

| <b>UNITED STATES BANKRUPTCY COURT</b>  |  | <b>PROOF OF CLAIM</b>  |
|--|--|--|
| Southern District of New York  |  |  |
| In re (Name of Debtor)<br><br>Jennifer Convertibles, Inc.  | Case Number<br>10-13779 (ALG)  |  |
| <small>NOTE: This form should not be used to make a claim for an administrative expense arising from the commencement of the case. A "request" of payment of an administrative expense may be filed pursuant to 11 U.S.C. Section 503.</small>   |  |  |
| Name of Creditor<br>(The person or entity to whom the debtor owes money or property)<br><br>METROPOLITAN LIFE INSURANCE COMPANY  | <div><input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.</div> <div><input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case</div> <div><input checked="" type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.</div> |  |
| Name and Addresses Where Notices Should be sent<br><br>3500 Lenox Rd. NE, Suite 1800<br>Atlanta, Georgia 30326-4239<br>Telephone No. (404) 838-2835<br>Attn: Robert Goldstein, Esq.  | <b>THIS SPACE IS FOR COURT USE ONLY</b>  |  |
| ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR:   |  |  |
| Check here if this claim: <input type="checkbox"/> replaces a previously filed claim, dated: <input type="checkbox"/> amends   |  |  |
| <div style="display: flex; justify-content: space-between;"><div style="width: 45%;">1. BASIS FOR CLAIM:<br/><div style="display: flex; justify-content: space-between;"><div style="width: 45%;"><input type="checkbox"/> Goods sold<br/><input type="checkbox"/> Services performed<br/><input type="checkbox"/> Money loaned<br/><input type="checkbox"/> Personal injury/wrongful death<br/><input type="checkbox"/> Taxes<br/><input checked="" type="checkbox"/> Other (Describe briefly) leased space by claimant as landlord</div><div style="width: 50%; text-align: center;"><div style="font-size: 1.5em; font-weight: bold;">RECEIVED</div><div style="font-size: 1.5em; font-weight: bold;">FEB 22 2011</div><div style="font-size: 1.5em; font-weight: bold;">BMC GROUP</div></div></div></div><div style="width: 45%;"><input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. Section 1114(a)<br/><input type="checkbox"/> Wages, salaries and compensations (Fill out below)<br/>Your social security number _____<br/>Unpaid compensation for services performed from _____ to _____</div></div> |  |  |
| 2. DATE DEBT WAS INCURRED<br>Various dates after September 30, 1994  |  | 3. IF COURT JUDGMENT, DATED OBTAINED   |
| 4. CLASSIFICATION OF CLAIM. Under the Bankruptcy Code all claims are classified as one or more of the following: (1) Unsecured nonpriority, (2) Unsecured Priority, (3) Secured. It is possible for part of a claim to be in one category and part in another. CHECK THE APPROPRIATE BOX OR BOXES that best describe your claim and STATE THE AMOUNT OF THE CLAIM.   |  |  |
| <div><input type="checkbox"/> SECURED CLAIM<br/>Attach evidence of perfection of security interest<br/>Brief Description of Collateral:<br/><input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other (Describe briefly)</div> <div style="margin-top: 10px;">Amount of arrearage and other charges included in secured claim above, if any _____</div> <div><input checked="" type="checkbox"/> UNSECURED NONPRIORITY CLAIM See addendum<br/>A claim is unsecured if there is no collateral or lien on property of the debtor securing the claim or to the extent that the value of such property is less than the amount of the claim.</div>  |  | <div><input type="checkbox"/> UNSECURED PRIORITY CLAIM<br/>Specify the priority of the claim.</div> <div style="margin-top: 10px;"><input type="checkbox"/> Wages, salaries, or commissions (up to \$2000), earned not more than 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier--11 U.S.C. Section 507(a)(3)</div> <div><input type="checkbox"/> Contributions to an employee benefit plan--U.S.C. Section 507(a)(4)</div> <div><input type="checkbox"/> Up to \$900 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use--11 U.S.C. Section 508(a)(6)</div> <div><input type="checkbox"/> Taxes or penalties of governmental units--11 U.S.C. Section 508(a)(7)</div> <div><input type="checkbox"/> Other--11 U.S.C. Sections 507(a)(2), (a)(5)--(Describe briefly)</div> |
| 5. TOTAL AMOUNT OF CLAIM AT TIME CASE FILED: See addendum (Unsecured) (Secured) (Priority) See Addendum (Total)  |  |  |
| <input type="checkbox"/> Check this box if claim includes prepetition charges in addition to the principal amount of the claim. Attach itemized statement of all additional charges.   |  |  |
| 6. CREDITS AND SETOFFS. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. In filing this claim, claimant has deducted all amounts that claimant owes to debtor.   |  |  |
| 7. SUPPORTING DOCUMENTS: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, or evidence of security interests. If the documents are not available, explain. If the documents are voluminous, attach a summary.<br><i>Copy of lease attached.</i>   |  |  |
| 8. TIME-STAMPED COPY: To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.   |  |  |
| Date<br><br>2-18-11  | Sign and print the name and title, if any of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any)<br>METROPOLITAN LIFE INSURANCE COMPANY<br><i>Robert Goldstein</i><br>By: Robert A. Goldstein, Counsel for Metropolitan  |  |

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. Sections 152 and 3571.

ADDENDUM  
TO THE PROOF OF CLAIM  
OF METROPOLITAN LIFE INSURANCE COMPANY ("CLAIMANT") AGAINST  
JENNIFER CONVERTIBLES, INC. ("DEBTOR")  
CASE #10-13779 (ALG)

This claim arises under the lease of certain lease ("Lease") between Metropolitan Life Insurance Company ("Landlord") and Jennifer Convertibles, Inc. ("Tenant") for space located at Colonial Palms Plaza Shopping Center, 13623 South Dixie Highway, Miami, Florida, a copy of which is attached hereto as Exhibit "A".

**Lease:**

|   |                           |
|---|---------------------------|
| Prepetition charges due under the Lease   | \$ 78,459.05 <sup>1</sup> |
| Damages as limited by 11 U.S.C. Section 502(b)(6)(A)<br>(actual damages exceed this amount) | \$195,675.48 <sup>2</sup> |
| <u>GENERAL UNSECURED CLAIM:</u>   | <u>\$274,134.53</u>       |

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<sup>1</sup> Prepetition charges calculated as follows:

Rent for the period of February through July, 2010 = \$78,459.05 calculated as follows: Rent per month is \$11,673.33; Sales Tax per month is \$1,066.76; Real Estate Tax per month is \$1,377.45; CAM per month is \$2,188.75.

<sup>2</sup> One year's rent is \$195,675.48 calculated as follows: Rent (\$11,673.33 X 12) = \$140,079.96; Sales Tax (\$1,066.76 X 12) = \$12,801.12; Real Estate Taxes (\$1,377.45 X 12) = \$16,529.40; CAM (\$2,188.75 X 12) = \$26,265.00.

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Exhibit "A"- Site Plan

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Exhibit "C"- Description of Tenant's Work

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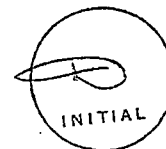
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Ending of Term of Lease

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Sign Criteria

Tenant Construction Allowance Rider

  
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# LEASE

NOTE: See FACE PAGE for the definition of certain terms used in this LEASE, which face page and terms are incorporated herein by reference.

## 1. PARTIES.

This LEASE (hereinafter referred to for convenience as the "Lease") made as of the LEASE DATE (as defined on the FACE PAGE) is by and between LANDLORD (as defined on the FACE PAGE) and TENANT (as defined on the FACE PAGE).

WITNESSETH:

## 2. DEMISED PREMISES.

2.1 LANDLORD hereby demises unto TENANT, and TENANT hereby leases from LANDLORD, for the term and specifically upon the terms and conditions set forth in this Lease, the Demised PREMISES (as defined on the FACE PAGE), which DEMISED PREMISES are located in the SHOPPING CENTER (as defined on the FACE PAGE) and which DEMISED PREMISES consist of a store location as outlined in red on the site plan of the SHOPPING CENTER which is designated Exhibit "A", which is attached hereto and made a part hereof by reference.

2.2 The use and occupation by the TENANT of the Demised PREMISES shall include the right to the non-exclusive use, in common with others, of all such automobile parking areas, driveways, truck and service courts, walks and other facilities designed for common use, as have been or may be installed by LANDLORD, and of such other and further facilities as may be provided or designated from time to time by LANDLORD for common use, subject expressly, however, to the terms and conditions of this Lease and to reasonable rules and regulations for the use thereof, as prescribed from time to time by LANDLORD. All dimensions are approximate only. LANDLORD reserves, and TENANT agrees that LANDLORD has from time to time, the right to change the size, layout and location of any and all buildings or common areas and facilities as shown on Exhibit "A" as well as to reduce or expand the size of the SHOPPING CENTER.

## 3. POSSESSION.

3.1 Delivery of possession within the meaning of this Lease shall be accomplished by LANDLORD's delivery to TENANT of the keys to the DEMISED PREMISES after LANDLORD has completed LANDLORD'S work, as set forth on Exhibit "B" which is appended hereto and incorporated herein by reference.

3.2 TENANT agrees that it shall, with due diligence and all reasonable commercial promptness, proceed to install such fixtures and equipment to perform such work as shall be necessary or appropriate in order to prepare the DEMISED PREMISES for the opening of business. The work to be performed by the TENANT is set forth on Exhibit "C" which is appended hereto and incorporated herein by reference. The agreement of LANDLORD and TENANT concerning construction of the Demised PREMISES is set forth in Exhibit "D" which is appended hereto and incorporated herein by reference. In the event that, for whatever reason, TENANT does not fully open the DEMISED PREMISES for the conduct of its business as set forth in Paragraph 4 hereof within forty-five (45) days after receiving possession of the Demised PREMISES from LANDLORD, as provided in Paragraph 3.1 hereof, LANDLORD, in addition to all other remedies given to it hereunder, shall have the option of terminating this Lease by giving TENANT written notice of such termination; and in such event this Lease shall be terminated unless by the date of the giving of said written notice, TENANT shall have actually opened the DEMISED PREMISES for the conduct of its business.

3.3 LANDLORD agrees that upon the date of delivery of possession to the TENANT, the Demised PREMISES except for such work as may be required to be performed by TENANT, shall be free of all violations, orders or notices of violations of all public authorities which would directly prohibit TENANT from conducting its business.

3.4 By virtue of occupying the Demised PREMISES as a tenant, or installing fixtures, facilities or equipment, or performing finishing work, whether in any such instance, directly or through its contractor(s) or agents, TENANT shall conclusively be deemed to have accepted the Demised PREMISES and to have acknowledged that the Demised PREMISES are in the condition as required by this Lease, except only and specifically as to any latent defects or latent omissions, if any, in the LANDLORD'S construction.

## 4. USE.

4.1 TENANT shall use and occupy the DEMISED PREMISES solely and exclusively for the conduct of TENANT'S BUSINESS (as defined on the FACE PAGE) and solely and exclusively under the NAME (as defined on the FACE PAGE) and for no other purpose whatsoever. In no event shall TENANT, without LANDLORD'S consent, change the character of its business or conduct business that is not described as TENANT'S business. In no event shall TENANT conduct any illegal business or sell any pornographic items.

~~4.2 Neither the TENANT nor any person, firm or corporation directly or indirectly affiliated with TENANT shall conduct any commercial establishment within three (3) miles of the Demised PREMISES during the term of this Lease and any extension hereof, if any.~~

Exception being restocking inventory, refurbishing and/or painting, and/or refitting the premises

4.3 TENANT shall continuously, during the term of this Lease and every extension hereof, if any be specifically provided or agreed, keep the entire Demised PREMISES occupied and fully open for business during the HOURS OF OPERATION (as defined on the FACE PAGE) and shall carry at all times a stock of merchandise of such size, character, and quantity as shall be reasonably designed to produce the maximum GROSS RECEIPTS (as defined hereinafter).

4.4 TENANT acknowledges that LANDLORD has leased or may, in LANDLORD'S sole discretion, lease on various terms and conditions other space(s) in the SHOPPING CENTER to businesses in store sizes all as LANDLORD may elect, some of which businesses may or will be in similar or directly competitive businesses as TENANT, and that LANDLORD has made no written or oral promises or representations of any kind or sort whatsoever, whether directly or indirectly, in respect of any of the same except only and solely as specifically in writing set forth in this Lease.

4.5 By executing this Lease TENANT specifically confirms that LANDLORD has made no representations or warranties concerning tenant mix, concerning shopper traffic volumes, or concerning how the same will or might affect TENANT and that TENANT will take all necessary and appropriate business steps and actions, including all prudent advertising and marketing, to develop necessary shopper traffic and sales volumes.

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## 6.5 STATEMENTS REGARDING PERCENTAGE RENT PAYMENTS.

~~6.5.1 Within fifteen (15) days after the end of each respective month during the term of this Lease, TENANT shall submit to LANDLORD an accurate, unaudited, written statement signed by TENANT or on its behalf by a duly authorized officer or representative showing the full amount of TENANT'S GROSS RECEIPTS in the Demised PREMISES during the previous month.~~

~~6.5.2 Within thirty (30) days after the end of each respective lease year, commencing with the first lease year, TENANT at its expense shall submit to LANDLORD a complete statement, certified by an independent certified public accountant, selected by TENANT but approved by LANDLORD, and certified by TENANT on its behalf by a duly authorized officer or representative, showing accurately and in reasonable detail the full amount of TENANT'S GROSS RECEIPTS in the DEMISED PREMISES during the immediately preceding lease year and the amount of PERCENTAGE RENT for such lease year.~~

## ~~6.6 GROSS RECEIPTS.~~

~~The term GROSS RECEIPTS as used in this Lease is hereby defined to mean absolutely all the gross receipts of TENANT and of all licensees, concessionaires and tenants of TENANT from all business conducted upon or from the Demised PREMISES or elsewhere, and whether such business be conducted by TENANT or by any licensees, concessionaires or tenants of TENANT, and whether such receipts relate to cash transactions or be evidenced by check, credit, charge account, exchange or otherwise; and such gross receipts shall include, but not be limited to, the amounts received from the sale of goods, wares, and merchandise and for services performed, together with the amounts of all orders taken, received or filled from the Demised PREMISES or elsewhere and whether such receipts result from the sale of merchandise or from vending devices. If one or more departments or other divisions of TENANT'S business shall be sublet by TENANT or conducted by any person, firm or corporation other than TENANT, there shall nonetheless be included in GROSS RECEIPTS for the purpose of fixing the PERCENTAGE RENT payable hereunder all the gross receipts of such departments or divisions, whether such receipts be obtained at the Demised PREMISES or elsewhere, in the same manner and with the same effect as if the business or sales of all such departments and divisions of TENANT'S business had been conducted by TENANT itself. GROSS RECEIPTS shall not include sales of merchandise for which cash has actually been refunded or allowances made on merchandise claimed and accepted to be defective or unsatisfactory, provided that the sale price of the merchandise delivered to the customer in exchange shall be included in GROSS RECEIPTS. GROSS RECEIPTS shall not include the amount of any sales or gross receipts tax levied directly on sales and collected from customers, provided that specific record is made at the time of each sale of the amount of such sales or gross receipts tax and the amount thereof is separately charged to the customer.~~

## ~~6.7 BOOKS OF ACCOUNT AND AUDITS.~~

~~TENANT covenants and agrees that the business of TENANT and of any sub-lease, licensee or concessionaire upon the DEMISED PREMISES shall be operated so that a duplicate sales slip, invoice or cash register receipt, serially numbered, shall be issued with each sale or transaction, whether for cash, credit or exchange. TENANT shall keep at all times during the term hereof, at the DEMISED PREMISES or at the general office of the TENANT, full, complete, current and accurate books of account and records in accordance with generally accepted accounting practices consistently applied, with respect to all operations of the business to be conducted in or from the DEMISED PREMISES, including the recording of GROSS RECEIPTS of all merchandise into and the delivery of all merchandise from the DEMISED PREMISES during the term hereof, and shall retain such books and records, as well as all contracts, vouchers, checks, inventory records, and other documents and papers in any way relating to the operation of such business, for at least two (2) years from the end of the lease year to which they are applicable or, if an audit is required by LANDLORD or a controversy should arise between the parties hereto regarding any rental amounts payable hereunder, until such audit or controversy is finally terminated. In the event TENANT does not retain all such records, all issues shall be resolved adverse to TENANT. Such books and records shall at all reasonable times and from time to time without limitation during the retention period above referred to be open to the inspection of LANDLORD and its duly authorized representatives, each of which shall have full and free access to the same and the right to require of TENANT, its agents and employees, such information or explanation with respect to the same as may be reasonably necessary in LANDLORD'S judgment for a proper examination and valuation thereof. If it is determined that the actual GROSS RECEIPTS for any period covered by any statement required pursuant to Paragraph 6.5 exceeds the amount thereof shown in any such statement by two percent (2%) or more, then and in any such event TENANT shall pay all the expenses incurred in determining the actual GROSS RECEIPTS for each period and all others in question.~~

## 6.8 ADDITIONAL RENT.

In addition to the foregoing MINIMUM ANNUAL RENT and PERCENTAGE RENT, all other payments to be made by TENANT under this Lease shall be deemed to be and shall become additional rent hereunder whether or not the same be designated as such and shall be due and payable on demand or together with the next succeeding installment of rent, whichever shall first occur; and LANDLORD shall have the same remedies for failure to pay the same as for a non-payment of minimum rent. LANDLORD at its election, shall have the right, but not the obligation, to pay or do any act which requires the expenditure of any sums of money by reason of the failure or neglect of TENANT to perform any of the provisions of this Lease, and in the event LANDLORD shall, at its election, pay such sums or do such acts requiring the expenditure of monies, TENANT agrees to pay LANDLORD, upon demand, all such sums, and the sums so paid by LANDLORD, shall be deemed additional rent and be payable as cash.

## ~~6.9 RIGHT TO CANCEL.~~

~~In the event the aggregate of the fixed MINIMUM ANNUAL RENT and the PERCENTAGE RENT paid by TENANT to LANDLORD during the third full lease year shall be less than One Hundred Fifteen Percent (115%) of the fixed MINIMUM ANNUAL RENT due for such lease year, LANDLORD shall have the option, to be exercised upon notice not less than ninety (90) days' written notice and to be given at any time within six (6) months after the expiration of said period, of cancelling this Lease; provided, however, that such notice of cancellation shall be ineffective if TENANT, within thirty (30) days after receipt of such notice, shall pay to LANDLORD an additional sum equal to Fifteen Percent (15%) of the fixed MINIMUM ANNUAL RENT due for the third full lease year and shall agree in writing to increase the fixed MINIMUM ANNUAL RENT thereafter to One Hundred Fifteen Percent (115%) of the initial fixed MINIMUM ANNUAL RENT as set forth on the PAGE PAGE hereof.~~

## 6.10 RELATIONSHIP OF PARTIES.

Anything contained in this Lease to the contrary notwithstanding, it is specifically agreed that LANDLORD shall in no event be construed or deemed to be a partner or engaged in a joint venture with, or an associate of, TENANT in the conduct of its business and that LANDLORD shall absolutely not be liable for any debts or other liabilities of any kind or sort whatsoever incurred by TENANT in the conduct of its business or otherwise. Nothing contained in this Lease shall be deemed or construed to confer upon LANDLORD any interest in the business of the TENANT. The relationship of the parties during the term of this Lease shall at all times be solely that of landlord and tenant.

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foregoing, LANDLORD reserves the right (i) to designate from time to time a garbage service to be utilized by TENANT, (ii) to designate an air conditioning maintenance service to be utilized by TENANT and (iii) to provide and sell water, sewer and electricity to TENANT at rates filed with all governmental authorities having jurisdiction, if any.

## 9. TAXES.

9.1 Commencing with the RENTAL COMMENCEMENT DATE, TENANT agrees to pay to the LANDLORD throughout the term of this Lease its proportionate share of all real estate taxes and all assessments, without any allowance for any discount, which may be levied against the SHOPPING CENTER (including the fee interest, the leasehold interest, and otherwise) by the local tax authorities and all other governmental agencies. Said proportionate share shall be based upon the ratio of the square feet of the Demised PREMISES to the total ground floor square feet of all the rentable building space in the SHOPPING CENTER. Any and all payments due hereunder for such taxes shall be made by TENANT to LANDLORD within ~~ten (10)~~ <sup>thirty(30)</sup> days after delivery by LANDLORD to TENANT of a statement, which statement indicates a computation of TENANT'S proportionate share of such taxes. In the event the last lease year is not a calendar year, TENANT'S proportionate share of such taxes shall be prorated.

9.2 LANDLORD may require at any time during the term of this Lease and from time to time, at its sole option and in its sole discretion, that TENANT shall pay one twelfth (1/12th) of the annual amount estimated by LANDLORD to be due under this Paragraph 9 with each monthly payment of MINIMUM ANNUAL RENT with appropriate adjustments, if any, to be made upon receipt of actual tax bills.

9.3 TENANT shall pay LANDLORD any and all sales or use tax or excise tax imposed or levied against rentals or any other charge or payment required under this Lease to be made by TENANT which has been imposed or levied on or against the same by any governmental agency having, or purporting to have, jurisdiction thereover.

## 10. REPAIRS.

TENANT shall keep and maintain at TENANT'S sole expense not to be reimbursed by LANDLORD the interior of the Demised PREMISES, together with all fixtures and all electrical, plumbing, heating, air conditioning and all other mechanical and other installations therein, all doors, and all plate glass and door and window glass, in good working order and proper repair, using materials and labor of kind and quality equal to or better than the original work, and shall surrender the Demised PREMISES at the expiration or earlier termination of this Lease in as good condition as when received, excepting only and solely deterioration caused by mere ordinary wear and tear and damage by fire or other casualty of the kind actually insured against by TENANT in standard policies of fire insurance with extended coverage. Except only and solely as specifically provided in any, if any, written attachment to this Lease signed by LANDLORD, LANDLORD shall have no obligation to repair, maintain, alter or modify in any respect whatsoever the Demised PREMISES, or any part or portion thereof, or any plumbing, heating, electrical, air conditioning or other mechanical or other installation therein. Under no circumstances whatsoever shall LANDLORD be obliged to repair, replace or maintain any plate glass or door or window glass.

## 11. TENANT'S RIGHT TO MAKE ALTERATIONS.

TENANT covenants and agrees that it shall not make any alterations, improvements or additions to or upon the Demised PREMISES during the term of this Lease or any extension hereof, if any, without first obtaining the prior, specific written consent of LANDLORD on reasonable written notice to LANDLORD. TENANT shall not cut or drill into, or secure any fixture, apparatus or equipment of any kind to any part of the DEMISED PREMISES without first obtaining the prior, specific written consent of the LANDLORD on reasonable prior written notice to LANDLORD. All alterations, improvements and additions made by TENANT as aforesaid shall remain upon the DEMISED PREMISES at the expiration or earlier termination of this Lease and shall become the property of LANDLORD upon installation, unless LANDLORD shall prior to the termination of this Lease have given written notice and direction to TENANT to remove the same at TENANT'S sole cost and expense, in which event TENANT shall at its expense remove such alterations, improvements and additions and restore the Demised PREMISES to the same good working order and condition in which it was at the commencement of the lease term. Should TENANT fail so to do, LANDLORD may do so, at LANDLORD'S option, collecting in such instance the cost and expense thereof from the TENANT as additional rent.

## 12. AFFIRMATIVE COVENANTS OF TENANT.

### 12.1 TENANT agrees:

12.1.1 To comply with any and all requirements of any of the constituted public authorities having, or purporting to have, jurisdiction and with the terms of any State, Federal, or local statute, ordinance, or regulation applicable to TENANT or its use of the DEMISED PREMISES and to save and hold LANDLORD harmless from, and by these terms to indemnify, defend and hold ~~harmless~~ <sup>reasonable</sup> LANDLORD for, any and all penalties, fines, costs, expenses or damages, including, without limitation, LANDLORD'S ~~attorneys' fees~~ resulting from TENANT'S failure to do so and

12.1.2 To give LANDLORD prompt written, full, complete, and specific notice of any accident, fire, damage, or injury whatsoever occurring in, on or to the Demised PREMISES, and

12.1.3 That all loading and unloading of goods shall be done only at such times and in the areas and through such entrances as may be designated for such purposes by LANDLORD and that trailers or trucks shall not be permitted to remain parked overnight in any area of the SHOPPING CENTER, whether loaded or unloaded, and

12.1.4 To keep all garbage and refuse in the kind of container specified by LANDLORD and to place the same outside of the Demised PREMISES prepared for collection in the manner and at the times and places specified by LANDLORD in accordance with all regulations of the public authorities having, or purporting to have, jurisdiction, and

12.1.5 To keep the outside areas immediately adjoining the Demised PREMISES clean and not to burn place or permit any rubbish, obstruction or merchandise in such areas and

12.1.6 To keep the Demised PREMISES clean, orderly, sanitary and free from objectionable odors and from insects, vermin and other pests and, with affirmative action, to disallow the usage and possession of any illegal substance in, on or upon the Demised PREMISES, and

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13.3 Attach any awnings, antenna or other projections to the roof or the outside walls of the DEMISED PREMISES of the building or SHOPPING CENTER of which the Demised PREMISES is a part.

13.4 Conduct any auction, fire, bankruptcy, liquidation, selling-out or like sale in, on or about the DEMISED PREMISES.

13.5 Execute or deliver any security interest in any trade fixtures or other property placed in or on the DEMISED PREMISES at any time.

13.6 Solicit business or distribute any handbills or other advertising matter in the common areas of the SHOPPING CENTER including, without limitation, sidewalks, pedestrian walkways, and parking areas and lots.

13.7 Operate vending machines, pinball machines, or electronic games or similar devices within the Demised PREMISES.

13.8 Penetrate the roof of the Demised PREMISES without LANDLORD'S written consent. TENANT shall be responsible for the repair of roof leaks caused by such penetration even though TENANT has obtained LANDLORD'S prior written consent thereto.

#### 14. SIGNS.

TENANT shall not exhibit, inscribe, paint, or affix any sign, advertisement, notice or other lettering on any part of the outside of the DEMISED PREMISES or of the building or the SHOPPING CENTER of which the DEMISED PREMISES is a part, or inside the DEMISED PREMISES if visible from the outside, without first obtaining LANDLORD'S prior, specific written approval thereof; and TENANT further agrees to maintain each and every such sign, lettering and the like as may be approved by LANDLORD in good condition, working order, and repair at all times. There is attached to this Lease an instrument entitled "Sign Criteria", and TENANT agrees that TENANT'S sign(s) shall comply with the contents of such "Sign Criteria" as it may be amended or changed from time to time. TENANT shall, in respect of all such signs, lettering, and the like, submit in writing to LANDLORD for its approval the name of the person, firm or entity proposed by TENANT to contract with TENANT for the manufacture and installation of the same. TENANT agrees that it will have such a sign prepared and installed at TENANT'S expense.

#### 15. RIGHTS OF LANDLORD.

LANDLORD reserves, without limitation to any and all of LANDLORD'S other rights under this Lease, the following rights with respect to the Demised PREMISES:

15.1 At all reasonable times whether or not during TENANT'S HOURS OF OPERATION and from time to time, by itself or its duly authorized agents or designees to go upon and inspect the Demised PREMISES, and every part thereof, and at its option to make repairs, alterations and additions to the Demised PREMISES or the building of which the Demised PREMISES is a part.

15.2 To display a "For Sale" or other sign at any time and from time to time; and after notice from either party, whether express or implied by conduct, of intention to terminate this Lease or any time within three (3) months prior to the expiration of the term of this Lease, a "For Rent" or "For Lease" sign(s), or both "For Rent" and "For Lease" signs; and all of said signs shall be placed upon such part of the Demised PREMISES as LANDLORD shall require, except on display windows or on door or doors leading into the Demised PREMISES. Prospective purchasers or tenants authorized by LANDLORD may inspect the Demised PREMISES at all reasonable hours at any time and from time to time whether or not during TENANT'S HOURS OF OPERATION.

15.3 To install or place upon, or affix to the roof and exterior walls of the Demised PREMISES equipment, signs, displays, antenna, and any other object(s) of any kind or sort, provided only and solely that the same shall not materially impair the structural integrity of the building or interfere directly with TENANT'S occupancy.

#### 16. DAMAGE TO PREMISES.

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If the Demised PREMISES shall be damaged by fire, the elements or other casualty not due to TENANT'S negligence or willful acts or omissions, but are not thereby rendered untenable in whole or in part, and TENANT is not in default of its Lease obligations, LANDLORD shall, but only out of insurance proceeds, cause such damage to be repaired; and the rent shall ~~not~~ be abated. If by reason of such occurrence, the Demised PREMISES shall be rendered untenable only in part, LANDLORD shall, but only out of insurance proceeds, cause the damage to be repaired; and the MINIMUM ANNUAL RENT meanwhile shall be abated proportionally as to the portion of the Demised PREMISES rendered untenable. If the Demised PREMISES shall be rendered wholly untenable by reason of such occurrence, the LANDLORD shall, but only out of insurance proceeds, cause such damage to be repaired; and the MINIMUM ANNUAL RENT meanwhile shall be abated in whole; provided, however, that LANDLORD shall have the right, to be exercised by notice in writing, to elect not to reconstruct the destroyed Demised PREMISES, and in such event this Lease and the tenancy hereby created shall cease as of the date of the giving of said notice with the MINIMUM ANNUAL RENT to be abated as of such date; said notice may be given within sixty (60) days of said occurrence. Nothing contained in this Lease shall require, or be deemed or construed to require, LANDLORD to make any repairs to those elements of the Demised PREMISES other than those initially provided by LANDLORD to TENANT. In no event shall LANDLORD be responsible for repair to damage if the TENANT is in default of its Lease obligations. In the event the PREMISES are rendered wholly untenable, then TENANT shall submit to LANDLORD its current financial statement, together with a financial plan, indentifying the sources of capital that will be necessary to reopen its business. If TENANT has not submitted the required information to LANDLORD within twenty (20) days of the casualty occurrence, LANDLORD may terminate this Lease. If the DEMISED PREMISES or any other portion of the Center are damaged by fire or other casualty resulting from the fault, negligence or breach of the Lease by TENANT, its agents, employees, invitees or those for whom TENANT is responsible, the MINIMUM ANNUAL RENT and additional rent due hereunder shall not be diminished during the repair of such damage, and TENANT shall be liable to LANDLORD for the cost and expense of the repair and restoration of the DEMISED PREMISES and Center caused thereby to the extent such cost and expense is not covered by insurance proceeds.

only to the extent that landlord receives insurance proceeds in lieu of tenants rent.

#### 17. INDEMNIFICATION, PUBLIC LIABILITY INSURANCE AND OTHER INSURANCE

17.1 TENANT shall and hereby does indemnify and defend LANDLORD and save it harmless from and against any and all claims, causes of action, actions, damages, liability and expense including, without limitation, attorneys' fees in connection with any and all of loss of life, personal injury and damage to property occurring in or about, or arising out of or relating to, directly or indirectly in any manner whatsoever, the Demised PREMISES, adjacent sidewalks and loading platforms or areas, and the COMMON Facilities or occasioned wholly or in part by any act or omission of TENANT, its agents, contractors, customers, invitees, principals, directors, officers, or employees.

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agrees that, in the event of any such assignment, subletting, licensing or granting of a concession, made with the written consent of the LANDLORD as aforesaid, it will nevertheless remain unconditionally liable for the performance and financial obligations of all of the terms and conditions and covenants of this Lease. TENANT agrees that it shall not be unreasonable for LANDLORD to withhold its consent to any assignment, encumbrance, sublease, or other transfer of TENANT'S interest in this Lease if a proposed transferee's anticipated use of the Premises involves the generation, storage, use, treatment or disposal of Hazardous Material, as defined in Section 29 of this Lease Agreement. No consent to any assignment, encumbrance or subletting shall constitute a further waiver of the provisions of this section. Any such assignment, encumbrance or subletting without such consent shall be void and shall at LANDLORD'S option constitute a default. It shall not be unreasonable for LANDLORD to withhold its consent to any assignment or subletting unless TENANT assigns and pays to LANDLORD all consideration for the Premises above the amount provided for in this Lease received or to be received by TENANT. If TENANT is a corporation, and if control thereof in any respect whatsoever changes in LANDLORD'S sole but bona fide opinion in any manner whatsoever at any time during the term of this Lease, LANDLORD, at its option and its discretion, may by giving sixty (60) days prior written notice to TENANT, declare such change a breach of and default under this Lease. The changing of control shall be deemed and construed to include, without limiting the generality of the foregoing, the loss or removal of a key principal of TENANT, and any substantial change in management. LANDLORD hereby consents to the assignment of this Lease, or the subletting of the Demised PREMISES, to a wholly owned and controlled subsidiary of TENANT, provided that the TENANT remain fully liable nevertheless, as aforesaid. Prior to requesting the consent of LANDLORD to any proposed sublease or assignment, TENANT shall submit to LANDLORD detailed written information concerning the proposed sublessee or assignee, including background information, financial information and references. The LANDLORD shall have the right to deny any requested assignment or subleasing, with or without cause, and shall have the further right to condition its approval to any assignment or subleasing to an increase in the minimum rent payable for the premises which increase shall be in an amount determined by the LANDLORD, in its sole discretion, but which amount shall not be less than the current market leasing rate for comparable premises.

## 22. SUBORDINATION.

TENANT agrees that it shall, and hereby does by these terms, fully, absolutely and unconditionally subordinate its rights hereunder to the lien of a mortgage(s), now or hereafter placed against LANDLORD'S (or its successor's) interest, and, alternatively, any or all the buildings now or hereafter built or to be built in the SHOPPING CENTER by LANDLORD and to any and all advances, without limitation, made or to be made thereunder and to the interest thereon and to all renewals, replacements, consolidations and extensions thereof and that TENANT will from time to time promptly execute upon demand and without charge such documents and instruments in such form and substance as LANDLORD or its mortgagees or its other lenders may require implementing further the foregoing subordination and agreement to subordinate. TENANT further agrees that it shall enter into and execute, without charge, all other documents which any mortgagee or any ground lessor may reasonably request TENANT to enter into and execute, including a subordination, non-disturbance and attornment agreement. Landlord agrees not to change rent or term of Lease other than as provided for in Lease Agreement.

## 23. ESTOPPEL CERTIFICATE.

TENANT, upon request of LANDLORD or any holders of a mortgage against the LANDLORD'S interest, shall from time to time without charge deliver or cause to be delivered to LANDLORD or such mortgagee, within (10) days from the date of demand a certificate, duly executed and acknowledged in form for recording, certifying, if true, that this Lease is valid and subsisting and in full force and effect and that LANDLORD is not in default under any of the terms of this Lease or specifying, if applicable, any default of LANDLORD.

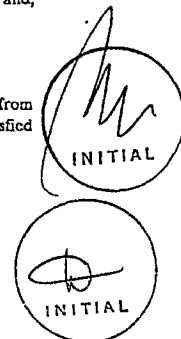
## 24. PERFORMANCE OF TENANT'S COVENANTS.

TENANT covenants and agrees that it shall timely and fully perform all agreements and covenants herein expressed on its part to be performed, that it shall, promptly upon receipt of written notice of non-performance thereof, comply with the requirements of such notice, and that, if TENANT shall not comply with such notice to the satisfaction of LANDLORD within forty-eight (48) hours after delivery thereof (or, if such compliance cannot reasonably be completed within forty-eight (48) hours, if TENANT shall not commence to comply within such period and provide a written plan and time schedule for compliance and thereafter in good faith expeditiously proceed to completion with all due diligence) LANDLORD may, at its option, do or cause to be done any or all of the things specified in said notice and in so doing LANDLORD shall have the right to cause its agents, employees and contractors to enter upon the Demised PREMISES and in such event shall have no liability whatsoever to TENANT for any loss or damage resulting in any way or manner whatsoever from such action; and TENANT agrees to pay promptly upon demand any expense whatsoever incurred by LANDLORD in taking such action, any such sum to be collectible from TENANT as additional rent thereunder.

## 25. EVENTS OF DEFAULT.

The occurrence of any one or more of the following shall constitute an event of default hereunder:

- 25.1 Failure of TENANT to commence business within the time period specified in Paragraph 3 hereof; and, alternatively,
- 25.2 Substantial discontinuance by TENANT of the conduct of its business in the Demised PREMISES; and, alternatively,
- 25.3 The filing of a petition by or against TENANT for adjudication as a bankrupt or insolvent, or for its reorganization or for the appointment of a receiver or trustee of TENANT'S property; any reorganization or proceedings under any provisions of the Federal Bankruptcy Code; an assignment by TENANT for the benefit of creditors; or the taking possession of the property of TENANT by any governmental officer or agency pursuant to the statutory authority for the dissolution or liquidation of TENANT; and, alternatively,
- 25.4 Failure of TENANT to pay when due any installment of rent hereunder or any other sum hereunder required to be paid by TENANT; and, alternatively, beyond the applicable period to cure
- 25.5 Vacation or desertion of the Demised PREMISES or permitting the same to be empty and unoccupied; and, alternatively,
- 25.6 TENANT'S removal or attempt to remove, or manifesting an intention to remove, TENANT'S goods or property from or out of the Demised PREMISES otherwise than in the ordinary and usual course of business without having first paid and satisfied LANDLORD for all rent which may become due during the entire term of this Lease; and, alternatively,





in Paragraph 25 of this Lease shall constitute default in this security agreement and shall entitle LANDLORD to avail itself, following the expiration of any relevant cure period specified herein, of any remedy or remedies available to it under Chapters 679 and 78, Florida Statutes, and under this lease agreement. Further, in event of any default by TENANT of any provision of this Lease, LANDLORD shall be entitled to the issuance of a pre-judgment writ of replevin without notice and LANDLORD shall have the right to take possession as allowed under Chapter 78, Florida Statutes, and to take possession of the Demised PREMISES.

## 29. HAZARDOUS MATERIAL

29.1 Tenant shall (1) not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises by Tenant, its agents, employees, contractors or invitees, without the prior written consent of Landlord (which Landlord shall not unreasonably withhold as long as Tenant demonstrates to Landlord's reasonable satisfaction that such Hazardous Material is necessary or useful to Tenant's business and will be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Material so brought upon or used or kept in or about the Premises). If Tenant breaches the obligations stated in the preceding sentence, or if the presence of Hazardous Material on the Premises caused or permitted by Tenant results in contamination of the Premises, or if contamination of the Premises by Hazardous Material otherwise occurs for which Tenant is legally liable to Landlord for damage resulting therefrom, then Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of rentable or usable space or if any amenity of the Premises, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the lease term as a result of such contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises caused or permitted by Tenant results in any contamination of the Premises, Tenant shall promptly take all actions at its sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises; provided that Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises. LANDLORD shall have the right at all reasonable times to inspect the DEMISED PREMISES and to conduct tests and investigations to determine whether TENANT is in compliance with Sections 29 of the Lease, the cost of all such inspections, tests and investigations to be borne by TENANT. TENANT's obligations pursuant to the indemnity contained in Paragraph 29.1 of the Lease shall survive the termination of the Lease.

29.2 As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of Florida or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) defined as a "hazardous waste," under Section 403.703(21), Florida Statutes (1987); (ii) defined as a "hazardous substance" under Section 403.703(29) Florida Statutes (1987); (iii) defined as a toxic or otherwise hazardous substance" under Section 403.771(2) (c), Florida Statutes (1987); (iv) defined as a "toxic substance" under Section 442.102(21), Florida Statutes (1987); (v) petroleum; (vi) asbestos; (vii) defined as a "hazardous substance" under Section 501.065(5), Florida Statutes (1987); (viii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. ^U 1317); (ix) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. ^U 6901 et seq. (42 U.S.C. ^U 6903); or (x) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. ^U9601 et seq. (42 U.S.C. ^U9601).

## 30. CUSTOM AND USAGE.

30.1 It is hereby covenanted and agreed, any law, usage or custom to the contrary notwithstanding, that LANDLORD shall have the right at all times to enforce each and every of the terms, provisions, covenants, agreements, undertakings, and conditions of this Lease in strict accordance with the terms hereof, notwithstanding any conduct or custom on the part of the LANDLORD in refraining from so doing at any time or times.

30.2 The waiver by LANDLORD of any breach of any term, provision, covenant, agreement, undertaking, or condition contained in this Lease shall absolutely not be deemed to be a continuing waiver of any such or of any subsequent breach of the same or any other like or differing term, provision, covenant, agreement, undertaking, or condition contained in this Lease. The subsequent acceptance of rent hereunder by LANDLORD shall not be deemed to be a waiver of any preceding breach by TENANT of any term, provision, covenant, agreement, undertaking, or condition of this Lease other than the failure of TENANT to pay the particular rent so accepted, regardless absolutely of LANDLORD'S knowledge of such preceding breach at the time of acceptance of such rent. No term, provision, covenant, agreement, undertaking, or condition of this Lease shall be deemed to have been waived by LANDLORD, unless such waiver be specifically set forth in writing and signed by LANDLORD.

## 31. SURRENDER AND HOLDING OVER.

31.1 TENANT, upon expiration or termination of this Lease, whether by lapse of time or otherwise, agrees peaceably to surrender to LANDLORD the DEMISED PREMISES in broom clean condition and in good working order and repair and as required by Paragraph 11 hereof. In the event that TENANT shall fail to surrender the DEMISED PREMISES upon demand, LANDLORD, in addition to all other remedies available to it hereunder, shall have the right to receive, as liquidated damages for all the time TENANT shall so retain possession of the Demised PREMISES or any part or portion thereof, an amount equal to twice, i.e. two hundred percent (200%) of, the MINIMUM ANNUAL RENT and PERCENTAGE RENT specified in Paragraph 6 of this Lease, as applied to such period.

31.2 If TENANT remains in possession of the DEMISED PREMISES with LANDLORD'S consent but without a new lease reduced to writing and fully executed, TENANT shall be deemed to be occupying the Demised PREMISES as a tenant at sufferance from month to month, subject otherwise to all terms, provisions, covenants, agreements, undertakings, and conditions of this Lease.

## 32. ADDITIONAL CONSTRUCTION.

LANDLORD hereby reserves the right at any time and from time to time to make replacements, alterations or additions to, and to build additional partial or complete stories on the building in which the DEMISED PREMISES is contained and to build adjoining the same. LANDLORD also hereby reserves the right to replace or construct other, or to add to other, buildings or improvements in the SHOPPING CENTER, and to permit others to do so, at any time and from time to time.

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41. LANDLORD'S FINANCING.

The LANDLORD shall not be obligated to proceed with the construction of the Demised PREMISES unless and until financing acceptable to LANDLORD is obtained. Should such financing not be obtainable within six (6) months after completion of final plans and specifications, LANDLORD may so notify TENANT in writing, and this Lease shall thereupon cease and terminate and each of the parties hereto shall be absolutely released and discharged from any and all liability and responsibility hereunder. If in connection with obtaining at any time any financing whatsoever for the SHOPPING CENTER or any part thereof, any recognized lending institution shall request reasonable modifications of or amendments to this Lease as a condition of such financing, TENANT covenants not to withhold or delay its agreement, to be made without charge, to such modifications or amendments, provided such modifications do not increase the obligations or materially and adversely affect the rights of TENANT under this Lease. Should the TENANT refuse to make changes required by the LENDER, TENANT shall be in default hereunder, and LANDLORD may terminate the Lease.

42. CAPTIONS.

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

43. BUILDING STANDARDS.

See EXHIBIT "B", LANDLORD'S Work, and EXHIBIT "C", TENANT'S Work, attached hereto and made a part hereof.

44. RADON.

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

45. BROKERAGE

LANDLORD and TENANT hereby warrant and represent to the other that the party making said warranty and representation has not dealt with any broker, agent or finder in connection with the Lease, and, subject to the default and remedies provision herein, LANDLORD and TENANT covenant and agree to indemnify, defend and hold the other harmless from and against any and all loss, liability, damage, claim, judgment, cost or expense (including, but not limited to, attorneys' fees and expenses and court costs) that may be incurred or suffered by the other because of any claim for any fee, commission or similar agent or finder claiming to have dealt with the indemnifying party, whether or not such claim is meritorious.

46. NO THIRD PARTY BENEFIT.

The Lease is a contract between LANDLORD and TENANT and nothing herein is intended to create any third-party benefit.

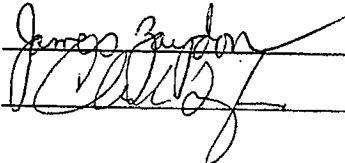
47. TIME.

Time is of the essence regarding the Lease and all its provisions.

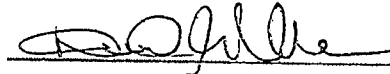
48. AGENCY DISCLOSURE.

The Brandon Company is, by this Article, giving notice to TENANT that The Brandon company is the agent and representative of the LANDLORD and is being compensated by the LANDLORD. The undersigned acknowledges that this notice was read and understood before signature of this Lease in compliance with 475.25 (1) (q) Florida Statutes and Rules 21V-10.033 (2) Florida Administrative Code.

Witnesses as to LANDLORD:

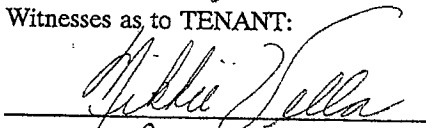
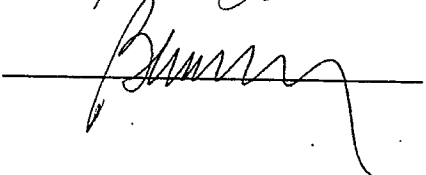
  
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LANDLORD: Metropolitan Life Insurance Company

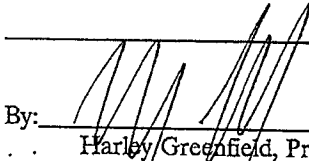
  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Trammell Crow Retail Southeast  
As Managing Agent

Witnesses as to TENANT:

  
\_\_\_\_\_  
  
\_\_\_\_\_  
\_\_\_\_\_

TENANT: ~~XXXXXX~~  
JENNIFER LEATHER-KENDALL FL, INC.

By:   
\_\_\_\_\_  
Harley Greenfield, President

## DESCRIPTION OF LANDLORD'S WORK

The following work is to be done by LANDLORD at LANDLORD'S expense.

## 1. BUILDING SHELL:

LANDLORD shall provide the building shell of the Demised PREMISES in accordance with the following specifications:

- (a) Frame: Structural steel or concrete frame.
- (b) Walls: Construct rear wall of DEMISED PREMISES with exposed masonry and demising partitions of metal studs and drywall. Rear wall to contain a metal door.
- (c) Roof: Construct roof of DEMISED PREMISES.
- (d) Floor: Smooth concrete floor within the DEMISED PREMISES.
- (e) Ceiling: Underwriters' approved acoustical tile ceiling or equivalent with fire rating where required.
- (f) Utilities: Water, electric service and sanitary sewer outlet, all of adequate capacity for normal requirements will be brought up to the rear perimeter wall. Electrical service shall be 120/208 volts, single phase. Electrical distribution panel of \_\_\_\_\_ amps, located on the rear partition wall of the DEMISED PREMISES. Standard 2' x 4' fluorescent lay-in light fixtures. Electric wall receptacles as required by Code.
- (g) Contingent upon Landlord's prior approval of Tenant's requirements for construction, Landlord will construct a stock room partition, office partition and alteration room partitions as outlined in "Exhibit B1," attached to this Lease.

## 2. STORE FRONT:

LANDLORD shall install standard store front.

## 3. SANITARY FACILITIES:

One bathroom with one wall hung lavatory, one water closet, one exhaust fan and one ceiling light. Note: LANDLORD'S work does not include furnishing or installing towel cabinets, soap dishes, deodorizers, dispensers, mirrors, or other similar items in toilet rooms within the DEMISED PREMISES.

## 4. HEATING AND AIR CONDITIONING:

LANDLORD shall install an air handler and condensing unit to include all duct work, diffusers, supply and return grilles and thermostat.

## 5. TELEPHONE:

One telephone outlet per bay.

## 6. PLANS AND SPECIFICATIONS:

- (a) ~~LANDLORD will provide space layout and shell drawings to TENANT for TENANT'S information prior to TENANT'S architect preparing plans and specifications for the interior of the DEMISED PREMISES.~~
- (b) Preliminary and final plans, working drawings and specifications for TENANT'S work must be approved in writing by LANDLORD or LANDLORD'S architect prior to TENANT performing any of its work in the DEMISED PREMISES, all as more specifically provided for in Exhibit "D" attached to this Lease. The cost and expense of such plans and specifications and drawings (excluding the shell) shall be TENANT'S sole responsibility.
- (c) TENANT'S plans, working drawings, and specifications, shall include, but shall not be limited to, floor plan, store front, electrical, heating and air conditioning, fixturing and signs.
- (d) All plans, specifications and drawings shall be prepared in accordance with applicable governing codes and ordinances. TENANT shall submit plans and specifications and obtain approval therefore from governing authorities having jurisdiction. TENANT shall also be required to obtain at TENANT'S expense all necessary permits for TENANT'S work.
- (e) Reference is made to Exhibit "D" attached to this Lease for elaboration of requirements concerning construction, all of which are incorporated herein.

7. LANDLORD'S work shall be strictly limited to those matters and items specifically mentioned in this Exhibit as obligations of LANDLORD.

## 8. TENANT accepts the Premises in As Is condition except for the following:

- (a) The electrical, HVAC, and plumbing systems are to be in good working order upon delivery of Premises.

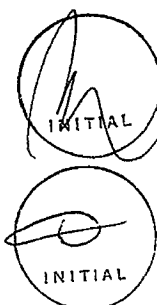


EXHIBIT "D"

CONSTRUCTION

D.1 CONSTRUCTION:

D.1.1 LANDLORD'S WORK:

LANDLORD shall, at its sole cost and expense, substantially perform LANDLORD'S work with respect to the SHOPPING CENTER, the DEMISED PREMISES, and the building in which the DEMISED PREMISES is located in such manner as to comply with the requirements of Exhibit "A" (entitled: "Description of Landlord's Work"). The proposed location of such building within the SHOPPING CENTER and the DEMISED PREMISES are shown on Exhibit "A" (entitled: "Site Plan"). Notwithstanding the foregoing, the location, type, shape, height and number of stories of such building and the nature and identity of the occupants of adjoining premises shall each be subject to such changes (whether ordinary or extraordinary, foreseen or unforeseen) as LANDLORD shall, at any time and from time to time, deem in its sole judgment to be desirable for the benefit of the SHOPPING CENTER. No such changes, or any of them, shall invalidate or affect this Lease. LANDLORD'S work shall be conclusively deemed approved by TENANT in all respects when TENANT opens for business in the DEMISED PREMISES except only for items of LANDLORD'S work which are not contemplated or do not conform to Exhibit "B" and as to which TENANT shall have given specific, written notice to LANDLORD within thirty (30) days after TENANT opens for business. If TENANT believes that TENANT'S work is delayed (or about to be delayed) because LANDLORD'S work did not (or will not) proceed on schedule, TENANT shall within twenty-four (24) hours notify the Arbitrator in writing thereof, with a copy of such notice to LANDLORD. The Arbitrator will determine where the fault lies. If it is determined that LANDLORD'S agents or contractor is at fault in causing the delay, then the time for the completion of TENANT'S work will be extended prorata accordingly. If any other disputed interpretation or difference between LANDLORD and TENANT arises out of any matter concerning LANDLORD'S work, TENANT'S work or anything contained in Exhibits "B" and "C" (the latter entitled: "Description of Tenant's Work") the same shall be submitted in writing to designated shopping center architect (hereinafter and hereinafter in this Exhibit "D" referred to as the "Arbitrator") who shall determine the dispute or difference. In the absence of fraud bad faith or collusion, said Arbitrator's determination or award shall be final and binding and conclusive upon both TENANT and LANDLORD. Any award or determination rendered in accordance with this provision shall be controlling and decisive of any question, matter of dispute thereafter arising under this Lease, if and to the extent that, such question, matter or dispute thereafter arising involves the same issue(s). Each arbitration under this provision shall be governed by the laws of the State of Florida, and shall be held in Dade County, State of Florida, or at such other place as the Arbitrator may reasonably designate. The charge or cost of the Arbitration regardless of the award or determination shall be borne equally by LANDLORD and TENANT.

D.1.2 TENANT'S WORK:

All work, other than that specifically agreed to in writing to be performed by LANDLORD shall be performed by TENANT, at TENANT'S sole cost and expense, and in accordance with the plans and specifications hereinafter referred to in this Section, prepared by TENANT'S architect in conformity with the description of TENANT'S work in Exhibit "C". TENANT shall prepare and submit to LANDLORD for approval, within thirty (30) days from the date of this Lease, three (3) complete sets of preliminary plans, drawings and specifications covering TENANT'S work, prepared in conformity with the applicable provisions of Exhibit "C". If LANDLORD or LANDLORD'S architect notifies TENANT of any objections to such plans, drawings, and specifications, TENANT shall make the necessary revisions to LANDLORD'S reasonable satisfaction and promptly resubmit the same after such notice. LANDLORD'S approval will be evidenced by endorsement to that effect on two (2) sets of the preliminary plans, drawings and specifications, one set to be retained by LANDLORD and one set by TENANT. Within thirty (30) days after LANDLORD'S approval of the preliminary plans, drawings and specifications, TENANT shall deliver to LANDLORD three (3) complete sets of working plans, drawings and specifications, each of which sets shall have been initialed by TENANT, thereby evidencing TENANT'S approval thereof. LANDLORD shall notify TENANT of the manner, if any, in which said working plans, drawings and specifications as submitted to TENANT fail to conform with said preliminary plans, drawings and specifications and with the applicable provisions of Exhibit "C". TENANT shall revise or correct said working plans, drawings and specifications to LANDLORD'S reasonable satisfaction and promptly submit such revisions or corrections to LANDLORD similarly initialed. LANDLORD'S approval will be evidenced by endorsement to that effect on one set of the working drawings and specifications and the return of such signed set to TENANT.

D.1.3 COMMENCEMENT OF TENANT'S WORK:

TENANT shall expeditiously commence construction of TENANT'S work at a time and in a manner which will not interfere with completion of LANDLORD'S work and will perform and complete TENANT'S work in compliance with such reasonable rules and regulations as LANDLORD and its architect or contractor or contractors may make (provided that TENANT shall be commenced within thirty (30) days after the last of the following to occur ("TENANT CONSTRUCTION COMMENCEMENT DATE"): (i) LANDLORD'S approval of TENANT'S working plans, drawings and specifications and (ii) LANDLORD'S notice to TENANT that the DEMISED PREMISES will, within thirty (30) days after said notice, be substantially completed (except for finishing operations or items of work necessarily awaiting the performance of TENANT'S work) to the extent reasonably required that TENANT'S work can be commenced. TENANT'S work shall be performed in accordance with the approved working plans, drawings and specifications and Exhibit "C" and shall be substantially completed within the number of days set forth on the FACE PAGE for completion of TENANT'S work; and TENANT shall open the DEMISED PREMISES for business as set forth in Paragraph 3 of the Lease.

D.2 CONSTRUCTION SCHEDULE:

Time is of the essence with respect to the performance by TENANT of each of the provisions concerning construction and the opening of the DEMISED PREMISES for business. If TENANT fails or omits to make timely submission to LANDLORD of its plans, drawings, or specifications or unreasonably delays in submitting or supplying information or in giving authorization or in performing or commencing to perform or completing TENANT'S work or unreasonably delays or interferes with the performance of LANDLORD'S work, LANDLORD, in addition to any other right or remedy it may have at law or in equity, may pursue any one or more of the following remedies: (a) Until TENANT shall have commenced TENANT'S work, LANDLORD may give TENANT at least ten (10) days written notice that if a specified failure, omission or delay is not cured by the date therein stated this Lease shall be deemed cancelled and terminated; and if such notice shall not be complied with, this Lease shall, on the date stated in such notice, ipso facto, be cancelled and terminated without prejudice to LANDLORD'S rights hereunder; or (b) LANDLORD may, after written notice of intention to do so, at TENANT'S cost and expense, including, without limitation, all expenses for such overtime as LANDLORD'S architect may deem necessary, proceed with the completion of any such plans, drawings, or specifications for TENANT'S work as the case may be, and such performance by LANDLORD shall have the same effect hereunder as if the desired plans, drawings, specifications, information, approval, authorization work or other action by TENANT had been done as herein required; and LANDLORD may require TENANT to pay to LANDLORD, as additional rent hereunder, the full cost to LANDLORD of completing the DEMISED PREMISES in accordance with the terms of this Lease over and above what would have been such cost had there been no such failure, omission or delay; and, alternatively, (c) LANDLORD may give written notice of TENANT (notwithstanding that such a notice is not required hereunder) that the lease term will be deemed to have commenced on the date to be therein specified when the same would have commenced if TENANT had made timely submission or supply of plans, drawings, specifications, estimates or other information or approval of any thereof, and on and after the date so specified, LANDLORD shall be entitled to be paid on the terms as agreed the MINIMUM ANNUAL RENT and any other rents and charges which are payable under this Lease by TENANT during the Lease Term. In exercising any of the foregoing remedies set forth in (a), (b), or (c), LANDLORD shall be entitled to retain and have recourse to any, if any, bond, escrow deposit, advance rent or DEPOSIT previously deposited by TENANT under this Lease.

D.3 OBLIGATIONS BEFORE LEASE TERM COMMENCES:

TENANT shall perform promptly such of its obligations under this Lease, including, without limitation, its obligation to pay charges for temporary water, heating, cooling and lighting pursuant to Exhibit "C" from the date upon which the DEMISED PREMISES are made available to TENANT for its work (or from the date when TENANT commenced to perform its said work, if earlier), until the actual commencement of the lease term in the same manner as though the lease term began when the DEMISED PREMISES were so made available to TENANT or when TENANT commenced performing its said work, if earlier.

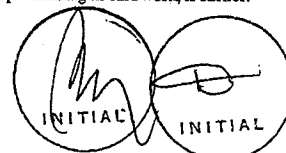


EXHIBIT "E"  
SUPPLEMENT "I"

TO LEASE DATED THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_, BETWEEN \_\_\_\_\_  
\_\_\_\_\_, ("LANDLORD") AND \_\_\_\_\_ ("TENANT"),  
DEMISING CERTAIN SPACE IN BUILDING IN SHOPPING CENTER.

PURSUANT to the provisions of Paragraph 5 of the above lease, LANDLORD and TENANT, intending to be legally bound hereby agree that the RENTAL COMMENCEMENT DATE of this was the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and that the term of said Lease shall end at 11:59 E.D.T. on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ unless sooner terminated or extended as therein provided.

TENANT agrees that, as of and through the date hereof, LANDLORD has fully and timely complied with and performed each and every of its obligations as set forth in the Lease and that TENANT has no claim or claims or cause or cause of action against LANDLORD whatsoever and has no right to any setoff(s) against any and all sums due LANDLORD.

IN WITNESS WHEREOF, the parties hereto have duly executed this SUPPLEMENT "I" to said Lease as of this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

WITNESSES:

LANDLORD:

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

(As to "LANDLORD")

\_\_\_\_\_ (SEAL)

TENANT:

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

(As to "TENANT")


\_\_\_\_\_ (SEAL)

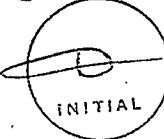
### TENANT CONSTRUCTION ALLOWANCE RIDER

As incentive for Tenant to lease, Landlord agrees to contribute toward Tenant's improvements, an allowance in an amount of Twenty-one thousand twelve and NO/100 Dollars ~~(\$21,012.00)~~. Provided Tenant is not in default of this Lease, Landlord agrees to disburse said funds upon the satisfactory conclusion of Tenant's work and the receipt of the following:

1. Commencement of Minimum Annual Rent
2. Certificate of Occupancy
3. Certificate of Insurance
4. Final Waivers of Lien
5. General Release and No Lien Affidavit from all Contractors

The payment of said funds is conditional upon Tenant's being open for business. Request for disbursement shall be made by Tenant to Landlord in writing. Said payment shall be made to Tenant within thirty (30) days of receipt of those items listed above.

  
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Rider attached to Lease dated: September 30<sup>th</sup>, 1994.

Landlord: METROPOLITAN LIFE INSURANCE COMPANY

Tenant: ~~J.C. KENDALL FLEX INC.~~ JENNIFER LEATHER-KENDALL, FL, INC.

Relating to property known as: Colonial Palms Plaza, Suite 145  
13717 S. Dixie Highway  
Miami, Florida 33176

Consisting of provisions numbered:

49. Rider Controls - The printed part of this lease is hereby modified and supplemented as follows, it being agreed that wherever there is any conflict between this Rider and the printed part of this Lease and/or other riders to this lease (if any), the provisions of this Rider are paramount and shall govern, and this lease shall be construed accordingly.

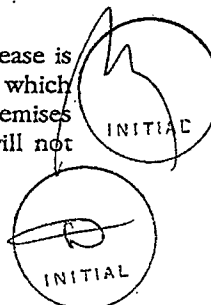
50. Character of Shopping Center Tenant has entered into this lease in reliance upon the representation by Landlord that the shopping center is, and will remain, retail in character, and further, that no part of same shall be used as a massage parlor, adult book store or adult video store available for sale or rental to children under 18 years old because such inventory explicitly deals with or depicts human sexuality.

51. Commencement of Term and Rent Commencement Date -  
(a) The commencement date set forth in the body of the lease shall be adjusted to coincide with the completion by the Landlord of the work to be performed by the Landlord in the Tenant's space. In the event the demised premises has not been completed by the stated commencement date of this lease and the Landlord cannot deliver possession of the demised premises to the Tenant, then the commencement date shall be adjusted to reflect a date coincidental with the Landlord's ability to deliver possession of the demised premises to the Tenant. The termination date of the lease shall be similarly adjusted and any anniversary dates for rental increases or for renewals by the Tenant shall be adjusted to reflect the new commencement date. The first "lease year" during the term hereof shall be the period commencing on the rent commencement date if it occurs on the first day of a calendar month, or the first day of the next succeeding calendar month if the rent commencement date occurs on any date other than the first day of a calendar month, and shall terminate twelve (12) full calendar months thereafter.

(b) (i) Notwithstanding anything in this Lease to the contrary, all payments under this Lease shall not commence or begin to accrue until sixty (60) days after delivery to Tenant of the Premises in the condition called for under this Lease and ten (10) days written notice to Tenant thereof, and (ii) notwithstanding anything to the contrary contained herein, in no event will Landlord deliver the premises to Tenant between November 1, 1994 and February 1, 1995 unless Tenant otherwise agrees in writing.

(c) Within five (5) days of the date of the tendered possession of the leased premises to the Tenant, both Landlord and Tenant agree to execute a certificate in form annexed herewith marked as Possession Agreement.

52. Access to Building Landlord covenants and agrees, and this Lease is conditioned upon there being at all times during the Lease Term no obstruction which would adversely affect the access to or visibility of the Building and /or the 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.



57. Yield Up - Tenant agrees, at no later than the Expiration Date, to remove all trade fixtures and personal property, to repair any damage caused by such removal, to remove all Tenant's signs wherever located and to surrender all keys to the Premises and yield up the Premises, in the same good order and repair in which Tenant is obliged to keep and maintain the Premises by the provisions of this Lease, reasonable wear and tear and damage by fire, casualty or taking excepted. Any property not so removed shall be deemed abandoned and may be removed and disposed of by Landlord in such manner as Landlord shall determine, without any obligation on the part of Landlord to account to Tenant for any proceeds therefrom, all of which shall become the property of Landlord.

58. 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, complied with by all Tenants, and shall not conflict with any provisions of this Lease.

59. Condemnation - Tenant may terminate this lease if there is any substantial impairment of ingress or egress from or to the shopping center through condemnation or if the following property, or any interest in it, is condemned for public or quasi-public use:

(a) Any part of the demised premises; or

(b) More than twenty-five percent (25%) of the common area of the shopping center.

Tenant will 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 term of this lease; however, tenant may make its own claim for any separate award that may be made by the condemnor for tenant's loss of business or for the taking of or injury to tenant's improvements, or on account of any cost or loss tenant may sustain in the removal of tenant's trade fixtures, equipment, and furnishings, or as a result of any alterations, modifications, or repairs that may be reasonably required by tenant in order to place the remaining portion of the premises not taken in a suitable condition for the continuance of tenant's occupancy.

If this lease is terminated pursuant to the provisions of this paragraph, then all rentals and other charges payable by tenant to landlord under this lease will be paid to the date of the taking, and any rentals and other charges paid in advance and allocable to the period after the date of the taking will be repaid to tenant by landlord. Landlord and tenant will then be released from all further liability under this lease.

60. Interior Signs - Tenant shall be entitled to place, maintain, and Landlord shall allow to be permitted, placed and maintained appropriate dignified displays of customary type for its display windows on the interior of the window area, or elsewhere on the premises so as to be visible to the public as may be allowed by law.





65. Plate Glass - Tenant is permitted to self-insure plate glass.

66. Payment for Services - In no event shall Tenant be required to pay with respect to any utility service or service provided or designated by Landlord, an amount in excess of the amount that Tenant would be required to pay if purchasing directly from such utility or other company.

67. Warranties - Landlord represents and warrants that the bathrooms, HVAC system, plumbing system and electrical system will be in good working order at date of delivery of the premises 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.

68. Common Area Charges - (a) It shall not include (i) expenses for any capital improvements made to Land or Building, (except that capital expenses for improvements which result in savings of labor or other costs shall be included at the cost or such improvements amortized over the useful life of the improvements); (ii) expenses for repairs or other work occasioned by fire, windstorm or other insured casualty; (iii) expenses incurred in leasing or procuring new Tenants (i.e. lease commissions, tenant inducements, advertising expenses and expenses of renovating space for new Tenant); (iv) legal expenses in enforcing the terms of any lease; (v) capital improvements; (vi) reserve funds; (vii) administrative expenses of Landlord in excess of 15% of total CAM; (viii) removal of hazardous material; (ix) earthquake insurance-unless such coverage is reasonably available at a commercially reasonable cost; and (x) direct settlement payments by Landlord in personal injury or property claims.

(b) However, in no event will Landlord be entitled to collect in excess of 100% of the total expense from all the Tenants in the center. Generally accepted accounting principles, consistently applied will be used to determine expenses.

(c) Tenant dispute of Common Area Charges - Any settlement rendered by Landlord to Tenant for Tenant's share of Landlord's Common Area Charges shall be deemed accepted by Tenant unless, within forty five (45) days after the receipt of such settlement, Tenant shall notify Landlord in writing of the items it disputes ("Notice of Dispute"). Pending the deterioration of such dispute, Tenant shall pay all amounts due as indicated on the statement and such payments shall be without prejudice to Tenant. In connection with determining and resolving such dispute, Tenant may upon reasonable prior written notice and at Landlord's home office, audit and review the books of Landlord kept in connection with Landlord's Common Area Charges. If dispute is not amicably settled between Landlord and Tenant within sixty (60) days after completion of Tenant's audit or review, either party may refer the disputed items to a reputable firm of independent certified public accountants, selected by Landlord and approved by Tenant, for a decision, and the decision of such firm shall be conclusive and binding upon Landlord and Tenant. The expenses involved in such determination shall be borne by the party against whom a decision is rendered by such accountants, provided that if more than one (1) item is disputed and the decision shall be against both parties, then the expenses shall be apportioned according to the monetary value of the items decided against each party. If the dispute on any item shall be determined in Tenant's favor, the amount of Tenant's overpayment shall be refunded to Tenant within thirty (30) days of such accounting firm's notice of its decision.

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LIMITED GUARANTY OF LEASE

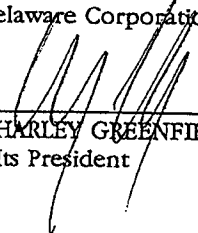
LANDLORD: METROPOLITAN LIFE INSURANCE COMPANY  
TENANT: ~~XXXXXXXXXXXXXXXXXXXX~~ JENNIFER LEATHER-KENDALL FL, INC.  
PREMISES: Colonial Palms Plaza, Suite 145  
13717 S. Dixie Highway  
Miami, Florida 33176  
DATE OF LEASE: September 30<sup>th</sup>, 1994

IN CONSIDERATION of the letting of the premises within mentioned to the within named Tenant and the sum of \$1.00 paid to the undersigned by the within names Landlord, the undersigned does hereby covenant and agree, to and with the Landlord and the Landlord's legal representatives, that in the event of a default by Tenant under this Lease which occurs on or before the day which is thirty six (36) months from the date Tenant takes possession of the Premises as defined in the Lease, and provided Tenant is given written notice of such default and has failed to cure such default before the expiration of any applicable grace period, then Guarantor agrees to pay to Landlord the sum of \$434,247.84, provided, however, the sum of \$434,247.84 shall diminish and be reduced by the payment of \$12,062.44 for each and every calendar month during the Lease term after the Commencement Date, so that the sum shall be -0- at the end of the thirty sixth (36th) month of the Lease and this Limited Guaranty of Lease shall lapse, terminate and be without any force or effect after the expiration of the thirty-sixth (36th) month of the Lease Term, unless a law suit is instituted within ninety (90) days after the expiration of this Limited Guaranty which relates back to a default prior to the expiration of month thirty six (36) of the Lease Term.

IN WITNESS WHEREOF, the undersigned has set its hand and seal this 30<sup>th</sup> day of September, 1994.

ATTEST:

JENNIFER CONVERTIBLES, INC.  
A Delaware Corporation

BY:   
HARLEY GREENFIELD  
Its President

## LEASE EXTENSION AGREEMENT

THIS AGREEMENT made and entered into as of this 7<sup>th</sup> day of October, 2004, by and between JENNIFER CONVERTIBLES-KENDALL, FL, INC., a Florida corporation ("Tenant") and METROPOLITAN LIFE INSURANCE COMPANY, a New York corporation ("Landlord").

A. Landlord and Tenant (d/b/a Jennifer Convertibles) have heretofore entered into that certain lease dated September 30, 1994 and that certain Lease Extension Agreement dated March 30, 1999 (collectively, the "Lease"), for premises described as Space No. 145 containing approximately 7,004 square feet (the "Premises"), in the property known as Colonial Palms Plaza located in Miami, Florida (the "Center").

B. The Lease by its terms shall expire on December 31, 2004 ("Prior Expiration Date") and the parties desire to extend the term of the Lease and otherwise amend the Lease, all on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Extension.** The term of the Lease is hereby extended from the Prior Expiration Date so as to expire on December 31, 2009 (which extended period shall be referred to herein as the "Extended Term"), unless sooner terminated in accordance with its terms.

2. **Effective Date.** This Agreement shall become effective as an amendment to the Lease as of, on and after the date hereof (herein referred to as the "Effective Date"), and shall continue in effect until otherwise amended by the parties in writing or until expiration or sooner termination of the Lease.

3. **Minimum Annual Rent.** All terms and conditions contained in the Lease shall continue to apply with full force and effect during the aforementioned Extended Term, except that the Minimum Annual Rent shall be increased as follows:

| <u>Period</u>          |                                  | <u>Monthly Amount</u> | <u>Annual Amount</u> | <u>Rent/SF</u> |
|------------------------|----------------------------------|-----------------------|----------------------|----------------|
| <u>January 1, 2005</u> | Through <u>December 31, 2005</u> | <u>\$14,591.67</u>    | <u>\$175,100.00</u>  | <u>\$25.00</u> |
| <u>January 1, 2006</u> | Through <u>December 31, 2006</u> | <u>\$14,883.50</u>    | <u>\$178,602.00</u>  | <u>\$25.50</u> |
| <u>January 1, 2007</u> | Through <u>December 31, 2007</u> | <u>\$15,181.17</u>    | <u>\$182,174.04</u>  | <u>\$26.01</u> |
| <u>January 1, 2008</u> | Through <u>December 31, 2008</u> | <u>\$15,484.79</u>    | <u>\$185,817.52</u>  | <u>\$26.53</u> |
| <u>January 1, 2009</u> | Through <u>December 31, 2009</u> | <u>\$15,794.49</u>    | <u>\$189,533.87</u>  | <u>\$27.06</u> |

4. **Insurance.** Section 17.2 of the Lease is hereby amended by deleting the phrase "with minimum limits of One Million and 00/100 Dollars (U.S. \$1,000,000.00) on account of bodily injuries to or death as the result of any one accident, occurrence or disaster, and Fifty Thousand Dollars (U.S. \$50,000.00) on account of damage to property" and replacing it with the following phrase "with limits of not less than \$2,000,000 combined single limit for personal injury, bodily injury or death, or property damage or destruction (including loss of use thereof) per occurrence".

5. **Tenant Allowance.** Provided that Tenant is not in default under the Lease beyond any applicable cure period, Landlord shall pay to Tenant by no later than January 10, 2005, a tenant allowance of \$15,000.00 for Tenant's use in connection with HVAC repairs or replacements during the Extended Term (the "Allowance"). If the term of the Lease should end prior to the scheduled expiration date of the Extended Term because of a default under the Lease by Tenant, Tenant shall pay to Landlord, within sixty (60) days after the effective date of the early termination, the unamortized portion of the Allowance.

6. **Rent Adjustments.** It is understood and agreed that any terms and provisions in the Lease concerning rent adjustments shall remain in full force and effect, including without limitation any provisions relating to increases or escalations based on increases in any consumer or wholesale price index, or similar index ("CPI"), real estate taxes, utility or other charges, operating expenses, insurance costs, common area maintenance expenses, merchant's association dues or promotional fees. Under no circumstances shall Tenant be entitled to any free rent period, construction allowance, tenant improvements or other work to the Premises, or any other such economic incentives that may have been provided to Tenant in connection with entering the Lease.

7. **Limitation of Liability.** The liability of Landlord to Tenant for any default by Landlord under the Lease or arising in connection herewith or with Landlord's operation, management, leasing, repair, renovation, alteration, or any other matter relating to the Center or the Premises, shall be limited to the interest of Landlord in the Center (and rental proceeds); provided that in no event shall Landlord's liability under the Lease, as amended hereby, exceed \$4,000,000.00. Tenant agrees to look solely to Landlord's interest in the Center (and rental proceeds) for the recovery of any judgment against Landlord; provided that in no event shall Landlord's liability hereunder exceed \$4,000,000.00, and Landlord shall not be personally liable for any such judgment or deficiency after execution thereon. Under no circumstances shall any present or future general or limited partner of Landlord (if Landlord is a partnership), or trustee or beneficiary (if Landlord or any partner of Landlord is a trust) have any liability for the performance of Landlord's obligations under the Lease.

## LEASE EXTENSION AGREEMENT

THIS AGREEMENT made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 1999, by and between JENNIFER CONVERTIBLES-KENDALL, FL. INC., a Florida corporation d/b/a Jennifer's Convertibles ("Tenant") and METROPOLITAN LIFE INSURANCE COMPANY, a New York corporation ("Landlord").

A. Landlord or its predecessor in interest, and Tenant or its predecessor in interest, have heretofore entered into that certain lease dated September 30, 1994, for premises described as Space No. 145 initially containing approximately 7,004 square feet (the "Premises"), in the property known as Colonial Palms Plaza in Miami, Florida (which Lease and all amendments and assignments shall collectively be referred to herein as the "Lease").

B. The Lease by its terms shall expire on December 31, 1999 ("Prior Expiration Date") and the parties desire to extend the Lease, all on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Extension.** The term of the Lease is hereby extended from the Prior Expiration Date so as to expire on December 31, 2004 (which extended period shall be referred to herein as the "Extended Term" and which extended expiration date shall be referred to herein as the "Extended Expiration Date"), unless sooner terminated in accordance with its terms.

2. **Effective Date.** This Agreement shall become effective as an amendment to the Lease as of, on and after January 1, 2000 (herein referred to as the "Effective Date"), and shall continue in effect until otherwise amended by the parties in writing or until expiration or sooner termination of the Lease.

3. **Minimum Rent.** All terms and conditions contained in the Lease shall continue to apply with full force and effect during the aforementioned Extended Term, except that the base or minimum monthly rent shall be increased to as follows:

| <u>Term</u>                         | <u>Monthly</u> | <u>Annually</u> | <u>P.S.F.</u> |
|-------------------------------------|----------------|-----------------|---------------|
| January 1, 2000 - December 31, 2000 | \$13,716.16    | \$164,594.00    | \$23.50       |
| January 1, 2001 - December 31, 2001 | \$14,008.00    | \$168,096.00    | \$24.00       |
| January 1, 2002 - December 31, 2002 | \$14,299.83    | \$171,598.00    | \$24.50       |
| January 1, 2003 - December 31, 2003 | \$14,591.66    | \$175,100.00    | \$25.00       |
| January 1, 2004 - December 31, 2004 | \$24,883.50    | \$178,602.00    | \$25.50       |

4. **Option to Extend.** Tenant shall have the option to extend the Term for an additional period of five (5) years (the "Extension Period") upon all terms and conditions of the Lease, except that Tenant shall have no further right to extend the Term, and the Minimum Rent and the Breakpoint shall be increased to the amounts set forth below. The option to extend may be exercised only by Tenant giving Landlord irrevocable and unconditional written notice thereof no later than one hundred eighty (180) days before the commencement of the Extension Period. Said exercise shall, at Landlord's election, be null and void if Tenant has failed to faithfully, diligently and consistently comply with all obligations under the Lease during the Term, or if Tenant is in default under the Lease at the date of said notice or at any time thereafter and prior to commencement of said Extension Period.

If Tenant shall fail to exercise the option herein provided in accordance with the terms hereof, said option shall terminate and be null and void. Tenant's exercise of said option shall not operate to cure any default by Tenant of any of the terms or provisions in the Lease, nor to extinguish or impair any rights or remedies of Landlord arising by virtue of such default. If the Lease or Tenant's right to possession of the Premises shall terminate in any manner whatsoever before Tenant shall exercise the option herein provided, or before the commencement of the Extension Period, or if Tenant shall have assigned the Lease or subleased all or any portion of the Premises before Tenant shall have exercised the option herein provided, then immediately upon such termination, sublease or assignment, the option herein granted to extend the Term shall simultaneously terminate and become null and void. Time is of the essence of this provision.

The Minimum Rent for the Extension Period shall be as follows:

| <u>Term</u>                         | <u>Monthly</u> | <u>Annually</u> | <u>P.S.F.</u> |
|-------------------------------------|----------------|-----------------|---------------|
| January 1, 2005 - December 31, 2005 | \$15,175.33    | \$182,104.00    | \$26.00       |
| January 1, 2006 - December 31, 2006 | \$15,467.16    | \$185,606.00    | \$26.50       |
| January 1, 2007 - December 31, 2007 | \$15,759.00    | \$189,108.00    | \$27.00       |
| January 1, 2008 - December 31, 2008 | \$16,050.83    | \$192,610.00    | \$27.50       |
| January 1, 2009 - December 31, 2009 | \$16,342.66    | \$196,112.00    | \$28.00       |

All provisions contained in the Lease for annual or other adjustment to charges shall remain in full force and effect during the Extension Period.

or triggers "path of travel" requirements. The parties hereby agree that: (a) Landlord shall be responsible for ADA Title III compliance in the Common Areas, except as provided below, (b) Tenant shall be responsible for ADA Title III compliance in the Premises, including any leasehold improvements or other work to be performed in the Premises under or in connection with this Lease, and (c) Landlord may perform, or require that Tenant perform, and Tenant shall be responsible for the cost of, ADA Title III "path of travel" requirements triggered by alterations in the Premises. Tenant shall be solely responsible for requirements under Title I of the ADA relating to Tenant's employees.

IN WITNESS WHEREOF, the Landlord and Tenant have duly executed this Agreement as of the day and year first above written.

WITNESSES; ATTESTATION  
(Two for each signatory required if  
Property is in Florida or Ohio)

**LANDLORD:**

METROPOLITAN LIFE INSURANCE COMPANY,  
a New York corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

**TENANT:**

JENNIFER CONVERTIBLES-KENDALL, FL. INC.,  
a Florida corporation

By: \_\_\_\_\_

Its: HARLEY GREENFIELD

PRESIDENT

**GUARANTEE**

The undersigned Guarantor(s) of the above-described Lease hereby consents to this Agreement and ratifies and confirms its guarantee of the full performance of said Lease and of this Agreement.

**GUARANTOR(S) (and spouses):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO LEASE AGREEMENT (this "Second Amendment") is made and entered into as of the 20<sup>th</sup> day of ~~October~~<sup>November</sup>, 2009, by and between METROPOLITAN LIFE INSURANCE COMPANY, a New York corporation (as "Landlord"), and JENNIFER CONVERTIBLES, INC., a Delaware corporation (as "Tenant").

### WITNESSETH:

WHEREAS, Landlord and Jennifer-Leather-Kendall FL, Inc., a Florida corporation ("Original Tenant") entered into that certain Shopping Center Lease dated as of September 30, 1994, as amended by that certain Lease Extension Agreement dated as of October 7, 2004 (as amended, the "Lease"), for the lease of certain space identified as Space No. 145 (the "Premises") in the building located at 13623 South Dixie Highway, Miami, Florida 33176, commonly known as Colonial Palms Plaza (the "Building"), as such space is more particularly described in the Lease;

WHEREAS, Tenant is the successor in interest to Original Tenant and is the current tenant under the Lease; and

WHEREAS, Landlord and Tenant wish to amend the Lease to extend the term of the Lease and to make certain changes set forth herein.

NOW, THEREFORE, for and in consideration of the mutual premises, and for Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, paid by the parties hereto to one another, the receipt and sufficiency of which are acknowledged by the parties hereto, the parties for themselves and their successors and assigns hereto hereby covenant and agree as follows:

1. **Incorporation of Recitals.** The above recitals are true and correct and are incorporated herein as if set forth in full.
2. **Defined Terms.** All capitalized terms not defined in this Second Amendment shall have the same meaning as set forth in the Lease.
3. **Extension of Term.** Landlord and Tenant agree to extend the Term of the Lease for a period of three (3) years, unless sooner terminated, commencing on January 1, 2010 (the "Renewal Commencement Date"), and expiring on December 31, 2012 (the "Second Renewal Term").
4. **Minimum Rent.** As of the Renewal Commencement Date, the terms "Minimum Annual Rent" and "Monthly Rent" as defined in the Face Page of the Lease and Paragraph 3 of the Lease Extension Agreement shall be defined as follows:

| Period                              | Annual Amount* | Monthly Amount* | Minimum Rent/SF* |
|-------------------------------------|----------------|-----------------|------------------|
| January 1, 2010 – December 31, 2012 | \$140,080.00   | \$11,673.33     | \$20.00          |

9. **No Other Modifications.** Except as expressly modified herein, the Lease shall remain in full force and effect and, as modified herein, is expressly ratified and confirmed by the parties hereto. In the event of a conflict between the terms of the Lease and the terms of this Second Amendment, the terms of this Second Amendment shall control.

[SIGNATURES BEGIN ON NEXT PAGE]

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re

Chapter 11 Case No.

JENNIFER CONVERTIBLES, INC., et. al.,

10-13779 (ALG)

Debtors.

(Jointly Administered)

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the within and foregoing ***Proof of Claim*** upon all persons listed below by prepaid Federal Express to all parties addressed below:

Olshan Grundman Frome Rosenzweig & Wolosky LLP  
Counsel for Jennifer Convertibles, Inc.  
Park Avenue Tower  
65 East 55<sup>th</sup> Street  
New York, NY 10022  
Attn: Michael Fox, Esq.  
Jordanna Nadritch, Esq.

BMC Groups, Inc.  
Attn: Jennifer Convertibles Claims Processing  
18750 Lake Drive East  
Chanhassen, MN 55317-3020

this 18<sup>th</sup> day of February, 2011.



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Robert Goldstein (RG 6224)  
3500 Lenox Road NE, Suite 1800  
Atlanta, GA 30326  
(404) 838-2835/ Fax (404) 838-2801

Attorney for METROPOLITAN LIFE  
INSURANCE COMPANY



Metropolitan Life Insurance Company  
One Alliance Center  
3500 Lenox Road NE, Suite 1800  
Atlanta, GA 30326

**MetLife®**

**Robert A. Goldstein**  
Assistant General Counsel  
Legal Affairs  
Direct Dial: (404) 838-2835  
Fax: (404) 838-2801  
E-mail: rgoldstein@metlife.com

February 18, 2011

**FEDERAL EXPRESS**

BMC Groups, Inc.  
Attn: Jennifer Convertibles Claims Processing  
18750 Lake Drive East  
Chanhassen, MN 55317-3020

Re: Jennifer Convertibles, Inc., et al.  
Case No. 10-13779 (ALG)

Dear Sir/Madam:

Enclosed for filing are two (2) originals of Metropolitan Life Insurance Company's Proof of Claim against Jennifer Convertibles, Inc. Please return one (1) copy of the Proof of Claim marked to acknowledge timely filing in the enclosed pre-paid, self-addressed Federal Express envelope.

Thank you.

Sincerely,



Robert A Goldstein

Enclosures: Proof of Claim (2)  
Prepaid, self-addressed Federal Express return envelope