

SHOPPING CENTER LEASE

BETWEEN

TRANSITION INVESTMENTS, LLC

AND

CITY OF MARICOPA, ARIZONA

DISCLAIMER

This proposal shall not be treated as an offer, but merely a proposal for review purposes only. This proposal shall not be valid or binding unless or until fully executed lease agreements are delivered to both parties herein. The ownership reserves the right to change, modify or withdraw any provisions of this proposal at any time without notice.

SHOPPING CENTER LEASE

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LEASE

THIS LEASE, made this _____ day of _____ 2017, is by and between TRANSITION INVESTMENTS,LLC, an Arizona limited liability company (hereinafter referred to as “Landlord”), and CITY OF MARICOPA, ARIZONA, an Arizona municipal corporation (hereinafter referred to as “Tenant”).

The following Section 1. is set forth as a basic Lease information summary.

SECTION 1. BASIC LEASE INFORMATION SUMMARY

1.01 SHOPPING CENTER: THE SHOPS AT MARICOPA FIESTA

1.02 TENANTS TRADE NAME:

1.03 USE OF PREMISES: The premises shall be used as a general office or meeting facility.

1.04 LEASED PREMISES: SUITE #108 Approximate Square Footage: 1,307

1.05 TERM: Twelve (12) months, subject to adjustment in accordance with Section 3.01 hereof.

1.06 GUARANTEED MINIMUM MONTHLY RENTAL:

	<u>Per Year</u>	<u>Per Month*</u>
10/1/2017-9/30/2018	\$20.50 per share foot	\$2,232.79

**Plus taxes, insurance, common area operating expenses (NNN Charges)
and all applicable sales or rental taxes*

1.07 TENANT’S NOTICE ADDRESS:

City of Maricopa
Attn: City Manager
39700 W. Civic Center Plaza
Maricopa, AZ 85138

1.08 LANDLORD'S NOTICE ADDRESS:

Transition Investments, LLC
P.O. Box 15175
Scottsdale, AZ 85267

1.09 PERCENTAGE RENTAL: INTENTIONALLY OMITTED

1.10 SECURITY DEPOSIT: Tenant shall pay security deposit in the amount of \$2500.00. The security deposit and the first month's rent shall be payable to Landlord upon Lease execution.

1.11 LEASE COMMENCEMENT DATE: October 1, 2017 and as further defined and determined by Exhibit "G" hereof.

1.12 BROKER(S): N/A

1.13 TENANT'S PRO-RATA SHARE: 5.439%

WITNESSETH:

SECTION 2. GRANT AND PREMISES

2.01 Landlord hereby leases to Tenant and Tenant hereby hires from Landlord those certain premises with appurtenances described as hereinafter set forth, for the purpose of conducting thereon the business specified in Section I, the Basic Lease Information Summary, and for no other purpose or under no other trade name without the prior written consent of Landlord.

2.02 The premises leased to Tenant, together with appurtenances, are hereinafter referred to as the "premises" or the "demised premises", and are located in the "Shopping Center" or the "Shopping Center Parcel" as more particularly described on Exhibit "A" attached hereto. The demised premises are shown cross-hatched on the Site Plan of the Shopping Center attached hereto as Exhibit "B".

2.03 The demised premises shall have an approximate floor area as stated in Section 1.04 of the Lease. Even though the Guaranteed Minimum Monthly Rental and other charges (the "Rent") set forth in this Lease is or may be calculated on a per square foot basis, the parties specifically acknowledge and agree that the amount of Rent which the Tenant is obligated to pay is for the space which it is leasing, regardless of the actual size of that space. Therefore, if it is found that the actual square footage of the demised premises is more or less than the approximate square footage set forth in this Lease, the parties

specifically understand and agree that the amount of Rent to be paid by the Tenant on a monthly basis shall not be adjusted either upward or downward. Furthermore, the Tenant's pro rata share, as defined herein, shall not be adjusted either upward or downward if it is found that the demised premises contain more or less than the approximate square footage set forth in this Lease.

SECTION 3. TERM

3.01 This Lease shall become effective on mutual execution of Lease. The primary term of this Lease shall be for the period stated in Section 1.05 of the Lease. The term of this Lease and Tenant's obligation to pay Guaranteed Minimum Monthly Rental and other charges representing Tenant's pro rata share of Common Area Maintenance, Real Estate Taxes and Insurance shall commence in accordance with Section 1.11 of the Lease. Notwithstanding the foregoing, if the Commencement Date falls on any day other than the first day of a calendar month then the term of this Lease shall be measured from the first day of the month following the month in which the Commencement Date occurs.

SECTION 4. RENTAL.

4.01 (a) Guaranteed Minimum Monthly Rental

Tenant shall pay to Landlord during the term of this Lease the Guaranteed Minimum Monthly Rental (sometimes referred to as "Minimum Rent"), without any off-set or deduction, prior notice or demand, for the initial term of this Lease as set forth in Section 1.06 of the Lease

Guaranteed Minimum Monthly Rental, and all other such additional rentals, charges and impounds as required by the Lease and specified herein (which jointly and severally are considered "rent" and are referred to herein as "Additional Rental", "Rent", "rent" or "rental"), shall be due monthly in advance on the first day of each calendar month. In the event that Lease commencement, and therefore Tenant's obligation to pay Rent, shall not occur on the first day of a calendar month, Tenant shall pay rental for the fractional month on a per diem basis (calculated on the basis of a three hundred sixty-five day year), in advance, upon Tenant's taking occupancy of the premises, and thereafter said rental shall be paid in equal monthly installments on the first day of each and every month in advance as herein provided.

(b) Rental Address: All sums, including rental, to be paid by Tenant to Landlord shall be in lawful money of the United States of America and shall be remitted to Landlord at the address set forth in Section 1.08 of the Lease.

Landlord may at any time change the address for rental remittance by written notice to Tenant, delivered by Regular Mail or facsimile.

4.02 Percentage Rental INTENTIONALLY OMITTED

4.03 Additional Rental and Impounds. In addition to the Guaranteed Minimum Monthly Rental, and other charges hereinabove agreed to be paid by Tenant, Tenant shall pay to Landlord, at the time and in the manner herein specified, Tenant's share of certain costs and expenses associated with the operation of the Shopping Center as more particularly set forth in this Lease (sometimes referred to hereinafter as "Additional Rental"). Failure to pay any portion of Additional Rental as and when due shall have the same consequences as failure to pay Guaranteed Minimum Monthly Rental as and when due under this Lease.

4.04 Payments

(a) Rent is specifically agreed by Tenant to be a reasonable use and occupancy charge for the demised premises. All other charges of whatever nature required to be paid by Tenant under this Lease, including the Exhibits hereto shall, unless otherwise specified, be due and payable ten (10) days after demand, without any deductions or offset whatsoever, in the manner and at the place where Guaranteed Minimum Monthly Rental is payable, and Tenant's failure to pay any such charges shall carry with it the consequences set forth under Section 24 hereof. Landlord's rights and remedies pursuant to this Section 4.04 shall be in addition to any and all other rights and remedies provided under this Lease or at law.

(b) Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent and other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord by the terms of any mortgage or deed of trust covering the Premises. Accordingly, if any installment of Rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee on or before the seventh day after the same are due, then for each and every such payment, Tenant shall immediately pay a service charge in the amount of ten percent (10%) of the amount due. In the event of Tenant's failure to pay the foregoing service charge, Landlord may deduct said charge from the security deposit set forth in Section 29 hereof.

(c) The parties hereby agree that such late charge(s) represent(s) a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. The provisions of this Section 4.04 shall not be construed to extend the date for payment of any sums required to be paid by Tenant under this Lease or to relieve Tenant of its obligation to pay all such sums at the time or times herein stipulated, and neither the demand for, nor collection by, Landlord of late payment service charges pursuant to this Section shall be construed as a cure of any default in payment by Tenant, or constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of its other rights and remedies afforded by this Lease or at law. It is

agreed that the said service charge is a fair and reasonable charge under the circumstances and shall not be construed as interest on a debt payment.

(d) Any amount due from Tenant to Landlord under this Lease which is not paid when due (including, without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure to so perform) shall bear interest at eighteen percent (18%) per annum or the highest rate then allowed under the usury laws of the State of Arizona, whichever is lower, from the date due until paid, unless otherwise specifically provided herein, but the payment of such interest shall not excuse or cure any default by Tenant under this Lease.

(e) In the event any charge imposed hereunder or under any other Section of this Lease is either stated to be or construed as interest, then no such interest charge shall be calculated at a rate which is higher than the maximum rate which is allowed under the usury laws of the State of Arizona, which maximum rate of interest shall be substituted for the rate in excess thereof, if any, computed pursuant to this Lease.

(f) In the event any check received by Landlord from Tenant in payment of any amounts payable by Tenant under this Lease is returned by Tenant's bank, Tenant shall pay to Landlord a service charge of Fifty Dollars (\$50.00) for each such check.

(g) If Tenant tenders any payment in an amount less than the full amount due, acceptance by Landlord or its agent of the amount paid does not in any way imply that full payment has been made. If a payment by Tenant is not the full amount owed, Landlord shall apply such partial payment as follows: first, for the payment of any interest charges accrued against Tenant's account; second, toward late fees, attorneys' fees and legal expenses incurred by Landlord in connection with this Lease; third, toward any Additional Rental obligations of Tenant, including but not limited to any sales or use taxes, and finally, toward the payment of any Rent then due and owing.

SECTION 5. REAL ESTATE TAXES AND RENTAL TAX.

5.01 Tenant shall pay to Landlord, as Additional Rental, Tenant's pro rata share (as determined below) of the annual real estate taxes and assessments levied upon the Shopping Center Parcel (as defined below).

5.02 Tenant's pro rata share shall equal such annual real estate taxes and assessments multiplied by a fraction, the numerator of which shall be the gross floor area of the demised premises and the denominator of which shall be the gross floor area, including second floors, if any, of the building or buildings located on the Shopping Center Parcel. In the event the Shopping Center Parcel is not taxed and assessed separately from the entire Shopping Center, Landlord shall reasonably determine the portion of all taxes and assessments attributable to the Shopping Center Parcel. Tenant's pro-rata share is set forth in Section 1.13.

- 5.03 Any such tax for the year in which this Lease commences or ends shall be apportioned and adjusted. With respect to any assessment which may be levied against or upon the Shopping Center Parcel and which, under the laws then in force, may be evidenced by improvement or other bonds, payable in annual installments, only the annual payments on said assessment shall be included in computing Tenant's obligation to pay taxes and assessments.
- 5.04 The term "real estate taxes" as used herein shall be deemed to mean all taxes imposed upon the real property constituting the Shopping Center Parcel and all improvements thereon, and all assessments and improvement districts levied against said property, but shall not include personal income taxes, personal property taxes, inheritance taxes or franchise taxes levied against Landlord, but not directly against said property, even though such taxes shall become a lien against said property.
- 5.05 Tenant shall pay to Landlord, as Additional Rental, any and all sales, excise, transaction privilege and other taxes (other than net income and estate taxes) now or hereafter levied or assessed by any federal, state or local authority upon the rent or gross income received by Landlord hereunder, charged in respect of any leasehold interest or based upon any leasehold improvements installed or used by Tenant or former tenant(s) in the demised premises.
- 5.06 Tenant shall pay the taxes referenced in Section 5.05 above on a monthly basis with the Guaranteed Minimum Monthly Rental. Further, Landlord may estimate the amount chargeable to Tenant under this Section 5 and impound as Additional Rental from Tenant on a monthly basis the amount of Tenant's estimated tax obligation as set forth in Section 8.01(c).

SECTION 6. PERSONAL PROPERTY TAXES.

- 6.01 During the term hereof, Tenant shall pay prior to delinquency all taxes assessed against and levied upon fixtures, furnishings, equipment and all other personal property of Tenant contained in the demised premises, and when possible Tenant shall cause said fixtures, furnishings, equipment and other personal property to be assessed and billed separately from the real property of Landlord. In the event any or all of Tenant's fixtures, furnishings, equipment and other personal property shall be assessed and taxed with Landlord's real property, Tenant shall pay as Additional Rental to Landlord its share of such taxes, as determined by Landlord. Landlord will estimate the amount of such taxes next due and impound as Additional Rental from Tenant on a monthly basis Tenant's estimated obligation as set forth in Section 8.01(c).

SECTION 7. CONSTRUCTION

- 7.01 Landlord agrees that it will, at its sole cost and expense after the execution of this Lease, commence and pursue to completion the construction of the improvements to be erected

by Landlord to the extent shown on subparagraph C.01.of Exhibit "C" attached hereto. Except for the construction of improvements listed in Exhibit "C" as specifically being the Landlord's responsibility, Tenant shall be solely responsible for the costs of all the improvements on or in the demised premises, including any and all impact fees, if any, permit fees, utility connection fees and charges, license fees, or other fees or charges in connection with the use and improvement of the premises by Tenant and the operation of Tenant's business on or in the demised premises, which improvements shall be constructed in accordance with those portions of Exhibit "C" applicable to Tenant's work. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty, not otherwise set forth in this Lease, with respect to the premises, the Shopping Center or any portions thereof or with respect to the suitability of same for the conduct of Tenant's business.

SECTION 8. PARKING AND COMMON FACILITIES.

8.01 (a) The term "common areas", as used in this Lease, shall include, but not be limited to the following areas within the Shopping Center: (i) parking areas, roadways, pedestrian sidewalks and walkways, pedestrian plazas, pedestrian passage areas, information booths, driveways, public transportation loading and unloading facilities, truck-ways, retaining walls, roof, exterior walls, common area signs, loading docks, delivery areas, landscaped areas, community rooms, office facilities, berms, stairs, ramps, public rest-rooms and comfort stations, service areas, service and fire and exit corridors, passageways, retention ponds, and other areas, amenities, decorations, facilities and improvements provided by Landlord, (ii) those areas within the Shopping Center and areas adjacent to the Shopping Center which from time to time may be provided by the owners of such areas for the convenience and use of Landlord, the tenants of the Shopping Center, and their respective concessionaires, agents, employees, customers, invitees and all other licensees and others entitled to the use thereof, and (iii) any other facilities or areas, whether within or outside the Shopping Center, as may be designated by Landlord from time to time. The use and occupancy by Tenant of the Premises shall include the use of the common areas in common with Landlord and with all others for whose convenience and use the common areas have been or may hereafter be provided by Landlord or by the owners of adjacent areas not within the Shopping Center, subject, however, to rules and regulations for the use thereof as prescribed from time to time by Landlord or the owner of such common area, including the right of Landlord or such owner to impose parking charges, whether by meter or otherwise. In no event, however, shall Tenant, its agents, contractors or employees use the common areas for the display or sale of merchandise. The controllable expenses shall go up no more than 3% annually. Controllable expenses are defined as but not limited to landscaping, property management, pest control, trash services, day porter, parking lot maintenance and cleaning, sidewalk maintenance and cleaning, etc. Uncontrollable expenses shall be defined as but not limited to property tax and building insurance.

(b) Tenant agrees to pay to Landlord in the manner provided under subparagraph (c), below, but not more often than once each calendar month, Tenant's proportionate share of all costs and expenses of every kind and nature paid or incurred by Landlord in operating, managing, equipping, policing, protecting, lighting, heating, air conditioning, insuring, repairing, replacing and maintaining the entire Shopping Center, including, without limitation, the common areas and all buildings and permanent improvements upon the Shopping Center, including the cost of insuring all property provided by Landlord which may, at any time comprise the Shopping Center. Such costs and expenses shall include, but not be limited to, illumination and maintenance of Shopping Center signs, whether located on or off the Shopping Center site, cleaning, lighting, snow removal, resurfacing and re-striping parking areas, line painting and landscaping, repairs and replacements, including roof and building repairs and replacements, personal property taxes, decorations, premiums for liability and property insurance (including the expenses incurred by Landlord relative to insurance appraisers, adjusters and consultants), supplies, the cost of maintenance and replacement of equipment supplying music to the common areas, compliance with rules, regulations and orders of governmental authorities pertaining to air and water pollution control, including the cost of monitoring air quality, total compensation and benefits (including premiums for workers' compensation and other insurance) paid to or on behalf of employees involved in the performance of the work specified in this Section 8.01(b), and an amount equal to five percent (5%) of Landlord's gross income for the preceding month (or preceding year if billed annually) as such amount is reported in Landlord's monthly or annual report, as compensation for Landlord's administrative costs. For the purpose hereof, any charges for utilities contained in the foregoing cost and expenses shall be at the same rates as the rates for comparable service from the applicable utility companies serving the areas in which the Shopping Center is located. Cost of operation and maintenance shall include: (i) the amortization (including interest) of the cost of acquiring and installing the equipment used in maintenance and any equipment and facilities acquired to reduce energy consumption or to otherwise reduce such costs and expenses of operating and maintaining such common areas; and (ii) all costs and expenses in connection with the operation and maintenance of such common areas and all buildings and permanent improvements upon the Shopping Center including, without limitation, legal, architectural and engineering fees.

(c) Tenant's proportionate share of such costs and expenses for each calendar year shall equal such costs and expenses multiplied by a fraction, the numerator of which shall be the gross floor area of the demised premises, and the denominator of which shall be the gross floor area, including second floors, if any, of the building or buildings located on the Shopping Center Parcel. Tenant's proportionate share is set forth in Section 1.13. Tenant's pro rata share shall be paid in monthly installments on the first day of each calendar month, in advance, in an amount estimated by Landlord from time to time. Subsequent to the end of each calendar year (or fiscal year, at Landlord's option), Landlord shall furnish Tenant with a statement of the actual amount of Tenant's proportionate share of such costs and expenses for such period. If the total amount paid

by Tenant for any such year shall be less than the actual amount due from Tenant for such year as shown on such statement, Tenant shall pay to Landlord the difference between the amount paid by Tenant and the actual amount due, such deficiency to be paid within ten (10) days after the furnishing of each such statement; if the total amount paid by Tenant hereunder for any such year shall exceed such actual amount due from Tenant for such year, such excess shall be credited against the next installment due from Tenant to Landlord under this Section 8. Landlord may estimate the annual budget and charge Tenant its estimated proportionate share on a monthly basis subject to revision by Landlord of the budget from time to time and, further, subject to final annual adjustment based upon the actual costs and expenses incurred by Landlord. Neither the provisions of this Section 8, nor any of the other requirements or restrictions imposed upon Tenant under this Lease, shall excuse Tenant from its obligation to comply with all laws, ordinances and other governmental requirements as set forth in Sections 11 and 13 hereof. In no event will the total of Tenant's proportionate share of such costs and expenses in each year of this Lease be greater than 3% of the prior year's costs and expenses, including the costs and expenses for the Premises of the year prior to the commencement of this Lease.

- 8.02 Landlord covenants that the common areas of the Shopping Center of which the demised premises are a part shall be available for the non-exclusive use of Tenant during the full term of this Lease or any extension of the term hereof, provided that the condemnation or other taking by any public authority, or sale in lieu of condemnation, of any or all of such common areas shall not constitute a violation of this covenant. Landlord reserves the right to change the number or location of entrances, exits and traffic lanes and the boundaries and locations of all parking areas and parking spaces. Tenant agrees to instruct its employees not to park immediately in front of the entrance to any store in the Shopping Center and to otherwise park in any area designated by Landlord as "employee parking." This Lease shall be subordinate to any reciprocal or cross easement agreement(s), which are in existence or may subsequently be entered into in connection with the development of the Shopping Center. Except for the gross negligence or willful misconduct of Landlord, neither Landlord nor its operators, agents, servants, licensees or employees shall be liable for: (i) loss or damage to any vehicle or other personal property parked or located upon or within such parking spaces or any parking areas whether pursuant to this license or otherwise and whether caused by fire, theft, explosion, strikes, riots or any other cause whatsoever; or (ii) injury to or death of any person in, about or around such parking spaces or any parking areas or any vehicles parking therein or in proximity thereto whether caused by fire, theft, assault, explosion, riot or any other cause whatsoever and Tenant hereby waives any claim for or in respect to the above. Tenant further agrees to indemnify, defend and hold harmless Landlord for, from and against all claims or liabilities arising out of loss or damages to property or injury to or death of persons, or both, relating to any of the foregoing directly caused by the gross negligence or willful misconduct of Tenant, its employees, agents, customers or licensees, unless directly caused by the gross negligence or willful misconduct of Landlord.

- 8.03 (a) Landlord shall keep, or cause to be kept by others if Landlord is not responsible for management of the Shopping Center, said common areas in a neat, clean and orderly condition, lighted and landscaped, and shall repair any damage to the facilities thereof, but all expenses in connection with said common areas shall be charged and prorated in the manner herein set forth.
- (b) If various parcels within the Shopping Center are or shall become separately managed pursuant to a separate management or other agreement, Landlord shall be responsible for maintaining only those parcel(s) of which the demised premises are a part and other parcels Landlord is charged with maintaining pursuant to said management or other agreement. Landlord reserves the right to change from time to time the dimensions and location of the common area, as well as the dimensions, identity and type of any buildings within the Shopping Center. Landlord further reserves the right to add to or reduce the size of the Shopping Center by acquiring additional land or by selling undeveloped land or by the sale of a portion of the developed property, which will serve to modify Tenant's proportionate share.
- 8.04 Tenant, for the use and benefit of Tenant, its agents, employees, customers, licensees and subtenants, shall have the non-exclusive right in common with Landlord, and other present and future owners, tenants and their agents, employees, customers, licensees and subtenants, to use said common areas during the entire term of this Lease, or any extension thereof, for ingress and egress, roadway, sidewalk and automobile parking; provided however, Tenant and Tenant's employees shall park their automobiles in those areas designated for employee parking, or at Landlord's written request shall park their automobiles outside of the Shopping Center, provided all other tenants within the Shopping Center are required to do the same.
- 8.05 Tenant, in the use of said common areas, agrees to comply with such reasonable rules and regulations as Landlord may adopt from time to time for the orderly and proper operation of said common areas.
- 8.06 Landlord has elected to provide trash collection as a part of its common area maintenance obligations. Tenant shall use designated trash container in the common areas and reimburse Landlord for the cost of trash collection on a pro rata basis as Additional Rental. Landlord reserves the right to discontinue providing trash service for either specific tenants or the Shopping Center as a whole at which time the tenant(s) will discontinue reimbursing Landlord for the service as Additional Rental and must arrange for their own trash service at their sole cost.

SECTION 9. USES

- 9.01 Tenant shall at all times during the term of this Lease, at its sole cost and expense:

- (a) Furnish, install and maintain in the demised premises all of Tenant's interior and exterior signs, movable trade fixtures, equipment, lighting fixtures and other property necessary for the operation of Tenant's business;
- (b) Maintain the demised premises, and the area immediately outside the front and rear doors of the demised premises, in a clean, neat, sanitary and orderly condition, it being understood that no use shall be made or permitted of the demised premises or any part thereof, nor any acts done, which will violate, make inoperative, or increase the existing rate of any insurance policy at any time held by or in any way for the benefit of Landlord pursuant to any provision of this Lease. In the event Tenant engages in or permits any activity that causes an increase in the existing premium rate of any such insurance, in addition to any other remedies available to Landlord under the terms of the Lease, Landlord shall have the right to demand and receive from Tenant an amount equal to the increase from the existing premium rate;
- (c) Not sell, suffer or permit to be kept, used or sold in, upon or about the demised premises any gasoline, distillate or other petroleum products or any other substance or material of an explosive, inflammable or radioactive nature which may endanger any part of the demised premises or its occupants, business patrons or invitees, or present any unusual fire, explosion or other damaging or dangerous hazard;
- (d) Comply with all governmental rules, regulations, ordinances, statutes and laws now or hereafter in effect pertaining to the demised premises or Tenant's use thereof; provided, however, that Tenant shall not be liable for structural or major system changes except as they may be required as a consequence of the nature of Tenant's particular use of the demised premises. Tenant further agrees to comply with all of the rules and regulations of the National Fire Protective Association, the applicable Insurance Service Office and any similar bodies, and will not do, suffer or permit to be done in, upon, or about the demised premises any act which will or might increase any insurance rate with respect to the demised premises in excess of the insurance rate existing as of the Commencement Date;
- (e) Keep all merchandise display windows in the demised premises suitably lighted during such hours as Landlord may reasonably require, including periods other than or in addition to the business hours of Tenant;
- (f) Not dump, dispose, incinerate or burn any trash, papers, refuse or garbage or any kind in or about the demised premises;
- (g) Store all trash and garbage within the demised premises in appropriate containers so located as not to be visible to customers and business invitees in the Shopping Center and so as not to create or permit any health or fire hazard, and arrange for the regular removal thereof;

(h) Not use or permit the use of the demised premises or any portion thereof as living quarters, sleeping quarters or lodging rooms;

(i) Not keep, display or sell any merchandise or any object outside the interior of the demised premises, or on any portion of any sidewalks, walkway or other portion of the parking and other common areas of the Shopping Center;

(j) Conduct no auction, liquidation, going-out-of business, fire, or bankruptcy sale or otherwise liquidate its inventory or dispose of all or substantially all of its property from the demised premises or advertise such a sale at the demised premises by a sign or in any other form of advertisement;

(k) Not commit or suffer to be committed any waste upon, or any unlawful, improper or offensive use of the demised premises, or any public or private nuisance or act or thing which may disturb the quiet enjoyment of any other tenant, concessionaire, licensee or occupant of the Shopping Center or the customers or business invitees thereof.

9.02 No use or operation will be made, conducted or permitted on or with respect to all or any part of the Shopping Center which is prohibited by reciprocal or cross easement agreements in effect at the time of execution hereof or subsequently, and/or which is obnoxious to or inconsistent with the operation of a first-class Shopping Center, including but not limited to the following:

Any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness; any obnoxious odor; any obnoxious, toxic, caustic, or corrosive fuel or gas; any dust, dirt or fly ash in excessive quantities; any warehouse (but any area for the storage of goods intended to be sold at any retail establishment in the Shopping Center shall not be deemed to be a warehouse), assembly, manufacture, distillation, refining, smelting, agriculture or mining operations; any "second hand" store, Army, Navy or government "surplus" store or a store commonly referred to as a "discount house"; animal raising (other than pet shop); and any fire or bankruptcy sale or auction house operation.

9.03 In addition to the foregoing, Tenant shall at all times during the term hereof comply with all other reasonable rules and regulations which Landlord may at any time or from time to time establish concerning the use of the demised premises; provided, however, that any such rule or regulation so made shall not be inconsistent with any part of this Lease, shall not unreasonably interfere with Tenant's use and enjoyment of the demised premises, and shall be enforced without discrimination among tenants similarly affected.

9.04 The demised premises are leased to Tenant solely for the purpose of conducting therein the retail business specified in the Basic Lease Information Summary, under the trade name specified in the Basic Lease Information Summary. Tenant shall not use or suffer to be used the demised premises or any portion thereof for any other purpose or purposes

whatsoever or under any other trade name without obtaining Landlord's prior written consent, which consent shall not be unreasonably withheld.

- 9.05 Tenant expressly covenants to, and it is of the essence of this Lease that Tenant shall, open for business within thirty (30) days after Landlord delivers possession of the premises to Tenant in accordance with Section 3, and thereafter operate in accordance with the provisions of Section 27, below.
- 9.06 (a) Tenant shall not engage in any activity on or about the demised premises that violates any federal, state or local laws, rules or regulations pertaining to hazardous, toxic or infectious materials, and shall promptly, at Tenant's expense, take all investigatory and/or remedial action required or ordered for cleanup of any contamination of the demised premises or the Shopping Center or the elements surrounding same created or suffered by Tenant. Tenant shall indemnify and hold Landlord, its agents, employees, lenders, ground tenant, if any, and the demised premises and Shopping Center, harmless from any and all costs, claims, expenses, penalties and attorneys' fees arising out of any matter within the purview of this Section including, but not limited to, the investigation, remediation and/or abatement of any contamination therein involved.
- (b) As used herein, the term "Hazardous Material" means petroleum products and any other hazardous or toxic substance, material or waste, which is or becomes regulated by any local governmental authority, the State of Arizona or the United States government, whether originating from the demised premises or the Shopping Center, or migrating, flowing, percolating, defusing or in any way moving onto or under the demised premises or the Shopping Center.
- (c) Tenant shall comply with all laws which relate to the handling, transportation, storage, treatment, use or disposal of Hazardous Material by Tenant on the demised premises.
- 9.07 Tenant shall not install or use any satellite dish or antennae in, on or about the demised premises or the Shopping Center without Landlord's prior written consent.

SECTION 10. ALTERATIONS AND FIXTURES.

- 10.01 Tenant shall not make or suffer to be made any alterations of the demised premises or any part thereof, without the prior written consent of Landlord, and the prior receipt by Landlord of a copy of Tenant's building permit and the posting of a performance bond or payment bond by a surety company reasonably satisfactory to Landlord in an amount equal to one and one half (1 & 1/2) times the estimated cost of Tenant's improvements. Such payment or performance bond shall secure Tenant's timely payment to any contractor, materialmen, or any potential lien claimant or under applicable state statutes concerning the full amount of expenses for any improvements to the premises. Any additions to or alterations of said premises, except movable furniture and trade fixtures,

shall become at once a part of the realty and belong to Landlord, and, unless Landlord requests the removal thereof in writing, shall remain upon and be surrendered with the demised premises as a part thereof at the expiration or earlier termination of this Lease, without damage or injury. Any such alterations shall be in conformance with the requirements of all municipal, state and federal authorities.

10.02 Tenant agrees to promptly fixture the store in manner comparable to stores of a similar nature.

10.03 Tenant is solely responsible for all costs associated with any additions or alterations to the demised premises performed by or for Tenant, including any and all impact fees, if any, permit fees, license fees, utility charges or other fees or charges, except those costs expressly agreed to be paid by Landlord under the terms of this Lease.

SECTION 11. MAINTENANCE AND REPAIR.

11.01 Tenant shall, subject to Landlord's obligations hereinafter provided, at all times during the term hereof, and at Tenant's sole cost and expense, keep, maintain and make all necessary non-structural repairs and replacements to the building and other improvements upon the demised premises and keep it in good and sanitary order and condition (except as hereinafter provided), including without limitation, the maintenance and repair of any entrances, store fronts, glass, doors, door closing devices and locks, window casements, glazing, plumbing, pipes, lighting, electrical wiring and conduits, and the heating and air-conditioning system ("HVAC"), including the maintenance of a service contract with an HVAC contractor approved by Landlord. Landlord represents and warrants that the HVAC is in good working order and not in need of repair as of the Lease Commencement Date. Tenant will furnish to Landlord a copy of its HVAC contract within thirty (30) days of opening for business. Tenant shall also, at its sole cost and expense, be responsible for any alterations or improvements to the demised premises necessitated as a result of the requirement of any municipal, state or federal authority as a result of Tenant's use of the demised premises. Tenant hereby waives all rights to make repairs at the expense of Landlord. By entering into the demised premises, Tenant shall be deemed to have accepted the demised premises as being in good and sanitary order, condition and repair, and Tenant agrees that on the expiration or earlier termination of this Lease, to surrender the demised premises with appurtenances, in the same condition as when received, reasonable use and wear thereof and damage by fire, acts of God or by the elements excepted. Tenant shall periodically sweep the sidewalks adjacent to the demised premises, as needed.

11.02 If Tenant refuses or neglects to make repairs or replacements, or if Landlord is required to make exterior or non-structural repairs by reason of Tenant's negligent acts or omissions, Landlord shall have the right, but shall not be obligated, to make such repairs on behalf of and for the account of Tenant. In such event, such work shall be paid for by Tenant as Rent within ten (10) days of Tenant's receipt of a bill therefor.

11.03 Subject to reimbursement by Tenant as provided under Section 8 hereof, Landlord shall maintain in good repair the demised premises' exterior walls (other than plate glass, store fronts and doors) and the roof and sidewalks adjacent thereto; provided, however, that Tenant shall be solely liable and responsible for the cost of repair to said roof, exterior walls, foundation or other structural features of the demised premises or sidewalks resulting from acts or omission of Tenant, its agents, employees, invitees and licensees. Tenant shall not, nor will it authorize or permit any person to, go on the roof of the building of which the demised premises are a part without the prior consent of Landlord. If such consent is given, any repairs necessitated as a result of Tenant's action will be made by Tenant at its sole expense, and will be made in a manner that will not invalidate any guarantee or warranty relating to said roof. Landlord shall not be required to make any repairs to the exterior walls, roof and sidewalks unless and until Tenant has notified Landlord in writing of the need for such repairs and Landlord shall have had a reasonable period of time thereafter to commence and complete said repairs.

SECTION 12. COMPETITION. N/A

SECTION 13. COMPLIANCE WITH LAWS.

13.01 Tenant shall, at its sole cost and expense, comply with all of the requirements of all municipal, state and federal authorities now in force or which may hereafter be in force pertaining to the use of the demises premises, and shall faithfully observe in said use all municipal ordinances and state and federal statutes now in force or which shall hereinafter be in force. The Judgment of any court of competent jurisdiction, or the admission of Tenant in any action or proceeding against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any such order or statute in said use shall be conclusive of the fact as between Landlord and Tenant.

SECTION 14. LANDLORD INSURANCE REQUIREMENTS.

14.01 Landlord agrees to maintain at all times fire insurance with extended coverage liability and property insurance on said Shopping Center. In addition to the rentals specified hereinabove, Tenant shall pay to Landlord its pro rata share of such insurance coverage as provided in Section 4.03. Tenant's pro rata share of such insurance coverage costs shall equal the total of such costs multiplied by a fraction, the numerator of which shall be the gross floor area of the demised premises and the denominator of which shall be the gross floor area, including second floors, if any, of the building or buildings located on the Shopping Center parcel. Landlord may estimate the amount chargeable to Tenant hereunder and impound as Additional Rental from Tenant on a monthly basis the amount of Tenant's estimated obligation as set forth in Section 8.01(c).

SECTION 15. TENANT INSURANCE REQUIREMENTS.

- 15.01 Any insurance procured by Tenant as herein required shall be evidenced by certificates of insurance delivered to Landlord at the notice address provided in Section 1 and Section 31 herein, and shall be maintained during the entire term of this Lease in accordance with the following specifications:
- (a) Tenant shall deliver to Landlord the original certificate(s) of insurance evidencing the coverage(s) by insurance policies herein required before Tenant opens for business, notwithstanding the fact that the Lease term may have previously commenced; and
 - (b) the certificate(s) of insurance shall name Tenant as insured, and shall name Landlord, and any person, firms or corporations designated by Landlord, as additional insured(s); however, Tenant shall not be required to name Landlord or its designees as additional insured with respect to Tenant's stock in trade, furniture or fixtures; and
 - (c) the insurance shall be issued by an insurance company rated "A+" by Bests, or equivalent; and
 - (d) such insurance may not be canceled or amended with respect to Landlord without thirty (30) days prior written notice, which notice must be sent by registered mail to Landlord from the insurance company, and this shall be so stated on the certificate of insurance; and
 - (e) Tenant shall be solely responsible for payment of premiums and Landlord shall not be required to pay any premium for such insurance; and
 - (f) in the event of payment of any loss covered by such policy, Landlord shall be paid first by the insurance company for Landlord's loss, if any; and
 - (g) Tenant waives its right of subrogation against Landlord for any reason whatsoever; and
 - (h) the minimum limits of any insurance coverage required herein shall not limit Tenant's liability for the damages it may have caused or resulting from Tenant's failure to make repairs in the event of damage.
- 15.02 Failure by Tenant to maintain the insurance coverages hereinabove described, naming Landlord as additional insured, and/or to provide Landlord with original certificate(s) of insurance evidencing such coverage shall be deemed a default under this Lease.
- 15.03 (a) Tenant shall, at its sole cost and expense, take out and maintain fire insurance with an extended coverage endorsement insuring its stock in trade, furniture and fixtures, in an amount equal to one hundred percent (100%) of the insurable value thereof.

(b) Tenant shall, at its sole cost and expense, take out and maintain plate glass insurance sufficient to pay for the replacement of all damaged plate glass on or part of the demised premises.

(c) Tenant shall not stock, use or sell any article or do anything in or about the demised premises which may be prohibited by Landlord's insurance policies or any endorsements or forms attached thereto, or which will increase any insurance rates and premiums on the demised premises, the building of which they are a part and all other buildings in the Shopping Center. Tenant shall pay on demand any increase in premiums for Landlord's insurance that may be charged on such insurance carried by Landlord resulting from Tenant's use and occupancy of the demised premises or the Shopping Center whether or not Landlord has control of the same. In determining whether increased premiums are the result of Tenant's use, occupancy or vacancy of the demised premises, a schedule issued by the organization making the fire insurance, extended coverage or any all-risk insurance rates for said premises or any rule books issued by the rating organization or similar bodies or by rating procedures or rules of Landlord's insurance companies shall be conclusive evidence of the several items and charges which make up the insurance rates and premiums on the demised premises and the Shopping Center. If, due to Tenant's occupancy, abandonment or failure to occupy the demised premises as herein provided, any insurance shall be canceled by the insurance carrier or if the premiums for any such insurance shall be increased, then in any of such events Tenant shall indemnify and hold Landlord harmless and shall pay on demand the increased cost of such insurance. Tenant shall also pay, in any such event, any increased premium on the rent insurance that may be carried by Landlord for its protection against loss through fire or casualty.

(d) Tenant agrees that it will not keep, use, sell or offer for sale in or upon the demised premises, any article which may be prohibited by Landlord's fire insurance policy then in effect covering the demised premises. In the event rates on the demised premises or any part thereof exceed the rate for the least hazardous type of occupancy legally permitted in the demised premises, Tenant shall pay the additional premium on the fire and/or casualty insurance policies by reason thereof. In such event, Tenant shall also pay any additional protection against rent loss through fire.

15.04 (a) Tenant shall indemnify and hold Landlord harmless from and against any suits, actions, damages, liability and expense in connection with injury to or death of persons or damage to property of Tenant or any other person or entity, commencing upon Landlord's delivery to Tenant of the premises and throughout the term of this Lease, from any cause whatsoever, by reason of the use, occupancy and enjoyment of the premises or common area by Tenant or any person thereon or holding under Tenant, or occasioned wholly or in part by any act or omission of Tenant, its agents, contractors, employees, servant, invitees, licensees, or concessionaires. Tenant shall indemnify and save harmless Landlord from all liability whatsoever, on account of any such real or claimed damage or

injury and from all liens, claims and demands arising out of the use of the premises and its facilities, or any repairs or alterations which Tenant may make upon said premises. Tenant shall not be liable for damage or injury occasioned by the gross negligence of Landlord and its designated agents, servants or employees unless covered by insurance Tenant is required to provide. This obligation to indemnify shall include reasonable attorney's fees and investigation costs and all other reasonable costs, expenses and liabilities from the first notice that any claim or demand is to be made or may be made. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon or about the demised premises, from any cause whatsoever, and Tenant hereby waives and releases all claims in respect thereof against Landlord to the full extent permitted by law unless caused by the gross negligence or willful misconduct of Landlord.

(b) During the entire term of this Lease, Tenant shall, at Tenant's sole cost and expense, but for the mutual benefit of Tenant, as insured, and Landlord, as additional insured, maintain general public liability and property damage insurance against claims for personal injury, death or property damage occurring in, upon or about the demised premises and on any sidewalks directly adjacent to the demised premises. The limitation of liability of such insurance shall be not less than One Million Dollars (\$1,000,000.00), combined single limit in respect to injury or death of one person and/or in respect to property damage. If so requested by Landlord, Tenant's insurance shall cover any damage caused by machinery on the demised premises (including but not limited to boilers) or alcoholic beverages (if same are served, sold or consumed in, on or about the demised premises) in amounts, which Landlord deems reasonably necessary.

(c) Tenant shall store its property in and shall occupy the demised premises and all other portions of the Shopping Center at its own risk. Except in the event of gross negligence or willful misconduct by Landlord, Landlord shall not be responsible or liable at any time for any loss or damage to Tenant's merchandise, equipment, fixtures or other personal property of Tenant or to Tenant's business for or from any cause whatsoever.

(d) Landlord shall not be responsible or liable to Tenant or to those claiming by, through or under Tenant for any loss or damage to either the person or property of Tenant that may be occasioned by or through the acts or omissions of persons occupying adjacent, connecting or adjoining premises.

15.05 Landlord shall not be responsible or liable for any defect, latent or otherwise, in any building in the Shopping Center or for any of the equipment, machinery, utilities, appliances or apparatus therein, nor shall it be responsible or liable for any injury, loss or damage to any person or to any property of Tenant or any other person caused by or resulting from bursting, breakage or by or from leakage of water, steam, snow or ice, running, backing up, seepage or the overflow of water or sewage in any part of said premises or for any injury or damage caused by or resulting from acts of God or the elements, or for any injury or damage caused by or resulting from any defect or

negligence in the occupancy, construction, operation or use of any of the demised premises, building, machinery, apparatus or equipment, or by or from the acts of negligence of any occupant of the Shopping Center.

- 15.06 Tenant shall give prompt notice to Landlord in case of fire or accidents in the demised premises or in the building of which the demised premises are a part or of defects therein or in any fixtures or equipment.
- 15.07 In case Landlord shall be made party to any litigation commenced by or against Tenant, Tenant shall retain counsel satisfactory to Landlord, on Landlord's request, and shall in any event protect and hold Landlord harmless and shall pay all costs and expenses, including a reasonable attorney's fee, to defend Landlord against said litigation.
- 15.08 Tenant shall also pay all costs, expenses and reasonable attorney's fees that may be incurred or paid by Landlord in enforcing the terms of this Lease.
- 15.09 Notwithstanding any other provisions in this Lease, Landlord and Tenant each hereby waive any and all rights of recovery against the other, or against the officers, directors, employees, agents and representatives of the other, for loss of or damage to, the waiving party, its property or the property of others under its control to the extent that proceeds are received as compensation for such loss or damage. Landlord and Tenant shall, upon obtaining the policies of insurance required hereunder, give notice to their insurance carriers that the foregoing waiver of subrogation is contained in this Lease and shall obtain an appropriate waiver of subrogation endorsement from the insurer.

SECTION 16. LIENS.

- 16.01 Tenant is expressly prohibited from creating, causing or permitting by its inaction or that of its employees, representatives, contractors, subcontractors, or materialmen any liens or encumbrances of any nature whatsoever against the demised premises and Shopping Center. Nothing contained in this Lease shall be construed as a consent on the part of Landlord to subject any portion of the estate of Landlord to liability or to a claim of lien under the Mechanics' and Materialmen's Lien Laws of the State of Arizona.
- 16.02 Tenant shall strictly comply with the Mechanics' and Materialmen's Lien Laws of the State of Arizona. If any mechanics, materialmen's or other lien is recorded against the demised premises or the Shopping Center, Tenant shall, within ten (10) days thereafter cause the lien to be fully discharged by either paying the obligation secured thereby or bonding it off of the demised premises or the Shopping Center, as the case may be, in accordance with applicable provisions of Arizona law through a bonding company or other surety reasonably acceptable to Landlord. Tenant is not authorized to act for or on behalf of Landlord as its agent or otherwise for the purpose of constructing any improvements to the demised premises, and neither Landlord nor Landlord's interest in the demised premises shall be subject to any obligations incurred by Tenant. Landlord

shall be entitled to post on the demised premises during the course of any construction by Tenant such notices of non-responsibility as Landlord deems appropriate for the protection of Landlord and its interest in the demised premises. Tenant shall, before the commencement of any work, which might result in any such lien, give to Landlord written notice of its intention to do so in sufficient time to permit the posting of such notices.

- 16.03 If Tenant fails to fully discharge any such lien within said 10-day period, Landlord may (but shall not be so obligated) pay the claim secured by such lien, and any costs and the amount so paid together with reasonable attorney's fees incurred in connection therewith, shall be immediately due and owing from Tenant to Landlord as Additional Rent, and Tenant shall pay the same to Landlord with interest thereon at eighteen percent (18%) per annum or the highest rate then allowed under the usury laws of the State of Arizona, whichever is lower, from the dates of Landlord's payments. In addition, the security deposit paid by Tenant may be used by Landlord for the satisfaction of any mechanics' or other similar claim of lien or to reimburse Landlord for its costs and expenses incurred as a result thereof. Further, Tenant agrees to indemnify, defend and save Landlord harmless from and against any damage or loss incurred by Landlord as a result of any such mechanics' or other form of claim of lien.
- 16.04 If so requested by Landlord, Tenant shall execute a short form or memorandum of this Lease, which may, in Landlord's sole discretion, be recorded in the public records for the purpose of protecting Landlord's estate from any claims of lien, as provided in the applicable section of Arizona's Revised Statutes. In the event such short form or memorandum of Lease is executed, Tenant shall simultaneously execute and deliver to Landlord an instrument terminating Tenant's interest in the real property upon which the demised premises are located, which instrument may be recorded by Landlord at the expiration or earlier termination of the term of this Lease.
- 16.05 The terms and provisions of this Section shall survive the termination of this Lease.

SECTION 17. ABANDONMENT.

- 17.01 Tenant shall not vacate or abandon the demised premises at any time during the term of this Lease. For purposes of this Lease, the demised premises shall be deemed to be abandoned if Tenant fails to conduct business therefrom in the manner required under Section 27 and Section I on a day during which Tenant is required to be open for business under Section 27 and Section I.

SECTION 18. INSTALLATIONS BY TENANT OF SIGNS, FIXTURES, ETC.

- 18.01 All fixtures installed by Tenant shall be new or completely reconditioned. Tenant shall not make or cause to be made any alterations, additions, or improvements or install or cause to be installed any trade fixture, exterior signs or signs in the windows, floor

covering, interior or exterior lighting, plumbing fixtures, shades or awnings or make any changes to the color or exterior appearance of the store front without Landlord's prior written consent. Tenant shall present to Landlord plans and specifications for such work at the time approval is sought. All signage shall comply with the sign specifications that form a part of this Lease as Exhibit "D". Tenant shall not place or suffer to be placed or maintained any sign, awning, canopy or other advertising medium (including, but not limited to, searchlights and loudspeakers) in, upon or outside the demised premises or in the Shopping Center or within a one-half (1/2) mile radius of the Shopping Center nor shall Tenant place in the display windows any signs, decoration, lettering or advertising matter of any kind without Landlord's prior written consent in each instance. Tenant shall maintain, at its sole cost and expense, any such approved sign or other installation in good condition and repair.

SECTION 19. AUCTIONS.

19.01 Tenant shall not, without Landlord's prior written consent, display or sell merchandise outside the exterior walls and permanent doorways of the demised premises. Tenant shall not conduct or permit to be conducted any sale by auction in, upon or from the demised premises, whether said auction is voluntary, involuntary, pursuant to any assignment for the payment of creditors, or pursuant to any bankruptcy or other solvency proceeding.

SECTION 20. UTILITIES.

20.01 Tenant shall pay before delinquency all charges for water, gas, heat, sewer, electricity, power, telephone service, and all other services of utilities, including any additional connection, impact, use or other fees required to be paid as a result of the use of the demised premises, or activities conducted in, upon or about the demised premises, by Tenant or any or its subtenants, licensees or concessionaires during the term of this Lease. If any utility is not separately metered, Tenant agrees to reimburse Landlord for the costs of said service as Additional Rental. Said Additional Rental is due ten (10) days after the date of mailing of the statement therefor and is in default if not timely received. Additional Rental in default shall be subject to an additional charge of ten percent (10%) per month on the unpaid balance as a late charge. Landlord may estimate the amount of said service of utilities which are not separately metered, and collect and impound as Additional Rental from Tenant, on a monthly basis, the amount of Tenant's pro rata share as set forth in Section 8.01(c).

20.02 In the event Tenant fails to pay any utility charges set forth herein, and Landlord is held liable therefor by the utility company, then such nonpayment by Tenant shall be deemed an event of default under this Lease. Notwithstanding any provisions of Section 24 of this Lease to the contrary, upon service of a written notice by Landlord to Tenant of such event of default for failure to pay such utility charges and Tenant's failure to cure said default within three (3) days of the service of said notice, Landlord may terminate this Lease or pursue any other right or remedy available under this Lease or Arizona law.

20.03 Landlord shall not be liable in any way to Tenant in the event of any interruption in the supply of any utilities. Tenant agrees that it will not install any equipment which will exceed or overload the capacity of any utility facilities, and that if any equipment installed by Tenant shall require additional utility facilities, the same shall be installed at Tenant's expense in accordance with plans and specifications to be approved in writing by Landlord. Notwithstanding any such approval by Landlord, Tenant shall not be relieved of liability or responsibility for any damage, which may occur as a result of the installation of any such equipment.

SECTION 21. ACCESS TO PREMISES.

21.01 Landlord and its agents shall have the right to place, maintain and repair all utility equipment of any kind in, upon or under the demised premises as may be necessary for the servicing of the demised premises and other portions of the Shopping Center. Except in the event of an emergency (where Landlord shall have the right to enter upon the demised premises immediately and at any time), Landlord shall also have the right to enter the demised premises at all reasonable times to inspect or to exhibit the same to prospective purchasers, mortgagors, and lessees and to make such repairs, additions, alterations or improvements as Landlord may deem desirable, including the erection and maintenance of such scaffolding, canopy, fences and props as may be required, or for the purpose of posting notices of non-liability for alterations, additions or repairs. Landlord shall be allowed to take all material in, to and upon the demised premises that may be required therefor without the same constituting an eviction of Tenant in whole or in part; provided, however, Landlord shall use due diligence in making said repairs and Tenant shall be entitled to a proportionate reduction of the Guaranteed Minimum Monthly Rental while such repairs are being made, such proportionate reduction to be based upon the extent to which the making of such repairs shall result in the loss or interruption of Tenant's business. If Tenant shall not be personally present to permit an entry into the demised premises when for any reason an entry therein shall be permissible, Landlord may enter the same by the use of force without rendering Landlord liable therefore and without in any manner affecting the obligations of this Lease. The provisions of this Section shall in no way be construed to impose upon Landlord any obligation whatsoever for the maintenance or repair of the building or any part thereof, except as otherwise herein specifically provided. During the six (6) months prior to the expiration of this Lease or any renewal term, Landlord may place upon the demised premises signs advertising the availability of the demised premises for rent or sale, which signs Tenant shall permit to remain thereon.

SECTION 22. DAMAGE AND DESTRUCTION OF PREMISES.

22.01 In the event of a partial or total destruction of the demised premises or the building containing same (the "building") during the term of this Lease which requires repairs to either the demised premises or the building, or the demised premises or the building being declared unsafe or unfit for occupancy by any authorized public authority for any reason

other than Tenant's act, use or occupation, which declaration requires repairs to either the demised premises or the building, Landlord shall forthwith make said repairs, provided Tenant gives Landlord thirty (30) days written notice of the necessity therefor. No such partial destruction (including any destruction necessary in order to make repairs required by any declaration made by any public authority) shall in any way annul or void this Lease, except that Tenant shall be entitled to a proportionate reduction of the Guaranteed Minimum Monthly Rental while such repairs are being made, such proportionate reduction to be based upon the extent to which the making of such repairs shall interfere with the business carried on by Tenant in the demised premises. However, if during the last two (2) years of the original term of this Lease, the building is damaged as a result of fire or any other insured casualty to an extent in excess of twenty-five percent (25%) of its then replacement cost (excluding foundation(s)), Landlord may, within thirty (30) days following the date such damage occurs, terminate this Lease by written notice to Tenant. If Landlord, however, elects to make said repairs, and provided Landlord uses due diligence in making said repairs, this Lease shall continue in full force and effect, and the Guaranteed Minimum Monthly Rental shall be proportionately reduced as hereinabove provided. If Landlord elects to terminate this Lease, all rentals shall be pro-rated between Landlord and Tenant as of the date of such destruction.

- 22.02 The foregoing notwithstanding, if the building is damaged or destroyed at any time during the term hereof to an extent of more than ten percent (10%) of its then replacement cost (excluding foundation(s)) as a result of a casualty not insured against, Landlord may within thirty (30) days following the date of such destruction, terminate this Lease upon written notice to Tenant. If Landlord does not elect to so terminate because of said uninsured casualty, Landlord shall promptly rebuild and repair the demised premises and Tenant's rental obligation shall be proportionately reduced as hereinabove provided.
- 22.03 In the event Landlord is obligated or elects to perform repairs as herein provided: (i) in no event shall Landlord's obligation exceed the scope of the work that was performed by Landlord in the original construction and improvement of the demised premises, (ii) in no event shall Landlord be required to expend sums therefor in excess of the insurance proceeds received or to be received by Landlord by reason of such damage or destruction, and (iii) Tenant shall, at its sole expense, as soon as reasonably practicable, replace or fully repair, reconstruct or restore its exterior signs, merchandise and personal property.
- 22.04 In respect to any partial or total destruction (including any destruction necessary in order to make repairs required by any declaration as referenced in Section 22.01 or by any authorized public authority) which Landlord is obligated to repair or may elect to repair under the terms of this Section 22, Tenant waives any statutory right it may have to cancel this Lease as a result of such destruction. Tenant hereby agrees that it shall have no interest in or claim to any portion of the proceeds or any insurance maintained by Landlord.

SECTION 23. ASSIGNMENT AND SUBLETTING.

23.01 (a) Except as expressly provided in Sections 23.02 and 23.03, Tenant (including without limitation any subsequent assignee or subtenant) shall not, without Landlord's prior written consent, which consent may be withheld at Landlord's sole discretion, either voluntarily or by operation of law, assign, mortgage, hypothecate or encumber this Lease or any interest in this Lease, permit the use of the premises by any person or persons, franchises, affiliated companies, licensees or concessionaires other than Tenant, or sublet the demised premises or any part of the demised premises. Any transfer of this Lease from Tenant by merger, reorganization, liquidation, or the sale, conveyance, transfer by bequest or inheritance, or other transfer of a controlling interest in Tenant (whether by transfer of stock, partnership interest or otherwise) shall constitute an assignment for the purpose of this Lease. Notwithstanding the foregoing, if Tenant is a corporation whose stock is regularly traded on a national stock exchange, or is regularly traded in the over-the-counter market and quoted on NASDAQ, the transfer of stock, regardless of quantity, shall not constitute an assignment for the purpose of this Lease. In no event shall Tenant be permitted to assign, mortgage, hypothecate, sublet or encumber this Lease, or any interest in this Lease or the demised premises, while Tenant is in default of any of the terms of this Lease. Any request by Tenant for Landlord's approval to an assignment or sublease shall be accompanied by a nonrefundable fee of \$1000.00, which fee will be used to compensate Landlord for the time, effort and expense of responding to Tenant's request.

(b) Landlord has been induced to enter into this Lease with Tenant in order to obtain for the benefit of the entire Shopping Center the unique attraction of Tenant's trade, as set forth in Section 1 herein, and the unique merchandising technique, product line and/or services associated with Tenant's business. The prohibitions against assignment or subletting contained in this Lease are consistent therewith, and they are expressly agreed to by Tenant. Except for the circumstances covered by this Paragraph "(b)" of this Section, it is the intent of both Tenant and Landlord that the only purpose of any assignment or subletting of the demised premises shall be to aid Tenant in meeting its obligations under this Lease, and not to afford Tenant the opportunity to gain financially as a consequence of any increase in the fair market rental value of the demised premises. If Landlord consents to any assignment or subletting, such consent:

(i) Shall not constitute a waiver of the necessity of such consent to a subsequent assignment or subletting, whether by Tenant or any subsequent assignee or subtenant;

(ii) Shall not be deemed a release of Tenant from liability for the full performance of all the terms, conditions and covenants of this Lease on Tenant's part to be performed; and

(iii) Is conditioned upon the assignee's express written assumption, in form and

substance reasonably satisfactory to Landlord, of all of the terms and conditions of the Lease including, without limitation, the responsibility to pay Additional Rental as defined in Section 4.03. Any partial or estimated payment of Additional Rental at the time of an assumption of this Lease shall not relieve the assignee from the future payment of Additional Rental charges upon determination by Landlord of the actual sums due and owing pursuant to the Lease for the lease year during which the assumption or other transfer occurred.

(iv) Shall be conditioned on the obligation of Tenant to remit to Landlord on a monthly basis fifty percent (50%) of the excess of the pro-rata portion of Rent applicable to the space subject to the assignment or sublet immediately upon Tenant's receipt thereof.

Notwithstanding anything to the contrary contained herein, in response to a request for its approval to an assignment or sublease, Landlord may, by giving written notice to Tenant within thirty (30) days after receipt of Tenant's request for the approval of an assignment or subletting, terminate this Lease with respect to the space described in Tenant's notice, as of the effective date of the proposed assignment or sublease and all obligations under this Lease as to such space shall expire except as to any obligations that expressly survive any termination of this Lease.

23.02 If Tenant operates a chain of retail stores conducting the same retail business under the same trade name as shall be used with respect to the demised premises, Tenant shall be entitled to assign and transfer this Lease to the surviving corporation in the event of a merger, reorganization or sale of assets reorganization to which Tenant shall be a party; provided, however, that such subsidiary, affiliated form or surviving corporation shall in writing expressly assume all of the provisions, covenants and conditions of this Lease on the part of Tenant to be kept and performed; shall have financial net worth no less than the financial net worth of Tenant as of the date hereof (adjusted in accordance with any increases in the Consumer Price Index, U.S. City Average for All Urban Consumers); and provided further (unless Tenant shall thereafter cease to exist) that no such assignment or transfer shall act as a release of Tenant from any of the provisions, covenants and conditions of this Lease on the part of Tenant to be kept and performed. In no event shall the Guaranteed Minimum Monthly Rental after such assignment or subletting be less than the Guaranteed Minimum Monthly Rental specified in Section 4 hereof.

23.03 (a) In the event this Lease is assigned to any person or entity pursuant to provisions of the Bankruptcy Code, 11. USC & 101 et seq., (the "Bankruptcy Code"), any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord, shall remain the exclusive property of Landlord, and shall not constitute property of Tenant or of the estate of Tenant within the meaning of the Bankruptcy Code. Any and all monies or other consideration constituting Landlord's property under the preceding sentence not paid or

delivered to Landlord shall be held in trust for the benefit of Landlord and shall promptly be paid to or turned over to Landlord.

(b) If Tenant, pursuant to this Lease, proposes to assign the same pursuant to the provisions of the Bankruptcy Code, to any person or entity who shall have made a bona fide offer to accept an assignment of this Lease on terms acceptable to Tenant, then notice of the proposed assignment setting forth (i) the name and address of such person, (ii) all of the terms and conditions of such offer, and (iii) the assurances referred to in Section 365(b)(3) of the Bankruptcy Code, shall be given to Landlord by Tenant no later than twenty (20) days after receipt of such offer by Tenant, but in any event no later than ten (10) days prior to the date that Tenant shall make application to a court of competent jurisdiction for authority and approval to enter into such assignment and assumption, and Landlord shall thereupon have the prior right and option, to be exercised by notice to Tenant given at any time prior to the effective date of such proposed assignment, to accept an assignment of this Lease upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such person, less any brokerage commissions which may be payable out of the consideration to be paid such person for the assignment of this Lease.

(c) Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall, upon demand, execute and deliver to Landlord an instrument confirming such assumption in form and substance reasonably satisfactory to Landlord.

(d) The following factors may be considered by Landlord as necessary in order to determine whether or not the proposed assignee has furnished Landlord with adequate assurances of its ability to perform the obligations of this Lease:

(i) The adequacy of a security deposit.

(ii) Net worth and other financial elements of the proposed assignee.

(iii) Demonstration that assumption or assignment will not disrupt substantially any tenant mix or balance in the Shopping Center.

(e) It is hereby acknowledged that this is a Lease within a "shopping center" within the meaning of Section 365(b) (3) of the Bankruptcy Code

(f) In the event Landlord rejects the proposed assignee, the rights and obligations of the parties hereto shall continue to be governed by the terms of this Lease, and Tenant shall have all the rights of a Tenant under applicable Arizona law.

23.04 Any assignment, mortgage, pledge, hypothecation, encumbrance, subletting or license of this Lease, the leasehold estate hereby created, or the demised premises or any portion thereof, either voluntarily or involuntarily, whether by operation of law or otherwise, or any other action by Tenant in violation of the restrictions set forth in this Section, without the prior written consent of Landlord first had and obtained therefor, shall be null and void and shall, at the option of Landlord to be exercised in writing, terminate this Lease.

SECTION 24. DEFAULT AND REMEDIES.

24.01 The following shall constitute an event of default under the terms of the Lease:

- (a) If Tenant shall fail to timely pay, when due, any sums due under this Lease;
- (b) If Tenant shall fail to observe or perform any of the covenants, terms or conditions of this Lease, where such failure continues for ten (10) days after written notice from Landlord, except that if Tenant begins to cure its failure within the ten (10) day period but cannot reasonably complete its cure within such period, then, so long as Tenant continues to diligently attempt to cure its failure, the ten (10) day period shall be extended to sixty (60) days, or such lesser period as is reasonably necessary to complete the cure;
- (c) The existence of any collusion, fraud, dishonesty or bad faith by or with the acquiescence of Tenant which in any way relates to or affects this Lease or the demised premises;
- (d) If at any time any material representation, statement, report or certificate made now or hereafter by Tenant is not true and correct, or if at any time any statement or representation made by Tenant is not true and correct, and such representation, statement, report or certificate is not corrected within fifteen (15) days after written notice thereof;
- (e) If all or a substantial part of the assets of Tenant are attached, seized, subjected to a writ or distress warrant or are levied upon, unless such attachment, seizure, writ, warrant or levy is vacated within thirty (30) days;
- (f) If Tenant is enjoined, restrained or in any way prevented by court order from performing any of its obligations hereunder or conducting all or a substantial part of its business affairs; or if a proceeding seeking such relief is not dismissed within thirty (30) days of being filed or commenced;
- (g) If a notice of lien, levy or assessment is filed of record with respect to all or any part of the property of Tenant by the United States, or any other governmental authority, unless contestable and actually and diligently contested in accordance herewith;

- (h) If Tenant shall file a voluntary petition for bankruptcy or for arrangement, reorganization or other relief under any chapter of the Federal Bankruptcy Code or any similar law, state or federal, now or hereafter in effect;
- (i) If Tenant shall file an answer or other pleading in any proceeding admitting insolvency, bankruptcy, or inability to pay its debts as they mature;
- (j) If, within thirty (30) days after the filing against it of any involuntary proceedings under the Federal Bankruptcy Code or similar law, state or federal, now or hereafter in effect, Tenant shall fail to have such proceeding vacated;
- (k) If Tenant shall fail to vacate, within thirty (30) days following the entry thereof, any order appointing a receiver, trustee in liquidation for it or all or a major part of its property, either on or off the demised Premises;
- (l) If Tenant shall be adjudicated a bankrupt;
- (m) If Tenant shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due or shall consent to the appointment of a receiver or trustee in liquidation of all or the major part of its property, or the demised premises;
- (n) If Tenant shall die, or shall be judicially declared to be incompetent if a natural person, or if such Tenant is a firm, partnership or corporation, be dissolved, terminated or merged;
- (o) If Tenant shall sell, convey, transfer or assign any of Tenant's rights, title or interest in the demised premises or this Lease without Landlord's prior written approval;
- (p) If Tenant shall sell, convey, transfer or assign all or a major portion of its inventory, fixtures or other personal property, either on or off the demised premises, without replacing same with comparable equivalents within thirty (30) days;
- (q) If Tenant abandons the property before the end of the term or otherwise fails to operate its business during those hours during which similar businesses within the vicinity of the Shopping Center are open to the public;

24.02 Upon the occurrence of any event of default, Landlord shall have the following remedies:

- (a) Landlord may immediately terminate this Lease by written notice to Tenant. Upon such termination by Landlord, Tenant will at once surrender possession of the demised premises to Landlord and remove all of Tenant's effects therefrom; and Landlord may forthwith reenter the demised premises and repossess itself thereof, and remove all

persons and effects therefrom, using such force as may be necessary without being guilty of trespass, forcible entry or detainer or other tort;

(b) Landlord may remedy such default for the account and at the expense of Tenant without thereby waiving such default;

(c) Landlord may, upon notice to Tenant, declare all rents due or to become due under this Lease immediately due and payable, which rents shall include any and all renewal terms for which Tenant has exercised its option;

(d) Landlord may, at its option, as Tenant's agent without termination of this Lease, enter upon (by judicial process or otherwise) and rent the demised premises at the best price obtainable by reasonable effort, with or without advertisement, and by private negotiations and for any term Landlord deems proper. Tenant shall be liable to Landlord for the deficiency, if any, between all rent reserved hereunder and the total rental applicable to the term actually obtained by Landlord on re-letting after deducting Landlord's expenses in restoring the demised premises and all costs and expenses incident to such re-letting, including without limitation, tenant improvement costs, advertising costs, rental concessions, legal fees and brokerage commissions. The total rental applicable to the term obtained by Landlord on such re-letting shall be the property of Landlord and Landlord shall not be liable to Tenant for any excess thereof over rent reserved hereunder;

(e) Landlord may bring an action in a court of competent jurisdiction to collect any amounts due and owing under this Lease and/or to compel Tenant to perform any and all of Tenant's obligations under this Lease. Any amount owed by Tenant to Landlord shall accrue interest at eighteen percent (18%) per annum or the highest rate then allowed under the usury laws of the State of Arizona, whichever is lower, until paid in full to Landlord;

(f) Landlord shall be entitled, as a matter of strict right, to appoint a receiver for Tenant and the conduct of Tenant's business on or at the demised premises;

(g) Landlord may charge all costs to cure any default or offset any loss caused by Tenant's default to Tenant as Additional Rental;

(h) Landlord may do any and all other things and pursue any and all other remedies authorized by law;

(i) Notwithstanding any other provisions contained herein, should Tenant violate any provision of the Lease, such breach or default shall be subject to the remedies provided in Section 33-361 et. seq. of the Arizona Revised Statutes (as amended).

- 24.03 Landlord's remedies hereunder shall be cumulative, and Landlord's pursuit of one or more of the above remedies shall not be a bar to pursuing any other remedy nor shall same be deemed an election of remedies.
- 24.04 THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE DEMISED PREMISES, AND/OR ANY CLAIM OF INJURY OR DAMAGE
- 24.05 In the event of a breach or threatened breach by Tenant of any provision of this Lease, Landlord shall have the right of injunction as if other remedies were not provided for herein.
- 24.06 The provisions of this Section 24 shall apply to any renewal or extension of this Lease. If Tenant shall default hereunder prior to the date fixed as the commencement of any renewal or extension of this Lease, Landlord may cancel such renewal or extension agreement by giving Tenant two (2) days prior written notice thereof.

SECTION 25. SURRENDER OF LEASE.

- 25.01 The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all of such subleases or subtenancies.

SECTION 26. SALE OF PREMISES BY LANDLORD.

- 26.01 In the event of any sale of the demised premises by Landlord, Landlord shall be and is hereby entirely freed and relieved of any and all liability under any and all of its covenants and obligations contained in or derived from this Lease arising out of any act, occurrence or omission occurring after the consummation of such sale; and the purchaser, at such sale or any subsequent sale of the demised premises, shall be deemed, without any further agreement between the parties or their successors in interest or between the parties and any such purchaser, to have assumed and agreed to carry out any and all of the covenants and obligations of Landlord under this Lease.

SECTION 27. HOURS OF BUSINESS.

- 27.01 Subject to the provisions of Section 1 and Section 22 hereof, Tenant shall continuously during the entire term hereof conduct and carry on Tenant's business in the demised premises and shall keep the demised premises open for business and cause Tenant's

business to be conducted therein during all hours established by Landlord for the Shopping Center. In the event the hours during which the Shopping Center is legally permitted to be open for business are regulated by any authority claiming jurisdiction, then Landlord shall be the sole judge of which hours and days shall be the Shopping Center business hours. Notwithstanding the foregoing, however, this provision shall not apply if the demised premises should be closed and the business of Tenant temporarily discontinued therein on account of strikes, lockouts, or similar causes beyond the reasonable control of Tenant, or closed for not more than three (3) days out of respect to the memory of any deceased officer or employee of Tenant or the relative of any such officer or employee. Tenant shall keep the demised premises adequately stocked with merchandise of such size, character and quality as shall be reasonably designed to produce the maximum return to Landlord and Tenant, and with sufficient sales personnel to care for the patronage, and to conduct said business in accordance with sound business practices. Tenant further agrees to use its best judgment, efforts and abilities to produce the maximum volume of sales from the demised premises. Tenant shall not solicit business nor distribute advertising material in the parking or other common areas, nor shall Tenant operate or permit to be operated free or for pay any concessions or vending machines in the common areas.

- 27.02 In the event of the breach by Tenant of any of the conditions in this Section contained, Landlord shall have, in addition to any and all remedies herein provided the right, at Landlord's option, to collect not only the Guaranteed Minimum Monthly Rental herein provided, but Additional Rental at the rate of one-thirtieth (1/30) of the Guaranteed Minimum Monthly Rental herein provided for each and every day that Tenant shall fail to conduct its business as herein provided. Said Additional Rental shall be deemed to be in lieu of any Percentage Rental that might have been earned during such period of Tenant's failure to conduct business as herein provided.

SECTION 28. ATTORNEY'S FEES, ETC.

- 28.01 If Landlord is involuntarily made a party defendant in any litigation concerning this Lease or the demised premises by reason of any act or omission of Tenant, then Tenant shall defend and hold harmless Landlord from any and all liabilities by reason thereof, including reasonable attorney's fees and all costs incurred by Landlord in such litigation.
- 28.02 If either Landlord or Tenant or their successors and assigns shall commence any legal proceeding against the other with respect to the enforcement or interpretation of any of the terms and conditions of this Lease, the non-prevailing party therein shall pay to the other all expenses of said litigation, including a reasonable attorney's fee as may be fixed by the court having jurisdiction over the matter, including attorney's fees in appellate and bankruptcy court proceedings.
- 28.03 The parties hereto each agree that the State of Arizona is the proper jurisdiction for litigation of or performance under any matters relating to this Lease, and service mailed

to the address of Tenant set forth herein shall be adequate service for such litigation. The parties agree that venue for any action arising under, or as a result of, or in connection with this Lease shall be proper in Pinal County, Arizona.

SECTION 29. SECURITY DEPOSIT.

- 29.01 Tenant, contemporaneously with the execution of this Lease, has deposited with Landlord the sum set forth as the Security Deposit in the Basic Lease Information Summary, receipt of which is hereby acknowledged by Landlord, said deposit being given to secure the faithful performance by Tenant of all of the terms, covenants and conditions of this Lease by Tenant to be kept and performed during the term hereof. Tenant agrees that if it shall fail to pay in full the rent or other charges arising under this Lease promptly when due, said deposit may, at the option of Landlord, be applied to any rent or other charges due and unpaid, and if Tenant violates any of the other terms, covenants and conditions of this Lease said deposit shall be applied to any damages suffered by Landlord as a result of Tenant's default to the extent of the amount of the damages suffered.
- 29.02 Landlord may keep the Security Deposit in its general funds and shall not be required to pay interest to Tenant on the deposit amount. The security deposit shall be held by Landlord for Tenant and the claim of Tenant to such payment or deposit shall be prior to the claim of any creditor of Landlord. Landlord may claim of such deposit only such amounts as are reasonably necessary to remedy Tenant's defaults and the payment of rent and other charges arising under this Lease, to repair damages to the demised premises or other areas of the Shopping Center caused by Tenant or to clean the demised premises upon termination of the tenancy. Any remaining portion of such deposit shall be returned to Tenant no later than thirty (30) days after Tenant has duly vacated the demised premises.
- 29.03 Nothing contained in this Section 29, shall in any way diminish or be construed as waiving any of Landlord's other remedies as provided in Section 24 hereof, or by law or in equity. The Security Deposit shall not serve as an advance payment of Rent or a measure of Landlord's damages for any default under this Lease. Should the entire security deposit, or any portion thereof, be appropriated and applied by Landlord for the payment of overdue rent or other sums due and payable to Landlord by Tenant hereunder, then Tenant shall, on the written demand of Landlord, forthwith remit to Landlord a sufficient amount in cash to restore said security deposit to its original amount and Tenant's failure to do so within fifteen (15) days after the date of such statement of demand shall constitute a material breach of this Lease.

SECTION 30. HOLDING OVER.

- 30.01 NO HOLDOVER IS ALLOWED UNDER THIS LEASE. Any holding over after the expiration of the term of this Lease, with the prior written consent of Landlord, shall be construed to be a tenancy from month to month, at a rental and upon the terms and

conditions as existed during the last month of the term hereof, and shall be cancelable upon thirty (30) days prior written notice. Any holding over after the expiration of the term of this Lease without prior written consent of Landlord shall be construed to be a tenancy from month to month, upon the terms and conditions as existed during the last month of the term hereof, except that the Guaranteed Minimum Monthly Rental shall be doubled and Tenant shall also be liable for, and shall pay Landlord, all of Landlord's direct and consequential damages resulting from Tenant's holdover. No acceptance of rent or other payments by Landlord under these holdover provisions shall operate as a waiver of Landlord's right to regain possession of the demised premises or to pursue any other of Landlord's rights or remedies. Nothing contained herein shall be construed to allow a holdover of the demised premises after the expiration or earlier termination of this Lease.

SECTION 31. NOTICES.

31.01 Wherever in this Lease it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, such notice or demand shall be given or served and shall not be deemed to have been given or served unless in writing and forwarded by personal delivery or by certified mail, return receipt requested, postage prepaid, or by a reputable national overnight courier service, postage prepaid. Notices shall be deemed to have been given on the earlier of: 1] actual delivery, or 2] three (3) business days after posting in the United States mail in the case of certified mail, or 3] one business day in the case of overnight courier. Notices shall be addressed to Tenant at the address set forth in Section 1.07 of this Lease or to Landlord at the address set forth in Section 1.08 of this Lease.

Either party may, at any time, change such address by written notice to the other setting forth a different address to which notices shall be sent, which notice shall be given in a manner set forth herein.

SECTION 32. SUCCESSORS IN INTEREST.

32.01 The covenants herein contained shall, subject to the provisions of assignment, apply to and bind the heirs, successors, executors, administrators and assigns of all the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.

SECTION 33. TENANT'S PERFORMANCE BEFORE COMMENCEMENT.

33.01 In the event of a default under this Lease prior to the commencement of the term of this Lease, it is expressly agreed by and between Landlord and Tenant that the amount of damage to Landlord as a result of that default and the termination of this Lease under this provision is difficult to calculate and that Landlord shall be entitled to retain as liquidated damages the security deposit plus such improvements as Tenant may have annexed to the demised premises that cannot be removed without damage thereto. Nothing contained

herein shall limit Tenant's liability to reimburse Landlord for any out-of-pocket expenses which Landlord may incur.

SECTION 34. FORCE MAJEURE.

34.01 If either party hereto shall be delayed or prevented from the performance of any act required hereunder (except for the payment of monies) by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, restrictive governmental laws or regulations or other cause without fault and beyond the control of the party obligated, performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, nothing in the Section 34 contained shall excuse Tenant from the prompt payment of any rental or other charge required of Tenant hereunder except as may be provided elsewhere in this Lease.

SECTION 35. PARTIAL INVALIDITY.

35.01 If any provision of this Lease or application thereof to any person or circumstance shall to any extent be invalid, the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

SECTION 36. MARGINAL CAPTIONS.

36.01 The various headings and numbers herein and the grouping of the provisions of this Lease into separate sections and paragraphs are for the purpose of convenience only and shall not be considered a part hereof.

SECTION 37. TIME.

37.01 Time is of the essence of this Lease.

SECTION 38. SUBORDINATION; ATTORNMENT.

38.01 This Lease, at Landlord's option, shall be subject and subordinate at all times to the lien of any underlying ground leases, covenants, conditions or restrictions (or any similar document), easements, deeds of trust or mortgages now or subsequently placed by the Landlord upon the real property of which the demised premises are a part, and to any and all advances made on the security thereof, and to all renewals, modifications, consolidations, replacements and extensions thereof; provided, however, that as to the lien of any such deeds of trust or mortgages, Tenant's right to quiet possession of the premises shall not be disturbed if Tenant is not in default and so long as Tenant shall pay the rent and observe and perform all of the provisions of this Lease, unless this Lease is

otherwise terminated pursuant to its terms. Tenant hereby agrees at the written request of the lien holder or the purchaser of Landlord's interest pursuant to such foreclosure or other proceedings, to attornment to such lien holder or purchaser or, at such lien holder's or purchaser's option, to enter into a new lease for the balance of the term hereof upon the same terms and provisions as are contained in this Lease. Notwithstanding the foregoing, Tenant shall execute and deliver such further instrument or instruments evidencing such subordination of this Lease to the lien of any such mortgages, deeds of trust or other security instruments as may be requested by Landlord within ten (10) days after Tenant's receipt of such request. In the event that Tenant shall fail, neglect or refuse to execute and deliver any such instruments within ten (10) days after receipt of written notice so to do and the receipt by Tenant of the instruments to be executed by it, Tenant hereby appoints Landlord, its successors and assigns, the attorney-in-fact of Tenant irrevocably and coupled with an interest to execute and deliver any and all such instruments for and on behalf of and in the name of Tenant, provided however, that Tenant shall not be required to effectuate such subordination, nor shall Landlord be authorized to effect such subordination on behalf of Tenant unless the underlying ground lessor, mortgagee or beneficiary named in such lease, mortgage, deed of trust or other encumbrance or purchaser of Landlord's interest shall first agree in writing for the benefit of Tenant, that so long as Tenant is not in default under any of the provisions, covenants or conditions of this Lease on the part of Tenant to be kept and performed, that neither this Lease nor any of the rights of Tenant hereunder shall be terminated or modified or be subject to termination or modification, nor shall Tenant's possession of the premises be disturbed or interfered with, by any trustee's sale or by an action or proceeding to foreclose said mortgage, deed of trust or other encumbrance. If any mortgagee, trustee or ground lessor shall elect to have this Lease prior to the lien of its mortgage, deed of trust or ground lease, and shall give written notice thereof to Tenant, this Lease shall be deemed prior to such mortgage, deed of trust or ground lease, whether this Lease is dated prior or subsequent to the date of said mortgage, deed of trust or ground lease or the date of recording thereof.

- 38.02 If upon any sale, assignment or hypothecation of the demised premises or the land thereunder by Landlord, or at any other time, an estoppel certificate and/or current financial statement and/or assignment of rights shall be requested of Tenant, Tenant agrees, within ten (10) days thereafter, to deliver such document(s) (in recordable form, if so requested by Landlord) addressed to any such proposed mortgagee or purchaser or to Landlord. The estoppel certificate shall certify the requested information, including among other things, the dates of commencement and expiration of this Lease, the amounts of security deposits, that this Lease is in full force and effect (if such is the case) and that there are no differences, offsets or defaults of Landlord, or noting such differences, offsets or defaults as actually exist. Tenant shall be liable for any loss or liability resulting from any incorrect information certified, and such mortgagee and purchaser shall have the right to rely on such estoppel certificate, assignment and/or financial statement. Tenant shall in the same manner acknowledge and execute any assignment of rights to receive rents as required by any mortgagee of Landlord.

- 38.03 Should Tenant fail to provide such estoppel certificate, financial statement(s) or assignment of rights, in a form acceptable to Landlord, within ten (10) days of the service on Tenant of a request therefor, then it is agreed between the parties hereto that Landlord may suffer substantial damage as a result of Tenant's failure and therefore Tenant shall pay to Landlord daily Additional Rental, in addition to all other rental due under this Lease, in an amount equal to one-thirtieth (1/30th) of the Guaranteed Minimum Monthly Rental (as set forth in Section 4.01(a) hereof) for each day commencing on the eleventh (11th) day after service of the request for such estoppel certificate, financial statement or assignment. If the estoppel certificate is not returned to Landlord within twenty (20) days after the service on Tenant of a request therefor, in addition to the continued daily imposition of said Additional Rental, such failure shall be conclusive against Tenant that (I) this Lease is in full force and effect without modification except as may be represented by Landlord, (ii) there are not uncured defaults in Landlord's performance, and (iii) not more than one month's rent has been paid in advance.
- 38.04 If so requested by Landlord and/or its lender, Tenant agrees to execute within ten (10) days of request an amendment to this Lease as long as the amendment does not materially interfere with or modify Tenant's rights, duties or obligations under the Lease or its intended use of the demised premises.

SECTION 39. RIGHTS RESERVED TO LANDLORD.

- 39.01 Landlord may exercise at any time any of the following rights respecting the operation of the Shopping Center without liability to the Tenant of any kind:
- (a) Name. To change the name or street address of the Shopping Center or the suite number(s) of the demised premises.
 - (b) Signs. To install and maintain any signs on the exterior and in the interior of the Shopping Center.
 - (c) Common Area. To change the location, configuration or arrangement of the common area of the Shopping Center including, but not limited to, the parking lot, traffic lanes, driveways, entrances, passageways, doors and doorways, corridors, elevators, stairs, toilets, heating, electrical system, plumbing and water system thereof.

SECTION 40. EMINENT DOMAIN.

- 40.01 If the whole of the demised premises shall be condemned or taken for a public or quasi-public use or purpose under power of eminent domain, the term of this Lease shall terminate as of the date actual physical possession thereof shall be so taken.
- 40.02 (a) If any portion of the demised premises shall be condemned or taken for a public or quasi-public use or purpose under the power of eminent domain and such condemnation

or partial taking may reasonably be construed to render the remainder of the premises unsuitable for the business of Tenant, Tenant shall be entitled either to elect to cancel and terminate this Lease, or to remain in possession of the remainder of the demised premises not so taken; provide, however, that Tenant shall give Landlord written notice of its said election within ten (10) days after the date of transfer of title or possession, whichever occurs first, and failing so to do Tenant shall be deemed to have elected to remain in possession, or if the portion of the demised premises so condemned or taken shall not be so extensive as may reasonably be construed to render the remainder of the demised premises unsuitable for the business of Tenant, then and in either such event, if any portion of the total award is made for a condemnation or taking of any portion of Tenant's premises, Landlord shall (but only out of and not exceeding such portion of the award received by Landlord for or on account of such taking) repair, reconstruct or restore the remainder of the demised premises (including the building which is a part thereof) to the condition in which it existed immediately prior to such condemnation or taking (and Tenant shall not be entitled to any damages by reason of any inconvenience or loss sustained by Tenant as a result thereof) and, except as otherwise herein provided, this Lease shall continue in all respects in full force and effect.

(b) If more than fifty percent (50%) of the ground floor area of the building in which the demised premises are located be condemned or taken under the power of eminent domain, Landlord may, by notice in writing to Tenant delivered on or before the day of transferring title or possession, whichever occurs first, to the public authority, terminate this Lease.

40.03 (a) If any portion of the demised premises shall be condemned or taken for a public or quasi-public use or purpose and Tenant shall elect or be deemed to have elected to remain in possession as hereinabove provided, or if the portion of the demised premises so condemned or taken shall not be so extensive as may reasonably be construed to render the remainder of the demised premises unsuitable for the business of Tenant, then, and in either such event, the Guaranteed Minimum Monthly Rental and Additional Rental (hereinafter in this section "rent and other charges") shall be adjusted as follows:

(i) During the period between the date of such actual taking of physical possession and the completion of said repairs, reconstruction or restoration, Tenant shall be required to pay only such portion of the rent and other charges equal to the proportion thereof which the number of square feet of gross floor area in the demised premises remaining in a tenantable condition during such period bears to the total number of square feet of gross floor area in the demised premises immediately prior to such taking of physical possession.

(ii) Upon completion of said repairs, reconstruction or restoration, and thereafter throughout the remainder of the term of this Lease, the rent and other charges reserved herein shall be reduced in the same proportion which the number of square feet of gross

floor area in the demised premises so taken bears to the total number of square feet of gross floor area in the premises immediately prior to such taking of physical possession.

(b) Except for the abatement in the rent and other charges expressly hereinabove provided for, there shall be no reduction, change or abatement of any rental or other charge payable by or on the part of Tenant to Landlord hereunder, or in the method of computing, accounting for or paying the same; and in no event shall there be any reduction, change or abatement of any rental or other charge whatsoever hereunder until such time as there shall have been an actual taking of physical possession of a portion of the demised premises.

40.04 If Tenant's leasehold interest in the demised premises shall be condemned or taken for a public or quasi-public use or purpose under the power of eminent domain, this Lease shall not be terminated nor shall Tenant be excused from full performance of its covenants for the payment of money or any other obligations hereunder capable of performance by Tenant, but in such event Tenant may claim and recover from the condemning authority all compensation and damages payable on account of Tenant's leasehold interest in the demised premises.

40.05 (a) Except as otherwise herein provided, all damages awarded or other sums or awards paid on account of any condemnation or taking under the power of eminent domain of the demised premises, the common areas or the Shopping Center, or any portion(s) thereof, shall belong to and shall be the sole property of Landlord, whether such damages or other sums are awarded as compensation for loss or diminution in value of the leasehold or for the fee of the demised premises or otherwise.

(b) Tenant in no event shall have any claim whatsoever against Landlord for loss or diminution in value of the leasehold or for the value of any unexpired term of this Lease, Tenant hereby expressly waiving any such right or claim; provided however, that Tenant shall be entitled to receive any award or portion thereof made for the condemnation or taking of any of Tenant's personal property under the power of eminent domain, and for damages thereto caused thereby and for any cost to which Tenant might be put in removing Tenant's personal property.

40.06 In the event this Lease is canceled or terminated pursuant to any of the provisions of this Section 40, all rent and other charges payable on the part of Tenant to Landlord hereunder shall be paid either as of the date upon which actual physical possession shall be taken by the condemnor, or as of the date upon which Tenant ceases doing business in, upon or from the demised premises, whichever last occurs; and the parties shall thereupon be released from all further liability hereunder, except that Landlord shall make an equitable refund to Tenant of any unearned, unused or unappropriated advance rental or security deposit theretofore paid by Tenant to Landlord hereunder.

- 40.07 A voluntary sale of all or any part of the demised premises or of the common areas in the Shopping Center by Landlord to any public or quasi-public body, agency or person, corporate or otherwise, having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a taking under the power of eminent domain for the purposes of this Section 40.

SECTION 41. MERCHANT'S ASSOCIATION.

- 41.01 If Landlord determines that it is in the best interest of the Shopping Center, Tenant shall become a member of, participate fully in, and remain in good standing in any Merchant's Association now or hereafter established for the Shopping Center, and Tenant shall abide by the rules and regulations of the Merchants' Association. The objectives of the Association shall be to encourage its members to deal fairly and courteously with their customers, to encourage ethical business practices and to assist the business of tenants in the Shopping Center through sales promotions and center-wide advertising. Tenant agrees to pay such dues to the Merchants' Association as may be imposed by the Merchants' Association from time to time. Dues shall constitute "additional rent" for purposes of this Lease, with Landlord having the right, at its option, to enforce collection on behalf of the Merchants' Association. The sums so paid by Tenant shall be expended for such activities by or under the direction and at the discretion of Landlord, or by such persons, firms, corporations or associations to whom or to which Landlord may delegate such authority.

SECTION 42. SECURITY INTEREST.

- 42.01 In addition to the statutory landlord's lien, Landlord shall have at all times a valid security interest to secure payment of all rentals and other sums of money becoming due hereunder from Tenant, and to secure payment of any damages or loss which Landlord may suffer by reason of the breach by Tenant of any covenant, agreement or condition contained herein, upon all goods, wares, equipment, fixtures, furniture, improvements and other personal property (and the proceeds thereof) to the full extent of Tenant's and any assignee's or subtenant's interest therein, presently, or which may hereafter be, situated on the demised premises, and such lien shall include the right to prevent removal of said property from the demised premises, and such property shall not be removed without the consent of Landlord until all arrearage in rent as well as any and all other sums of money then due or to become due to Landlord hereunder shall first have been paid and discharged and all the covenants, agreements and conditions hereof have been fully complied with and performed by Tenant.
- 42.02 Upon the occurrence of an event of default by Tenant, Landlord may, in addition to any other remedies provided herein, enter upon the demised premises and take possession of any and all goods, wares, equipment, fixtures, furniture, improvements and other personal property of Tenant situated on the premises, without liability for trespass or conversion, and sell the same at public or private sale, with or without having such property at the sale, after giving Tenant reasonable notice of the time and place of any public sale or of

the time after which any private sale is to be made, at which sale the Landlord or its assigns may purchase unless otherwise prohibited by law. Unless otherwise provided by law, and without intending to exclude any other manner of giving Tenant reasonable notice, the requirement of reasonable notice shall be met if such notice is given in the manner prescribed in this Lease at least seven (7) days before the time of sale. Any sale made pursuant to the provision of this Section 42 shall be deemed to have been a public sale conducted in commercially reasonable manner if held in the above-described premises or where the property is located after the time, place and method of sale and a general description of the types of property to be sold have been advertised in a newspaper published in the county in which the property is located, for two consecutive publications before the date of sale.

- 42.03 The proceeds from any such disposition, less any and all expenses connected with the taking of possession, holding and selling of the property (including reasonable attorney's fees and legal expenses), shall be applied as a credit against the indebtedness secured by the security interest granted in this Section 42. Any surplus shall be paid to Tenant or as otherwise required by law; the Tenant shall pay any deficiencies forthwith.
- 42.04 Upon request by Landlord, Tenant agrees to execute and deliver a financing statement in form sufficient to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the provisions of the Uniform Commercial Code (or corresponding state statute or statutes) in force in the state in which the property is located, as well as any other state the laws of which Landlord may at any time consider to be applicable.

SECTION 43. NO PARTNERSHIP; NO THIRD PARTY RIGHTS.

- 43.01 Nothing contained in this Lease shall create any partnership, joint venture or other arrangement between Landlord and Tenant. Except as expressly provided herein, no term or provision of this Lease is intended to or shall be for the benefit of any person not a party hereto, and no such other person shall have any right or cause of action hereunder.

SECTION 44. ENTIRE AGREEMENT, ETC.

- 44.01 This Lease and the Exhibits, Riders and/or Addenda, if any are attached, sets forth the entire agreement between the parties. Any prior conversations or writings are merged herein and extinguished. No subsequent amendment to this Lease shall be binding upon Landlord or Tenant unless reduced to writing and signed by both parties. Submission of this Lease to Tenant for examination does not constitute an option for the demised premises, and becomes effective as a Lease only upon execution and delivery thereof by Landlord to Tenant. If any provisions contained in a rider or addenda is inconsistent with the printed provision of this Lease, the provision contained in said rider or addenda shall supersede said printed provision. It is herewith agreed that this Lease contains no restrictive covenants or exclusivity clause in favor of Tenant. Should Tenant at any time

during the term of this Lease claim rights under a restrictive covenant or exclusivity clause, whether implied or otherwise, Tenant herewith specifically waives any such claim with respect to department stores, regional or national chains, kiosks in the Shopping Center, in addition to other merchants with whom leases had been signed prior to the date of the signing of this Lease by both Tenant and Landlord. The captions, numbers and index appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe or describe the scope or intent of any Section or paragraph, nor in any way affect this Lease.

SECTION 45. JOINT AND SEVERAL OBLIGATIONS.

45.01 If Tenant is constituted of two or more persons, corporations or other entities, all agreements covenants, representations and warranties of Tenant herein are the joint and several obligations of the entities constituting Tenant. If Tenant is husband and wife, the obligations hereunder shall extend individually to the sole and separate property of each as well as to their jointly owned or community property. Notice given to any one of the entities constituting Tenant shall be deemed as having been given to all such entities.

SECTION 46. INTENTIONALLY OMITTED.

SECTION 47. AUTHORITY TO EXECUTE.

47.01 Any individual executing this Lease on behalf of or as representative for a corporation or other person, firm, partnership or other entity represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of said corporation, person, firm, partnership or other entity and that this Lease is binding upon said entity in accordance with its terms. If Tenant is a corporation, Tenant shall deliver to Landlord within fifteen (15) days after the execution hereof, a certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution and delivery of this Lease by the individual(s) executing and delivering same.

SECTION 48. EXCAVATION.

48.01 If an excavation shall be made upon land adjacent to the demised premises, Tenant shall permit the person authorized to cause such excavation to enter upon the demised premises for the purpose of doing such work as such person deems necessary to preserve the wall or the building of which the demised premises form a part from damage, and to support the same by proper foundations, without any claim for damages or indemnification against Landlord or abatement of rent.

SECTION 49. RENTAL OR SALES TAXES.

49.01 The Tenant shall reimburse the Landlord for any City, County, or State transaction privilege, rental or sales taxes which may be imposed upon the Landlord by the appropriate jurisdiction(s) during the term of this Lease.

SECTION 50. QUIET ENJOYMENT AND RELOCATION.

50.01 Tenant, upon paying the rents and performing all of the terms on its part to be performed, shall peaceably and quietly enjoy the demised premises subject, nevertheless, to the terms of this Lease and to any mortgage, ground lease or agreements to which this Lease is subordinate.

50.02 Notwithstanding the provisions of Section 50.01, Landlord shall be entitled to cause Tenant to relocate from the demised premises to a comparable space (a "Relocation Space") within the Shopping Center (or within the project if the demised premises are located in a multi-building project) at any time after reasonable written notice of Landlord's election (not less than ninety (90) days) is given to Tenant. Any such relocation shall be at the reasonable expense of Landlord or the third party tenant replacing Tenant in the demised premises. Such a relocation shall not terminate or otherwise affect or modify this Lease except that from and after the date of relocation, the demised premises shall refer to the Relocation Space into which Tenant has been moved rather than the original demised premises as herein defined.

SECTION 51. END OF TERM.

51.01 At the expiration of this Lease, Tenant shall surrender the demised premises in the same condition as they were upon delivery of possession thereto under this Lease, reasonable wear and tear excepted, and shall deliver all keys and combinations to locks, safes and vaults to Landlord. Before surrendering said premises, Tenant shall remove all of its personal property, trade fixtures, alterations additions and decorations which do not become the property of Landlord, and shall repair any damage caused thereby. Tenant's obligations to perform this provision shall survive the end of the term of this Lease. If Tenant fails to remove its property upon the expiration of this Lease, said property shall be deemed abandoned and shall become the property of Landlord. In the event Landlord shall remove said property to make the demised premises suitable for occupancy, Tenant shall be liable to Landlord for the cost of removing, storing and disposing of said property.

SECTION 52. NO WAIVER.

52.01 Failure of Landlord to insist upon the strict performance of any provision or to exercise any option or any rules and regulations shall not be construed as a waiver for the future of

any such provision, rule or option. The receipt by Landlord of rent with knowledge of the breach of any provision of this Lease shall not be deemed a waiver of such breach. No provision of this Lease shall be deemed to have been waived unless such waiver be in writing signed by Landlord. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly rent shall be deemed to be other than on account of the earliest rent then unpaid nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy in this Lease provided, and no waiver by Landlord in respect to one Tenant shall constitute a waiver in favor of any other Tenant in the Shopping Center.

SECTION 53. RECORDING.

53.01 Tenant shall not record this Lease or a memorandum thereof without the written consent of Landlord. However, upon the request of Landlord the Tenant shall join in the execution of a memorandum or so-called "short form" of this Lease for the purpose of recordation. Said memorandum or short form of this Lease shall describe the parties, the demised premises, the term of this Lease, the lien prohibition provision and shall incorporate this Lease by reference.

SECTION 54. BROKERS COMMISSION.

54.01 Landlord and Tenant respectively represent and warrant to each other that neither of them has consulted or negotiated with any broker or finder with regard to the Premises except the Broker(s) named In Section 1.13 of the Lease, if any, (the "Broker(s)"). Each of them will indemnify the other against and hold the other harmless from any claims for fees or commissions from anyone with whom either of them has consulted or negotiated with regard to the Premises except the Broker(s).

SECTION 55. RULES AND REGULATIONS.

55.01 The rules and regulations appended to this Lease as Exhibit "E" are hereby made a part of this Lease, and Tenant agrees to comply with and observe the same. Tenant's failure to keep and observe said rules and regulations shall constitute a breach of the terms of this Lease in the manner as if the same were contained herein as covenants. Landlord reserves the right from time to time to amend or supplement said rules and regulations and to adopt and promulgate additional rules and regulations applicable to the demised premises and the Shopping Center. Notice of such additional rules and regulations, and amendments and supplement, if any, shall be given to Tenant, and Tenant agrees thereupon to comply with and observe all such rules and regulations, and amendments thereto and supplements thereof.

SECTION 56. WAIVER OF LIABILITY.

56.01 Anything in this Lease to the contrary notwithstanding, Tenant agrees that it shall look solely to the estate and property of the Landlord in the land and building comprising the Shopping Center of which the demised premises are a part, and subject to the prior rights of any mortgagee of the premises, for the collection of any judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default or breach by Landlord with respect to any of the terms, covenants and conditions of this Lease to be observed and/or performed by Landlord, and no other assets of the Landlord, its general partner or its limited partners shall be subject to levy, execution or other procedures for the satisfaction of Tenant's remedies. In the event Landlord transfers this Lease, except as collateral security for a loan, upon such transfer Landlord will be released from all liability and obligations hereunder.

SECTION 57. OFFSET STATEMENT.

57.01 Tenant shall, upon request by Landlord, execute and deliver to Landlord within five (5) days a written declaration in recordable form:

- (a) Ratifying this Lease;
- (b) Expressing the commencement and expiration dates thereof;
- (c) Certifying that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writings as shall be stated);
- (d) Certifying that all conditions under this Lease to be performed by Landlord have been satisfied;
- (e) Certifying that there are no defenses or offsets against the enforcement of this Lease by the Landlord, or stating those claimed by Tenant;
- (f) Certifying the amount of advance rental, if any, paid by Tenant;
- (g) Certifying the date to which rental has been paid; and
- (h) Certifying the amount of security deposited with Landlord.

57.02 Such declaration shall be executed and delivered by Tenant from time to time as may be requested by Landlord. Landlord's mortgagees, lenders and/or purchasers shall be entitled to rely upon the same.

SECTION 58. ATTORNEY-IN-FACT.

58.01 Tenant, upon request of any party in interest, shall execute promptly such instruments or certificates to carry out the intent of this Lease as shall be requested by Landlord. Tenant hereby irrevocably appoints Landlord as attorney-in-fact for Tenant with full power and authority to execute and deliver in the name of Tenant any such instruments or certificates if fifteen (15) days after the date of a written request by Landlord to execute such instruments, Tenant shall not have executed and delivered the same, or Landlord may, at its option, cancel this Lease without incurring any liability on account thereof, and the term hereby granted is expressly limited accordingly.

SECTION 59. RELATIONSHIP OF LANDLORD AND TENANT.

59.01 The relationship of Landlord and Tenant as established by this Lease is that of landlord and tenant. None of the language or terminology of this Lease shall be construed to create any other form of relationship between Landlord and Tenant. Landlord's title shall always be paramount to the interest of the Tenant and nothing in this Lease shall empower Tenant to do anything which might in any way impair Landlord's title.

SECTION 60. LICENSE TO COMMON AREAS.

60.01 In order to establish that the Shopping Center, and any portion thereof, are and will continue to remain private property, Landlord shall have the unrestricted right in the Landlord's sole discretion, with respect to the entire Shopping Center, and/or any portion thereof owned or controlled by Landlord, to close the same to the general public for one (1) day in each calendar year, and in connection therewith, to seal off all entrances to the Shopping Center, or any portion thereof. All common areas and facilities which Tenant may be permitted to use and occupy are to be used and occupied under a revocable license, and if any such license be revoked or if the amount of such areas be changed or diminished, Landlord shall not be subject to any liability, nor shall Tenant be entitled to any compensation or diminution or abatement of rent nor shall revocation or diminution of such areas be deemed constructive or actual eviction; except that if such license is revoked, Tenant shall have no obligation to pay its proportionate share of costs and expenses related to the common areas and facilities pursuant to Section 8, or if the amount of such areas are diminished, Tenant's proportionate share of such costs and expenses shall be adjusted accordingly.

**SECTION 61. TENANT FINANCIAL STATEMENT AND BUSINESS RESUME;
APPROVAL; BINDING EFFECT. N/A**

SECTION 62. PEST EXTERMINATION.

62.01 In order to maintain satisfactory and uniform pest control throughout the Shopping Center, Tenant shall engage for the demised premises at its cost, such pest extermination contractor as Landlord directs and at such intervals as Landlord may require.

SECTION 63. GOVERNING LAW.

63.01 This Lease shall be given effect, and shall be constructed and construed by application of the laws of the State of Arizona.

SECTION 64. INCORPORATION OF EXHIBITS.

64.01 All exhibits attached hereto shall by this reference be deemed a part of this Lease, as though set forth in full herein.

SECTION 65. INTENTIONALLY OMITTED.

SECTION 66. IMPARTIAL INTERPRETATION.

66.01 This Lease is the result of negotiations between Landlord and Tenant and therefore the language contained in this Lease shall be construed as a whole according to its fair meaning and not strictly for or against either Landlord or Tenant.

SECTION 67. RADON GAS NOTICE.

67.01 Radon is a naturally occurring radioactive gas that, when it has accumulated in a structure in sufficient quantities, may present health risks to persons who are exposed to it. Levels of radon that exceed the Environmental Protection Agency's stated "action level" have been found in buildings in the State of Arizona. Additional information regarding radon and radon testing may be obtainable from the Arizona Radiation Regulatory Agency and/or other state, county or municipal agencies. Landlord makes no representation to Tenant concerning the presence or absence of radon gas in the demised premises or the Shopping Center at any time or in any quantity. By executing this Lease, Tenant expressly releases Landlord from any loss, claim, liability, or damage now or hereafter arising from or relating to the presence at any time of such substances in the demised premises or the Shopping Center.

SECTION 68. REASONABLENESS.

68.01 Whenever the consent of Landlord and/or Tenant is required under any provision of this Lease, it shall not be unreasonably withheld, denied or delayed.

The signature blocks for this Lease are set forth on the following page.

IN WITNESS WHEREOF, Landlord and Tenant have caused this instrument and its attendant Exhibits and Riders, if any, to be duly executed on the day and year first above written.

EXHIBITS:

- A. Legal Description of Shopping Center Parcel
- B. Site Plan
- C. Construction of Demised Premises
- D. Sign Specifications & Requirements
- E. Rules & Regulations
- F. Guaranty Agreement
- G. Confirmation of Lease Commencement

RIDER(S):

None

“LANDLORD”

By: _____
Ryan Christopher

Its: _____
Manager

Date: _____

“TENANT”

By: _____
Christian Price, Mayor

Attest:

Vanessa Bueras, City Clerk

Approved as to Form:

Denis Fitzgibbons, City Attorney

Date: _____

EXHIBIT “A”

Legal description of parcel

EXHIBIT “B”

Site Plan

EXHIBIT "C"

TENANT IMPROVEMENTS OF DEMISED PREMISES

UNIT #

TENANT TRADE NAME:

C.01. Tenant hereby accepts the demised premises in "As-Is" Condition and is responsible for completing tenant improvements beyond those described below.

C.02. Tenant agrees to submit to Landlord within thirty (30) days of the date of this Lease, plans and specifications covering all work to be done by or for Tenant in the Premises. Such plans and specifications shall be prepared at Tenant's sole expense by a duly licensed architect or engineer in such detail as Landlord may reasonably require and Tenant agrees that no work is to commence on any of the aforesaid Tenant's improvements until Landlord has approved such plans and specifications in writing and has granted authorization for commencement of construction. Landlord shall provide written authorization for Tenant to commence construction of the improvements to the demised premises no later than thirty (30) days from the receipt of such plans.

C.03. All construction of the improvements in the demised premises is to be performed by Tenant or Tenant's agents at Tenant's cost and expense. Tenant agrees that it will file for and obtain all necessary permits and Certificates of Occupancy for the work performed, and shall perform all its work so as to comply with all governing statutes, ordinances, regulations, building codes and insurance rating boards. Tenant agrees that it shall complete such work within thirty (30) days following the date Landlord delivers the space to the Tenant.

C.04. Payment by Tenant of the costs to perform the interior improvements to the demised premises shall not operate, expressly or implicitly, to create in Tenant any interest in the demised premises beyond the leasehold interest granted hereby.

Any such interior improvements made to, in or upon said demised premises, except moveable furniture and moveable trade fixtures, shall become at once a part of the realty and belong to Landlord, and, unless Landlord requests the removal thereof, shall remain upon and be surrendered with the demised premises as a part thereof, without damage or injury.

EXHIBIT “D”

SIGN SPECIFICATIONS AND REQUIREMENTS

WRITTEN APPROVAL is required by Landlord prior to Tenant’s manufacture and installation of any and all signs, including any sign inside the premises that may be visible from the outside. Two (2) copies of the sign drawing shall be submitted to Landlord. Upon Landlord approval, one (1) copy will be returned to Tenant. Landlord’s approval shall in no way be interpreted as a waiver of Tenant’s responsibility to ensure compliance with all applicable electrical and local sign codes. All signage must be professionally manufactured.

1. Each Tenant shall provide, at Tenant’s expense, one (1) storefront sign.
2. Tenant shall be responsible for installation and maintenance of their sign. Sign must be installed within 30 days of lease execution.
3. Tenant will ensure approved sign is up for open of business unless Tenant has received prior written authorization from Landlord.

A. TYPE OF SIGN

B. SIZE OF SIGN

C. COLOR OF SIGN

D. DETAIL DRAWING

E. CONSTRUCTION AND LIGHTING OF SIGN

.

F. WINDOW SIGNAGE

G. TRAILER SIGNS OR TEMPORARY SIGNS ARE NOT PERMITTED

H. *Upon Tenant's vacation from suite, or at the expiration, cancellation, or other termination of this lease (upon notice from Landlord), Tenant shall remove all of its signs and repair the fascia, to Landlord's satisfaction, at Tenant's sole cost. Should Tenant fail to do same, Landlord may undertake repairs and Tenant shall reimburse Landlord or Landlord may deduct the cost incurred from Security Deposit.*

EXHIBIT "E"

D-2

RULES & REGULATIONS

With regard to the use and occupancy of the demised premises and the common areas and facilities, Tenant shall:

- A. Keep clean the inside and outside of all glass doors and windows of the demised premises;
- B. Keep clean all exterior storefront surfaces of the demised premises;
- C. Replace promptly, at its expense, any cracked or broken window glass of the demised premises with glass of like kind and quality;
- D. Maintain the demised premises, at its expense, in a clean, orderly and sanitary condition, free of insects, rodents, vermin and other pests;
- E. Keep any garbage, trash, rubbish or refuse in rat-proof containers within the interior of the demised premises until removed as herein provided;
- F. Have such garbage, trash, rubbish and refuse removed at its expense on a regular basis as prescribed by Landlord; and
- G. Keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the demised premises.

With regard to the use and occupancy of the demised premises and the common areas and facilities, Tenant shall not;

- 1. Place or maintain any merchandise or other articles in any vestibule or entry of the demised premises on the foot-walks adjacent thereto or elsewhere on the exterior of the demised premises or the common areas and facilities;
- 2. Permit accumulations of garbage, trash, rubbish or other refuse within or without the demised premises;
- 3. Cause, suffer or permit odors to emanate or be dispelled from the demised premises, and upon direction of Landlord shall promptly, at its expense, remedy any such breach of this provision;
- 4. Distribute handbills or other advertising matter to persons in the Shopping Center other than in the demised premises or distribute same to, in or upon automobiles parked in the parking areas or in any other part of the Shopping Center;
- 5. Permit the parking of delivery vehicles so as to interfere with the use of any driveway, walkway, parking area or other area of the Shopping Center.
- 6. Receive, ship, load or unload articles of any kind, including merchandise, supplies, materials, debris, garbage, trash, refuse and other chattels except through service access facilities at the rear door of the demised premises;
- 7. Use the plumbing facilities for any other purposes than those for which they are constructed; no foreign substance of any kind shall be disposed therein, and the expense of any breakage, stoppage or damage resulting from a breach of this provision shall be borne solely by Tenant;

EXHIBIT "F"

CONFIRMATION OF LEASE COMMENCEMENT

This Acceptance Agreement shall be incorporated into that Lease and applies to delivery of the premises at MARICOPA SHOPS, Suite 104, MARICOPA, Arizona from TRANSITION INVESTMENTS (Landlord) to (Tenant). The Date of Delivery of the Premises shall be. Landlord and Tenant hereby reaffirm the Lease and its provisions are fully in effect. Tenant acknowledges that the HVAC, plumbing and electrical systems are in good working condition and Tenant hereby accepts the premises as is.

1. Tenant's physical access to the Premises is conditioned upon Tenant supplying the following to Landlord:
 - a) This Acceptance Agreement signed by Tenant.
 - b) Certificate of Insurance listing **[ownership entity name], (management company name, if any), and [any additional interested parties]** as additional insured parties..
2. Tenant shall not be permitted to perform any work in the Premises which requires a permit without Landlord's receipt of Tenant's permit from the City of MARICOPA and Landlord approval of Tenant Building Plans (if applicable).

The Lease Commencement Date is .

3. The Lease Expiration Date will be
4. Tenant's obligation to pay rent shall commence
5. Tenant's obligation to pay common area maintenance charges and additional rent shall commence

Tenant shall indemnify, defend, and hold **[TRANSITION INVESTMENTS LLC]**, harmless from any physical damage to the Premises or the Property resulting from Tenant, its agents and affiliates while at the property.

Tenant and/or its agents shall complete Tenant Improvements in a manner so as to not disturb any activity of the Landlord or other Tenants of the Property.

AGREED AND ACCEPTED:

By: _____
()

Its: _____
(Manager)

Date: _____

EXHIBIT “G”

G-1

INTENTIONALLY OMITTED

