DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS FOR RED OAK SOUTH BUSINESS PARK

THIS DECLARATION is made and executed this 18th day of 2005, by ACORN ENTERPRISES, INC. a Virginia corporation (together with its successors and assigns as herein provided, "Declarant").

1. INTRODUCTION, PURPOSE AND DECLARATION

1.1 Property. Declarant is the record owner of certain real estate in the City of Harrisonburg, Virginia, containing approximately 6.06 acres, which has been or will be subdivided into lots and is more particularly described on Exhibit A attached hereto and made a part hereof (the "Property" or the "Business Park").

1.2 Business Park. Declarant desires to develop the Property as a commercial business park with a common architectural theme and design review process.

1.3 Purpose of Declaration. The purpose of this Declaration is to set forth limitations and restrictions with respect to: (a) the creation of easements and the sharing of expenses for maintenance and repair of the common areas of the commercial business park, and (b) the use and design of improvements on the Property with the goals of (i) maintaining the Property as a pleasant and desirable environment for commercial enterprise, (ii) establishing and preserving a harmonious design for the Business Park, and (iii) protecting and enhancing the value of the Property.

1.4 Declaration. Declarant, for itself, its successors and assigns, hereby declares that the Property shall, at all times, be owned, held, used, occupied, sold and conveyed subject to the provisions of this Declaration and to the covenants, conditions and restrictions, herein contained, which shall run with the Property and bind all parties having any right, title or interest in the Property, or any portion thereof, and their respective successors, assigns, heirs, devisees and personal representatives.

Harrisonburg Tax Map No. 56-A-2 (portion of)

2. DEFINITIONS

2.1 "ARC" means the Architectural Review Committee of the Association.

2.2 "Articles" means the Articles of Incorporation of the Association, as the same may be amended from time to time.

2.3 "Assessment" means a general assessment, a special assessment or a default assessment levied pursuant to Article 4 below.

2.4 "Assessment Lien" means the lien of the Association described in Section 4.8 below.

2.5 "Association" means the Red Oak South Business Park Association, Inc., a Virginia corporation, and its successors and assigns.

2.6 "Association Documents" means the Declaration, the Articles, the Bylaws and the Rules and Regulations, as the same may be amended and supplemented from time to time.

2.7 "Board of Directors" means the board of directors of the Association pursuant to the Association Documents.

2.8 "Business Park" has the meaning given in Section 1.1 above.

2.9 "Bylaws" means the Bylaws of the Association, as the same may be amended and supplemented from time to time.

2.10 "Common Elements" means any real estate within the Business Park other than a Lot (as hereafter defined), and all personal property that is now or hereafter owned or leased by the Association, or that the Association is otherwise required to operate, manage, maintain or repair from time to time, together with any improvements now or hereafter located thereon. The Common Elements are intended for the common use and enjoyment of the Owners and include, without limitation, (a) the shared private drive serving the Business Park and (b) shared utility and drainage easements and facilities serving more than one Lot.

2.11 "Common Expenses" means (a) any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (i) managing, operating, maintaining, repairing, altering and improving the Common Elements (including, without limitation, costs for taxes and insurance); (ii) administering and enforcing the covenants, conditions, restrictions, reservations, easements and other provisions set forth in this Declaration; (iii) levying, collecting and enforcing the Assessments, charges and liens imposed pursuant to this Declaration; (iv) regulating and managing the Business Park; (v) operating the Association; and (vi) reserves for any such costs, expenses and liabilities.

2.12 "Declarant" means Acorn Enterprises Inc., a Virginia corporation, together with its successors and assigns. A Person shall be deemed a "successor or assign" of Declarant only if such Person is designated as such in an instrument signed by Declarant and such Person and recorded in the Office of the Clerk of the Circuit Court of Rockingham County, Virginia, which instrument may limit by designation the particular rights or interest of Declarant to which such Person succeeds. Notwithstanding the foregoing, a successor entity formed by merger or consolidation of Declarant shall automatically be deemed a successor and assign of Declarant for all purposes and as to all rights of Declarant set forth in this Declaration.

2.13 "Declaration" means this Declaration of Covenants, Conditions and Restrictions for Red Oak South Business Park, as it may be amended or supplemented from time to time.

2.14 "Director" means a duly elected or appointed member of the Board of Directors.

2.15 "General Common Element" means all Common Elements, except Limited Common Elements.

2.16 "Limited Common Element" means any Common Element that is reserved for the exclusive use by or benefit of one or more, but less than all of the Owners, including, without limitation, all utility improvements that serve less than all Lots.

2.17 "Lot" means any area of the Property designed as a lot on the subdivision plat for the Business Park recorded in the Office of the Clerk of the Circuit Court of Rockingham County, Virginia, as it may be amended or supplemented from time to time consistent with this Declaration.

2.18 "Membership" means a membership in the Association and the rights granted to Owners pursuant to this Declaration, the Articles and the Bylaws to participate in the Association.

2.19 "Mortgage" means any instrument in real property created by contract or conveyance as security for payment of a debt or performance of an obligation. The holder or beneficiary of a Mortgage is herein called a "Mortgagee."

2.20 "Owner" means the record holder of legal title to the fee simple interest in any Lot or portion thereof (including, without limitation, Declarant). If there is more than one record holder of legal title to a Lot, each record holder shall be an owner. A Mortgagee is not an Owner solely by virtue of holding a Mortgage on a Lot.

2.21 "Person" means any natural person, corporation, partnership, limited liability company, association, trustee or any other entity or combination thereof recognized as being capable of owning real property under the laws of the Commonwealth of Virginia.

2.22 "Property" has the meaning given in Section 1.1 above.

2.23 "Rules and Regulations" means any instruments adopted by the Association for the regulation and management of the Business Park, as the same may be amended or supplemented from time to time.

2.24 "Subdivision" means the Property, as such term is defined in Section 1.1 above.

2.25 "Share of Common Expenses" means the share of Common Expenses allocated to each Lot in accordance with the terms and conditions of Section 4.2 below.

3. THE ASSOCIATION

3.1 The Association. Prior to the date on which Declarant conveys the first Lot to another Person, Declarant shall form the Association. The purposes and powers of the Association are set forth in the Articles and Bylaws. The Association shall be managed by the Board of Directors in accordance with the Articles and Bylaws.

3.2 Membership. There shall be one Membership appurtenant to every Lot, and the Owner of a Lot shall be a Member of the Association. A Membership may not be separated from the ownership of the Lot to which it is appurtenant. Any Membership appurtenant to a Lot having more than one Owner shall be shared by such Owners. A Membership may be transferred or encumbered only in connection with the conveyance or encumbrance of a fee simple interest in the Lot to which the Membership is appurtenant.

3.3 Voting. Each Membership shall be entitled to one vote, regardless of the number of Owners of the Lot to which the Membership is appurtenant, except that Declarant shall be entitled to three votes for each Lot owned by Declarant. Voting rights are more particularly described in the Bylaws. The voting rights of any Membership may be suspended by the Association if an Owner holding a membership is not in good standing as a result of any uncured default under the Association Documents.

3.4 Association Documents. The obligations, burdens and benefits created by this Declaration touch and concern the Property and are, and shall be, covenants running with the Property for the benefit of all of such Property. The Association and each Owner shall comply with and benefit from each term, provision, covenant, condition, restriction, reservation, easement and other provisions contained in the Association Documents.

4. ASSESSMENTS

4.1 Obligations for Assessments.

(a) Declarant, for each Lot it owns, hereby covenants and agrees, and each Owner, by accepting a deed to a Lot (regardless of whether expressly stated in such deed), shall be deemed to have covenanted and agreed, to pay to the Association all Assessments, fines and charges that the Association is required or permitted to levy or impose on such Owner or such Owner's Lot pursuant to this Declaration or any other Association Document.

(b) No Owner shall be exempt from liability for any such Assessment or other charge by waiving the use or enjoyment of any Common Element or by abandoning a Lot against which such Assessments are made. No abatement of any Assessment shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to any Common Element, from any action taken to comply with any law or any determination of the Board of Directors, or for any other reason. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason, including without limitation, any claim that the Association or the

Board of Directors is not properly exercising its duties and powers under this Declaration or any other Association Document.

(c) Except as provided in this paragraph and paragraph 4.9(a) below, the obligation to pay to the Association any Assessment or other charges levied against any Lot shall be a joint and several obligation of the Owner of such Lot and such Owner's successors, assigns, heirs, devisees and personal representatives. A Person acquiring fee simple title to a Lot shall be jointly and severally liable with the former Owner of the Lot for all Assessments and other charges that had accrued and were payable when such Person acquired fee simple title to the Lot, for so long as such Person holds fee simple title to the Lot.

(d) Each Assessment or other charge, together with interest and penalties thereon and all costs and expenses incurred by the Association to collect such Assessment or other charge, including reasonable attorneys' fees and disbursements, may be recovered by a suit for a money judgment by the Association without foreclosing or waiving any Assessment Lien securing the same.

4.2 Share of Common Expenses. Except as otherwise set forth in this Declaration, all Common Expenses shall be allocated on a pro-rata basis, based on square footage, among all Lots that have been created prior to the date on which the Common Expenses were incurred. The Share of Common Expenses of each Lot shall equal the quotient obtained by dividing the square footage of each Lot by the total square footage of all Lots.

4.3 Budgets. Prior to the first levy of a general assessment for Common Expenses, and thereafter on an annual basis, the Board of Directors shall adopt a proposed annual budget for the Association for the following year, setting forth the Board of Directors' estimates of Common Expenses to be incurred for the next calendar year. Such budget may include an amount for contingencies and amounts deemed necessary or desirable for deposits to create, replenish or add to a fund for major capital repairs, replacements and improvements.

4.4 General Assessments. Based upon the annual budget, the Association shall levy an assessment for Common Expenses on each Lot in an amount equal to the product obtained by multiplying (a) the amount set forth in the annual budget as the amount of Common Expenses to be raised by general assessments, by (b) that Lot's Share of Common Expenses. The Owners shall pay the general assessments levied against their respective Lots in installments on a monthly, quarterly or annual basis, as determined by the Board of Directors at the time of levy. The failure of the Association to levy a general assessment for any calendar year shall not be deemed a waiver, modification or release of the Owners' liability for the Share of Common Expenses allocated to such Owner's Lot.

4.5 Special Assessments. Notwithstanding anything to the contrary contained in Section 4.4 above, if any Common Expense benefits fewer than all of the Lots, the Association may levy an Assessment for such Common Expense exclusively against the Lots benefited thereby, equally or in any other equitable proportions as the Association deems appropriate. Without limiting the generality of the foregoing, any Common Expenses attributable to a Limited Common Element shall be shared on a pro rata basis among the Lots to which such Limited

Common Element is appurtenant (meaning those Limited Common elements that an Owner is entitled to use and enjoy by virtue of such Owner's ownership of a particular Lot).

4.6 Default Assessments. Notwithstanding anything to the contrary contained herein, if any Common Expense (including without limitation, any Common Expense relating to repair or replacement of a Common Element whether arising out of damage to such Common Element or otherwise) is caused by (i) the negligence or misconduct of an Owner or an Owner's affiliate, employee, agent or guest, or (ii) a violation of any covenant, condition or restriction of an Association Document by an Owner or an Owner's family member, employee, agent or guest, the Association may, if it deems necessary or advisable, levy an Assessment against such Owner's Lot for the entire amount of such Common Expense. Owners of Lots against which Default Assessments have been levied shall pay such Default Assessments within thirty days of receipt of demand therefore from the Association, unless such demand states a different time period for payments.

4.7 Assignment of Assessments. The Association shall have the unrestricted right to assign its right to receive Assessments and other future income, either as security for obligations of the Association or otherwise.

4.8 Assessment Lien. The Association shall have a lien against Lots as security for timely payment of Assessments which lien may be perfected and foreclosed as permitted by applicable law.

4.9 Estoppel Certificates; Notices to Mortgagees.

(a) The Association shall furnish to an Owner or such Owner's designee or to a Mortgagee or its designee, upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, a statement setting forth the amount of unpaid Assessments currently levied against such Owner's Lot. The statement shall be furnished within thirty calendar days after the Association's receipt of the request and shall be binding on the Association, the Board of Directors and every Owner.

(b) The Association shall report to any Mortgagee any unpaid Assessments remaining unpaid for more than sixty days after the same shall have become due, if such Mortgagee has previously delivered to the Association a written request for notice of unpaid Assessments. Any Mortgagee holding a lien on a Lot may pay any unpaid Assessment with respect to such Lot, together with any and all costs and expenses incurred with respect to the Assessment Lien securing such unpaid Assessment, and upon such payment, such Mortgagee shall have a lien on the Lot for the amounts paid with the same priority as a lien of the Mortgage held by such Mortgagee.

5. COMMON ELEMENTS

5.1 Maintenance of Common Elements. Except as otherwise provided in this Declaration, the Association, or its duly designated agent, shall maintain all Common Elements and the improvements and landscaping located thereon in good order and repair and in a safe, attractive and desirable condition, and shall otherwise manage and operate all Common Elements as it deems necessary and appropriate. Without limiting the generality of the foregoing, the Association shall maintain the shared private roadway serving the Lots, including snow removal, passing on its cost to the Owners as a Common Expense. The Board of Directors shall be the sole judge as to the appropriate maintenance, operation and management of the Common Elements.

5.2 Parking Areas. The Business Park is designed to allow traffic to flow through parking areas on different Lots to and from the shared main entrance, and each Lot is subject to a perpetual easement permitting the owners and guests of other Lots to travel across paved thoroughfares to and from the shared main entrance. No Owner may obstruct or adversely alter the thoroughfares crossing such Owner's Lot, as originally constructed or approved by Declarant, without the prior written consent of the ARC, which may be withheld in its sole discretion. Notwithstanding the foregoing, parking spaces on a particular Lot are exclusively for the benefit of the Owner and guests of such Lot, and may not be used by the Owner or guest of any other Lot (provided that Owners are free to agree between themselves to license or lease spaces to one another by written agreement). (If a parking space straddles a Lot line, then the ARC shall conclusively determine to which Lot such parking space is appurtenant, and that Lot shall have an easement across the adjoining Lot for purposes of parking and use of such parking space.) The Association shall maintain the parking lots in front of buildings and related thoroughfares, including snow removal, passing on its cost to the Owners as a Common Expense. The Board of Directors of the Association shall have the discretion to allocate a maintenance or repair cost to a particular Lot as a Special Assessment in the event that the need for such maintenance or repair was caused by the act or omission of the Owner or guest of such Lot.

5.3 Right to Use Common Elements. Each Owner shall have a right and easement of enjoyment in and to the Common Elements during the period of such Owner's ownership of a Lot, and may delegate such right and easement to tenants and contract purchasers. Such easement shall be appurtenant to and shall pass with title to every assessed Lot, subject to the rights of the Association to regulate Common Elements pursuant to the Association Documents. With the approval of Members representing 75% of the votes in the Association, the Association may dedicate or transfer all or any part of the Common elements to any public agency, authority or utility company.

6. DESIGN REVIEW

6.1 Matters for which Approval is Required. No building, fence, structure, or other exterior improvements shall be erected or placed on any lot within the Property, and no change or alteration to the exterior appearance of any lot within the Property, shall be made until the plans and specifications showing the nature, shape, height and materials and a plat showing the location of the same has been submitted to and approved in writing by the ARC. ARC

approval shall not be required with respect to any improvements constructed by Declarant on the Property.

(a) The following, among other things and by way of example, not limitation, shall require prior written approval of the ARC: grading and other site preparation; landscaping; building construction; sign design and erection; exterior changes to property or improvements; modification, alteration or enlargement of any existing structure; paving and driveways; fencing and exterior lighting.

(b) Approval of the ARC shall not be required for alterations or remodeling which are completely within a building or structure, do not change the exterior appearance thereof and are not visible from the outside of the structure, so long a such alterations do not exceed, if applicable, square footage limitations applicable to the Lot.

6.2 Review and Approval Process.

(a) Applications for approval of the ARC shall include detailed plans and specifications and surveys. The ARC may also require, where applicable to its review, topographical maps of the Lot and grading plans, or other items relevant to the requested approval. Three copies of all required items shall be submitted to the ARC.

(b) Within sixty days of submission of plans and other required items to the ARC for its approval, the ARC shall notify the requesting Owner, in writing, that the plans are approved, approved with conditions, disapproved (with the reasons for that disapproval stated), or that additional information is required to permit the ARC to render its decision. If the ARC fails to act within sixty days of receiving a submission, then such submission shall be deemed approved. If the ARC requests additional information, then a new sixty-day period shall commence when that additional information is received by the ARC.

(c) The ARC may establish a reasonable processing and review fee to defer its costs in considering any requests for approvals submitted to it, which fee shall be paid at the time the request for approval is submitted.

6.3 Architectural Review Committee. The ARC shall be a committee of three persons empowered to enforce the architectural review requirements and standards set forth in this Declaration, or an entity under contract with the Association to provide design management services. The members of the ARC shall be appointed by the Board of Directors. Each ARC member shall serve until such member resigns or is removed and replaced by the Board of Directors.

6.4 Inspection of Projects. The ARC or its designated representatives may monitor any approved project within the Business Park to ensure that the construction or work on such project complies with any and all approved plans, construction procedures and applicable law, and may enter any lot within the Business Park at any reasonable time or times to inspect the progress, work status, or completion of any project.

6.5 Withdrawal of Approval. The ARC may withdraw approval of any project and require all activity at such project to be stopped if deviations from the approved plans or applicable law are not corrected or reconciled within ten days after written notification to the owner of the subject lot specifying such deviations (unless substantial progress has been made toward such correction or reconciliation within the required time period, and continues to be pursued with due diligence, as determined by the ARC, in its sole discretion).

6.6 Basis for ARC Decision; Authority to Approve Deviations.

(a) The ARC may base its approval or rejection of matters submitted to it on any grounds, including purely aesthetic considerations, which the ARC deems sufficient. In that regard, the ARC may consider, among other things and by way of example, not limitation, the following factors: (i) the suitability of the improvements and the materials of which they are to be constructed; (ii) the quality of all materials to be utilized in any proposed improvement; (iii) the effect of any proposed improvement on adjacent or neighboring property, provided that each Owner of property within the Business Park is entitled to use and develop his or her property in accordance with the standards but subject to the design review considerations set forth in this Declaration; and (iv) the harmony of the proposed improvement with the existing Business Park improvements.

(b) The ARC has the discretion to approve any proposed improvements that fail to meet the requirements of this Declaration, if in the ARC's sole discretion, such deviations do not diminish the value of adjoining property. Any such approval must be in writing.

(c) Decisions of the ARC shall be made by majority vote.

6.7 Limitation of Liability. Neither Declarant, the Association, the ARC, nor any of their respective members, directors, employees, managers or agents shall be responsible or liable for any defects in any plans or specifications which are approved pursuant to this Declaration, nor for any defects in construction pursuant to such plans and specifications, nor for any loss, damage or injury arising out of or in any way connected with the performance of the architectural review functions stated in this Declaration. In reviewing any matters, the ARC shall not be responsible for reviewing safety issues, nor shall its approval of any project be deemed approval of the project from the standpoint of safety, whether structural or otherwise. Approval of plans and specifications pursuant to this Declaration shall not relieve any owner of his or her responsibility to comply with any and all applicable governmental laws or regulations.

7. LIMITATION AND RESTRICTIONS

7.1 Permitted Improvements. All Lots within the Business Park are commercial lots, and may contain only the following:

(a) one commercial building, unless otherwise approved by the ARC;

(b) dumpster pad site(s) and dumpster(s) in a location approved by the ARC, provided that no lot shall be permitted more than one dumpster pad site unless approved by the ARC;

(c) propane, oil or other storage tanks in a screened location approved by the ARC;

(d) such fences, walls, walkways, trails, driveways, roadways, sidewalks and parking areas as may be constructed by Declarant or approved in writing by the ARC, provided that the ARC has the authority and discretion to disallow any and all fencing or walls other than legally required retaining walls constructed of materials acceptable to the ARC;

(e) landscaping improvements and exterior lighting constructed by Declarant or approved in writing by the ARC; and

(f) satellite dishes, utilities, and other accessory improvements erected by Declarant or approved in writing by the ARC.

7.2 No Temporary Improvements. No structures or buildings of a temporary character shall be placed or used within the Business Park, either temporarily or permanently, without prior written approval of the ARC or Declarant. Notwithstanding the preceding sentence, necessary appurtenances, modest construction trailers and structures of a temporary nature may be used during the period of performance of construction of any improvement for which necessary government permits and ARC approval have been obtained, provided that (i) no overnight occupancy shall be permitted in any such appurtenance, trailer or structure, and (ii) such appurtenances, trailers or structures shall be removed from the Property on the earlier of (A) the date that is six months after the initial use thereof and (B) the date of substantial completion of the improvement, unless an extension is granted by the ARC or Declarant.

7.3 Use of Property. The Property may be used for commercial or industrial purposes and for no other purpose.

7.4 Size of Buildings. The size in terms of floor area of any building on a given Lot shall not be increased from the size of the shell of such building as initially constructed by Declarant or with the approval of the ARC, unless such increase in size is approved by the ARC.

7.5 Location of Improvements. The location of any improvements on any Lot must be approved by the ARC or Declarant, and must comply with the minimum setback requirements set forth in the applicable zoning ordinance unless the ARC and the local governmental authority approve a variance from such requirements.

7.6 Property to be Maintained.

(a) Each Lot and improvements on each Lot shall be kept and maintained by the Owner(s) thereof in a clean, safe, attractive and sightly condition and in good repair.

(b) No improvement which has been totally or partially destroyed by fire or other casualty shall remain in such condition for more than three months from the date of such destruction.

(c) If, in the reasonable judgment of the Association, an Owner fails to maintain the Owner's Lot, the landscaping located thereon or the exterior of any improvements located thereon in accordance with this Declaration and the Rules and Regulations, the Association may, after written notice and a 30-day opportunity to cure, enter upon such Lot and perform such maintenance or repair as the Association deems necessary or advisable and charge all costs and expenses incurred by the Association in connection therewith to such Owner as a Default Assessment.

7.7 No Illegal, Noxious or Offensive Activity. No illegal, noxious or offensive activity shall be carried on upon any portion of the Property, nor shall anything be done or placed on any Property which is legally a nuisance.

7.8 Restrictions on Further Subdivision; Combining Lots.

(a) No Lot shall be further subdivided or separated into small lots by any owner (excluding Declarant), and no portion less than all of any Lot shall be conveyed or transferred by any Owner within the prior written approval of the ARC. This provision shall not, in any way, limit Declarant from subdividing the Property or any part of the Property into any number of lots.

(b) With the approval of the ARC, the Owner of two or more Lots that share one or more lot lines may resubdivide those lots for the purpose of adjusting the size of the lots, so long as the resubdivision does not increase the number of Lots and complies with all applicable zoning and subdivision ordinances and regulations.

7.9 Storage of Equipment and Inventory. No outside storage of inventory equipment, supplies or other materials shall be permitted. Storage of trailers shall be permitted only in designated dock areas unless otherwise approved by the Association. This paragraph shall not prohibit the storage or parking of construction equipment and machinery within the Property during the period of construction activities for which all applicable permits and architectural review approval have been obtained.

7.10 No Unsightliness. No unsightliness shall be permitted on the Property. Without limiting the generality of the foregoing: (a) refuse, garbage and trash shall be kept in a covered container at all times, (b) dumpsters shall be regularly emptied, as to which the ARC may impose specific requirements, and (c) no metals, bulk materials, scrap, refuse or trash or

unused items of any kind shall be kept, stored or allowed to accumulate on the Property (excluding construction materials during the course of construction on the Property for which all required approvals have been obtained).

7.11 Restriction on Signs. No signs or advertising devices of any nature shall be erected or maintained on any Property except: (a) signs erected or approved by Declarant, (b) signs approved by the ARC, (c) signs required by law or legal proceedings, or (d) temporary signs to caution or warn of danger. The ARC shall have the authority to approve the size and location of signs within the Property, excluding signs erected or approved by Declarant.

8. EASEMENTS AND LICENSES.

8.1 Reservation of Platted Easements. Declarant reserves to itself easements for drainage and for the installation, repair, replacement and maintenance of underground utility lines and overhead or underground power and telephone lines over, through and across the strips of land designated as drainage, water, sewer or utility easements on the subdivision plat(s) creating the Business Park. Such easements are expressly reserved to the use of the Business Park and to other land of Declarant, and no third party shall have any interest or right to use such easements, except (a) Owner as to such Owner's Lot, (b) the City with regard to any easements dedicated to public use on the subdivision plat, and (c) a utility company granted specific rights by Declarant.

8.2 Declarant Reservation. Declarant reserves to itself, its successors and assigns, the right to establish from time to time, by dedication or otherwise, underground utility and other reasonable easements, permits or licenses over, across, through and under the Property, excluding those portions of the Property within building footprints of constructed or approved structures, for any purpose or use necessary or convenient for the use and occupancy of the Property or any other property owned by Declarant, which easements, permits or licenses may include, without limitation, water, sewer, gas, electricity, television cable, or drainage.

9. RIGHT TO INCLUDE ADDITIONAL REAL PROPERTY

Declarant has the absolute and unqualified right (but no obligation) to subject additional real property to this Declaration by recording in the Office of the Clerk of the Circuit Court of Rockingham County, Virginia, an instrument signed by Declarant setting forth the following: (a) a statement that the real property to be added is owned by Declarant and is adjacent to the Property or within one mile of any boundary of the Property, (b) a statement that Declarant has determined that such real property should be included as a part of the Business Park, (c) the legal description of the real property to be added, and (d) a statement that the property to be added shall be subject to and governed by the provisions of this Declaration. Upon the recording of such instrument, the real property described therein shall become part of the Property and shall be governed by all of the provisions of this Declaration.

10. ENFORCEMENT AND REMEDIES

10.1 Enforcement. Each provision of this Declarant binding upon an Owner or a Lot is enforceable by Declarant or the Association or one or more Owners of Lots within the Business Park by a proceeding for a prohibitive or mandatory injunction or by suit or action to recover damages.

10.2 Attorneys' Fees. In the event of any dispute under or with respect to this Declaration, or compliance therewith, the prevailing party (as to liability, without regard to monetary award), shall be entitled to recover from the nonprevailing party all of its costs and expenses, including, but not limited to, reasonable attorneys' fees and disbursements.

10.3 Purchaser for Value. A good faith purchaser for value of any Lot, and a Mortgagee who takes a lien on any lot, may assume that any improvements then on the Lot which have been completed for more than six months have all required ARC approvals, unless a notice to the contrary has been recorded by the ARC in the Office of the Clerk of the Circuit Court of Rockingham County, Virginia.

11. MISCELLANEOUS

11.1 Term of Declaration. Each provision contained in this Declaration shall continue in force until December 31, 2023, at which time they will expire. Nonetheless, upon expiration, this Declaration shall be automatically renewed for successive ten-year periods unless terminated by recorded instrument signed by Owners having 75% of the votes in the Association, and by Declarant so long as Declarant owns any Lot. For purposes of this paragraph, Mortgagees shall not be deemed to be owners. Notwithstanding anything to the contrary set forth herein, Declarant may terminate this Declaration at any time prior to the conveyance of any portion of the Property to a third party.

11.2 Amendment.

(a) Prior to the closing of the sale of the first Lot, Declarant may amend this Declaration in its sole discretion.

(b) Except as provided in paragraph 11.2(a) above, this Declaration may be amended only by the vote or written consent of (i) Owners comprising 75 percent of the Lots within the Business Park (including Declarant), and (ii) Declarant, for so long as Declarant owns any portion of the Property. Any amendment to the Declaration shall be evidenced by the recording of a written instrument or instruments specifying the amendment. No amendment may remove, revoke or modify any right or privilege of Declarant without the prior written consent of Declarant or its assignee.

11.3 Notices.

(a) Any notice to an Owner pursuant to this Declaration shall be effective if mailed, first class mail with postage prepaid, to the address of the owner(s) of the lot

as reflected in the records of the tax assessor's office for Rockingham County, Virginia. Such notice shall be deemed received on the second day after its deposit with the U.S. Postage Service.

(b) Any submittal or notice to the Association shall be made to such address as the Association designated in writing to Lot Owners from time to time.

11.4 Covenants Binding. Each provision of this Declaration and a promise, covenant and undertaking to comply with each such provision shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any of the Property is granted, devised or conveyed, and shall run with the land.

11.5 Failure to Act. Neither Declarant nor the Association, nor any of their respective members, directors, managers, agents or employees shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act is in good faith and without malice.

11.6 Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid or enforceable part of a provision of this Declaration.

11.7 Failure to Enforce. Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

11.8 Disclaimer of Representations. Notwithstanding anything to the contrary in this Declaration, Declarant makes no warranties or representations whatsoever that the plan presently envisioned for the complete development of Business Park can or will be carried out.

11.9 Captions and Title. All captions and titles of headings of Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed or construed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

11.10 Assignment of Declarant Rights. Declarant shall have the right to assign any or all of its rights as "Declarant" pursuant to this Declaration, by recording a written instrument to that effect in the Office of the Clerk of the Circuit Court of Rockingham County, Virginia.

11.11 Conflicts in Association Documents. If there is any conflict or inconsistency between the terms and conditions of this Declaration and the terms and conditions of the Articles, the Bylaws or the Rules and Regulations, the terms and conditions of this Declaration shall control. If there is any conflict or inconsistency between the terms and conditions of the Articles and the terms and conditions of the Bylaws or the Rules and Regulations, the terms and conditions of the Articles shall control. In the event of any conflict or inconsistency between the terms and conditions of the Bylaws and the terms and conditions of the Rules and Regulations, the terms and conditions of the Bylaws shall control. If there is any

conflict or inconsistency between the terms and conditions of any Association Document and the mandatory provisions of applicable law, applicable law shall control.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first set forth above.

ACORN ENTERPRISES, INC.
a Virginia corporation

BY: Gary W. Lee President
Gary W. Lee, President

STATE OF VIRGINIA
CITY/COUNTY OF Harrisonburg

The foregoing instrument was acknowledged before me this 20th of April, 2005, by Gary W. Lee, as President of Acorn Enterprises, Inc., a Virginia corporation.

My commission expires: 3/31/09.

Sherry L White
Notary Public

osj23309

EXHIBIT A B 2657 P 135

All that certain tract of land situate in the City of Harrisonburg, Virginia on the western side of Red Oak Street, consisting of 6.061 acres, shown on the plat of survey made by Charles E. Wingard, L.S., dated August 27, 2003, entitled "Red Oak South Business Park, Section 1", which is recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia in Deed Book 2655, at Page 414, wherein 2.004 acres of the land is subdivided and 4.057 acres of the land is shown as "Future Section."

This is a portion of the property acquired by Acorn Enterprises, Inc., by deed dated November 21, 1986 from Sarco Corporation, which deed is of record in the aforesaid Clerk's Office in Deed Book 820, at page 337.

23309

VIRGINIA: In the Clerk's Office of the Circuit Court of Rockingham County
The foregoing instrument was this day presented in the office aforesaid, and is together with the certificate of acknowledgement annexed, admitted to record this 22 day of April, 20 05 at 12:09P M. I certify that taxes were paid when applicable:
Sec. 58-54 – State ____ County ____ City ____
Sec. 58-54.1 – State ____ County ____ City ____ Transfer ____
Recording 35.00 Copies 8.00 TESTE
L. WAYNE HARPER
CLERK 43.00
Deed Book No 2657 Page 120

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