



290
②

204-290

DECLARATION OF CROSS-EASEMENTS AND COVENANTS
AND RESTRICTIONS AFFECTING LAND

Marion, Kentucky

*Ex 2.3.06 v. Mailed
Metropolitan Title Co
10355 Citation Dr
Brighton, MI 48116*

Return to:
 **Metropolitan Title Company**
National Services Division
10355 Citation Drive
Brighton, MI 48116
Commercial Unit: (877) 514-6266
Residential Unit: (877) 387-2533
NA 494812

**DECLARATION OF CROSS-EASEMENTS AND
COVENANTS AND RESTRICTIONS AFFECTING LAND
Marion, Kentucky**

THIS DECLARATION OF CROSS-EASEMENTS AND COVENANTS AND RESTRICTIONS AFFECTING LAND (this "Declaration") is made as of the 27th day of January 2006, by PAMIDA, INC., a Delaware corporation ("Declarant").

WHEREAS, Declarant is the owner of certain parcels of real estate located in Crittenden County, Kentucky comprising of the Anchor Parcel (defined below) and the Outlot(s) (defined below) (collectively, the "Entire Parcel"); and

WHEREAS, the Declarant, through the creation of the Outlot(s) and establishment of this Declaration, desires to develop and utilize the Entire Parcel as an integrated and unified shopping center; and

WHEREAS, the Declarant desires to submit the Anchor Parcel and Outlot(s) to the covenants, restrictions, and reciprocal easements set forth below in, over, upon, across and through the Common Areas and such other areas as are hereinafter provided.

NOW, THEREFORE, the Declarant hereby declares as follows:

**ARTICLE I
Definitions**

The following terms shall have the meanings set forth below:

1.1 **Anchor Parcel**. The term "Anchor Parcel" shall mean the real property described on **Exhibit "1"** (which property is currently used for the operation of a Pamida Store). In the event the real property in such Anchor Parcel is hereafter divided, Declarant may determine which of the subdivided parcels shall be the "Anchor Parcel" thereafter, and such designation shall be memorialized by Declarant by a recorded document. If, upon such division of the Anchor Parcel, Declarant does not so identify a new Anchor Parcel, the "Anchor Parcel" shall be that portion of the original Anchor Parcel retained by the Declarant (or such successor owner), or if the Declarant divests itself of the entire original Anchor Parcel, then the largest remaining parcel created from the original Anchor Parcel shall, thereafter, be the Anchor Parcel.

1.2 **Benefited Site**. With respect to the particular easements and rights hereinafter set forth, the term "Benefited Site" shall mean and refer to those portions of the Entire Parcel which are benefited by such easements and rights and constitute the dominant estate.

1.3 **Burdened Site.** With respect to the particular easements and rights hereinafter set forth, the term "**Burdened Site**" shall mean and refer to those portions of the Entire Parcel which are burdened by such easements and rights and constitute the servient estate.

1.4 **Common Areas.** "**Common Areas**" shall mean and include all parts of the Entire Parcel that are from time to time devoted primarily to parking, approaches, exits, entrances, sidewalks, exterior landscaping, incidental and interior roadways, service roads and other similar areas.

1.5 **Declarant.** "**Declarant**" shall mean the undersigned and any entity that is the successor thereto by merger, reorganization, or similar transaction. At such time as the undersigned (or its successor) no longer owns the Anchor Parcel, all references in this Declaration to "**Declarant**" shall instead refer to and be exercisable solely by the fee owner of the Anchor Parcel.

1.6 **Environmental Laws.** "**Environmental Laws**" shall mean all present and future federal, state, or local laws, ordinances, rules, regulations, decisions and other requirements of governmental authorities relating to the environment or to any Hazardous Material, including the following federal laws: the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act of 1980, the Resource Conservation and Recovery Act, the Hazardous Materials Transportation Act, the Clean Water Act, the Clean Air Act, the Toxic Substances Control Act, the Safe Drinking Water Act, and any amendments enacted or regulations adopted, published and/or promulgated pursuant thereto.

1.7 **Floor Area.** "**Floor Area**" shall mean the actual number of square feet of floor space within the exterior walls of all floors of each building located on the Entire Parcel, measured to the center lines of all common walls, and including stairs, interior elevators, escalators, air conditioning and other interior equipment rooms; but excluding (i) loading docks and platforms, transformer vaults, utility or mechanical penthouses or utility enclosures; (ii) patio or outside selling areas which are not heated or air conditioned; (iii) any mezzanine space; and (iv) basement space.

1.8 **Hazardous Material.** "**Hazardous Material**" shall mean materials and substances defined as "hazardous substances," "hazardous materials," "hazardous waste," "toxic substances," including asbestos, polychlorinated biphenyls, petroleum (or Petroleum products), hydrocarbonic substances and constituents of any of the foregoing, or other similar designations under any Environmental Laws, and further, any substance or material which because of toxicity, corrosivity, reactivity, ignitability, carcinogenicity, magnification or concentration within biologic chains, presents a demonstrated threat to biologic processes when discharged into the environment.

1.9 **Occupant.** "**Occupant**" shall mean and include Declarant, its successors, assigns and transferees (including mortgagees), and any person who shall be from time to time entitled to the use and occupancy of space located within the Entire Parcel under any lease, sublease,

license or concession agreement, or other instrument or arrangement under which such rights are acquired.

1.10 Outlot(s). "Outlot" or "Outlots" shall mean and refer to each of the parcels of real property described on Exhibit "2" attached hereto, which parcels have been legally subdivided and are legally distinct parcels that may be conveyed independently of the Anchor Parcel but which shall remain subject to the easements, covenants, restrictions and other provisions of this Declaration.

1.11 Outlot Owner. "Outlot Owner" shall refer to and mean any individual, partnership, joint venture, corporation, trust, unincorporated association, governmental agency or other entity now or hereafter holding an ownership interest in fee simple in any part of the Entire Parcel other than the Anchor Parcel.

1.12 Owner. "Owner" shall refer to and mean any individual, partnership, joint venture, corporation, trust, unincorporated association, governmental agency or other entity now or hereafter holding an ownership interest in fee simple in any part of the Entire Parcel.

1.13 Permittees. "Permittees" shall mean and refer to all Occupants and all customers, employees, licensees and other business invitees of Occupants.

1.14 Site. "Site" shall mean and refer to the Anchor Parcel, any Outlot(s), and any other portion of the Entire Site.

1.15 Site Plan. "Site Plan" shall mean and refer to the site plan of the Entire Parcel attached hereto as Exhibit "3".

ARTICLE II Easements

2.1 Grant of Easements. Declarant hereby grants to the Owners the following easements for use by the Owners, Occupants, and their respective Permittees, without payment of any fee or charge, except as otherwise provided herein:

2.1.1 Pedestrian Easements. Nonexclusive easements for the purpose of pedestrian traffic between each Site and (i) each other Site which is contiguous thereto; (ii) the public streets and alleys now or hereafter abutting or located on any portion of the Entire Parcel; (iii) the parking areas now and hereafter located on the Entire Parcel; and (iv) over, upon, across and through the Common Areas; limited, however, to those portions of each Site which are improved by the Owner thereof from time to time for pedestrian walkways and made available by such Owner for general use by the Permittees in conformity with this Declaration and the Site Plan.

2.1.2 Vehicular Easements. Nonexclusive easements for the purpose of vehicular traffic over, upon, across and between each Site and the public streets and alleys now

and hereafter abutting or located on any portion of the Entire Parcel; limited, however, to those portions of the Entire Parcel which are improved by the Owner thereof from time to time for vehicular accessways in conformity with this Declaration and the Site Plan.

2.1.3 Parking Easements. Nonexclusive easements for the purpose of vehicular parking in any parking areas now or hereafter located on the Entire Parcel. However, the owner of any Outlot may not rely upon this easement to fulfill any requirement in this Declaration, imposed by law, or otherwise imposed on the Outlot for the number of parking spaces required on the Outlot.

2.1.4 Utility Easements.

(a) Nonexclusive easements for the installation, use, testing, connection to, operation, maintenance, repair, replacement and removal of: water lines and systems; telephone lines and systems; cable television lines; gas lines and systems; sanitary sewer lines and systems; electrical lines and systems; storm sewers, drainage lines and systems; and other utility lines or systems hereafter developed to serve one or more of the Sites; provided, however, that all pipes, wires, lines, conduits, mains, sewers, systems and related equipment (hereafter called "Utility Facilities") will be installed underground or otherwise enclosed and will be installed, operated and maintained in a manner which will not unreasonably interfere with the use of the Entire Parcel or improvements on the Burdened Site on which such Utility Facilities are located. The parties agree that the Utility Facilities existing as of the date of this Declaration are acceptable and do not unreasonably interfere with the use of the Burdened Site.

(b) The Owner of each Burdened Site affected by a utility easement granted herein will operate and maintain all Utility Facilities located within the boundaries of such Burdened Site in sound structural and operating condition (except to the extent that such operation and maintenance is performed by public authorities or utilities) and any expenses occasioned thereby will be borne by the Owners of the Benefited Site(s) which are serviced by such Utility Facilities in the ratio which the Floor Area of the improvements located on each Benefited Site bears to the total Floor Area of the improvements located on all Benefited Sites serviced by the Utility Facilities.

(c) The Owner of any Burdened Site affected by any utility easements granted herein will have the right, at any time, and from time to time, to relocate any Utility Facilities then located on the Burdened Site on the conditions that: (i) such right of relocation will be exercisable only after thirty (30) days prior written notice of the intention to relocate has been given to all Owners using the Utility Facilities to be relocated; (ii) other than in an emergency situation, such right of relocation of any Utility Facilities located in the front of a building will not be exercised between October 1 and December 27 of any year; (iii) such relocation will not unreasonably interrupt any utility service to the improvements then located on the Benefited Site(s); (iv) such relocation will not reduce or unreasonably impair the usefulness or function of the Utility Facilities to be relocated; and (v) all costs of such relocation will be borne by the Owner relocating the Utility Facilities.

2.1.5 Access Easements. Nonexclusive easements between each Site and the public streets and ways abutting or crossing any portion of the Entire Parcel for the purpose of providing ingress, egress and access to the easements hereby created and to the Common Areas. No access point located on an Outlot shall be closed or relocated without the Declarant's written consent.

2.1.6 Staging and Performance of Work. No construction shall be performed on any Outlot between November 1 and January 15 except with the Declarant's prior written consent. All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any building, sign or Common Area improvements located on any Outlot shall be performed and completed in a good and workmanlike manner, as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct or delay: (i) access to or from the Entire Parcel, or any part thereof, or to or from any public right-of-way; (ii) customer vehicular parking in the improved Common Area located on the Entire Parcel; or (iii) the receipt of merchandise by any business in the Entire Parcel, including, without limitation, access to service facilities. The construction area shall be kept clean and orderly, and all construction shall be performed so as not to cause dust and debris to migrate off of the construction site. Staging for the construction, replacement, alteration or expansion of any building, sign or Common Area improvements located on the Outlot including, without limitation, the location of any temporary buildings or construction sheds, the storage of building materials and the parking of construction vehicles and equipment shall be limited to those areas approved in writing by the Declarant. Unless otherwise specifically stated herein, the person contracting for the performance of such work shall, at its sole cost and expense, promptly repair and restore or cause to be promptly repaired and restored to its prior condition all buildings, signs, and Common Area improvements damaged or destroyed in the performance of such work.

2.1.7 Self-Help Easements. Nonexclusive rights of entry and easements over, across and under each Site for all purposes reasonably necessary to enable the Declarant to perform any of the provisions of this Declaration which a defaulting Owner has failed to perform in accordance with Section 4.2, below. The costs of operation and maintenance of such easements shall be borne by the Owner of the Burdened Site.

2.1.8 Sign Easements. Non-exclusive easement to Declarant under, through, and across the Common Area of any Outlot for the installation, operation, maintenance, repair and replacement of such free-standing pylon sign(s) that are in existence on the date of the sale of any Outlot or that are shown as future improvements on the Site Plan attached hereto, including all appurtenant utility lines and facilities. If Declarant permits an Outlot Owner or Occupant to place signage on one or more general shopping center pylons or other signs in accordance with Section 6.2, below, such Outlot Owner or Occupant shall have a non-exclusive easement under, through, and across the Common Area of the Anchor Parcel or other Outlot for the installation, operation, maintenance, repair and replacement of such signage. Declarant shall bear all costs related to the installation, maintenance, repair and replacement of any pylon sign and appurtenant facilities that are used solely by Declarant. If Declarant permits an Outlot Owner or Occupant to place signage on one or more general shopping center pylons or other

signs, such Outlot Owner or Occupant shall bear all costs related to its signage, and shall pay its pro-rata share of costs for the maintenance, repair and replacement of the remainder of the pylon or sign in accordance with Section 6.2(b), below.

2.1.9 Surface Water Drainage. Non-exclusive easements for the flow of a reasonable volume of surface water to the nearest drainage catch basins or waterways; provided, however, that (a) the easement for surface water drainage shall be consistent with an overall surface water drainage plan for the Entire Parcel; and (b) following the initial construction of Common Areas and buildings on a Benefited Site in accordance with the Site Plan, no Owner of the Benefited Site shall alter the flow of surface water onto a Burdened Site in a manner that would materially increase the volume, or materially decrease the purity or quality, of surface water flowing onto the Burdened Site.

2.2 Unimpeded Access. Except as provided in Article VI, no barricade or other divider will be constructed between the Sites and the Owners will do nothing to prohibit or discourage the free and uninterrupted flow of vehicular or pedestrian traffic throughout the Site in the areas designated for such purpose by the Owner of each Site; provided, however, that each Owner shall have the right to temporarily erect barriers to avoid the possibility of dedicating such areas for public use or creating prescriptive rights therein. However, this restriction shall not apply in a manner that would restrict the Declarant from developing Outlots on its Site as provided for in this Declaration.

2.3 Prohibition Against Granting Easements. Outlot Owners shall not grant or otherwise convey an easement or easements of the nature or type set forth in this Article II for the benefit of any parcel of real estate not within the Entire Parcel.

ARTICLE III

Nature of Easements and Rights Granted

3.1 Easements Appurtenant. Each and all of the easements and rights granted or created herein are appurtenances to the affected portions of the parcels comprising of the Entire Parcel and none of the easements and rights may be transferred, assigned, or encumbered except as an appurtenance to such portions.

3.2 Nature and Effect of Easements. Each and all of the easements, covenants, restrictions and provisions contained in this Declaration:

- (a) Are made for the direct, mutual and reciprocal benefit of the Owners, Occupants and Permittees of the respective Sites;
- (b) Create mutual equitable servitudes upon each parcel in favor of the other Sites;
- (c) Constitute covenants running with the land; and

(d) Shall bind every person or entity having any fee, leasehold, or other interest in any portion of the parcels comprising of the Entire Parcel at any time or from time to time to the extent that such portion is affected or bound by the easement, covenant, restriction, or provision in question, or to the extent that such easement, covenant, restriction or provision is to be performed on such portion.

3.3 **Transfer of Title.** The acceptance of any transfer or conveyance of title from any party hereto or its respective heirs, representatives, successors, or assigns of all or any part of its interest in its Site shall be deemed to:

(a) Require the prospective grantee to agree not to use, occupy, or allow any lessee or occupant of such Site to use or occupy the Site in any manner which would constitute a violation or breach of any of the easements, covenants or restrictions contained herein; and

(b) Require the prospective grantee to assume and agree to perform each and all of the obligations of the conveying party under this Declaration with respect to any such Site which will be conveyed to each grantee, in each case by a written instrument executed, acknowledged and recorded in the Office of the Register of Deeds of the county in which the parcels comprising of the Entire Parcel are located by such grantee ("Assumption Agreement"). Notice of each such conveyance and Assumption Agreement by any party (except the Declarant) shall be served by the conveying party upon each party or entity then owning fee title to any part of the Entire Parcel within ten (10) days after such conveyance. The notice shall be accompanied by a copy of the Assumption Agreement. Upon such assumption by the new grantee and the service of proper notice, the conveying party shall thereupon be released from any future obligation under this Declaration with respect to the parcel so conveyed to the prospective grantee in compliance with this document, but shall not be relieved from past obligations. The parties hereto agree at Declarant's request to execute and deliver any and all documents or assurances necessary or desirable to evidence such release for the purpose of recording or otherwise. When a grantee is a mortgagee, no personal liability or responsibility shall be deemed to be assumed by such mortgagee until and unless such mortgagee actually takes possession of a Site in connection with a mortgage foreclosure action.

ARTICLE IV

Maintenance of Common Areas & Easement Areas

4.1 **Common Area Maintenance.** Each Owner shall maintain, or cause to be maintained, the Common Areas from time to time located on its Site in good order, sound structural and operating condition and repair. Such maintenance shall include, but shall not be limited to:

(a) Maintenance, repair and replacement of the surface and subsurface of parking lot and driveways situated on the Common Area to maintain it level, smooth and evenly covered with the type of materials originally constructed thereon, or such substitutes as will in all respects be equal to such materials in quality, appearance and durability;

(b) Maintenance and care of all grass, shrubs and landscaping, including, but not limited to, the fertilizing, watering, mowing and trimming thereof and maintaining, repairing and replacing (when necessary) automatic sprinkler systems and water lines;

(c) Removal from the Common Areas of papers, debris, ice, snow (except for storage on the Declarant's Site), refuse and other hazards to persons using the said Areas, and washing or thoroughly sweeping paved areas as required;

(d) Maintenance of such appropriate parking area entrance, exit and directional signs, markers and lights as will be reasonably required from time to time; and

(e) Such painting and repainting as may be required to maintain parking area and equipment installed thereon in high quality condition.

4.2 Failure to Properly Maintain. In the event that any Outlot Owner shall fail to properly maintain that portion of the Common Area that is from time to time located on its Site (such party being herein referred to as the "Defaulting Party"), the Declarant may send written notice of such failure to the Defaulting Party. Such notice shall contain an itemized statement of the specific deficiencies (hereinafter referred to as the "Deficiencies") in the Defaulting Party's performance of the Common Area maintenance to be performed by it. Notwithstanding anything to the contrary in Section 5.2, the Defaulting Party shall have ten (10) days after receipt of the said notice in which to correct the Deficiencies or in which to commence to correct the Deficiencies if the Deficiencies cannot be corrected within the said ten (10) day period, and thereafter, to proceed diligently to complete the correction of the Deficiencies. In the event that the Defaulting Party shall unreasonably fail or refuse to timely correct or to begin to correct the Deficiencies, as the case may be, the Declarant may, at its option, correct the Deficiencies. In the event that the Declarant shall exercise the said option and shall correct the Deficiencies, the Defaulting Party shall, immediately upon receipt from the Declarant of an itemized invoice for the costs incurred by the Declarant in correcting the Deficiencies, pay all costs to the Declarant plus interest thereon from the date of receipt of such invoice at a rate equal to the lesser of fifteen percent (15%) or the maximum rate allowed by applicable law.

4.3 Maintenance of Easement Areas. With respect to each of the easements granted in Article II, except as otherwise specifically provided in this Declaration, each Owner of the Burdened Site shall be responsible for the cost of operation and maintenance of the areas subject to such easements.

4.4 Surface Water Drainage. The Declarant, its successors or assigns, shall perform all required monitoring, maintenance and repairs with respect to any detention pond or drainage basin located on the Entire Parcel, and all costs associated therewith shall be borne by the Owners in proportion to the area of their respective Sites, unless a default by the Owner of a Benefited Site with respect to the surface water drainage easement provided in Article II made such monitoring, maintenance and repairs necessary, in which event such defaulting Owner shall

bear such costs. Each Owner shall pay the amounts due under this Section 4.4 within fifteen (15) days of receipt of an invoice and supporting documentation from Declarant.

4.5 Taxes. The Owners of each Site shall pay or cause to be paid all taxes and special assessments levied against their respective Site, including any portion of the Common Area on its Site, prior to delinquency of such taxes or special assessments.

ARTICLE V Enforcement - Injunctive Relief

5.1 Remedies. In the event of any violation by any party hereto or by any Permittee or Occupant of any part of the Entire Parcel of any of the terms, restrictions, covenants and conditions provided herein, Declarant shall have, in addition to the right to collect damages, the right to enjoin such violation or threatened violation in a court of competent jurisdiction. Prior to the commencement of any such action, thirty (30) days written notice of the violation will be given to the persons or entity guilty of such violation or threatened violation.

5.2 Notice. Except as provided in Section 4.2, a party will not be in default under this Declaration unless such party shall have been served with a written notice specifying the default and shall fail to cure such default within thirty (30) days after receipt of such notice, or shall fail to commence to cure the default within such period of time if the default cannot be cured within the said thirty (30) day period, and thereafter, to proceed diligently to complete the curing of the default.

5.3 Breach Does Not Affect Declaration. It is expressly agreed that no breach of this Declaration shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration, but this limitation shall not affect, in any manner, any other rights or remedies which the parties may have by reason of any breach of this Declaration.

ARTICLE VI Restrictions on Development and Use

6.1 Restrictions on Divisions; Conveyances. In addition to the Outlot(s) identified on the Site Plan, Declarant may create and convey Outlots on the Anchor Parcel in the Declarant's sole discretion. Any portion of the Entire Parcel conveyed shall remain subject to all easements, covenants, restrictions and other provisions set forth in this Declaration. It is understood that the size and location of the Outlots as depicted on the Site Plan are approximations and that the exact size and location of the Outlots may differ from that depicted on the Site Plan.

6.2 Signs. No Outlot Owner or Occupant shall erect or install, or permit to be erected or installed, anywhere on the Entire Parcel any sign except in accordance with the following:

(a) Except as provided below, no free-standing signs shall be erected or installed on an Outlot except in locations (i) designated for such signs on the Site Plan or (ii) approved in writing by the Declarant. Any free-standing sign erected anywhere on any Outlot by

an Outlot Owner or Occupant shall conform in all respects to the sign criteria attached hereto as Exhibit "4" (the "Sign Criteria").

(b) In the event the Declarant erects or installs one or more general shopping center pylons or other signs, the Declarant may offer other Owners the right to place signage on such sign (which shall be at Declarant's sole discretion). Any such shopping center sign erected shall be maintained by the Declarant in a good and usable condition with any costs and expenses incurred for such maintenance apportioned among the Owners pro-rata based upon each of their percentage shares of the sign panels; provided, however, that each Owner shall maintain (including repairing, replacing and improving) its sign panels at such Owner's sole cost and expense. In addition, each panel of any shopping center sign erected shall be separately metered and each Owner thereof shall be responsible for the cost of operation of such panel. In the event it is not possible to separately meter such panels, the cost of operation shall be apportioned among the Owners pro-rata based upon each of their percentage shares of the sign panels collectively metered. Each Owner shall pay the amounts due under this Section 6.2(b) within fifteen (15) days of receipt of an invoice and supporting documentation from Declarant.

(c) Notwithstanding (a) above and subject to (d), the Declarant, at its option and at its own expense, shall have the right to erect, install and maintain on the Anchor Parcel signs of such size, color and design (including without limitation pylon signs) as the Declarant elects.

(d) Any sign erected or installed anywhere on any Outlot shall conform to local sign ordinances and is subject to obtaining any required governmental approvals.

The restrictions set forth in this Section 6.2 may be waived solely by the Declarant in writing, in the Declarant's sole discretion, without requiring consent of the other Owners, with regards to one or more Outlots.

6.3 Use Restriction. It is agreed that no portion of the Entire Parcel, other than the Declarant's Site, may be used for or by a discount department store or general merchandise store (as defined or listed in the most current edition from time to time of the Directory of Discount & General Merchandise Stores published by Chain Store Guide, a division of Lebhar-Friedman, Inc., or a like successor publication); retail pharmacy or drugstore; nutritional, health or wellness center; optical center; toy store; or lawn and garden center. In addition, it is agreed that no Outlot shall be used or operated:

- (a) In violation of applicable laws or rules.
- (b) In a dangerous or hazardous manner.
- (c) As a nuisance, or as an obnoxious use by reason of unsightliness or excess emission of odors, dust, fumes, smoke, liquid waste, noise, glare, vibration or radiation;

provided, however, that nothing contained in this subsection shall limit or prohibit the erection of business communications satellite dishes on the roof of any building.

(d) As an adult book store, night club or discotheque, massage parlor, or any other establishment which provides live adult entertainment or which sells, rents or exhibits pornographic or obscene materials.

(e) For any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation (provided that any Occupant that goes out of business shall be entitled to hold one going out of business sale not exceeding four (4) weeks in duration).

(f) As a second-hand store, flea market, pawn shop, government surplus store, Goodwill Store, salvage store, Salvation Army Store, surplus store or liquidation store.

(g) As a sports, health, fitness, exercise or dance facility.

(h) As a liquor store (or any other establishment where beer, wine or liquor is sold for off-premises consumption).

(i) As an automobile, truck, trailer or recreational vehicle sales, leasing, display or repair facility.

(j) As a bar or tavern (or any other establishment where beer, wine or liquor is served for on-premises consumption), except for a restaurant where beer, wine or liquor accounts for no more than forty percent (40%) of the gross revenues of such restaurant.

(k) As a theater or cinema; circus; carnival; bowling alley; doctor's or dentist's office; medical or dental health facility; veterinary hospital or clinic; funeral parlor or mortuary; car wash; game room or arcade; billiard or pool hall; unemployment office; school or place of instruction attended by students; business office; post office; bingo parlor, casino, off-track betting facility, or any betting establishment (except that the sale of state lottery tickets is not prohibited or restricted).

(l) For any non-retail use.

Any of the restrictions set forth in this Subsections 6.3 (f) - (l) may be waived by the Declarant in writing, in the Declarant's sole discretion, without requiring consent of the other Owners.

6.4 Parking Requirements. It is agreed that a parking ratio of not less than 4.5 spaces per 1,000 square feet of Floor Area will be maintained on each Outlot. The restrictions set forth in this Section 6.4 may be waived solely by the Declarant in writing, in the Declarant's sole discretion, without requiring consent of the other Owners, with regards to one or more Outlots.

6.5 Building Restrictions. Each building, structure, signage, or other improvement constructed on any Outlot shall be of first quality construction and architecturally designed so that the exterior elevation (including signs) and color will be architecturally and aesthetically compatible and harmonious with all other buildings on the Anchor Parcel. No building, structure, signage, or other improvement may be constructed nor the exterior of any existing building changed in any material way without the prior written approval of the Declarant, which approval shall not be unreasonably withheld, delayed or denied, as to the exterior design, color, and elevations of the building, structure, or other improvement to be constructed or modified. Before any construction or modification which requires approval hereunder is commenced, written notice requesting such approval shall be sent to the Declarant including sufficient information to enable the Declarant to make a reasonable determination.

6.6 Outlot Restrictions. In addition to the other restrictions set forth in this Declaration and the deed conveying the Site to the Outlot Owner, each Outlot shall be subject to the following restrictions unless specifically waived in writing by Declarant:

(a) Only one building may be constructed on an Outlot.

(b) No building, structure or improvement constructed on an Outlot shall (i) exceed one story; (ii) have a roof or parapet exceeding twenty-three (23) feet above grade; (iii) have any portion of such building, structure or improvement (including HVAC equipment and other mechanical devices or screening) higher than four (4) feet above such roof; (iv) have any rooftop equipment unless such equipment is screened; or (v) have a rooftop sign, except for building facade signage if no part of such signage exceeds that height restriction set forth above.

6.7 Access Modification. No curbcuts or public highway access points shown on the Site Plan shall be altered, modified, vacated or discontinued in any manner whatsoever without the written approval of the Declarant.

6.8 Common Area Promotions. Promotions within the Common Area may only be conducted on the Outlots with the express written permission of the Declarant.

6.9 "Go-Dark" Provisions.

(a) Notice of Election to Discontinue Business. If, after completion of construction of the improvements on an Outlot and commencement of business operations thereon, forty percent (40%) or more of the gross building area of the Improvements on such Outlot are at any time not operated for business by the Owner (or its tenants) (such failure to operate business in forty percent (40%) or more of such building area is referred to as a "Failure to Operate"). If such Failure to Operate continues for a continuous period of at least twelve (12) months for any reason other than (i) strikes, lockouts or other labor difficulties, acts of God, the requirements of any local, state or federal law, rule or regulation, fire or other casualty, condemnation, war, riot, insurrection or any other reason beyond a party's reasonable control ("force majeure" events), or (ii) temporary closure due to the restoration, reconstruction,

expansion, alteration, modification or remodeling of any improvements located on the Outlot (provided that Owner is pursuing such work with reasonable diligence, subject to "force majeure" events), such Failure to Operate shall be deemed a "Trigger Event". Owner shall be obligated to provide written notice to the Declarant (the "Notice of Election") at such time as Owner intends or anticipates that a Trigger Event will occur, and such Notice of Election will include the anticipated date on which Owner intends or anticipates the discontinuance of business operations on the Outlot. Owner's failure to provide the Notice of Election described above shall serve to toll the twelve (12) month period within which Declarant must exercise its option to purchase by providing the Notice of Exercise, as more particularly described in Subsection 6.9(b) below.

(b) Option to Purchase; Notice of Exercise. Upon the occurrence of a Trigger Event, whether or not Owner has provided the Notice of Election described in Section 6.9(a) above, the Declarant shall have the option to purchase the subject Outlot, exercisable by written notice to Owner (the "Notice of Exercise"), which Notice of Exercise may be delivered no earlier than the day immediately following the occurrence of the Trigger Event and no later than twelve (12) months following the date on which Owner provides its Notice of Election to Declarant. The Notice of Exercise delivered by Declarant shall specify the date on which Declarant proposes to close the purchase of the Outlot from Owner.

(c) Terms of Option. If the Declarant exercises an option granted under this Section 6.9, then, on the date specified in the Notice of Exercise, the Owner of the applicable Outlot will sell and convey the Outlot to the Declarant pursuant to the terms and provisions as set forth in the attached Exhibit "5" (which is by reference incorporated herein). The purchase price for the Outlot will be the fair market value of the Outlot. The "fair market value" of the improvements and/or the real property will be determined in the following manner: (i) the Notice of Exercise shall include the Declarant's determination of the fair market value of the Outlot; (ii) if the Owner of the Outlot objects to such value, the Owner will notify Declarant in writing no later than twenty (20) days after delivery of the Notice of Exercise; provided, however, that the Outlot Owner's failure to object timely shall be deemed its acceptance of the Declarant's determination; and (iii) if the Owner of the Outlot timely objects and the parties cannot agree on the value within forty (40) days after the Notice of Exercise, the matter shall be resolved in accordance with Section 6.9(d) below.

(d) Disputes Regarding Fair Market Value. If the Owner of the Outlot objects to the Declarant's determination of the fair market value of the Outlot in connection with the exercise of the option stated above, and if the Declarant and the Owner are unable to agree on the fair market value of the Outlot within the time limits specified in Subsection 6.9(c), above, the matter shall be submitted for determination by independent real estate appraisers in accordance with this Subsection 6.9(d). The parties shall each select a certified MAI commercial real property appraiser who is familiar with the relevant market. Such selection shall be made in writing by notice to the other party not less than sixty (60) days after the Notice of Exercise. Each appraiser will make its own determination of the fair market value within twenty (20) days after selection and will notify both parties in writing as to its determination. Unless the

Declarant and the Owner of the Outlot agree to a price based on such determinations within ten (10) days after they are made; the two appraisers shall mutually select a third appraiser with the same qualifications set forth above. Selection of such third appraiser shall be made within one hundred (100) days after the Notice of Exercise. The third appraiser shall then, within ten (10) days of selection, determine which of the two fair market values proposed by the original appraisers is closer to the actual fair market value, and the determination of such third appraiser shall be final and binding upon the parties. Each party shall bear the fees of the appraiser selected by it. If a third appraiser is required, the fees of such third appraiser shall be shared equally. If a party fails to select an appraiser within the time frame set forth in this Subsection 6.9(d), such party shall have waived its right to select an appraiser, and the determination of the appraiser selected by the other party, made in good faith, shall be binding on the parties. The dates set forth in Exhibit "5" attached hereto regarding closing the option sale will be extended by the number of days that are required to resolve any dispute pursuant to this Section 6.9.

ARTICLE VII Indemnification

7.1 Indemnification. Each Outlot Owner, with respect to its portion of the Entire Parcel, shall comply with all applicable laws, rules, regulations and requirements of all public authorities and shall indemnify, defend and hold every other Owner harmless from and against any and all claims, demands, losses, damages, liabilities and expenses and all suits, actions and judgments (including, but not limited to, costs and reasonable attorneys' fees) arising out of or in any way related to the failure by such Outlot Owner to maintain its portion of the Entire Parcel in a safe and proper condition. Each Outlot Owner shall give each other Owner prompt and timely notice of any claim made or suit or action commenced which, in any way, could result in indemnification hereunder.

ARTICLE VIII Insurance and Subrogation

8.1 Casualty and Liability Insurance. Each Outlot Owner shall obtain and maintain all-risk insurance covering all of the buildings and improvements now or hereafter located on its Site, in an amount equal to ninety percent (90%) of the full replacement cost thereof. Each Outlot Owner shall also obtain and maintain comprehensive general liability insurance covering injuries to persons and property on, in or about its Site, with coverage in an amount not less than Three Million Dollars (\$3,000,000.00) per occurrence with a deductible not in excess of One Hundred Thousand Dollars (\$100,000.00). All such policies of insurance shall be issued by solvent and responsible insurance companies authorized to do business in the State within which the Entire Parcel is located, and all such policies shall contain a waiver of the right of subrogation. Each Outlot Owner shall furnish the Declarant with Certificates of Insurance reflecting this coverage upon request. In addition, whenever (a) any loss, cost, damage or expense resulting, directly or indirectly, from fire, explosion or any other casualty, accident or occurrence is incurred by any Outlot Owner, and (b) such Outlot Owner is then required to be covered in whole or in part by insurance with respect to such loss, cost, damage or expense, then such Outlot Owner hereby

releases each other Owner from any liability it may have on account of loss, cost, damage or expense. If any Outlot Owner sustains an insured casualty loss to the building on its Site, said Outlot Owner shall, at its sole cost and expense and with all due diligence and within a commercially reasonable time, either (i) repair and restore its building on the Site or (ii) raze the remaining portion of the building, remove the debris, and cover the area from which the building was removed with landscaping, asphalt, or some other dustcap material.

ARTICLE IX Condemnation

9.1 Condemnation Awards. If all or any part of the Entire Parcel is sold to or taken by any duly constituted authority for a public or quasi-public use under its power of condemnation or threat thereof, then that portion of the resulting award (whether obtained by agreement or by judgment or court order) attributable to the value of any land within the Common Areas so taken shall be payable only to the owner thereof and no claim thereto shall be made by any other owner; provided, however, that all other Owners may file collateral claims with the condemning authority, over and above the value of the land within the Common Areas so taken, to the extent of any damage suffered by the Sites of such other owners resulting from the severance of the appurtenant Common Areas so condemned or taken. The owner of the Common Areas so condemned or taken shall promptly repair and restore the remaining portion of the Common Areas owned by such owner as near as practicable to the condition of same immediately prior to such condemnation or taking and without contribution from any other owner. Nothing contained herein shall require any owner to construct any improvements other than a ground-level parking lot. If any buildings or other improvements on a Site are condemned or taken, then the resulting award shall first be made available and used for repair and reconstruction of such buildings or other improvements; and the same shall promptly be repaired and reconstructed as near as practicable to the condition of same immediately prior to such condemnation or taking and any amounts of the award not needed for the repair and replacement that can be reasonably made shall be retained and be the sole property of the owner of the land, building or improvement taken.

ARTICLE X Environmental Matters

10.1 Duties of Users. Except as provided in Section 10.3, no Occupant shall release, generate, use, store, dump, transport, handle or dispose of any Hazardous Material within the Entire Parcel or otherwise permit the presence of any Hazardous Material to be on the Entire Parcel. Any use, handling or storage permitted under Section 10.3 shall be in accordance with all Environmental Laws and all other applicable laws, ordinances, rules and regulations now or hereafter promulgated by any governmental authority having jurisdiction thereof.

Each Outlot Owner with respect to its Site shall immediately notify the other Owners by providing a copy of the following with respect to such Outlot Owner's Site: (1) any notice of violation or potential or alleged violation of any laws, ordinances or regulations which

the Outlot Owner shall have received from any governmental agency concerning the use, storage, release and/or disposal of Hazardous Materials; (ii) any and all inquiry, investigation, enforcement, cleanup, removal or other governmental or regulatory actions instituted or threatened relating to such Site(s); (iii) all claims made or threatened by any third party relating to any Hazardous Materials; and (iv) any release of Hazardous Materials on or about the Entire Parcel which such Outlot Owner knows of or reasonably believes may have occurred.

10.2 Specific Substances. No Outlot Owner, Outlot Occupant(s) or Permittee of an Outlot shall introduce, or permit any other person to introduce, any friable asbestos, radioactive material, urea formaldehyde foam insulation or devices containing polychlorinated biphenyls (PCBs) into any portion of the Entire Parcel.

10.3 Permitted Use, Storage, Handling and Disposal of Hazardous Materials. Notwithstanding anything contained in Section 10.1 to the contrary, an Outlot Owner, Outlot Occupant or Outlot Permittee may use products containing Hazardous Materials and equipment fueled by or containing Hazardous Materials in, on or about such Outlot or the Common Areas to the extent such products and/or equipment are incident to the normal operation of vehicles. Examples of such products and equipment include, but are not limited to, gasoline and petroleum products used to fuel and/or lubricate vehicles. In addition, notwithstanding anything contained in Section 10.1 to the contrary, and subject to the use provisions of Article VI and any other use provisions governing the Outlot, the Outlot Owners or Outlot Occupants may merchandise products such as paints, oils, solvents, sealers, adhesives, and finishes, fertilizers, insecticides and rodent poisons and the like, which may contain Hazardous Materials, so long as such products are frequently merchandised in supermarkets, and full-line home improvement, gardening and hardware stores. In addition, Outlot Owners or Outlot Occupants may use products such as photocopier equipment, ordinary office supplies, photographic chemicals and supplies, building materials, maintenance supplies, cleaning agents and solvents in quantities commonly stored, found or maintained for use by retail operators.

An Outlot Owner or an Outlot Occupant may also use other Hazardous Materials in connection with its use of its Site if such Outlot Owner or Outlot Occupant has received the Declarant's prior consent to the same. Declarant shall not unreasonably withhold its consent provided (i) the Outlot Owner or Outlot Occupant demonstrates to the Declarant's reasonable satisfaction that such Hazardous Materials (a) are necessary or useful to its business, (b) will be monitored, used, stored, handled and disposed of in compliance with all Environmental Laws, (c) will not endanger any persons or property and (d) will not invalidate or limit the coverage or increase the premiums of any insurance policy affecting or covering any portion of the Entire Parcel; (ii) the Outlot Owner or Outlot Occupant provides the other Owners with such reasonable assurances or security as may be reasonably required by the other Owners to help secure such Outlot Owner's or Outlot Occupant's performance of its obligations under Section 10.4 and (iii) such Outlot Owner or Outlot Occupant satisfies any other requirements the Declarant may reasonably impose with respect to the use of the subject Hazardous Materials.

10.4 Cleanup of Hazardous Materials. In the event Hazardous Materials are released within the Entire Parcel in violation of any Environmental Law and such release occurred as a direct or indirect result of an Outlot Owner's or an Outlot Occupant's use, handling, storage, or transportation of such Hazardous Material, as between the Owners, such Outlot Owner or Outlot Occupant engaged in such activity shall be solely responsible and shall be liable for the prompt cleanup and remediation of any resulting contamination and all claims, costs, expenses (including reasonable attorney and consultant fees) and damages, including consequential damages, suffered by the other Owners and Occupants.

ARTICLE XI
Duration and Termination

11.1 Duration. The easements, covenants, restrictions and other provisions of this Declaration shall be of perpetual duration and shall run with the land.

11.2 Amendment. Except as otherwise set forth herein, this Declaration may not be modified, amended or terminated except by the written agreement of all Owners (except that Declarant's rights may be and will be transferable as described in the definition of "Declarant"); provided however, that (i) Declarant may amend this Declaration to add land to the Entire Parcel, and (ii) Declarant may amend this Declaration at any time to release land it owns from the Entire Parcel (as it may exist from time to time) so long as the land to be released does not have on it any accessways or utility lines needed by any Outlot (or if there are accessways or utility lines on the land to be released, Declarant shall have relocated the same or obtained and recorded an easement instrument for purposes of continuing the necessary easements contained in this Declaration notwithstanding the release of the land from this Declaration). An Owner may waive one or more of its rights under this Declaration in writing signed by the party, and such writing need not be recorded. Other than as referenced in the foregoing, no modification or amendment of any provision of this Declaration shall be binding unless in a written instrument duly signed by the Owners of all parcels comprising of the Entire Parcel. Any such modification or amendment shall be effective when recorded in the real property records of the County in which the property is situated.

11.3 Modifications of Site Plan. Notwithstanding anything to the contrary contained in this Declaration, the Declarant shall have the right to modify the Site Plan with regards to any property owned by Declarant by recording in the Office of the Register of Deeds of the County in which the parcels comprising of the Entire Parcel are located a supplement to this Declaration setting forth the revised Site Plan executed and acknowledged by the Declarant, provided that, if the revised Site Plan materially adversely affects access to a Site, the revised Site Plan shall require the approval of the Owner of the affected Site.

ARTICLE XII
Not a Public Dedication

12.1 Nothing contained in this Declaration shall, or shall be deemed to, constitute a gift or dedication of any portion of the Entire Parcel to the general public or for the benefit of the

general public or for any public purpose whatsoever, it being the intention of the parties that this Declaration will be strictly limited to and for the purposes expressed herein.

ARTICLE XIII
Reasonableness of Consent

13.1 Unless otherwise provided herein, whenever an Outlot Owner's agreement or approval is required hereunder, such Outlot Owner shall not unreasonably withhold or delay such agreement or approval. If an Outlot Owner shall not agree, or shall disapprove, the reasons therefor shall be stated in writing and in reasonable detail within thirty (30) days after receipt of the request seeking agreement or approval (unless an alternate time period for such an approval is set forth in the section requiring the approval). If an Outlot Owner fails to provide such reasons within the required time period, such Outlot Owner shall be deemed to have agreed or approved provided that the notice seeking agreement or approval stated that such Outlot Owner's failure to provide written objections within thirty (30) days shall be deemed approval of such request (unless an alternate time period for such an approval is set forth in the section requiring the approval).

13.2 Notwithstanding anything to the contrary in this Declaration, no consent, agreement or approval shall ever be required of any Occupant or other Permittee other than the Owners of any Site.

ARTICLE XIV
Estoppels

14.1 Upon written request of the Declarant, any Outlot Owner shall provide to the Declarant an executed estoppel stipulating that this Declaration is still in effect and governs the Outlot, there are no defaults by the Declarant under this Declaration, and there are no claims pending by Owner against the Declarant under this Declaration. Such estoppel will be provided within thirty (30) days after request is sent by the Declarant as provided in Section 16.7 as provided below, at no charge to the Declarant.

ARTICLE XV
No Covenant to Operate

15.1 Nothing, either expressed or implied, contained in this Declaration shall obligate the Declarant to continuously operate any type of business on its Site.

ARTICLE XVI
Miscellaneous

16.1 Recording. A fully executed counterpart of this Declaration shall be recorded in the Office of the Register of Deeds of the County in which the parcels comprising of the Entire Parcel are located.

16.2 Benefit. This Declaration shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, executors, administrators, representatives, successors and assigns.

16.3 Waiver. No waiver of any breach of any of the easements, covenants, restrictions or agreements herein contained shall be construed as, or constitute, a waiver of any other breach or a waiver, acquiescence in or consent to any further or succeeding breach of the same or any other easement, covenant, restriction or agreement.

16.4 Severability. If any term or provision of this Declaration shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions of this Declaration shall not be affected thereby, but each remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

16.5 Applicable Law. This Declaration shall be construed and enforced in accordance with the laws of the State in which the parcels comprising of the Entire Parcel are located.

16.6 Counterparts. This Declaration may be executed in several counterparts, all of which together shall be deemed an original single document.

16.7 Notice. All notices given or permitted under this Declaration shall be in writing and shall be sent by: (a) U.S. Mail, postage prepaid, certified or registered mail, return receipt requested or (b) for delivery on the next business day with a nationally-recognized express courier. All notices to the Declarant shall be sent to the following address, until such address is changed by thirty (30) days notice, and notice to any other Owner at such address as the party sending such notice has received, and if none then to the address of that Owner's Site:

If to Declarant:

700 Pilgrim Way
Green Bay, WI 54304
Attention: Real Estate Department

[Remainder of Page Intentionally Blank - Signatures appear on Following Page]

IN WITNESS WHEREOF, the parties hereto have executed this Declaration as of the day and year first above written.

Pamida, Inc., a Delaware corporation

By: [Signature]
Steven Andrews, Senior Vice President

WITNESS:
By: [Signature]
Name: Peter Vandenhanter

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

BEFORE ME, a Notary Public in and for said County and State, personally appeared Steven Andrews, who acknowledged that he, as the Senior Vice President, did execute the foregoing instrument on behalf of PAMIDA, INC., a Delaware corporation, and that the same was his free act and deed individually and in his capacity indicated above, and the free act and deed of the company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at this 23 day of January 2006.

Notary Public
Name: [Signature]
My Commission Expires: _____
ESPERANZA OQUENDO
Notary Public, State of New York
No. 01005038073
Qualified in Kings County
Commission Expires Jan. 17, 2007

THIS DOCUMENT WAS PREPARED BY:

Klehr Harrison Harvey Branzburg & Ellers LLP
260 South Broad Street - 4th Floor
Philadelphia, PA 19102
Attn: Matthew H. Werthman, Esq.
By: [Signature]
Matthew H. Werthman, Esq.

THIS DOCUMENT WAS RECORDED BY
AND SHOULD BE RETURNED TO:

First American Title Insurance Company
National Commercial Services - Chicago
30 North LaSalle Street - Suite 310
Chicago, IL 60602
Attn: James W. McIntosh

Marion, KY (3106)
PHIL1 657501-1

20

~~STATE OF KENTUCKY
COUNTY OF CRITTENDEN SCT
I, Carolyn D. Byford, Clerk of the County Court for the County
and State aforesaid, certify that the foregoing
Declaration was on this
2nd day of Feb 2006 at 11:41A M
lodged and this certificate duly recorded in my said
office.
BY [Signature] Carolyn D. Byford, Clerk, D.C.
Fee 6.90 Tax
Deed Book 204 Page 290~~

Exhibit "1"
Legal Description of Anchor Parcel

[See attached]

Lot 4 of Pamida Subdivision, Marion, Kentucky, recorded in Land Use Registration Book 1, Page 33.

Being the same property conveyed to Pamida, Inc., a Delaware corporation, by deed dated May 12, 2000, of record in Deed Book 186, page 370, in the Crittenden County Clerk's Office.

Tax ID No.: Part of 070-60-07-001-00

Marion, KY (#3106)
PHIL 657968-1



Exhibit "2"
Legal Description of Outlot(s)

[See attached]

Lots 1, 2, 3 and 5 of Pamida Subdivision, Marion, Kentucky, recorded in Land Use Registration Book 1, Page 33.

Outparcel Marion, KY (#3106)
PHIL1 658026-1



Exhibit "3"
Site Plan

[See attached]

OWNER'S CERTIFICATION

I (WE) THE UNDERSIGNED, DO HEREBY CERTIFY THAT I AM (WE AND THE UNDERSIGNED) OF RECORD OF THE PROPERTY SHOWN AND DESCRIBED HEREIN, WHICH IS RECORDED IN DEED BOOK 186, PAGE 570, IN THE OFFICE OF THE COTTLEDASH COUNTY CLERK. IN CONSIDERATION OF THE APPROVAL OF THIS SUBDIVISION PLAN, I (WE) DO HEREBY AGREE TO CONVEY TO THE COTTLEDASH COUNTY CLERK, TO HEREBY DEED TO ALL STREETS, RIGHTS-OF-WAY AND ANY OTHER SPACES SO INDICATED TO PUBLIC USE. EXCEPT THOSE SPECIFICALLY INDICATED AS PRIVATE, THAT I OR MY SUCCESSORS IN TITLE WILL MAINTAIN ALL SUCH AREAS UNDER THE ORDER OF DESIGNATION IS APPROVED BY THE APPROPRIATE AUTHORITY AND DO ESTABLISH AND RESERVE THE EASEMENTS INDICATED FOR PUBLIC UTILITY AND DRAINAGE PURPOSES.

DATE: 8/10/02
 [Signature]
 [Signature]
 [Signature]
 OF REAL ESTATE

**PAMIDA SUBDIVISION
 MARION, KENTUCKY**

OWNER & DEVELOPER: PAMIDA, INC.
 P.O. BOX 19060
 GREEN BAY, WI 54307

PREPARED BY:
 U.S. SURVEYOR
 4929 RIVERWIN
 EVANSVILLE, IN

CERTIFICATION OF SURVEY AND ACCURACY

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND ALL REQUIREMENTS OF STATUTE AND REGULATION AND THE SUBDIVISION ORDINANCES OF MARION, KENTUCKY HAVE BEEN FULLY MET.

DATE: _____
 LAND SURVEYOR'S NAME, NUMBER AND SEAL

CERTIFICATION OF THE CITY ENGINEER'S APPROVAL OF STREETS, STORMWATER DRAINAGE SYSTEM, WATER DISTRIBUTION SYSTEM, FIRE HYDRANTS, AND PUBLIC SEWER COLLECTION SYSTEM PLANS AND SPECIFICATIONS

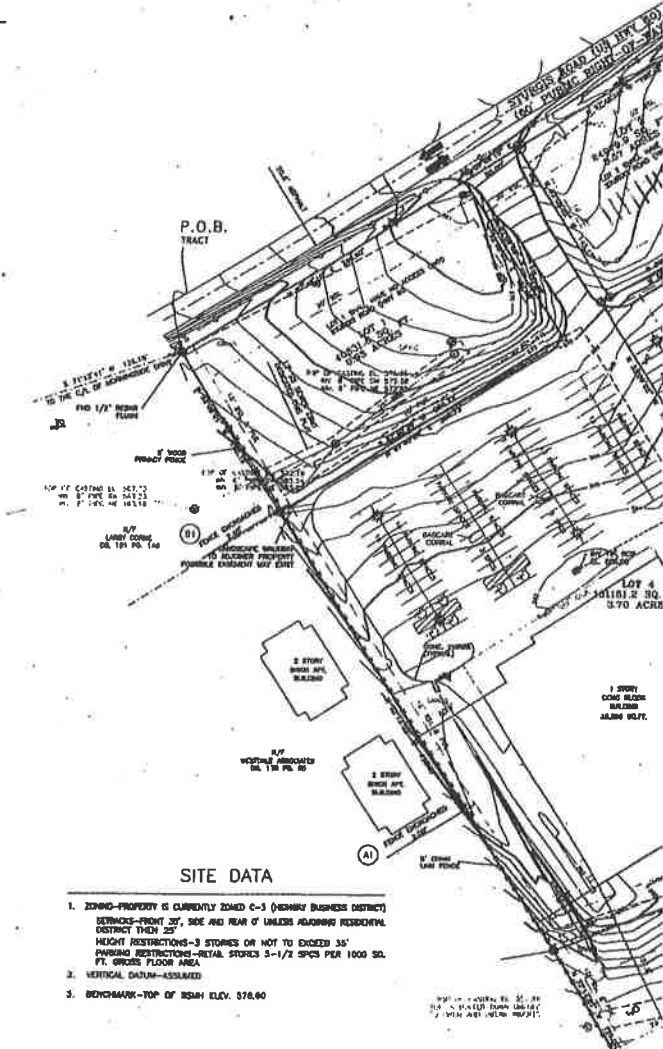
I CERTIFY THAT I HAVE REVIEWED AND APPROVED THE PLANS, SPECIFICATIONS AND CALCULATIONS FOR THE REQUIRED STREET, DRAINAGE, WATER DISTRIBUTION SYSTEM, FIRE HYDRANTS, AND PUBLIC SEWER COLLECTION SYSTEMS AND I FURTHER CERTIFY THAT (1) STREETS, DRAINAGE SYSTEM, WATER DISTRIBUTION SYSTEMS, FIRE HYDRANTS AND SANITARY SEWER COLLECTION SYSTEM HAVE BEEN INSTALLED IN AN ACCEPTABLE MANNER AND IN ACCORDANCE WITH THE CITY OF MARION SPECIFICATIONS, OR (2) THAT A SECURITY HAS BEEN POSTED WITH THE PLANNING COMMISSION IN AN AMOUNT SUFFICIENT TO COMPLETE ALL REQUIRED PUBLIC FACILITIES IN CASE OF DEFAULT.

DATE: _____
 CITY ENGINEER
 CITY OF MARION

CERTIFICATION OF APPROVAL OF ON-SITE SEWERAGE SYSTEM

I HEREBY CERTIFY THAT THE ON-SITE SEWERAGE DISPOSAL SYSTEM INSTALLED ON PROPOSED FOR INSTALLATION, IN THIS SUBDIVISION HAS RECEIVED TENTATIVE APPROVAL. TENTATIVE APPROVAL OF THE SUBDIVISION DOES NOT CONSTITUTE APPROVAL OF INDIVIDUAL LOTS. EACH LOT WITHIN THE SUBDIVISION MUST MEET THE REQUIREMENTS OF THE REGULATORY ON-SITE SEWERAGE DISPOSAL REGULATIONS PRIOR TO THE INSTALLATION OF ON-SITE SEWER SYSTEM AND THAT EACH LOT MUST HAVE AN INDIVIDUAL SITE EVALUATION. I ALSO HEREBY CERTIFY THAT I HAVE REVIEWED WITH THE OWNER OF THE PROPERTY, SOIL TYPES FOR THIS PARCEL AND HAVE JOINTLY OBTAINED ANY NECESSARY PERMITS AND SOIL SUITABILITY FOR ON-SITE SEWER DISPOSAL.

DATE: _____
 ENVIRONMENTALIST,
 COTTLEDASH COUNTY HEALTH DEPT.



SITE DATA

1. ZONING-PROPERTY IS CURRENTLY ZONED C-3 (COMMERCIAL BUSINESS DISTRICT) DISTRICTS-FRONT 25', SIDE AND REAR OF UNLESS OTHERWISE RESIDENTIAL DISTRICT THEN 25'
2. HEIGHT RESTRICTIONS-3 STORES OR NOT TO EXCEED 35' PARKING RESTRICTIONS-RETAIL STORES 3-1/2 SPACES PER 1000 SQ. FT. OFFICE FLOOR AREA.
3. VERTICAL CURVE-ASSUMED
3. BENCHMARK-TOP OF BENCH ELEV. 576.60

FOR INQUIRIES CONCERNING THIS SURVEY CONTACT:

PERMIT NO. 09
 U.S. SURVEYOR
 1-800-TO-SURVEY

PREPARED FOR:
SHOPKO STORES

PROJECT LOCATION:
 COTTLEDASH COUNTY, STATE OF KENTUCKY

PROJECT ADDRESS:
 214 STURGES ROAD
 MARION, KY

PROJECT TYPE:
 SUBDIVISION SURVEY

JOB NUMBER:
 9334360.DWG.9

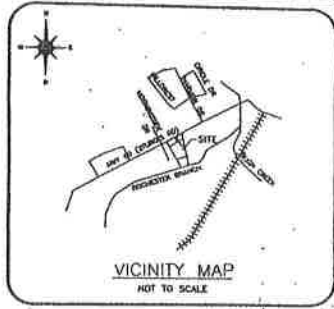
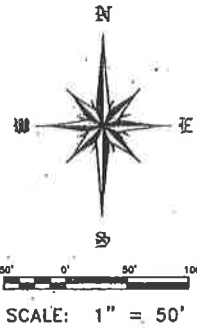
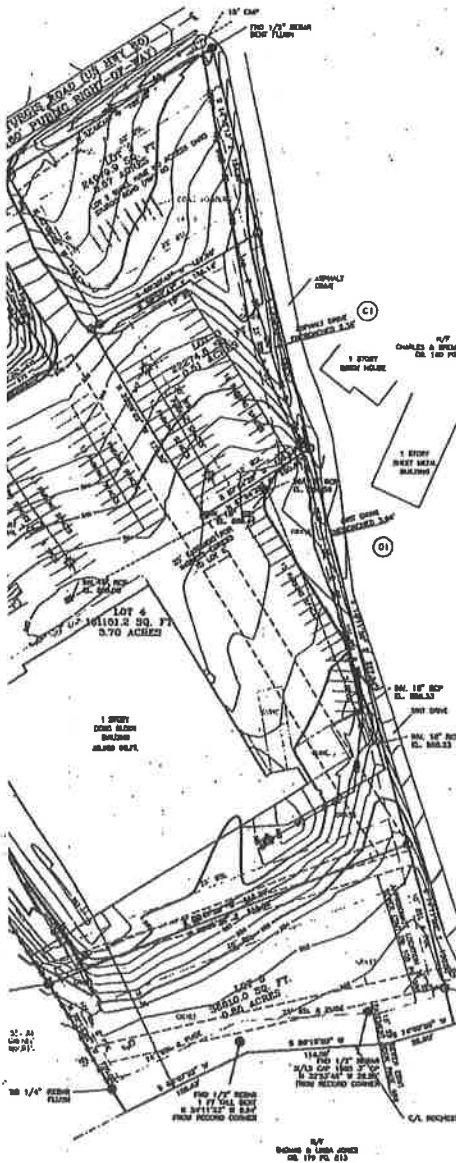
SHEET 1 OF 1

FLOOD DATA This property is not mapped according to FEMA Maps.



DIVISION
INDUCKY

PREPARED BY:
U.S. SURVEYOR, INC.
4929 RIVERWIND POINTE DR.
EVANSVILLE, IN 47715



STANDARD LEGEND

● MOUND MARK	⊗ POSTHOLE	⊗ STORM DRAIN MANHOLE
○ ELEC. METER	⊗ OUT WIRE	⊗ STORM DRAIN MANHOLE
⊗ GAS METER	⊗ LIGHT POLE	⊗ STORM DRAIN MANHOLE
⊗ MACH. MOUNTED BOX	⊗ STREET LIGHT POLE	⊗ STORM DRAIN MANHOLE
⊗ FIBER OPTIC	⊗ ELEC. TRANSFORMER	⊗ STORM DRAIN MANHOLE
⊗ FIBER OPTIC	⊗ AIR CONDENSER	⊗ STORM DRAIN MANHOLE
⊗ A.S. WIRE PILE	⊗ BURIED ELECTRIC	⊗ STORM DRAIN MANHOLE
⊗ A.S. WIRE BOX	⊗ OVERHEAD ELECTRIC	⊗ STORM DRAIN MANHOLE
⊗ MOUNTING	⊗ ELECTRIC WIRE	⊗ TELEPHONE BOX
⊗ CONC. W/P WIRE	⊗ WATER LINE	⊗ TELEPHONE WIRE
⊗ RECORD DATA	⊗ WATER METER	⊗ TELEPHONE POLE
⊗ MEASURED DATA	⊗ WATER METER	⊗ TELEPHONE POLE
⊗ CALCULATED DATA	⊗ WATER METER	⊗ TELEPHONE POLE
⊗ W/1/4\"/>		

UTILITY COMPANIES

UTILITIES SHOWN ARE BASED ON LIMITED DATA. THERE IS NO GUARANTEE AS TO THEIR LOCATION OR SIZE. PLEASE CONTACT RESPECTIVE UTILITY COMPANIES PRIOR TO CONSTRUCTION. POSSIBLE CONFLICTS IN THIS AREA ARE:

ELECTRIC-KENTUCKY UTILITIES 270-388-4701
GAS-ATMOS ENERGY 1-800-234-1321

PHONE-BELLSOUTH 1-800-345-3443
ADDRESS UNKNOWN PHONE

SEWER-CITY OF MARION 108 E. BELLVILLE ST MARION, KY 42064 270-242-2288

WATER-CITY OF MARION 108 E. BELLVILLE ST MARION, KY 42064 270-242-2288

STATEMENT OF ENCROACHMENTS

- (A) CHAIN LINK FENCE ENCROACHED AS SHOWN
- (B) WOOD PRIVACY FENCE ENCROACHED AS SHOWN
- (C) ASPHALT DRIVE ENCROACHED AS SHOWN
- (D) DIRT DRIVE ENCROACHED AS SHOWN

SURVEYOR'S CERTIFICATION

WE HEREBY CERTIFY AND PLEDGE, INC.
I HEREBY CERTIFY THAT THE SURVEY DESCRIBED BY THIS PLAN WAS MADE BY PERSONS UNDER MY DIRECT SUPERVISION BY THE METHOD OF RANDOM TRANSITS WITH STATIONING, THE UNADJUSTED POSITION ANGLES OF THE TRIANGULAR SYSTEM BEING MEASURED BY THE METHOD OF SQUARE METHOD IN A CLASS A SURVEY AND THE ACCURACY AND PRECISION OF THE SURVEY MEET ALL REQUIREMENTS OF THIS CLASS.
FIELD BOOK DATE: 07/14/99
Michael G. Ward
MICHAEL G. WARD P.L.S.
KENTUCKY SURVEYOR NO. 0636
DATE OF CERTIFICATION: 07/14/99

Book #1
hand use Registration Book #1

DATE OF ORIGINAL: JULY 20, 2000
REVISION: _____ DATE: _____ 2000
REVISION: _____ DATE: _____ 2000
REVISION: _____ DATE: _____ 2000

Marion, KY
3106
317

Exhibit "4"
Sign Criteria

Monument Sign
Exhibit

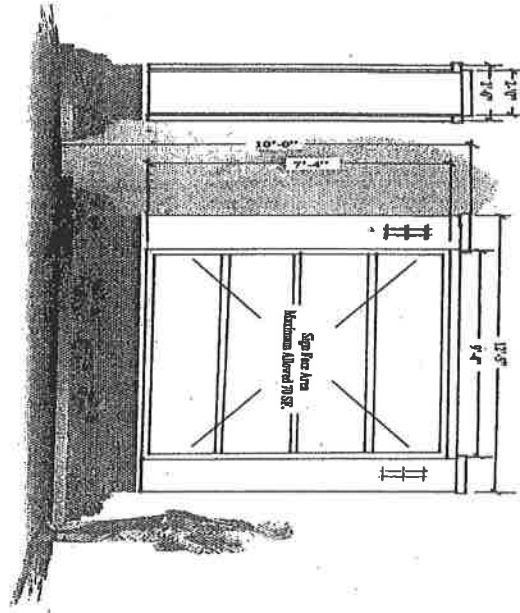


Exhibit "5"
Terms and Provisions Regarding Purchase Option

The terms contained in this exhibit (the "Exhibit") are provided to supplement the rights, conditions and obligations set forth in Section 6.9 of the Declaration to which this exhibit is appended.

ARTICLE I
Definitions

1.1 **Definitions.** As used in this Exhibit, the "Owner" is the Owner of an Outlot under the Declaration, the "Optionee" is the Declarant under such Declaration, or its successors and/or assigns, and the "Option Property" is the Owner's Outlot parcel. Capitalized terms not otherwise defined herein will have the meaning stated in the Declaration.

ARTICLE II
Incorporation of Terms

2.1 **Incorporation of Terms.** The provisions of Section 6.9 of the Declaration are incorporated herein, pursuant to which Optionee has the right and option ("Option") to repurchase the Outlot upon the occurrence of certain conditions as described therein.

ARTICLE III
Status of the Option Property and Title

3.1 **Access to the Option Property.** During the Option Period, defined below, Owner shall permit Optionee or its authorized or designated representatives or agents to enter upon the Option Property at reasonable times upon reasonable advance notice (as to the date, time and purpose for the entry) for the purpose of examining the Option Property.

3.2 **Conduct Until Closing.** Until the closing date after any exercise of the Option, Owner will maintain the Option Property in good condition, and shall pay all liens or property taxes and assessments imposed on the Option Property when due.

3.3 **Outstanding Agreements.** Following exercise of the Option, Owner will not enter into any leases, occupancy agreements, easements, covenants, conditions, restrictions or other agreements affecting the Option Property which will be binding on Optionee after the closing of purchase if the Option is exercised, except as may be approved in writing by the Optionee during the Option Period, which approval shall not be unreasonably withheld.

3.4 **Title Report.** As soon as practicable after exercise (if any) of the Option, Owner will cause to be furnished to Optionee a preliminary title report (with full copies of any

exceptions) from a title company selected by Optionee ("Title Company") showing its willingness to issue title insurance on the Option Property.

3.5 Rescission of Agreement. Optionee shall have the right to rescind its exercise of the Option at any time from the date of exercise through closing.

ARTICLE IV Closing procedure

4.1 Date of Closing. This transaction shall be closed on a date selected by Optionee and reasonably acceptable to Owner, within ninety (90) days after exercise of the Option (the "Closing Date").

4.2 Prorations. At closing, property taxes and other expenses associated with operation of the Option Property (the "Expenses") shall be prorated and adjusted between the parties as of the Closing Date.

4.3 Manner of Closing. This transaction shall be closed in escrow by an officer of the Title Company. Closing shall take place in the manner specified in this document.

4.4 Closing. On the Closing Date, this transaction will be closed as follows:

(a) The prorations described in Section 4.2 of this Exhibit will be made and the parties shall be charged and credited accordingly.

(b) Owner will convey the Option Property to Optionee by special warranty deed, subject to no liens or encumbrances, other than those contained in the title report to be issued pursuant to Section 3.4 of this Exhibit, and not reasonably objected to by Optionee. Owner will execute a "non-foreign person" FIRPTA affidavit, in form reasonably acceptable to Optionee.

(c) Optionee shall pay to Owner in cash the total purchase price for the Option Property (as agreed upon pursuant to the process set forth in Section 6.9 of the Declaration), adjusted for the charges and credits set forth above.

(d) Owner shall cause and pay for the Title Company to issue an owner's standard coverage policy of title insurance in the amount of the total purchase price for the Option Property, subject only to the standard printed exceptions of the Title Company, and exceptions for the matters contained in the title report to be provided to Optionee pursuant to Section 3.4 of this Exhibit, provided that such exceptions are not reasonably objected to by Optionee.

(e) Owner shall be charged the amount required to obtain release of impermissible liens (if any). Optionee shall be charged the recording fees for the deed. Owner

shall be charged the premium for the owner's title insurance policy and the state and county excise and documentary stamp taxes. The escrow fee shall be divided equally between the parties.

4.5 Possession. Owner will deliver vacant possession of the Option Property to Optionee on the Closing Date.

4.6 Termination. In the event Owner should fail to close this transaction (other than as a result of Optionee's failure to exercise the Option or perform Optionee's obligation under this Option), Optionee shall be entitled to a refund upon demand of any monies deposited with Title Company in connection with the Option, and Optionee shall be entitled to all remedies allowed at law and equity for breach of contract, including the right to enforce specific performance of this Option.

4.7 Failure to exercise option. In the event Optionee fails to exercise the Option within the Option Period specified below (or rescinds the Option after exercising), Optionee shall, upon Owner's request, execute such documents as Owner may provide and reasonably require to evidence the termination of the exercise of this Option. However, the Option right as set forth in the Section 6.9 of the Declaration shall continue and may be exercised upon any occurrence of a subsequent Trigger Event as defined in Section 6.9 of the Declaration.

4.8 Option Period. As more particularly described in Section 6.9 of the Declaration, the Option may be exercised by Optionee at any time following the occurrence of a Trigger Event and prior to the expiration of twelve (12) months following the Owner's delivery of the Notice of Election relating to such Trigger Event.

ARTICLE V **General provisions**

5.1 Brokers. Each party shall defend, indemnify and hold the other party harmless from any claim, loss or liability made or imposed by any party claiming a commission or fee in connection with the exercise of the Option, the transfer of the subject Outlot and/or arising out of its own conduct.

TO: ShopKo Properties SPE Real Estate, LLC, a Delaware limited liability company
ShopKo Optical Manufacturing SPE Real Estate, LLC, a Delaware limited liability company
Penn-Daniels SPE Real Estate, LLC, a Delaware limited liability company
Pamida SPE Real Estate, LLC, a Delaware limited liability company
P.M. Place SPE Real Estate, LLC, a Delaware limited liability company
ShopKo SPE Real Estate, LLC, a Delaware limited liability company

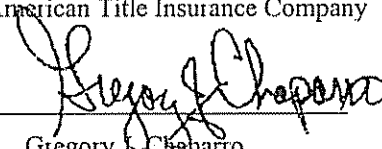
FROM: GREGORY J. CHAPARRO

SUBJECT: SHOPKO

DATE: January 27, 2006

Insurer: First American Title Insurance Company

By: _____


Gregory J. Chaparro

THIS GLOBAL POLICY ENDORSEMENT APPLIES TO ALL PROPERTIES SET FORTH ON THE DEED CHART ATTACHED HERETO AS EXHIBIT A.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, EACH MARKED TITLE COMMITMENT/REPORT IS REVISED AS FOLLOWS:

SCHEDULE A

POLICIES TO BE INSURED: ALTA 1992 (Extended Coverage Owner's Policy (1992) Without Standard Exceptions

AMOUNTS OF INSURANCE: 703,988,000.00

INSURED/EFFECTIVE DATE: Date of closing

NAME OF INSURED: ShopKo Properties SPE Real Estate, LLC, a Delaware limited liability company
ShopKo Optical Manufacturing SPE Real Estate, LLC, a Delaware limited liability company
Penn-Daniels SPE Real Estate, LLC, a Delaware limited liability company
Pamida SPE Real Estate, LLC, a Delaware limited liability company
P.M. Place SPE Real Estate, LLC, a Delaware limited liability company
ShopKo SPE Real Estate, LLC, a Delaware limited liability company

SCHEDULE B

All Schedule B or Schedule B-1, General Requirements and Special Requirements, if any, are deleted in their entirety:

TENANTS:

Rights or claims of tenants or parties in possession not shown by the public records;

MECHANICS LIENS:

Any lien or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

TAXES/ASSESSMENTS:

Taxes or special assessments, which are not shown as existing liens by the public records

SURVEY:

Encroachments, overlaps, boundary line disputes and other matters, which would be disclosed by a current accurate survey or inspection of the land.

EASEMENTS OR CLAIMS OF EASEMENTS NOT SHOWN BY THE PUBLIC RECORDS:

Easements or claims of easements not shown by public records.

GAP:

Defects, liens, encumbrances, adverse claims and other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date hereof but prior to the date the proposed insured acquires for value of record the Insured Mortgage.

RIDER:

AFFIRMATIVE COVERAGE/UPDATES:

Insurer has agreed to provide the Insured with affirmative coverage with respect to the matters as more particularly set forth on that certain "Title Policy Tracking Chart" prepared by Barclay Capital Real Estate, Inc., together with First American Title Insurance Company, which has been acknowledged and executed by First American Title Insurance Company and delivered to the Insured in a separate letter dated January 27, 2006.

The following additional exceptions are deleted in their entirety:

FEE MORTGAGES ON PREMISES OWNED IN FEE SIMPLE:

All are deleted.

FEDERAL TAX LIENS, STATE TAX LIENS AND MUNICIPAL LIENS AGAINST BORROWER:

All are deleted.

SPECIFIC SURVEY READINGS:

All readings/exceptions or references relating to specific survey matters, such as "Survey prepared by * dated * shows/discloses" or "Matters as shown on a survey prepared by * dated *" are deleted.

The following exceptions are added:

TAXES AS TO ALL PREMISES OWNED IN FEE SIMPLE:

Taxes and assessments for the current period (which may be a lien, but are not yet due, payable or delinquent) and subsequent years.

SUPPLEMENTAL TAXES AS TO ALL PREMISES IN CA:

The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5, commencing with Section 75 of the California Revenue and Taxation Code as a result of the transfer of title to the Insured or new construction occurring subsequent to Date of Policy [Note: None currently due, payable or delinquent.]

ACREAGE:

Exact acreage is not insured.

TENANTS:

Unrecorded Leases: Rights or claims of the tenants more particularly set forth on the annexed Tenant Chart, as tenants only, under unrecorded leases, none of which have an option or right of first refusal to purchase the land.

Recorded Leases: Notwithstanding, such tenant has rights as a tenant only, and does not have an option or right of first refusal to purchase the land.

LIENS:

Deed of Trust/Deed to Secure Debt made by Mortgagor to Barclay's Capital Real Estate, Inc.

WP&L Financing Statements in Wisconsin

SURVEY/EXPRESS MAPS:

Encroachments into easements will be shown as exceptions and insured over with a 103.3 endorsement.

REA'S/OPERATING AGREEMENTS:

Declaration of Cross-Easements and Covenants and Restrictions Affecting Land, dated January 27, 2006, and recorded immediately prior hereto.

Assignment and Assumption of Operating Agreements, dated January 27, 2006, and recorded in connection with this transaction.

THE FOLLOWING ENDORSEMENTS/AFFIRMATIVE COVERAGES ARE APPROVED AND WILL BE INCLUDED, WHERE AVAILABLE, IN THE OWNER'S POLICY. UNLESS OTHERWISE INDICATED BELOW, ALL ENDORSEMENTS ARE AVAILABLE IN EACH JURISDICTION:

Access (indicating "has access to" all abutting public roads or public roads by way of easement, if such language is allowed per State insurance regulations)

Address/Location of Improvements

ALTA 9.2

Contiguity, if applicable

Leasehold Endorsement (Owner), as applicable

Subdivision: N/A in OR

Survey/ExpressMap

Tie-In

Tax Lot: N/A in OR and except for those "Outlot" properties where a separate Tax Lot as yet to be created

Waiver of Arbitration

Zoning-Improved Property, w/Parking

103.3 Endorsement for encroachments into easements

3106

Policy or Policies issued pursuant to this commitment are underwritten by:

First American Title Insurance Company

SCHEDULE A

Commitment No.: NU493025

2000

Revision B December 23, 2005

1. Commitment Date: December 13, 2005 @ 8:00 AM

2. Policy or Policies to be issued: Policy Amount
(a) ALTA Owner's Policy (10-17-92) \$1,000.00

Proposed Insured:
ShopKo

Policy or Policies to be issued: Policy Amount
(b) ALTA Loan Policy (10-17-92) Without Standard Exceptions \$1,000.00

Proposed Insured:
To Be Determined

3. The Fee Simple interest in the land described in this Commitment is owned, at the Commitment Date, by:
Pamida, Inc., a Delaware Corporation

4. The land referred to in this Commitment, situated in the County of Crittenden, State of Kentucky, is described as follows:

(SEE EXHIBIT A LEGAL DESCRIPTION)

314 Sturgis Road Marion KY



Issuing Agent: Metropolitan Title Company
America's Premier Title Agency

For questions regarding this commitment contact your local
Metropolitan Title Company (877)514-6266 or fax to (877)514-6265
10355 Citation Dr., Brighton, MI 48116

Metropolitan Title Company
10355 Citation Dr.
Brighton, MI 48116

Schedule B – Section I REQUIREMENTS

Commitment No.: NU493025

General Requirements

The following requirements must be met:

- (a) Instruments necessary to create the estate or interest to be insured must be properly executed, delivered and duly filed for record.
- (b) Payment of the full consideration to, or for the account of, the grantors or mortgagors should be made.
- (c) Payment of all taxes, charges, assessments, levied and assessed against subject premises, which are due and payable should be made.
- (d) Pay us the premiums, fees and charges for the policy.
- (e) You must tell us in writing the name of anyone not referred to in this Commitment who will receive an interest in the land or who will make a loan on the land. We may make additional requirements or exceptions.
- (f) Submit completed Owner's Estoppel/Affidavit/ALTA Statement on the form provided by this company and signed by or on behalf of all owners.

Specific Requirements

1. PROVIDE EVIDENCE OF THE PURCHASE PRICE OR THE AMOUNT OF ANY MORTGAGE TO BE INSURED AND IDENTIFY ANY PROPOSED INSURED. ONCE A PROPOSED INSURED HAS BEEN IDENTIFIED, ADDITIONAL REQUIREMENTS AND EXCEPTIONS MAY BE MADE.

Schedule B – Section II EXCEPTIONS

Commitment No.: NU493025

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

Defects, liens encumbrances adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the Proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

General Exceptions

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction:

1. Rights or claims of parties in possession not shown by the public records.
2. Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey and inspection of the premises.
3. Easements, or claims of easements, not shown by the public records.
4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown on the public records.
5. Taxes or special assessments which are not shown as existing liens by the public records.

Specific Exceptions

1. Restrictions and stipulations of record in the Office aforesaid, but, however, deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based upon race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions, or restrictions violate 42 U.S.C. 3604 (c)/ NOTE: Said restrictions do not provide for reversion or forfeiture of title in event of a breach thereof.
2. Restrictions, easements and rights of way as shown on the Plat of said property recorded in Deed Book 52, page 363 in the Office aforesaid.
3. Easement for a permanent sewage line in favor of City of Marion and the Covenants, Conditions and Restrictions contained in instrument recorded in Deed Book 197, page 466.
4. Easement for sewer line in favor of City of Marion and the Covenants, Conditions and Restrictions contained in instrument recorded in Deed Book 108, page 285; Deed Book 108, page 305; Deed Book 108, page 355; and Deed Book 108, page 357.
5. Rights of tenants, if any, under any unrecorded leases.
6. 2005 City Real Estate Taxes paid in the amount of \$3,932.50 (Bill #1433)
2005 City Tangible Property Taxes paid in the amount of \$2,562.90 (Bill #1434)
2005 County Real Estate Taxes paid in the discounted amount of \$12,023.28 (Bill #4908)
2005 County Tangible Property Taxes paid in the discounted amount of \$6,604.70 (Bill #4909)
Tax Item No. 070-60-07-001.00.
7. Certificate of Land Use Certification filed of record in Land Use Restriction Book 1, page 32.
8. Minor Plat Approval Certification filed of record in Land Use Restriction Book 1, page 33.

NOTE: If subject property is connected to public/community water or sewer, furnish a copy of the current bill to Metropolitan Title Company showing that all charges have been paid to date or the Policy to be issued will include an exception on Schedule B for water and sewer charges which became a lien prior to the date of the Policy.

EXHIBIT A
LEGAL DESCRIPTION

File No.: NU493025

The land referred to in this Commitment, situated in the County of Crittenden, State of Kentucky, is described as follows:

~~Lot 4 of PAMIDA SUBDIVISION, Marion, Kentucky, recorded in Land Use Registration Book 1, page 33.~~

See Legal Description
Attached as Exhibit "A"

EXHIBIT A

Lot 4 of Pamida Subdivision, Marion, Kentucky, recorded in Land Use Registration Book 1, Page 33.

Being the same property conveyed to Pamida, Inc., a Delaware corporation, by deed dated May 12, 2000, of record in Deed Book 186, page 370, in the Crittenden County Clerk's Office.

Together with non-exclusive easement rights created by DECLARATION OF CROSS-EASEMENTS AND COVENANTS AND RESTRICTIONS AFFECTING LAND recorded _____, 2006 as document _____.

Tax ID No.: Part of 070-60-07-001-00

Commitment for Title Insurance

FIRST AMERICAN TITLE INSURANCE COMPANY.

We agree to issue a policy to you according to the terms of this Commitment. When we show the policy amount and your name as the proposed insured in Schedule A, this Commitment becomes effective as of the Commitment Date shown in Schedule A.

If the Requirements shown in this Commitment have not been met within six months after the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when the Policy is issued and then our obligation to you will be under the Policy.

Our obligation under this Commitment is limited by the following:

- The Provisions in Schedule A
- The Requirements in Schedule B-Section I.
- The Exceptions in Schedule B-Section II.
- The Conditions below.

This Commitment is not valid without Schedule A and Sections I and II of Schedule B.

Conditions:

1. Definitions:

(a) "Mortgage" means mortgage, deed of trust or other security instrument. (b) "Public Records" means title records that give constructive notice of matters affecting the title according to the state statutes where the land is located.

2. Later Defects

The Exceptions in Schedule B - Section II may be amended to show any defects, liens or encumbrances that appear for the first time in the public records or are created or attached between the Commitment Date and the date on which all the Requirements (a) and (c) of Schedule B- Section I are met. We shall have no liability to you because of this amendment.

3. Existing Defects

If any defects, liens or encumbrances existing at Commitment Date are not shown in Schedule B, we may amend Schedule B to show them. If we do amend Schedule B to show these defects, liens or encumbrances, we shall be liable to you according to Paragraph 4 below unless you knew of this information and did not tell us about it in writing.

4. Limitation of Our Liability

Our only obligation is to issue to you the Policy referred to in this Commitment, when you have met its Requirements. If we have any liability to you for any loss you incur because of an error in this Commitment, our liability will be limited to your actual loss caused by your relying on this Commitment when you acted in good faith to:

- comply with the Requirements shown in Schedule B - Section I OR
- eliminate with our written consent any Exceptions shown in Schedule B - Section II

We shall not be liable for more than the Policy Amount shown in Schedule A of this Commitment and our liability is subject to the terms of the Policy form to be issued to you.

5. Claims must be based on this Commitment

Any claim, whether or not based on negligence, which you may have against us concerning the title to the land must be based on this Commitment and is subject to its terms.

Issued by: **First American Title Insurance Company** through its agent:

Metropolitan Title Company

10355 Citation Dr.

Brighton, Michigan 48116

Ph: (877)514-6266 or Fax to: (877)514-6265

Ex. 2.3.06 of Mailed
Metropolitan Title Co



QUITCLAIM DEED

THIS QUITCLAIM DEED is made and entered into this the 27 day of JANUARY, 2006, by and between **Pamida, Inc., a Delaware corporation**, with an address of 700 Pilgrim Way, Green Bay, Wisconsin 54304 ("Party of the First Part") and **Pamida SPE Real Estate, LLC, a Delaware limited liability company**, with an address of 700 Pilgrim Way, Green Bay, Wisconsin 54304 ("Party of the Second Part").

WITNESSETH:

WHEREAS, Party of the First Part is an affiliate of Party of the Second Part; and

WHEREAS, Party of the First Part desires to convey unto Party of the Second Part the below-described property as a contribution of land in exchange for membership interests in an LLC.

NOW, THEREFORE, as a contribution of land in exchange for membership interests in an LLC from Party of the First Part to Party of the Second Part, Party of the First Part has this day BARGAINED and SOLD and does by these presents QUITCLAIM and CONVEY unto Party of the Second Part, its successors and assigns, in fee simple, forever, all of Party of the First Part's right, title and interest in and to the real property situated in the County of Crittenden, Commonwealth of Kentucky, and being more particularly described on Exhibit "A" attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD all of Party of the First Part's right, title and interest in and to the above-described property, with all privileges and appurtenances thereunto belonging, unto Party of the Second Part, its successors and assigns, in fee simple, forever, but without covenant or warranty of title by Party of the First Part.

This conveyance is exempt from the assessment of transfer taxes pursuant to KRS 142.050(7)(o), exempting transfers between a limited liability company and any of its members.

For the purpose of complying with KRS 382.135, Party of the First Part and Party of the Second Part hereby certify that the consideration reflected in this Quitclaim Deed is the full consideration paid for the property herein conveyed. Party of the First Part and Party of the Second Part further certify that the estimated fair cash value of the property herein conveyed as determined by the Crittenden County Property Valuation Administrator for the 2005 ad valorem property tax assessment is One Million Six Hundred Twenty-Five Thousand Dollars (\$1,625,000.00).

Marion, KY (#3106)
PHIL 654941-3

NU 494812

IN WITNESS WHEREOF, Party of the First Part and Party of the Second Party have hereunto executed this Quitclaim Deed as of the date and year first above written.

**Pamida, Inc., a
Delaware corporation**

By: *Steven Andrews*
Name: Steven Andrews
Its: Senior Vice President

STATE OF N.Y. :
: SS
COUNTY OF N.Y. :

On this, the 23 day of January, 2006, before me a Notary Public in and for the State and County noted above, the undersigned officer, personally appeared Steven Andrews, who acknowledged that he is the Senior Vice President of Pamida, Inc., a Delaware corporation, and that he as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such officer.

In witness whereof, I hereunto set my hand and official seal.

Esperanza Oquendo [SEAL]
Notary Public in and for the State of _____
ESPERANZA OQUENDO
Notary Public, State of New York
My Commission Expires: No. 01005038073
Qualified in Kings County
Commission Expires Jan. 17, 2007

This instrument prepared by:

Klehr, Harrison, Harvey, Branzburg & Ellers LLP
260 South Broad Street, 4th Floor
Philadelphia, PA 19102

By: *Debora A. Gonzalez*
Debora A. Gonzalez

Marion, KY (#3106)
PHIL1 654941-3



Return to:
Metropolitan Title Company
National Services Division
10355 Citation Drive
Brighton, MI 48116
Commercial Unit: (877) 514-6266

STATE OF KENTUCKY
COUNTY OF CHRISTIEN
Carolyn D. Byford, Clerk of the County Court for the County
did - State of said - certify - that - the - foregoing
- deed - was on this
2nd day of Feb 20 06 at 11:42 AM
lodged and this certificate duly recorded in my said
office.
BY *Judy Bult* D.C.
Fee 14.00 Tax
Book 204 Page 322

EXHIBIT "A"

Legal Description of Property

[See attached]

Marion, KY (#3106)
PHIL 654941-3

Exhibit A

Lot 4 of Pamida Subdivision, Marion, Kentucky, recorded in Land Use Registration Book 1, Page 33.

Being the same property conveyed to Pamida, Inc., a Delaware corporation, by deed dated May 12, 2000, of record in Deed Book 186, page 370, in the Crittenden County Clerk's Office.

Together with non-exclusive easement rights created by Declaration of Cross-Easements and Covenants and Restrictions Affecting Land, dated January 27, 2006, and recorded immediately thereafter.

Tax ID No.: Part of 070-60-07-001-00