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**AMENDED AND RESTATED  
PROTECTIVE COVENANT AGREEMENT**

THIS AMENDED AND RESTATED PROTECTIVE COVENANT AGREEMENT (the "Amended Agreement") entered as of the 9<sup>th</sup> day of December, 2014, by and between J.J. Brodi, LLC, whose principal place of business and mailing address is 3900 North Fulton Avenue, Evansville, Indiana 47710 ("Brodi") and Keystone Homeowners Association, by and through its Advisory Committee and Board ("Keystone").

WHEREAS, Brodi and Keystone entered into a Protective Covenant Agreement dated November 4, 2002, which was recorded on January 8, 2003, in Miscellaneous Drawer 7, Card 2831, in the Office of the Recorder of Vanderburgh County, Indiana, as Instrument No. 2003R00004401 (the "Original Agreement");

WHEREAS, Brodi owns certain real estate in Vanderburgh County, Indiana, commonly known as 4504 and 4510 Heckel Road, and which is more particularly described on Exhibit "A", attached hereto incorporated herein ("Brodi Real Estate");

WHEREAS, Brodi also owns real estate adjacent to the Brodi Real Estate which is more particularly described as Tract "A" in the attached Exhibit "A" (hereinafter referred to as the "Adjacent Real Estate");

WHEREAS, Keystone is a subdivision located in Vanderburgh County, Indiana, a portion of which adjoins the Brodi Real Estate;

WHEREAS, Brodi filed with the Evansville-Vanderburgh County Area Plan Commission and Vanderburgh County Auditor under docket number 2014-25-PC, Ordinance Number VC-7-2-14, its Verified Petition For Rezoning of the Brodi Real Estate from A, R-3 and C-4 to C-4; and

WHEREAS, Keystone as defined herein, is willing to agree that none of its directors, officers, or members of its Advisory Committee will remonstrate against Brodi's Petition for Rezoning if the Petition for Rezoning includes the Use and Development Commitment attached hereto as Exhibit "B" and incorporated herein by reference and if the following terms and conditions are agreed to by the parties.

NOW THEREFORE, the parties hereto in consideration for the promises herein contained and other good and valuable consideration agree as follows:

1. Amendment. This Amended Agreement shall replace and serve as a substitute for the Original Agreement. Brodi and Keystone agree that the Original Agreement is hereby cancelled and terminated and is of no further force or effect.
2. Billboards. Brodi agrees that no "outdoor advertising display," as that term is defined by the Vanderburgh County Code in effect as of the date of this Amended Agreement, and more commonly

known as a "billboard," shall be erected, constructed or otherwise maintained on the Brodi Real Estate or the Adjacent Real Estate.

3. Enforcement. Brodi agrees all terms and conditions herein shall constitute a private covenant with the right to enforcement by Keystone. This Amended Agreement shall be binding upon the parties for a period of thirty (30) years from the effective date hereof, after which time this Amended Agreement and said covenants shall be of no further force or effect.

4. Arbitration. Any and all disputes arising relating to this Amended Agreement shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules and the American Arbitration Association, and any judgment or award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding said rules, any arbitration hearing to take place hereunder shall be conducted in Evansville, Indiana, before one (1) arbitrator who shall be an Indiana resident attorney having substantial experience in zoning law.

5. Cost of Litigation and/or Arbitration. In the event of any litigation and/or arbitration between the parties hereto involving this Amended Agreement or the respective rights of the parties hereunder, the party who is unsuccessful in such litigation and/or arbitration shall pay to the successful party reasonable attorneys' fees and expenses of such litigation and/or arbitration incurred by such successful party.

6. Notices. All notices to be given under this Amended Agreement shall be in writing, and shall be deemed to have been given and served when delivered in person, by United Parcel Service (or similar overnight carrier), via facsimile transmission, or by United States mail, postage prepaid to the addressee at address first listed above. Any party may change its mailing address by serving written notice of such change and of such new address upon the other parties.

7. Miscellaneous. The undersigned persons executing this Amended Agreement on behalf of Brodi and Keystone represent and certify that each is a duly authorized representative of their respective organization and have been fully empowered by their organization to execute and deliver this Amended Agreement and that all necessary action for the executing this Amended Agreement has been taken and done. This Amended Agreement shall inure to the benefit of, and shall be binding upon, the respective legal representatives, successors, and assigns of each of the parties. In the event that any of the provisions of this Amended Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision shall be enforced to the fullest extent permissible and the remaining portion of this Agreement shall remain in full force and effect. This Amended Agreement represents a compromise between the parties and is a product of arms-length negotiations. The parties have read this Amended Agreement completely and have had the opportunity to seek the advice and assistance of competent legal counsel. In the event that ambiguity exists or is deemed to exist in any provisions of this Amended Agreement, said ambiguity is not to be construed by reference to any doctrine calling for such ambiguity to be construed against the drafter of this Amended Agreement. This Amended Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, not including the choice of law rules thereof, and each party hereto by execution of this Amended Agreement, consents to the exercise of jurisdiction over any matter arising in connection with this Amended Agreement in the Superior Court of Vanderburgh County, State of Indiana. This Amended Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument All headings set forth herein are included for the convenience of reference only and shall not affect the interpretation hereof, nor shall any weight of value be given to the relative position of any part or provision hereof in relation to any other provision in determining such construction. The recitals set forth in the above preamble are incorporated herein by this reference and made a part of this Amended Agreement As used in this Amended Agreement, the plural shall be substituted for the singular, and the singular for the plural, where appropriate; and words and pronouns of any gender shall include any other gender. This instrument is the final agreement, contains the entire, complete and exclusive agreement between the parties concerning the protective covenants contained herein, and supersedes all prior oral or written understandings, agreements or contracts, formal or informal, between the parties. THIS PROVISION, AND

EACH AND EVERY OTHER PROVISION OF THIS AMENDED AGREEMENT MAY NOT UNDER ANY CIRCUMSTANCES BE MODIFIED, CHANGED, AMENDED OR PROVISIONS HEREUNDER WAIVED VERBALLY, BUT MAY ONLY BE MODIFIED, CHANGED, AMENDED OR WAIVED BY AN AGREEMENT IN WRITING EXECUTED BY ALL PARTIES HERETO.

IN WITNESS WHEREOF, the parties hereto executed this Amended Agreement as of the date first above written.

J. J. BRODI, LLC

By: [Signature]

Jim Johnston, Authorized Member

"Brodi"

KEYSTONE HOMEOWNERS ASSOCIATION

By: [Signature]

Printed Name: Bredley G Mills

Title: President

By: [Signature]

Printed Name: PAUL A. JENSEN

Title: Vice President

By: [Signature]

Printed Name: Cynthia M. Turner

Title: Secretary

"Keystone"

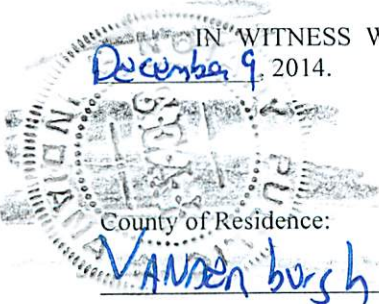
STATE OF INDIANA )

SS:

COUNTY OF VANDERBURGH )

BEFORE ME, the undersigned, a Notary Public in and for said County and State, personally appeared Jim Johnston, an authorized member of J. J. BRODI, LLC, the limited liability company which executed the foregoing instrument, who acknowledged and affirmed that he did sign said instrument as such Member for and on behalf of said limited liability company and by authority granted by its governing body, that the same is his free act and deed as said Member, and the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal as of December 9, 2014.



[Signature]  
Marco L. Lucio ) Notary Public

My Commission Expires:

12/12/16

STATE OF INDIANA )  
 )  
COUNTY OF VANDERBURGH ) SS:

BEFORE ME, the undersigned, a Notary Public in and for said County and State, personally appeared Bradley Mills, Paula Jensen and Cynthia Turner, members of the Advisory Committee and Board of KEYSTONE HOMEOWNERS ASSOCIATION, who acknowledged and affirmed the execution of the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal as of March 6, 2015, ~~2014~~ 2015

Monica Cabell  
( Monica Cabell ) Notary Public

County of Residence:

Vanderburgh

My Commission Expires:

June 8, 2019



THIS INSTRUMENT PREPARED BY MARCO L. DELUCIO OF THE LAW FIRM OF ZIEMER, STAYMAN, WEITZEL & SHOULDERS, LLP, 20 N.W. FIRST STREET, NINTH FLOOR, P.O. BOX 916, EVANSVILLE, INDIANA 47706-0916. TELEPHONE: (812) 424-7575, AT THE SPECIFIC REQUEST OF THE PARTIES BASED SOLELY ON INFORMATION SUPPLIED BY ONE OR MORE OF THE PARTIES TO THIS CONTRACT, AND WITHOUT EXAMINATION OF SURVEY, TITLE OR ABSTRACT. THE DRAFTER ASSUMES NO LIABILITY FOR ANY ERRORS, INACCURACY, OR OMISSIONS IN THIS INSTRUMENT RESULTING FROM THE INFORMATION PROVIDED, THE PARTIES HERETO SIGNIFYING THEIR ASSENT TO THIS DISCLAIMER BY THEIR EXECUTION AND ACCEPTANCE OF THIS INSTRUMENT.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Marco L. Delucio

## EXHIBIT A

### LEGAL DESCRIPTION

Part of the Southeast Quarter of Section 35, Township 5 South, Range 10 West of the 2nd P.M., lying in Center Township, Vanderburgh County, Indiana and being more particularly described as follows:

Commencing at the Southeast corner of said Quarter Section; thence along the South line of said Quarter Section, North  $88^{\circ}56'22''$  West 725.00 feet to the true point of beginning; thence continuing along said South line

1st: North  $88^{\circ}56'12''$  West 746.92 feet; thence

2nd: North  $00^{\circ}55'13''$  East 1328.48 feet to the North line of the East Half of the Southwest Quarter of the Southeast Quarter of said Section; thence along the North line of said Half, Quarter, Quarter Section and the Southeast Quarter of the Southeast Quarter

3rd: South  $88^{\circ}53'25''$  East 516.69 feet; thence

4th: North  $02^{\circ}25'49''$  West 204.86 feet; thence

5th: South  $87^{\circ}43'58''$  East 328.15 feet; thence

6th: South  $02^{\circ}15'41''$  West 197.88 feet to the North line of the Southeast Quarter of the Southeast Quarter of said Section; thence along said North line

7th: South  $88^{\circ}53'25''$  East 271.68 feet; thence parallel with the East line of said of said Quarter Section

8th: South  $01^{\circ}02'44''$  West 1267.59 feet to the North line of Heckel Road: thence along said North line for the following three (3) courses

9th: North  $88^{\circ}56'22''$  West 100.24 feet; thence

10th: South  $79^{\circ}45'12''$  West 101.98 feet; thence

11th: North  $88^{\circ}56'12''$  West 149.75 feet; thence

12th: South  $01^{\circ}02'44''$  West 40.00 feet to the point of beginning, containing 34.572 acres more or less.

SUBJECT TO: The right-of-way for Heckel Road as described in the Right-of-way Grant recorded in Volume 441, page 379 in the office of the Recorder of Vanderburgh County.

EXHIBIT B

**FINAL UDC TO BE ATTACHED**