fulfill or perform any covenants or obligations under the Supplemental Declaration or in any deed, instrument or other document delivered pursuant hereto, or seek declaratory relief as to the rights or obligations of either party, then in such event, the prevailing party in such action shall, in addition to any other relief granted or awarded by the Court, be entitled to judgment for reasonable attorneys' fees incurred by reason of such action and all costs of suit and those incurred in preparation thereof, at both trial and appellate levels.

N. **Provisions Severable.** Each provision of this Supplemental Declaration shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Supplemental Declaration be deemed to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Supplemental Declaration.

O. **Counterparts.** This Supplemental Declaration may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.


P. **Development Cooperation.** Owner shall fully cooperate with Developer in connection with the efforts of Developer to obtain such governmental and/or quasi-governmental discretionary and non-discretionary approvals and permits, including site plan, design review approval, plat approval and approval of offsite improvements, as may be necessary for Developer to develop the Developer Parcels. In this regard, Owner shall sign such applications and other documents as may be reasonably requested in connection therewith and Owner shall not, in any manner, directly or indirectly, oppose or contest the efforts of Developer to obtain such discretionary and/or non-discretionary approvals and permits and, if Developer shall so request, Owner shall sign a letter of support for Developer's contemplated project.

[Remainder of page left blank intentionally]

IN WITNESS WHEREOF, this Supplemental Declaration has been executed as of the day and year first written above.

DEVELOPER:

CF III SH VALLEY FAIR, LLC,
a Delaware limited liability company

By: 
Name: Brian Moss
Its: VP

STATE OF New York }
 }ss
COUNTY OF Kings }

On MARCH 10, 2022, before me, Nicholas Anthony Gilronan (here insert name and title of the officer, personally appeared BRIAN MESS, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of NY that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Nicholas Anthony Gilronan

(This area for official notarial seal)

NICHOLAS ANTHONY GILRONAN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GI6284607
Qualified in Queens County
My Commission Expires 06-17-2025

EXHIBIT "A"

to Supplemental Declaration of Covenants and Restrictions

Legal Description of the Developer Parcels

PARCEL 1:

BEGINNING AT A POINT WHICH IS SOUTH 89°58' WEST ALONG THE QUARTER SECTION LINE 132.02 FEET AND NORTH 1483.67 FEET AND SOUTH 89°57' WEST 121.85 FEET FROM THE EAST QUARTER CORNER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 89°57' WEST 216.0 FEET, THENCE NORTH 0°01' WEST 258.0 FEET, THENCE NORTH 89°57' EAST 216.0 FEET TO A POINT OF A 24.0 FOOT RADIUS CURVE TO THE RIGHT, THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 37.70 FEET TO A POINT OF TANGENCY, THENCE SOUTH 0°01' EAST 210.0 FEET TO A POINT OF A 34.0 FOOT RADIUS CURVE TO THE RIGHT, THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 37.70 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE FOLLOWING:

BEGINNING AT A POINT WHICH IS 621.85 FEET SOUTH 89°58'40" EAST ALONG THE SECTION LINE AND 1026.09 FEET SOUTH FROM THE NORTH QUARTER CORNER OF SAID SECTION 33 AND RUNNING THENCE NORTH 89°55'52" EAST 43.40 FEET, THENCE NORTH 28.62 FEET, THENCE EAST 16.86 FEET, THENCE NORTH 56.05 FEET, THENCE EAST 23.58 FEET, THENCE NORTH 6.25 FEET, THENCE EAST 49.92 FEET, THENCE SOUTH 21.34 FEET, THENCE SOUTH 45°00'00" EAST 27.08 FEET, THENCE NORTH 45°00'00" EAST 12.91 FEET, THENCE EAST 17.72 FEET, THENCE NORTH 19.52 FEET, THENCE EAST 56.33 FEET, THENCE SOUTH 21.28 FEET, THENCE EAST 19.42 FEET, THENCE NORTH 38.08 FEET, THENCE EAST 50 FEET, THENCE NORTH 4.75 FEET, THENCE EAST 53.67 FEET, THENCE SOUTH 12.30 FEET, THENCE EAST 45.25 FEET, THENCE SOUTH 12.75 FEET, THENCE SOUTH 80°38'39" EAST 57.07 FEET, THENCE SOUTH 54.93 FEET, THENCE WEST 13.76 FEET, THENCE SOUTH 10.67 FEET, THENCE EAST 25.63 FEET, THENCE SOUTH 98.83 FEET, THENCE WEST 25.63 FEET, THENCE SOUTH 7.58 FEET, THENCE EAST 18.30 FEET, THENCE SOUTH 00°01'49" EAST 55.86 FEET, THENCE WEST 47.03 FEET, THENCE SOUTH 12.85 FEET, THENCE WEST 84.33 FEET, THENCE NORTH 12.08 FEET, THENCE WEST 52 FEET, THENCE NORTH 17.39 FEET, THENCE WEST 10.42 FEET, THENCE SOUTH 19.22 FEET, THENCE WEST 49 FEET, THENCE NORTH 7.83 FEET, THENCE WEST 47.00 FEET, THENCE NORTH 15.83 FEET, THENCE WEST 4.78 FEET, THENCE SOUTH 89°48'52" WEST 19.98 FEET, THENCE SOUTH 00°11'06" EAST 18.45 FEET, THENCE WEST 29.33 FEET, THENCE NORTH 00°15'05" EAST 68.71 FEET, THENCE NORTH 89°57'42" WEST 77.74 FEET, THENCE NORTH 26.22 FEET, THENCE WEST 31.67 FEET, THENCE NORTH 00°22'10" EAST 66.04 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

BEGINNING AT A POINT WHICH IS SOUTH 0°00'42" WEST ALONG THE CENTER SECTION LINE 342.74 FEET, AND SOUTH 89°58'18" EAST 604.30 FEET FROM THE NORTH QUARTER CORNER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT ALSO BEING THE NORTHWEST CORNER OF BUILDING AND RUNNING THENCE NORTH 89°56'37" EAST 323.40 FEET, THENCE NORTH 00°03'23" WEST 37.00 FEET, THENCE NORTH 89°58'37" EAST 22.70 FEET, THENCE SOUTH 00°03'23" EAST 37.00 FEET, THENCE NORTH 89°56'57" EAST 67.90 FEET, THENCE SOUTH 00°03'23" EAST 226.06 FEET, THENCE SOUTH 89°56'37" WEST 414.00 FEET, THENCE NORTH 00°03'23" WEST 226.06 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

BEGINNING AT A POINT ON THE EAST RIGHT OF WAY LINE OF 2700 WEST STREET SAID POINT BEING SOUTH 89°58'40" EAST ALONG THE SECTION LINE 33.00 FEET AND SOUTH 0°00'44" WEST

ALONG SAID EAST RIGHT OF WAY LINE 154.91 FEET FROM THE NORTH QUARTER CORNER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 89°59'21" EAST 39.00 FEET TO A POINT OF A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH IS SOUTH 89°59'21" EAST 75.00 FEET, THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE 117.83 FEET TO A POINT OF TANGENCY, SAID POINT BEING 80.00 FEET PERPENDICULARLY DISTANT SOUTHERLY FROM THE CENTER LINE OF 3500 SOUTH STREET AT ENGINEER STATION 5+97.53 OF STATE FREEWAY PROJECT 1-215, THENCE SOUTH 89°58'40" EAST 505.72 FEET TO A POINT OF A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH IS SOUTH 5°08'45" WEST 848.83 FEET, SAID POINT ALSO BEING 80.00 FEET PERPENDICULARLY DISTANT SOUTHERLY FROM THE CENTERLINE OF SAID 3500 SOUTH STREET AT ENGINEER STATION 11+03.24, THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 683.09 FEET, THENCE SOUTH 0°01'17" WEST 19.30 FEET, THENCE SOUTH 89°58'40" EAST 15.88 FEET TO A POINT ON A CURVE TO THE RIGHT THE RADIUS POINT OF WHICH IS SOUTH 52°55'58" WEST 848.83 FEET, THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 33.77 FEET TO A POINT OF INTERSECTION WITH A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH IS SOUTH 54°01'22" WEST 768.83 FEET, SAID POINT OF INTERSECTION BEING 80.00 FEET RADially DISTANT SOUTHWESTERLY FROM THE CENTERLINE OF I-6 RAMP OF ENGINEER STATION 18+00, THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 88.48 FEET TO A POINT ON THE EAST LINE OF THE WEST ONE-HALF OF THE NORTHEAST QUARTER OF SECTION 33, THENCE SOUTH ALONG SAID EAST LINE 1469.38 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 33, THENCE SOUTH 89°57'20" WEST ALONG THE SOUTH LINE OF THE NORTH ONE-HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 33, 1288.88 FEET TO THE EAST RIGHT OF WAY LINE OF 2700 WEST STREET, THENCE NORTH 0°00'41" EAST ALONG SAID EAST RIGHT OF WAY LINE 1831.35 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING THEREFROM THE FOLLOWING SEVEN (7) TRACTS:

TRACT 1:

BEGINNING AT A POINT WHICH IS SOUTH 89°56' WEST ALONG THE QUARTER SECTION LINE 1322.02 FEET AND NORTH 1483.67 FEET AND SOUTH 89°57' WEST 121.85 FEET FROM THE EAST QUARTER CORNER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 89°57' WEST 216.0 FEET, THENCE NORTH 0°03' WEST 258.0 FEET, THENCE NORTH 89°57' EAST 216.0 FEET TO A POINT OF A 24.0 FOOT RADIUS CURVE TO THE RIGHT, THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 37.70 FEET TO A POINT OF TANGENCY, THENCE SOUTH 0°03' EAST 210.0 FEET TO A POINT OF A 24.0 FOOT RADIUS CURVE TO THE RIGHT, THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 37.70 FEET TO THE POINT OF BEGINNING.

TRACT 2:

BEGINNING AT A POINT WHICH IS SOUTH 0°00'42" WEST ALONG THE CENTER SECTION LINE 1548.84 FEET, AND SOUTH 89°59'18" EAST 601.21 FEET FROM THE NORTH QUARTER CORNER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT ALSO BEING THE NORTHWEST CORNER OF THE BUILDING, AND RUNNING THENCE NORTH 89°59'30" EAST 477.40 FEET, THENCE SOUTH 00°00'30" EAST 29.69 FEET, THENCE SOUTH 89°59'30" WEST 5.40 FEET, THENCE SOUTH 00°00'30" EAST 40.20 FEET, THENCE NORTH 89°59'30" EAST 5.40 FEET, THENCE SOUTH 00°00'30" EAST 71.80 FEET, THENCE SOUTH 89°59'30" WEST 56.00 FEET, THENCE SOUTH 00°00'30" EAST 84.00 FEET, THENCE SOUTH 89°59'30" WEST 85.00 FEET, THENCE NORTH 00°00'30" WEST 28.00 FEET, THENCE SOUTH 89°59'30" WEST 126.20 FEET, THENCE NORTH 00°00'30" WEST 5.40 FEET, THENCE SOUTH 89°59'30" WEST 82.20 FEET, THENCE SOUTH 00°00'30" EAST 5.40 FEET, THENCE SOUTH 89°59'30" WEST 128.00 FEET, THENCE NORTH 00°00'30" WEST 57.85 FEET, THENCE NORTH 89°59'30" EAST 8.40 FEET, THENCE NORTH

00°00'30" WEST 26.20 FEET, THENCE SOUTH 89°59'30" WEST 2.80 FEET, THENCE NORTH 00°00'30" WEST 29.75 FEET, THENCE NORTH 89°59'30" EAST 2.80 FEET, THENCE NORTH 00°00'30" WEST 26.20 FEET, THENCE SOUTH 89°59'30" WEST 8.40 FEET, THENCE NORTH 00°00'30" WEST 57.69 FEET TO THE POINT OF BEGINNING.

TRACT 3:

BEGINNING AT A POINT WHICH IS SOUTH 0°00'42" WEST ALONG THE CENTER SECTION LINE 342.74 FEET AND SOUTH 89°59'18" EAST 604.30 FEET FROM THE NORTH QUARTER CORNER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT ALSO BEING THE NORTHWEST CORNER OF BUILDING AND RUNNING THENCE NORTH 89°56'37" EAST 323.10 FEET, THENCE NORTH 00°03'23" WEST 37.00 FEET, THENCE NORTH 89°56'37" EAST 22.70 FEET, THENCE SOUTH 00°03'23" EAST 37.00 FEET, THENCE NORTH 89°56'37" EAST 67.90 FEET, THENCE SOUTH 00°03'23" EAST 226.06 FEET, THENCE SOUTH 89°56'37" WEST 414.00 FEET, THENCE NORTH 00°03'23" WEST 226.06 FEET TO THE POINT OF BEGINNING.

TRACT 4:

LESS AND EXCEPT ANY PORTION LYING WITHIN THE IN N OUT SUBDIVISION.

TRACT 5:

A PARCEL OF LAND IN FEE FOR CONSTITUTION BOULEVARD (2700 WEST), BEING LOCATED IN THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN. THE BOUNDARIES OF SAID PARCEL OF LAND ARE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS SOUTH 89°58'40" EAST 33.00 FEET AND SOUTH 00°00'44" WEST 154.81 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 33, THENCE ALONG THE NORTH LINE OF SAID PROPERTY THE FOLLOWING TWO (2) COURSES AND DISTANCES: (1) SOUTH 89°59'21" EAST 38.00 FEET, (2) THENCE NORTHEASTERLY 62.49 FEET ALONG THE ARC OF A 75.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARS NORTH 23°52'45" EAST 60.70 FEET. THENCE SOUTHWESTERLY 18.74 FEET ALONG THE ARC OF A 79.34 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARS SOUTH 32°30'56" WEST 18.69 FEET, THENCE SOUTH 00°01'07" EAST 254.41 FEET, THENCE SOUTH 00°04'06" WEST 22.90 FEET, THENCE SOUTH 03°24'41" WEST 300.28 FEET, THENCE SOUTH 68.28 FEET, THENCE EAST 5.45 FEET, THENCE SOUTH 238.46 FEET, THENCE SOUTH 10°11'26" EAST 20.12 FEET, THENCE SOUTH 103.35 FEET, THENCE SOUTH 10°08'57" WEST 51.15 FEET, THENCE SOUTH 131.14 FEET, THENCE SOUTH 45°00'00" EAST 23.57 FEET, THENCE SOUTH 73.16 FEET, THENCE SOUTH 45°00'00" WEST 23.57 FEET, THENCE SOUTH 578.81 FEET TO THE SOUTH BOUNDARY LINE OF SAID PROPERTY, THENCE SOUTH 89°57'20" WEST 36.07 FEET ALONG SAID SOUTH BOUNDARY LINE, THENCE NORTH 00°00'44" EAST 1831.03 FEET ALONG THE WEST BOUNDARY LINE OF SAID PROPERTY TO THE POINT OF BEGINNING.

TRACT 6:

A PARCEL OF LAND IN FEE AFFECTING TAX ID NO. 15-33-201-009 FOR THE PURPOSE OF CONSTRUCTING THEREON A ROADWAY KNOWN AS PROJECT NO. S-1215(139), BEING PART OF AN ENTIRE TRACT OF PROPERTY SITUATE IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN. THE BOUNDARY OF SAID PARCEL OF LAND IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EXISTING WESTERLY RIGHT OF WAY AND NON-ACCESS LINE OF A FREEWAY, INTERSTATE HIGHWAY I-215, KNOWN AS PROJECT NO. I-215-9(8)297 WHICH POINT IS 260.09 FEET PERPENDICULARLY DISTANT WESTERLY FROM THE CENTERLINE OF THE I-215 ALIGNMENT OF SAID PROJECT OPPOSITE ENGINEER STATION 369+02.20 (NOTE: SAID POINT OF

BEGINNING IS 1319.93 FEET SOUTH 89°56'00" WEST ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF SECTION 33 AND 2133.67 FEET NORTH 00°00'00" WEST FROM THE EAST QUARTER CORNER OF SAID SECTION 33. SAID POINT IS ALSO 260.09 FEET PERPENDICULARLY DISTANT WESTERLY FROM THE CENTERLINE OF THE I-215 SOUTH ALIGNMENT OF PROJECT NO. S-1215(139), OPPOSITE ENGINEER STATION 369+01.75), AND RUNNING THENCE SOUTH 00°00'14" WEST ALONG THE EAST LINE OF SAID ENTIRE TRACT 68.15 FEET TO THE WESTERLY RIGHT OF WAY AND NON-ACCESS LINE, AT A POINT 154.39 FEET PERPENDICULARLY DISTANT WESTERLY FROM THE CENTERLINE OF THE I-215 SOUTH ALIGNMENT OF SAID PROJECT NO. S-1215(139) OPPOSITE ENGINEER STATION 368+73.76, AND POINT ON A 1397.00 FOOT RADIUS CURVE TO THE LEFT, (NOTE: RADIUS BEARS SOUTH 64°31'12" WEST), THENCE ALONG SAID NEW WESTERLY RIGHT OF WAY AND NON-ACCESS LINE THE FOLLOWING THREE (3) COURSES: (1) NORTHWESTERLY ALONG THE ARC OF SAID CURVE 1# 57 FEET, THENCE (2) NORTH 26°06'33" WEST 147.42 FEET TO A POINT ON A 590.00 FOOT RADIUS CURVE TO THE RIGHT, (NOTE: RADIUS BEARS NORTH 63°55'20" EAST), THENCE (3) NORTHWESTERLY ALONG SAID CURVE 67.11 FEET TO A POINT ON THE EXISTING RIGHT OF WAY AND NON-ACCESS LINE OF INTERSTATE HIGHWAY I-215, KNOWN AS PROJECT NO. I-215-9(6)297, WHICH POINT IS 348.49 FEET PERPENDICULARLY DISTANT WESTERLY FROM THE CENTERLINE OF THE I-215 ALIGNMENT OF SAID PROJECT NO. S-1215(139) OPPOSITE ENGINEER STATION 370+46.17 (NOTE: SAID POINT IS ALSO 348.44 FEET PERPENDICULARLY DISTANT WESTERLY FROM THE CENTERLINE OF THE I-215 SOUTH ALIGNMENT OF PROJECT NO. S-1215(139), OPPOSITE ENGINEER STATION 370+45.76), AND POINT ON A 848.83 FOOT RADIUS CURVE TO THE RIGHT, (NOTE: RADIUS BEARS SOUTH 49°36'16" WEST), THENCE ALONG SAID WESTERLY RIGHT OF WAY AND NON-ACCESS LINE THE FOLLOWING FIVE (5) COURSES: (1) SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 23.11 FEET, THENCE (2) SOUTH 00°00'06" WEST, 19.58 FEET, THENCE (3) SOUTH 89°59'54" EAST 15.30 FEET TO A POINT ON A 850.65 FOOT RADIUS CURVE TO THE RIGHT, (NOTE: RADIUS BEARS SOUTH 52°50'38" WEST), THENCE (4) SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 34.16 FEET TO A POINT ON A 774.72 FOOT RADIUS CURVE TO THE RIGHT, (NOTE: RADIUS BEARS SOUTH 53°59'50" WEST), THENCE (5) SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 87.05 FEET TO THE POINT OF BEGINNING.

(NOTE: ROTATE ALL BEARINGS IN THE ABOVE DESCRIPTIONS 00°14'45" CLOCKWISE TO MATCH HIGHWAY BEARINGS.)

TRACT 7:

BEGINNING AT A POINT WHICH IS 821.85 FEET SOUTH 89°18'40" EAST ALONG THE SECTION LINE AND 1026.09 FEET SOUTH FROM THE NORTH QUARTER CORNER OF SAID SECTION 33 AND RUNNING THENCE NORTH 89°55'52" EAST 43.40 FEET, THENCE NORTH 25.62 FEET, THENCE EAST 16.86 FEET, THENCE NORTH 86.05 FEET, THENCE EAST 23.58 FEET, THENCE NORTH 6.25 FEET, THENCE EAST 49.92 FEET, THENCE SOUTH 21.34 FEET, THENCE SOUTH 45°00'00" EAST 27.88 FEET, THENCE NORTH 45°00'00" EAST 12.91 FEET, THENCE EAST 17.72 FEET, THENCE NORTH 19.52 FEET, THENCE EAST 56.33 FEET, THENCE SOUTH 21.28 FEET, THENCE EAST 19.42 FEET, THENCE NORTH 38.03 FEET, THENCE EAST 50 FEET, THENCE NORTH 4 75 FEET, THENCE EAST 53.67 FEET, THENCE SOUTH 12.50 FEET, THENCE EAST 45.25 FEET, THENCE SOUTH 12.75 FEET, THENCE SOUTH 89°38'39" EAST 32.97 FEET, THENCE SOUTH 54.92 FEET, THENCE WEST 13.76 FEET, THENCE SOUTH 10.67 FEET, THENCE EAST 25.63 FEET, THENCE SOUTH 90.83 FEET, THENCE WEST 25.63 FEET, THENCE SOUTH 7.38 FEET, THENCE EAST 18.30 FEET, THENCE SOUTH 00°01'49" EAST 55.88 FEET, THENCE WEST 47.03 FEET, THENCE SOUTH 13.05 FEET, THENCE WEST 94.33 FEET, THENCE NORTH 12.08 FEET, THENCE WEST 52 FEET, THENCE NORTH 17.39 FEET, THENCE WEST 10.42 FEET, THENCE SOUTH 19.22 FEET, THENCE WEST 49 FEET, THENCE NORTH 7.63 FEET, THENCE WEST 47.00 FEET, THENCE NORTH 15.83 FEET, THENCE WEST 4.78 FEET, THENCE SOUTH 89°48'52" WEST 19.98 FEET, THENCE SOUTH 00°13'08" EAST 18.45 FEET, THENCE WEST 29.33 FEET, THENCE NORTH 00°15'05" EAST 60.71 FEET, THENCE NORTH 89°57'42" WEST 77.74 FEET, THENCE NORTH 36.22 FEET, THENCE WEST 31.67 FEET, THENCE NORTH 00°22'40" EAST 66.04 FEET TO THE POINT OF BEGINNING.

ALSO LESS AND EXCEPTING ANY PORTION LYING WITHIN THE BOUNDS OF PANDA EXPRESS VFM SUBDIVISION.

PARCEL 4:

BEGINNING AT A POINT WHICH IS SOUTH 0°00'42" WEST ALONG THE CENTER SECTION LINE 1548.84 FEET AND SOUTH 89°59'18" EAST 501.21 FEET FROM THE NORTH QUARTER CORNER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT ALSO BEING THE NORTHWEST CORNER OF THE BUILDING AND RUNNING THENCE NORTH 89°59'30" EAST 477.40 FEET, THENCE SOUTH 00°00'30" EAST 29.69 FEET, THENCE SOUTH 89°59'30" WEST 5.40 FEET, THENCE SOUTH 00°00'30" EAST 40.20 FEET, THENCE NORTH 89°59'30" EAST 5.40 FEET, THENCE SOUTH 00°00'30" EAST 71.60 FEET, THENCE SOUTH 89°59'30" WEST 56.00 FEET, THENCE SOUTH 00°00'30" EAST 84.00 FEET, THENCE SOUTH 89°59'30" WEST 45.00 FEET, THENCE NORTH 00°00'30" WEST 28.00 FEET, THENCE SOUTH 89°59'30" WEST 126.20 FEET, THENCE NORTH 00°00'30" WEST 5.40 FEET, THENCE SOUTH 89°59'30" WEST 82.20 FEET, THENCE SOUTH 00°00'30" EAST 5.40 FEET, THENCE SOUTH 89°59'30" WEST 128.00 FEET, THENCE NORTH 00°00'30" WEST 57.85 FEET, THENCE NORTH 89°59'30" EAST 8.40 FEET, THENCE NORTH 00°00'30" WEST 26.20 FEET, THENCE SOUTH 89°59'30" WEST 2.80 FEET, THENCE NORTH 00°00'30" WEST 29.75 FEET, THENCE NORTH 89°59'30" EAST 2.80 FEET, THENCE NORTH 00°00'30" WEST 26.20 FEET, THENCE SOUTH 89°59'30" WEST 8.40 FEET, THENCE NORTH 00°00'30" WEST 57.69 FEET TO THE POINT OF BEGINNING.

PARCEL 5:

BEGINNING ON THE WEST RIGHT OF WAY AND NON-ACCESS LINE OF STATE FREEWAY PROJECT 1-215 AT A POINT WHICH IS SOUTH 89°56' WEST ALONG THE QUARTER SECTION LINE 1076.295 FEET AND NORTH 0°04' WEST 33.00 FEET AND NORTH 2°35'13" WEST 805.29 FEET FROM THE EAST QUARTER CORNER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 3°35'13" WEST ALONG SAID RIGHT OF WAY AND NON-ACCESS LINE 553.785 FEET, THENCE NORTH 6°34'37" WEST ALONG SAID RIGHT OF WAY AND NON-ACCESS LINE 431.80 FEET, THENCE NORTH 17°00'58" WEST ALONG SAID RIGHT OF WAY AND NON-ACCESS LINE 239.87 FEET TO A POINT ON A 768.83 FOOT RADIUS CURVE TO THE LEFT, THE CENTER OF WHICH BEARS SOUTH 87°31'22" WEST FROM SAID POINT, THENCE NORTHWESTERLY ALONG SAID RIGHT OF WAY AND NON-ACCESS LINE AND THE ARC OF SAID CURVE 52.67 FEET TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 33, THENCE SOUTH ALONG SAID WEST LINE 1254.16 FEET, THENCE EAST 195.31 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING THE FOLLOWING TRACT CONVEYED TO WEST VALLEY CITY BY THAT CERTAIN SPECIAL WARRANTY DEED AND RESERVATION OF EASEMENT RECORDED JUNE 9, 2011 AS ENTRY NO. 31196013, IN BOOK 9929, PAGE 9086, OF OFFICIAL RECORDS AND DESCRIBED AS FOLLOWS:

A PARCEL OF LAND IN FEE AFFECTING TAX ID NO. 15-33-276-003 FOR THE PURPOSE OF CONSTRUCTING THEREON A ROADWAY KNOWN AS PROJECT NO. S-3215(139), BEING PART OF AN ENTIRE TRACT OF PROPERTY SITUATE IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN. THE BOUNDARY OF SAID PARCEL OF LAND IS DESCRIBED AS FOLLOWS:

BEGINNING AT SOUTHEAST CORNER OF SAID ENTIRE TRACT, WHICH IS 1124.06 FEET SOUTH 89°56'00" WEST ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF SECTION 33 AND

837.05 FEET NORTH 00°04'00" WEST FROM THE EAST QUARTER CORNER OF SAID SECTION 33, SAID POINT ALSO BEING 145.05 FEET PERPENDICULARLY DISTANT WESTERLY FROM THE CENTERLINE OF THE I-215 ALIGNMENT OF PROJECT NO. S-1215(139), (OPPOSITE ENGINEER STATION 355+95.62, AND) RUNNING THENCE NORTH 89°59'46" WEST ALONG THE SOUTH LINE OF SAID ENTIRE TRACT 11.74 FEET, THENCE NORTH 02°05'08" WEST 148.15 FEET TO A POINT OF TANGENCY WITH A 6984.50 FOOT RADIUS CURVE TO THE LEFT, THENCE NORTHERLY 663.26 FEET ALONG THE ARC OF SAID CURVE TO A POINT OF TANGENCY WITH A 1397.00 FOOT RADIUS COMPOUND CURVE TO THE LEFT, THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 169.62 FEET TO THE BEGINNING OF THE NEW NON-ACCESS LINE TO BE ESTABLISHED BY SAID SPECIAL WARRANTY DEED AND RESERVATION OF EASEMENT AT A POINT 188.87 FEET PERPENDICULARLY DISTANT WESTERLY FROM THE CENTERLINE OF THE I-215 SOUTH ALIGNMENT OF SAID PROJECT NO. S-1215(139), (OPPOSITE ENGINEER STATION 365+76.05, THENCE CONTINUING ALONG SAID NEW NON-ACCESS LINE TO BE ESTABLISHED BY SAID SPECIAL WARRANTY DEED AND RESERVATION OF EASEMENT AND THE ARC OF SAID CURVE 268.00 FEET TO THE WEST LINE OF SAID ENTIRE TRACT, THENCE DEPARTING SAID NEW NON-ACCESS LINE NORTH 00°00'14" EAST ALONG SAID WEST LINE 59.16 FEET TO THE EASTERLY LINE OF SAID ENTIRE TRACT WHICH POINT IS ALSO THE EXISTING WESTERLY RIGHT OF WAY AND NON-ACCESS LINE TO BE ABANDONED BY SAID SPECIAL WARRANTY DEED AND RESERVATION OF EASEMENT, INTERSTATE HIGHWAY I-215, KNOWN AS PROJECT NO. I-215-9(6)297, SAID POINT BEING 260.09 FEET PERPENDICULARLY DISTANT WESTERLY FROM THE CENTERLINE OF THE I-215 SOUTH ALIGNMENT OF SAID PROJECT NO. I-215-9(6)297, (OPPOSITE ENGINEER STATION 359+02.20, AND) A POINT ON A 774.72 FOOT RADIUS CURVE TO THE RIGHT, (NOTE: RADIUS BEARS SOUTH 60°25'47" WEST), THENCE ALONG SAID WESTERLY RIGHT OF WAY AND NON-ACCESS LINE TO BE ABANDONED BY SAID SPECIAL WARRANTY DEED AND RESERVATION OF EASEMENT THE FOLLOWING FIVE (5) COURSES: (1) SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 1.62 FEET TO A POINT ON A 768.83 FOOT RADIUS CURVE TO THE RIGHT, (NOTE: RADIUS BEARS SOUTH 60°33'44" WEST), THENCE (2) SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 93.41 FEET, THENCE (3) SOUTH 17°08'55" EAST 239.87 FEET, THENCE (4) SOUTH 06°35'15" EAST 431.82 FEET, THENCE (5) SOUTH 03°35'13" EAST 553.96 FEET TO THE POINT OF BEGINNING.

ALSO LESS AND EXCEPTING:

A PART OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY IN SALT LAKE COUNTY, UTAH:

BEGINNING AT A POINT ON THE WEST LINE OF THE FRONTAGE ROAD ALONG THE WEST SIDE OF INTERSTATE HIGHWAY I-215, LOCATED 1304.94 FEET SOUTH 0°15'27" WEST ALONG THE QUARTER SECTION LINE; AND 1477.68 FEET SOUTH 89°44'33" EAST FROM THE NORTH QUARTER CORNER OF SAID SECTION 33; AND RUNNING THENCE SOUTHERLY ALONG THE ARC OF A 6984.50 FOOT RADIUS CURVE TO THE RIGHT A DISTANCE OF 316.34 FEET (CENTER BEARS SOUTH 85°14'21" WEST, CENTRAL ANGLE EQUALS 2°35'42" AND LONG CHORD BEARS SOUTH 3°27'48" EAST 316.31 FEET) ALONG SAID WEST LINE OF THE FRONTAGE ROAD;

THENCE SOUTH 87°35'01" WEST 150.54 FEET;
THENCE NORTH 5°27'53" WEST 257.62 FEET;
THENCE NORTH 0°14'42" EAST 57.27 FEET;
THENCE NORTH 89°55'13" EAST 155.81 FEET TO THE POINT OF BEGINNING.

PARCEL G:

A PARCEL OF LAND SITUATE IN THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, THE BOUNDARIES OF SAID PARCEL OF LAND ARE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS 871.85 FEET SOUTH 89°58'40" EAST ALONG THE SECTION LINE AND 1026.09 FEET SOUTH FROM THE NORTH QUARTER CORNER OF SAID SECTION 32 AND RUNNING THENCE NORTH 89°55'52" EAST 43.40 FEET, THENCE NORTH 25.62 FEET, THENCE EAST 16.86 FEET, THENCE NORTH 56.05 FEET, THENCE EAST 23.58 FEET, THENCE NORTH 6.25 FEET, THENCE EAST 49.93 FEET, THENCE SOUTH 21.34 FEET, THENCE SOUTH 45°00'00" EAST 27.88 FEET, THENCE NORTH 45°00'00" EAST 32.91 FEET, THENCE EAST 17.72 FEET, THENCE NORTH 19.52 FEET, THENCE EAST 56.33 FEET, THENCE SOUTH 21.28 FEET, THENCE EAST 19.42 FEET, THENCE NORTH 38.03 FEET, THENCE EAST 50 FEET, THENCE NORTH 4.75 FEET, THENCE EAST 53.67 FEET, THENCE SOUTH 12.50 FEET, THENCE EAST 45.25 FEET, THENCE SOUTH 12.75 FEET, THENCE SOUTH 89°38'39" EAST 52.97 FEET, THENCE SOUTH 54.92 FEET, THENCE WEST 13.76 FEET, THENCE SOUTH 10.67 FEET, THENCE EAST 25.63 FEET, THENCE SOUTH 98.83 FEET, THENCE WEST 25.63 FEET, THENCE SOUTH 7.58 FEET, THENCE EAST 18.30 FEET, THENCE SOUTH 00°01'49" EAST 55.86 FEET, THENCE WEST 47.03 FEET, THENCE SOUTH 12.05 FEET, THENCE WEST 04.33 FEET, THENCE NORTH 12.08 FEET, THENCE WEST 52 FEET, THENCE NORTH 17.39 FEET, THENCE WEST 19.42 FEET, THENCE SOUTH 19.22 FEET, THENCE WEST 49 FEET, THENCE NORTH 7.83 FEET, THENCE WEST 47.00 FEET, THENCE NORTH 15.83 FEET, THENCE WEST 4.78 FEET, THENCE SOUTH 89°48'52" WEST 19.98 FEET, THENCE SOUTH 00°11'08" EAST 18.45 FEET, THENCE WEST 29.33 FEET, THENCE NORTH 00°15'05" EAST 60.71 FEET, THENCE NORTH 89°57'42" WEST 77.74 FEET, THENCE NORTH 26.22 FEET, THENCE WEST 31.67 FEET, THENCE NORTH 00°22'40" EAST 66.04 FEET TO THE POINT OF BEGINNING.

AND ALSO EXCEPT:

LOT 7 OF VALLEY FAIR LOTS 7 & 8 SUBDIVISION PLAT, ACCORDING TO THE OFFICIAL PLAT THEREOF AS RECORDED JANUARY 06, 2022 AS ENTRY NO. 13864065 IN BOOK 2022P OF PLATS AT PAGE 013, IN THE OFFICE OF THE UTAH COUNTY RECORDER'S OFFICE.

EXHIBIT "B"

to Supplemental Declaration of Covenants and Restrictions
Legal Description of the Winger's/Jimmy John's Parcel

LOT 7 OF VALLEY FAIR LOTS 7 & 8 SUBDIVISION PLAT, ACCORDING TO THE OFFICIAL PLAT
THEREOF AS RECORDED JANUARY 06, 2022 AS ENTRY NO. 13864065 IN BOOK 2022P OF PLATS AT
PAGE 013, IN THE OFFICE OF THE UTAH COUNTY RECORDER'S OFFICE.

EXHIBIT "C"
to Supplemental Declaration of Covenants and Restrictions

Exclusive Rights

TENANT	<u>EXCLUSIVE</u>
All Star Bowling	<p>Article 16D. So long as the originally named Tenant or an assignee or sublessee pursuant to a Permitted Transfer is continuously and without interruption conducting business operations within the entire Premises for the Permitted Use of the Premises and provided that there has not occurred an Event of Default, except for any lease, license or concession agreement executed prior to the Date of this Lease, and any amendment, modification, extension, expansion, renewal or replacement thereof, Landlord shall not, during the initial Lease Term, lease or rent any other premises within the portions of the Shopping Center presently owned by Landlord to a tenant or occupant who will use such premises primarily for (a) a business operating an amusement or family fun center by providing entertainment such as bowling, bumper cars, laser tag, escape rooms, and/or arcades; provided, however, (i) Landlord may lease space in the Shopping Center to a business that will utilize arcade games so long as such games do not occupy more than one thousand (1,000) square feet of Floor Area, and (ii) except as to so called "escape rooms" and laser tag, the foregoing restriction shall not apply- to restaurants or any business occupying less than ten thousand (10,000) square feet of Floor Area; and (b) a business that would require a club liquor license under Utah Administrative Code Rule <u>81-5-1(1)</u>.</p>
Bank of America	<p>Article 16D. Except for the premises occupied by a "Major Tenant" (as defined in <u>Article 19D</u>) and any lease, license or concession agreement executed prior to the Date of this Lease, and any amendment, modification, extension, expansion, renewal or replacement thereof (provided that Landlord shall withhold its consent to a change in use contemplated under the foregoing as provided below), Landlord shall not, during the Lease Term (as may be extended pursuant to the terms of <u>Exhibit "K"</u>), lease or rent any other premises within the portion of the Shopping Center designated on the Site Plan as the "Exclusive Zone" to a tenant or occupant who will use such premises for the operation of a Financial Center. Landlord shall not consent to a change in use by an existing tenant or other occupant-of the Shopping Center Other than the "Major Tenants") to a use which shall violate the exclusive use rights granted to tenant in this <u>Article 16D</u>, provided that Landlord has the right, pursuant to the applicable lease; occupancy agreement or other document describing such tenant's or occupant's permitted use, to (a) consent to a change in use, and (b) condition its consent to such a change in use on the proposed use not violating Tenant's exclusive</p>

	<p>rights, and (c) withhold consent based on such criteria not being considered unreasonable under the terms of the applicable lease or occupancy agreement or the failure to consent based on such criteria not being a breach of the lease by Landlord.</p>
<p>Bed Bath & Beyond</p>	<p>Section 13.2.1. Subject to the rights of tenants under the Existing Leases, Landlord shall not lease, rent or occupy or permit any other premises in the Shopping Center or on any "Related Land" (hereinafter defined) to be occupied, whether by a tenant, sublessee, assignee, licensee or other occupant or itself, for the storage, sale, rental or distribution, at retail or at wholesale, either singly or in any combination, of items contained in any of the following respective categories of merchandise: (a) linens and domestics; (b) bathroom items (excluding plumbing hardware); (c) housewares (excluding furniture, and major appliances or 'white goods"); (d) frames and wall art (provided that a fine art gallery shall not be precluded); (e) window treatments; and/or (f) closet, shelving and storage items (which items, either singly or in any combination, are hereinafter referred to as the "Exclusive Items").</p> <p>As used in this Lease, the term "Related Land" shall mean any land contiguous or adjacent to the Shopping Center (including, without limitation, any land that would be contiguous or adjacent to the Shopping Center but for any intervening road, street, alley or highway) owned or controlled by Landlord or its Affiliate(s). Notwithstanding the foregoing, any tenant or subtenant in the Shopping Center or the Related Land shall have the right to utilize its respective premises for the sale, rental and/or distribution of Exclusive Items within an aggregate area (which shall include an allocable portion of the aisle space adjacent to such storage, sales, rental and/or distribution area) not to exceed the lesser of (x) five percent. (5%) of the Floor Area of such tenant's or subtenant's premises, or (y) two thousand (2,000) square feet of Floor Area within such tenant's or subtenant's premises. [For example, only, a tenant occupying premises containing a total of five thousand (5,000) square feet of Floor Area could sell Exclusive Items (either singly or in any combination) so long as the aggregate area within its entire demised premises in which any and all Exclusive Items are sold or stored shall not exceed two hundred fifty (250) square feet.]</p>
<p>Café Zupas</p>	<p>Section 7.03. Landlord covenants and agrees that, so long as no Event of Default by Tenant has occurred and is continuing beyond any applicable cure periods under this Lease, from and after the Rent Commencement Date Landlord will not lease space in the Shopping Center to Paradise Bakery, Corner Bakery, Panera Bakery, Atlanta Bread Company, Apple Spice Junction, Jason's Deli, Kneaders Bakery, or Sweet Tomatoes (the "Restricted Operators"), or to any operator with business operations in the Shopping Center substantially similar (primarily serving soups, salads and sandwiches) to that of any Restricted Operator, unless otherwise authorized by Tenant in writing ("Tenant's Exclusive"). Except as to the</p>

	<p>Restricted Operators, Tenant's Exclusive shall not apply to any business in the Shopping Center primarily in the business of selling bagels or bagel sandwiches. wraps, gyros, hamburgers, or ethnic food, defined herein as foods derived primarily from cultures other than North American (excluding Mexico) and western European, including, but not limited to, Mexican, South and Central American, Asian, African, Middle Eastern and Eastern European. Likewise, except as to the Restricted Operators, Tenant's Exclusive shall not apply to any of the following, regardless of menu items: (i) Jimmy John's Gourmet Sandwiches, Subway Sandwiches. Quizno's or Firehouse Subs, or any business operation which is substantially similar to any of the operations identified in this clause (i); (ii) any business that occupies less than 2,000 square feet of Gross Leasable Area; (iii) any business that exclusively provides only full table service, and does not offer counter service in the Shopping Center or in any other of such business operator's locations; (iv) any Shopping Center premises or occupant occupying 10,000 square feet or more of Gross Leasable Area; (v) any occupant of the Mall; (vi) any existing Shopping Center occupant whose lease, as of the date of the Effective Date (a) does not prohibit their premises from being used in violation of Tenant's Exclusive Use, (b) does not require Landlord's consent for a change in use, or (c) requires Landlord's consent for a change in use, but Landlord is not entitled to withhold such consent in the circumstances; or (vii) the successor or assign of any of the tenants or occupants of the Shopping Center allowed pursuant to (ii), (iii), (iv), (v) or (vi) above.</p>
Costco	<p>Section 1.7. Neither Lessor, nor any subsidiary, affiliate. parent or other entity which controls, is controlled by, or is under common control with Lessor (collectively "Lessor's Entities") shall allow any portion of any property owned (now or in the future) by any of Lessor's Entities within the Valley Fair Mall in West Valley City, Utah (collectively, "Lessor's Property") to be used or operated as a "Wal-Mart" store, or "Wai-Mart Supercenter", or any other store operated under the "Wal-Mart" brand, including (without limitation) "Sam's Club", or as any other membership warehouse club. Lessee shall have the right to record a document containing this restrictive covenant against Lessor's Property (whether currently owned or acquired after the date of this Lease by Lessor or any other of Lessor's Entities) and Lessor (or other Lessor's Entities, as applicable) shall cooperate with Lessee in recording such document.</p>
CupBop	<p>Section 7.07. (A) Landlord shall not hereafter lease any store space within the Shopping Center during the Term to a tenant who operates a fast-casual restaurant whose primary business is the sale of Korean food ("<u>Exclusive Use</u>"). As used herein, "primary business" means the sale of Korean food items exceeds fifty-one percent (51 %) of all gross sales from the sale of all goods and/or services from such premises in any calendar year, and more than fifty-one percent (51%) of a tenant's menu items consist of Korean food items. (B) Tenant expressly understands that the immediately preceding paragraph does not apply to (i) presently</p>

	<p>existing leases, or to successors or assigns of tenants under such existing leases or to any lease renewals, expansions, extensions, relocations or replacements of such tenants, or (ii) new leases with Major Stores.</p>
<p>Edible Arrangements</p>	<p>Section 7.06 (A) Landlord shall not hereafter lease any store space within the Shopping Center during the Term to a tenant whose primary business is the sale of the sale of fruit-based decorative products, floral shaped and sculptured fruit arrangements, and fruit dipped in assorted flavors ("<u>Exclusive Use</u>"). As used herein, "primary business" means the sale of such items from more than twenty-five percent (25%) of all gross sales from the sale of all goods and/or services from such premises in any calendar year. (B) Tenant expressly understands that the immediately preceding paragraph does not apply to (i) presently existing leases, or to successors or assigns of tenants under such existing leases or to any lease renewals, expansions, extensions, relocations or replacements of such tenants, or (ii) new leases with tenants occupying 5,000 square feet or more.</p>
<p>Famous Footwear</p>	<p>Section 2.02(E). Landlord and Tenant agree that it is to the mutual benefit of both parties and the Shopping Center as a whole to establish and maintain a mixture of retail stores with a balanced and diversified selection of merchandise, goods and services within the Shopping Center. Subject to the exclusions to this provision set forth in (i) -(iv) below, Landlord covenants, warrants, and agrees that it has not (except for leases set forth in Exhibit G), and that it shall not, throughout the term hereof, enter into any lease in this Shopping Center which permits the tenant to devote more than fifteen percent (15%) of its gross leasable area to the open-stock sale of branded shoes or other branded footwear, nor permit any tenant or occupant doing the same, except that Landlord (and other tenants and occupants) may lease space to (i) Payless ShoeSource, DSW and Off-Broadway, or their successors-in-interest, (ii) tenants occupying less than 3,500 square feet of Gross Leasable Area or more than 18,000 square feet of Gross Leasable Area in the Shopping Center under a single trade name, (iii) any existing Shopping Center tenant ("Existing Tenant") whose lease, as of the date of this Lease, (a) does not prohibit the subject premises from being used in violation of the above exclusive use of Tenant, (b) does not require Landlord's consent for a change in use, or (c) requires Landlord's consent for a change in use, but Landlord is not entitled to withhold such consent in the circumstances; or (iv) the successor or assign of any of the tenants or occupants of the Shopping Center allowed pursuant to (i) through (iii) above. Notwithstanding the foregoing, if Landlord has the right under the circumstances pursuant to an Existing Tenant's lease to withhold its consent to a change in use or an assignment or sublease and the proposed change in use or an assignment or sublease and the proposed change in use or the use of the proposed assignee or sublessee of such Existing Tenant would violate Tenant's exclusive use, then Landlord shall not grant its consent to the proposed assignment or sublease. A list of</p>

	<p>the Existing Tenants is attached as Exhibit G. Landlord makes no warranty or representation regarding the content of Existing Tenants' leases.</p>
<p>Fanzz</p>	<p>Renewal and Amendment of Lease No. 3, Paragraph 10. Landlord shall not lease to any tenant whose primary use is the retail sale of licensed athletic apparel, excluding headwear, provided Tenant (i) shall not be in default under the Lease beyond any applicable cure period; (ii) continuously operates its business; and (iii) operates its business as set forth under the Lease. In the event Tenant fails to operate its business as set forth under the Lease, Landlord shall give Tenant seven (7) days written notice to cure. Tenant's Use shall not apply to any leases entered into on or before the Execution Date or to any existing tenants, their successors or assigns on or before the Execution Date nor to any tenant occupying space equal to or in excess of twelve thousand (12,000) square feet.</p> <p>Expansion Amendment, Paragraph 6. Notwithstanding anything contained in the Lease, Paragraph 10 of the Third Modification is hereby amended by adding the words and symbols "excluding headwear" after the phrase "licensed athletic apparel."</p>
<p>Five Below</p>	<p><u>Exclusive Use.</u> Notwithstanding anything to the contrary set forth in the Lease, after the Effective Date of Lease, Landlord shall not execute any lease for premises located within the Shopping Center to any other "<u>Competitive Store</u>", as defined below ("<u>Exclusive Use</u>"), subject to the following terms and the satisfaction of each and all of the following conditions:</p> <p>Five Below, Inc., a Pennsylvania corporation, is the Tenant under the Lease and has not made a Transfer of the Lease or Tenant's interest in the Premises which requires Landlord's prior written consent in accordance with the terms of <u>Article 12</u>.</p> <p>The Exclusive Use is not applicable to (i) any premises containing fifteen thousand (15,000) or more square feet of Floor Area, (ii) any tenants or occupants under any Shopping Center leases (including extensions thereof) entered into on or before the Effective Date of this Lease (provided that no such lease will be modified or amended after the Effective Date to create an exclusive use which is in conflict with Tenant's Exclusive Use, even if such occupants complete construction and/or open for business after the Effective Date of Lease ("<u>Existing Tenants</u>"), (iii) any retail concept similar to Charming Charlie's, Claire's or Justice, (v) a retailer of one (1) principal category of merchandise such as an electronics store, book store, toy store, clothing store, drug store, video store, convenience store, or any other operation that devotes at least seventy-five percent (75%) of its sales floor area to the sale of one (1) principal category of merchandise, (vi) a store which principally</p>

	<p>(seventy-five percent (75%) or more) sells soft apparel, such as H&M and F21/F21 Red or(vii) any portion of the Shopping Center not owned by Landlord or an affiliate of Landlord.</p> <p>The Exclusive Use restrictions shall automatically terminate if Tenant fails to continuously operate its business in the entire Premises in accordance with this Lease, excepting closures for reasonable periods of time for remodeling as permitted under this Lease (not to exceed sixty (60) days in any twelve (12) month period), closures due to rebuilding and repair after casualty and closures due to Force Majeure as provided in <u>Section 34.5.</u> below.</p> <p>The Exclusive Use restrictions shall automatically terminate without notice to Tenant and be of no further force or effect effective as of the date which is the earliest of: (i) a Transfer of the Lease which requires Landlord’s prior written consent; (ii) a change in the Permitted Use set forth in the Lease Summary (but only to the extent that the Exclusive Use is affected by such change in the Permitted Use); (iii) the effective date of any default by Tenant under the Lease (beyond any applicable notice and cure periods); or (iv) the expiration or earlier termination of the Lease. The Exclusive Use restrictions shall cease to apply to any products that Tenant discontinues selling for a period of six (6) months or more.</p> <p>The term “<u>Competitive Store</u>” shall mean the business operation of a tenant whose primary business is the sale of teen and pre-teen variety and general merchandise (excluding clothes, accessories, fashion items and footwear) at price points that are primarily Ten and 00/100 Dollars (\$10.00) and less. For the avoidance of doubt, a “<u>Dollar Tree</u>” as such retailer typically operates in the State of Utah as of the Effective Date is not a Competitive Store.</p>
FootAction USA	<p>Article 3.4.1. Subject to the conditions set forth below, provided that Tenant is open and operating and not in default of any term, condition, or covenant beyond all applicable notice and cure periods, Landlord covenants that beginning on the Effective Date it will not permit the use of any property at the Shopping Center, (including the use by any lessee, subtenant, assignee or licensee pursuant to or permitted by any lease arising after the Effective Date) for the conduct of any store, business, trade, or profession (whether separately or as part of another entity) that is engaged in, as its primary business purpose, the retail sale of athletic shoes and related accessories, and, incidental thereto, athletic apparel (“<u>Competing Use</u>”).</p>
H&R Block	<p>Section 36. (A). Landlord shall not hereafter lease any store space within the Exclusive Area set forth in Exhibit A-I attached hereto during the Term to a tenant whose primary business is providing tax preparation electronic tax return filing services (“Exclusive Use”). As used</p>

	<p>herein, "primary business" means the provision of such services such that the gross sales from the sale of such services exceed fifty-one percent (51 %) of all gross sales from the sale of all goods and/or services from such premises in any calendar Year; (B) Tenant expressly understands that the immediately preceding paragraph does not apply to (i) presently existing leases, or to successors or assigns of tenants under such existing leases or to any lease renewals, expansions, extensions, relocations or replacements of such tenants, or (ii) new leases with Major Store.</p>
<p>Hobby Lobby</p>	<p>Section 7.3. Subject only to the Existing Permitted Uses, and provided Tenant is not in default of this Lease beyond any applicable Notice and cure period, Tenant shall have the exclusive right within the Landlord's Parcel to sell art supplies, craft supplies, fabrics, photo frames, frames, framed art, wall art, and wall decor (the "Tenant's Exclusive"). Notwithstanding the preceding sentence, incidental sales by other tenants of the Landlord's Parcel of items included in Tenant's Exclusive equal to or less than the lesser of (i) five hundred (500) square feet of such tenant's premises, measured from the center of the aisle, or (ii) five percent (5%) of such tenant's gross sales area, measured from the center of the aisle, shall be permitted.</p>
<p>Hong Kong Banjum</p>	<p>Article 16D. Except for the premises occupied by a "Major Tenant" (as defined in Article 19D) and any lease, license or concession agreement executed prior to the Date of this Lease, and any amendment, modification, extension, expansion, renewal or replacement thereof, Landlord shall not, during the initial Lease Term, lease or rent any other premises within the portion of the Shopping Center labeled as the "Exclusive Area" on the Site Plan to a tenant or occupant who will use such premises primarily for (i.e., more than fifty percent (50%) of the Floor Area is devoted to or more than fifty percent (50%) of Gross Sales are derived from) a fast-casual ramen or noodle themed restaurant.</p>
<p>Jamba Juice</p>	<p>Section 2.01(J). During the Primary Term, and during any Extended Terms, if exercised, as long as Tenant is not in default beyond any applicable notice and cure periods under this Lease, Landlord shall not lease or sell any parcel within the Shopping Center to another smoothie-branded store. Smoothie-branded stores include by way of example, but without limitation, Smoothie King, Red Mango, Kiva Juice, Roxbury Smoothies, and any other business whose primary menu is the sale of smoothies ("Tenant's Exclusive Use"). Such exclusive use shall not apply or be applicable to: (i) any tenant or owner occupying more than 3,000 square feet of Gross Leasable Area in the Shopping Center under a single trade name; (ii) any existing tenant of the Shopping Center ("Existing Tenant") whose lease, as of the Effective Date (a) does not prohibit the leased premises from being use in violation of Ten ant's Exclusive Use, (b) does not require Landlord's consent for a change in</p>

	<p>use, or (c) requires Landlord's consent for a change in use, but Landlord is not entitled to withhold such consent in the circumstances; (iii) the successor or assign of any of the tenants or occupants of the Shopping Center allowed pursuant to subsection (i) and (ii) above, (iv) any tenant or occupant of the Mall, or (v) any tenant or occupant of any area within the Shopping Center east of the Mall.</p>
<p>JC Penney</p>	<p>Landlord's Additional Covenants. Landlord covenants with Tenant that... (g) Tenant shall have the right of approval, in writing throughout the term of this Lease, of the occupancy of any tenant or sub-tenant, in said Shopping Center, in excess of 20,000 square feet, with the exception of Z.C.M.I. Department Store.</p> <p><i>Lease Summary, Exclusives:</i> Landlord shall not lease another department store other than ZCMI. Tenant has right to approve all tenants requiring 20,000 square feet.</p> <p>Paragraph 7, <i>Lease Summary</i>,. Landlord shall not lease to a discount store.</p>
<p>Jimmy John's</p>	<p>Section 7.03 Exclusive. Landlord covenants and agrees that, so long as no Event of Default by Tenant has occurred and is continuing beyond any applicable cure periods under this Lease, from and after the Rent Commencement Date, Landlord will not lease space in the Shopping Center to Subway Sandwiches, Quizno's, or Firehouse Subs (the "<u>Restricted Operators</u>"), or to any operator with business operations in the Shopping Center substantially similar to that of any Restricted Operator, unless otherwise authorized by Tenant in writing ("<u>Tenant's Exclusive</u>"). Except as to the Restricted Operators, Tenant's Exclusive shall not apply to any business in the Shopping Center primarily in the business of selling bagels or bagel sandwiches, wraps, gyros, hamburgers, or ethnic food, defined herein as foods derived primarily from cultures other than North American (excluding Mexico) and Western European, including, but not limited to, Mexican, South and Central American, Asian, African, Middle Eastern and Eastern European. Likewise, Tenant's Exclusive shall not apply to any of the following, regardless of menu items: (i) Café Zupas, Paradise Bakery, Corner Bakery, Panera Bakery, Atlanta Bread Company, Apple Spice Junction, Jason's Deli, Kneaders Bakery, or Sweet Tomatoes, or any business operation which is substantially similar to any of the operations identified in this clause (i); (ii) any Shopping Center premises or occupant occupying 3,200 square feet or more of Gross Leasable Area under a single trade name; (iii) any business that exclusively provides only full table service, and does not offer counter service in the Shopping Center or in any other of such business operator's locations; (iv) any occupant of the interior of the Mall and/or the food court therein; (v) any existing Shopping Center occupant whose lease, as of the date of the Effective Date (a) does not prohibit their premises from being used in violation of Tenant's</p>

	<p>Exclusive, (b) does not require Landlord's consent for a change in use, or (c) requires Landlord's consent for a change in use, but Landlord is not entitled to withhold such consent in the circumstances; or (vi) the successor or assign of any of the tenants or occupants of the Shopping Center allowed pursuant to (i), (ii), (iii), (iv) and (v) above.</p>
<p>Larry H. Miller Theatres</p>	<p>Section 2.02. (l) <u>Dollar Theatre/Tenant's Exclusive</u>. Landlord agrees to the following: when the existing lease for the dollar/discount Cinemark theater currently operating in the Shopping Center expires (December 31, 2017), Landlord will not thereafter lease that portion or any other portion of the Shopping Center for the purposes of showing either first run or discount movies to the public. Additionally, Landlord shall not approve any request by such dollar/discount Cinemark theatre tenant to expand the existing Cinemark premises.</p>
<p>Olive Garden</p>	<p>During the TERM of this LEASE, LANDLORD will not permit any property owned, leased, or controlled by LANDLORD in the CENTER other than the PREMISES to be used or conveyed for use as a restaurant featuring or specializing in the sale, at retail, of Italian food in a manner similar to TENANT's "Olive Garden" concept, as such concept exists as of the EFFECTIVE DATE. Featuring or specializing, for the purpose of this provision, means that non-pizza Italian items comprise more than 25% of the menu offerings. This restriction will not be applicable (i) to the sale of unprepared foods intended for off-premises consumption and (ii) any tenants or occupants existing in the CENTER as of the EFFECTIVE DATE (including their assignees or replacements provided there is no change of use upon transfer to said assignee or replacement) except to the extent LANDLORD has consent rights over a change of use by such tenant or occupant in which case LANDLORD agrees not to approve a change in use in violation of TENANT's Italian exclusive. This restriction shall only apply to full-service, sit-down operations, and shall not be applicable to (i) counter-service only operations in any "food court" located in the CENTER, (ii) any tenant or occupant who leases a single building or contiguous portion thereof in excess of 20,000 square feet except to the extent LANDLORD has consent rights over such change in use in which case LANDLORD agrees to withhold its consent.</p>
<p>PETCO</p>	<p>Section 10 (a). <u>Non-Competition</u>. Landlord covenants and agrees that during the term of this Lease and so long as Tenant has not ceased to operate for business for all aspects of the Pet Related Uses in the Premises for a period in excess of ninety (90) consecutive days for any reason other than alterations, casualty, condemnation or any other reason beyond Tenant's reasonable control, Tenant shall have the exclusive right to engage in the Pet Related Uses in the Shopping Center, or any property within one (1) mile of the Shopping Center owned, managed and/or controlled by Landlord or any affiliate of Landlord except for incidental sales; provided, however, (i) in no event shall an</p>

	<p>existing tenant in the Shopping Center be restricted by the foregoing so long as such existing lease for such existing tenant will permit (or not prohibit) such tenant to engage in such use which is otherwise restricted by this Paragraph 10(a) and (ii) in no event shall this Paragraph 10(a) limit or restrict the rights of any occupant of the Shopping Center leasing at least eighty thousand (80,000) square feet of contiguous leasable floor area therein. Incidental sales shall mean the sale or display for sale of such items or services not as the primary use of the competing tenant and taking up no more than five hundred (500) square feet of floor area.</p>
Spring Mobile	<p>Section 7.03. Landlord covenants and agrees that, so long as Tenant is not in default beyond any applicable cure periods under this Lease, from and after the Effective Date Landlord will not lease more than one (1) space in that portion of the Shopping Center shown on the Site Plan as the "Tenant Exclusive Area" for the primary purpose of selling wireless telephones and related accessories (the "Exclusive Use"). Notwithstanding anything to the contrary contained herein, in no event shall the foregoing covenant apply to: (i) any premises or operator in the Shopping Center occupying ten thousand (10,000) square feet or more of Gross Leasable Area; (ii) any lease or occupancy agreement existing as of the date of this Lease, provided, however, that Landlord shall not grant approval or consent to any change in use, assignment, subleasing, or similar matter under such lease or occupancy agreement which would permit a violation of the Exclusive Use, to the extent Landlord has the right to withhold such approval or consent; or (iii) leasing space for the operation of a "Radio Shack" store.</p>
Sushi Monster	<p>Section 7.03 Landlord covenants and agrees that, so long as Tenant is not in default beyond any applicable cure periods under this Lease, from and after the Effective Date Landlord will not lease any space in the Shopping Center for the purpose of a restaurant primarily serving sushi or other Japanese food. Notwithstanding anything to the contrary contained herein, in no event shall the foregoing covenant apply to: (i) any operation located in the "food court" area of the Shopping Center; (ii) any premises or operator in the Shopping Center occupying ten thousand (10,000) square feet or more of Gross Leasable Area; (iii) the incidental sale of Japanese dishes or ingredients as a part of the operation of a restaurant not primarily serving sushi or other Japanese food; or (iv) any lease or occupancy agreement existing as of the date of this Lease.</p>
Tricked Out Accessories	<p>Section 25.22. A. Landlord shall not hereafter lease or rent space or grant a license to any other occupant of the Shopping Center, including any cart, kiosk, or inline store, within the Mall during the Term to a tenant or licensee whose primary business is (i) the sale of protective covers for personal electronic equipment including covers, cases, shields, or protective film or (ii) the repair service of wireless handheld electronic devices including phones, data devices, and tablet computers ("<u>Exclusive</u></p>

	<p><u>Uses</u>). As used herein, "primary business" means the sale of such items or services from more than fifty-one percent (51%) of the square footage of such tenant's premises; B. Tenant expressly understands that the immediately preceding paragraph does not apply to (i) presently existing leases, or to successors or assigns of tenants under such existing leases or to any lease renewals, expansions, extensions, relocations or replacements of such tenants, or (ii) new leases with Major Stores.</p>
<p>ULTA Salon</p>	<p>Section 5.4. Tenant's Exclusive Rights. So long as Tenant is open and operating for all or any portion of Tenant's Protected Uses in the Premises (except for any Permitted Closure), Tenant shall have the exclusive right ("<u>Tenant's Exclusive</u>") to conduct any portion of Tenant's Protected Uses in the Shopping Center, and all other tenants or other occupants of any portion of the Shopping Center shall be prohibited from engaging in any portion of Tenant's Protected Uses for so long as Tenant is operating any portion of Tenant's Protected Uses in the Premises (excepting Permitted Closures). Notwithstanding the foregoing, Tenant's Exclusive shall not apply to uses associated with (a) existing tenants in the Shopping Center (including during the period of any exercised lease renewals of existing tenants) who are as of the Effective Date entitled to sell such products and/or provide the services that are covered by Tenant's exclusive rights pursuant to their respective leases and, except to the extent Landlord has any control thereover, their respective assignees, subtenants and licensees, (b) any national retail tenant in excess of twenty-five thousand (25,000) square feet that sells the goods and/or provides the services that are covered by Tenant's exclusive rights as a part of its normal business operations, but not as its primary use, (c) incidental sales (less than 500 square feet total of such tenant's premises is used to sell any of the products that comprise Tenant's Protected Uses), (d) so-called "single-brand" stores (meaning a store that sells all or substantially all products therein of a common single brand such as, by way of example only and not limitation, Bath & Body Works, MAC Cosmetics, and Origins), or (e) the operation of a hair salon (one or more) or a hair salon products store, such as, by way of example only and not limitation, Cosmoprof, a therapeutic massage operator (one or more), or a nail salon (one or more), or a barber shop, a skin care operation (such as providing facials), and/or a hair removal operation (electrolysis, laser) or anyone or more of the foregoing, outside that portion of the Shopping Center identified on the Site Plan as the Interior Restricted Area (the "Interior Restricted Area").</p> <p>Recital I., Item 30. "Tenant's Protected Uses" shall mean (i) the retail sale of cosmetics, fragrances, health and beauty products, hair care products and accessories; personal care appliances; skin care products, and body care products; and (ii) the operation of a full service beauty salon. The term "full service beauty salon" for purposes of this Section shall be defined as the offering of any of or a combination of the following services: hair care (including, without limitation, cutting,</p>

	styling, hair treatments, highlighting, tinting, coloring, texturizing, smoothing and hair extensions); facials; esthetician services; skin care services (skin treatments for face and body); beauty treatments/services; hair removal (including, without limitation, waxing, threading and tweezing for face and body); eye lash extension services; nail services; and therapeutic massage.
Waffle Luv	Article 16D. Except for the premises occupied by a “Major Tenant” (as defined in Article 19D) and any lease, license or concession agreement executed prior to the Date of this Lease, and any amendment, modification, extension, expansion, renewal or replacement thereof, Landlord shall not, during the initial Lease Term, lease or rent any other premises within the portions of the Shopping Center depicted as the “Exclusive Zone”) on the Site Plan to a tenant or occupant who will use such premises primarily for (i.e., more than fifty percent (50%) of the Floor Area is devoted to or more than fifty percent (50%) of Gross Sales are derived from) the sale of waffles.
Wells Fargo Bank	Section 9.5 Provided that Tenant (i) has not ceased operating a Retail Bank on the Parcel for a period of three (3) consecutive months (as such term may be extended as permitted pursuant to <u>Section 23.12</u> due to casualty), and (ii) is not in default under this Lease beyond any applicable cure period allowed herein, Landlord shall not permit any portion of the Landlord's Parcel located within two hundred (200) feet of the Premises to be used as a full service Retail Bank or credit union.
West Valley Wingers	Section 19.1, as amended by Paragraph 19.1 of 1st Amendment to Lease. During the Term and so long as no Tenant default has occurred and is continuing, the Owner/Developer will not use or lease, or permit, suffer, or allow any tenant to use or lease any property located within the Shopping Center to (i) an Iggy’s Sports Grill or (ii) to a restaurant which primarily sells "wings" such as a Buffalo Wild Wings, Wing Stop or similar restaurant (“Tenant's Exclusive Use”). Tenant's Exclusive Use shall not be applicable to (i) any tenant occupying more than 18,000 square feet of gross leasable area in the Shopping Center under a single trade name, (ii) any existing Shopping Center tenant ("Existing Tenant") whose lease, as of the date of this Lease, (a) does not prohibit the subject premises from being used in violation of Tenant's Exclusive Use, (b) does not require Landlord's consent for a change in use, or (c) requires Landlord's consent for a change in use, but Landlord is not entitled to withhold such consent in the circumstances; (iii) the successor or assign of any of the tenants or occupants of the Shopping Center allowed pursuant to (i) and (ii) above, (iv) any tenant or occupant of the Mall, or (v) any tenant or occupant of any area within the Shopping Center east of the Mall

EXHIBIT "C-1"
to Supplemental Declaration of Covenants and Restrictions

Prohibited Uses

TENANT	<u>PROHIBITED USE</u>
All Star Bowling	None.
Bank of America	None.
Bath & Body Works	Section 14.4. <u>Operation of Shopping Center.</u> Landlord shall at all times during the Term operate the Shopping Center in a first-class manner, and shall not permit any tenant or occupant in the Shopping Center to create or continue any nuisance, disturbance or other condition in the Shopping Center which may adversely affect Tenant or its enjoyment of the Demised Premises or the common areas.
Bed Bath & Beyond	<p>Section 13.2.1. Landlord shall construct, lease, operate, maintain and manage the Shopping Center as a first-class shopping center comparable to other first-class shopping centers in the state in which the Shopping Center is located. Subject to the rights of tenants under the Existing Leases, Landlord shall not lease, rent or occupy or permit to be occupied any portion of the Shopping Center for any of the "Prohibited Uses" (as set forth in Exhibit M hereto annexed) provided that Tenant agrees that the parcel of land described as Parcel 13 on Exhibit A and designated as "Dirt Lot-Mall Property" on Exhibit B shall only be subject to certain Prohibited Uses as indicated on Exhibit M.</p> <p>Exhibit M.</p> <p>As used in this Lease, the term "Prohibited Uses" shall mean any of the following uses, all of which are subject to the rights of tenants under the Existing Leases:</p> <p>(1) Any use which emits or results in strong, unusual or offensive odors, fumes, dust or vapors, is a public or private nuisance, emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness, creates a hazardous condition, or is used, in whole or in part, as or for warehousing or the dumping or disposing of garbage or refuse.</p> <p>(2) Any operation primarily used as a storage facility and any assembling, manufacturing, distilling, refining, smelting, agricultural, or mining operation;</p> <p>(3) Any "second hand" store, "surplus" store provided that, except as otherwise prohibited by Item (38) below, the foregoing shall not prohibit one (1) store commonly operated in first class shopping</p>

	<p>centers in the State of Utah of the type currently operated under the trade names Plato's Closet or Scholar Shop);</p> <p>(4) Any mobile home park, trailer court, labor camp, junkyard, or stockyard (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction, or maintenance);</p> <p>(5) Any dumping, disposing, incineration, or reduction of garbage (exclusive of existing trash compactors or trash containers [and their replacements] servicing tenants of the Shopping Center);</p> <p>(6) Any fire sale, bankruptcy sale (unless pursuant to a court order), auction house operation, fictitious going-out-of-business sale, lost-our-lease sale or similarly advertised event;</p> <p>(7) Any central laundry, dry cleaning plant, or laundromat (except that a dry cleaner that performs all dry cleaning outside the Shopping Center shall be permitted, so long as its on-site premises are located more than 150 feet away from the Premises);</p> <p>(8) Any automobile, truck, trailer, boat, or recreational vehicle sales, leasing, display or body shop repair operation except in the area designated as the "Promotional Area" on Exhibit B;</p> <p>(9) Any bowling alley or skating rink, except that a bowling facility of the type operated in first class shopping centers (such as that currently operated under the Big Al's or Fat Cats trade names) shall be permitted on the East side of the Shopping Center (as indicated on the sketch attached hereto as page M-5) provided such facility is not located within 500 feet of any portion of the Premises;</p> <p>(10) Any live performance theater, auditorium, meeting hall, sporting event, or other entertainment use except in connection with the typical operations of the movie theaters described in Item (34) below;</p> <p>(11) Any living quarters, sleeping apartments, or lodging rooms;</p> <p>(12) Any veterinary hospital or animal raising or boarding facilities (except to the extent permitted in Item (31) below);</p> <p>(13) Any mortuary or funeral home;</p> <p>(14) Any "Pornographic Use", which shall include, without limitation: (x) a store displaying for sale or exhibition books, magazines or other publications containing any combination of photographs, drawings or sketches of a sexual nature, which are not primarily scientific or educational [provided, however, that the sale of books, magazines and</p>
--	--

other publications by a national bookstore of the type normally located in first-class shopping centers in the State in which the Shopping Center is located (such as, for example, Borders and Barnes & Noble, as said stores currently operate) shall not be deemed a "pornographic use" hereunder]; or (y) a store offering for exhibition, sale or rental video cassettes or other medium capable of projecting, transmitting or reproducing, independently or in conjunction with another device, machine or equipment, an image or series of images, the content of which has been rated or advertised generally as NC-17 or "X" or unrated by the Motion Picture Rating Association, or any successor thereto [provided, however, that the sale or rental of such videos by a national video store of the type normally located in first-class shopping centers in the State in which the Shopping Center is located (such as, for example, Blockbuster or West Coast Video, as said stores currently operate) shall not be deemed a "pornographic use" hereunder]; or massage parlor [except for therapeutic massages given in connection with the operation of a day spa or health club which may otherwise be permitted under this Exhibit M];

(15) Any so-called "head shop", or other establishment primarily selling or exhibiting drug-related paraphernalia;

(16) Any bar, tavern, or other establishment selling alcoholic beverages for on-or off-premises consumption, except as incidental to a permitted restaurant as described in Item (35) below, and provided that not more than fifty percent (50%) of the gross sales from such permitted restaurant are from the sale of alcoholic beverages, provided, further however, that Tenant shall be permitted to sell, on an incidental basis, alcoholic beverages for off-premises consumption, subject to applicable Legal Requirements;

(17) Any catering or banquet hall except as incidental to a movie theater permitted pursuant to Item (34) below;

(18) Subject to any operations existing as of the Effective Date, any flea market, amusement or video arcade, pool or billiard hall, night club, discotheque, or dance hall provided that the foregoing shall not prohibit amusement or video machines which are incidental to another permitted use or the playing of music in restaurants permitted pursuant to Item (34);

(19) Any training or education facility, including but not limited to: beauty schools, barber colleges, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers; provided, however, this prohibition shall not be applicable to (i) on-site employee training by an Occupant incidental to the conduct of its business at the Shopping Center or (ii) a tutoring facility of the type operated in first class shopping centers (such as that

	<p>currently operated under the Kumon trade name) provided such facility is not located within 300 feet of any portion of the Premises;</p> <p>(20) Any gambling facility or operation, including but not limited to: off-track or sports betting parlor; table games such as black-jack or poker; slot machines; video poker/black-jack/keno machines or similar devices; or bingo hall. Notwithstanding the foregoing, this prohibition shall not apply to governmental sponsored gambling activities, or charitable gambling activities, so long as such governmental and/or charitable activities are incidental to the business operation being conducted by the Occupant;</p> <p>(21) Any unlawful use;</p> <p>(22) Any pawn shop, check-cashing store, gun shop, or tattoo parlor;</p> <p>(23) Any church or other place of religious worship;</p> <p>(24) Subject to any operations existing as of the Effective Date (including without limitation the gas fueling station operated by Costco), any car wash, automobile repair shop, or any business servicing motor vehicles in any respect, including, without limitation, any quick lube oil change service, tire center or gasoline or service station or facility except on any outparcels in the Shopping Center;</p> <p>(25) Any carnival, amusement park or circus except in the Promotional Area shown on Exhibit B;</p> <p>(26) Any medical clinics except that one (1) urgent care facility shall be permitted as long as it is not located within 200 feet of any portion of the Premises; and the foregoing restriction shall not be deemed to prohibit a medical office otherwise permitted under Item (28) below which offers incidental clinical services;</p> <p>(27) Any supermarket within 500 feet of any portion of the Premises (except that an upscale, boutique-type food store shall be permitted to be located within the Premises);</p> <p>(28) Any office use, other than: (x) office space used in connection with and ancillary to a permitted retail use hereunder; and (y) retail offices providing services commonly found in similar first-class shopping centers in the Salt Lake City metropolitan area (for example, medical, financial services, real estate brokerage, insurance agency, banking, travel agency), provided that such uses are located at least 200 feet away from any portion of the Premises and otherwise on the East side of the Shopping Center (as indicated on the sketch attached hereto as page M-5), and not more than 12,000 square feet of Floor Area in the Shopping Center, in the aggregate, shall be devoted to such uses;</p>
--	--

	<p>(29) hotel/motel;</p> <p>(30) daycare center;</p> <p>(31) veterinary office, except as may be incidental to a permitted full-line pet and pet supply store such as a Petco located at least 100 feet away from the Premises (except that a full-line pet and pet supply store shall be permitted to be located within the Premises); such occupant shall use reasonable efforts to prevent its customers from allowing their pets to urinate or defecate in the Common Areas and will promptly remove any "dog dirt" from in front of the Premises; no pet or pet supply store shall be located within 100 feet of the Premises;</p> <p>(32) children's entertainment or activity facility (such as "Discovery Zone", or "Chuck E. Cheese's") within 200 feet of any portion of the Premises;</p> <p>(33) karate center within 200 feet of any portion of the Premises;</p> <p>(34) movie theater other than the two (2) existing movie theaters in their current locations or replacements thereof in such locations;</p> <p>(35) restaurant serving meals for on- or off-premises consumption within 200 feet of any portion of the Premises provided that existing restaurants within such 200 foot radius shall be permitted to be replaced from time to time in the same (or substantially the same) locations;</p> <p>(36) beauty parlor or nail salon within 200 feet of any portion of the Premises;</p> <p>(37) health spa, exercise facility or similar type business within 500 feet of any portion of the Premises; or</p> <p>(38) a store primarily selling merchandise which is classed as "odd lot", "close out", "clearance", "discontinued", "cancellation", "second", "factory reject", "sample", "floor model", "demonstrator", "obsolescents", "over stock", "distressed", "bankruptcy", "fire sale", or "damaged", such as, for example, "Grossman's Bargain Outlet", "Contractor's Warehouse", "Big Lots", "Liquidation World", or "Odd Job"; the retailer commonly known as "Christmas Tree Shops" shall be deemed not to violate the foregoing restriction.</p> <p>Notwithstanding the foregoing, the parcel of land described as Parcel 13 on Exhibit A and 6 designated as "Dirt Lot-Mall Property" on Exhibit B shall only be subject to Items 1,2,4,5, 14, 15 and 21 above.</p>
--	--

Costco	<p>COREA, Section 5.1. Prohibited Uses. No use or operation will be made, conducted or permitted on or with respect to all or any part of the Shopping Center, which use or operation is obnoxious to, or out of harmony with, the development or operation of retail or wholesale facilities, including but not limited to, the following: (a) any public or private nuisance; (b) any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness; (c) any obnoxious odor; (d) any excessive quantity of dust, dirt, or fly ash; provided, however, this prohibition shall not preclude the sale of soils, fertilizers, or other garden materials or building materials in containers if incident to Costco's operation or to the operation of a home improvement or general merchandise store; (e) any fire, explosion or other damaging or dangerous hazard, including the storage, display or sale of explosives or fireworks, but the foregoing shall not prohibit (i) the operation of a vehicle fueling station or propane sales facility in accordance with applicable law; or (ii) the sale of fireworks on a temporary basis in connection with civic holidays conducted within the confines of a building containing at least 25,000 square feet of Floor Area operated by a national chain unless located outside of the Costco Control Area, or consented to in writing by Costco (if within the Costco Control Area); (f) any distillation (other than so-called micro brewing of beer), refining, smelting, agriculture or mining operations; (g) any mobile home or trailer court, labor camp, junk yard, stock yard or animal raising. Notwithstanding the foregoing, pet shops shall be permitted within the Project; (h) any drilling for and/or removal of subsurface substances; (i) any dumping of garbage or refuse, other than in enclosed receptacles intended for such purpose (but the same does not prohibit government-required consumer recycling facilities); (j) any cemetery, mortuary or similar service establishment; (k) any automobile, truck, trailer, or recreational vehicle sales, leasing or display that is not entirely conducted inside of a Building, except as provided in Section 5.2(c)(v) or (vii); (l) any fire sale, bankruptcy sale (unless pursuant to a court order) or auction operation; (m) any bar, tavern, restaurant or other establishment that has more than thirty percent (30%) of its gross sales derived from the sale of wine, beer or other alcoholic beverages; (n) any apartment, home or other residential use unless located outside of the Costco Control Area, or consented to in writing by Costco (if within the Costco Control Area); (o) any body and fender repair work; (p) any church, synagogue, mosque or other place of worship; (q) any hotel, motel or other lodging facility, unless located outside of the Costco Control Area, or consented to in writing by Costco (if within the Costco Control Area); (r) any business offices (except as an incidental use to a permitted retail or commercial business or as allowed by Section 5.1(s)) unless located outside of the Costco Control Area, or consented to in writing by Costco (if within the Costco Control Area). Notwithstanding the foregoing, retail offices (e.g., consumer banks, brokerage offices, small</p>

	<p>medical offices and the like shall not be prohibited; (s) any industrial use so long as either the Landlord parcels or the Costco Parcel is used for retail and/or wholesale sales; (t) any theater or cinema, unless located outside of the Costco Control Area, or consented to in writing by Costco (if within the Costco Control Area); (u) any entertainment, recreation or amusement use, whether directed to children or adults unless located outside of the Costco Control Area, or consented to in writing by Costco (if within the Costco Control Area); (v) any off-track betting facility, casino, card club, bingo parlor, or other similar use or any use requiring the granting of a "sexually oriented business" or other similar license in order to operate; (w) any school, training, educational or day care facility, including but not limited to: beauty schools, barber colleges, nursery schools, diet centers, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers unless located outside of the Costco Control Area, or consented to in writing by Costco (if within the Costco Control Area); provided, however, this prohibition shall not be applicable to on-site employee training by an occupant incidental to the conduct of its business at the Project; (x) any full service restaurants, unless located outside of the Costco Control Area, or consented to in writing by Costco (if within the Costco Control Area); (y) any fast food restaurants, unless located outside of the Costco Control Area, or consented to in writing by Costco (if within the Costco Control Area); (z) any car washes, motor vehicle fuel or service stations, or the displaying, repairing, renting, leasing, or sale of any motor vehicle, boat, or trailer unless located outside of the Costco Control Area, or consented to in writing by Castro (if within the Costco Control Area); except any such operation within the Shopping Center associated with the occupant of the Costco Parcel, including, without limitation, the Costco Fueling Facility; (aa) any business with drive-up or drive-through lanes, unless located outside of the Costco Control Area, or consented to in writing by Costco (if within the Costco Control Area); (bb) any second-hand or thrift stores, Or flea markets; (cc) any dry cleaning facilities utilities substances with an on-premises plant unless located outside cretin., Costco Control Area, or consented to in writing by Costco (if within the Costco Control Area).</p>
Hobby Lobby	<p>Section 7. Landlord's Parcel Use. Subject to the Prohibited Uses (defined below), Landlord's Parcel shall be used for the sole purpose of promoting and operating a mixed-use commercial development which is comprised solely of (i) retail stores selling, at retail, merchandise normally carried in other quality shopping centers; (ii) financial institutions; (iii) service shops; (iv) professional, service and commercial offices; (v) parking areas; (vi) hotels; and (vii) multifamily residential; (viii) restaurants and food service uses that do not derive more than forty percent (40%) of their annual sales from the sale of alcoholic beverages (in each instance, a "Permitted Restaurant"), provided that a sexually themed restaurant such as Hooters and Twin</p>

Peaks shall be deemed to be Prohibited Uses hereunder; (ix) entertainment uses; (x) a public library not to exceed fifteen thousand (15,000) square feet (located within the "Permitted Area" as depicted on Exhibit B); and (xi) health club and fitness uses.

Section 7.2. Prohibited Uses. Except for the uses allowed under the leases of the current tenants who are listed on Exhibit H of this Lease (the "Existing Permitted Uses"), none of the following shall be operated in the Landlord's Parcel (collectively, the "Prohibited Uses"):

(i) store selling liquor, beer, or wine other than (a) sales made as part of a Permitted Restaurant; (b) incidental sales in conjunction with a retail grocery store such as Trader Joe's or national retailer such as Cost Plus or Bed, Bath, and Beyond; (c) incidental sales in conjunction with a drug store or convenience store such as CVS or Walgreens; (d) incidental sales (i.e., not to exceed twenty five percent (25%) of Gross Sales) as part of an Entertainment Use (defined below) in an area not to exceed ten thousand (10,000) square feet; and (e) sales by a first class national retailers such as BevMo or Total Wine (an "Approved Alcohol Retailer") so long as (1) the space occupied such Approved Alcohol Retailer is not located directly next to the Leased Premises; (2) that any assignment or subletting provision in the lease agreement with an Approved Alcohol Retailer shall contain a provision that in the event the proposed assignment or subletting is in violation of this Section 7.2(i), that Landlord shall have the right to disapprove such assignment or subletting in the event that the proposed assignee or sublessee intends to operate a store selling liquor, beer or wine, and (3) Landlord shall provide Tenant with Notice of the proposed assignee or sublessee for Tenant's approval, which approval will not be unreasonably conditioned, withheld or delayed;

(ii) bowling alley, billiard parlor, arcade, or other place of amusement or recreation, but not to prohibit an entertainment themed restaurant like Chuck-E-Cheese's, Dave & Buster's or Lucky Strike, so long as such entertainment restaurant is located within the Permitted Area or the "Approved Outlots" as depicted on Exhibit B; nor shall this restriction prohibit the operation of a multi-themed entertainment venue, which use may include, but shall not be limited to, bowling alleys, billiards tables, a video game, go-karts, trampolines, indoor skydiving, a restaurant (with alcoholic beverage service) or other food service operations, and an arcade in the location labelled "All Star Bowling & Entertainment" on Exhibit B (the "Entertainment Use");

(iii) second-hand store whose principal business is selling used or donated merchandise such as Goodwill (provided, however, that this restriction shall not apply to not more than three (3) stores typically found in a first class shopping center that sells reconditioned

	<p>merchandise together with new merchandise such as Computer Renaissance, Play It Again Sports, My Sister's Closet, My Sister's Attic, Well Suited, Terry's Consignment, EB Games, GameStop or Game Crazy, nor shall it prevent a video/record store or consumer electronics store from engaging in a CD or video exchange program);</p> <p>(iv) pawn shop;</p> <p>(v) head shop, electronic cigarette shop, or store selling marijuana;</p> <p>(vi) payday loan or check cashing provider (but this shall not apply to a full service bank such as `Wells Fargo");</p> <p>(vii) child care center outside of the Approved Outlots (except as incidental to an otherwise permitted primary use);</p> <p>(viii) funeral home or mortuary;</p> <p>(ix) school, church, or other place of worship (but this does not include a martial arts studio, or a tutoring center or child care facility on the Approved Outlots, or "how to" classes by an otherwise permitted user;</p> <p>(x) flea market;</p> <p>(xi) tattoo parlor or body piercing establishment other than tenants which offer piercing incidental to another primary use such as, by way of example, Claire's;</p> <p>(xii) theater, other than within the areas currently being operated as a movie theater as of the Effective Date;</p> <p>(xiii) adult video store and adult book store provided, however, that the sale of books, magazines and other publications by a national bookstore of the type normally located in first-class shopping centers in the state in which the Leased Premises is located (such as, for example, Barnes & Noble, as said stores currently operate) shall be permitted;</p> <p>(xiv) adult entertainment club;</p> <p>(xv) night club other than as a component of the Entertainment Use in an area not to exceed ten thousand (10,000) square feet.</p> <p>(xvi) health club, however one (1) health club of more than twenty thousand (20,000) square feet shall be allowed provided that</p>
--	---

	<p>such use is located within the Permitted Area;</p> <p>(xvii) spa or massage parlor, but not to prohibit an upscale full service day spa, salon, or national, upscale therapeutic massage establishment such as Massage Envy;</p> <p>(xviii) place of betting, gambling, bingo, or other gaming, but not to prohibit the sale of state sponsored lottery tickets incidental to another tenant's primary use;</p> <p>(xix) self-service laundry facility, except in connection with the operation of a hotel or multifamily residential project;</p> <p>(xx) on-site dry cleaner; but not to prohibit a storefront solely offering drop-off and pick-up of dry cleaning with incidental services such as shoe shines, pressing and tailoring;</p> <p>(xxi) hotel, motel, or other place of residence, except in the areas depicted as "Permitted Residential" on Exhibit B;</p> <p>(xxi) car wash, auto body shop, auto rental business, or junk yard; provided that no more than one (1) staffed car wash shall be permitted within the Approved Outlots;</p> <p>(xxii) animal facility, provided that a national pet store such as Pet Smart or Petco is permitted so long as such tenant is not adjacent to the Leased Premises;</p> <p>(xxiii) manufacturing operation;</p> <p>(xxiv) a government owned or operated healthcare clinic;</p> <p>(xxv) abortion clinic, including Planned Parenthood; or</p> <p>(xxvi) anything constituting a public or private nuisance.</p>
JC Penney	<p>Lease Extension and Amendment Agreement (2007), Section 9, Recital I, Paragraph (c). The outparcel buildings shall not be used (i) for any purpose or purposes which would produce nuisances. reasonably objectionable noises, noxious or toxic odors, fire hazards, or untidiness such as litter-creating operations, provided, however, that a sit-down or drive-through type restaurant is permitted; (ii) as for assembly, manufacturing, distilling, refining, smelting, agriculture, drilling, dumping or mining operation, any trailer court, mobile home park, lot for sale of new or used motor vehicles (provided, however, that temporary promotional events involving the sale and display or motor vehicles or boats in this Shopping Center parking areas shall not be prohibited so long as such events um slot located within 300 feet or the Main Store building), labor camp, junkyard, or livestock facility</p>

	<p>(including, any veterinary hospital with or without exterior facilities); (iii) for any use that involves any unusual firing, explosives or other damaging or dangerous hazards (including the storage, display or sale of explosives or fireworks); (iv) for any dumping, disposal, incineration or- reduction of garbage or refuse other than handling or Mooing such waste if prohibited on the premises from otherwise authorized toes; (v) for any commercial laundry or dry cleaning plant (other than shops serving as drop-off and pick-up (dry cleaning establishment with minimal cleaning and/or pressing done on site), bowling, mortuary or similar service; (vi) for any establishment selling or exhibiting pornographic materials or drug-related paraphernalia (provided, however, that such prohibition shell not prohibit the min of adult materials in compliance with applicable laws and as an incidental part of a bona fide national or regional chain video store, such as Blockbuster or Hollywood Video, or bona fide national or regional chain general interest book store, such as Barnes & Noble or Borders); (vii) for a tattoo parlor or similar establishment (viii) for any gambling facility or operation, including but not limited to: oft-track or sports betting parlor table games such as black jack or poker, slot machines, video poker/blackjack/keno machines or similar devices or bingo hall (but notwithstanding the foregoing, this prohibition shall not apply to governmental operated, approved or sponsored gambling activities (i.e., lottery), or charitable gambling activities, so long as such governmental and/or charitable activities arc incidental to the business operation being conducted by the occupant); (ix) for any fire sale, bankruptcy sale within Landlord’s control (unless pursuant to a court order); (x) for any mortuary or funeral home; or (xi) for any flea market, or dance hall.</p> <p style="text-align: center;"><u>No Discount House.</u> Landlord and Tenant covenant during the term of the Lease no space shall be leased or caused to be leased or occupied in the Shopping Center for secondhand store, or any army, navy or government surplus store, or a store commonly known as a discount house. (taken from the <i>Ross Lease</i>, <u>Exhibit D.</u>)</p>
Old Navy	<p>Section 13.3. Prohibited Uses. (A)Landlord covenants that no portion of the Shopping Center and Tenant covenants that no portion of the Premises shall be used for any of the following purposes: a bowling alley (other than in connection with the operation of a multi-themed entertainment venue); a video or amusement arcade (other than as an incidental use or in connection with the operation of a multi-themed entertainment venue); the sale of alcoholic beverages within five hundred (500) feet of the Premises, except in connection with a business whose primary use is a restaurant or a multi-themal entertainment venue; a movie theatre within one thousand (1,000) feet of the Premises (except for the existing theatre shown on the Site Plan); a fitness center, gymnasium, aerobics studio or weightlifting center within two hundred and fifty (250) feet of the Premises</p>

	<p>(provided that Tenant shall be permitted to conduct yoga and fitness classes at the Premises on a non-primary basis); the sale of automotive parts including tires (other than as an incidental use) or automotive services including repair services (other than a free-standing pad); the sale, rental or display of materials that are pornographic in nature, but this shall not be deemed to apply to the display of first run motion pictures (or the re-release of motion pictures in general re-release) by a first class movie theater in the location of the existing theater shown on the Site Plan; any unusual fire, explosive or dangerous hazards (including the storage, display or sale of explosives or fireworks other than "sparklers"); a carnival or amusement park, except this shall not apply to the operation of a multi-themed entertainment venue; the sale of Christmas trees or pumpkins within the parking lot or other Common Areas; an assembling (other than assembly of merchandise purchased at retail, such as the assembly of bicycles by a bicycle retailer), manufacturing, distilling (other than in connection with the operation of a brew pub or microbrewery), refining, smelting, industrial, agricultural, drilling or mining operation (other than typical environmental and/or geotechnical testing); storage (other than as an incidental use); a commercial laundry or dry cleaning plant, except this shall not be applicable to the hotel shown on the Site Plan which may offer dry cleaning or laundry services to its patrons; a laundromat; any establishment (including a pet supply store other than a national pet supply store such as Petco or PetSmart) that allows animals (other than service animals) to be brought into such space; a veterinarian or veterinary hospital (other than as an incidental use, but this shall not be applicable to veterinary services offered by a national pet supply store such as Petco or PetSmart); a mortuary or funeral establishment; the sale of coffins or caskets; a pawn shop; a flea market; a shooting gallery, except this shall not apply to the operation of a multi-themed entertainment venue; any use that permits a pest infestation without prompt action to eliminate the infestation; any use that permits noxious odors to be smelled outside of the premises; and any use that permits vibrations to be felt outside of the premises. Landlord shall promptly take all prudent actions to ensure that such uses are prohibited, including, without limitation, listing such prohibitions in the leases and occupancy agreements with all tenants of the Shopping Center and taking all commercially reasonable efforts as necessary or prudent to enforce such prohibitions. If Landlord fails to take such actions within one (1) month after notice from Tenant, Tenant shall have the right to take such actions on behalf of, and at the cost and expense of, Landlord.</p> <p>(B) In addition, Landlord covenants that, during the Term, no portion of the Shopping Center shall be used for any of the prohibited uses contained in a lease or operating agreement for another tenant or occupant of the Shopping Center, which prohibited uses are set forth verbatim on Exhibit G. Tenant covenants that Tenant shall be bound by each prohibited use set forth on Exhibit G to the extent it applies to</p>
--	--

	<p>the Premises until the earlier to occur of (1) the date on which the lease or operating agreement containing the prohibited use expires, is terminated or modified to remove such prohibited use, or (2) the date on which another party at the Shopping Center uses or is permitted to use its premises for such prohibited use.</p>
<p>PETCO</p>	<p>Section 11. Tenant has entered into this Lease in reliance upon representations by Landlord that the Shopping Center is and will remain substantially retail in character and, further, no part of same shall be used as an auditorium, meeting hall, school or other place of public assembly, telemarketing or call center, gymnasium or dance hall; for Bingo or similar games of chance, or as a massage parlor (except that this restriction shall not apply to first-class massage-related businesses such as, for example, Massage Envy, Elements, Hand and Stone and Massage Heights), video game arcade (except that this restriction shall not apply to the interior mall), bowling alley, skating rink, car wash, car repair or car rental agency, night club (except that this restriction shall not apply to the operation of a bar or Utah "private club" in connection with the operation of a restaurant) or adult book or adult video store or, other than as specifically indicated on the Site Plan, for a restaurant within one hundred twenty-five (125) feet of the front door of the Premises, except with Tenant's permission, which Tenant may choose to give or deny in its sole and absolute discretion; provided, two (2) Quick Serve Restaurants (as hereinafter defined) shall be exempt from this restriction so long as none of same share a common wall with the Premises. As used herein, the phrase "Quick Serve Restaurant" shall mean a counter-service only restaurant with no full waiter or waitress service.</p>
<p>Ross</p>	<p>Section 3.2.1. The Shopping Center is and shall remain retail in character, and, further, no part of Shopping Center shall be used for offices in excess of five percent (5%) of the total leasable floor area of the Shopping Center (except that commercial and retail offices, including, without limitation, banks shall be permitted); or residential purposes; or as a theater (except as shown on the Site Plan), auditorium (excluding any outdoor amphitheater or similar improvement constructed as a public are or common area feature), meeting hall, school, church or other place of public assembly; "flea market" vendor (excluding sidewalk sales and other promotional events associated with the operation of the Shopping Center); gymnasium that exceeds three thousand five hundred (3,500) square feet of leasable floor area (which shall in any event be located not less than five hundred (500) feet from the Ross premises); veterinary services, pet vaccination clinic or overnight stay pet facilities (except as an incidental part of the operation of a national or regional retail pet store, such as PetsMart or Petco, in excess of seven thousand five hundred (7,500) square feet of leasable floor area, and not closer than one hundred fifty (150) feet to the Ross premises); health club; dance</p>

hall, billiard or pool hall; massage parlor; video game arcade, bowling alley or skating rink; car wash, facility for the sale, display, leasing or repair of motor vehicles; night club; the sale of adult products (except the retail sale of adult pharmacy products) or adult bookstores or adult audio/video products stores (which are defined as stores in which at least ten percent (10%) of the inventory is not available for sale or rental to children under the age of majority in the State of Utah because such inventory explicitly deals with or depicts human sexuality). No ATM or similar machine shall be permitted in the Shopping Center within ,one hundred (100) feet of the front and side perimeter walls of the Ross premises, unless same are embedded into the wall, No tenant or occupant of the Shopping Center (except for tenants on the interior of the Shopping Center) shall be permitted to use two thousand (2,000) square feet or more of leasable floor area of its premises primarily for the rental of prerecorded video merchandise and technological evolutions thereof (e.g., Blockbuster, Hollywood Video and Movie Gallery); however, this shall not prohibit tenants such as Best Buy or Circuit City from selling such items or other retailers from selling them on an incidental basis. Further, no restaurant or other "High Intensity Parking User" (as hereinafter defined) shall be permitted within three hundred (300) feet of the front wall of the Ross premises, except for the premises occupied by Red Robin as of the date hereof. Notwithstanding the foregoing sentence, there shall be no limitation on Quick Service Restaurants in the interior mall. A "High Intensity Parking User" is a tenant or occupant (excluding the Food Court) whose use requires more than five (5) parking spaces per one thousand (1,000) square feet of leasable floor area in accordance with governmental regulations. A "Quick Service Restaurant" is a restaurant with a similar format to Quiznos, Pei Wei, Panda Express or Starbucks as of the Effective Date.

Section 3.2.2. Further Prohibited Uses. Landlord agrees that the Ross Prohibited Uses set forth in Section 3.2.1 and the "Landlord's Prohibited Uses" which are listed in **Exhibit D** (collectively, the "Prohibited Uses") shall not be permitted in the Shopping Center. If Landlord sells any portion of the Shopping Center or sells any property adjacent to the Shopping Center that is not, or has not been integrated into the Shopping Center, Landlord shall attach and incorporate into every deed or other instruments of conveyance the Prohibited Uses and the provisions of Section 15.3: Any property contiguous to any portion of the Shopping Center which may be purchased, leased or otherwise controlled by Landlord, or any affiliate of Landlord, after the Effective Date which is integrated into the Shopping Center shall be subject to all of the restrictions of the Prohibited Uses and Section 15.3 hereof, except for existing uses and leases which may be in existence on such property as of the date of acquisition by Landlord. Tenant agrees that it will not violate the Prohibited Uses.

	<p>Exhibit D. Includes the Prohibited Uses listed by Costco and JC Penney.</p>
<p>ULTA Salon</p>	<p>Section 5.3. Prohibited Uses/Restricted Uses. The Prohibited Uses set forth on <u>Exhibit E</u> shall be prohibited throughout the Shopping Center. Additionally, the following "Restricted Uses" shall not be permitted within the area identified on the Site Plan as the Restricted Area ("<u>Restricted Area</u>"): drive-throughs; children's recreational, educational or day care facilities; restaurants occupying more than 2,500 square feet of Gross Floor Area; offices; professional uses; bowling alleys, gyms, health clubs, or exercise facilities; and schools of any nature. As used herein, a "school" includes, but is not limited to, a beauty school, barbers college, reading room, place of instruction or any other operation serving primarily students or trainees rather than retail customers. It is the intent of this Paragraph that the Shopping Center shall be devoted to high quality retail uses and that the parking and the other common facilities shall not be burdened by either excessive or protracted use. Notwithstanding the foregoing, such Prohibited Uses and Restricted Uses shall not apply to existing tenants in the Shopping Center (or their respective assignees, subtenants or licensees) who are not subject to such Restricted Uses pursuant to their respective leases, or any renewals or extensions thereof, provided, however, if Landlord has the right to approve or consent to a change of use thereunder in connection with an assignment, subletting or otherwise, Landlord shall enforce the foregoing restrictions in exercising such right.</p> <p>Exhibit E. The following uses (collectively referred to as "Prohibited Uses" and individually as a "Prohibited Use") are prohibited during the Term in any portion of the Shopping Center: nuisance; use causing loud noises or offensive odors (including any business using exterior loud speakers, excepting any existing business operating in the Shopping Center as of the Effective Date and having the right to use exterior loud speakers); any use that produces noise and/or vibrations that can be heard and/or felt in the Common Areas and/or the Premises; manufacturing facility; dry cleaner (except facilities for drop off and pick up of clothing cleaned at another location); automobile repair shop or service station or any facility storing or selling gasoline or diesel fuel in or from tanks (excepting the existing automobile repair shop and service station operating at the "Costco" premises identified on Exhibit A); used clothing or thrift store or liquidation outlet (excepting first class uses such as, by way of example and not limitation, Plato's Closet, selling brand name, gently used clothing); massage parlor; adult book shop or adult movie house; mortuary or funeral parlor (excepting any such operation on the parcel labeled 'Church Parcel' on Exhibit A); coin operated laundry; cocktail lounge, bar or tavern or sale of alcoholic beverages, whether or not packaged, except in conjunction with a restaurant permitted hereunder (I.e., not restricted per the terms of Section 5.3 of the Lease); night club; drug store/pharmacy (excepting any such operation on the parcel labeled</p>

	<p>'Church Parcel' on Exhibit A); place of recreation (including, but not limited to, skating rink, carnival, game arcade, swimming pool, hot tub) but not including entertainment uses, such as, Dave & Busters or Chuck-E-Cheese (or other restaurant or other entertainment use offering food and beverages together with children's play and/or arcade area) so long as such uses are not operated within the Interior Restricted Area, and provided further, and notwithstanding the foregoing, a place of recreation shall be permitted to operate within the Promotional Area depicted on the Site Plan; church (excepting any church operated on the parcel labeled 'Church Parcel' on Exhibit A); or any other use inconsistent with the operation of a high quality retail shopping center.</p>
--	---