
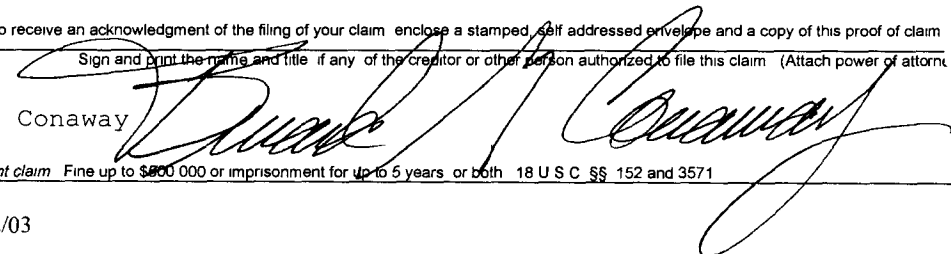


UNITED STATES BANKRUPTCY COURT District of Delaware		PROOF OF CLAIM	
In re (Name of Debtor) Fleming Companies, Inc , et al		Case Number 03-10945 (MFW)	
<p>Note This form should not be used to make a claim for an administrative expense arising after the commencement of the case</p> <p>A request of payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503</p>			
Name of Creditor (The person or entity to whom the debtor owes money or property) Santa Fe Square Income Investors Limited Partnership Bernard George Conaway, Esquire Fox Rothschild LLP 919 N Market Street, Suite 1300 P O Box 2323 Wilmington, Delaware 19899 2323 302 654 7444		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input checked="" type="checkbox"/> Check box if address differs from the address on the envelope sent to you by the court.	
Name and Address Where Notices Should Be Sent (Same as above)		THIS SPACE IS FOR COURT USE ONLY	
ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR			
1 BASIS FOR CLAIM <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other (see documents attached to proof of claim)		<input type="checkbox"/> Check here if this claim <input type="checkbox"/> replaces <input type="checkbox"/> amends a previously filed claim date <input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) Wages salaries and compensations (Fill out below) Your social security number _____ Unpaid compensations for services performed from _____ to _____ (dates) (date)	
2 DATE DEBT WAS INCURRED April 5, 2001		3 IF COURT JUDGMENT DATE OBTAINED SEP 15 2003 BMC	
4 TOTAL AMOUNT OF CLAIM AT TIME CASE FILED \$1,763,056.19 If all or part of your claim is secured or entitled to priority also complete Item 5 or 6 below <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all additional charges.			
5 SECURED CLAIM Check this box if your claim is secured by collateral (including a right of setoff) Brief description of Collateral <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Value of Collateral Amount of arrearage and other charges at time case filed included in secured claim if any		6 UNSECURED PRIORITY CLAIM Check this box if you have an unsecured priority claim Amount entitled to priority Specify the priority of the claim Wages salaries or commissions (up to \$4650) earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business whichever is earlier 11 U.S.C. § 507(a)(3) <input type="checkbox"/> Contributions to an employee benefit plan 11 U.S.C. § 507(a)(4) <input type="checkbox"/> Up to \$2100 of deposits toward purchase lease or rental of property or services for personal family or household use 11 U.S.C. § 507(a)(6) <input type="checkbox"/> Alimony maintenance or support owed to a spouse former spouse or child 11 U.S.C. § 507(a)(7) <input type="checkbox"/> Taxes or penalties owed to government units 11 U.S.C. § 507(a)(8) <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____) Amounts are subject to adjustment on 4/01/01 and every 3 years thereafter with respect to cases commenced on or after date of adjustment	
7 CREDITS The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim			
8 SUPPORTING DOCUMENTS Attach copies of supporting documents such as promissory notes purchase orders invoices itemized statements of running accounts contracts court judgments mortgages security agreements or evidence of perfection of lien DO NOT SEND ORIGINAL DOCUMENTS If the document is not available explain If the document is not available explain			
9 DATE STAMPED COPY To receive an acknowledgment of the filing of your claim enclose a stamped self addressed envelope and a copy of this proof of claim Date September 12 2003 Sign and print the name and title if any of the creditor or other person authorized to file this claim (Attach power of attorney)		Fleming Companies Claim  13108 COURT USE ONLY	
Bernard George Conaway 			
Penalty for presenting fraudulent claim Fine up to \$500,000 or imprisonment for up to 5 years or both 18 U.S.C. §§ 152 and 3571			

Santa Fe Square Income Investors Limited Partnership

Bernard George Conaway, Esquire

Fox Rothschild LLP

919 N Market Street, Suite 1300

P O Box 2323

Wilmington, Delaware 19899-2323

302 654 7444

Grocery Store Build & Lease Agreement

Base Rent	\$43,333 33
Common Area Main	\$5,370 00
Prorata Real Estate Taxes	\$4,976 80
Sales Tax	\$974 07
<i>Total Grocery Store Monthly Charges</i>	\$54,654 20

Section 502(b)(6)(A) Calculation

Monthly Rent Reserved Under Lease \$54,654 20

Greater of

(1) One Year Amount (monthly amount x 12)

\$655 850 40

or

(2) 15% of Remaining, Not More Than 3 Yrs

\$1,729,805 43 \$1 729 805 43

Lease Term 20 years

Lease Start 4/5/2001

Calculation Date 10/1/2003

Time Remaining on Lease 17years/6months \$11,532 036 20 "=Time Remaining x Monthly Rent Reserved)

15% of Remaining Time \$1,729,805 43 "= (Time Remaining x Monthly Rent) x 15%

3Years Of Remaing Lease \$1 967,551 20 "=Monthly Rent Reserved x 3

Plus Pre-Petition Rents due

\$33,250 76

TOTAL AMOUNT OF CLAIM**\$1,763,056 19**

SHOPPING CENTER LEASE

THIS LEASE, entered into this 5th day of April, 2001, which is the date of this Lease, by and between, **SANTA FE SQUARE INCOME INVESTORS LIMITED PARTNERSHIP**, an Arizona limited partnership (hereinafter referred to as "Landlord"), and **FLEMING COMPANIES, INC**, an Oklahoma corporation (hereinafter referred to as "Tenant")

W I T N E S S E T H

1 DEFINITIONS

1 1 Leased Space That certain retail store building space which includes approximately 50,000 ground floor square feet located on the Real Property and designated as "Supermarket" on the Shopping Center drawing attached hereto as Exhibit "A" (the "Site Plan"), which Shopping Center is located on the Real Property

1 2 Real Property That certain real property located at the intersection of Gilbert Road and Southern Avenue in Mesa, Arizona, more particularly described on Exhibit "B" attached hereto

1 3 Shopping Center All the Real Property and improvements now or hereafter located on the Real Property known as Santa Fe Square

1 4 Proportionate Share The term "Proportionate Share" shall mean a fraction (expressed as a percentage), the numerator of which is the area of the Leased Space, as shown on the Site Plan, and the denominator of which is the leasable area of the Shopping Center, which shall not be less than as shown on the Site Plan. Tenant's initial Proportionate Share shall be nineteen percent (19%), subject to adjustment if the leasable area of the Shopping Center or Leased Space increases or decreases

2 PREMISES In consideration of the covenants and agreements hereinafter set forth, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, the Leased Space, together with non-exclusive rights to the easements, entrances, parking areas, approaches and exits appurtenant to the Leased Space

3 TERM The Initial Term of this Lease shall run and extend for twenty (20) years from and after the Commencement Date as set forth below, unless sooner terminated as herein provided (the "Initial Term")

3 1 Commencement Date The Initial Term of this Lease shall commence on the earlier of (i) ninety (90) days after Landlord has completed all Landlord's construction

obligations including, without limitation, the construction requirements referenced in Exhibits "C" and "D" attached hereto, the Construction Documents and in Paragraph 5 hereof and has delivered the Leased Space to Tenant for preparation for opening for the transaction of business therein, or (ii) the first day on which Tenant makes its first retail sale in the Leased Space, provided, however, that notwithstanding any other term or condition hereof to the contrary, Tenant shall not be obligated to commence the Initial Term of this Lease between October 15th and February 15th (but if Tenant opens for business during such period, the Initial Term shall be deemed to have commenced on the date of such opening) Landlord shall give Tenant written notice of the date on which possession of the Leased Space will be delivered to Tenant at least ninety (90) days prior to delivery of possession of the Leased Space to Tenant

3 1 1 Commencement Date Acknowledgment When the Commencement Date of the Initial Term has been so ascertained, it shall be set forth in a commencement date acknowledgment in the form of Exhibit "E" attached hereto which shall be executed in the same manner as this Lease and shall be attached to this Lease as a part hereof

3 1 2 Tenant Allowance Landlord shall pay to Tenant the total sum of Two Hundred Thousand Dollars (\$200,000) as an allowance to Tenant to cover the costs associated with its occupancy of the Leased Space, including, without limitation, all administrative expenses, professional fees and other hard and soft costs associated with such occupancy Landlord shall pay the sum of One Hundred Thousand Dollars (\$100,000), within fifteen (15) days after the building permit for the Leased Space is issued and One Hundred Thousand Dollars (\$100,000) on or before the Commencement Date If such amount is not paid as required above, Tenant shall have the right to deduct the same from the rent due hereunder, together with interest at the annual rate of the then current prime rate of interest as published in The Wall Street Journal plus four (4) percentage points (the "Default Rate"), until Tenant has been reimbursed in full

3 2 Tenant's Installation of Fixtures and Equipment Prior to the Commencement Date, Tenant shall be permitted to enter the Leased Space for the purpose of storing and/or installing fixtures and equipment, receiving merchandise and preparing for opening its store It is agreed that any entry, installation or start-up of its equipment will not constitute acceptance of the Leased Space as being completed, that Tenant shall not interfere with completion of construction work, and, that Tenant shall not be required to enter the Leased Space until all Landlord's construction obligations have been completed Tenant acknowledges that the utility meters in the Leased Space currently are and shall remain in Tenant's name Notwithstanding the foregoing, Landlord shall be responsible for all utility costs incurred in constructing the Leased Space and shall either establish temporary construction accounts and meters in regard to such utility use or pay 100% of Tenant's utility bills during the period of construction

3 3 **Renewal of Lease** This Lease shall be extended automatically under the same terms, conditions and covenants herein contained for six (6) separate additional terms of five (5) years each ("Extended Terms"), each Extended Term to begin at the expiration of the preceding Initial Term or Extended Term, as the case may be, unless at least six (6) months prior to the expiration of the then current Initial Term or Extended Term, Tenant shall notify Landlord that it intends not to renew the Lease

4 **RENTAL** Subject to adjustment as provided in Paragraph 5, Tenant agrees to pay Landlord as rental for the Leased Space the following

4 1 **Minimum Rental** For the first five (5) Lease Years, an annual Minimum Rental for the Leased Space equal to Five Hundred Twenty Thousand Dollars (\$520,000) per Lease Year, payable at the rate of Forty-Three Thousand Three Hundred Thirty-Three and 33/100 Dollars (\$43,333 33) per month. Thereafter, on each five (5) year anniversary of the Commencement Date (each, an "Adjustment Date"), effective for the following five (5) Lease Years, the annual Minimum Rental shall be increased by an amount equal to twice the increase (expressed as a percentage) between the Consumer Price Index published for the month nearest the Adjustment Date and the Consumer Price Index published for the month containing the first day of the five (5) Lease Year period immediately proceeding such Adjustment Date, provided that in no event will the annual Minimum Rental be less than the annual Minimum Rental for the Lease Year immediately proceeding the Adjustment Date or more than the maximum annual Minimum Rental set forth in Subparagraph 4 1 1. As used herein, "Consumer Price Index" means the consumer price index for All Urban Consumers (CPI-U), U S City Average, All-Items, 1982-1984 = 100. If the Consumer Price Index is discontinued, the index published by the U S Department of Labor that in the parties' reasonable judgment most closely approximates the Consumer Price Index shall be substituted for the Consumer Price Index. If no alternative index is published by the U S Department of Labor, Landlord shall use its reasonable judgment in choosing an index that most closely approximates the Consumer Price Index.

The above monthly rental shall be payable in equal monthly installments in advance, without demand, deduction, notice or setoff except as otherwise specifically set forth herein, beginning on the Commencement Date (unless otherwise abated pursuant to any provision of this Lease) and thereafter on the first day of each calendar month during the Initial Term and any Extended Term. If the Commencement Date is other than the first day of a month, a partial month's rent shall be payable on the first day of the month next following the Commencement Date, together with that month's payment of rent.

4 1 1 **Maximum Annual Minimum Rental** In no event shall the annual Minimum Rental hereunder exceed the amounts set forth below

Lease Years 6-10

Five Hundred Thirty-Two Thousand Five Hundred Dollars (\$532,500) per Lease Year,

Lease Years 11-15	Five Hundred Forty-Five Thousand Dollars (\$545,000) per Lease Year,
Lease Years 16-20	Five Hundred Fifty-Seven Thousand Five Hundred Dollars (\$557,500) per Lease Year,
First Extended Term	Five Hundred Seventy Thousand Dollars (\$570,000) per Lease Year,
Second Extended Term	Five Hundred Eighty-Two Thousand Five Hundred Dollars (\$582,500) per Lease Year,
Third Extended Term	Five Hundred Ninety-Five Thousand Dollars (\$595,000) per Lease Year,
Fourth Extended Term	Six Hundred Seven Thousand Five Hundred Dollars (\$607,500) per Lease Year,
Fifth Extended Term	Six Hundred Twenty Thousand Dollars (\$620,000) per Lease Year, and
Sixth Extended Term	Six Hundred Thirty-Two Thousand Five Hundred Dollars (\$632,500) per Lease Year

4 2 Percentage Rent Percentage rent ("Percentage Rent") shall be paid by Tenant in the amount of three-fourths of one percent (75%) of Gross Retail Sales in any Lease Year in excess of the "Breakpoint" for such Lease Year. The Breakpoint for a Lease Year is equal to the annual Minimum Rental payable for such Lease Year divided by one percent (1%) Tenant makes no representations or warranties with respect to the level of such Gross Retail Sales and expressly disclaims any representation or warranty regarding Gross Retail Sales volume

4 2 1 Gross Retail Sales The term "Gross Retail Sales" shall mean the aggregate amount of the sales made by Tenant at, from and through its store and business located and conducted upon the Leased Space to its retail customers. The term Gross Retail Sales as used herein shall not include any of the following (a) credits, coupons or refunds to customers for merchandise returned or exchanged, (b) the cost or value of any trading stamps, (c) any sales taxes or other taxes imposed or based upon gross receipts of Tenant or on the sales or sales price of merchandise which are collected by Tenant and actually paid by Tenant or are payable by Tenant, (d) returns of merchandise, (e) sales of beer, wine and alcoholic products, (f) sales of tobacco and tobacco products, (g) sale of lottery tickets or any proceeds from winning tickets, (h) the value of items donated for charitable purposes, (i) any

services provided by Tenant to its customers, including but not limited to any financial services and/or electronic fund transfer services, the sale of postage stamps and money orders, and any receipts from any banking transactions, (j) sale of Tenant's fixtures after use thereof, (k) cash redemption on bottle or can returns, (l) bulk sales of inventory not in the ordinary course of business, (m) rental, license or concession fees received from any subtenant, licensee or concessionaire of Tenant (provided that the sales of any of the foregoing shall be included in Gross Retail Sales), (n) any "slotting allowances," promotional allowances or similar incentives received by Tenant, (o) any receipts from vending machines, game machines and coin telephones, and (p) sales of fuel. No franchise or capital stock tax and no income or similar tax based upon income or profits shall be deductible from gross receipts. Any processing expense incurred by Tenant and paid to a third party credit card, debit card or charge card company and peculiar to credit card, debit card and charge card sales shall be deducted from sales in determining Gross Retail Sales.

4.2.2 Lease Year The term Lease Year shall mean the period of twelve (12) consecutive months commencing with the Commencement Date, as hereinabove defined, and each succeeding twelve (12) month period during the term of this Lease. If mutually agreed by Landlord and Tenant, "Lease Year" may mean a calendar year.

4.3 Payment of Percentage Rent If Percentage Rent is determined to be due for any preceding Lease Year of this Lease, it shall be payable sixty (60) days after such determination is made. Tenant agrees to furnish to Landlord, as soon as reasonably possible after the end of each Lease Year (and in no event later than sixty (60) days after the end of each Lease Year), a statement showing the amount by months of such Gross Retail Sales of Tenant during the preceding Lease Year. Tenant agrees that once each year, Landlord, or its duly appointed accountant, at Landlord's expense, may inspect the books and records of Tenant's store business conducted in the Leased Space solely for the purposes of ascertaining and verifying the amount of Tenant's sales, but Landlord's right to inspect Tenant's records for any Lease Year shall expire two (2) years after the end of such Lease Year unless Landlord determines that an error in excess of two percent (2%) has occurred, in which case Landlord shall have the right to audit Tenant's books for the previous five (5)-year period. If such inspection of Tenant's books and records discloses a discrepancy in gross sales in excess of two percent (2%), then the reasonable cost of such audit shall be borne by Tenant. Landlord agrees not to disclose any information obtained in such audit to any third parties. In the event the Leased Space is operated by a subtenant or assignee of Tenant, Landlord's right to inspect books and records under this subparagraph shall only extend to the books and records of such subtenant or assignee.

5 CONSTRUCTION OF LEASED SPACE Within forty-five (45) days after execution of this Lease, Tenant shall deliver to Landlord Construction Plans and Specifications (the "Construction Documents") based on Tenant's Prototypical Drawings dated October 16, 2000, which were previously delivered to Landlord, Tenant's Fixture Plan referenced in Exhibit "C" attached.

hereto and Tenant's Minimum Building Specifications dated October 17, 2000 referenced in Exhibit "D" attached hereto, which were previously delivered to Landlord. By executing this Lease, Landlord acknowledges receipt of the above described Prototypical Drawings and Minimum Building Specifications. Tenant shall retain EHL Architecture and Planning as its architect to prepare the Construction Documents at Landlord's expense. The Construction Documents shall be subject to the reasonable approval of Landlord only to the extent the same relate to the exterior of the Leased Space and the connection of the Leased Space to the balance of the Shopping Center. Landlord's approval shall be deemed to be given if Landlord neither approves nor rejects the Construction Documents within thirty (30) days following receipt thereof. If Landlord reasonably requires changes to the Construction Documents to which Tenant agrees, Tenant promptly shall make such changes and resubmit the Construction Documents for Landlord's approval in accordance with the terms of this subparagraph. Tenant acknowledges that the Construction Documents are subject to the approval of Dayton-Hudson Corporation and the City of Mesa, which approvals Landlord shall diligently attempt to obtain. If Dayton-Hudson Corporation fails to approve the Construction Documents after reasonable modifications by July 15, 2001, and if good faith negotiations regarding such approval are not then ongoing, either Landlord or Tenant may terminate this Lease by written notice to the other given no later than July 31, 2001. If good faith negotiations regarding such approval are ongoing on July 15, 2001, Landlord and Tenant shall only have the right to terminate this Lease if Dayton-Hudson Corporation's approval is not obtained by September 15, 2001. The party electing to terminate this Lease shall so notify the other in writing no later than September 30, 2001. If the City of Mesa fails to approve the Construction Documents within a reasonable time and Tenant is unwilling to modify the Construction Documents in order to obtain such approval, either Landlord or Tenant may terminate this Lease by written notice given to the other within thirty (30) days following the date on which the City of Mesa disapproves the Construction Documents. Upon approval of the Construction Documents by Dayton-Hudson Corporation and the City of Mesa, such Construction Documents shall become a part of the Lease. The Leased Space shall be constructed by Landlord at its expense, according to the Construction Documents and Landlord shall not deviate from the Construction Documents without Tenant's prior written consent. Landlord shall be solely responsible for constructing the Leased Space in accordance with all applicable laws, codes, ordinances, rules and regulations of all applicable authorities regardless of whether the Construction Documents so specify. Any costs incurred in constructing the Leased Space shall be the sole responsibility of Landlord. The contractors used by Landlord in constructing the Leased Space shall be subject to the reasonable prior approval of Tenant.

5.1 **Construction Schedule** Landlord covenants and agrees that the construction of the Leased Space shall begin not later than fifteen (15) days after the later of the completion of the demolition of the existing space or the date on which the building permit for the Leased Space is obtained and, subject to force majeure as defined below, shall be substantially completed in every respect no later than two hundred ten (210) days thereafter (the "Substantial Completion Date"). Construction shall be deemed to have commenced when all applicable building permits for the Leased Space have been issued and the pouring of the foundations has begun. "Substantially completed in every respect" shall mean that the construction of the Leased Space has been completed except for those items listed on the

Punchlist in accordance with Subparagraph 5.4 hereof, none of which would materially interfere or impair Tenant's use of the Leased Space, and to such extent that would permit Tenant to perform its work in installing its trade fixtures and equipment. If the same shall not be completed by the required date, Tenant's obligation to pay monthly installments of Minimum Rent shall abate two (2) days for each day past the Substantial Completion Date until such construction is actually substantially completed. Such abatement shall begin on the Commencement Date. Landlord agrees such abatement is reasonable compensation to Tenant for the administrative expenses and other costs connected with Landlord's failure to timely comply with its obligations hereunder. If Landlord shall be delayed or prevented from the performance of its construction obligations hereunder by reason of acts of God, riots, civil commotion, strikes, lockouts, inability to obtain materials or labor, unseasonably severe weather, governmental regulations or approval process, delays caused by Tenant or the architect (provided that Landlord has not caused the delay by the architect) or other cause without fault and beyond Landlord's control (financial inability excepted), the same being referred to herein as "force majeure," such construction obligations shall be excused for the period of delay, and the period for the performance of such acts shall be extended for a period equivalent to the period of such delay, provided written notice is given by Landlord to Tenant within fifteen (15) days of Landlord learning of the occurrence of such delay and provided further that during the period of such delay Landlord shall give Tenant notice each month, including a detailed report on the status of the project, and Landlord's efforts to resume its construction obligations under this Lease. Notwithstanding the foregoing, if such construction is not substantially completed in every respect within eighteen (18) months after all required approvals have been obtained (but in no event earlier than September 30, 2002), Tenant shall have the right to terminate this Lease by written notice to Landlord. Landlord agrees to diligently pursue obtaining all required approvals and to diligently undertake the demolition of the existing space.

5.2 Quality of Construction The Leased Space shall be constructed with materials of grade and quality as specified in the Construction Documents and in a good and workmanlike manner by workmen skilled in the appropriate trades, in accordance with all applicable laws, ordinances, rules and regulations, and according to the Construction Documents.

5.3 Change Order Procedure If Tenant requests a change ("Change") in the Construction Documents after the same shall have been approved by Tenant, Landlord will give Tenant notice ("Change Notice") of the additional cost of designing and performing such Change and of the impact of such change on the Substantial Completion Date. Within five (5) days of Tenant's receipt of the Change Notice, Tenant shall notify Landlord as to whether it desires the Change to be performed. If Tenant desires the Change to be performed, Tenant shall give Landlord written notice thereof executed by an executive officer (Vice President or above) of Tenant and approving the additional cost and setting forth the manner of payment pursuant to Subparagraph 5.5. If Tenant does not authorize the Change to be performed as provided herein within five (5) days of its receipt of the Change

Notice, Tenant's request to make the Change shall be deemed withdrawn. Any change made by Landlord not in accordance with the foregoing change order procedure shall be at Landlord's sole cost and expense. Any executed Change Order shall not effect or change the construction schedule described in Subparagraph 5.1 unless the schedule is identified on the Change Order and approved. Notwithstanding the foregoing, Tenant acknowledges that there may be an allowable delay as the result of Tenant's request for a Change, even if Tenant chooses not to proceed with such Change. An "allowable delay" is one which serves to extend the Substantial Completion Date on a day-for-day basis.

5.4 **Punchlist Completion** Prior to Tenant opening for business, Tenant and Landlord shall prepare a Punchlist of outstanding construction work. Landlord, within ten (10) days of preparation of the Punchlist, shall commence promptly and diligently pursue completion of those Punchlist items. If Landlord fails to promptly begin such work within ten (10) days, or having promptly begun, fails to complete those items within a commercially reasonable time, then in addition to any other remedies of Tenant set forth herein, Tenant shall have the right to complete the Punchlist items and to deduct the reasonable cost thereof from the next following rental payment or payments until reimbursed in full. Further, if Landlord fails to provide Tenant with all required close out documentation within Landlord's possession or control as specified in Tenant's Criteria Documents within ninety (90) days after Tenant's opening then Landlord will provide Tenant a rent credit equal to \$200.00 for each day that Landlord fails to provide such documentation.

5.5 **Change in Cost of Construction** Landlord and Tenant acknowledge that the annual Minimum Rental provided for herein is based on a "Hard Construction Cost" for the Leased Space of Two Million Dollars (\$2,000,000). "Hard Construction Cost" means the cost of labor, material, supervision, general conditions, overhead and profit paid by Landlord to contractor, subcontractors and suppliers to construct the Leased Space and any ~~reasonable changes required by the City of Mesa~~ "Hard Construction Cost" excludes, however, the cost of environmental remediation, site grading and preparation, utility infrastructure, design (both architects' and engineers' fees and expenses), ~~construction of any common areas, development and impact fees and professional fees.~~ If, based upon its review of the Construction Documents during the time period allowed in Paragraph 5, Landlord reasonably determines that the Hard Construction Cost will exceed Two Million Dollars (\$2,000,000), Landlord promptly shall so notify Tenant and the following shall apply.

(a) If the Hard Construction Cost is greater than Two Million Dollars (\$2,000,000) but less than or equal to Two Million Two Hundred Thousand Dollars (\$2,200,000), and Tenant is unable to reduce such costs by modifying the Construction Documents, Tenant, at its option, shall pay one-half (1/2) of the amount of Hard Construction Costs between Two Million Dollars (\$2,000,000) and Two Million Two Hundred Thousand Dollars (\$2,200,000) in a lump sum on or before the Commencement Date following receipt of all appropriate invoices and other supporting documentation reasonably requested by Tenant, or the annual Minimum

Rental set forth in Subparagraph 4 1 shall be increased by an amount equal to one-half ($\frac{1}{2}$) of such excess multiplied by 10%

(b) If the actual Hard Construction Cost is greater than Two Million Two Hundred Thousand Dollars (\$2,200,000) but less than Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000), Landlord shall be responsible for any excess costs between Two Million Two Hundred Thousand Dollars (\$2,200,000) and Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000)

(c) If the actual Hard Construction Costs exceed Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000) and Tenant is unwilling to pay any such costs in excess of Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000), Landlord may terminate this Lease by written notice to Tenant given within thirty (30) days after Landlord notifies Tenant of the actual Hard Construction Cost

(d) If the Hard Construction Costs are less than Two Million Dollars (\$2,000,000), at Tenant's option, Landlord shall pay to Tenant one-half ($\frac{1}{2}$) of the difference between the actual Hard Construction Cost and Two Million Dollars (\$2,000,000) on or before the Commencement Date or the annual Minimum Rental shall be reduced by an amount equal to one-half ($\frac{1}{2}$) of such difference multiplied by 10%

The cost of any Change Orders implemented in accordance with Subparagraph 5 3 shall be paid in accordance with (a) above, provided that Tenant shall be responsible for any increased cost related to a change in Tenant's fixtures or equipment requested by Tenant

6 **LANDLORD'S COVENANTS AND REPRESENTATIONS** In addition to all other covenants and agreements by Landlord found in this Lease, Landlord hereby specifically covenants and represents as follows

6 1 **Zoning** The Real Property is zoned C-2

6 1 1 **Flooding** The Real Property lies within flood zone "x"

6 2 **Quiet Enjoyment** Landlord has good and marketable indefeasible fee simple title to the Real Property and warrants there are no encumbrances or liens thereon, including, without limitation, any reciprocal easement agreements, declarations of covenants, conditions and restrictions or similar documents affecting the Real Property, except as set forth on Schedule 6 2 (the "Permitted Encumbrances") Prior to the date of this Lease, Landlord, at its expense, shall deliver to Tenant an ALTA commitment for Leasehold Title Insurance ("Commitment"), in the amount of One Million Dollars (\$1,000,000) and otherwise in form acceptable to Tenant covering Tenant's interest in the Leased Space, which binds the title insurance company to issue on or before the Commencement Date a

leasehold title insurance policy to Tenant based on such Commitment showing that Landlord has good and marketable indefeasible fee simple title to the Real Property, free and clear of any and all encumbrances or liens other than the Permitted Encumbrances. Tenant's execution of this Lease shall serve as confirmation that the Commitment contains no exclusions or exceptions unacceptable to Tenant. Landlord shall pay the premium for such title insurance policy when due. Landlord has full authority to execute this Lease and further warrants to Tenant that it shall have, hold and enjoy the Leased Space and its rights hereunder during the term hereof, free from any interference by Landlord or any parties claiming by or through Landlord. Landlord agrees to reasonably cooperate with Tenant and join in a complaint, at Tenant's expense, filed in a court, or with a law enforcement agency to prohibit individuals who may be loitering, cruising, picketing, handbilling or distributing literature, from interfering with Tenant's conduct of business. Landlord warrants and represents that the Leased Space is and will be free from obnoxious fumes, odors and unsanitary conditions other than as caused by Tenant, its employees or invitees whether under this Lease or the previous lease between Landlord and ABCO Realty Corp. described in Subparagraph 21.19. Landlord shall not permit the emanation of any undue noise, obnoxious fumes or odors, or any other nuisance from any property or building adjacent to or near the Leased Space, which is owned or controlled by Landlord.

6.3 Use of Real Property

(a) The Real Property shall be used for the sole purpose of promoting and operating a retail shopping center, including office uses as set forth herein, and there shall be no buildings erected on Tenant's Protected Area (as shown on the Site Plan) except those shown on the Site Plan. Subject to those exclusive uses, permitted uses, and use restrictions listed on Schedule 6.3, as such leases may be extended or renewed, and the Permitted Encumbrances (the "Existing Restrictions"), no portion of Tenant's Protected Area shall be used for a bowling alley, skating rink, cafeteria, bingo parlor, flea market, billiard parlor, night club, or any operation selling alcohol for on-site consumption, a video arcade, auto service station, (other than Tenant's fuel facility), medical center or clinic, (other than as existing on the date of this Lease), training or educational facility or other use not compatible with the operation of a retail shopping center, unless designated on the Site Plan or approved in advance in writing by Tenant. Notwithstanding the foregoing, an auto service station and/or gasoline station may be located on the pad shown on the Site Plan as "Pad C." The foregoing shall also not prohibit the replacement of any existing use otherwise prohibited hereunder, provided that such replacement use is in the same space as the previously existing prohibited use or in such space as shown on the Site Plan. In addition, permitted non-retail uses such as movie theaters and health clubs shall not be allowed within that area shown on the Site Plan as "Retail Only." Offices and other professional uses located on the ground floor of Landlord's Building as shown on the Site Plan shall be not allowed within a radius of fifty feet (50') from any exterior wall of the Leased Space. If the Leased Space is expanded pursuant to

Subparagraph 7 4, any currently existing office or other professional use that would then be within a radius of fifty (50) feet from any exterior wall of the Leased Space as expanded shall not be prohibited by this Subparagraph. Professional uses that are typically located in a first-class shopping center and offices shall be allowed on the second floor of Landlord's Building provided that no individual space for such use on the second floor within a radius of fifty feet (50') from the Leased Space shall exceed four thousand five hundred (4,500) square feet. Landlord shall require all tenants and employees in such spaces to park in designated areas outside of that area shown on the Site Plan as "Tenant's Protected Parking." Landlord shall use its good faith efforts to obtain such restrictions in all applicable leases but shall not be responsible for enforcing such parking restrictions unless so requested by Tenant, in which event Landlord shall use its reasonable efforts to enforce such restrictions.

(b) Landlord agrees it shall not amend any of the Existing Restrictions to allow a use otherwise prohibited by this subparagraph or to restrict any future use of the Leased Space. Without limiting Tenant's right to use the Leased Space as allowed by this Lease, the foregoing restrictions shall not be construed to prohibit Tenant from subleasing a portion of its store to a video rental store, pharmacy, in-store banking facility or any other in-store department. Subject to the Existing Restrictions, neither Landlord nor any affiliate or related party shall, directly or indirectly, own, operate or grant any lease or permit any assignment or sublease for, a store (or any portion of a store) in the Shopping Center which permits the sale or offering for sale of groceries, including, without limitation, food products, dry groceries such as household products, paper goods and other items typically and primarily sold in supermarkets, liquor, meats, poultry, seafood, dairy products, fruits, vegetables or baked goods (the "Restricted Products"). The foregoing shall not prohibit the operation of a restaurant or video store or the incidental sale of Restricted Products by another business within the Shopping Center, provided that such incidental sales shall be conducted from the lesser of one thousand two hundred (1,200) square feet or ten percent (10%) of such business's floor area. The foregoing restriction is referred to herein as "Tenant's Exclusive." In the event of any intentional violation of the terms of this Subparagraph 6 3, all rental obligations under this Lease shall be abated during the period of such violation, and Tenant shall not be in default for failure to pay any rental allocated to such period. Landlord agrees that the restrictions set forth in Subparagraphs 6 3(a) and (b) will be included in all conveyances, leases, subleases, licenses and assignments affecting the Real Property. Concurrently with the execution of this Lease, Landlord will execute and record in the real estate records of Maricopa County, Arizona, a Declaration of Restrictions and Easements in substantially the form of Exhibit "E" attached hereto on the Real Property.

6 4 **Site Plan** The Site Plan is an accurate representation of the Shopping Center and the Leased Space and, except as otherwise set forth herein, no changes shall be made to the Site Plan in that area shown as "Tenant's Protected Area" without Tenant's prior consent, which may be withheld by Tenant in its sole discretion. In addition, no changes shall be made to any other portion of the Site Plan without Tenant's prior consent, which shall not be unreasonably withheld. If Tenant fails to respond to any request for its consent under this subparagraph within thirty (30) days after receipt of a written request for such consent, Tenant's consent shall be deemed to have been given. If the City of Mesa requires changes to the Site Plan within Tenant's Protected Area and such changes are not reasonably acceptable to Tenant and are reasonably expected to have a material adverse affect on the operation of Tenant's business in the Leased Space, and if Landlord is unable to resolve Tenant's concerns within thirty (30) days after Tenant notifies Landlord that it does not consent to any such changes, Tenant may terminate this Lease by written notice to Landlord. No building located in the Shopping Center, other than the Leased Space and buildings existing on the date of this Lease, shall exceed one (1) story in height or exceed the height of the Leased Space, provided that any buildings on Pad C shall not exceed twenty-five feet (25') in height, including architectural features.

6 5 **Use of Common Areas of Shopping Center** The access areas, parking areas and all common areas and facilities of the Shopping Center are referred to herein as the "Common Areas." No part of that portion of the Common Areas shown on the Site Plan as "Tenant's Protected Area" shall be changed in any manner without the prior written consent of Tenant, which may be withheld in Tenant's sole discretion. No other portion of the Common Areas shall be changed without Tenant's prior written consent, which consent shall not be unreasonably withheld. Tenant and its employees, agents, officers, invitees and customers shall have unrestricted access to the Common Areas and to any additional access areas, parking areas and other common areas now or hereafter located on the Real Property, in common only with other tenants of the Shopping Center. Without limiting the generality of the foregoing, Tenant specifically shall have the right to locate soft drink and similar type vending machines on the sidewalks adjoining the Leased Space, use the parking areas adjoining the Leased Space for seasonal promotions, and use the sidewalks adjoining the Leased Space for the display and sale of merchandise. Subject to Subparagraph 6 4, Landlord represents and covenants that throughout the term of this Lease, the number, size and configuration of striped parking spaces in the Shopping Center shall be as shown on the Site Plan. Such minimum parking requirement shall be complied with in the event the Shopping Center is expanded onto adjoining property. Other than other tenants of the Shopping Center, their customers and invitees, no other parties shall be allowed access to, from or across the Real Property or use of the parking lot shown on the Site Plan, or any other parking lot hereafter added to the Real Property, without the prior written consent of Tenant, which consent shall not be granted until reciprocal access and parking agreements have been effected in a manner satisfactory to Tenant. Landlord shall keep the parking lot lights and other Common Area lights on each day from dusk until at least one (1) hour after Tenant closes for business (or continuously until dawn if Tenant is open for business twenty-

four (24) hours a day), provided that the foregoing shall not be construed as giving Landlord the right to govern Tenant's business hours

6 6 Utilities Landlord, at its cost, shall furnish, install and maintain adequate utility lines and services (including HVAC) to serve the Leased Space, which utilities shall be separately metered to the Leased Space. Tenant shall pay for the utility services which it uses at the Leased Space. Landlord shall guaranty the HVAC, electrical and plumbing systems serving the Leased Space to be free from defects for a period of one (1) year following the Commencement Date and shall promptly repair any such defects following notice thereof from Tenant. Following the expiration of such one (1) year period, Tenant shall be responsible for maintaining and repairing (but not replacing) the HVAC, electrical and plumbing systems serving the Leased Space. The cost of replacing the HVAC, electrical and plumbing systems shall be included in Common Area Maintenance Costs under Subparagraph 7 1 and amortized in accordance with such subparagraph

6 7 Compliance With Laws Landlord represents and warrants to Tenant to the best of its knowledge without any duty of inquiry that the Shopping Center, including the Leased Space and all Common Areas, shall, upon completion, comply with all applicable federal, state and local laws, ordinances and regulations, including without limitation, all building codes and The Americans with Disabilities Act. In addition, Landlord agrees to make, at Landlord's cost and expense, all reasonably necessary changes, additions, alterations and improvements to the Shopping Center and appurtenances thereto, that may be required at any time during the term hereof to make the Shopping Center and the Leased Space comply with all laws, ordinances, rules and regulations of all duly constituted city, county, state or federal authorities. Tenant agrees to make any nonstructural changes to the Leased Space required due to Tenant's supermarket operations and any changes required as a result of any alterations to the Leased Space made by Tenant

6 8 Taxes At all times during the term hereof, all ad valorem taxes, real estate taxes and similar taxes, special assessments and any other taxes levied or assessed against the Shopping Center or any part thereof by reason of the ownership thereof shall be paid and discharged by Landlord before becoming delinquent. Tenant shall pay to Landlord its Proportionate Share of all such taxes that are due and payable during any calendar year containing any portion of a Lease Year as provided herein. All such taxes for which Tenant is liable hereunder for the calendar years of commencement and termination of this Lease shall be prorated from the Commencement Date and to the termination date of the term of the Lease. Such taxes shall be paid to Landlord within thirty (30) days after the calculation of its share of such taxes based on paid receipts for such taxes, which receipts shall be delivered by Landlord to Tenant. This Subparagraph 6 8 shall not be deemed or construed to require Tenant to pay or discharge any tax which may be levied upon the income, profits or business of Landlord or any personal property, franchise, inheritance or estate taxes which may be levied against Landlord or any tax of the same nature as any tax heretofore mentioned in this sentence, even though such taxes may become a lien against the Real

Property If Tenant has not received the statement for any taxes for a Lease Year within two hundred seventy (270) days after the applicable due date, Tenant may so notify Landlord and, if such statement is not received within thirty (30) days after the date of such notice, Tenant shall have no obligation to pay such taxes. In regard to any special assessments or other taxes payable in installments, Landlord shall elect to pay such special assessments or taxes over the maximum allowable term.

6 8 1 Special Assessments Notwithstanding the above Subparagraph 6 8, Tenant shall not be required to pay any portion of (i) any special assessments that have been levied prior to the Commencement Date, (ii) any special assessments which result from Landlord's activity in constructing the Leased Space, regardless of when such assessments are ultimately assessed, or (iii) any installments of special assessments due and payable after the expiration of the term of this Lease. In addition, in the case of any special assessments payable only in a lump sum, Tenant shall only be responsible for its Proportionate Share of the amount of such assessment multiplied by a fraction, the numerator of which is the number of years remaining in the then current term of the Lease and the denominator of which is the useful life of the improvement against which the special assessment is made. Such useful life shall be determined in accordance with generally accepted accounting principles.

6 8 2 Tax Dispute Each Lease Year Landlord shall furnish Tenant a copy of the tax assessment notice issued in such Lease Year within thirty (30) days after Landlord receives such notice. Tenant may request that Landlord contest such taxes and, if Landlord refuses to do so, Tenant may then contest such taxes on its own. Landlord shall cooperate with Tenant in any such contest. Tenant shall have no obligation to pay such taxes until such contest is resolved unless required to do so by law, provided that Tenant shall furnish Landlord such security as Landlord may reasonably require in order to ensure the ultimate payment of such taxes. At the conclusion of such contest, Tenant will pay the charge contested to the extent it is held valid, together with all attorneys' fees, court costs, interest, penalties and other expenses relating thereto. Should any dispute result in a reduction or a refund of any taxes, Tenant shall first be entitled to receive its actual, reasonable third-party expenses incurred in such contest and Tenant shall then be entitled to receive its proportionate share of any refund.

6 8 3 Personal Property Taxes. During the term hereof, Tenant shall pay prior to delinquency all taxes assessed against and levied upon its fixtures, furnishings, equipment and all other personal property of Tenant contained in the Leased Space and, when possible, the Tenant shall cause such fixtures, furnishings, equipment and other personal property to be assessed and billed separately from the Real Property. In the event any or all of Tenant's fixtures, furnishings, equipment and other personal property shall be assessed and taxed with the Real Property,

Tenant shall pay to Landlord, as additional rent, its share of such taxes as reasonably determined by Landlord and Tenant

6 9 **Survey** Landlord has delivered a survey of the Real Property and Leased Space to Tenant, which survey is satisfactory to Tenant. Such survey and the Site Plan shall be updated following the completion of the construction of the Leased Space

6 10 **Responsibility for Hazardous Material and Underground Storage Tanks**

6 10 1 **Definitions** As used in this subparagraph, the following terms shall have the following meanings

(a) "Hazardous Material" means any substance, material or waste which is or at any time hereafter becomes regulated as "hazardous," "toxic" or under any other similar designation by any local, state, or federal government authority. Such term includes, without limitation, (i) asbestos, (ii) any petroleum products, (iii) any material, substance or waste defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act (42 U S C § 6901, et seq), (iv) any material, substance, or waste defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U S C § 9601, et seq) or (v) any material, substance or waste defined as a "regulated substance" pursuant to Subchapter IX of the Solid Waste Disposal Act (42 U S C § 6991, et seq)

(b) "Tenant Indemnified Person" means Tenant, any sublessee holding an interest in the Leased Space or any portion thereof, any director, officer, employee, or agent of Tenant or of any such sublessee, and any person claiming under or through Tenant or any such sublessee. "Landlord Indemnified Person" means Landlord, any director, officer, employee or agent of Landlord, and any person claiming under or through Landlord

6 10 2 **Representations and Warranties** Landlord represents and warrants to Tenant that to the best of its actual knowledge and belief without any duty of inquiry, except as disclosed in the environmental report described on Schedule 6 10 11, (i) no handling, transportation, storage, treatment or usage of Hazardous Material has occurred on the Real Property except for de minimus amounts used in the conduct of tenants' businesses, (ii) no leak, spill, release, discharge, emission or disposal of any Hazardous Material has occurred on or affected the Real Property, (iii) the Real Property is free of any Hazardous Material and will be free of any Hazardous Material throughout the term of this Lease, and (iv) there are no underground storage tanks located on the Real Property, and there will be no underground storage tanks located on the Real Property during the term

of this Lease other than in the Fuel Facility Property as defined in Subparagraph 21 6 1 and in that location shown on the Site Plan as "Pad C" The foregoing representations and warranties shall survive the termination of this Lease

6 10 3 Indemnification

(a) Landlord hereby agrees to indemnify, defend and hold each Tenant Indemnified Person harmless from and against any and all loss, cost, damage and expense that arises during or after the term of this Lease as a result of (i) the presence or release at any time of any Hazardous Material in, on or from the Real Property caused by a Landlord Indemnified Person, (ii) the presence at any time of any underground storage tank on the Real Property other than as installed by any Tenant Indemnified Person, or (iii) the inaccuracy or breach of any of its representations or warranties set forth in this Subparagraph 6 10

(b) Tenant hereby agrees to indemnify, defend and hold each Landlord Indemnified Person harmless from and against any and all loss, costs, damage and expense that arises during or after the term of this Lease as a result of the presence, suspected presence or release at any time of any Hazardous Material in, on or from the Real Property, including Tenant's fuel facility, caused by any Tenant Indemnified Person

(c) The costs covered by such indemnification include, without limitation, costs incurred in the investigation of site conditions, fees of attorneys, engineers and other consultants, costs and expenses incurred by Landlord or Tenant in exercising any of their rights under this Subparagraph 6 10 and any damages suffered as a result of any termination of this Lease in accordance with Subparagraph 6 10 6 hereof

6 10 4 Notices Landlord and Tenant agree to promptly notify the other in the event such party becomes aware of the presence of any Hazardous Material or any underground storage tank on the Real Property

6 10 5 Development of Remedial Plan If, at any time during the term of this Lease, Tenant becomes aware of the presence, suspected presence or release of any Hazardous Material in, on, or from the Real Property arising out of or attributable to the violation of applicable law or becomes aware of any pendency or threatened action by any federal, state or local governmental authority with respect thereto, Tenant may so notify Landlord and request that Landlord institute remedial action (unless the matter arises as the result of the action or inaction of Tenant or a Tenant Indemnified Person, in which case Tenant shall have the responsibility in regard to the Remedial Plan (as defined below)) Landlord shall confer with the appropriate governmental authorities on what remedial action may be appropriate and within a reasonable period of time given the circumstances, Landlord shall deliver

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to Tenant a written plan (the "Remedial Plan") describing in detail the proposed remedial action if any such action is required by the applicable governmental authority. If, at any time during the term of this Lease, Tenant becomes aware of any abandoned underground storage tank located on the Real Property, Tenant may so notify Landlord and request that Landlord institute whatever action Landlord is obligated by any environmental laws to undertake as required by the applicable governmental authority. Any plan developed pursuant to this subparagraph shall cause the Real Property to comply with all applicable federal, state and local laws, ordinances and regulations and shall be sufficient to abate any pending or threatened action with respect to the Real Property by any federal, state or local governmental authority.

6 10 6 **Termination** If Tenant reasonably determines that the presence of Hazardous Material has had or is reasonably likely to have a material adverse effect on the business conducted from the Leased Space or that the implementation of the Remedial Plan may have such an effect and if the problem cannot be resolved within six (6) months from the date of Tenant's receipt of the Remedial Plan, Tenant may, by notice to Landlord within twenty (20) days thereafter terminate this Lease, such termination to be effective as of the date to be specified in such notice. All rental owed by Tenant hereunder during any period of remediation shall abate in proportion to the part of the Leased Space that is unusable by Tenant.

6 10 7 **Implementation of Plan** If Landlord delivers the Remedial Plan within the specified time and Tenant does not terminate this Lease as provided herein, then, within a reasonable period of time given the circumstances, Landlord will commence action necessary to implement the plan and diligently pursue such action to completion. Any work required hereunder will be at Landlord's sole expense without any reimbursement from any Tenant Indemnified Person and will be performed strictly in accordance with the plan and in accordance with all applicable laws, ordinances and regulations governing such work, except to the extent that the problem was caused by a Tenant Indemnified Person.

6 10 8 **Performance by Tenant** If Landlord fails to deliver a plan for remedial action within the time prescribed above, or if Landlord fails to undertake such work as is required hereunder and diligently pursue such work to completion, Tenant may, but shall not be required to, take such remedial action as it deems necessary and Landlord shall promptly reimburse Tenant for all reasonable costs incurred in such action.

6 10 9 **Offset** Subject to the limitations set forth in Subparagraph 13 3, Tenant shall be entitled to offset against rent payable hereunder any loss, cost, damage or expense covered by Landlord's indemnification set forth in Subparagraph 6 10 3.

6 10 10 **Nonexclusive Remedies** Tenant shall be under no obligation to exercise any remedy which may be provided hereunder and no failure to exercise any such remedy shall prejudice any other remedy available hereunder or under law. The remedies provided herein shall not be considered exclusive or preclude any claim for damages or any other remedy which may be available under this Lease or under law.

6 10 11 **Environmental Studies and Reports** Landlord represents to Tenant that it has heretofore provided to Tenant full, accurate and complete copies of any and all reports, studies, and other information in its possession relating to the issue of the presence or suspected presence of any Hazardous Material on the Real Property and agrees that it will, promptly following its receipt thereof, furnish to Tenant full, accurate and complete copies of any such reports, studies and other information hereafter obtained by Landlord. Prior to the date of this Lease, Landlord will provide Tenant with an asbestos study of the Leased Space reasonably acceptable to Tenant.

7 **MAINTENANCE RESPONSIBILITY** Landlord and Tenant shall have the following responsibilities for maintenance of the Shopping Center, provided that any obligation or liability not specifically covered by the terms of this Lease shall be considered an obligation of Landlord.

7 1 **Maintenance and Replacements by Landlord** Landlord, at its sole cost and expense and without charging Tenant any direct or indirect management fees or charges of any nature whatsoever except as specifically set forth herein, shall keep the Shopping Center in good repair and, in regard to the Leased Space, shall keep in repair and shall replace as necessary the roof and its supporting members, foundation, structural portions of the floor (excluding floor coverings), and the outside walls, and shall be responsible for all interior and exterior repairs of a structural nature or arising out of a structural defect. Notwithstanding the foregoing, Landlord shall be entitled to recover any costs or expenses incurred in the performance of any repairs required due to the negligence of Tenant, its agents, employees or contractors. In addition, if any material "latent defects" in the Leased Space become apparent at any time during this Lease and it shall appear that such latent defects existed on the Commencement Date or resulted from faulty design, workmanship or materials, Landlord shall cause the same to be repaired within thirty (30) (or if the same cannot reasonably be repaired within thirty (30) days, Landlord shall commence such repair as soon as reasonably possible and diligently pursue the same to completion thereafter) after receiving written notice from Tenant of such latent defects. As used herein, "latent defect" means a defect which is not apparent upon an ordinary and reasonable inspection by a professional engineer qualified to make such inspection. In no event will the costs of repairing any latent defects be included in Common Area Maintenance Costs.

Landlord shall also be responsible for all maintenance of, and repairs and replacements to, the Common Areas, including, without limitation, the following: keeping

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the parking area repaired, adequately drained, lighted to a minimum average level of five (5) foot candles in Tenant's Protected Area and a minimum level equal to the lesser of the existing lighting or five (5) foot candles throughout the balance of the Common Areas, striped, cleaned and free of all debris, ice, snow and/or repaired and replaced as necessary and available at all times as a free parking lot for all customers of the Shopping Center, keeping the landscaping on the Shopping Center and all other Common Areas clean, lighted and in good repair, and keeping all sidewalks and Common Areas clean and free of all debris, ice and snow. Tenant shall be responsible for its Proportionate Share of the following Common Area costs only ("Common Area Maintenance Costs") costs of cleaning, lighting, repairing and maintaining all common area improvements, (except to the extent proceeds of insurance or condemnation awards or other reimbursements are available therefor), the cost of performing routine quarterly maintenance to the roof, snow removal, removal of litter, parking lot striping, maintaining landscaping, common area liability insurance, security (if reasonably deemed necessary by Landlord), operating equipment rental and repairs, and the cost of those utilities servicing the Shopping Center Common Areas only which are not directly metered into the Leased Space and separately billed and paid for by Tenant pursuant to Subparagraph 6.6 hereof. Common Area Maintenance Costs shall be reasonable and shall not include (i) any direct or indirect management or administrative fees or charges in excess of ten percent (10%) of the Common Area Maintenance Costs in a Lease Year excluding real estate taxes, insurance and that portion of any single expense in excess of Ten Thousand Dollars (\$10,000), (ii) any charge for Landlord's overhead or profit, (iii) charges for any item that was or should have been originally constructed under the Construction Documents or repair of any latent defects, (iv) depreciation, (v) other than reasonable employee benefits of maintenance personnel, (vi) any environmental clean-up not necessitated by the acts of a Tenant Indemnified Person, and (vii) any expenses related to off-site maintenance or managerial personnel or facilities. Any charge for any item of equipment or any repair or improvement that is considered a capital expense under generally accepted accounting principles shall be amortized over the longest allowable period in accordance with generally accepted accounting principles, and Common Area Maintenance Costs for a Lease Year shall only include the amortized portion of such amount. Tenant's Proportionate Share of Common Area Maintenance Costs shall be paid in monthly installments on the first (1st) day of each month, the amount to be reasonably estimated by Landlord. Tenant's estimated monthly installment of Common Area Maintenance Costs for the first Lease Year shall be Five Thousand Three Hundred Seventy Dollars (\$5,370). Within ninety (90) days following the end of the period used by Landlord in estimating Landlord's costs, Landlord shall furnish to Tenant a detailed certified statement of the actual amount of such Common Area Maintenance Costs for such period supported by reasonably detailed statements, along with invoices or such other documentation supporting such costs as Tenant requests in writing. Within fifteen (15) days thereafter, Tenant shall pay to Landlord or Landlord shall credit against Tenant's next rent payment to Tenant (or refund to Tenant if the Lease has terminated), as the case may be, the difference between the estimated amounts paid by Tenant and the actual amount of Tenant's Common Area Maintenance Costs for such period as shown by such statement. If Tenant has not received the above statement within two

hundred seventy (270) days following the end of the period used by Landlord in estimating Common Area Maintenance Costs, Tenant may so notify Landlord and, if Landlord fails to provide such statement within sixty (60) days after the date of such notice, Tenant shall have no obligation to pay such costs. Tenant, or its duly authorized representatives, shall have access to Landlord's records regarding Common Area Maintenance Costs at all reasonable times, at such location where such records are normally kept, for the purpose of examining and, if Tenant so elects, auditing the same. Tenant shall have the right to withhold payment of the disputed portion of any Common Area Maintenance Charges that are disputed in good faith by Tenant pending resolution of such dispute.

Prior to the Substantial Completion Date (as defined in Subparagraph 5.1), Landlord shall remove the existing speed bumps in the Common Areas as shown on the Site Plan. If, after a period of at least six (6) months of operation, Tenant reasonably determines that a method of slowing traffic in the Common Areas is required, Tenant shall so notify Landlord and Landlord promptly shall provide to Tenant a proposal to install speed "humps" in the Common Areas, which will be at least six feet (6') long and rise no more than eight inches (8") and shall otherwise be subject to Tenant's reasonable approval. If Tenant shall approve such installation, it shall notify Landlord and Landlord promptly shall install the approved speed humps in the Common Areas. The cost of such installation shall be included in Common Area Maintenance Costs.

7.2 Maintenance by Tenant Tenant, at its cost, shall maintain and keep the interior of the Leased Space in good repair, including exposed plumbing, heating and air conditioning units exclusively serving the Leased Space, doors and door closers, except for reasonable wear and tear and damage by fire, the elements or other casualty, provided, that Tenant shall be entitled to all parts and service guaranties and any warranties in effect on equipment which it is responsible for maintaining under the terms hereof.

7.3 Remodeling at Tenant's Expense During the term hereof, or any extension thereof, Tenant and its successors and assigns at their sole expense, shall have the right and the privilege to perform nonstructural redecoration and remodeling to the interior of the Leased Space from time to time as it shall see fit and to install lights, partitions, fixtures, signs and other improvements in, upon and about the Leased Space as in Tenant's judgment may be necessary or desirable in the conduct of its business and to change the same in its sole discretion. Tenant shall also have the right to construct structural improvements and alterations to the Leased Space after obtaining Landlord's consent, which consent shall not be unreasonably withheld, conditioned or delayed. Tenant shall not be required to remove any such alterations or additions or to restore the Leased Space to its original condition at the termination of this Lease. Any work done by Tenant under this Subparagraph shall be done in accordance with applicable laws and regulations and shall be performed, to the extent possible, in such a manner as to not disrupt the operation of other tenants' businesses in the Shopping Center.

7 4 **Tenant's Right of First Refusal** Tenant shall have the right to lease the space shown as "Right of First Refusal" on the Site Plan at any time during the term of this Lease that such space is not under lease to another tenant. If such space becomes available, Landlord shall so notify Tenant in writing and Tenant shall have thirty (30) days after receipt of such notice to elect to lease such space. If Tenant so elects, the lease for such space shall be at a rental equal to the then current market rent and otherwise on the same terms and conditions as provided herein (except as set forth below) and shall be coterminous with the term of this lease. Tenant shall have the right, at its cost, to alter such space so leased by Tenant in order to integrate the same as a part of the Leased Space. Landlord shall have no construction obligations in regard to such area, nor shall Tenant be entitled to any improvement allowance. If Tenant does not elect to lease such space within the time allowed, Landlord shall have the right to lease the same to a third party and Tenant's right of first refusal shall be extinguished for a period of five (5) years thereafter and shall apply only to proposed leases to new tenants and not renewals or extensions of existing leases.

7 5 **Landlord's Failure to Make Repairs** If Tenant notifies Landlord in writing of any needed repair(s) for which Landlord is responsible hereunder, Landlord shall complete said repair(s) within a reasonable period of time given the circumstances following the date of said notice. If such repair(s) cannot be reasonably completed within said period, Landlord shall promptly commence said repair(s) and diligently pursue such repair(s) to completion. In the event of emergency repairs ("emergency" being defined as an imminent danger to Tenant, to Tenant's property or to Tenant's business or to the general public), Tenant may immediately make such emergency repairs without written notice to Landlord, so long as Tenant has used reasonable efforts to contact Landlord or Landlord's representatives by telephone at telephone numbers designated in writing by Landlord. Tenant shall have the right to make non-emergency repairs if Landlord has failed to make such repairs or failed to commence and diligently pursue such repairs within the time period set forth above (Landlord agrees that in the event Landlord has not entered into a contract to cause repairs to be made within a reasonable period of time given the circumstances following the date of Tenant's notice that this shall be deemed to be a failure to commence and diligently pursue a repair obligation of Landlord). Upon Tenant's completion of any of Landlord's repair obligations, Tenant shall send to Landlord statements setting forth the reasonable cost of such repairs and Landlord shall pay said statement within thirty (30) days after receipt of the same. If Landlord fails to pay such statement within said thirty (30) day period, Tenant shall have the right to pay such statement and subject to the limitation set forth in Subparagraph 13 3, to deduct the amount of such statement from the next following rental payment or payments and from any other amounts due under this Lease plus interest thereon at the Default Rate until reimbursed in full.

8 **ADVERTISING SIGNS** Subject to compliance with all applicable laws, Tenant may erect its standard signs on the exterior of its Leased Space in a manner and location satisfactory to Tenant. Tenant shall install its signs at its own expense and shall remove them at the termination of this Lease. Any material damage to the Leased Space as a result of the removal of Tenant's signs

(other than ordinary wear and tear) shall be repaired at the expense of Tenant. If so determined to be necessary by Tenant and subject to the approval of the City of Mesa, Tenant shall be allowed to erect its sign on the south side of Landlord's Building as shown on the Site Plan as "Food 4 Less Sign Area." Landlord, at no cost or expense to Landlord, shall cooperate with Tenant in obtaining the approval of the City of Mesa for such sign. Nothing contained in this Lease shall prevent Tenant from changing the name of its business operated in the Leased Space and changing all of its signs, including, without limitation, those signs on the existing Shopping Center signs, accordingly, at Tenant's sole cost and expense.

8.1 **No Other Signs on Leased Space** Landlord shall not erect, or permit to be erected, any signs on the Leased Space other than those of Tenant, provided that Landlord may place regulatory signs on the exterior of the Leased Space if such signs are reasonably necessary given the circumstances and only with Tenant's prior written consent. Landlord shall have the right to erect reasonable directional and regulatory signs in the balance of the Shopping Center without Tenant's consent.

8.2 **Shopping Center Sign** Tenant shall have the right to maintain its existing sign panels in the maximum size allowed by applicable codes in the top oval portion of both sides of the existing Shopping Center signs located on Gilbert Road and Southern Avenue. Such Shopping Center signs shall not be relocated or removed during the term of this Lease without Tenant's prior consent. Such signs shall be kept in good order and repair by Landlord and lighted during the evening hours of Tenant's operation. The cost of maintaining, repairing and lighting such signs shall be included in Common Area Maintenance Costs. Landlord shall not have the right to replace either such sign without Tenant's prior written consent, which shall not be unreasonably withheld. In the event either such sign is replaced, the cost of such replacement shall be amortized over the longest period allowable in accordance with generally accepted accounting principles and only the amortized portion of such amount shall be included in Common Area Maintenance Costs in a Lease Year. Landlord represents and warrants to Tenant that it has previously obtained, or shall obtain prior to the Commencement Date, all required zoning and public and private approvals required for the construction and installation of such signs. Tenant, at its expense, shall be responsible for obtaining all required permits for the installation of its panels on such signs and shall be responsible for the cost of designing, fabricating, installing and maintaining such panels.

8.3 **Special Sales Promotions** Notwithstanding any provisions in this Lease to the contrary, Tenant may, from time to time, place special sales promotion signs on the parking area light poles and may string pennants and streamers in and around Tenant's Protected Area.

9. **EMINENT DOMAIN; RESTRICTION OF ACCESS; CASUALTY LOSS**
Landlord and Tenant agree as follows:

9 1 **Eminent Domain Affecting Leased Space** In the event any part of the Leased Space should be taken by any public authority under the power of eminent domain or by transfer in lieu thereof, then the terms of this Lease shall cease on that part on the date of condemnation or transfer in lieu thereof, and the rent shall be paid up to that day, and from that day the Minimum Rent shall be reduced in proportion to the amount of the Leased Space taken, provided, however, that should ten percent (10%) or more of the Leased Space be taken by the power of eminent domain or by transfer in lieu thereof, Landlord shall give Tenant immediate written notice thereof and Tenant shall have the option, to be exercised within sixty (60) days after receipt of written notice, to cancel this Lease and declare the same null and void effective on the date such option is exercised. If Tenant should not elect to cancel this Lease, Landlord shall, at its sole cost, build on the new building line a wall, or front, similar to the one removed. In the event any portion of the Shopping Center shall be taken by any public authority under the power of eminent domain or by transfer in lieu thereof, it is understood and agreed that Tenant shall share in the award of damages as the parties may agree and, failing such agreement, as the disbursing court may determine, including, but not limited to, any award or payment made for damage to fixtures, equipment and merchandise owned by Tenant (including costs of removal of same), loss of Tenant's business and moving expenses so long as such award to Tenant does not reduce the amount otherwise recoverable by Landlord. Tenant shall be entitled to apply to the condemning authority directly for payments provided by the statutes, ordinances or rules of the condemnor for moving, relocation and other losses arising from the taking.

9 2 **Eminent Domain Affecting Shopping Center and Parking Area** In the event (i) twenty percent (20%) or more of the Shopping Center, (ii) ten percent (10%) or more of the Protected Area, (iii) twenty percent (20%) or more of any other common area of the Shopping Center or (iv) any entrance or exit to the Shopping Center should be taken by the power of eminent domain or transfer in lieu thereof, without such entrance or exit being adequately replaced within one hundred eighty (180) days and provided such taking materially, adversely affects the operation of Tenant's business in the Leased Space, Landlord shall give Tenant immediate written notice thereof and Tenant shall have the option to cancel this Lease and declare the same null and void effective thirty (30) days after such notice by giving Landlord written notice of such termination within thirty (30) days after receipt of the foregoing notice from Landlord.

9 2 1 **Eminent Domain Affecting More than Fifty Percent (50%) of Building** In the event that more than fifty percent (50%) of the building in which the Leased Space is located should be taken by the power of eminent domain or transferred in lieu thereof, and Landlord's ability to economically operate the Shopping Center is materially adversely affected, Landlord may terminate this Lease by giving Tenant written notice of such termination within thirty (30) days after such taking, which termination shall be effective sixty (60) days after receipt by Tenant of such notice.

9 3 **Destruction of Leased Space** In the event less than twenty percent (20%) of the floor area of the Leased Space should be rendered unusable (as reasonably determined by Tenant) as a result of fire or other casualty, regardless of the cause, Landlord shall, at its sole cost and expense, promptly, and in any event within sixty (60) days, commence the process of rebuilding or replacing the same in as good condition as prior to such casualty, which rebuilding or replacement shall be completed as soon as reasonably possible, but in any event within twelve (12) months following the commencement thereof subject to extension for delays outside of the reasonable control of Landlord, provided Landlord gives Tenant written notice of the occurrence of any such delay within ten (10) days after such delay arises In the event twenty percent (20%) or more of the floor area of the Leased Space should be rendered unusable (as reasonably determined by Tenant) as a result of fire or other casualty, regardless of the cause, or if the Leased Space should be rendered untenable and unfit for occupancy, Tenant may, at Tenant's sole option, expressed to Landlord in writing within fifteen (15) days of such occurrence, (i) require Landlord to promptly, and in any event within sixty (60) days of such notice from Tenant, commence the process of rebuilding or replacing the same as aforesaid, which rebuilding and replacement shall be completed as soon as reasonably possible, but in any event within twelve (12) months following the commencement thereof, or (ii) terminate this Lease, effective on the date of such casualty Monthly Minimum Rents shall abate proportionately to the loss of use during the period of repair Landlord shall have no interest or claim to any portion of the proceeds of any insurance carried by Tenant on Tenant's personal property Tenant shall have no interest in or claim to any portion of the proceeds of any fire and extended insurance policy or policies carried by Landlord

9 4 **Destruction of Shopping Center** In the event all or any part of the Shopping Center (other than the Leased Space) should be destroyed partially or substantially as a result of fire or other casualty, regardless of cause, and Landlord should fail to begin the process of restoration within six (6) months after the date of such destruction, or fail to have the same fully repaired or rebuilt to the condition existing before such damage within twelve (12) months from the commencement of restoration, Landlord shall be in default, and Tenant shall have the right, so long as this default shall continue, to discontinue the payment of Minimum Rent At any time after Minimum Rent shall have been discontinued for one hundred eighty (180) days, and while Landlord shall remain in default, Tenant may cancel this Lease by a thirty (30) day written notice to Landlord

9 5 **Destruction During Final Two Lease Years** Anything herein contained to the contrary notwithstanding, if such damage, loss or destruction as described in the second sentence of Subparagraph 9 3 shall take place during the final two (2) Lease Years, Landlord and Tenant shall have an option to declare this Lease ended and terminated, and notice of this election shall be given in writing by the terminating party to the other within thirty (30) days from the date of such loss or destruction Notwithstanding the foregoing, if Landlord so elects to terminate this Lease and so notifies Tenant, Tenant may, within thirty (30) days following receipt of such notice, exercise its next then available option to extend the term of

this Lease, in which case Landlord shall have no right to terminate this Lease and shall proceed to repair or restore the Leased Space in accordance with the terms of Subparagraph 9 3

9 6 **Restriction of Access** If South Gilbert Road or Southern Avenue is permanently closed so that access to the Leased Space is prohibited, Tenant shall have the option to terminate this Lease upon thirty (30) days' prior written notice to Landlord given within thirty (30) days after Tenant learns of such closure

10 **FIRE AND CASUALTY INSURANCE.**

10 1 **Landlord's Insurance** At all times during the term of this Lease, Landlord shall insure the Shopping Center against any loss or damage due to fire or other casualty or occurrence in an amount sufficient to prevent any coinsurance and in any event not less than the Full Insurable Value of the Shopping Center as determined from time to time Such insurance shall be written by a financially responsible insurer duly authorized to do business in the State of Arizona Tenant shall pay to Landlord its Proportionate Share of such premiums as provided herein All insurance premiums for which Tenant is liable hereunder for the calendar years of commencement and termination of this Lease shall be prorated from the Commencement Date and to the termination date of the term of the Lease Such insurance premiums shall be paid to Landlord within sixty (60) days after Tenant's receipt of paid receipts for such premiums, which receipts shall be obtained and delivered by Landlord If Tenant has not received the statement for such insurance within two hundred seventy (270) days after the end of a Lease Year, Tenant may so notify Landlord and, if Landlord fails to provide such statement within sixty (60) days thereafter, Tenant shall have no obligation to pay any insurance premiums for such Lease Year Landlord shall provide Tenant in each Lease Year a certificate evidencing that such insurance is in effect

10 1 1 **Full Insurable Value** The term Full Insurable Value shall mean actual replacement cost (exclusive of the cost of excavation, foundations and footings below the basement floor) without deduction for fiscal depreciation

10 1 2 **Failure of Landlord to Insure** If Landlord shall fail, refuse or neglect to obtain such insurance or to maintain the same, and furnish Tenant with proof of the same upon demand, Tenant shall have the right to procure such insurance

10 1 3 **Notice From Insurance Company** The insurance company will agree that Landlord and Tenant will be given ten (10) days advance written notice of any cancellation of insurance under such policy

10 1 4 **Other Tenants' Uses** Landlord agrees it shall not, and shall use its reasonable efforts to not allow any other tenant(s) in the Shopping Center to keep

anything within their leased premises or in the Shopping Center, or use their leased premises or the Shopping Center for any purpose that will cause a material increase in the insurance premium cost or invalidate any insurance policy(s) carried on the Shopping Center or its contents by Landlord or Tenant

10 2 **Tenant's Insurance** Tenant, at its own cost and expense, shall insure its fixtures, equipment and merchandise in the Leased Space against any loss or damage caused by fire or other casualty or occurrence. Such insurance shall be in an amount equal to one hundred percent (100%) of the insurable value of Tenant's fixtures, equipment and merchandise and shall include plate glass insurance covering the Leased Space. Such insurance shall be written by a financially responsible insurer authorized to do business in the State of Arizona.

10 3 **Mutual Waiver** Landlord and Tenant hereby waive any and all rights of recovery against each other for any loss or damage to the Shopping Center, Leased Space or the contents contained therein to the extent such loss or damage is or would be covered by the insurance required to be carried by each party hereunder, even if such coverage is not actually maintained. Such waiver shall also apply to the extent of any deductible maintained by either party under its insurance policies. It is understood that this waiver applies to any loss or damage regardless of the cause, including, without limitation, if caused by the negligence of Landlord, Tenant or their respective employees, agents, assigns or sublessees.

11 **ASSIGNMENT, SUBLETTING AND DISCONTINUANCE OF OPERATIONS**

11 1 **Assignment or Subletting** Subject to the Existing Restrictions, Tenant shall have the right to assign this Lease or sublet all or any portion of the Leased Space for any retail use without Landlord's consent. Subject to the Existing Restrictions, Tenant shall also have the right to assign this Lease or sublet all or any portion of the Leased Space for a non-retail use with Landlord's consent, which shall not be unreasonably withheld or delayed provided such proposed use or proposed tenant is not inconsistent with the operation of a first-class shopping center. If Tenant notifies Landlord that it intends to assign this Lease or sublet all of the Leased Space for a non-retail use, Landlord shall have the right to terminate this Lease by written notice to Tenant given within fifteen (15) days following receipt by Landlord of Tenant's notice. If Landlord so notifies Tenant that Landlord intends to terminate this Lease, Tenant shall have the right to withdraw its notice within ten (10) days and Landlord shall no longer have the right to terminate this Lease. Following any assignment or subletting, Tenant shall remain liable hereunder unless specifically released in writing by Landlord. Regardless of any assignment or subletting by Tenant, Landlord shall not change, modify or amend this Lease in any way which materially affects the duties, liabilities or obligations of Tenant without the prior written consent of Fleming Companies, Inc. ("Fleming") unless Fleming has been released from liability hereunder by Landlord. In the event of any assignment of Tenant's interest in this Lease or a subletting of the entire

Leased Space, the computation of Percentage Rent shall be based upon the Gross Retail Sales of such assignee or sublessee

11.2 **Landlord Assignment** Prior to the Commencement Date, Landlord shall not transfer or assign this Lease without Tenant's prior written consent unless Landlord provides Tenant adequate security acceptable to Tenant to ensure that the construction of the Leased Space is properly and timely completed in accordance with the terms of this Lease. The sale or transfer to any party who is not a partner in Landlord on the date of this Agreement at any one time or in the aggregate of more than twenty percent (20%) of the ownership or beneficial interest in Landlord shall be deemed to be an assignment or transfer of the Lease.

11.3 **Discontinuance of Operations** Tenant shall be obligated to commence operations in the Leased Space as a grocery store for at least one (1) day. Thereafter, Tenant shall have the continuing right to discontinue its operations in the Leased Space without the consent of Landlord. In the event Tenant voluntarily discontinues its operations in the Leased Space for a period of at least nine (9) consecutive months (other than for purposes of altering, remodeling or restoring the Leased Space), Landlord shall thereafter have the right to terminate Tenant's Exclusive (as defined in Subparagraph 6.3) by giving at least thirty (30) days' advance notice to Tenant, provided, however, that Landlord shall not have the right to terminate Tenant's Exclusive if, within thirty (30) days after receipt of the foregoing notice, Tenant notifies Landlord in writing that Tenant or a sublessee or assignee will operate in the Leased Space and commences such operations within six (6) months. In addition, in the event Tenant discontinues its operations in the Leased Space as set forth above, Landlord shall have the right to terminate this Lease during the ninety (90) day period immediately following the expiration of the nine (9) consecutive month period described above by giving thirty (30) days' advance written notice to Tenant, provided, however, that Landlord shall not have the right to terminate this Lease if, within thirty (30) days after receipt of the foregoing notice, Tenant notifies Landlord in writing that Tenant or a subtenant or assignee will operate in the Leased Space and such entity commences such operations within six (6) months.

12 **INDEMNITY AND PUBLIC LIABILITY INSURANCE** Subject to the waiver of subrogation provisions of Paragraph 10, Landlord and Tenant shall provide the following indemnification:

12.1 **Landlord's Indemnity** Landlord agrees to defend and indemnify and shall hold Tenant harmless against all claims, judgments, demands and expenses (including reasonable attorneys' fees) of any person or persons whomsoever on account of injuries or accidents occurring in, on or about the Real Property or the Shopping Center as a result of willful or grossly negligent acts or omissions of Landlord, its employees, agents or representatives, and Landlord shall carry, at its expense (subject to reimbursement to the extent provided under Subparagraph 7.1), public liability insurance on the Shopping Center.

stipulating limits of not less than Two Million Dollars (\$2,000,000) for each occurrence for injury or death and One Million Dollars (\$1,000,000) for property damage, together with an umbrella policy with a limit of at least Five Million Dollars (\$5,000,000) Certificates of such insurance shall be furnished to Tenant

12 2 **Tenant's Indemnity** Tenant agrees to defend and indemnify and shall hold Landlord harmless against all claims, judgments, demands and expenses (including reasonable attorneys' fees) of any person or persons whomsoever on account of any injuries or accidents occurring in the Leased Space or the adjoining sidewalks other than as a result of willful or grossly negligent acts or omissions of Landlord, its employees, agents or representatives, and Tenant shall carry public liability insurance on the Leased Space stipulating limits of not less than Three Million Dollars (\$3,000,000) for each occurrence for injury or death and One Million Dollars (\$1,000,000) for property damage Certificates of such insurance shall be furnished to Landlord, and Tenant shall have all such policies of insurance name Landlord as an additional insured

13 **DEFAULT**

13 1 **Tenant's Default** In the event Tenant should default in payment of rental, Landlord shall give Tenant written notice of such default by certified mail, and Tenant shall have ten (10) days from the date of receiving such notice to correct same Should Tenant fail to correct such default in said ten (10) day period, Landlord shall then give Tenant a second written notice by certified mail and, if such default is not cured within five (5) days from the receipt of such second notice, Landlord may, in addition to all other rights available to Landlord under the laws of the state in which the Real Property is located, other than acceleration of future rent, which remedy shall not be available to Landlord, terminate this Lease In the event Tenant should fail to comply with any other of its obligations under this Lease, Landlord shall give Tenant written notice of such default by certified mail Should such default continue to exist at the expiration of sixty (60) days from the date of receipt of such notice, and Tenant is not then engaged in diligent efforts to cure such default, Landlord shall then give Tenant a second written notice by certified mail, and, if such default is not cured within five (5) days from the receipt of such second notice, Landlord may, in addition to all other rights available to Landlord under the laws of the state in which the Real Property is located, other than acceleration of future rent, which remedy shall not be available to Landlord, terminate this Lease 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 any obligations of Tenant hereunder upon Tenant's failure to so perform) shall bear interest at the Default Rate from the date due until paid, provided that the payment of such interest shall not excuse or cure any default by Tenant under this Lease Notwithstanding the foregoing, Landlord shall not have the right to repossess the Leased Space in the event of a bona fide dispute regarding Tenant's liability, if any, to make repairs to the Leased Space until after such liability has been finally judicially determined Should Tenant correct its default within the time provided or correct such

default by action commenced during such time period and diligently pursued thereafter, then Tenant's rights hereunder shall be re-established as though said default had not occurred. In the event of a default by Tenant, Landlord shall have the affirmative obligation to mitigate its damages to the fullest extent reasonably possible.

13.2 **Bona Fide Dispute Re: Percentage Rent** Tenant's failure to pay Percentage Rent shall not be a default hereunder if such failure is the result of a bona fide dispute as to the amount due and payable and if Tenant timely pays the undisputed portion of Percentage Rent.

13.3 **Landlord's Default** Should Landlord default in fulfillment of any of its obligations under this Lease and fail to correct such default within sixty (60) days from receipt of written notice from Tenant of such default (except for failure to make emergency repairs as set forth in Subparagraph 7.5 hereof which shall not require sixty (60) days written notice), and Landlord is not then engaged in diligent efforts to cure such default, Tenant shall give Landlord a second written notice by certified mail and, if such default is not cured within (10) days from the receipt of such second notice, Tenant, at its option, may (i) correct such default and deduct any and all cost as a result of such correction, together with annual interest at the Default Rate, from rentals due or becoming due until Tenant shall be reimbursed in full for the cost of such correction, provided Tenant may only deduct in each month the greater of one-twelfth (1/12th) of its costs or fifty percent (50%) of the monthly installment of Minimum Rent, or (ii) Tenant shall have the right, in the case of a material default that materially adversely affects the operation of Tenant's business in the Leased Space, so long as default shall continue, to terminate this Lease. In the event of any dispute between the parties as to the right of Tenant to such deduction as provided above, Landlord covenants and agrees that Tenant will not be in default hereunder unless Tenant shall fail to pay to Landlord the amount of any such deduction within ten (10) days after receipt of notice by Tenant of a final and unappealable judgment with respect thereto in favor of Landlord.

14 **REDELIVERY OF LEASED SPACE** Tenant shall, at the termination of this Lease or any extension thereof, peacefully quit, surrender and deliver up to Landlord, its successors or assigns, the Leased Space in the condition required by Subparagraph 7.2 and Paragraph 8, with the exception of usual wear and tear, fire, the elements, civil riot, war or other casualty. In regard to such redelivery, Tenant shall not be required to restore or alter the Leased Space to allow for any particular use.

15 **HOLDING OVER** 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 the 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 Minimum Monthly Rental shall be one hundred fifty percent (150%) of

the Minimum Monthly Rental payable during the last month of the term hereof and Tenant shall also be liable for, and shall pay Landlord, all of Landlord's direct 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 Leased Space or to pursue any other of Landlord's rights or remedies. Nothing contained herein shall be construed to allow a holdover of the Leased Space after the expiration or earlier termination of this Lease.

16 **REMOVALS BY TENANT** Tenant shall have the right at any time prior to or upon termination or expiration of this Lease to remove any and all of its merchandise, machinery, equipment, counters, shelving, light fixtures, signs and other fixtures (regardless of the manner in which any of said items have been attached or fastened to the Leased Space) which it owns and has placed in, upon and about the Shopping Center, as well as any and all personal property located in the Leased Space and owned by Tenant at such time. Any damage resulting from such removal shall be repaired at the expense of Tenant to Landlord's reasonable satisfaction. It is understood that a bona fide dispute between Landlord and Tenant as to rental claimed to be due shall not operate to prevent removal of property by Tenant pursuant to this paragraph, but in such event Tenant shall have the right to remove the same as if no rental were then due. Landlord hereby waives all claims, rights, including without limitation security interests or any "Landlord's Lien", whether by statute or common law, in Tenant's personal property. Except for Tenant's signs which Tenant is obligated to remove, if any of Tenant's property remains within the Leased Space following the termination or expiration of this Lease, and Tenant does not remove the same within thirty (30) days following written notice from Landlord, such property shall be deemed abandoned and shall become the property of Landlord.

17 **NOTICES** All notices required under this Lease shall be given in writing, and shall be deemed to be properly served if (i) sent by certified mail with return receipt requested, or (ii) sent by receipted overnight delivery service, or (iii) personally delivered to the address hereinafter identified. Except as herein otherwise specifically provided to the contrary, the effective date of such notice or exercise of any option shall be the date which is stamped by the United States Post Office Department on the envelope enclosing same, the date of the receipt for the overnight delivery or the date on which personal delivery is made. The parties hereto shall not refuse to accept delivery of said notices.

17.1 **Addresses** Until changed by written notice from the appropriate party to the other, the addresses of the parties are and shall be:

LANDLORD

SANTA FE SQUARE INCOME
INVESTORS LIMITED PARTNERSHIP,
c/o Cole Real Estate Services, Inc
3001 E Camelback Road, Ste 140
Phoenix, AZ 85016
Attn: Scott H. Cole

COPY TO Paul M Weiser
Anderson Brody Levinson Weiser &
Horwitz, P A
1112 West Camelback Road
Phoenix, AZ 85013-2190

TENANT FLEMING COMPANIES, INC
5701 N Shartel Avenue
Oklahoma City, OK 73118
Attn Real Estate Officer

COPIES TO Fleming Companies, Inc
1945 Lakepointe Drive
Lewisville, TX 75022
Attn Vice President, Retail Development

Fleming Companies, Inc
5701 N Shartel Avenue
Oklahoma City, OK 73118
Attn Assistant General Counsel

17.2 **Rental Payment Address** Until appropriately changed by thirty (30) days written notice to Tenant, rental payments hereunder shall be made to Landlord either by mail or otherwise as follows

Landlord Santa Fe Square Income Investors, L P
c/o Grubb & Ellis Management Services, Inc
P O Box 32158
Phoenix, AZ 85064-2158
Attn Property Manager

In the event the rental payment address is changed in connection with the transfer of beneficial interest in the Shopping Center, Tenant shall not be required to comply with such notice unless the same is accompanied by evidence satisfactory to Tenant of such change of ownership, and any payments made by Tenant prior to receiving such satisfactory evidence shall be deemed properly paid

18 **AUTHORITY** Each party hereto affirms and states that it has full right and authority to enter into and perform this Lease

19 **MEMORANDUM OF LEASE** Landlord agrees that it will not record this Lease, but contemporaneously herewith, will execute a Memorandum of Lease, in the form of Exhibit "G" attached hereto, which will set forth a legal description of the Real Property, the term of the Lease

and any other provisions hereof as Tenant may request, and Tenant may, at its option, record such Memorandum of Lease in the real property records of the county in which the Real Property is located

20 **SUBORDINATION AND NON-DISTURBANCE** Tenant agrees that it will execute a Subordination and Non-Disturbance Agreement substantially in the form of Exhibit "H" attached hereto (subject to reasonable mutually acceptable modifications) which will subordinate Tenant's interest hereunder to the interest of any mortgagee holding a mortgage lien on the Shopping Center, if the mortgagee requires such a subordination, provided Landlord and such mortgagee also execute such agreement, provided, however, such subordination shall be subject to the non-disturbance provisions contained therein. It is agreed that if Tenant shall incur any costs or expenses, including, but not limited to, attorneys' fees, as a result of or arising out of any demand by Landlord's mortgagee for payment of rent under any form of rental assignment executed by Landlord, which demand is then disputed by Landlord, then Tenant shall have the right to offset against rent due hereunder the reasonable amount of any such costs or expenses. Tenant shall not be in default hereunder if (a) Tenant shall deposit any rent due hereunder which is the subject of a dispute between the Landlord and Landlord's mortgagee with the court having jurisdiction over the dispute and/or (b) Tenant shall withhold the rent due hereunder pending receipt of a final, nonappealable order from a court of competent jurisdiction directing the payment of such rent. Prior to or within ninety (90) days after the execution of this Lease, Landlord shall provide to Tenant a fully executed Non-Disturbance Agreement from each existing mortgagee of the Shopping Center, which Non-Disturbance Agreement shall be substantially in the form of Exhibit "I" attached hereto (subject to reasonable mutually acceptable modifications)

21 **MISCELLANEOUS**

21.1 **Modifications to Lease** Landlord and Tenant agree that no alterations, changes or modifications of this Lease shall be effective unless made in writing and executed in the same manner as is this present instrument and specifically agree that no verbal or oral changes are effective

21.2 **Partial Invalidity** Should any clause or provision of this Lease be invalid or void for any reason, such invalid or void clause shall not affect the whole of this instrument, but the balance of the provisions hereof shall remain in full force and effect

21.3 **Descriptive Headings** The descriptive headings of the paragraphs and subparagraphs of this Lease are for convenience only and shall not be used in the construction of the contents hereof

21.4 **Binding Effect** It is agreed between the parties hereto that all covenants and undertakings contained in this Lease shall extend to and be binding upon the respective successors and assigns of the parties hereto. The covenants and agreements contained herein shall run with the land and continue for the term of this Lease and any extension thereof

21 5 **Non-Waiver** Any assents, expressed or implied, by Landlord or Tenant to any breach of any specific covenant or condition herein contained shall not be construed as an assent or waiver of any such covenant or condition generally, or of any subsequent breach thereof

21 6 **Tenant's Use** Subject to the Existing Restrictions, Tenant may use the Leased Space for any lawful retail purpose without Landlord's consent, and for any lawful purpose (other than retail) with Landlord's consent, which will not be unreasonably withheld or delayed

21 6 1 **Fuel Facility** Tenant may construct and operate an automobile fuel facility in the location shown on the Site Plan as "Fuel Center" in accordance with the following

21 6 1 1 **Construction of Fuel Facility** Tenant shall have the right to construct a fuel facility at any time during the first two (2) Lease Years. If Tenant desires to construct a fuel facility as provided herein, Tenant shall so notify Landlord in writing within the first two (2) Lease Years and thereafter promptly commence and diligently pursue construction of the fuel facility to completion. Following receipt of such notice, Landlord promptly shall deliver possession of the Fuel Center pad (the "Fuel Facility Property") to Tenant, free and clear of any claims by any third parties, other than any interest held by any lender of Landlord. So long as Tenant operates a fuel facility thereon, the Fuel Facility Property shall thereafter be deemed a part of the Leased Space for the balance of the Initial Term and any Extended Terms. The fuel facility will be constructed by Tenant in a good and workmanlike manner at Tenant's sole cost without reimbursement by Landlord. Nothing contained herein shall be deemed to be a representation or warranty on the part of Landlord that applicable law allows the construction or operation of a Fuel Center by Tenant or that Tenant may operate the Fuel Center without the consent of any third party.

21 6 1 2 **Rent** Commencing upon Tenant's opening of the fuel facility for business to the public, Tenant shall pay Landlord an annual ground rental for the Fuel Facility Property in the amount of Twenty-Five Thousand Dollars (\$25,000) per Lease Year, payable in equal monthly installments together with the monthly payments of annual Minimum Rental hereunder. For purposes of paying Common Area Maintenance Costs and Insurance, Tenant's Proportionate Share shall not be adjusted based on the leasing or construction of the fuel facility. Tenant's Proportionate Share shall be adjusted based on the square footage of the fuel facility for purposes of the payment of Taxes.

21 6 1 3 **Environmental** Tenant agrees that Tenant's construction and operation of the fuel facility will at all times be conducted in accordance with regulations of the applicable state authority and all other applicable governmental and regulatory requirements. Tenant will carry pollution liability insurance with limits of not less than Three Million Dollars (\$3,000,000) per occurrence with respect to any environmental contamination.

21 6 1 4 **Maintenance and Removal of Fuel Facility** Landlord will have no repair, maintenance, replacement or insurance obligations whatsoever with respect to the fuel facility, which shall be properly maintained and insured by Tenant. At Landlord's option, Tenant will, not later than forty-five (45) days following the expiration or termination of the Lease or the Closing (as defined below) of the fuel facility by Tenant (which Closing shall be evidenced by written notice thereof given by Tenant to Landlord), remove the fuel facility in its entirety, including underground storage tanks, remediate any pollution or contamination in accordance with the applicable requirements of all applicable regulatory authorities, and complete and/or restore the area affected by the fuel facility to its previous condition. In addition, at any time during the term of the Lease, Tenant may remove the fuel facility in its entirety in accordance with the foregoing. Following the removal of the fuel facility, Tenant, at its cost and expense, shall furnish Landlord with evidence reasonably acceptable to Landlord establishing that Tenant has complied with the foregoing obligations.

21 6 1 5 **Cessation of Operations** If, after commencing the operation of the fuel facility, Tenant ceases operating such fuel facility for a period of at least three hundred sixty (360) consecutive days (a "Closing"), all rights to the Fuel Facility Property shall revert to Landlord and the Fuel Facility Property shall thereafter be deemed part of the parking areas on the Common Areas. All rental and other obligations of Tenant under Subparagraph 21 6 1 shall cease at such time as the rights to the Fuel Facility Property revert to Landlord and Tenant has fulfilled all of its obligations under Subparagraph 21 6 1 4.

21 7 **Choice of Law** This Lease shall be governed by and construed in accordance with the laws of the State of Arizona.

21 8 **Remedies Cumulative** No remedy conferred under this Lease shall be exclusive of any other remedy, and each remedy shall be cumulative and in addition to every other remedy provided or now or hereafter existing at law, in equity, herein or otherwise.

The election of any one or more remedies by a party hereto shall not be deemed, and shall not constitute a waiver of that party's right to pursue any other available remedy or remedies

21 9 **Multiple Originals** This Shopping Center Lease is executed simultaneously in multiple originals, each of which shall be deemed an original, without the production of the other such originals

21 10 **Mechanic's or Materialmen's Liens** If any mechanic's or materialmen's lien is filed against the Shopping Center or Leased Space by reason of any work, labor, services or materials performed at or furnished on the Shopping Center or Leased Space at the request of Landlord, Landlord shall cause the same to be discharged of record by payment, bond, order of a court of competent jurisdiction, or otherwise, but Landlord shall have the right to contest any and all such liens. If any mechanic's or materialmen's lien is filed against the Shopping Center or Leased Space by reason of any work, labor, services or materials performed at or furnished on the Leased Space at the request of Tenant, Tenant shall cause the same to be discharged of record by payment, bond, order of a court of competent jurisdiction, or otherwise, but Tenant shall have the right to contest any and all such liens

21 11 **Entry by Landlord** Landlord shall have the right to enter the Leased Space at any reasonable time after reasonable notice for the purpose of inspecting the same or for the purpose of performing any act that may be required of Landlord hereunder. In addition, during the last six (6) months of the term of this Lease, Landlord may enter the Leased Space at all reasonable times after reasonable notice for the purpose of showing the same to a prospective tenant. No entry by Landlord shall materially interfere with the operation of Tenant's business in the Leased Space

21 12 **Relationship of Parties** Nothing contained herein shall be deemed or construed to create a joint venture or partnership relationship between Landlord and Tenant

21 13 **Submission of Lease** The submission of this Lease for examination does not constitute a reservation of, or option for, the Leased Space, and this Lease shall become effective only upon execution, delivery and receipt thereof by Landlord and Tenant

21 14 **Trash Removal** If Tenant intends to utilize the common trash containers, it will so notify Landlord at least forty-five (45) days prior to the Commencement Date. In addition, if Tenant so determines to utilize or cease to utilize such containers during the term of this Lease, it shall give Landlord thirty (30) days advance notice thereof. Landlord shall ensure that all such trash is secured in appropriate containers behind the Shopping Center. The cost of trash removal shall be included in Common Area Maintenance Costs under this Lease only if Tenant utilizes the common trash containers

21 15 **Additional Costs** In the event that a request is made by or on behalf of either party hereto that the other review and execute any documents (such as estoppel certificates or subordination agreements, but excluding the Construction Documents), whether such documents are for the benefit of the party making such request, or are for the benefit of a third party, the party making such request shall pay to the other all reasonable third-party fees and other costs and expenses incurred by the reviewing party in connection therewith

21 16 **Interpretation** This Lease shall be interpreted in a fair and impartial manner without regard to such factors as the party that drafted this Lease or the relative bargaining power of the parties

21 17 **Merchants Association** Tenant shall not be required to join any merchants association

21 18 **Brokers** Landlord shall not be required to pay any real estate brokers acting on Tenant's behalf any commissions or similar fees in connection with this transaction

21 19 **Termination of Existing Lease** Simultaneously with the execution of this Lease, Landlord shall execute, and Tenant shall cause ABCO Realty Corp ("ABCO") to execute, the Lease Termination Agreement attached hereto as **Exhibit "K"** terminating the existing lease between Landlord and Tenant Tenant acknowledges that it will cause ABCO to continue to pay rent under such existing lease until the Commencement Date

21 20 **Waiver of Liability** Except for fraud and misapplication of proceeds, anything in this Lease to the contrary notwithstanding, Tenant agrees that it shall look solely to the estate and property of Landlord in the land and building comprising the Shopping Center and Landlord's interest in this Lease for the collection of any judgment or other amounts in the event of any default or breach by Landlord hereunder In the event that Landlord transfers the Real Property in a bonafide transaction, upon such transfer, Landlord will be released from all future liabilities and obligations hereunder

21 21 **Estoppel Certificate** Within twenty (20) days after request therefor by Landlord, Tenant shall provide a statement to Landlord or any proposed mortgagee or purchaser certifying as to the existence and term of the Lease, the amount of rent payable hereunder and whether such amount has been paid and the existence of any known defaults on behalf of either party and such other information as Landlord may reasonably request

IN WITNESS WHEREOF, Landlord and Tenant have executed and delivered this Lease on the date first above written

LANDLORD:

SANTA FE SQUARE INCOME
INVESTORS LIMITED PARTNERSHIP,
an Arizona Limited Partnership

By SANTA FE SQUARE GP, L L C ,
an Arizona Limited Liability
Company, its general partner

By Scott H Cole, its President

TENANT:

FLEMING COMPANIES, INC.,
an Oklahoma Corporation

By _____

Title _____

STATE OF _____)
COUNTY OF _____) ss

Personally came before me this 20th day of March, 2001, the above-named Scott Cole, President of Santa Fe Square known to me to be the person who executed the foregoing instrument and acknowledged the same in his capacity on behalf of the partnership

Notary Public, State of Arizona

My commission _____

(Notary Seal)



STATE OF TEXAS)
) ss
COUNTY OF DALLAS)

Personally came before me this 5th day of April, 2001, the above-named SVP
Real Estate & Store Dev of Fleming Companies, Inc, known to me to be the person who
executed the foregoing instrument and acknowledged the same in his capacity on behalf of the
Corporation

Sarah A. Jovar
Notary Public, State of TEXAS

My commission 12-20-01

(Notary Seal)

9/12/03

12:04 pm

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Occupant Ledger

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Unit Reference Number : 870-6101 Occupant Type : Current
 Property Name : Cole Santa Fe Holdings, LLC ID: 10503000637

 Company Name Fleming / Food 4 Less Phone Number : (480) 633-5569
 Address 1 1045 S Gilbert Rd Unit Number : 6101
 Address 2
 City, State Zip : Mesa, AZ 85204
 D/B/A Name

Open Items 132,845 09
 Open Credits - 0.00

Current Balance = 132,845 09

Contact	Joe Betancourt	Percentage Lease	Yes
Security Deposit	0 00	Percentage	0.75
Other Deposit	0.00	Base Sales Amount	0.00
Square Feet (GLA)	49953	Billing Month	0
Usable Sq. Ft.	0	Annual Sales	0 00
Gross Sq Ft	0		
Prorata Sq. Ft.	0		

Parking Information : n/a
 Number of Reserved Parking Spaces : 0
 Storage Space : y

Effective Date	4/17/02	-----[Bill To]-----
Expiration Date	4/16/22	Fleming / Food 4 Less AZ-032B
Move-In Date	4/17/02	The Stauback Co.- A. Cooper
Move-Out Date		1945 LakePoint Dr.
Option Date	3/31/22	Lewisville, TX 75057

Lease Term	6 @ 5 yr terms	----- Commission Info -----
Lease Type		Standard y
Base Year	0	Amount 0.00
Base Year Rent	0.00	Agent

----- Concession Information -----		
	Term	Amount
Free Rent : n	0	0.00
Lease Buyout : n	0	0.00
Moving Expenses : n		0.00
Other : n		0.00
--- Tenant Improvement Allowances ---		
Standard Allowance Per S.F :	0.00	
Excess Allowance Per S.F.	0.00	
Comments: Rental increase effective 17th of all step up months. All charges calculated thru lease. OPTION STEP UPS NOT DONE.		

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Occupant Ledger

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Unit Reference Number : 870-6101

Occupant Type : Current

Charge Schedule

Charge Code	Charge Description	Charge Frequency	Start Date	Stop Date	Charge Amount
RNT	Monthly Rent	M	5/01/02	3/31/07	43,333.33
RNT	Monthly Rent	O	4/01/07	4/30/07	43,819.44
RNT	Monthly Rent	M	5/01/07	3/31/12	44,375.00
RNT	Monthly Rent	O	4/01/12	4/30/12	44,861.12
RNT	Monthly Rent	M	5/01/12	3/31/17	45,416.67
RNT	Monthly Rent	O	4/01/17	4/30/17	45,902.78
RNT	Monthly Rent	M	5/01/17	3/31/22	46,458.34
RNT	Monthly Rent - Pro-rated	O	4/01/22	4/16/22	24,777.76
ESC	Escalation/CAM Monthly	M	6/01/02		5,370.00

This tenant has no lease options.

Chronological History

Date	Code	Description	Amount	Balance
7/01/02	ESC	Escalation/CAM Monthly	5,370.00	5,370.00
7/01/02	RNT	Monthly Rent	43,333.33	48,703.33
7/01/02	STX	Sales Tax	974.07	49,677.40
7/09/02	ESC	Pymt. Batch 012 Check 258645	(48,703.33)	974.07
7/26/02	ESC	Pymt. Batch 020 Check 5263997	(974.06)	0.01
8/01/02	ESC	Escalation/CAM Monthly	5,370.00	5,370.01
8/01/02	RNT	Monthly Rent	43,333.33	48,703.34
8/01/02	STX	Sales Tax	974.07	49,677.41
8/02/02	ESC	Pymt. Batch 024 Check 5265803	(49,677.39)	0.02
9/01/02	ESC	Escalation/CAM Monthly	5,370.00	5,370.02
9/01/02	RNT	Monthly Rent	43,333.33	48,703.35
9/01/02	STX	Sales Tax	974.07	49,677.42
9/03/02	ESC	Pymt. Batch 115 Check 0527179	(49,677.39)	0.03
9/03/02	STX	Pymt. Batch 115 Check CASH	(0.03)	0.00
10/01/02	ESC	Escalation/CAM Monthly	5,370.00	5,370.00
10/01/02	RNT	Monthly Rent	43,333.33	48,703.33
10/01/02	STX	Sales Tax	974.07	49,677.40
10/04/02	ESC	Pymt. Batch 242 Check 5276881	(49,677.39)	0.01
11/01/02	ESC	Escalation/CAM Monthly	5,370.00	5,370.01
11/01/02	RNT	Monthly Rent	43,333.33	48,703.34
11/01/02	STX	Sales Tax	974.07	49,677.41
11/11/02	ESC	Pymt. Batch 357 Check 0528383	(49,677.39)	0.02
12/01/02	ESC	Escalation/CAM Monthly	5,370.00	5,370.02
12/01/02	RNT	Monthly Rent	43,333.33	48,703.35
12/01/02	STX	Sales Tax	974.07	49,677.42

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Occupant Ledger

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Chronological History

Date	Code	Description	Amount	Balance
12/02/02	ESC	Pymt Batch 434 Check 88618	(49,677.39)	0.03
12/30/02	ESC	Pymt. Batch 517 Check 0529516	(5,369.99)	(5,369.96)
12/30/02	ESC	Rem. Batch 517 Check 0529516	5,369.99	0.03
12/30/02	RNT	Pymt. Batch 517 Check 0529516	(43,333.33)	(43,333.30)
12/30/02	RNT	Rem. Batch 517 Check 0529516	43,333.33	0.03
12/30/02	STX	Pymt. Batch 517 Check 0529516	(974.07)	(974.04)
12/30/02	STX	Rem Batch 517 Check 0529516	974.07	0.03
1/01/03	ESC	Escalation/CAM Monthly	5,370.00	5,370.03
1/01/03	RNT	Monthly Rent	43,333.33	48,703.36
1/01/03	STX	Sales Tax	974.07	49,677.43
1/02/03	ESC	Pymt. Batch 533 Check 0529516	(49,677.39)	0.04
2/01/03	ESC	Escalation/CAM Monthly	5,370.00	5,370.04
2/01/03	RNT	Monthly Rent	43,333.33	48,703.37
2/01/03	STX	Sales Tax	974.07	49,677.44
2/03/03	ESC	Pymt. Batch 589 Check 5304729	(49,677.39)	0.05
2/10/03	STX	Sales Tax - Insurance	110.32	110.37
2/10/03	STX	Sales Tax - CAM	(39.01)	71.36
2/10/03	STX	Sales Tax - Property Tax	756.47	827.83
2/10/03	CAM	Common Area Maintenance-Annua	(1,950.29)	(1,122.46)
2/10/03	PTR	Property Tax Reimbursements	37,823.66	36,701.20
2/10/03	INS	Insurance Reimbursements	5,516.02	42,217.22
2/24/03	PTR	Reverse Application of Open C	1,950.29	44,167.51
2/24/03	STX	Reverse Application of Open C	39.01	44,206.52
3/01/03	ESC	Escalation/CAM Monthly	5,370.00	49,576.52
3/01/03	RNT	Monthly Rent	43,333.33	92,909.85
3/01/03	STX	Sales Tax	759.25	93,669.10
3/01/03	CAM	Common Area Maint. Annual 200	(10,740.95)	82,928.15
3/03/03	ESC	Pymt Batch 685 Check 5505313	(49,677.39)	33,250.76
4/01/03	ESC	Escalation/CAM Monthly	5,370.00	38,620.76
4/01/03	RNT	Monthly Rent	43,333.33	81,954.09
4/01/03	STX	Sales Tax	974.07	82,928.16
4/11/03	ESC	Pymt. Batch 798 Check 0500069	(49,677.39)	33,250.77
5/01/03	ESC	Escalation/CAM Monthly	5,370.00	38,620.77
5/01/03	RNT	Monthly Rent	43,333.33	81,954.10
5/01/03	STX	Sales Tax	1,370.65	83,324.75
5/01/03	PTR	Prop. Tax Reimb - 1st half 02	19,829.19	103,153.94
5/05/03	ESC	Pymt. Batch 824 Check 9145	(49,677.39)	53,476.55
5/12/03	STX	Sales Tax- PTR Crdt	(756.48)	52,720.07
5/12/03	PTR	Prop Tax Reimb-Billed Wrong	(37,823.66)	14,896.41
6/01/03	ESC	Escalation/CAM Monthly	5,370.00	20,266.41
6/01/03	RNT	Monthly Rent	43,333.33	63,599.74
6/01/03	STX	Sales Tax	974.07	64,573.81
6/04/03	ESC	Pymt. Batch 862 Check 0501596	(49,677.39)	14,896.42

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Occupant Ledger

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Chronological History

Date	Code	Description	Amount	Balance
7/01/03	ESC	Escalation/CAM Monthly	5,370.00	20,266.42
7/01/03	RNT	Monthly Rent	43,333.33	63,599.75
7/01/03	STX	Sales Tax	974.07	64,573.82
7/03/03	ESC	Pymt. Batch 913 Check 21202	(49,677.39)	14,896.43
8/01/03	ESC	Escalation/CAM Monthly	5,370.00	20,266.43
8/01/03	INS	Insurance Reimb 2003	5,898.04	26,164.47
8/01/03	RNT	Monthly Rent	43,333.33	69,497.80
8/01/03	STX	Sales Tax	2,286.47	71,784.27
8/01/03	PTR	Property Tax Reimb 2ND HALF	27,397.57	99,181.84
8/01/03	PTR	Property Tax Reimb 2003	32,324.60	131,506.44
9/01/03	ESC	Escalation/CAM Monthly	5,370.00	136,876.44
9/01/03	RNT	Monthly Rent	43,333.33	180,209.77
9/01/03	STX	Sales Tax	1,000.31	181,210.08
9/01/03	INS	Insurance Reimb 2003 - Addtl	117.96	181,328.04
9/01/03	PTR	Property Tax Reimb -2002 Addt	547.95	181,875.99
9/01/03	PTR	Property Tax Reimb -2003 Addt	646.49	182,522.48
9/08/03	ESC	Pymt. Batch 013 Check 0502934	(49,677.39)	132,845.09