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For Supplement
See Book 187 Page 269
Becky V. Cogan ch. Clerk
by M. Wright, DC
1388

BOOK 186 PAGE 295

INDEXED

CONSTRUCTION, OPERATION AND
RECIPROCAL EASEMENT AGREEMENT
BY AND AMONG RIDGELAND ASSOCIATES
D.H. HOLMES COMPANY LIMITED,
AND MC RAE'S, INC.

Dated: As of ^{March 16,} ~~February 22,~~ 1983

For Assignment & Assumption
Agreement:
See Book 1937 pg. 403
A. Johnston CC
By: ~~By~~ Arnold D.C.
7/13/05

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CONSTRUCTION, OPERATION AND
RECIPROCAL EASEMENT AGREEMENT

THIS AGREEMENT, made as of the ^{16TH} day of ~~February~~ ^{March},

1983, by and between (a) RIDGELAND ASSOCIATES, a New York limited partnership (hereinafter referred to as "Developer") whose partners are (i) CF JACKSON ASSOCIATES, a New York general partnership, having its principal office at c/o Cadillac Fairview Shopping Centers (U.S.) Limited, One North Broadway, White Plains, New York 10601 (hereinafter referred to as "CF"), as general partner, and (ii) MC RAE'S, INC., a Mississippi corporation, having its principal office at 3455 Highway 80 West, P.O. Box 20080, Jackson, Mississippi 39209, as limited partner; (b) D.H. HOLMES COMPANY LIMITED, a Louisiana corporation, having its principal office at 819 Canal Street, New Orleans, Louisiana 70112 (hereinafter referred to as "D.H. Holmes"); and (c) MC RAE'S, INC. (hereinafter referred to as "McRae's").

STATEMENT OF BACKGROUND AND PURPOSE

1. CF is the holder of an option ("Option") to purchase approximately 97 acres of a parcel of land located in Madison County, Mississippi within the City of Ridgeland, as shown on the survey attached hereto as Exhibit "A" hereto and made a part hereof (hereinafter called the "Survey") and as described in Exhibit "B" attached hereto and made a part hereof (said 97 acre parcel being hereinafter referred to as the "Entire Site").

2. It is contemplated that (a) the Option will be assigned to Developer and (b) the Entire Site may (i) there-

after be acquired by Developer pursuant to the Option and (ii) thereupon or thereafter be divided into the following sites ("Sites"):

(A) The "D.H. Holmes Site" shown on the Survey and described in the legal description contained in Exhibit "C" attached hereto and made a part hereof contemplated to consist of approximately 10.57 acres which it is contemplated will be conveyed to D.H. Holmes, pursuant to a supplemental agreement between Developer and D.H. Holmes, on or after the date Developer acquires title to the Entire Site.

(B) The "McRae's Site" shown on the Survey and described in the legal description contained in Exhibit "D" attached hereto and made a part hereof contemplated to consist of approximately 11.71 acres which it is contemplated will be conveyed to McRae's, pursuant to a supplemental agreement between Developer and McRae's, on or after the date Developer acquires title to the Entire Site.

(C) The "Developer Site" shown on the Survey and described in the legal description contained in Exhibit "E" attached hereto and made a part hereof currently contemplated to consist of approximately 74.7 acres which it is contemplated will be owned by Developer following exercise of the Option.

3. Developer, D.H. Holmes and McRae's mutually desire to develop an integrated and unified Shopping Center (as such term is hereinafter defined) on the Entire Site consisting of stores, buildings and an enclosed mall on the Developer Site, a department store on the D.H. Holmes Site, and a department store on the McRae's Site, each in the locations identified on the Plot Plan attached as Exhibit "F" hereto and made a part

hereof (hereinafter called the "Plot Plan") and, if and when Additional Department Stores Sites are conveyed or leased to Other Department Stores (as such terms are hereinafter defined), department stores thereon. In order to provide for the unified and orderly development of the Entire Site and the joint operation of the improvements thereon as a Shopping Center, the parties have entered into this Agreement.

IN CONSIDERATION of the foregoing, the mutual agreements herein contained, and other good and valuable consideration paid to each of the parties hereto, the receipt and sufficiency whereof is acknowledged, it is hereby mutually covenanted and agreed, subject to the provisions of Sections 19.18 and 19.19 hereof, as follows:

ARTICLE I

EXHIBITS AND DEFINITIONS

Section 1.1 Exhibits. Attached hereto and forming a part of this Agreement are the following Exhibits, which, for the purpose of identification, have been signed or initialed by the parties hereto or their attorneys:

- (a) Exhibit A - Survey showing Entire Site, D.H. Holmes Site, McRae's Site and Developer Site.
- (b) Exhibit B - Legal Description of Entire Site.
- (c) Exhibit C - Legal Description of D.H. Holmes Site.
- (d) Exhibit D - Legal Description of McRae's Site.
- (e) Exhibit E - Legal Description of Developer Site.

- (f) Exhibit F - Plot Plan.
- (g) Exhibit G - Schedule of Completion of Site Work.
- (h) Exhibit H - Sign Criteria.

Section 1.2. Certain Defined Terms. As used herein the following terms shall have the following meanings:

(a) "Air Conditioned Mall" means the enclosed air conditioned mall of two levels and connecting units and corridors that connect the Developer Buildings and the Department Stores, excluding those areas contained therein designated, or to be designated, as for lease to Tenants.

(b) "Building" or "Buildings" means any one or more of the Developer Buildings, the D.H. Holmes Buildings, the McRae's Building, the Other Department Store Buildings, or the Free-Standing Buildings, each as hereinafter defined, as the context requires.

(c) "Common Area" or "Common Areas" means those areas open for use to the public, including, without limiting the generality of the foregoing, Parking Area, Air Conditioned Mall, Ring Road, driveways, truckways, delivery passages, walkways, exit corridors, malls, planted areas, landscaped areas, civic center, public meeting rooms and facilities and public rest rooms, but not including the D.H. Holmes Buildings, the McRae's Building, the Other Department Store Buildings, the Free-Standing Buildings, areas within the Developer Buildings designated for lease or leased to Tenants or truck docks or truck loading areas.

(d) "Department Stores" means D.H. Holmes, McRae's and any "Other Department Store(s)" as hereinafter defined.

(e) "Developer Buildings" means the buildings from time to time constructed on the Developer Site; "Developer Parking Area" means the Parking Area on the Developer Site from time to time; "Developer Common Area" means the Common Area on the Developer Site from time to time; and "Developer Facilities" means all the buildings and improvements to be constructed by Developer on the Developer Site as more particularly enumerated in Section 5.1.

(f) "D.H. Holmes Buildings" means all the buildings constructed on the D.H. Holmes Site from time to time; "D.H. Holmes Main Building" means the main department store building constructed on the D.H. Holmes Site from time to time; "D.H. Holmes Car Care Center" means the car care center constructed on the D.H. Holmes Site from time to time; "D.H. Holmes Parking Area" means the Parking Area on the D.H. Holmes Site from time to time; "D.H. Holmes Common Area" means the Common Area on the D.H. Holmes Site from time to time; and "D.H. Holmes Facilities" means all of the buildings and improvements to be constructed by D.H. Holmes on the D.H. Holmes Site, as more particularly enumerated in Section 5.2.

(g) "Floor Area" means the total area of square feet of all floors covered and enclosed at any time and from time to time contained within Buildings, whether rented or rentable or not, measured to the exterior faces of the exterior walls of the Buildings and to the center lines of party walls, including, but not limited to, space occupied by walls, columns,

elevator and dumbwaiter shafts, stairwells, escalators, conveyors or other interior equipment, but not including (i) Outside Sales Area, (ii) Common Area (except for kiosks contained therein), (iii) penthouses or other enclosures used exclusively for mechanical and electrical equipment, (iv) mezzanines used exclusively for storage, (v) truck docks and truck loading areas, including covered (but not enclosed) receiving areas adjacent thereto, and (vi) that portion of the Developer Buildings used exclusively for management and promotion purposes. Notwithstanding the foregoing, for the purposes of Section 16.2, but not otherwise, the term "Floor Area" shall include interior Common Area.

(h) "Free-Standing Building(s)" means the building or buildings which may hereafter be constructed on any Free-Standing Building Site from time to time.

(i) "Free-Standing Building Operator" means the owner or lessor of a Free-Standing Building Site.

(j) "Free-Standing Building Site" means a portion of the Developer Site which may hereafter be conveyed or leased by Developer to a Free-Standing Building Operator.

(k) "McRae's Building" means the department store building constructed on the McRae's Site from time to time; "McRae's Parking Area" means the Parking Area on the McRae's Site from time to time; "McRae's Common Area" means the Common Area on the McRae's Site from time to time; and "McRae's Facilities" means all of the buildings and improvements to be constructed by McRae's on the McRae's Site, as more particularly described in Section 5.3.

(l) "Merchants Association" or "Promotional Fund" means the organization or fund formed or established by Developer

pursuant to the provisions of Section 9.1 and any successor of such organization or replacement of such fund.

(m) "Open for Business" or "is open for business" or "shall open for business" or like references means (i) with respect to Developer the time when (1) the exteriors of the Developer Buildings have been substantially completed as contemplated by the Developer's Final Plans and (2) at least fifty percent (50%) of Floor Area of Developer Buildings as completed have been leased to Tenants who are to occupy the same and Developer has made the same available to such Tenants for completion of tenant improvements and fixturing for a period of at least forty-five (45) days, and the Developer Buildings shall not be deemed Open for Business until such time as such percentage requirements are met notwithstanding that a lesser percentage of Floor Area shall have been so leased and made available to such Tenants, and (ii) with respect to D.H. Holmes, McRae's and any Other Department Stores, when the D.H. Holmes Main Building, McRae's Building or any Other Department Store Main Building, as the case may be, in fact open(s) for business with the public.

(n) "Operating Covenant Period" or "Operating Covenant Periods" means any one or more of the Developer Operating Covenant Period, the D.H. Holmes Operating Covenant Period, the McRae's Operating Covenant Period, or the Operating Covenant Period of any Other Department Store, as the context requires.

(o) "Other Department Store(s)" means a department store or stores or Specialty Store which owns or occupies any

Additional Department Store Site(s) as permitted by this Agreement.

(p) "Other Department Store Building(s)" means the Building or Buildings constructed on any Additional Department Store Site from time to time; "Other Department Store Main Building" means the main department store building constructed on any Additional Department Store Site from time to time; "Other Department Store Parking Area(s)" means the Parking Area on any Additional Department Store Site from time to time; "Other Department Store Common Area(s)" means the Common Area on any Additional Department Store Site from time to time; and "Other Department Store Facilities" means all of the buildings and improvements required to be constructed by any Other Department Store on its respective Site.

(q) "Outside Sales Area" means those areas on any portion of the Entire Site which are not covered or enclosed within buildings but which are used from time to time for the sale or display of patio furniture and lawn and garden equipments and supplies or similar goods and merchandise.

(r) "Parking Area" means all paved areas, parking decks or multi-level facilities used exclusively for parking automobiles or for access to such areas, and driveways, perimeter roads and landscaped areas adjacent thereto including, without limitation, the Parking Area of D.H. Holmes, McRae's and any Other Department Stores.

(s) "Party" or "Parties" means Developer, D.H. Holmes, McRae's and any Other Department Store which becomes a party to this Agreement and any Free-Standing Building Operator which becomes a party to this Agreement, and their permitted successors and assigns.

(t) "Permissible Outside Sales Area" means those areas, designated as "Permissible Outside Sales Area" on the Plot Plan which may be used from time to time as Outside Sales Areas.

(u) "Ring Road" means the road(s) shown on the Plot Plan, comprising part of the Common Area, providing circulation around the Entire Site and access to public highways located as shown and designated on the Plot Plan, as the same may be relocated from time to time pursuant to the provisions of this Agreement.

(v) "Shopping Center" means the buildings and improvements on the Entire Site.

(w) "Specialty Store" means any store containing more than thirty thousand (30,000) square feet of Floor Area but less than one hundred thousand (100,000) square feet of Floor Area which is specifically designated by Developer, at its sole option, as a "Specialty Store"; it being understood that any store of such size which is not so designated shall be deemed Floor Area within Developer Buildings.

(x) "Tenant" means any firm, person, company or corporation leasing, subleasing or occupying Floor Area within Developer Buildings.

Section 1.3. Additional Defined Terms. The following additional terms are defined in the places in this Agreement noted below:

<u>Term</u>	<u>Section or Page</u>
"Access Plan"	3.1(f)
"Additional Department Store Site"	6.5
"Approving Party"	6.4

<u>Term</u>	<u>Section or Page</u>
"CF"	Page 1
"Common Area Work"	4.1(c)
"Condemnation"	16.1
"Constructing Party"	6.4
"Defaulting Party"	18.1
"Developer"	Page 1
"Developer Final Plans"	2.6
"Developer Operating Covenant Period"	10.2
"Developer Preliminary Plans"	2.1
"Developer Site"	Page 2
"D.H. Holmes"	Page 1
"D.H. Holmes Final Plans"	2.7
"D.H. Holmes Operating Covenant Period"	10.3
"D.H. Holmes Preliminary Plans"	2.2
"D.H. Holmes Site"	Page 2
"Entire Site"	Page 1
"Future Expansion Area"	6.3
"Grading Work"	4.1(a)
"Grand Opening Date"	7.1
"Institutional Lender"	14.5
"Lender"	14.5
"McRae's"	Page 1
"McRae's Final Plans"	2.8
"McRae's Operating Covenant Period"	10.4
"McRae's Preliminary Plans"	2.3
"McRae's Site"	Page 2
"Off-Site Improvements"	3.1
"On-Site Improvements"	4.1
"Option"	Page 1

<u>Term</u>	<u>Section or Page</u>
"Other Department Store Final Plans"	2.9
"Other Department Store Preliminary Plans"	2.4
"Permissible Building Lines"	2.11
"Plot Plan"	Page 3
"Prohibited Building Area"	2.11
"Proposed Changes"	2.6
"Sites"	Page 2
"Survey"	Page 1
"Unavoidable Delays"	19.13
"Utility Plan"	3.1(a)
"Utility Work"	4.1(b)

Section 1.4. Effective Date of Agreement: This Agreement shall be effective as of the date hereof.

ARTICLE II

PLANNING

Section 2.1. Preliminary Plans and Specifications for Developer Buildings, On-Site Improvements and Off-Site Improvements. Developer will, on or before March 30, 1983, at its expense, complete and submit to D.H. Holmes, McRae's and to each Other Department Store for approval the following preliminary plans for the initial phase of construction of the Developer Facilities ("Developer Preliminary Plans"):

- (a) Preliminary plans and specifications for the Off-Site Improvements (subject to the provisions of Section 3.2 (c) hereof) and the On-Site Improvements; and

(b) Preliminary plans and specifications for the exterior portions of the Developer Buildings and for the interior design and appearance of the Air Conditioned Mall.

(c) The Utility Plan and Access Plan referred to in Section 3.1 hereof, if not approved prior to the date hereof.

The Developer Preliminary Plans shall substantially conform to the Plot Plan and shall provide for first-class structure, workmanship and materials and otherwise comply with the terms of this Agreement. Within fifteen (15) days after the Developer Preliminary Plans have been received by each of D.H. Holmes, McRae's and each Other Department Store for approval, each of D.H. Holmes, McRae's and each Other Department Store shall give notice in writing of its approval or disapproval thereof, specifying in the latter event its reasons therefor. The right of D.H. Holmes, McRae's and each Other Department Store to disapprove the Developer Preliminary Plans shall be limited to the ground that the same are not consistent with the Plot Plan or not in accordance with good shopping center practice. Developer will, promptly after receipt of a notice of disapproval as aforesaid, undertake to amend and modify the Developer Preliminary Plans so as to conform to the requirements of this Agreement and, upon the completion thereof, the Developer Preliminary Plans shall be submitted to D.H. Holmes, McRae's and each Other Department Store for their written approval. In the event of the failure by D.H. Holmes, McRae's or any Other Department Store to give notice of its approval or disapproval within fifteen (15) days after the receipt of Developer Preliminary Plans (or within ten (10) days after receipt in the case of any resubmission) the same shall be deemed to have been approved.

Section 2.2. Preliminary Plans and Specifications for D.H. Holmes Buildings. On or before March 30, 1983, D.H. Holmes, at its expense, will complete and deliver to Developer for its approval preliminary plans and specifications for the exterior and structural portions of the D.H. Holmes Buildings, together with architectural elevations and exterior design studies therefor, all of which are referred to herein as the "D.H. Holmes Preliminary Plans". The D.H. Holmes Preliminary Plans (i) will be compatible with the general design of the Developer Buildings as portrayed by Developer's Preliminary Plans, (ii) will conform to the Plot Plan, (including, without limitation, the location of the D.H. Holmes Car Care Center within the area designated on Exhibit "F" as the "D.H. Holmes TBA Permissible Building Area"), (iii) will provide for first-class structure, workmanship and materials for the D.H. Holmes Buildings, and (iv) will otherwise comply with the terms of this Agreement. D.H. Holmes will deliver to McRae's and each Other Department Store, for informational purposes only, copies of the D.H. Holmes Preliminary Plans. Within thirty (30) days after the D.H. Holmes Preliminary Plans shall have been received by Developer for its approval, Developer shall give notice in writing of its approval or disapproval thereof, specifying in the latter event its reasons therefor. Developer's right to disapprove the D.H. Holmes Preliminary Plans shall be limited to objections that the D.H. Holmes Preliminary Plans are not compatible with the general design of the Developer Buildings, as portrayed by Developer's Preliminary Plans, do not conform to the Plot Plan or do not provide for first-class structure, workmanship or materials or otherwise do not meet the requirements of this

Agreement. D.H. Holmes will, within ten (10) days after receipt of a notice of disapproval as aforesaid, undertake, in conjunction with Developer, to amend and modify the D.H. Holmes Preliminary Plans so as to conform to the requirements of this Agreement and cure any objections made by Developer, and, upon the completion thereof, the D.H. Holmes Preliminary Plans shall be submitted to Developer for its written approval. In the event of Developer's failure to approve or disapprove within thirty (30) days after the receipt by it of the D.H. Holmes Preliminary Plans (or within ten (10) days after receipt in the case of any resubmission), the same shall be deemed to have been approved by Developer.

Section 2.3. Preliminary Plans and Specifications for McRae's Building. On or before March 30, 1983, McRae's at its expense, will complete and deliver to Developer for its approval preliminary plans and specifications for the exterior and structural portions of the McRae's Building, together with architectural elevations and exterior design studies therefor, all of which are referred to herein as the "McRae's Preliminary Plans". The McRae's Preliminary Plans (i) will be compatible with the general design of the Developer Buildings as portrayed by Developer's Preliminary Plans, (ii) will conform to the Plot Plan, (iii) will provide for first-class structure, workmanship and materials for the McRae's Building, and (iv) will otherwise comply with the terms of this Agreement. McRae's will deliver to D.H. Holmes and each Other Department Store for informational purposes only, copies of the McRae's Preliminary Plans. Within thirty (30) days after the McRae's Preliminary Plans shall have been received by Developer for its approval, Developer shall give notice in writing of its approval or disapproval thereof, specifying in the latter

event its reasons therefor. Developer's right to disapprove the McRae's Preliminary Plans shall be limited to objections that the McRae's Preliminary Plans are not compatible with the general design of the Developer Buildings, as portrayed by Developer's Preliminary Plans, do not conform to the Plot Plan or do not provide for first-class structure, workmanship or materials or otherwise do not meet the requirements of this Agreement. McRae's will, within ten (10) days after receipt of a notice of disapproval as aforesaid, undertake, in conjunction with Developer, to amend and modify the McRae's Preliminary Plans so as to conform to the requirements of this Agreement and cure any objections made by Developer, and, upon the completion thereof, the McRae's Preliminary Plans shall be submitted to Developer for its written approval. In the event of Developer's failure to approve or disapprove within thirty (30) days after the receipt by it of the McRae's Preliminary Plans (or within ten (10) days after receipt in the case of any resubmission), the same shall be deemed to have been approved by Developer.

Section 2.4. Preliminary Plans and Specifications for Other Department Store Buildings. Each Other Department Store, at its expense, will complete and deliver to Developer for approval preliminary plans and specifications for the exterior and structural portions of the Other Department Store Buildings together with architectural elevations and exterior design studies therefor, all of which are hereinafter called "Other Department Store Preliminary Plans". The Other Department Store Preliminary Plans (i) will be compatible with the general design of the Developer Buildings as portrayed by Developer's Preliminary Plans, (ii) will not be located within any Prohibited Building Area on the Plot Plan, (iii) will provide for first-

class structure, workmanship and materials for the Other Department Store Building, and (iv) will conform to the terms and conditions of this Agreement. Each Other Department Store will deliver to D.H. Holmes and McRae's for informational purposes only, copies of the Other Department Store Preliminary Plans. Within thirty (30) days after any Other Department Store Preliminary Plans shall have been received by Developer for its approval, Developer shall give notice in writing of its approval or disapproval thereof, specifying in the latter event its reasons therefor. Developer's right to disapprove the Preliminary Plans shall be limited to objections that the Other Department Store Preliminary Plans as submitted are not compatible with the general design of the Developer Buildings as portrayed by Developer's Preliminary Plans or do not conform to the Plot Plan or do not provide for first-class structure, workmanship or materials or otherwise do not meet the requirements of this Agreement. Such Other Department Store will, within ten (10) days after receipt of a notice of disapproval as aforesaid, undertake, in conjunction with Developer, to amend and modify the Other Department Store Preliminary Plans so as to conform to the requirements of this Agreement and cure any objections made by Developer, and, upon the completion thereof, the Other Department Store Preliminary Plans shall be submitted to Developer for its written approval. In the event of Developer's failure to approve or disapprove within thirty (30) days after the receipt by it of such Preliminary Plans (or within ten (10) days after receipt in the case of any resubmission), the same shall be deemed to have been approved by Developer.

Developer shall be entitled in its discretion to limit or waive any right of approval contained herein with respect to Other Department Stores.

Section 2.5. Compliance with Zoning and Building Laws, Etc. All plans and specifications provided for in this Agreement shall comply with all building, zoning, environmental and other laws, regulations and orders applicable to the Entire Site and shall be in accordance with the orders, rules and regulations of applicable fire insurance rating organizations.

Section 2.6. Final Plans and Specifications for Initial Construction. Promptly after the approval by the Department Stores of the Developer Preliminary Plans pursuant to Section 2.1, Developer shall proceed, at its expense, with the preparation of final plans and specifications for the initial phase of construction of the Developer Buildings, On-Site Improvements and Off-Site Improvements (subject to the provisions of Section 3.2 (c) hereof), which plans and specifications shall be consistent developments of the Developer Preliminary Plans and shall submit copies of such final plans and specifications to D.H. Holmes, McRae's and the Other Department Stores for their approval. The final plans and specifications shall be definitive architectural and engineering plans and specifications and shall include all necessary working drawings and specifications providing for first-class structure, workmanship and materials, in sufficient detail to permit construction in full of the Developer Buildings, the On-Site Improvements and the Off-Site Improvements (subject to the provisions of Section 3.2(c) hereof; provided that Developer shall be required to submit to D.H. Holmes, McRae's and Other Department Stores for their approval only those portions of such plans and specifications as shall relate to (i) the On-Site Improvements and the Off-Site Improvements, (ii) the exterior elevations of the Developer

Buildings and the building materials to be utilized in construction of the exterior portions of the Developer Buildings, and (iii) the interior appearance of the Air Conditioned Mall, but not including any portions of the work and materials which are related to interior requirements of Tenants who will occupy the Developer Buildings. Said final plans and specifications are referred to herein as the "Developer Final Plans". Within fifteen (15) days after the Developer Final Plans have been received by D.H. Holmes, McRae's and the Other Department Stores for approval, D.H. Holmes, McRae's and the Other Department Stores each shall give notice in writing of its approval or disapproval thereof, specifying in the latter event its reasons therefor. Such approval shall not be unreasonably withheld, and the right to disapprove the Developer Final Plans shall be confined to new matters not disclosed by or included in the Developer Preliminary Plans and to matters which are not consistent developments of the Developer Preliminary Plans or do not meet the requirements of this Agreement. In the event of the failure by D.H. Holmes, McRae's or any Other Department Store to give notice of approval or disapproval of the Developer Final Plans within fifteen (15) days after the receipt thereof, the Developer Final Plans shall be deemed to have been approved by the Party failing to give such notice. Developer will, within ten (10) days after receipt of a notice of disapproval as aforesaid, undertake to amend and modify the Developer Final Plans so as to conform to the requirements of this Agreement, and, upon completion thereof, the Developer Final Plans shall be submitted to D.H. Holmes, McRae's and the Other Department Stores for their written approval. In the event of failure by D.H. Holmes, McRae's or any Other Department Store to give notice of

approval or disapproval of the Developer Final Plans within ten (10) days after the receipt of any resubmission thereof, the Developer Final Plans shall be deemed to have been approved by the Party failing to give such notice. If, after approval of the Developer Final Plans, as herein provided, Developer desires to materially modify or change the Developer Final Plans as they relate to the Off-Site Improvements, the On-Site Improvements, the exterior of Developer Buildings, or the interior appearance of the Air Conditioned Mall (the "Proposed Changes"), Developer shall submit copies of such Proposed Changes to D.H. Holmes, McRae's and the Other Department Stores for their approval. Within fifteen (15) days after the Proposed Changes have been received by D.H. Holmes, McRae's and the Other Department Stores for approval, D.H. Holmes, McRae's and the Other Department Stores each shall give notice in writing of its approval or disapproval thereof, specifying in the latter event its reasons therefor. Such approval shall not be unreasonably withheld and the right to disapprove the Proposed Changes shall be confined to matters which do not meet the requirements of this Agreement. In the event of the failure by D.H. Holmes, McRae's or any Other Department Store to give notice of approval or disapproval of the Proposed Changes within fifteen (15) days after the receipt thereof, the Proposed Changes shall be deemed to have been approved by the Party failing to give such notice. Developer will, within ten (10) days after receipt of a notice of disapproval as aforesaid, undertake to amend and modify the Proposed Changes so as to conform to the requirements of this Agreement, and, upon completion thereof, the Proposed Changes shall be submitted to D.H. Holmes, McRae's, and the Other Department Stores for their

written approval. In the event of failure by D.H. Holmes, McRae's or any Other Department Store to give notice of approval or disapproval of the Proposed Changes within ten (10) days after the receipt of any resubmission thereof, the Proposed Changes shall be deemed to have been approved by the Party failing to give such notice.

Section 2.7. Final Plans and Specifications for D.H. Holmes Buildings. Promptly after Developer's approval of the D.H. Holmes Preliminary Plans in accordance with Section 2.2, D.H. Holmes shall proceed, at its expense, with the preparation of final plans and specifications for the D.H. Holmes Buildings, which plans and specifications shall be consistent developments of the approved D.H. Holmes Preliminary Plans. Not later than July 1, 1983, such final plans and specifications shall be submitted to Developer for its approval. The final plans and specifications shall be definitive architectural and engineering plans and specifications and shall include all necessary working drawings and specifications providing for first-class structure, workmanship and materials, in sufficient detail to permit construction in full of the D.H. Holmes Buildings; provided that D.H. Holmes shall be required to submit to Developer for its approval only those portions of such plans and specifications as shall relate to the exterior elevations of the D.H. Holmes Buildings, connection of the D.H. Holmes Main Building to the Air Conditioned Mall and the building materials to be utilized in construction of the exterior portions of the D.H. Holmes Buildings. Said plans and specifications are referred to herein as "D.H. Holmes Final Plans". Within fifteen (15) days after the D.H. Holmes Final

Plans have been received by Developer for its approval, Developer shall give notice in writing of its approval or disapproval thereof, specifying in the latter event its reasons therefor. Developer's approval shall not be unreasonably withheld, and Developer's right to disapprove the D.H. Holmes Final Plans shall be confined to new matters not disclosed by or included in the D.H. Holmes Preliminary Plans and to matters which do not meet the requirements of this Agreement or are not consistent developments of the approved D.H. Holmes Preliminary Plans. In the event of Developer's failure to approve or disapprove the D.H. Holmes Final Plans within fifteen (15) days after the receipt thereof by Developer, the D.H. Holmes Final Plans shall be deemed to have been approved by Developer. D.H. Holmes will, within ten (10) days after receipt of a notice of disapproval as aforesaid, undertake, in conjunction with Developer, to amend and modify the D.H. Holmes Final Plans so as to conform to the requirements of this Agreement, and, upon completion thereof, the D.H. Holmes Final Plans shall be submitted to Developer for its written approval. In the event of failure by Developer to give notice of approval or disapproval of the D.H. Holmes Final Plans within ten (10) days after the receipt of any resubmission thereof, the D.H. Holmes Final Plans shall be deemed to have been approved by Developer. Following Developer's approval of the D.H. Holmes Final Plans, D.H. Holmes will not thereafter modify or change the D.H. Holmes Final Plans without Developer's approval (i) as they relate to the exterior of the D.H. Holmes Buildings or to the connection of the D.H. Holmes Main Building to the Air Conditioned Mall, (ii) to lessen the quality of material or workmanship of the D.H. Holmes Buildings, or (iii)

so as to violate the terms of this Agreement applicable to the D.H. Holmes Buildings.

Section 2.8. Final Plans and Specifications for McRae's Building. Promptly after Developer's approval of the McRae's Preliminary Plans in accordance with Section 2.3, McRae's shall proceed, at its expense, with the preparation of final plans and specifications for the McRae's Building, which plans and specifications shall be consistent developments of the approved McRae's Preliminary Plans. Not later than July 1, 1983, such final plans and specifications shall be submitted to Developer for its approval. The final plans and specifications shall be definitive architectural and engineering plans and specifications and shall include all necessary working drawings and specifications providing for first-class structure, workmanship and materials, in sufficient detail to permit construction in full of the McRae's Building; provided that McRae's shall be required to submit to Developer for its approval only those portions of such plans and specifications as shall relate to the exterior elevations of the McRae's Building, connection of the McRae's Building to the Air Conditioned Mall and the building materials to be utilized in construction of the exterior portions of the McRae's Building. Said plans and specifications are referred to herein as "McRae's Final Plans". Within fifteen (15) days after the McRae's Final Plans have been received by Developer for its approval, Developer shall give notice in writing of its approval or disapproval thereof, specifying in the latter event its reasons therefor. Developer's approval shall not be unreasonably withheld, and Developer's right to disapprove the

McRae's Final Plans shall be confined to new matters not disclosed by or included in the McRae's Preliminary Plans and to matters which do not meet the requirements of this Agreement or are not consistent developments of the approved McRae's Preliminary Plans. In the event of Developer's failure to approve or disapprove the McRae's Final Plans within fifteen (15) days after the receipt thereof by Developer, the McRae's Final Plans shall be deemed to have been approved by Developer. McRae's will, within ten (10) days after receipt of a notice of disapproval as aforesaid, undertake, in conjunction with Developer, to amend and modify the McRae's Final Plans so as to conform to the requirements of this Agreement, and, upon completion thereof, the McRae's Final Plans shall be submitted to Developer for its written approval. In the event of failure by Developer to give notice of approval or disapproval of the McRae's Final Plans within ten (10) days after the receipt of any resubmission thereof, the Developer Final Plans shall be deemed to have been approved by Developer. Following Developer's approval of the McRae's Final Plans, McRae's will not thereafter modify or change the McRae's Final Plans without Developer's approval (i) as they relate to the exterior of the McRae's Building or to the connection of the McRae's Building to the Air-Conditioned Mall, (ii) to lessen the quality of material or workmanship of the McRae's Building, or (iii) so as to violate the terms of this Agreement applicable to the McRae's Building.

Section 2.9. Final Plans and Specifications for the Other Department Store Buildings. Promptly after Developer's approval of the Other Department Stores Preliminary Plans in accordance with Section 2.4, such Other Department Stores each

shall proceed, at its expense, with the preparation of final plans and specifications for its Buildings which plans and specifications shall be consistent developments of the approved Preliminary Plans therefor. Such final plans and specifications shall, but only if required by Developer, be submitted to Developer for its approval. The final plans and specifications shall be definitive architectural and engineering plans and specifications and shall include all necessary working drawings and specifications providing for first-class structure, workmanship and materials, in sufficient detail to permit construction in full of such Buildings; provided that such Other Department Stores shall be required to submit to Developer for its approval only those portions of such plans and specifications as shall relate to the exterior elevations of the Buildings, connection of the Other Department Store Main Building to the Air Conditioned Mall and the building materials to be utilized in construction of the exterior portions of such Buildings. Said plans and specifications are referred to herein as the "Other Department Store Final Plans". Within fifteen (15) days after the Other Department Store Final Plans have been received by Developer for its approval (if required to be so submitted), Developer shall give notice in writing of its approval or disapproval thereof, specifying in the latter event its reasons therefor. Developer's approval shall not be unreasonably withheld, and Developer's right to disapprove such Final Plans shall be confined to new matters not disclosed by or included in Preliminary Plans and to matters which do not meet the requirements of this Agreement or are not consistent developments of approved Preliminary Plans. In the event of Developer's failure to approve or disapprove Other Department

Store Final Plans within fifteen (15) days after the receipt thereof by Developer, such Final Plans shall be deemed to have been approved by Developer. Such Other Department Store will, within ten (10) days after receipt of a notice of disapproval as aforesaid, undertake, in conjunction with Developer, to amend and modify the Final Plans so as to conform to the requirements of this Agreement, and, upon completion thereof, the Other Department Store Final Plans shall be submitted to Developer for its written approval. In the event of failure by Developer to give notice of approval or disapproval of the Other Department Store Final Plans within ten (10) days after the receipt of any resubmission thereof, the Other Department Store Final Plans shall be deemed to have been approved by Developer. Following Developer's approval, the Other Department Store(s) will not thereafter modify or change the Other Department Store Final Plans without Developer's approval (i) as they relate to the exterior of the Buildings or the connection of the Main Building to the Air Conditioned Mall, (ii) to lessen the quality of materials or workmanship of the Buildings, or (iii) so as to violate the terms of this Agreement applicable to the Other Department Store Buildings.

Section 2.10. Submission of Documents. Any document required to be submitted for approval by any Party under Articles II, III, IV and VI shall be accompanied by a letter stating that such document is submitted for approval and the time within which such approval is required to be given hereunder, and unless accompanied by such a letter, such document shall not be deemed to have been submitted for approval. Unless sent in the manner prescribed in Section

19.6, any document shall be deemed to have been submitted on the date of receipt. All documents submitted under Articles II, III, IV and VI shall be sent to the following representatives of the Parties at the following addresses:

To Developer: Ridgeland Associates
c/o Cadillac Fairview Shopping Centers (U.S.) Limited
One North Broadway
White Plains, New York 10601
Attention: Mr. Alexius C.
Conroy and Mr. William Panzer

To D.H. Holmes: Mr. L. Richard Roussel
D.H. Holmes Company
Limited
401 North Cortez Street
New Orleans, Louisiana
70119

To McRae's: Mr. Richard S. McRae, Sr.
McRae's, Inc.
3455 Highway 80 West
P. O. Box 20080
Jackson, Mississippi
39209

To Other Department Stores: To a representative and at an address to be specified by such Other Department Store(s) pursuant to Section 19.6

or at such other address or addresses (not more than three (3) in the aggregate at any time) as a Party shall from time to time and at any time designate by notice to all of the other Parties pursuant to Section 19.6.

Section 2.11. Building Locations to Be Controlled by Plot Plan. The location of all buildings and facilities in the Shopping Center to be initially developed shall be controlled by the Plot Plan and no Buildings may be initially erected on the Entire Site except within the "Permissible Building Lines" shown on the Plot Plan. Additional Buildings

including Other Department Stores may be built except in any area designated on the Plot Plan as "Prohibited Building Area." Each Party agrees, however, that: (i) except with respect to building walls interfacing or forming a common wall with the Building(s) of another Party or Parties, minor encroachments by building walls beyond the Permissible Building Lines (the term "minor" shall mean those encroachments not exceeding one (1') foot measured from the applicable Permissible Building Line(s)) will be permitted; and (ii) canopies, overhangs or other projections, including supports therefor, may be constructed by a Party on its Site and beyond such Permissible Building Lines, provided that the same shall be shown on such Party's Final Plans approved as herein provided and provided further that, except as provided in Section 13.3 hereof, nothing in this Section shall give any party the right to construct or maintain any portion of its Building or any canopy, overhang or other projection (including any support therefor) on or over the Site of another Party.

Section 2.12 Other Department Stores. Only such Other Department Stores which shall be subject to the provisions of this Agreement at the time of submission of a plan shall be entitled to receive copies of the plans in question in accordance with the provisions hereof.

ARTICLE III

OFF-SITE IMPROVEMENTS

Section 3.1. "Off-Site Improvements" Defined. The term "Off-Site Improvements" shall mean such of the following improvements, to the extent not presently in place and, except

where otherwise noted, to be installed by Developer or others on behalf of Developer off the Entire Site:

(a) A water line or lines running to the property line of the Entire Site as shown on the Utility Plan ("Utility Plan") initialled by the Parties which shall connect to a public water facility, which water line or lines shall comply with all governmental regulations and provide at such property line such rate of flow, pressure and degree of reliability (as same shall be measured at such property line) as is made available by the governmental or utility authority or authorities supplying the same;

(b) A sanitary sewer line or lines running to the property line of the Entire Site as shown on the Utility Plan which shall connect to governmental sewage facilities;

(c) A storm drainage system, accessible at the property line of the Entire Site, consisting of, to the extent necessary and appropriate, collectors, drainage lines and channels adequate to handle and dispose of storm water from the Entire Site as provided by this Agreement;

(d) An electric line or lines and a gas line or lines (but only if gas is available) running to the property line of the Entire Site of sufficient capacity to service the Buildings to be erected on the Entire Site as provided by this Agreement;

(e) Telephone lines running to the property line of the Entire Site;

(f) Access improvements as shown on the Access Plan ("Access Plan") initialled by the Parties; and

(g) Any additional improvements such as traffic control lanes, traffic signals, guard rails, fences, relocation of power lines, and the like, shown on the Utility Plan or the Access Plan.

Section 3.2 Completion of Off-Site Improvements.

(a) Subject to the provisions of Section 3.2(c), Developer shall cause the Off-Site Improvements to be completed in accordance with the Developer Final Plans, at such expense to the Department Stores as respectively may be provided for in any supplemental agreement between each Department Store and Developer, on or before the dates set forth on the Schedule of Completion of Site Work attached hereto and made a part hereof as Exhibit "G", provided such dates may be postponed for the period, if any, by which the opening date for the first Department Store to open for business may be delayed.

(b) To the extent necessary in order to effect such completion, such work shall include, without limitation, the making of surveys and test borings; the acquisition or dedication of land for street rights-of-way, clearing, grading, paving and landscaping; installation of storm drainage facilities, street curbing, gutters, sidewalks, traffic control equipment, and water pressure boosting equipment; the installation and wiring of street lighting standards; the extension or relocation of gas, electric, telephone, water and sanitary sewer lines; and the engagement of such architects, engineers, contractors and other persons as may be required to accomplish the same.

(c) Notwithstanding any other provision of this Agreement, to the extent that any of the Off-Site Improvements are of the type for which (i) governmental agencies or utility companies customarily, or do in fact in any instance in connection with the development of the Shopping Center specifically agree to, or (ii) a person or other entity (such as the Developer) which is not a governmental agency or utility company, may not as a matter of law, or customarily would not, take responsibility for the preparation of preliminary and/or final plans and/or specifications therefor and/or the performance and/or construction and/or installation thereof, and/or are of the type which require the consent of, governmental agencies or utility companies, Developer shall be deemed to have complied with its obligations under this Article and Articles II and IV hereof if it has exerted its best efforts to secure such preparation and/or performance and/or construction and/or installation and/or consent, as the case may be. Notwithstanding the foregoing or any other provision of this Agreement, Developer shall be under no obligation to incur any expenses in fulfilling its obligations under the foregoing sentence of this Section 3.2(c) or otherwise in respect of Off-Site Improvements other than to pay the expenses of its own overhead and professional consultants and to pay utility tap and/or connection fees customarily and generally charged by utility companies or governmental agencies rendering such services in Ridgeland, Mississippi.

Section 3.3. Construction Cost. Subject to the provisions of Section 3.2(c) hereof, the cost of construction of the Off-Site Improvements to the extent not borne by public authority or public or private utilities shall be paid by Developer, with such contributions to be made by D. H. Holmes, McRae's and the Other Department Stores as may be set forth in

a supplemental agreement between Developer and D.H. Holmes, in a supplemental agreement between Developer and McRae's, or in such other supplemental agreements as may be entered into with one or more of the Other Department Stores.

ARTICLE IV

ON-SITE IMPROVEMENTS

Section 4.1 "On-Site Improvements" Defined. The term "On-Site Improvements" shall mean the following work or improvements to be performed or installed on the Entire Site:

(a) Grading of that portion of the Entire Site reasonably necessary to (i) accommodate the construction and operation of the Buildings and Facilities shown on each Party's approved Final Plans and (ii) provide sufficient Parking Area to meet the requirements set forth in Article XI of this Agreement, including surveys and test borings, clearing and grubbing, removal of top soil, rock removal, cutting, filling, and final grading of building pad areas and Parking Areas to the elevations shown on the approved Preliminary Plans (hereinafter called the "Grading Work"). It is understood that subsurface soil conditions on the Entire Site are such that all Buildings may require special structural support systems, such as, without limitation, piles, caissons, subsoil drains, drilled piers and/or structural slabs. Any and all such special foundation support systems for the D.H. Holmes Buildings, McRae's Building or any Other Department Store Buildings will be the sole responsibility of D.H. Holmes, McRae's or such Other Department Store. In no event shall Developer be responsible for any costs that may be incurred by, or damages that may occur to, any of the Parties as a result of soil settlement or subsidence that may take place anywhere within the Entire Site, including on the Site of the Party

suffering such cost or damage. Final grading of the building pad areas for the D.H. Holmes Buildings, McRae's Building or Other Department Store Buildings shall be to tolerances of plus or minus one-tenth (1/10th) of one (1') foot.

(b) Extension of the utilities (i.e., trenching, installation, filling and compaction) referred to in Section 3.1(a), (b), (c), (d) and (e), (including the relocation of any existing facilities, if necessary) to be installed underground each to a single point, to be selected by Developer, within the curb lines of the perimeter sidewalks of each Building; however, such extension shall not be deemed to include the making of hookups or connections or other work to make such facilities operational (hereinafter called the "Utility Work").

(c) Construction and installation of the improvements constituting the Common Area (including the Parking Area) reasonably necessary to (i) accommodate the construction and operation of the Buildings and Facilities shown on each Party's approved Final Plans and (ii) provide sufficient Parking Area to meet the parking requirements set forth in Article XI of this Agreement (hereinafter called "Common Area Work") (other than the Air Conditioned Mall, areas within exterior walls of Buildings and areas within the outside curb lines of perimeter sidewalks surrounding the Department Store Buildings), including, without limitation, landscaping and planting, all other sidewalks and walkways, retaining walls (other than any retaining wall made necessary because of construction by a Department Store of a truck dock or other improvement), paving and striping of Parking Areas, curbing and gutters, guard rails, fences, traffic controls and signs, and lighting fixtures together with electrical wiring therefor, for the Common Area.

(d) Until the Parking Areas are surfaced, one common, all-weather, gravel construction haul road serving the Entire Site.

Section 4.2. Completion of the On-Site Improvements.

Developer will cause the On-Site Improvements to be completed in accordance with the Developer Final Plans on or before the dates set forth in the Schedule for Completion of the Site Work attached hereto and made a part hereof as Exhibit "G", provided such dates may be postponed for the period, if any, by which the opening date for the first Department Store to open for business may be delayed.

Anything herein to the contrary notwithstanding, Developer shall not be required to perform or install or cause to be performed or installed any On-Site Improvements on those areas of the Entire Site designated as a "Future Expansion Area" on the Plot Plan.

Except for the Grading Work, Utility Work and Common Area Work as provided herein, Developer shall have no responsibility for the work on the Site of a Department Store.

The cost of the On-Site Improvements shall be paid by Developer with such contributions thereto by D. H. Holmes, McRae's and the Other Department Stores as may be set forth and agreed to in a supplemental agreement between Developer and D.H. Holmes, McRae's or one or more of the Other Department Stores.

Section 4.3. Contracts for Off-Site and On-Site Improvements. As promptly as possible following approval by D.H. Holmes, McRae's and the Other Department Stores of the Developer Final Plans for the Off-Site Improvements and the On-Site Improvements, Developer shall award contracts therefor (subject to the provision of Sections 3.2(c)) to responsible contractors selected by Developer.

ARTICLE V

CONSTRUCTIONSection 5.1. Construction of Developer Facilities.

Subject to the provisions of Section 19.19, as promptly as possible after approval of the Developer Final Plans in accordance with the provisions of Section 2.6, Developer shall commence and prosecute with due diligence to completion, at its sole cost and expense, the construction of the Developer Facilities described below, in accordance with such Developer Final Plans with such changes as Developer may deem necessary or appropriate and as are not prohibited pursuant to Section 2.6. Developer will cause the construction of the Developer Facilities to proceed in an orderly and coordinated manner and will take care to avoid unnecessary interference with the normal operations of the Department Stores. Developer Facilities to be constructed by Developer are as follows:

A building for Tenants which shall contain not less than 175,000 square feet of Floor Area connected by an enclosed, multi-level, sprinklered, air conditioned and heated mall, which shall be constructed and equipped in accordance with standards customarily employed in enclosed-type heated and air conditioned shopping centers.

Section 5.2. Construction of D.H. Holmes Facilities.

After approval of the D.H. Holmes Final Plans in accordance with Section 2.7 and after completion of the Grading Work on the D.H. Holmes Site, D.H. Holmes shall, at its sole cost and expense, commence and prosecute with due diligence to completion construction on the D.H. Holmes Site of the D.H. Holmes Facilities described below in accordance with the approved D.H. Holmes Final Plans. D.H. Holmes will cause such construc-

tion to proceed in an orderly and coordinated manner and will take care to avoid unnecessary interference with the construction operations of other Parties hereto. The D.H. Holmes Facilities shall comprise:

(a) A department store building (the D.H. Holmes Main Building) containing not less than 120,000 square feet of Floor Area, having two (2) levels, neither of which shall contain less than 50,000 square feet of Floor Area and each of which levels shall have one entrance on the Air Conditioned Mall of not less than 30 feet nor more than 40 feet in width and shall have no other openings thereon. The D.H. Holmes Buildings shall include any and all truck docks, including retaining walls for all truck docks, delivery corridors and other delivery facilities serving the D.H. Holmes Buildings exclusively, and the D.H. Holmes Facilities shall include all improvements (including perimeter curbing and landscaping) within the outside curb lines of perimeter sidewalks surrounding the D.H. Holmes Buildings.

(b) If D.H. Holmes elects, the D.H. Holmes Car Care Center having approximately 10,000 square feet of Floor Area.

Section 5.3. Construction of McRae's Facilities.
After approval of the McRae's Final Plans in accordance with Section 2.8 and after completion of the Grading Work on the McRae's Site, McRae's shall, at its sole cost and expense, commence and prosecute with due diligence to completion construction on the McRae's Site of the McRae's Facilities described below in accordance with the approved Final Plans. McRae's will cause such construction to proceed in an orderly and coordinated manner and will take care to avoid unnecessary interference with the construction operations of other Parties hereto. The McRae's Facilities shall comprise:

A department store building (the McRae's Building) containing not less than 200,000 square feet of Floor Area having two (2) levels, neither of which shall contain less than 50,000 square feet of Floor Area and each of which levels shall have one entrance on the Air Conditioned Mall of not less than 30 feet nor more than 48 feet in width and shall have no other openings thereon. The McRae's Building shall include any and all truck docks, including retaining walls for all truck docks, delivery corridors and other delivery facilities serving the McRae's Building exclusively, and all improvements (including perimeter curbing and landscaping) within the outside curb lines of perimeter sidewalks surrounding the McRae's Building.

Section 5.4. Construction of Other Department Store Facilities. After the approval of Final Plans in accordance with Section 2.9 and after completion of the Grading Work on the respective Site, any Other Department Store shall, at its expense, commence and prosecute with due diligence to completion the construction of its Facilities in accordance with the approved Final Plans therefor.

Section 5.5. Roof-Mounted Equipment. To the extent that any heating, ventilating, air conditioning or other electrical or mechanical equipment serving any Party's Buildings shall be roof-mounted, the same shall be generally obscured from anywhere within the Parking Areas.

Section 5.6. Permits; Compliance with Laws. Each Party shall obtain, at its expense, all governmental approvals, authorizations, permits and certificates which may be necessary to permit it to carry out and complete its construction obliga-

tions hereunder. Upon request, Developer shall provide to a Department Store, at the expense of the requesting Party, copies of those portions of Developer Final Plans relating to the Off-Site Improvements and On-Site Improvements (including site plans, traffic plans showing all curb cuts, and drainage plans) as may be required in order for such Department Store to obtain the approvals, authorizations, permits or certificates mentioned in the next preceding sentence. With respect to its construction obligations hereunder, each Party agrees that such construction will comply with all laws, ordinances, orders, rules, regulations and requirements of all applicable governmental authorities and with such orders, rules and regulations as may now or hereafter be adopted by its respective fire insurance rating organization.

If prior to commencement of construction of the Developer Buildings, any environmental permits or approvals are required by law with respect to the development of the entire Shopping Center (as opposed to approvals or permits required for the construction or operation of the Building of a single Party), Developer will use its best efforts to obtain the same; provided, however, that Developer shall not be required to take any action or expend funds which, in Developer's opinion, would jeopardize the economic feasibility of the Shopping Center. If any permit or approval of the nature described in the preceding sentence shall not be obtainable despite Developer's best efforts to obtain the same, or if, in order to obtain the same, Developer would be required to take action or expend funds which, in Developer's opinion would jeopardize the economic feasibility of the Shopping Center, then any Party may prior to commencement of construction of the Developer Buildings elect to

terminate this Agreement upon thirty (30) days' written notice given to the other Parties whereupon the rights and obligations of the Parties hereunder shall terminate.

Section 5.7. Construction Progress Reports. In order to facilitate the coordination of construction of the Shopping Center, each Party will consult with each other Party from time to time and will use reasonable efforts to coordinate its construction activities with those of the other Parties. Each Department Store agrees that, within ten (10) days after Developer shall request, such Department Store will relocate its construction staging area as Developer shall reasonably require in order to meet its paving schedule; provided, however, that each Department Store shall not be required to do so more than one (1) time. Developer and the Department Stores shall cooperate with one another so as not to cause undue disruption in any Party's construction schedule as a result of the relocation of any such construction staging area.

Section 5.8. Certificates as to Floor Area. Upon completion of construction of each Party's Buildings, and as often thereafter as there shall be any change in the Floor Area therein, each Party shall furnish to each of the other Parties the certificate of a registered architect or its construction manager showing, in reasonable detail, the number of square feet of Floor Area contained in such Party's Buildings.

ARTICLE VI

EXPANSION AND ADDITIONAL DEVELOPMENT

Section 6.1. No Change Unless Permitted Hereunder.
Each Party agrees that upon completion of the improvements

and facilities to be constructed on its Site pursuant to Articles IV and V, it will not alter, modify or change the architectural design or exterior appearance or change the level, size or location of any Building, or erect additional Buildings, or change the size, location, arrangement or level of any Parking Area or Common Area on its Site, except as permitted or required in this Agreement.

Section 6.2. Permitted Expansion by Developer. To the extent permitted by law, Developer may construct additional Floor Area from time to time during the term of this Agreement by expansion of its respective Buildings or the construction of new Buildings except within the areas on the Developer Site designated Prohibited Building Area and may relocate Common Areas on the Developer Site in order to accommodate such expansion or construction of new Buildings.

Section 6.3. Expansion by D.H. Holmes, McRae's and Other Department Stores. Neither D.H. Holmes, McRae's nor any Other Department Store, if any, shall have any right to construct or occupy additional Floor Area beyond that which has been approved and constructed pursuant to Articles II and V herein without the prior written consent of Developer. Any such construction or occupation of additional Floor Area in accordance with the terms hereof and the construction and completion of any On-Site Improvements in connection therewith (including any additional Parking Area required under Article XI and which may be constructed on any "Future Expansion Area" as shown on the Plot Plan), shall be at the sole and exclusive cost of the Department Store undertaking such construction or occupation.

Section 6.4. Approval of Plans and Specifications for Expansion. If a Party desires to construct additions or expansions on its Site and is permitted to do so under this Article, such Party (the "Constructing Party") shall first obtain approval of the other Parties (collectively, the "Approving Party") as to the plans and specifications therefor. Any such approval of plans and specifications shall be obtained and construction of any such expansion or addition shall be carried out pursuant to the following procedure:

(a) The Constructing Party shall, at its expense, prepare and submit to the Approving Party preliminary plans and specifications for such additional construction together with architectural elevations and exterior design studies for the buildings or other structures to be added or expanded, as well as preliminary plans and specifications for any alteration of the landscaping or layout of any Common Area. Such preliminary plans and specifications shall be basic architectural and engineering plans and specifications providing for first-class structure, workmanship and materials at least equivalent to the structure, workmanship and materials and conforming in design and exterior appearance to construction already completed in the Constructing Party's Buildings. The preliminary plans and specifications for additional construction shall comply with all building, zoning and environmental laws applicable to the Entire Site and with all other laws, ordinances, orders, rules and regulations and requirements of any applicable unit of government or department or agency thereof.

(b) Within fifteen (15) days after the preliminary plans and specifications have been received by the Approving

Party for approval, the Approving Party shall give notice in writing of its approval or disapproval thereof, specifying in the latter event its reasons therefor. Such approval shall not be unreasonably withheld and the right to disapprove the preliminary plans and specifications shall be limited to objections that such plans and specifications do not conform to the Plot Plan or do not provide for first-class structure, workmanship or materials equivalent to those already contained within the Constructing Party's Buildings, or do not conform to the design or overall appearance of the Constructing Party's Buildings, or do not conform to the terms of this Agreement. In the event of the Approving Party's failure to give notice of approval or disapproval of preliminary plans and specifications within fifteen (15) days after receipt thereof, such preliminary plans and specifications shall be deemed to have been approved by the Approving Party failing to give such notice. If the Constructing Party elects to proceed after receipt of any notice of disapproval as aforesaid, such Constructing Party shall promptly undertake, in conjunction with the Approving Party, to amend and modify the preliminary plans and specifications so as to conform to the requirements of this Article. Upon the completion thereof, the preliminary plans and specifications shall be submitted to the Approving Party for written approval. In the event of failure by the Approving Party to give notice of approval or disapproval of the preliminary plans and specifications within ten (10) days after the receipt of any re-submission thereof, the preliminary plans and specifications shall be deemed to have been approved by the Approving Party.

(c) Following approval of the preliminary plans and specifications by the Approving Party, the Constructing Party

may proceed, at its expense, with preparation for and implementation of the additional construction in accordance with preliminary plans and specifications and shall pursue such additional construction diligently until the completion thereof. If such construction is not commenced within eighteen (18) months from the date of the Approving Party's approval, such approval shall no longer be effective.

(d) The Constructing Party will cause the construction of the expansion or addition to proceed in a coordinated and orderly manner and will use reasonable efforts to minimize interference with the normal operations of the other Parties during the period of performance of such construction.

(e) Floor Area added to a Party's Facilities pursuant to this Article shall be deemed to be Floor Area when such Floor Area is completed and ready for occupancy and the registered architect or construction manager of said Party shall furnish to the other Parties a certificate as to such Floor Area within thirty (30) days after such Floor Area has been completed.

Section 6.5. Other Department Stores. (a) At any time hereafter, and from time to time, if Developer desires to arrange for the construction and operation of one or more additional retail department stores or Specialty Stores on portions of the Developer Site, Developer may convey or lease one or more portions of the Developer Site to the owner or operator of a retail department store or Specialty Store (to be known upon such conveyance or lease as an "Additional Department Store Site"). In the case of a ground lease or conveyance, simultaneously with such leasing or conveyance,

the Parties hereto upon request of Developer shall enter into an amendment of this Agreement which shall: (i) delete the Additional Department Store Site in question from the Developer Site, (ii) include such Additional Department Store Site within the defined terms "Entire Site" and "Site" as used in this Agreement, (iii) make the Other Department Store owning or leasing such Site a party to this Agreement with the intent and purpose that the Other Department Store shall be deemed a Department Store for the purposes of this Agreement enjoying substantially the same benefits and subject to substantially the same obligations as those Parties who were included in the term "Department Store(s)" prior to the admission of such Other Department Store; provided, however, that the Other Department Store shall not have any rights of approval with respect to those matters provided for in Articles II through VI hereof which shall have theretofore been agreed upon among the Parties hereto; (iv) obligate the Other Department Store to complete the construction of a retail department store building within such Additional Department Store Site which shall connect with the Air Conditioned Mall and, subject to Unavoidable Delays, open the same for business with the public within two and one-half (2-1/2) years after the execution of such amendment; and (v) effectuate such other modifications to this Agreement as shall be reasonably necessary to accommodate the introduction of the Other Department Store into the Shopping Center, provided, however, that such other modifications shall not include any restrictions on the construction and operation of such Other Department Store which are more restrictive than those applicable to the other Department Stores.

(b) Following the conveyance or lease by Developer of an Additional Department Store Site to an Other Department Store, Developer shall (i) be relieved of any and all obligations imposed by or pursuant to this Agreement in respect of such Site; (ii) be released for any and all liabilities arising in connection with such Site, from and after the date of such conveyance or lease; and (iii) no longer be bound by the terms and conditions of this Agreement as the same may relate to such Site.

Section 6.6. Free-Standing Buildings. (a) At any time hereafter, and from time to time, if Developer desires to arrange for the construction and operation of one or more Free-Standing Buildings, on portions of the Developer Site, Developer may convey or lease one or more portions of the Developer Site to a Free-Standing Building Operator (to be known upon such conveyance or lease as a "Free Standing Building Site"). In the case of a lease or conveyance, simultaneously with such leasing or conveyance, the Parties hereto shall upon the request of Developer enter into amendment of this Agreement which shall delete the Free-Standing Building Site in question from the Developer Site and, at the option of Developer, (i) include such Free-Standing Building Site within the defined terms "Entire Site" and "Site" as used in this Agreement, (ii) make the Free-Standing Building Operator owning or leasing such Site a party to this Agreement with the intent and purpose that such Free-Standing Building Operator shall be deemed a Party to this Agreement enjoying substantially the same benefits and subject to substantially the same obligations as those Parties who were included in this Agreement prior

to the admission of such Free-Standing Building Operator; provided, however, that the Free-Standing Building Operator shall not have any rights of approval with respect to those matters provided for in Articles II through VI hereof, and (iii) effectuate such other modifications to this Agreement as shall be reasonably necessary to accommodate the introduction of the Free-Standing Building into the Shopping Center. Such Free-Standing Building may be used for any purpose or purposes as shall be determined at the sole and exclusive discretion of Developer provided, however, that any such use shall be (x), consistent with uses customarily found in buildings of this nature in first-class regional shopping centers in the Metropolitan Jackson area and (y) in compliance with all laws, regulations and statutes, including zoning ordinances, having jurisdiction over, or in connection with, the Free-Standing Building and the Free-Standing Building Site.

(b) Following the conveyance or lease by Developer of the Free-Standing Building Site to a Free-Standing Building Operator, Developer shall (i) be relieved of any and all obligations imposed by or pursuant to this Agreement in respect of such Site; (ii) be released for any and all liabilities arising in connection with such Site, from and after the date of such conveyance or lease; and (iii) no longer be bound by the terms and conditions of this Agreement as the same may relate to such Site.

ARTICLE VII

OPENING DATES

Section 7.1. Opening Dates. Developer, D.H. Holmes and McRae's shall each use reasonable efforts, subject

to Unavoidable Delays, to cause all construction to be completed on a schedule to allow Developer, D.H. Holmes and McRae's to cause their respective Facilities to be open for business with the public not later than September 12, 1984. The date Developer opens its Facilities to the public shall be deemed the "Grand Opening Date". D.H. Holmes and McRae's may, but shall not be required to, open their Facilities for business with the public earlier than the Grand Opening Date (but not prior to August 1, 1984; provided, however, that in the event either D.H. Holmes or McRae's opens their respective Facilities for business with the public prior to August 13, 1984, any such Party shall erect and maintain, until August 13, 1984, a fence or other barrier satisfactory to Developer in order to separate such Party's Site from the balance of the Entire Site), but D.H. Holmes and McRae's shall not open such Facilities for business with the public later than the Grand Opening Date. Notwithstanding the foregoing:

(a) a Party shall not be required to open its Facilities for business with the public during any of the following periods:

(i) between May 1st and July 15th of any year and between November 1st of any year and February 1st of the following year; or

(ii) during the thirty (30) day period prior to Easter Sunday;

unless such Party's obligation to open its Facilities for business with the public would fall within one of such periods by reason of such Party's failure to fulfill its obligations under Articles II or V;

(b) D.H. Holmes and McRae's shall not be obligated to cause their Facilities to open for business with the public prior to the opening for business of the Developer Facilities; and

(c) Developer shall not be obligated to cause its Facilities to open for business with the public prior to the opening for business of the D.H. Holmes and McRae's Facilities.

Section 7.2. Recording Opening Dates. Each Party shall, following the opening for business of each Party's Facilities, execute and exchange a written agreement in recordable form which will set forth such opening date, which date shall be the opening date referred to herein for such Party.

ARTICLE VIII

LEASING OF DEVELOPER BUILDINGS

Section 8.1. Tenant Mix. During the Developer Operating Covenant Period, Developer will use reasonable efforts to lease Floor Area in those Developer Buildings abutting the Air Conditioned Mall to Tenants who will provide a balanced mix of goods and services appropriate to a regional enclosed mall shopping center and will use reasonable efforts to provide an equitable distribution of shops so as to avoid concentration of particular uses, except that Developer may concentrate food and food related uses in the area or areas designated for such use on the Plot Plan.

ARTICLE IX

PROMOTIONAL FUND AND MERCHANTS ASSOCIATION

Section 9.1. Organization and Contributions. Developer may, but shall not be required to, form a Merchants Association or Promotional Fund for the promotion and advertising of the Shopping Center in which all retail Tenants shall be required to be members and/or to which all retail Tenants shall

be required to make contributions. So long as (i) Developer is open for business and is a member of such Association and/or Contributor to such Association or Fund and makes an annual contribution thereto equal to one-fourth (1/4th) of the total amount or contributions paid to the Merchants Association or Promotional Fund by the Tenants and Department Stores, and (ii) Tenants occupying at least eighty percent (80%) of the Floor Area of the Developer Buildings which are then leased are, pursuant to their respective leases, members thereof and/or contributors thereto and are obligated to pay, in effect, a fair and proportionate share of the expenses thereof, D.H. Holmes, McRae's and any Other Department Stores each agree to remain members thereof and/or contributors thereto with such contributions thereto as may be set forth in a supplemental agreement between Developer and D.H. Holmes, in a supplemental agreement between Developer and McRae's, or in such other supplemental agreements as may be entered into by Developer with one or more of the Other Department Stores.

Section 9.2. Opening Promotion Program. D.H. Holmes, McRae's and any Other Department Stores each agree, thirty (30) days prior to the Grand Opening Date, to make a one-time contribution toward an opening promotional program for the Shopping Center in the respective proportions and amounts as set forth in a supplemental agreement between Developer and D.H. Holmes, in a supplemental agreement between Developer and McRae's, or in such other supplemental agreements as may be entered into between Developer with one or more of the Other Department Stores.

ARTICLE X

TERM; USE AND OPERATING COVENANTS

Section 10.1. Term of Agreement. Unless sooner terminated in accordance with its terms, this Agreement shall terminate on the earlier of (i) midnight sixty-five (65) years from the date hereof or (ii) when no Department Store shall operate a retail department store on the Entire Site pursuant to Sections 10.3 or 10.4 or any other provision of this Agreement. Notwithstanding the foregoing, (a) if Sears, Roebuck and Co. ("Sears") shall be a Party to this Agreement, Sears shall have the option of excluding the Sears Site from the operation and effect of this Agreement effective as of the thirty-fifth (35th) anniversary of the Grand Opening Date, or at any time thereafter, by giving at least one (1) year's prior notice to the other Parties hereto, and (b) Developer shall have the option of excluding from this Agreement the Site of any Department Store after the Operating Covenant Period of such Department Store shall have expired if such Site is being used primarily for any purpose other than retail use. Neither any termination of this Agreement nor the exclusion by Sears of the Sears Site nor the exclusion of any Department Store Site from the operation and effect of this Agreement pursuant to this Section 10.1 shall extinguish, reduce or otherwise affect the easements granted in Sections 13.2, 13.3, 13.4 or 13.5, subject, however, to the right of the Party on whose Site any part of the Ring Road may be located to relocate the same consistent with such Party's use of its Site so long as proper traffic patterns for the Entire Site are maintained.

Section 10.2. Developer Operating Covenant.

(a) For a period commencing with the Grand Opening Date and terminating on the first to occur of either of the following events (i) twenty-five (25) years from and after the Grand Opening Date; or (ii) when no Department Store shall operate a retail department store on the Entire Site pursuant to Sections 10.3 or 10.4 or any other provision of this Agreement, Developer shall operate the Developer Buildings as a complex of retail stores and other uses consistent with, or ancillary to, a regional shopping center and shall use the Developer Facilities only for the operation of a regional shopping center and for no other purpose, except as may be otherwise herein provided. The period during which Developer is required to use the Developer Facilities for the operation of a regional shopping center pursuant to this subsection (a) is referred to herein as the "Developer Operating Covenant Period".

(b) Developer agrees that, during the Developer Operating Covenant Period, the Developer Site will be maintained and used primarily for retail business but may also include, from time to time, such non-retail businesses and uses as are customarily found in regional shopping centers having regard for the then current practice of regional shopping centers, and parking incidental thereto; that the portions of the Shopping Center on the Developer Site will be operated in accordance with high standards of good shopping center operations; and that all reasonable means will be taken to prevent any manner of operation or use not in accordance with such standards.

Section 10.3. D.H. Holmes Operating Covenant. D.H. Holmes covenants with Developer to operate in the D.H. Holmes Main Building of at least 120,000 square feet of Floor Area (a) for a period of at least fifteen (15) years from the date on which the D.H. Holmes Main Building opens for business, a full line retail department store under the name "D.H. Holmes" or "Holmes" or the name under which D.H. Holmes is, at the time in question, operating the majority of its department stores, and thereafter (b) for a period of at least ten (10) years, a single unit retail department store or specialty store with a predominance of selling space on all levels which operates under a trade name which is part of a nationally or regionally-known chain of stores with a line of mercantile and merchandising practices generally of a quality at least comparable with tenants of the Air Conditioned Mall at such time, and in either event to keep open for business at least six (6) days per week (but not on legal holidays in the State of Mississippi), at least eight (8) hours per day and during all periods when the D.H. Holmes Main Building is open for business, to keep open an entrance to each level of the Air Conditioned Mall in accordance with the terms of Section 10.6 and otherwise as required by this Agreement. The period of time during which D.H. Holmes has so covenanted to operate a retail department store in the D.H. Holmes Main Building is referred to herein as the "D.H. Holmes Operating Covenant Period". If Sears shall desire to enter into this Agreement, but only on the condition that the D.H. Holmes operating covenant be deleted from this Agreement, D.H. Holmes agrees to enter into a separate supplemental agreement with Developer and each Other Department Store containing this provision and to delete this Section from this Agreement.

Section 10.4. McRae's Operating Covenant. McRae's covenants with Developer to operate in the McRae's Building of at least 200,000 square feet of Floor Area (a) for a period of at least fifteen (15) years from the date on which the McRae's Building opens for business, a full line retail department store under the name "McRae's" or the name under which McRae's is, at the time in question, operating the majority of its department stores, and thereafter (b) for a period of at least ten (10) years, a single unit retail department store or specialty store with a predominance of selling space on all levels which operates under a trade name which is part of a nationally or regionally-known chain of stores with a line of mercantile and merchandising practices generally of a quality at least comparable with tenants of the Air Conditioned Mall at such time, and in either event to keep open for business at least six (6) days per week (but not on legal holidays in the State of Mississippi), at least eight (8) hours per day and, during all periods when the McRae's Building is open for business, to keep open an entrance to each level of the Air Conditioned Mall in accordance with the terms of Section 10.6 and otherwise as required by the Agreement. The period of time during which McRae's has so covenanted to operate a retail department store in the McRae's Building is referred to herein as the "McRae's Operating Covenant Period". If Sears shall desire to enter into this Agreement, but only on the condition that the McRae's operating covenant be deleted from this Agreement, McRae's agrees to enter into a separate supplemental agreement with Developer and each Other Department Store containing this provision and to delete this Section from this Agreement.

Section 10.5. Temporary Cessation of Business; Operations. No temporary cessation of business by a Party occasioned by the making of repairs, alterations or renovations, or by any Unavoidable Delay, or on account of inventory taking for up to two (2) days in any calendar year, shall constitute a breach by such Party of its operating covenant, as aforesaid. Developer, D.H. Holmes and McRae's each covenants that in connection with its operations on its Site, it will not:

(a) use or permit the use of any objectionable advertising medium such as, without limitation, loudspeakers, phonographs, public address systems, sound amplifiers, radio or broadcast within the Shopping Center in such manner that any sounds reproduced, transmitted or produced shall be directed primarily beyond the interior of its premises, and will so far as practicable keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the interior of its premises;

(b) cause or permit objectionable odors to emanate or be dispelled upon its premises;

(c) permit the parking of delivery vehicles so as to interfere with the use of any driveway, walk, Parking Area, mall or other Common Area or receive or ship articles of any kind outside the areas designated therefor;

(d) subject to applicable law, permit any solicitations, displays or demonstrations of merchandise, or itinerant vending in the Common Area, or outside its Building, except such activities as may be part of any promotional activities of the Merchants Association and except such activities as may be part of the operation of an Outside Sales Area;

(e) operate any Outside Sales Area other than in a Permissible Outside Sales Area;

(f) permit any use of its Site or any part thereof in a manner likely to injure the reputation of the Shopping Center or which will violate the laws of any applicable unit of government; or permit any part of its Site to be used for any disreputable or immoral purpose;

(g) permit undue accumulations of garbage, trash, rubbish and other refuse, and will remove the same at its own expense, and will keep such refuse in proper containers in the interior of its Buildings or other places designated therefor until called for to be removed; or

(h) receive or ship articles of any kind except through the designated loading areas for its Buildings and will promptly remove all articles placed in the service areas.

Section 10.6. Air Conditioned Mall Entrances. Each Department Store agrees that at all times during which its store is open for business with the public, it will maintain one (1) open entrance on the Air Conditioned Mall at each level thereof suitable for the handling of pedestrian traffic to and from the Air Conditioned Mall with suitable identification indicating the name of the Department Store.

Section 10.7. Signs. All signs erected or permitted to be erected by any Party on its Site shall conform to the sign criteria set forth on Exhibit H attached hereto and made a part hereof.

Section 10.8. Ordinances. Each Party shall at all times, both during and after the completion of construction of

its Facilities, comply with all state, county and municipal laws, ordinances, rules and regulations and with all regulations of the fire insurance rating organization having jurisdiction or any other organization or board exercising similar functions, respecting the construction, maintenance and operation of its Facilities.

ARTICLE XI

PARKING

Section 11.1. Minimum Parking to be Provided. Each Party shall, at all times and at its expense, provide and maintain or cause to be maintained the Parking Area on its Site (except to the extent Developer is required under this Agreement to provide or maintain such Parking Area), which Parking Area shall at all times contain at least five (5) automobile parking spaces for each 1,000 square feet of Floor Area contained in all Buildings on such Party's Site, but not less than the number of parking spaces which shall be required by any applicable zoning or other law, ordinance or regulation, and, after any expansion or addition as provided for by Article VI herein, have an area at least equal to that provided for above; provided, however, that so long as and to the extent that there are parking spaces on either the McRae's Site or D.H. Holmes Site, as the case may be, in excess of the number required pursuant to this Section 11.1 with respect to the D.H. Holmes Site or McRae's Site, respectively, such excess number of parking spaces shall be deemed to be included within the area of the Developer's Site for purposes of determining whether Developer has satisfied the requirements set forth in this Section 11.1 with respect to the Developer's Site. The size and dimensions of the typical park-

ing module shall be as shown on the Plot Plan. Notwithstanding the foregoing, (a) for the purposes only of calculating the minimum number of automobile parking spaces required to be provided and maintained on the D.H. Holmes Site, the Floor Area of the D.H. Holmes Car Care Center shall not be deemed to be included as part of the Floor Area of the Buildings on the D.H. Holmes Site; but in lieu of the parking spaces otherwise required hereby to be provided and maintained, D.H. Holmes shall provide and maintain at least one (1) automobile parking space for each automobile or repair bay contained in the D.H. Holmes Car Care Center, and (b) for the purposes only of calculating the minimum number of automobile parking spaces required to be provided and maintained in respect of the Floor Area of any Free-Standing Building or any building constructed on any so-called out parcel shown on the Plot Plan, there may be less than five (5) automobile parking spaces for each 1,000 square feet of Floor Area but not less than the number of parking spaces which shall be required by any applicable zoning or other law, ordinance or regulation in respect thereof.

Section 11.2. Additional Parking Area Following Permitted Department Store Expansion. If Developer, D.H. Holmes, McRae's or any Other Department Store shall provide additional Parking Area as required in Section 11.1 in order to accommodate an expansion or addition as may be permitted by Article VI, such additional Parking Area shall be provided at the sole cost and expense of the Party providing such additional Parking Area and may be provided either (i) at ground level or (ii) by the construction of a multi-level parking facility on such Party's Site located in the area or areas designated "Parking Deck Area" on the Plot Plan.

Section 11.3., Employee Parking. The Parties agree that on or before the Grand Opening Date they will jointly designate certain portions of the Parking Areas as the only areas to be used for parking by employees of Developer, the Department Stores and the Tenants. Developer and the Department Stores will each use reasonable efforts to require its employees and, in the case of Developer, the employees of the Tenants, to park on their respective Sites, in the employee parking areas so designated.

ARTICLE XII

MAINTENANCE

Section 12.1. Maintenance of Air Conditioned Mall. Developer shall, at such expense to the Department Stores as may be provided for herein or respectively in supplemental agreements between Developer and any such Department Store, keep the exterior and interior of the Air Conditioned Mall in a good and safe state of repair and in a clean and orderly condition including, without limitation, the provision of reasonable security measures and employment of security personnel, both during normal hours of operation and as determined by Developer in its sole discretion. During any normal business hours when any Department Store is open for business or when Tenants of 75% or more of the aggregate Floor Area of Developer Buildings fronting on the Air Conditioned Mall are open for business and for thirty minutes after such business hours, but in no event on any Sunday or legal holiday in the State of Mississippi or prior to 9 a.m. or after 10 p.m. on any other day, Developer will keep the Air Conditioned Mall open, and will provide adequate heat, ventilation, and air conditioning therein. Each Department Store shall pay Developer, as a contribution for the maintenance and heating, ventilating and

air conditioning of the Air Conditioned Mall, the amount set forth in a supplemental agreement between Developer and such Department Store at the times set forth therein.

Section 12.2. Maintenance and Lighting of Common Areas.

(a) Developer shall, at such expense to the Department Stores as may be provided for herein or respectively in supplemental agreements between Developer and any such Department Store, maintain, or cause to be maintained the Common Areas on the Entire Site in good order and condition and state of repair in accordance with the highest standards of good shopping center operations.

(b) Such maintenance of the Common Areas shall include, without limiting the generality of the foregoing, the following specific items of maintenance, lighting and upkeep:

(i) Keeping and maintaining all sidewalks, walkways, roadways, and Parking Areas in a good, safe, and clean condition (including, without limitation, the provision of reasonable security measures and employment of security personnel, both during normal hours of operation and as may be determined by Developer in its sole discretion);

(ii) Removing promptly, to the extent reasonably practicable, snow, ice, surface water, rubbish, litter, and debris;

(iii) Keeping all directional signs and pavement signs and striping in the Parking Area distinct and legible;

(iv) Repairing, replacing, and renewing lighting, in the Common Areas, and the tubes, bulbs and ballasts therefor, as may be necessary;

(v) Caring for and replanting all landscaped and planted areas; and

(vi) Maintaining and repairing, as necessary, any utility lines (the cost of which repair or maintenance shall be borne solely by the Party serviced thereby if only one Party, or, if more than one Party is serviced thereby, by each Party in the proportion which its Floor Area bears to the total Floor Area of all Parties serviced thereby); provided, if any utility line is damaged by a Party or its agents, servants, employees or contractors, then such damage shall be repaired at the sole cost and expense of the Party responsible for such damage.

(c) Notwithstanding the foregoing, each Department Store shall (unless otherwise provided in a supplemental agreement between Developer and such Department Store), at its own expense, care for and replant all landscaped and planted areas on its Site within the curb lines of its perimeter sidewalks, shall maintain all perimeter curbs and sidewalks on its Site and shall keep all display windows and signs on its Site well lighted and shall be responsible for all such lighting and any other lighting within the curb lines of perimeter sidewalks.

(d) Notwithstanding the foregoing, if any Department Store shall be entitled under a supplemental agreement between Developer and such Department Store to elect to maintain the Common Area on its Site and shall elect to do so by notice given to all Parties to this Agreement, such Department Store shall thereupon assume Developer's obligations of maintenance hereunder as to such Department Store's Site and Developer shall thereupon be relieved of any such obligations of maintenance provided hereunder as to such Department Store's Site.

(e) Each Party shall at its expense, except as may be provided in any supplemental agreement between Developer and

a Department Store, keep or cause to be kept the Parking Areas on its respective Site lit (i) during any normal business hours when any Party is open for business and for reasonable periods after such business hours or (ii) when Tenants of 50% or more of the aggregate Floor Area on the Developer Site are open for business or, by the terms of their leases, are required to be open for business. Each Party shall keep or cause to be kept the portion of the Ring Road located on its respective Site lit when Tenants of at least 10% of the aggregate Floor Area on the Developer Site are open for business or, by the terms of their leases, are required to be open for business. Notwithstanding the foregoing, in no event shall any Party be required to keep or cause to be kept any portion of its respective Site lit on any Sunday or legal holiday in the State of Mississippi or prior to 9:00 a.m. or after 10:00 p.m. on any other day.

Section 12.3. Parties Not to Drain Heat, Etc. From Mall. Each Party in operating any heating, ventilating or air conditioning equipment on its Site shall not unduly drain heat, ventilation, or air conditioning from the Air Conditioned Mall or from the Buildings of any other Party located on any other Party's Site, as the case may be.

ARTICLE XIII

EASEMENTS

Section 13.1. Reciprocal Common Area Easements.

(a) Developer, D.H. Holmes, McRae's, each Other Department Store and each Free-Standing Building Operator which may, from time to time, become a Party to this Agreement,

hereby expressly grant to each other, and to their respective successors and assigns (including the grantee or lessee named in any deed or lease of any portion of Developer Site permitted by Sections 6.5 and 6.6 and the successors and assigns of any such grantee or lessee), their tenants, subtenants, concessionaires, licensees, and the respective officers, employees, agents, customers, and invitees of each, for the benefit of each grantee's Site, the non-exclusive right, privilege, and easement for the term provided in subparagraph (b) hereof to use the Common Area portions of the grantor's Site for the respective purpose for which such portions of such Common Area are designed (subject, however, to the grantor's right to appropriate any part of such Common Areas on grantor's Site for purposes of expansion or additional Buildings and Other Department Store Buildings as permitted by this Agreement within Permissible Building Areas indicated on the Plot Plan), in common with the grantor and the other tenants, subtenants, concessionaires, and licensees of the Entire Site, and the respective officers, employees, agents, customers and invitees of each, without payment of any fee or other charge being made therefor.

(b) Easements for the use of Parking Areas and other exterior Common Areas on any Party's Site shall terminate as to the Site of any grantor as of the date on which the Site of such grantor is no longer subject to the terms of this Agreement and shall terminate as to all Parties on the date of termination of this Agreement. Easements for use of the Air Conditioned Mall shall terminate with respect to any grantee whose Site is no longer subject to the terms of this Agreement.

(c) Each Party hereto shall have the right, at least once in each calendar year, to erect barriers or chains for the purpose of blocking off access to the Common Areas on its Site in order to avoid the possibility of dedicating the same for public use or creating prescriptive rights therein. Such barriers or chains shall be erected for such purposes, if possible, at a time or upon a day, when the Shopping Center is not open for business.

(d) The provisions of this Section 13.1 are subject to the provisions of Section 13.5.

Section 13.2. Easements for Underground Supports and Building Attachments. While it is the intention of the Parties to confine their improvements to the limits of their respective Sites, it is recognized that this result is not always achieved in a multi-ownership shopping center development. Accordingly, each Party hereby expressly grants and shall grant to the others and their respective successors and assigns for the benefit of each grantee's Site the non-exclusive right and easement in perpetuity (a) to construct, maintain, repair and replace such footings and underground supports along their respective common property lines, extending not more than six feet (6') under the servient tenement or such greater distance, not to exceed eleven feet (11'), as may be shown on approved D.H. Holmes Preliminary Plans or approved D.H. Holmes Final Plans or approved McRae's Preliminary Plans or approved McRae's Final Plans or approved Developer Preliminary Plans or approved Developer Final Plans, in each case, as shall be necessary in connection with the construction by each Party of its original Facilities and (b) to use such portions of the Site of the grantor and the building improvements erected

thereon as may be designated for such use by the grantor thereof for the attachment, but not the support, of building improvements (including the Air Conditioned Mall) constructed on the grantee's Site to building improvements constructed on the grantor's Site and to maintain, repair and replace such attachments, provided that the manner of attachment shall be in accordance with good construction practice in the manner customary for improvements of such type and so as not to impose an excessive load or create a party wall (as determined in the sole discretion of the grantor) on the grantor's building improvements and further provided that such attachments are shown on approved D.H. Preliminary Plans or approved D.H. Holmes Final Plans or approved McRae's Preliminary Plans or approved McRae's Final Plans or approved Developer Preliminary Plans or approved Developer Final Plans. The grantee and grantor of any easement established under subdivision (a) of the immediately preceding sentence agree to share proportionately with the other the cost of construction, maintenance, repair and replacement of any common footings and underground supports in accordance with the ratio which the load of each bears to the total load on such common footings and underground supports. At the request of any Party, the Parties hereto will enter into an agreement in recordable form describing the easements provided for hereby in accordance with a survey made at the joint expense of the Parties. Each such easement for such underground footings or supports for Buildings or for attachments in use at the time of termination of this Agreement shall continue until such underground supports or footings or such attachments are no longer being used.

Section 13.3. Sign and Canopy Easements. Each Party hereby expressly grants and shall grant to the others and their respective successors and assigns for the benefit of each grantee's Site the non-exclusive right and easement in perpetuity in connection with the construction and operation of grantee's Buildings to install, maintain, repair, and replace signs, canopies, roofs, building overhangs, and other like projections and encroachments attached to the grantee's Buildings and extending into the grantor's Site, provided, however, no such projection shall interfere with the operation of grantor or Tenants in its or their Buildings or extend more than five (5) feet (or such greater distance as may be shown on approved D.H. Holmes Preliminary Plans or approved D.H. Holmes Final Plans or approved McRae's Preliminary Plans or approved McRae's Final Plans or approved Developer Preliminary Plans or approved Developer Final Plans) into the Site of the grantor. Such easements shall terminate when the grantee's Building in question ceases to exist, it being understood that such Building shall not be deemed to cease to exist if following any damage or destruction or condemnation thereof the same shall be rebuilt promptly following such damage or destruction to a building of substantially similar size and type.

Section 13.4 Utility Easements. Developer, D.H. Holmes, McRae's and each Other Department Store and each Free-Standing Building Operator which may from time to time become a Party to this Agreement, hereby expressly grant and shall grant to each other and to their respective successors and assigns (including the grantee or lessee named in any deed or lease of any portion of Developer's Site permitted by Sections 6.5 and 6.6 and the successors and assigns of

any such grantee or lessee) for the benefit of each grantee's Site the non-exclusive right and easement in perpetuity to use, install, maintain, repair, and replace utility facilities, such as water, gas, electric, and telephone lines, and storm and sanitary sewers, underground and within the grantor's Site at the places shown for such utility facilities on the Utility Plan or other approved plans and specifications therefor to the extent shown thereon. In no event, however, shall any gas line be constructed under any Building pursuant to any easement granted hereby. At the request of any Party, the Parties hereto will enter into an agreement in recordable form describing the easements provided for hereby in accordance with a survey made at the joint expense of the Parties. Any Party hereto upon whose Site any such utility facilities shall have been installed shall have the right, upon sixty (60) days' prior notice to the other Parties, at any time or from time to time both during and after the term hereof, to move and relocate such facilities to such place on its Site as it shall designate; provided, however, that such relocation shall be made at the sole cost and expense of the Party requesting such relocation and that such relocation or relocated facility shall not interfere with, or increase the cost of, any other Party's utility service or unreasonably interfere with the conduct or operation of its business. The easements granted under this Section shall terminate upon abandonment for a period in excess of two (2) years (but in no event shall any abandonment be deemed to have occurred and be continuing if and so long as a Party is prevented from using an easement by reason of the acts of another Party or an Unavoidable Delay) but in no event prior to sixty-five (65) years from the date hereof.

Section 13.5. Ring Road Easement.

(a) Commencing on the completion of construction of the Ring Road, and of each portion thereof as the same may be built or extended, the Parties (each as owners of a portion of the Ring Road) hereby expressly grant and shall grant to each other Party and to their respective successors and assigns, their tenants, subtenants, concessionaires and licensees, and the respective officers, employees, agents, customers and invitees of each, for the benefit of each grantee's Site, the non-exclusive right, privilege and easement to use the Ring Road for the purpose of two-way vehicular access (passenger vehicles and trucks) and pedestrian access (x) among and between the Sites of the Parties and (y) among and between the Sites of the Parties and public and/or private highways, streets, avenues and roads adjoining the Sites of the Parties. These easements shall be perpetual.

(b) In the event of (i) a condemnation of any portion of the Ring Road or (ii) an expansion or relocation of the Facilities of one or more of the Parties otherwise permitted hereunder requiring the relocation of a portion or portions of the Ring Road then, and in either of such events, the Parties will endeavor in good faith to agree on a substitute route therefor in respect of the portion(s) so affected, it being intended that a substitute Ring Road as adequate as theretofore shall in such event continue to exist, if possible, and all Parties shall grant to each other easements therein corresponding to those in subparagraph (a) herein for two-way vehicular and pedestrian access. Should any relocation of the Ring Road be necessary and accomplished under the provisions of this Section and should such relocation cause a diminution of the number of parking spaces on a Party's Site, then for

the purposes of establishing the obligations of such Party relative to the minimum parking requirements set forth in Article XI of this Agreement such spaces shall be deemed taken by the same act of condemnation that instituted the relocation of the Ring Road and the provisions of Article XVI shall apply.

Section 13.6. Common Area Use. Each party will take such action as may be reasonable to confine the use of the exterior Common Area on its Site to (i) the Merchants Association or Promotional Fund, if any (but nothing herein contained shall be deemed to confer any rights upon the Merchants Association or Promotional Fund to use any Common Area), and (ii) those persons to whom easements and rights of use are granted under the provisions of Section 13.1 and in no event shall any Party authorize use of its Common Area by any one other than those to whose use the Common Area is confined under this Section and under applicable law. No Party shall at any time charge any sum for parking in any Parking Area except under a ticket validation plan approved by all Parties and participated in by all Tenants. Each Party covenants that it will not obstruct in any manner any portion of Common Area and, except for the operation of an Outside Sales Area in a Permissible Outside Sales Area, it will not use exterior Common Area in any manner, directly or indirectly, for the location or display of any merchandise or for the location or display of any property belonging to such Party or appertaining, directly or indirectly, to the operations by such Party in its Buildings. Each Party agrees that it will use for location or display of merchandise or location or display of any property belonging to it only such areas physically enclosed and located within the confines of its

Buildings, except that any Party may operate an Outside Sales Area in a Permissible Outside Sales Area.

Section 13.7. Temporary Construction Easement.

Each Party hereby grants to the others the non-exclusive right and easement prior to the Grand Opening Date to enter upon the Site of the grantor in connection with the construction of the improvements to be constructed by the grantee upon its Site, provided that each entry shall not interfere in a material manner with construction by the grantor.

Section 13.8. Conditions To Certain Easements.

Each grantee of an easement granted under Sections 13.2, 13.3 and 13.7 hereof agrees (a) to use due care in the exercise of such easements and in the event that the exercise of such easements (other than in the event of the exercise of an easement granted under Section 13.7 hereof) requires the grantee to enter upon the Site of grantor to first obtain the consent of the grantor (which consent shall not be unreasonably withheld or delayed) as to the methods and timing in the exercise of such easement, and (b) at its expense promptly to repair, replace and restore any and all improvements of the grantor of such easements which have been damaged or destroyed by grantee in the exercise of such rights and to hold the grantor harmless from all loss, liability, cost and expense in connection with the exercise of such easement.

ARTICLE XIV

INSURANCE

Section 14.1. Fire and Other Insurance. Each Party shall, at all times, including periods of construction, have all

Buildings and other improvements on its Site insured, at its expense, against loss or damage by fire, windstorm, flood, lightning, hail, and other risks as are from time to time included in the usual form of "extended coverage" endorsement in Madison County, Mississippi. and if obtainable, against loss by explosions, riot, or civil commotion, damage from aircraft and vehicles and smoke damage, in an amount not less than 90% of the full cost of replacement of such buildings and improvements with a deductible not to exceed \$100,000, and shall also, if applicable, maintain pressure vessel insurance. No Party shall be liable to any other Party or to any insurance company (by way of subrogation or otherwise) insuring any other Party for any loss or damage to any Building or other structure which was, or was required to be, covered by such insurance even though such loss or damage might have been occasioned by the negligence of such Party, its agents or employees, and each Party shall obtain a waiver of subrogation endorsement with respect to any policy of insurance which it is required to maintain pursuant to this Section 14.1; provided, however, if any Party (i) shall be unable to obtain such waiver of subrogation endorsement or said Party shall not obtain such waiver of subrogation endorsement pursuant to the provisions of subdivision (iv) hereof, neither it nor its insurance carrier shall be entitled to avail itself of the benefits of such a waiver which shall have been made by any other Party, (ii) by reason of the foregoing waiver, shall be unable to obtain the insurance required by this Section, such waiver will not be deemed to have been made by such Party, (iii) shall be unable to obtain such waiver of subrogation endorsement, such Party shall be relieved of the obligation to do so and the foregoing waiver

will not be deemed to have been made by such Party, and (iv) by reason of the foregoing waiver shall be unable to obtain such waiver of subrogation endorsement without the payment of an additional premium therefor, then, in such case unless the other Party(ies) benefited by such waiver shall pay for the cost of such additional premium within thirty (30) days after notice of the statement setting forth such requirement and the amount of the additional premium, such Party shall not be required to obtain such waiver of subrogation endorsement and such waiver shall be of no force and effect between such Party and such benefited Party(ies).

Section 14.2. Liability Insurance At all times during the term of this Agreement, each Party will, at its own cost and expense, provide and keep in force comprehensive general liability insurance policies with contractual liability coverage, in standard form, protecting such Party against any and all liability in an amount of not less than \$3,000,000, with respect to personal injuries to, or death of, any person or persons, and in an amount of not less than \$500,000 with respect to damage to or destruction of property of others. As long as Developer is maintaining the Common Areas on each Party's Site, Developer shall secure a joint common area liability policy, the cost of which shall be shared by each Party in the same proportion as such Party's Floor Area bears to the total Floor Area of the Shopping Center. The amounts of \$3,000,000 and \$500,000 stated in this Section shall be adjusted on the fifth anniversary of the Grand Opening Date, and on each subsequent fifth anniversary during the term of this Agreement, by increasing each of such amounts so as to

reflect the coverage carried by owners of first class shopping centers for comparable shopping centers in the same general area at the time in question.

Section 14.3. Indemnity. Each Party will defend, indemnify and save the other Parties harmless from and against any and all claims, actions, damages, liabilities and expenses occasioned wholly or in part, directly or indirectly, by any alleged act or omission of it, its tenants, subtenants, agents, contractors or employees, unless attributable to the acts or omissions of the Party claiming the benefit of such indemnity or of its tenants, subtenants, agents, contractors or employees.

Section 14.4. Insurance Carriers and Self-Insurance.

All insurance provided for in this Article shall be effected under valid and enforceable policies issued by insurers of recognized responsibility and authorized to do business in the State of Mississippi. Upon request of any Party, evidence of the initial policies or renewal policies, if any, as the case may be, required to be carried by each Party in the form of certificates or otherwise, shall be delivered to the requesting Party prior to initiation of construction on the other Party's Site and thereafter not less than fifteen (15) days prior to the expiration dates of the expiring policies. Any Party whose net worth or the net worth of any of whose parent company and/or affiliates shall be \$100,000,000.00 or more may carry any insurance required to be maintained under this Article XIV, either in whole or in part under any plan of self-insurance which such Party and/or its parent company and/or affiliates may have in effect. Any Party may carry any insurance required to

be maintained in this Article XIV under a "blanket policy" covering other properties of such Party provided that (i) the amount and term of coverage for that Party's Buildings and Facilities in the Shopping Center shall be separately specified; (ii) such coverage be in compliance with the requirements of this Agreement and (iii) information relating to the amount and term of such coverage be furnished to each of the other Parties hereto.

Section 14.5. Disposition of Insurance Proceeds.

Any loss covered by insurance provided for in Section 14.1 shall be adjusted by the insured. If the loss shall be in excess of \$200,000.00 and shall be required to be repaired or restored under the terms of this Agreement and the insured shall have a net worth of less than \$100,000,000.00, then, and in any such event, insurance proceeds shall be deposited with such Party's Lender (as hereinafter defined), if any, or otherwise with a bank, trust company or other corporate fiduciary and held in trust by such depository and disbursed for application to the work of repair or restoration as such work progresses or otherwise as provided herein subject to such conditions for disbursements as such depository may require; if the loss shall not exceed \$200,000.00 or shall not be required to be restored under the terms of this Agreement, or the insured shall have a net worth of \$100,000,000.00 or more, the insurance proceeds shall be paid to the insured or its Lender and first applied by it or by its Lender (if such proceeds have been theretofore paid to the Lender but, if so, subject to such conditions for disbursement as such Lender may require) toward the repair and restoration of such damage or otherwise as required by the terms of this Agreement. As used herein,

"Lender" means any Institutional Lender which holds a senior security interest in the Site of such Party, whether by way of mortgage, deed of trust, trust indenture, sale and leaseback, or similar device. "Institutional Lender" means a bank, trust company, mutual savings bank, savings and loan association, insurance company, mortgage or real estate investment trust, retirement and/or pension trust fund, college endowment fund or other entity commonly recognized as an "Institutional Lender."

ARTICLE XV

DAMAGE AND DESTRUCTION

Section 15.1. Damage and Destruction of Developer Buildings During Developer Operating Covenant Period. In the event of the destruction of or damage to any extent of the Developer Facilities or any part thereof, caused by a peril required to be insured against pursuant to the provisions of Article XIV hereof, and as often as any Developer Facilities or any part thereof shall be so destroyed or damaged during the Developer Operating Covenant Period, Developer shall rebuild and repair the same to as good a condition, to the same general appearance, on the same level and to not less than the same size as the Developer Facilities as existing immediately prior to the damage or destruction, except that if, at or prior to the occurrence of such damage or destruction less than two (2) of the Department Store(s) shall be operating or causing to be operated a retail department store in its Main Building for any reason (other than by reason of damage or destruction of such Main Building), then Developer shall not be required to repair or rebuild its Facilities as hereinabove set forth but shall be required, notwithstanding

the provisions of Articles II and V, to connect only to the remaining Department Store(s). Developer agrees that all work of repair or reconstruction on any Developer Facility that it is required to rebuild or repair pursuant to this Agreement shall be commenced promptly following any loss or destruction and shall be carried through diligently to conclusion by it and that any change in the overall appearance (except for a negligible or inconsequential change of appearance), level, or size of Developer Facilities being repaired or rebuilt shall be first approved by the Department Stores through submission and approval of plans and specifications for such changes in the same manner as herein provided for the submission for approval of plans and specifications for the initial construction of the Developer Buildings, except that the Department Stores shall have only ten (10) days within which to exercise each right of approval or disapproval of such plans and specifications.

Notwithstanding the foregoing, if the Developer Buildings shall be substantially destroyed or damaged during the last two (2) years of the last to expire of the Department Store Operating Covenant Periods, Developer shall not be required to so rebuild and repair unless at least two (2) Department Stores shall agree in writing to operate or cause to be operated a retail department store for a period following restoration equal to their respective initial Operating Covenant Periods (any such damage shall be deemed to be substantial if the cost to repair the same shall be greater than twenty-five (25%) percent of the full insurable value of the Developer Buildings at the time such damage occurs).

Section 15.2. Damage and Destruction of Developer Buildings After Developer Operating Covenant Period. If the Developer Buildings shall be damaged or destroyed after the term of the Developer Operating Covenant Period, and if Developer shall elect not to repair or rebuild the Developer Buildings, Developer shall clear away the ruins and leave the Developer Site in a clean, orderly and sightly condition. If, however, any such damage or destruction shall involve the Air Conditioned Mall or any portion of the Developer Buildings then occupied by Tenants, then, unless Developer shall proceed within sixty (60) days of the occurrence of such damage or destruction to notify each Department Store of Developer's intention to complete the reconstruction of the Air Conditioned Mall or, as the case may be, the reconstruction of the Developer Buildings so that upon the completion of such reconstruction the Developer Buildings shall have an aggregate Floor Area at least equal to seventy-five percent (75%) of the aggregate Floor Area of the Developer Buildings occupied by Tenants prior to such damage or destruction, any Department Store may elect to terminate this Agreement, as to it, by giving written notice thereof to the other Parties and if such election is made such Department Store shall no longer be bound by nor have the benefit of the provisions hereof, except that (i) for the remainder of the term of this Agreement so long as any Department Store shall be occupying its Main Building for retail store purposes and shall itself be in compliance with Section 10.5, the other Department Store(s) shall comply with Section 10.5 during any period it (or they) occupies its Main Building for retail store purposes, and (ii) no such termination shall extinguish, reduce or otherwise affect the easements granted

in Sections 13.1, 13.2, 13.3, 13.4 and 13.5 for the terms set forth therein.

Section 15.3. Damage and Destruction of Department Store Buildings. In the event of damage or destruction to either the D.H. Holmes Main Building, McRae's Building or any Other Department Store Main Building and as often as any such Building shall be destroyed or damaged during the Operating Covenant Period of such Department Store, D.H. Holmes, McRae's or such Other Department Store, as the case may be, shall repair or rebuild such Building to as good a condition, to the same general appearance, on the same level or levels, to the size and to the extent necessary, so that there shall be at least as many square feet of Floor Area on the same level or levels as such Building and Facilities required to be located on its Site prior to the damage or destruction. Any such repair or reconstruction of such Department Store Building shall be commenced promptly following any loss or destruction and shall be carried through diligently to conclusion and any change in the overall appearance, level, or size (except as provided in the next preceding sentence) of any such Building shall be first approved by Developer through the submission and approval of plans and specifications for such changes in the same manner as herein provided for the submission and approval of plans and specifications for the initial construction of such Department Store's Buildings. Notwithstanding the foregoing provisions of this Section, if any such Department Store's Building shall be substantially damaged or destroyed during the last two (2) years of such Department Store's Operating Covenant Period or if any Department Store's Building shall be substantially or insubstantially damaged or destroyed after the

expiration of such Department Store's Operating Covenant Period and if such Department Store elects not to repair or rebuild such Building, such Department Store shall clear away the ruins and leave its Site in a clean, orderly and sightly condition. (Any such damage shall be deemed to be substantial if the cost to repair the same shall be more than twenty-five percent (25%) of the full insurable value of the damaged Building at the time such damage occurs.) However, should such Department Store elect to rebuild, such Department Store may rebuild either to the pre-existing size or to any lesser size, but any such reconstruction shall be of the same general appearance as existed previously.

ARTICLE XVI

CONDEMNATION

Section 16.1. "Condemnation" Defined. The term "Condemnation" shall mean any taking or takings of any interest in the Site of any Party by any right of eminent domain or the granting or conveying pursuant to the threat thereof at any time or cumulatively from time to time. A Condemnation shall be effective as of the date on which possession is required to be surrendered to the condemning authority.

Section 16.2. Condemnation of Developer Site.

(a) If any Condemnation of the Developer Site results in a taking of less than twenty percent (20%) of the Developer Parking Area or less than twenty percent (20%) of the Floor Area of the Developer Buildings then this Agreement shall continue in full force and effect and Developer shall, as to the Developer Parking Area repair and reconstruct and add to the Developer Parking Area (by deck or multi-level parking or

otherwise) to the extent necessary to provide the number of parking spaces required by Section 11.1 and, as to the Developer Buildings restore the same to an architectural whole.

(b) If any Condemnation results in a taking of twenty percent (20%) or more, but less than sixty percent (60%), of the Developer Parking Area or twenty percent (20%) or more, but less than sixty percent (60%), of the Floor Area of the Developer Buildings and if, in Developer's sole judgment, it is reasonably feasible for Developer to repair and reconstruct, or add additional Parking Area to the remaining portions or to continue the operation of the Developer Buildings pursuant to the terms and conditions of this Agreement (as the case may be), then Developer shall promptly repair and reconstruct any Building or other Facility damaged or diminished by such Condemnation so as to provide Buildings on Developer Site of the same general appearance as prior to such Condemnation and which shall include an Air Conditioned Mall connecting, if at all possible, to each Department Store Main Building and shall repair and reconstruct and add to the Developer Parking Area, by deck or multi-level parking or otherwise, to provide the number of parking spaces required by Section 11.1. If, in Developer's sole judgment, it is not so reasonably feasible to repair and reconstruct as just provided, then Developer shall have the right to terminate this Agreement, subject to the terms and conditions hereinafter provided in Section 16.4..

(c) If any Condemnation results in the taking of sixty percent (60%) or more of the Developer Parking Area or sixty percent (60%) or more of the total square feet of Floor Area of the Developer Buildings, any Party may terminate this Agreement,

subject to the terms and conditions hereinafter provided for in Section 16.4.

Section 16.3. Condemnation of Department Store Site.

(a) If any Condemnation of any Department Store's Site results in a taking of less than twenty percent (20%) of such Department Store's Parking Area or less than twenty percent (20%) of the Floor Area of such Department Store's Main Building then this Agreement shall continue in full force and effect and such Department Store shall repair and reconstruct and add to its Main Building or Parking Area (by deck or multi-level parking or otherwise) to the extent necessary to provide the number of parking spaces required by Section 11.1 and shall restore its Main Building to an architectural whole.

(b) If any condemnation results in a taking of twenty percent (20%) or more, but less than sixty percent (60%), of any Department Store's Parking Area or twenty percent (20%) or more, but less than sixty percent (60%), of the Floor Area of any Department Store's Main Building, and if, in such Department Store's sole judgment, it is reasonably feasible for such Department Store to repair and reconstruct or add additional Parking Area to the remaining portions or to continue the operation of its Main Building pursuant to the terms and conditions of this Agreement (as the case may be), then such Department Store shall promptly repair and reconstruct any Building or other Facility damaged or diminished by such Condemnation to provide buildings on such Department Store's Site of the same general appearance as prior to such Condem-

nation and shall repair and reconstruct and add to such Department Store's Parking Area by deck or multi-level parking or otherwise to provide the number of parking spaces required by Section 11.1. If it is not so reasonably feasible to repair and reconstruct as just provided, then such Department Store shall have the right to terminate this Agreement as to it, subject to the terms and conditions hereinafter provided in Section 16.4, but the other Parties shall remain parties to this Agreement and shall continue their operations pursuant to the terms hereof.

(c) If any Condemnation results in the taking of sixty percent (60%) or more of any Department Store's Parking Area or sixty percent (60%) or more of the total square feet of Floor Area of any Department Store's Main Building, then such Department Store may terminate this Agreement as to it, but such Department Store shall remain subject to the terms and conditions as provided in Section 16.4 hereof, and Developer and the other Department Store(s) shall remain Parties to this Agreement and shall continue their operations pursuant to the terms hereof.

Section 16.4 Survival of Easements. Should this Agreement be terminated as to any Party or as to all Parties pursuant to this Article, such Party or Parties as to whom this Agreement shall have been terminated shall no longer be bound by nor have the benefit of the terms and conditions of this Agreement except that (i) notwithstanding such termination, any retail operations by any Party on its Site shall not violate the terms of Section 10.5 so long as any other Party hereto (whether or not then a Party to this Agreement) is continuing to operate the type of retail operation which it was required

to operate during its Operating Covenant Period and (ii) no such termination shall extinguish, reduce or otherwise affect the easements granted in Sections 13.2, 13.3, 13.4 or 13.5, subject, to the right of the Party on whose Site any part of the Ring Road may be located to relocate the same consistent with such Party's use of its Site so long as proper traffic patterns for the Entire Site are maintained. If this Agreement is terminated pursuant to this Article the Parties agree that, upon request of any Party hereto, they will execute and deliver such documents, including those in recordable form, as may be necessary or desirable to preserve, define and describe the easements which are to survive termination of this Agreement pursuant to the provisions of this Section.

Section 16.5. Condemnation Proceeds. Each Party shall be entitled to the entire award with respect to any taking of such Party's Site and no other Party shall be entitled to any portion of such award, but this shall not prohibit any other Party from claiming a separate award for severance or other damages so long as such claim shall not reduce the award to the Party whose Site was taken.

ARTICLE XVII

ASSIGNMENT, TRANSFER AND MORTGAGE

Section 17.1. Conveyance and Assignment.

(a) Developer shall not be permitted to transfer all or any portion of the Developer Site or its interest under this Agreement until after the Grand Opening Date except as permitted by Sections 6.5, 6.6 and 17.2. In the event that at any time after the date the Developer Facilities have been con-

structured and opened for business in accordance with this Agreement, Developer shall sell, assign, transfer or convey its interest in the Developer Site, Developer shall be relieved of all further liability hereunder, provided (i) Developer shall not then be in default in the performance of any covenant or obligation to be performed on the part of Developer, and (ii) the transferee shall expressly assume and covenant with the Department Stores to perform and be bound by all the terms, covenants and conditions in this Agreement contained and to be performed on the part of the Developer arising from and after the date of such sale, assignment, transfer or conveyance. Notwithstanding the foregoing, Developer may transfer its interest in the Developer Site or any portion thereof or its interest under this Agreement prior to the Grand Opening Date, provided the transferee thereof shall be a partnership or other entity controlling, controlled by, or under common control with Cadillac Fairview Shopping Center Properties (Mississippi) Inc. and/or the Lender with regard to the Developer Site. For the purposes hereof, the term "control" shall mean the ownership, directly or indirectly, of more than fifty (50%) of the outstanding stock of any corporation or more than fifty (50%) percent of the equitable and beneficial interests in any other entity.

(b) No Department Store shall be permitted to transfer all or any portion of its respective Site or its interest under this Agreement until after the termination of such Department Store's Operating Covenant Period as the same may be extended from time to time. Notwithstanding anything to the contrary contained herein, each Department Store may (i) lease portions of its Building(s) or license departments

thereof or grant concessions to other parties, provided such Department Store shall remain bound by all of the terms, covenants and obligations in this Agreement to be performed by such Department Store; (ii) lease or sell its Site to any parent company which owns all of the outstanding shares of such Department Store or to any subsidiary corporation of such parent company (provided such parent company assumes or guarantees all of such Department Store's obligations hereunder) or to any corporation which may succeed to the business of such Department Store or such parent company in the United States or to any corporation which may, as the result of reorganization, merger, consolidation or sale of stock or assets, succeed to such business, and in any such case, such Department Store shall be released from all further obligations under this Agreement only if such lease or sale is to a corporation which acquires all or substantially all of its assets, and such corporation has net assets at least equal to the net assets the Department Store, or its parent company (if any), whichever shall be the greater, had immediately prior to such reorganization, merger, consolidation or sale of stock or assets, and which corporation by written instrument in recordable form, expressly assumes all of such Department Store's obligations hereunder, and (iii) in order to provide construction or permanent financing of the improvements to be constructed on its Site or to provide refinancing of the same, mortgage its Site and/or sell and leaseback or lease and subleaseback its Site in an arm's length transaction with a Lender, and in connection with any such transactions assign its interest in this Agreement, and if such mortgage is foreclosed or a deed delivered in lieu of foreclosure, or if any Depart-

ment Store shall have entered into a sale and leaseback or a lease and subleaseback transaction involving its Site with a purchaser or lessee, as the case may be, not otherwise related to or having an interest in such Department Store, and in which purchaser or lessee such Department Store has no interest, financial or otherwise, under which such Department Store or any parent company who owns all of the outstanding shares of such Department Store is the lessee or sublessee thereunder, and such lessee or sublessee shall be deprived of possession of such Site by reason of its failure to comply with the terms of such leaseback or subleaseback, any person or entity who has acquired, or shall thereafter acquire, title to such Site or a leasehold estate therein, provided such person or entity is a bona fide third party as hereinabove provided, shall hold the same free of any requirement that a retail department store be operated on such Site, as provided in Sections 10.3 and 10.4 or any supplemental agreement, as the case may be, but such Site shall only be devoted to retail, retail-service, or related purposes during the remainder of the term of the Operating Covenant Period of such Department Store and thereafter in accordance with the terms of this Agreement and such Department Store shall not, in such a case, be deemed released from its obligations hereunder.

(c) If any Party shall convey its entire Site and such conveyance is not prohibited under this Agreement, such Party shall be released from all further liability arising under this Agreement in respect of any period after the date of such conveyance, but, in the case of a Department Store, not before the termination of such Department Store's Op-

erating Covenant Period, as the same may be extended from time to time, provided the transferee shall expressly assume, and covenant to perform and be bound by all the terms, covenants and conditions in this Agreement contained to be performed by the transferor arising from and after the date of such transfer, and in any case such Party shall not be released from any liability which shall have theretofore accrued.

Section 17.2. Assignment and Mortgage by Developer.

Notwithstanding anything to the contrary contained in this Agreement, Developer, in order to obtain construction financing, permanent financing or refinancing (which may be in an amount greater than the original loan amount) of the Developer Site (including, without limitation, the construction of the Off-Site and the On-Site Improvements), shall have the right, from time to time, to mortgage the Developer Site, to enter into a sale and leaseback or a lease and subleaseback transaction involving the Developer Site, assign its rights and interests in this Agreement (including its rights under Section 10.3 and 10.4) and/or modify the composition of the Developer entity in order to accomplish such financing or refinancing. Furthermore, nothing herein shall prohibit any general partner of Developer from assigning all or any portion of its interest in cash flow, secured by its interest in the Developer Site and this Agreement.

Section 17.3. Provisions Applicable to Lenders.

Notwithstanding anything to the contrary herein contained, if, in order to secure an indebtedness pursuant to Section 17.2 or clause (b) of Section 17.1 hereof, any Party shall (i) assign or convey its interest in its Site and assign its interest under

this Agreement in connection with a sale and leaseback or lease and subleaseback financing, and it or its parent corporation shall simultaneously become vested with a leasehold estate or similar possessory interest in its Site by virtue of a lease made by the grantee, assignee or lessee, as the case may be, or (ii) convey or assign its interest in its Site and assign its interest under this Agreement by way of a deed of trust or mortgage or, in the case of Developer, sale of all or portions of its interest in cash flow and retain its possessory interest in its Site, then in neither of such events shall the assignee of this Agreement under such sale and leaseback or lease and subleaseback, or any subsequent owner or assignee of its Site, or the trustee, beneficiary or mortgagee under any such deed of trust or mortgage, be deemed to have assumed or be bound by any of such Party's obligations hereunder for so long as such conveying party or its parent corporation shall retain title or such possessory interest, and such obligations shall continue to remain solely those of such conveying Party or parent corporation, as the case may be, so long as such conveying Party or its parent corporation retains title or such possessory interest, and performance by such conveying Party or its parent corporation of any act required to be performed under this Agreement by it or fulfillment of any condition of this Agreement by such conveying Party or its parent corporation shall be deemed the performance of such act or the fulfillment of such condition by such assignee, lessee, subsequent owner, trustee, beneficiary or mortgagee, as the case may be, and shall be acceptable to the Parties hereto with the same force and effect as if performed or fulfilled by such assignee, lessee, subsequent owner, trustee, beneficiary or mortgagee.

Section 17.4. Notices to Lenders. Each Party serving a notice of default under this Agreement shall send by registered or certified United States mail, postage prepaid, a copy of such notice to any lender of the Party so served, provided such lender shall have sent the Party serving the notice of default a notice informing it of the existence of such mortgage or deed of trust and the address to which copies of such notices of default are to be sent, and such Party and its lender shall be permitted to cure any such default not later than thirty (30) days after a copy of the notice of default shall have been sent to such Party and its lender, provided that in the case of a default which cannot with diligence be remedied within such period of thirty (30) days, such Party and/or its lender shall within such thirty (30) day period commence curing such default and thereafter proceed to remedy such default with diligence and continuity upon the expiration of such time periods, if the original default which was the subject of the first notice of default remains uncured or is continuing, the Party serving the first notice of such default shall send a second notice of default by registered or certified mail, postage prepaid, to such lender and such lender shall have an additional period of not less than thirty (30) days after receipt of such notice of default within which such lender shall be permitted to cure any such default, provided that in the case of a default which cannot with diligence be remedied within such period of thirty (30) days, such lender shall within such thirty (30) day period commence curing such default and thereafter proceed to remedy such default with diligence and continuity. For the purposes of the foregoing sentence, but without limitation on

the provisions thereof, (i) a lender shall be deemed to have commenced to cure such default if it has commenced an action or proceeding to obtain the appointment of a receiver, has commenced foreclosure proceedings, or has commenced other actions to obtain possession of a Site and (ii) a lender shall be deemed to be proceeding to remedy a default so long as it is continuing foreclosure proceedings, or continuing other action to obtain possession of a Site.

Section 17.5 Limitation on Liability of Lenders.

The liability of any Party under Section 14.3 of this Agreement shall not extend to any lender of such Party, whether or not such lender shall actually be in possession of the Site of the Party in question.

ARTICLE XVIII

DEFAULT

Section 18.1. Self-Help. If any Party (hereinafter referred to as a "Defaulting Party") shall not keep and perform any of its obligations under Article XII or Sections 13.6 or 19.2 hereof, and such default shall continue for a period beyond the periods provided for in Section 17.4 hereof, the Party which served or joined in the notices of default provided in Section 17.4 may, in addition to any other remedies at law or in equity or as otherwise provided in this Agreement, cure or prosecute the curing of such default at reasonable expense in connection therewith, including reasonable legal fees, provided such Party is not then in violation of the particular covenant, if any, binding upon it which it is seeking to enforce against the Defaulting Party, and such expenses of such cure or prose-

cution shall promptly be paid by the Defaulting Party to the Party effecting such cure.

ARTICLE XIX

MISCELLANEOUS

Section 19.1. Name of Shopping Center. Developer agrees that, unless otherwise approved by D.H. Holmes, McRae's and each of the Other Department Stores, the Shopping Center shall be operated under the name "The Park".

Section 19.2. Taxes. No Party shall have any responsibility for the payment of any taxes or assessments or service charges on any other Party's Site or the Facilities thereon or the operations conducted within any other Party's Buildings, and each Party shall be responsible for payment of such taxes, assessments or service charges relating to its Site and the Buildings and improvements thereon (including the Common Area) and agrees to pay all such taxes, assessments and charges in a timely manner and to the extent necessary to prevent the forfeiture of its estate in its Site by reason of the foreclosure of any lien or encumbrance being placed on its Site by virtue of the levying of any such taxes, assessments or service charges.

Section 19.3. Short Form Agreement. Each Party hereto agrees that, if requested by any other Party, it will promptly execute in form appropriate for recording and will cause to be recorded a short form or memorandum of this Agreement satisfactory in form and substance and in manner of recordation to the other Parties.

Section 19.4. No Joint Venture. Nothing contained

in this Agreement shall be construed to make the Parties hereto partners or joint venturers or to render any Party liable for the debts or obligations of any other.

Section 19.5. No Waiver. No delay or omission by any Party hereto to exercise any right or power accruing upon any noncompliance or failure of performance by any other Party under the provisions of this Agreement, shall impair any such right or power or be construed to be a waiver thereof, unless expressly so provided by such provisions. A waiver by a Party hereto of any of the covenants, conditions or agreements hereof to be performed by any other Party shall not be construed to be a waiver of any succeeding breach thereof or of any other covenants, conditions or agreements herein contained.

Section 19.6. Notices. Any notice, request, demand, approval or consent given or required to be given under this Agreement shall, except as otherwise expressly provided herein, be given by United States or Canadian Registered or Certified Mail, postage prepaid, return receipt requested, or delivered by hand to the other Parties at their respective addresses stated below or at the last address given by the Parties to be notified as hereinabove specified.

Address for notices to Developer shall be as follows:

Ridgeland Associates
c/o Cadillac Fairview Shopping Centers
(U.S.) Limited
One North Broadway
White Plains, New York 10601
Attention: Mr. Alexius G. Conroy

plus a copy to

Ridgeland Associates
c/o The Cadillac Fairview
Corporation Limited
20 Queen Street West
Toronto, Ontario, Canada M5H 3R4
Attn: Mr. James Bullock

Address for notices to D.H. Holmes shall be as follows:

D.H. Holmes Company Limited
819 Canal Street
New Orleans, Louisiana 70112
Attn: President

Address for notices to McRae's shall be as follows:

McRae's, Inc.
3455 Highway 80 West
P.O. Box 20080
Jackson, Mississippi 39209
Attn: Mr. Richard S. McRae, Sr., President

Any Party may, at any time, change its address for the above purposes by mailing as aforesaid a notice stating the change and setting forth the new address or addresses (but not more than three (3) addresses in the aggregate for any Party at any time).

Section 19.7. Headings. The Article and Section headings herein are for convenience and reference only and in no way define or limit the scope and content of this Agreement or in any way affect its provisions.

Section 19.8. Applicable Law and Counterparts. This Agreement shall be governed by and construed in accordance with the laws of the State of Mississippi. This Agreement may be executed in the original and several conformed counterparts, each such counterpart to be so marked, and all such counterparts

shall together constitute one and the same instrument insofar as the same may be binding or enforceable against the Parties hereto.

Section 19.9. Successors and Assigns. All of the terms of this Agreement shall be binding upon and inure to the benefit of and be enforceable by and against the respective heirs, successors and assigns of the Parties hereto, except as otherwise expressly provided herein.

Section 19.10. Agreement for Benefit of Parties Only. Except as otherwise expressly provided in Article XVII and in Sections 19.9 and 19.15, this Agreement shall in no way constitute or create rights in persons, firms or entities not Parties hereto or create obligations or responsibilities to such third persons on behalf of Parties hereto and this Agreement may be amended by the Parties hereto from time to time by written agreement duly executed by the Parties and by each lender of each Party. This Section shall not, however, be construed to prohibit any two or more of the Parties from entering into a supplemental agreement supplementing the terms hereof, provided that no such agreement shall be binding on any Party hereto which shall not also be a Party thereto.

Section 19.11. Conflicts. Where any irreconcilable conflict appears between the terms and conditions of this Agreement and the provisions or illustrations on any Exhibit forming a part of this Agreement, the terms of this Agreement shall control.

Section 19.12. Expense of Obligations. Where this Agreement imposes obligations or responsibilities upon any Party hereto, such obligations and responsibilities shall be performed at the expense of such Party responsible without contribution from any other Party except where otherwise specifically provided or as may be provided in a supplemental agreement.

Section 19.13. Unavoidable Delays. Each Party hereto and each lender of each Party hereto, shall be excused from performing any of its obligations or exercising any of its rights provided in this Agreement (except any of its obligations to pay any sums of money under the applicable provisions hereof) for so long as the performance of such obligation or the exercise of such right is prevented or delayed by any cause which is beyond the reasonable control of such Party or lender, including but not limited to such of the following as may be beyond the reasonable control of such Party or lender: Act of God, fire, earthquake, floods, explosions, actions of the elements, war, invasion, insurrection, riot, mob violence, sabotage, malicious mischief, inability to procure or general shortage or rationing or regulation of labor, equipment, facilities, sources of energy (including, without limitation, fuel oil, electricity, gas, gasoline or steam), materials or supplies in the open market, failure of transportation, strikes, lockouts, action of labor unions, condemnation, requisition, order of government or civil or military or naval authorities, litigation involving a Party or others relating to zoning, subdivision, or other governmental action or inaction pertaining to the Shopping Center or any portion thereof, inability to obtain government permits or approvals, or any other cause, whether similar or dissimilar

to the foregoing, not reasonably within the control of such Party or lender; provided, however, that no Party or lender shall be entitled to relief under this Section by reason of any event unless such Party or lender shall have given the other Parties notice of such event and the nature of such event in writing within fifteen (15) days after the occurrence of such event. Any delay or cause excusing performance pursuant to the terms of this Section 19.13 is referred to herein as an "Unavoidable Delay".

Section 19.14. Estoppel Certificates. Each Party shall, from time to time upon not less than twenty (20) days' notice from any other Party, execute and deliver to such other Party or to such other Party's lender or prospective lender a certificate stating (i) that this Agreement is unmodified and in full force, or, (ii) if modified, that this Agreement is in full force and effect, as modified, and stating the modifications, (iii) whether or not, to the best of its knowledge, such other Party is in default in any respect under this Agreement, and if in default, specifying such default, and (iv) such other matters as shall reasonably be requested by the Party requesting such certificate.

Section 19.15. Covenants Running with the Land. All the covenants, agreements, conditions and restrictions set forth in this Agreement are intended to be and shall be construed as covenants running with the land, binding upon, inuring to the benefit of and enforceable by the Parties hereto and all subsequent owners or lessees of their respective Sites or any parts thereof; any assignee of any Party's interest in its Site, by the taking of such assignment, shall

be deemed to have expressly assumed all of such Party's covenants and obligations hereunder from and after the date of such assignment without the necessity of executing any assumption agreement, except as otherwise provided herein. None of the covenants, agreements, conditions and restrictions set forth in this Agreement shall be enforceable by any tenant, subtenant, licensee or concessionaire of any such Party.

Section 19.16. Limited Liability of Developer.

Notwithstanding anything contained in this Agreement to the contrary, from and after the earliest day when all of the following events have occurred:

(i) an aggregate of at least 175,000 square feet of Floor Area on the Developer's Site shown on the Developer Final Plans has been substantially completed (excluding, however, work to be done by or on behalf of Tenants) in accordance with this Agreement (and any remaining Floor Area under construction shall have been appropriately enclosed and left in a sightly and safe condition), all free of mechanics' liens; and

(ii) 150,000 square feet of such Floor Area is occupied by Tenants in accordance with this Agreement; and

(iii) the Air Conditioned Mall and all On-Site and Off-Site Improvements to be performed by Developer hereunder shall be substantially completed in compliance with this Agreement, all free of mechanics' liens;

any claim, demand or cause of action in favor of any other Party against Developer or then owner of the Developer's

Site resulting from the failure of Developer or such owner to comply with the terms and conditions of this Agreement on Developer's or such owner's part to be performed, shall be enforceable solely against Developer's or such owner's interest in the Developer's Site (subject, however, to the rights of any mortgagees or holders of deeds of trust on Developer's Site), it being intended that no other assets or property of Developer or such owner nor any assets or property of any officer, director, shareholder, partner or disclosed or undisclosed principal of Developer or such owner shall be subject to levy or sale, or otherwise be subject to any judgment, liability or decree, based upon any claim, demand or cause of action above described or otherwise related to this Agreement.

Section 19.17. No Defeat of a Mortgage. Neither anything in this Agreement nor any default, act or omission by any Party shall render invalid or defeat any mortgage.

Section 19.18. Effective Date of this Agreement. Anything in this Agreement to the contrary notwithstanding, this Agreement shall be binding on McRae's and Developer following execution hereof by McRae's and Developer, notwithstanding the failure or delay by D.H. Holmes to execute this Agreement. From and after the date on which both McRae's and Developer shall have executed this Agreement, all of the terms and conditions hereof pertaining to McRae's and Developer, or either or both of them, shall be in full force and effect and all references in this Agreement to D.H. Holmes and to any matter related to D.H. Holmes shall be deemed to be deleted herefrom until such time, if any, as D.H. Holmes shall execute and deliver a counterpart of this Agreement.

Section 19.19. Cancellation of this Agreement. Anything in this Agreement to the contrary notwithstanding including, without limitation, the provisions of Section 19.18, if and in the event that (i) Developer shall not acquire title to the Entire Site for any reason whatsoever (including, but not limited to, cancellation by CF or Developer of any exercise of the Option, default by CF or Developer under the Option, or inability or failure of the optionor under the Option to convey to Developer the Entire Site) on or before May 1, 1983, or (ii) Developer shall be unable to secure such governmental approval, permits or licenses which Developer, in its sole and exclusive discretion, shall deem necessary to successfully construct, operate and/or maintain a first-class regional Shopping Center in the manner contemplated by this Agreement; or (iii) if Developer shall, in its sole and exclusive discretion, determine that there exists any other circumstance or condition which would prevent or impair or render difficult the construction, operation and/or maintenance of a first-class regional Shopping Center of the type contemplated by this Agreement, Developer shall have the option, to be exercised by written notice given to D. H. Holmes and McRae's and each other Department Store, if any, on or before June 1, 1983, to elect to terminate and cancel this Agreement and each supplemental agreement between Developer and D.H. Holmes and McRae's or any other Department Store, as the case may be, whereupon this Agreement and each such supplemental agreement shall be null and void and of no further force and effect and the Parties hereto and thereto shall be deemed relieved of and from all liabilities and obligations hereunder or thereunder.

Section 19.20. Remedies Cumulative. All rights, privileges or remedies afforded the Parties by this Agreement

shall be deemed cumulative and the exercise of any one of such rights, privileges or remedies shall not be deemed to be a waiver of any other right, privilege or remedy provided for herein.

Section 19.21. Partial Invalidity. If any provision of this Agreement or the application thereof to any Party or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 19.22. Servitudes. Whenever the term "easement" or "Easements" is used in this Agreement, the same shall be deemed to mean and include a "servitude" or "servitudes," as the case may be.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on their behalf by their duly authorized officers, and their corporate seals to be affixed hereto, as of the day and year first above written.

ATTEST:

[Signature]
(Assistant) Secretary
Senior Vice President

ATTEST:

[Signature]
(Assistant) Secretary

ATTEST:

[Signature]
(Assistant) Secretary

RIDGELAND ASSOCIATES

By: CF JACKSON ASSOCIATES
general partner
By: CADILLAC FAIRVIEW SHOPPING
CENTER PROPERTIES
(MISSISSIPPI) INC.
general partner

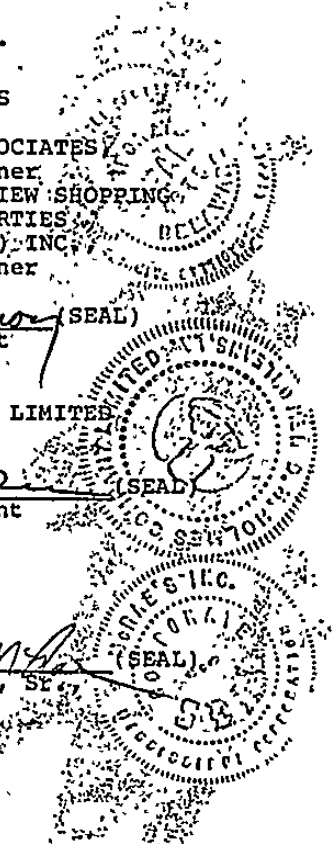
By: [Signature] (SEAL)
(Vice) President

D.H. HOLMES COMPANY LIMITED

By: [Signature] (SEAL)
(Vice) President

MC RAE'S, INC.

By: [Signature] (SEAL)
Richard D. McRae, Sr.
President



STATE OF New York: COUNTY OF Westchester: TO WIT:

I HEREBY CERTIFY that on this 16th day of February, 1983, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Alexis C. Conroy, to me known to be the person described in and who executed the foregoing instrument as a Vice President of CADILLAC FAIRVIEW SHOPPING CENTER PROPERTIES (MISSISSIPPI) INC., acting in its capacity as general partner of CF Jackson Associates, a general partnership, acting in its capacity as general partner of Ridgeland Associates, a limited partnership, and he acknowledged before me that he executed the same as such officer in such capacity on the day and year therein mentioned.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

[Signature]
Notary Public

PAUL E. BERGINS
NOTARY PUBLIC, State of New York
No. 02BE4732634
Qualified in Westchester County
Commission Expires March 30, 1984

My Commission expires on _____



STATE OF Louisiana: COUNTY OF Orleans: TO WIT:

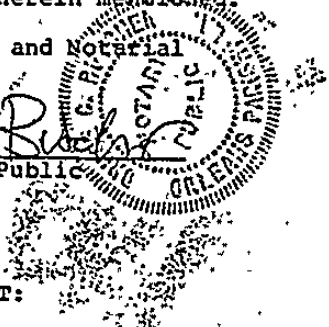
I HEREBY CERTIFY that on this 20th day of February, 1983, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Frederick, to me known to be the person described in and who executed the foregoing instrument as (Vice) President of D. H. HOLMES COMPANY LIMITED, and he acknowledged before me that he executed the same as such officer in the name and on behalf of said Corporation on the day and year therein mentioned.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

[Signature]
Notary Public

ROBERT B. BISHOP
Notary Public

My Commission expires on Feb 28



STATE OF Mississippi: COUNTY OF Hinds: TO WIT:

I HEREBY CERTIFY that on this 22nd day of February, 1983, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Richard D. McRae, Sr., to me known to be the person described in and who executed the foregoing instrument as President of MC RAE'S, and he acknowledged before me that he executed the same as such officer in the name and on behalf of said Corporation on the day and year therein mentioned.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

[Signature]
Notary Public

ONIDA M. HUBB
Notary Public



BOOK 186 PAGE 399

EXHIBIT A

INTENTIONALLY NOT ATTACHED

EXHIBIT "B"

DESCRIPTION OF THE LAND

TRACT ONE

DESCRIPTION OF 87.34 ACRE PARCEL
COUNTY LINE ROAD AND WHEATLEY STREET

Begin at the point of intersection of the east right-of-way line of Wheatley Street and the north right-of-way line of County Line Road, as said street and road are now (October, 1982) laid out and established, said point being 38.7 feet north and 2,626.4 feet west of the corner common to Sections 31 and 32, Township 7 North, Range 2 East, Madison County, Mississippi, and Sections 5 and 6, Township 6 North, Range 2 East, Hinds County, Mississippi; thence run north 89 degrees 57 minutes east and along said north right-of-way line of County Line Road for a distance of 1,494.9 feet to the southwest corner of that certain 19.98 acre parcel of land conveyed by Depositors Savings Association to Magnolia Security Co., Inc., et. al., by warranty deed and recorded in Book 154 at Page 848 in the office of the Chancery Clerk of Madison County at Canton, Mississippi, reference to which is hereby made in aid of and as a part of this description; run thence along the west and north boundaries of said parcel as follows: run thence north 00 degrees 01 minutes 30 seconds east for a distance of 999.86 feet to a point; run thence north 89 degrees 58 minutes 30 seconds west for a distance of 35.75 feet to a point; run thence north 00 degrees 04 minutes east for a distance of 548.92 feet to a point; run thence north 89 degrees 50 minutes 30 seconds east for a distance of 304.0 feet to a point; run thence east for a distance of 281.1 feet to the northeast corner of said 19.98 parcel of land; leaving the boundary of said 19.98 parcel of land, run thence east for a distance of 551.4 feet to a point on the west right-of-way line of Pear Orchard Road, as said right-of-way line is now laid out and established; run thence north 00 degrees 16 minutes west and along said west right-of-way line of Pear Orchard Road for a distance of 419.9 feet to an iron pin on the north line of Lot 8 of Block 33 of Highland Colony, according to a map or plat thereof on file and of record in the office of said Chancery Clerk in Plat Book 1 at Page 6, reference to which is hereby made in aid of and as a part of this description; run thence south 89 degrees 56 minutes west and along the north line of said Lot 8 and Lot 7 of said Block 33, Highland Colony, for a distance of 1,289.9 feet to an iron pin at the corner common to Lots 2, 3, 6, and 7 of Block 33, Highland Colony; run thence north 00 degrees 03 minutes west and along the line common to said Lots 2 and 3 of Block 33, Highland Colony, for a distance of 327.4 feet; run thence south 89 degrees 47 minutes west for a distance of 1,300.27 feet to a point on said east right-of-way line of Wheatley Street; run thence south 00 degrees 06 minutes west and along said right-of-way line of Wheatley Street for a distance of 2,291.9 feet to the point of beginning.

The above described parcel of property contains all of Lot 6 and parts of Lots 3, 4, 5, 7 and 8 of Block 33 and all of Lot 3 and part of Lots 2, 4, 5, 6 and 7 of Block 35 of Highland Colony, all of which is located in all Quarter Quarter Sections of the Southeast Quarter (SE $\frac{1}{4}$) of Section 31, Township 7 North, Range 2 East, Madison County, Mississippi, and contains 87.34 acres, more or less.

EXHIBIT "B"

DESCRIPTION OF THE LAND

TRACT TWO

DESCRIPTION OF 9.99 ACRE PARCEL EAST AND SOUTH OF TRACT ONE

Begin at a point on the north right-of-way line of County Line Road, as said right-of-way line is now (October, 1982) laid out and established, which is 40.0 feet north and 1,131.5 feet west of the corner common to Section 31 and 32, Township 7 North, Range 2 East, Madison County, Mississippi, and Sections 5 and 6, Township 6 North, Range 2 East, Hinds County, Mississippi, said point by dead record being north 89 degrees 57 minutes east along said north right-of-way line of County Line Road a distance of 175.57 feet from the west line of Lot 7, Block 35, Highland Colony, according to a map or plat thereof on file and of record in the office of the Chancery Clerk of Madison County, Mississippi, in Plat Book 1, Page 6, reference to which is hereby made in aid of and as a part of this description; and said point being also the southwest corner of that certain 19.98 acre parcel of land conveyed by Depositors Savings Association to Magnolia Security Co., Inc., et. al., by warranty deed recorded in Book 154 at Page 848 in the office of said Chancery Clerk, reference to which is hereby made in aid of and as a part of this description; run thence along the west and north boundaries of said 19.98 acre parcel as follows: run thence north 00 degrees 01 minutes 30 seconds east for a distance of 999.86 feet to a point; run thence north 89 degrees 58 minutes 30 seconds west for a distance of 35.75 feet to a point; run thence north 00 degrees 04 minutes east for a distance of 548.92 feet to a point; run thence north 89 degrees 50 minutes 30 seconds east for a distance of 304.0 feet to a point; leaving the boundary of said 19.98 acre parcel of land run thence south 00 degrees 02 minutes west for a distance of 1,549.4 feet to a point on said north right-of-way line of County Line Road; run thence south 89 degrees 57 minutes west and along said north right-of-way line for a distance of 268.16 feet to the point of beginning.

The above described parcel of property contains part of Lot 7 of Block 33 and part of Lots 2 and 7 of Block 35 of Highland Colony, all of which is located in the Northeast Quarter (NE $\frac{1}{4}$) and the Southeast Quarter (SE $\frac{1}{4}$) of Section 31, Township 7 North, Range 2 East, Madison County, Mississippi, and contains 9.99 acres, more or less.

BOOK 186 PAGE 402

EXHIBIT C

INTENTIONALLY NOT ATTACHED

BOOK 186 PAGE 403

EXHIBIT D

INTENTIONALLY NOT ATTACHED

BOOK 186 PAGE 404

EXHIBIT E

INTENTIONALLY NOT ATTACHED -J 7

EXHIBIT "G"

* SCHEDULE FOR SUBSTANTIAL COMPLETION OF THE SITE WORK
(Months Before Grand Opening Date)

1. Sixteen (16) Months
 - a. Temporary facilities required for construction of the On-Site Improvements and the Off-Site Improvements.
 - b. Grading Work for Department Store Sites (Section 4.1(a)).
2. Eight (8) Months
 - a. Storm drainage systems for Department Store Sites (Sections 3.1(c) and 4.1(b)).
3. Five (5) Months
 - a. Water line(s) and sanitary sewer line(s) for Department Store Sites (Sections 3.1(a) and (b) and 4.1(b)).
 - b. Electric line(s) for Department Store Buildings and Sites (Sections 3.1(d) and 4.1(b)).
4. Four (4) Months
 - a. Paving base of Parking Areas on Developer Site and Department Store Sites, paving base of interior roads and curbs (paving base to be penetrated stone or plant-mix base and to be fully maintained by Developer during construction; except that as to any damage thereto caused by any Department Store, such Department Store shall reimburse Developer for the reasonable cost of repairing such damage).
5. Three (3) Months
 - a. Finish topping of Parking Areas on Developer Site and Department Store Sites and roads within the Entire Site (Section 4.1(c)).
 - b. Developer Site and Department Store Sites Parking Area lighting (Section 4.1(c)).
6. Two (2) Months
 - a. Developer Site and Department Store Sites Parking Area striping (Section 4.1(c)).

- b. Access roads and traffic signals not within the Entire Site (to the extent Developer is responsible for same) (Section 3.1(f) and (g)).
- c. All remaining On-Site and Off-Site Work Improvements (to the extent Developer is responsible for same).

EXHIBIT "H"SIGN CRITERIAA. FOR DEVELOPER SITE

Developer will not permit the erection of any signs on the Air Conditioned Mall or the exterior surface of any Building on the Developer Site or elsewhere on the Developer Site, except in conformity with the following policy:

- (1) (a) Air Conditioned Mall Frontage: One store sign may be installed on each Air Conditioned Mall frontage of the premises occupied by the Tenants ("Occupant Premises") in which one or more entrances are located. If the Occupant Premises is a "corner" store, even though a customer entrance is not located on each frontage, two (2) store signs may be installed, one on each side of the Air Conditioned Mall frontage of the Occupant Premises. If the Occupant Premises is divided into two distinct business operations with a different frontage motif for each, then two (2) signs may be installed, one on each side of such frontages.
- (b) Parking Area Frontage: One store sign may be installed on each Parking Area frontage of the Occupant Premises in which one or more customer entrances are located.
- (2) All store signs located on the Air Conditioned Mall frontage shall be placed on store fronts only; such signs to be positioned to extend the same distance from the face of the wall to which they are affixed, as prescribed by Developer; provided, however, the foregoing restrictions may, at the discretion of Developer, be modified as respects any Occupant Premises containing 30,000 or more square feet of Floor Area. No such signs shall extend above the roof line of the premises which they designate.
- (3) All signs shall be flat wall and shall not (nor shall any "box" enclosing the same) extend more than 12" beyond the face of the storefront. No sign shall flash, scintillate nor be animated, nor shall any sign make noise or emit smoke. Exposed neon tubing may be used for signage provided it is used only to form letters and provided it is utilized in a contemporary manner consistent with the Shopping Center design.
- (4) The maximum height of all sign letters shall be 18" for block signs and 24" for script letters except that initial capital letters may be 24" for block letters and 30" for script letters. The sign shall not occupy more than 80% of linear frontage of any Occupant Premises nor extend beyond a point which is 2' 6" from its sidelines.
- (5) Tenants shall not install signs or attach placards or other advertising media (or in such manner as to appear to be affixed) to the windows or doors of the Occupant Premises except with the approval of Developer; but this shall not be deemed to prohibit a Tenant from installing an identification sign no higher than 3" nor longer than 13" on the glass near the entrance door to the Occupant Premises.
- (6) Lettering on signs for any Occupant Premises shall be limited to the business or trade name of the Tenant of the respective Occupant Premises. No sign manufacturer's name or other lettering shall be clearly visible.

- (7) Except as aforesaid, a Tenant shall not be entitled to place any sign or advertising matters on the outer face of the perimeter walls of the Occupant Premises nor shall a Tenant be entitled to place any sign on the roof of the Occupant Premises.
- (8) No flood lighting of signs or storefronts by a Tenant shall be permitted.
- (9) There may be free standing pylon signs at or near each entrance to the Entire Site.
- (10) The size, design, color, specific location, type of construction and method of mounting each sign shall be subject to Developer's approval, which approval shall be given only if the sign complies with the standards set forth in this Section A.

B. THE DEPARTMENT STORE SITES

- (1) There shall be no free standing pylon signs and no signs on any structures other than the Main Building or Car Care Center of each Department Store.
- (2) There shall be no roof-top signs; however, signs affixed to sides of cooling towers, penthouses and other building elements shall not be considered roof-top signs.
- (3) All exterior signs (signs affixed to the exterior of the Buildings) shall be in conformity with each Department Store's usual sizes and height, dimensions and character then in effect. Subsequent owners of any Department Store Site (other than the Department Stores) shall be limited to signs not exceeding the size and height dimensions of the largest Department Store sign then in effect.
- (4) No signs shall flash, scintillate nor be animated, nor shall any sign make noise or emit smoke. Exposed neon tubing may be used for signage provided it is used in a contemporary manner consistent with the Shopping Center design.

C. FOR DEPARTMENT STORE SIGNS IN AIR CONDITIONED MALL

Developer agrees that it will approve the design of the Department Stores' signs in the Air Conditioned Mall only if such signs comply with the following criteria:

- (1) The letters shall not exceed a maximum of 4' in height, except that any initial letter of the words "D.H. Holmes" (or the names of subsequent owners of the Department Store Sites), as the case may be, may be larger at the discretion of the respective Department Stores.
- (2) The lettering shall not occupy more than 80% of the linear frontage of the court fronting on the respective Department Store's Main Building; however, the sign panel may extend to the full height of such court frontage.
- (3) The letters shall not project more than 18" from the sign panel.
- (4) The design of the lettering shall be similar to the respective Department Store's usual and typical sign then in effect.
- (5) No signs shall flash, scintillate nor be animated, nor shall any sign make noise or emit smoke. Exposed neon tubing may be used for signage provided it is used only to form letters and provided it is utilized in a contemporary manner consistent with the Shopping Center design.

D. FREE-STANDING BUILDING SITES

- (1) There may be free standing pylon signs within any Free-Standing Building Site.
- (2) There shall be no roof-top signs; however, signs affixed to sides of cooling towers, penthouses and other building elements shall not be considered roof-top signs.
- (3) All exterior signs (signs affixed to the exterior of Free-Standing Buildings) shall be in conformity with each Free-Standing Building Operator's Usual sizes and height, dimensions and character then in effect.
- (4) No signs shall flash, scintillate nor be animated, nor shall any signs make noise or emit smoke. Exposed neon tubing may be used for signage provided it is used only to form letters and provided it is utilized in a contemporary manner consistent with the Shopping Center design.

STATE OF MISSISSIPPI, County of Madison:

I, BILLY V. COOPER, Clerk of the Chancery Court of said County, certify that the within instrument was filed for record in my office this 21 day of March, 1963, at 1:45 o'clock P.M., and was duly recorded on the day of MAR 23 1963, 1963, Book No 186 on Page 295 in my office.

Witness my hand and seal of office, this the MAR 23 1963, 1963, 19.....

BILLY V. COOPER, Clerk

By *n. Wright*....., D. C.