

Prepared by and return to:

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**SECOND AMENDMENT AND RESTATEMENT OF
DECLARATION OF RESTRICTIVE COVENANTS**

THIS SECOND AMENDMENT AND RESTATEMENT OF DECLARATION OF RESTRICTIVE COVENANTS (this “Declaration”) is made effective as of the ____ day of _____, 2020(the “Effective Date”) by IR Mall Associates, LTD, a Florida limited partnership, having an address of 225 W. Washington Street, Indianapolis, IN 46204 (“Declarant”).

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the property described as follows (the “Property”):

Lot 5, Indian River Mall - The Mall Subdivision, according to the plat thereof, as recorded in Plat Book 14, Pages 59 and 59A, Public Records of Indian River County, Florida

WHEREAS, Declarant desires to further amend and restate the Declaration; and

WHEREAS, Declarant subjected the Property to that Declaration and Restrictive Covenants, recorded at Official Record Book 3196, Page 33; and that Amended and Restated Declaration of Restrictive Covenants recorded at Official Record Book 3204, Page 2365, all in the Public Records of Indian River County, Florida; and

NOW, THEREFORE, in consideration of the agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby agrees and declares as follows:

1. The foregoing recitals are incorporated as if fully restated herein.
2. Development Standards: From and after the recording of this Declaration, the Property shall be used for lawful purposes in conformance with all restrictions imposed by all applicable governmental laws, ordinances, codes and regulations; provided, however, the development and use of the Property shall be restricted by the following standards (“Development Standards”):

- a. The combined pervious and storm water areas shall not be less than 44% of the total property area. No building or pavement shall be constructed within the southern most 75’ pf property (this area shall be used for landscaping, water retention and signage).

- b. A minimum of six (6) specimen trees shall be preserved on site.
- c. No single building footprint shall exceed 7,800 square feet and onsite buildings shall be separated by a minimum of 50 feet. The average size of all buildings shall be 7,200 square feet or less.
- d. State Road 60 criteria, parking, setbacks and buffers shall apply per Indian River County Code.

3. Declaration: The Property shall be held, sold and conveyed together with and subject to the terms and conditions of the Declaration.

4. Constructive Notice and Acceptance: Every person or legal entity who or which will hereafter own or acquire any right, title, interest or estate in or to any portion of the Property, whether or not such interest is reflected upon the public records of Indian River County, Florida, will be conclusively deemed to have consented and agreed to each and every term and condition contained herein, whether or not any reference to the Declaration is contained in the document or instrument pursuant to which such person or legal entity will have acquired such right, title, interest or estate in the Property or any portion thereof.

5. Effect of Invalidation: If any particular provision of this Declaration is held to be invalid by any court, the validity of such provision will not affect the validity of the remaining provisions hereof.

6. Applicable Law: This Declaration shall be governed by and construed in accordance with the laws of the State of Florida.

7. No Public Dedication: Nothing contained in this Declaration shall be deemed to be a gift or dedication of any property affected hereby, or any portion thereof, to or for the general public or for any public use or purpose whatsoever, it being the intention of the Declarant and its successors and assigns in ownership of the Property that this Declaration shall be strictly limited to and for the purposes herein expressed, solely for the benefit of the Declarant and its successors and assigns in ownership of the Property. Nothing contained in this Declaration, expressed or implied, shall confer upon any person, other than the Declarant and its successors and assigns in ownership of the Property any rights or remedies under or by reason of this Declaration.

8. Covenants Running with the Land: The agreements made herein, shall constitute covenants running with the land.

9. Modification to Development Standards: Section 2 of this Instrument may only be modified, amended or released as to all or any portion of the Property by a written instrument executed by the then owner of the fee simple title to the Property, provided that the modification, amendment or release has also been approved by the Board of County Commissioners for Indian River County, Florida.

10. Binding Effect: This Agreement shall be binding upon the Declarant and its successors and assigns in ownership of the Property.

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

Signed, sealed and delivered in the presence of

WITNESSES:

Signature

IR Mall Associates, LTD.
a Florida limited Partnership

Printed Name

IR Investors, LLC, General Partner

Signature

By: _____
Joseph Cataldo, Manager

Printed Name

STATE OF _____
COUNTY OF _____: SS.

The foregoing instrument was acknowledged before me by means of ___ physical presence or by ___ online notarization this ___ day of _____, 2020 by Joseph Cataldo as Manager of IR Investors, LLC, General Partner of IR Mall Associates, LTD, a Florida Limited Partnership, on its behalf, who is personally known to me or has produced _____ as identification.

Notary Public
Name: _____
Commission No.: _____
My Commission Expires: _____