

SHOPPING CENTER LEASE
ARROYO TOWN & COUNTRY SQUARE

**North Coast Associates,
a California general partnership
("Landlord")**

**Tam D. Ngo
dba
The Nail Depot
("Tenant")**

ACKNOWLEDGMENT OF COMMENCEMENT

This acknowledgment is made as of February 7, 2005, with reference to that certain North Coast Associates Lease (hereinafter referred to as the "Lease") dated January 14, 2005, between North Coast Associates, as "Landlord" therein, and Tam D. Ngo as "Tenant."

The undersigned hereby confirms the following:

1. In accordance with the provisions of said Lease, the Rent commencement date is March 19, 2005.

LANDLORD


North Coast Associates
a California General Partnership

By: Investec Equities, Inc.
A California Corporation,
Managing General Partner


By: Kenneth P. Slaughter, President

TENANT

Tam D. Ngo

By: 

Printed Name: Tam Ngo

Title: _____

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SHOPPING CENTER LEASE

THIS SHOPPING CENTER LEASE (this "**Lease**") is made and entered into by and between **North Coast Associates**, a California general partnership ("**Landlord**"), and the tenant named below ("**Tenant**") as of January 14, 2005 ("**Date of Lease**").

Landlord and Tenant agree that this Lease is made subject to the terms, conditions, and covenants set forth herein.

1. FUNDAMENTAL LEASE PROVISIONS

Shopping Center: Arroyo Town & Country Square
1440 Grande Avenue
Arroyo Grande, California

Tenant Name: Tam D. Ngo

Address for
Notice Purposes: 624 S. Broadway
Santa Maria, CA 93454

Permitted Trade Name: The Nail Depot

Landlord's Address
for Notice Purposes: Investec Real Estate Companies
200 E. Carrillo Street, Suite 200
Santa Barbara, CA 93101
Attn: Lease Administration

Premises: Space No. A-12 in the Shopping Center, shown by the cross-hatch markings on Exhibit A.

Floor Area of
Premises: Approximately 900 square feet

Permitted Uses: Subject to Tenant's compliance with Applicable Laws and the REA (defined below), Tenant may use and occupy the Premises solely for a nail salon featuring manicures and pedicures and sales of related items only.

Lease Term: Two (2) years

Commencement Date: February 1, 2005

Expiration Date: January 31, 2007

Minimum Annual Rent
(Initial Term): Thirteen Thousand Five Hundred Dollars (\$13,500.00), increased as provided below

Initial Minimum Monthly
Rent Installment
(Initial Term): One Thousand One Hundred Twenty Five Dollars (\$1,125.00), increased as provided below

Rent Adjustment: The Minimum Annual Rent shall be adjusted on February 1, 2006, and every anniversary thereafter, throughout the term of the Lease including options, if any (the "**Adjustment Dates**"). Such adjustments shall be calculated with reference to the United States Department of Labor, Bureau of Labor Statistics Consumer Price

Index for All Urban Consumers, Los Angeles-Riverside-Orange County Average, Subgroup "All Items" (1982-84 = 100) (the "**Index**"). Effective the first Adjustment Date and on each succeeding Adjustment Date during the term hereof, the Minimum Annual Rent (as previously adjusted, if applicable, and then in effect) shall be increased by a percentage equal to the percentage increase, if any, in the Index from November 1, 2005 and each succeeding November Index thereafter.

The Adjustment to Minimum Monthly Rent payable by Tenant from said Adjustment Date shall be the value determined by multiplying the sum of One Thousand One Hundred Twenty Five Dollars (\$1,125.00) by a fraction, the numerator of which is the November Index prior to the Adjustment Date and the denominator of which is the Index figure for the month of November 2004, and in no event shall the Minimum Monthly Rent be less than that of the preceding year. In the event at any time during the Lease Term hereof the Index ceases to be published or the components of such Index are materially changed, Landlord shall substitute an index or procedure that reasonably reflects and monitors increases in consumer prices.

Rent Commencement Date:	60 days after execution of lease
Percentage Rate:	Five percent (5%)
Security Deposit:	One Thousand Three Hundred and Ninety Five Dollars (\$1,395.00)
Tenant's Estimated Pro Rata Share:	Two Hundred Seventy Dollars (\$270.00) per month
Premises Delivery Date:	Upon execution of Lease
Premises Opening Date:	60 days after the Premises Delivery Date
Landlord's Broker:	Investec Commercial, Inc.
Tenant's Broker:	None
Guarantor(s):	None
Option Period(s):	One (1) extension of two (2) years
Minimum Annual Rent (Renewal Term):	As per the terms of the attached Exhibit F
Minimum Monthly Rent Installment (Renewal Term):	As per the terms of the attached Exhibit F
Construction Allowance:	None
Initial Promotion Fund Charge:	None

2. EXHIBITS

If checked, the following exhibits are made a part of this Lease:

<u>√</u>	EXHIBIT A - Site Plan of the Shopping Center
<u>√</u>	EXHIBIT B - Landlord's Work
<u>√</u>	EXHIBIT C - Tenant's Work/Construction Allowance
<u>√</u>	EXHIBIT D - Sign Criteria
<u> </u>	EXHIBIT E - Guaranty (Applicable only if Guarantor Required)
<u>√</u>	EXHIBIT F - Option Terms

3. PREMISES

3.1 Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises for the Lease Term, at the Rent (defined below), and upon the covenants and conditions of this Lease. Landlord shall deliver the Premises in accordance with the attached Exhibit B ("Landlord's Work"). Except as specifically provided in this Lease, (a) Landlord shall have no responsibility for any work of improvement or remodeling that may be required to prepare the Premises for Tenant's use, and (b) Tenant, at its sole cost and expense, shall complete any items of work or remodeling that may be required upon the Premises prior to the Premises Opening Date, in accordance with Exhibit C. Landlord reserves to itself the use of the roof, exterior walls (except storefront), and the area above and below the Premises, together with the right to install, maintain, use, repair, and replace pipes, ducts, conduits, wires, and structural elements leading through the Premises and serving other parts of the Shopping Center. Tenant acknowledges that the Site Plan attached as Exhibit A is for reference purposes only. Landlord reserves the right to change the shape, size, location, number, and extent of the improvements, including ingress to and egress from all Common Areas (defined below) of the Shopping Center. Landlord may eliminate or add improvements in the future including, without limitation, additional stories to the Premises Building, temporary or permanent kiosks, displays, and stands.

3.2 Floor Area Defined. The term "Floor Area" means all areas for the exclusive use and occupancy by tenants of the Shopping Center. Floor Area shall be measured from the exterior surface of exterior walls (and from the extensions thereof, in the case of openings) and from the center of interior demising partitions. Floor Area shall include, but not be limited to, sales floor area, mechanical and utility rooms, restrooms, basements, upper floors, mezzanines (but not any double deck of a storage mezzanine), warehousing or storage areas, clerical or office areas, and employee areas.

4. TERM AND POSSESSION

4.1 Lease Term. This Lease shall be in full force and effect from and after the Date of Lease, through and during the Lease Term, unless sooner terminated as provided in this Lease. The Lease Term shall commence upon the Commencement Date and, unless sooner terminated or extended, shall end upon the Expiration Date. Tenant shall open the Premises for business, fully stocked and staffed, for the Permitted Uses and under the Permitted Trade Name, not later than the Premises Opening Date.

4.2 Option(s) to Extend

4.2.1 If so indicated in Section 1, Landlord grants to Tenant the option(s) described in Section 1 (the "**Options(s)**") for the renewal term(s) described in Section 1 (the "**Renewal Term(s)**"). The Renewal Term(s) shall be subject to all of the provisions of this Lease. Tenant's failure to exercise the first Option shall terminate any subsequent Option(s). Landlord has no duty to advise or remind Tenant of its obligations or rights hereunder. Tenant's right to exercise the Option(s) is subject to the satisfaction of the following conditions precedent: (a) the Lease shall be in effect and Tenant shall not be in default at the time notice of exercise is given and on the last day of the expiring Lease Term, and (b) Tenant shall have given notice of exercise of its Option not less than one hundred eighty (180) days, nor more than two hundred ten (210) days, prior to the expiration of the expiring Lease Term. All references in the Lease to "Lease Term" shall refer to the original Lease Term and any Renewal Term for which an Option was properly exercised.

4.2.2 Minimum Annual Rent and Minimum Monthly Rent Installments for any Renewal Term(s) shall be as set forth in Section 1.

4.3 **Delay in Delivery.** If possession of the Premises is not delivered to Tenant on or before one year from the date of this Lease (subject to Force Majeure Delays), then either party shall have the right to terminate this Lease upon thirty (30) days' written notice to the other party; provided, however, if Tenant exercises such right and the Premises are delivered within such thirty (30) day period, Tenant's notice shall be null and void. If this Lease terminates pursuant to the preceding sentence, any security or rent deposit shall be promptly returned to Tenant, and the parties shall have no further liability or obligation to each other under this Lease except as provided in Section 8.1.

4.4 **Possession.** Upon delivery of the Premises by Landlord, Tenant agrees to accept possession of the Premises "AS IS" and subject to all matters of record, the REA (defined below), and to all applicable zoning, municipal, county, state and federal laws, ordinances, and regulations governing and regulating the use of the Premises and the Shopping Center including, without limitation, the Americans with Disabilities Act (collectively, "**Applicable Laws**"), and all amendments and modifications thereto. Tenant acknowledges that neither Landlord nor Landlord's agents has made any representation or warranty as to such matters of record, or as to Applicable Laws, or as to the condition of the Premises or the suitability of the Premises for the conduct of Tenant's business. Tenant does not rely on the fact, nor does Landlord represent, that any specific tenant or number of tenants shall occupy any space in the Shopping Center during the Lease Term.

4.5 **Relocation.** During the Lease Term, Landlord shall have the right, upon sixty (60) days' prior written notice to Tenant, to relocate Tenant within the Shopping Center provided the premises to which Tenant are relocated shall have the same approximate Floor Area as the Premises. Such premises to which Tenant shall be relocated shall be leased to Tenant on the same terms and conditions as herein provided, except that if the Floor Area is more or less than that contained in the Premises, there shall be a proportionate adjustment of Rent and any other charges based on the Floor Area of the Premises. Tenant shall submit to Landlord, within ten (10) days following the date Tenant initially opens for business following such relocation, (a) an itemized list of expenses (accompanied with copies of paid receipts for each itemized cost) reasonably incurred by Tenant in connection with the relocation of Tenant's personal property, and (b) the unamortized value of Tenant's leasehold improvements that were installed in the Premises at Tenant's sole cost and expense. Landlord shall reimburse Tenant for such costs and value within thirty (30) days after Tenant has vacated the Premises.

4.6 **Compliance with Rules.** Tenant shall conform to the reasonable rules and regulations that Landlord may, from time to time, establish for the Shopping Center. Landlord shall not be responsible to Tenant for the violation or nonperformance by any other tenant or occupant in the Shopping Center with regard to such rules and regulations. Landlord shall apply its rules and regulations to all tenants in a nondiscriminatory fashion for the benefit of the Shopping Center.

4.7 **Use of Premises; Permitted Trade Name.** Tenant shall use the Premises solely for the Permitted Uses and under the Permitted Trade Name and for no other purpose or under any other trade name whatsoever.

4.8 **Compliance with Laws; Etc.** Tenant shall, at its sole cost and expense, (a) faithfully observe all Applicable Laws in the construction of Tenant's Work and other improvements and in the use, occupation, and possession of the Premises, and (b) comply with all regulations, orders, and other requirements issued or made pursuant to Applicable Laws. Tenant's obligations under this Section shall be deemed to include, without limitation, the affirmative covenant to make, at its sole cost and expense, all alterations, additions, modifications, and capital improvements to the Premises and, to the extent required as a result of or with respect to Tenant's use and permitted by Landlord, the Common Area, that may be required under or pursuant to any Applicable Laws. Tenant shall comply with all provisions of all reciprocal easement agreements, covenants, conditions and restrictions, utility easements, and similar agreements (collectively, "**REA**") applicable to the Shopping Center.

4.9 Signs. Tenant shall erect and maintain, at its sole cost and expense, a permanent sign identifying the Premises, which sign shall be in conformance with the provisions contained in the Sign Criteria (Exhibit D). Subject to governmental approval and compliance with the Sign Criteria, Tenant shall have the right at Tenant's expense to install its standard sign package.

4.10 Other Restrictions. Tenant shall not use any advertising medium that can be heard or experienced outside the Premises. Tenant shall not display, paint, or place or cause to be displayed, painted, or placed, any handbills, bumper stickers, or other advertising devices on any portion of the Shopping Center or on any vehicle parked in the parking area of the Shopping Center. Tenant shall not distribute, or cause to be distributed, any handbills or other advertising devices in the Shopping Center.

5. RENT

Tenant shall pay as "Rent" for the use and occupancy of the Premises the Minimum Annual Rent, Additional Rent, Percentage Rent, and other charges provided for herein. All payments due from Tenant to Landlord shall be paid, without prior demand, deduction, or offset, in lawful money of the United States of America at Landlord's address for notices hereunder, or to such other person or at such other place as Landlord may from time to time designate in writing to Tenant. If more than one check given in payment of any sum due hereunder is dishonored by the bank on which it is written, at Landlord's election the payment of all sums thereafter due hereunder shall be made by cashier's check.

5.1 Minimum Annual Rent. Tenant shall pay the Minimum Annual Rent to Landlord in advance in twelve equal, successive, monthly installments as specified in Section 1. Minimum Annual Rent shall be paid on the first day of each calendar month during the Lease Term, commencing upon the Rent Commencement Date. If a Rent period commences and/or ends on a day other than the first or last day of a month, then the installments of Minimum Annual Rent for such partial month shall be prorated based on a 360-day year. Landlord's acceptance of Tenant's bank check shall not constitute a waiver of Landlord's right to demand timely payment in cash or by cashier's check. No endorsement or notation written on any check tendered by Tenant shall in any way alter Landlord's rights and the exercise of Landlord's remedies hereunder.

5.1.1 Adjustment to Minimum Annual Rent. The Minimum Annual Rent and Minimum Monthly Rent Installments shall be adjusted as provided in Section 1.

5.1.2 Percentage Rent. From and after the Commencement Date, Tenant shall also pay as "Percentage Rent" a sum equal to Tenant's Gross Sales (defined in Section 5.1.6) made during each calendar year multiplied by the Percentage Rate in Section 1, less the amounts of Minimum Annual Rent due and paid during such year. Percentage Rent shall be computed each calendar year. On or before the twentieth (20th) day of the calendar month immediately following the close of each such year, Tenant shall pay to Landlord the Percentage Rent so computed.

5.1.3 Monthly and Annual Statements of Gross Sales. Tenant shall furnish to Landlord (a) within twenty (20) days after the close of each calendar month, a statement of Gross Sales, on such Gross Sales statement form as may be adopted by Landlord from time to time, and (b) within twenty (20) days after the close of each calendar year (and within thirty (30) days following any termination of this Lease) an annual statement of Gross Sales, including a monthly breakdown of Gross Sales. Such statements shall be certified as accurate by Tenant or by a responsible officer or duly authorized agent of Tenant. If Tenant fails to furnish to Landlord such statements, Landlord or its designated agent may, in Landlord's sole discretion and at Tenant's sole cost and expense, either audit Tenant to determine Gross Sales, and the result of any such audit shall be final and binding upon Tenant, or charge Tenant an amount equal to two (2) times the Minimum Annual Rent for the year in question.

5.1.4 Records. Tenant shall record at the time of sale, in the presence of the customer, all receipts from sales or other transactions, whether cash or credit, on sales slips or in registers having a cumulative total and numbering consecutive purchases. Tenant shall keep (a) full and accurate books of account, (b) all cash register receipts and sales slips with regard to the Gross

Sales and credits, refunds, and other pertinent transactions made from or upon the Premises (including the Gross Sales of any subtenant, licensee, or concessionaire), and (c) detailed original records of any exclusions or deductions from Gross Sales. At Landlord's request, Tenant shall furnish to Landlord a copy of Tenant's financial reports, sales tax returns, income tax returns, and other records that Landlord may reasonably require from time to time to verify Gross Sales. Tenant shall keep such books, receipts, and records for a minimum of three (3) years following the end of each calendar year.

5.1.5 Audit. Landlord at any time shall be entitled to an audit of Gross Sales either by Landlord or by an accountant to be designated by Landlord. Such audit shall be conducted, at Landlord's option and upon reasonable notice to Tenant, during normal business hours at either the Premises or Tenant's principal place of business. If such audit shows that there has been a deficiency in the payment of Percentage Rent, then such deficiency shall be deemed due and payable as of the date on which such Percentage Rent was otherwise due and payable hereunder, with interest at the maximum lawful rate (or if there is no prescribed maximum rate, then eighteen percent (18%) per annum) from the date when such payment should have been made. In addition, if Tenant's statement for the pertinent calendar year is found to have understated Gross Sales by more than two percent (2%), and Landlord is entitled to any additional Percentage Rent as a result of such understatement, then Tenant shall pay all of Landlord's costs and expenses incurred with respect to such audit.

5.1.6 Definition of "Gross Sales".

A. "Gross Sales" shall mean the gross receipts of every kind and nature derived from all merchandise or services sold, leased, licensed, or delivered in or from the Premises by Tenant, its subtenants, licensees, and concessionaires, whether such receipts are evidenced by check, cash, credit, credit card system, charge account, exchange, or otherwise. Gross Sales shall include, without limitation, the gross selling price of all merchandise and services, the sale or lease of which originated within the Premises, whether such order is filled from the Premises or elsewhere, and whether such sales are made by store personnel, by mail order, or by Internet order. All sales originating at the Premises shall be considered as made and completed therein, even though (i) bookkeeping and payment of the account may be transferred to another place for collection and (ii) actual filling of the sale or service order and actual delivery of the merchandise may be made from a place other than the Premises. Each sale upon installments or credit shall be treated as a sale for the full cash price at the time of sale.

B. Gross Sales shall not include (i) any exchanges of merchandise between stores of Tenant when such exchange is made solely for the convenient operation of Tenant's business and not for the purposes of depriving Landlord of the benefit of a sale that otherwise would be made in or at the Premises, (ii) returns to shippers or manufacturers, (iii) cash or credit refunds to customers, (iv) sales of trade fixtures, machinery, and equipment after use thereof in the conduct of Tenant's business, (v) sales tax, and (vi) the amount of any discount on sales to employees.

5.2 Additional Rent. Tenant shall pay, as Additional Rent, as and when due hereunder, all sums of money required to be paid by Tenant under this Lease and its exhibits whether or not the same are designated "Additional Rent," including but not limited to Taxes (as defined in Section 6), Insurance Premiums (as defined in Section 8.4.8), and Common Area Expenses (as defined in Section 16.3). If a time period for payment is not otherwise designated, Additional Rent shall be due and payable by Tenant within five (5) days after billing.

5.3 Past Due Rent; Administrative Charge. If Tenant fails to pay, within five (5) days following the due date thereof, any Minimum Annual Rent, Percentage Rent, or Additional Rent, Tenant shall pay to Landlord, in addition to such unpaid amounts, interest upon such unpaid amounts from the due date thereof to the date of payment at the maximum lawful rate (or if there is no prescribed maximum rate, then eighteen percent (18%) per annum). In addition to such interest, Tenant acknowledges that the late payment by Tenant of any installment of Rent will cause Landlord to incur certain costs and expenses not contemplated under this Lease. The exact amount of these costs are extremely difficult and impractical to fix. Such costs and expenses will include, without limitation, administrative and collection costs, processing and accounting expenses, and other costs and expenses necessary and incidental thereto. Therefore, if any Rent is not paid within five (5) days

of the due date thereof, Tenant shall also pay to Landlord an administrative charge equal to ten percent (10%) of such past due Rent. Landlord and Tenant agree that this administrative charge represents a reasonable estimate of such costs and expenses and is fair compensation to Landlord for its loss suffered by such nonpayment or late payment by Tenant. The interest and late charge provisions contained herein are in addition to and do not diminish or represent a substitute for any or all of Landlord's rights contained in this Lease. If Tenant's payment is received after the date upon which it is due, or is in an amount that is less than the full amount due, more than three (3) times during the Lease Term, then (a) Tenant shall be deemed to be in material default hereunder that is not capable of cure, and Landlord shall have the right to exercise all remedies provided herein, and (b) any Option(s) to extend the Lease term granted hereunder shall immediately terminate and be of no further force and effect whatsoever.

6. TAXES

6.1 Taxes. Commencing with the Rent Commencement Date and continuing thereafter throughout the Lease Term, Tenant shall pay an amount equal to all taxes (real and personal), excises, license and permit fees, assessments, utility levies and charges, and other governmental charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature whatsoever (including but not limited to assessments for public improvements or benefits) that prior to or during the Lease Term are assessed, levied, or imposed upon, or become due and payable as a lien (a) against the Premises and the underlying realty or any part thereof; (b) against any personal property, equipment, or other facility used in the operation thereof (whether or not owned by Tenant); (c) against the Rent and/or income received from Tenant or Tenant's subtenants or licensees; (d) upon any use or occupancy of the Premises and of any rights, obligations, easements, and franchises that may now or hereafter be appurtenant, or pertain, to the use of the Premises (collectively, "**Taxes**"); and (e) Tenant's Pro Rata Share of Taxes attributable to the Common Area charged under Section 16. If, by law, any such Taxes are payable, or may at the option of the taxpayer be paid, in installments, Tenant may pay the same together with any accrued interest on the unpaid balance of such Taxes in installments as the same respectively become due. Any fine, penalty, interest, or cost may be added thereto for the nonpayment of any such installment and interest. Any Taxes relating to a fiscal period of the taxing authority, only a part of which period is included within the term of this Lease, shall be adjusted as between Landlord and Tenant so that Tenant shall pay only that portion of such Taxes relating to the Lease Term. For purposes of this Section 6, Taxes shall also include any tax assessed upon or measured by Rents, Additional Rent, or other Landlord receipts from Tenant, and any tax, fee, or license assessed or measured by expenditures made by Tenant on behalf of Landlord under or in connection with this Lease. Taxes shall not include any franchise, estate, inheritance, succession, or income tax of Landlord.

6.2 Payment of Taxes. To facilitate timely payment of all Taxes and to protect Landlord's and Tenant's property interests in and upon the Premises, Tenant shall pay to Landlord, if directed by Landlord, or to the appropriate governmental entity entitled thereto, as the case may require, the total Taxes due. Any of such payments to be made directly to the appropriate governmental authority shall be made prior to the applicable delinquency date. Any payments to be made to Landlord shall be paid in the following manner:

6.2.1 From and after the Rent Commencement Date, and thereafter on the first day of each calendar month during the Lease Term, Tenant shall pay to Landlord an amount estimated by Landlord to be 1/12th of the total Taxes payable hereunder by Tenant for such year. Landlord may adjust the monthly estimated sum at the end of each calendar quarter or, at Landlord's option, each year, on the basis of Landlord's experience and reasonable, anticipated Taxes.

6.2.2 Within sixty (60) days following the end of each calendar year, or at Landlord's option, each tax year, Landlord shall furnish Tenant a statement covering the year just expired showing the total of such Taxes payable by Tenant for such year and the payments made by Tenant with respect to such period as set forth above. Landlord's failure to provide such statement within such sixty (60)-day period shall in no way excuse Tenant from its obligations to pay Taxes or constitute a waiver of Landlord's right to bill and collect Taxes from Tenant in accordance with this Section 6.2.

6.2.3 If the sums payable for such expenses exceed Tenant's payments so made,

Tenant shall pay Landlord the deficiency within ten (10) days after receipt of such statement. If such payments exceed the sums payable for such expenses, Tenant shall be entitled to offset the excess against Tenant's obligation to pay Taxes next to become due Landlord.

6.3 Separate Assessment. If the Premises and the underlying realty are not separately assessed, but are part of a larger Premises Building and/or parcel for assessment purposes (the "**larger parcel**"), then Tenant shall pay as its "Pro Rata Share" (defined below) a fractional portion of such Taxes and assessments on the larger parcel. The numerator of Tenant's share shall be the Floor Area of the Premises, and the denominator shall be the Floor Area of all the areas available for exclusive use and occupancy by tenants of the larger parcel, whether or not actually occupied and open for business. If occupants of Anchor Space or any other building are separately assessed, Landlord may exclude the Floor Area of such space from Tenant's Pro Rata Share calculation.

6.4 Other Taxes. If at any time during the Lease Term the methods of taxation prevailing at the execution hereof are altered so that in lieu of, or as a supplement to, or a substitute for, the whole or any part of the Taxes now levied, assessed, or imposed on the Premises, there shall be levied, assessed or imposed a tax, assessment, levy, imposition or charge, wholly or partially as a capital levy or otherwise, on the Rents received therefrom, or a tax, assessment, levy, imposition, or charge measured by or based in whole or in part upon the Premises and imposed upon Landlord, or a license fee measured by the Rent payable under this Lease, then all such taxes, assessments, levies, impositions, charges, or the part thereof so measured or based, shall be deemed to be included within the term Taxes as defined in Section 6.1. Landlord and Tenant intend that the Rent shall be paid to Landlord absolutely net, without deduction of any nature whatsoever, foreseeable or unforeseeable.

7. TENANT'S CONDUCT OF BUSINESS

7.1 Operation. Tenant shall open the Premises for business to the general public, fully stocked and staffed on or before the Premises Opening Date. From and after the Premises Opening Date, Tenant will continuously staff the Premises with sufficient sales personnel, stock the entire Premises with adequate merchandise (except for necessary storage and/or clerical areas), exercise sound business practices, due diligence and efficiency, and will conduct Tenant's business within the Premises so as to maximize Gross Sales for the mutual benefit of Landlord and Tenant, except while the Premises, or a portion thereof, are untenable by reason of fire or other casualty. If Tenant fails to continuously operate at the Premises as required herein at all times during the Lease Term, in addition to all other rights and remedies available to Landlord, Landlord shall have the right to terminate this Lease by giving Tenant written notice of such election at any time after Tenant ceases to operate, in which event the provisions of Section 18.6 shall apply.

7.2 Hours of Operation. Commencing with Tenant's opening for business in the Premises and for the remainder of the Lease Term, Tenant shall be open for business (a) daily from 10:00 A.M. to 9:00 P.M. Monday through Friday, 10:00 A.M. to 6:00 P.M. Saturday, and 11:00 A.M. to 6:00 P.M. Sunday, or (b) at such other hours as Landlord may reasonably establish from time to time. Tenant also shall continuously remain open for business during all hours on all days that the Shopping Center is open for business to the public. Tenant shall have its window displays, exterior signs, and exterior advertising displays adequately illuminated continuously during those hours Tenant is required to be open.

7.3 Other Business of Tenant. It is specifically recognized by Landlord and Tenant that Tenant's individuality is integral to the unique appeal and the commercial synergism of the Shopping Center, which directly benefits Landlord and all other tenants. It is further acknowledged by Landlord and Tenant that this factor provided material inducement to Landlord to enter into this Lease with Tenant on the terms and conditions herein provided. In consideration of the foregoing, Tenant covenants and warrants that neither Tenant, nor any person or entity owned or controlled by, under common ownership with, or owning or controlling, Tenant, will directly or indirectly operate or own any interest in any business similar to Tenant's business or operated under the Permitted Trade Name within a radius of two (2) miles from the boundaries of the Shopping Center. In addition to all other rights and remedies of Landlord, this covenant shall be specifically enforceable by mandatory or prohibitory injunction by Landlord. Any breach of this covenant may be conclusively deemed by Landlord to be a material and incurable breach of this Lease. In addition,

and without limiting Landlord's remedies, violation of this covenant shall entitle Landlord, at its option and for so long as Tenant is operating such other business, to include the Gross Sales of such other business in the Gross Sales made from the Premises for the purposes of computing the Percentage Rent due hereunder, and Landlord shall be entitled to receive all statements and reports with respect to such other premises as Landlord is entitled to receive with respect to the Premises under Section 5.

8. INSURANCE/INDEMNITY

8.1 Indemnity. Landlord shall not be liable for any damage or liability of any kind or for any injury to or death of any person whomsoever or damage to any property of Tenant or of any other person from any cause whatsoever, which arises out of, is connected with, or is incidental to the use, occupancy, and enjoyment of the Premises or the Shopping Center by Tenant or any person thereon or holding under Tenant. Tenant will indemnify, defend, and save Landlord harmless from all loss and liability whatsoever on account of any such real or claimed damage or injury and from all liens, claims, and demands arising out of any conduct of Tenant, including, without limitation, the use of the Premises or the Shopping Center, and any repairs or alterations that Tenant may make upon the Premises; provided, however, Tenant shall not be liable for damage or injury arising out of the gross negligence of Landlord and its designated agents or employees unless covered by insurance that Tenant is required to provide under the terms of this Lease. This obligation to indemnify shall include reasonable attorneys' fees and investigation costs and all other reasonable costs, expenses, and liabilities from the first notice that any claim or demand is or may be made and shall survive the termination of this Lease.

8.2 Liability. Landlord shall not be liable for injury to Tenant's business or any loss of income therefrom, or for any damage to the goods, wares, merchandise, or other property of Tenant, Tenant's employees, invitees, customers, or any other person in or about the Premises. Landlord shall not be liable for injury to Tenant, Tenant's employees, agents, or contractors, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction, or other defects of pipes, sprinklers, wires, appliances, plumbing, lighting fixtures, or from other cause, whether such damage or injury results from conditions arising upon the Premises or upon other portions of the Premises Building or from other sources or places, regardless of whether the cause of such damage or injury, or the means of repairing same, is inaccessible to Tenant. Landlord shall also not be liable for any damages arising from any act or neglect of any other tenant or occupant of the Shopping Center.

8.3 Waiver of Subrogation. Landlord and Tenant hereby waive any rights each may have against the other on account of any loss or damage occasioned to Landlord or Tenant, as the case may be, their respective property, the Premises or its contents, or to other portions of the Shopping Center, arising from any risk covered by fire and extended coverage insurance and special form all-risk insurance, if applicable, carried or required to be carried under this Lease. Each of the parties, on behalf of their respective insurance companies insuring the property of either Landlord or Tenant against any such loss, waives any right of subrogation that it may have against the other.

8.4 Insurance by Tenant. Tenant shall obtain and maintain during the Lease Term, at Tenant's sole cost and expense, the following types and amounts of insurance:

8.4.1 Comprehensive Liability Insurance. Tenant shall obtain and maintain a policy of comprehensive liability insurance, written on an occurrence form, insuring Landlord and Tenant against any liability arising out of the ownership, use, occupancy, or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall at all times be in an amount of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000). Such policy must include but not be limited to bodily injury and property damage, including personal injury and product and completed operations. The minimum policy limit specified above shall not limit Tenant's liability hereunder. The insurance required hereunder shall insure Tenant's performance of the provisions of Section 8.1.

8.4.2 Plate Glass. Tenant shall be responsible for the maintenance and

replacement, whenever necessary, of all plate and other glass on the Premises. Tenant shall have the option to self-insure against this risk.

8.4.3 Leasehold Improvements and Tenant's Personal Property. Tenant shall maintain in full force and effect on all Tenant's Work and any other improvements, interior and exterior signage, trade fixtures, merchandise, and other personal property from time to time in, on, or upon the Premises, a policy of "all risk" extended coverage insurance in the amount of the full replacement value thereof, including building code and business interruption, and such additional coverages as Landlord may from time to time require. Any policy proceeds first shall be used for the repair or replacement of the property damaged or destroyed unless this Lease terminates under the provisions of Section 15.

8.4.4 Construction. During any period of construction at the Premises, Tenant shall carry the insurance required under Exhibit C.

8.4.5 Workers' Compensation. Tenant shall maintain a policy of worker's compensation insurance in statutorily required limits.

8.4.6 Policy Form. The policies of insurance required under this Section 8 shall be issued by good, responsible companies, qualified to do business in the State of California, with a general policy holders' rating of at least A and a financial rating of at least Class XIII as rated in the most currently available "Best's Key Rating Guide." All policies shall be issued in Tenant's name and shall also name, as additional insureds and loss payees, as appropriate, Landlord, Landlord's property manager, and such other persons and affiliated entities and mortgagees of Landlord as Landlord may request. Certificates of such policies of insurance shall be delivered to Landlord on or before the Premises Delivery Date. Thereafter, certificates of renewal policies shall be delivered to Landlord within thirty (30) days prior to the expiration of the term of each such policy. Executed copies of the actual policies shall be delivered to Landlord no later than ten (10) days following Landlord's request therefor. All public liability and property damage policies shall contain a provision that Landlord, although named as an additional insured, shall nevertheless be entitled to recovery under such policies for any loss occasioned to it, its servants, agents and employees by reason of Tenant's negligence. As often as any such policy expires or terminates, Tenant shall procure renewal or additional policies in like manner and to like extent. All such policies of insurance shall contain a provision requiring the company writing such policy to give Landlord at least thirty (30) days' advance written notice of any cancellation or lapse or the effective date of any reduction in the amounts of insurance. All policies required under this Lease shall be written as primary coverage not contributing with or being in excess of any other coverage carried by Landlord.

8.4.7 Reimbursement of Insurance Premiums by Tenant. Landlord shall maintain on the Premises Building coverage for the perils of fire and extended coverage and special form (all-risk) insurance, to the extent of at least eighty percent (80%) of the replacement value and loss of rent income coverage. If required or recommended by Landlord's mortgagee or insurance analyst, Landlord shall also have the right to procure and maintain coverage for other perils to the Shopping Center or the Premises, including earthquake and/or flood coverage. The proceeds of such policy or policies, as the case may be, shall be payable to Landlord.

8.4.8 Payment. Tenant shall pay to Landlord, as Additional Rent, Tenant's share of premiums paid by Landlord hereunder ("**Insurance Premiums**"), within ten (10) days after Tenant receives a statement from Landlord setting forth the amount then due. Tenant's Pro Rata Share of such premiums shall be a fractional portion of such Insurance Premiums, the numerator of which shall be the Floor Area of the Premises and the denominator of which shall be the Floor Area of all leased areas that are covered by such insurance. Landlord shall have the right to estimate insurance premiums, charge Tenant a monthly amount equal to 1/12th of such estimate, and adjust such estimate from time to time, in a similar manner as described in Section 6.2 with respect to payment of Taxes.

8.4.9 Tenant's Activities. Tenant shall not at any time do anything in or about the Premises that will in any way tend to increase the insurance rates upon the Premises Building. Tenant shall pay to Landlord forthwith upon demand the amount of any increase in premiums for insurance that may be charged during the Lease Term on the amount of insurance to be carried by

Landlord on the Premises resulting from the foregoing or from Tenant doing any act in or about the Premises that does so increase the insurance rates. If Tenant installs upon the Premises any electrical equipment that constitutes an overload of the electrical system of the Premises, Tenant shall, at its own expense, make whatever changes are necessary to comply with the requirements of the insurance underwriters covering the Premises and any governmental authority having jurisdiction thereover. Nothing herein contained shall be deemed to constitute Landlord's consent to such overloading.

8.5 Tenant's Failure to Maintain Insurance. If Tenant fails to comply with the provisions of this Section, Landlord may secure and maintain such insurance policies on Tenant's behalf. In that event, Tenant shall pay the cost thereof to Landlord as Additional Rent. Nothing contained herein shall excuse Tenant from its obligation to carry such insurance.

8.6 Periodic Review of Coverage. Once every three (3) years during the Lease Term and any Renewal Term, Landlord shall have the right to engage an insurance consultant to review Tenant's insurance coverages under this Lease. If, in the opinion of Landlord's consultant, any aspect of Tenant's general liability, property, and other insurance program is inadequate to protect Landlord's interest as contemplated by this Section, Tenant shall comply promptly with the consultant's recommendations.

9. MAINTENANCE, REPAIR, AND ALTERATIONS

9.1 Landlord's Repair and Maintenance. Subject to the provisions of Section 9.2 and reimbursement of Common Area Expenses under Section 16.6, Landlord shall keep and maintain in good and tenantable condition and repair the exterior walls and structural parts of the Premises including, without limitation, the structural floor, roof, roof membrane and roof covering, walls, concrete slab, footing, and electrical and plumbing exterior to the Premises Building; provided, however, if the Premises Building is a single user building, Landlord shall not maintain the roof, roof membrane, or roof covering. Landlord shall not be required to make repairs necessitated by the negligence of Tenant or anyone claiming under Tenant, or by Tenant's failure to perform or observe any conditions or agreements of this Lease, or caused by alterations, additions, or improvements made by Tenant or anyone claiming under Tenant. Landlord shall not be liable to Tenant for failure to make repairs unless Tenant has previously notified Landlord, in writing, of the need for such repairs and Landlord has failed to complete such repairs within a reasonable period of time. As used in this Section, the term "exterior walls" shall not be deemed to include storefronts, plate glass, window cases or window frames, doors or door frames, security grilles, or similar enclosures. Except as otherwise specifically provided herein, Landlord shall be under no obligation to make any repairs, alterations, renewals, replacements, or improvements to and upon the Premises or the mechanical equipment exclusively serving the Premises.

✓ Notwithstanding the above, Landlord shall procure and maintain HVAC service contracts for the entire Shopping Center, all costs and expenses thereof, including maintenance costs, if any, above the cost of the contract itself, shall be paid for by Tenant on a pro-rata basis using the same formula used for billing of CAM costs and expenses to determine the appropriate pro-rata share. Additionally, Tenant shall be responsible for payment of its pro-rata share of reasonable reserves, determined by Landlord, for the HVAC system.

9.2 Tenant's Repair and Maintenance. Tenant shall repair, replace, and maintain in first class condition the Premises and every part thereof (except only that portion of the Premises expressly required to be maintained by Landlord as provided in Section 9.1). Tenant's obligations shall include, without limitation, the utility lines and the utility meters, pipes and conduits, and all fixtures exclusively serving the Premises, the exterior of the storefronts (and the roof structure, membrane and covering, if the Premises Building is a single-user building), all signs, locks and closing devices, and all windows, window sashes, casements or frames, door and door frames, floor coverings, including carpeting, terrazzo or other special flooring, ceiling and ceiling tile, and all such items of repair, maintenance, replacement, alteration, and improvement or reconstruction as may at any time or from time to time be required by a governmental agency having jurisdiction. The repair of all glass, both exterior and interior, is at Tenant's sole risk. Tenant shall promptly repair any broken glass with glass of the same kind, size, and quality, or as required by then Applicable Law. Upon any surrender of the Premises, Tenant shall surrender the Premises to Landlord broom clean, in good condition and in a complete state of repair, ordinary wear and tear excepted and excepting

such items of repair as may be Landlord's obligation. If Tenant refuses or neglects to make repairs and/or maintain the Premises, or any part thereof, in a manner reasonably satisfactory to Landlord, Landlord shall have the right, upon giving Tenant written notice of its election to do so, to make such repairs or perform such maintenance on behalf of and for the account of Tenant. In that event, Tenant shall pay the cost of such work as Additional Rent. Tenant's obligations set forth in this Section 9.2 form a material part of the consideration for this Lease, and Tenant hereby waives all rights to make repairs at the expense of Landlord as provided by any law, statute, or ordinance now or hereafter in effect.

In addition to the foregoing, Tenant shall be responsible for its pro-rata share of HVAC maintenance and reserve costs and expenses as described in Section 9.1.

9.3 Right of Entry. Tenant agrees to permit Landlord and its authorized representatives to enter and inspect the Premises at all times during usual business hours upon reasonable prior notice. Tenant further agrees that Landlord may go upon the Premises and make any necessary repairs to the Premises and perform any work therein that (a) may be necessary to comply with any Applicable Laws; or (b) Landlord may reasonably deem necessary to prevent waste or deterioration to the Premises if Tenant does not make or cause such repairs to be made or performed promptly after receipt of written demand from Landlord; or (c) Landlord may reasonably deem necessary to perform remodeling or other construction work incidental to any portion of the Shopping Center. No exercise by Landlord of any such rights shall entitle Tenant to any damage for any injury or inconvenience occasioned thereby nor to any abatement of Rent. If Landlord makes or causes any such repairs to be made or performed (other than as provided in subparagraph (c), above, which shall be at Landlord's expense), Tenant shall pay the cost thereof to Landlord as Additional Rent.

9.4 Tenant's Right to Make Alterations. Tenant may make alterations, additions, and changes (collectively, "**Alterations**") in and to the interior of the Premises provided that (a) such Alterations are not of a structural nature and are not visible from the exterior, (b) the value of the Premises is not thereby diminished, (c) no Alterations are made to any storefront, mechanical systems, exterior signage, the exterior walls or roof of the Premises, and (d) no work shall be performed outside of the Premises. Tenant shall be responsible for any and all damages resulting from Alterations, whether or not made in violation of the provisions of this Section. All Alterations to be made to the Premises that require Landlord's approval shall be made under the supervision of a licensed architect or licensed structural engineer in accordance with detailed plans and specifications with respect thereto, approved in writing by Landlord before the commencement of work. All work with respect to any Alterations must be done in a good and workmanlike manner, in accordance with all Applicable Laws and the REA, and must be diligently prosecuted to completion in a manner that does not impede access to any portion of the Shopping Center. Upon completion of such work, Tenant shall record a Notice of Completion as permitted by law. Tenant shall deliver to Landlord, not later than fifteen (15) days prior to the commencement of such work, a copy of the building permit with respect thereto and shall allow Landlord to post a statutory Notice of Nonresponsibility on the Premises. Upon termination of Tenant's leasehold estate, such Alterations shall be considered as improvements and shall not be removed by Tenant but shall become a part of the Premises or, if Landlord so directs, shall be removed from the Premises by Tenant, at Tenant's sole cost.

9.5 Compliance with Laws, Ordinances, and Regulations. Tenant shall promptly comply with all Applicable Laws and all rules and regulations of any duly constituted governmental authority and the local fire insurance rating organization (or similar organization) having jurisdiction over the Premises, the business conducted therein, and the cleanliness, safety, use, and occupation thereof. Tenant shall not use, treat, store or dispose of, and not permit anyone else to use, treat, store or dispose of any "**Hazardous Materials**" at, on, or beneath the Premises in violation of any applicable "**Environmental Law**" (defined below). Tenant shall indemnify and hold Landlord and the Premises harmless from any loss, cost, or expense, including, but not limited to, Landlord's reasonable attorneys' fees, consultant fees, expert fees, claims, judgments, damages, penalties, fines, diminution in value of the Premises, damages for the loss or restriction on use of rentable or usable space at the Shopping Center, and court costs that in any manner arise from or with respect to Tenant's breach of this Section 9.5. This indemnification includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal, or restoration work because of Hazardous Materials present in the Premises, soil, or ground water on or under the Premises caused or permitted by Tenant or by Tenant's employees, agents, or

contractors. This indemnification shall survive the termination of the Lease, shall run in favor of Landlord's heirs, assigns, and successors, including lenders acquiring title through foreclosure or by accepting a deed in lieu of foreclosure, and is binding on Tenant's successors and assigns. As used in this Section 9.5, the following terms shall have the following definitions:

9.5.1 Environmental Laws. "Environmental Law(s)" shall mean any present and/or future federal, state, or local laws (whether by common law, statute, rule, regulation, plan, decree, demand letter, order, or otherwise) pertaining to Hazardous Materials, environmental contamination, waste disposal, industrial hygiene, land use, or the protection of health or welfare, including, without limitation, those related to any release or threatened release of Hazardous Materials and to the generation, use, storage, transportation, or disposal of Hazardous Materials.

9.5.2 Hazardous Materials. "Hazardous Material(s)" shall mean (a) substances defined as "extremely hazardous substances," "hazardous substances," "hazardous materials," "hazardous waste," or "toxic substances" in any Environmental Laws; (b) any substance that is now or may become regulated or governed by any Environmental Law; (c) any substance, the presence of which requires investigation or remediation under any Environmental Law; (d) any substance that is or contains asbestos or petroleum hydrocarbons (including, without limitation, gasoline, diesel fuel or oil); and (e) any substance that exhibits the properties of ignitability, corrosivity, reactivity, toxicity, radioactivity, carcinogenicity, or reproductive toxicity.

10. BANKRUPTCY/INSOLVENCY

Tenant shall be in default under this Lease upon the occurrence of one or more of the following events: (a) any judicial determination of the insolvency of Tenant or any Guarantor including, without limitation, the entry of an Order for Relief pursuant to the provisions of the Bankruptcy Code, whether voluntary or involuntary; (b) appointment of a receiver or a custodian or other similar officer for any portion of Tenant's property or of the property of any Guarantor; (c) the assignment for the benefit of creditors of any portion of Tenant's property or the property of any Guarantor; or (d) a determination, judicial or otherwise, that Tenant or any Guarantor is not generally paying its debts as such debts become due. Upon the occurrence of an event of default under this Section 10, Landlord may elect, by thirty (30) days' notice to Tenant, to terminate this Lease, in which event neither Tenant nor any person claiming through or under Tenant by virtue of any statute or of an order of any court shall be entitled to possession or to remain in possession of the Premises. Landlord, in addition to other rights and remedies Landlord has by virtue of this Lease or any statute or rule of law, may retain as security for its damages any Rent or monies received by Landlord from Tenant or others on behalf of Tenant. This Lease is upon the further condition that if a petition for relief under any chapter of the Bankruptcy Code is filed by or against Tenant or any Guarantor and the trustee or debtor-in-possession has not cured all defaults hereunder and assigned or assumed this Lease under the Bankruptcy Code within sixty (60) days after the entry of the Order for Relief, then this Lease shall automatically terminate without the necessity of further action by or notice from either party. In case of the termination pursuant to any of the foregoing provisions of this Section 10, Tenant shall indemnify Landlord against all costs and expenses resulting therefrom, including but not limited to loss of Rent.

11. UTILITY SERVICES

11.1 Services Provided by Landlord. Landlord, in its discretion, may initially cause to be made available to Tenant facilities for the delivery to the Premises of water, electricity, gas, telephone, and/or any other utility. If a separate meter is required to facilitate or provide such service, then Tenant shall install such meter and related accessories at Tenant's sole cost and expense and maintain any such meter and accessories in good order and repair. If Landlord elects to discontinue furnishing any or all of such services to the Premises, Tenant shall, at its sole cost and expense, obtain its own service for the Premises.

11.2 Payment for Services Provided by Landlord. Commencing on the Premises Delivery Date, Tenant shall pay to Landlord, as Additional Rent, monthly in advance, a charge to reimburse Landlord for the services furnished by Landlord to the Premises. Such charge shall be reasonably estimated from time to time by Landlord or a qualified consultant, based upon a typical store layout comparable to the Premises, taking into consideration Tenant's use of the Premises.

Such charge shall be subject to adjustment at the end of each calendar quarter or partial calendar quarter during the Lease Term. Such charge shall not exceed that of the local public utility company if its services were furnished directly to Tenant.

11.3 Services Provided by Utility Companies. From and after the Premises Delivery Date, Tenant shall be solely responsible for, and shall promptly pay when due, all charges for water, gas, telephone, heat, electricity, and/or any other utility that is provided directly to Tenant by the appropriate utility company. If any such charges are not paid when due, Landlord may pay the same. Any amount so paid, together with any other sums incurred by Landlord in connection with the handling of such payment, shall immediately thereafter become due Landlord from Tenant as Additional Rent. Tenant shall pay all "hook up" fees or charges.

11.4 Waiver of Liability. Regardless of the entity that supplies any utility or provides any service referred to in this Section 11, Landlord shall not be liable in damages or otherwise for any failure or interruption of any such utility or service. No such failure or interruption shall entitle Tenant to terminate this Lease or abate any Rent due under this Lease.

12. MECHANICS' LIENS

12.1 Payment. Tenant shall pay or cause to be paid all costs for work done by it or caused to be done by it on the Premises. Tenant shall keep the Shopping Center, the Premises, leasehold improvements therein, and Tenant's leasehold interest free and clear of all mechanics' liens and other liens on account of work done for Tenant or persons claiming under it. Tenant shall indemnify, defend, and save Landlord free and harmless against all liability, loss, damage, costs, attorneys' fees, and all other expenses on account of claims of lien of laborers or materialmen or others for work performed or materials or supplies furnished for Tenant or persons claiming under it.

12.2 Removal of Liens. If Tenant receives notice of any claims of lien filed against the Premises or of any action affecting the title to such property, Tenant shall forthwith give Landlord written notice thereof. If a lien is recorded against the Premises and/or the Shopping Center on account of work done or caused to be done by Tenant, Tenant shall have thirty (30) days following such date of recordation in which to cause the lien to be removed. If Tenant fails to pay any charge for which a mechanics' lien claim and suit to foreclose the lien have been filed, Landlord may pay the claim and any costs. The amount so paid, together with reasonable attorneys' fees incurred in connection therewith, shall be immediately due and owing from Tenant to Landlord. Tenant shall pay the same to Landlord with interest at the maximum lawful rate or, if there no prescribed maximum rate, then eighteen percent (18%) per annum, from the date(s) of Landlord's payment(s).

13. FIXTURES AND PERSONAL PROPERTY

Any of Tenant's trade fixtures, signs, and other personal property not permanently affixed to the Premises shall remain Tenant's property. Tenant shall have the right, provided Tenant is not in default under the terms of this Lease, at any time, and from time to time, to remove any and all of its trade fixtures, signs, and other personal property if such property is replaced with personal property of comparable or better quality. Tenant, at its expense, shall immediately repair any damage occasioned to the Premises by reason of the removal of any such trade fixtures, signs, and other personal property. Upon termination or expiration of this Lease, Tenant shall leave the Premises in a neat and clean condition, free of debris.

14. ASSIGNING, MORTGAGING, SUBLETTING, AND CHANGE IN OWNERSHIP

14.1 Consent of Landlord Required. Tenant shall not transfer, assign, sublet, enter into license or concession agreements, change ownership, mortgage, or hypothecate this Lease or Tenant's interest in and to the Premises (collectively referred as "**Assign**" and an "**Assignment**") without first obtaining Landlord's written consent, which may be given or withheld in Landlord's reasonable discretion. No assignment or sublease, with or without Landlord's consent, shall release the named Tenant from liability under this Lease.

14.2 Application to Assign. If Tenant desires to make an Assignment, Tenant shall give Landlord written notice of its intention to do so at least ninety (90) days before the effective date of

any such proposed Assignment. Such notice shall be accompanied by (a) copies of any documents pertaining to such Assignment, (b) a description of the identity, net worth, and previous business experience of the proposed assignee or sublessee (the "**Assignee**"), (c) copies of the Assignee's latest income, balance sheet, and change-of-financial-position statement, in audited form, if available, and certified as accurate by the Assignee, and (d) any further information relevant to the transaction that Landlord may reasonably request. Landlord may, by mailing written notice to Tenant at any time within forty-five (45) days after its receipt of such notice, elect either to consent to such proposed Assignment, or withhold consent to such proposed Assignment. If Landlord fails to inform Tenant of its decision within such forty-five (45)-day period, Landlord shall be deemed to have withheld its consent. A consent to one Assignment shall not be deemed to be a consent to any subsequent Assignment. The restriction on transferability contained in this Section shall be considered a continuous covenant and shall run with the land during the Lease Term.

14.3 Conditions. By way of example and not as a limitation of Landlord's right to withhold consent in Landlord's reasonable discretion, Tenant shall not have the power to make an Assignment if any of the following situations exist or may exist: (a) the Assignee's use of the Premises following the Assignment would be inconsistent with the Permitted Uses of Premises; (b) in Landlord's business judgment, the Assignee lacks sufficient business reputation or experience to operate a successful business of the type and quality permitted under this Lease; (c) in Landlord's business judgment, the present net worth of the Assignee is less than the greater of Tenant's net worth at the effective date or Tenant's net worth at the date of Tenant's request for consent; (d) in Landlord's business judgment, the Percentage Rent that Landlord reasonably anticipates receiving from the Assignee is less than that which Landlord has received (or anticipates receiving) from Tenant; (e) the Assignment would breach any covenant of Landlord respecting radius, location, use, or exclusivity in any other lease, financing agreement, or other agreement relating to the Shopping Center; (f) Tenant is in default of any of the terms or provisions of this Lease; or (g) the trade name under which the Assignee proposes to operate at the Premises does not have the same good business reputation or name recognition as the Permitted Trade Name or as other operators of comparable space within the Shopping Center.

14.4 Documentation. Each Assignment shall be by an instrument in writing in form reasonably satisfactory to Landlord. Each Assignee shall agree in writing for the benefit of Landlord to assume, to be bound by, and to perform the terms, covenants, and conditions of this Lease. If consent is required, any attempted or purported Assignment without Landlord's written consent shall be void and of no force and effect.

14.5 Consideration. If Tenant makes an Assignment in accordance with the provisions of this Section, or by operation of law, Tenant shall pay to Landlord fifty percent (50%) of any and all consideration received by Tenant for such Assignment, less (a) reasonable leasing commissions paid by Tenant and (b) other reasonable out-of-pocket expenses paid by Tenant (including attorneys' fees, advertising costs, and expenses of readying the Premises for occupancy by the Assignee).

14.6 Fees and Costs. Tenant shall reimburse Landlord, as Additional Rent, Landlord's reasonable costs and attorneys' and accountants' fees and costs incurred in conjunction with the processing and documentation of any such requested Assignment of this Lease.

14.7 Assignment of Interest. If Tenant is (a) a corporation, the stock of which is not publicly traded over a national exchange or (b) an unincorporated association, limited liability company, or partnership, then the transfer, assignment, or hypothecation of any stock or ownership interest in such corporation, association, or partnership in the aggregate in excess of twenty-five percent (25%), whether in one or in multiple transactions, shall be deemed an Assignment within the meaning of this Section 14.

14.8 Exempt Transfers.

14.8.1 Despite any other provisions of this Lease, Landlord's consent is not required for any Assignment to an Affiliate (defined below) if (a) Landlord receives written notice of the Assignment (as well as documents reasonably requested by Landlord regarding the Assignee or the Assignment), (b) the Assignee assumes in writing all of Tenant's obligations under this Lease, and (c) the Assignee has a tangible net worth, as evidenced by financial statements delivered to Landlord

and certified by independent public accounts in accordance with generally accepted accounting principles consistently applied, at least equal to Tenant's net worth either immediately before the Assignment or as of the date of this Lease, whichever is greater.

14.8.2 An "**Affiliate**" means any entity that (a) controls, is controlled by, or is under common control with Tenant, (b) results from the transfer of substantially all of Tenant's stock, or (c) results from the merger or consolidation of Tenant with another entity. "**Control**" means the direct or indirect ownership of more than fifty percent (50%) of the voting securities of an entity or possession of the right to vote more than fifty percent (50%) of the voting interest in the ordinary direction of the entity's affairs.

15. DAMAGE OR DESTRUCTION

15.1 Destruction Due to Insured Risk. If the Premises and/or the Premises Building are damaged or destroyed by fire or other perils covered by Landlord's insurance, Landlord shall:

15.1.1 Repair. Within a period of one hundred twenty (120) days after receipt of the insurance proceeds, commence repair, reconstruction, and restoration of such Premises and prosecute the same diligently to completion, in which event this Lease shall continue in full force and effect; or

15.1.2 Termination. If such damage or destruction occurs during the last eighteen (18) months of the Lease Term, or if twenty percent (20%) or more of Floor Area in the other buildings in the Shopping Center are damaged or destroyed, Landlord may terminate this Lease upon giving written notice to Tenant within one hundred twenty (120) days after such destruction.

15.2 Destruction Due to Uninsured Risk. If the Premises and/or the Premises Building are damaged as a result of any uninsured casualty and the cost to repair exceeds ten percent (10%) of the total replacement cost of the Premises Building, Landlord may, within one hundred twenty (120) days following the date of the damage, either (a) commence repair, reconstruction, or restoration of the Premises and prosecute the same diligently to completion, in which event, this Lease shall continue in full force and effect, or (b) elect not to so repair, reconstruct, or restore the Premises, in which event this Lease shall cease and terminate. In either such event, Landlord shall give Tenant written notice of its intention within such one hundred twenty (120) day period.

15.3 Tenant Improvements and Waiver of Termination. In no event shall Landlord be required to restore, repair, or reconstruct any alterations, additions, or improvements made by Tenant. The agreements contained in this Section provide a material part of the consideration for this Lease. Tenant waives any right to terminate this Lease under Sections 1932 and/or 1933(4) of the Civil Code of California, or any similar statute now or hereinafter in force.

15.4 Mutual Release. Upon any termination of this Lease under this Section, the parties shall be released thereby without further obligations to the other party except for items that have previously accrued and then remain unpaid. In the event of termination, all proceeds from Tenant's fire and extended coverage insurance under Section 8.4.3, but excluding proceeds for Tenant's trade fixtures, merchandise, signs and other personal property within or upon the Premises, shall be disbursed and paid to Landlord.

15.5 Rent Abatement During Reconstruction. In the event of repair, reconstruction, and restoration, the Minimum Annual Rent shall be abated proportionately to the extent that Landlord receives the proceeds of rental value insurance covering such Rent. Such abatement shall be in accordance with the degree to which Tenant's use of the Premises is impaired as a result of such destruction. The abatement shall continue during the period of repair, reconstruction, or restoration. Tenant shall continue the operation of its business on the Premises during any such period to the extent reasonably practicable. Tenant's obligation hereunder to pay Percentage Rent and Additional Rent shall remain in full force and effect. Tenant shall not be entitled to any compensation or damages from Landlord for loss in the use of the whole or any part of the Premises, Tenant's personal property, or any inconvenience or annoyance occasioned by such damage, repair, reconstruction, or restoration.

16. COMMON AREA

16.1 Common Area Defined. The term "**Common Area**" shall mean all realty and improvements in or at the Shopping Center from time to time made available for the general use, convenience, and benefit of Landlord and other persons entitled to occupy Floor Area in the Shopping Center. Common Area shall include, without limitation, parking areas, access roads, driveways, entrances and exits, retaining walls, landscaped areas, truck serviceways, loading docks, ramps and sidewalks, comfort bus stops and first aid stations, common utilities and related utility lines and meters, management offices, public washrooms or other areas, mail pick-up stations, on-site and off-site signs identifying or advertising the Shopping Center, and all maintenance and equipment rooms.

16.2 Use and Maintenance of Common Area. Tenant and its employees and invitees are authorized, empowered, and privileged to use the Common Area in common with other persons during the Lease Term, except (a) as otherwise specifically provided in this Lease, and (b) for those portions of the Common Area on which have been constructed or placed or shall be constructed or placed permanent or temporary kiosks, displays, carts and stands, tables and seating or other similar items, or to which Landlord has granted another tenant the right to conduct business. Landlord shall maintain and operate, or cause to be maintained and operated (except as provided below), the Common Area at all times following completion thereof for the benefit and use of the occupants of the Shopping Center and their respective customers, employees, and patrons.

16.2.1 Maintenance. Landlord shall keep the Common Area in a neat, clean, and orderly condition, properly lighted and landscaped. Landlord shall repair any damage to the facilities thereof and replace such facilities, as needed, from time to time.

16.2.2 Control. Landlord may at any time and from time to time exclude and restrain any person from use or occupancy of the Common Area, excepting, however, bona fide customers, service-suppliers of Tenant, and other occupants of the Shopping Center in accordance with the rules and regulations established by Landlord from time to time with respect thereto. Tenant's rights in and to the Common Areas shall at all times be subject to the rights of Landlord, and the other occupants of the Shopping Center to use the same in common with Tenant. Except as otherwise consented to in writing by Landlord in advance, Tenant shall keep all of such areas free and clear of any obstructions created or permitted by Tenant, its employees, and agents, or resulting from Tenant's operation and permit the use of any of such areas only for normal parking and ingress and egress by the customers, patrons, and service-suppliers to and from the Premises Building and the other tenants. Tenant shall comply with parking congestion mitigation and trip reduction plans adopted from time to time for the Shopping Center, including providing information reasonably requested by Landlord regarding employee parking to satisfy reporting requirements of cognizant governmental agencies.

16.2.3 Parking. Tenant's employees and the other tenants of Landlord within the Shopping Center shall not be permitted to park their automobiles in the automobile parking areas of the Common Area that may from time to time be designated for Shopping Center patrons. Landlord shall have the right to designate the particular parking area, within or without the Shopping Center, to be used by any or all of Tenant's employees, and the right to establish other rules and regulations affecting the parking areas. Any such designation and rules may be changed from time to time. Tenant and its employees shall park their cars only in those portions of the Common Area, if any, designated for that purpose by Landlord. Tenant shall furnish Landlord with its and its employees' license numbers within fifteen (15) days after taking possession of the Premises. Tenant shall thereafter notify Landlord of any changes within five (5) days after such change occurs. If Tenant or its employees fail to park their cars in designated parking areas, then Landlord may charge Tenant Fifty Dollars (\$50.00) per day for each day or partial day per car parked in any areas other than those designated. Tenant authorizes Landlord to tow away from the Shopping Center any cars in violation hereof whether belonging to Tenant or Tenant's employees and/or to attach violation stickers or notices to such cars. All rules and regulations and such types of operations or validation of parking checks and other matters affecting Tenant's bona fide customers shall apply equally and without discrimination to all persons entitled to the use of the automobile parking facilities.

16.3 Common Area Expenses Defined. "**Common Area Expenses**" shall mean the cost

and expense incurred in operating, managing, insuring, lighting, repairing, replacing, and maintaining the Common Area, including, without limitation, all general maintenance and repairs, painting, restriping, resurfacing, cleaning, sweeping and janitorial services; maintenance, repair, and replacement, as required, of the Common Area, including parking area, sidewalks, and curbs; Shopping Center identification, directional, and entrance signs; light standards, all plantings, sprinkler systems, and/or landscaping; providing rubbish receptacles and removal service for tenants of the Shopping Center (if Landlord elects to provide such rubbish receptacles and/or removal service); maintenance and repair of any public areas, storage space for parking and Common Area equipment; expenses for personnel to implement such services including, if Landlord deems necessary, the cost of security guards; maintenance, repair, replacement and/or installation of any fire protection systems, security alarm systems, lighting systems, storm drainage systems, electrical systems, and any other utility systems; payroll, payroll taxes, health and workers' compensation insurance applicable to provide such services; reasonable reserves established by Landlord for future replacements or capital improvements; Taxes relating to the Common Area and all Common Area improvements; any public utility or governmental charges, surcharges, and any other costs levied, assessed, or imposed pursuant to Applicable Laws; necessary tools, supplies, and machinery or equipment; depreciation on maintenance and operating machinery and equipment (if owned) and rent paid for such machinery and equipment (if rented); public liability and property damage insurance with respect to the Common Area and fire and extended coverage insurance on Common Area improvements, in amounts and in coverages determined by Landlord (to the extent not included in Insurance Premiums); the deductible amounts of any insurance maintained by Landlord; other costs and fees necessary or beneficial in Landlord's reasonable judgment for the maintenance and operation of the Common Area; and an allowance to Landlord for Landlord's supervision of the Common Area in an amount equal to fifteen percent (15%) of the total Common Area Expenses, excluding taxes and insurance. Landlord may cause any or all of such services to be provided by an independent contractor or contractors. An estimate of Tenant's monthly Common Area Expenses is set forth in Section 1.

16.4 Additional Common Area. If Landlord acquires additional land not presently part of the Shopping Center and makes all or any portion of such land available for Common Area purposes, then all of the expenses described above incurred and paid in connection with such additional land shall also be deemed Common Area Expenses. In the event of such acquisition, Landlord reserves the option, to be exercised upon written notice to Tenant, to cause such additional land and improvements, or any portion thereof, to be deemed part of the Shopping Center.

16.5 Premises Building. If the Premises Building is not a single tenant user building, Common Area Expenses shall also include the maintenance and repair of the roof, roof membrane, and roof covering, shared building mechanical systems, utility lines and conduits, exterior building painting, and other repair and maintenance of the Premises Building ("**Premises Building Expenses**").

16.6 Proration and Reporting of Common Area Expenses. The Common Area Expenses shall be prorated in the following manner:

16.6.1 Payment of Estimated Common Area Expenses. From and after the Rent Commencement Date, Tenant shall pay to Landlord, on the first day of each calendar month, an amount estimated by Landlord to be 1/12th of Tenant's Pro Rata Share of Common Area Expenses for the calendar year. Landlord may adjust the foregoing estimated monthly charge at the end of any calendar quarter on the basis of Landlord's experience and reasonably anticipated costs.

16.6.2 Payment of Actual Common Area Expenses. Within sixty (60) days following the end of each calendar quarter or, at Landlord's option, once each calendar year, Landlord shall furnish Tenant a statement covering the calendar quarter or year just expired showing the total of the Common Area Expenses, the amount of Tenant's Pro Rata Share of the Common Area Expenses for such calendar quarter or year, and the payments made by Tenant with respect to such period as set forth in Section 16.6.1. If Tenant's share of the Common Area Expenses exceeds Tenant's payments so made, Tenant shall pay Landlord the deficiency within ten (10) days after receipt of such statement. If the payments exceed Tenant's share of the Common Area Expenses, Tenant shall be entitled to offset the excess against payments next thereafter to become due Landlord as set forth in Section 16.6.1. If an audit discloses an error in the computation of the Common Area

Expenses, Tenant's share of the Common Area Expenses shall be appropriately adjusted, and any resulting excess or deficiency in Tenant's payments shall be treated in the manner set forth in this Section 16.6.2. Landlord's failure to provide any Common Area Expenses statement within such sixty (60)-day period shall in no way excuse Tenant from its obligations to pay its Pro Rata Share of Common Area Expenses or constitute a waiver of Landlord's right to bill and collect such Pro Rata Share of Common Area Expenses from Tenant in accordance with this Section 16.6.

16.6.3 Tenant's Pro Rata Share. Tenant's Pro Rata Share of the Common Area Expenses for the previous calendar quarter or year shall be the portion of all such expenses that is equal to a fraction, the numerator of that is the number of square feet of Floor Area in the Premises, and the denominator is the total number of square feet of Floor Area of buildings in the Shopping Center that are occupied and open for business as of the commencement of such calendar quarter or year. If any Premises Building Expense is incurred for the Premises Building and is of the type and nature that is not incurred by Landlord generally of buildings in the Shopping Center, then Tenant's Pro Rata Share of such expenses only shall be equal to a fraction, the numerator of which is Tenant's Floor Area, and the denominator of which is the Floor Area of all space within the Premises Building leased and occupied as of the commencement of the calendar quarter or year in question. There shall be appropriate adjustment of Tenant's Pro Rata Share of the Common Area Expenses as of the Rent Commencement Date and expiration of the Lease Term.

17. DEFAULTS BY TENANT

17.1 Definition of Default. The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by Tenant:

17.1.1 Rent Default. Tenant's failure to make, as and when due, any payment of Minimum Rent, Percentage Rent, Additional Rent, or other charges payable by Tenant hereunder or to timely discharge any other monetary obligation hereunder within five (5) days of the due date of such payment, shall constitute a default, for purposes of late fee accrual only, with no notice required. Notwithstanding the forgoing, failure to pay Minimum Rent, Percentage Rent or Additional rent due hereunder on or before the due date shall trigger Landlord's right to serve a statutory 3 Day Notice to Pay or Quit for failure to pay rent timely. The parties agree and understand that the delay in imposition of late fees is in no way intended to extend the notice time requirements of the unlawful detainer statutes of California. Any such notice shall be in lieu of, and not in addition to, any notice required under Section 1161 of the California Code of Civil Procedure or any similar, superseding statute.

17.1.2 Abandonment. Any absence of Tenant from the Premises for five (5) days or longer while in default of any provision of this Lease.

17.1.3 Nonmonetary Default. Tenant's failure to commence within ten (10) days of receipt of notice thereof from Landlord and diligently pursue to completion any of Tenant's nonmonetary obligations under this Lease, and in any case, to complete cure of such breach within thirty (30) days of notice. Any such notice shall be in lieu of, and not in addition to, any notice required under Section 1161 of the Code of Civil Procedure of California.

17.1.4 Accuracy of Statements. Tenant's falsification of any report or statement required to be furnished to Landlord.

18. REMEDIES UPON DEFAULT

18.1 Remedies of Landlord. In the event of any default by Tenant, Landlord may, without further notice to Tenant, in addition to any or all other rights or remedies available to Landlord hereunder, at law or in equity, exercise any or all rights or remedies set forth in this Section. No delay or omission of Landlord to exercise any right or remedy shall be construed as a waiver of any such right or remedy or of any default.

18.2 Termination of Lease. Except as otherwise provided in Section 18.6, this Lease shall terminate if Tenant breaches this Lease and abandons the Premises prior to the end of the Lease Term, or if Landlord terminates Tenant's right to possession because of a default by Tenant under

this Lease. Upon such termination, Landlord may recover from Tenant the following, as provided in Section 1951.2 of the California Civil Code:

18.2.1 Unpaid Rent at Termination. The worth at the time of award of the unpaid Minimum Annual Rent, Percentage Rent, and Additional Rent that had been earned at the time of termination.

18.2.2 Unpaid Rent at Award. The worth at the time of award of the amount by which the reasonable value of the unpaid Minimum Annual Rent, Percentage Rent, and Additional Rent that would have been earned after termination until the time of award exceeds the amount of such Rent loss that Tenant proves could have been reasonably avoided.

18.2.3 Future Rent. The worth at the time of award by which the reasonable value of the unpaid Minimum Annual Rent, Percentage Rent, and Additional Rent for the balance of the Lease Term after the time of award exceeds the amount of such Rent loss that Tenant proves could have been reasonably avoided; and

18.2.4 Other Amounts. Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or that in the ordinary course of things would be likely to result therefrom.

18.3 Terms Defined. As used in Section 18.2, the following terms are defined:

18.3.1 "Worth at the Time of Award". The "worth at the time of award" of the amounts referred to in Sections 18.2.1 and 18.2.2 is computed by allowing interest at the lesser of eighteen percent (18%) per annum or the maximum lawful rate. The "worth at the time of award" of the amount referred to in Section 18.2.3 is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

18.3.2 "Time of Award". The "time of award" as used in Sections 18.2.1, 18.2.2, 18.2.3, and 18.3.3, is the date on which judgment is entered by a court of competent jurisdiction.

18.3.3 "Reasonable Value". The "reasonable value" of the amount referred to in Section 18.2.2 is computed by determining the product of (a) the "reasonable annual Rent value" (as defined herein), and (b) the number of years, including fractional parts thereof, between the date of termination and the time of award. The reasonable value of the amount referred to in Section 18.2.3 is computed by determining the product of (x) the "reasonable annual Rent value" (as herein defined), and (y) the number of years, including fractional parts thereof, remaining in the balance of the Lease Term after the time of award. The term "reasonable annual Rent value" is the sum of (1) the Minimum Annual Rent; and (2) all Additional Rent paid or payable during the calendar year immediately preceding the time of award; plus (3) the greater of either the mathematical average on an annual basis of Percentage Rent paid or payable prior to the date of termination, or the Percentage Rent paid or payable during the calendar year immediately preceding the date of termination.

18.4 Mitigation by Landlord. No efforts by Landlord to mitigate the damage by Tenant's default under this Lease shall be deemed a waiver of Landlord's right to recover damages under this Lease. Except as otherwise specifically set forth in this Lease, or as required by applicable California law, Landlord shall have no duty to mitigate damages arising out of Tenant's failure to comply with any term, condition, covenant, or agreement of this Lease.

18.5 No Termination. Even though Tenant has breached this Lease and abandoned the Premises, this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession, and Landlord may enforce all its rights and remedies under this Lease, including the right to recover Rent as it becomes due.

18.5.1 Limited Right to Assign. If Landlord elects the remedy provided for in this Section 18.5, and only in such event, Tenant shall have the right to assign its interest in the Lease, conditioned upon Landlord's prior consent, not to be unreasonably withheld. Such consent shall be contingent upon the satisfaction of the factors described in Section 14.

18.5.2 Termination of Possession. For the purpose of this Section 18.5, acts of maintenance or preservation or efforts to relet the property, or the appointment of a receiver upon Landlord's initiative to protect Landlord's interest under this Lease, shall not constitute a termination of Tenant's right to possession.

18.6 Termination and Entry. In the event of default by Tenant, Landlord may terminate this Lease by express written notice to Tenant, and may reenter the Premises and take possession thereof and remove all persons therefrom. Following such event, Tenant shall have no further claim under this Lease. Such termination shall not relieve Tenant of any obligation that has accrued prior to the date of such termination. Landlord may take possession of all property of Tenant and of any other person that is located on the Premises and may store all such property for the account of and at the risk and cost of Tenant. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed for any cause, or in the event of Landlord obtaining possession of the Premises by reason of the violation by Tenant of this Lease or otherwise. Within thirty days after Landlord takes possession thereof, Tenant may redeem such property upon payment to Landlord in full of all obligations then due from Tenant to Landlord hereunder and all costs incurred by Landlord in providing such storage. If Tenant fails to redeem such property within such period, Landlord may sell such property in any reasonable manner. Landlord shall apply the proceeds from such sale actually collected first against the costs of storage and then against any other obligation due from Tenant. By bargaining for and obtaining the rights granted to Tenant hereunder, Tenant recognizes these rights as just and adequate remedies. Tenant expressly waives any and all rights of redemption granted by the California Code of Civil Procedure or by or under any such similar present or future laws.

18.7 Landlord's Right to Cure and Secure Compliance. Landlord may elect to cure, at any time and without notice, any default of Tenant under this Lease. Whenever Landlord so elects, Tenant shall immediately upon demand pay to Landlord, as Additional Rent, all costs and expenses thereby incurred by Landlord. In addition, if Landlord requires the services of any attorneys to enforce against Tenant any of the provisions or rights under this Lease, Tenant shall pay to Landlord, as Additional Rent, the reasonable value of such services.

18.8 Waiver. No delay or omission in the exercise of any right or remedy of Landlord on any default by Tenant shall impair such a right or remedy or be construed as a waiver. Landlord's waiver of any breach of any term, covenant, or condition of this Lease shall not be deemed to be a waiver of such term, covenant, or condition on any subsequent breach of the same or other term, covenant, or condition. Landlord's subsequent acceptance of Rent shall not be deemed to be a waiver of any prior occurring breach, regardless of Landlord's knowledge of such prior existing breach at the time of acceptance of such Rent.

18.9 Actions. No act or conduct of Landlord, including, without limitation, the acceptance of the keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Tenant before the expiration of the Lease Term. Only an express written notice from Landlord to Tenant of Landlord's intention to accept a surrender shall constitute acceptance of the surrender of the Premises and accomplish a termination of the Lease. Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent act by Tenant.

18.10 Partial Payments. Any partial payments received by Landlord shall not cure any default. Such partial payments shall be applied (a) first to Tenant's outstanding obligations to reimburse Landlord for Taxes, Insurance Premiums, and Common Area Expenses and costs paid or incurred by Landlord in connection with Tenant's default, (b) then to the payment of Minimum Annual Rent and Percentage Rent owing by Tenant, and (c) then to any other amounts owing by Tenant.

19. EMINENT DOMAIN

19.1 Condemnation of Entire Premises. If the entire Premises are taken under the power of eminent domain by any public or quasi-public authority, Tenant's estate shall cease and terminate on the date when Tenant is actually required to yield possession. All liabilities of Landlord and

Tenant hereunder accruing subsequent to such date shall cease.

19.2 Partial Condemnation. If (a) more than thirty-three percent (33%) of the Shopping Center or thirty-three percent (33%) of the square footage of Floor Area of the Premises is taken under the power of eminent domain by any public or quasi-public authority, (b) because of any appropriation or taking, regardless of the amount so taken, the remainder of the Premises is not one undivided parcel of property, or (c) the continued conduct of Tenant's business on the Premises would be prevented or substantially impaired, either Landlord or Tenant shall have the right to terminate this Lease as of the date of such taking. This right shall be exercisable only if notice of election to exercise this right is given within sixty (60) days after receipt of notice of the taking.

19.3 Continuation of Lease. This Lease shall remain in full force and effect as to the portion of the Premises remaining if (a) Tenant elects not to so terminate this Lease but remains in that portion of the Premises that have not been taken, or (b) if less than thirty-three percent (33%) of the square footage of Floor Area of the Premises are appropriated under the power of eminent domain by any public or quasi-public authority, and the remainder thereof is an undivided parcel of property. In such event, however, the Minimum Annual Rent shall be reduced proportionately to the degree that the Floor Area taken bears to the Floor Area of the Premises before such taking, and all other charges based upon square footage of the Premises shall be appropriately reduced.

19.4 Condemnation Award. Any award for the taking of all or any part of the Premises under the power of eminent domain, or any payment made under threat of the exercise of such power, shall be Landlord's sole property. Tenant shall have no claim thereto and hereby irrevocably assigns and transfers any right Tenant may have to share in the award to Landlord. However, Tenant shall be entitled to apply for a separate award expressly made for the taking of or damage to Tenant's trade fixtures and personal property, so long as such award does not otherwise diminish Landlord's award.

19.5 Threat of Condemnation. For the purpose of this Section, a voluntary sale or conveyance in lieu of condemnation, but under the threat of condemnation, shall be deemed an appropriation or taking under the power of eminent domain.

20. MATTERS OF RECORD; TENANCIES; SALE OF PREMISES BY LANDLORD

20.1 Matters of Record; Tenancies. Tenant agrees that (a) as to its leasehold estate, it and all persons in possession or holding under it, will comply with the terms of the REA or any other reciprocal easement agreement or similar agreement between the parties owning or leasing portions of the property comprising the Shopping Center, as the same may be amended from time to time (collectively, the "**Agreements**") or any other matters of record, and (b) this Lease is subordinate to the Agreements. Tenant shall execute and return to Landlord, within ten (10) days after written demand therefor by Landlord, an agreement in recordable form subordinating this Lease to the Agreements, which form shall be approved in substance and form by Landlord. Landlord reserves the absolute right to effect such other tenancies in the Shopping Center as Landlord, in the exercise of its sole business judgment, determines to best promote the interests of the Shopping Center.

20.2 Sale of Premises by Landlord. In the event of any sale, transfer, or exchange of the Premises by Landlord, or an assignment of this Lease, Landlord shall be relieved of all liability under this Lease arising after the consummation of such sale, assignment, transfer, or exchange.

20.3 Limitation on Liability. Any claims against Landlord under this Lease shall be made against Landlord only to the extent of Landlord's interest in the Premises. Landlord's obligations under this Lease shall not be personally binding on, nor shall any resort be had to any other property of Landlord, or of Landlord's trustees, directors, officers, partners, or members, or to any beneficiaries, stockholders, employees, or agents of Landlord.

21. SUBORDINATION AND ATTORNMENT; ESTOPPEL CERTIFICATE

21.1 Subordination. Within ten (10) days after any request therefor by Landlord, Tenant will subordinate its rights hereunder to the lien of any mortgagee or trustee under a deed of trust to any lending institution, or the lien resulting from any other method of financing or refinancing now

or hereafter in force against the Shopping Center or any portions thereof, whether now in existence or in the future acquired or constructed, and to all advances made or hereafter to be made upon the security thereof. Such instrument shall be subject to Landlord's reasonable approval as to form and substance and shall provide that in the event of foreclosure, or in the event of the exercise of power of sale under any mortgage or deed of trust, a purchaser shall recognize Tenant's rights under this Lease, provided Tenant is not in default hereunder.

21.2 Attornment by Tenant. If any proceedings are brought for foreclosure, or if the power of sale under any mortgage or deed of trust made by Landlord covering the Premises is exercised, or if Landlord transfers the Premises by deed in lieu of foreclosure, Tenant shall attorn to the purchaser upon any such foreclosure, sale, or transfer and recognize such purchaser as Landlord under this Lease, provided that the purchaser acquires and accepts the Premises subject to this Lease.

21.3 Estoppel Certificate. Within ten (10) days after request therefor by Landlord, Tenant shall deliver in recordable form an estoppel certificate to Landlord or any purchaser, assignee, or lender of Landlord. Such certificate shall certify that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified, and stating the modifications), that there are no defenses or offsets thereto (or stating those claimed), and the dates to which the Minimum Annual Rent, Percentage Rent, Additional Rent, and other charges have been paid.

22. SECURITY DEPOSIT

22.1 Purpose; Application. Landlord shall hold the Security Deposit without liability for interest as security for Tenant's faithful performance of all of the terms of this Lease. If (a) any of the amounts owing hereunder are overdue and unpaid, (b) Landlord makes payments on behalf of Tenant, or (c) Tenant fails to perform any of the terms of this Lease, then Landlord may, at its option and without prejudice to any other remedy that Landlord may have on account thereof, apply all or a portion of the Security Deposit to compensate Landlord for the payment of such sums or loss or damage sustained by Landlord due to such breach. Tenant shall within ten (10) days following demand restore the Security Deposit to the original sum deposited. If such amounts are due and owing upon the expiration or earlier termination of this Lease, Landlord may retain such Security Deposit for a reasonable time to compile an accurate account of such amounts as may then be due and unpaid. Tenant recognizes that such accounting period may exceed any statutory time period respecting return of security deposits. If Tenant complies with all of such terms and promptly pay all of the Rents and all other sums payable by Tenant to Landlord, Landlord shall return the Security Deposit in full to Tenant as provided above.

22.2 Sale of Premises by Landlord. Landlord may deliver the funds deposited by Tenant to the purchaser of Landlord's interest in the Premises if such interest is sold, and Landlord shall be discharged from any further liability with respect to the Security Deposit.

23. GENERAL PROVISIONS

23.1 Time. Time is of the essence with respect to the performance of every provision of this Lease in which time or performance is a factor.

23.2 Severability. If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder hereof shall remain in full force and effect.

23.3 Notices. Notices under this Lease shall be made either by personal delivery or by U.S. mail (if sent by registered or certified mail, postage prepaid). Notwithstanding anything to the contrary in this Section, either party may, by written notice to the other, specify a different address for notice purposes, but Landlord may in any event use the Premises for the purpose of giving Tenant any notice or demand. Notice shall be deemed given upon the earlier of actual receipt or two (2) business days after sending by a permitted method.

23.4 Force Majeure. If either party is delayed or prevented from the performance of any

act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, restrictive governmental laws, delays or regulations, delays caused by the other party, or other cause without fault and beyond the control of the party obligated (financial inability excepted) (a "**Force Majeure Delay**"), 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 a period equivalent to the period of such delay. However, if work performed by Tenant or Tenant's contractor results in a strike, lockout, and/or labor dispute, such strike, lockout, and/or labor dispute shall not excuse Tenant's performance as provided herein.

23.5 Holding Over, Successors, Surrender. If Tenant remains in possession of the Premises after the expiration of the Lease Term, and without the execution of a new lease, Tenant, at Landlord's option, shall be deemed to be occupying the Premises as a Tenant from month-to-month. Such occupancy shall be subject to all the terms and conditions, provisions, and obligations of this Lease, except for Minimum Annual Rent. The monthly installment of Minimum Annual Rent for each month of any such month-to-month tenancy shall be the greater of (a) twice the highest monthly installment of Minimum Annual Rent payable for the immediately preceding twelve-month period, or (b) one-twelfth of an amount equal to the total of the Minimum Annual Rent plus Percentage Rent payable for the immediately preceding twelve-month period.

23.5.1 Successors. All rights and liabilities given to, or imposed upon, Landlord and Tenant shall extend to and bind their respective heirs, executors, administrators, successors, and assigns.

23.5.2 Surrender of Lease. The voluntary or other surrender of this Lease by Tenant or a mutual termination thereof, shall not work a merger, and shall, at Landlord's option, terminate all or any existing subleases or subtenancies. Alternatively, such surrender or termination may, at Landlord's option, operate as an assignment to it of any or all of such subleases or subtenancies.

23.6 Copies. At the option of either party, this Lease may be executed in multiple copies, all of which shall be deemed originals.

23.7 Applicable Law. This Lease shall be governed by and construed pursuant to the laws of the State of California.

23.8 Entire Agreement. This Lease and the attached Exhibits set forth all the covenants, promises, agreements, conditions, and understandings between Landlord and Tenant concerning the Premises. No subsequent amendment or addition to this Lease shall be binding upon Landlord or Tenant unless reduced to writing and signed by them.

23.9 No Broker. Tenant warrants that it has had no dealings with any broker or agent in connection with this Lease, other than the Broker(s), if any, listed in Section 1. Tenant indemnifies Landlord against and holds Landlord free and harmless from all claims, expenses, fees and commissions, including attorneys' fees, arising out of or resulting from any dealings between Tenant and any broker or finder other than the Broker(s).

23.10 Attorneys' Fees. If either Landlord or Tenant institutes any action or proceeding against the other relating to the provisions of this Lease, or any default hereunder then the unsuccessful party in such action or proceeding shall reimburse the successful party for the reasonable expenses of attorneys' fees and all costs and disbursements incurred therein by the successful party, including, without limitation, fees and costs of appeal. All such fees, costs, or disbursements shall be recoverable as items of cost without the necessity of any cross action by the successful party. The provisions contained in this Section shall survive the expiration or earlier termination of this Lease. If any action or proceeding is instituted to recover possession of the Premises following the expiration or earlier termination of this Lease, the provisions contained in this Section shall apply.

23.11 Execution of Lease. The submission of this Lease for execution does not constitute a reservation of or option for the Premises. This Lease becomes effective as a Lease only upon execution and delivery hereof by Landlord and Tenant.

23.12 Short Form Lease. At Landlord's request, Tenant will execute and deliver a short form lease for the purpose of recording. Tenant shall not record a short form lease without first obtaining Landlord's written consent.

23.13 Negation of Partnership. Landlord is not, and shall not become or be deemed, a partner or joint venturer with Tenant by reason of any provision of this Lease.

23.14 Good Standing. If Tenant is a corporation, limited partnership, or limited liability company, the persons executing this Lease on behalf of Tenant hereby covenant and warrant that (a) Tenant is in good standing as of the date hereof, (b) Tenant is a duly organized corporation, limited partnership, or limited liability company (as the case may be), (c) if Tenant is not a California corporation, limited partnership, or limited liability company, then Tenant is duly qualified to do business in the State of California, (d) all franchise, corporate, and gross receipts taxes have been paid to date, and (e) all future forms, reports, and/or other documents or fees necessary to comply with the laws applicable to Tenant's status will be filed or paid when due, and (f) such corporation, limited partnership, or limited liability company shall remain in good standing with the Secretary of State of California and of the state in which Tenant is organized during the Term hereof.

23.15 No Third Party Beneficiary Rights. Tenant shall not be the beneficiary of any agreement between Landlord and any other tenant or user in the Shopping Center and shall have no right to enforce any agreement, term, or provision made by or between Landlord and such other tenant or user.

23.16 Mortgagees. Tenant agrees to make such reasonable modifications as may be requested from time to time by any mortgagee or lender of Landlord so long as such changes do not increase, or decrease the Lease Term, or impose material obligations on Tenant not otherwise provided for under this Lease.

23.17 Tenant's Financial Condition. Within ten (10) days after written request from Landlord, Tenant shall deliver to Landlord from time to time such financial statements as are reasonably required by Landlord to verify the net worth of Tenant or any Guarantor, assignee, subtenant, or concessionaire of Tenant. In addition, Tenant shall deliver to any mortgagee designated by Landlord any financial statements required by such mortgagee to facilitate the financing or refinancing of the Premises. Tenant statement shall be true and accurate as of the date of such statement and shall be certified by a duly authorized representative of Tenant and of the party submitting such statements.

23.18 Promotion and Advertising Fund. Landlord may at its option create a Promotion and Advertising Fund (the "**Fund**") for the benefit of Landlord and tenants of the Property. If Landlord establishes the Fund, the following conditions shall apply.

23.18.1 Tenant shall pay to Landlord a monthly Promotion and Advertising Fund charge as Additional Rent. The amount of such charge shall be set by Landlord from time to time and shall be consistent with that charged for similar services to retail tenants of other malls and shopping centers in the County in which the Shopping Center is located.

23.18.2 The Fund shall be used by Landlord to promote, advertise, and market the Shopping Center through television, radio, newspaper, or other media, or through non-media promotions or events, which may include special events, shows, displays, signs, marquees, decor, seasonal events, institutional advertising for the Shopping Center, promotional literature to be distributed within the Shopping Center, and other activities within the Shopping Center designed to attract customers. Landlord shall be entitled to use the Fund for all costs and expenses of administration of the Fund including, without limitation, the salary of administrative personnel, rent for office space used by staff for such purposes, office equipment, utilities, supplies, postage, travel expenses, insurance, audits, tax filings, and bookkeeping.

(Signatures appear on the following page.)

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed on the dates set forth below.

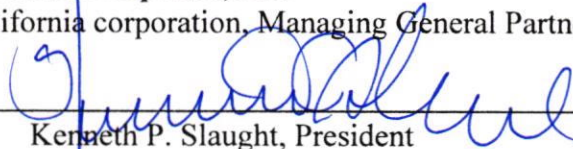
"LANDLORD"

North Coast Associates
a California general partnership

By: Investec Equities, Inc.
a California corporation, Managing General Partner

11/19, 2005
Date

By:


Kenneth P. Slaughter, President

"TENANT"

Tam D. Ngo

01-18-, 2005
Date

By:


Tam D. Ngo

ARROYO TOWN & COUNTRY SQUARE
Exhibit A

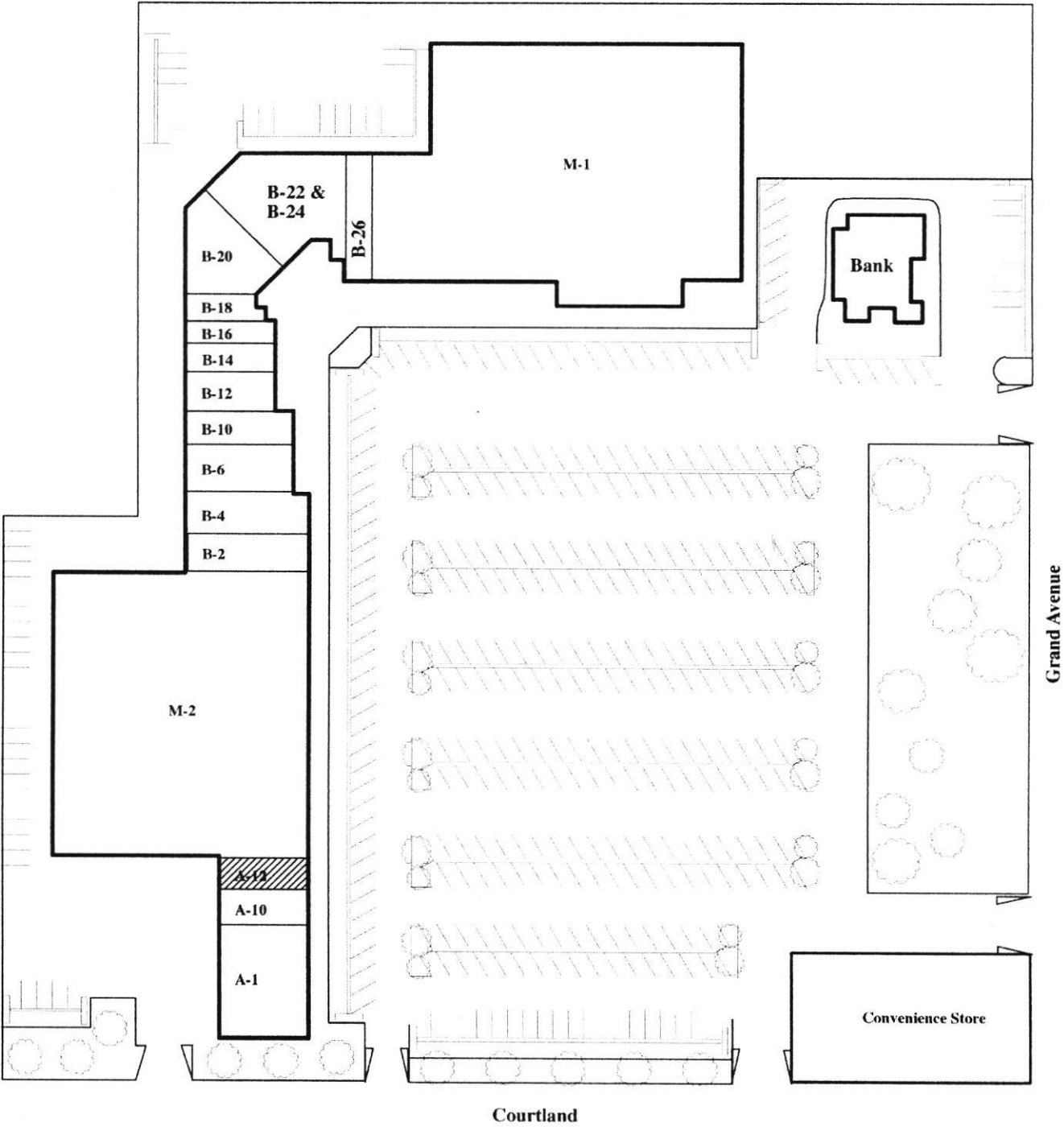


EXHIBIT B

LANDLORD'S WORK

Landlord has constructed the Premises Building, including the following improvements that are a part of the Premises. Any work in addition to the items specifically set forth below shall be provided by Tenant, at its sole cost and expense. Any equipment or work other than those items specifically enumerated as Landlord's Work in this Exhibit B that Landlord may install or construct in the Premises on Tenant's behalf shall be paid for by Tenant within fifteen (15) days after receipt of a bill for such work, which bill will be based on Landlord's actual cost, plus supervision and architectural/engineering expense.

Subject to Force Majeure Delays, Landlord's Work shall be substantially completed on or before the Premises Delivery Date, except for punchlist items that can be completed without material interference with Tenant's Work. Landlord shall give notice to Tenant of the actual date of delivery of the Premises, which date shall be the Premises Delivery Date.

LANDLORD'S WORK SHALL INCLUDE THE FOLLOWING IMPROVEMENTS TO THE PREMISES: Landlord shall deliver the Premises in an "AS IS" condition, clean and free of debris with all plumbing, electrical, lighting, and HVAC in good operating condition.

TENANT SHALL BE RESPONSIBLE FOR THE COST OF ALL IMPROVEMENTS TO THE PREMISES NOT LISTED ABOVE.

EXHIBIT C

TENANT'S WORK/CONSTRUCTION ALLOWANCE

1. OBLIGATION

Tenant shall prepare, remodel, and/or renovate the Premises, at Tenant's sole cost and expense, in accordance with the provisions of this Exhibit and final plans and specifications approved in writing by Landlord (the "**Plans**"). The Plans shall include, by way of illustration, a storefront (which Landlord may, in its discretion, permit or require to be a "popout" storefront) and store interior, including but not limited to painting, wall decor, floor covering, ceiling, lighting, fixturation, signage, and such other work as Landlord reasonably determines to be necessary to bring the Premises into a first-class condition and in a manner necessary to accommodate Tenant's business. All renovation, remodeling, and other such work identified in this Exhibit are referred to as the "**Tenant's Work**."

2. METHOD

Tenant's Work shall be completed in the following manner:

2.1 Landlord Approval. Within thirty (30) days of the execution of this Lease, Tenant shall submit to Landlord one sepia and one print of fully dimensioned one-quarter inch scale Plans for Tenant's Work prepared by Tenant's licensed architect and/or licensed engineer. The Plans shall indicate the specific requirements of Tenant's space, clearly outlining the storefront in detail, including types of materials and colors (including separate drawings for signs in accordance with Exhibit D) and the remodeling work to the interior of the Premises. Landlord shall identify the components, if any, of the Plans that may require modification or alteration. Tenant shall thereupon cause completion of the Plans as requested by Landlord. Within fifteen (15) business days of receipt of Landlord's comments, Tenant shall submit the revised Plans to Landlord. If the Plans are not approved for any reason whatsoever within fifteen (15) business days after delivery to Landlord, Landlord shall have no further obligation to approve the Plans, and Landlord shall have the right to terminate this Lease.

2.2 Completion Schedule. Tenant shall cause the construction of Tenant's Work to be undertaken promptly and diligently and continuously performed in a good and workmanlike manner within ninety (90) days of Landlord's delivery of the Premises.

2.3 Governmental Requirements; REA. Upon Landlord's written approval of final Plans, Tenant shall submit the Plans to the appropriate governmental agencies. Tenant shall seek all necessary approvals and permits and pay all necessary fees incidental to Tenant's Work and shall furnish Landlord such evidence thereof as is satisfactory to Landlord. Landlord shall cooperate with Tenant in executing permit applications and performing other acts reasonably necessary to enable Tenant to obtain any such permit or certificate of occupancy. No changes, modifications, or alterations in the Plans shall be made without the Landlord's prior written consent, which consent shall not be unreasonably withheld. No Tenant Work shall commence until Tenant delivers to Landlord a copy of all required governmental approval for Tenant's Work conforming to the Plans.

2.4 Construction Contracts. Tenant shall enter into a construction contract for Tenant's Work with a licensed general contractor reasonably approved by Landlord (the "**Contractor**"). The Contractor shall guarantee to Tenant and for Landlord's benefit that the Tenant's Work for which it is responsible will be free from any defects in workmanship and materials for one (1) year from the date of completion.

2.5 Review Costs. Tenant shall reimburse to Landlord its actual, reasonable, and documented costs incurred in approving Tenant's Work and changes within ten (10) days after Tenant's receipt of an itemized statement from Landlord.

2.6 Commencement of Work. No later than ten (10) days after receipt of all approvals and permits, Tenant shall cause the Contractor to commence Tenant's Work and prosecute the same

diligently to completion in a good and workmanlike manner. Tenant's Work shall be completed in strict conformance with the approved final Plans and in compliance with all Applicable Laws. Should the Tenant's Work not commence within the specified time frame, Landlord may, by written notice to Tenant, either (a) terminate this Lease, or (b) increase the Minimum Monthly Rent to an amount equal to 300% of the amount specified in Section 1.

2.7 Inspection. During the course of construction, Tenant shall, on twenty-four (24) hours' prior written notice, give any representative of Landlord access to, and permit such representative to inspect, Tenant's Work and all materials to be used in the construction thereof, all at such times and as often as Landlord may reasonably request. Landlord shall have no responsibility to Tenant or any persons, firm, or corporation for any deficiency in construction or variance from the Plans that may be revealed by any such inspection, whether or not discovered by Landlord.

2.8 Rules. Tenant shall abide by all reasonable rules made by Project Architect or Landlord's property manager with respect to the use of freight, loading dock, and service elevators, storage of materials, coordination of work with the contractors of other tenants, and any other matter in connection with, the construction of Tenant's Work.

2.9 Indemnity. Tenant's indemnity of Landlord as set forth in this Lease shall also apply with respect to any and all costs, losses, damages, injuries, and liabilities related in any way to any act or omission of Tenant, its Contractor, employees, or agents, or anyone directly or indirectly employed by any of them, or in connection with Tenant's non-payment of any amount arising out of or related to Tenant's Work and/or Tenant's disapproval of all or any portion of any request for payment.

2.10 Insurance Requirements.

2.10.1 General Coverages. Contractor and all of its agents shall carry (a) worker's compensation insurance covering all of their respective employees, and (b) public liability insurance, including property damage, with liability limits of not less than \$3 million per occurrence and \$5 million in the aggregate in a form and with companies as are required to be carried by Tenant as set forth in this Lease.

2.10.2 Special Coverages. Tenant shall carry Builder's All Risk insurance in an amount approved by Landlord covering the construction of Tenant's Work and such other insurance reasonably required by Landlord. Such insurance shall be in amounts and shall include such extended coverage endorsements as Landlord may reasonably require including, but not limited to, the requirement that Contractor carry excess liability and Products and Completed Operation Coverage insurance, each in amounts not less than \$1 million per incident, \$5 million in aggregate, and in form and with companies as are reasonably required by Landlord.

3. PREMISES OPENING DATE

All rights of Tenant accruing under this Lease are specifically subject to, and conditioned upon, the satisfactory completion of the Tenant's Work on or before the date specified in Section 1 as the Premises Opening Date.

4. NOTICE OF COMPLETION; COPY OF RECORD SET OF PLANS

Within ten (10) days after completion of construction of Tenant's Work, Tenant shall cause a Notice of Completion to be recorded in the County Recorder's Office of the County in which the Shopping Center is located in accordance with Section 3093 of the California Civil Code or any successor statute and shall furnish a copy thereof to Landlord upon such recordation. If Tenant fails to do so, Landlord may execute and file the same on behalf of Tenant as Tenant's agent for such purpose, at Tenant's sole cost and expense. At the conclusion of construction, Tenant shall cause Tenant's architect and Contractor to (a) update the final working drawings as necessary to reflect all changes made to the final working drawings during the course of construction, (b) to certify to the best of their knowledge that the "record-set" of as-built drawings is true and correct, which certification shall survive the expiration or termination of this Lease, and (c) to deliver to Landlord

two (2) sets of copies of such record set of drawings within ninety (90) days following issuance of a certificate of occupancy for the Premises.

5. OCCUPANCY

Upon Landlord's delivery of possession of the Premises, Tenant will accept the Premises in the condition in which the Premises then exist. Tenant waives the right or claim against Landlord for any cause directly or indirectly arising out of the condition of the Premises, appurtenances thereto, the improvements thereon and the equipment thereof. Tenant shall thereafter save and hold harmless Landlord from liability as provided in Section 8 of this Lease. Landlord shall not be liable for any latent or patent defects therein.

6. DESCRIPTION OF TENANT'S WORK

Tenant's Work shall include, but not be limited to, the purchase and/or installation and/or performance of the following:

- 6.1** All interior partitions and curtain walls within the Premises as required by code.
- 6.2** All Tenant required air conditioning work from the distribution points within the Premises, including, but not limited to, connection to supply and return lines, duct work, and any controls or circuitry required for the satisfactory operation of the air conditioning system.
- 6.3** All ceilings.
- 6.4** All floor coverings including the extension of the Shopping Center floor covering material from the lease line to the center line of the storefront and face of the neutral strip, if any.
- 6.5** All drywall or plaster within Premises including demising partitions.
- 6.6** Internal communication systems, alarm systems, or any fire protection, smoke and alarm systems as may be required by any government agency.
- 6.7** Storefront, store fixtures, and furnishings.
- 6.8** Plumbing fixtures and rough-in except as provided in Exhibit B. Tenant's plumbing contractor shall provide approved receptors for air conditioning condensate drains and water heater overflow as required.
- 6.9** Elevators, dumbwaiters, chutes, conveyors, duct shafts, pneumatic tubes, and their shafts, doors and other components, including the electrical hook-up and service, if any, from the electrical panel to such equipment.
- 6.10** Show window display platforms and window backs.
- 6.11** All interior finish in show windows.
- 6.12** Tenant's sign(s).
- 6.13** All Tenant required electrical work including work from the central distribution point, transformers, electrical panels, distribution within the Premises as required and additional conduit(s) from the central distribution point, if required. Tenant shall install Tenant's fused disconnect switch and electric meter at the central distribution panel.
- 6.14** Grease interceptors located within Tenant's Premises will be required for all food preparation areas having pot sinks or any grease-producing appliances discharging into the waste system. Tenant shall be responsible for the proper care, cleaning, and maintenance of the grease interceptors and any piping required therefor.
- 6.15** The design and quality of all work and installations undertaken by Tenant the

Premises shall be subject to the approval of the Project Architect and in accordance with all Applicable Laws.

6.16 Tenant shall remove all of Tenant's trash and debris during the construction of Tenant's Premises and connection to temporary power including all temporary power lines, transformers and electrical distribution.

6.17 Tenant shall be responsible for obtaining all approvals from the local health department, when required.

6.18 Installation of double stud walls and sound insulation of the ceiling, unless such requirements are modified in writing by Landlord, and the installation of such other sound insulation measures as Landlord may require. Such measures shall be required only if the business conducted upon the Premises shall, in Landlord's reasonable judgment, create sounds and noises that may disturb other tenants, patrons of other tenants, the occupant of any space in the Shopping Center or the representatives of Landlord.

6.19 Within ninety (90) days (but in no event earlier than sixty (60) days after Tenant opens for business), Tenant shall furnish Landlord with a certification by a service company approved by Landlord that the air conditioning system is in accordance with mechanical plans approved by the Project Architect and has been installed in a workmanlike manner.

CONSTRUCTION CONTRACT

1. SPECIAL CONDITIONS

The items set forth below shall be incorporated as "Special Conditions" into the contract between Tenant and Contractor:

1.1 Prior to start of Tenant's Work, Contractor shall provide Landlord with a construction schedule in bar graphs form indicating the completion dates of all phases of Tenant's Work.

1.2 Contractor shall diligently perform the work in a manner and at times that do not impede or delay Landlord in the completion of the Premises as provided in this Lease. Any delays in the completion of the Premises or the commencement of the Minimum Annual Rent and any damage to any work caused by Contractor shall be at Tenant's sole cost and expense.

1.3 Contractor shall be responsible for the repair, replacement, or clean-up of any damage done by Contractor to other contractors' work. This specifically includes accessways to Tenant's Premises that may be concurrently used by others.

1.4 Contractor shall accept the Premises prior to starting any trenching operations. Any rework of subbase or compaction required after Contractor's initial acceptance of the Premises shall be done by Contractor.

1.5 Contractor shall contain its storage of materials and its operations within the Premises and such other space as may be assigned by Landlord.

1.6 All trash and surplus construction materials shall be stored within the Premises and shall be promptly removed from the Shopping Center.

1.7 Contractor shall notify Landlord or Landlord's project manager of any planned work to be done on weekends or other than normal job hours. All such work shall be done in accordance with all Applicable Laws.

1.8 Tenant and Contractor are responsible for compliance with all Applicable Laws by all work performed by Tenant or Contractor and all applicable safety regulations established by the general contractor for the Shopping Center.

1.9 Contractor or subcontractors shall not post signs on any part of the Shopping Center

or on the Premises.

1.10 Tenant shall be responsible for and shall (a) obtain and record a Notice of Completion promptly following completion of Tenant's Work, (b) post a Notice of Completion on the Premises, and (c) promptly forward a copy to Landlord.

1.11 Any and all work performed by Tenant or Contractor shall be performed in a manner so as to avoid any labor dispute that results in a stoppage or impairment of work or delivery services or any other services in the Shopping Center. If there is any stoppage or impairment as the result of any such labor dispute, Tenant shall immediately undertake such action as may be necessary to eliminate such dispute or potential dispute. Such actions shall include, but not be limited to, (a) removal of all disputants from the job site until such time as the labor dispute no longer exists, (b) seeking an injunction in the event of a breach of contract between Tenant and Tenant's contractor, and (c) filing appropriate unfair labor practice charges in the event of a union jurisdictional dispute.

1.12 Prior to the commencement of construction, Tenant shall obtain or cause Contractor to obtain payment and performance bonds covering the faithful performance of the contract for the construction of Tenant's Work and the payment of all obligations arising thereunder. Such bonds shall be for the mutual benefit of both Landlord and Tenant and shall be issued in the names of both Landlord and Tenant as obligees and beneficiaries. Prior to the date Tenant commences construction of Tenant's Work, Tenant shall submit evidence satisfactory to Landlord that such bonds have been issued.

CONSTRUCTION ALLOWANCE

1. TENANT CONSTRUCTION ALLOWANCE

____ Tenant shall be entitled to the Tenant Construction Allowance in accordance herewith. The Tenant Construction Allowance shall be used solely for the costs of the initial design, construction, and fixturation of the Premises included in Tenant's Work in accordance with the Plans. The Tenant Construction Allowance shall equal the amount specified in Section 1 of this Lease. All costs and expenses for Tenant Work in excess of such amount shall be paid by Tenant at its sole cost.

2. DISBURSEMENT OF TENANT CONSTRUCTION ALLOWANCE

____ The following conditions to disbursements must be satisfied by Tenant:

____ **2.1** Prior to disbursement to Tenant of the Tenant Construction Allowance (less a 10% retention), (i) Tenant shall have opened and remained open for business in the Premises, fully stocked and staffed; (ii) Tenant shall have completed all "punch list" items affecting the construction, use, and operation of the Premises; and (iii) Tenant shall have delivered to Landlord the following items:

____ **2.1.1** A certification by Tenant's Architect and Contractor in a form reasonably acceptable to Landlord, certifying that all of Tenant's Work with respect to the applicable payment request has been completed in accordance with approved plans;

____ **2.1.2** Unconditional executed mechanic's lien releases from all contractors, subcontractors and materialmen in a form that complies with the appropriate provisions, as reasonably determined by Landlord, of California Civil Code Section 3262(d);

____ **2.1.3** A certificate of occupancy for the Premises from all applicable governmental agencies;

____ **2.1.4** A copy of all warranties, guaranties, and operating manuals and information relating to the improvements, equipment, and systems in the Building and the Premises; and

____ **2.1.5** A detailed breakdown of Tenant's final and total Tenant Work Costs, including copies of all invoices, charges, orders, and other backup material that Landlord may

request.

~~2.2 The final 10% retention shall be paid ninety (90) following recordation of a Notice of Completion of Tenant's Work without the filing of any liens with respect to such work.~~

~~2.3 Landlord shall be obligated to make disbursements from the Tenant Construction Allowance only to the extent costs are incurred by Tenant for Tenant Work Cost items.~~

EXHIBIT D

UNIFORM SIGN CRITERIA

These criteria have been established for the purpose of assuring an outstanding shopping center and for the mutual benefit of all tenants. Conformance with this sign criteria and any other rules and regulations affecting signage for this Shopping Center, copies of which shall be made available by Landlord upon request by Tenant, will be strictly enforced. Any installed non conforming or unapproved signs will be removed at the sole cost and expense of Tenant.

A. GENERAL REQUIREMENTS

1. Tenant shall submit or cause to be submitted to the Landlord, or, if Landlord directs, to the Project Architect, for approval before fabrication one set of detailed drawings indicating the location, size, layout, design and color of the proposed signs, including all lettering and/or graphics.

2. All permits for signs and their installation shall be obtained by Tenant or its representative.

3. All signs shall be constructed and installed at Tenant's expense.

4. Tenant shall be responsible for the fulfillment of all requirements of these criteria, and shall submit samples of sign material if requested by Landlord or the Project Architect.

B. GENERAL SPECIFICATIONS

1. No animated, flashing or audible signs will be permitted.

2. No exposed lamps or tubing will be permitted.

3. All signs shall bear the UL label, and their installation shall comply with all local building and electrical codes.

4. No exposed raceways, crossovers or conduits will be permitted.

5. All cabinets, conductors, transformers and other equipment shall be concealed. Visible fasteners will not be permitted.

6. Electrical service to all signs shall be on Tenant's meter.

7. Painted lettering will not be permitted, except on blade signs.

C. LOCATION OF SIGNS

1. Signs shall be permitted only in locations specifically approved by Landlord and as permitted by the appropriate local authorities.

2. Tenant will be permitted to install one illuminated or non-illuminated sign on the Shopping Center storefront. The maximum projection of the sign from the face of the storefront shall be six inches or to the face of the adjacent neutral strip, whichever is greater.

3. If any signs perpendicular to the face of the building or storefront are permitted, they will be located within the "blade sign area" as designated by Landlord or the Project Architect.

D. DESIGN REQUIREMENTS

1. Occupant Signs on Storefront

a. All Tenant storefront entrance/store identification designs shall be subject to the approval of Landlord or the Project Architect. Imaginative designs which depart from traditional methods and placement will be encouraged.

b. Wording of signs shall not include the product sold except as part of Tenant's Trade Name or insignia.

c. Tenant signs shall be designed in a manner that is not only imaginative but of a high graphic quality. In addition, tenant signs should be compatible with and complementary to adjacent and facing storefronts.

d. The design of all tenant storefront identification signs including style and placement or lettering, size, color, materials and method of illumination shall be subject to the approval of Landlord or the Project Architect.

e. All signs shall be designed as an integral part of the storefront with letter size and location appropriately scaled and proportioned to the overall storefront design.

f. No simulated materials (i.e., wood grained plastic laminates, etc.) or wall covering may be used in the sign area.

g. To add variety and provide individual identity to the storefronts, signs may be located in one of many positions. Some options would include: (i) fascia; (ii) vertical wall (within tenant area); (iii) independent post; and (iv) directly on glass storefront.

h. Several types and variations of signs are appropriate in a Shopping Center situation. The following are suggested sign types in which many options exist: (i) dimensional wood or metal letters applied to the storefront; (ii) metal letters backlit to produce a halo effect with warm white light neon illumination; (iii) internally illuminated channel letters with opaque metal sides and matte finish acrylic plastic face, illuminated within by neon; and (iv) letters and/or design incorporated into door or storefront.

i. Signs designed in the more traditional manner with the lettering applied to a background surface that is part of the storefront shall conform to the following requirements: (i) the sign area shall not exceed five percent (5%) of the area of the storefront or twelve square feet, whichever is larger, and shall be located at least thirty-six inches from each lease line. Sign area will be measured by circumscribing a rectangle around the main body of the sign; (ii) the overall length of the sign shall not exceed one-third of the width of the storefront exposure between neutral strips; and (iii) the maximum height for letters in the body of the signs is fourteen inches. The maximum height for initial capitals is eighteen inches.

j. Sign boxes and cans will not be permitted.

k. Self-illuminated or non-illuminated plaque, fabricated of carved or painted wood, or enameled or polished metal, and mounted on storefront may be used. Letters may be carved, routed-out, cut through, or applied dimensionally in either wood or metal. Plaque may be any shape, but letters must follow size limitations already established (see item "i(i)" above).

l. Internally illuminated sign box using graphics or color on all five exposed sides.

m. Externally illuminated sign box of stained or natural wood, polished chrome or brass with letters or design cut through faces or carved into faces.

n. Exposed neon tubes forming letters and logo may be used with discretion and the approval of the Project Architect.

2. Projecting (or Blade) Signs

To give added dimension and vitality to the Shopping Center and greater exposure to the tenants, the use of projecting (or blade) signs is strongly encouraged. Such signs would be in addition to the tenant signs on the storefront. Conformance to the following criteria shall be strictly enforced.

a. Landlord or the Project Architect shall work with individual tenants in the design of their projecting signs. If agreed upon, the Project Architect shall design the sign subject to Tenant's approval. Tenant shall install and pay for projecting signs.

b. Each tenant is encouraged to display one projecting sign.

c. Use of two or three dimensional symbols is suggested. Wording-only signs shall not be permitted.

d. The following types of sign shall be permitted.

Type A - Carved or routed wood with natural or paint finish. Lettering shall be done by carving or added pieces.

Type B - Transparent sign with minimum of sixty percent (60%) transparency. Only in Type B is plastic permitted. Tinted glass or plastic is not considered transparent.

Type C - Three-dimensional signs.

Type D - Non-solid signs of wrought iron, chrome, brass, turned wood.

Type E - Painted panels. Painting shall be permitted for background and graphic shapes only. Words shall be of wood or metal.

e. The size of projecting signs shall be a maximum of two feet high by three feet wide.

f. The area of solid material shall be limited to sixty percent (60%) of the above maximum size. The thickness of projecting signs shall be no more than eight inches, except that three dimensional signs (Type C) will be allowed greater latitude and will be subject to review by Landlord or the Project Architect.

g. Mounting height of projecting signs shall be a minimum of eight feet to the bottom of the sign from the mall floor.

h. The sign shall be perpendicular to and secured to the Tenant storefront.

i. Neither illuminated signs nor illumination directed to the signs shall be permitted.

j. No plastic material is permitted for the sign, except in transparent sign Type B.

E. CONSTRUCTION REQUIREMENTS

1. Interior signs only may be fabricated of carbon bearing steel with painted finish.

2. All metal letters shall be fabricated using full-welded construction.

3. Location of all openings for conduit and sleeves in sign panels of building walls shall be indicated by the sign contractor on drawings submitted to Landlord or the Project Architect.

4. No labels will be permitted on the exposed surface of signs except those required by local ordinance which shall be applied in an inconspicuous location.

5. Sign contractor shall repair any damage to any work caused by his work.

6. Tenant shall be fully responsible for the operations of Tenant's sign contractors.

7. Threaded rods or anchor bolts shall be used to mount sign letters which are spaced out from background panel. Angle clip attached to letter sides will not be permitted.

F. MISCELLANEOUS REQUIREMENTS

1. Tenant will be permitted to place upon each entrance of its Premises not more than one hundred forty-four square inches of gold leaf or decal application lettering not to exceed two inches in height, indicating hours of business, emergency telephone numbers, etc.

2. If Tenant has a non-customer door for receiving merchandise, it may have uniformly applied on the door in location, as directed by the Project Architect, in two-inch-high block letters, the Tenant's name and address. Where more than one tenant uses the same door, each name and address shall be applied. Color of letters will be selected by the Project Architect.

3. Tenant may install on its storefront, if required by the U.S. Post Office, the numbers only of the street address in exact location stipulated by Landlord or the Project Architect. Size, type and color of numbers shall be as stipulated by Landlord or the Project Architect.

4. Floor signs, such as inserts into terrazzo, etc., shall be permitted within the Tenant's lease line in its storefront, if approved by Landlord or the Project Architect.

5. Except as provided herein, no advertising placards, banners, pennants, names, insignia, trademarks, or other descriptive material shall be affixed or maintained upon the glass panes and supports of the show windows and doors, or upon the exterior walls of the building or storefront.

EXHIBIT F
OPTION TERMS

1. OPTIONS TO EXTEND

Landlord hereby grants to Tenant, on the terms and conditions set forth below, one (1) Option to extend the Lease Term for an additional period of two (2) years (the "**Renewal Term**"). The Renewal Term shall be subject to all of the provisions of this Lease. Tenant's failure to exercise the first Option shall terminate any subsequent Option(s). Landlord has no duty to advise or remind Tenant of its obligations or rights hereunder. Tenant's right to exercise the Option is subject to the satisfaction of the following conditions precedent: (a) the Lease shall be in effect and Tenant shall not be in default at the time notice of exercise is given and on the last day of the expiring Lease Term, and (b) Tenant shall have given notice of exercise of its Option not less than one hundred eighty (180) days, nor more than two hundred ten (210) days, prior to the expiration of the expiring Lease Term. All references in the Lease to "Lease Term" shall refer to the original Lease Term and any Renewal Term for which an Option was properly exercised.

2. MINIMUM ANNUAL RENT

The Minimum Annual Rent payable during the first year of each Renewal Term shall be the greater of (a) the Fair Market Rental of the Premises upon the commencement of any such Renewal Term, or (b) the Minimum Annual Rent in effect immediately prior to the expiration of the immediately preceding Lease Term or Renewal Term.

2.1 Definitions. The following definitions shall apply for the purposes of this Section 2:

2.1.1 "Fair Market Rental" means the price at which a willing landlord and a willing tenant would rent the Premises, or similar premises having comparable visibility, parking, quality, access, and location to the Premises, neither being under abnormal pressure to rent. For the purposes of determining such Fair Market Rental, it shall be assumed that Tenant will not require that any tenant improvements be made to the Premises in connection with its occupancy. The Fair Market Rental shall be determined by giving appropriate consideration to rental rates per rentable square foot, the type of escalation clauses contained in leases for comparable premises, the length of the Renewal Term, the location of the Premises being leased, and other generally applicable terms and conditions of leases for comparable premises.

2.1.2 "Qualified Appraiser" shall mean a State certified general real estate appraiser qualified for commercial lease rental appraisals of the type of property and the improvements then comprising the Premises with at least five years' full-time commercial appraisal experience in the County in which the Building is located.

2.2 Initial Determination. Commencing six (6) months prior to the expiration of the Initial Lease Term or any Renewal Term, if Tenant has properly exercised an Option for the following Renewal Term, Landlord and Tenant shall attempt to agree upon the Fair Market Rental for the Premises within fifteen (15) days. If Landlord and Tenant are able to agree on such Fair Market Rental, the amount so agreed upon shall be the Fair Market Rental.

2.3 Appraisals. If Landlord and Tenant fail to agree upon the Fair Market Rental within the fifteen-day period set forth in Section 2.2, then within ten (10) days following the expiration of such fifteen-day period Landlord shall appoint a Qualified Appraiser, at its sole cost and expense, to appraise the Fair Market Rental of the Premises within thirty (30) days following the appointment of the appraiser. Following such determination, Landlord shall give notice to Tenant of the appraised Fair Market Rental of the Premises. If Tenant does not dispute such appraised Fair Market Rental, it shall be the Fair Market Rental for purposes of this Option. If Tenant disputes such appraised Fair Market Rental, then within ten (10) days after the delivery of notice of such Fair Market Rental delivered by Landlord, Tenant shall appoint a Qualified Appraiser, at its sole cost and expense. Tenant's Qualified Appraiser and Landlord's Qualified Appraiser shall, within five (5) days, appoint a third Qualified Appraiser to appraise the Fair Market Rental of the Premises within thirty (30) days following the appointment of the third appraiser. The fees and costs of the third appraiser shall be borne equally by Landlord and Tenant.

2.4 Determination. Upon completion of the appraisal by the third Qualified Appraiser, the three appraisers shall meet and attempt to reach agreement upon the Fair Market Rental. Such meeting shall be held prior to the expiration of the thirty-day period following the appointment of the third Qualified Appraiser. If the three Qualified Appraisers are able to reach unanimous agreement regarding the Fair Market Rental, the agreed upon Fair Market Rental shall be the Fair Market Rental. If the three Qualified Appraisers are unable to agree upon the Fair Market Rental, then on or prior to the expiration of such thirty-day period, the three Qualified Appraisers shall give Landlord and Tenant written notice of their inability to agree and the Fair Market Rentals proposed by each appraiser. If the highest appraised Fair Market Rental is more than one hundred five percent (105%) of the middle appraised Fair Market Rental, then the highest appraised Fair Market Rental shall be disregarded. If the lowest appraised Fair Market Rental is less than ninety-five percent (95%) of the middle appraised Fair Market Rental, then the lowest appraised Fair Market Rental shall be disregarded. If there is then only one (1) remaining appraised Fair Market Rental, it shall be the Fair Market Rental. If there is then more than one remaining appraised Fair Market Rental, the remaining appraised Fair Market Rentals shall be averaged and the average of such appraised Fair Market Rentals shall be the Fair Market Rental.

2.5 Procedure. If the appraisal proceedings provided for in this Section are not complete prior to the next following Renewal Term, then Tenant shall pay the Minimum Annual Rent in effect immediately prior to such Renewal Term until the appraisal proceedings have been completed and a new Minimum Annual Rent is determined. Once the new Minimum Annual Rent has been determined, a retroactive adjustment to such Rent shall be made, effective as of the commencement date of the applicable Renewal Term. Within ten (10) days after the date on which the new Minimum Annual Rent has been determined, (a) Tenant shall pay any deficiency owing to Landlord, and (b) Landlord and Tenant shall enter into a written agreement setting forth the new Minimum Annual Rent upon the commencement of the Renewal Term.

2.6 Adjustments. Following the establishment of the Minimum Annual Rent upon the commencement of each Renewal Term, such Minimum Annual Rent shall be adjusted as provided herein. The adjustment shall be made in accordance with the provisions of the Lease for adjustment of Minimum Annual Rent, with the following modifications: (a) all references to the Lease Term shall be deemed to refer to the then-applicable Renewal Term; and (b) the Adjustment Dates shall refer to the first day of the commencement of the Renewal Term and to the annual anniversary date of the Renewal Term thereafter.