

**LEASE AGREEMENT
BY AND BETWEEN**

CARR MILL MALL LIMITED PARTNERSHIP

AND

TOWN OF CARRBORO

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is dated as of November 29, 2022, by and between Carr Mill Mall Limited Partnership, a North Carolina Domestic Limited Partnership (hereinafter referred to as "Landlord"), and Town of Carrboro, a NC Municipality ("Tenant").

1. DEFINITIONS.

The following terms shall have the meanings set forth below for all purposes in this Lease:

- (a) Shopping Center: Entire property known as Carr Mill Mall located at 200 N. Greensboro Street, Carrboro, North Carolina 27510 including Farmer's Market lot.
- (b) Demised Premises: Space D-13 containing approximately 1,500 square feet of leasable area at the Shopping Center, as shown cross-hatched on Exhibit "B" attached hereto.
- (c) Lease Term: Three (3) Years
- (d) Lease Commencement Date: January 1, 2023
- (e) Rent Commencement Date: January 1, 2023
- (f) Minimum Rent: Thirty-four Thousand five hundred and 00/100 Dollars (\$34,500.00) for the first Lease Year, payable in equal installments of \$2,875.00 per month.
- (g) Annual Minimum Rent Escalation Percentage: N/A or CPI as set forth in Section 6.
- (h) Percentage Rent Percentage: N/A % as set forth in Section 6.
- (i) Common Area Percentage: Prorata as set forth in Section 7. N/A
- (j) Real Estate Tax Percentage: Prorata as set forth in Section 9. N/A
- (k) Marketing Fund Charge: N/A
Dollars (\$) for the first Lease Year, payable in equal installments of per month.
- (l) Security Deposit Amount: None
Dollars (\$) as set forth in Section 6.
- (m) Permitted Use of Premises: the operation of Town office operations
- (n) Tenant's Advertised Name: Town of Carrboro
- (o) Address for Notices to Tenant: 301 West Main St.
Carrboro, North Carolina 27510
- (p) Address for Notices to Landlord: Carr Mill Mall Limited Partnership, Post Office Box 673,
Carrboro, North Carolina 27510
- (q) Tenant's Social Security/Employer ID Number: n/a
- (r) Guarantor(s): n/a
- (s) Address(s) of Guarantor(s): n/a

This Lease includes and incorporates the Exhibits listed in the Table of Contents and the following additional documents (check if applicable): ☒ Addendum to Lease; ☐ Guaranty of Lease; ☐ _____ and _____

ADDENDUM

- 5. (b.) Strike entirely
- 5. (c.) Strike entirely
- 5. (d.) Strike entirely
- 5. (e.) Strike entirely
- 5. (f.) Strike entirely
- 6. (b.) Strike entirely
- 6. (c.) Strike entirely
- 6 (d.) Strike entirely
- 6. (e). Strike entirely
- 6. (f.) Strike entirely
- 7. (b.) Strike entirely. Insert the words "Included in Minimum Rent".
- 8. Strike entirely
- 9. (b.c.d.) Strike entirely. Insert the words "Real Estate taxes are included in Minimum Rent".
- 10. In the first sentence delete the word "Tenant" and insert the word "Landlord". In the first sentence after the word "disposal" delete the word "and" and insert the following ", which is included in Minimum Rent. The Tenant shall pay for ". "Delete" the second and third sentences.
- 13. At the end of the paragraph insert the following sentences "The Landlord shall provide janitorial service Monday through Friday. This service includes removal of trash from waste paper baskets, vacuuming and dusting. It is Tenant's responsibility to remove and properly dispose of boxes (including moving boxes), unwanted furniture, fixtures or old files."
- 14. In the first sentence delete the words "floors, electrical, plumbing and sewer Systems, all doors windows and plate glass".
- 19. (a.)(iv) After the word "standards" insert a "period". Delete the balance of the sentence.
- 21.(c.) "Delete" the entire sentence.
- 46. After the last sentence "Insert" Tenant shall have 30 days from notice to either accept or reject the relocation without penalty. If Tenant rejects relocation, then the Lease will be automatically terminated at the expiration of the 90 day notice period.
- Exhibit D; Item # 10 – "Delete"
- Exhibit E; Item # 16 – At the end of the paragraph insert the following: "It is understood that Tenant requires HVAC services at night and on weekends, and landlord will provide this at no additional charge.

Please Initial _____

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EXHIBIT A – Carr Mill Mall Shopping Center Description
 EXHIBIT B – Plan Showing Demised Premises
 EXHIBIT C – Commencement Agreement
 EXHIBIT D – Tenant's Work
 EXHIBIT E – Rules and Regulations
 EXHIBIT F – Sign Criteria

2. PREMISES.

(a) Description and Location of Demised Premises. In consideration of the rents, covenants and conditions hereinafter set forth, Landlord leases to Tenant, and Tenant leases from Landlord those certain premises, described in Section 1(b) (hereinafter referred to as "Demised Premises") erected as Carr Mill Mall (hereafter called "Shopping Center"), on tracts of land situated in the Town of Carrboro, County of Orange, State of North Carolina, as described by metes and bounds in Exhibit "A" attached hereto and made a part hereof, and the said Demised Premises being outlined on the Floor Plan designated Exhibit "B" which is attached hereto and made a part hereof, together with the right of the non-exclusive use, in common with others, of all such automobile parking areas, driveways, footwalks, and other facilities designated for common use, as may be provided by Landlord from time to time, subject, however, to the terms and conditions of this Lease Agreement and to such rules and regulations for the use thereof, as may be prescribed by the Landlord from time to time.

Landlord hereby reserves the right at any time and from time to time to make alterations or additions to, and to build additional stores on, the building in which the Demised Premises are contained and to build adjoining the same, and to install, maintain, use and repair and replace pipes, ducts, conduits and wires leading through the Demised Premises in locations serving other parts of the Shopping Center which will not materially interfere with Tenant's use of the Demised Premises. Landlord also reserves the right to construct other buildings or improvements in the Shopping Center from time to time and to make alterations thereof or additions thereto and to build additional stories on any such building or buildings and to build adjoining same and to construct such parking facilities as may be necessary or required.

(b) Adjustment of Description and Location. It is understood and agreed that the description of the Shopping Center as set forth in Exhibit "A" and the locations of the Demised Premises in the Shopping Center as shown on Exhibit "B" hereof shall be subject to such changes as may be certified by Landlord's architect as necessary for engineering or architectural purposes for the construction of any improvements to be constructed thereon. Nothing contained herein or in any exhibit attached hereto shall be deemed to be a warranty, representation or agreement by Landlord with respect to the layout of the Shopping Center or the existence or location of any tenant stores depicted thereon. Any such changes so certified shall not invalidate this Lease and the description and location of the Demised Premises as set forth in Exhibit "B" hereof shall be deemed to have been expressly modified and amended herein in accordance with such changes.

3. TERM.

(a) Commencement and Term. TO HAVE AND TO HOLD the Demised Premises upon the covenants and conditions hereinafter set forth, the term of this Lease shall commence on the Lease Commencement Date as set forth in Section 1 (d).

Landlord and Tenant agree that upon the occurrence of the Lease Commencement Date, Landlord shall provide a copy of the Lease Commencement Agreement in the form attached hereto as Exhibit "C" properly executed to establish the Lease Commencement Date. Tenant will subsequently execute the Lease Commencement Agreement and return to Landlord.

(b) Lease Year. The term "Lease Year" as used herein shall mean each period of twelve (12) consecutive months commencing on the Lease Commencement Date, except that if the Lease Commencement Date is not the first day of a month, then the first Lease Year shall commence on the Lease Commencement Date and shall continue for the balance of the month in which the Lease Commencement Date occurs and for a period of twelve calendar months thereafter.

(c) Memorandum of Lease. The parties covenant and agree that this Lease shall not be recorded; provided, however, that upon written request of either Landlord or Tenant, a Memorandum of Lease prepared by Landlord describing the property herein demised, giving the term of this Lease and the name and address of Landlord and Tenant and referring to this Lease (but containing no other terms or provisions hereof except as may be permitted or required by Landlord) shall be properly executed, acknowledged and delivered by both parties. If Landlord shall request or consent thereto, such Memorandum of Lease may be recorded by either party at its expense. In the event that Tenant fails to execute, acknowledge and deliver such Memorandum of Lease within ten (10) days after Landlord's written request therefor, Tenant does hereby make, constitute and irrevocably appoint Landlord as its attorney-in-fact and in its place and stead so to do.

4. TENANT'S CONSTRUCTION.

(a) License to Enter Demised Premises. At any time prior to delivery of possession of the Demised Premises, Landlord may make the Demised Premises available to Tenant for its work and installations, at Tenant's sole risk, so long as such work and installation do not interfere with or obstruct the progress of the work being performed by Landlord. The foregoing shall in no way be construed as notice that Tenant may open the Demised Premises for business, except in strict accordance with the terms and conditions of this Lease.

(b) Tenant's Construction. Upon delivery of possession of the Demised Premises by Landlord, Tenant will proceed with due diligence, at its own expense, to perform all work and supply all installations described as "Tenant's Work" in Exhibit "D" attached hereto and made a part hereof, and to fully equip the Demised Premises with all trade fixtures, lighting fixtures, furniture, furnishings, floor and wall coverings, exterior signs, any special equipment and other items of construction and personal property necessary for the completion of the Demised Premises and the proper operation of Tenant's business therein. Tenant's Work shall be performed with materials of good quality, and all items installed by Tenant in the Demised Premises shall be new, unless otherwise approved in writing by Landlord. Tenant shall not do any construction work or alterations, nor shall Tenant install any equipment other than trade fixtures and personal property without first obtaining Landlord's written approval of the plans and specifications therefor in accordance with Exhibit "D." The approval by Landlord of such plans and specifications shall not constitute the assumption of any liability on the part of the Landlord for their accuracy or their conformity with the requirements of any building code, or other municipal or governmental regulation or ordinance, and Tenant shall be solely responsible for such plans. Prior to commencement of any work upon the Demised Premises by Tenant, Tenant shall deliver to Landlord:

(i) a certificate of public liability and property damage insurance of the type and with the limits set forth in Section 15 hereof naming Landlord as additional insured, and evidence of Workmen's Compensation and Builder's Risk coverage as required by Exhibit "D" hereof, and

(ii) a photocopy of all building permits required by local building codes or ordinances, the originals of which shall be prominently displayed in the Demised Premises at all times during the course of Tenant's Work.

In the event Tenant shall fail to complete any portion of its construction of the Demised Premises or the installation of any equipment or other items to be installed therein as required by this Lease within the time periods set forth, Landlord may, in addition to any other rights and remedies it may then have, terminate this Lease or complete such construction or make such installations on behalf of and for the account of Tenant upon five (5) days notice to Tenant of its intention to do so. The cost incurred by Landlord in completing such construction or making such installations shall be deemed to be Additional Rent due and payable with the next installment of Minimum Rental thereafter falling due. From and after the date of delivery of possession of the Demised Premises, Tenant shall observe and perform all of its obligations under this Lease, including without limitation, payment of all utility charges from and after the delivery of possession of the Demised Premises (but excluding its obligations to pay Minimum Rental, Percentage Rental and all other charges which shall be payable only from and after the Commencement Date).

5. USE AND OPERATION OF THE DEMISED PREMISES.

(a) Tenant's Use of Premises. Tenant shall operate its business in the Demised Premises during the term of this Lease under the trade name described in Section 1(n) and shall use and occupy the Demised Premises solely for the purpose described in Section 1(m) of this Lease.

Tenant agrees that it will not use or permit, or suffer the use of, the Demised Premises, or any part thereof, for any other business or purpose. Tenant shall not conduct catalog or mail order sales in or from the Demised Premises pursuant to the provisions of this Section 5(a). Tenant shall not maintain nor permit to be maintained within the Demised Premises any vending machines of any nature, except vending machines solely for the use by Tenant or Tenant's employees which are located only in non-sales areas.

(b) Operation of Business. Tenant shall continuously during the term of this Lease keep the entire Demised Premises occupied and open for business under the trade name and for the purposes permitted by Section 5(a) hereof on all business days and during the hours hereinafter specified. Tenant shall not use more than five percent (5%) of the gross leasable area of the Demised Premises for office or other non-selling purposes.

(c) Business Hours. Tenant will keep the Demised Premises open for business during the hours that the

Shopping Center is open for business (at least 10:00 a.m. to 6:00 p.m. Monday through Saturday and such other times as Landlord may set forth in the Rules and Regulations), provided however, Tenant shall be relieved of such obligation to operate to the extent it may be necessary that the Demised Premises be closed on account of the order of any duly constituted authority, or for the purpose of making repairs or improvements, or during the period of strikes, lockouts, emergencies or other causes beyond Tenant's control, so long as Tenant shall make all reasonable efforts to shorten such periods.

(d) Merchandise and Personnel. Tenant agrees to carry at all times in the Demised Premises sufficient merchandise of such size, character and quality as shall be reasonably designed to produce the maximum gross sales possible from the Demised Premises. Tenant agrees to fully staff the Demised Premises with an adequate number of properly trained employees and personnel for the purpose of selling such merchandise.

(e) Radius Restriction. During the term of this Lease, and every extension thereof, Tenant shall not directly or indirectly conduct any business within seven (7) miles of the Demised Premises which shall be like, or similar to, the business permitted to be conducted in the Demised Premises; provided, however, this provision shall not prohibit Tenant from continuing to conduct any business being conducted by Tenant on the date of this Lease Agreement. This provision shall apply to any principal or partner of Tenant, if Tenant be a partnership or joint venture, and to any officer, director or shareholder owning more than ten percent (10%) of the capital stock of Tenant, if Tenant be a corporation. Landlord, for breach of this covenant and in addition to any other remedy otherwise available, may require that all sales from any such competing business be included within the gross receipts as defined in Section 6(d) hereof as though such sales had actually been made from the Demised Premises.

(f) Failure to Operate Business. In the event Tenant shall fail to open for business in the Demised Premises fully fixtured, stocked and staffed on the Rent Commencement Date, or shall vacate or abandon the Demised Premises or shall cease operation of its business therein for a period of three (3) consecutive business days, Landlord shall have the right, at its option, either (i) to collect not only the Minimum Rental and the other rents and charges herein reserved, but also additional rental equal to one-half (1/2) of the Minimum Rental reserved for the period of Tenant's failure to do business computed on a per diem basis during such period, and such additional Rental shall be deemed to be in lieu of any Percentage Rental that might have been earned during such period, or (ii) terminate this Lease.

6. MINIMUM AND PERCENTAGE RENT.

(a) Minimum Rent. Tenant hereby covenants and agrees to pay to Landlord (at its office or such other place as Landlord may from time to time designate) as "Minimum Rent", which amount is subject to adjustment as provided for herein, for the Demised Premises during the term of this Lease, without any deductions or offsets whatsoever, an annual amount equal to the amount set forth in Section 1(f). Minimum Rent shall be divided into equal monthly installments, and such monthly installments shall be due and payable in advance on the first day of each month.

On the first day of the second Lease Year and on the first day of every Lease Year thereafter during the Lease Term, Minimum Rent shall be increased to the greater of (i) Minimum Rent in effect during the immediately preceding Lease Year increased by the Annual Minimum Rent Escalation Percentage, or (ii) Minimum Rent in effect during the first Lease Year multiplied by a fraction, the numerator of which is the Consumer Price Index for Urban Wage Earners and Clerical Workers, 1982-84 Base Year, United States City Average, as published by the Bureau of Labor Statistics (hereinafter referred to as the "Index"), which is published for the period that includes the second month immediately preceding the Lease Year for which such adjustment is being made, and the denominator of which is the Index published for the period that includes the second month immediately preceding the month in which the Lease Commencement Date occurs. If the Index is changed so that a base year other than 1982-84 is used, the index used herein shall be converted in accordance with the conversion factor published by the Bureau of Labor Statistics of the United States Department of Labor.

(b) Percentage Rent. In addition to the annual Minimum Rent herein provided for, Tenant covenants and agrees to pay to Landlord during each calendar year (or portion thereof) within the Lease Year "Percentage Rent" for the Demised Premises during the term of this Lease, without any deductions or offsets whatsoever, a sum equal to the amount by which the product of (i) the Percentage Rent Percentage set forth in Section 1(h) times (ii) Tenant's Gross Receipts (as hereinafter defined) during such calendar year (or portion thereof), exceeds the amount of Minimum Rent paid by Tenant with respect to such calendar year (or portion thereof).

(c) Statements and Percentage Rent Payments.

(i) Within fifteen (15) days after the end of each monthly period during the term of this Lease, Tenant shall submit to Landlord an accurate written statement signed by Tenant or on its behalf by a duly authorized officer or representative, showing the full amount of Tenant's gross receipts from the operation of the Demised Premises during such monthly period. A copy of North Carolina Sales and Use Report, as filed, shall be deemed acceptable.

(ii) Within thirty (30) days after the end of each lease year or partial lease year, Tenant shall submit to Landlord a complete statement certified by a duly authorized officer or representative of Tenant, showing accurately and in reasonable detail the full amount of Tenant's gross receipts made in, upon and from the Demised Premises during the preceding lease year and shall tender therewith the Percentage Rent due, if any, for such preceding lease year.

(d) Gross Receipts. The term "gross receipts" as used herein is hereby defined to mean the aggregate gross amount of all sales of merchandise made and all charges for services performed by Tenant or any persons, firms or corporations on its behalf, or any licensees, concessionaires or subtenants of Tenant from, in or upon the Demised Premises, including orders taken upon the Demised Premises for delivery from sources other than the Demised Premises, and whether wholesale or retail, and whether for cash or credit, and including the value of all consideration other than money received for any of the foregoing, and shall include, but not be limited to, all amounts received from the sale of goods, wares, and catalogue or otherwise; provided, however, that to the extent the sales price of such merchandise or services has originally been included in gross receipts, there may be deducted from gross receipts the amount of any refunds for merchandise returned for credit to factories or jobbers. In addition, gross receipts shall not include the amount of any sales or gross receipts tax levied directly on sales to or services for customers of Tenant, provided that specific record is made at the time of each sale of the amount of such sales or gross receipts tax and the amount thereof is separately charged to the customer and is paid by Tenant to the appropriate taxing authority; a copy of the paid tax receipt (showing the dates on which such tax was paid) shall be attached to each annual statement of gross receipts. No deduction shall be allowed for uncollectible credit or charge accounts.

(e) Books of Account and Landlord's Right to Audit. Tenant covenants and agrees that the business of Tenant and of any licensee, concessionaire or subtenant upon the Demised Premise shall be operated so that a duplicate sales slip, invoice or non-resettable cash register receipt, serially numbered, shall be issued with each sale or transaction whether for cash, credit or exchange. Tenant shall keep at all times during the term hereof, at the Demised Premises or at some other reasonably accessible location, full, complete and accurate books of account and records in accordance with accepted accounting practices, including all federal, state and local tax returns of Tenant relating to Tenant's gross receipts, with respect to all operations and transactions of business in, upon and from the Demised Premises, and further including records of the receipt of all merchandise into and the delivery of all merchandise from the Demised Premises during the term hereof. Tenant shall retain such books and records, as well as all contracts, vouchers, checks, inventory records, and other documents and papers in any way relating to the year to which they are applicable, or, if an audit is required or a controversy should arise between the parties hereto regarding the rent payable hereunder, until such audit or controversy shall be terminated. Such books and records shall, at all reasonable times during the retention period above referred to, be open to the inspection of the Landlord or its duly authorized agents and representatives, who shall have full and free access to the same and the right to require of the Tenant, its agents and employees, such information or explanation with respect to the same as may be necessary for the proper evaluation thereof, and who shall further have the right to copy and duplicate, at Landlord's expense, such information as Landlord may require. Additionally, if Tenant shall maintain its books of account and records at a location other than the Demised Premises, Landlord shall have the right to require, upon ten (10) days prior written notice, that Tenant shall make such books and records available for inspection at the Demised Premises. Landlord agrees, for itself, its agents and representatives, not to disclose the information so obtained, except to the holder of any mortgage or deed of trust on or purchaser of the Shopping Center and except as may be necessary for the enforcement of Landlord's rights under this Lease.

(f) Expense of Audit and Payment of Deficiency. If it is determined that the actual gross receipts for any period covered by the statement required pursuant to Section 6(c) shall exceed the amount thereof shown in said statement by one percent (1%) or more, Tenant shall pay to Landlord the reasonable cost of such examination or audit. In the event such examination or audit discloses that the Tenant has understated gross receipts by one percent (1%) or more, Landlord may, in addition to the foregoing rights, terminate this Lease. Any additional Percentage Rent found due and owing as a result of such examination or audit shall immediately be due and payable, together with the cost of such audit and interest at the rate hereinafter set forth. In connection with any examination or audit, Landlord shall have the right to inspect the records of Tenant in connection with gross receipts from any other store operated by Tenant, but only in the event such examination becomes necessary to ascertain gross receipts from the Demised

Premises.

(g) Delinquent Payment. If Tenant shall fail to pay any rental or other sum of money becoming due hereunder within ten (10) days from the date such sum shall become due and payable, there shall be added to such sum as reimbursement for Landlord's additional administrative costs and expenses a late charge equal to ten percent (10%) of the unpaid balance or \$100.00, whichever is greater. In addition, such payment and late charge shall bear interest at the Default Rate (which shall be the higher of Eighteen Percent or the highest rate permitted by law) from the date such payment or late charge, respectively, became due to the date of payment thereof by Tenant.

(h) Place of Payment. Tenant will pay all rentals and other charges and render all statements herein prescribed to CARR MILL MALL LIMITED PARTNERSHIP, at Post Office Box 673, Carrboro, NC 27510, or to such other person and at such other place as shall be designated by Landlord in writing at least ten (10) days prior to the next rental payment date.

(i) Security Deposit. Tenant has concurrently with the execution of this Lease, deposited with the Landlord the sum set forth for the Security Deposit Amount set forth in Section 1 as security for the full and faithful performance of each and every provision of this Lease to be performed by Tenant. If Tenant defaults with respect to any provision of this Lease by it to be performed, Landlord may, in addition to any other remedy it may have, use, apply or retain all or any part of the Security Deposit for the payment of any rent or any other sum in default, or for the payment of any other amount which Landlord may spend or become obligated to spend by reason of Tenant's default or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of the Security Deposit is so used or applied, Tenant shall, within five (5) days after written demand therefor, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to its original amount. Landlord shall not be required to keep the Security Deposit separate from its general funds and Tenant shall not be entitled to interest on such deposit. If Tenant shall fully and faithfully perform each provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to Tenant only upon the expiration of the full stated term of this Lease and after payment by Tenant of all sums due or to become due Landlord under any provisions of this Lease, it being the intention of the parties that such sum of money shall secure Landlord not only as to default by Tenant prior to termination but as to any deficiency in sums to be paid by Tenant to Landlord for the full stated term hereof. In the event of a sale, lease or other transfer of the Shopping Center, Landlord shall have the right to transfer the Security Deposit to the vendee, lessee or transferee, and Landlord shall thereupon be released from all liability for the return of such Security Deposit, and Tenant shall look to the new Landlord solely for the return of said Security Deposit and this provision shall apply to every transfer or assignment made of the Security Deposit to a new landlord. The Security Deposit shall not be assigned or encumbered by Tenant without the written consent of Landlord and any such assignment or encumbrance shall be void.

7. COMMON AREAS AND FACILITIES.

(a) Use and Control of Common Areas. Landlord covenants and agrees that during the term of this Lease, Tenant and its employees, agents, officers, customers, licensees and invitees shall have a license for the non-exclusive use for pedestrian and vehicular traffic, as the case may be, of the common areas and facilities of the Shopping Center, including, but not limited to, parking areas, streets, sidewalks, canopies, courts, stairs, elevators, roadways, loading platforms, public washrooms, shelters, ramps, landscaped areas; all malls, whether opened or enclosed, and all other areas and facilities located in the Shopping Center (hereinafter collectively called the "Common Areas"), such use to be in common with Landlord and all others to whom Landlord has or may hereafter grant rights to use the same. The Common Areas shall at all times be subject to the exclusive control and management of Landlord and such use by Tenant shall be subject always to such rules and regulations as Landlord may from time to time adopt; and Landlord shall have the right from time to time to change the area, level, location and arrangement of the Common Areas, to restrict parking by tenants and their employees to designated employee parking areas, and to make all rules and regulations and utilize portions of the Common Areas for such uses which, in Landlord's sole discretion, tend to benefit the customers of the Shopping Center.

(b) Common Area Maintenance Charge. In addition to all other payments herein provided to be made by Tenant, Tenant shall pay to Landlord, throughout the term of this Lease as a "Common Area Maintenance Charge", Tenant's proportionate share of the cost and expenses of every kind and nature paid or incurred by Landlord for the maintenance and operation of the "Common Areas". Such costs and expenses shall include, but not be limited to, management, cleaning, repairing, replacing and restoring; lighting; heating, ventilating and air conditioning the Shopping Center; snow removal, painting and striping, landscaping; providing security, including security personnel; providing public liability, property damage, fire and extended coverage and such other insurance as Landlord deems appropriate; personal property taxes; fire protection charges, water, sewer and other utility charges; licenses and permit fees; reasonable depreciation of equipment used in operating and maintaining the Common Areas, and rent paid for the leasing of any such equipment or ground lease; and a fee equal to fifteen percent (15%) of the total of the

cost and expenses paid or incurred by Landlord in maintaining and operating the Common Areas. Tenant's Common Area Maintenance Charge shall be determined by multiplying the total cost incurred or paid by Landlord by a fraction whose numerator is the gross leasable area of the Demised Premises as set forth in Article 1 and the denominator of which is the total square feet of gross leasable area of the Shopping Center. The "Gross Leasable Area" shall mean with respect to the Demised Premises and with respect to all other leasable areas, the number of square feet of leasable floor area on all levels, including any mezzanines, basements, or balconies, but excluding "Common Areas", measured from the exterior face of exterior walls and/or the exterior face of service corridor walls, the exterior of building line from all frontage, and the center line of party walls. No deduction shall be made for columns, stairs, elevators, or any interior construction or equipment.

Tenant's Common Area Maintenance Charge shall be paid in monthly installments, beginning with the Rent Commencement Date as defined in Section 1 above, on the first day of each month in an amount to be reasonably estimated by Landlord. Landlord may increase or decrease the monthly installment paid by Tenant upon at least thirty (30) days written notice to Tenant.

Following the end of each lease year during the term hereof, Landlord shall furnish to Tenant a statement of the actual amount of Tenant's Common Area Maintenance Charge. If the actual amount of Tenant's Common Area Maintenance Charge is less than the total amount theretofore paid by Tenant for such lease year, the excess shall be credited against Tenant's next succeeding payments or refunded to Tenant at the expiration of the term hereof. If the actual amount of Tenant's Common Area Maintenance Charge shall exceed the total amount theretofore paid by Tenant for such lease year, Tenant shall pay to Landlord, within thirty (30) days following its receipt of Landlord's statement, the total amount shown as due thereon.

8. ADVERTISING AND PROMOTION.

(a) Marketing Fund. Landlord has created a Marketing Fund for the sole purpose of purchasing advertising media to promote the Shopping Center and the tenants therein. Beginning with the Rent Commencement Date as defined in Section 1 above, Tenant shall contribute ("Marketing Fund Charge") to a Marketing Fund program to be administered by Landlord, the amount set forth in Section 1(k), payable in equal monthly installments in advance on the first day of each calendar month. On the first day of the second Lease Year and on the first day of every Lease Year thereafter during the Lease Term, the Marketing Fund Charge shall be increased to the greater of (i) Marketing Fund Charge in effect during the immediately preceding Lease Year increased by the Annual Minimum Rent Escalation Percentage, or (ii) Marketing Fund Charge as adjusted to reflect the increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers as provided in Section 6(a)

(b) Use of Shopping Center Name. Tenant agrees to use the name and logo of the Shopping Center prominently in all advertising and promotional literature and to include its trade name designated in Section 1 hereof, but agrees that such Shopping Center name and logo will not be used to refer to any locations other than the Demised Premises.

9. REAL ESTATE TAXES AND ASSESSMENTS.

(a) Obligation to Pay Taxes. Landlord shall pay when due all real estate taxes and assessments of any kind or nature which are now or may hereafter be imposed upon the Shopping Center; and Tenant shall pay when due all taxes and assessment of any kind or nature imposed or assessed upon fixtures, equipment, merchandise or other property installed in or brought onto the Demised Premises by or for Tenant.

(b) Tenant's Pro Rata Share of Real Estate Taxes.

(i) Beginning with the Rent Commencement Date as defined in Section 1 above, Tenant shall pay to Landlord in monthly installments as additional rent Tenant's pro rata share of all real estate taxes, both general and special, levied, imposed or assessed against the Shopping Center. Tenant's pro rata share of all real estate taxes assessed against the Shopping Center is defined as the product of (i) the total amount of real estate taxes (including, without limitation, extraordinary assessments, public utility, school zone and poll taxes) assessed against the parcels of which the Demised Premises forms a part, and (ii) a fraction, the numerator of which is the square footage of the gross leasable area of the Demised Premises as set forth in Section 2 hereof and the denominator of which is the gross leasable area of the Shopping Center. Tenant's pro rata share of all real estate taxes shall be pro rated on a per diem (30-day month) basis in the event the Commencement Date is other than the first day of a calendar month, and shall be apportioned during any partial lease year during the term hereof and any extension thereof for the portion of such tax year included within said lease year.

(ii) Commencing with the first monthly installment of Minimum Rent payable hereunder, Tenant shall pay to Landlord on account of Tenant's pro rata share of real estate taxes an amount to be reasonably estimated by Landlord. The amount of each monthly installment shall be adjusted by Landlord annually based upon the real estate taxes paid for the preceding tax year. Within ninety (90) days following the end of each tax year during the term hereof, Landlord shall furnish to Tenant a statement setting forth Tenant's pro rata share of such real estate taxes. If the actual amount of Tenant's pro rata share of real estate taxes is less than the total amount theretofore paid by Tenant, the excess shall be credited against Tenant's next succeeding payments or refunded to Tenant at the expiration of the term hereof. If the actual amount of Tenant's pro rata share of real estate taxes shall exceed the total amount theretofore paid by Tenant, Tenant shall pay to Landlord, within thirty (30) days following the receipt of Landlord's statement, the total amount shown as due thereon.

(c) Additional Tax. In the event that any tax or assessment other than real estate, public utility, school zone or poll tax is ever levied against the Demised Premises or the Shopping Center, the payment of any additional taxes or assessments (including, without limitation, any rent tax) shall be the sole responsibility of Tenant. The Tenant shall pay the same as further additional rent (before any fine, penalty, interest or costs may be added thereto for the nonpayment thereof) and shall pay as additional rent any tax that may be levied, assessed or imposed upon the rent reserved hereunder by any governmental authority acting under any present or future law.

(d) Adjustment of Taxes. An equitable adjustment shall be made in the event of any change in the method or system of taxation from that which is now applicable, including the dates and periods from which such taxes are levied, or otherwise. When the applicable tax bill is not available prior to the end of the term hereof, then the adjustment shall be made, tentatively on the basis of the last year's taxes, and the amount due shall be treated as an addition to the Minimum Rent for the last month of the term of this Lease; and the final adjustment shall be made between the Landlord and Tenant promptly after the Landlord shall have received the tax bill for such period.

10. UTILITIES.

During the term of this Lease Agreement, the Tenant shall pay for the electricity, heat, ventilating, water, sewage, janitor services, garbage disposal and other utilities or services required by it in the use of the Demised Premises. If Landlord shall elect to furnish any such utilities or services to Tenant, Tenant agrees to purchase the same from Landlord. Landlord may elect to furnish heat and air conditioning to the Demised Premises by a central system serving other parts of the Shopping Center, in which event Landlord will pay for those utilities including water, electricity and fuels used in connection with such central heating and air conditioning and for all repairs and replacements necessary to maintain the equipment and Tenant will pay to Landlord monthly installments for such heating and air conditioning and other utilities, in addition to rental and all other charges herein specified. If Landlord elects to furnish heat, air conditioning and/or other utilities to the Demised Premises by a central system, Landlord shall have no liability for failure to provide such heat, air conditioning or other utilities, if and when such failure is due to causes beyond Landlord's control.

Tenant agrees to operate any separate heating and air conditioning unit in the Demised Premises during all hours that Tenant's store is open for business and during all hours that the heating and conditioning units for the enclosed mall area are in operation.

11. ALTERATIONS OR IMPROVEMENTS BY TENANT.

Subject to the provisions of Section 4 hereof, Tenant shall have the right during the term of this Lease to make such interior alterations or improvements in the Demised Premises, with the exception of structural alterations or improvements or alterations of interior partitions or of the heating, cooling, plumbing or electrical systems of the Demised Premises, provided Tenant shall promptly pay all costs, expenses and charges thereof, shall make such alterations and improvements in accordance with applicable laws and building codes and in good and workmanlike manner, and shall fully and completely indemnify the Landlord against any mechanics' lien, labor and materialmen's liens or claims in connection with the making of such alterations and improvements. Tenant shall not make, or permit to be made any alterations, additions, or improvements of a structural nature to the interior of the Demised Premises, nor shall Tenant make any alterations, additions or improvements to the exterior or store front of the Demised Premises. After the initial installation thereof in accordance with the provisions of Section 4 hereof, Tenant shall not make, or permit to be made, any alterations or additions to the electrical, plumbing, heating or cooling systems without the prior written consent of Landlord. Tenant shall promptly repair any damage to the Demised Premises, or to the building of which the Demised Premises are a part, caused by any alterations, additions or improvements of the Demised Premises made by Tenant.

12. REMOVAL OF TRADE FIXTURES AND IMPROVEMENTS.

Except as otherwise provided in this Lease, all unattached movable trade fixtures, furnishings, furniture, signs and personal property installed in the Demised Premises by Tenant at its expense shall remain the property of Tenant and may be removed by Tenant at the expiration or earlier termination of this Lease or any renewal or extension thereof, provided that any damage caused by such removal shall be repaired immediately and Tenant shall properly restore the Demised Premises to their original order and condition, reasonable wear and tear excepted; and provided, further, that Tenant shall have fully performed all of the covenants and agreements to be performed by it under the provisions of this Lease. Any such unattached movable trade fixtures, furnishings, furniture, signs and other personal property not removed at or prior to such expiration or earlier termination of this Lease shall be and become the property of Landlord, unless Landlord elects to require their removal in which case Tenant shall promptly remove same and restore the Demised Premises to its original condition. All leasehold improvements and installations, including, but not limited to, all permanent fixtures, heating and air conditioning equipment and other permanent improvements to be furnished by Tenant in accordance with the provisions of Exhibit "D" shall become and remain the property of Landlord at the expiration or earlier termination of this Lease and shall not be removed from the Demised Premises.

13. REPAIRS BY LANDLORD.

Landlord will maintain and keep in good order and repair the foundations, roof, and structural portions of the walls of the Demised Premises, except any walls installed by Tenant, whether temporary or permanent, and any glass or doors in the Demised Premises, and except for repairs which may be required by reason of the acts or negligence of Tenant, its employees, agents, invitees, licensees, contractors or customers. Tenant agrees to give Landlord written notice of the necessity for repairs required to be made by Landlord, and Landlord shall thereupon have a reasonable period of time within which to make such repairs.

14. REPAIRS BY TENANT.

Subject only to the obligations of Landlord as contained in this Lease, Tenant shall keep and maintain the Demised Premises and every part thereof in good condition and repair, including, but not limited to, all fixtures, facilities or equipment installed by Tenant, floors, electrical, plumbing and sewer systems, all doors, windows and plate glass, and shall make any repairs thereto and any replacements thereof. All plans and specifications for such remodeling and refurbishment shall be submitted to Landlord for approval at least ninety (90) days before such work is to commence. All repairs or replacements required of Tenant shall be completed in accordance with the applicable provisions, specifications and conditions of Exhibit "D" hereof. In the event Tenant fails, refuses or neglects to commence or complete any of the obligations set forth herein to the satisfaction of Landlord as soon as reasonably possible after written demand, Landlord may, but shall not be obligated to do so, make or complete such repairs or maintenance without liability to Tenant for any loss or damage that may occur to Tenant's merchandise, fixtures, or other property or to Tenant's business by reason thereof, and upon completion thereof, Tenant shall pay the cost thereof to Landlord upon demand as additional rent. In the event Tenant shall fail and refuse to perform its obligations and duties under this Section 14, Landlord may, in addition to any other remedies it might have, terminate this Lease.

15. INSURANCE.

(a) Public Liability Insurance. Tenant shall, at all times during the term hereof, at its sole cost and expense, procure and maintain in force and effect a policy or policies of comprehensive public liability insurance issued by a company or companies acceptable to Landlord, insuring against loss, damage or liability for injury to or death of persons and loss or damage to property occurring from any cause whatsoever in, upon or about the Demised Premises. Such policies of liability insurance shall name as insured both Landlord and Tenant and shall be in amounts of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) on account of bodily injuries to or death of one (1) person, ONE MILLION DOLLARS (\$1,000,000.00) on account of bodily injuries to or death of more than one (1) person as a result of any one accident or disaster, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) on account of damage to property.

(b) Tenant's Casualty Insurance. Tenant shall, at all times during the term hereof, at its sole cost and expense, procure and maintain in force and effect a policy or policies of insurance issued by a company or companies acceptable to Landlord insuring against fire and such other risks as are, from time to time, included in standard extended coverage endorsements, insuring Tenant's inventory, trade fixtures, furnishings, furniture, lighting fixtures, special equipment, floor and wall coverings and all other items of personal property of Tenant located on or within the Demised Premises and alterations or improvements made by Tenant pursuant to the terms of this Lease, such coverage to be in an amount equal to the full

replacement cost thereof.

(c) Policies or Certificates of Insurance. Tenant will furnish the Landlord, within thirty (30) days after Tenant receives notice of Landlord's intention to deliver possession of the Demised Premises, copies of policies or certificates of insurance evidencing the insurance coverage required to be carried by Tenant. All policies required of Tenant hereunder shall provide an express waiver of rights of subrogation thereunder and shall contain an endorsement or provision requiring not less than thirty (30) days written notice to Landlord prior to the cancellation, diminution in the perils insured against or reduction of the amount of coverage of the particular policy in question.

(d) Landlord's Casualty Insurance. Landlord shall, at all times during the term hereof, procure and maintain in force and effect a policy of insurance insuring the Shopping Center and the Demised Premises (except those portions which Tenant is required hereunder to insure) against loss or damage by fire and the perils commonly covered under the extended coverage endorsement in an amount equal to at least eighty percent (80%) of the replacement cost thereof. Tenant shall have no rights in said policy or policies maintained by Landlord and shall not, by reason of such reimbursement, be entitled to be a named insured thereunder.

(e) Increase in Landlord's Casualty Insurance Premium. Tenant agrees that it will not keep, use, sell or offer for sale in or upon the Demised Premises any article, which may be prohibited by the standard form of fire insurance policy. Tenant agrees to pay any increase in premiums for fire and extended coverage and liability insurance with all its endorsements that may be charged during the term of this Lease on the amount of such insurance which may be carried by Landlord on said premises or the building of which they are a part, resulting from the type of merchandise sold by Tenant in the Demised Premises, or fixtures, equipment or other items stored therein, whether or not Landlord has consented to the same, and any increases in insurance rates and/or valuation. In determining whether increased premiums are the result of Tenant's use of the Demised Premises, a schedule issued by the organization making the insurance rate on the Demised Premises, showing the various components of such rate, shall be conclusive evidence of the several items and charges which make up the fire insurance rate on the Demised Premises.

In the event Tenant's occupancy causes any increase of premium for the fire, boiler and/or casualty rates on the Demised Premises, the Shopping Center, or any part thereof above the rate for the least hazardous type of occupancy legally permitted in the Demised Premises, the Tenant shall pay the additional premium on the fire, boiler and/or casualty and liability insurance policies by reason thereof. The Tenant also shall pay in such event, any additional premium on the rent loss through fire. Bills for such additional premiums shall be rendered by Landlord to Tenant at such times as Landlord may elect, and shall be due from and payable by Tenant when rendered and the amount thereof shall be deemed to be, and be paid as, additional rent.

16. DAMAGE AND DESTRUCTION.

(a) If, at any time after the execution of this Lease, the Demised Premises or any portion of the Shopping Center shall be damaged or destroyed by any casualty not covered by the insurance maintained by Landlord in accordance with Section 15(d) hereof, or in the event of any such damage or destruction by any casualty covered by insurance maintained by Landlord and

(i) The proceeds of such insurance are insufficient to cover Landlord's restoration obligation; or

(ii) Landlord's architect certifies that the Demised Premises are damaged to the extent of twenty percent (20%) or more of the cost of replacement thereof; or

(iii) The building of which the Demised Premises are a part or all of the buildings which then comprise the Shopping Center is or are damaged (whether or not the Demised Premises is actually damaged) to the extent of twenty-five percent (25%) or more of the cost of replacement thereof or to such an extent that the Shopping Center cannot in the sole judgement of the Landlord be operated as an integral unit; or

(iv) Such damage or destruction occurs during the last one (1) years of the term (or of any renewal term) of this Lease;

then in any such event, Landlord may elect either to repair or rebuild the Demised Premises or the building of which the Demised Premises are a part, as the case may be, or to terminate this Lease upon giving written notice to Tenant within ninety (90) days after the date of such damage or destruction.

(b) If the Demised Premises shall be damaged or destroyed, but this Lease is not terminated in accordance with the provisions hereof, Landlord, in accordance with its original obligation to construct the Demised Premises hereunder, shall commence the repair and restoration of the Demised Premises as soon as is

reasonably possible (but not before receipt of the insurance proceeds) and prosecute the same to completion with all due diligence, limited, however, to the extent of the insurance proceeds received by Landlord therefor.

(c) If Landlord is required or elects to repair or to rebuild the Demised Premises as herein provided, Tenant shall immediately proceed to repair or replace its inventory, sign, trade fixtures, furnishings, floor and wall coverings, special equipment and other items of construction and personal property of Tenant necessary for the operation of business and in accordance with its original obligation to do so under the terms and conditions of this Lease.

(d) If the Demised Premises shall be rendered untenantable, in whole or in part, as the result of such damage or destruction, a proportionate abatement of the Minimum Rent shall be allowed from the date of such damage or destruction until thirty (30) days after the date Landlord completes the repairs or rebuilding of the Demised Premises, said proportion to be computed on the ratio which the gross leasable area of the Demised Premises rendered untenantable bears to the gross leasable area of the entire Demised Premises; provided, however, that no abatement of rent shall be permitted if such damage or destruction shall have been caused by the negligence of Tenant or of Tenant's subtenants, concessionaires, licensees, contractors or invitees or their respective agents or employees. Nothing contained herein shall be construed to permit an abatement of Tenant's obligation to pay Percentage Rent or additional rent, except that the computation of Percentage Rent shall be based upon the revised Minimum Rent as abated. Except for the abatement of Minimum Rent provided herein, Tenant shall not be entitled to and hereby waives all claims against Landlord for any compensation or damage for loss of use of the whole or any part of the Demised Premises and/or any inconvenience or annoyance occasioned by any such damage, restoration or repair.

17. LIABILITY FOR DAMAGE.

Landlord shall not be liable to Tenant at any time or in any event for any latent defect, deterioration or change in the condition of the Demised Premises nor for damage to the same or to any property contained therein or for any damage done or occasioned by or from the electrical system, the heating or cooling system, the plumbing and sewer systems; nor for damage occasioned by water, snow, gas or ice being upon or coming through the roof, walls, windows, doors, or otherwise, in, upon or about the Demised Premises nor for injury to persons or any damage whether caused by any overflow or leakage upon or into the Premises of water, steam or gas or by any breakage in pipes or plumbing, or breakage, leakage or obstruction of soil pipes, nor for damage, loss or injury from any other source, nor for loss of property by theft or otherwise, nor for consequential or special damages therefrom, unless the said damage, loss or injury shall be caused by or due to the gross negligence of the Landlord, or the Landlord's agent, servant or employee; nor for any damage arising from act of negligence of other tenants or occupants of the Shopping Center; and furthermore, Landlord shall not be liable to Tenant for any damage occasioned by reason of the construction of the Demised Premises or for the failure to keep the Demised Premises in repair, unless Landlord is obligated to make such repairs under the terms of this Lease Agreement, and unless notice of the need for such repairs has been given to Landlord, a reasonable time has elapsed and Landlord has failed to make such repairs. In any event, Landlord shall not be liable for any damage to Tenant's inventory, trade fixtures, furniture, furnishings, floor and wall coverings, special equipment and all other items of personal property of Tenant resulting from fire or other hazards, regardless of the cause thereof, and Tenant hereby releases Landlord from all liability for such damage.

18. INDEMNIFICATION.

Tenant shall indemnify, defend and save Landlord from and against any and all claims, demands, actions, suits, losses, damages, costs, expenses and liabilities whenever arising on or after the date hereof, that may be based upon or may be asserted or alleged to be based upon injury, damage or loss of any nature whatsoever to persons or property (whether of Tenant or any other person) arising out of or due to, or asserted or alleged to arise out of or be due to any act (whether of commission or omission) of Tenant or any of its agents, employees, representatives, visitors or guests with respect to the Premises or in the exercise of Tenant's rights or the performance of Tenant's covenants and obligations under this Lease or the use or occupancy of the Premises or the Building by Tenant or any of its agents, employees, representatives, visitors or guests, whether or not any such claim, demand, action, suit, loss, damage, costs, expense or liability is asserted by any agent, employee or representative of Tenant, or by any visitor, guest or other third party, and whether or not any such claim, demand, action, suit, loss, damage, cost, expense or liability is based upon or asserted or alleged to be based upon negligence. In the event any action or proceeding is brought against Landlord with respect to any matter covered by Tenant's aforesaid indemnity obligation, Tenant, upon notice by Landlord, shall resist and defend the same at Tenant's expense with counsel satisfactory to Landlord. Tenant shall also pay all costs, expenses, and reasonable attorneys' fees that may be incurred or paid by Landlord in enforcing the covenants, conditions and agreements of this Lease Agreement whether incurred as a result of litigation or otherwise.

19. GENERAL COVENANTS OF TENANT.

(a) Affirmative Covenants. Tenant covenants and agrees:

- (i) To comply with any and all requirements of any of the constituted public authorities, and with the terms of any state or federal statute or local ordinance or regulation applicable to Tenant or its use of the Demised Premises and save Landlord harmless from penalties, fines, costs, expenses or damages resulting from failure to do so.
- (ii) To give to Landlord prompt written notice of any accident, fire or damage occurring in or to the Demised Premises and the Common Areas.
- (iii) To keep the Demised Premises sufficiently heated to prevent freezing of water in pipes and fixtures.
- (iv) To conduct its business in the Demised Premises in all respects in a diligent and dignified manner and keep the Demised Premises in first class condition in accordance with high standards of store operation, maintaining at all times during the term of this Lease Agreement a full staff of well trained and high grade personnel and a full and complete stock of seasonable merchandise so as to attain the highest possible sales volume.
- (v) To comply with and observe the rules and regulations attached hereto as Exhibit "E" and made a part hereof and any amendments or supplements thereto which Landlord may adopt. Tenant's failure to keep and observe said rules and regulations shall constitute a breach of the terms of this Lease in the manner as if the same were contained herein as covenants. Notice of the adoption of additional rules and regulations or amendments thereto shall be given to Tenant simultaneously as to other tenants in the Shopping Center.
- (vi) To do all things necessary to prevent the filing of any mechanics' or other liens against the Demised Premises or any part thereof by reason of work, labor, services or materials supplied or claimed to have been supplied to Tenant, or anyone holding the Demised Premises or any part thereof, through or under Tenant. If any such lien shall at any time be filed against Tenant's interest in the Demised Premises, Tenant shall either cause the same to be discharged of record within twenty (20) days after the date of filing of the same, or, if Tenant, in Tenant's discretion and in good faith, determines that such lien should be contested, shall furnish such security as may be necessary or required to prevent any foreclosure proceedings against Tenant's interest in the Demised Premises during the pendency of such contest. If Tenant shall fail to discharge such lien within such period or fail to furnish such security then, in addition to any other right or remedy of Landlord resulting from Tenant's said default, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by giving security or in such other manner as is, or may be, prescribed by law. Nothing contained herein shall imply any consent or agreement on the part of Landlord to subject Landlord's estate to liability under any mechanics' or other lien law.
- (vii) To repay to Landlord as additional rental, on demand, all sums disbursed, paid or deposited by Landlord on behalf of Tenant pursuant to the provisions of this Lease Agreement, including all costs, expenses and reasonable attorneys' fees incurred by Landlord in connection therewith, together with interest thereon at the maximum rate allowed by law.
- (viii) To execute reasonable lease modifications if in connection with financing by Landlord of the Shopping Center, a banking, insurance or other recognized institutional lender shall request such reasonable modifications of this Lease Agreement as a condition to such financing. Tenant will not unreasonably withhold, delay or defer its consent thereto, provided that such modifications do not increase the obligations of Tenant hereunder or materially adversely affect the leasehold interest hereby created.
- (ix) To park, and to require its employees to park, only in such places as may be designated for employee or tenant parking from time to time by Landlord, and to furnish to Landlord, within five (5) days after request therefor, the license number of its own and its employees' automobiles and if Landlord shall so request such numbers to notify Landlord of any changes within five (5) days after such changes occur. Tenant expressly authorizes Landlord to tow away from the Shopping Center all such cars as are improperly parked and agrees to reimburse Landlord for the cost thereof.

(b) Negative Covenants. Tenant will not do any of the following without prior consent in writing of Landlord:

- (i) Do or suffer to be done, any act, matter or thing objectionable to insurance companies whereby the fire insurance or any other insurance now in force or hereafter to be placed on the Demised Premises or any part thereof, or on the building of which the Demised Premises may be a part, shall become void or suspended, or whereby the same shall be rated as a more hazardous risk than at the date when Tenant receives possession hereunder. In case of a breach of this covenant, in addition to all other remedies of Landlord hereunder, Tenant agrees to pay to Landlord as additional rent, any and all increase or increases of premiums on insurance, including rent insurance carried by Landlord on any part of the Shopping Center, caused in any way by the occupancy of Tenant. In determining whether increased premiums are the result of Tenant's use of the Demised Premises, a schedule issued by the organization making the insurance rate on the Demised Premises, showing the various components of such rate, shall be conclusive evidence of the several items and charges which make up the insurance rate on the Demised Premises.
- (ii) Commit or suffer to be committed by any person any waste upon the Demised Premises or any nuisance or other act or thing which may disturb the quiet enjoyment of any other tenant in the Shopping Center or their customers or invitees, or which may disturb the quiet enjoyment of any person within five hundred (500) feet of the boundaries of the Shopping Center.
- (iii) Keep, display or sell any merchandise or any object outside the interior of the Demised Premises, or any portion of any sidewalks, walkways, or other portion of the Common Areas.
- (iv) Solicit or permit to be solicited business in the Common Areas, or distribute handbills or other matter to customers or place the same in or on automobiles in the Common Areas.
- (v) Conduct any auction, fire, distress, bankruptcy or "going-out-of-business" sale in violation of North Carolina General Statutes, whether fictitious or not.
- (vi) Place or permit the accumulation of rubbish, trash, garbage and other refuse in and around the Demised Premises, and, upon Tenant's failure to remove same after demand from Landlord, Landlord shall have the right to remove the same in which event the cost thereof shall be paid by Tenant as additional rent.
- (vii) Use or permit to be used the Demised Premises for any purpose other than as specified herein nor use or permit to be used the Demised Premises for any unlawful, disreputable or immoral purpose, or in any way that will injure the reputation of the Shopping Center, nor permit the Demised Premises to be occupied in whole or in part by any other person, except as otherwise provided herein.

20. RIGHTS OF LANDLORD.

Landlord reserves, in addition to and not in substitution for, other rights reserved herein, the following rights with respect to the Demised Premises:

- (a) At all reasonable times, by itself or its duly authorized agents and representatives, to enter and go upon the Demised Premises for the purpose of serving, posting or keeping posted thereon such notices as Landlord may deem necessary or appropriate; for the purpose of inspecting the Demised Premises or any portion thereof; and for the purpose of making necessary repairs to the Demised Premises and performing any work therein or thereon which Landlord may elect or be required to make hereunder, or which may be necessary to comply with any laws, ordinances, rules, regulations or requirements of any public authority. If Tenant shall not be personally present to open and permit an entry by Landlord into the Demised Premises, at any time, and for any reason an entry thereof shall be necessary in the sole discretion of Landlord, Landlord or Landlord's agents may enter the same without rendering Landlord or such agent liable therefor.
- (b) To display a "For Sale" sign at any time, and also after notice from either party of intention to terminate this Lease Agreement in accordance with the terms hereof or at any time within six (6) months prior to the expiration of this Lease Agreement, to display a "For Rent" sign, and all of said signs shall be placed upon such portion of the Demised Premises as Landlord shall require, except that no signs shall be placed on display windows or doors leading into the Demised Premises. Prospective purchasers or tenants authorized by Landlord may inspect the Demised Premises at reasonable hours.
- (c) To install or place upon or affix to the roof and exterior walls of the Demised Premises equipment, signs, displays, antennae, and any other object or structure of any kind, provided the same shall not

materially impair the structural integrity of the building.

21. SIGNS.

(a) Tenant shall not decorate, paint or in any other manner alter the exterior of the Demised Premises, or any part thereof, except in accordance with its duties pursuant to Sections 11 and 14 hereof, and shall not install or affix any sign, device, fixture or attachment on or to the exterior of the Demised Premises, or any building or any part thereof on the Demised Premises, including the roof or the canopy thereof, without first obtaining Landlord's written consent and complying in all respects with the standards set by Landlord for such signs or other decoration as set forth in Exhibit "F" attached hereto and made a part hereof which is designated "Sign Criteria"; nor shall Tenant place in or on the display windows any sign, lettering or advertising matter of any kind without first obtaining Landlord's written approval and consent in each instance; and if Tenant shall do any of the foregoing acts in contravention of this provision, Landlord shall have the right to remove any such decoration, paint, alteration, sign, device, fixture or attachment and restore the Demised Premises to the condition thereof prior to such act, and the cost of such removal and restoration shall be paid by Tenant as additional rental on the first day of the month next following such removal or restoration.

(b) Tenant, at its expense, shall furnish and install at an appropriate location on the exterior of the Demised Premises an identification sign of such design, content, form and material as it may select for the purpose of designating the business conducted therefrom as that of Tenant, such sign to be approved by Landlord or Landlord's architect in writing and in accordance with the provisions of Exhibit "F", Sign Criteria.

(c) If Tenant does not install an identification sign on the fascia above the store within thirty (30) days after the opening of the Demised Premises for business to the public, then Landlord shall have the right to enter into the Demised Premises for the purpose of installing said identification sign at the expense of Tenant.

22. ASSIGNMENT AND SUBLETTING.

Tenant agrees not to sell, assign, mortgage, pledge, hypothecate or encumber this Lease in whole or in part, or sublet the whole or any part of the Demised Premises without first obtaining the written consent of the Landlord. Tenant shall not assign, mortgage, pledge, hypothecate, sublet or encumber this Lease in whole or in part if Tenant is in default as per the terms of Section 26 of this Lease Agreement. The consent by Landlord to any one such assignment, sublease, mortgage, pledge, hypothecation or encumbrance shall not be deemed to be a consent to any further assignment, sublease, mortgage, pledge, hypothecation or encumbrance. If this Lease or any interest therein be assigned or if the Demised Premises or any part thereof be sublet or occupied by anyone other than Tenant without the Landlord's prior written consent having been obtained thereto, Landlord may nevertheless collect rent from the assignee, subtenant or occupant and apply the rent amount collected to the rents therein reserved, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of the covenant herein against assignment and subletting or the acceptance of the assignee, subtenant or occupant as Tenant hereunder, or constitute a release of Tenant from the further performance by Tenant of the terms and provisions of this Lease. Tenant agrees that in the event of any such assignment or subletting made with the written consent of Landlord as aforesaid, Tenant shall nevertheless remain primarily liable for the performance of all the terms, conditions and covenants of this Lease. Any rental or other consideration received by Tenant in excess of the Minimum Rent and other charges set forth in this Lease shall be paid to Landlord, and Landlord shall have the right to require any such assignee or subtenant to make all payments of Minimum Rent and other charges directly to Landlord. Any transfer of this Lease from Tenant by merger, consolidation, liquidation or otherwise by operation of law shall constitute an assignment for the purpose of this Lease and shall require the written consent of the Landlord. In the event that Tenant shall seek Landlord's consent to assign this Lease or sublet the Demised Premises, or any part thereof, Tenant shall provide to Landlord the name, address and financial statement of the proposed assignee or subtenant, a copy of the sublease or assignment and such other information as Landlord may require. In addition, Tenant shall accompany such request with a certified check in the amount of FIVE HUNDRED AND 00/100 DOLLARS (\$500.00) to reimburse Landlord for administrative and legal expenses incurred in the review and preparation of any necessary documents.

If Tenant or any Guarantor of this Lease is a corporation and at any time during the term of this Lease there shall occur a change or changes in the ownership, whether voluntary, involuntary, by operation of law or otherwise, which aggregates fifty percent (50%) or more of the total capital stock of Tenant or such Guarantor or fifty percent (50%) or more of the voting capital stock of Tenant or such Guarantor, or if any Guarantor shall be dissolved, Tenant shall so notify Landlord and Landlord shall have the right, at its option, to terminate this Lease by written notice to Tenant within thirty (30) days following receipt of such notice; provided, however, that this provision shall not be applicable to Tenant or any Guarantor if all of the outstanding voting stock of such corporation is listed on a National Securities Exchange (as defined in

the Securities Exchange Act of 1934, as amended).

Subsequent to any such assignment or subletting, Landlord may exercise against assignee or subtenant of Tenant all of the rights and remedies herein provided upon default, but Tenant shall remain liable, jointly and severally with any assignee or subtenant for the performance of all the covenants, conditions and agreements of this Lease, including, but not limited to, the payment to Landlord of all payments due or to become due to Landlord hereunder.

23. SUBORDINATION.

(a) Subordination or Priority of Leasehold Estate. Tenant agrees to subordinate its interest in this Lease to any and all ground leases or mortgages or deeds of trust now or hereafter placed on the property of which the Demised Premises are a part, provided in each such case the holder of any such mortgage or deed of trust shall agree in writing that this Lease shall not be divested or in any way affected by foreclosure or other default proceedings under said mortgage, deed of trust, or obligation secured thereby, so long as Tenant shall not be in default under the terms of this Lease and Tenant further agrees that this Lease shall remain in full force and effect notwithstanding any such default proceedings under said mortgage, deed of trust or obligation secured thereby. Alternatively, Tenant agrees that the holder of such mortgage or deed of trust shall have the right, without the consent of Tenant, to subordinate the mortgage or deed of trust to this Lease.

(b) Notice to Holder of Mortgage or Deed of Trust. If Tenant is notified of Landlord's assignment of this Lease as security for a mortgage loan and of the name and address of the holder of such mortgage or deed of trust, Tenant shall not terminate or cancel this Lease for any default on the part of Landlord without first:

(i) Giving notice of its intention to do so to the holder of such mortgage or deed of trust, the notice to describe in reasonable detail the nature and extent of the default, and

(ii) Affording the holder of such mortgage or deed of trust a reasonable opportunity to perform on behalf of Landlord its obligations under this Lease.

(c) Estoppel Certificates. Recognizing that both parties may find it necessary to establish to third parties, such as accountants, banks, mortgagees, purchasers or the like, the then current status of performance hereunder, either party, on the written request of one to the other made from time to time, will promptly furnish a written statement on the status of any matter pertaining to this Lease.

Without limiting the generality of the foregoing, Tenant specifically agrees, promptly upon the commencement of the term hereof, to notify the Landlord in writing of the date of the commencement of the term and to acknowledge satisfaction of the requirements with respect to construction and other matters by Landlord, save and except for such matters as Tenant may wish to set forth specifically in said statement. At any time within ten (10) days after such request is made, Tenant shall execute, acknowledge and deliver to Landlord a certificate evidencing, among other items, whether or not:

(i) This lease is in full force and effect;

(ii) This lease has been amended in any way, and if amended, the date and nature of any such amendment;

(iii) There are any existing defaults hereunder to the knowledge of Tenant and specifying the nature of such defaults, if any; and

(iv) The date to which rent, including Percentage Rental, if any, has been paid.

24. EMINENT DOMAIN.

(a) Total Condemnation. If the whole of the Demised Premises is taken for any public or quasi-public use under any governmental law, ordinance, or regulation or by right of eminent domain, or by private purchase in lieu thereof, the term of this Lease shall terminate effective on the date physical possession is taken by the condemning authority.

(b) Partial Condemnation.

(i) If more than twenty-five percent (25%) of the gross leasable area of the Demised Premises, but less than the whole thereof, is taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain or by private purchase

in lieu thereof, then either party hereto shall have the right to terminate this Lease effective on the date physical possession is taken by the condemning authority.

(ii) If less than twenty-five percent (25%) of the gross leasable area of the Demised Premises is taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain or by private purchase in lieu thereof, or if neither party shall elect to terminate as provided in paragraph (b)(i) above, then in either such event this Lease shall not be terminated, the Minimum Rent specified in Section 6(a) shall be reduced during the unexpired term of this Lease in proportion to the area so taken, effective on the date physical possession is taken by the condemning authority.

(c) Common Areas; Building. If more than fifty percent (50%) of the gross leasable area of the building in which the Demised Premises are located, or if more than thirty percent (30%) of the Common Areas, is taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain or by private purchase in lieu thereof, then in either such event, either Landlord or Tenant may terminate this Lease effective on the date physical possession is taken by the condemning authority; provided, however, that Tenant shall have no such right to cancel or terminate this Lease if Landlord promptly takes steps to restore the building of which the Demised Premises is a part and/or to restore the customer vehicular parking portions of the Common Areas to not less than seventy percent (70%) of their total area immediately prior to such taking by substituting therefore additional customer vehicular parking in reasonable proximity to the Shopping Center. In the event Tenant shall elect or be required to remain in possession under the terms of this paragraph (c), there shall be no reduction, change, or abatement of any Minimum Rent, Percentage Rental or other charges whatsoever payable on the part of Tenant hereunder, and this Lease shall continue in all respects in full force and effect.

(d) Election to Terminate; Restoration and Repairs. Any election to terminate this Lease by either party following condemnation shall be evidenced only by written notice of termination delivered to the other party within thirty (30) days after receipt of notice of the impending condemnation, which termination shall become effective on the date on which physical possession is taken by the condemning authority.

If this Lease is not terminated following a partial condemnation, Landlord shall make all necessary repairs or alterations, within the scope of its original obligation to construct the Demised Premises, as necessary to make the Demised Premises an architectural whole, and Tenant shall make all repairs or alterations within the scope of its original obligation to build in accordance with Exhibit "D" necessary to prepare the Demised Premises for the opening of business.

(e) Condemnation Award. All compensation awarded for any taking (or the proceeds of private sale in lieu thereof) whether for the whole or in part of the Demised Premises or of any portion of the Shopping Center, including, but not limited to, all damages as compensation for diminution in value of the leasehold, reversion and fee, shall belong to the Landlord without any deduction therefrom for any present or future estate of Tenant, and Tenant hereby assigns all of its interest in any such award to Landlord; provided, however, Tenant shall have the right to claim and recover from the condemning authority such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of any and all damage to Tenant's business by reason of the condemnation and for or on account of any cost of loss which Tenant might incur in removing Tenant's merchandise, furniture, fixtures, and equipment, if a separate claim of such items is made to Tenant, but any such award shall be expressly subject and subordinate to the rights of Landlord and any mortgagee.

25. NOTICES.

Wherever in this Lease it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, such notice or demand shall be deemed to have been duly given or served when sent in writing by registered or certified mail, postage prepaid, or by overnight express by any major carrier (i.e. Federal Express, Airborne, Purolator, etc.) to the respective addresses set forth in Section 1:

Such addresses may be changed from time to time by either party by serving written notice as above provided.

26. DEFAULT OF TENANT AND REMEDIES.

If Tenant shall fail to pay any rental or other sum of money becoming due hereunder within ten (10) days from the date such sum shall become due and payable, there shall be added to such sum as reimbursement for Landlord's additional administrative costs and expenses a "late charge" equal to ten percent (10%) of the unpaid balance or \$100.00, whichever is greater. If Tenant shall continue in default in the payment of any rental or other sum of money becoming due hereunder for a period of ten (10) days after such sum shall become due and payable; or if Tenant shall default in the performance of any other of the terms,

conditions or covenants contained in this Lease to be observed or performed by it and does not remedy such default within ten (10) days after written notice thereof or does not within such ten (10) days commence such act or acts as shall be necessary to remedy the default and shall not complete such act or acts promptly; or if Tenant or any Guarantor shall become bankrupt or insolvent, or file any debtor proceedings, or file in any court pursuant to any statute, either of the United States or of any State a petition in bankruptcy or insolvency or for reorganization; or if Tenant shall file or have filed against it a petition for the appointment of a receiver or trustee for all or substantially all of the assets of Tenant or of any Guarantor and such appointment shall not be vacated or set aside within thirty (30) days from the date of such appointment; or if Tenant or any Guarantor makes an assignment for the benefit of creditors, or petitions for or consents to an arrangement; or if Tenant shall vacate, fail to operate in or abandon the Demised Premises or any substantial part thereof for a period of three (3) consecutive business days; or if Tenant shall suffer this Lease to be taken under any writ of execution and such writ is not discharged or set aside within thirty (30) days; or if Tenant shall have been appropriately assessed more than three (3) late charges, as described hereinabove; or if Tenant shall receive three (3) default notices at any time during the term of this Lease, for violations of the same Section, then in any such event Landlord shall have the right to terminate and cancel this Lease Agreement. Landlord, without excluding other rights or remedies that it may have, shall have the immediate right of reentry and may remove all persons and property from the Demised Premises and dispose of such property as it sees fit, all without resort to legal procedure and without being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby. If Landlord should elect to reenter as herein provided, or should it take possession pursuant to legal proceedings, it may either terminate this Lease Agreement or it may from time to time without terminating this Lease Agreement make such alterations and repairs as may be necessary in order to relet the Demised Premises, and Landlord shall have the right but not the obligation to relet the Demised Premises for such term and at such rentals and upon such other terms and conditions as Landlord may deem advisable. In the event of such reletting, all rentals received by Landlord shall be applied, first, to the payment of any indebtedness other than rental due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including the expense of alterations and repairs; third, to the payment of rental due and unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of future rental due and unpaid hereunder. If such reletting shall yield rentals insufficient for any month to pay the rental due by Tenant hereunder for that month, Tenant shall be liable to Landlord for any such deficiency. No such reentry of taking possession of the Demised Premises by Landlord shall be construed as an election to terminate this Lease unless a written notice of such intention be given by Landlord to Tenant at the time of such reentry; but, notwithstanding any such reentry and reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach. In the event of any termination of this Lease by Landlord, whether before or after reentry, Landlord may recover from Tenant damages incurred by reason of such breach, including the cost and expense of recovering the Demised Premises and the difference in value between the rental which would be payable by Tenant hereunder for the remainder of the term and such reasonable rental value of the Demised Premises for the remainder of the term. In determining the rental which would be payable by Tenant hereunder, subsequent to default, the annual rental for each year of the unexpired term shall be equal to the average rental (including Minimum Rent, additional rental and Percentage Rent) paid or payable by Tenant from the commencement of the term to the date of default; provided, however, if Tenant shall fail to open for business, fully fixtured, stocked and staffed on the Commencement Date, or shall vacate or abandon the Demised Premises or shall cease to operate Tenant's business therefrom, Landlord shall have the right to collect rental as described in Section 5(f) of this Lease.

27. LANDLORD'S LIEN.

To secure all rents and other sums of money becoming due hereunder from Tenant, Landlord is hereby granted and shall have at all times during the term of this Lease a valid lien and security interest upon all goods, wares, equipment, fixtures, furniture, inventory and other personal property of Tenant situated on the Demised Premises, and such property shall not be removed therefrom without the consent of Landlord until all arrearages in rent as well as any and all other sums of money then due to Landlord hereunder shall first have been paid and discharged. Upon the occurrence of an event of default by Tenant, Landlord may, in addition to any other remedies provided herein or by law, enter upon the Demised Premises and take possession of any and all goods, wares, equipment, fixtures, furniture, inventory and other personal property of Tenant situated on the premises without liability for trespass or conversion, and sell the same with or without notice at public or private sale, with or without having such property at the sale, at which Landlord or its assigns may purchase, and apply the proceeds thereof, less any and all expenses connected with the taking of possession and sale of the property, as a credit against any sums due by Tenant to Landlord. Any surplus shall be paid to Tenant, and Tenant agrees to pay any deficiency forthwith. Alternatively, the lien hereby granted may be foreclosed in the manner and form provided by law for foreclosure of chattel mortgages or in any other form provided by law. Any statutory lien for rent is not

hereby waived, the express contractual lien herein granted being in addition and supplementary thereto. Tenant covenants and agrees to execute any financing statements or such other security instruments as may be required to perfect the security interest granted thereby.

28. LIABILITY OF LANDLORD.

In the event Landlord shall fail to perform any covenant, term or condition of this Lease upon Landlord's part to be performed, Tenant covenants and agrees to look solely to Landlord's estate and interest in the Shopping Center for any recovery of a money judgement from Landlord from and after the date of this Lease Agreement, subject, however, to the rights of any mortgagee. In no event is Landlord, or any other assets of Landlord, or any individual member, shareholder or partner of Landlord, or any successor in interest thereof, ever to be personally liable for any such judgement. This provision is not intended to limit any right Tenant might otherwise have to obtain injunctive relief or specific performance of any of Landlord's obligations, or otherwise to act in any way not involving the personal liability of Landlord, or any individual member thereof. Likewise, this provision is not intended to modify other provisions of this Lease stating or restricting the rights of Tenant in the event Landlord fails to perform any obligation hereunder.

29. REMEDIES CUMULATIVE; WAIVER; CONTRACT DIVISIBLE.

No remedy or otherwise conferred upon or reserved to Landlord or Tenant shall be considered exclusive of any other remedy, but the same shall be distinct, separate and cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity or by statute; and every power and remedy given by this Lease to Landlord or Tenant may be exercised from time to time as often as occasion may arise, or as may be deemed expedient. No delay or omission of Landlord or Tenant to exercise any right or power arising from any default on the part of the other shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence therein. For the purpose of any suit by Landlord brought or based on this Lease, this Lease shall be construed to be a divisible contract, to the end that successive actions may be maintained as successive periodic sums shall mature under this Lease and it is further agreed that failure to include in any suit or action any sum then matured shall not be a waiver to the maintenance of any suit or action for the recovery of said sum or sums so omitted.

30. ACCORD AND SATISFACTION.

No payment by Tenant or receipt by Landlord of a lesser sum than the Minimum Rent or other charges herein stipulated to be paid by Tenant to Landlord shall be deemed to be other than on account of the earliest stipulated Minimum Rent or other charge, as the case may be, nor shall any endorsement or any statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such sum due and owing to Landlord or pursue any other remedy provided for in this Lease or available at law or in equity.

31. SURRENDER AND HOLDING OVER.

Tenant, upon expiration or termination of this Lease, either by lapse of time or otherwise, agrees peaceably to surrender to Landlord the premises in broom-clean condition and in good repair as required by Section 12 hereof. In the event Tenant shall fail to surrender the Demised Premises upon demand, Landlord, in addition to all other remedies available to it hereunder, shall have the right to receive, as liquidated damages for all the time Tenant shall so retain possession of the Demised Premises, or any part thereof, an amount equal to twice the Minimum Rent and Percentage Rent specified in Section 5 of this Lease, as applied to such period.

If Tenant remains in possession of the premises with Landlord's consent and without a new Lease reduced to writing and duly executed, Tenant shall be deemed to be occupying the premises as a tenant from month-to-month only, but otherwise subject to all the covenants, conditions and agreement of this Lease.

32. QUIET ENJOYMENT.

Landlord hereby covenants and agrees that if Tenant shall fully and faithfully perform all of the covenants and agreements herein stipulated to be performed on Tenant's part, Tenant shall at all times during the term hereof have the peaceable and quiet enjoyment and possession of the Demised Premises without any manner of let or hindrance from Landlord or any person or persons lawfully claiming the Demised Premises.

33. RELATIONSHIP OF PARTIES.

Notwithstanding anything contained herein, it is agreed that Landlord shall in no event be deemed to be a partner of, or engaged in a joint venture with, or an associate of Tenant for any purpose whatsoever; nor shall Landlord be liable for any debts incurred by Tenant in the conduct of his business or otherwise. Nothing contained in this Lease shall be deemed or construed to confer upon Landlord any interest in the business of Tenant. The relationship of the parties during the term of this Lease shall at all times be only that of Landlord and Tenant.

34. SUCCESSORS.

All rights, obligations and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several and respective heirs, executors, administrators, successors, tenants, licensees, concessionaires and assigns of said parties, subject to the provisions of Section 23 providing for subordination, and except as expressly provided in this Section; and if there shall be more than one Tenant they shall all be bound jointly and severally by the terms, covenants, conditions and agreements herein and the word "Tenant" shall be deemed and taken to mean each and every person or party mentioned as a Tenant herein, be the same one or more; and if there shall be more than one tenant any notice required or permitted by the terms of this Lease may be given by or to any one thereof. No right, however, shall inure to the benefit of any assignee or subtenant of Tenant unless the assignment to such assignee or sublessee has been approved by Landlord in writing as aforesaid. The use of the neuter singular pronoun to refer to Landlord or Tenant shall be deemed a proper reference even though Landlord and Tenant may be an individual, a partnership, a corporation, or a group of two or more individuals or corporations. The necessary grammatical changes required to make the provisions of this Lease apply in the plural sense where there is more than one landlord or tenant and to either corporations, associations, partnerships, or individuals, males or females, shall in all instances be assumed as though in each case fully expressed.

The term "Landlord" as used in this Lease so far as covenants, conditions and agreements on the part of the said Landlord are concerned, shall be limited to mean CARR MILL MALL LIMITED PARTNERSHIP, its successors, and assigns; and in the event of any transfer or transfers of the title to the Shopping Center or to the Demised Premises, the said Landlord (and in case of any subsequent transfers or conveyances, the then grantor) shall be automatically freed and relieved from and after the date of such transfer or conveyance of all liability as respects the performance of any covenants, conditions and agreements on the part of said Landlord contained in this Lease, it being intended hereby that the covenants, conditions and agreements contained in this Lease on the part of Landlord shall, subject as aforesaid, be binding on Landlord, its successors and assigns, only during and in respect of their respective successive period of ownership. Further, Landlord's liability under this Lease shall be limited in accordance with the terms and provisions of Section 28 hereof.

35. FORCE MAJEURE.

In the event either Landlord or Tenant shall be delayed, hindered or prevented from the performance of any act required hereunder, by reason of war, civil commotion, acts of God, governmental restrictions, scarcity of labor or materials, strikes, labor walkouts, or any other causes beyond its reasonable control, the performance of such act shall be excused for the period of delay, and the period for the performance of any such act shall be extended for the period necessary to complete performance after the end of the period of such delay. Notwithstanding the foregoing, the provisions hereof shall not apply to Tenant's obligations to pay rent or any other sums, monies, costs, charges or expenses required to be paid by Tenant hereunder.

36. BROKER.

Tenant warrants that it has had no dealings with any broker, other than N.R. Milian & Associates, in connection with the negotiations or execution of this Lease and Tenant agrees to indemnify Landlord and hold Landlord harmless from and against any and all costs, expenses, or liability for commissions or other compensation or charges claimed by any broker or agent acting for Tenant with respect to this Lease.

37. SCOPE AND INTERPRETATION OF THE AGREEMENT.

This Lease shall be considered to be the only agreement between the parties hereto pertaining to the Demised Premises. All negotiations and oral agreements acceptable to both parties are included herein. The laws of the state in which the Shopping Center is located shall govern the validity, interpretation, performance and enforcement of this Lease.

38. CAPTIONS.

Any headings preceding the text of the several Sections and paragraphs hereof are inserted solely for convenience of reference and shall not constitute a part of this Lease, nor shall they affect its meanings, construction or effect.

39. INVALIDITY OF PARTICULAR PROVISIONS.

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.

40. TIME.

Time is of the essence in this Agreement unless extended in accordance with the provisions of Section 35.

41. BENEFIT.

This Lease and all the covenants, provisions and conditions contained herein shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns, respectively of the parties hereto.

42. WAIVER OF JURY TRIAL.

Landlord and Tenant shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, and any statutory remedy.

43. ENTIRE AGREEMENT.

This Lease, with the Exhibits referred to herein and attached hereto, contains all of the agreements and conditions made between the parties hereto and may not be modified orally, or in any manner than by an agreement, in writing, signed by the parties hereto or their respective successors in interest.

44. LEASE EFFECTIVE.

The submission of this Lease for examination does not constitute an agreement to enter into a lease, a contract for a lease, or a reservation of or option for the Demised Premises described herein and this Lease becomes effective as a lease only upon execution and delivery thereof by Landlord and Tenant, whereupon the same shall be binding on the parties hereto.

45. GOVERNMENTAL AND ENVIRONMENTAL PROVISIONS.

(a) During the term of the Lease, Tenant shall fully comply with any laws or rules and regulations promulgated thereunder relating to the Demised Premises and Tenant's use thereof, including, but not limited to, the Americans With Disabilities Act as amended, Occupational Safety and Health Act, 29 U.S.C. Sections 651, et seq.; the Toxic Substances Control Act, 15 U.S.C. Sections 2601, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; the Clean Air Act, 42 U.S.C. Sections 7901, et seq.; the Clean Water Act, 33 U.S.C. Sections 1251, et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the 1986 Superfund Amendments and Reauthorization Act, 42 U.S.C. Sections 9601, et seq.; the National Environmental Policy Act, 42 U.S.C. Sections 4231, et seq.; the Refuse Act, 33 U.S.C. Sections 407, et seq.; the Safe Drinking Water Act, 42 U.S.C. Sections 300 (f), et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sections 11001, et seq.; or any other federal, state or local law, ordinance and/or regulation promulgated under each of those statutes and any amendments thereto, as well as applicable Department of Transportation regulations. Tenant shall notify Landlord immediately if Tenant receives any notice of non-compliance with any laws or rules and regulations promulgated thereunder, including, but not limited to, those enumerated above.

Tenant shall not cause or permit its business in the Demised Premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process hazardous substances, or other dangerous or toxic substances, or solid waste, except in compliance with all applicable federal, state and local laws or regulations. Tenant shall notify Landlord immediately if Tenant learns of any non-

compliance or of any facts (such as the existence of any release or the threat of release of hazardous substances at, on, from or beneath the surface of the Demised Premises) which could give rise to a claim of non-compliance with such laws or rules and regulations promulgated thereunder.

(b) During the term of the Lease, Tenant shall obtain, shall fully comply with, and shall maintain in full force and effect all governmental licenses, permits, registrations and approvals (federal, state, local, county and foreign) necessary to conduct its business in the Demised Premises including, but not limited to, those required by the statutes enumerated above in Paragraph (a). During the term of the Lease, Tenant shall keep a copy of all such permits at the Demised Premises and shall make the same available at all times for Landlord's inspection.

Tenant warrants and represents that if during the term of the Lease any violations are recorded or any notices are received with respect to any of such licenses, permits, registrations and approvals or if a proceeding is commenced or threatened to revoke or limit any of them, Tenant shall notify Landlord immediately.

(c) In addition to all other indemnities under the Lease, Tenant hereby assumes for itself and for its successors and assigns any and all environmental, health and safety liabilities or obligations relating to the Demised Premises and/or Tenant's use of the Demised Premises, including, but not limited to, any liabilities or obligations in breach of the obligations imposed by Paragraphs 1 and 2 hereof on Tenant and its successors and assigns. Tenant for itself and its successors and assignees shall indemnify, defend and hold Landlord, its successors, assigns, owners and affiliates harmless from and against any claims, demands, liabilities and damages (including, but not limited to, attorney's fees and court costs) arising out of or in connection with any environmental contamination or pollution of the Demised Premises, the existence on, or removal from, the Demised Premises of any hazardous substance. The obligations of this Paragraph shall survive the expiration or termination of this Lease.

46. RELOCATION OF DEMISED PREMISES.

Notwithstanding anything herein to the contrary, at anytime during the term of this Lease or any extension or renewal thereof, Landlord may, at its sole option, relocate Tenant to premises of substantially the same size as the Demised Premises, upon ninety (90) days prior written notice to Tenant. In such event, Minimum Rental and all other charges payable hereunder shall be proportionately adjusted such that with respect to the premises to which Tenant is relocated (the "Relocation Premises") Tenant shall pay the same amount per square foot as it is presently paying with respect to the Demised Premises. Further, Landlord shall be obligated to deliver the Relocation Premises constructed substantially in accordance with the then existing condition of the Demised Premises and shall bear any and all additional costs in connection with the relocation of Tenant. Therefore, the Relocation Premises shall be deemed to be the Demised Premises for all purposes herein.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

LANDLORD: Carr Mill Mall Limited Partnership
By: Carr Mill Development Corporation, its general partner

By: _____ (SEAL)
President

TENANT: Town of Carrboro

By: _____ (SEAL)
Title:

ATTEST:

NORTH CAROLINA,

_____ COUNTY

This is to certify that on this _____ day of _____, 20____, before me, a Notary Public, personally appeared _____, being by me first duly sworn, declared that he signed the foregoing document in the capacity indicated, that he was authorized so to sign, and that the statements therein contained are true.

WITNESS my hand and official seal, this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

(seal)

EXHIBIT A
DESCRIPTION OF CARR MILL TRACT

That certain tract of land, situate, lying and being in the Town of Carrboro, Chapel Hill Township, Orange County, State of North Carolina, being bound on the north by a 25' Southern Railway Wye Track right-of-way, the east by a 100' Southern Railway right-of-way, the south by Main Street and Weaver Street, and the west by North Greensboro Street, more particularly described as follows:

BEGINNING at an existing iron pipe at the intersection of the northern right-of-way of Weaver Street and the eastern right-of-way of North Greensboro Street, thence along and with the right-of-way of North Greensboro Street North 02 degrees 39 minutes 00 seconds East 526.78 feet to an iron set at the intersection of the southern right of way line of a 25' Southern Railway Wye Track right-of-way, thence with said right-of-way the following courses and distances: South 88 degrees 59 minutes 00 seconds East 52.46 feet; thence North 87 degrees 09 minutes 30 seconds East 161.01 feet; thence North 74 degrees 33 minutes 00 seconds East 100.00 feet; thence North 59 degrees 25 minutes 00 seconds East 100.00 feet; thence North 49 degrees 22 minutes 00 seconds East 100.00 feet; and thence North 39 degrees 01 minutes 00 seconds East 100.00 feet to an iron pipe set at the intersection with the western right-of-way of the Southern Railway, thence with said right-of-way South 02 degrees 10 minutes 00 seconds West 723.05 feet to a point, thence South 87 degrees 43 minutes 00 seconds East 2.75 feet to the corner of a concrete platform, thence South 04 degrees 18 minutes 00 seconds West 217.00 feet to an iron pipe set on the northern right-of-way line of Main Street, thence with said right-of-way North 83 degrees 37 minutes 06 seconds West 125.00 feet to an iron pipe, thence North 78 degrees 52 minutes 51 seconds West 52.37 feet to an iron pipe set at the intersection with the northern right-of-way of Weaver Street, thence with said right-of-way North 68 degrees 26 minutes 30 seconds West 82.76 feet to an iron pipe, thence North 63 degrees 42 minutes 30 seconds West 295.82 feet to the point and place of Beginning, containing 8.40 acres more or less and as shown on a plat prepared by The John R. McAdams Company, Inc. dated June 20, 1989. Revised August 15, 1989.

EXHIBIT A-2
DESCRIPTION OF FARMER'S MARKET TRACT
CARRBORO, NORTH CAROLINA

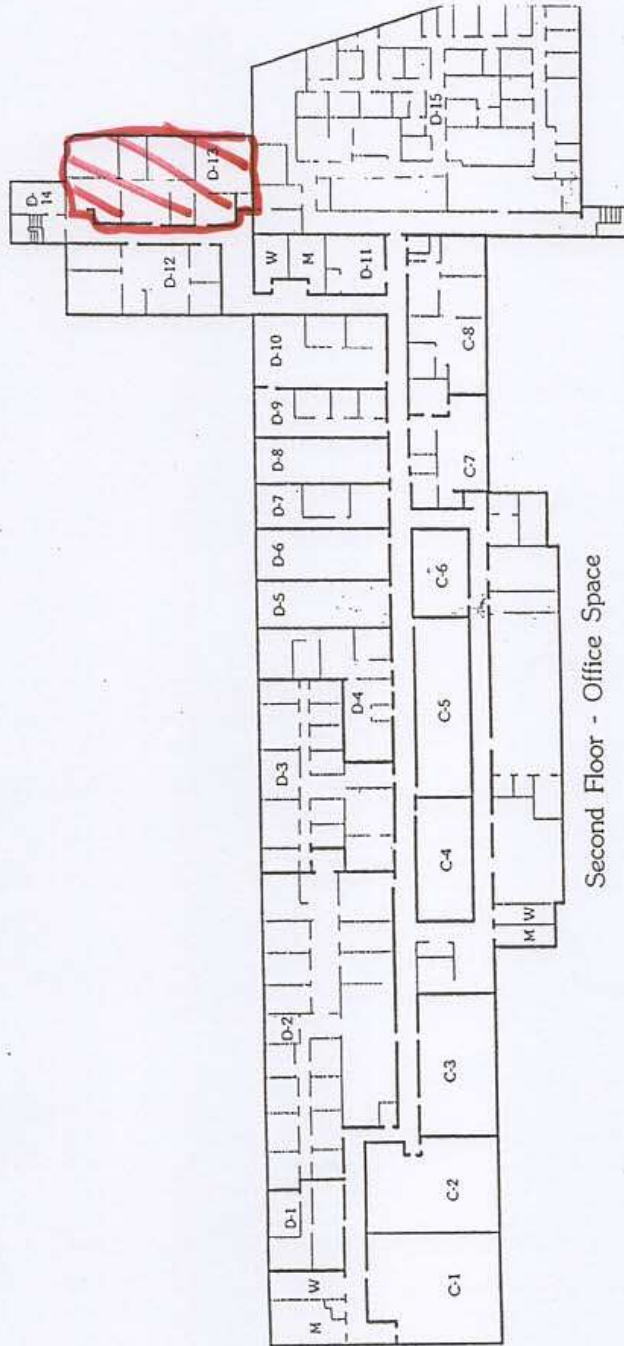
That certain tract of land, situate, lying and being in the Town of Carrboro, Chapel Hill Township, Orange County, State of North Carolina. Being bound on the north by Roberson Street, the east and south by the Yaggy Corporation, and the west by Maple Street; more particularly described as follows;

BEGINNING at an existing iron pipe on the eastern right-of-way line of Maple Street at the intersection of the northern right-of-way of Carr Street, the corner of James M. Rumfett and the South Orange Rescue Squad, thence along the southern line of South Orange Rescue Squad North 84 degrees 52 minutes 20 seconds East 75.05 feet to an iron in the drive to the rear entrance to South Orange Rescue Squad Building, thence along and with the line of South Orange Rescue Squad North 03 degrees 07 minutes 20 seconds West 169.88 feet to an iron in the pavement of Roberson Street, thence along and with the south right-of-way line of Roberson Street North 85 degrees 21 minutes 00 seconds East 125.29 feet to a nail set in the pavement of Roberson Street, the corner with The Yaggy Corporation; thence along and with the line of the Yaggy Corporation along the edge of a 26-foot paved drive South 04 degrees 11 minutes 00 seconds East 581.58 feet to an iron set at the corner with the Yaggy Corporation, thence South 89 degrees 14 minutes 25 seconds West 126.19 feet to an existing iron pipe in the rear of Robert H. Schantz, thence along and with the rear line of Schantz North 02 degrees 37 minutes 50 seconds West 68.69 feet to an existing iron pipe the corner with Jullian M. Andresen, thence along and with the rear line of Andresen North 02 degrees 27 minutes 19 seconds West 91.51 feet to an existing iron pipe, thence with the north line of Andresen South 88 degrees 51 minutes 27 seconds West 87.97 feet to an existing iron set in concrete on the eastern right-of-way of Maple Street, thence along and with the right-of-way of Maple Street North 02 degrees 48 minutes 07 seconds West 237.20 feet to an existing iron pipe, the point and place of Beginning, containing 2.10 acres more or less and as shown on a plat prepared by The John R. McAdams Company, Inc. dated June 20, 1989. Revised August 15, 1989.

Please Initial _____

EXHIBIT B

CARR MILL MALL



Second Floor - Office Space

Notwithstanding anything to the contrary in this lease, this PLOT PLAN is meant solely to indicate TENANT'S premises respective location in the SHOPPING CENTER. This Exhibit is in no way meant to guarantee or indicate actual size of buildings and improvements thereon and is subject to change at any time during the term of the lease at the option of the LANDLORD.

EXHIBIT C
CERTIFICATE AFFIRMING LEASE COMMENCEMENT DATE

This Certificate is being provided pursuant to the terms and provisions of that certain Lease Agreement dated as of November 22, 2022 (the "Lease"), by and between CARR MILL MALL LIMITED PARTNERSHIP ("Landlord") and Town of Carrboro ("Tenant"). The parties desire to confirm that the following terms which are defined in the Lease shall have the meanings set forth below for all purposes in the Lease:

1. The Lease Commencement Date is
January 1, 2023
2. The Rent Commencement Date is
January 1, 2023
3. The initial term of the Lease shall expire on
December 31, 2025

Attached to this Certificate are certificates and evidence of payment of premiums for all insurance required pursuant to the Lease.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Certificate on _____, 2022.

LANDLORD:

Carr Mill Mall Limited Partnership, a North
Carolina Domestic Limited Partnership

By: Carr Mill Development Corporation
Its General Partner

Attest/Witness

By: _____
President

TENANT: Town of Carrboro

By: _____

EXHIBIT D

LANDLORD'S AND TENANT'S WORK

LANDLORD'S WORK:

TENANT accepts premises "As Is"

TENANT'S WORK:

All work required to complete and place the leased premises in finished condition for opening for business, is to be done by the TENANT at TENANT'S sole expense in accordance with mutually approved plans and specifications prepared by the TENANT'S architect in conformity with this Exhibit "D". The TENANT shall bear the entire expense and responsibility for providing within the leased premises (whether affixed or not) all trade fixtures and merchandise and all other property incidental to the operation of the type of business to be opened by the TENANT.

TENANT agrees to the following conditions with respect to all work required to complete and place the leased premises in finished condition for opening for business:

- 1) Licensed contractors and subcontractors are required for all work. A list of contractors will be submitted to LANDLORD for approval prior to commencing any work.
- 2) Proper Builder's Risk Insurance and Liability Insurance will be obtained by TENANT for protection of Shopping Center and LANDLORD. Evidence of insurance must be presented to LANDLORD for approval prior to commencing any work. Owner shall be named as an additional insured.
- 3) Tenant agrees to patch and paint interior walls before opening for business.

Please Initial _____

EXHIBIT E

The following Rules and Regulations shall remain in full force effective until TENANT is notified in writing, by LANDLORD, of any changes and amendments.

1. All garbage and refuse shall be kept in the container specified by LANDLORD, and shall be placed outside of the premises prepared for collection in the manner and at the times and places specified by LANDLORD. If LANDLORD shall provide a container for use by TENANT for picking up refuse and garbage, TENANT shall pay for use of same at the monthly rate to be established by LANDLORD, which monthly rate shall be subject to reasonable increases as required by increased costs. TENANT shall pay the cost of removal of any of TENANT'S refuse or rubbish.
2. No radio or television or other similar device shall be installed and no aerial shall be erected on the roof or exterior walls of the premises, or on the grounds, without, in each instance, the written consent of LANDLORD. Any aerial so installed without such written consent shall be subject to removal without notice at any time.
3. No loudspeakers, televisions, phonographs, radios or other devices shall be used in a manner so as to be heard or seen outside of the premises without the prior written consent of LANDLORD. If the LANDLORD furnishes background music for premises and TENANT desires to purchase same, it will be furnished by LANDLORD at a monthly rate to be established by LANDLORD, which shall be subject to increases as required by increased costs.
4. The plumbing facilities shall not be used for any other purpose than 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.
5. TENANT shall not burn any trash or garbage of any kind in or about the leased premises or the Shopping Center.
6. TENANT shall not permit, allow or cause any noxious disturbing odors, fumes, or gases, or any smoke, dust, steam or vapors, or any loud disturbing noises, sounds or vibration or originate in or to be emitted from Premises.
7. TENANT shall at all times maintain a required number or suitable fire extinguishers on its Premises for use in case of local fires, including electrical or chemical fires.
8. TENANT shall not place or permit any video game machines in the Premises at any time whatsoever.
9. TENANT shall use at TENANT'S cost such pest extermination contractor as LANDLORD may approve and at such times as is obviously necessary.
10. TENANT shall maintain the show windows in a clean, neat and orderly condition and shall control approved electric signs by a clock and shall illuminate such approved signs from dusk to 11:00 P.M. EST each day including Sundays and Holidays.
11. LANDLORD reserves the right to rescind, amend, alter or waive any of the foregoing rules and regulations at any time when, in its judgment, it deems it necessary, desirable or proper for its best interest and for the best interests of the TENANTS, and no such rescission, amendment, alteration or waiver in favor of any other TENANT. LANDLORD shall not be responsible to any TENANT for the non-observance or violation by any other TENANT of any of these rules and regulations at any time.
12. Occupancy of Common Areas; Freight. The entrance, lobbies, passages, corridors, elevators and stairways shall not be encumbered or obstructed by Tenant, Tenant's agents, servants, employees, licensees or visitors or be used by them for any purpose other than for ingress and egress to and from the Premises. The moving in or out of all safes, freight, furniture of bulky matter of any description must take place during the hours which Landlord may determine from time to time. Landlord reserves the right to inspect all freight and bulky matter to be brought into the Building and to exclude from the Building all freight and bulky matter which violates any of these Rules and Regulations or the Lease of which these Rules and Regulations are a part.
13. Signs; Window or Door Hangings. No curtains, blinds shades, screens or signs other than those furnished by Landlord shall be attached to, hung in or used in connection with any window or door of the Premises without the prior written consent of Landlord. Interior signs on doors shall be painted or affixed for Tenant by Landlord or by sign painters first approved by Landlord at the expense of Tenant and shall be of a size, color and style acceptable to Landlord.

Please Initial _____

14. Locks and Keys. No additional locks or bolts of any kind shall be placed upon any of the doors or windows by Tenant, nor shall any changes be made in existing locks or the mechanism thereof without the prior written consent of Landlord. Tenant must, upon the termination of its tenancy, restore to Landlord all keys of stores, shops, booths, stands, offices and toilet rooms, either furnished to or otherwise procured by Tenant, and in the event of the loss of any keys so furnished, Tenant shall pay to Landlord the cost thereof.
15. Solicitations On Premises. Canvassing, soliciting and peddling in the Building are prohibited and Tenant shall cooperate to prevent the same.
16. Off-Hours HVAC Service. Tenant may request heating and/or air conditioning during other periods in addition to normal working hours by submitting its request in writing to the Building Manager's Office no later than 2:00 p.m. the preceding workday (Monday through Friday). The request shall clearly state the start and stop hours of the "off-hour" service. Tenant shall submit to the Building Manager a list of personnel who are authorized to make such request. Charges are to be determined by the Landlord on the additional hours of operations and shall be fair and reasonable and reflect the additional operating cost involved.
17. Security Measures. Tenant shall comply with all security measures from time to time established by Landlord for the building.

Please Initial _____

Exhibit F
Sign Requirement

1. It is the responsibility of the Tenant, at his expense, to provide his Premises with an identification sign prior to opening for business.
2. Tenant will, prior to fabrication and installation of proposed sign, submit shop drawing to the Landlord for his approval.
3. The specific criteria will be provided by Landlord and the Landlord has final approval of all sign sizes, design and color.

Please Initial _____