

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is entered into and effective as of this 13th day of August, 2010 (the "Effective Date"), between B.R. Estate, Inc., a Delaware corporation ("Landlord"), and Jennifer Convertibles, Inc., a Delaware corporation ("Tenant"). Landlord and Tenant agree as follows:

1. LEASE SUMMARY.

a. **Leased Premises.** The leased commercial real estate (the "Premises") consist of the real property referred to on Suffolk County Tax Map as District 2, Section 45, Block 3, Lot 14, commonly known as 2257 Route 112, Coram, NY 11727, and all improvements thereon, the building consisting of approximately 28,000 square feet.

b. **Commencement Dates.** The term of this Lease shall commence on September 1, 2010 or as provided in Section 3 (the "Commencement Date"). The Rent Commencement Date shall be the earlier of (i) September 1, 2010 or (ii) the date Tenant opens for business to the public, but in no event earlier than sixty (60) days following the Effective Date.

c. **Lease Termination Date.** The term of this Lease shall terminate at midnight on August 31, 2023 or such earlier or later date as provided in Section 3 or other provision in the Lease (the "Termination Date").

d. **Base Rent.** The base monthly rent shall be:

September 1, 2010 – October 31, 2010:	\$15,0000.00 <u>\$15,000.00</u> monthly
November 1, 2010 – November 30, 2010	\$0
December 1, 2010 – August 31, 2011	\$15,0000.00 <u>\$15,000.00</u> monthly
September 1, 2011 – August 31, 2012:	\$20,000.00 monthly
September 1, 2012 – August 31, 2013:	\$30,000.00 monthly
September 1, 2013 – August 31, 2014:	\$30,000.00 monthly
September 1, 2014 – August 31, 2015:	\$30,900.00 monthly
September 1, 2015 – August 31, 2016:	\$31,827.00 monthly
September 1, 2016 – August 31, 2017:	\$32,781.81 monthly
September 1, 2017 – August 31, 2018:	\$33,765.26 monthly
September 1, 2018 – August 31, 2019:	\$34,778.22 monthly
September 1, 2019 – August 31, 2020:	\$35,821.56 monthly
September 1, 2020 – August 31, 2021:	\$36,896.21 monthly
September 1, 2021 – August 31, 2022:	\$38,003.10 monthly
September 1, 2022 – August 31, 2023:	\$39,143.19 monthly

c. **Permitted Use.** The Premises shall be used only for a retail store and showroom for the sale of furniture, and corporate offices, and for no other purpose without the prior written consent of Landlord, which consent shall not be unreasonably withheld, delayed or charged for. Tenant represents to Landlord that it is authorized to operate as a "Jennifer Convertibles" retail store and "Ashley Furniture Home Store" retail store.

f. Notice and Payment Addresses:

Landlord: PO Box 570, Oyster Bay, NY 11771, Fax No.: 516-624-9509. A copy of any notice sent to Landlord shall also be sent to Landlord's attorneys, Ruskin Moscou Faltischek, P.C., 1425 RXR Plaza, East Tower, 15th Floor, Uniondale, New York 11556, Attn: Eric Rubenstein, Esq.

Tenant: 417 Crossways Park Drive, Woodbury, NY 11797, Fax No.: 516-496-0008. Subsequent to the Rent Commencement Date, notices to Tenant shall be sent to the Premises with a copy to the Law Office of Olshan Grundman Frome Rosenzweig & Wolosky LLP, 65 East 55th Street, New York, NY 10022, Attn: Michael S. Fox, Esq.

g. **Initial Period.** The "Initial Period" is defined as the period beginning on the Commencement Date and ending on July 31, 2013. It is a defined term used throughout the Lease.

h. **Bankruptcy.** The parties acknowledge that Tenant has filed for bankruptcy protection in Chapter 11 case no. 10-13779 and is functioning as a Debtor-in-Possession. Tenant, as Debtor-in-Possession and pursuant to Section 365 of the Bankruptcy Code will file timely a motion with the Bankruptcy Court for approval of the assumption of the Lease.

2. PREMISES.

a. **Lease of Premises.** Landlord leases to Tenant, and Tenant leases from Landlord the Premises upon the terms specified in this Lease.

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b. Acceptance of Premises. Except as specified elsewhere in this Lease, Landlord makes no representations or warranties to Tenant regarding the Premises, including the structural condition of the Premises and the condition of all mechanical, electrical, and other systems on the Premises, or the status of certificate of occupancies for the Premises. Landlord represents that, as of the Rent Commencement Date, the roof will be free of leaks and the plumbing heating and electrical systems will be in working order. Except for any improvements to be completed by Landlord described in Section 2.c as "Landlord's Work", Tenant shall be responsible for performing any work necessary to bring the Premises into condition satisfactory to Tenant. Tenant acknowledges that it has had adequate opportunity to investigate the Premises, and other than the Landlord's Work, Tenant acknowledges responsibility for making any alterations and repairs to the Premises (the "Tenant's Work") in preparation of its occupancy, and acknowledges that the time needed to complete any such items shall not delay the Commencement Date.

c. Landlord's Work. The Landlord's Work consists of restriping the parking lot, and will be completed by Landlord within 60 days of the Commencement Date. Landlord shall not be obligated to do any further work to prepare the Premises for Tenant's occupancy.

d. Violations. To the best of Landlord's actual knowledge, there are no violations affecting the Premises as of the date hereof. Notwithstanding the aforesaid, in the event there are any outstanding violations affecting the Premises as of the date hereof, Landlord's sole obligation shall be to cure such outstanding violations and Tenant shall not be entitled to any abatement or offset of rent due hereunder. Tenant is not responsible for violations existing or accruing prior to the Effective Date. Tenant covenants that it shall notify Landlord of any violations and promptly cure any violations caused by Tenant. Tenant further covenants that it shall deliver the Premises to the Landlord free of any violations caused by Tenant on the Termination Date or earlier termination date of this Lease.

3. TERM. The term of this Lease shall commence on the date specified in Section 1.b. The term of this Lease shall expire on the date specified in Section 1.c unless otherwise earlier terminated pursuant to the terms and conditions contained herein.

4. RENT.

a. Payment of Rent. Tenant shall pay Landlord without demand, deduction or offset, in lawful money of the United States, the monthly rental stated in Section 1.d in advance on or before the first (1st) day of each month during the Lease term beginning on the Commencement Date, and any other additional payments due to Landlord (collectively the "Rent") when required under this Lease. ~~There will be no base monthly rent due for the period between the Commencement Date and the Rent Commencement Date.~~ Rent shall be payable at Landlord's address shown in Section 1.f, or such other place designated in writing by Landlord. Payments for any partial month at the beginning or end of the Lease term shall be prorated. All payments due to Landlord under this Lease, including late fees and interest, shall be rent, and upon failure of Tenant to pay any such costs, charges or expenses, Landlord shall have the same rights and remedies as otherwise provided in this Lease for the failure of Tenant to pay rent.

b. Late Charges; Default Interest. If any sums payable by Tenant to Landlord under this Lease are not received within ten (30) days of their due date, Tenant shall pay Landlord in addition to the amount due, for the cost of collecting and handling such late payment, an amount equal to the greater of \$100 or three percent (3%) of the delinquent amount. In addition, all delinquent sums payable by Tenant to Landlord and not paid within five days of the due date shall, at Landlord's option, bear interest at the rate of twelve percent (12%) per annum, or the highest rate of interest allowable by law, whichever is less (the "Default Rate"). Interest on all delinquent amounts shall be calculated from the original due date to the date of payment.

c. Less Than Full Payment. Landlord's acceptance of less than the full amount of any payment due from Tenant shall not be deemed an accord and satisfaction or compromise of such payment unless Landlord specifically consents in writing to payment of such lesser sum as an accord and satisfaction or compromise of the amount which Landlord claims.

d. Prepaid Rent. Upon execution of the Lease, Tenant shall escrow with Olshan Grundman the sum of Thirty Thousand Dollars (\$30,000.00) which shall then be remitted to the Landlord upon approval by the Bankruptcy Court and applied towards the first two payments of Base Monthly Rent due under the Lease for September and October 2010.

5. USES.

a. Permitted Use. The Premises shall be used only for the use(s) specified in Section 1.c above (the "Permitted Use"), and for no other business or purpose without the prior written consent of Landlord, not to be unreasonably withheld, delayed or charged for. No act shall be done on or around the Premises that is unlawful or that will increase the existing rate of insurance on the Premises, or cause the cancellation of any insurance on the Premises.

Tenant shall not commit or allow to be committed any waste upon the Premises, or any public or private nuisance.

b. Sales Reports. Within thirty (30) days following the end of every two fiscal quarters throughout the Lease term, Tenant upon request shall furnish to Landlord a written statement, signed by Tenant to be correct, showing the total Gross Sales (as defined herein) by months made in, upon or from the Premises during the preceding two fiscal quarters. The term "Gross Sales" shall mean the total of all sales (whether for cash, on credit, or otherwise) of all merchandise and services sold in, on, or from the Premises whether by Tenant or by any party occupying the Premises as a licensee, concessionaire, subtenant or assignee of Tenant, even though such sales or services are ordered by telephone, internet, mail, catalog, telegraph or otherwise. Payments on installments or credit sales shall be included in gross sales when received. Gross Sales shall not include: (i) sums collected and paid out for any sales or retail excise tax; (ii) sales to employees at a discount; (iii) the value of exchanged or returned merchandise; (iv) sales of trade fixtures or store equipment after use on the Premises; (v) transfers of merchandise between stores of Tenant, provided no such transfer is made to avoid inclusion in Gross Sales; (vi) finance, interest, service or carrying charges on credit sales; (vii) charges for services provided for the convenience of customers at no profit to Tenant; (viii) receipts from pay telephones; (ix) sales from which no monetary compensation is received and such sales are recorded for control purposes only, or sales where the proceeds are given to, and/or used for charity; (x) gratuities and service charges which were included on customer's bills and which are passed through directly to the service employees without diminution or deduction by Tenant and (xi) delivery fees, fabric protection fees or ancillary fees.

c. Continuous Operation. Tenant shall operate Tenant's business in the Premises to maximize the Gross Sales and shall carry in the Premises at all times a stock of merchandise of such size, character, quantity, and quality reasonably designed to produce the greatest gross sales. Tenant shall carry on its business diligently and continuously at the Premises throughout the Lease term and will keep the Premises open for business on all business days in accordance with generally accepted trade practices.

d. Right to Audit. Tenant shall maintain at the Premises Tenant's usual and customary books and records that shall disclose all information reasonably required to determine Gross Sales. Such books and records shall be kept in accordance with GAAP principles and, if Tenant elects to terminate this Lease in accordance with the terms and conditions of Section 6 hereinafter Landlord, or its duly authorized agents may inspect and audit Tenant's books and records within forty-five (45) days after receipt of Tenant's termination notice. If such audit shall disclose an understatement of Gross Sales in an amount more than three and one half (3 ½%) percent of the total Gross Sales, then Tenant shall pay the cost of such audit.

6. TENANT'S COVENANTS AND TERMINATION BY TENANT.

a. Tenant's Covenants. Tenant represents that it currently operates two "Jennifer Convertibles" retail stores located at 499-53 West Sunrise Highway (Gateway Plaza I Shopping Center), Patchogue, NY and 229 Independence Plaza, Selden, NY (collectively, the "Existing Locations") and that the Existing Locations are within a ten (10) mile radius of the Premises. Tenant represents that it currently operates a "Ashley Furniture Home Store" within a ten (10) mile radius of the Premises. Tenant covenants that it shall not open any new "Jennifer Convertible" stores, "Ashley Furniture Home Store" stores or any other retail or wholesale furniture store within a ten (10) mile radius of the Premises during the term hereof. Tenant further covenants that if it closes any of the Existing Locations it shall not re-open such Existing Locations. Any non-compliance by Tenant with the covenants contained herein shall be deemed an Event of Default.

b. Termination by Tenant. Tenant may elect to terminate the Lease as provided in this section. Upon such election, the Termination Date shall be modified to the date provided herein and Tenant shall surrender the Premises upon the modified Termination Date on the terms contained in the Lease. Tenant may elect to terminate this Lease by notice to Landlord delivered: (a) during the period beginning January 1, 2013 and ending January 31, 2013, in which case the Termination Date will be modified to July 31, 2013, or (b) during the period beginning February 1, 2013 and ending July 31, 2018, in which case the Termination Date will be modified to the date which is 12 months from the last day of the month in which the termination notice is delivered. If the tenant elects to terminate the lease prior to December 31, 2012 on account of the condition precedent set forth below there shall be no Termination Fee.

As conditions precedent to Tenant's right to terminate this Lease, Tenant must comply with each of the following:

- (i) Tenant must not have at anytime throughout the Term of the Lease up to time of exercise of termination

utilized more than 8,000 square feet for office and administrative purposes, excluding bathrooms, lunchroom, electrical room, sprinkler room space and loading dock.

(ii) In the event Tenant has ceased operations at and closed the Existing Locations at least twelve (12) months prior to the date Tenant delivers its termination notice to Landlord, Tenant must have Gross Sales totaling less than Three Million Two Hundred Thousand (\$3,200,000.00) Dollars for the previous twelve (12) full calendar months prior to the date of delivery of the termination notice to Landlord.

(iii) In the event Tenant has not ceased operations and closed the Existing Locations at least twelve (12) months prior to the date Tenant delivers its termination notice to Landlord, Tenant must have Gross Sales totaling less than Two Million Two Hundred Thousand (\$2,200,000.00) Dollars for the previous twelve (12) full calendar months prior to the date of delivery of the termination notice to Landlord.

(iv) Tenant must not have assigned the Lease or sublet any portion of the Premises.

(v) In the case of an election under Section 6b(b) above only, Tenant must deliver a termination fee in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00) to the Landlord. Seventy Five Thousand (\$75,000.00) Dollars shall be payable by Tenant to Landlord together with the termination notice and the balance of Seventy Five Thousand (\$75,000.00) Dollars shall be paid by Tenant to Landlord no later than the Termination Date. The termination fee shall be paid by bank check drawn on a New York Clearinghouse bank.

(vi) Tenant must not be in default of the Lease beyond any applicable grace or cure periods.

Any purported termination by Tenant that does not comply with the terms and conditions of this Section 6 shall be automatically be deemed null and void and shall further be deemed an Event of Default by Tenant.

7. COMPLIANCE WITH LAWS. Tenant shall not cause or permit the Premises to be used in any way that violates any law, ordinance, or governmental regulation or order. Landlord represents to Tenant that, to the best of Landlord's knowledge, with the exception of any Tenant's Work, as of the Commencement Date, the Premises comply with all applicable laws, rules, regulations, or orders, including without limitation, the Americans With Disabilities Act, if applicable. Tenant shall be responsible for complying with all laws applicable to the Premises as a result of Tenant's particular use, such as modifications required by the Americans With Disabilities Act as a result of Tenant opening the Premises to the public as a place of public accommodation. If the enactment or enforcement of any law, ordinance, regulation or code during the Lease term requires any changes to the Premises during the Lease term, the Tenant shall perform all such changes at its expense.

8. UTILITIES. Landlord shall not be responsible for providing any utilities to the Premises, but represents to Tenant that as of the Commencement Date electricity, water, and telephone utilities are available at the Premises. Landlord shall not be liable for any loss, injury or damage to person or property caused by or resulting from any variation, interruption, or failure of utilities due to any cause whatsoever, and rent shall not abate as a result thereof. Tenant shall determine whether the available capacity of such utilities will meet Tenant's needs. Tenant shall install and connect, if necessary, and directly pay for all water, sewer, gas, janitorial, electricity, garbage removal, heat, telephone, and other utilities and services used by Tenant on the Premises during the term, whether or not such services are billed directly to Tenant. Tenant will also procure, or cause to be procured, without cost to Landlord, all necessary permits, licenses or other authorizations required for the lawful and proper installation, maintenance, replacement, and removal on or from the Premises of wires, pipes, conduits, tubes, and other equipment and appliances for use in supplying all utilities or services to the Premises. Landlord, upon request of Tenant, and at the sole expense and liability of Tenant, shall join with Tenant in any application required for obtaining or continuing such utilities or services.

9. TAXES. Except during the Initial Period, Tenant shall pay all Taxes (defined below) applicable to the Premises during the Lease term. Landlord shall pay all Taxes during the Initial Period. All payments for Taxes shall be made at least ten (10) days prior to their due date. Tenant shall promptly furnish Landlord with satisfactory evidence that Taxes have been paid. If any Taxes paid by Tenant cover any period of time during which Tenant is not obligated to pay the Taxes, Tenant's share of those Taxes paid will be prorated to cover only the period of time during which Tenant's obligation to pay the Taxes was in effect, and Landlord shall promptly reimburse or credit Tenant to the

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extent required. If Tenant fails to timely pay any Taxes, Landlord may pay them, and Tenant shall repay such amount to Landlord upon demand. The term "Taxes" shall mean: (i) any form of tax or assessment imposed on the Premises by any authority, including any city, county, state or federal government, or any improvement district, as against any legal or equitable interest of Landlord or Tenant in the Premises or in the real property of which the Premises are a part, or against rent paid for leasing the Premises; and (ii) any form of personal property tax or assessment imposed on any personal property, fixtures, furniture, tenant improvements, equipment, inventory, or other items, and all replacements, improvements, and additions to them, located on the Premises, whether owned by Landlord or Tenant. "Taxes" shall exclude any net income tax imposed on Landlord for income that Landlord receives under this Lease. Tenant may contest the amount or validity, in whole or in part, of any Taxes at its sole expense, only after paying such Taxes or posting such security as Landlord may reasonably require in order to protect the Premises against loss or forfeiture. Upon the termination of any such proceedings, Tenant shall pay the amount of such Taxes or part of such Taxes as finally determined, together with any costs, fees, interest penalties, or other related liabilities. Landlord shall cooperate with Tenant in contesting any Taxes, provided Landlord incurs no expense or liability in doing so.

10. ALTERATIONS. Tenant may make alterations, additions or improvements to the Premises, including any Tenant's Work ("Alterations"), with the prior written consent of Landlord. The term "Alterations" shall not include the installation of shelves, movable partitions, Tenant's equipment, and trade fixtures that may be performed without damaging existing improvements or the structural integrity of the Premises, and Landlord's consent shall not be required for Tenant's installation or removal of those items. Tenant shall perform all work within the Premises at Tenant's expense in compliance with all applicable laws, and shall complete all Alterations in accordance with plans and specifications approved by Landlord. Tenant shall obtain all permits and approvals necessary for the Alterations and deliver such to Landlord. Tenant's contractors must be licensed and maintain insurance reasonably acceptable to Landlord. Tenant shall ensure all open permits are closed following completion of the Alterations, but in any event at the end of the Lease term. Tenant shall pay, when due, all claims for labor or materials furnished to or for Tenant at or for use in the Premises, which claims are or may be secured by any mechanics' or materialmen's liens against the Premises or any interest therein. Landlord shall be deemed the owner of all Alterations except for those which Landlord requires to be removed at the end of the Lease term. Tenant shall immediately repair any damage to the Premises caused by removal of Alterations.

11. REPAIRS AND MAINTENANCE; SURRENDER.

a. Landlord Maintenance. Landlord agrees to repair and maintain in good order and condition the roof, roof drains, outside walls, foundations, cesspool and structural portions of the Premises, provided Tenant shall give Landlord notice of the necessity of such repairs. Landlord shall not however maintain broken plate or window glass (except in case of damage by fire or other casualty covered by Landlord's fire and extended coverage policy), exterior doors, door closure devices, window and door frames, moldings, locks and hardware.

b. Tenant Maintenance. Other than Landlord's obligation as provided in subsection (a) or (c) hereof, Tenant shall maintain the Premises. Tenant shall repair (or replace as necessary) those structures and fixtures that are not otherwise the responsibility of Landlord. Tenant's responsibilities include but are not limited to the sidewalk, curbs, parking area (including snow removal), trash enclosures, landscaping with sprinkler system (if any), interior sprinkler system, fire alarm system, light standards, pylon and all interior portions of the Premises, including the store fronts, show windows, doors, windows, plate and window glass, and floor covering, plumbing and electrical systems. Tenant shall at its own expense perform all landscaping, pest control, janitorial and cleaning services within the Premises in order to keep same in a neat, clean and orderly condition. Tenant shall keep the Premises, including sidewalks adjacent to the Premises and loading area allocated for the use of Tenant, clean and free from rubbish and debris at all times. Tenant shall store all trash and garbage within the Premises and arrange for regular pickup and cartage of such trash and garbage at Tenant's expense.

c. Initial Period. Notwithstanding anything to the contrary contained herein, Landlord shall maintain the parking lot (including snow removal) and landscaping during the Initial Period.

d. HVAC Maintenance and Repair. Tenant shall maintain the heating, ventilation and air conditioning systems of the Premises. Tenant shall maintain a contract for maintenance of the HVAC systems with a licensed HVAC contractor with a minimum of two (2) annual inspections. Landlord shall be responsible for the cost of HVAC replacements if equipment is deemed irreparable. Landlord represents that the HVAC system will be placed in good working order within twenty (20) days of the Effective Date.

e. Acts of Tenant. Landlord shall not be responsible to repair any damage caused directly or indirectly by the negligence or willful acts of Tenant, its employees, agents, contractors, customers, or invitees. Notwithstanding the C:\Documents and Settings\lperrotta\Local Settings\Temp\dvtempa28\dve89.dvm8A.tmp\Lease Agreement - Jennifer Convertibles

foregoing, if the necessity for repairs to the Premises shall have arisen from or shall have been caused by the negligence or willful acts of Tenant, its agents, concessionaires, officers, employees, licensees, invitees, or contractors, Landlord may, upon the expiration of ten (10) days prior notice to Tenant (except in the case of an emergency), make or cause the same to be made, but shall not be obligated to do so, and Tenant agrees to pay to Landlord promptly upon Landlord's demands, as additional rent, the cost of such repairs plus twenty (20%) percent for overhead, if made, with interest thereon at 10% per annum. In the event Landlord elects not to make such repairs caused by Tenant's negligence, Landlord may require Tenant to make such repairs at Tenant's sole cost and expense. Tenant waives the provision of any law, now or hereafter in effect, or any right under common law, permitting it to make repairs at Landlord's expense.

f. Tenant's Failure to Maintain. If Tenant refuses or neglects to repair or maintain the Premises properly as required hereunder and to the reasonable satisfaction of Landlord as soon as reasonably possible after written demand, Landlord may make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures, or other property, or to Tenant's business by reason thereof. Upon completion thereof, Tenant shall pay Landlord's cost for making such repairs, plus twenty (20%) percent for overhead, upon presentation of bill therefore, as additional rent. Said bill shall include interest at 10% per annum on said cost from the date of completion of repairs by Landlord.

g. Landlord's Liability. Unless caused by the negligence of Landlord or that of its employees or agents acting within the scope of their employment, neither Landlord or Landlord's agents or servants shall be liable for (i) any damages caused by or growing out of any breakage, leakage, defective condition of the electric wiring, air conditioning or heating pipes and equipment, closets, plumbing, appliances, sprinklers, other equipment or other facilities serving the Premises, or (ii) any damages caused by, or growing out of any defect in the Premises or a part thereof, or caused by, or growing out of fire, rain, wind or other casualty.

h. Notice. Tenant shall give Landlord prompt written notice (and telephonic notice in the case of an emergency) of any fire or damage occurring on or to the Premises.

i. Surrender. On the Termination Date or earlier termination of the Lease term, and unless otherwise agreed to by Landlord, Tenant shall surrender the Premises in the same condition as the Premises were in upon delivery of possession thereto under this Lease, reasonable wear and tear excepted, and damage by unavoidable casualty excepted and shall surrender all keys for the Premises to Landlord. Tenant shall remove all its trade fixtures, signs, leased equipment and any alterations or improvements which Landlord requests to be removed before surrendering the Premises as aforesaid and shall repair any damage to the Premises or signage areas caused thereby. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of the Lease.

12. ACCESS AND RIGHT OF ENTRY. After reasonable notice from Landlord (except in cases of emergency, where no notice is required), Tenant shall permit Landlord and its agents, employees and contractors to enter the Premises at all reasonable times to make repairs, inspections, alterations or improvements, provided that Landlord's activities within the Premises shall not unreasonably interfere with Tenant's use and enjoyment of the Premises. This Section shall not impose any repair or other obligation upon Landlord not expressly stated elsewhere in this Lease. After reasonable notice to Tenant, Landlord shall have the right to enter the Premises for the purpose of showing the Premises to prospective purchasers or lenders at any time, and to prospective tenants within 180 days prior to the expiration or sooner termination of the Lease term, and for posting "for lease" signs within 180 days prior to the expiration or sooner termination of the Lease term.

13. SIGNAGE. Tenant shall not be required to obtain Landlord's written consent before installing any exterior signs upon the Premises. Notwithstanding the foregoing, provided that the same is installed and maintained in accordance with all applicable laws, Landlord hereby approves the signs. Tenant shall install any approved signage at Tenant's sole expense and in compliance with all applicable laws. Tenant may install interior signs that are viewable from the exterior of the Premises provided such signs comply with all applicable laws. The parties agree that the Tenant shall not damage or deface the Premises in installing or removing signage and shall repair any injury or damage to the Premises caused by such installation or removal.

14. DESTRUCTION OR CONDEMNATION.

a. Damage and Repair. If the Premises are partially damaged but not rendered untenable, by fire or other insured casualty, then Landlord shall diligently restore the Premises and this Lease shall not terminate. The Premises shall not be deemed untenable if less than twenty-five percent (25%) of the Premises are damaged. Landlord shall have no obligation to restore the Premises if insurance proceeds are not available to pay the entire cost of such restoration. If insurance proceeds are available to Landlord but are not sufficient to pay the entire cost

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of restoring the Premises, then Landlord may elect to terminate this Lease and keep the insurance proceeds, by notifying Tenant within sixty (60) days of the date of such casualty. If the Premises are entirely destroyed, or partially damaged and rendered untenable, by fire or other casualty, Landlord may, at its option: (a) terminate this Lease as provided herein, or (b) restore the Premises to their previous condition; provided, however, if such casualty event occurs during the last 6 months of the Lease term, then either Tenant or Landlord may elect to terminate the Lease. If, within 60 days after receipt by Landlord from Tenant of written notice that Tenant deems the Premises untenable, Landlord fails to notify Tenant of its election to restore the Premises, or if Landlord is unable to restore the Premises within ten and one-half (10 ½) months of the date of the casualty event, then Tenant may elect to terminate the Lease. If Landlord restores the Premises under this Section 14.a, Landlord shall proceed with reasonable diligence to complete the work. Under no circumstances shall the rent be abated or diminished due to a casualty event. Provided Landlord complies with its obligations under this Section, no damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business or annoyance directly, incidentally or consequentially arising from any repair or restoration of any portion of the Premises. Landlord will not carry insurance of any kind for the protection of Tenant or any improvements paid for by Tenant or on Tenant's furniture or on any fixtures, equipment, improvements or appurtenances of Tenant under this Lease, and Landlord shall not be obligated to repair any damage thereto or replace the same.

b. Condemnation. If the Premises are made untenable by eminent domain, or conveyed under a threat of condemnation, this Lease shall automatically terminate as of the earlier of the date title vests in the condemning authority or the condemning authority first has possession of the Premises and all Rents and other payments shall be paid to that date. In case of taking of a part of the Premises that does not render the Premises untenable, then this Lease shall continue in full force and effect and the base monthly rent shall be equitably reduced based on the proportion by which the floor area of any structures is reduced, such reduction in Rent to be effective as of the earlier of the date the condemning authority first has possession of such portion or title vests in the condemning authority. Landlord shall be entitled to the entire award from the condemning authority attributable the value of the Premises and Tenant shall make no claim for the value of its leasehold. Tenant shall be permitted to make a separate claim against the condemning authority for moving expenses or damages resulting from interruption in its business, provided that in no event shall Tenant's claim reduce Landlord's award.

15. INSURANCE.

a. Liability and Business Interruption Insurance. During the Lease term, Tenant shall pay for and maintain commercial general liability insurance with broad form property damage, contractual liability and severability of interest endorsements. This policy shall name Landlord and Landlord's lender(s) as an additional insured, and shall insure Tenant's activities and those of Tenant's employees, officers, contractors, licensees, agents, servants, employees, guests, invitees or visitors with respect to the Premises against loss, damage or liability for personal injury or bodily injury (including death) or loss or damage to property with a combined single limit of not less than \$2,000,000 per occurrence with respect to bodily injury and wrongful death coverage, and at least \$5,000,000 per occurrence with respect to property damage coverage. Self-retention will not exceed \$10,000. Tenant's insurance will be primary and noncontributory with any liability insurance carried by Landlord. Tenant shall also maintain business interruption insurance, providing in the event of damage or destruction to the Premises an amount sufficient to pay base rent for a period of not less than twelve (12) months.

b. Property Insurance. During the Lease term, Landlord shall pay for and maintain special form cause of loss coverage property insurance for the Premises in the amount of their full replacement value, less foundations and footings. Such policy may be included in a blanket policy.

c. Miscellaneous. Insurance required under this Section shall be with companies rated A-, XV; A, XI; A+, IX; or A++, VII or better in Best's Insurance Guide, and which are authorized and admitted to transact business in the State of New York. No insurance policy shall be cancelled or reduced in coverage and each such policy shall provide that it is not subject to cancellation or a reduction in coverage except after thirty (30) days prior written notice to Landlord. Tenant shall deliver to Landlord upon commencement of the Lease and from time to time thereafter, copies of the insurance policies or evidence of insurance and copies of endorsements required by this Section. In no event shall the limit of such policies be considered as limiting the liability of Tenant under this Lease. If Tenant fails to acquire or maintain any insurance or provide any policy or evidence of insurance required by this Section, Landlord may, but shall not be required to, obtain such insurance for Landlord's benefit and Tenant shall reimburse Landlord for the costs of such insurance upon demand. Such amounts shall be additional rent payable by Tenant hereunder and in the event of non-payment thereof, Landlord shall have the same rights and remedies with respect to such non-payment as it has with respect to any other non-payment of rent hereunder.

d. Waiver of Subrogation. Landlord and Tenant hereby release each other and any other tenant, their agents or

employees, from responsibility for, and waive their entire claim of recovery for any loss or damage arising from any cause covered by insurance required to be carried or otherwise carried by each of them. Each party shall provide notice to the insurance carrier or carriers of this mutual waiver of subrogation, and shall cause its respective insurance carriers to waive all rights of subrogation against the other. This waiver shall not apply to the extent of the deductible amounts to any such policies or to the extent of liabilities exceeding the limits of such policies.

16. INDEMNIFICATION.

a. Indemnification by Tenant. Tenant shall defend, indemnify, and hold Landlord harmless against all liabilities, damages, costs, and expenses, including attorneys' fees, for personal injury, bodily injury (including death) or property damage arising from any negligent or wrongful act or omission of Tenant or Tenant's officers, contractors, licensees, subtenants, agents, servants, employees, guests, invitees, or visitors on or around the Premises, or arising from any breach of this Lease by Tenant. Tenant shall use legal counsel acceptable to Landlord in defense of any action within Tenant's defense obligation.

b. Employee Benefit Laws. Neither party's indemnity obligations under this Lease shall be limited by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under any employee benefit laws.

c. Exemption of Landlord from Liability. Landlord and Landlord's directors, officers, shareholders, agents, and employees shall not be liable for injury to Tenant's business or assets or any loss of income therefrom or for damage to Tenant's employees, invitees, customers or any other person in or about the Premises. Landlord only, and not its partners, members, directors, officers, shareholders, agents, representatives or employees may be liable to Tenant for any loss, injury or damage to Tenant to the extent the same are caused by or result from the gross negligence or willful misconduct of Landlord, its agents, servants or employees in the operation or maintenance of the Premises.

d. Survival. The provisions of this Section 16 shall survive expiration or termination of this Lease.

17. ASSIGNMENT AND SUBLETTING. Tenant may assign or sublease the whole or any part of the Premises (either referred to as a "Transfer"). In connection with each and any Transfer, Tenant shall provide Landlord with copies of all assignments, subleases and assumption instruments. Upon receipt of such documents, except in the event of a sublease of not more than 8,000 square feet to be used for office space, Landlord shall have a period of ten (10) business days within which to modify the Termination Date of the Lease to that date which is ninety (90) days following receipt of the Transfer documents, by notice to Tenant. No Transfer shall relieve Tenant of any liability under this Lease and Tenant shall remain primarily liable for the payment of Rent and the performance of the terms, covenants and conditions of the Lease. In the event of an assignment or sublease to a tenant whose use will be other than the sale at retail or wholesale of furniture and related items and permitted by local zoning, Landlord's consent shall be required, which consent shall not be unreasonably withheld, charged for or delayed, and provided further, Landlord will cooperate in the event any filing is required with the local building authority as a result of the use change.

18. LIENS. Tenant shall keep the Premises free from any liens created by or through Tenant. Tenant shall indemnify and hold Landlord harmless from liability for any such liens including, without limitation, liens arising from any Alterations. If a lien is filed against the Premises by any person claiming by, through or under Tenant, Tenant shall, upon request of Landlord, at Tenant's expense, immediately furnish to Landlord a bond in form and amount and issued by a surety satisfactory to Landlord, indemnifying Landlord and the Premises against all liabilities, costs and expenses, including attorneys' fees, which Landlord could reasonably incur as a result of such lien(s).

19. DEFAULT. Except as may otherwise be set forth in this Lease, the following occurrences shall each be deemed an Event of Default by Tenant. Any notice periods granted herein shall be deemed to run concurrently with and not in addition to any default notice periods required by law.

a. Failure To Pay. Tenant fails to pay any sum, including Rent, due under this Lease following five (5) days written notice from Landlord of the failure to pay.

b. Vacation/Abandonment. Tenant vacates the Premises (defined as an absence for at least 15 consecutive days without prior notice to Landlord), or Tenant abandons the Premises (defined as an absence of five (5) days or more while Tenant is in breach of some other term of this Lease). Tenant's vacation or abandonment of the Premises shall not be subject to any notice or right to cure.

c. Insolvency. If after the Tenant confirms a plan in its pending Chapter 11 case and subsequently Tenant becomes insolvent, voluntarily or involuntarily bankrupt, or a receiver, assignee or other liquidating officer is appointed for

Tenant's business, provided that in the event of any such involuntary bankruptcy or other insolvency proceeding, the existence of such proceeding shall constitute an Event of Default only if such proceeding is not dismissed or vacated within 60 days after its institution or commencement.

g. Levy or Execution. Tenant's interest in this Lease or the Premises, or any part thereof, is taken by execution or other process of law directed against Tenant, or is taken upon or subjected to any attachment by any creditor of Tenant, if such attachment is not discharged within 15 days after being levied.

dg. Other Non-Monetary Defaults. Tenant breaches any agreement, term or covenant of this Lease other than one requiring the payment of money and not otherwise enumerated in this Section, and the breach continues for a period of 30 days after notice by Landlord to Tenant of the breach.

20. REMEDIES. Landlord shall have the following remedies upon an Event of Default. Landlord's rights and remedies under this Lease shall be cumulative, and none shall exclude any other right or remedy allowed by law.

a. Termination of Lease. Landlord may terminate Tenant's interest under the Lease, but no act by Landlord other than written notice of termination from Landlord to Tenant shall terminate this Lease. The Lease shall terminate on the date specified in the notice of termination. If this Lease is terminated or if Landlord may re-enter the Premises or in the event of the termination of this Lease, or of re-entry, by or under any summary dispossession or other proceeding or action or any provision of law by reason of any default hereunder on the part of Tenant, Tenant shall pay to Landlord as damages, at the election of Landlord, either:

(i) a sum which at the time of such termination of this Lease or at the time of any such re-entry by Landlord, as the case may be, represents the then value of the excess, if any, of:

(1) the aggregate of the base rent and the additional rent payable hereunder that would have been payable by Tenant, conclusively presuming the additional rent to be the same as was payable for the year immediately preceding such termination (regardless of whether the real estate taxes were paid by Landlord or Tenant) for the period commencing with such earlier termination of this Lease or the date of any such re-entry, as the case may be, and ending with the Lease Termination Date, had this Lease not so terminated or had Landlord not so re-entered the Premises, over

(2) the aggregate rental value of the Premises for the same period; or

(ii) sums equal to the aggregate of the monthly rent and the additional rent payable hereunder that would have been payable by Tenant had this Lease not so terminated, or had Landlord not so re-entered the Premises, payable upon the due dates therefor specified herein following such termination or such reentry and until the Lease Termination Date; provided, however, that if Landlord shall re-let the Premises during said period, Landlord shall credit Tenant with the net rents received by Landlord from such re-letting, such net rents to be determined by first deducting from the gross rents as and when received by Landlord from such re-letting, the expenses incurred or paid by Landlord in terminating this Lease in re-entering the Premises and in securing possession thereof, as well as the expenses of re-letting, including altering and preparing the Premises for new tenants, brokers' commissions, attorneys' fees and disbursements, and all other expenses properly chargeable against the Premises and the rental thereof; it being understood that any such re-letting may be for a period shorter or longer than the remaining term of this Lease and that Landlord may grant concessions and free rent; but in no event shall Tenant be entitled to receive any excess of such net rents over the sums payable by Tenant to Landlord hereunder, nor shall Tenant be entitled in any suit for the collection of damages pursuant to this subsection to a credit in respect of any net rents from a re-letting, except to the extent that such net rents actually are received by Landlord. If the Premises or any part thereof should be re-let in combination with other space, then proper apportionment on a square foot basis shall be made of the rent received from such re-letting and of the expenses of re-letting. Landlord in no event shall be liable in any way whatsoever for failure to re-let the Premises nor shall such failure affect Tenant's liability for damages, it being expressly understood and agreed that Landlord has no obligation to mitigate Tenant's damages hereunder.

Landlord may not elect to accelerate the rent due under this Lease.

b. Waiver of Redemption Rights. Tenant, for itself, and on behalf of any and all persons claiming through or under Tenant, including creditors of all kinds, hereby waives and surrenders all rights and privileges which they may have under any present or future law, to redeem the Premises or to have a continuance of this Lease for the Lease term, as it may have been extended.

c. Nonpayment of Additional Rent. All costs which Tenant is obligated to pay to Landlord pursuant to this Lease shall in the event of nonpayment be treated as if they were payments of Rent, and Landlord shall have all the rights herein provided for in case of nonpayment of Rent.

d. Failure to Remove Property. If Tenant fails to remove any of its property from the Premises at Landlord's request following an uncured Event of Default, Landlord may, at its option, remove and store the property at Tenant's expense and risk. If Tenant does not pay the storage cost within five (5) days of Landlord's request, Landlord may, at its option, have any or all of such property sold at public or private sale (and Landlord may become a purchaser at such sale), in such manner as Landlord deems proper, without notice to Tenant. Landlord shall apply the proceeds of such sale: (i) to the expense of such sale, including reasonable attorneys' fees actually incurred; (ii) to the payment of the costs or charges for storing such property; (iii) to the payment of any other sums of money which may then be or thereafter become due Landlord from Tenant under any of the terms hereof; and (iv) the balance, if any, to Tenant. Nothing in this Section shall limit Landlord's right to sell Tenant's personal property as permitted by law or to foreclose Landlord's lien for unpaid rent.

21. MORTGAGE SUBORDINATION AND ATTORNMEN This Lease shall automatically be subordinate to any mortgage or deed of trust created by Landlord which is now existing or hereafter placed upon the Premises including any advances, interest, modifications, renewals, replacements or extensions ("Landlord's Mortgage"). Tenant shall attorn to the holder of any Landlord's Mortgage or any person(s) acquiring the Premises at any sale or other proceeding under any Landlord's Mortgage provided such person(s) assume the obligations of Landlord under this Lease. Tenant shall promptly and in no event later than fifteen (15) days after request execute, acknowledge and deliver documents which the holder of any Landlord's Mortgage may reasonably require as further evidence of this subordination and attornment. Notwithstanding the foregoing, Tenant's obligations under this Section are conditioned on the holder of each Landlord's Mortgage and each person acquiring the Premises at any sale or other proceeding under any such Landlord's Mortgage not disturbing Tenant's occupancy and other rights under this Lease, so long as no uncured Event of Default exists.

22. NON-WAIVER. Landlord's waiver of any breach of any term contained in this Lease shall not be deemed to be a waiver of the same term for subsequent acts of Tenant. The acceptance by Landlord of Rent or other amounts due by Tenant hereunder shall not be deemed to be a waiver of any breach by Tenant preceding such acceptance.

23. HOLDOVER. If Tenant shall, without the written consent of Landlord, hold over after the expiration or termination of the term, such tenancy shall be deemed to be on a month-to-month basis. During such tenancy, Tenant agrees to pay to Landlord 150% the rate of rental last payable under this Lease, unless a different rate is agreed upon by Landlord. All other terms of the Lease shall remain in effect. Tenant acknowledges and agrees that this Section 23 does not grant any right to Tenant to holdover, and that Tenant may also be liable to Landlord for any and all damages or expenses which Landlord may have to incur as a result of Tenant's holdover.

24. NOTICES. All notices under this Lease shall be in writing and effective when sent if sent via nationally recognized overnight courier or by registered or certified mail, return receipt requested, or when delivered if delivered by personal delivery, to Landlord or Tenant, as the case may be, at the address set forth in Section 1.f. Notwithstanding the aforesaid, notices sent via nationally recognized overnight courier or by registered or certified mail, return receipt requested will only be deemed effective on the day sent if a copy of such notice is also sent to Landlord or Tenant, as the case may be, via facsimile to the number set forth in Section 1.f. If a copy of a notice sent via nationally recognized overnight courier or by registered or certified mail, return receipt requested is not sent to Landlord or Tenant, as the case may be, via facsimile, such notice will be deemed effective on the date delivered. Copies of notices shall also be sent to the parties' respective attorneys at the addresses sent forth in Section 1.f.

25. COSTS AND ATTORNEYS' FEES. If Tenant or Landlord engage the services of an attorney to collect monies due or to bring any action for any relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of Rent or other payments, or possession of the Premises, the losing party shall pay the prevailing party a reasonable sum for attorneys' fees in such suit, in mediation or arbitration, at trial on appeal, and in any bankruptcy proceeding.

26. ESTOPPEL CERTIFICATES. Tenant shall, from time to time, upon written request of Landlord, execute, acknowledge and deliver to Landlord or its designee a written statement specifying the following, subject to any modifications necessary to make such statements true and complete: (i) the date the Lease term commenced and the

date it expires; (ii) the amount of minimum monthly Rent and the date to which such Rent has been paid; (iii) that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way; (iv) that this Lease represents the entire agreement between the parties; (v) that all conditions under this Lease to be performed by Landlord have been satisfied; (vi) that there are no existing claims, defenses or offsets which the Tenant has against the enforcement of this Lease by Landlord; (vii) that no Rent has been paid more than one month in advance; (viii) that no security has been deposited with Landlord (or, if so, the amount thereof); and (ix) such other matters as Landlord may reasonably request. Any such statement delivered pursuant to this Section may be relied upon by a prospective purchaser of Landlord's interest or assignee of any mortgage or new mortgagee of Landlord's interest in the Premises. If Tenant shall fail to respond within ten (10) days of receipt by Tenant of a written request by Landlord as herein provided, Tenant shall be deemed to have given such certificate as above provided without modification and shall be deemed to have admitted the accuracy of any information supplied by Landlord to a prospective purchaser or mortgagee.

27. TRANSFER OF LANDLORD'S INTEREST. This Lease shall be assignable by Landlord without the consent of Tenant. In the event of any transfer or transfers of Landlord's interest in the Premises, other than a transfer for security purposes only, upon the assumption of this Lease by the transferee, Landlord shall be automatically relieved of obligations and liabilities accruing from and after the date of such transfer, except for any retained security deposit or prepaid rent, and Tenant shall attorn to the transferee.

28. LANDLORD'S LIABILITY. Anything in this Lease to the contrary notwithstanding, covenants, undertakings and agreements herein made on the part of Landlord are made and intended not as personal covenants, undertakings and agreements for the purpose of binding Landlord personally or the assets of Landlord except Landlord's interest in the Premises, but are made and intended for the purpose of binding only the Landlord's interest in the Premises, as the same may from time to time be encumbered.

29. RIGHT TO PERFORM. If Tenant shall fail to timely pay any sum or perform any other act on its part to be performed hereunder, Landlord may make any such payment or perform any such other act on Tenant's part to be made or performed as provided in this Lease. Tenant shall, on demand, reimburse Landlord for its expenses incurred in making such payment or performance. Landlord shall (in addition to any other right or remedy of Landlord provided by law) have the same rights and remedies in the event of the nonpayment of sums due under this Section as in the case of default by Tenant in the payment of Rent.

30. HAZARDOUS MATERIAL. Tenant shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about, or disposed of on the Premises by Tenant, its agents, employees, contractors or invitees, except in strict compliance with all applicable federal, state and local laws, regulations, codes and ordinances. If Tenant breaches the obligations stated in the preceding sentence, 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 the value of the Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises, or elsewhere, damages arising from any adverse impact on marketing of space at the Premises, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees incurred or suffered by Landlord either during or after the Lease term. This indemnification by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work, whether or not required by any federal, state or local governmental agency or political subdivision, because of Hazardous Material present in the Premises, or in soil or ground water on or under the Premises. Tenant shall immediately notify Landlord of any inquiry, investigation or notice that Tenant may receive from any third party regarding the actual or suspected presence of Hazardous Material on the Premises. Without limiting the foregoing, if the presence of any Hazardous Material brought upon, kept or used in or about the Premises by Tenant, its agents, employees, contractors or invitees, results in any unlawful release of Hazardous Material on the Premises or any other property, Tenant shall promptly take all actions, at its sole expense, as are necessary to return the Premises or any other property, to the condition existing prior to the release of any such Hazardous Material; provided that Landlord's approval of such actions shall first be obtained, which approval may be withheld at Landlord's sole discretion. As used herein, the term "Hazardous Material" means any hazardous, dangerous, toxic or harmful substance, material or waste including biomedical waste which is or becomes regulated by any local governmental authority, the State of New York or the United States Government due to its potential harm to the health, safety or welfare of humans or the environment. The provisions of this Section 30 shall survive expiration or termination of this Lease.

31. QUIET ENJOYMENT. So long as Tenant pays the Rent and performs all of its obligations in this Lease, Tenant's possession of the Premises will not be disturbed by Landlord or anyone claiming by, through or under Landlord, or by the holders of any Landlord's Mortgage or any successor thereto.

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

33. GENERAL.

a. Heirs and Assigns. This Lease shall apply to and be binding upon Landlord and Tenant and their respective heirs, executors, administrators, successors and assigns.

b. Brokers' Fees. Tenant represents and warrants to Landlord that it has not engaged any broker, finder or other person who would be entitled to any commission or fees in respect of the negotiation, execution or delivery of this Lease and shall indemnify and hold harmless Landlord against any loss, cost, liability or expense incurred by Landlord as a result of any claim asserted by any such broker, finder or other person on the basis of any arrangements or agreements made or alleged to have been made by or on behalf of Tenant. Landlord represents and warrants to Tenant that it has not engaged any broker, finder or other person who would be entitled to any commission or fees in respect of the negotiation, execution or delivery of this Lease and shall indemnify and hold harmless Tenant against any loss, cost, liability or expense incurred by Tenant as a result of any claim asserted by any such broker, finder or other person on the basis of any arrangements or agreements made or alleged to have been made by or on behalf of Landlord.

c. Entire Agreement. This Lease contains all of the covenants and agreements between Landlord and Tenant relating to the Premises. No prior or contemporaneous agreements or understanding pertaining to the Lease shall be valid or of any force or effect and the covenants and agreements of this Lease shall not be altered, modified or added to except in writing signed by Landlord and Tenant.

d. Severability. Any provision of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision of this Lease.

e. Force Majeure. Time periods for either party's performance under any provisions of this Lease (excluding payment of Rent) shall be extended for periods of time during which the party's performance is prevented due to circumstances beyond such party's control, including without limitation, fires, floods, earthquakes, lockouts, strikes, embargoes, governmental regulations, acts of God, public enemy, war or other strife.

f. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of New York.

g. Memorandum of Lease. Neither this Lease nor a memorandum of Lease shall be recorded.

h. Submission of Lease Form Not an Offer. One party's submission of this Lease to the other for review shall not constitute an offer to lease the Premises. This Lease shall not become effective and binding upon Landlord and Tenant until it has been fully signed by both Landlord and Tenant.

i. Authority of Parties. Each party signing this Lease represents and warrants to the other that it has the authority to enter into this Lease, that the execution and delivery of this Lease has been duly authorized, and that upon such execution and delivery this Lease shall be binding upon and enforceable against the party on signing.

j. Time. "Day" as used herein means a calendar day and "business day" means any day on which commercial banks are generally open for business in the state where the Premises are situated. Any period of time which would otherwise end on a non-business day shall be extended to the next following business day. Time is of the essence of this Lease.

k. No Consequential Damages. In no event shall Landlord or Tenant, as the case may be, be liable to any other party hereto, whether pursuant to this Lease or any indemnity provided by either party to the other, for consequential damages, punitive damages or extraordinary damages, whether foreseeable or unknown, proximate or remote, whatever the nature of a breach by such party of its obligations under or in connection with this Lease, and each party hereby waives all claims for any such damages.

l. Cooperation. Tenant acknowledges that the property adjacent to the Premises known as District 200, Section 450, Block 3, Lot 13 (the "Adjacent Premises") is owned by Route 112 Land, LLC, a New York limited liability company that is under common control of the principals of Landlord. Tenant covenants that it shall reasonably cooperate with Landlord and its successors and assigns in any land use or zoning application regarding the Adjacent Premises including but not limited to cross-access or cross-parking agreements provided that Tenant's operations are not materially and adversely affected thereby.

34. WAIVER OF TRIAL BY JURY. Landlord and Tenant do hereby waive trial by jury in any action, proceeding or counterclaim brought by either party against the other, upon any matters whatsoever arising out of or in any way connected with this Lease, Tenant's use or occupancy of the Premises and/or any claim of injury or damage. It further is agreed that in the event Landlord commences any summary proceeding for non-payment of rent or additional rent, Tenant will not interpose any counterclaim of whatever nature or description in any such proceeding.

35. COUNTERPARTS. This Agreement may be executed by pdf or facsimile signature and in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument.

IN WITNESS WHEREOF this Lease has been executed the date and year first above written.

LANDLORD:

B.R. Real Estate, Inc.

By: _____
Print Name: _____
Title: _____

TENANT:

Jennifer Convertibles, Inc.

By: _____
Print Name: _____
Title: _____

RIDER ANNEXED TO AND MADE A PART OF LEASE AGREEMENT DATED AS OF
AUGUST 13, 2010, BETWEEN B.R. ESTATE, INC. as "Landlord" and JENNIFER
CONVERTIBLES, INC., as "Tenant" FOR RETAIL STORE AND SHOWROOM SPACE,
AND CORPORATE OFFICES, LOCATED AT 2257 ROUTE 112, CORAM, NEW YORK

If and to the extent that any of the provisions of this Rider conflict with or are otherwise inconsistent with any of the preceding printed provisions of this Lease, whether or not such inconsistency is expressly noted in this Rider, the provisions of this Rider shall prevail.

35. As stated in paragraph 1(h) of the printed portion of this Lease, Tenant is currently a Debtor-in-Possession and is entering into this Lease post petition.

(a) Should the Tenant subsequently reject the Lease under 11 U.S.C. § 365 during the course of Tenant's bankruptcy cases under chapter 11 of title 11 of the United States Code (the "Chapter 11 Cases"), Landlord agrees to waive its administrative rejection claim under 11 U.S.C. §§ 503(b)(7) and 502(b)(6), in exchange for a claim for liquidated damages in the total amount of one month's base rent (\$15,000) as provided in the Lease from the Tenant, which claim shall have priority under 11 USC §503(b)(1).

(b) Landlord agrees to accept such payment in full and final settlement of any claims the Landlord may have against the Tenant as provided in sub-paragraph (a) above.

(c) During the term of the Lease that transpires during the bankruptcy, the Tenant's responsibility for payment of administrative rent and the Landlord's right to have a §503(b) priority claim remains unaffected.

(d) This rider is only applicable during the pendency of the Tenant's chapter 11 cases, and upon the effective date of a confirmed Plan this Rider and the provisions thereof will become null and void and the terms of the Lease as it relates to Landlord's damages will be reinstated.

(e) The effectiveness of the Lease is expressly conditioned upon its approval by the U.S. Bankruptcy Court where Tenant's chapter 11 case is pending. If the Lease is not approved by the Bankruptcy Court within thirty (30) days from execution, the Lease shall be considered null and void and of no force and effect. Under no circumstances shall the Tenant take possession of the Premises prior to bankruptcy court approval.

[THIS ENDS THE RIDER PROVISIONS. THE NEXT PAGE IS THE SIGNATURE PAGE]

IN WITNESS WHEREOF, this Rider has been executed the date and year first above written.

LANDLORD:

B.R. Real Estate, Inc.

By: _____

Printed Name:

Title:

TENANT

Jennifer Convertibles, Inc.

By: _____

Printed Name:

Title: