

1986 JUN 10 PM 4:12

86R189674

COVENANT RUNNING WITH THE  
LAND IN LIEU OF UNITY OF TITLE

OFF REC 12918 PG 463

Pointe Royale Associates, Ltd., a Florida limited partnership which is the fee simple owner of Parcel 1 as described in Exhibit A hereto, joined by Fabulous Diamonds Partnership, a Florida general partnership which is the fee simple owner of Parcel 2 as described in Exhibit A hereto, (hereinafter collectively "Owner"), hereby makes, declares and imposes on the land described in Exhibit A hereto the easements and covenants running with the title to the land, which shall be binding on the Owner, the heirs, successors and assigns, personal representatives, mortgagees, lessees, and against all persons claiming by, through or under them;

WHEREAS, Each party comprising the Owner holds the respective fee simple title to the land in Dade County, Florida, described in Parcel 1 and Parcel 2 of Exhibit "A" attached hereto, respectively, and made a part hereof, hereinafter called "The Property";

WHEREAS, Owner intends to develop said property for business purposes possibly through a phased development; and

WHEREAS, this instrument is executed in order to assure that any phased development of The Property with future ownership will not violate the Zoning Code of Metropolitan Dade County.

NOW THEREFORE, in consideration of the premises, Owner hereby agrees as follows:

1. The Property will be developed in substantial conformity with the site plan entitled, "Site Plan", prepared by Stuart Cohen & Associates Architects, P.A., dated the 25th day of April, 1986. No modification shall be effected in said site plan without the Director of the Building and Zoning Department; provided the Director finds that the modification conforms with the standards established in Sec. 257 Code of Metropolitan Dade County, and provided further, that should the Director withhold such approval, the then owner(s) of the phase or portion of the property, for which modification is sought, shall be permitted to seek such modification by application to modify the plan or covenant at public hearing before the Zoning Appeals Board or Board of County Commissioners of

This instrument prepared by:

Paul A. Lester, Esq.  
Shapiro, Lester & Abramson, P.A.  
3250 Mary Street, Suite 405  
Miami, Florida 33131

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REC 12918 PC 464

Metropolitan Dade County, Florida (whichever by Law has jurisdiction over such matter).

2. Each phase will be developed in substantial accordance with said site plan.

3. In the event of multiple ownerships subsequent to said site plan approval, each of the subsequent owners, mortgagees and other parties in interest shall be bound by the terms, provisions and conditions of this instrument and of Exhibit B (Easement and Operating Agreement) attached hereto.

4. The provisions of this instrument shall become effective upon their recordation in the public records of Dade County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time they shall be extended automatically for successive periods of ten (10) years each, unless released in writing by the then owners and the Director of the Building and Zoning Department, acting for and on behalf of Dade County, Florida, upon the demonstration and affirmative finding that the same is no longer necessary to preserve and protect the property for the purposes herein intended.

5. The provisions of this instrument may be amended, added to, derogated, deleted, modified, or changed from time to time as provided herein.

Should this Declaration of Restrictive Covenants be so modified, amended or released, the Director of the Metropolitan Dade County Building and Zoning Department, or his successor, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

6. Enforcement shall be by action at law or in equity against any parties or persons violating or attempting to violate any covenants, either to restrain violation or to recover damages. The prevailing party bringing the action or suit shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney.

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7. Invalidation of any one of these covenants by judgment or Court in no wise shall affect any of the other provisions, which shall remain in full force and effect.

Signed, executed and acknowledged on this 10<sup>th</sup> day of June, 1986.

Signed and delivered  
in the presence of:

Pointe Royale Associates, Ltd.  
a Florida limited partnership

By: Pointe Royal Associates, a Florida  
Joint Venture as General Partner of  
the limited partnership

By: Salsa Investment Company, a  
a Florida general partnership

By: Robert L. Shapiro

General Partner

Fabulous Diamonds Partnership

By: [Signature]  
General Partner

STATE OF FLORIDA )

COUNTY OF DADE )

ss:

The foregoing instrument was acknowledged before me this 10 day of JUNE, 1986, by Robert L. Shapiro, as General Partner of Salsa Investment Company, a Florida general partnership as joint venturer of Pointe Royal Associates, a Florida Joint Venture as general partner of Pointe Royale Associates, Ltd., a Florida limited partnership, on behalf of said limited partnership.

[Signature]  
NOTARY PUBLIC, State of Florida  
at Large

My Commission Expires:

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REC 11'29'18 PG 466

STATE OF FLORIDA )

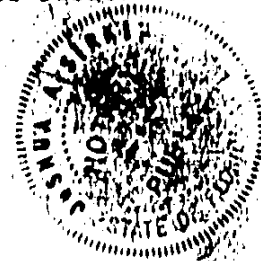
) ss:

COUNTY OF DADE )

The foregoing instrument was acknowledged before me this 10  
 day of ~~May~~ May, 1986, by Manuel Gaudard, as General Partner of  
 Fabulous Diamonds Partnership, a ~~Florida corporation~~, on behalf of  
 the ~~corporation~~  
Partnership

John K. K.  
 NOTARY PUBLIC, State of Florida  
 at Large

My Commission Expires:



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Exhibit A

To the Covenant Running With the Land in Lieu of Unity of Title  
Between Pointe Royale Associates, Ltd. and Fabulous Diamonds  
Partnership

PARCEL 1: (The property of Pointe Royale Associates, Ltd.)

All of Tract A and Tract C and a portion of Tract B of Point Royale Shopping Center according to the plat thereof, as recorded in Plat Book 99, Page 64, of the Public Records of Dade County, Florida, as is more particularly described as follows:

Commence at the intersection of the Southeasterly corner of the said Tract B and the Southeasterly Right of Way line of the State Road No. 5 (U.S. No. 1); thence run South 59°00'20" East for a distance of 145.67 feet, thence run South 52°55'00" East for a distance of 227.69 feet to the Point of Beginning; thence continue South 52°55'00" East for a distance of 183.78 feet; Being an intersection with a circular curve concave to the Northwesterly from said intersection, thence run Southwesterly along the arc of said curve having a radius of 8,277.49 feet, through a central angle of 00°58'00" for a distance of 139.65 feet; thence North 52°55'00" West for a distance of 194.60 feet, thence North 37°05'00" East for a distance of 139.23 feet to the Point of Beginning.

PARCEL 2: (The property of Fabulous Diamonds Partnership)

Tract B of Point Royal Shopping Center according to the plat thereof as recorded in Plat Book 99, at Page 64, of the Public Records of Dade County, Florida, less the following parcel:

Commence at the intersection of the Southeasterly corner of the said Tract B and the Southeasterly Right of Way line of the State Road No. 5 (U.S. No. 1); thence run South 59°00'20" East for a distance of 145.67 feet, thence run South 52°55'00" East for a distance of 227.69 feet to the Point of Beginning; thence continue South 52°55'00" East for a distance of 183.78 feet; Being an intersection with a circular curve concave to the Northwesterly from said intersection, thence run Southwesterly along the arc of said curve having a radius of 8,277.49 feet, through a central angle of 00°58'00" for a distance of 139.65 feet; thence North 52°55'00" West for a distance of 194.60 feet, thence North 37°05'00" East for a distance of 139.23 feet to the Point of Beginning.

OFF REC 12918 76 468

## EASEMENT AND OPERATING AGREEMENT

This Agreement is made as of the 10 day of June, 1986, by and between Pointe Royale Associates, Ltd., a Florida limited partnership ("Associates"), and Fabulous Diamonds Partnership, a Florida general partnership ("Diamonds").

## R E C I T A L S :

A. Associates is the owner of Tract A and of Tract C of Point Royale Shopping Center, according to the plat thereof, as recorded in Plat Book 99, at Page 64, of the Public Records of Dade County, Florida ("Tract A" and "Tract C", respectively).

B. Associates is also the owner of a portion of Tract B of Point Royale Shopping Center, according to the plat thereof, as recorded in Plat Book 99, at Page 64, of the Public Records of Dade County, Florida, as described in that certain Warranty Deed, dated as of June 10, 1986, between Diamonds, as grantor, and Associates, as grantee, recorded June 10, 1986, under Clerk's File Number 86R189672, of the Public Records of Dade County, Florida ("Associates B Property").

C. Diamonds is the owner of that portion of Tract B of Point Royale Shopping Center, according to the plat thereof, as recorded in Plat Book 99, at Page 64, of the Public Records of Dade County, Florida described in Exhibit A attached hereto and made a part hereof by this reference (the "Diamonds Property").

D. Tract A, the Associates B Property and the Diamonds Property (the Associates B Property and the Diamonds Property being sometimes hereinafter collectively called "Tract B"), and Tract C are subject to certain covenants, conditions, restrictions, dedications, and easements of record affecting said lands, including without limitation that certain Restrictive Covenant and Amendment to Lease instrument, dated June 4, 1971 ("Restrictive Covenants Agreement"), executed by Universal American Realty Corporation, a Delaware corporation ("Universal"), recorded August 30, 1971, in Official

This instrument prepared by:

Paul A. Lester, Esq.  
Shapiro, Lester & Abramson, P.A.  
3250 Mary Street, Suite 405  
Miami, Florida 33131

OFFICIAL RECORDS BOOK 7352 PG 206 469

Records Book 7352, Page 206, of the Public Records of Dade County, Florida, as amended by that certain Cancellation Agreement, dated February 18, 1976 ("Cancellation Agreement"), between Universal, and W. T. Grant Company, recorded April 21, 1976, in Official Records Book 9300, Page 183, of the Public Records of Dade County, Florida (the Restrictive Covenants Agreement and the Cancellation Agreement being hereinafter collectively called the "Restrictive Covenants"); that certain Indenture, dated April 28, 1971 ("Lease Indenture"), between Universal and The Grand Union Company, recorded May 10, 1971, in Official Records Book 7215, Page 732, of the Public Records of Dade County, Florida, as modified by that certain Supplemental Indenture, dated August 17, 1976, between the Equitable Life Assurance Society of the United States ("Equitable"), as then owner of Tract A of Point Royale Shopping Center, according to the plat thereof, recorded in Plat Book 99, at Page 64, of the Public Records of Dade County, Florida ("Tract A"), and Universal, the then owner of Tract B and of Tract C (the Lease Indenture and the Supplemental Indenture being hereinafter collectively called the "Indenture"); and that certain cross parking Easements Agreement, dated April 29, 1971 ("Easement Agreement"), recorded May 6, 1971, in Official Records Book 7212, Page 144, of the Public Records of Dade County, Florida (the Restrictive Covenants, the Indenture and the Easement Agreement being hereinafter collectively called the "Existing Agreements").

E. The parties hereto agree that the Existing Agreements were entered into, to in part benefit Tract A, Tract B, and Tract C, respectively, and that said Existing Agreements constitute covenants running with such lands. In that Associates is as of the date hereof the sole owner of Tract A and Tract C, and of the Associates B Property, and Diamonds is the sole owner of the Diamonds Property all as above described, Associates and Diamonds desire to replace the Existing Agreements with this Agreement as set forth below, but without in any way modifying, impairing or otherwise affecting the Existing Agreements to the extent they directly concern any lands other than Tract A, Tract B or Tract C.

NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged by the parties hereto, the parties agree as follows:

1. The recitals above stated are true and correct and are incorporated as part of this Agreement as though set forth herein at length.

2. This Agreement expressly supersedes and replaces the Existing Agreements solely as to Tract A, Tract B and Tract C and without effect on any other property which is otherwise affected or subject to any provisions of the Existing Agreements. All of the terms, conditions, and covenants within said Existing Agreements are hereby terminated and deemed to be of no further force or effect without need for any additional act by any party.

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3. In consideration of the above and to further define the rights of the parties hereunder, Associates and Diamonds hereby appropriate each of their specific reservation rights to each other such that each will grant appropriate easements to utility companies and to public authorities and other entities requiring dedications and easements so as to permit the then existing or contemplated future use of the Associates B Property and the Diamonds Property without impediment or material interference from any party whether owner or in any other capacity.

4. A. Associates and Diamonds have entered into that certain Covenant Running With The Land In Lieu of Unity Of Title, dated 10/15/86, recorded under Clerk's File Number 86R189674, of the Public Records of Dade County, Florida ("Covenant in Lieu Agreement"). The Covenant in Lieu Agreement is incorporated as part of this Agreement by this reference and made a part hereof. The parties acknowledge that the Covenant in Lieu Agreement constitutes a covenant running with the land subject to release or modification by the appropriate authorities of the Building and Zoning Department of Metropolitan Dade County, Florida, and the parties hereby do grant to each other, their tenants, sub tenants, concessionaires and the employees, customers and invitees of each of them for themselves and for the benefit of each of their successors, representatives and assigns and all other permitted occupants or invitees of Tract A and Tract C, the Associates B Property and of the Diamonds Property, such non exclusive rights to easements in perpetuity (unless sooner amended, modified or terminated in accordance with the terms of this Agreement and so long as said properties are used collectively as a retail shopping center) as follows:

(i) easements for use in common with such other owners, tenants, sub tenants, concessionaires and the respective employees, customers and invitees of each, in and to the parking areas, lots and driveways, that may from time to time in the future be laid out and established for motor vehicle traffic and parking on the Associates B Property and on the Diamonds Property, respectively; provided that neither party hereto nor any subsequent owner of any portion of Tract B shall take any action which would impair the then existing rights of any owner to park motor vehicles on the parking areas for Tract B as shown on the Site Plan (hereinafter defined);

(ii) easements in the common area of each parcel for ingress to and egress from the other parcel and to and from U.S. Highway #1;

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(iii) easements in the common area of each parcel for the passage and parking of vehicles;

(iv) easements in common area of each parcel for the passage and accommodation of pedestrians;

(v) easements for access and service roads across the common area of each parcel to public and private roadways;

(vi) easements for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities in each such parcel; and

(vii) easements on each such parcel during the period of construction of buildings and improvements in favor of each such other parcel;

provided, however, that, all of the above easements are to be consistent with and as required by that certain Site Plan of Tract B approved by Associates and Diamonds, dated April 25, 1986, and prepared by Stuart Cohen & Associates Architects, P.A. ("Site Plan"), which Site Plan may not be amended without the prior written consent of Associates and Diamonds and each of their successors and assigns as the case may be.

B. Other than as set forth in that certain Maintenance Agreement, dated June 10, 1986 ("Maintenance Agreement"), between the parties as attached hereto as Exhibit B, there shall be no payment of any fee or charge for such easements by the owners, tenants, sub-tenants, and concessionaires of the property subject to this Agreement. In no event other than (i) in a public emergency, or (ii) by consent of each of the owners of Tract A, Tract B and Tract C, shall the motor vehicle parking areas and common and service driveways or rights to ingress and egress to the Diamonds Property or the Associates B Property or to Tract A or Tract C, be blocked off by a fence, blockade, or be allowed to deteriorate as to maintenance or paving, so as to prevent the free flow of pedestrian and vehicle traffic or otherwise prevent such parking areas and driveways from being used and maintained as set forth herein. Subject to required governmental approvals, if any, nothing contained in this Agreement shall prevent the owners of each portion of Tract A, Tract B, and Tract C from time to time from changing or designating the location or layout or reducing or increasing the size of the motor vehicle parking lots or driveways, or passage thereof; locations for points of entry of ingress and egress; locations of pedestrian walkways or passageways; or locations for access for maintenance and repair to utility facilities, provided that in each such case (i) prior written consent of Partners, or of its successors or assigns as the case

OFF REC 12918 PG 472

may be, is obtained, and (ii) such changes do not impair the existing use of such areas as contemplated by this Agreement and by the Site Plan. Further, this Agreement shall apply to such areas as are from time to time so changed and relocated. Further, in each such case, Tract A, the Associates B Property, the Diamonds Property, and Tract C and all portions of each shall be deemed to be mutually dominant and servient estates as to the mutual non-exclusive easements granted in this Agreement.

C. Nothing contained in this Agreement will be deemed to be a dedication of any portion of the properties described herein to the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement will be strictly limited to and for the purpose expressed herein.

D. Other than as set forth in that certain Maintenance Agreement, dated June 10, 1986 ("Maintenance Agreement"), each party shall otherwise maintain and keep in good repair the parking areas and rights of ways situated on its Premises and shall keep such areas and rights of ways striped and clear and free of rubbish and obstructions and shall provided adequate drainage and lighting thereon. Each party shall maintain without obstruction and keep in good repair, access and points of entry and exit to U.S. Highway #1 from, over and across Tracts A, B, and C, and by and through Tracts A, B and C, unless other provisions are otherwise made between the parties for such maintenance.

E. Associates agrees to provide Diamonds with a reasonable easement for signage on a portion of the Associates Property fronting on U.S. Highway #1, in all cases subject to and absolutely conditioned on approval of such signage at Diamond's expense by all required governmental authorities. Associates shall cooperate with Diamonds in Diamonds' seeking to obtain such required governmental approvals.

5. The provisions of this Agreement may be enforced by legal and equitable proceedings, and shall be construed and enforced under Florida law, and venue herefor shall be in Dade County, Florida.

6. Any provision, representation, warranty of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

7. No waiver of any provisions of this Agreement shall be effective unless such waiver is in writing, and signed by the party deemed to have so waived, and the same shall then be effective only for the period and on the conditions and for the specific instances and purposes specified in such writing.

8. If a party hereto shall retain or engage any attorney or attorneys to collect, enforce or protect its interest with respect

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to this Agreement, or any instrument or document delivered pursuant to this Agreement, the non-prevailing party in any court action shall pay all of the reasonable costs and expenses of such collection, enforcement or protection, including without limitation all reasonable attorney's fees and court costs.

9. This Agreement embodies the entire Agreement and understanding of the parties. This Agreement may not be modified or amended without the consent of the owners of Tract A, Tract B and Tract C, and to the extent required without the consent of any holder of a mortgage or mortgages on any portion of Tract A, Tract B or Tract C and without prior written approval of the office of the County Attorney.

10. This Agreement may be executed simultaneously in any number of counterparts each of which counterparts shall be deemed one and the same Agreement.

Executed as of the day and year first above written.

Signed and delivered  
in the presence of:

Pointe Royale Associates, Ltd.  
a Florida limited partnership

By: Pointe Royal Associates, a Florida  
Joint Venture as General Partner of  
the limited partnership

By: Salsa Investment Company, a  
a Florida general partnership

By: Robert L. Shapiro

General Partner

Fabulous Diamonds Partnership

By: General Partner

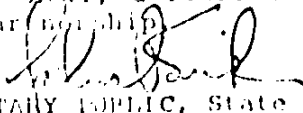
(As to Associates)

(As to Diamonds)

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STATE OF FLORIDA     )  
                              ) ss:  
COUNTY OF DADE     )

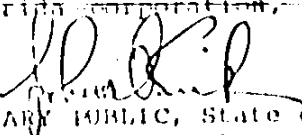
The foregoing instrument was acknowledged before me this 10 day of June, 1986, by Robert L. Shapiro, as General Partner of Salva Investment Company, a Florida general partnership as joint venturer of Pointe Royal Associates, a Florida Joint Venture as general partner of Pointe Royale Associates, Ltd., a Florida limited partnership, on behalf of said limited partnership.

  
NOTARY PUBLIC, State of Florida  
at Largo

My Commission Expires:

STATE OF FLORIDA     )  
                              ) ss:  
COUNTY OF DADE     )

The foregoing instrument was acknowledged before me this 10 day of May, 1986, by Manuel L. Gaudin as General Partner of Fabulous Diamonds Partnership, a Florida corporation, on behalf of the corporation.  
Partnership

  
NOTARY PUBLIC, State of Florida  
at Largo

My Commission Expires:

OFF REC 12918 PG 475

## Exhibit A

To The Easement and Operating Agreement between Pointe Royale Associates Ltd., and Fabulous Diamonds Partnership constituting the Legal Description of the Diamonds Property.

Tract B of the Point Royale Shopping Center, according to the Plat thereof as recorded in Plat Book 99, at Page 64 of the Public Records of Dade County, Florida less that parcel described as follows:

Commence at the intersection of the Southeasterly corner of the said Tract B and the Southeasterly Right of Way line of the State Road No. 5 (U.S. No. 1); thence run South  $59^{\circ}00'20''$  East for a distance of 145.67 feet, thence run South  $52^{\circ}55'00''$  East for a distance of 227.69 feet to the Point of Beginning; thence continue South  $52^{\circ}55'00''$  East for a distance of 183.78 feet; Being an intersection with a circular curve concave to the Northwesternly from said intersection, thence run Southwesterly along the arc of said curve having a radius of 8,277.49 feet, through a central angle of  $00^{\circ}58'00''$  for a distance of 139.65 feet; thence North  $52^{\circ}55'00''$  West for a distance of 194.60 feet, thence North  $37^{\circ}05'00''$  East for a distance of 139.23 feet to the Point of Beginning.

RECORDED IN OFFICIAL RECORDS BOOK  
IN DADE COUNTY, FLORIDA  
RECORD VERIFIED  
RICHARD P. BRINKER  
CLERK CIRCUIT COURT

1986 JUN 10 PM 4:12

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OFF REC 12918 PG 476

## EASEMENT AND OPERATING AGREEMENT

This Agreement is made as of the 10 day of June, 1986, by and between Pointe Royale Associates, Ltd., a Florida limited partnership ("Associates"), and Fabulous Diamonds Partnership, a Florida general partnership ("Diamonds").

R E C I T A L S:

A. Associates is the owner of Tract A and of Tract C of Point Royale Shopping Center, according to the plat thereof, as recorded in Plat Book 99, at Page 64, of the Public Records of Dade County, Florida ("Tract A" and "Tract C", respectively).

B. Associates is also the owner of a portion of Tract B of Point Royale Shopping Center, according to the plat thereof, as recorded in Plat Book 99, at Page 64, of the Public Records of Dade County, Florida, as described in that certain Warranty Deed, dated as of June 10, 1986, between Diamonds, as grantor, and Associates, as grantee, recorded June 10, 1986, under Clerk's File Number 86R189672, of the Public Records of Dade County, Florida ("Associates B Property").

C. Diamonds is the owner of that portion of Tract B of Point Royale Shopping Center, according to the plat thereof, as recorded in Plat Book 99, at Page 64, of the Public Records of Dade County, Florida described in Exhibit A attached hereto and made a part hereof by this reference (the "Diamonds Property").

D. Tract A, the Associates B Property and the Diamonds Property (the Associates B Property and the Diamonds Property being sometimes hereinafter collectively called "Tract B"), and Tract C are subject to certain covenants, conditions, restrictions, dedications, and easements of record affecting said lands, including without limitation that certain Restrictive Covenant and Amendment to Lease instrument, dated June 4, 1971 ("Restrictive Covenants Agreement"), executed by Universal American Realty Corporation, a Delaware corporation ("Universal"), recorded August 30, 1971, in Official

This instrument prepared by:

Paul A. Lester, Esq.  
Shapiro, Lester & Abramson, P.A.  
3250 Mary Street, Suite 405  
Miami, Florida 33131

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OFF 12918 PG 477

Records Book 7352, Page 206, of the Public Records of Dade County, Florida, as amended by that certain Cancellation Agreement, dated February 18, 1976 ("Cancellation Agreement"), between Universal, and W. T. Grant Company, recorded April 21, 1976, in Official Records Book 9300, Page 783, of the Public Records of Dade County, Florida (the Restrictive Covenants Agreement and the Cancellation Agreement being hereinafter collectively called the "Restrictive Covenants"); that certain Indenture, dated April 28, 1971 ("Lease Indenture"), between Universal and The Grand Union Company, recorded May 10, 1971, in Official Records Book 7215, Page 732, of the Public Records of Dade County, Florida, as modified by that certain Supplemental Indenture, dated August 17, 1976, between the Equitable Life Assurance Society Of the United States ("Equitable"), as then owner of Tract A of Point Royale Shopping Center, according to the plat thereof, recorded in Plat Book 99, at Page 64, of the Public Records of Dade County, Florida ("Tract A"), and Universal, the then owner of Tract B and of Tract C (the Lease Indenture and the Supplemental Indenture being hereinafter collectively called the "Indenture"); and that certain cross parking Easements agreement, dated April 29, 1971 ("Easement Agreement"), recorded May 6, 1971, in Official Records Book 7212, Page 144, of the Public Records of Dade County, Florida (the Restrictive Covenants, the Indenture and the Easement Agreement being hereinafter collectively called the "Existing Agreements").

E. The parties hereto agree that the Existing Agreements were entered into, to in part benefit Tract A, Tract B, and Tract C, respectively, and that said Existing Agreements constitute covenants running with such lands. In that Associates is as of the date hereof the sole owner of Tract A and Tract C, and of the Associates B Property, and Diamonds is the sole owner of the Diamonds Property all as above described, Associates and Diamonds desire to replace the Existing Agreements with this Agreement as set forth below, but without in any way modifying, impairing or otherwise affecting the Existing Agreements to the extent they directly concern any lands other than Tract A, Tract B or Tract C.

NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged by the parties hereto, the parties agree as follows:

1. The recitals above stated are true and correct and are incorporated as part of this Agreement as though set forth herein at length.

2. This Agreement expressly supersedes and replaces the Existing Agreements solely as to Tract A, Tract B and Tract C and without effect on any other property which is otherwise affected or subject to any provisions of the Existing Agreements. All of the terms, conditions, and covenants within said Existing Agreements are hereby terminated and deemed to be of no further force or effect without need for any additional act by any party.

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3. In consideration of the above and to further define the rights of the parties hereunder, Associates and Diamonds hereby appropriate each of their specific reservation rights to each other such that each will grant appropriate easements to utility companies and to public authorities and other entities requiring dedications and easements so as to permit the then existing or contemplated future use of the Associates B Property and the Diamonds Property without impediment or material interference from any party whether owner or in any other capacity.

4. A. Associates and Diamonds have entered into that certain Covenant Running With The Land In Lieu of Unity Of Title, dated Nov 19, 1986, recorded under Clerk's File Number 86A189674, of the Public Records of Dade County, Florida ("Covenant in Lieu Agreement"). The Covenant in Lieu Agreement is incorporated as part of this Agreement by this reference and made a part hereof. The parties acknowledge that the Covenant in Lieu Agreement constitutes a covenant running with the land subject to release or modification by the appropriate authorities of the Building and Zoning Department of Metropolitan Dade County, Florida, and the parties hereby do grant to each other, their tenants, sub-tenants, concessionaires and the employees, customers and invitees of each of them for themselves and for the benefit of each of their successors, representatives and assigns and all other permitted occupants or admittees of Tract A and Tract C, the Associates B Property and of the Diamonds Property, such non-exclusive rights to easements in perpetuity (unless sooner amended, modified or terminated in accordance with the terms of this Agreement and so long as said properties are used collectively as a retail shopping center) as follows:

(i) easements for use in common with such other owners, tenants, sub-tenants, concessionaires and the respective employees, customers and invitees of each, in and to the parking areas, lots and driveways, that may from time to time in the future be laid out and established for motor vehicle traffic and parking on the Associates B Property and on the Diamonds Property, respectively; provided that neither party hereto nor any subsequent owner of any portion of Tract B shall take any action which would impair the then existing rights of any owner to park motor vehicles on the parking areas for Tract B as shown on the Site Plan (hereinafter defined):

(ii) easements in the common area of each parcel for ingress to and egress from the other parcel and to and from U.S. Highway #1;

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(iii) easements in the common area of each parcel for the passage and parking of vehicles;

(iv) easements in common area of each parcel for the passage and accommodation of pedestrians;

(v) easements for access and service roads across the common area of each parcel to public and private roadways;

(vi) easements for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities in each such parcel; and

(vii) easements on each such parcel during the period of construction of buildings and improvements in favor of each such other parcel;

provided, however, that, all of the above easements are to be consistent with and as required by that certain Site Plan of Tract B approved by Associates and Diamonds, dated April 25, 1986, and prepared by Stuart Cohen & Associates Architects, P.A. ("Site Plan"), which Site Plan may not be amended without the prior written consent of Associates and Diamonds and each of their successors and assigns as the case may be.

B. Other than as set forth in that certain Maintenance Agreement, dated June 10, 1986 ("Maintenance Agreement"), between the parties as attached hereto as Exhibit B, there shall be no payment of any fee or charge for such easements by the owners, tenants, sub-tenants, and concessionaires of the property subject to this Agreement. In no event other than (i) in a public emergency, or (ii) by consent of each of the owners of Tract A, Tract B and Tract C, shall the motor vehicle parking areas and common and service driveways or rights to ingress and egress to the Diamonds Property or the Associates B Property or to Tract A or Tract C, be blocked off by a fence, blockade, or be allowed to deteriorate as to maintenance or paving, so as to prevent the free flow of pedestrian and vehicle traffic or otherwise prevent such parking areas and driveways from being used and maintained as set forth herein. Subject to required governmental approvals, if any, nothing contained in this Agreement shall prevent the owners of each portion of Tract A, Tract B, and Tract C from time to time from changing or designating the location or layout or reducing or increasing the size of the motor vehicle parking lots or driveways, or passage thereof; locations for points of entry of ingress and egress; locations of pedestrian walkways or passageways; or locations for access for maintenance and repair to utility facilities, provided that in each such case (i) prior written consent of Partners, or of its successors or assigns as the case

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may be, is obtained, and (ii) such changes do not impair the existing use of such areas as contemplated by this Agreement and by the Site Plan. Further, this Agreement shall apply to such areas as are from time to time so changed and relocated. Further, in each such case, Tract A, the Associates B Property, the Diamonds Property, and Tract C and all portions of each shall be deemed to be mutually dominant and servient estates as to the mutual non-exclusive easements granted in this Agreement.

C. Nothing contained in this Agreement will be deemed to be a dedication of any portion of the properties described herein to the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement will be strictly limited to and for the purpose expressed herein.

D. Other than as set forth in that certain Maintenance Agreement, dated June 10, 1986 ("Maintenance Agreement"), each party shall otherwise maintain and keep in good repair the parking areas and rights-of-ways situated on its Premises and shall keep such areas and rights-of-ways striped and clear and free of rubbish and obstructions and shall provide adequate drainage and lighting thereon. Each party shall maintain without obstruction and keep in good repair, access and points of entry and exit to U.S. Highway #1 from, over and across Tracts A, B, and C, and by and through Tracts A, B and C, unless other provisions are otherwise made between the parties for such maintenance.

E. Associates agrees to provide Diamonds with a reasonable easement for signage on a portion of the Associates Property fronting on U.S. Highway #1, in all cases subject to and absolutely conditioned on approval of such signage at Diamond's expense by all required governmental authorities. Associates shall cooperate with Diamonds in Diamonds' seeking to obtain such required governmental approvals.

5. The provisions of this Agreement may be enforced by legal and equitable proceedings, and shall be construed and enforced under Florida law, and venue herefor shall be in Dade County, Florida.

6. Any provision, representation, warranty of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

7. No waiver of any provisions of this Agreement shall be effective unless such waiver is in writing, and signed by the party deemed to have so waived, and the same shall then be effective only for the period and on the conditions and for the specific instances and purposes specified in such writing.

8. If a party hereto shall retain or engage any attorney or attorneys to collect, enforce or protect its interest with respect

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to this Agreement, or any instrument or document delivered pursuant to this Agreement, the non-prevailing party in any court action shall pay all of the reasonable costs and expenses of such collection, enforcement or protection, including without limitation all reasonable attorney's fees and court costs.

9. This Agreement embodies the entire Agreement and understanding of the parties. This Agreement may not be modified or amended without the consent of the owners of Tract A, Tract B and Tract C, and to the extent required without the consent of any holder of a mortgage or mortgages on any portion of Tract A, Tract B or Tract C and without prior written approval of the office of the County Attorney.

10. This Agreement may be executed simultaneously in any number of counterparts each of which counterparts shall be deemed one and the same Agreement.

Executed as of the day and year first aboved written.

Signed and delivered  
in the presence of:

Pointe Royale Associates, Ltd.  
a Florida limited partnership

By: Pointe Royal Associates, a Florida  
Joint Venture as General Partner of  
the limited partnership

By: Salsa Investment Company, a  
a Florida general partnership

By: Robert L. Shapiro

General Partner

Fabulous Diamonds Partnership

By: General Partner

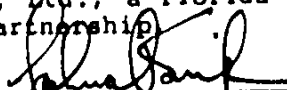
*Paul A. Leste*  
*David S. Leste*  
(As to Associates)

*Paul A. Leste*  
*David S. Leste*  
(As to Diamonds)

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STATE OF FLORIDA )  
 ) SS:  
 COUNTY OF DADE )

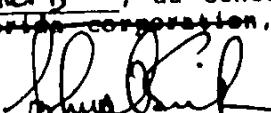
The foregoing instrument was acknowledged before me this 10 day of June, 1986, by Robert L. Shapiro, as General Partner of Salsa Investment Company, a Florida general partnership as joint venturer of Pointe Royal Associates, a Florida Joint Venture as general partner of Pointe Royale Associates, Inc., a Florida limited partnership, on behalf of said limited partnership.

  
 NOTARY PUBLIC, State of Florida  
 at Large

My Commission Expires:

STATE OF FLORIDA )  
 ) SS:  
 COUNTY OF DADE )

The foregoing instrument was acknowledged before me this 10 day of May, 1986, by MANUEL GAUNAURO, as General Partner of Fabulous Diamonds Partnership, a ~~Florida corporation~~, on behalf of the ~~corporation~~.  
Partnership

  
 NOTARY PUBLIC, State of Florida  
 at Large

My Commission Expires:

OFF REC 12918 PC 483

Exhibit ATo The Easement and Operating Agreement between Pointe Royale Associates Ltd., and Fabulous Diamonds Partnership constituting the Legal Description of the Diamonds Property

Tract B of the Point Royale Shopping Center, according to the Plat thereof as recorded in Plat Book 99, at Page 64 of the Public Records of Dade County, Florida less that parcel described as follows:

Commence at the intersection of the Southeasterly corner of the said Tract B and the Southeasterly Right of Way line of the State Road No. 5 (U.S. No. 1); thence run South 59°00'20" East for a distance of 145.67 feet, thence run South 52°55'00" East for a distance of 227.69 feet to the Point of Beginning; thence continue South 52°55'00" East for a distance of 183.78 feet; Being an intersection with a circular curve concave to the Northwesterly from said intersection, thence run Southwesterly along the arc of said curve having a radius of 8,277.49 feet, through a central angle of 00°58'00" for a distance of 139.65 feet; thence North 52°55'00" West for a distance of 194.60 feet, thence North 37°05'00" East for a distance of 139.23 feet to the Point of Beginning.

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## MAINTENANCE AGREEMENT

This Agreement is made as of the 10th day of June, 1986, by and between Pointe Royale Associates, Ltd. a Florida limited partnership ("Associates"), and Fabulous Diamonds Partnership, a Florida general partnership ("Diamonds").

## R E C I T A L S:

WHEREAS, the parties have heretofore entered into an agreement of even date entitled Easement and Operating Agreement ("Easement Agreement"), a copy of which is attached herewith and made a part hereof as Exhibit A; and

WHEREAS, the parties hereto wish to provide for the maintenance of the easement areas described in the property ("Property") which is subject to the Easement Agreement.

NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are mutually acknowledged, by the parties hereto, agree as follows:

1. The Easement Agreement is incorporated and made a part hereof as though set forth herein at length. All terms defined in the Easement Agreement and used herein shall have the meanings given in the Easement Agreement.

2. (a) Notwithstanding anything to the contrary previously contained in the Supplemental Indenture or any of the other Existing Agreements as defined in the Easement Agreement, the cleaning, maintenance and repair (collectively "maintenance") of the parking areas as well as storm sewers, utility installations, parking facilities and landscaping as shown on the Site Plan as to Tract B, inclusive of the Associates B Property and the Diamonds Property, shall be maintained by the owner of the Associates B Property, which is presently Partners. Such maintenance shall be undertaken by Associates or its successors or assigns, as the case may be, at a cost ("Maintenance Fee") to the owner of the Diamonds Property and to the owner or owners of any portion or portions thereof (on a pro rata basis) of Five Hundred Dollars (\$500) per month payable to the owner of the Associates B Property in advance on the first (1st) day of each month, said amount payable in United States legal tender or by check written on a Dade County, Florida bank, subject at all times to increase as defined in Paragraph 2(b) hereof.

(b) (i) The Maintenance Fee described in Paragraph 2(a) above is subject to increase by an amount computed in accordance with the provision of this Paragraph 2(b) (the "Inflation Adjustment"). Associates, inclusive of its successors and assigns, shall compute the Inflation Adjustment by computing increases, if

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any, in the cost of living for each Adjustment Month (hereinafter defined) during the term of the Agreement ("Term") based upon increases in the "Consumer Price Index Urban Wage Earners and Clerical Workers, U.S. City Average", published by the Bureau of Labor Statistics of the United States Department of Labor ("Index"). The Maintenance Fee for each year of the Term after the initial year shall be determined on each Adjustment Month by multiplying the Maintenance Fee for the immediately preceding calendar year by a fraction, the numerator of which is the integer 100 plus the excess of (i) the current Index number for the month immediately preceding the Adjustment Month over (ii) the Index number for the corresponding month in the immediately preceding calendar year, and the denominator of which is 100. The result obtained as a result of each such adjustment shall be the Maintenance Fee for the ensuing year of the Term. The "Adjustment Month" shall be January of each calendar year.

(ii) If the Index is discontinued, the "Consumer Price Index-Seasonally Adjusted U.S. City Average For All Items For Urban Wage Earners and Clerical Workers", published monthly in the "Monthly Labor Review" by the Bureau of Labor Statistics of the United States Department of Labor ("CPI W") shall be used in the place of the Index. If the CPI W is discontinued, comparable statistics on the purchasing power of the consumer dollar published by the Bureau of Labor Statistics of the United States Department of Labor shall be used in the place of the Index. In the event the Bureau of Labor Statistics shall no longer publish such comparable statistics, comparable statistics published by a responsible financial periodical or other recognized authority selected by Associates shall be used in the place of the Index. If the Base Year "1967 = 100" ("Base Year") used in computing the Index is changed, the figures used in making the Inflation Adjustment shall accordingly be changed so that all increases in the Index are taken into account, notwithstanding any such change in the Base Year. In no event or circumstance shall the Inflation Adjustment result in a decrease in the Maintenance Fee.

(iii) Associates shall notify Diamonds of each Inflation Adjustment during the Term. If the Current Index Number has not been published on or before the Adjustment Month, the Maintenance Fee shall remain due and payable for the Adjustment Month unadjusted and unadjusted for each and every calendar month thereafter, and the Inflation Adjustment shall be made promptly after publication of the Current Index Number. Diamonds shall immediately remit to Associates any Inflation Adjustment which is in arrears from the Adjustment Month immediately upon said notification, which sum shall be added to and become a part of the Maintenance Fee.

3. A. ~~This Agreement~~ <sup>the Maintenance Fee</sup> shall (i) commence on the earlier of Associates obtaining a certificate of completion or occupancy on improvements described on the Site Plan as to the Associates Property, or (ii) January 19, 1990.

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8. This Agreement shall constitute a covenant running with the land binding on the parties, their successors and assigns and shall be effective a term of thirty (30) years from the date hereof. Further the initial said term of this Agreement shall be renewed automatically for an additional fifteen (15) year term thereafter unless the owners of at least three quarters (3/4) of the fee simple interest of Tract B place an instrument of record at the end of the said initial term not consenting to such additional fifteen (15) year term or otherwise modifying the additional fifteen (15) year term of this Agreement.

4. The provisions of this Agreement may be enforced by legal and equitable proceedings, and shall be construed and enforced under Florida law, and venue herefor shall be in Dade County, Florida.

5. Any provision, representation, warranty of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

6. No waiver of any provisions of this Agreement shall be effective unless such waiver is in writing, and signed by the party deemed to have so waived, and the same shall then be effective only for the period and on the conditions and for the specific instances and purposes specified in such writing.

7. If a party hereto shall retain or engage any attorney or attorneys to collect, enforce or protect its interest with respect to this Agreement, or any instrument or document delivered pursuant to this Agreement, the non-prevailing party in any court action shall pay all of the reasonable costs and expenses of such collection, enforcement or protection, including without limitation all reasonable attorney's fees and court costs.

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8. This Agreement may be executed simultaneously in any number of counterparts each of which counterparts shall be deemed one and the same Agreement.

Executed as of the day and year first above written.

Signed and delivered  
in the presence of:

Pointe Royale Associates, Ltd.  
a Florida limited partnership

By: Pointe Royal Associates, a Florida  
Joint Venture as General Partner of  
the limited partnership

By: Salsa Investment Company, a  
a Florida general partnership

By: Robert L. Shapiro

General Partner

Fabulous Diamonds Partnership

By: General Partner

*[Signature]*  
(As to Associates)

*[Signature]*  
(As to Diamonds)

STATE OF FLORIDA )  
COUNTY OF DADE ) 591

The foregoing instrument was acknowledged before me this 10 day of JUNE, 1986, by Robert L. Shapiro, as General Partner of Salsa Investment Company, a Florida general partnership as joint venturer of Pointe Royal Associates, a Florida Joint Venture as general partner of Pointe Royale Associates, Ltd., a Florida limited partnership, on behalf of said limited partnership.

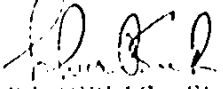
*[Signature]*  
NOTARY PUBLIC, State of Florida  
at Large

My Commission Expires:

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STATE OF FLORIDA     )  
                              ) ss:  
COUNTY OF DADE     )

The foregoing instrument was acknowledged before me this 10 day of May, 1986, by Michael R. Howard, as General Partner of Fabulous Diamonds Partnership, a Florida Corporation, on behalf of the corporation.  
SIGNED this

  
NOTARY PUBLIC, State of Florida  
at Large

My Commission Expires:

REC'D BY CLERK OF CIRCUIT COURT  
OF DADE COUNTY, FLORIDA  
RECORD VERIFIED  
RICHARD P. BRINKER,  
CLERK CIRCUIT COURT