

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

2017 070912

2017 OCT 20 AM 8:43

MICHAEL B. BROWN  
RECORDER

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When Recorded Return To: Lecher **AMENDED AND RESTATED USE RESTRICTION**  
First American Title Insurance Company  
National Commercial Services  
1201 Walnut, Suite 700  
Kansas City, MO 64106  
File No: NCS 865706-1

Store #: 8793  
Location: 1836 Calumet Avenue, Whiting  
Lake County, Indiana 46394

**THIS AMENDED AND RESTATED USE RESTRICTION ("Use Restriction")** is executed effective as of this 6th day of October, 2017, by **INDIANA GROCERY GROUP, LLC**, a Delaware limited liability company, with an address of 2244 45th Street, Highland, Lake County, Indiana 46322 ("**Grantor**") for the benefit of **ASSOCIATED WHOLESALE GROCERS, INC.**, a Kansas corporation, with an address of 5000 Kansas Avenue, Kansas City, Kansas 66106 ("**AWG**") and whereas, Grantor is now the fee owner of the Property, amends and restates that certain Use Restriction dated August 3, 2017 and recorded on August 12, 2017 as Document No. 2017 054824 in the Office of the Recorder of Deeds of Lake County, Indiana.

Grantor hereby declares that the following described premises ("**Property**") located in the City of Hammond, County of Lake, State of Indiana, to wit:

See Exhibit "A" attached hereto

shall be dedicated to the exclusive use of a grocery store owned or operated by a retail member of AWG which utilizes AWG as its primary supplier for such store. (A shareholder of AWG is sometimes referred to as a "**retail member**"). The Use Restriction created hereby shall run with the Property and shall be in effect until released by AWG. Record notice of such expiration may be given by AWG by filing a sworn affidavit stating that this Use Restriction has been terminated. Contemporaneously with the recordation of any such affidavit, AWG shall give Grantor (or Grantor's successor-in-interest), written notice of such recordation.

The Use Restriction created hereby shall be void of no further force and effect upon the later of, (i) October 5, 2027, or (ii) the date on which Grantor no longer has any outstanding obligations to AWG, including but not limited to any loan, advance, debts, liabilities for the performance of covenants, tasks or duties or for payment of monetary amounts (whether or not such performance is then required or contingent, or such amounts are liquidated or determinable) (each a "**Termination Event**"). Following a Termination Event, AWG shall, within thirty (30) days after a written request from Grantor (or Grantor's successor-in-interest), record a written release of this Use Restriction in the Lake County Indiana Recorder's Office.

In the event AWG, its successors or permitted assigns of the beneficial rights hereunder (the "**Beneficiary**") dissolves or permanently ceases to operate as a going concern, the Use Restriction created hereby may be terminated by the owner of the Property and shall be of no further force and effect. To be effective, record notice of such termination must be given by the owner of the Property by filing a sworn affidavit stating that the Beneficiary has dissolved or

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permanently ceased to operate as a going concern.

This Use Restriction is solely for the benefit of, and can only be enforced by, AWG or the Beneficiary and it does not confer third party beneficiary rights on any party.

**[SIGNATURE PAGE FOLLOWS]**



This Amended and Restated Use Restriction is executed as of the day and year first above written.

**GRANTOR:**

**INDIANA GROCERY GROUP, LLC,**  
a Delaware limited liability company

By: *Strack*  
Jeffrey D. Strack, President  
and Chief Executive Officer

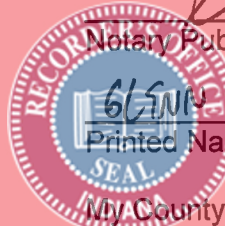
STATE OF INDIANA

COUNTY OF LAKE

**Document is NOT OFFICIAL!**

I, GLENN R. PATTERSON, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Jeffrey D. Strack, the President and Chief Executive Officer of **INDIANA GROCERY GROUP, LLC**, a Delaware limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act, and as the free and voluntary act of **INDIANA GROCERY GROUP, LLC**, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 4th day of OCTOBER, 2017.



Notary Public in and for the State of INDIANA

GLENN R. PATTERSON  
Printed Name of Notary Public

My County of Residence: LAKE  
My Commission Expires: 11-25-2024

This document prepared by and after recording mail to:

Stephen M. James, Esq.  
Associated Wholesale Grocers, Inc.  
5000 Kansas Avenue  
Kansas City, Kansas 66106

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law: Stephen M. James.

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

LOTS 1 THROUGH 6, BOTH INCLUSIVE, IN BLOCK 10, FORSYTH WATER GARDENS, IN THE CITY OF HAMMOND, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 14, PAGE 19, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

**EXCEPTING**

A PART OF LOT 6 IN BLOCK 10 IN FORSYTH WATER GARDENS ADDITION TO THE CITY OF HAMMOND, INDIANA, THE PLAT OF WHICH ADDITION IS RECORDED IN PLAT BOOK 14, PAGE 19, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA, AND BEING A PART OF THE GRANTOR'S LAND LYING WITHIN THE RIGHT OF WAY LINES DEPICTED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT, MARKED EXHIBIT "B", DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT; THENCE NORTH 89 DEGREES 29 MINUTES 27 SECONDS WEST 4.808 METERS (15.77 FEET) ALONG THE SOUTH LINE OF SAID LOT TO POINT "264" AS DESIGNATED ON SAID PLAT; THENCE NORTH 44 DEGREES 59 MINUTES 59 SECONDS EAST 6.859 METERS (22.50 FEET) TO POINT "265" AS DESIGNATED ON SAID PLAT AND THE EAST LINE OF SAID LOT; THENCE SOUTH 0 DEGREES 28 MINUTES 31 SECONDS WEST 4.894 METERS (16.06 FEET) ALONG SAID EAST LINE TO THE POINT OF BEGINNING AND CONTAINING 11.8 SQUARE METERS (127 SQUARE FEET), MORE OR LESS.

