

SHOPPING CENTER LEASE AGREEMENT

by and between

_____,
a _____ Limited Liability Company

("Landlord")

and

_____,
a(n) _____

("Tenant")

[Name of Center]

[TENANT'S NAME]

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STATE OF _____
_____ COUNTY

SHOPPING CENTER LEASE AGREEMENT

THIS LEASE AGREEMENT made and entered into on this ____ day of _____, 20 __, (the “Effective Date”) by and between:

LANDLORD: _____

Attn: _____

and

TENANT: _____

Attn: _____

WITNESSETH:

IN CONSIDERATION of the payment of rents and other charges provided for herein and the covenants and conditions hereinafter set forth, Landlord and Tenant hereby covenant and agree as follows:

ARTICLE I

Demised Premises

Section 1.1 Demised Premises. Landlord hereby leases to Tenant and Tenant hereby rents from Landlord the following described premises which constitutes a part of the retail facilities (the “Shopping Center”) constructed on or to be constructed on [description of Shopping Center]:

Demised Premises consisting of approximately _____ square feet (the “Demised Premises”) as outlined in red on the Site Plan attached hereto as *Exhibit A*. The Demised Premises shall not be deemed to include either the land lying thereunder or the exterior walls or roof of the building in which the Demised Premises are located.

The Demised Premises are demised and let subject to the following: (a) the existing state of the title to the Demised Premises, the Shopping Center and the real property upon which the same are situated; and (b) all zoning regulations, restrictions, rules and ordinances, building or use restrictions and other laws and regulations now in effect or hereafter adopted by any governmental authority having jurisdiction thereof. Landlord reserves the right to place in, under, over or through the Demised Premises pipes, wires, lines, and facilities serving other areas of the Shopping Center and adjacent properties owned by Landlord, provided such right is exercised in a manner which does not unreasonably interfere with Tenant’s conduct of its business at the Demised Premises.

Section 1.2 Area of Demised Premises. Tenant hereby represents and warrants to Landlord that Tenant has made its own investigation and examination of all the relevant data relating to or affecting the Demised Premises and is relying solely on its own judgment in entering into this Lease; specifically, and without limitation, Tenant

represents and warrants to Landlord that Tenant has had an opportunity to measure the actual dimensions of the Demised Premises and agrees to the square footage figures set forth herein for all purposes of this Lease.

Section 1.3 **Landlord and Tenant's Work.** Landlord shall deliver to Tenant the Demised Premises in substantially the condition as reflected in **Exhibit B** (the "Landlord's Work"). All other improvements to the Demised Premises shall be provided by Tenant at its own cost and expense, in accordance with plans and specifications approved by Landlord, in a good and workmanlike manner and shall be in compliance with all applicable building codes, laws, ordinances and regulations. When the construction shall reach such stage of completion as to permit installation of Tenant's fixtures, equipment and merchandise without unreasonable interference with the work being carried on by Landlord's general contractor, then Tenant may enter the Demised Premises and install its fixtures, equipment and merchandise without charge for rent until commencement of the term as hereinafter provided, but Landlord shall not be liable to Tenant for damage to or loss of any such fixtures, equipment and merchandise. Tenant shall, at its expense, remove from the Demised Premises and from the Shopping Center all trash which may accumulate in connection with Tenant's Work. Tenant shall promptly pay all its contractors and materialmen, so as to minimize the possibility of a lien attaching to the Demised Premises, and should any such lien be made or filed, Tenant shall bond against or discharge the same within fifteen (15) days after written request by Landlord and Tenant's failure to do so shall immediately entitle Landlord to all of its remedies in the event of default.

Section 1.4 **Delivery.** Landlord and Tenant shall use due diligence in attempting to have the Demised Premises ready for the conduct of business as soon as practicable. Landlord's Work shall be substantially completed on or before _____, 20__ (the "Delivery Date"), but the completion date shall be reasonably extended on account of delays caused by strikes, lockouts, fire or other casualty, Acts of God, unusual delays caused by permitting problems, governmental intervention, transportation or any causes beyond Landlord's control. In no event shall Landlord be liable for damages or otherwise for failure to have the Demised Premises completed at any particular date. The taking of possession of the Demised Premises by Tenant shall be conclusive evidence that said Demised Premises were in good and satisfactory condition and that Landlord's improvements were fully completed in accordance with the terms of this Lease at the time such possession was taken.

ARTICLE II

Term of Lease

Section 2.1 **Term.** The term of this Lease (the "Term") shall commence upon the earlier of the following dates: (i) the date ____ (__) days after delivery of possession of the Demised Premises to Tenant for commencement of Tenant's Work, or (ii) the date on which Tenant shall open the Demised Premises for business, (the "Commencement Date"), and shall expire on the last day of the _____ (__) full calendar month after the Commencement Date. Should the Commencement Date fall on a day other than the first day of a month, the rent for the initial fractional month shall be pro-rated. At the request of Landlord, from time to time, the parties will execute memoranda or letters stating the exact Commencement Date and Expiration Date of the Lease. The term "Lease Year" as used herein shall mean the twelve month period beginning with the Commencement Date (or the first day of the next calendar month if the Commencement Date is other than the first day of the month) and ending one year later, and each subsequent twelve month period. Notwithstanding the foregoing, all terms and provisions of this Lease except payment of Rent shall be effective from the Effective Date until the Commencement Date.

Section 2.2 **Surrender.** This Lease shall automatically terminate or expire at the end of the Main Term hereof, without the necessity of any notice from either Landlord or Tenant to terminate the same, and Tenant hereby waives notice to vacate the Demised Premises and agrees that Landlord shall be entitled to the benefit of all provisions of law respecting the summary recovery of possession of Demised Premises from a tenant holding over to the same extent as if statutory notice had been given. Tenant shall deliver and surrender to Landlord possession of the Demised Premises upon expiration of this Lease, or its earlier termination as herein provided, broom clean and in good condition and repair. Tenant at its own cost and expense shall remove all property of Tenant and all alterations,

additions and improvements which Landlord has required in writing to be removed upon the expiration or termination of this Lease and shall repair all damage to the Demised Premises caused by such removal and restore the Demised Premises to the condition in which they existed immediately prior to the installation of the articles so removed. Any property not so removed at the expiration of the Term hereof shall be deemed to have been abandoned by Tenant and may be retained or disposed of by Landlord, as Landlord shall desire, but such abandonment shall not relieve Tenant of its obligations to remove and repair and restore at its own expense if required by Landlord. Tenant's obligation to observe or perform this covenant shall survive the expiration or termination of this Lease.

Section 2.3 Holdover.

(a) With Consent. If Tenant shall remain in possession of all or any part of the Demised Premises after the expiration or termination of the Term of this Lease, with the consent of Landlord, then Tenant shall be deemed a Tenant of the Demised Premises from month-to-month, cancelable upon thirty (30) days notice, at the same rental and except with respect to the month-to-month terms specified above, subject to all of the terms and provisions hereof; provided, however, that the rent during any such period that Tenant shall continue to hold the Demised Premises after the expiration date of this Lease shall be at the highest annual rate of rent multiplied by two (2) as well as such additional rent due for taxes, insurance, common area maintenance, etc. as specified herein.

(b) Without Consent. If Tenant shall remain in possession of all or any part of the Demised Premises after the expiration or termination of this Lease, without the consent of Landlord, Tenant shall be liable to Landlord for all damages, direct and/or consequential, or as otherwise provided by law which Landlord may suffer on account of Tenant's failure or refusal to so surrender possession of the Demised Premises, and the highest annual rate of Rent under this Lease multiplied by two (2) as well as such additional rent due for taxes, insurance, common area maintenance, etc. as specified herein.

ARTICLE III

Rent

Section 3.1 Minimum Rent. Tenant shall, throughout the Term hereof (but subject to adjustment), pay to Landlord as "Minimum Rent" for the Demised Premises, in advance on the first day of each month, without any offsets or deductions whatever, at the office of Landlord or such other place as Landlord may designate in writing, consecutive monthly installments as follows:

TERM	PERIOD	ANNUAL RENT PER SQUARE FOOT OF DEMISED PREMISES	ANNUAL RENT	MONTHLY RENT

Upon the Commencement Date, Tenant will pay to Landlord the Minimum Rent for the first full calendar month of the Term, or if the Commencement Date does not fall on the first day of the month, the pro rata share due for such month.

Section 3.2 Percentage Rent. In addition to Minimum Rent, Tenant agrees to pay Percentage Rent in accordance with the Percentage Rent Rider attached to this Lease, if applicable.

Section 3.3 Additional Rent. In addition to the rent payable by Tenant pursuant to this Article III, Tenant shall also pay, as additional rent:

(a) Tenant's proportionate share of (i) real estate taxes, as provided in Article IV; (ii) insurance as provided in Article V; and (iii) common area maintenance expenses, as provided in Article VI. Tenant's "proportionate share" or "pro rata share", as these terms are used herein, shall mean the fraction, the numerator of which shall be the square footage of the Demised Premises and the denominator of which shall be the square footage of all leased space within the Shopping Center (exclusive of "Major Tenants", which shall be hereinafter defined as any tenant with leasable area in excess of twenty thousand (20,000) square feet and exclusive of those tenants which pay the applicable charge separately under the terms of their respective leases).

(b) Tenant's proportionate share of any cost which is borne by Landlord for security and shuttle services, if any, utilities (water, gas, electricity, sewage disposal, etc.) or trash and waste removal or similar expenses which are not reimbursed to Landlord by Tenant as a common area maintenance expense.

EXAMPLE: Water service may be furnished to the Demised Premises via a master meter which also serves other users and which is billed solely to Landlord.

If Tenant's consumption of any such utility service is not measured via a submeter, then from time to time, Landlord shall estimate and establish a monthly charge to Tenant therefor. It is provided however, that a representative of the respective utility service in question or a qualified consultant may be engaged by Tenant to estimate and confirm Tenant's consumption and appropriate costs thereof.

Section 3.4 Late Charge. In the event any installment of rent, additional rent as hereinafter provided or other charges payable by Tenant hereunder are not paid when due, such past due payments shall bear interest at the rate of the prime rate announced from time to time by Wachovia Bank plus four percent (4%) (the "Default Rate") from the date due until paid, and Tenant shall pay a late charge of five cents (\$0.05) per each dollar so overdue for the purpose, among other things, of defraying the expense needed to handle such delinquent payment.

ARTICLE IV

Real Estate Taxes

Section 4.1 Taxes. Tenant shall pay its pro rata share of all "real estate taxes", as herein defined. Real Estate Taxes shall include any tax which may be levied or assessed by any lawful authority against the land and improvements of the Shopping Center of which the Demised Premises are a part, assessments, water and sewer rents, taxes on rents, drainage assessments, sewer charges, assessments for public improvements and other governmental impositions of any kind or nature, whether general or special, levied, assessed, charged or imposed by federal, state or local governments against or upon the land and improvements of the Shopping Center of which the Demised Premises constitute a part as well as professional fees and expenses incurred by Landlord for ad valorem tax consultants or tax rendering services and all penalties, interest and other charges payable by reason of any delay in or failure or result of Tenant to make timely payments as required under this Lease. Notwithstanding the fact that the municipal portion or other portions of the real estate taxes assessed against the subject property may be paid in advance, Landlord shall collect a sufficient amount from Tenant, in advance, to make timely payment of all real estate taxes (on a cash basis) as and when due. Furthermore, the term "real estate taxes" shall also mean any taxes based upon the value of the Shopping Center, including, without limitation, the value of the Shopping Center as part of the "net worth" or value of the Landlord's assets as a component of any franchise tax.

Section 4.2 Tenant's Tax Payment. Tenant shall pay to Landlord on the first day of each calendar month, one-twelfth (1/12th) of the amount of Tenant's annual real estate tax liability as estimated by Landlord from time to time during the Lease Term. Tenant shall initially pay to Landlord with each month's regular rent the sum of \$_____ which represents Landlord's initial estimate of Tenant's monthly pro rata portion of all such real estate taxes. Should the taxing authorities include in such real estate taxes, machinery, equipment, fixtures,

inventory or other personal property or assets of Tenant, then Tenant shall also pay the entire real estate taxes for such items. A year end adjustment shall be made in accordance with Article VII of this Lease.

Section 4.3 Rent Tax. If there is presently in effect or hereafter adopted any nature of sales tax or use tax or other tax on rents or other sums received by Landlord under this Lease (herein referred to as "Rent Sales Tax"), then in addition to all rent and other payments to be made by Tenant as provided above, Tenant shall also pay Landlord a sum equal to the amount of such Rent Sales Tax. The term "Rent Sales Tax" shall not include any income taxes applicable to Landlord.

ARTICLE V

Landlord's Insurance

Section 5.1 Insurance. Landlord may procure and maintain insurance covering fire and such other risks as are from time to time included in standard extended coverage endorsements, insuring in an amount, after completion of construction, of not less than eighty percent (80%) of the full insurable value or such greater coverage as may be required by Landlord's mortgage. If the insurance policies maintained by Landlord with respect to the Shopping Center contain any nature of deductible feature, then Tenant, in the event of a loss to the Demised Premises, shall pay to Landlord Tenant's proportionate share thereof based upon the amount of such deductible feature multiplied by a fraction, the numerator of which is the total number of square feet comprising the Demised Premises and the denominator of which is the aggregate number of square feet of the total floor area leased to all tenants in the Shopping Center. Tenant's pro rata share of such deductible amount shall be payable to Landlord within ten (10) days following receipt from Landlord of a statement therefor and payment thereof by Tenant shall be a condition precedent to Landlord's obligations to repair or restore the Demised Premises.

Section 5.2 Tenant's Insurance Payment. On the first day of each month during the Term, Tenant shall pay to Landlord as additional rent in advance, the sum of \$_____, which represents 1/12th of Landlord's initial estimate of Tenant's pro-rata share of such annual insurance premium. Landlord may adjust this estimate from time to time during the term of this Lease. A year end adjustment shall be made in accordance with Article VII of this Lease.

ARTICLE VI

Common Areas

Section 6.1 Common Areas. Landlord hereby grants to Tenant, during the Term of this Lease, the nonexclusive right to use, in common with all others so entitled, the Common Areas of the Shopping Center. As used herein, the term "Common Areas" shall mean and include all areas, facilities and improvements provided from time to time for the general, common or joint use on a non-exclusive basis by Landlord and the tenants of the Shopping Center, including, without limitation, all parking spaces and areas, pedestrian sidewalks, driveways, curbing, retaining walls, truckways, access roads, ramps, loading docks, delivery areas, storm and sanitary sewer systems, signs, music program service, if any, landscaped and vacant areas and lighting facilities, including all utilities serving the same, whether located within or outside of the Shopping Center property, except as may be otherwise designated by Landlord for the exclusive use of any tenant. The Common Areas shall be subject to the exclusive control and management of Landlord and to such rules and regulations as Landlord may from time to time, adopt. Tenant shall refrain from doing any act which interferes with Landlord's exclusive control and management of the Common Area or with the use of Common Area by others. Landlord hereby reserves the right at any time or from time to time to: (a) change the areas, locations and arrangement of parking areas and other Common Areas; (b) enter into, modify and terminate easements and other agreements pertaining to the maintenance and use of the parking areas and other Common Areas; (c) close any or all portions of the Common Areas to such extent and from such time as may, in the sole discretion of Landlord's counsel, be legally necessary to prevent a dedication thereof

or the accrual of any rights to any person or to the public therein; (d) close temporarily, if necessary, any part of the Common Areas in order to discourage non-customer parking; (e) make changes, additions, deletions, alterations or improvements in and to such Common Areas, provided that there shall be no unreasonable obstruction of Tenant's right of ingress to or egress from the Demised Premises; and (f) adopt reasonable rules and regulations by which Tenant shall abide relating to the use of the Common Areas. Nothing contained herein shall be deemed to be a warranty, representation or agreement by Landlord that the Shopping Center will be, or will continue to be as indicated on *Exhibit A* without change. Landlord may demolish buildings and improvements, build additional buildings, add additional floors, change the layout and otherwise change or reduce the Shopping Center buildings, the parking areas or Common Areas at any time, as Landlord deems necessary or desirable.

Section 6.2 Landlord's Obligations. Landlord shall maintain the Common Areas in good repair, reasonably clear of debris and keep the Common Areas lit and open until _____ p.m. of each business day.

Section 6.3 Common Area Maintenance. In addition to the monthly rental payable by Tenant pursuant to Article III hereof, Tenant shall, throughout the Term hereof, be responsible for its proportionate share of all Common Area Maintenance Expenses (as defined herein) incurred in maintaining and operating the Common Areas. As used herein, the term "Common Area Maintenance Expenses" shall mean, for each calendar year (or portion thereof) during the Term of this Lease, the aggregate of all costs, expenses and liabilities of every kind or nature paid or incurred by Landlord (to the extent that Landlord, in its good faith judgment, regards it as reasonably necessary or appropriate to provide the services and materials hereafter referred to and to pay and incur the costs, expenses and liabilities hereafter referred to) in connection with sweeping, cleaning, removing debris from, maintaining, restriping and repairing the Common Area; lighting the Common Area (including replacement of bulbs and ballasts, and painting, repairing and maintaining of light standards); providing project identification signs; providing signs, equipment and/or personnel for assisting in traffic control and management at the Common Area (including a shuttle service if applicable); constructing, operating and repairing and maintaining any on-site or off-site utilities necessary or appropriate for the operation of the Common Area; providing and maintaining planting and landscaping with respect to the Common Area; providing security services with respect to the Common Area; operating any loudspeakers or other equipment supplying music; utilities charges for any services to the Common Area; repairing and maintaining the roof of the Demised Premises and the building of which they are a part (including repairs to provide for adequate drainage and to gutters and downspouts) all sums payable by the owner of the Shopping Center under any declaration of covenants, easements, agreements or operating agreements attributable to the Shopping Center; repairing and maintaining the structural portions of the Demised Premises and the building of which they are a part; repairing and maintaining utility lines located in the Common Area which do not exclusively serve one tenant in the Shopping Center; exterminating and pest control in and about the Demised Premises and Shopping Center; periodic repainting of exterior walls of the buildings comprising a portion of the Shopping Center (including steam cleaning or sandblasting thereof or other graffiti-removal procedures); repairing and maintaining overhead canopies at the Shopping Center (including, without limitation, lighting and tile); repairing and maintaining sprinklers and sprinkler-risers serving the Demised Premises and the building of which they are a part; repairing and maintaining sidewalks in the Common Area (including, without limitation, periodic steam cleaning thereof); plus all other costs and expenses of every kind or nature paid or incurred by Landlord relative to operating, managing and equipping the Common Area including, without limitation, subdivision maintenance fees or dues; property owners association fees or dues and similar charges, annual charges for reserves established by Landlord for future replacements or improvements to the Common Area (inclusive of periodic new blacktopping of the parking areas and major roof repairs and major structural repairs) plus any management fee paid or incurred by Landlord. The phrase "Common Area Payment" shall refer to the Tenant's Share (as hereinafter defined) of the Common Area Maintenance Expenses to be paid by Tenant pursuant to Section 6.4 below.

Section 6.4 Common Area Payment. During the Term, Tenant shall pay to Landlord in advance on the first day of each month, amount equal to 1/12th of Tenant's pro rata share of the annual "Common Area Maintenance Expenses" for the Shopping Center as estimated from time to time by Landlord. Landlord's initial estimate of Tenant's pro-rata share is \$_____ per month. A year end adjustment shall be made in accordance with Article VII of this Lease.

Section 6.5 **Parking.** Tenant shall cause its employees to park only in the areas of the parking lot situated on the Shopping Center provided from time to time and designated by Landlord for employee parking. Within ten (10) days after a request by Landlord, Tenant shall deliver to Landlord a list of Tenant's and its employees' automobiles, which such list shall set forth the description of and the license numbers assigned to such automobiles and their state of issue. If Tenant or its employees fail to park their cars in the designated parking areas, after giving notice to Tenant, Landlord shall have the right to charge Tenant as additional rental Ten Dollars (\$10.00) per day per car parked in any parking area other than those designated. Tenant agrees to indemnify and hold Landlord harmless from all claims, suits, actions, damages, liability and claims (including all costs and expenses of defending against the same) arising out of the violation by Tenant's employees of this paragraph.

Section 6.6 **Rules and Regulations.** Landlord shall have the right, from time to time, to establish, modify and enforce rules and regulations with respect to the Shopping Center. Landlord shall have no duty or obligation to prevent or to attempt to prevent or to terminate any usage of the Common Area or any other portion of the Shopping Center by picketers, protesters, public action groups or other persons advocating any cause, whether or not such usage is permitted under the Constitution and laws of the United States or the State of _____ or other laws. Tenant will at all times keep all merchandise and display within the Demised Premises and will not at any time display any merchandise or offer it for sale or (other than during essential loading or unloading operations within the areas designated for the same) permit it to be on adjacent sidewalks or at any other point outside the Demised Premises, nor will Tenant in any other way use or obstruct such sidewalks or other area outside the Demised Premises. Tenant will not load or unload any trucks or permit any trucks serving the Demised Premises, whether owned by Tenant or not, to be loaded or unloaded in the Shopping Center except in the area specifically designated for such use by Landlord.

ARTICLE VII

Adjustment(s) to Tenant's Monthly Payment for Property Taxes, Insurance and Common Area Maintenance

Section 7.1 **Adjustments.** Any provisions in Articles IV (Real Estate Taxes), V (Landlord's Insurance) and VI (Common Areas) of the Lease to the contrary notwithstanding, Tenant's estimated monthly payments for Taxes, and Common Area Maintenance may, from time to time, be adjusted up or down based on Landlord's then most current estimate of said charge(s) and upon thirty (30) days prior written notice from Landlord to Tenant. During the Term of this Lease if Landlord's then most current estimate shows that the total of Tenant's payments pursuant to paragraphs IV, V and VI above, is less than or greater than such actual cost(s) incurred by Landlord since Landlord's previous estimate then the deficit or the excess, as the case may be, shall be credited or debited to the rental next coming due.

If the Term of this Lease shall begin or end other than on the first day or last day of the applicable premium year, these charges shall be billed and adjusted on the basis of such fractional year.

ARTICLE VIII

Use of the Demised Premises

Section 8.1 **Permitted Use.** Subject to the Exclusive Uses set forth in *Exhibit C* and the other restricted uses set forth herein, Tenant shall operate its business in the Demised Premises during the Term of this Lease for the purpose of _____, and for no other purpose without Landlord's prior written consent. Such store will be operated solely under the tradename _____ (the "Tradename").

Section 8.2 **Operating Covenant.** Tenant shall promptly install its leasehold improvements and will be open for business on or before the Commencement Date, and Tenant shall not thereafter abandon or leave vacant the

Demised Premises, and shall not permit the license or occupancy of the Demised Premises by any party other than Tenant, its agents, employees and invites, and shall:

- (a) Conduct no auction, fire, going-out-of-business or bankruptcy sales or similar practice.
- (b) Display no merchandise outside the Demised Premises nor in any way obstruct the adjacent sidewalks; and, store all trash and refuse in appropriate containers within the Demised Premises and attend to the daily disposal thereof in the manner designated by Landlord. Tenant shall not burn any trash or rubbish in or about the Demised Premises or anywhere else within the confines of the Shopping Center.
- (c) Load or unload all merchandise, supplies, fixtures, equipment and furniture and cause the collection of rubbish only through the rear service door or doors (unless no such door is provided) of the Demised Premises, from 9:00 a.m. until 10:00 p.m. Normal delivery service to customers may be made through the front entrance.
- (d) Keep the Demised Premises in a careful, safe, clean and proper manner; and not permit any rubbish or refuse of any nature emanating from the Demised Premises to accumulate in the sidewalk areas or rear delivery area(s).
- (e) Not solicit business in the Common Areas or distribute any handbills or other advertising matter in the Common Areas.
- (f) Prevent the Demised Premises from being used in any way which will injure the reputation of the same or the Shopping Center upon which the Demised Premises constitute a part or from being used in any way which may be a nuisance, annoyance, inconvenience or damaging or inimical to the other tenants or occupants of the Shopping Center, including, without limiting the generality of the foregoing, the operation of any instrument or apparatus or equipment or the carrying on of any trade or occupation which emits an odor discernible outside of the Demised Premises or which may be deemed offensive in nature or noise by the playing of any musical instrument or radio or television or the use of a microphone, loud speaker, electrical equipment or other equipment which may be heard outside of the Demised Premises.
- (g) Abide by all reasonable rules and regulations established by Landlord, from time to time, with respect to the Common Areas, facilities, improvements and sidewalks.
- (h) Keep the Demised Premises continuously and uninterruptedly open for business and adequately staffed during all usual business hours, but not less than the hours of ____ o'clock a.m. until ____ o'clock p.m. Monday through Saturday and from ____ o'clock a.m. until ____ o'clock p.m. on Sunday, and use the Demised Premises for the purposes set forth above.
- (i) Carry in the Demised Premises a full and complete stock of seasonable merchandise offered for sale at competitive prices and maintain adequate equipment and personnel for the efficient service of its customers, and in general, employ its best judgment, efforts and abilities to operate the business conducted in the Demised Premises in a manner calculated to produce the maximum volume of sales obtainable.
- (j) Promptly comply with all laws, ordinances, orders, rules, regulations and requirements of federal, state, county and city governments regulating the use and occupancy of the Demised Premises.
- (k) Install no signs in or upon the Demised Premises or on the Shopping Center property without the prior written consent of Landlord. Any signs allowed by Landlord shall comply with the "sign criteria" as shown on the attached *Exhibit D*.
- (l) Not use, occupy, suffer or permit the Demised Premises or any part thereof to be used or occupied for any purpose contrary to law or the rules or regulations of any public authority or the requirements of any

insurance underwriters or rating bureaus or in any manner so as to increase the cost of insurance to Landlord over and above the normal cost of such insurance for the use above permitted for the type and location of the building of which the Demised Premises are a part. Tenant shall, on demand, reimburse Landlord for all extra premiums (as with typical retail uses within the Shopping Center) caused by Tenant's use of the Demised Premises, whether or not Landlord has consented to such use. Nothing contained herein shall permit a use other than the use hereinbefore provided. Tenant shall promptly comply with all present and future laws, regulations or rules of any county, state, federal and other governmental authority and any bureau and department thereof, and of the National Board of Fire Underwriters or any other body exercising similar function which may be applicable to the Demised Premises. If Tenant shall install any electrical equipment that overloads the lines in the Demised Premises, Tenant shall make whatever changes are necessary to comply with the requirements of the insurance underwriters and governmental authorities having jurisdiction thereover.

(m) All articles, merchandise, displays, decorations or the like and the arrangement, style, color, and general appearance thereof, in the interior of the Demised Premises which shall be visible from the exterior thereof, including, without limitation, window displays, advertising matter, signs, merchandise, and store fixtures, shall be maintained in such a manner as not to detract from the character and standards of the Shopping Center.

Section 8.3 Failure to Open or to Conduct Business. The parties covenant and agree that because of the difficulty or impossibility of determining Landlord's damages by way of loss of the anticipated Percentage Rent from Tenant and other tenants or occupants in the whole Shopping Center, or by way of loss of value in the property because of adverse publicity or appearances by Tenant's actions, should Tenant at any time (i) fail to take possession of the Demised Premises, and open for business, as provided herein, or thereafter (ii) vacate, abandon or desert the Demised Premises or cease operating its business therein, then, in any such event, if Landlord does not terminate this Lease, Landlord shall have, in addition to all other remedies available to Landlord the right to collect not only the Minimum Rent and additional rent, but also additional rent at the rate of \$500.00 per day, for each and every day the Demised Premises and Tenant's business therein are not continuously and uninterruptedly operated by Tenant. Such per diem amount shall be deemed to be liquidated damages in lieu of Percentage Rent that might have been earned by Landlord during such period and Landlord shall have the right to treat any of the events mentioned in (i) and (ii) of this Section 8.3 as a default within the meaning of Section 17.1 hereof. As used above the terms "vacate, abandon or desert" shall not be defeated because Tenant may have left all or any part of its fixtures or other personal property in the Demised Premises.

Section 8.4 Environmental Compliance. Tenant and its agents and employees shall use the Demised Premises and conduct any operations therein in compliance with all applicable federal, state, and local environmental statutes, regulations, ordinances and any permits, approvals or judicial or administrative orders issued thereunder. Tenant covenants that:

(a) No Hazardous Substances shall be generated, treated, stored or disposed of, or otherwise deposited in or located on the Demised Premises, including without limitation, the surface and subsurface waters of the Demised Premises;

(b) No activity shall be undertaken in the Demised Premises which would cause:

(i) the Shopping Center or the Demised Premises to become a hazardous waste treatment, storage or disposal facility within the meaning of, or otherwise cause the Demised Premises to be in violation of the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901, et. seq., or any similar state law or local ordinance;

(ii) a release or threatened release from any source in the Demised Premises or the Shopping Center of Hazardous Substances from the Demised Premises within the meaning of, or otherwise cause the Demised Premises to be in violation of, the Comprehensive Environmental Response Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. Section 9601, et. seq., or any similar law or local ordinance or any other environmental law; or

(iii) the discharge of pollutants or effluents into any water source or system, or the discharge into the air of any pollution emissions, which would require a permit under the Federal Water Pollution Control Act (“FWPCA”), 33 U.S.C. Section 1251, et. seq., or the Clean Air Act (“CAA”), 42 U.S.C. Section 7401, et. seq., or any similar state law or local ordinance;

(c) There shall be no substances or conditions in or on the Demised Premises which may support a claim or cause of action under RCRA, CERCLA, any other federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements or under any common law claim relating to environmental matters, or could result in recovery by any governmental or private party or remedial or removal costs, natural resources damages, property damages, damages in personal injuries or other costs, expenses or damages, or could result in injunctive relief arising from any alleged injury or threat of injury to health, safety, or the environmental; and

(d) There shall be no storage tanks or release or threatened releases from such tanks located on the Demised Premises.

For purposes of this Lease, “Hazardous Substances” shall mean any and all hazardous or toxic substances, hazardous constituents, contaminants, wastes, pollutants or petroleum (including without limitation crude oil or any fraction thereof), including without limitation hazardous or toxic substances, pollutants and/or contaminants as such terms are defined in CERCLA or RCRA; asbestos or material containing asbestos; petroleum products and PCBs, PCB articles, PCB containers PCB N277.

Tenant shall indemnify and hold Landlord harmless for any cost, loss or liability it incurs as a result of the foregoing.

ARTICLE IX

Tenant’s Installations and Alterations

Section 9.1 **Installation.** Tenant shall, at Tenant’s sole cost and expense, at all times during the Term of this Lease, keep the Demised Premises equipped with all trade fixtures, equipment, furnishings, furniture, fixtures, floor coverings, carpeting and exterior signs and all other equipment and personal property necessary for the operation of Tenant’s business in the Demised Premises. All fixtures installed by Tenant shall be new or completely reconditioned. Subject to the lien and security interest and other rights of Landlord, all “Removable Trade Fixtures”, as hereinafter defined, shall remain the property of Tenant and, upon expiration or earlier termination of the Term Tenant shall remove Removable Trade Fixtures (excluding, however, ducts, conduits, wiring, pipes, paneling or other wall covering or floor covering), and, in addition to other applicable provisions of this Lease regarding such removal, the following shall apply: (1) such removal must be made prior to the expiration or earlier termination of this Lease; (2) Tenant must not be in default of any obligation or covenant under this Lease at the time of such removal; and (3) such removal must be effected without damage to the Demised Premises or the building of which the Demised Premises are a part and Tenant must promptly repair all damage caused by such removal. For the purposes hereof, the phrase “Removable Trade Fixtures” means the following: all of Tenant’s signs, tables, chairs, desks, racks, merchandisers and displayers, standards, wall brackets, hang-rods, shelves, mirrors, marking equipment, cash registers and other business machines. Prior to commencing any construction work, alterations, remodeling or the installation of any equipment other than trade fixtures in the Demised Premises, Tenant shall submit to Landlord plans and specifications of any such proposed construction work. Landlord shall have fifteen (15) days after receipt of such plans and specifications to approve or disapprove the same.

Section 9.2 **Alterations.** Tenant shall not make or permit to be made any alterations, improvements, and/or additions of any kind or nature to the Demised Premises or any part thereof except by and with the prior written consent of Landlord, which consent shall not be unreasonably withheld. Tenant further will not, except for the installation of fixtures as part of Tenant’s Work, cut or drill into or secure any fixture, apparatus, or equipment of

any kind to any part of the Demised Premises without first obtaining Landlord's consent. In the event Tenant requests Landlord's consent as required herein, Tenant shall submit plans and specifications for such alterations to Landlord for approval. Tenant will not paint or decorate any part of the exterior of the Demised Premises, or any part of the interior visible from the exterior thereof, without first obtaining Landlord's written approval.

All alterations, improvements and additions to the Demised Premises shall be made in accordance with all applicable laws and shall, when made or installed, be deemed to have attached to the freehold and to have become the property of Landlord and shall remain for the benefit of Landlord at the expiration or earlier termination of this Lease; provided however, if prior to the expiration or earlier termination of this Lease, or within fifteen (15) days thereafter, if Landlord so directs, Tenant shall promptly remove the additions, improvements, fixtures and installations which were placed in, upon or on the Demised Premises by Tenant and which are designated in said notice and shall repair any damage occasioned by such removal and in default thereof, Landlord may effect said removals and repairs at Tenant's expense. In the event of making such alterations, improvements and/or additions as herein provided, Tenant does hereby indemnify and save harmless Landlord from all expense, liens, claims or damages to either person or property arising out of, or resulting from the undertaking or making of such alterations, improvements and/or additions.

Section 9.3 Personal Property. All Tenant's personal property of every kind or description which may at any time be in the Demised Premises shall be at Tenant's sole risk, or at the risk of those claiming under Tenant. It shall be the responsibility of Tenant to maintain sufficient contents insurance coverage to protect its interests.

Section 9.4 Taxes. Tenant shall pay before delinquency all taxes assessed against Tenant's fixtures, furnishings, leasehold improvements, equipment and stock-in-trade placed in or on the Demised Premises. Any such taxes paid by Landlord shall become due and payable by Tenant within ten (10) days after written notice from Landlord.

Section 9.5 Mechanics Lien. Tenant shall not permit to be created nor to remain undischarged any lien, encumbrance or charge arising out of any work of any contractor, mechanic, laborer or materialman which might be or become a lien, encumbrance or charge upon the Demised Premises or the Shopping Center of which the Demised Premises are a part or the income therefrom; and, Tenant shall not suffer any other matter or thing whereby the estate, right and interest of Landlord in the Demised Premises or in the Shopping Center of which the Demised Premises are part might be impaired. If any lien or notice of lien on account of an alleged debt of Tenant or any notice of contract by a party engaged by Tenant or Tenant's contractor to work in the Demised Premises shall be filed against the Demised Premises or the Shopping Center of which the Demised Premises are a part, Tenant shall, within ten (10) days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise and the failure of Tenant to do so shall immediately entitle Landlord to (i) all its remedies in the Event of Default, and (ii) in addition to any other right or remedy of Landlord, Landlord may discharge the same by paying the amount claimed to be due, and the amount so paid by Landlord, together with interest thereon at the Default Rate, and all costs and expenses, including reasonable attorneys' fees incurred by Landlord in procuring the discharge of such lien, shall be due and payable by Tenant to Landlord as additional rent on the first day of the next following month.

ARTICLE X

Maintenance of the Demised Premises

Section 10.1 Landlord's Maintenance Obligations. Landlord shall keep and maintain the roof over the Demised Premises and the structural portions of the Demised Premises in good repair, provided that Tenant shall give Landlord prior notice of the necessity for such repairs and further provided, that any damage thereto shall not have been caused by any act or negligence of Tenant, its employees, agents, invitees, subtenants, assignees or contractors in which event the cost of the repair of such damage shall be borne solely by Tenant. For purposes of this Section 10.1, "structural portions" of the Demised Premises shall consist only of the foundation and members

supporting the roof but shall not include, by way of example, all interior partition walls, the interior side of the building perimeter walls, all doors, molding, window frames, trims, door frames and plate glass. Landlord shall be responsible only for the cost of making repairs required of it hereunder and shall not be liable for any special or other damages related thereto. Landlord shall be responsible only for maintenance, repairs or improvements specifically provided for herein by Landlord. Tenant shall promptly give Landlord written notice of any damage to the Demised Premises requiring repair by Landlord. Landlord shall not be liable for any damages resulting from its failure to make repairs, unless such failure continues beyond a reasonable time after receipt of notice of the necessity for such repairs. In no event shall Landlord be liable for any damages resulting from any damage which Landlord is required to repair. Except as expressly set out in this Lease, Landlord shall have no obligation to repair, maintain, alter, replace, or modify the Demised Premises or any part thereof, or any plumbing, heating, electrical, air conditioning, or other mechanical installation therein, or serving same.

Section 10.2 Tenant's Maintenance Obligations. Tenant shall keep and maintain in good order, condition and repair (which repair shall mean replacement if necessary) the Demised Premises and every part thereof, except as hereinbefore provided as Landlord's maintenance responsibility, including, without limitation, the exterior and interior portions of all doors, door checks, security gates, windows, glass, utility facilities, plumbing and sewage facilities within the Demised Premises or under the floor slab including free flow up to the main sewer line; all heating and air-conditioning equipment and apparatus including exterior mechanical equipment; exterior utility facilities and exterior electrical equipment serving the Demised Premises; and, all plate glass, interior walls, floors and ceilings, including interior painting; and shall at all times comply with applicable building codes. Tenant shall contract for, in its own name, and shall pay for (a) a qualified service contractor to inspect, adjust, clean and repair heating, ventilating and air conditioning equipment, including changing filters on a semi-annual basis, and (b) a qualified service contractor to render pest control services to the Demised Premises. All such service contractors shall be subject to the prior written approval of Landlord. If Tenant refuses or neglects to commence or complete any of the obligations above set forth promptly and adequately after written notice from Landlord, or in the event of an emergency, after whatever notice is reasonable under the circumstances, if any, Landlord may, but shall not be required to do so, make or complete said maintenance or repairs and Tenant shall pay the cost thereof to Landlord upon demand. For the purposes of this Section, an "emergency" shall be deemed to exist if, in the good faith judgment of Landlord, prompt action is needed in order to prevent death, bodily injury or property damage. If Landlord makes any such repairs, performs any such maintenance, or provides any such renewal or replacement, or undertakes to do so (or engages any third party contractors to do so), then Landlord shall not be liable to Tenant for (and Tenant shall indemnify and hold Landlord harmless with respect to) all loss or damage that may occur to Tenant's merchandise, fixtures or other property or to Tenant's business incident to such action by Landlord.

Section 10.3 Landlord's Access. Tenant shall permit Landlord or Landlord's agents to inspect or examine the Demised Premises at any reasonable time and shall permit Landlord to make such repairs, alterations, improvements or additions in the Demised Premises or to the building of which the Demised Premises is a part, that Landlord may deem desirable or necessary or which Tenant has covenanted herein to do, without the same being construed as an eviction of Tenant in whole or in part, and the rent shall in no manner abate while such repairs, alterations, improvements or additions are being made by reason of loss or interruption of the business of Tenant because of the prosecution of such work. Landlord shall have the right during the last one hundred eighty (180) days of the term or any extensions of this Lease to enter upon and display in or upon the Demised Premises "For Rent", "For Sale" or other signs advertising the Demised Premises for lease or sale. Furthermore, Landlord shall, at any time, during regular business hours of Tenant, have the right to enter upon and show the Demised Premises to any prospective purchaser or tenant of the Shopping Center.

ARTICLE XI

Insurance and Indemnity

Section 11.1 Tenant's Insurance. Tenant will take out and maintain, at its own cost and expense, commercial general liability insurance coverage in a minimum amount of \$3,000,000.00 combined single limit, which

commercial general liability policy shall include (i) coverage for bodily injury and death, property damage and products liability coverage; (ii) contractual liability coverage insuring the obligations of Tenant under the terms of this Lease; and (iii) fire legal liability coverage with respect to the Demised Premises and the building of which they are a part in the amount of at least \$3,000,000.00. Such policy shall name Landlord (and any of its affiliates, subsidiaries, successors and assigns designated by Landlord) and Tenant as additional insureds. All such insurance required to be maintained by Tenant shall be with an insurance company satisfactory to Landlord, and Tenant shall provide Landlord with copies or certificates of all policies required herein, including an endorsement providing that such insurance shall not be canceled or not renewed except after fifteen (15) days notice in writing to Landlord. Should Tenant fail to furnish such policies as hereinabove provided, Landlord may obtain such insurance and the premiums for such insurance shall be deemed additional rent paid by Tenant to Landlord on demand. To the extent that Tenant fails to take out or to maintain the aforesaid insurance policy, such failure shall be a defense to any claim asserted by Tenant against Landlord by reason of any loss sustained by Tenant due to fire or other casualty, notwithstanding that such loss might have been caused by the negligence of Landlord. Tenant shall be responsible for the safety and personal well-being of Tenant's employees, both within the Demised Premises and in the Common Area. Tenant agrees that Landlord shall not be responsible or liable to Tenant or those claiming under Tenant (including, without limitation, Tenant's agents, servants, employees, customers and invitees) for injury, death or damage or loss occasioned by the acts or omissions of persons occupying any other part of the Shopping Center or occasioned by the property of any other occupant of any part of the Shopping Center or the acts or omissions of any other person or persons present at the Shopping Center who are not occupants of any part thereof, whether or not such persons are present with the knowledge or consent of Landlord; and Tenant agrees to indemnify and hold Landlord.

If Tenant is engaged in any way in the sale of alcoholic beverages, either for consumption of alcoholic beverages on or off the Demised Premises, Tenant will also maintain liquor liability insurance with the limits of not less than \$2,000,000.00 each common cause and \$3,000,000.00 aggregate. If written on a separate policy from the commercial general liability policy, such policy shall name Landlord (and any of its affiliates, subsidiaries, successors and assigns designated by Landlord) as an additional insured. Such policy shall contain a cross liability endorsement or severability provision.

Section 11.2 Indemnification Obligations. Tenant does hereby protect, indemnify and save harmless Landlord forever against and from: (i) any penalty, damage or charges imposed for any violation of any laws or ordinances occurring on or about the Demised Premises during the term hereof, or related to Tenant's use thereof, whether occasioned by acts of Tenant or of others; (ii) any and all claims, loss, costs, damages or expenses arising during the term hereof out of or from any accident or other occurrence in, or about the Demised Premises causing injury to any person or property whomsoever or whatsoever; and (iii) any and all claims, loss, cost, damage or expense, including attorneys' fees, arising out of any failure of Tenant in any respect to comply with or perform all of the requirements and provisions of this Lease. Tenant assumes responsibility for the condition of the Demised Premises and agrees to give Landlord written notice in the event of any damage, defect or disrepair therein. Tenant (i) agrees to use and to occupy the Demised Premises and to place its fixtures, equipment, merchandise and other property therein at its own risk and (ii) hereby releases Landlord and its agents from all claims for any damage or injury to Tenant's equipment, merchandise and other property placed by it in the Demised Premises to the full extent permitted by law. Tenant's obligations pursuant to this Section 11.2 shall survive any termination of this Lease with respect to any acts, omissions and/or occurrences which took place prior to such termination.

Section 11.3 Waiver of Subrogation. Each party to this Lease shall require each of the insurers under policies of insurance which such party procures or maintains in relation to the Demised Premises or the contents thereof to waive in writing any and all rights of subrogation which such insurer might otherwise have against the other party to this Lease or its agents or employees. The parties hereto do hereby waive any and all right of recovery against each other for losses covered by such policies, providing the insurance companies issuing same shall waive subrogation rights. Notwithstanding the foregoing provisions of this Section, neither party shall be liable for any injuries, loss, liability, expense, claim or damage to the other's property or interest in respect to which and to the extent that said property or interest is covered by insurance, whether such loss or damage be occasioned by the negligence of such party, its servants, agents, employees or otherwise, unless same shall invalidate any insurance policy affecting the

Demised Premises or the Shopping Center. Tenant or Landlord, as the case may be, shall give the other written notice that such a waiver of subrogation is not available from its insurers.

Notwithstanding any contrary provisions contained in this Section, this Section shall not apply to relieve Tenant of its obligation to repair, at Tenant's cost and expense, as required by any other sections of this Lease.

ARTICLE XII

Destruction and Restoration

Section 12.1 Landlord's Option to Terminate. In the event the Demised Premises or the building of which the Demised Premises constitute a part shall be damaged or destroyed by fire or other casualty to the extent that the cost of repairing or replacing the same will exceed twenty five percent (25%) of the then replacement value thereof, then Landlord may, at its option, within thirty (30) days after the issuance of the proof of loss by the insurance company insuring the building, terminate this Lease upon written notice to Tenant, in which event this Lease shall be deemed terminated.

Section 12.2 Restoration. In the event the Demised Premises or the building of which the Demised Premises constitute a part shall be partially damaged or destroyed by fire or other casualty to the extent that the cost of repairing or replacing the same will be equal to or less than twenty five percent (25%) of the then replacement value thereof, or in the event Landlord does not elect to terminate this Lease as provided herein and provided the damage or destruction was not caused by the negligent acts or omissions of Tenant, then Landlord shall repair the damage with reasonable dispatch after notice of such casualty; provided, however, Landlord's obligation to repair or restore shall be limited to restoring the structural portions of the Demised Premises and shall not include repairs or the restoration of any of Tenant's fixtures, improvements or other alterations made by Tenant in or upon the Demised Premises; provided, further, however, in the event such damage or destruction occurs during the last year of the term hereof, Landlord shall have the option to terminate this Lease upon written notice to Tenant given at any time before ninety (90) days after the issuance of the proof of loss by the insurance company insuring the building. In the event such repair or restoration cannot be completed within one hundred eighty (180) days from the date of such casualty subject to delays caused by governmental restrictions, strikes, lockouts, shortages of labor or material, acts of God, war or civil commotion, fire, unavoidable casualty, inclement weather or any other cause beyond the control of Landlord and provided the repair or restoration is not caused by the acts or omissions of Tenant and provided Tenant is not in default of this Lease, Tenant may by written notice to Landlord, terminate this Lease and its obligations hereunder. Notwithstanding anything provided herein to the contrary, Landlord's obligation to repair or rebuild shall be limited to the amount of the fire insurance proceeds received by Landlord (less any costs incurred by Landlord in collecting the same) in the event of any such casualty. In the event the fire insurance proceeds received by Landlord (less any costs incurred by Landlord in collecting the same) are insufficient to rebuild the Shopping Center and the Demised Premises, to their condition as they existed immediately prior to such casualty, then Landlord shall have the option to terminate the Lease upon notice to Tenant within ninety (90) days after Landlord's receipt of the entire net insurance proceeds payable with respect to such fire or casualty.

Section 12.3 Termination. In the event this Lease is terminated in the manner set forth above, the rentals, including additional rentals, shall be apportioned to the time of such casualty. In the event this Lease is not terminated and Landlord elects to restore or repair the Demised Premises, then the rental payable by Tenant as provided in Article III above shall be equitably abated based on the square footage in the Demised Premises which are usable, until such time as the damage to the Demised Premises has been repaired; provided, in no event shall there be any abatement of the payment of additional rent as provided in Article IV (with respect to real estate taxes), Article V (with respect to insurance), or Article VI (with respect to Common Area Maintenance Expenses).

Section 12.4 Damage to the Shopping Center. Notwithstanding that the Demised Premises may not be destroyed or damaged by fire or other risk, in the event that other buildings containing twenty five percent (25%) or more of the ground floor building area of the Shopping Center shall be damaged or destroyed by fire or other risk,

whether or not covered by Landlord's fire and extended coverage insurance, Landlord shall have the election to terminate this Lease or to continue this Lease in full force and effect, and Landlord will notify Tenant of Landlord's election within sixty (60) days after receipt of written notice by Landlord of such other damage or destruction.

Section 12.5 Rights of Mortgagee. Notwithstanding the foregoing, any obligation of Landlord to restore or repair and any application of insurance proceeds in connection therewith shall be subject to the prior rights of the holder of any mortgage which is a lien against the Demised Premises or the Shopping Center.

ARTICLE XIII

Eminent Domain

Section 13.1 Restoration. In the event that during the term of this Lease the Shopping Center of which the Demised Premises constitute a part or the Demised Premises are taken by condemnation or right of eminent domain, or by private purchase in lieu thereof, this Lease and the Term hereby granted shall terminate and expire on the date when possession shall be taken by the condemnor and the rent herein reserved shall be apportioned and paid in full to that date and all prepaid rent shall forthwith be repaid by Landlord to Tenant. In the event that less than all the Demised Premises or less than all the Shopping Center shall be so taken or condemned, then Landlord shall have the option, to be exercised by written notice given to Tenant not later than ninety (90) days after the date of such taking, to terminate this Lease. If a portion of the Demised Premises is taken which materially impairs the ability of Tenant to carry on its business, then Tenant shall have the right to cancel this Lease with a thirty (30) day written notice to Landlord given within thirty (30) days following such taking. Tenant shall have the right to terminate this Lease upon written notice to Landlord, within thirty (30) days following such taking, if Tenant's access to and from the Demised Premises shall be substantially diminished or should the parking area used by Tenant be materially diminished. The parties agree that a reduction of parking spaces by thirty percent (30%) or more shall be material but any reduction of less than thirty (30%) shall not be deemed material. In the event Landlord does not elect to cancel or terminate this Lease as provided above, then Landlord shall rebuild and restore the Demised Premises as nearly as possible to their condition immediately prior to any such taking and this Lease shall continue in full force and effect except that, during such restoration, the rent payable pursuant to Article III hereof shall be equitably apportioned in the proportion that the square footage of the part of the Demised Premises so taken bears to the total square footage of the Demised Premises immediately prior to such taking; provided, however, in no event shall there be any abatement of the payment of additional rent as provided in Article IV (with respect to real estate taxes), Article V (with respect to insurance), or Article VI (with respect to Common Area Maintenance expenses); provided, further, however, Landlord's obligation to restore or rebuild shall be limited to an amount which does not exceed the proceeds obtained from such taking (less expenses incurred in collecting the same). In the event the net condemnation award received by Landlord is insufficient to restore or rebuild the structural portions of the Shopping Center and the Demised Premises to their condition as they existed immediately prior to such taking, Landlord shall have the option, within ninety (90) days after Landlord's receipt of the net condemnation award, to cancel and terminate this Lease upon written notice to Tenant.

Section 13.2 Awards. All compensation awarded or paid upon any total or partial taking of the Demised Premises shall belong to and be the property of Landlord. However, any separate award for Tenant's leasehold improvements, trade fixtures, equipment and machinery installed on the Demised Premises by Tenant at Tenant's expense (and any award specified for Tenant's moving and relocation expenses) shall belong and be paid to Tenant provided all terms and conditions of this Lease have been complied with by Tenant. In the event of termination of the Lease under the terms hereof, Tenant shall have no claim against Landlord for the value of any unexpired term of the Lease and no right or claim to any part of the award on account thereof.

Section 13.3 Voluntary Conveyance. In the event that any authority having the power of eminent domain requests that Landlord convey to such authority all or any portion of the Shopping Center or all or any portion of the Demised Premises, Landlord shall have the right to make a voluntary conveyance to such authority of all or any portion of the Shopping Center or all or any portion of the Demised Premises whether or not proceedings have been

filed by such authority; and in the event of any such voluntary conveyance, it shall nevertheless for all purposes hereunder be deemed that there has been a taking by such authority of the property voluntarily conveyed by Landlord. Accordingly, all of the provisions of this Article shall be applicable notwithstanding such voluntary conveyance.

ARTICLE XIV

Property in the Demised Premises

Section 14.1 **Removal.** All leasehold improvements (other than Tenant's trade fixtures), such as light fixtures and heating and air conditioning equipment, shall, when installed, attach to the freehold and become and remain the property of Landlord. All store fixtures or trade fixtures, signs, and drapes, shall remain the property of Tenant, subject at all times to Landlord's lien for rent and other sums which may become due to Landlord under this Lease. It is specifically understood and agreed that Tenant shall be allowed to remove all such trade fixtures upon the expiration or earlier termination of this Lease, provided that Tenant is not in default in any of the terms and provisions of this Lease.

ARTICLE XV

Utilities

Section 15.1 **Services.** Tenant shall contract for, in its own name, and shall pay before delinquency, all utility services rendered or furnished to the Demised Premises, including heat, water, gas, electricity, fire protection, sewer rental, sewage treatment facilities and trash, refuse and rubbish removal, and the like, together with all taxes levied or other charges on such utilities and shall indemnify Landlord and hold it harmless against any liability or charges on account thereof. If any such service is provided by Landlord, whether under common area maintenance or otherwise then, at Landlord's request, Tenant shall contract with Landlord for such service.

Section 15.2 **Interruption.** No interruption or malfunction of any utility services (including, without limitation, interruption of such utilities as a result of the enactment or promulgation, regardless of the ultimate validity or enforceability thereof, of any federal, state or local law, statute, ordinance, decree, order, guideline or regulation now or hereafter enacted or promulgated by any governmental, quasi-governmental, regulatory or executive authority) shall constitute an eviction or disturbance of Tenant's use and possession of the Demised Premises or a breach by Landlord of any of its obligations hereunder or render Landlord liable for any damages (including, without limitation, consequential or special damages) or entitle Tenant to be relieved from any of its obligations hereunder (including the obligation to pay rent) or grant Tenant any right of off-set or recoupment. In the event of any such interruption of any such services, Landlord shall use reasonable diligence to restore such service in any circumstances in which such interruption is caused by Landlord's fault.

ARTICLE XVI

Assignment and Subletting

Section 16.1 **Prohibition.** Tenant shall not assign this Lease or sublease the Demised Premises or any part thereof or mortgage, pledge or hypothecate its leasehold interest or grant any concession or license within the Demised Premises or sublease any operating department therein, and any attempt to do any of the foregoing shall be void and of no effect. In the event of any such attempted assignment or attempted sublease or should Tenant, in any other nature of transaction, permit or attempt to permit anyone to occupy the Demised Premises (or any portion thereof), Landlord shall thereupon have the right and option (but no obligation) to cancel and to terminate this Lease effective upon fifteen (15) days notice to Tenant given by Landlord at any time thereafter either as to the entire

Demised Premises or as only the portion thereof which Tenant shall have attempted to assign or to sublease or otherwise permitted some other party's occupancy and if Landlord elects to cancel and to terminate this Lease as to the aforesaid portion of the Demised Premises, then the Minimum Rent (but no other charges) as to the remainder of the Demised Premises shall thereafter be proportionately reduced. This prohibition against assigning or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law.

Section 16.2 Change of Control. If Tenant is a corporation, then any transfer of this Lease from Tenant by merger, consolidation or dissolution or any change in ownership or power to vote a majority of the voting stock in Tenant outstanding at the time of execution of this instrument (or at any future time) shall constitute an assignment for the purpose of this Lease. For purposes of this Section, the term "voting stock" shall refer to shares of stock regularly entitled to vote for the election of directors of the corporation involved.

If Tenant is a general partnership having one or more corporations as partners or if Tenant is a limited partnership having one or more corporations as general partners, the provisions of the preceding paragraph shall apply to each of such corporations as if such corporation alone had been Tenant hereunder.

If Tenant is a general partnership, then the transfer of a majority of the partnership interest of Tenant as existing at the time of execution of this instrument shall constitute an assignment for the purpose of this Lease (or at any future time). If Tenant is a limited partnership, then the assignment of all or any portion of the interest of a general partner of Tenant shall constitute an assignment for the purpose of this Lease.

Section 16.3 No Release and Right to Collect Rent. In the event of any permitted assignment or sublease, Tenant shall remain fully and primarily liable for all obligations of Tenant hereunder. If this Lease is assigned or if the Demised Premises is subleased (whether in whole or in part) or in the event of the mortgage, pledge or hypothecation of the leasehold interest or grant of any concession or license within the Demised Premises or if the Demised Premises is occupied in whole or in part by anyone other than Tenant, Landlord may nevertheless collect rent from the assignee, sublessee, mortgagee, pledgee, party to whom the leasehold interest was hypothecated, concessionee or licensee or other occupant and apply the net amount collected to the rent payable hereunder, but no such transaction or collection of rent or application thereof by Landlord shall be deemed a waiver of these provisions or a release of Tenant from the further performance by Tenant of its covenants, duties and obligations hereunder.

Section 16.4 Excess Rent. In the event of any proposed assignment of this Lease or subletting (in whole or in part) of the Demised Premises or grant of any concession or license within the Demised Premises or allowance of any other nature of occupancy rights within the Demised Premises (any such assignment or subletting or grant of a license or concession or other occupancy rights being subject to the provisions of this Article), then notwithstanding that the prior express written permission of Landlord to any of the aforesaid transactions may have been obtained, if the rent due and payable by a sublessee under any such permitted sublease (or a combination of the rent payable under such sublease plus any bonus or other consideration therefor or incident thereto), such previously mentioned amounts payable to be determined on a per square foot basis, exceeds the hereinabove provided Minimum Rent payable under this Lease (determined on a per square foot basis) or if with respect to a permitted assignment, permitted license or other transfer by Tenant permitted by Landlord, the consideration (determined on a per square foot basis) payable to Tenant by the assignee, licensee or other transferee exceeds the Minimum Rent payable under this Lease (determined on a per square foot basis), then Tenant shall be bound and obligated to pay Landlord all such excess rental and other excess consideration within ten (10) days following receipt thereof by Tenant from such sublessee, assignee, licensee or other transferee, as the case might be. In addition to the foregoing, in the event of any proposed assignment of this Lease or subletting (in whole or in part) of the Demised Premises or grant of any concession or license within the Demised Premises or allowance of any other nature of occupancy rights within the Demised Premises (any such assignment or subletting or grant of a license or concession or other occupancy rights being subject to the provisions of this Article), then Tenant acknowledges that in addition to any other rights of Landlord set forth in this Lease or at law, as a condition to Landlord's granting such consent (if Landlord does, in fact, consent to any such proposed assignment, subletting, grant concession or other occupancy rights, it being acknowledged by Tenant that Landlord is under no obligation to so consent), Landlord may require an increase in

the Minimum Rent payable hereunder (on an annual basis for each year during the term hereof remaining after Landlord grants such consent) equal to the sum of (i) the annual Minimum Rent payable pursuant to the provisions of this Lease for the remainder of the term of this Lease plus (ii) the amount of Percentage Rent payable by Tenant pursuant to the terms of this Lease for the immediately preceding Lease Year (or if no such Percentage Rent was payable pursuant to the terms of this Lease for such immediately preceding Lease Year, then the amount of Percentage Rent payable for the last Lease Year for which such Percentage Rent was so payable).

ARTICLE XVII

Default by Tenant

Section 17.1 Events of Default. Upon the happening of any one or more of the events as expressed below in (a) through (h), inclusive (collectively referred to as “Events of Default” and individually referred to as an “Event of Default”), Landlord shall have any and all rights and remedies hereinafter set forth:

(a) In the event Tenant should fail to pay any one or more of said monthly installments of rent, or any other sums required to be paid hereunder, within ten (10) days of the date the same is due;

(b) In the event a petition in bankruptcy (including Chapter X and Chapter XI bankruptcy proceedings or any other reorganization proceedings under the Bankruptcy Act) be filed by or against Tenant and such petition is not dismissed within thirty (30) days from the filing thereof, or in the event Tenant is adjudged bankrupt;

(c) In the event an assignment for the benefit of creditors is made by Tenant;

(d) In the event of an appointment by any Court of a receiver or other Court officer of Tenant’s property and such receivership is not dismissed within thirty (30) days from such appointment;

(e) In the event Tenant removes, attempts to remove, or permits to be removed from the Demised Premises, except in the usual course of trade, the goods, furniture, effects or other property of Tenant brought thereon;

(f) In the event Tenant, before the expiration of said term, and without the prior written consent of Landlord, vacates the Demised Premises or abandons the possession thereof, or uses the same for purposes other than the purposes of which the same are hereby leased, or ceases to use the Demised Premises for the purposes herein expressed;

(g) In the event an execution or other legal process is levied upon the goods, furniture, effects or other property of Tenant brought on the Demised Premises, or upon the interest of Tenant in this Lease, and the same is not satisfied or dismissed within ten (10) days from such levy;

(h) In the event Tenant violates any other terms, conditions and covenants on the part of Tenant herein contained, and fails to remedy the same within thirty (30) days after written notice thereof is given by Landlord to Tenant.

Section 17.2 Landlord’s Default Remedies. Upon the occurrence of any of the aforesaid Events of Default, Landlord shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever in addition to, and not in limitation of any other remedy or right permitted it by law or in equity or by this Lease:

(a) Landlord may terminate this Lease, in which event Tenant shall immediately surrender the Demised Premises to Landlord, and if Tenant fails to surrender the Demised Premises, Landlord may, without prejudice to any other remedy which it may have for possession or arrearage in rent, enter upon and take possession

of the Demised Premises, by changing locks if necessary, and lock out, expel, or remove, in accordance with the law, Tenant and any other person who may be occupying all or any part of the Demised Premises, without being liable for prosecution of any claim for damages. Tenant hereby agrees to pay to Landlord on demand all rent and other indebtedness accrued to the date of such termination, and the amount of all loss and damage which Landlord may suffer by reason of such termination, whether through inability to relet the Demised Premises on satisfactory terms or otherwise, including, but not limited to, rent loss damages in an amount equal to the present value as of such termination (computed at a discount rate equal to the prime rate at the time (but not in excess of three percent (3%)), as announced in the Wall Street Journal) of the excess of (a) the stream of rental and other payments which Landlord would have received under this Lease from the date of termination to the expiration date of the then-current Term of this Lease, minus (b) the amount of such rent loss which Tenant can prove was reasonably avoidable by Landlord, taking into consideration the reasonable costs of reletting, including, without limitation, reasonable brokerage commissions, reasonable costs of retrofitting, the costs of any repairs necessary to the Demised Premises which otherwise would be or would have been Tenant's responsibility under the Lease, together with interest on such present value at the rate of ten percent (10%) per annum, and any reasonable attorney's fees actually incurred. This Lease and the Lease Term hereof, as well as all of the right, title and interest, of Tenant hereunder, shall wholly cease and expire in the same manner and with the same force and effect as if the date of expiration were the date originally specified herein for the expiration of this Lease and the Lease Term, and Tenant shall then quit and surrender the Demised Premises to Landlord.

(b) Landlord may terminate Tenant's right of possession, without terminating this Lease, and enter upon and take possession of the Demised Premises and expel or remove Tenant and any other person who may be occupying said Demised Premises or any part thereof, by entry, dispossessory suit or otherwise, without thereby releasing Tenant from any liability hereunder, and without being liable for prosecution or any claim of damages therefor and, if Landlord so elects, make such alterations, redecorations and repairs as, in Landlord's judgment, may be necessary to relet the Demised Premises, and Landlord may, but shall be under no obligation to do so (except as may be provided by State law), relet the Demised Premises or any portion thereof in Landlord's or Tenant's name, but for the account of Tenant, for such term or terms (which may be for a term extending beyond the Lease Term) and at such rental or rentals and upon such other terms as Landlord may deem advisable, with or without advertisement, and by private negotiations, and receive the rent therefor, Tenant hereby agreeing to pay to Landlord the deficiency, if any, between all Rent reserved hereunder and the total rental applicable to the Lease Term hereof obtained by Landlord re-letting. In no event shall Tenant be entitled to any rentals received by Landlord in excess of the amounts due by Tenant hereunder; and any such demand, reentry and taking possession of the Demised Premises by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Demised Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord.

(c) Landlord may enter upon the Demised Premises without being liable for prosecution or any claim of damages therefor, and perform whatever covenants Tenant is obligated to do under the terms of this Lease; and Tenant agrees to reimburse Landlord on demand for any expenses including, without limitation, reasonable attorneys' fees which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease, and Tenant further agrees that Landlord shall not be liable for any damages resulting to Tenant from such action, whether caused by negligence of Landlord or otherwise.

(d) In the event Landlord terminates this Lease or in the event Landlord takes possession of the Demised Premises without terminating the Lease, Tenant shall, upon demand, pay (i) all costs incurred by Landlord in recovering the Demised Premises; (ii) the unamortized portion of the tenant allowance, if any, paid to Tenant pursuant to this Lease as well as the unamortized portion of all fees incurred by Landlord in negotiating and entering into this Lease including, but not limited to, any broker commissions or attorneys' fees incurred; and (iii) all expenses incurred by Landlord in reletting the Demised Premises including the cost of redecorating and restoring the Demised Premises and all costs incident to such reletting, including brokers commissions, lease assumptions, and attorneys' fees. Further, Landlord, in addition to all other rights and remedies it may have, shall have the right to remove all or any portion of Tenant's property from the Demised Premises and any property removed may be disposed of, at Tenant's expense, in any manner Landlord deems reasonable or store such property at any public warehouse or elsewhere at the cost of and for the account of Tenant, and Landlord shall not be responsible for the

care and safekeeping thereof. Tenant hereby waives any and all loss, destruction and/or damage or injury which may be occasioned by any of the aforesaid acts and agrees to indemnify Landlord for any loss, cost or liability incurred in connection with the exercise of Tenants' rights under this Section.

(e) Tenant hereby waives (to the extent legally permissible) any and all notices otherwise required under statutory or common law. To the extent of any inconsistency between this Lease and any statutory or common law, it is the agreement of the parties that this Lease shall prevail. No alteration of locks or other security devices and no removal or other exercise of dominion by Landlord over the property of Tenant or others at the Demised Premises shall be deemed unauthorized or constitute a conversion, Tenant hereby consenting, after any Event of Default, to the aforesaid exercise of dominion over Tenant's property within the Demised Premises. All claims for damages by reason of re-entry and/or repossession and/or alteration of locks or other security devices are hereby waived, as are all claims for damages by reason of any distress warrant, forcible detainer proceedings, sequestrator proceedings or other legal process. Tenant agrees that any re-entry by Landlord may be pursuant to judgment obtained in forcible detainer proceedings or other legal proceedings or without the necessity for any legal proceedings, as Landlord may elect, and Landlord shall not be liable in trespass or otherwise.

Section 17.3 Non-Waiver. Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedy herein provided or any other remedy provided by law or at equity, nor shall pursuit of any remedy herein provided constitute an election of remedies thereby excluding the later election of an alternate remedy, or a forfeiture or waiver of any Rent or other charges and assessments payable by Tenant and due to Landlord hereunder or of any damages accruing to Landlord by reason of violation of any of the terms, covenants, warranties and provisions herein contained. No reentry or taking possession of the Demised Premises by Landlord or any other action taken by or on behalf of Landlord shall be construed to be an acceptance of a surrender of this Lease or an election by Landlord to terminate this Lease unless written notice of such intention is given to Tenant. An election by Landlord to terminate Tenant's right of possession without terminating the Lease shall not preclude Landlord from terminating the Lease at any time thereafter by giving Tenant written notice of intention to terminate the Lease. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default. In determining the amount of loss or damage which Landlord may suffer by reason of termination of this Lease or the deficiency arising by reason of any reletting of the Demised Premises by Landlord as above provided, allowance shall be made for the expense of repossession.

Section 17.4 Remedies Cumulative. Any and all rights, remedies and options given in this Lease to Landlord shall be cumulative and in addition to any without waiver of or in derogation of any right or remedy given to it under any law now or thereafter in effect.

Section 17.5 Attorney's Fees. In the event of the employment by Landlord of an attorney to collect any rents or other sums due hereunder by Tenant, or to enforce the performance of any obligation hereunder, or on account of the breach by Tenant of any term, condition or covenant hereof, Tenant will pay all costs and expenses thereof, including a reasonable attorney's fee.

Section 17.6 Percentage Rent Damages. See Percentage Rent Rider, if applicable.

Section 17.7 Landlord Default. In the event of any default by Landlord, Tenant's exclusive remedy shall be an action for damages (Tenant hereby waiving the benefit of any laws granting it a lien upon the property of Landlord and/or upon rent due Landlord), but prior to any such action Tenant will give Landlord written notice specifying such default with particularity, and Landlord shall thereupon have a reasonable period, but in no event less than thirty (30) days, in which to commence to cure any such default. Unless and until Landlord fails so to commence to cure any default after such notice or having so commenced thereafter fails to exercise reasonable diligence to complete such curing, Tenant shall not have any remedy or cause of action by reason thereof. All obligations of Landlord hereunder will be construed as independent covenants, not conditions; and all such obligations will be binding upon Landlord only during the period of its possession of the Shopping Center and not thereafter.

ARTICLE XVIII

Succession to Landlord's Interest

Section 18.1 **Successors.** The covenants, conditions and agreements herein contained shall inure to the benefit of and be binding upon Landlord, its successors and assigns, and shall be binding upon Tenant, its heirs, executors, administrators, successors and assigns, and shall inure to the benefit of Tenant and only such assigns of Tenant to whom the assignment by Tenant has been consented to by Landlord. Nothing contained in this Lease shall in any manner restrict Landlord's right to assign or encumber this Lease in its sole discretion, and it is further agreed, anything to the contrary herein contained notwithstanding, that in the event Landlord conveys its interest in the Shopping Center, Landlord shall be relieved of all further obligations hereunder.

Section 18.2 **Attornment.** Should Landlord assign this Lease as provided for above, or should Landlord enter into a first-in-priority security deed affecting the Shopping Center and should the holder of such deed succeed to the interest of Landlord, Tenant shall be bound to said assignee or any such deed holder under all the terms, covenants and conditions of this Lease for the balance of the term hereof remaining after such succession, and Tenant shall attorn to such succeeding party as its Landlord under this Lease promptly under any such succession. Tenant agrees that should any party so succeeding to the interest of Landlord require a separate agreement of attornment regarding the matters covered by this Lease, then Tenant shall within five (5) days after request enter into any such "attornment agreement," provided the same does not materially and adversely modify any of the provisions of this Lease and has no material adverse effect upon Tenant's continued occupancy of the Demised Premises.

Section 18.3 **Subordination.** Upon request of Landlord, Tenant shall within five (5) days after request subordinate its rights hereunder to the lien of any mortgage or security deed or the lien resulting from any other method of financing or refinancing now or hereafter in force against the Shopping Center, any part thereof or any buildings or improvements hereafter placed thereon and to all advances made or hereafter to be made upon the security thereof and shall execute a document evidencing such subordinate. In connection with any such subordination, Landlord shall use its best efforts to obtain from any such mortgagee a non-disturbance agreement which provides that so long as Tenant is not in default in the payment of rent or in the performance of any of the other terms of this Lease, Tenant's possession of the Demised Premises and Tenant's rights under this Lease shall not be disturbed, diminished or interfered with by the holder of the mortgage or by the purchaser in any mortgage foreclosure proceedings, provided that Tenant agrees in writing to attorn such mortgagee.

Section 18.4 **Notice to Mortgagee.** If the Demised Premises are at any time during the term of this Lease subject to a Landlord's mortgage then, in any instance in which Tenant gives notice to Landlord alleging default by Landlord in performance of any covenant or obligation under this Lease, Tenant will also simultaneously give a copy of such notice to Landlord's mortgagee (at the post office address as to which such Landlord's mortgagee shall have given Tenant notice) and Landlord's mortgagee shall have the right (but no obligation) to cure or to remedy such default of Landlord during the same time that is permitted to Landlord hereunder for the remedying or curing of such default, plus an additional period of thirty (30) days. Tenant will accept such curative or remedial action taken by a Landlord's mortgagee with the same effect as if such action had been taken by Landlord, and Tenant shall not seek damages from Landlord or any other relief by reason of any such default of Landlord if Landlord's mortgagee shall have cured or remedied such default within the time allowed herein (including the aforesaid additional thirty (30) day period) or is then attempting to foreclose its lien upon or obtain possession of the Shopping Center.

Section 18.5 **Estoppel Certificate.** Within ten (10) days of delivery from Landlord to Tenant, Tenant shall execute an estoppel agreement as requested by any bona-fide Lender or Owner (whether existing or proposed) of the Shopping Center and the failure of Tenant to timely comply with this Section shall immediately entitle Landlord to all of its remedies in the event of a default.

ARTICLE XIX

Quiet Enjoyment

Section 19.1 **Quiet Enjoyment.** Landlord agrees that if Tenant pays the rent and other charges herein provided and shall perform all of the covenants and agreements herein stipulated to be performed on Tenant's part, Tenant shall, at all times during said Term, have the peaceable and quiet enjoyment and possession of the Demised Premises without any manner of hindrance from Landlord or any persons lawfully claiming through Landlord, except as to such portion of the Demised Premises or Shopping Center as shall be taken under the power of eminent domain or which may be claimed by any mortgagee of the Demised Premises or the Shopping Center.

ARTICLE XX

Notices

Section 20.1 **Notices.** Any notice, request, demand, approval, consent or other communication which Landlord or Tenant may be required or permitted to give to the other party shall be in writing and shall be (i) mailed by certified mail, return receipt requested at the address specified on Page 1, or (ii) sent by a nationally recognized overnight courier service, to the other party at the address specified on Page 1, or (iii) by hand delivery or posting the same to the door to the Demised Premises if such communication is to Tenant, or to such other address as either party hereof shall have designated by notice to the other.

All notices shall be deemed to have been given upon deposit in the United States mail, postage prepaid and properly addressed as provided above or (if to Tenant) upon delivery to Tenant at the Demised Premises, either in person or by posting a copy of any such notice to the front door of the Demised Premises.

ARTICLE XXI

Security Deposit

Section 21.1 **Security Deposit.** Tenant has deposited with Landlord the sum of _____ (\$ _____), equal to two (2) months' rent, as security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this Lease. It is agreed that in the event Tenant defaults in respect of any of the terms, provisions and conditions of this Lease, including, but not limited to, the payment of rent and additional rent, Landlord may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any rent and additional rent or any other sums as to which Tenant is in default or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants and conditions of this Lease, including, but not limited to, any damages or deficiency in the re-letting of the Demised Premises, whether such damages or deficiency accrued before or after summary proceedings or other reentry by Landlord. In the event that Tenant shall fully and faithfully comply with all the terms, provisions, covenants and conditions of this Lease, the security shall be returned to Tenant without interest, after the expiration or earlier termination of the Lease and after delivery of entire possession of the Demised Premises to Landlord as required under the Lease.

ARTICLE XXII

Miscellaneous

Section 22.1 **Severability.** If any term or provision of this Lease or the application thereof to any person or circumstance shall to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such

term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 22.2 Landlord and Tenant Relationship. Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between Landlord and Tenant, it being expressly understood and agreed that neither the computation of rent nor any other provisions contained in this Lease nor any act or acts of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

Section 22.3 Authorization. This writing contains the entire agreement between the parties hereto, and no agent, representative, salesman or officer of Landlord has authority to make or has made any statement, agreement or representation, either oral or written, in connection herewith, modifying, adding or changing the terms and conditions herein set forth. No modification of this Lease shall be binding unless such modification shall be in writing and signed by the parties hereto. Tenant hereby further recognizes and agrees that this Lease shall have no force or validity until and unless it is returned to Tenant duly executed by Landlord. Tenant warrants to Landlord that, if Tenant is a corporation, (a) the execution and delivery of this Lease has been duly authorized by the Board of Directors of Tenant, and (b) the making of this Lease does not require any vote or consent of shareholders.

Section 22.4 Captions. The captions or titles used throughout this Lease are for reference and convenience only and shall in no way define, limit or describe the scope or intent of this Lease. Words of any neuter gender used in this Lease shall be held to include both the masculine and feminine gender and words in the singular number shall be held to include the plural, and vice-versa.

Section 22.5 No Personal Liability. Tenant or any other party claiming by, through or under Tenant shall look solely to the interests of Landlord in the Shopping Center property for the collection of any claim, demand, cost, expense, judgment or other judicial process requiring the payment of money for any default or breach by Landlord of any of its obligations under this Lease. No other assets of Landlord or its officers, directors, or partners shall be subject to levy, execution or other judicial process for the satisfaction of any claim of Tenant. Under no circumstances whatsoever shall Landlord ever be liable hereunder for consequential damages or special damages. The term "Landlord" shall mean only the owner, for the time being of the Shopping Center, and in the event of the transfer by such owner of its interest in the Shopping Center, such owner shall thereupon be released and discharged from all covenants and obligations of Landlord thereafter accruing, but such covenants and obligations shall be binding during the Lease Term upon each new owner for the duration of such owner's ownership.

Section 22.6 Delivery Certificates. Within five (5) days after request by Landlord, Tenant shall delivery to Landlord a written and acknowledged statement certifying that Tenant has accepted possession of the Demised Premises, that this Lease is unmodified and in full force and effect (or stipulate such modifications, if any), and the dates to which the Rent and other charges have been paid in advance, if any, it being intended that any such statement delivered pursuant to this Article may be relied upon by any prospective purchaser or mortgagee of the fee of the Shopping Center of which the Demised Premises form a part.

Section 22.7 Additional Terms and Conditions. See Page(s) _____ attached hereto for Additional Terms and Conditions.

Section 22.8 Time of Essence. In all instances where Tenant is required hereunder to pay any sum or do any act at a particular indicated time or within an indicated period, it is understood that time is of the essence.

Section 22.9 No Set-Off. The obligation of Tenant to pay all rent and other sums hereunder provided to be paid by Tenant and the obligation of Tenant to perform Tenant's other covenants and duties hereunder constitute independent, unconditional obligations to be performed at all times provided for hereunder, save and except only when an abatement thereof or reduction therein is hereinabove expressly provided for and not otherwise. Tenant

waives and relinquishes all rights which Tenant might have to claim any nature of lien against or withhold, or deduct from or off-set against any rent and other sums provided hereunder to be paid Landlord by Tenant. Tenant waives and relinquishes any right to assert, either as a claim or as a defense, that Landlord is bound to perform or is liable for the nonperformance of any implied covenant or implied duty of Landlord not expressly herein set forth.

Section 22.10 Independent Covenants. So long as Tenant has not been wrongfully or constructively evicted from the Demised Premises, the doctrine of independent covenants will apply in all matters relating to this Lease including, without limitation, all obligations of Landlord and Tenant to perform their respective obligations under this Lease.

Section 22.11 Relocation. At any time during the Term of this Lease, upon at least thirty (30) days prior written notice to Tenant (“Notice of Relocation”), Landlord may require Tenant to relocate to another lease space of approximately the same size as the Demised Premises within the Shopping Center (“Relocation Space”). Within ten (10) days following the date of the Notice of Relocation, Tenant shall notify Landlord in writing either that (a) Tenant agrees to relocate to the Relocation Space or (b) Tenant elects to terminate this Lease. Failure by Tenant to respond to the Notice of Relocation within the aforesaid ten (10) days, will be deemed to mean that Tenant has elected to terminate this Lease. In the event that Tenant elects (or is deemed to have elected) to terminate this Lease in lieu of relocating to the Relocation Space, then the Lease shall terminate thirty (30) days after the date of Landlord’s Notice of Relocation. Provided Tenant agrees to relocate to the Relocation Space as provided above, Landlord shall, at its cost and expense, complete construction of the Relocation Space on a “Turn Key” basis substantially similar to the then existing Demised Premises. Landlord shall pay all reasonable out-of-pocket expenses of any such relocation, including the expenses of moving and reconstruction of all Tenant-furnished improvements (if any) and Landlord-furnished improvements (if any) at the Demised Premises. In the event the Relocation Space is larger than the Demised Premises, the Minimum Rent and additional charges due under this Lease shall not be altered; however, in the event the Relocation Space is smaller than the Demised Premises, the Minimum Rent and all additional charges shall be proportionately reduced based upon the floor area of the Relocation Space. Except for the reduction (if any) in Minimum Rent and additional charges, upon Tenant’s relocation to the Relocation Space, all of the terms, covenants and conditions of this Lease shall continue unchanged and in full force and effect, except that a description of the Relocation Space shall be substituted for the description of the Demised Premises set forth on *Exhibit A*, and thenceforth the Relocation Space shall be deemed for all purposes to be the Demised Premises. Failure by Tenant to relocate to the Relocation Space following construction of same by Landlord shall constitute an “Event of Default” hereunder (as defined in Article XVII) and Landlord shall be entitled to all remedies available to it under the terms of this Lease or at law and Tenant shall be liable for all costs incurred by Landlord in constructing the improvements at the Relocation Space.

Section 22.12 Force Majeure. Excepting rental payments, in the event Landlord or Tenant shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, unavailability of any utility service, restrictive governmental laws or regulations, riots, insurrections, the act, the failure to act, or default of another party, war, or other reason beyond Landlord’s or Tenant’s control (individually “Force Majeure”), then performance of such act shall be excused for the period of the delay, and the period of the performance of any such act shall be extended for a period equivalent to the period of such delay. Within ten (10) days following occurrence of Force Majeure, the party claiming a delay due to such event shall give written notice to the other setting forth a reasonable estimate of such delay; provided that in no event shall any delay in Tenant’s opening for business as a result of any such cause or causes be in excess of thirty (30) days. The provisions of this Section shall not affect or apply to any obligation for the payment of money. No problem arising out of or relating to Tenant’s computer software, hardware, external interfaces or external computing infra-structure shall be considered an event of Force Majeure or in any other way excuse Tenant from full performance under its Lease with Landlord.

Section 22.13 No Default. It shall be a condition precedent to Tenant’s right to exercise any remedy or right set forth herein that Tenant shall not be in default hereunder and that no condition exist which with the passage of time or giving of notice would constitute a default hereunder.

Section 22.14 Broker. No broker has been involved in this transaction and if any claims for brokerage commissions or fees are ever made in connection with this transaction, each party shall indemnify and hold harmless the other from and against any and all such claims or demands with respect to any brokerage fees or agent's commissions or other compensation asserted by any person, firm or corporation in connection with this Lease.

Section 22.15 Construction. The parties have participated jointly in the negotiation and drafting of this Lease. In the event that an ambiguity or question of intent or interpretation arises, this Lease shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Lease.

Section 22.16 Financial Information. Tenant shall deliver to Landlord in connection with financing or refinancing the Shopping Center, within thirty (30) days after request by Landlord, its financial statement prepared by a certified public accountant comprised of a balance sheet and a profit and loss statement, certified by Tenant or an officer of Tenant to be true and correct.

ARTICLE XXIII

Diversion of Sales

Section 23.1 Diversion of Sales. Tenant agrees that if during the term of this Lease, either Tenant or any person, corporation, partnership, joint stock association, trust or other firm or entity which controls Tenant or is controlled by Tenant or is under common control with Tenant (and also, in the event Tenant is a corporation, if any officer or director thereof or shareholder owning more than ten percent (10%) of the outstanding stock thereof, or parent, subsidiary or related or affiliated corporation) either directly or indirectly, commences operation of any store selling or otherwise sells any merchandise or services of the type to be sold by Tenant in the Demised Premises as provided herein or similar or related items, or in any other manner competes with the business provided herein to be conducted by Tenant at the Demised Premises, within a radius of ten (10) miles of the Demised Premises, which Tenant acknowledges is a reasonable area for the purpose of this provision, then in such event, the rent payable by Tenant hereunder shall be adjusted as follows: (a) thereafter, during the period of such other store's operation or other sales, the monthly Minimum Rent shall be the greater of: (i) one hundred twenty-five percent (125%) of the then current amount stipulated in Section 3.1 hereof for each calendar month during the Term hereof during which such operations are conducted; or (ii) the aggregate Minimum Rent and Percentage Rent payable hereunder for the last Lease Year prior to the commencement of such operations divided by twelve (12); and (b) thereafter, during the period of such other store's operation or other sales, the Percentage Rent shall be computed by adding all amounts sold at such other store, which would be "Gross Sales" (as herein defined) if the merchandise had been sold, services rendered or business conducted at or from the Demised Premises (in lieu of or from such other store) to the amount of Gross Sales (as herein defined). Such adjustment in rent reflects the estimate of the parties as to the damages which Landlord would be likely to incur by reason of the diversion of business and customer traffic from the Demised Premises and Shopping Center to such other store within such radius, as a proximate result of the establishment of such other store or other sales.

ARTICLE XXIV

Tenant's Bankruptcy

Section 24.1 Adequate Protection. Landlord and Tenant agree that if Tenant ever becomes the subject of a voluntary or involuntary bankruptcy, reorganization, composition, or other similar type proceeding under the Federal Bankruptcy Laws, as now enacted or hereafter amended, then "adequate protection" of Landlord's interest in the Demised Premises pursuant to the provisions of Sections 361 and 363 (or their successor sections) of the Bankruptcy Code, 11 U.S.C. Paragraph 101 et seq. (such Bankruptcy Code as amended from time to time being

herein referred to as the “Bankruptcy Code”) prior to assumption and/or assignment of the Lease by Tenant shall include, but not be limited to all (or any part) of the following:

(a) The continued payment by Tenant of all Minimum Rent, Percentage Rent and all other sums due and owing under this Lease the performance of all other covenants and obligations under this Lease by Tenant;

(b) The hiring of security guards to protect the Demised Premises if Tenant abandons and/or ceases operations such obligation of Tenant only to be effective so long as Tenant remains in possession and control of the Demised Premises to the exclusion of Landlord;

(c) The furnishing of an additional security deposit by Tenant in the amount of three (3) times the then-current monthly Minimum Rent payable hereunder.

Section 24.2 Adequate Assurance of Future Performances. Landlord and Tenant agree that if Tenant ever becomes the subject of a voluntary or involuntary bankruptcy, reorganization, composition or other similar type proceeding under the Federal Bankruptcy Laws, as now enacted or hereafter amended, then “adequate assurance of future performance” by Tenant and/or any assignee of Tenant pursuant to Bankruptcy Code Section 365 (or its successor section) will include (but not be limited to) payment of an additional, new security deposit in the amount of three (3) times the then-current monthly Minimum Rent payable hereunder.

Section 24.3 Assignment in Bankruptcy. Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code, shall be deemed without further act or deed to have assumed all of the obligations of Tenant arising under this Lease on and after the effective date of such assignment. Any such assignee shall, upon demand by Landlord, execute and deliver to Landlord an instrument confirming such assumption of liability.

Section 24.4 Certain Defined Terms. This is a lease of real property in a “shopping center” within the meaning of Section 365(b)(3) of the Bankruptcy Code.

Notwithstanding anything in this Lease to the contrary, all amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated as “rent”, shall constitute “rent” for the purposes of Section 502(b)(7) of the Bankruptcy Code.

Section 24.5 Assignment. If this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, any and all monies or other considerations payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord, shall be and remain the exclusive property of Landlord and shall not constitute property of Tenant or of the Estate of Tenant within the meaning of the Bankruptcy Code. Any and all monies or other considerations constituting Landlord’s property under the preceding sentence not paid or delivered to Landlord shall be held in trust by Tenant for the benefit of Landlord and shall be promptly paid to or turned over to Landlord.

Section 24.6 Assumption. If Tenant assumes this Lease and proposes to assign the same pursuant to the provisions of the Bankruptcy Code to any person or entity who shall have made a bona fide offer to accept an assignment of this Lease on terms acceptable to Tenant, then notice of such proposed offer/assignment, setting forth (i) the name and address of such person or entity, (ii) all of the terms and conditions of such offer, and (iii) the adequate assurance to be provided Landlord to assure such person’s or entity’s future performance under this Lease, including, without limitation, the assurance referred to in Section 365(b)(3) of the Bankruptcy Code, shall be given to Landlord by Tenant no later than twenty (20) days after receipt by Tenant, but in any event no later than ten (10) days prior to the date that Tenant shall make application to a court of competent jurisdiction for authority and approval to enter into such assumption and assignment, and Landlord shall thereupon have the prior right and option, to be exercised by notice to Tenant given at any time prior to the effective date of such proposed assignment, to accept an assignment of this Lease upon the same terms and conditions and for the same consideration, if any, as the

bona fide offer made by such persons or entity, less any brokerage commissions which may be payable out of the consideration to be paid by such person for the assignment of this Lease.

ARTICLE XXV

Entire Agreement

Section 25.1 Entire Agreement. This instrument consisting of _____ (___) pages and the Percentage Rent Rider, *Exhibit A, Exhibit B, Exhibit C, Exhibit D* and the Rules and Regulations constitutes the entire agreement between Landlord and Tenant; no prior written or prior or contemporaneous oral promises or representations shall be binding. The submission of this Lease for examination by Tenant and/or execution thereof by Tenant does not constitute a reservation of or option for the Demised Premises and this Lease shall become effective only upon execution by all parties hereto and delivery of a fully executed counterpart hereof by Landlord to Tenant. This Lease shall not be amended, changed or extended except by written instrument signed by both parties hereto.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Lease on the date reflected on the first page hereof.

LANDLORD:

[Landlord Entity]

By: _____
Name: _____
Its: _____

TENANT:

_____,
a(n) _____

By: _____
Its: _____

[Name of Center]

[TENANT'S NAME]

PERCENTAGE RENT RIDER

1. **Percentage Rent.** In addition to Minimum Rent, Tenant agrees to pay to Landlord, as “**Percentage Rent**”, the following:

A sum equal to _____ percent (____%) of all “Gross Sales” (as hereinafter defined) in excess of the “Breakpoint” (as hereinafter defined) during each “Lease Year” (as hereinafter defined).

The “Breakpoint” as referred to hereinabove shall be an amount equal to the quotient of the Minimum Rent payable during the applicable Lease Year divided by _____ or _____ percent (____%).

In the event that the Minimum Rent for any Lease Year shall be reduced or abated for any reason whatsoever, the Breakpoint for such Lease Year shall be reduced by a percentage thereof equal to the percentage decrease in the Minimum Rent payable for such Lease Year. In the event that any Lease Year contains more or less than twelve (12) full calendar months, the Breakpoint shall be proportionately increased or decreased, as the case may be, for any such Lease Year.

Computation of the Percentage Rent shall be made separately and independently for each Lease Year of the Lease Term, without regard to the Gross Sales made during or rental paid for any other Lease Year. Percentage Rent shall be determined and paid along with the monthly statements to be furnished pursuant to Paragraph 3 below on a monthly basis commencing when Tenant’s Gross Sales first exceed the Breakpoint during the Lease Year with respect to which Percentage Rent is being paid. Upon receipt by Landlord of each annual statement of Tenant’s Gross Sales furnished pursuant to Paragraph 3 below, if the total amount of Percentage Rent previously paid by Tenant for the period covered is less than the amount due Landlord for that period, any balance due Landlord shall be paid by Tenant at the time of delivery to Landlord of such statement. If the amount previously paid by Tenant exceeds the total amount of Percentage Rent required to be paid by Tenant during such Lease Year, the excess shall thereafter be credited by Landlord for Tenant’s account toward sums that are due hereunder by Tenant as they become due.

2. **Gross Sales.** The term “**Gross Sales**” includes all moneys or things of value received or receivable, including lease or rental revenue (without deductions for uncollectibles), by Tenant, its sublessees, licensees or concessionaires or others, for merchandise sold or services performed or equipment, merchandise or other inventory items leased or rented or business conducted (including: interest, time-price differential, finance charges and service charges on time-payment sales, credit sales or lay-away sales) in, about or from the Demised Premises (including, without limitation, orders received in person or by mail, telephone or telegraph, and services performed by Tenant away from the Demised Premises), including transactions in which delivery is made to the customer at the Demised Premises but the order is taken elsewhere, transactions in which the order is taken at the Demised Premises but delivery is made elsewhere, receipts from mechanical and other vending machines, and deposits not refunded to purchasers. The term “Gross Sales” shall not include (i) governmental excise or sales taxes added to the selling price of the item and paid by Tenant directly to the taxing authority, or (ii) refunds or allowances to customers not in excess of the original selling price of the item, or (iii) transfers or exchanges of merchandise to another of Tenant’s stores made in the regular course of Tenant’s business and not for the purpose of avoiding consummation of a sale in the Demised Premises, or (iv) returns to shippers or manufacturers, or (v) sales of Tenant’s “Removable Trade Fixtures” (as defined in the Lease) after use by Tenant in the Demised Premises. Under no circumstances shall there be any deduction from Gross Sales by reason of Tenant’s being liable to pay any franchise tax, capital stock tax, income tax or similar or dissimilar tax based upon Tenant’s income, capital structure, or profits.

All Gross Sales will be recorded so that each transaction is evidenced accurately in accordance with generally accepted accounting principles. Full and adequate records and books of account shall be

accurately maintained by Tenant on all business operations in or about the Demised Premises. All books of account, records, daily cash register total slips, sales slips and Federal income tax returns relating to Tenant's operation in or about the Demised Premises will be retained by Tenant for a period of three (3) years after preparation, and will be open to inspection by Landlord (or its representative) at all reasonable times. Tenant shall also furnish Landlord copies of any financial statements of Tenant or sales tax reports that are prepared during the Term of this Lease.

3. **Statement of Gross Sales and Audit Right.** Within fifteen (15) days after the end of each month in the Lease Term, Tenant will deliver to Landlord a statement signed by Tenant (if Tenant is an individual), or a general partner of Tenant (if Tenant is a partnership) or a corporate officer of Tenant (if Tenant is a corporation) accurately setting forth the amount of Gross Sales made during such month, itemized in reasonable detail. Within thirty (30) days after the end of each Lease Year, Tenant will furnish to Landlord a statement signed and sworn to by the same party who is to sign the monthly statement of sales according to the foregoing provisions hereof, accurately showing Gross Sales for the preceding Lease Year itemized in reasonable detail.

Landlord may, at any time or times, have an audit made of any such statement, may examine Tenant's sales tax reports, Tenant's inventory movement sheets, and other relevant records for such period, and acceptance of the Percentage Rent tendered by Tenant shall not prejudice these rights. The cost of the audit shall be borne by Landlord unless such audit shows that Tenant's statement was in error by three percent (3%) or more of the Gross Sales of Tenant for the relevant Lease Year, in which event Tenant will pay the cost of such audit. Any such audit may be required by Landlord at any time or times during normal business hours designated by Landlord upon three (3) days prior written notice to Tenant.

In the event Tenant fails to submit to Landlord its statement of Gross Sales in accordance with the terms and conditions contained herein, Percentage Rent shall be payable by Tenant based upon Gross Sales generated by Tenant in the Demised Premises during the same period of the immediately preceding Lease Year and such sum shall be immediately due and payable by Tenant to Landlord. At any time after the date upon which such statement should have been submitted but has not been received by Landlord, Landlord shall have the right to audit Tenant's books and records at Tenant's sole cost and expense and Tenant shall pay to Landlord upon demand the cost of such audit. Any additional Percentage Rent due following any audit plus interest at the Default Rate (as defined in the Lease) shall be due and payable immediately upon demand.

4. **Percentage Rent Damages.** For the purpose of computing Tenant's liability under this Lease in the Event of Default, the annual amount of Percentage Rent for which Tenant shall be liable after termination of the Lease or Tenant's right to possession of the Demised Premises shall be the total of all the amounts Tenant was obligated to pay as Percentage Rent during the entire period before such termination divided by the number of the full Lease Years in such entire time. Tenant will also pay a pro rata part of such annual Percentage Rent, based upon the length of time between the previous payment of Percentage Rent and the date of such termination; and upon such termination Tenant will be obligated to submit to Landlord a statement accurately showing Gross Sales made since submission of its last previous statement, together with such additional supporting financial records as Landlord may require.

EXHIBIT A
SITE PLAN

[Name of Center]

[TENANT'S NAME]

EXHIBIT B
LANDLORD'S WORK

[Name of Center]

[TENANT'S NAME]

EXHIBIT C
EXCLUSIVE USES

(Such exclusives or other restrictions as Landlord shall give notice)

[Name of Center]

[TENANT'S NAME]

EXHIBIT D

SIGN CRITERIA

Purpose

The purpose of the Store Sign Criteria is to promote consistent, high quality signage, while allowing the Tenant freedom to create unique, unusual graphics, which are consistent with the overall store design. The design of all signage and graphics is subject to prior written approval by Landlord. Conformance is strictly enforced, and non-conforming, uninteresting, or inappropriate signage will be rejected. Note that it is the Tenant's responsibility to obtain approval by the City of _____ and to insure compliance with local codes and ordinances.

Location and Size of Signs

The signage package consists of the following elements:

Main Storefront Sign:

Tenant is permitted one (1) sign per building front elevation. Corner locations will be considered individually. The sign is limited to the trading name of the Tenant or descriptive phrase or word such as "Law Office" or "Dry Cleaners." No advertising copy, slogans or tag lines are permitted (i.e., "Shoes for the Whole Family"). Tenant may also incorporate with Landlord's approval, logos or names on both glass areas and awnings. These logos or names will not be considered as part of the signage noted above. Logos, marks or names shall conform to requirements noted below for other graphics.

Exception: Tenants choosing to place a graphics logo only on the sign band may do so if the logo does not exceed 60" high or 102" wide.

Other Storefront Signs:

Canopy Graphics:

Additionally, graphics may be placed on the entrance canopy or window canopies, subject to Landlord approval. These graphics are limited to trade names, logos, or similar items. Advertising lines are strictly prohibited. Advertising posters placed behind the glass or attached to the glass are prohibited.

Open/Closed Sign:

Each Tenant may provide at his option one (1) sign with a maximum overall area of 15" x 20" indicating the hours of operation. This sign shall be located within 5'-0" horizontally of the Tenant entrance. Letters on glass shall consist of a maximum size of 1" white or gold reverse adhesive die-cut vinyl letters - Helvetica Medium or similar. Open/closed signage may not be neon or include credit card information or advertising. Advertising decals may not be applied to the storefront.

Sign Specifications

All Tenant main storefront signs shall be illuminated. No illuminated box signs of any type will be allowed.

Types Suggested

- 1) All storefront signs shall be mounted on a raceway painted to match adjacent finish.

Internally Illuminated channel letters with opaque metal sides and translucent plastic faces. Transformer may be placed behind the sign fascia with provision made for proper cooling and access.

Size allowed for main storefront sign (small tenants):

- 1) Maximum height of single line of copy:
 - Small Tenants: 36”

Exception: An unusually shaped letter or ampersand may extend beyond the maximum height requirements if approved by Landlord.

- 2) Maximum total height of sign for two or more lines of copy: 54”

- 3) Maximum length of sign: 80% of length of leased storefront.

- 4) Maximum Area of Sign: 2 square feet/linear foot of leased storefront, the area shall be calculated as a box enclosing all letters, numbers and symbols of sign design, including all spaces separating letters, numbers and symbols. (Maximum)

Sign Criteria Requirements

All Tenants are required to purchase their own signs and pay all cost for installation and any electrical service connections to the Tenant's electrical service as required.

The Landlord reserves the right to review and approve or disapprove all proposed plans, installation and graphic treatment governed by these Criteria per the Landlord's interpretation, and to require revisions of any sign design or installation which the Landlord judges not in compliance.

Tenant shall be responsible for removal of Tenant’s signs upon termination of the Lease including the cost of removal. Fascia and other building elements shall be returned to the original condition and the Tenant to the satisfaction of the Landlord shall repair all penetrations appurtenant to the Tenant’s sign installation.

Tenant shall not erect, install, paint or fix any signs, posters, cards, banners or other advertising medium to, upon or above the exterior of the premises of the building, nor on the interior or exterior of the premises of the building, nor on the interior or exterior of the glass surface of the windows and doors, except as stated herein. Tenant shall bear all costs for correction of sign installation and damage to the building by signs that do not conform to this Sign Criteria. The Landlord reserves the right to have all non-conforming signs removed regardless of state of erection.

The Landlord reserves the right to make periodic changes to these Criteria which in the sole discretion of the Landlord will benefit of the Center.

Sign fabrication and installation shall comply with local sign ordinances and any applicable building codes and the National Electrical Code. All internal and external wiring, lighting, and other electrical devices shall bear the UL® symbol. It is the Tenant's responsibility to verify that the sign installation is in accordance with these requirements.

Tenant is responsible for maintaining the sign in a good state of repair including prompt replacement of burned out lighting or damaged pieces. Tenant has 24 hours to make repairs after notification in writing by Landlord.

All signs shall be mounted to a raceway and the raceway mounted to the building according to Landlord approved drawings. All fasteners shall be of non-corrosive material and concealed. Fabrication and installation shall be by Landlord approved sign contractors only or Tenant's national sign contractor.

Sign company names or stamps shall be concealed if permitted by Code.

No animated components, flashing lights, formed plastic, injection molded box type or solid panel signs are permitted.

Submittals

Each Tenant shall supply three (3) color copies of scaled drawings to the Landlord for review and approval. The drawings must show the sign in relation to the entire façade of the store and include details of the color, size and construction of the sign.

The Tenant's sign drawings and submittal must include the following:

- Elevation view of storefront showing sign (drawn to accurate scale) with dimensions of height of letters and length of sign.
- Color sample of sign.
- Color sample of sign letters (unless they are to be white).
- Cross section view through sign letter and sign panel showing location of sign relative to the storefront line and showing the dimensioned projection of the face of the letter from the face of the sign panel.
- The drawings shall also show other elements such as soffits, canopies and the relationship of the sign to the other elements of the storefront, especially the vertical fascia.

Landlord must approve sign drawings in writing prior to the fabrication or installation of any signage. All permits for signage and installation of signage shall be at Tenant's sole cost and expense. Sign installation must be coordinated with the project Tenant Coordinator or Manager prior to the start of any work. Landlord shall not be responsible for the cost of signs fabricated or installed that do not conform to the sign criteria or do not receive written approval from the Landlord.

Miscellaneous Sign Requirements

All storefront signage must be illuminated. All signs must be connected to Tenant's electric service. All electrical penetrations through the storefront fascia for sign installation shall include PK housings. All electrical signage is to bear the UL® label and must comply with all governing codes. All conduit, crossovers, wiring, ballast boxes, transformers, and other equipment necessary for sign connection shall be concealed. Raceway shall be painted to match adjacent building finish.

Tenant will not be allowed to open without Landlord-approved permanent signage installed. Banners are not allowed at any time. Please allow adequate time to design, fabricate and install signage, prior to opening of store.

Sign design is encouraged to be different from adjacent and nearby stores, i.e., type, color, size, format.

Any sign, notice, or graphic, located within the interior of the Demised Premises and easily legible from the common area of the Shopping Center, requires the prior written approval of Landlord.

Light leaks in sign letters will not be allowed and must be repaired promptly by Tenant.

The following types of signs and sign components are strictly prohibited:

- Box or cabinet-type construction in which the background as well as the letters are illuminated.
- Non-illuminated main signage.
- Signs employing audible equipment, or moving or flashing lights.
- Signs employing exposed ballast boxes or transformers.
- Sign manufacturers' names, stamps, or decals.
- Signs employing luminous vacuum formed-type plastic letters.
- Signs employing a raw edge or uncapped plastic letters with no returns and exposed fasteners.
- Paper or cardboard signs, sticks, or decals hung around, on, or behind storefront.
- Roof top signs
- Banners or flags without prior written approval

All letters are to be of full-welded construction. Channeled letters, bolts, fastenings, and clips shall be of enameling iron with porcelain enamel finish; stainless steel, polished brass or copper, or carbon baring steel with painted finish. No black iron material will be allowed.

Sign contractor shall repair any damage caused by its work.

RULES AND REGULATIONS

COMMON AREAS: Tenant shall not use the Common Areas, including areas adjacent to the Demised Premises, for any purpose other than ingress and egress, and any such use thereof shall be subject to the other provisions of this Lease, including these Rules and Regulations. Without limiting the generality of the foregoing, Tenant shall not use the Common Areas to canvass, solicit business or information from, or distribute any article or material to other tenants, occupants or invitees of the Shopping Center. Tenant shall not allow anything to remain in any passageway, sidewalk, court, corridor, stairway, entrance, exit, shipping area, or other area outside the Demised Premises and shall not allow loitering on any area outside the Demised Premises. Janitorial closets, utility closets, telephone closets, broom closets, electrical closets, storage closets, and other such closets, rooms and areas shall be used only for the purposes and in the manner designated by Landlord, and may not be used by Tenant, or its contractors, agents, employees, or other parties without Landlord's prior written consent.

DELIVERIES: All loading and unloading of goods shall be done only at such times, in the areas, and through the entrances, designated for such purposes by Landlord.

Furniture, inventory and all other deliveries may be brought into the Shopping Center only at times and in the manner designated by Landlord, in compliance with all laws, and always at Tenant's sole risk. Landlord may inspect items brought into the Shopping Center or Demised Premises with respect to weight or dangerous nature or compliance with this Lease or applicable laws. Tenant's use of any loading and service areas at the Shopping Center shall be subject to scheduling by Landlord. Tenant shall not take or permit to be taken in or out of other entrances of the Shopping Center, any item normally taken, or which Landlord otherwise requires to be taken, in or out through service doors. Tenant shall move all inventory, supplies, furniture, equipment and other items as soon as received directly to the Demised Premises. Any hand-carts used at the Shopping Center shall have rubber wheels and side guards and no other material handling equipment may be brought upon the Shopping Center except as Landlord shall approve in writing in advance.

TRASH: All garbage, refuse, trash and other waste shall be kept in the kind of container, placed in the areas, and prepared for collection in the manner and at the times and places specified by Landlord. Tenant shall pay the cost of removal of any of Tenant's refuse or rubbish. If Landlord shall provide or arrange for such service, Tenant shall pay Tenant's proportionate share of the cost thereof (or such other share as Landlord may fairly and reasonably determine) to Landlord on or before the first day of each calendar month in advance, or Landlord may include such charges in the Common Area Maintenance Expenses. Tenant shall not burn any trash or garbage of any kind in or about the Demised Premises or the Shopping Center.

Trash and debris is not to be placed in any service corridor or any other common area. Trash left in service areas or behind buildings creates rodent and pest problems, constitutes a fire code violation and presents a safety hazard to other tenants, vendors and customers.

Upon discovery of any such hazard, Landlord may do the following:

1. Ask Tenant to remove and compact the trash immediately.
2. If no action is taken after a one-hour grace period, public safety will direct cleanup by the housekeeping staff and Tenant will be billed \$50.00 in cleanup and penalty charges.
3. A letter citing the violation and explaining the lease policy will be sent to the Tenant's notice address with a copy to the store manager.
4. If subsequent violations occur, public safety will automatically initiate cleanup by the housekeeping staff and Tenant will be billed \$50.00 in cleanup and penalty charges.

PROHIBITED ACTIVITIES: Tenant shall not (i) use strobe or flashing lights in or on the Demised Premises or Shopping Center, or in any signs therefor, (ii) use, sell or distribute any leaflets, handbills, bumper stickers, or other stickers or decals, balloons or such other articles in the Demised Premises (or other areas of the Shopping Center),

(iii) operate any loudspeaker, television set, phonograph, radio, CD player or other musical sound producing instrument or device so as to be heard outside the Demised Premises, (iv) operate any electrical or other device which interferes with or impairs radio, television, microwave, or other broadcasting or reception from or in the Shopping Center or elsewhere, (v) bring or permit any bicycle or other vehicle, or dog (except in the company of a disabled party) or other animal, fish or bird in the Shopping Center, (vi) make or permit objectionable noise, vibration or odor to emanate from the Demised Premises or any equipment servicing the same, (vii) do or permit anything in or about the Demised Premises that is unlawful, immoral, obscene, pornographic, or which tends to create or maintain a nuisance or do any act tending to injure the reputation of the Shopping Center, (viii) use or permit upon the Demised Premises anything that violates the certificates of occupancy issued for the Demised Premises or the Shopping Center, or causes a cancellation of Landlord's insurance policies or increases Landlord's insurance premiums (and Tenant shall comply with all requirements of Landlord's insurance carriers, the American Insurance Association, and any board of fire underwriters), (ix) use the Demised Premises for any purpose, or permit upon the Demised Premises anything, that may be dangerous to parties or property (including but not limited to flammable oils, fluids, paints, chemicals, firearms or any explosive articles or materials), or (x) do or permit anything to be done upon the Demised Premises in any way tending to disturb, bother or annoy any other tenant at the Shopping Center or the occupants of neighboring property.

TEMPERATURE: If the Demised Premises are equipped with heating facilities separate from those in the remainder of the Shopping Center, Tenant shall keep the Demised Premises at a temperature sufficiently high to prevent freezing of water in pipes and fixtures.

PLUMBING EQUIPMENT: The plumbing facilities shall not be used for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Tenant, who shall, or whose employees, agents or invitees shall have caused it.

PEST CONTROL: Tenant shall use at Tenant's cost, a qualified pest extermination contractor whose services shall be scheduled so as not to reasonably interfere with the operation of the Shopping Center. Tenant shall provide Landlord with evidence of compliance with this provision within five (5) days after Landlord's written request.

HAZARDOUS SUBSTANCES: No portion of the Shopping Center shall be used for the use, disposal or storage of hazardous substances or waste of any kind or nature.

SIGNS AND DISPLAY WINDOWS: Tenant shall not place any sign or other thing of any kind outside the Demised Premises (including without limitation, exterior walls and roof), or on the interior or exterior surfaces of glass panes or doors, except such single sign as Landlord shall expressly approve in writing for or in connection with Tenant's storefront. Within the Demised Premises, Tenant shall not (i) install any sign that advertises any product, (ii) install any sign within 24 inches of any window, or (iii) install any sign that is visible from outside the Demised Premises or that is illuminated without Landlord's prior written approval. If Landlord approves or requires illuminated signs, Tenant shall keep the same illuminated each day of the Term during the hours designated by Landlord from time to time. All Tenant's signs shall be professionally designed, prepared and installed and in good taste so as not to detract from the general appearance of the Demised Premises or the Shopping Center and shall comply with the sign criteria attached as *Exhibit D* to the Lease or otherwise developed by Landlord from time to time. After the initial installation of Tenant's storefront sign as approved in writing by Landlord in accordance with these provisions, Landlord reserves the right to require from time to time that Tenant change or replace such sign in order to comply with any new sign criteria developed by Landlord, at Landlord's expense. For purposes hereof, the term "sign" shall mean any sign, placard, picture, name, direction, lettering, insignia or trademark, advertising material, advertising display, awning or other such item, except that Tenant's storefront sign shall be an actual sign. Blinds, shades, drapes or other such items shall not be placed in or about the windows in the Demised Premises except to the extent, if any, that the character, shape, design, color, material and make thereof is first approved by Landlord in writing.

DISPLAY OF MERCHANDISE: Tenant shall not place or maintain any permanent or temporary fixture or item or display any merchandise: (i) outside the Demised Premises, or (ii) anywhere inside the Demised Premises within six (6) feet of any entrance to the Demised Premises (except that for any recessed entry of the Demised Premises, Tenant shall not so place or maintain fixtures within three (3) feet of such entrance). All displays of merchandise shall be tasteful and professional.

ROOF, AWNINGS AND PROJECTIONS: Tenant shall not install any aerial, antennae, satellite dish or any other device on the roof, exterior walls or Common Areas of the Shopping Center. Tenant may install and have access to rooftop HVAC equipment only to the extent approved or required by Landlord from time to time in connection with Tenant's obligations under the Lease.

OVERLOADING FLOORS: Tenant shall not overload any floor or part thereof in the Demised Premises or Shopping Center including any public corridors therein, and Landlord may direct and control the location of safes, vaults and all other heavy articles and require supplementary supports of such material and dimensions as Landlord may deem necessary to properly distribute the weight at Tenant's expense (including expenses for structural review and engineering).

UNATTENDED PREMISES: Before leaving the Demised Premises unattended, Tenant shall close and securely lock all doors or other means of entry to the Demised Premises and shut off all lights (except signs required to be illuminated hereunder), water faucets and other utilities in the Demised Premises (except heat to the extent necessary to prevent the freezing or bursting of pipes). This provision shall not imply that Tenant may leave the Demised Premises unattended in violation of the operating requirements set forth elsewhere in this Lease.

FOOD, BEVERAGES, GAME AND VENDING MACHINES: Except to the extent expressly permitted under this Lease, Tenant shall not: (i) use the Demised Premises for the manufacture, preparation, display, sale, barter, trade, gift or service of food or beverages, including without limitation, intoxicating liquors, or (ii) install, operate or use any video, electronic or pinball game machine, or any coin or token operating vending machine or device to provide products, merchandise, food, beverages, candy, cigarettes or other commodities or services including, but not limited to, pay telephones, pay lockers, pay toilets, scales, and amusement devices; provided, however, that Tenant may install vending machines for the sale of non-alcoholic beverages, food, and candy in an area not visible from the sales area or exterior of the Demised Premises for the exclusive use of Tenant's employees.

LABOR RELATIONS: Tenant shall conduct its labor relations and relations with employees so as to avoid strikes, picketing, and boycotts of, on or about the Demised Premises or Shopping Center. If any employees strike, or if picket lines or boycotts or other visible activities objectionable to Landlord are established, conducted or carried out against Tenant, its employees, agents, contractors, or subcontractors in or about the Demised Premises or the Shopping Center, Tenant shall immediately close the Demised Premises and remove or cause to be removed all such employees, agents, contractors, and subcontractors until the dispute has been settled.

LANDLORD'S TRADENAME AND TRADEMARKS: No symbol, name, mark or insignia adopted by Landlord for the Shopping Center or picture or likeness of the Shopping Center shall be used by Tenant without the prior written consent of Landlord.

RESPONSIBILITY FOR COMPLIANCE: Tenant shall be responsible for ensuring compliance with these Rules and Regulations, as they may be amended, by Tenant's employees and as applicable, by Tenant's agents, invitees, contractors, subcontractors, and suppliers.