


UNITED STATES BANKRUPTCY COURT Southern District of New York		PROOF OF CLAIM
Name of Debtor: Jennifer Convertibles, Inc.		Case Number: 10-13779
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Penn Jensen Beach Property, LLC		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
Name and address where notices should be sent: Penn Jensen Beach Property, LLC 5825 Sunset Drive, Suite 210 South Miami, FL 33143 Telephone number: (305) 662-9504		
Name and address where payment should be sent (if different from above): Telephone number:		<input type="checkbox"/> Check this 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 this box if you are the debtor or trustee in this case.
1. Amount of Claim as of Date Case Filed: \$ <u>60,884.10</u> If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		
2. Basis for Claim: <u>Rent</u> (See instruction #2 on reverse side.)		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4). <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5). <input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8). <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(____). Amount entitled to priority: \$ _____ <small>*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>
3. Last four digits of any number by which creditor identifies debtor: <u>2810</u> 3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate _____ % Amount of arrearage and other charges as of time case filed included in secured claim, If any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim. 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		
Date: <u>8/19/10</u> Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. Nelson Taracido, Member/Manager of Penn Jensen Beach Property, LLC		FOR COURT USE ONLY Jennifer Convertibles  00033

Statement

Penn Jensen Beach Property, LLC
 5825 Sunset Drive, Suite 210
 South Miami, FL 33143
 Telephone: 305-662-9504
 Toll Free: 888-276-7507

Date
8/17/2010

To:
Jennifer Convertibles, Inc. Attn: Rcnt Inquiries 417 Crossways Park Drive Woodbury, New York 11797

					Amount Due	Amount Enc.
					\$60,884.10	
Date	Transaction				Amount	Balance
12/31/2008	Balance forward					0.00
01/01/2009	INV #277. Due 01/01/2009.				9,003.18	9,003.18
02/01/2009	INV #287. Due 02/01/2009.				9,003.18	18,006.36
03/01/2009	INV #295. Due 03/01/2009.				9,003.18	27,009.54
03/09/2009	PMT #61280. Jan				-8,561.79	18,447.75
03/09/2009	PMT #62026. Feb				-8,561.79	9,885.96
04/01/2009	INV #303. Due 04/01/2009.				9,003.18	18,889.14
04/06/2009	PMT #063663. March				-8,561.79	10,327.35
05/01/2009	INV #311. Due 05/01/2009.				9,003.18	19,330.53
05/28/2009	INV #322. Due 05/28/2009. 2008 Annual Billing - CAM and RE Taxes				6,491.35	25,821.88
05/28/2009	CREDMEM #323. 2008 Annual Billing - Insurance (Credit) -- Applied to Annual CAM/RE Tax Billing				-1,194.62	24,627.26
06/01/2009	INV #332. Due 06/01/2009.				9,003.18	33,630.44
06/04/2009	PMT #65062. April - partial (pd prior amt)				-8,561.79	25,068.65
07/01/2009	INV #340. Due 07/01/2009.				9,003.18	34,071.83
07/01/2009	PMT #65776. May - partial (pd prior amt)				-8,561.79	25,510.04
08/01/2009	INV #354. Due 08/01/2009.				9,003.18	34,513.22
08/06/2009	PMT #66621. June- partial (pd prior amt)				-8,561.79	25,951.43
09/01/2009	INV #360. Due 09/01/2009.				9,269.43	35,220.86
09/04/2009	PMT #66728. July; Annual billing				-14,299.91	20,920.95
09/15/2009	PMT #67813. August				-9,003.18	11,917.77
10/01/2009	INV #370. Due 10/01/2009.				9,269.43	21,187.20
10/02/2009	PMT #68327. Sept - partial				-9,253.18	11,934.02
11/01/2009	INV #378. Due 11/01/2009.				9,269.43	21,203.45
11/04/2009	PMT #69011. Oct - partial				-9,253.18	11,950.27
12/01/2009	INV #385. Due 12/01/2009.				9,269.43	21,219.70
01/01/2010	INV #391. Due 01/01/2010.				9,263.61	30,483.31
02/01/2010	INV #397. Due 02/01/2010.				9,263.61	39,746.92
02/13/2010	PMT #71466. Nov - partial				-9,253.18	30,493.74
03/01/2010	INV #406. Due 03/01/2010.				9,263.61	39,757.35
03/03/2010	PMT #72102. Dec; Jan - partial				-18,506.36	21,250.99
04/01/2010	INV #417. Due 04/01/2010.				9,263.61	30,514.60
05/01/2010	INV #425. Due 05/01/2010.				9,263.61	39,778.21
05/18/2010	INV #432. Due 06/17/2010. 2009 Annual Billing				2,578.67	42,356.88
06/01/2010	INV #441. Due 06/01/2010.				9,263.61	51,620.49
07/01/2010	INV #449. Due 07/01/2010.				9,263.61	60,884.10
CURRENT		1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due
0.00		0.00	9,263.61	11,842.28	39,778.21	\$60,884.10



400 Arthur Godfrey Road • Miami Beach, Florida 33140 • Ph: 305.673.3707 • Fax: 305-673.6711

August 14, 2002

VIA OVERNIGHT MAIL
VIA FACSIMILE 972-392-2108

Jennifer Convertibles, Inc.
419 Crossways Park Drive
Woodbury, NY 11797

ATTN: Edward Seidner

RE: Agreement of Lease
Tenant: Jennifer Convertibles
Landlord: JLS Jensen Beach II, LP
Premises: 2810 NW Federal Highway, Stuart, FL 34994
Our File No: 9907.51 Mattress Giant

Dear Mr. Seidner:

Pursuant to Section 4.01 of the Agreement of Lease dated May 13, 2002, your Rent Commencement Date is August 14, 2002. The monthly Base Rent and additional rent charges beginning September 1, 2002 are as follows:

Minimum Rent	\$ 5,250.00
Common Area Maintenance	500.00
Real Estate Taxes	587.50
Insurance	125.00
Sales Tax (7%)	452.37
Total	\$ 6,914.87

Please note, the amounts noted for insurance, real estate taxes and common area maintenance are estimates and may change to reflect actual amounts incurred during the first year. Please forward a check in the amount of \$972.50 representing the additional rent due for the 17-day period of August 14, 2002 through August 31, 2002. Please make checks payable to the following:

JLS Jensen Beach II, LP
400 Arthur Godfrey Road, Suite 200
Miami Beach, Florida 33140
ATTN: Jeff Graff, CFO

The address for all other notices, correspondence etc. is as follows:

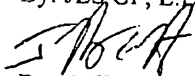
JLS Jensen Beach II, LP
400 Arthur Godfrey Road, Suite 200
Miami Beach, Florida 33140

If you have any questions, please do not hesitate to call.

Sincerely,

JLS JENSEN BEACH II, LP

By: JLS GP, L.L.C., Its sole General Partner

A handwritten signature in dark ink, appearing to read "JG", is written over the typed name "Jeffrey Graff".

By: Jeffrey Graff, agent for owner

9907.51\Tenant\Jennifer Convertibles

9907.51 Jennif Convertibles

Number 1 of 08
4 executed

AGREEMENT OF LEASE

THIS AGREEMENT OF LEASE (this "Lease") made and entered into as of the Lease Date by and between Landlord and Tenant.

SECTION 1 Basic Lease Provisions

1.01 The following basic lease provisions are an integral part of this Lease and are referred to in other Sections of this Lease.

- (a) Lease Date: May 13, 2002.
- (b) Landlord: J.L.S. Jensen Beach II, L.P., a Delaware limited partnership.
- (c) Tenant: Jennifer Convertibles, Inc., a Delaware corporation.
- (d) Tenant's Address: 419 Crossways Park Drive
Woodbury, NY 11797
- (e) Demised Premises: That portion of the building in the Center which is outlined in red on the Plot Plan attached hereto as Exhibit "A." The Demised Premises contains approximately Three Thousand (3,000) square feet of floor area (which floor area is determined by measuring from the exterior face of exterior walls and from the center of interior or party walls). The dimensions of the Demised Premises are approximate. The Demised Premises is located within the Center; and the Center is located at 2810 NW Federal Highway, Stuart (Jensen Beach), Martin County, Florida 34994.
- (f) Initial Term: The period beginning on the Commencement of the Term and continuing for ten (10) years following the Rent Commencement Date (plus the partial month, if the Rent Commencement Date is other than the first (1st) day of a month).
- (g) Monthly Rental: Tenant shall pay Landlord each calendar month during the Term the minimum monthly rent ("Minimum Monthly Rental") as set forth below:

Period	Minimum Monthly
From the Rent Commencement Date through the end of the twelfth (12 th) full calendar month.	8/14 - 8/31
From the beginning of the thirteenth (13 th) full calendar month after the Rent Commencement Date through the end of the twenty-fourth (24 th) full calendar month.	8/14 - 8/31 \$5,250.00 8/14 - 7/31/03
From the beginning of the twenty-fifth (25 th) full calendar month after the Rent Commencement Date through the end of the thirty-sixth (36 th) full calendar month.	8/14 - 8/31 \$5,500.00 8/14 - 7/31/04
From the beginning of the thirty-seventh (37 th) full calendar month after the Rent Commencement Date through the end of the forty-eighth (48 th) full calendar month.	8/14 - 8/31 \$5,750.00 8/14 - 7/31/05
From the beginning of the forty-ninth (49 th) full calendar month after the Rent Commencement Date through the end of the eighty-fourth (84 th) full calendar month.	8/14 - 8/31 \$6,000.00 8/14 - 7/31/06
From the beginning of the eighty-fifth (85 th) full calendar month after the Rent Commencement Date through the end of the one hundred-twentieth (120 th) full calendar month.	8/14 - 8/31 \$6,250.00 8/14 - 7/31/07
From the beginning of the one hundred twenty-first (121 st) full calendar month after the Rent Commencement Date through the end of the one hundred-eightieth (180 th) full calendar month.	8/14 - 8/31 \$6,500.00 8/14 - 7/31/08
From the beginning of the one hundred eighty-first (181 st) full calendar month after the Rent	8/14 - 8/31 \$7,150.00 8/14 - 7/31/09

OPT 1

↓
 OPT #2

Commencement Date through the end of the two hundred-fortieth (240th) full calendar month.
\$7,865.00

- (h) Guarantor/Security Deposit: N/A.
- (i) Trade Name: Jennifer Convertibles.
- (j) Broker: Merin, Hunter, Codman, Inc. (Bruce H. Corn).
- (k) Authorized Use: Tenant shall use the Demised Premises for the retail sale of convertible sofas, sofas, furniture, home furnishings and related and ancillary items in connection therewith (the "Authorized Use"). From the date hereof through the end of the Term, Landlord agrees not to grant any new tenant the right to use its demised space for the sale of convertible sofas. Tenant acknowledges that Mattress Giant whose primary business is a retail mattress store focusing on the retail sale of mattresses, beds, box springs, brass headboards and related bedding items currently operates and leases space within the Center and expressly agrees that Mattress Giant's operations and use of its demised space does not conflict with the Authorized Use. Tenant acknowledges that Landlord has agreed not to enter into any lease for any space at the Center which permits the use of the premises demised therein for the retail sale of mattresses and box springs ("Mattress Giant's Exclusive Use") and Tenant further acknowledges and agrees not to, and that its operations will not, violate Mattress Giant's Exclusive Use. Notwithstanding the foregoing, Landlord acknowledges Tenant's desire to use up to five percent (5%) of the Demised Premises for, and to receive not more than ten percent (10%) of its total revenue from sales at the Demised Premises from, the sale of mattresses and box springs (the "Desired Use"). If Landlord has not provided Tenant written consent to conduct the Desired Use at the Demised Premises within six (6) months of Tenant's opening for business at the Demised Premises, then the Monthly Minimum Rental shall be reduced by \$500.00 per month until such consent is granted.

SECTION 2 Defined Terms

"Calendar Year" shall mean each calendar year wholly or partially within the Term.

"Center" shall mean the entire parcel of land which is outlined in blue on Exhibit "A" hereto.

"Commencement of the Term" shall mean the date Landlord notifies Tenant that the Premises are ready for the commencement of Tenant's Work.

"Common Area Maintenance Expenses" shall include all costs, expenses and expenditures (including capital expenses (as defined in the federal internal revenue code of 1986 in effect as of the date hereof and all regulations promulgated therewith) provided that such expenses shall be amortized over the useful life of the capital improvement) of operating and maintaining the Common Areas and the Center in a manner deemed reasonable and appropriate by Landlord, including, but not limited to: all costs and

expenditures incurred in repairing, lighting, cleaning, painting, striping, surfacing and resurfacing, policing and providing security services; the costs and expenditures of insurance; the costs and expenditures of removal of snow, ice, rubbish, and debris; the costs and expenditures of regulating traffic; the costs and expenditures of the replacement of paving, curbs, walkways, landscaping, drainage and lighting facilities; the costs and expenditures for legal and accounting services, and for other professional and consulting services; the costs and expenditures for Utilities; the costs and expenditures of planting, replanting, and replacing flowers and shrubbery; the costs and expenditures, including counsel and appraisal fees, incurred in connection with any appeals of any Taxes; management fees paid by Landlord; costs associated with any restrictive covenant; and an administrative fee to Landlord relative to the operation of the Common Areas equal to fifteen percent (15%) of the foregoing costs except that such administrative fee shall not apply to any costs or expenses incurred by Landlord in connection with any insurance on the Center. Notwithstanding the foregoing, the Common Area Maintenance Expenses shall not include (i) expenses for repairs or other work occasioned by fire, windstorm or other insured casualty provided such insurance award is actually received by Landlord; (ii) expenses incurred in leasing or procuring new tenants (i.e. lease commissions, tenant inducements, advertising expenses and expenses of renovating space for new tenants); (iii) legal expenses in enforcing the terms of any lease; (iv) interest or amortization payments on any mortgage(s) (except for such expenses in connection with a mortgage to finance a capital improvement); (v) expenses in connection with maintaining and operating any garage operated by Landlord incident to the operation of the Center; and (vi) direct settlement payments by Landlord in personal injury or property claims to the extent such claims are covered by insurance and Landlord actually receives an award reimbursing Landlord for any such payment.

"Cost of Insurance on the Center" shall be the sum of all reasonable commercially available premiums payable under all policies of insurance carried by Landlord in connection with the Center or which cover any one or more of the buildings or other improvements in the Center and the costs incurred by Landlord to repair any damage by fire or other casualty to the Center, to the extent that such cost was not covered by Landlord's insurance policies by reason of deductible amounts set forth therein. In the event that Landlord shall, at any time during the Term, insure the Center or any part thereof or any buildings or improvements therein under a "package policy" or a policy of "blanket coverage" insuring other property not in the Center in addition thereto, the amount of the premiums payable under such policy which are attributable to the Center and the buildings and improvements therein shall be reasonably determined by Landlord on an equitable basis and such amount shall be included in the Cost of Insurance on the Center for the purposes hereof.

"Common Areas" shall mean all of the automobile parking areas, driveways, and footways, landscaped areas, loading facilities and other areas and facilities in the Center which are designated as Common Areas from time to time by Landlord.

"Delivery Date" shall mean the date on which Landlord delivers the Demised Premises to Tenant in the condition called for under this Lease; provided, however, that such date shall not be later than the date on which the last party hereto executes this Lease.

"Effective Rate" shall mean the rate per annum which is the lesser of: (a) two hundred (200) basis points in excess of the prime rate of interest announced from time to time by Citibank, N. A. or (b) the maximum rate permitted by law.

"Environmental Statutes" shall mean all Laws concerning the protection of public safety or the environment, including, but not limited to, those relating to the generation, use, handling, treatment, storage, transportation, release, emission, disposal, remediation or presence of any material including Solid Waste, Hazardous Waste, Hazardous Substances or Hazardous Materials.

"Governmental Authorities" shall mean all federal, state, and municipal governmental entities and all departments, commissions, boards and officers thereof.

"Hazardous Substances," "Solid Waste," "Hazardous Waste" and "Hazardous Materials" will have the meanings defined in any Environmental Statute, and shall in this Lease collectively be called "Hazardous Substances."

"Landlord's Address for Notices" shall mean the following address, or such other address as Landlord shall designate from time to time by notice to Tenant:

c/o WSG Development Co.
400 Arthur Godfrey Road
Suite 200
Miami Beach, FL 33140

Attention: Real Estate Manager

with a copy to:

Reed Smith LLP
2500 One Liberty Place
1650 Market Street
Philadelphia, PA 19103
Attention: Sean E. Mitchell, Esquire

"Landlord's Address for Payment" shall mean the following address, or such other address as Landlord shall designate from time to time by notice to Tenant:

c/o WSG Development Co.
400 Arthur Godfrey Road
Suite 200
Miami Beach, FL 33140
Attention: Chief Financial Officer

"Landlord's Work" N/A.

"Laws" shall mean all federal, state, and municipal statutes, ordinances, regulations, orders, directives and other requirements of law or common law and of all departments, commissions, boards and officers of Governmental Authorities including, but not limited to, the Americans with Disabilities Act of 1990 (as amended from time to time).

"Lease" shall mean this Agreement of Lease.

"Minimum Hours" shall mean the same hours and days that uses similar to the Authorized Use are conducted in the area of the Center, but in any event, no less than the Special Minimum Hours.

"Mortgage" shall mean any mortgage, deed of trust, security deed or similar security instrument encumbering the Demised Premises.

"Overlease" shall mean any lease pursuant to which Landlord is or becomes a lessee of the Demised Premises; and "Overlessor" shall mean the lessor under any Overlease.

"Recorded Agreements" shall mean all agreements, covenants, easements, restrictions or other matters now of record or hereafter placed of record.

"Rent" shall mean all Minimum Monthly Rental, additional rent and other sums payable by Tenant under this Lease.

"Rent Commencement Date" shall mean that date which is ninety (90) days after the Delivery Date.

"Special Minimum Hours" shall mean eight (8) hours a day, six (6) days per week.

"Taxes" shall mean:

(a) All levies, taxes (including payments required to be made in lieu of taxes including sales tax on rental payments), assessments, charges, liens, licenses and permit fees, and charges for public utilities, imposed, assessed or charged on or with respect to Landlord or the Demised Premises or the Center by any Governmental Authority or under any Law or Recorded Agreement; and

(b) All other charges, imposts or burdens of whatsoever kind and nature, whether or not particularized by name and whether general or special, ordinary or extraordinary, foreseen or unforeseen, which at any time during the Term may be created, levied, assessed, imposed or charged upon or with respect to the Demised Premises, the Center, or any improvements made thereto, or on any part of the foregoing or any appurtenances thereto, or directly upon this Lease or the Rent, or amounts payable by any subtenant or other occupants of the Demised Premises or the Center, or upon or with respect to the leasing, operation, use or occupancy of the Demised Premises or the Center, or upon this transaction or any documents to which Tenant is a party or successor in interest, or against Landlord because of Landlord's estate or interest herein, by any Governmental Authority, or under any Law, including, among others, all special tax bills and general, special or other assessments and liens or charges made on local or general

improvements or under any governmental or public power or authority whatsoever, and transit taxes, taxes based upon the receipt of Rent including gross receipts or sales taxes applicable to the receipt of Rent, and personal property taxes imposed upon the fixtures, machinery, equipment, apparatus, furniture and other personal property used in connection with the Demised Premises and/or the Center. The term "Taxes" shall not include any net income or excess profit taxes assessed against Landlord, or any corporation capital stock and franchise taxes imposed upon Landlord or inheritance tax; provided, however, that, if at any time prior to the expiration of the Term, any net income tax, assessment, levy or charge shall be imposed upon Landlord or the Demised Premises or the Center in lieu of, in place of, or in addition to any other tax or other charge included in the definition of Taxes set forth above, and shall be measured by or based upon net income or profits derived from real estate (as distinguished from net income or profits generally), then such new tax, assessment, levy or charge shall be included in "Taxes" to the extent that such new tax, assessment, levy or charge would be payable if the Center were the only property of Landlord subject thereto and the income and profits received by Landlord from the Center were the only income and profits of Landlord.

"Tenant's Address for Notices" shall mean the following address, or such other address as Tenant shall designate from time to time by notice to Landlord:

Jennifer Convertibles, Inc.
419 Crossways Park Drive
Woodbury, New York 11797
Attention: Edward Seidner

With a copy to:

Law Offices of Wincig & Wincig
574 Fifth Avenue
New York, New York 10036
Attention: Bernard Wincig, Esq.

"Tenant's Final Plans" shall mean the plans and specifications as approved by Landlord as described in Section 6.03(a).

"Tenant's Pro Rata Share" shall mean a fraction, the numerator of which shall be the number of square feet of floor area in the Demised Premises, and the denominator of which shall be the number of square feet of leasable floor area in all buildings in the Center.

"Tenant's Pro Rata Share of Common Area Maintenance Expenses" for each Calendar Year shall be equal to the total amount of the Common Area Maintenance Expenses for such Calendar Year multiplied by Tenant's Pro Rata Share.

"Tenant's Pro Rata Share of Insurance" for each Calendar Year shall be equal to the total amount of the Cost of Insurance on the Center for such Calendar Year multiplied by Tenant's Pro Rata Share.

"Tenant's Pro Rata Share of Taxes" for each Calendar Year shall be equal to the total amount of Taxes for such Calendar Year multiplied by the Tenant's Pro Rata Share.

"Tenant's Work" shall mean the work to be completed by Tenant as described in Sections 6.02 and 6.03.

"Utilities" shall mean heat, sewer, water, electricity, and any other utilities provided to, or used or consumed in or on the Demised Premises.

SECTION 3 Grant; Terms

3.01 Grant.

(a) Landlord hereby leases the Demised Premises to Tenant; and Tenant hereby rents the Demised Premises from Landlord.

(b) In addition, Tenant shall have the non-exclusive right to use the Common Areas, in common with all others designated from time to time by Landlord as being entitled to such use; subject, however, to the terms and conditions of this Lease and to rules and regulations for the use thereof as

prescribed from time to time by Landlord. Landlord may at any time: withdraw or add areas to the Common Areas and/or the Center; alter the Common Areas and/or the Center; construct or remove buildings or other improvements upon or from the Common Areas and/or the Center; and grant easements within the Common Areas and/or the Center (provided that at all times adequate parking facilities are available for common use, and visibility to the Demised Premises is not obstructed in a material and substantial manner).

(c) Within five (5) days of the Delivery Date, both Landlord and Tenant agree to execute the Letter of Possession attached hereto as Exhibit "B".

3.02 Term. The Term shall mean the Initial Term (as set forth in Section 1.01(f) hereof) and any Renewal Term (as defined below). The Term shall end on the final day thereof without the requirement of notice from Landlord. During the forty-ninth (49th), seventy-third (73rd) and ninety-seventh (97th) month of the Term, Tenant may exercise its right to terminate this Lease by providing to Landlord six (6) months prior written notice of its intent to terminate the Lease. In the event Tenant exercises such termination right, this Lease shall terminate on the last day of the sixth (6th) calendar month following such notice (either the 55th, 79th or 103rd month of the Term), and all liabilities and obligations of the parties hereunder shall cease and be of no further force and effect after such date except for any liabilities or obligations which expressly survive termination or expiration of this Lease.

3.03 Term Extension Options. Provided that Tenant is not in default hereunder beyond any applicable notice and cure period at the time of exercise, and that the original Tenant hereunder has not assigned this Lease or sublet the Demised Premises, Tenant shall have and is hereby granted two (2) separate consecutive options to extend the Term upon the terms, covenants, conditions and provisions set forth herein for two (2) periods of five (5) years each (each a "Renewal Term"); provided that at the time an option to renew is exercised, the Term shall be in effect. Such options shall be exercisable by Tenant giving written notice to Landlord of its intention to exercise the same at least nine (9) months prior to the expiration of the then current Term. Upon receipt by Landlord of such notice, provided that Tenant shall then have the right to exercise such option, the Term shall be extended in accordance with the provisions hereof, without the necessity of any further act or documentation by Landlord or Tenant. In no event shall Tenant have any right or option to extend or renew the Term beyond ten (10) years from the expiration date of the Initial Term. In the event Tenant fails to exercise any such option within the time and in the manner aforesaid (regardless of whether such failure shall be a result of Tenant's not having the right to exercise such option), then this right and option shall terminate and be null and void without the necessity of any further act or documentation by Landlord or Tenant, and the Term shall terminate in accordance with the provisions set forth elsewhere herein.

3.04 Memorandum of Lease. If requested by Landlord, Tenant agrees to execute a Memorandum of Lease. Landlord shall prepare and may record the Memorandum, whereupon Landlord shall pay all costs, fees, taxes and other expenses of executing, delivering and recording the Memorandum. Tenant agrees not to record this Lease and in the event that Tenant records this Lease such recordation shall constitute an event of default under this Lease.

SECTION 4

Rent

4.01 Minimum Monthly Rental. Tenant shall pay the Monthly Rental to Landlord during the Term. Tenant shall pay to Landlord a pro rata portion of the Minimum Monthly Rental for any partial month, if any, immediately following the Rent Commencement Date. The payment for the fractional month, if any, and for the first (1st) full month of the Term, shall be due and payable on the Rent Commencement Date, and, without any right of notice, demand, deduction or set-off, the subsequent installments of Minimum Monthly Rental shall be due and payable in advance on the first (1st) day of each month thereafter, commencing with the first (1st) day of the first (1st) full month after the Rent Commencement Date.

4.02 Pro Rata Share of Common Area Maintenance Expenses, Taxes and Insurance. Commencing on the Rent Commencement Date, Tenant shall pay to Landlord throughout the Term, as additional rent, for each Calendar Year, upon presentation by Landlord to Tenant of a bill(s): (a) Tenant's Pro Rata Share of Common Area Maintenance Expenses; (b) Tenant's Pro Rata Share of Taxes; and (c) Tenant's Pro Rata Share of Insurance.

4.03 Installments. Landlord shall collect Tenant's Pro Rata Share of Common Area Maintenance Expenses, Tenant's Pro Rata Share of Taxes and/or Tenant's Pro Rata Share of Insurance (collectively, "Share") for any Calendar Year in monthly installments, in the following manner. Landlord may, at any time prior to or during a Calendar Year, submit to Tenant Landlord's reasonable estimate of

the Share for such Calendar Year. Such estimate may be revised from time to time during such Calendar Year. If Landlord shall submit to Tenant such estimate, Tenant shall pay the amount of such estimate in equal monthly installments, in advance, on or before the first (1st) day of each calendar month during such Calendar Year so that the full amount of such estimate shall have been paid upon the expiration of such Calendar Year. If Landlord shall collect monthly estimated payments on account of the Share for any Calendar Year, pursuant to this Section, then, within one hundred twenty (120) days following the expiration of such Calendar Year, Landlord shall furnish to Tenant a written statement showing the actual amount of the Share for such Calendar Year and the payments theretofore made by Tenant. If the payments made by Tenant shall exceed the Share, Tenant shall be entitled to a credit for such excess. If the Share shall exceed the payments made by Tenant, Tenant shall pay to Landlord the deficiency within ten (10) days after Landlord shall submit the aforesaid statement to Tenant.

4.04 Payment of Rentals. All Rent shall be paid by Tenant to Landlord in advance on the first (1st) day of each month at Landlord's Address for Payment, without any right of notice, demand, deduction or set-off. In case of controversy, Tenant shall have the burden of proving payment of the controverted item(s) of Rent.

4.05 Late Payments. If Tenant shall fail timely to pay to Landlord any installment of Rent within five (5) days of the date on which such sum is due (regardless of the provisions of Section 15.01(a) below), Tenant shall pay to Landlord either or both (at Landlord's option) of the following: (a) interest on such late payment from the due date thereof to the date of receipt of payment by Landlord at a rate per annum equal to the Effective Rate, plus (at Landlord's option) an amount equal to any late charge or fee which Landlord is required to pay to the holder of any Mortgage for any late payment by Landlord of any installment of interest and/or of principal and interest payable under such Mortgage; and (b) a late charge of Five Cents (\$.05) for each dollar so overdue.

4.06 Audit Rights. Landlord agrees to maintain complete records of all costs reimbursable by Tenant under the terms of this Lease. Within ninety (90) days following the expiration of any Calendar Year and upon fifteen (15) days prior written notice to Landlord, Tenant shall have the right, at its sole cost and expense, to audit such records during regular business hours at Landlord's office. Landlord's records shall be conclusive and binding upon Tenant unless, within ninety (90) days after Tenant's review of such records, Tenant notifies Landlord that it disputes the correctness of such records and/or the Common Area Maintenance Expenses, Taxes or Insurance paid by Tenant. Pending the determination of any such dispute regarding Common Area Maintenance Expenses, Taxes and Insurance or other additional rent whether by agreement or otherwise, Tenant shall continue paying the Share in equal monthly installments in accordance with Landlord's determination of such Share. If review of Landlord's books and records discloses that Tenant's pro-rata share of Common Area Maintenance Expenses, Taxes and Insurance or any other additional rent paid by Tenant for the period under review exceeded the actual amount properly allocable to Tenant, then, so long as Tenant is not in default under any of its obligations under this Lease, Landlord shall credit the excess against Tenant's next accruing installments of the Share until such excess is fully depleted. At the Expiration of the Lease Term, any excess amount still outstanding shall be promptly reimbursed by Landlord to Tenant.

SECTION 5

Compliance with Laws; Use of Premises; Occupancy

5.01 Compliance with Laws. Landlord warrants to Tenant that as of the delivery date of the Demised Premises to Tenant, all Common Areas of the Center shall be in compliance with all Laws.

5.02 Use of the Demised Premises. The Demised Premises shall be used for the Authorized Use and for no other purpose. In addition, Tenant agrees that the Demised Premises shall not be used:

(a) for any use which is in conflict with or violates any restrictive covenant, use restriction or exclusive use provision now or hereafter granted to any other tenant or occupant of the Center and/or any adjacent property owned by Landlord;

(b) for any use which is the same as or similar to a use now or hereafter being made of any other space in the Center or in any adjacent property owned by Landlord;

(c) for any public or private auction, "fire," "bankruptcy," "going out-of-business," "lost our lease" or liquidation sale, or any sale which would indicate to the public that Tenant is bankrupt, is going out-of-business or has lost its lease;

(d) in violation of any Laws or Recorded Agreements; or

(e) in a manner whereby more than ten percent (10%) of the Demised Premises is used for purposes other than conducting retail sales (such as for offices or for storage).

5.03 Hazardous Substances.

(a) **Compliance with Law.** All operations and activity at the Demised Premises shall be conducted by Tenant in compliance with all Environmental Statutes. Tenant shall maintain all permits or approvals and shall timely submit all reports and other documents required by Environmental Statutes.

(b) **Information Transfer.** Tenant shall provide to Landlord: (i) all applications and other documents submitted to any governmental agency relating to Environmental Statutes; (ii) all permits, licenses and approvals obtained under Environmental Statutes; and (iii) any correspondence, notice of violation, or other document received by Tenant relating to Environmental Statutes.

(c) **Handling of Hazardous Substances.** Tenant shall not cause or allow the use, generation, handling or storage of Hazardous Substances in, on or under the Demised Premises. Should any release of Hazardous Substances occur at the Demised Premises, the Tenant shall immediately take all measures necessary to contain, remove and dispose off of the Demised Premises all materials released or contaminated by the release, and remedy and mitigate all threats to public health or the environment relating to such release. When conducting any such measures and when using and handling Hazardous Substances, the Tenant shall comply with Environmental Statutes.

(d) **Tanks.** Tenant shall obtain prior written approval of the Landlord for the installation of any storage tank, whether above or underground, at the Demised Premises, and will comply with all applicable laws and regulations concerning its installation, operation and closure. Upon termination of this Lease, Landlord shall have the option of requiring that Tenant, at Tenant's sole cost and expense, perform tests relating to and/or remove any tank installed by Tenant and any associated contaminated material.

(e) **General Compliance.** The provisions of this Section 5.03 shall not be construed as limiting in any respect the covenants and obligations of Tenant under Section 6.08 hereof.

(f) **Landlord's Entry for Inspection.** Tenant agrees to permit Landlord and its authorized representatives to enter, inspect and assess, the Demised Premises, at reasonable times, for the purpose of determining Tenant's compliance with the provisions of this Section 5.03. Such inspections and assessments may include obtaining samples and performing tests of soil, surface water, groundwater or other media.

(g) **Landlord's Representation.** Landlord represents that to the best of Landlord's knowledge, the Demised Premises, on the Commencement Date, contains no Hazardous Substances.

5.04 Continuous Occupancy. Tenant shall occupy the Demised Premises promptly upon the Commencement of the Term; and thereafter throughout the Term, Tenant shall continuously, actively and diligently use the entire Demised Premises under the Trade Name for the Authorized Use in an efficient, businesslike and reputable manner, and with such staff of personnel and stock of merchandise as shall result in the maximum amount of sales of merchandise and services therefrom. Tenant shall conduct its business in the Demised Premises throughout the Term at least during the Minimum Hours.

5.05 Tenant Relocation. During the Term, Landlord, at Landlord's sole expense and upon at least sixty (60) days prior notice to Tenant, may require Tenant to move from the Demised Premises to other available space (of the same or greater size, and of comparable or better visibility) in the Center, in order to permit Landlord to: (i) consolidate the Demised Premises with other adjoining space leased or to be leased to another actual or prospective tenant in the Center; and/or (ii) recapture the Demised Premises in connection with any reconfiguration and/or expansion of the Center. In connection with any such relocation, Landlord will pay all reasonable expenses of renovating or altering the other space so that the other space generally conforms, in arrangement and decor, with the original space demised under this Lease. In addition, Landlord shall pay the reasonable expenses of moving Tenant's inventory, furniture, trade fixtures and equipment to the other space. The other space shall be deemed to be and shall constitute the Demised Premises, and all of the terms, covenants and conditions of this Lease shall continue in full force and effect and shall apply to the other space.

5.06 Additional Agreements. Throughout the Term, Tenant agrees:

- (a) Not to use or operate any machinery or equipment that is harmful to the Demised Premises.
- (b) Not to do or permit, or suffer to be done or permitted, any act or thing, or permit any noise, odor, sound, vibration or disturbance whereby, or in consequence whereof, the rights of other occupants of space in the Center will be obstructed or interfered with, or other tenants in the Center will in any other way be injured or annoyed.
- (c) Not to install a satellite dish, antennae, or other object on any portion of the Center, the building in which the Demised Premises is located, the Demised Premises, including, but not limited to, the roof of the Demised Premises, or in or around the Center without the prior written approval from the Landlord. Requests for any such installation should be made to Landlord in writing in accordance with Section 20.01 hereof.
- (d) Not to install, affix or permit the installation of, any public telephones, newspaper machines, vending machines, signage, kiosks, outdoor selling areas (whether seasonal or permanent) or any other obstruction on the exterior walls of the Demised Premises or placed on the sidewalks in front of, or surrounding the Demised Premises or on any other portion of the Center.
- (e) Not to use or permit to be used, any sign, banner or object for marketing purposes, whether temporary or permanently affixed without Landlord's prior written consent which consent shall not be unreasonably denied. Tenant shall pay and be solely responsible for any fine, charge, expense, liability or claim in connection with any violation of this Section 5.06(e).

SECTION 6

Landlord's Work and Tenant's Work: Repairs and Alterations

6.01 Intentionally Omitted.

6.02 Tenant's Work. Tenant shall perform all work which is necessary to complete the Demised Premises in accordance with Tenant's Final Plans (as hereafter defined) and which is necessary for the Demised Premises to be ready to open for business with the public by the Commencement of the Term, in the manner set forth in this Lease, and all such work shall be done by Tenant at Tenant's sole cost and expense. All such work as well as any remodeling pursuant to Section 6.05 of this Lease and all other work which is not specifically designated as Landlord's Work is herein collectively referred to as "Tenant's Work."

6.03 Construction Procedures. The Demised Premises shall be designed and installed in accordance with all requirements of Landlord's fire underwriter and the requirements of any governmental authority having jurisdiction over. The design, character and materials of the storefront and all aspects of the design and construction of the interior of the Demised Premises shall be subject to the approval of Landlord.

(a) Construction Schedule. Tenant shall initially construct the Demised Premises in accordance with the plans and specifications referred to below, such work to be completed by the Commencement of the Term. Not later than thirty (30) days after the Lease Date, Tenant shall deliver to Landlord detailed plans and specifications of Tenant's Work (which shall include complete storefront and interior work design plans, building signage plans, a reflective ceiling plan, a fixture and merchandising layout plan, cooling and heating load calculations, electrical panelboard schedules and loads and such other details as may be required by Landlord) prepared by Tenant's licensed architect. Landlord shall review such plans and specifications and advise Tenant of any changes required by Landlord within twenty (20) business days of Landlord's receipt of the plans and specifications. Tenant shall promptly revise such plans and specifications to incorporate Landlord's required changes and deliver revised plans to Landlord within twenty (20) days after being advised of Landlord's changes. Landlord may require further changes in such plans and Tenant shall similarly revise and resubmit the same to Landlord within an additional period of twenty (20) days, and this procedure shall continue until all of Tenant's plans and specifications have been approved by Landlord. Tenant's plans and specifications as completely approved by Landlord shall herein sometimes be referred to as "Tenant's Final Plans". Upon Tenant's receipt of any and all necessary permits and/or approvals, Tenant shall promptly commence Tenant's Work in accordance with Tenant's Final Plans. All of Tenant's Work shall be completed at Tenant's sole cost and expense. All such work shall be promptly commenced and thereafter continued with due diligence to the end that it shall be fully completed and the Demised Premises opened for business in accordance with the provisions of the Lease.

Tenant shall perform no work in the Demised Premises until such plans and specifications have been approved by Landlord.

(b) Construction Procedures and Requirements. In performing Tenant's Work, Tenant shall (or cause its contractor to) comply with the following requirements:

(i) In addition to, and not in lieu of the other policies of insurance required by this Lease, at all times between the start and completion of Tenant's Work (such period is herein referred to as "Tenant's Construction Period"), Tenant, at its own cost and expense, shall cause Tenant's contractor to maintain in effect with a responsible insurance company, a policy of all risk builder's risk insurance in the standard form for the State where the Center is located. Said insurance shall cover the full replacement value of all work done and fixtures and equipment installed or to be installed at the Demised Premises by Tenant, without coinsurance and with a deductible clause not to exceed Five Thousand Dollars (\$5,000.00).

(ii) In addition to, and not in lieu of the other policies of insurance required by this Lease, at all times during Tenant's Construction Period, Tenant, at its own cost and expense, shall cause Tenant's contractor to maintain in effect with a responsible insurance company a policy of comprehensive liability insurance or (at Landlord's option) commercial general liability insurance (on an occurrence basis). Said insurance shall protect against claims for personal injury (including death) and property damage, with limits not less than Five Million Dollars (\$5,000,000.00) in respect of personal injury (including bodily injury and death) and Two Million Dollars (\$2,000,000.00) for property damage.

(iii) At all times during Tenant's Construction Period, Tenant's contractors and subcontractors shall maintain in effect worker's compensation insurance as required by the laws of the State in which the Center is located.

(iv) Repair and/or reconstruction of all or any portion of Tenant's Work damaged or destroyed by any casualty occurring during Tenant's Construction Period shall be commenced by Tenant as soon as possible after such casualty.

(v) Any approval or consent by Landlord of any or all of Tenant's criteria, systems, plans, specifications or drawings shall neither constitute an assumption of responsibility by Landlord for any aspect of such criteria, systems, plans, specifications or drawings including, but not limited to, their accuracy or efficiency nor obligate Landlord in any manner with respect to Tenant's Work and Tenant shall be solely responsible for any deficiency in design or construction of all portions of Tenant's Work.

(vi) Subject to the terms of this Lease, Tenant shall obtain and pay for all necessary permits and shall pay all other fees required by public authorities or utility companies with respect to Tenant's Work.

(vii) Tenant shall maintain the Demised Premises and the Common Areas (as defined in the Lease) adjoining the same, to the extent used by Tenant, in a clean and orderly condition during construction and may not use any space within the Center (except the Demised Premises) for storage of material or equipment.

(viii) At any time and from time to time during the performance of Tenant's Work, Landlord, Landlord's agent, Landlord's architect and/or Landlord's general contractor may enter upon the Demised Premises and inspect the work being performed by Tenant and after ten (10) days notice to Tenant (except in the case of emergency) take such steps as are required by Tenant's approved plans or by law to assure the proper performance by Tenant of Tenant's Work in accordance with the approved plans and/or to protect the building and/or any demised premises adjacent to the Demised Premises. In addition, Tenant's Work shall be performed in a thorough first-class and workmanlike manner, shall incorporate only new or like new materials as approved by Landlord on Tenant's plans and specifications as approved by Landlord, and new materials or like-new materials at any other time during the Term and shall be in good and usable condition at the date of completion.

(ix) Tenant's Work shall be coordinated with all work being performed or to be performed by Landlord and other occupants of the Center such that Tenant's Work will not interfere with the operation of the Center or interfere with or delay the completion of any other construction within the Center.

(c) Construction Information. Within ten (10) days after initially opening the Demised Premises for business with the public, Tenant shall supply to Landlord the following:

(i) Properly issued permanent occupancy certificates, occupational licenses and any other certificates evidencing acceptance or approval of the Demised Premises by appropriate governmental authorities.

(ii) A set of as-built plans and specifications for Tenant's Work prepared and sealed by Tenant's architect, together with names and addresses of Tenant's electrical, plumbing, and other contractors.

(d) Construction Disputes. Any disagreement or dispute which arises between Landlord and Tenant concerning Tenant's Work and which cannot be settled without the involvement of a third party, the dispute shall be submitted to an independent architect, whose determination shall be final and binding in resolving such dispute; provided, in the event Landlord and Tenant are unable to agree upon the identity of such independent architect, then Landlord and Tenant shall each select one (1) architect (with each party being responsible for the cost of the architect selected by such party) and the two (2) selected architects shall select a third (3rd) architect and the decision of a majority of the architects shall control and be final and binding on both Landlord and Tenant. Landlord and Tenant shall each be responsible for one-half (1/2) of the cost of said third (3rd) architect.

6.04 Repairs. Subject to Landlord's obligations under Section 10.04 hereof, Tenant shall, throughout the Term and at its sole cost and expense, take good care of the Demised Premises and keep it in good order, condition and repair and in compliance with all Laws and Recorded Agreements, and promptly make all repairs necessary to maintain such good order, condition, repair and compliance. The term "repairs" shall include replacements, renewals and additions. All repairs made by Tenant shall be equal to or exceed in quality and usefulness of the original building and such other original improvements as may from time to time be located upon the Demised Premises. Tenant shall keep and maintain the Demised Premises in a clean and orderly condition, and free of accumulations of dirt, rubbish, snow, ice and water; and shall promptly remove from the Demised Premises and from the Center all trash which may accumulate in connection with any activity by Tenant.

6.05 Alteration and Remodeling. Tenant shall not, without first obtaining Landlord's prior written consent, make any alterations, improvements or additions to the Demised Premises except that Tenant may, without the prior consent of Landlord, make minor alterations and improvements to the interior of the Demised Premises; provided, however, that any alteration, improvement or addition made by Tenant, including both those that do and do not require Landlord's prior written consent, shall not affect or impair the structure of the building nor reduce its value, and shall not disturb or annoy the occupants of any adjoining stores; and Tenant shall give to Landlord at least thirty (30) days prior written notice of any such alteration, improvement or addition. Except as otherwise provided in this Section 6.05, all alterations, improvements, additions, repairs and other property attached to or used in connection with the Demised Premises or any part thereof made or installed by Tenant shall immediately upon completion or installation thereof be and become part of the Demised Premises and the property of Landlord without payment therefor by Landlord, and shall be surrendered to Landlord upon the expiration or earlier termination of the Term. Provided, however, that Tenant agrees that all removable trade fixtures and personal property installed by Tenant in the Demised Premises shall be removed by Tenant at the termination of the Term. Tenant agrees that it will at its own cost and expense forthwith repair any and all damage done by the removal of any fixtures, trade fixtures and personal property.

6.06 Mechanic's Liens.

(a) Prior to the making of any alterations or changes or the performance of any construction or work performed or authorized by Tenant which may give rise to a mechanic's lien, Tenant shall provide to Landlord in form and substance reasonably acceptable to Landlord assurance that payment for the same will be made by Tenant, and Tenant hereby completely and fully indemnifies Landlord, and agrees to defend (with counsel acceptable to Landlord) and hold Landlord harmless from and against, any mechanic's lien or other lien or claim in connection therewith.

(b) If any mechanic's, laborer's, or materialman's lien shall at any time be filed against the Demised Premises or any part thereof by reason of work performed by or at the direction of the Tenant, the Tenant, within fifteen (15) days after notice of the filing thereof, shall cause it to be discharged of record or by bonding procedure. If Tenant shall fail to cause such lien to be discharged within the period aforesaid, then in addition to any other right or remedy, the Landlord may, but shall not be obligated to, discharge it either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event, Landlord shall be entitled, if it so elects to compel the prosecution of any action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances. Any amount so paid by Landlord

and all costs and expenses incurred by it in connection therewith, together with interest thereon at the Effective Rate, from the respective dates of the making of the payments and incurring of the costs and expenses, shall be immediately due and payable by the Tenant to Landlord.

(c) Nothing in this Lease contained shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific alteration, addition, improvement or repair to the Demised Premises or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any lien against the Demised Premises or any part thereof.

6.07 Compliance. Tenant shall, throughout the Term, at Tenant's sole cost and expense, promptly comply with all Laws and Recorded Agreements and the recommendations or requirements of all insurance companies, relating to the Demised Premises or the use thereof, or to the sidewalks, parking area, curbs and access ways adjoining the Demised Premises. Without limiting the generality of the foregoing, Tenant shall keep in force all licenses, consents and permits necessary for the lawful use of the Demised Premises and Tenant shall pay all personal property taxes, income taxes, license fees, and other taxes which are or may be assessed, levied or imposed upon Tenant in connection with Tenant's operation of its business upon the Demised Premises.

SECTION 7

Taxes

7.01 Personal Property Taxes. Tenant shall pay all personal property taxes levied by any Governmental Authority with respect to Tenant's property located on the Demised Premises. Tenant shall pay all sales taxes levied by any Governmental Authority with respect to the Demised Premises and/or Rent payable under this Lease, and hold the Landlord harmless with respect thereto.

7.02 Real Estate Taxes.

(a) **Payment.** Landlord covenants and agrees that it shall fully pay, when due and payable, the real estate taxes and assessments levied against the building in which the Demised Premises is located, including the Demised Premises and all improvements therein.

(b) **Abatements.** If Landlord shall obtain any abatement, refund or rebate in real estate taxes, Landlord shall promptly forward to Tenant its share of such abatement, refund or rebate (less Landlord's costs and expenses in (i) obtaining such abatement, refund or rebate and (ii) distributing to each tenant its respective share of such abatement, refund or rebate plus Tenant's share of the reasonable cost and reasonable expense of obtaining same).

SECTION 8

Indemnity and Insurance

8.01 Indemnity and Release.

(a) **Indemnification by Tenant.** Tenant agrees to indemnify, defend (with counsel acceptable to Landlord) and save harmless Landlord from and against any and all claims by or on behalf of any party arising from the occupancy, conduct, operation or management of the Demised Premises or from any work or thing whatsoever done on or about the Demised Premises, or arising from any breach or default on the part of Tenant pursuant to the terms of this Lease, or under the provisions of any Law, or arising from any act, neglect or negligence of Tenant, or any of its agents, contractors, servants, employees, or licensees, or arising from any accident, injury or damage whatsoever caused to any party, occurring during the Term, in or about the Demised Premises, and from and against all costs, expenses and liabilities incurred in connection with any such claim or action or proceeding brought thereon (including, without limitation, the fees of attorneys, investigators and experts); and in case any action or proceeding be brought against Landlord by reason of any such claim, Tenant upon notice from Landlord covenants at Tenant's cost and expense to resist or defend such action or proceeding or to cause it to be resisted or defended by an insurer. Tenant shall not, however, be liable for damages or injury occasioned by the gross negligence or willful misconduct of Landlord, or its agents, employees, or servants, unless such damage or injury arises from perils against which Tenant is required by this Lease to insure.

(b) **Release.** Landlord, its principals, agents, employees and contractors, shall not

be liable for, and Tenant hereby releases Landlord, its principals, agents, employees and contractors from, all claims for loss of life, personal injury or damage to property or business sustained by Tenant or any person claiming by, through or under Tenant resulting from any fire, accident, occurrence or condition in or upon the Demised Premises or the Common Areas or any part thereof including, but not limited to, any such claims for loss of life, personal injury or damage resulting from defect, latent or otherwise, in the Demised Premises or the Common Areas, any defect in or any failure of any equipment, machinery, utilities, appliances, or apparatus in the Demised Premises or the Common Areas, falling of fixtures or other items, leakage of water, snow or ice, broken glass, or any other similar event or any act of other tenants or occupants of the Center or any act or omission (including negligent acts or omissions) of Landlord, its principals, agents, servants and employees.

(c) Indemnification by Landlord. Landlord will defend and indemnify Tenant and save Tenant harmless from and against any and all claims, actions, damages, liability and expense (including, but not limited to, attorneys' fees and disbursements) in connection with the loss of life, personal injury or damage to property arising from, related to, or in connection with Landlord's gross negligence or willful misconduct in the Common Areas of the Center. Landlord shall not be liable for damages or injury occasioned by the negligence or willful acts of Tenant, its agents, employees or servants.

(d) Waiver of Subrogation. Each of the parties hereto hereby releases the other and the other's partners, agents and employees, to the extent of each party's insurance coverage, from any and all liability for any loss or damage which may be inflicted upon the property of such releasing party even if such loss or damage shall be brought about by the fault or negligence of the other party, its partners, agents or employees; provided, however, that this release shall be effective only with respect to loss or damage occurring during such time as the appropriate policy of insurance shall contain a clause to the effect that this release shall not affect said policy or the right of the insured to recover thereunder. If any policy does not permit such a waiver, and if the party to benefit therefrom requests that such a waiver be obtained, the other party agrees to obtain an endorsement to its insurance policies permitting such waiver of subrogation if it is available. If an additional premium is charged for such waiver, the party benefiting therefrom, if it desires to have the waiver, agrees to pay to the other the amount of such additional premium promptly upon being billed therefor.

8.02 Insurance by Tenant.

(a) Tenant shall keep in force, at Tenant's sole cost and expense, with responsible insurance companies reasonably acceptable to Landlord authorized to do business in the jurisdiction in which the Center is situate and throughout the Term and during such other times as Tenant occupies the Demised Premises or any part thereof:

(i) Insurance (on an occurrence basis) against claims for personal injury (including death) and property damage and with broad-form contractual liability coverage, under a policy of comprehensive general liability insurance or (at Landlord's option) commercial general liability insurance, with limits not less than Two Million Dollars (\$2,000,000.00) in respect of personal injury (including bodily injury and death) and Two Million Dollars (\$2,000,000.00) for property damage.

(ii) Workers' compensation or similar insurance affording statutory coverage and containing statutory limits.

(iii) Fire insurance, with such extended coverage endorsements including, but not limited to, vandalism, malicious mischief, sprinkler leakage, plate and other glass coverage, and other endorsements as Landlord may from time-to-time require, covering all of Tenant's stock in trade and other improvements to the extent of at least one hundred percent (100%) of their replacement cost. The property damage insurance required hereunder shall not contain the "care, custody and control" exclusion.

(iv) Business interruption insurance and/or products liability insurance, if requested by Landlord, in such amount as Landlord may reasonably require or approve.

(b) Tenant shall deposit with Landlord certificates of insurance evidencing the policies of insurance required under this Section, as well as copies of such policies, together with satisfactory evidence of the payment of the premium or premiums required thereunder, prior to the date Tenant first enters upon the Demised Premises (but in no event later than the Commencement of the Term). Said policies of insurance shall name as insured parties the Landlord (and, at Landlord's direction, any managing agent) and the holder of any Mortgage and shall provide that they shall not be cancelable without thirty (30) days prior written notice to Landlord and the holder of such Mortgage. At least fifteen (15) days prior to the expiration of any such policy, Tenant shall deposit with Landlord certificates of insurance evidencing a renewal policy as well as a copy of any such renewal policy, together with

satisfactory evidence of payment by Tenant of the premium or premiums required thereunder.

(c) At all times during the Term, Tenant shall maintain the insurance policies referenced above with the limits referenced above. Notwithstanding the foregoing, if Landlord's lender permits Tenant to carry lower limits, Landlord hereby consents to such lower limits.

(d) Notwithstanding anything contained herein, Tenant shall be permitted to self-insure plate glass.

8.03 Increase in Insurance Rate. Tenant will not do or keep anything in the Demised Premises which will violate the provisions of any policy of insurance or which will prevent procuring insurance with companies acceptable to Landlord. If anything done, omitted to be done or suffered to be done by Tenant shall cause the insurance rate on any insurance for the Center to be increased, then Tenant shall pay the entire amount of any increase in premiums resulting therefrom on demand and as additional rent.

SECTION 9

Signage

9.01 Signs. Tenant shall, at its expense, construct all necessary signs in and upon the Demised Premises properly to conduct its marketing activities, provided that Tenant shall have submitted to Landlord plans for each such sign and further provided that Landlord shall have approved such plans. Tenant shall be solely responsible for obtaining sign permits and for ensuring that all signs conform with the requirements of all Laws and Recorded Agreements. The availability of signs and sign permits is not a condition to the obligations of Tenant under this Lease. Tenant shall, at Tenant's sole cost and expense, maintain its signs in good order, condition and repair throughout the Term. Landlord shall, subject to receipt of any necessary permits or approvals, construct a pylon or monument sign for tenants at the Center and Tenant shall pay to Landlord upon demand Tenant's Pro Rata Share of the cost of constructing any such pylon or monument sign at the Center.

SECTION 10

Utilities

10.01 Tenant's Responsibility for Utilities Consumed. Tenant shall make application for, be responsible for, and promptly pay all charges for all Utilities consumed at the Demised Premises.

10.02 Utility Interruption. Landlord shall not be liable for any interruption or impairment in the supply of Utility service, nor shall any interruption or impairment constitute a breach by Landlord of the terms and conditions of this Lease nor shall any interruption or impairment constitute a ground for an abatement of Rent. Tenant shall not at any time overburden or exceed the capacity of any Utility services which are supplied to the Demised Premises.

10.03 Alternative Billing. If the authority or authorities supplying Utilities servicing the Demised Premises provide that the bills therefor be rendered to Landlord, then Tenant shall reimburse Landlord for the amount of each such bill upon request by Landlord.

10.04. HVAC.

(a) Tenant shall, at its sole cost and expense, maintain a heat, ventilation and air condition ("HVAC") maintenance contract with a reputable, licensed, third party person or entity employed in the business of servicing HVAC units of the type serving the Demised Premises; provided, however, that Landlord shall be responsible for the costs of any repairs to, or replacements of, such HVAC unit unless such repairs and/or replacements are in any way related to the negligence or misconduct of Tenant, or any of its agents, employees, invitees or servants. Tenant shall notify Landlord in writing of any person or entity contracted by Tenant to provide preventative maintenance or repairs to the HVAC unit serving the Demised Premises. Such maintenance contract shall provide for inspection of such equipment, change of filters, adjustment of belts and other routine service and maintenance as appears necessary from inspection, at least every one hundred twenty (120) days.

(b) Landlord agrees to enforce for the benefit of Tenant the unexpired portions, if any, of any warranties relating to the Demised Premises, the equipment that is a part thereof, the HVAC system and the like. Landlord covenants and agrees that it will, at all times during the Term, maintain and keep in good order and repair, the foundation, floorslab, exterior, exterior walls, steel frame, roof, structural portions, gutters, downspouts, if any, and underground utility lines of the Demised Premises and

the building in which the Demised Premises is located, and all utility lines serving the Demised Premises. Landlord shall make all repairs and replacements without, to the extent practicable, interfering with the conduct of Tenant's business.

SECTION 11 Assignment and Subletting

11.01 Assignment and Subletting.

(a) Tenant shall not assign or encumber this Lease or sublet the Demised Premises, in whole or part, without Landlord's prior written consent (which consent may be withheld for any reason whatsoever, reasonably or unreasonably). Notwithstanding any assignment or encumbrance of this Lease or subletting of all or any portion of the Demised Premises, with or without the consent of Landlord, Tenant shall, nevertheless, remain liable to Landlord for the performance of all of Tenant's obligations under this Lease; and any assignment, encumbrance, sublease or subletting made by Tenant shall be subject to the terms, conditions and provisions of this Lease.

(b) Tenant shall notify Landlord in writing (at least thirty (30) days prior thereto) if Tenant intends to sublease all or any portion of the Demised Premises or to assign or encumber this Lease. Landlord shall have the right, at Landlord's sole option, to terminate this Lease if Landlord has received from Tenant a notice pursuant to the preceding sentence; such termination to be effected by written notice from Landlord to Tenant given within fifteen (15) days after the receipt by Landlord of Tenant's notice of Tenant's intention to sublet or assign or encumber this Lease.

(c) The provisions of this Section 11.01 shall be equally applicable to an assignment by operation of law. The sale or transfer of stock or any other transfer of any beneficial interest in Tenant or any merger by Tenant or by any parent, subsidiary or affiliate of Tenant shall be considered for the purpose of this Lease to be an assignment hereunder.

(d) Notwithstanding anything contained herein, Tenant shall be permitted, without Landlord's consent, to assign, transfer or sublet the Demised Premises, or any part thereof (i) to a parent, subsidiary or affiliated company or (ii) directly or indirectly, in any manner, in connection with a merger, consolidation or combination, or a sale of substantially all of the assets constituting a portion or all of the retail chain of which the business in the Demised Premises is a part of in the State of Florida; provided, however, that any such new entity as described in both (i) and (ii) above shall have a net worth equal to, or greater than, Tenant. Upon any assignment, transfer or subletting hereunder, Tenant shall not be relieved of, and shall remain fully liable for the performance of all, its obligations under this Lease.

(e) Tenant shall have the absolute right to assign, sublet or otherwise transfer its interest in this Lease to a licensee, franchisee or operating subsidiary of Tenant, without Landlord's approval, written or otherwise, as long as Tenant remains fully liable for full performance of all its obligations under this Lease.

(f) If, with or without Landlord's consent, Tenant assigns this Lease, or sublets all or any portion of the Demised Premises, any profits derived by Tenant from the assignment or subletting shall be paid by Tenant to Landlord and Tenant shall deliver to Landlord a written agreement in which the assignee or subtenant agrees, for the benefit of Landlord, to assume, be bound by, and perform all of the obligations of Tenant under this Lease. Tenant agrees to use reasonable efforts to obtain the highest profit possible on any assignment or subletting.

11.02 Violation. If this Lease be assigned, Landlord may collect Rent from the assignee. If the Demised Premises or any part thereof be sublet or occupied by any person other than Tenant and in the event of Tenant's uncured default, Landlord may collect Rent from such subtenant or occupant. Landlord's collection of Rent pursuant to the provisions of this Section 11.02 shall not in any event be deemed to be a waiver of any default by Tenant in having assigned this Lease or sublet all or any portion of the Demised Premises without the prior written consent of Landlord.

11.03 Bankruptcy Assignment. Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. 101 et seq., shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on or after the date of such assignment. Any such assignee shall upon demand execute and deliver to Landlord an instrument confirming such assumption.

11.04 Bankruptcy Assignment -- Payment of Consideration for Assignment. If this Lease is

assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. et seq., ninety percent (90%) of any and all monies or other considerations payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord, shall be and remain the exclusive property of Landlord and shall not constitute property of Tenant or of the estate of Tenant within the meaning of the Bankruptcy Code. Any monies or other considerations constituting Landlord's property under the preceding sentence not paid or delivered to Landlord shall be held in trust for the benefit of Landlord and promptly be paid or delivered to Landlord.

SECTION 12

Subordination, Easements and Estoppel Certificates

12.01 Subordination.

(a) This Lease shall be subject and subordinate at all times to the lien of any Mortgages and/or other encumbrances now or hereafter placed upon the Demised Premises and/or the Center without the necessity of any further instrument or act on the part of Tenant to effectuate such subordination. Tenant agrees, at the election of the holder of any such Mortgage or other encumbrance, to attorn to such holder. Tenant further agrees to execute and deliver upon request such further instrument or instruments evidencing and confirming such subordination of this Lease to the lien of any such Mortgage and/or encumbrance and such further instrument or instruments of attornment as shall be designated by Landlord.

(b) If an Overlease exists, Tenant's possession of the Demised Premises shall be that of a subtenant and shall be subordinate to the interest of the Overlessor without the necessity of any further action on the part of Tenant to effectuate such subordination; but, notwithstanding the foregoing, if Landlord's tenancy shall terminate either by expiration, forfeiture or otherwise, then, if the Overlessor shall so request, Tenant shall attorn to the Overlessor and shall recognize the Overlessor as Tenant's landlord upon the terms and conditions of this Lease for the balance of the Term. Tenant shall execute, acknowledge and deliver, upon request, such further instruments evidencing such subordination of Tenant's interest under this Lease to the interests of the Overlessor. If and for so long as Landlord is a lessee of the Demised Premises and/or of the Center, the insurance policies required to be maintained by Tenant pursuant to the provisions of Section 8.02 above shall name the Overlessor as an insured party thereunder; and the agreements of Tenant pursuant to the provisions of Section 8.01 above shall also be for the benefit of the Overlessor.

12.02 Easements by Landlord. Landlord shall have the right to grant easements over the Center without the joinder of Tenant; and the rights of Tenant under this Lease shall be subject and subordinate thereto.

12.03 Tenant's Certificate: Additional Documents.

(a) Tenant agrees at any time and from time to time, within ten (10) days after Landlord's written notice, to execute, acknowledge and deliver to Landlord a written instrument in recordable form certifying the commencement and ending dates of the Term, that this Lease is unmodified and in full force and effect (or if there have been modifications, that it is in full force and effect as modified and stating the modifications) and the dates to which Minimum Monthly Rental have been paid in advance; if any, and stating whether or not Landlord is in default in the performance of any agreement contained in this Lease and if so, specifying each such default and such other information as Landlord shall reasonably request; and agreeing that Tenant will give to the holder (or proposed holder) of any Mortgage a copy of any notice of default it sends to Landlord and will provide to such holder a reasonable time in which to effect a cure of same. Tenant agrees that any such statement delivered pursuant to this Section may be relied upon by any prospective purchaser of the fee or any mortgagee thereof or any assignee of Landlord's interest in this Lease or of any Mortgage.

(b) Within ten (10) days after the date of the execution of this Lease, and within ten (10) days after the date of a request by Landlord to Tenant, Tenant shall deliver to Landlord the following documents in connection with Tenant:

(i) If applicable, a Good Standing Certificate issued by the appropriate governmental authority confirming that Tenant is and remains a corporation, partnership or company (whichever, if any are applicable) duly formed and in good standing under the laws of the State of its incorporation and/or formation.

(ii) If applicable, a copy of an appropriate resolution of the board of

directors of Tenant authorizing the proper officers to execute and deliver this Lease for and on behalf of Tenant; and an incumbency certificate confirming the duly authorized and elected officers and directors of Tenant; both duly certified as being true, complete and correct by the Secretary of Tenant.

(c) In the event Tenant's financial statements become no longer publicly available, Tenant shall, within ten (10) days of Landlord's request to Tenant, deliver to Landlord, Tenant's financial statements for the three (3) fiscal annual periods most recently ended prior to the date of the request, which financial statements shall: be prepared, audited and certified to by Tenant's regularly engaged independent certified public accountants; be prepared in accordance with generally accepted accounting principles consistently applied; and contain a balance sheet of Tenant showing all assets and liabilities (both absolute and contingent) and a statement of Tenant's profits and loss.

(d) At any time during the Term, Landlord may (by notice) furnish a statement to Tenant which sets forth all payments made by Tenant to Landlord during the period specified in such notice. Within thirty (30) days after receiving such statement, Tenant shall: (a) affirm such statement in writing to Landlord; or (b) if Tenant disputes such statement, notify Landlord thereof and specify in detail the basis of such dispute (including supplying reasonable written evidence in support thereof). Such statement shall be conclusively binding upon Tenant if Tenant fails to timely affirm or dispute such statement, or if Tenant's written evidence does not support its dispute.

SECTION 13 Condemnation

13.01 Whole or Partial Taking. In the event the whole or any portion of the Demised Premises shall be taken by any public authority under the power of eminent domain, this Lease shall terminate as of the date of such taking. If this Lease is terminated pursuant to the provisions of this paragraph, then all Rent payable by Tenant to Landlord under this Lease will be paid to the date of the taking, and any Rent paid in advance and allocable to the period after the date of the taking will be repaid to Tenant by Landlord less Landlord's expenses in connection therewith. Landlord and Tenant will then be released from all further liability under this Lease except for liabilities which expressly survive the termination hereof.

13.02 Sharing of Condemnation Proceedings. All compensation awarded for such taking of the fee and the leasehold shall belong to and be the property of the Landlord. Tenant shall not have any claim or be entitled to any award for diminution in value of its rights under this Lease or for the value of any unexpired portion of the Term; provided, however, that the Landlord shall not be entitled to any portion of the award attributable to, and Tenant may make a claim for a separate award for, the cost of moving or removal of Tenant's stock and fixtures or for Tenant's loss of business or for the taking of, or injury to, Tenant's improvements (provided that such award to Tenant does not reduce or in any way diminish the compensation or award which would otherwise be awarded to Landlord).

SECTION 14 Damage by Fire or Other Casualty

14.01 Destruction of Demised Premises.

(a) If the Demised Premises shall be damaged or destroyed by fire or other casualty, then Tenant shall promptly give notice thereof to Landlord; and, except as hereinafter otherwise provided, Landlord shall, to the extent that rent insurance is received by Landlord and to the extent permitted by the holder of any Mortgage on the Demised Premises within a reasonable time thereafter, repair or restore the Demised Premises to substantially the same condition it was in prior to the casualty. If Landlord is required to repair the Demised Premises pursuant to the provisions of this Section 14.01, its obligations shall be limited to the basic building, excluding, however, all work, alterations, fixtures, or signs installed by or for Tenant and all floor coverings, furniture, equipment and decorations; and Tenant shall, at Tenant's sole cost and expense, promptly perform all repairs and restoration to the Demised Premises not required to be done by Landlord and shall promptly reenter the Demised Premises and commence its business in all parts thereof upon its repair and restoration.

(b) If the damage to the Demised Premises should be so extensive as to render the whole or any portion thereof untenable and unsuitable for use and occupancy by Tenant, a just proportion of the Minimum Monthly Rental, according to the nature and extent of the injury to the Demised Premises, shall be suspended or abated until the Demised Premises shall be repaired or restored by Landlord as aforesaid; provided, however, that the amount of such abatement or suspension shall in no event exceed the amount of rent insurance paid to Landlord and the obligation of Tenant otherwise to perform under this Lease shall not be affected or abated by reason of such damage or destruction.

(c) If during the last two (2) years of the Term, the Demised Premises shall be damaged or destroyed to the extent of twenty percent (20%) or more of its insurable value, or if the proceeds of Landlord's insurance as the result of any damage to the Demised Premises by fire or other casualty shall be insufficient fully to pay the cost of the repair thereof, or if at any time the buildings in the Center shall be damaged or destroyed as to the extent of fifty percent (50%) or more of their insurable value, then in any such event, Landlord may terminate this Lease by notice to Tenant within thirty (30) days after such damage or destruction. In the event of any termination of this Lease pursuant to the provisions of this Section, the termination shall become effective on the fifteenth (15th) day after the giving of the notice of termination, a just proportion of the Minimum Monthly Rental, according to the nature and extent of the injury to the Demised Premises shall be suspended or abated until the time of termination and Minimum Monthly Rental shall be apportioned as of the time of termination.

SECTION 15 Events of Default

15.01 Default by Tenant. In the event any of the following shall occur:

(a) Tenant fails to pay any installment of Rent within ten (10) days after it is due; provided, however, that Tenant shall have ten (10) days from Tenant's receipt of written notice from Landlord of the occurrence of such default to cure such default; Notwithstanding the foregoing, Landlord shall only be obligated to provide notice to Tenant of, and Tenant shall only be permitted a cure period for, any such default three (3) times in any twelve (12) consecutive calendar month period; or

(b) Tenant is in default of any of its other obligations under this Lease and Tenant fails to commence to cure any such default within fifteen (15) days after notice of the occurrence thereof from Landlord and thereafter fails to complete the cure of such default with due diligence within thirty (30) days after notice of the occurrence thereof from Landlord; or

(c) Tenant is adjudicated bankrupt; or

(d) Tenant has a receiver in equity appointed for all or substantially all of its property and such appointment is not vacated within thirty (30) days; or

(e) Tenant files a voluntary petition for reorganization or arrangement; or

(f) Tenant has a trustee in reorganization appointed for its property; or

(g) Tenant files a voluntary petition in bankruptcy; or

(h) Tenant files an answer admitting bankruptcy or agreeing to reorganization or arrangement; or

(i) Tenant makes an assignment for the benefit of creditors; or

(j) Tenant permits its leasehold interest hereunder to be sold pursuant to execution;

then and in any such event, Landlord may, in addition to such other rights and remedies which are provided for by law or equity or elsewhere in this Lease:

(A) Accelerate the whole or any part of the Rent and other charges, payments, costs and expenses herein agreed to be paid by Tenant for the entire unexpired balance of the Term. Such amount if so accelerated shall, in addition to any Rent already due and payable, be deemed due and payable as if, by the terms and provisions of this Lease, such accelerated Rent and other charges, payments, costs and expenses were on that date payable in advance.

(B) If permissible under applicable laws, enter the Demised Premises and without further demand or notice, proceed to sale of the goods, chattels and personal property there found and levy the Rent; and Tenant shall pay all costs and officers' commissions, including watchmen's wages and sums chargeable to Landlord, and in such case all costs, officers' commissions and other charges shall immediately attach and become part of the claim of Landlord for Rent.

(C) Reenter the Demised Premises and remove all persons and all or any property therefrom, either by summary dispossession proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution or damages therefor, and

repossess and enjoy the Demised Premises, together with all other installations of Tenant. Upon recovering possession of the Demised Premises by reason of or based upon or arising out of a default on the part of Tenant, Landlord may, at Landlord's option, either terminate this Lease or make such alterations and repairs as may be necessary in order to relet the Demised Premises; and relet the Demised Premises or any part or parts thereof, either in Landlord's name or otherwise, for a term or terms which may at Landlord's option be less than or exceed the period which would otherwise have constituted the balance of the Term and at such rent or rents and upon such other terms and conditions as in Landlord's sole discretion may seem advisable and to such person or persons as may in Landlord's discretion seem best; upon each such reletting all rents received by Landlord from such reletting shall be applied: first, to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including brokerage fees and attorneys' fees and all costs of such alterations and repairs; third, to the payment of Rent due and unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of future Rent as it may become due and payable hereunder. If such rentals received from such reletting during any month shall be less than that to be paid during that month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. No such reentry or taking possession of the Demised Premises or the making of alterations and/or improvements thereto or the reletting thereof shall be construed as an election on the part of Landlord to terminate this Lease unless written notice of such intention be given to Tenant. Tenant, for Tenant and Tenant's successors and assigns, hereby irrevocably constitutes and appoints Landlord, as their agent to collect the rents due and to become due under all subleases of the Demised Premises or any parts thereof without in any way affecting Tenant's obligation to pay any unpaid balance of Rent due or to become due hereunder. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach.

(D) To terminate this Lease and the Term hereby created without any right on the part of Tenant to waive the forfeiture by payment of any sum due or by other performance of any condition, term or covenant broken. Whereupon Landlord shall be entitled to recover, in addition to any and all sums and damages for violation of Tenant's obligations hereunder in existence at the time of such termination, damages for Tenant's default in an amount equal to the amount of the Rent reserved for the balance of the Term, as well as all other charges, payments, costs and expenses herein agreed to be paid by Tenant, all discounted at the rate of six percent (6%) per annum to their then present worth, less the fair rental value of the Demised Premises for the remainder of said Term, also discounted at the rate of six percent (6%) per annum to its then present worth, all of which amount shall be immediately due and payable from Tenant to Landlord.

(E) To proceed as a secured party under the provisions of the Uniform Commercial Code against the property in which Landlord has been granted a security interest pursuant to this Section 15.01.

(F) In the event of a breach or threatened breach by Tenant of any of the covenants or provisions hereof, Landlord shall have the right of injunction and the right to invoke any remedy allowed at law or in equity as if reentry, summary proceedings and other remedies were not herein provided for.

(G) No right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy herein or by law provided but each shall be cumulative and in addition to every other right or remedy given herein or now or hereafter existing at law or in equity or by statute.

(H) If permitted by applicable law, Tenant expressly waives:

(i) The benefit of all laws, now or hereafter in force, exempting any goods on the Demised Premises or elsewhere from levy or sale in any legal proceeding taken by Landlord to enforce any rights under this Lease.

(ii) The right to delay execution on any real estate that may be levied upon to collect any amount which may become due under the terms and conditions of this Lease and any right to have the same appraised.

(I) For the purpose of calculating the "accelerated Rent" payable under paragraph (A) of this Section and the "Rent reserved for the balance of the Term" for the purposes of paragraph (D) of this Lease (but without discounting as provided therein), the amount payable as Tenant's Pro Rata Share of Taxes, Tenant's Pro Rata Share of Insurance and Tenant's Pro Rata Share of Common Area Maintenance Expenses for the balance of the Term shall be equal to the sum of the highest amount

paid or payable by Tenant in any Calendar Year for each of the foregoing items multiplied by the number of Calendar Years (including any fractional Calendar Year) remaining in the Term.

(J) (i) As security for the obligations of Tenant under this Lease, Tenant does hereby assign, transfer and set over unto Landlord all of the rights, title and interest of Tenant in and to any subleases of the Demised Premises. The assignment provided for in this paragraph shall in no event be deemed: to constitute consent by Landlord to any sublease by Tenant nor an agreement by Landlord to accept any subtenant as a tenant of Landlord in the event of a termination of this Lease nor in any manner as a waiver by Landlord of the provisions and limitations herein; or to constitute an agreement by Landlord to perform any of the obligations of Tenant under any sublease of the Demised Premises. Until the occurrence of an event of default by Tenant under this Lease, Tenant may continue to collect the rent and other sums payable under the sublease(s) assigned hereby; but from and after the occurrence of an event of default, all such rent and other sums shall be paid to Landlord and applied by Landlord on account of Rent and other sums due by Tenant to Landlord pursuant to this Lease. A statement by Landlord to any subtenant that an event of default by Tenant has occurred under this Lease shall be conclusive evidence of such fact and shall be (and may be) relied upon by the subtenant in making payments to Landlord. No subtenant shall be liable to Tenant for any payment made by the subtenant to Landlord pursuant to the paragraph. No sublease shall be valid or effective unless it shall expressly restate therein the provisions of this paragraph.

(ii) Tenant hereby grants to Landlord a security interest under the Uniform Commercial Code in all of Tenant's goods and property about the Demised Premises. Said security interest shall secure unto Landlord the payment of all rent and charges collectible or reserved hereunder which shall become due under the provisions of this Lease. Tenant hereby agrees to execute, upon request of Landlord, such statements as may be required under the provisions of the said Uniform Commercial Code to perfect Landlord's security interest in Tenant's goods and property about the Demised Premises.

(K) In the event of any default by Tenant of any of its obligations under this Lease, Tenant shall immediately pay to Landlord, upon demand, an amount equal to all reasonable attorneys' fees and court costs incurred by Landlord in enforcing its rights and remedies under this Lease, whether or not an administrative and/or judicial action is commenced by Landlord against Tenant by reason of such default.

(L) Notwithstanding anything contained herein, in the event Landlord relets the Demised Premises following Tenant's default hereunder, Tenant shall be entitled to a credit against its rental obligations hereunder, and/or reimbursement for any amounts paid to Landlord under any of the remedies described in this section, in the amount of rents actually received by Landlord from any such reletting of the Demised Premises less any reasonable costs incurred by Landlord (not previously reimbursed by Tenant) in connection with the repossession and reletting of the Demised Premises (including without limitation reasonable attorneys' fees, brokerage commissions, and any and all cost of repairs, alterations and improvements to the Demised Premises).

15.02 Default by Landlord. Landlord shall not be in default of any of its obligations in this Lease unless Landlord or the holder of any Mortgage on the Center shall have failed to commence to perform such obligation within thirty (30) days after notice by Tenant to Landlord and to such mortgagee properly specifying wherein Landlord has failed to perform any such obligation or shall have failed to proceed thereafter with reasonable diligence to complete such performance.

15.03 Curing Tenant's Defaults. If Tenant shall be in default of any of its obligations under this Lease, Landlord may (but shall not be obligated to do so), in addition to any other rights it may have in law or equity or under this Lease, cure such default on behalf of Tenant, and Tenant shall reimburse Landlord upon demand for any reasonable sums paid or costs incurred by Landlord in curing such default, together with interest at the Effective Rate from the respective dates of Landlord's making of the payments and incurring of the costs, on all sums advanced by Landlord as aforesaid, which sums and costs together with interest thereon shall be deemed additional rent payable under this Lease.

15.04 Waiver of Breach. The waiver by Landlord or Tenant of any breach of any term, covenant or conditions contained in this Lease, shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained in this Lease.

SECTION 16 Inspection Rights

16.01 Landlord's Right to Inspect. Landlord and the holder of any Mortgage, and each of their agents, shall have the right to enter the Demised Premises at all times to examine same and to show them to prospective purchasers or tenants, and to make such repairs, alterations, improvements or additions as Landlord may deem necessary or desirable. At any time within one (1) year prior to the expiration of the Term, Landlord shall have the right to display on the exterior of the Demised Premises a customary "For Rent" sign.

SECTION 17 Quiet Enjoyment

17.01 Landlord's Covenant of Quiet Enjoyment. Landlord covenants that upon Tenant complying with the terms, covenants and conditions of this Lease, Tenant may peaceably and quietly have, hold and enjoy the Demised Premises for the Term without hindrance or interruption by Landlord or by any other person or persons claiming under Landlord.

SECTION 18 Holding Over

18.01 Rent for Holding Over Period. If Tenant shall continue to occupy the Demised Premises after the end of the Term without Landlord's written consent, then Landlord shall be entitled to recover from Tenant either damages to compensate Landlord for the losses suffered by Landlord as a result of such holding over or, at Landlord's option, compensation for such use and occupancy, at a rate per month equal to one sixth (1/6) of the annual Rental which would have been payable had this Lease been renewed for a period of twelve (12) full calendar months following such expiration or earlier termination, on the terms and conditions in effect immediately prior thereto. Neither Landlord's demand nor Landlord's receipt of the aforesaid compensation for use and occupancy shall be deemed to provide Tenant with any right to any use, occupancy or possession of the Demised Premises either for the period for which such compensation has been demanded or paid or for any time before or after such period. The provisions of this Section 18.01 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law.

SECTION 19 Condition and Return of Premises

19.01 Condition of Title and Demised Premises. Tenant agrees that the Demised Premises, the Common Areas and all other parts of the Center, the title to the Demised Premises and the Center, the zoning classification of the Demised Premises and the Center, and the uses of the Demised Premises permitted by applicable Laws have been examined by Tenant; that Tenant accepts the Demised Premises and the Common Areas in their "As Is" "Where Is" state and condition; that Tenant accepts its rights under this Lease subject to all of the foregoing; and that Landlord has made no representation, covenant or warranty, express or implied, in fact or in law, with respect thereto except as provided below.

19.02 Landlord Warranties. Landlord represents and warrants that the bathrooms, HVAC system, plumbing system and electrical system servicing the Demised Premises will be in good working order on the Delivery Date and that the roof will be free of leaks and the sidewalk free of repair and that the Landlord has not received any notices of any violations of the applicable building code. In addition, Landlord will enforce any provision in any of its other tenant's leases in an attempt to prevent any noise or odors emanating from any other tenant entering into the Demised Premises.

19.03 Liability for Return of Premises. At the expiration of the Term, Tenant shall surrender the Demised Premises in the same or better condition as the Demised Premises were in upon delivery of possession to the Tenant under this Lease, loss by condemnation and insured casualty excepted.

SECTION 20 General

20.01 Notices. Any notice provided for in this Lease shall be given by written instrument, personally delivered or sent by United States certified or registered mail, return receipt requested or with a nationally recognized overnight carrier (such as Federal Express), each with postage and/or delivery charges prepaid, to Landlord at Landlord's Address for Notices and to Tenant at Tenant's Address for Notices. All notices shall be deemed to have been given when deposited in the United States mail or with

such overnight carrier or when personally delivered, as aforesaid. Any notice may be given on behalf of any party by its counsel.

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

20.03 Entire Agreement. This Lease constitutes the entire agreement between the parties with respect to the subject matter hereof and all prior negotiations are merged into this Lease. Any amendment, change or addition to this Lease shall be made only in writing and signed by both parties.

20.04 Successors in Interest. The terms and conditions of this Lease shall be binding upon, and shall inure to the benefit of, the parties and their respective successors and assigns, subject however to the provisions of Section 11.01.

20.05 Headings. The section headings in this Lease are for convenience of reference only, and shall not be construed or held in any way to explain, modify, amplify or add to the interpretation, construction or meaning of this Lease.

20.06 Applicable Law. This Lease shall be governed by the laws of the state in which the Center is located.

20.07 Definition of Landlord. The word "Landlord" is used herein to include the Landlord and any subsequent owner of the Demised Premises as well as their respective successors and assigns, each of whom shall have the same rights, remedies, powers, authorities and privileges as it would have had, had it originally signed this Lease as Landlord; but any Landlord, whether or not named herein, shall have no liability under this Lease after it ceases to hold title to the Demised Premises, except for obligations which may have theretofore accrued; or if it never acquires title to the Demised Premises. If Landlord is in breach or default with respect to Landlord's obligations or otherwise under this Lease, Tenant shall look solely to the interest of Landlord in the Center for satisfaction of Tenant's remedies. Neither Landlord, nor any partner in Landlord, shall have any personal liability with respect to any of the provisions of this Lease. Landlord's affiliated companies, officers, directors, agents or employees shall not be liable to Tenant for indirect, special, incidental, consequential, punitive or reliance damages arising under or in connection with this Lease or the performance of Landlord's obligations hereunder, or from any breach or partial breach of the provisions of this Lease or arising out of any act or omission of employees, servants, agents or invitees of Landlord whether based on breach of contract, breach of warranty, negligence or any other theory of liability. It is expressly understood and agreed that Landlord's liability, and the liability of any partner in Landlord, under the terms, covenants, conditions, warranties, and obligations of this Lease shall in no event exceed the loss of Landlord's interest in the Center.

20.08 Maintenance Bond. If a maintenance bond is required to be maintained by any governmental authority for the maintenance of the Demised Premises, Tenant agrees, at its sole cost and expense, to obtain and maintain such bond, and to cause it to name Tenant and Landlord as the bonded parties.

20.09 Brokers in Connection with Lease. Tenant and Landlord each represent and warrant to the other that other than the Broker (as defined in Section 1.01(j)), neither Tenant nor Landlord has had any dealings, negotiations or consultations with respect to the Demised Premises or this transaction with any broker or finder, and Tenant represents and warrants to Landlord that no broker or finder called the Demised Premises to Tenant's attention for lease or took part in any dealings, negotiations or consultations with respect to the Demised Premises or this Lease. Landlord shall be responsible for the payment of the Broker's commission pursuant to a separate written agreement between Landlord and Broker. Tenant and Landlord each agree to indemnify, defend and save the other harmless from and against all costs, fees (including, without limitation, reasonable attorneys' fees and court costs), expenses, liabilities and claims incurred or suffered as a result of breach of its representation and warranty set forth above.

20.10 No Partnership. Any intention to create a partnership or joint venture relationship between Landlord and Tenant is hereby expressly disclaimed; and no relationship other than that of Landlord and Tenant is intended between the parties hereto.

20.11 Effect of Statements Submitted by Landlord. Except as otherwise expressly provided for in this Lease, Tenant's failure to object to any statement, invoice or billing rendered by Landlord within a period of thirty (30) days after receipt thereof shall constitute Tenant's acquiescence with respect thereto.

20.12 Documents and Instruments. In connection with a request by Tenant for Landlord to review, prepare, execute, deliver, consent to and/or approve a document or instrument, Tenant shall pay Landlord for Landlord's reasonable costs and expenses incurred therefor.

20.13 Counterparts. This Lease may be executed in one or more counterparts, all of which shall be deemed to be an original.

20.14 Tenant's Signature. If Tenant consists of more than one (1) party, each such party's liability shall be joint and several.

20.15 Time of Essence. Time is of the essence of this Lease and all provisions hereof.

20.16 Force Majeure. In the event that Landlord or Tenant shall be delayed, hindered in or prevented from the performance of any act required hereunder (other than the payment of money) by reason of strikes, labor troubles, inability to procure materials, failure of power, riots, insurrection, terrorist activity, the failure to act or default of the other party, war or other reason beyond their control, then the performance of any such act shall be extended for a period equivalent to the period of such delay.

20.17 Character of Shopping Center. Tenant has entered into this Lease in reliance upon the representation by Landlord that the Center is, and will remain, retail in character, and further, that no part of same shall be used as a theater, auditorium, meeting hall, school or other place of public assembly, gymnasium, dance hall, billiard or pool hall, massage parlor, video game arcade, bowling alley, skating rink, car wash, night club or adult book store or adult video tape store (which are defined as stores in which at least ten percent (10%) of the inventory is not available for sale or rental to children under 18 years of age because such inventory explicitly deals with or depicts human sexuality).

20.18 Access to Building. Landlord covenants and agrees, and this Lease is conditioned upon there being at all times during the Term (i) direct and unencumbered access between the public ways and the sidewalk on either side thereof on the one hand and the Demised Premises on the other hand and (ii) no additional buildings, structures, obstructions, barriers and the like constructed upon, attached or placed adjacent to the building of which the Demised Premises is located in and/or the Demised Premises, which shall materially adversely affect the access to or visibility of such building, the Demised Premises and/or Tenant's sign(s). In addition, Landlord covenants and agrees that it will not reduce the space nor the dimension of the Demised Premises.

20.19 Deliver of Possession. Delivery of possession of the Demised Premises to Tenant shall in no event be deemed to have occurred until actual and exclusive physical possession of the Demised Premises shall have been delivered to Tenant in a broom-clean condition, free and clear of all violations, prior leases, tenants and/or occupants and free and clear of all fixtures and other property of all prior tenants and/or occupants, and with any warranties and representations contained in this Lease being true and fulfilled as of such date.

20.20 Failure to Give Possession. Notwithstanding anything in this Lease to the contrary, including any Force Majeure clause, if Landlord is unable to give Tenant possession of the Demised Premises as required hereunder by May 1, 2002, both Landlord and Tenant shall have the option of terminating this Lease within thirty (30) days thereof by notice to the other party.

20.21 Rules and Regulations. All rules and regulations that Landlord may make shall be uniform, reasonable, and applied equally on a non-discriminatory basis to all of the tenants, and shall not conflict with any provisions of this Lease.

20.22 Remedies Cumulative. Any and all rights and remedies that Landlord or Tenant may have under this Lease, and at law and in equity, shall be cumulative and shall not be deemed inconsistent with each other, and any two or more of all such rights and remedies may be exercised at the same time insofar as permitted by law.

20.23 Effect of Waivers on Default. No consent or waiver, express or implied, by either party to or of any breach of any covenants, conditions or duty of the other shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty.

20.24 Actions of Landlord. Whenever Landlord shall enter, or perform any work in or about the Demised Premises, such entry shall be made, and such work shall be performed, to the extent practicable, without interfering with the conduct of Tenant's business.

20.25 Mutuality of Lease Provisions. All provisions of this Lease relating to (i) payment of attorneys' fees, (ii) effect of waivers (or lack of waivers) and (iii) delays (force majeure), shall be deemed mutual, Landlord and Tenant each having the same rights with respect thereto.

[The Remainder of this Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Lease is executed as of the day and year first above written.

Witness:

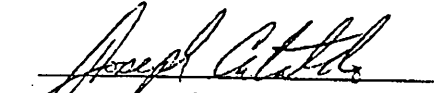
LANDLORD:

J.L.S. JENSEN BEACH, L.P., a Delaware
limited partnership

By: J.L.S. GP II LLC, a Delaware limited
liability company

By: 

Eric D. Sheppard
Member


5/13/02

Attest:

JENNIFER CONVERTIBLES, INC., a Delaware
corporation

By: 

Name: EDWARD B. SEIDEN
Title: EXECUTIVE V.P.

Name: _____
Title: _____

Name: _____
Title: _____

EXHIBIT "A"

[PLOT PLAN]

[CENTER IS OUTLINED IN BLUE AND DEMISED PREMISES IS OUTLINED IN RED]

EXHIBIT "B"

LETTER OF POSSESSION

PURSUANT TO AGREEMENT dated _____, 2002 between:

Landlord: J.L.S. JENSEN BEACH II, L.P.

Tenant: JENNIFER CONVERTIBLES, INC.

WHEREAS, the parties hereto entered into a Lease of the premises at:

2810 NW Federal Highway
Jensen Beach
Stuart, Florida

WHEREAS, the Landlord has complied with all the terms and conditions of such Lease on the Landlord's part to be performed, and

THEREFORE, in consideration of the mutual covenants herein contained, and for the sum of \$1.00 each to the other in hand paid, receipt of which is hereby acknowledged, it is agreed as follows:

1. The Tenant acknowledges that the Landlord has complied with all the terms, covenants, and the conditions of said Lease on Landlord's part to be performed. The Tenant agrees that it has taken possession of the Demised Premises (as defined in the Lease) on _____, 2002 (in no event shall such date be later than the date on which the last party to the Lease executes the Lease).

2. Tenant is to commence rental payments on _____, 2002 as provided for in the Lease. The termination of said Lease shall be _____, 200__.

LANDLORD:

J.L.S. JENSEN BEACH II, L.P., a
Delaware limited partnership

By: J.L.S. GP II LLC, a Delaware limited
liability company

Dated: _____

By:

Eric D. Sheppard, Member

TENANT:

JENNIFER CONVERTIBLES, INC., a
Delaware
corporation

Dated: _____

By:

Edward Seidner, Executive Vice President

EXHIBIT "B"LETTER OF POSSESSIONPURSUANT TO AGREEMENT dated May 13, 2002 between:

Landlord: J.L.S. JENSEN BEACH II, L.P.

Tenant: JENNIFER CONVERTIBLES, INC.

WHEREAS, the parties hereto entered into a Lease of the premises at:

2810 NW Federal Highway
Jensen Beach
Stuart, Florida

WHEREAS, the Landlord has complied with all the terms and conditions of such Lease on the Landlord's part to be performed, and

THEREFORE, in consideration of the mutual covenants herein contained, and for the sum of \$1.00 each to the other in hand paid, receipt of which is hereby acknowledged, it is agreed as follows:

1. The Tenant acknowledges that the Landlord has complied with all the terms, covenants, and the conditions of said Lease on Landlord's part to be performed. The Tenant agrees that it has taken possession of the Demised Premises (as defined in the Lease) on May 16, 2002 (in no event shall such date be later than the date on which the last party to the Lease executes the Lease).

2. Tenant is to commence rental payments on August 13, 2002 as provided for in the Lease. The termination of said Lease shall be August 31, 2002.

LANDLORD:

J.L.S. JENSEN BEACH II, L.P., a
Delaware limited partnershipBy: J.L.S. GP II LLC, a Delaware limited
liability company

By:

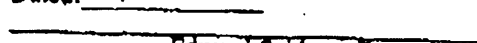
Dated: 5-17-02
Eric D. Sheppard, Member

TENANT:

JENNIFER CONVERTIBLES, INC., a
Delaware
corporation

By:

Dated: _____


Edward Seidner, Executive Vice President

Tenant Estoppel Letter

NOV 1-1003

Loan	76-002
No.:	

General Electric Capital Corporation
Commercial Real Estate
Suite 400
1000 Windward Concourse
Alpharetta, GA 30005

RE: Lease dated May 13, 2002 (the "Lease")
for Jensen Beach, Florida (the "Property")

Ladies and Gentlemen:

The undersigned is Tenant under the Lease. Tenant certifies to General Electric Capital Corporation and its successors, transferees and assigns (collectively, "Lender") and acknowledges and agrees that:

1. The following information concerning the Lease is true and correct:

Landlord: JLS Jensen Beach II, LP ("Landlord")

Tenant: Jennifer Convertibles, Inc. ("Tenant")

Premises: 2810 NW Federal Highway ("Premises")
containing a total of 3,000 rentable square feet.

Amendments, Modifications, Assignments or Assumptions:

none

Commencement Date: August 14, 2002

Expiration Date: July 31, 2011 *August 31 2012*

Monthly rent under the Lease:

Fixed Minimum Rent:	\$ 5,500.00
Common Area Maintenance:	\$ 500.00
Real Estate Taxes:	\$ 587.50
Insurance:	\$ 125.00

Renewal Option: Two (2) five (5) years each

Amount of Security Deposit: \$ none

2. The Lease contains the entire agreement between Landlord and Tenant with respect to the subject matter thereof, has not been modified or amended except as indicated above, no options to

purchase or rights of first refusal are contained therein, and there are no other agreements between them, oral or written, regarding the Premises or the Property.

3. The Lease (modified as indicated above) is presently in full force and effect in accordance with its terms and Tenant has accepted the Premises.
4. All rent and additional rent payable under the Lease as of the date of this letter has been paid in full and no rent or additional rent to become payable under the Lease has been paid more than 30 days in advance.
5. To the best of Tenant's knowledge, no party to the Lease is in default thereunder, and no event has occurred which, with the giving of notice or the passage of time, or both, would constitute a default thereunder.
6. Tenant has no counterclaims, defenses or offsets to its obligations under the Lease or to the enforcement of any of the landlord's rights thereunder.
7. Landlord has completed all alterations, additions, painting and refurbishing to the Premises and the Property required to be performed by Landlord, and there are no rent concessions, rebates, free rents or similar inducements except as set forth in the Lease.
8. The Lease is subject and subordinate to any and all existing and future mortgages and any ground lease of the Premises.
9. Tenant acknowledges that if Lender succeeds to the interest of Landlord under the Lease, Lender shall not be liable for any act or omission of any prior landlord (including Landlord), liable for the return of any advance rental deposit or any security deposit (unless such sums have actually been received by Lender as security for Tenant's performance under the Lease), subject to any offset or defense which Tenant may have against any such prior landlord or bound by any rent or additional rent Tenant may have paid for more than the current month, or bound by any assignment, surrender, termination, cancellation, waiver, release, amendment or modification of the Lease not expressly permitted by the Lease made without its express written consent.
10. If Lender succeeds to the interest of Landlord under the Lease by any means, Tenant agrees to attorn to Lender and be bound to Lender under all the terms of the Lease on the condition that Lender does not disturb the possession of the Tenant under the Lease if the Lease is in full force and effect and the Tenant is not then in default under the Lease.

Tenant acknowledges that Lender has requested this letter in connection with a proposed financing of the Premises, and that Lender may rely on the information set forth in this letter.

Jennifer Convertibles, Inc.

By: 

Name:

EDWARD B. SETON

Title:

EXECUTIVE VICE PRESIDENT

Dated:

OCTOBER 22, 1992

PENN JENSEN BEACH PROPERTY, LLC

PETER PREVITI, Member/Manager
NELSON TARACIDO, Member/Manager
SUNSET BUSINESS PLAZA
5825 SUNSET DRIVE - SUITE 210
SOUTH MIAMI, FLORIDA 33143

TELEPHONE 305-662-9504
TOLL FREE 888-276-7507

FACSIMILE 305-662-6967

August 20, 2010

BMC Group, Inc.
Attn: Jennifer Convertibles Claims Processing
18750 Lake Drive East
Chanhassen, MN 55317

FEDERAL EXPRESS

Re: **Proof of Claim**
Southern District of New York / U.S. Bankruptcy Court
Case Number : 10-13779
Name of Debtor : Jennifer Convertibles, Inc.
Creditor/Landlord : Penn Jensen Beach Property, a Florida limited liability company

Dear Sir/Madam:

Enclosed please find our compact disk (CD) containing the following documents in connection with the above referenced Bankruptcy:

1. Proof of Claim.
2. Statement as of August 17, 2010 reflecting the balance outstanding of \$60,884.10.
3. Copy of the Lease.

A stamped self-addressed envelope together with a copy of the Proof of Claim is also enclosed so that we may receive acknowledgment of our filing.

Feel free to contact our office if further information or documentation is required.

Sincerely,
PENN JENSEN BEACH PROPERTY, LLC



Nelson Taracido, Managing Member

NT/so
enc.