

RECORDED SEPTEMBER 5, 1996 BK 381 PG 633 NO 236364 RONALD L. DAILEY, COUNTY CLERK

RECIPROCAL EASEMENT DECLARATION

THIS RECIPROCAL EASEMENT DECLARATION ("Declaration"), entered into this 3rd day of September, 1996, by SUGAR LAND DEVELOPMENT COMPANY, a General Partnership, ("Sugarland"), and SUGARLAND ESTATES, a General Partnership, ("Sugarland") as owners of the tracts described as: Lot 5 through Lot 12, Sugarland Plaza Subdivision, being a replat of Lot 1, Block 3 and Lot 10, Block 2 of the Replat of Sugarland South Subdivision and Block 5, Sugarland Estates Subdivision, being a portion of the W1/2E1/2 of Section 35, Township 55 North, Range 84 West of the 6th Principal Meridian, City of Sheridan, Sheridan County, Wyoming, which Tracts collectively constitute SUGARLAND PLAZA ("Shopping Center").

RECITALS:

- A. By this Reciprocal Easement Declaration Sugarland sets forth the respective obligations of the Lot Owners for the operation of the Shopping Center as an integrated and unified shopping center and creates and grants easements which are essential in the construction and operation of the Shopping Center;
- B. Sugarland intends to sell some or all of the above-described tracts, and intends all tracts to hereafter be subject to the terms hereof.
- C. Submission Guidelines for all new construction are attached hereto as Exhibit A.
- D. The signatories hereto and their successors in interest intend (i) to develop and/or operate their respective Tracts in conjunction with each other as integral parts of a retail shopping complex (it being understood that this Agreement does not obligate any Party to construct or to maintain a building on its Tract), and (ii) in order to effectuate the common use and operation thereof they desire to enter into certain covenants and agreements as a part of a general plan, and to grant to each other certain reciprocal easements, in, to, over and across their respective Tracts.

THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements contained herein, it is covenanted and agreed as follows:

ARTICLE I

DEFINITIONS

1.1 Common Area. All areas within the exterior boundaries of the Shopping Center, exclusive of (i) any area covered by buildings and (ii) any "outside sales area" created pursuant to the provisions of Article 2.1(A)(vii) hereof, and Lot 12.

1.2 Floor Area. The total number of square feet of enclosed space in a building or buildings available for use, whether or not actually occupied. For purposes of this instrument, the Floor Area of any building shall be calculated from the exterior of all exterior walls and the center lines of party or interior common walls. Such Floor Area calculation shall include with respect to space in any basements, balconies, mezzanines or upper floors, only the number of square feet of floor space by which the aggregate of the floor space in all such basements, balconies, mezzanines, or upper floors on a Tract exceeds five per cent (5%) of the aggregate of all main level floor space on such Tract.

Each Party shall direct its Architect to make a determination of the total Floor Area of any building on such Party's Tract within one hundred twenty (120) days of the date of completion of such building. Within a reasonable time thereafter, such Party shall certify to the other Parties the Floor Area applicable to such buildings.

Notwithstanding anything to the contrary contained in this Agreement, during any period of damage, destruction, razing, rebuilding, repairing, replacement or reconstruction to or of any building in the Shopping Center, the Floor Area of that building shall be deemed to be the same as existed immediately prior to that period. Upon completion of the razing, rebuilding, repairing, replacement or reconstruction of that building, the Party upon whose Tract such building is located, shall cause to be made a new determination of Floor Area for that building in the manner described above, and such determination shall be sent to any Party requesting the same.

1.3 Occupant. Any Person from time to time entitled to the use and occupancy of any portion of Floor Area in the Shopping Center under this Agreement, or any lease, license or concession agreement, or other similar agreement.

1.4 Party. The term "Party" refers to each signatory hereto, and after compliance with the notice and assumption requirements set forth below, to their respective successors and assigns who become owners of any portion of the Shopping Center. Until the notice and assumption requirements are complied with, the transferring Party shall (for the purpose of this Agreement only) be the transferor's agent. Each Party shall be liable for the performance of all covenants, obligations and undertakings herein set forth with respect to the portion of the Shopping Center owned by it which accrue during the period of such ownership, and shall continue with respect to any portion transferred until the notice and assumption requirements are complied with, at which time personal liability shall terminate. The transferring Party shall remain liable with respect to all performance requirements and/or amounts which may be due and

owing arising prior to such transfer and compliance with the notice and assumption requirement. A Party transferring all or any portion of its interest in the Shopping Center shall give notice to all other Parties of such transfer and shall deliver with such notice a written assumption statement executed by the transferee in which:

- (a) the name and address of the transferee shall be disclosed;
- (b) the legal description of the portion of the Shopping Center acquired shall be clearly stated;
- (c) the transferee shall acknowledge that it is bound by this Agreement and shall agree to perform all obligations imposed under this Agreement with respect to the portion of the Shopping Center acquired.

Nothing contained herein to the contrary shall affect the existence, priority, validity or enforceability of any lien placed upon the transferred portion of the Shopping Center prior to receipt of the notice and statement.

1.5 Permitted Building Area. The limited area of each Party's Tract within which buildings may be constructed, placed or located, excluding canopies or other outward extensions thereto as located and designated on the Site Plan.

1.6 Person. Individuals, partnerships, firms, associations, corporations, trusts, or any other form of business or government entity.

1.7 Permittee. All Occupants and their respective officers, directors, employees, agents, contractors, customers, visitors, invitees, licensees, subtenants and concessionaires insofar as their activities relate to the Shopping Center.

1.8. Tract. The portion of the Shopping Center owned by a Party.

ARTICLE II

EASEMENTS

2.1 Common Area.

(A) During the term of this Agreement each Party hereby grants and conveys to each other Party for its use and for the use of its Permittees, in common with others entitled to use the same, a non-exclusive easement for the passage and parking of vehicles and for the passage and accommodation of pedestrians

upon, over and across the parking, drive and sidewalk areas of the grantor's Tract as may from time to time be constructed and maintained for such uses. Such easement rights shall be exercised in accordance with the following provisions:

(i) Except for situations specifically provided for in the following subparagraphs, no fence or other barrier which would unreasonably prevent or obstruct the passage of pedestrian or vehicular travel for the purposes herein permitted shall be erected or permitted within or across the Common Area; provided, however, that the foregoing provision shall not prohibit the installation of minor convenience facilities such as mailboxes, public telephones, benches or public transportation shelters, nor the installation of landscaping, berms or planters, nor limited curbing and other forms of traffic controls;

(ii) When a Party is constructing, reconstructing, repairing, maintaining, remodeling or enlarging a building on its Tract, such Party shall have the right to designate a staging and storage area in the Common Area on its Tract at such location as will not unreasonably interfere with access between the other areas of the Shopping Center. If substantial work is to be performed, such Party shall fence off the staging and storage area. Upon completion of such work, the affected Common Area shall be restored to a condition at least equal to that existing prior to commencement of such work;

(iii) Each Party hereby reserves the right, from time to time without obtaining the consent or approval of any other Party, to make at its own expense any insignificant change, modification or alteration in its portion of the Common Area, provided that:

(a) the accessibility of such Common Area for pedestrian and vehicular traffic (as it relates to the remainder of the Shopping Center) is not unreasonably permanently restricted or hindered;

(b) there shall be maintained at all times within such Common Area, a sufficient number of vehicular parking spaces to meet the parking requirements set forth in this Agreement, and all parking rows shall remain as shown on the Site Plan;

(c) no governmental rule, ordinance, or regulation shall be violated as a result of such action, especially if such action results in any other Party being in violation of any governmental rule, ordinance or regulation;

(d) no change shall be made in the access points between the Common Area and the public streets; provided, however, that additional access points may be created with the approval of the other Parties, such approval not to be unreasonably withheld;

(e) at least thirty (30) days prior to making any such change, modification or alteration, the Party desiring to do such work shall deliver to each other Party copies of the plans therefor in order to satisfy themselves that the foregoing provisions shall be complied with;

(iv) Each Party reserves the right to close off its portion of the Common Area for such reasonable period of time as may be legally necessary, in the opinion of such Party's counsel, to prevent the acquisition of prescriptive rights by anyone; provided, however, that prior to closing off any portion of the Common Area, as herein provided, such Party shall give written notice to each other Party of its intention to do so, and shall attempt to coordinate such closing with each other Party so that no unreasonable interference in the passage of pedestrians or vehicles shall occur;

(v) No Permittee shall be charged for the right to use the Common Area located on the Shopping Center unless each Party approves such action;

(vi) Each Party shall use its best efforts to cause the Occupants of its Tract:

(a) to park their cars only on such Party's Tract;

and

(b) to require its suppliers to use only the receiving area on its Tract for pick-up and/or deliveries;

(vii) No merchandise and/or services shall be displayed, sold, leased, stored or offered for sale or lease within the Common Area (with the exception of (i) tires which shall be permitted on the side of the building located on Lot 11 if such display is placed behind the front of such building and is within ten feet (10') of such building; and (ii) periodic merchandise displays which shall be permitted on the sidewalks located directly in front of a building). In addition, the foregoing provision shall not prohibit the temporary parking (not to exceed 48 consecutive hours) of delivery vehicles (including trailers) within the receiving area.

(B) The Parties have designated a right-of-way ("_____") that traverses the rear of the Shopping Center as shown

on the Site Plan. Sugarland hereby grants and conveys to each other Party for its use and for the use of its Permittees, in common with others entitled to use the same, a nonexclusive easement for the passage and accommodation of pedestrians and vehicles upon, over, and across the portion located upon the Lots 7 through 11; such easement shall be appurtenant to and for the benefit of each other Party's Tract.

2.2 Utilities.

(A) Each Party hereby grants and conveys to each Party a non-exclusive perpetual easement (appurtenant to the grantee's Tract) in, to, over, under and across the Common Area (exclusive of any portion located within the Permitted Building Area) located on the grantor's Tract for the installation, operation, flow and passage, use, maintenance, connection, repair, relocation and removal of lines or systems for utilities serving the grantee's Tract, including but not limited to sanitary service sewers, storm drains, water (fire and domestic), gas, electrical and telephone. Except with respect to ground mounted electrical transformers at the rear of a building and/or as may be necessary during periods of construction, repair or temporary service, all utility lines or systems shall be underground. Any Party installing utilities pursuant to the provisions of this subparagraph shall pay all costs and expenses with respect thereto, and shall cause all work in connection therewith (including general clean-up and surface restoration) to be completed as quickly as possible, and in a manner so as to minimize interference with the use of the Common Area by the Parties hereto. If any of the Parties elect to install common utility lines or systems, all costs and expenses with respect to the initial installation thereof shall be set forth in a separate agreement between those cooperating Parties.

(B) The initial location of any utility line or system described in section (A) above shall be subject to the written approval of the Party whose Common Area is to be burdened thereby, such approval not to be unreasonably withheld. The easement area shall be five feet (5') on either side of the center line of such line or system. The owner of the Tract burdened by the easement shall have the right at any time to relocate thereon any such facility provided that such relocation shall be performed only after thirty (30) days' notice of such intention to so relocate shall be given to the grantee, and such relocation:

- (i) shall not interfere with or diminish the utility services to the grantee;
- (ii) shall not reduce or unreasonably impair the usefulness or function of such utility line or system;

(iii) shall be performed without costs or expense to grantee; and

(iv) the materials and design standards used in connection with such relocation shall be equal to or exceed those originally used.

Documentation of the relocated easement area shall be the grantor's expense and shall be accomplished as soon as possible.

2.3 Construction.

(A) During the term of this Agreement each Party grants and conveys to each other Party and to such grantee's contractors, materialmen and workmen, such temporary licenses of passage and use over and across the Common Area of the grantor's Tract as shall be reasonably necessary for the grantee to construct and maintain the improvements and buildings contemplated for the grantee's Tract; provided, however, such licenses shall be in effect only during periods when actual construction or maintenance is performed and provided further that such license shall be exercised so as not to unreasonably interfere with the use and operation of the affected Common Area. The storage of material and parking of vehicles being utilized in connection with such construction shall occur only on the constructing Party's Tract. Prior to exercising any right under this subparagraph, the constructing Party shall provide the grantor with a written statement showing need for such license and a copy of a certificate of insurance showing that its contractor has obtained the minimum insurance coverage set forth below and that the grantor has been named as an additional insured; all such insurance shall provide that the same cannot be cancelled without thirty (30) days' prior written notice to the grantor; it being understood that if such insurance is cancelled or expires then the constructing Party shall immediately stop all work until the required insurance is reinstated:

- (i) Worker's Compensation, statutory limits;
- (ii) Employer's liability: \$100,000;
- (iii) Comprehensive General and Comprehensive Auto (owned and hired) Liability covering the following matters:
 - (a) Bodily Injury: \$1,000,000 per occurrence;
 - (b) Property Damage: \$1,000,000 per occurrence;
 - (c) Independent Contractors Contingent Liability or Owner's Protective Liability; same coverage as set forth in (a) and (b) above;

(d) Products/Completed Operations Coverage which shall be kept in effect for one (1) year after completion of work;

(e) "XCU" Hazard Endorsement, if applicable;

(f) "Broad Form" Property Damage Endorsement;

(g) "Personal Injury" Endorsements;

(h) Blanket Contractual Liability Endorsement.

Any Party availing itself of such temporary license hereby agrees to indemnify, defend, and hold harmless the grantor from any liability (including reasonable attorneys' fees and costs of suit of the indemnified Party) or obligation arising out of or related to the use of such license (except for claims caused by the negligence or willful act or omission of such indemnified Party, its licensees, concessionaires, agents, servants or employees, or the agents, servants or employees of any licensees or concessionaires) wherever the same may occur. In addition, the constructing Party shall promptly pay all costs and expenses associated with such work, diligently complete such work as quickly as possible, and promptly clean the area and restore the affected portion of the Common Area to a condition which is equal to or better than the condition which existed prior to the commencement of such work.

(B) In order to accommodate the construction, reconstruction or repair of any building placed or constructed immediately adjacent to a common boundary line, each Party grants any Party owning an adjacent Tract an easement in, to, over, under and across that portion of the grantor's Tract adjacent to the Permitted Building Area located upon the grantee's Tract in space not theretofore occupied by any then existing structure for the construction, maintenance and replacement of footing structures [to a maximum distance of five feet (5')] and of foundations, columns and/or walls [to a maximum distance of six inches (6")]. Such easement shall continue in effect for the term of this Agreement and thereafter so long as the building utilizing the easement area exists, including a reasonable period to permit reconstruction or replacement of such building if the same shall be destroyed, damaged or demolished, and shall include the reasonable right of access necessary to exercise and enjoy such grant. Each Party further agrees, prior to utilizing the easement right set forth herein to advise the other of its intention to use the same, including providing plans and specifications for the improvements to be located within the easement area, and to give the other an opportunity to commence its construction activities to the end that each shall be able to utilize subterranean construction techniques which will permit the placement above ground of buildings on each Tract immediately

adjacent to the common boundary line. If a common subterranean construction element is used by the parties, it is specifically understood that each shall assume and pay its reasonable share of the costs and expense of the initial construction and, so long as both parties are benefitting therefrom, subsequent maintenance thereof. In the event the building located on a Tract is either destroyed and not replaced or is removed, the common subterranean construction element shall be left in place for the benefit of the building utilizing the same located on the adjoining Tract. When the second Party constructs its improvements along the common boundary line, it shall do so in a manner that does not result in damage or injury to the improvements in place on the adjoining Tract, and the second constructing Party hereby agrees that it shall indemnify, defend and hold harmless the first constructing Party from any and all loss, damage or liability arising out of or resulting from its construction activities.

(C) While it is the intention of the Parties to confine their respective improvements to the limits of their respective Tract, it is recognized that this result is not always achieved in a multi-ownership shopping center development. Accordingly, each Party hereby grants the others such easements permitting the maintenance of canopies within the Permitted Building Areas, roofs, building overhangs, exterior light fixtures, signs, pillars and other light projections and encroachments over and across grantor's Tract to the extent that such projections and encroachments shall exist after completion of all construction; provided, however, that all such easements shall be subject to mutual agreement as to location and dimensions and detail plans and specifications for any such improvement shall be submitted for approval to the Party being requested to grant such easement. At the request of any Party, the affected Parties hereto will enter into an agreement in recordable form describing the easements provided for hereby in accordance with the survey made at the expense of the Party(ies) requesting such easement.

(D) Each such easement for (i) underground footings or supports for buildings and (ii) projections and encroachments shall continue so long as any portion of this Agreement shall remain effective and thereafter so long as said affected buildings exist. The grantee(s) of said easements shall be responsible for any repairs required thereby.

2.4 Restriction. No Party shall grant an easement for the purpose set forth in this Article for the benefit of any property not within the Shopping Center; provided, however, that the foregoing shall not prohibit the granting or dedicating of utility easements to governmental or quasi-governmental authorities or to public utilities, nor the conveyance of an interest in any Party's Tract in settlement of a condemnation proceeding.

ARTICLE III
CONSTRUCTION

3.1 General Requirements.

(A) Each Party shall comply with all laws, rules, regulations, orders and ordinances of the city, county, state and federal governments, or any department or agency thereof, affecting improvements constructed within the Shopping Center.

(B) Each Party agrees to perform its construction activities:

(i) so as not to cause any other Party any unreasonable increase in the cost of constructing such Party's improvements upon its Tract;

(ii) so as not to unreasonably interfere with any construction work being performed on the remainder of the Shopping Center, or part thereof; and

(iii) so as not to unreasonably interfere with the use, occupancy or enjoyment of the remainder of the Shopping Center or part thereof by any other Party or the Permittees of any other Party.

Each Party agrees to defend, indemnify and hold harmless each other Party from all claims, actions and proceedings (including reasonable attorneys' fees and costs of suit) resulting from any accident, injury or loss or damage whatsoever occasioned to any Person or to the property of any Person arising out of or resulting from the performance of any work by such indemnifying Party.

3.2 Common Area.

(A) Upon its election to improve its Tract, each Party shall cause the Common Area to be constructed on its Tract substantially as shown on the Site Plan in a good and workmanlike manner and in accordance with good engineering standards; provided, however, the following minimum general design standards shall be complied with:

(i) Lighting System: The lighting system shall be: (a) provided by fixtures of such type as the Parties shall approve; (b) designed to produce an intensity of at least 1.00 foot candles of lighting measured over the Common Area, except in the outermost one hundred feet (100') along the public streets and along the northerly property lines which may have a lesser intensity; and (c) operated off separate control switches; each Party controlling only the lighting

system located on its Tract.

(ii) Slope: The slope in the parking area shall not exceed a maximum of four per cent (4%), not be less than a minimum of one per cent (1%) unless otherwise agreed to by the Parties.

(iii) Hard surfacing: All sidewalks shall be concrete or other material approved by the Parties. The drive and parking areas shall be paved in accordance with a paving recommendation obtained from a reputable engineering firm approved by the Parties.

(iv) Utility Lines: Utility lines and systems that are placed underground shall be at depths of not less than that designated by consultants approved by the Parties. Design and working drawings may be prepared by the utility company providing the service.

(v) Parking Ratio: Each Party hereby agrees to maintain sufficient ground level parking area upon its Tract (including its undivided interest in Lot 12) in order to comply with the following minimum requirements:

(a) Five (5.0) parking spaces for each one thousand (1,000) square feet of Floor Area thereon.

In the event of a condemnation that reduces the number of usable automobile parking spaces below that which is required herein, the Party whose tract is so affected shall use its best efforts (including using proceeds from the condemnation award or settlement) to restore the parking ratio. If such restoration is not possible, such Party shall not be deemed in default hereunder, but shall not be permitted to expand the amount of Floor Area located upon its Tract beyond that existing prior to such event and if such Floor Area is reduced, then it may not be subsequently expanded unless the parking requirement is satisfied.

(vi) Grade Elevations: Under plans and specifications which have been approved by the Parties and relate to site work on the Shopping Center, certain grade elevations have been established. During the term of this Agreement, no Party shall alter the grade elevations of any portion of its Tract from those established under such approved plans and specifications if such alteration would materially either increase the flow of surface water from such Tract to an adjacent Tract or affect the free movement of vehicular or pedestrian traffic between such adjacent Tracts.

Until the Common Area on a Tract is constructed, the Party owning the same shall plant such area so as to reduce dust and

thereafter keep such area mowed (unless ground cover not requiring mowing is used), free of debris, and maintained so as to prevent erosion and present an attractive appearance.

3.3 Building Improvement.

(A) The Parties hereby agree that buildings may only be located within the Permitted Building Areas designated on the Site Plan. In order to produce an architecturally compatible, unified Shopping Center, each Party agrees to consult with each other Party concerning the exterior design, exterior color treatment and exterior materials to be used in the construction and reconstruction of all buildings and structures on its respective Tract, and to consider the views of each other Party with respect thereto prior to selecting the specific materials and colors for its improvements. Prior to the commencement of any development, construction, exterior remodeling or reconstruction, the Party proposing such work shall submit to each other Party detailed plans as required by Exhibit "A" attached hereto and made a part hereof. The receiving Parties shall either approve, disapprove or make recommendations for change in the detailed plans so submitted within thirty (30) days of the receipt thereof. Failure to approve, disapprove, or make recommendations for change within said thirty (30) day period shall constitute an approval of the detailed plans as submitted. Any disapproval or recommendation for change shall specify with particularity the reason therefor. Upon issuance of any disapproval or recommendation for change, the Parties shall mutually consult in order to achieve an approval of the detailed plans for the proposed work. No Party shall arbitrarily or unreasonably withhold approval of the detailed plans or recommend changes therein if the same complies with any design standards set forth in this Agreement; provided, however, that a subsequent Party to submit its detailed plans may be required to bring such detailed plans into conformance with those previously approved detailed plans so that buildings properly interface with each other. In no event shall one Party require any other Party to utilize design standards superior to those utilized by the requested Party in the construction of improvements on its Tract. Approval of any detailed plans shall not constitute an assumption of responsibility by the approving Party for the accuracy, sufficiency or propriety thereof, nor a representation or warranty that the detailed plans comply with applicable laws. No material deviation shall be made from the approved detailed plans until the proposed changes are first approved by the Parties.

(B) Each Party hereby specifically consents to the placement of buildings on an adjoining Tract along the common boundary line between its Tract and the adjoining Tract and each further agrees to support any request by another Party for a side-yard or set-back variance if the same is required in order to accommodate such construction.

The second Party to construct a building along the common boundary line between its Tract and the Tract of another Party, shall undertake and assume the obligation of completing and maintaining the nominal attachment (flashing and seal) of its building to that of the existing building on the adjoining land (but in doing so, the wall of one building shall not receive support from nor apply pressure to the wall of the other building) , it being the intent of the Parties, where possible, to establish and maintain the appearance of one continuous building complex.

(C) Any remodeling or reconstruction work undertaken on any existing buildings shall at all times be of first quality construction and architectural design, so that the exterior of all such buildings, including without limitation, exterior elevation and color thereof, shall continue to be architecturally and aesthetically compatible and harmonious with the other buildings in the Shopping Center.

(D) If a portion of the Permitted Building Area is at one point in time paved and used as Common Area, such portion may be subsequently used as building area provided that all parking requirements for such Tract are also complied with. Likewise, if area is at one point in time occupied by a building, such building may subsequently be razed, and if not replaced, the area shall thereafter be deemed part of the Common Area.

(E) No building or appurtenant structure shall extend upward above the finished grade elevation of Lot 12 more than thirty feet (30').

ARTICLE IV

MAINTENANCE AND REPAIR

4.1 Utilities. The grantee of a utility easement referred to in Article II 2.2 (A) shall be responsible for the maintenance and repair of the facilities installed pursuant to such grant unless same are dedicated to and accepted by a quasi-municipal corporation or other utility, or a governmental agency acceptable to the grantor. Any maintenance and repair of non-dedicated utilities shall be subject to the insurance and indemnity provisions of Article II 2.3 (A) hereof and shall be performed only after two (2) weeks' notice to the grantor (except in an emergency the work may be initiated with reasonable notice). Any maintenance or repair work shall be done without cost or expense to the grantor, after normal business hours whenever possible and otherwise in such manner as to cause as little disturbance in the use of the grantor's Tract as is practicable under the circumstances. Any Party performing or causing to be performed maintenance or repair work agrees to promptly pay all costs and expenses associated therewith (seeking reimbursement from other

grantees, if applicable), to diligently complete such work as quickly as possible, and to promptly clean the area and restore the affected portion of the Common Area to a condition equal to or better than the condition which existed prior to the commencement of such work.

4.2 Common Area.

(A) Each party agrees at its sole cost and expense to maintain or cause to be maintained those portions of the Common Area located on its Tract (including its undivided interest in Lot 12) in good condition, and in compliance with all applicable laws, rules, regulations, orders and ordinances of governmental bodies and agencies and the provisions of this Agreement.

Sugarland or its successors or assigns, until further notice, as owner of a majority of the Lots agrees to maintain the Common Area located on the Shopping Center. In consideration of Sugarland's performance with respect to such maintenance, all other Tract owners agree to contribute their proportionate share of the costs and expense of maintaining the Common Area of the Shopping Center, (exclusive of utility laterals from common lines and exclusive of separate utility lines, it being agreed that such portion shall be maintained by the benefited Party). Such costs shall include, but not be limited to, all rental charges for equipment and costs of small tools and supplies, provided however, rental charges for any single item of equipment aggregating in excess of Five Thousand Dollars (\$5,000.00) for the rental term must be approved by the Parties participating therein; all acquisition costs of maintenance equipment, which costs, if in excess of Five Thousand Dollars (\$5,000.00) for any single item of maintenance equipment, must be approved by the Parties participating therein; policing, security protection, traffic direction, control and regulation of the parking area; all costs of cleaning and removal of rubbish, dirt, snow, ice and debris from the Common Area; the cost of landscape maintenance and supplies for the Common Area; all costs of maintaining lighting fixtures in the parking area; taxes paid with respect to items of personalty used in the operating, maintenance and repair of such Common Area; reasonable wages or salaries and fringe benefits (including employer related costs such as social security and workmen's compensation contributions) paid to Sugarland's on-site personnel for this location only who perform functions that are properly allocated to such Common Area; all other items of cost which are properly incurred for the maintenance and operation of the Common Area. Sugarland shall prepare an annual audit of such costs and expenses and the same shall be certified by Sugarland, properly reflecting such expenditures.

No expenditure for capital improvements to or reconstruction of the Common Area shall be made without the prior written

approval of all Parties participating therein, such approval to be deemed given unless any Party indicates otherwise within thirty (30) days after receipt of the request for such expenditure approval; provided however, there may be expended for replacement or reconstruction of capital improvements (excluding reconstruction resulting from casualties) in any one year an aggregate sum not to exceed Five Thousand Dollars (\$5,000.00) without prior approval. The salvage value (less undepreciated or unamortized cost) of any capital item disposed of by Sugarland shall be credited in full during that year against the cost and expense. Depreciation applicable to all capital expenditures shall be prorated to all Parties on the same basis as their pro rata share of costs are computed. No actual capital expenditure shall be included in the cost and expense if the amortization of such capital expenditure has been or is to be included therein.

In lieu of any other charge during each year for indirect costs (including but not limited to the cost of the operation of any office, accounting services and other services not directly involved with maintenance and operation), there shall be included an allowance to Sugarland for each year or portion thereof, equal to the product obtained by multiplying seven per cent (7%) times the aggregate amount of all other factors comprising the costs and expense of such performance. The charges required to be paid hereunder shall be paid in monthly installments in such amounts as are estimated (pursuant to a proposed budget submitted by Sugarland at least 120 days prior to the next fiscal period) by Sugarland, subject to annual adjustments based on actual expenditure; provided however, expenditures not recognized in the budget but later required that total in the aggregate less than Five Thousand Dollars (\$5,000.00) during any one (1) year, or expenditures in excess of \$5,000.00 for any one year shall be paid within thirty (30) days of receipt of a statement therefor.

This provision for joint maintenance of the Shopping Center as set forth above shall, so long as joint maintenance is performed, suspend the separate maintenance requirements set forth in the first paragraph of this section. Sugarland reserves the right to terminate its participation in such joint maintenance program upon the expiration of 180 days after notice to each other Party, of such intent.

(B) The minimum standard of maintenance for the improved Common Area shall be comparable to the standard of maintenance followed in other retail developments of comparable size in the metropolitan area where the Shopping Center is located. The maintenance and repair obligation in any event shall include, but not be limited to the following:

(i) Maintaining all drive and parkway areas in a smooth and evenly covered condition including without limitation, cleaning, sweeping, restriping, repairing and resurfacing (using surfacing

material of a quality equal or superior to the original surfacing material);

(ii) Removing papers, debris, filth, refuse, ice and/or snow, and sweeping the Common Area to the extent necessary to keep the Common Area in a first-class, clean and orderly condition;

(iii) Placing, keeping in repair and replacing appropriate directional signs and/or markers;

(iv) Operating, keeping in repair and replacing appropriate parking lot lighting facilities;

(v) Maintaining all landscaped areas, repairing automatic sprinkler systems and water lines and replacing shrubs and other landscaping as necessary;

(vi) Cleaning, maintaining and repairing all sidewalks.

4.3 Building Improvements. After completion of construction, each Party covenants and agrees to maintain and keep the building improvements, and any "outside sales area" created pursuant to the provisions of Article II 2.1 (A) (vii) hereof, located on its Tract or portion thereof in good condition and state of repair, and in compliance with all laws, rules and regulations, orders and ordinances of the governmental agencies exercising jurisdiction thereover and the provisions of this Agreement. In the event any of the building improvements are damaged by fire or other casualty (whether insured or not) the Party upon whose Tract such building improvements are located shall, within a reasonable period of time thereafter, remove the debris resulting from such event and either (i) repair and restore the building improvements so damaged or (ii) erect other building improvements in such location or (iii) demolish the damaged portion of such building improvements and restore the area to an attractive condition; such Party shall have the option which of the aforesaid alternatives to perform, but such Party shall be obligated to perform one of such alternatives. Each Party further agrees to store all trash and garbage in adequate containers, to locate such containers so that they are not readily visible from the parking area, and to arrange for regular removal of such trash or garbage. The enclosures within which the containers shall be located shall be constructed of material compatible to that used for the exterior of such buildings.

ARTICLE V

OPERATION

5.1 Uses.

(A) During the term of this Agreement, no use or operation

shall be permitted in the Shopping Center which is obnoxious to a first class retail shopping center, including but not limited to the following prohibited uses:

- (i) Any obnoxious odor or noise or sound which is reasonably objectionable;
- (ii) Any warehousing, assembling, manufacturing, distilling, refining, smelting, agricultural or mining operation;
- (iii) Any mobile home, trailer court, labor camp, junkyard, stockyard, or animal raising establishment (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction or maintenance);
- (iv) Any dumping, disposing, incineration or reduction of garbage (exclusive of garbage compactors located in the rear of any building);
- (v) Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation;
- (vi) Any skating rink or bowling alley;
- (vii) Any mortuary;
- (viii) Any establishment selling or exhibiting pornographic materials;
- (ix) Any veterinary hospital.

5.2 Lighting. After completion of the light system on its Tract, each Party hereby covenants and agrees to keep its Tract fully illuminated from dusk to at least 10:30 P.M. each day a business is operated thereon, and further agrees to keep building security lights on from dusk until dawn. It is recognized that business establishments within the Shopping Center may be open for business at different hours, and that the owner of one Tract upon which a business establishment is open later may wish to have the Common Area lights on other Tracts continue to burn beyond the required period. Accordingly, the owner of one Tract ("Requesting owner") shall have the right, at any time or times, to require the owner of another Tract ("Requested Owner") to keep its Common Area lights burning until a later hour stipulated by the Requesting owner; provided that the aforesaid Requesting Owner agrees to notify the Requested Owner of such request not less than fifteen (15) days in advance and pays in advance the amount provided in the next sentence.

The Requesting Owner shall state the period during which it wishes the lights to be kept on to a later hour and shall pay to the Requested Owner a prepayment deposit as follows:

1. If the period is less than thirty (30) days, then the deposit shall be one hundred ten per cent (110%) of the reasonable cost (as estimated by the Requesting Owner) of electrical power for such later hours to be incurred by the Requested Owner.
2. If the period is greater than or equal to thirty (30) days, then the deposit shall be one hundred ten percent (110%) of the reasonable cost (as estimated by the Requesting Owner), of electrical power during the first thirty (30) days of the period for such later hours to be incurred by the Requested Owner. If the period is greater than thirty (30) days, then the Requesting Owner shall renew such prepayment deposit at the end of each thirty (30) day period.

The Requesting Owner agrees, by making the request for extended hours of illumination by the other Parties, to pay one hundred ten per cent (110%) of the cost to the Requested Owner of electrical power to provide such extra-hours illumination. If the Requested Owner is of the opinion that the deposits made by the Requesting Owner do not cover one hundred ten per cent (110%) of such costs, the Parties shall attempt to agree to the cost of such electrical power, and if they cannot do so, then the amount the Requesting owner is obligated to pay shall be determined from the power costs as estimated by the electrical utility company furnishing such power, or if the utility fails to do so, by a reputable engineer. Upon the failure of a Requesting Owner to pay the aforesaid amount or renew a deposit as required hereby, the Requested Owner shall have the right to discontinue such additional lighting and to exercise other remedies herein provided. Any such request for additional lighting may be withdrawn or terminated at any time by written notice from the Requesting Owner; and a new request or requests for changed hours may be made from time to time.

5.3 Signs.

(A) Each Occupant occupying less than twenty-five thousand (25,000) square feet of Floor Area may have one identification sign placed on the building canopy sign band (if any) of the building it occupies and one identification sign attached to the exterior of the building it occupies; provided, however, that if an Occupant is located at the corner of a building, then such Occupant may have identification signs on the exterior of each side of such building. The letters of such signs shall not exceed thirty-six (36) inches in height. Each Occupant occupying at least twenty-five thousand (25,000) square feet of Floor Area may have more than one identification sign attached to the exterior of the building it occupies. The foregoing provision shall not prohibit each occupant

from attaching at the rear of the building it occupies a sign identifying its shipping and receiving area. No exterior identification sign shall be:

- (i) Placed on canopy roofs extending above the building roof, placed on penthouse walls, or placed so as to project above the parapet or top of the wall upon which it is mounted;
- (ii) Placed at any angle to any building; provided, however, the foregoing shall not apply to signs located under a sidewalk canopy if the lowest portion of such sign is at least eight (8) feet above the sidewalk; and
- (iii) Painted on the surface of any building.

(B) No freestanding sign shall be permitted within the Shopping Center unless constructed in areas designated on the Site Plan, and only one such sign may be located in each designated area. The designation of a freestanding sign location on a Tract shall in no way obligate the Party owning such Tract to construct such freestanding sign. However, if such a freestanding sign is constructed, the Party upon whose Tract it is constructed shall be responsible for the sign's operation and maintenance on a first-class basis. Each Party shall have the right to approve the design and size of each other Party's freestanding sign (as distinguished from individual Occupant's identification logo forming a part of such freestanding sign).

(C) Each party shall be permitted to place within the Common Area located on its Tract, directional signs or informational signs, such as "Handicapped Parking." Except as permitted under subparagraph (B) above, signs identifying Occupants, products or services shall not be permitted within the Common Area; provided, however, that the foregoing shall not prohibit the temporary display of leasing information, nor the temporary erection of one sign identifying each contractor working on a construction job.

(D) Notwithstanding anything herein contained to the contrary, the following types of signs or sign components within the Common Area or attached to the exterior of a building located on a Tract (as distinguished from signs or sign components placed in the interior of any building) shall be prohibited:

- (i) flashing, moving or audible signs; provided however, that the foregoing prohibition shall not be applicable to "time, temperature, and message" signs;
- (ii) signs employing exposed raceways, neon tubes, ballast boxes or transformers;
- (iii) signs identifying leased departments or concessionaires;

(iv) paper or cardboard signs, temporary signs (exclusive of contractor signs), stickers or decals; provided, however, the foregoing shall not prohibit the placement at the entrance of each occupant's space a sticker or decal, indicating hours of business,, emergency telephone numbers, etc.; or

(v) signs employing luminous-vacuum formed type plastic letters.

5.4 Insurance.

(A) Each Party with respect to its Tract and the operations thereon shall, at all times during the term of this Agreement, maintain in full force and effect comprehensive public liability insurance with a financially responsible insurance company or companies; such insurance to provide for a limit of not less than One Million Dollars (\$1,000,000.00) for personal or bodily injury or death to any one person, for a limit of not less than One Million Dollars (\$1,000,000.00) for personal or bodily injury or death to any number of persons arising out of any one occurrence,, and for a limit of not less than One Million Dollars (\$1,000,000.00) in respect of any instance of property damage; such insurance shall specifically extend to the contractual obligation of the insured Party arising out of the indemnification obligations set forth in the next sentence. Each Party ("Indemnitor") covenants and agrees to indemnify, defend and hold harmless each other Party ("Indemnitee") from and against all claims, costs, expenses and liability (including reasonable attorneys' fees and cost of suit incurred in connection with all claims) including any action or proceedings brought thereon, arising from or as a result of the death of, or any accident, injury, loss or damage whatsoever caused to any person or entity, or to the property of any person or entity which shall occur on the Tract owned by each Indemnitor, except for claims caused by the negligence or willful act or omission of such Indemnitee, its licensees, concessionaires, agents, servants or employees, or the agents, servants, or employees of any licensee or concessionaire thereof. The Parties agree to review the minimum limits set forth above every two (2) years and further agree to adjust such limits if circumstances warrant.

(B) Effective upon the commencement of construction of improvements, the constructing Party will carry or cause to be carried, fire insurance with an extended coverage endorsement with a financially responsible insurance company or companies, in an amount at least equal to 80 percent of full replacement cost (exclusive of the cost of excavation, foundations and footings) of the buildings and improvements located upon such Party's Tract from causes or events which from time to time are included as covered risks under standard insurance industry practices within the classification of fire insurance with an extended coverage endorsement, and specifically against at least the following

perils: loss or damage by fire, windstorm, cyclone, tornado, hail, explosion, riot, riot attending a strike, civil commotion, malicious mischief, vandalism, aircraft, vehicle, smoke damage and sprinkler leakage.

Each Party (the "Releasing Party") hereby releases and waives for itself and on behalf of its insurer, any other Party (the "Released Party") from any liability for any loss or damage to all property of such Releasing Party located upon any portion of the Shopping Center, which loss or damage is of the type generally covered by fire insurance with an extended coverage endorsement, irrespective either of any negligence on the part of the Released Party which may have contributed to or caused such loss, or of the amount of such insurance required or actually carried. Each Party agrees to use its best efforts to obtain, if needed, appropriate endorsements to its policies of insurance with respect to the foregoing release; it being understood, however, that failure to obtain such Endorsements shall not affect the release hereinabove given. Each Party ("Indemnitor") covenants and agrees to indemnify, defend and hold harmless each other Party ("Indemnitee") from and against all claims asserted by or through any Permittees of the Indemnitor's Tract for any loss or damage to the property of such Permittee located upon the respective Indemnitor's Tract, which loss or damage is of the type generally covered by fire insurance with an extended coverage endorsement irrespective of any negligence on the part of the Indemnitee which may have contributed to or caused such loss.

(C) The insurance described in sections (A) and (B) above may be carried under a policy or policies covering other liabilities, properties and locations of such Party, or a subsidiary, affiliate or controlling corporation. To the extent any deductible is permitted or allowed as a part of any insurance policy carried by an insured in compliance with this section 5.4, such insured shall be deemed to be covering the amount thereof under an informal plan of self-insurance. Each insurance policy shall contain a provision that the same may not be cancelled without at least thirty (30) days' prior written notice being given by the insurer to all Parties. Each Party further agrees to furnish to any Party requesting the same a certificate of insurance evidencing that the insurance required is in full force and effect.

5.5 Taxes and Assessments. Each Party shall pay, or cause to be paid, prior to delinquency, all taxes and assessments with respect to its Tract, the buildings and improvements located thereon or any personal property owned or leased by such Party in the Shopping Center, provided that if the taxes or assessments or any part thereof may be paid in installments, the Party may pay each such installment as and when the same becomes due and payable, but in any event prior to the delinquency thereof. Nothing contained in this subsection shall prevent any Party from contesting at its cost and expense any such taxes and assessments

with respect to its Tract in any manner such Party elects, so long as such contest is maintained with reasonable diligence and in good faith, and, at the time as such contest is concluded (allowing for appeal to the highest court of appeals), the contesting Party promptly pays all such taxes and assessments determined to be owing, together with all interest, penalties and costs thereon.

5.6 Liens. In the event any mechanic's lien is filed against the Tract of a Party as a result of services performed or materials furnished for the use of another Party's Tract, the Party permitting or causing such lien to be filed agrees to cause such lien to be discharged prior to entry of final judgment for the foreclosure of such lien and further agrees to indemnify, defend and hold harmless each other Party and its Tract against liability, loss, damage, costs or expenses (including attorneys' fees and cost of suit) on account of such claim of lien. Notwithstanding the foregoing provisions, the Party whose Tract is subject to such lien reserves the right to require the Party permitting or causing such lien to be filed to promptly cause such lien to be released and discharged of record, either by paying the indebtedness which gave rise to such lien, or by posting bond or other security as shall be required by law to obtain such release and discharge and such Party hereby agrees to do so. Nothing herein shall prevent a Party permitting or causing such lien from contesting the validity thereof in any manner such Party chooses so long as such contest is pursued with reasonable diligence, and in the event such contest is determined adversely (allowing for appeal to the highest appellate court), such Party shall promptly pay in full the required amount, together with any interest, penalties, costs or other charges necessary to release such lien.

ARTICLE VI

MISCELLANEOUS

6.1 Default.

(A) If any Party fails to comply with any provision herein ("Defaulting Party") then any other Party ("Non-Defaulting Party") at its option, and with forty-five (45) days' prior written notice may proceed to cure the default by the payment of money or other action for the account of the Defaulting Party. The foregoing right to cure shall not be exercised if within the forty-five (45) day notice period (i) the Defaulting Party cures the default, or (ii) the default cannot reasonably be cured within that time period but the Defaulting Party begins to cure such default within such time period and diligently pursues such action to completion, or (iii) the Defaulting Party reasonably demonstrates to the Non-Defaulting Party that no default has in fact occurred. The forty-five (45) day notice period shall not be required if, using reasonable judgment, the Non-Defaulting Party deems that an emergency exists which requires immediate attention. In the event

of such an emergency the Non-Defaulting Party shall give whatever notice to the Defaulting Party is reasonable under the circumstances.

Within ten (10) days of written demand therefor (including providing copies of invoices reflecting costs) the Defaulting Party shall reimburse the Non-Defaulting Party for any sum reasonably expended by the Non-Defaulting Party due to the default or in correcting the same, together with interest thereon.

(B) All remedies herein provided shall be deemed additional to any and all other remedies to which any Party may be entitled in law or in equity (except that this Agreement may not be cancelled, rescinded, or terminated on account of such breach), and shall include the right to restrain by injunction any violation or threatened violation by any Party of any of the terms, covenants or conditions of this Agreement and by decree to compel performance of any such terms, covenants or conditions, it being agreed that the remedy at law for any breach of any such term, covenant or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate.

(C) In the event any Party shall institute any action or proceeding against another Party relating to the provisions of this Agreement, or any default thereunder or to collect any amounts owing hereunder, or an arbitration proceeding is commenced by agreement of the Parties to any dispute, then and in such event the unsuccessful litigants in such action or proceeding shall reimburse the successful litigants therein for such costs and expenses incurred in connection with any such action or proceeding and any appeals therefrom, including attorneys' fees and court costs.

6.2 Interest. Wherever in this instrument it is provided that any Party is to pay to any other Party a sum of money with interest, the amount of interest to be paid shall be calculated upon the sum advanced or due from the time advanced or due until the time paid at the lesser of:

(i) The highest rate permitted by law to be paid on such type of obligation by the Party obligated to make such payment or the Party to whom such payment is due, whichever is less, or

(ii) 3% per annum in excess of the prime rate from time to time publicly announced by First Interstate Bank of Commerce base rate, or its successors.

6.3 Estoppel Certificate. Each Party hereby severally covenants that upon written request (which shall not be more frequent than three (3) times during any calendar year) from time to time of any other Party, it will issue to a prospective mortgagee of such requesting Party or to a prospective purchaser of

such other Party, an estoppel certificate stating:

(i) whether the Party to whom the request has been directed knows of any default by the requesting Party under this Agreement, and if there are known defaults, specifying the nature thereof;

(ii) whether to its knowledge this Agreement has been assigned, modified or amended in any way (and if it has, then stating the nature thereof);

(iii) that to the Party's knowledge this Agreement as of that date is in full force and effect.

Such statement shall act as a waiver of any claim by the Party furnishing it to the extent such claim is based upon facts contrary to those asserted in the statement and to the extent the claim is asserted against a bona fide encumbrancer or purchaser for value without knowledge of facts to the contrary of those contained in the statement, and who has acted in reasonable reliance upon the statement; however, such statement shall in no event subject the Party furnishing it to any liability whatsoever, notwithstanding the negligent or otherwise inadvertent failure of such Party to disclose correct and/or relevant information.

6.4 Notices.

(A) All notices, demands, statements and requests required or permitted to be given under this Agreement must be in writing and shall be deemed to have been properly given or served either (i) by personal delivery, or, (ii) whether received or not, three (3) days after depositing the same in the United States Mails, addressed to the intended Party with postage prepaid and by registered or certified mail - return receipt requested or (iii) on the date of actual receipt by nationally recognized private courier service with charges billed to or paid by the sender. The address of each of the signatories to this Agreement is set forth below. In the event a Party shall encumber its Tract by a mortgage and notice of such fact has been given to the Party issuing such notice, demand, statement or request, then a copy thereof directed to such mortgaging Party shall also be sent to its mortgagee.

Sugarland Development Company
1809 Sugarland Dr.
P.O. Box 7279
Sheridan, Wyoming 82801

Any Party shall have the right from time to time and at any time, upon at least ten (10) days' prior written notice thereof in accordance with the provisions hereof, to change its respective address and to specify any other address within the United States of America; provided, however, notwithstanding anything herein contained to the contrary, in order for the notice of address change to be effective it must actually be received.

(B) In order to bind any Party pursuant to any provision of this Agreement wherein it is provided that the failure to take certain action within a prescribed period of time shall constitute approval, or have some other binding effect, any notice or plans shall refer specifically to the alleged action which is to be taken, identify the notice or plans as being given pursuant to this Agreement, state the period of time within which a reply must be given (as set forth in this Agreement), and state that failure to give a reply within the prescribed period of time shall be deemed to constitute approval, or have some alleged effect, as the case may be, with respect to the matter described. This legend shall be stamped conspicuously on the face of plans or notice. Unless otherwise herein provided, whenever approval is required of any Party, such approval shall not be unreasonably withheld. Unless provision is made for specific time period, approval shall be deemed given within thirty (30) days of the receipt of the request for approval, and if any Party shall neither approve nor disapprove within said thirty (30) day period, the Party shall be deemed to have given its approval. If a Party shall disapprove, the reasons therefor shall be stated. Except with respect to an approval given by lapse of time, all approvals shall be in writing.

6.5 Condemnation. In the event of a condemnation or a sale in lieu thereof concerning a portion or all of the Shopping Center, the award or purchase price paid for such taking shall be paid to the Party owning such land so taken; it being the intent of all other Parties who might have an easement right or other property interest under this Agreement in the land so taken, to release and/or waive such property interest or easement right with respect to such award or purchase price; provided, however, such other Parties shall have the right to seek an award or compensation for the loss of their respective easement right or property interest to the extent such award or compensation paid or allocated for such loss does not reduce or diminish the amount paid to the Party owning such land.

6.6 Binding Effect. The terms of this Agreement shall constitute covenants running with, and be appurtenant to the land affected and all such terms shall inure to the benefit of and be binding upon the undersigned Parties and their respective successors and assigns who become owners of any portion of the Shopping Center. This Agreement is not intended to supersede, modify, amend or otherwise change the provisions of any other

instrument affecting the land burdened hereby.

6.7 Singular and Plural. Whenever required by the context of this Agreement, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa.

6.8 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original; further, the signature of the Parties to this Agreement may be executed and notarized on separate pages, and when attached to this Agreement shall constitute one complete document.

6.9 Negation of Partnership. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. Each Party shall be considered a separate owner, and no Party shall have the right to act as an agent for another Party, unless expressly authorized to do so herein or by separate written instrument signed by the Party to be charged.

6.10 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the shopping Center or of any Tract or portion thereof to the general public, or for any public use or purpose whatsoever. Except as herein specifically provided, no rights, privileges or immunities of any Party hereto shall inure to the benefit of any third-party person, nor shall any third-party person be deemed to be a beneficiary of any of the provisions contained herein.

6.11 Excusable Delays. Whenever performance is required of any Party hereunder, that Party shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, unavailability of labor or materials or damage to work in progress by reason of fire or other casualty or causes beyond the reasonable control of a Party, then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused. The provisions of this section shall not operate to excuse any Party from the prompt payment of any monies required by this Agreement.

6.12 Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person by judgment or court order shall in no way affect any of the other provisions hereof or the application thereof to any other person and the same shall remain in full force and effect.

6.13 Amendments. This Agreement may be amended by, and only

by a written agreement which shall be deemed effective only when recorded in the county and state where the Shopping Center is located, executed by the Parties owning the Shopping Center. No consent to the amendment of this Agreement shall ever be required of any Occupant or other third-party person, nor shall any Occupant or other third-party person have any right to enforce any of the provisions hereof.

6.14 Captions. The captions preceding the text of each section and subparagraph hereof are included only for convenience of reference and shall be disregarded in the construction and interpretation of the Agreement.

6.15 Minimization of Damages. In all situations arising out of this Agreement, all Parties shall attempt to avoid and minimize the damages resulting from the conduct of any other Party. Each Party hereto shall take all reasonable measures to effectuate the provisions of this Agreement.

6.16 Time. Time is of the essence of this Agreement.

ARTICLE VII

TERM

7.1 Term of this Agreement. This Agreement shall be effective as of the date first above written and shall continue in full force and effect until 11:59 p.m. on January 1, 2046, provided, however, that with respect to the easements established pursuant to Article II hereof which are indicated as being perpetual or as continuing for a specific period of time or use, contemporaneously with the termination hereof the Parties shall join in the execution of separate easement agreements appropriately identifying the type and location of each, together with the relocation rights and maintenance obligations as the case may be as set forth in this Agreement. Upon termination of this Agreement, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of the Agreement, except as contained or to be contained within the easement agreements mentioned above, shall terminate and have no further force or effect; provided, however, that the termination of this Agreement shall not limit or affect any remedy at law or in equity of any Party against any other Party with respect to any liability or obligation arising or to be performed under this Agreement prior to the date of such termination.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed effective as of the day and year first above written.

SUGAR LAND DEVELOPMENT COMPANY

By: Homer Scott
Homer Scott, General Partner

SUGARLAND ESTATES

By: Homer Scott
Homer Scott, General Partner

STATE OF WYOMING)

County of Sheridan)

) ss.

The foregoing instrument was acknowledged before me this 3rd day of September, 1996, by Homer Scott, General Partner of Sugar Land Development Company and General Partner of Sugarland Estates.

WITNESS my hand and official seal.

Tom Mentock
Notary Public

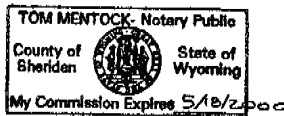
My Commission Expires: May 18, 2000

EXHIBIT A
SUBMISSION GUIDELINES

1. During the conceptual design phase, the constructing party shall submit to the other parties the following:
 - A. Site Design Documents to Indicate the Following:
 - o Parking configurations and car parking count
 - o Typical bay width and stall dimensions
 - o Drive widths
 - o Setbacks
 - o Curb cuts
 - o Spot elevations or rough contours
 - o Rough landscape scope
 - o Lighting pole locations
 - o Preliminary utility strategies
 - B. Building Design Single Line Plans to Indicate the Following:
 - o Exterior wall configuration
 - o Doors and store front extent
 - o Canopies and overhangs
 - o Probable column locations at exterior and abutting our building on interior
 - C. Exterior Elevation Drawings to Indicate the Following:
 - o Opaque wall areas with doors and store fronts
2. After approval has been granted of conceptual design phase submitted in accordance with the guidelines specified in 1 above, the constructing party shall submit final design phase plans to the other parties as follows:
 - A. Site Design Documents Delineating Information Outlined in the Concept Phase with the Following Added Detail:
 - o Refined grading plans
 - o Selected lighting fixtures and resultant lighting levels in foot candles
 - o Landscaping showing generic planting materials and locations
 - o Proposed paving section designs and location
 - o Utility layouts including hydrants and sizes proposed
 - o Proposed details for curbs, site structures, manholes, etc.
 - o Proposed site signage designs and locations
 - B. Building Design Plans Delineating Information Outlined in the Concept Phase with the Following Added Detail:
 - o Exterior wall thicknesses
 - o Structural columns or bearing walls at building exterior and proposed foundation design at adjoining wall between abutting buildings
 - o Where common footings are to be shared provide wall or column load information for design of that footing

- o Proposed roof plan showing slopes and location of penthouses or other major mechanical equipment
- o References of key flashing details of roof to adjoining building

C. Exterior Elevation Drawings Delineating Information Outlined in the Concept Phase with the Following Added Detail:

- o Proposed building sign standards
- o Paint color chips and samples of other materials such as brick or concrete aggregates (glass or aluminum finishes may be annotated on the elevations)
- o Proposed large scale details of key section conditions to show exterior design intent
- o Major penthouses or rooftop equipment profiles
- o Features such as special masonry patterns, bands or special materials and textures
- o Rain leaders or scuppers
- o Delineation of materials and colors by document notes or samples
- o Wall sections at various exterior locations including at the demising wall to the adjoining building with key vertical dimensioning

3. If a building is to have a through-the-wall pedestrian access connection to an adjoining building, then the conceptual design phase submission shall also include (to the owner of such adjoining building) the following:

- o Single line plans of the pedestrian mall circulation showing any variations in floor elevations
- o Elevations/sections of the proposed mall space showing store front sign bulkheads and key dimensions
- o Proposed ceiling design including special features such as variations in height or skylights
- o Proposed materials and colors by annotation or samples

and the final design phase plans shall also include the following:

- o Floor material patterns
- o Landscaping and mall seating areas
- o Lighting/ceiling plan
- o Proposed sign guidelines
- o Paint color chips and samples of other materials such as brick or concrete aggregates (glass or aluminum finishes may be annotated on the plans or elevations)
- o Proposed large scale details of key section conditions to show interior design intent

4. The constructing party shall provide the other parties with a complete set of bid documents for the building and/or improvements to be located upon its Tract.