UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

In re:	)	
	)	
SOFA EXPRESS, INC.,	)	Case No. 307-09024
	)	Chapter 11
Debtor.	)	Judge George C. Paine, II
	)	

THE DEADLINE FOR FILING A TIMELY RESPONSE IS: February 26, 2008
IF A RESPONSE IS TIMELY FILED, A HEARING WILL BE: March 11, 2008, at 9:30 a.m., Courtroom One, Customs House, 701 Broadway, Nashville, Tennessee 37203

AMENDED APPLICATION AND NOTICE FOR ADMINISTRATIVE EXPENSES OF CLAIM OF LANDLORD AND FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE CLAIM

Shops of Fairlawn Delaware, LLC, the Landlord and creditor herein, hereby requests allowance of payment of administrative expense claim for the above-referenced case.

YOUR RIGHTS MAY BE AFFECTED. If you do not want the Court to grant the attached Motion by entering the attached proposed Order, of if you want the court to consider your views on the Motion, then on or before **February 26, 2008**, you or your attorney must:

1. File with the Court your Response, explaining with specificity the legal and factual grounds for your position. THE BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE REQUIRES ELECTRONIC FILING. ANY RESPONSE MUST BE FILED ELECTRONICALLY. TO FILE ELECTRONICALLY, YOU OR YOUR ATTORNEY MUST GO TO THE COURT WEBSITE AND FOLLOW THE INSTRUCTIONS AT: https://ecf.tnmb.uscourts.gov. If you need assistance with Electronic Filing you may call the Bankruptcy Court at (615) 736-5584. You may also visit the Bankruptcy Court in person at: 701 Broadway, 1st Floor, Nashville, TN (Monday – Friday, 8:00 A.M. – 4:00 P.M.)

2. Your Response must state that the deadline for filing responses is **February 26, 2008**; that the date of the scheduled hearing is **March 11, 2008**; and that the Motion to which you are responding is ***Application and Notice for Administrative Expenses of Claim of Landlord and for Allowance and Payment of Administrative Claim***.

3. You must serve your Responses or Objection by electronic service through the Electronic Filing system described above. You must also mail a copy of your Response or Objection to:

Thomas H. Forrester
Gullett, Sanford, Robinson & Martin, PLLC
P.O. Box 198888
Nashville, TN 37219-8888
tforrester@gsrm.com; rbucy@gsrm.com; bke@gsrm.com

If a Response is filed before the deadline stated above, the hearing will be held at the time and place indicated above. THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE. You may check whether a timely Response has been filed by calling the Clerk's office at (615) 736-5584 or viewing the case on the Court's website at: https://ecf.tnmb.uscourts.gov.

If you or your attorney does not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter the attached proposed Order granting that relief.

Dated: February 7, 2008.

/s/ Thomas H. Forrester
Thomas H. Forrester
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Attorneys for Shops of Fairlawn Delaware, LLC

CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2008, a true and correct copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

/s/ Thomas H. Forrester
Thomas H. Forrester

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

In re:	)	
	)	**Chapter 11**
SOFA EXPRESS,	)	**Case No. 07-09024**
	)	**Hon. George C. Paine II**
Debtor.	)	

AMENDED
APPLICATION FOR ADMINISTRATIVE EXPENSES
OF CLAIM OF LANDLORD AND FOR ALLOWANCE AND PAYMENT
OF ADMINISTRATIVE CLAIM

Shops of Fairlawn Delaware, LLC ("Landlord") hereby moves for the allowance and immediate payment of the Debtor's post-petition obligations to Landlord in the amount of $84,300.25 pursuant to 11 U.S.C. §§ 365(d), 503(b) and 507(a). In support hereof, Landlord respectfully states as follows:

BACKGROUND

1. On December 6, 2007 (the "Petition Date"), the Debtor filed its voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). Pursuant to Sections 1107 and 1108 of the Bankruptcy Code, the Debtor continues to operate its business as a debtor in possession.

2. The Debtor leases the premises located at The Shops of Fairlawn Shopping Center, 3737 West Market Street, City of Fairlawn, Summit County, Ohio 44333 (the "Premises") pursuant to the lease by and between Landlord, as successor by assignment from Shops of Fairlawn Retail Limited Partnership, and the Debtor, as successor by assignment from Seaman Furniture Company, Inc., dated as of January 6, 2000, as the same may have been amended (the "Lease"). A copy of the Lease is attached hereto as Exhibit A.

3. The Lease expires on July 31, 2010. Debtor's current aggregate rent obligations under the Lease total $46,666.21 per month (calculated as base rent at $36,666.66 per month and additional rent (common area maintenance) at $9,999.55 per month through July 31, 2010) (the "Rent"). Under the Lease, Rent is due on the first day of each month.

4. Debtor failed to pay Landlord for Debtor's post-petition use and occupancy of the Premises during December, 2007.

5. Debtor also failed to pay Landlord for the Rent that was due on February 1, 2008.

6. On January 21, 2008, Debtor filed Debtor's Third Motion to Reject Certain Unexpired Nonresidential Real Property Leases and Executory Contracts (the "Motion to Reject") requesting the entry of an Order authorizing the rejection of the Lease effective as of the date that the Debtor filed the Motion to Reject.

7. On February 5, 2008, Landlord filed Landlord's Limited Objection to Debtor's Third Motion to Reject Certain Unexpired Nonresidential Real Property Leases and Executory Contracts (the "Limited Objection"), in which Landlord opposed only Debtor's request that the rejection of the Lease be effective as of the date of the Motion to Reject, rather than the date that the Court enters an Order approving the rejection.

LANDLORD'S REQUEST FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE EXPENSE CLAIM

8. As set forth above, Landlord filed a Limited Objection requesting that the Lease be rejected effective as of the date that the Court enters an Order approving such rejection.

9. The determination of the effective date of rejection is significant because § 365 of the Bankruptcy Code provides in part that:

> The trustee shall timely perform all the obligations of the debtor, except those specified in section 365(b)(2), arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected, ...

11 U.S.C. § 365(d)(3).

10. The Sixth Circuit holds that, where the specific obligation to pay rent arises on the first of the month during the post-petition, pre-rejection period, "§ 365(d)(3) is unambiguous as to the debtor's rent obligation and requires payment of the full month's rent." *In re Koenig Sporting Goods, Inc.*, 203 F.3d 986, 989 (6th Cir. 2000). *See also, Matter of Federated Dep't Stores, Inc.*, 131 B.R. at 814 (lessor is entitled to rent as a postpetition administrative expense until the lease is rejected by operation of 11 U.S.C. § 365(d)(4) or with court approval); *Paul Harris Stores, Inc. v. Mabel L. Slater Realty Trust*, 148 B.R. 307 (S.D. Ind. 1992) (debtor tenant is liable for rent as administrative expense for entire period preceding court approval of lease rejection even though debtor had earlier physically surrendered premises). Accordingly, if the Lease is rejected after February 1, 2008, the Debtor must pay Landlord full Rent for the month of February.

11. In *Koenig*, the debtor was obligated under the terms of the lease to pay in advance on the first of each month for that month's rent. The debtor notified the landlord on November 25, 1997 that it was rejecting the lease effective December 2, 1997, which was the date that the debtor vacated the property. The landlord thereafter filed a request with the bankruptcy court seeking payment of the rent for the full month of December. The debtor objected, arguing that the landlord was entitled to receive only the pro rata value of rent for December 1 and 2. The bankruptcy court disagreed and granted the landlord's request. *See, In re Koenig Sporting Goods, Inc.*, 221 B.R. 737 (Bankr. N.D. Ohio 1998). The Sixth Circuit affirmed, specifically

rejecting the "*pro rata*" approach advanced by the debtor and recognizing that "equity as well as [11 U.S.C. § 365(d)(3)] favors full payment." *Koenig*, 203 F.3d at 989-90 (citing *Krystal*, 194 B.R. 161, 164 (Bankr. E.D. Tenn. 1996).

12. As of the date of this motion, the Court has not yet entered an order approving the rejection of the Lease and, presumably, such an order would not be entered until after February 12, 2008, the date of the hearing on the Motion to Reject. Under the Lease, the Rent for the entire month of February, 2008 was due on February 1, 2008. Landlord, therefore, is entitled to an administrative claim for Rent for February, 2008, in the amount of $46,666.21.

13. In addition, Landlord is entitled to an administrative claim on account of Debtor's post-petition Rent obligations for Debtor's use and occupancy of the Premises for the twenty-five day "stub period" from December 6, 2007 through December 31, 2007, in the amount of $37,634.04.

14. 11 U.S.C. § 503(b)(1)(A) provides for the allowance of an administrative claim for "the actual, necessary costs and expenses of preserving the estate." 11 U.S.C. § 503(b)(1)(A). To that end, Landlord is entitled to an administrative claim on account of the Debtor's post-petition Rent obligations. *See, Dayton Hydraulic Co. v. Felsenthall*, 116 F. 961, 969 (6th Cir. 1902) (receiver required to pay rent at amount stipulated in lease); *In re Zagata Fabricators, Inc. v. Superior Air Products*, 893 F.2d 624, 627 (3d Cir. 1990) ("There is no question, of course, that the payment of rent for the use and occupancy of real estate ordinarily counts as an 'actual, necessary' cost to which a landlord, as a creditor is entitled."); *In re Macomb Occupational Health Care, LLC*, 300 B.R. 270, 278 (Bankr. E.D. Mich. 2003) (Section 503(b)(1)(A) requires the estate to pay the landlord the actual rent which debtor was obligated to pay landlord under the lease during the post-petition interval before rejection.); *In re ZB*

Company Inc., 302 B.R. 316, 319 (Bankr. D. Del. 2003) (Section 503(b)(1)(A) allows an "administrative expense claim for 'the actual, necessary costs and expenses of preserving the estate…' which fills the stub period gap…"). *See also, In re Rhodes, Inc.*, 321 B.R. 80, 92 (Bankr. N.D. Ga. 2005) ("It would be a strange result indeed, bordering on the absurd, to hold that in enacting section 365(d)(3) to protect landlords, Congress intended to strip landlords of any right to payment of an administrative expense for use of their premises for the stub rent period and to leave them with only pre-petition, unsecured claims."); *In re Travel 2000, Inc.*, 264 B.R. 444 (Bankr. W.D. Mich. 2001) (relying on § 365(d)(3) in holding that, although debtor's obligation for February rent had already crystallized on the first day of the month, one day prior to its bankruptcy filing, debtor was obligated for rent relating to its postpetition occupancy on pro rata basis).

15. Here, the Debtor not only occupied the Premises, but continued its operations, including going-out-of business sales, during the entire month of December, 2007. Debtor's use of the Premises during December, 2007 clearly provided a benefit to the estate, yet Debtor has failed to pay Landlord for its post-petition use and occupancy of the Premises from December 6, 2007 through December 31, 2007. Accordingly, Landlord is entitled to compensation for Debtor's the post-petition use and occupancy of the Premises during December, 2007 in the amount of $37,634.04.

WHEREFORE, for the foregoing reasons, Landlord respectfully requests that the Court enter an Order (i) allowing and directing the prompt payment of an administrative expense claim in favor of Landlord in the amount of $84,300.25 (calculated as Rent due for February, 2008, in the amount of $46,666.21 plus post-petition rent for December, 2007 in the amount of

$37,634.04); and (ii) granting Landlord such other and further relief as is just and proper under the circumstances.

Dated: February 7, 2008

Respectfully submitted,

/s/ Thomas H. Forrester
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Attorneys for Landlord

CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2008, a true and correct copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

/s/ Thomas H. Forrester
Thomas H. Forrester

EXHIBIT A

SHOPS AT FAIRLAWN

IN LINE STORE LEASE SUMMARY

The following is a summary of some of the essential provisions in the Lease in SHOPS OF FAIRLAWN, Fairlawn, Ohio. The Lease Summary is included for convenience only, but in the event of any discrepancy or conflict between the provisions of this Lease Summary and the provisions of the Lease, the provisions of the Lease shall control.

LANDLORD:	SHOPS OF FAIRLAWN RETAIL LIMITED PARTNERSHIP c/o Robert L. Stark Enterprises, Inc. Suite 330 Three Commerce Park Square 23230 Chagrin Boulevard Beachwood, Ohio 44122
TENANT:	SEAMAN FURNITURE COMPANY, INC. 300 Crossways Park Drive Woodbury, New York 11797
GUARANTOR:	N/A
PREMISES:	Square footage: 47,196
TERM:	Ten (10) years plus three Five (5) year Options.

FIXED MINIMUM RENT:	Years	Annual	Monthly
	1-5	$400,000.00	33,333.33
	6-10	$440,000.00	36,666.66
	First Extended Term	$492,800.00	41,066.67
	Second Extended Term	$551,936.00	45,994.67
	Third Extended Term	$618,168.32	51,514.03

PROMOTION FUND: None

Other Additional Charges are prorata

SHOPS OF FAIRLAWN

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LEASE

THIS INDENTURE OF LEASE dated as of January 6, 2000 ~~1999~~ by and between SHOPS OF FAIRLAWN RETAIL LIMITED PARTNERSHIP, an Ohio limited partnership (hereinafter called "LANDLORD") and SEAMAN FURNITURE COMPANY, INC., a Delaware corporation d/b/a Seaman's Furniture (hereinafter called "TENANT").

WITNESSETH:

1. EXHIBITS TO LEASE AND DEFINITIONS.

The following listed exhibits are attached to and made a part of this Lease:

EXHIBIT A. The description of the lands upon which THE SHOPS OF FAIRLAWN SHOPPING CENTER has been or will be constructed, sometimes hereinafter referred to as the "Shopping Center Site."

EXHIBIT B. The initial Site Plan which the Landlord may change from time to time (subject to the "No-Build Area" shown on the Site Plan) showing, in general, the location of the contemplated Shopping Center buildings, parking areas, driveways, and other Common Areas.

EXHIBIT C. The Rules and Regulations governing the Shopping Center in effect at the time of execution of this Lease, which Rules and Regulations may be amended and supplemented by the Landlord at all times in its sole discretion.

EXHIBIT D. Landlord's Work.

EXHIBIT D-1. Storefront Criteria.

EXHIBIT E. Sign Criteria.

EXHIBIT F. Intentionally Deleted.

EXHIBIT G. Restrictions.

The following definitions are applicable to the provisions of this Lease:

"Building" means the building in which the Premises are located.

"Common Areas" means the parking areas, driveways, landscaped areas, loading docks, aisles, sidewalks, courts, canopies, facade and other areas within the Shopping Center Site which are

designated as Common Areas by Landlord from time to time (subject to the No-Build Area), with the improvements therein, whether or not shown on Exhibit B, and as the same may be changed by Landlord from time to time, in its sole discretion. In no event may Landlord relocate Tenant's Premises.

"Fixture Date" means the ninetieth (90th) day after Landlord substantially completes Landlord's Work in the Premises to the extent required, in Tenant's reasonable business judgment, for Tenant to commence Tenant's work and delivers possession of the Premises to Tenant, which date shall be no later than sixty (60) days after the later of: (a) Landlord's approval of Tenant's plans and specifications or (b) the date Landlord obtains a building permit for Landlord's Work (as defined in Section 10).

"Legal Requirements" means all laws, ordinances, codes, rules and regulations of all applicable public authorities and the rules, regulations and requirements of any fire rating organizations or rating bureaus.

"Premises" means the specific storeroom leased to the Tenant by the Landlord.

"Prorata Share" means the ratio or percentage which the number of square feet in the Premises bears to the total number of leasable square feet in the Shopping Center excluding kiosks, mezzanines, outdoor garden or storage areas and non-selling second floor areas. If Tenant begins to use the second floor of the Premises as a sales area, the square footage of such second floor area shall be included for purposes of calculating Tenant's Prorata Share. If Landlord shall not be required to pay taxes or furnish hazard insurance with respect to any building or premises in the Shopping Center, the square footage of such building or premises shall be excluded in calculating Tenant's Prorata Share with respect to the payment of such Additional Charges. In addition, if any items comprising Common Area Charges (hereinafter defined) are furnished by individual tenants as opposed to Landlord (as, for example, if Sears Hardware lights the parking field in front of its building at its expense), the cost of the service furnished by such tenant shall not be included in Common Area Charges and the square footage of the tenant furnished such services shall not be included in the calculation of Tenant's Prorata Share for such service. In the above example, Sears Hardware's square footage shall not be used in the determination of Tenant's Prorata Share of the lighting costs of the Common Areas of the Center. Landlord estimates that Tenant's initial Prorata Share will be 20.44%. Tenant acknowledges that such estimate shall not be binding on Landlord and is subject to Section 42 of this Lease.

"Shopping Center" means THE SHOPS OF FAIRLAWN SHOPPING CENTER, consisting of all buildings, Common Areas and improvements located entirely on the Shopping Center Site or upon the Shopping Center Site and additional land as said Shopping Center is contracted or expanded by Landlord from time to time.

2. PREMISES - RELOCATION.

For the rent and upon the agreements contained in this Lease, Landlord leases to

Tenant and Tenant rents from Landlord the Premises described as follows:

> Situated in the City of Fairlawn, Summit County, Ohio, and consisting of a storeroom within Building containing approximately 27,196 square feet of floor area on the first floor and approximately 20,000 square feet of floor area on the second floor, for a total of 47,196 square feet (all measurements being to the center of common walls and to the exterior of all exterior walls, including without limitation, the area within any recessed doorway). The Premises do not include the use of the exterior faces of the exterior walls or the roof (except for Tenant's sign and the repair or replacement of any rooftop heating or air conditioning equipment which is Tenant's obligation under this Lease, Tenant's use of the roof, however, to be limited in accordance with the conditions and limitations hereinafter set forth) or extend beyond the exterior faces of the storefront or the exterior walls of the building of which the Premises are a part.

The Premises are outlined in red on Exhibit B for the purpose of more specifically locating the space leased to Tenant.

Landlord expressly reserves the exclusive use of the exterior walls, including, without limitation, the right to use exterior walls as a party wall or for the attachment of any additions to the Shopping Center and, except as expressly set forth herein to the contrary, the roof of the Premises (provided that no signs shall be installed on the roof), and the right to install, maintain, use, repair and replace pipes, ducts, conduits and wires through the Premises in locations which will serve other areas of the Shopping Center, provided that such pipes, ducts, conduits and wires shall be within the walls of the Premises or more than eleven (11) feet above the floor slab and if any portion of the Premises is used for such pipes, ducts, conduits or wires in a manner which reduces Tenant's usable square footage by more than one hundred (100) square feet, Fixed Minimum Rent and other charges shall be proportionately reduced and provide further that in no event shall the installation, maintenance, use, repair or replacement of such pipes, ducts, conduits and wires unreasonably interfere with the conduct of Tenant's business.

Landlord represents and warrants to Tenant that, to Landlord's actual knowledge, the Premises are free of hazardous substances, including but not limited to asbestos and lead based paint.

3. TERM.

(a) The "Commencement Date" of the term of this Lease shall be the Fixture Date if such date is the first day of a calendar month; otherwise, the Commencement Date shall be the first day of the first month thereafter. Notwithstanding the foregoing, as of the Fixture Date (or such earlier date as Tenant may, subject to the Landlord's consent, enter the Premises), all of the terms and conditions of this Lease shall be in full force and

effect, except that Tenant's obligations to pay Fixed Minimum Rent shall commence as set forth in Paragraph 4 below.

(b) The term of this Lease shall be for a period of ten (10) lease years beginning with the "Commencement Date" and ending on the last day of the twelfth (12th) month of the tenth (10th) lease year thereafter. The first lease year shall begin on the Commencement Date of this Lease and shall end on the last day of the twelfth (12th) full month following the Commencement Date. Succeeding lease years shall each consist of the twelve (12) month period beginning with the first day following the prior lease year.

(c) If for any reason whatsoever Landlord shall not deliver possession of the Premises to Tenant by within six (6) months following the date Landlord shall execute this Lease, Tenant may terminate this Lease on sixty (60) days prior written notice to Landlord; provided; however, that if Landlord delivers possession within such sixty (60) day period, Tenant's termination notice shall be void and this Lease shall remain in full force and effect. If this Lease is so terminated, neither Landlord nor Tenant shall have any claim against the other in damages or otherwise and Landlord shall refund to Tenant any monies previously paid to Landlord by Tenant.

4. FIXED MINIMUM RENT.

(a) Tenant's obligations to pay Fixed Minimum Rent and Additional Charges, regardless of the Commencement Date of this Lease, shall begin on the Fixture Date as hereinabove defined or the date upon which Tenant shall open for business, whichever shall be the first to occur.

If the Fixture Date is not the first day of the month, Fixed Minimum Rent and Additional Charges due for each day prior to the Commencement Date of the term of this Lease shall be computed on the basis of Tenant's monthly installments of Fixed Minimum Rent and Additional Charges hereinafter set forth and Tenant shall pay the Fixed Minimum Rent and Additional Charges for all such days to Landlord on the Commencement Date.

(b) Tenant agrees without demand and without any deduction or set-off to pay to Landlord at Landlord's office or such place as Landlord may from time to time designate as the Fixed Minimum Rent as follows:

(i) For the first five (5) lease years of the term of this Lease (together with any partial month at the beginning of the term) the sum of Four Hundred Thousand Dollars ($400,000.00) per year in equal monthly installments of Thirty-Three Thousand Three Hundred Thirty-Three Dollars Thirty-Three Cents ($33,333.33); and

(ii) For the last five (5) lease years of the term of this Lease, the sum of Four Hundred Forty Thousand Dollars ($440,000.00) per year in equal monthly installments of Thirty-Six Thousand Six Hundred Sixty Dollars and Sixty-Six Cents ($36,666.66)

Monthly installments of Fixed Minimum Rent shall be payable in advance upon the first day of each and every calendar month during the term of the Lease.

5. INTENTIONALLY DELETED.

6. GROSS SALES DEFINED.

The term "gross sales" means the aggregate dollar amount of all revenue, income and receipts emanating from, and all business done in, on, or resulting from, the Premises, including, without limitation, all sales of merchandise, food or beverages, including sales through vending or similar machines not used solely for the convenience of employees; rental and license fees; income from manufacture or production of merchandise; income from classes; and all charges for services of any nature performed in, upon, emanating from or resulting from the Premises; whether evidenced by cash, check, credit charge account, trade-in, exchange or otherwise, and regardless of collection; whether such sales are made to persons present at the Premises, by mail, telephone orders, or otherwise; whether any such orders which are made at the Premises are filled at the Premises or elsewhere or whether orders made elsewhere are filled at the Premises; and whether made by Tenant or any sublessees, concessionaires, licensees, assignees, vendors, occupants or otherwise. Gross sales shall exclude interstore transfers of merchandise, returns of merchandise to the extent of cash refunds, and allowances made on sales of defective or unsatisfactory merchandise. Gross sales shall not include the amount of any sales tax imposed by any governmental authority directly on the sales and collected from the customers, provided that the amount thereof is separately recorded, is added to the selling price and is paid by Tenant to the governmental authority.

7. REPORTING OF GROSS SALES.

(a) Tenant, on or before the fifteenth (15th) day following the end of each calendar quarter shall furnish to Landlord a written statement certified by Tenant to be correct of gross sales from the commencement of the current lease year to the end of the quarter for which the report is due.

(b) Tenant on or before the thirtieth (30th) day following the end of each lease year during the term of this Lease shall furnish to Landlord a written statement showing in reasonably accurate detail satisfactory in form, scope and style to Landlord, the aggregate gross sales for the preceding lease year and an itemized list of all exclusions or deductions from gross sales duly certified by an officer of Tenant to be correct.

8. INTENTIONALLY DELETED.

9. ADDITIONAL CHARGES.

(a) In addition to all other rents payable hereunder, Tenant agrees to pay to Landlord, at the times hereinafter set forth, without deduction, set-off (except as set forth herein) or abatement, the following "Additional Charges," deemed to be rent for all purposes of this Lease, the nonpayment of which shall be subject to all provisions of this Lease and of law as to default in the payment of rent or other sums of money:

(i) Common Area Charges. Tenant's Prorata Share of Landlord's total annual costs and expenses of operating, maintaining, insuring, repairing, upgrading and supervising the Shopping Center including the Common Areas of the Shopping Center, which includes, but is not limited to, removing snow and ice; cleaning, gardening and landscaping the Common Areas; providing any security or traffic control for the Common Areas to the extent (if any) that Landlord in its sole discretion determines to provide security or traffic control; all insurance carried for the Shopping Center (including, without limitation, public liability, hazard, property, rental, workers' compensation covering personnel, rent loss and/or business interruption, sign and other insurance in limits and amounts selected by Landlord);

seasonal decorations; repairs and replacements of the paving, curbs, walkways, light poles, bulbs, drainage and equipment used in the Common Areas; repairs and replacements of the roofs, exterior walls, foundations, gutters, and roof drainage systems of the buildings within the Shopping Center; capital improvements made to the Shopping Center (provided that any capital improvement costing in excess of $75,000 shall be amortized over seven (7) years at a reasonable rate of interest and the yearly amortization expense shall be included as a Common Area charge); line painting; attending the parking areas; costs of rubbish, garbage and trash disposal for tenants of the Shopping Center unless Landlord elects to charge such costs pursuant to Section 9(a)(v) hereof; any governmental charges, surcharges, fees, or taxes on the parking areas, parking spaces or on cars parking therein; cost of all utilities used or consumed in the Common Areas; repair and replacement of on-site gas lines, water lines, sanitary sewer lines, storm sewer lines, and any other common utility lines, pipes, wires, facilities and related appurtenances serving the Shopping Center; inspection; depreciation of machinery and equipment used in such maintenance; costs of signs, sign maintenance, repair, or replacement, and sound systems; all personal property and similar taxes; the cost of all Common Area equipment, machinery, tools, supplies and other personal property and facilities; the cost of personnel to implement such services and similar services and functions (including all compensation and benefits); the cost of any contracts entered into for the performance of any such operations, maintenance, repairs, and supervision; reasonable reserves; trash removal from the Common Areas; any deductible portion paid by Landlord with respect to insurance maintained by Landlord for the Center; fire protection and fire

hydrant charges; licenses and permit fees; rent paid for any equipment used in the Common Areas; accounting and legal fees in connection with the operation of the Center; plus fifteen percent (15%) of the foregoing costs for Landlord's administration expenses.

Notwithstanding the foregoing, Common Area Charges shall exclude:

(A) Any cost of initially constructing and installing the Common Areas, including without limitation all paving areas, driveways, aisles, sidewalks, traffic and safety equipment, signs, landscaping, and other improvements in the Common Areas or any expansion thereof;

(B) Interest, late charges, and penalties on any charges payable by Landlord which are included within Common Area charges;

(C) Attorneys' fees and costs except reasonable attorneys fees and costs incurred to enforce contracts relating to and to preserve Tenant's rights in and to the Common Areas;

(D) The cost of any tenant improvements or other improvements, or other services or other Common Area Charges which are performed by or incurred by Landlord for the benefit of a single or several specific tenants, but are not incurred for the general benefit of all tenants of the Shopping Center.

(E) Expenses of maintenance, repair and insurance of any outparcels or other parcels which are separately maintained, insured, and/or paid for by the users of such outparcels or other parcels;

(F) Common Area Charges which are reimbursed by insurance proceeds and/or condemnation awards;

(G) Any and all expenses incurred in negotiating, amending, extending, administering, or terminating leases with any other tenants, including without limitation brokerage commissions, architectural fees, or legal fees;

(H) Any amounts payable under mortgages encumbering all or any part of the Shopping Center;

(I) Any costs and expenses of removing, maintaining or replacing any substance or matter which may be deemed hazardous under any federal, state, or local environmental law, rule, regulation, ordinance, or order, or any costs and expenses of complying with such federal, state,

or local environmental law, rule, regulation, ordinance, or order, including, without limitation any cost of maintaining or removing asbestos containing materials or any underground storage tanks, or any cost of complying with applicable wetlands statutes;

(J) the expense of any repair or replacement required of Landlord pursuant to the reconstruction obligation of Section 24 except to the extent of Landlord's deductible;

(K) depreciation (other than depreciation as above specified);

(L) any utilities which are paid for by other tenants in Landlord's Building;

(M) costs for repairing original construction due to design defects and other extraordinary costs incurred during the first year of the Term for repairing original construction not caused by ordinary wear and tear;

(N) costs of repairs and replacements to the extent covered by warranty or guaranty;

(O) advertising, marketing and promotional expenses;

(P) costs or repairs and replacements incurred by reason of fire or other casualty or by reason of condemnation;

(Q) refundable deposits;

(R) charitable or political contributions;

(S) salary and benefits for Landlord employees above the grade of building manager; to the extend any employee whose salary and benefits are included in Common Area Charges does not devote his/her entire time to the Shopping Center, said salary and benefits shall be included only in proportion amount of time spent at the Shopping Center;

(T) consultant's fees and disbursements not related to the Common Areas;

(U) to the extent any service is provided by an affiliate or subsidiary of Landlord, the cost of such service shall not exceed the

reasonable and customary cost charged by an independent third party performing the same service;

(V) all payments of fines and penalties resulting from Landlord's failure to comply with applicable law or to timely pay bills;

(W) all contributions to reserves;

(X) any costs and expenses relating to any concessions operated by Landlord for its own profit;

(Y) contributions for off-site improvements; and

(Z) Notwithstanding anything contained herein to the contrary, Tenant shall not be required to pay any portion of the following capital expenditures; (i) any repair, replacement or other costs which are considered capital improvements to a store which is added to the Shopping Center after the date of this Lease; (ii) construction of new store space or buildings for new stores, and (iii) a major renovation of the Shopping Center which for the purposes herewith shall mean a physical refurbishing of the interior and/or exterior of the Shopping Center performed as one project over a reasonable period of time.

(ii) Taxes. Tenant's Prorata Share of the annual Shopping Center real property taxes and assessments payable with respect to the Shopping Center land and buildings, general and special, foreseen and unforeseen, ordinary and extraordinary.

"Real property taxes and assessments" shall include all costs and fees incurred and paid by Landlord in contesting or defending the same and/or negotiating with public authorities. A copy of Landlord's tax bill shall be conclusive evidence of the amount of taxes and assessments assessed or levied. Landlord shall have the right to cause a separate assessment to be made against such portions of the Shopping Center as the Landlord may determine.

(iii) Taxes on Rent. The amount of any tax or excise on rent or on any service or services provided by Landlord under this Lease (except net income or estate inheritance, succession, transfer, gift, franchise corporation, profit or capital levy taxes) which is assessed or imposed by any governmental authority upon Landlord or upon Tenant and which is so assessed, imposed or paid as a result of Landlord's ownership of the demised Premises or of this Lease or the rentals accruing under this Lease; any tax which may be in lieu of, as a substitute for or in addition to real property taxes and assessments; and any tax or surcharge of any kind or nature imposed upon Landlord which is otherwise measured by or based in whole

or in part upon the Shopping Center or any portion thereof; it being the intention of the parties hereto that the rentals to be paid hereunder shall be paid to Landlord absolutely without deduction or set-off (except as set forth herein) of any nature whatsoever.

(iv) Rubbish Disposal. In the event that there shall be a dumpster or compactor for the disposition of rubbish, garbage and refuse from the Premises, Tenant shall use said dumpster or compactor and, unless Landlord elects to charge Tenant pursuant to Section 9(a)(i) hereof, shall pay monthly to Landlord the amount invoiced by Landlord as Tenant's cost of said service, which shall be at competitive rates.

(b) Payment - Calculation - Audit. Unless otherwise stated, the foregoing amounts if separately invoiced by Landlord shall be paid by Tenant within fifteen (15) days after the date of such invoice; or said amounts may be estimated by the Landlord in which event Landlord shall notify Tenant of Landlord's estimate. Tenant shall pay said estimate in advance, on the first day of each and every calendar month. After the end of each calendar year, when Landlord has calculated the exact amount actually payable by Tenant, Landlord shall send an annual statement to Tenant. Any deficiency in payment by Tenant for any item shall be paid by Tenant to Landlord within thirty (30) days following receipt of such statement. Any surplus in respect thereto shall be credited against the next ensuing installments of Landlord's estimates for the next year. The amounts payable by Tenant for the first year and last year of this Lease shall be prorated for the parts of such first and last years that Tenant is obligated to pay Additional Charges under this Lease including any fraction of a month. Unless a building is being operated on an outlot (as described in Exhibit A hereof), such outlot shall be deemed to be part of the Shopping Center for the sole purpose of calculating Tenant's Prorata Share and the Additional Charges set forth in Sections 9(a)(i) and (ii) hereof. In addition, if while a building shall be in operation any work is done on an outlot by Landlord for the benefit of the Shopping Center (such as, for example, landscaping work or maintenance of Shopping Center signage), the cost of such work shall be a Common Area Charge. Tenant shall have the right to examine and/or audit Landlord's books and records relating to the Additional Charges set forth in Section 9(a) of this Lease for the preceding two (2) calendar years only during the one hundred twenty (120) day period following the mailing of Landlord's annual statement for such Additional Charges for such calendar year. Such examination and/or audit shall be made at Landlord's office during normal business hours, provided Tenant shall notify Landlord in writing during such one hundred twenty (120) day period that Tenant desires to conduct such examination and/or audit. Tenant agrees that any information obtained by Tenant during the course of such audit shall be kept confidential and may not be shared with anyone other than Tenant's employees and accountants who shall also be required to maintain the confidentiality of such information. Any unauthorized disclosure of any such confidential information shall constitute a default under this Lease.

(c) Interest - Late Payment Charge. Any payment due from Tenant to Landlord which is not paid within seven (7) days following receipt of notice from Landlord shall bear interest from the date such payment is due to the date of actual payment at the rate of eighteen percent (18%) per annum or the highest lawful rate of interest permitted in Ohio, whichever rate of interest is lower. In addition Tenant shall pay to Landlord a late payment charge equal to five percent (5%) of any amount due if not received by Landlord within five (5) days from the date required to be paid hereunder; provided, however, that Tenant shall be entitled to one (1) late payment during each twelve (12) month period during the Term before such late charge is assessed. Notwithstanding the interest charge and/or late payment charge, nonpayment of any Fixed Minimum Rent, Overage Rent, Additional Charge, interest or late payment charge or other monies due under this Lease which is not paid within seven (7) days following due date and receipt of notice from Landlord shall constitute an Event of Default of this Lease.

(d) Net Leases. This Lease shall be deemed and construed to be a "net lease", and Tenant shall pay to Landlord, absolutely net throughout the term of this Lease, the rent and other payments hereunder, free of any charges, assessments, impositions or deductions of any kind and without abatement, deduction or setoff (except as set forth herein), and under no circumstances or conditions, whether now existing or hereafter arising, or whether beyond the present contemplation of the parties, shall Landlord be expected or required to make any payment of any kind whatsoever or be under any other obligation or liability hereunder except as herein otherwise expressly set forth.

10. CONSTRUCTION OF PREMISES.

(a) Landlord shall perform the work set forth on Exhibit D ("Landlord's Work") in a good and workmanlike manner at Landlord's sole expense, in conformity with all Legal Requirements. When Landlord substantially completes Landlord's Work to the extent that Tenant may commence Tenant's Work (as defined in paragraph (b) below), Landlord shall deliver (and Tenant shall accept) possession of the Premises, notwithstanding that Landlord may complete Landlord's Work while Tenant is performing Tenant's Work, provided Landlord's Work does not unreasonably interfere with Tenant's Work. Landlord shall also deliver to Tenant all required approvals and "sign offs" regarding Landlord's Work as may be required by such governmental or municipal department having jurisdiction over the performance of Landlord's Work. Landlord's Work shall be deemed approved by Tenant in all respects when Tenant opens for business in the Premises, except for any items of Landlord's Work which contain defects of materials or workmanship, and as to which Tenant shall give Landlord written notice within thirty (30) days following the date Tenant opens for business. In the event of a dispute as to whether the Premises shall have been substantially or properly completed, the decision of Landlord's architect shall be binding and conclusive on both parties.

(b) Except for Landlord's Work and any representations of Landlord contained in Section 2 of this Lease, the Premises shall be delivered to Tenant in "as is" condition and

any other work Tenant desires to do in the Premises ("Tenant's Work") shall be at Tenant's sole cost and expense in conformity with plans and specifications to be approved by Landlord prior to Tenant's commencing any such work. Within thirty (30) days after Landlord delivers an executed copy of this Lease to Tenant, Tenant, at Tenant's sole cost and expense, shall deliver to Landlord final and complete plans and specifications for Tenant's Work prepared by an architect licensed in Ohio. Said plans and specifications shall incorporate the Shops of Fairlawn Storefront Criteria attached hereto as Exhibit D-1.

(c) Landlord shall have the absolute right to approve or disapprove any and all matters contained in the plans and specifications submitted by Tenant. Tenant agrees to have the plans and specifications revised (and re-revised, if necessary) within ten (10) days after receiving Landlord's comments.

(d) If Tenant shall be delinquent in submitting such plans and specifications (or revisions thereof) for three (3) months or more, Landlord shall have the right to terminate this Lease by giving written notice to Tenant, in addition to any other rights and remedies Landlord may have pursuant to this Lease, at law or in equity.

(e) The submission to Landlord by Tenant of plans and specifications (and any revisions thereof) shall constitute a warranty by Tenant that the work provided for therein is in conformity with all Legal Requirements, and provides for construction of a safe facility; and no approval by Landlord of such plans and specifications (or any revisions thereof) shall constitute in any manner a waiver by Landlord of Landlord's right under this warranty. Tenant acknowledges and agrees that any review or approval by Landlord of any construction drawings, plans or specifications, and/or any changes thereto, shall not create any liability or responsibility on the part of Landlord for any design contained therein.

(f) Tenant's work shall be done in a good and workmanlike manner, using new materials only, employing labor which is compatible with any other labor force then being used in the Shopping Center and in conformity with all Legal Requirements. Tenant shall open for business on or before the Fixture Date, subject to Article 42. During the course of Tenant's work, Tenant shall not unreasonably interfere with the use of the Shopping Center by Landlord and/or any tenants thereof. Tenant shall indemnify and hold Landlord harmless from and against any and all damages, suites, liabilities, claims, and expenses (including attorney's fees and costs) resulting from performance of Tenant's work.

(g) To comply with the regulations of the City of Fairlawn, Landlord has contracted with the city-designated contractor to install within the Premises a multi-zone fire alarm control panel to provide an integrated fire alarm system in which the Premises and all other stores will be monitored by the City of Fairlawn Fire Department in the event of a fire. The system will include a signal to the Fire Department identifying the location of the fire as well as the activation of a strobe light and fire horn within the Premises. Tenant shall

maintain the system and shall be responsible for the payment of the monthly service charge for such system directly to the city-designated contractor.

11. USE - OPERATION.

(a) Tenant covenants that the Premises shall be opened for business, kept open for business and used by Tenant and any assignee, subtenant or occupant, continuously during the term of this Lease, for the operation of a furniture store displaying and selling, at retail, furniture, home furnishings and related accessories. Tenant agrees that Tenant will not use or permit or suffer the Premises or any part thereof to be used for any other business or purpose than that specifically defined and permitted by this Section or for the sale of any merchandise or the performance of any services other than the merchandise or services expressly described in this Section. Tenant acknowledges that the covenant to use the Premises as set forth in this Section is a material inducement for Landlord to enter into this Lease and without such covenant, Landlord would not have entered into this Lease. Therefore, Landlord may in Landlord's sole discretion withhold consent to any requested change of the use of the Premises, except as otherwise provided in Section 23 with respect to an assignment or subletting.

(b) Except as otherwise provided in Section 23, Tenant and any assignee or sublessee or any other occupant of the Premises shall conduct business in the Premises solely and exclusively under the name of Seaman's Furniture or "Seaman's Kids" without change unless consented to in writing by Landlord.

(c) Tenant, at Tenant's sole cost and expense, shall obtain all building permits, use and occupancy permits and licenses required by applicable governmental authorities for any construction or remodeling Tenant shall do in the Premises and for the use of the Premises and the conduct of Tenant's business; and Tenant shall operate its business in accordance with all Legal Requirements. Tenant agrees to comply with all Legal Requirements applicable to the Premises. Tenant, at Tenant's cost and expense, shall make all installations, replacements, alterations and any and all repairs to the Premises required to comply with such Legal Requirements including, without limitation, replacements, alterations and repairs which relate to fire prevention, detection, control or extinguishment, except that any such structural installations, replacements, alterations and repairs, shall be made by Landlord, at Landlord's expense unless such structural alterations are required because of Tenant's specific use of the Premises. Tenant shall obtain Landlord's written approval before commencing structural work.

(d) If Tenant fails to open the Premises for business within sixty (60) days following the Fixture Date, subject to Section 42 hereof, Landlord at any time thereafter prior to Tenant's actual opening for business in addition to any other remedies of Landlord

provided herein or by law, may terminate this Lease by notice in writing to Tenant and may relet the Premises and recover from Tenant all damages to which Landlord may be entitled.

(e) Daily, except for Saturdays, Sundays and legal holidays, the Premises shall be open for business to the public not later than 10:00 A.M. (except for periodic "midnight sales") and shall remain open for the conduct of business to the public until at least 9:00 P.M. In addition, the Premises shall remain open for business to the public on Saturdays at least between 10:00 A.M. and 6:00 P.M., on Sundays at least between noon and 5:00 P.M. and on such legal holidays and for such hours as may become the standard as established by Landlord; provided that the Premises may be closed for the purpose of making repairs or improvements or during the period of strikes, lockouts, or other causes beyond Tenant's control, so long as Tenant shall make all reasonable efforts to shorten such periods. Landlord reserves the right (i) to permit certain tenants to observe different hours of business operation, (ii) to establish the time that the Shopping Center shall close (so long as it shall be open at least during the hours specified above), and (iii) to extend the hours set forth above by giving written notice to Tenant. If, and to the extent, Tenant shall remain open for business later than 10:00 P.M., Tenant shall bear its equitable share of the cost of lighting that portion of the Common Areas adjacent to the Premises; however, Landlord may in such instance, retain dual control over such lighting.

(f) Tenant acknowledges that as a member of the Shopping Center community, Tenant and all other occupants of the Shopping Center are dependent on each other to draw people to the Shopping Center and to create an atmosphere within each store and facility conducive to the fulfillment of the needs and demands of the customers of the Shopping Center. Tenant agrees to maintain at all times an adequate number of fully trained employees and to maintain sufficient merchandise and/or to provide the service required pursuant to this Lease to satisfy the demands of Tenant's customers and patrons. Tenant recognizes that the Shopping Center, other occupants and Landlord will suffer severe harm if Tenant is not open for business when required under this Lease. Therefore, Tenant agrees to continuously operate its business during the days and hours as set forth above except when prevented by strikes, fires, casualty or other causes beyond Tenant's reasonable control. Each failure of Tenant to keep the Premises open for business as herein required shall be deemed a breach of this Lease. In recognition of the serious consequences of Tenant's failure to remain open for business, in addition to any other rights and remedies Landlord may have for such breach by Tenant, Tenant agrees to pay to Landlord (in addition to the Fixed Minimum Rent and all Additional Charges) for each day following the thirtieth (30th) day after the Fixture Date, subject to those events referred to in Section 42 that prevent Tenant's timely opening, that Tenant shall not have initially opened for business and for each day thereafter that Tenant shall not be open for business as required under this Lease, a sum equal to fifty percent (50%) of the monthly Fixed Minimum Rent payable by Tenant pursuant to this Lease, divided by thirty (30); it being acknowledged by Landlord and Tenant that Landlord will suffer damages for Tenant's failure to open and operate Tenant's business,

that the actual damages would be difficult to calculate, and that the liquidated damages set forth above represents a fair and reasonable approximation of Landlord's actual damages.

(g) Tenant shall not install in the Premises any video, pinball, or similar arcade-type games.

(h) Tenant at Tenant's expense shall: keep all rubbish, garbage, trash and refuse only within the Premises and only in rat-proof containers which shall be delivered daily to and emptied by Tenant in the dumpster or compactor designated by Landlord for Tenant's use, and Tenant shall clean all areas adjacent to the dumpster or compactor which contain rubbish, garbage, trash and refuse emanating from the Premises; not permit any rubbish, garbage, trash and litter to accumulate outside of the Premises; keep any vestibules or entries to the Premises and the sidewalks and other Common Areas adjacent to the Premises free of all trash, refuse or other articles; not use any objectionable advertising medium such as loudspeakers, phonographs, sound amplifiers, or the reception of radios or television broadcasts within the Shopping Center; place a load upon any floor which exceeds the floor load which the floor was designed to carry; not cause or permit objectionable odors to emanate or to be dispelled from the Premises; keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the Premises; and not operate in or solicit or conduct business in the parking or other Common Areas.

(i) Tenant shall not allow any hazardous wastes or hazardous or toxic substances (as defined under any applicable law) to be placed or kept within the Premises (except small amounts of cleaning fluids and similar items used in the ordinary course of Tenant's business provided such items are kept in accordance with all Legal Requirements) or Shopping Center or disposed of through the Shopping Center sewers or in any other manner, unless otherwise approved in advance in writing by Landlord. If Tenant breaches the covenants set forth in this Section, Tenant shall indemnify and save Landlord harmless from and against any clean-up costs, remedial or restoration work, 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 space in the Shopping Center, damages due to adverse impact on marketing of space in the Shopping Center, and reasonable attorneys, consultant and expert fees, which arise during or after the term of this Lease, arising out of or in connection with any hazardous wastes or hazardous toxic substances brought to or disposed of in the Premises or the Center by Tenant, its agents, employees or contractors. Tenant's obligations under this Paragraph 11(i) shall survive the termination or expiration of this Lease.

12. COMMON AREAS.

(a) Tenant and Tenant's customers, employees and visitors shall have the right,

in common with all others granted similar rights by Landlord (including, without limitation, any owners and occupants of any lands to be designated by Landlord adjacent to the Shopping Center Site whether or not owned by Landlord), to the nonexclusive use of all Common Areas provided by Landlord from time to time for the Shopping Center.

(b) Landlord shall operate, manage, equip, light, repair and maintain the Shopping Center Common Areas in such manner as other comparable centers in the trading area. Except in the No-Build Area designated on Exhibit B, Landlord reserves the right in its sole discretion to modify, alter, remove, reduce and redesign the Common Areas, to make changes, additions, alterations and improvements in the Common Areas, to construct or install buildings or other installations in the Common Areas or any portion thereof including the parking areas, and to use the Common Areas for promotional or sales activities, provided that no unreasonable obstruction of Tenant's right of access to the Premises shall be caused by any of the above changes.

(c) Notwithstanding any other provision of this Lease, Tenant (not Landlord) shall remove snow and ice from the sidewalks contiguous to the exterior of the Premises and any entranceways or vestibules connected with the Premises, on an as needed basis between Landlord's regular snow removal times.

13. UTILITIES.

(a) Tenant shall timely pay for all utilities rendered or furnished to the Premises from the date Landlord delivers possession of the Premises to Tenant unless Landlord's trades are still working in the Premises (except to finish punch list items) and continuing throughout the term of this Lease, including water, electricity, sewer charges, electricity, telephone and gas. Landlord shall not be liable for any permanent or temporary interruption or termination of utility services nor shall any of Tenant's obligations under this Lease be affected by any such interruption or termination of utility services; provided, however, that if such interruption is caused by the negligence or willful misconduct of Landlord or Landlord's agents and such interruption continues for forty-eight (48) consecutive hours or more, Fixed Minimum Rent and other charges payable hereunder shall abate until such service is restored. In the event that water is not metered and charged directly against the Premises, Tenant will pay to the Landlord water and sewer charges at city rates for the amount of water registered during the term of this Lease by the re-registering meter connected with the water pipes supplying the Premises, all water charges resulting from any overhead sprinkling system and any costs incurred by Landlord to read said meters. Tenant shall maintain sufficient heat within the Premises at all times to prevent the freezing of pipes and other damage to the Premises.

(b) Landlord reserves the right, in Landlord's sole discretion, to alter from time to time the method and/or source of supply of any utility used in the Premises, including, without limitation, the right of Landlord to furnish any such utility. If Landlord furnishes

any utility, the cost of such utility to Tenant shall not exceed the cost Tenant would be required to pay if Tenant purchased such utility directly from the utility company. Tenant shall pay such utility charges to Landlord within fifteen (15) days following the rendering of an invoice. Tenant shall execute and deliver to Landlord such instruments as Landlord deems necessary or desirable to effect such alteration.

14. COMPETITION; TENANT'S EXCLUSIVE USE.

(a) Tenant agrees that Tenant (or any member of Tenant's family or any parent, subsidiary, affiliate, officer, director or shareholder of Tenant if Tenant be a corporation) will not within a radius of three (3) miles of the perimeter of the Shopping Center either directly or indirectly own, operate or be financially interested in, with or without others, a business like or similar to the business permitted to be conducted pursuant to this Lease, under the name "Seaman's Furniture" or such other tradename as may then be used by Tenant at the Premises; provided that the foregoing restriction shall not apply to a Seamans clearance outlet or Seaman's Kids. Landlord shall have the right to an injunction to prevent a violation of this covenant. The provisions of this Section shall survive the termination of this Lease or the re-entry into the Premises by Landlord resulting from a breach of this Lease by Tenant provided, however, that Tenant's obligations under this Section shall terminate on the later of the date Tenant shall vacate the Premises or the expiration of the original term and any option periods duly exercised by Tenant.

(b) Exclusive Use. Landlord agrees that provided, Tenant shall not be in default beyond any applicable notice or grace period, it hereafter shall not lease any space in the Shopping Center Site to any other tenant whose primary use is the sale of indoor furniture of the same or similar type, style, brands and price points being sold by Tenant at the time Landlord desires to lease such space to such other Tenant. To the extent Landlord lawfully has the right to withhold consent, it will not consent to any existing tenant (or any assignee) of the Shopping Center Site whose primary use is the sale of indoor furniture of the same or similar type, styles, brands and price points being sold by Tenant at the time Landlord is requested to consent to such use except as set forth on Exhibit G.

(c) Pier 1 Exclusive. Landlord hereby represents that the lease for the Pier 1 store in the Shopping Center provides that Landlord "shall not operate or lease or permit to be leased or operated any other store located within the Shopping Center for the principal use or purpose of selling or displaying for sale household furniture customarily sold in Tenant's retail stores." The quoted language in the preceding sentence is herein called the "Pier 1 Exclusive." Landlord hereby agrees that so long as Tenant continues not to sell the type of household furniture sold by Pier 1, Landlord shall indemnify, defend and hold Tenant harmless against any claimed violation of the Pier 1 Exclusive.

15. RULES AND REGULATIONS.

Landlord reserves the right to and Tenant agrees that Landlord may at any time and from time to time for the general welfare of the Shopping Center, the avoidance of nuisance, or the maintenance of a good reputation, safety, order and cleanliness in the Premises and at the Shopping Center, impose reasonable rules and regulations of general application governing the conduct of tenants in the Shopping Center and the use of the Premises or Common Areas. Such rules and regulations shall not be enforced against Tenant in a discriminatory manner. Tenant agrees to comply with and perform any and all such rules and regulations imposed by Landlord as if they had existed and been attached hereto at the time of execution of this Lease. The rules and regulations in force and effect at the time of the execution of this Lease and which may be supplemented or amended by Landlord at any time and from time to time are attached hereto as Exhibit C, marked "Rules and Regulations," and made a part of this Lease as if expressly written herein.

16. ALTERATIONS; LIENS; REMOVAL OF IMPROVEMENTS BY TENANT; AND USE OF ROOF BY TENANT.

(a) Tenant shall not make any alterations, changes or improvements to the exterior of the Premises, structural or nonstructural, without first obtaining Landlord's prior written consent, which consent may be given or withheld in Landlord's sole discretion. Any interior alterations, structural or non-structural, shall require Landlord's prior written consent, which consent shall not be unnecessarily withheld or delayed, except that painting and other minor interior alterations, the cost of which is $50,000 or less may be done without Landlord's consent. Tenant upon request of Landlord shall submit to Landlord plans and specifications prepared by a licensed architect showing all of the alterations, changes or improvements Tenant desires to make. Tenant shall revise (and re-revise if necessary) said plans and specifications in accordance with Landlord's comments. In the event that Landlord shall approve Tenant's request to make alterations, changes or improvements, including, without limitation, any original construction by Tenant, Tenant shall pay all costs and expenses thereof and shall make such alterations, changes and improvements in a good and workmanlike manner, in accordance with all Legal Requirements, and using only labor which is compatible with other labor then being used in the Shopping Center. Prior to the making of such alterations, changes and improvements, Tenant shall procure all necessary permits and assure Landlord that payment for the same will be made by Tenant.

(b) Any alterations, changes or improvements specified by Landlord within thirty (30) days after Tenant vacates the Premises shall be removed by Tenant within fifteen (15) days after receipt of Landlord's notice, except that Tenant need not remove any such alterations, changes or improvements which were consented by Landlord unless Landlord conditioned such consent on the removal of such items upon vacation of the Premises by Tenant. Except as otherwise provided, all signs, furnishings, trade fixtures and equipment installed in or on the Premises by Tenant and paid for by Tenant shall remain the property of Tenant and shall be removed by Tenant upon the termination of this Lease. Tenant shall repair any damage caused by such removal, including replacement of fascia materials if

necessary and shall restore the Premises to its condition prior to installation. If Tenant shall not have removed all of such property upon the expiration or termination of this Lease, Landlord shall have the right to treat such remaining property as abandoned and keep all or any portion thereof for Landlord's account or dispose of all or any portion of such property; Tenant to reimburse Landlord for the cost of such disposal. Notwithstanding the foregoing, all floor and wall coverings, sinks, vanities, light fixtures, and the complete electrical, plumbing, air conditioning and heating systems, including ducts, diffusers, grills, controls and all other equipment and parts related to such systems, shall be and remain in the Premises at all times for the benefit of Landlord.

(c) Tenant shall not make or permit any installations through, to or on the roof of the Premises without first obtaining Landlord's prior written consent to the work to be done and the contractor to perform such work; and Landlord shall have the right to require Tenant to use Landlord's roofing contractor in connection with any such work affecting the roof of the Premises. In addition, Tenant shall not make any repairs, maintenance or replacements of Tenant's heating, air conditioning, or other equipment on the roof without first obtaining Landlord's prior written approval of the contractor to perform such work, which approval shall not be unreasonably withheld or delayed and subject to Landlord's right to require its roofing contractor to do any work affecting the roof, provided Landlord's roofing contractor's rate is competitive. In addition to the foregoing, Tenant agrees that it shall notify Landlord prior to any time Tenant (or its employees, agents or representatives) intends to go upon the roof of the Building and neither Tenant nor any employee, agent or representative of Tenant shall go upon such roof without a representative of Landlord being present, except in an emergency or if Landlord's representative does not show up despite having been notified in advance by Tenant. Tenant recognizes that Landlord's roofing warranty may be jeopardized by any other use of the roof by Tenant, its employees, agents or contractors.

(d) Tenant shall not do or suffer anything to be done whereby the Premises and/or the Center may be encumbered by any liens of mechanics, laborers, or materialmen, chattel mortgages or any other liens. Tenant shall, whenever and as often as any such liens are filed against the Premises and/or the Center purporting to be for labor or material furnished or to be furnished to Tenant, discharge the same of record within thirty (30) days after the date of receipt of notice of filing by payment, bonding or other wise, as provided by law. Tenant, upon reasonable notice and request in writing from Landlord, shall also defend for Landlord, at Tenant's sole cost and expense, any action, suit or proceeding which may be brought on or for the enforcement of any such lien and will pay any damages and satisfy and discharge any judgments entered in such action, suit or proceeding and save harmless Landlord from any liability, claim or damages resulting therefrom. In default of Tenant procuring the discharge, as aforesaid, of any such lien, Landlord may, without further notice, procure the discharge thereof by bonding or payment or otherwise, and all costs and expenses to which

Landlord may be put in obtaining such discharge shall be paid by Tenant as additional rent within thirty (30) days after notice from Landlord of the amount due.

Notwithstanding anything to the contrary contained in Ohio Revised Code Section 1311.10 or in this Lease, Tenant shall not be deemed to be a partner, joint venturer or agent of Landlord; and in no event shall any lien resulting from Tenant's improvements to the Premises encumber Landlord's underlying fee simple estate. Tenant agrees that it shall not enter into any contract for any improvements to the Premises unless the following language is included in such contract:

> "Notwithstanding anything herein contained to the contrary, the contractor acknowledges that Tenant holds only a leasehold interest in the property which is the subject of this contract. Tenant is not the agent or the owner of the property, and no lien resulting from work performed under this contract shall attach to the interest of such owner."

Tenant shall not permit any work to be commenced until such time as Tenant has provided Landlord with a fully executed copy of the construction contract evidencing incorporation of the aforesaid language. In addition, prior to the commencement of work, Tenant shall post the following notice in a conspicuous place on the Premises, and shall assure that such notice is maintained throughout the entire course of construction.

> "NOTICE TO CONTRACTORS, SUBCONTRACTORS, MATERIALMEN AND LABORERS
>
> Notice is hereby given that work on Seman's is being performed for Tenant. Tenant is not the agent or the owner of this property, and any lien rights shall be limited to the leasehold estate of Tenant and shall in no event attach to the interest of the owner."

17. REPAIRS BY LANDLORD.

Except as otherwise provided in this Lease, Landlord will, within a reasonable time after receipt of written notice from Tenant of the necessity of such repair, keep the roof (including the underside thereof), structural portions (including but not limited to load bearing walls, columns and the floor slab, but Landlord shall not be required to repair minor shrinkage cracks in the floor slab unless water is seeping through) and exterior of the Premises in good and tenantable condition and repair during the term of this Lease. Except as set forth herein, Landlord shall not be required to make any other improvements or repairs of any kind with respect to the Premises and appurtenances thereto, unless due to Landlord's or its agents' negligence or willful misconduct (subject to Section 20 of this Lease). Notwithstanding the above, Tenant shall pay to Landlord the cost of any repairs

and replacements to any portion of the Premises or the building in which the Premises are located necessitated by reason of: (a) the acts, neglect, fault or default of Tenant, or Tenant's agents, employees, invitees, contractors or customers, (b) the operations of Tenant or the storage of Tenant's merchandise within the Premises, (c) structural and exterior work done or installed by Tenant, and (d) Landlord hereby warrants its construction work in the Premises against defects in materials and workmanship for one (1) year following the Fixture Date. Landlord will also assign to Tenant any warranties obtained by Landlord which remain in effect following Landlord's one (1) year warranty period. Further, and notwithstanding anything in this Lease to the contrary, Tenant shall pay to Landlord the cost of all repairs, alterations and replacements to the property which Landlord is required to maintain which may be required as the result of repairs, alterations, other improvements or installations made by Tenant or the agent of Tenant.

18. REPAIRS BY TENANT.

Except as provided in Paragraph 17 above, Tenant, at Tenant's expense, shall make all other repairs and replacements to keep and maintain the Premises in good condition and repair, including, but not limited to, the heating, hot water, electrical, air conditioning and other mechanical installations exclusively serving the Premises, whether or not located within the Premises; the plumbing and sewer systems exclusively serving the Premises; the exterior and interior portions of all doors including door checks and hardware; all windows including hardware and other appurtenances, and all other glass, and the ceiling; and Tenant shall promptly replace all broken or cracked glass. All items that Tenant shall replace during the term of this Lease shall be new and be of equal or better quality, type and style than the item being replaced. Tenant will maintain and keep in good condition and repair the storefront (except exterior walls) and all structural and exterior work done or installed by Tenant. Tenant shall not permit any waste, damage or injury to the Premises. Tenant shall keep in full force and effect a contract, with a reputable heating contractor approved in advance in writing by Landlord, which approval shall not be unreasonably withheld or delayed, for not less than the semi-annual inspection, maintenance and repair of the air conditioning and heating systems servicing the Premises, including oiling, filter changes, belt repair and/or replacements, refills of freezing compound to the air conditioning, required compliance with any environmental laws, rules, regulations, ordinances with respect to such systems, and similar maintenance and minor repair procedures. Upon request, Tenant shall furnish a current copy of said contract to Landlord and shall furnish Landlord with copies of all service reports prepared by such contractor in connection with all service performed on the HVAC system. Tenant further agrees to schedule all service calls for the HVAC system with Landlord so that Landlord's representative can be present when any such service work is performed. Tenant shall further keep the Premises clean, attractive and free of rubbish, rubble, debris and retain an exterminator as necessary to prevent, insects, rodents and other pests.

19. WAIVER OF LIABILITY BY TENANT.

Landlord and Landlord's agents and employees shall not be liable for and Tenant waives and releases all claims for damage to person or property, loss of business, loss due to business interruption, loss of income, and any and all other losses or damages sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in or upon the Premises or any other part of the Shopping Center.

Said waiver shall include but not be limited to claims resulting from the following whether or not Landlord may have any obligation under this Lease to repair or maintain any of the following: (a) any equipment or appurtenances becoming out of repair; (b) injury done or occasioned by wind; (c) any defect in or failure of plumbing, heating, cooling or air conditioning equipment, sprinkler system, electric wiring, gas, pipes and installations, stairs, rails or walks; (d) broken glass; (e) the backing up of any sewer pipe or downspout; (f) the bursting, leaking or running of any pipe, line, tank, water closet, waste pipe, or drain upon or about the Premises; (g) the escape of steam or hot water; (h) water, snow or ice coming through the roof, skylight, trap door, stairs, walks, foundation, exterior walls, or any other place upon or near the Premises; (i) the falling of any fixture, plaster or stucco; and (j) any act, omission or negligence of trespassers, thieves, or covenants or of other persons or occupants of the building, or adjoining or contiguous buildings or of owners of adjacent or contiguous property, unless due to Landlord's or its agents' negligence or willful misconduct, subject to Section 20 below.

20. WAIVER OF SUBROGATION.

Notwithstanding anything in this Lease to the contrary, Landlord and Tenant agree, provided such agreement does not increase the cost of any policy of insurance or invalidate or prejudice any policy of insurance, in which case the party whose policy will be so invalidated or prejudiced shall notify the other party so that such party can choose an alternative, that, in the event the Premises, any part or parts of the Shopping Center, or the fixtures or merchandise therein, are damaged or destroyed by fire or other casualty that is coverable under or is covered by the insurance of the Landlord or Tenant or the sublessees, assignees or transferees of Tenant, regardless of cause or origin, including negligence, the rights, if any, of Landlord or Tenant or any sublessee of a Tenant against the party causing such damage or destruction or against the employees, agents or licensees of such party, with respect to such damage or destruction and with respect to any loss resulting therefrom, including the interruption of the business, are hereby waived.

21. INDEMNIFICATION AND INSURANCE.

(a) Tenant will indemnify Landlord and save Landlord harmless from and against any and all claims, actions, damages, liabilities and expenses (including, without limitation, attorneys fees) in connection with loss, damage or injury to persons or property occurring in, on or about, or arising out of the Premises or any loading platforms, or the use or occupancy thereof, or the conduct or operation of Tenant's business, or occasioned wholly or in part by any act or omission of Tenant, Tenant's agents, contractors, customers or

employees. Landlord will indemnify Tenant and save Tenant harmless from and against any and all claims, actions, damages, liabilities and expenses (including, without limitation, attorneys fees) in connection with loss, damage or injury to persons or property occurring in, on or about, or arising out of the Common Areas, or the use or occupancy thereof, or occasioned wholly or in part by any act or omission of Landlord, Landlord's agents, contractors, customers or employees.

(b) Tenant at all times during the term of this Lease shall, at its own expense, keep in full force and effect commercial general liability insurance, with minimum single limits of THREE MILLION DOLLARS ($3,000,000.00) on account of bodily injuries to, or death of, one or more than one person as the result of any one accident or occurrence and on account of damage to property, which shall be written on an "occurrence" basis. Landlord shall have the right to require Tenant to increase its minimum single limits of liability coverage from time to time in accordance with practices of similar shopping centers in the area.

(c) If Tenant has any equipment, boilers, or other pressure vessels and systems, Tenant shall maintain boiler insurance on all such equipment, boilers, hot water tanks, and other pressure vessels and systems, whether fired or unfired, if any of such equipment shall have been installed in the Premises in amounts not less than FIVE HUNDRED THOUSAND DOLLARS ($500,000.00).

(d) Tenant shall obtain special risk insurance coverage on all personal property, furnishings, equipment, furniture, trade fixtures, floor covering, contents and merchandise in an amount equal to their full replacement cost.

(e) During the course of construction of Tenant's work and/or during the course of any other work in connection with any alterations, changes, or other improvements to the Premises, Tenant shall maintain (and shall cause its contractors and subcontractors to maintain) (i) builder's risk insurance (in such amounts as Landlord may require) and (ii) workers' compensation insurance (in such amounts as Landlord may require) covering all persons employed in connection with such work.

(f) All of the insurance set forth in Paragraphs (b), (c) and (d) above shall be with companies licensed in Ohio and satisfactory to Landlord and shall provide that said policies shall not be subject to cancellation, termination or change except after at least thirty (30) days prior written notice to Landlord. All insurance provided by Tenant as required by Paragraphs (b) and (c) shall name Landlord as an additional insured. No insurance policy of Tenant shall have a "deductible" in excess of Twenty-Five Thousand Dollars ($25,000.00). The policy or policies or duly executed certificates for the same, together with satisfactory evidence of the payment of the premium thereof, shall be deposited with Landlord on the date Tenant first enters the Premises to perform work, fixture or otherwise

and upon renewals of such policies not less than ten (10) days prior to the expiration of the term of such coverage. If Tenant fails to comply with such requirements, Landlord may, but shall not be obligated to, obtain such insurance and keep the same in effect and Tenant shall pay Landlord the premium cost thereof upon demand.

(g) Tenant shall comply with any reasonable rules, orders on directives issued by Landlord's insurance companies or agents and Tenant agrees to pay to Landlord any increase in each of Landlord's insurance policies or in the insurance policies insuring any other tenant in the Shopping Center resulting from Tenant's particular use or occupancy of the Premises.

22. SIGNS AND ADVERTISING.

(a) Tenant agrees not later than the date upon which Tenant shall open for business to erect an appropriate sign advertising Tenant's business on the portion of the exterior of the Premises designated by Landlord for the placement of Tenant's sign in conformity with Exhibit E of this Lease. The size, type, design, wording, appearance and location of all signs shall require Landlord's written approval prior to installation which approval shall not be unreasonably withheld or delayed. Tenant shall submit plans of all such signs to Landlord for Landlord's approval within the time periods set forth in Section 10(a) of this Lease for Tenant to submit to Landlord final plans and specifications for the Premises. All signs shall comply with Exhibit E and all requirements of appropriate governmental authority and all necessary permits or licenses shall be obtained by Tenant prior to erecting said sign. Tenant shall maintain all signs in good condition and repair, and shall save the Landlord harmless from injury to person or property arising from the erection, use, maintenance, or removal of said signs. Tenant shall, in addition to any other sign purchase and install an under-canopy identification sign for the exterior of the Premises uniform in size, design and appearance with the signs required by Landlord of other tenants. Upon vacation of the Premises, Tenant shall remove all signs and repair any damage caused thereby.

(b) No sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted or affixed on any part of the outside of the Premises, or on the building of which the Premises are a part, or on the exterior or interior side of any window or door, or inside the Premises if located within four (4) feet from the outside, nor shall any awning, antenna, satellite dish, or other projecting thing be attached to the roof or outside walls of the Premises or the building of which the Premises are a part, without first obtaining the Landlord's written approval in each instance.

(c) Display lights and lighting for Tenant's storefront and exterior sign shall be operated until at least 11:00 p.m. daily except on Sundays when they may be turned off at 5:00 p.m.

(d) All of Tenant's local advertising and promotional activities in any form of medium which includes the address of any of Tenant's or its affiliates' businesses shall include the name of the Shopping Center, now THE SHOPS OF FAIRLAWN SHOPPING CENTER, and its address. Landlord reserves the right to change the name of the Shopping Center from time to time.

(e) If at any time during the term of this Lease or any extension thereof, Landlord installs a pylon sign or signs for the Shopping Center which pylon sign will include the names of any tenants of the Shopping Center and provided Tenant is not then in default under any of the terms, covenants or conditions of this Lease and is operating its business in the entire first floor of the Premises, Tenant shall be entitled to one of the top panels on said pylon sign(s), subject to the terms of any existing leases in the Shopping Center.

23. ASSIGNMENT AND SUBLETTING.

(a) This Lease shall not be assigned, mortgaged, pledged, encumbered or in any other manner transferred by the Tenant, voluntarily or involuntarily, by operation of law or otherwise, nor shall the Premises or any part thereof be sublet, licensed, granted to a concessionaire or used or occupied by anyone other than Tenant without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld or delayed. In no event shall Tenant have the right to assign this Lease and/or sublease all or any portion of the Premises at any time Tenant is in default under this Lease. Notwithstanding anything herein to the contrary, the merger or consolidation by Tenant with an affiliate of Tenant shall not constitute an assignment for purposes of this Section 23. As used herein an "affiliate" shall mean any person or entity controlling, controlled by or under common control with Tenant. For purposes of this Section 23, Landlord shall be deemed to have reasonably withheld consent to any proposed assignment or sublease if (i) the proposed assignment or sublease would require a subdivision of the Premises, (ii) the Premises will be used for any purpose other than a lawful retail use, (iii) the Premises would be used for any purpose in violation of any exclusive or other restriction granted to any existing or future tenant or occupant of the Center, or for any purpose which would duplicate or conflict with any then existing use by any other Tenant or occupant of the Center, or for any purpose in violation of Exhibit G attached hereto, (iv) the retail experience and business reputation of the proposed assignee or subtenant shall not be acceptable to Landlord in its reasonable discretion, or (v) the creditworthiness of the proposed assignee or subtenant shall not be acceptable to Landlord in its sole discretion. Notwithstanding the specific criteria set forth in (i) through (v) of the immediately preceding sentence, Landlord shall have the right to consider any other factors or circumstances with respect to Landlord's decision to consent, or to not consent to, any proposed assignment or subletting pursuant to this Section 24, and the absence of any or all of the factors set forth in (i) through (v) of the immediately preceding sentence shall not cause Landlord's refusal to consent to any proposed assignment or sublease to be deemed unreasonable if Landlord's refusal to consent to such assignment or sublease is otherwise reasonable under the particular circumstances.

(b) A change in the control of Tenant or any guarantor of this Lease whose stock is not publicly traded, whether said change of control shall consist of the transfer of stock or any agreement creating a right in anyone other than the original shareholders of said Tenant to conduct Tenant's business or to control any such guarantor, shall be deemed to be an assignment of this Lease for all purposes of this Lease, but Landlord's consent to such change in control shall not be required.

(c) If Tenant is associated with or is part of a franchise, chain or multi-store operation at the time of the execution of this Lease, or if the operation of Tenant within the Premises is part of a chain or multi-store operation, then whether or not Tenant is a separate legal entity, Tenant shall remain a part of said franchise, chain or multi-store operation and the Premises shall continue to be operated as an integral part of Tenant's franchise, chain or multi-store operation. Any action whether by sale of corporate stock or otherwise which would sever Tenant's business operation from said franchise, chain or multi-store operation shall be deemed to be an assignment of this Lease for all purposes of this Lease; provided, however, that Landlord's consent shall not be required for any such action which would sever all of Tenant's Ohio stores from the remainder of Tenant's business.

(d) If at any time during the term of this Lease Tenant shall request Landlord's consent to assign this Lease or to sublet all or substantially all of the Premises, Tenant shall include with such requests the name and business experience of the proposed assignee or sublessee, complete financial statements of said assignee or sublessee, and the rent and other terms of the proposed assignment or subletting. Landlord shall have the right in lieu of either granting such consent or denying the same, to terminate this Lease on the effective date of such proposed assignment or subletting by delivering written notice to Tenant; provided, however, that Tenant shall have the right to void such termination by withdrawing its request to assign or sublet within fifteen (15) days following the receipt of Landlord's notice of termination in which case this Lease shall remain in full force and effect. Landlord shall have the right at any time to deal directly with Tenant's proposed assignee or sublessee.

(e) If Landlord permits the assignment of this Lease or the subletting of all or substantially all of the Premises (hereinafter a "Qualified Transaction") as a condition of, and in consideration of Landlord's consent to the Qualified Transaction, if Landlord so elects to consent, Tenant shall pay to Landlord, as additional rent under this Lease, as and when Tenant receives the amounts due or payable from its obligor, fifty percent (50%) of any and all profit ("Tenant's Profit") realized by Tenant as a result of such Qualified Transaction. Tenants Profit shall be calculated by determining the gross economic consideration ("Consideration") received by Tenant which is reasonably attributed to the then fair rental value of the Premises, subtracting the following amounts: (i) the total sums which Tenant is obligated to pay Landlord under this Lease (prorated to reflect obligations allocable to that portion of the Premises subject to such Qualified Transaction) and (ii) the total of Tenant's actual direct costs incurred in connection with the Qualified Transaction

(including but not limited to broker's commissions and marketing costs, leasehold improvement costs and assumed lease obligation costs).

Consideration shall include, by way of example and not limitation, any rent payable under a sublease, any fee payable on an assignment and any sums paid to Tenant for the sale or rental of Tenant's fixtures and leasehold improvements in excess of Tenant's depreciated or amortized cost. Tenant shall furnish Landlord with a sworn statement, certified by Tenant's chief financial officer, setting forth in detail the computation of Tenant's Profit (which computation shall be based upon generally accepted accounting principles), and Landlord and its representatives shall have the right to audit and have assess to the books, records and papers of Tenant in relation thereto, and the right to make copies thereof. Landlord's percentage of Tenant's Profit shall be paid to Landlord as additional rent promptly upon Tenant's receipt from time-to-time of periodic payments from such assignee or subtenant or at such other time as Tenant shall realize the payments from such assignment or sublease.

(f) If Tenant shall at any time during the term of this Lease sublet all or any part of said Premises or assign this Lease, Tenant shall nevertheless remain fully and primarily liable under all of the terms, covenants, and conditions of this Lease; which liability of Tenant shall remain in effect as to any amendment, renewal or extension of this Lease, to all of which Tenant hereby consents in advance, but in no event shall Tenant's liability extend beyond the original term and any renewal options set forth herein and Tenant will not be bound by any amendment to this Lease made without Tenant's consent to the extent such amendment increases Tenant's obligations hereunder. If this Lease is assigned, or if the Premises or any part thereof are subleased or occupied by anybody other than Tenant, Landlord may collect from the assignee, sublessee or occupant any rent or other charges payable by Tenant under this Lease and apply the amount collected to the rent and other charges herein reserved, but such collection by Landlord shall not be deemed an acceptance of the assignee, sublessee or occupant as a tenant nor a release of Tenant from the performance by Tenant under this Lease.

(g) Notwithstanding Landlord's consent to any assignment or subletting, any subsequent assignment or subletting shall require Landlord's prior written consent as set forth in this Section 23.

24. DAMAGE OR DESTRUCTION.

(a) If (i) either the Premises or buildings (taken in aggregate) on the Shopping Center Site shall be damaged to the extent of more than fifty percent (50%) of the cost of replacement thereof, respectively, or (ii) the proceeds of Landlord's insurance paid to Landlord as a result of the damage shall be insufficient to pay fully for the cost of replacement of the Premises and the buildings in which they are located, or (iii) the Premises or said buildings shall be damaged as a result of a risk which is not covered by Landlord's insurance, or (iv) the Premises shall be damaged in whole or in part during the last two (2) years of the Lease term or of any renewal term hereof and Tenant does not exercise any option to extend the Term, or (v) the building of which the Premises are a part shall be damaged to the extent of fifty percent (50%) or more of the cost of replacement thereof, whether

or not the Premises shall be damaged, or (vi) Landlord's mortgagee elects to require Landlord to make advanced payments upon or full payment of the outstanding mortgage indebtedness for the Center from the proceeds recoverable under Landlord's insurance policies with respect to such damage, provided, however, this Lease shall be reinstated in the event Landlord within two (2) years rebuilds the Shopping Center Site in substantially the same size; then in any such event Landlord may terminate this Lease by notice given within ninety (90) days after such event and upon the date specified in such notice, which shall not be less than thirty (30) days nor more than sixty (60) days after the giving of said notice, this Lease shall terminate and come to an end, and Tenant shall vacate and surrender the Premises to Landlord. Landlord shall make such election to terminate within ninety (90) days following the date of casualty. If the casualty, repairing or rebuilding shall render the Premises untenantable, in whole or in part, a proportionate abatement of the Fixed Minimum Rent and all Additional Charges shall be allowed from the date when the damage occurred until completion of the repairs or rebuilding or, in the event Landlord elects to terminate this Lease, until said date of termination. Said proportion shall be computed on the basis of the ratio which the amount of floor space rendered untenantable bears to the total floor space of the Premises.

(b) If this Lease shall not be terminated as provided in Paragraph 24(a) above, Landlord, at Landlord's expense, shall, following the receipt of the insurance proceeds, proceed with the repair or restoration of the Premises (including all improvements and betterments and leasehold improvements (except floor covering) whether made or paid for by Landlord or Tenant) to place the damaged Premises (including improvements and betterments and leasehold improvements) in substantially the same condition they were in immediately preceding the damage or destruction. Landlord shall prosecute all such work diligently to completion and finish within twelve (12) months following receipt of proceeds. At the completion of Landlord's work, Tenant shall promptly replace Tenant's stock-in-trade, trade fixtures, floor covering, equipment and furnishings and, if Tenant is not open for business, reopen for business.

(c) Notwithstanding anything herein to the contrary, Tenant shall have the right to terminate this Lease by written notice to Landlord if: (i) Landlord fails to notify Tenant within ninety (90) days following the date of casualty of its intent to rebuild; or (ii) Landlord fails to complete restoration within twelve (12) months following receipt of proceeds, subject to Section 42 hereof, and provided that Landlord shall have the right to void Tenant's notice of termination under this subparagraph (ii) if Landlord completes restoration within sixty (60) days following receipt of Tenant's notice, in which case this Lease shall remain in full force and effect. Tenant shall also have the right to terminate this Lease for any reason if Landlord fails to compete restoration within two (2) years following the date of casualty.

25. EMINENT DOMAIN.

(a) In the event that the Premises, the Shopping Center or any part thereof shall at any time after the execution of this Lease be taken for public or quasi-public use or condemned under eminent domain or conveyed under threat of such a taking or condemnation, Tenant shall not be entitled to claim, or have paid to Tenant any compensation or damages whatsoever for or on account of any loss, injury, damage, taking or conveyance of any right, interest or estate of Tenant and the

Tenant hereby relinquishes and hereby assigns to Landlord any rights to any such damages. Landlord shall be entitled to claim and have paid to it for the use and benefit of Landlord all compensation and damages for and on account of or arising out of such taking, condemnation or conveyance without deduction from the amount thereof for or on account of any right, title, interest or estate of Tenant in or to said property. Tenant upon request of Landlord will execute any and all releases, transfers or other documents as shall be required by such public or quasi-public authority to effect and give further evidence and assurances of the foregoing.

(b) In case of any taking, condemnation or conveyance referred to in this paragraph, then (i) if and when there is an actual taking or conveyance of physical possession of more than fifteen percent (15%) of the Premises or any material part of the Shopping Center, or (ii) if Landlord's mortgagee elects to require Landlord to make advance payments upon or full payment of the outstanding mortgage indebtedness with respect to the Center from the proceeds receivable by Landlord as a result of such taking, condemnation, or conveyance, provided, however, this Lease shall be reinstated in the event Landlord within two (2) years rebuilds the Shopping Center Site in substantially the same size, then Landlord may cancel and terminate this Lease by giving notice to Tenant within ten (10) days after such an actual taking or conveyance of physical possession. In the event of a taking of the type referred to in (i) above or a taking of so much of the Premises as Tenant, in its reasonable business judgment, will be unable to operate its business in the remainder of the Premises, Tenant shall have the right to terminate this Lease by giving notice to Landlord within ten (10) days after an actual taking or conveyance of physical possession. If this Lease is not terminated following any of said actual takings or conveyances of any part of the Premises, then Landlord shall at Landlord's own expense, but only to the extent of an equitable proportion of the award (after payment of all of Landlord's costs and expenses (including attorney's fees) with respect to such taking, condemnation or conveyance), for the portion of the Premises taken (excluding any award of land), make such repairs to the Premises as are necessary to constitute a complete architectural and tenantable unit. In the event of a partial taking or conveyance of the Premises a proportionate allowance shall be made in the Fixed Minimum Rent based on the proportion of the Premises remaining as compared to the original Premises.

26. LANDLORD'S REMEDIES UPON DEFAULT.

(a) If (i) Tenant shall at any time be in default in the payment of rent or other sums of money required to be paid by Tenant, or in the performance of any of the covenants, terms, conditions, provisions, rules and regulations of this Lease, and Tenant shall fail to remedy such default within seven (7) days after the receipt of notice thereof by Tenant from Landlord, in the event the default is as to payment of rent or other sums of money or within twenty (20) days after the giving of notice thereof by Landlord, if the default relates to matters other than the payment of rent and other sums of money (but Tenant shall not be deemed to be in default if Tenant commences to remedy said defaults other than related to the payment of rent and other sums of money within said twenty (20) day period and proceeds thereafter with due diligence), or (ii) Tenant shall commit waste, or Tenant or any guarantor of this Lease shall assign this Lease or sublet the Premises except as expressly

permitted by this Lease (including, without limitation, a change of control of Tenant or a guarantor of this Lease or a failure to remain a part of a chain, franchise or multi-store operation in violation of Section 23(b) and (c)), or Tenant shall vacate the Premises or fail to continuously occupy and conduct Tenant's business in the Premises, or Tenant or any guarantor of this Lease or any assignee or sublessee of the entire Premises shall file or have filed against it a petition for adjudication as a bankrupt, reorganization, an arrangement, or for any other debtor or capital structure relief under any existing or future Bankruptcy Code as same may be amended, supplemented or replaced, or make an assignment for the benefit of creditors, or a receiver of any property of Tenant be appointed in any action, suit or proceeding by or against Tenant or if the interest of Tenant in the Premises and not discharged within forty-five (45) days or in any assets or property of Tenant shall be offered for sale or sold under execution or other legal process [it being understood that no notice of default shall be required to be given for an event described in this Item (ii)], Landlord in addition to all other remedies given to Landlord in law or in equity may terminate this Lease, or without terminating this Lease terminate Tenant's right of possession, and in either event Landlord may re-enter the Premises by summary proceedings or otherwise and dispossess the Tenant.

(b) Tenant agrees to be liable for and to pay to Landlord (i) all rent and other charges and sums due under this Lease at the time of termination of this Lease or termination of Tenant's right of possession, as the case may be, and (ii) damages equal to the rent and all other charges and sums due under this Lease for the entire term, which liability shall survive the termination of this Lease, the re-entry into the Premises by Landlord, and the commencement of any action to secure possession of the Premises. Landlord shall have the right to maintain a single action against Tenant for recovery as they come due of all damages including, without limitation, amounts equal to the rents and other charges and sums payable under this Lease so that such court shall retain jurisdiction for a period equal to the remainder of the term of this Lease if this Lease would not have been terminated. Such court shall obtain judgments for such rents and other amounts due as and when said rents and other charges and sums are payable under this Lease; and Landlord shall not be required to file separate monthly actions or legal proceedings or to wait until this Lease would have expired. In addition, at Landlord's election, Landlord shall have the right to obtain a judgment for the total of all of the rents and other charges and sums due to Landlord at the time of the termination of this Lease or Tenant's right of possession, plus an amount equal to all rents and other charges due under this Lease for the remainder of the term hereof, minus the fair rental value of the Premises at the time such judgment is obtained, discounted to present value at ten percent (10%). If Landlord shall have leased the Premises to another tenant, then the rental payable by that tenant shall be deemed to be the fair rental value of the Premises for this purpose. Landlord shall use reasonable efforts to mitigate damages.

(c) Landlord's damages in the event of Tenant's default under this Lease shall include, in addition to any other damages set forth in this Lease or permitted at law or in equity, all of Landlord's expenses incurred with respect to such default including, without limitation, attorneys' fees, commissions, rental concessions to new tenants, and the cost of any repairs, renovations or alterations of the Premises.

(d) If this Lease be terminated for any reason whatsoever or if Landlord should re-enter the Premises as a result of any breach of Tenant hereunder without terminating the Lease, Tenant covenants, any other covenant herein to the contrary notwithstanding (except where this Lease is terminated following eminent domain proceedings or casualty) that (i) the Premises shall then be in the condition required by all applicable provisions of this Lease, and (ii) Tenant shall perform any covenant contained in this Lease or the making of any repair, improvement, alteration or betterment to the Premises or for restoring or rebuilding any part thereof. For the breach of either of the foregoing obligations Landlord shall be entitled to recover and Tenant shall pay forthwith, without notice or other action by Landlord, the then cost of performing such obligation(s).

(e) If the obligation to pay Fixed Minimum Rent and/or Additional Charges has not commenced prior to the termination of this Lease as a result of Tenant's default, whether or not possession of the Premises has been delivered to Tenant, Landlord shall have the right to determine the date that such obligations would most likely have commenced if Tenant had not defaulted, and the date so determined by Landlord shall be used in the calculation of damages payable by Tenant to Landlord as a result of such default.

(f) In the event Landlord obtains possession of the Premises, Landlord may, without being obligated so to do, relet the whole or any portion of the Premises, or the whole or any portion thereof with additional space, for any period equal to, greater than or less than the remainder of the term of this Lease, for any sum (including any rental concessions and rent-free occupancy) which it may deem reasonable, to any tenant which it may deem suitable and satisfactory, and for any use and purpose which it may deem appropriate. Landlord shall use reasonable efforts to mitigate damages. In the event of any reletting, Landlord may apply the rent therefrom first to the payment of Landlord's expenses, including attorneys' fees incurred by reason of Tenant's default, commissions and the repair, renovation or alteration of the Premises and then to any other damages Landlord is entitled to including, without limitation, amounts equal to the rent and all other sums due from Tenant hereunder, Tenant remaining liable for any deficiency. In no event shall Tenant be entitled to any payment or credit if any subsequent tenant pays rent and other charges in excess of those required to be paid under this Lease.

(g) No surrender of the Premises shall be effected by Landlord's acceptance of the keys of the Premises, or by any other means whatsoever, unless the same is evidenced by Landlord's written agreement to accept surrender of the Premises; and if Landlord does accept surrender of the Premises, Tenant's obligations to pay rents and to perform the duties and provisions of this Lease required of Tenant hereunder shall not be released or terminated but shall continue for the remainder of the term of this Lease.

(h) Any obligation imposed by law upon Landlord to relet the Premises shall be subject to the right of Landlord to develop and maintain the "tenant mix" Landlord determines, in Landlord's reasonable discretion, to be appropriate for the Shopping Center; and the failure of Landlord to relet, or if relet, to collect the rent under such reletting, shall not release or affect Tenant's liability for

damages hereunder. In any event, if the Premises and other stores in the Shopping Center are vacant, Landlord shall not be required to show or lease the Premises to the exclusion of other stores in the Shopping Center, but this shall not be deemed to affect Landlord's duty to mitigate damages.

(i) In the event of a default or threatened default by Tenant of any of the terms, provisions, covenants, conditions, rules and regulations of this Lease, Landlord shall have the right to injunction and the right to invoke any remedy permitted to Landlord in law or in equity.

(j) All remedies available to Landlord under this Lease are declared to be cumulative and concurrent and may be exercised at one time or at separate times. No termination of this Lease nor any taking or recovering of possession of the Premises shall deprive Landlord of any of its remedies or actions against Tenant for all damages resulting from Tenant's default.

(k) Landlord and Tenant shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters not relating to personal injury or property damage but otherwise arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises and any statutory remedy. Tenant further agrees that it shall not interpose any counterclaim or counterclaims in a summary proceeding for possession, restitution or dispossession of the Premises, except compulsory counterclaims.

27. HOLDOVER BY TENANT.

If Tenant remains in possession of the Premises after the expiration of the tenancy created hereunder and without the execution of a new lease, Tenant shall be deemed to be occupying the Premises as a tenant from month to month and subject to all of the rents and provisions of this Lease in effect on the day before the expiration of the tenancy, except those relating to term and except that the Fixed Minimum Rent shall be one hundred fifty percent (150%) the amount payable during the last month of the Lease term, without prejudice to any damages or other rights Landlord may have against Tenant for Tenant's failure to vacate the Premises on the date required hereunder. Said month-to-month tenancy may be terminated by Landlord or Tenant by giving written notice to the other, in which event this Lease shall terminate on the last day of the calendar month next following the month in which such notice was received; except that neither Landlord nor Tenant shall be required to give notice with respect to vacation of the Premises at the end of the term or upon the earlier termination of this Lease.

28. RIGHTS OF LANDLORD AND TENANT.

(a) Landlord and Landlord's agents shall have the right to (i) show the Premises to prospective purchasers, mortgagees and lessees upon reasonable oral notice; (ii) go upon and inspect the Premises and every part thereof upon reasonable oral notice; (iii) at Landlord's option cure

Tenant's defaults and/or make emergency repairs or to make other repairs which are the obligation of Tenant hereunder if Tenant fails to make such repairs and (iv) make repairs, alterations and additions to the Premises or the building of which the Premises are a part, provided Landlord shall not unreasonably interfere with the conduct of Landlord's business.

(b) If Landlord shall make any payments on behalf of Tenant or otherwise cure any default of Tenant, or if Landlord shall make repairs to the Premises which are Tenant's obligation under this Lease (whether or not an emergency situation exists) then any amounts so paid or incurred by Landlord are agreed and declared to be "additional rent" and shall be due and payable to Landlord from Tenant upon submission to Tenant of an invoice, bill or statement therefor.

(c) If Tenant gives Landlord notice of any repairs needed to the Premises, Landlord shall commence to effect the same with reasonable diligence but in no event later than twenty (20) days after having received notice. In the event of an "emergency" (as hereinafter defined), Tenant shall notify Landlord and if repairs are not undertaken promptly by Landlord and completed in a timely manner so as to eliminate such emergency, Tenant may make immediate repairs of such nature as would normally be Landlord's responsibility and notify Landlord promptly after such repairs have been undertaken; provided, however, that in no event may Tenant make or attempt to make any repairs to any portion of the Shopping Center outside of Tenant's Premises. If Landlord fails to repair or maintain or to commence to repair or maintain the Premises within the twenty (20) day period imposed herein, Tenant may, but shall have no obligation to perform the repairs or maintenance itself; provided, however, that in no event may Tenant make or attempt to make any repairs to any portion of the Shopping Center outside of Tenant's Premises. If Landlord fails to reimburse Tenant for the reasonable cost of such repairs within thirty (30) days after receipt of Tenant's invoice therefor, Tenant may deduct such cost from the next payment of Fixed Minimum Rent or additional charges hereunder. The term "emergency" means those situations which, in Tenant's good faith judgment represent a threat to the life, health, safety, or property of Tenant's employees or invitees of such significance that immediate steps are necessary to remove the threat.

29. SUBORDINATION; ATTORNMENT.

(a) Landlord reserves the right to demand and obtain from Tenant, and Tenant shall deliver to Landlord within five (5) days after receipt of such demand, a waiver of priority or subordination of this Lease, in recordable form, subordinating Tenant's Lease in favor of any mortgages, refinancings, replacements, renewals, modifications, extensions or consolidations placed upon the Premises from time to time by the Landlord; provided that Landlord shall procure from any mortgagees an agreement providing in substance that so long as Tenant shall faithfully discharge the obligations on its part to be kept and performed under the terms of this Lease, Tenant's tenancy will not be disturbed by any default under such mortgage, and Tenant agrees that this Lease shall remain in full force and effect even though default in the mortgage may occur. Tenant agrees to attorn to any mortgagee or purchaser in a foreclosure sale as Landlord under this Lease. Landlord shall deliver a non-disturbance agreement from its existing mortgagee within thirty (30) days after the date this

Lease is fully executed by Landlord and Tenant. If Landlord shall fail to deliver such non-disturbance agreement within said thirty (30) days period, Tenant may terminate this Lease by written notice to Landlord; provided, however, that if Landlord delivers such non-disturbance agreement within thirty (30) days after receipt of Tenant's notice of termination, said termination notice shall be void and this Lease shall remain in full force and effect.

(b) Tenant covenants and agrees that Tenant shall within five (5) days after Landlord's request execute in recordable form and deliver to Landlord whatever instruments may be required to acknowledge and further evidence the subordination of Tenant's Lease and/or the attornment by Tenant to such mortgagee or purchaser. If Tenant within ten (10) business days after submission of any such instrument fails to execute the same, Landlord is hereby authorized to execute the same as attorney-in-fact for Tenant.

(c) Any mortgagee of all or any part of the Shopping Center Site may at any time elect to have this Lease have priority over its mortgage, by executing unilaterally an instrument subordinating its mortgage to this Lease, or placing a clause of such subordination in its mortgage and recording the same or in any pleadings filed by such mortgagee, in which events this Lease shall have priority over said mortgage.

30. SHOPPING CENTER EASEMENTS AND RESTRICTIONS.

Tenant covenants to comply with all easements, agreements, covenants and restrictions pertaining to the Shopping Center Site including, without limitation those set forth in Exhibit G. Landlord is leasing the Premises to Tenant free and clear of all easements, covenants, restrictions, and agreements between or among the various owners of the fee or any leasehold interest in the fee of the Shopping Center Site and/or between or among the owners of leasehold interests in the fee of lands adjoining the Shopping Center Site, affecting the Shopping Center, except for those easements, covenants, restrictions and agreements of record and those set forth in Exhibit G and such other subsequent easements, covenants, and agreements affecting the Shopping Center which do not materially adversely affect Tenant's use or operation of the Premises. Tenant acknowledges the restrictions set forth on Exhibit G of this Lease and hereby further acknowledges, covenants and agrees that notwithstanding anything contained herein to the contrary, in no event shall Tenant (or any successor or assign) violate any such restrictions. Landlord represents it is the fee owner of the Shopping Center Site.

31. NO WAIVER

No waiver of any of the terms, covenants, provisions, conditions, rules and regulations required under this Lease and no waiver of any legal or equitable relief or remedy of either party against the other shall be implied by the failure of such party to assert any rights or for any other reason, unless said waiver shall be in writing signed by such party. No waiver by Landlord or forgiveness of performance by Landlord in respect to one or more tenants of the Shopping Center constitutes a waiver or forgiveness of performance in favor of Tenant herein, or any other tenants. The forgiveness of performance of any one or more of the terms, provisions, conditions, rules and regulations of this Lease

shall not be claimed or pleaded by a party to excuse a subsequent failure of performance of such party of any of the terms, provisions, conditions, covenants, rules and regulations of this Lease.

32. VACATION OF PREMISES.

Tenant shall deliver up and surrender to Landlord possession of the Premises, including all Tenant's work (and all replacements thereof), all fixtures permanently attached to the Premises during the term (except such fixtures and improvements as Landlord shall direct Tenant to remove) and all property required to be left in the Premises pursuant to this Lease upon the expiration of this Lease or its termination in any way, in the same condition as the Premises shall be when Tenant opens for business (ordinary wear and tear, casualty and condemnation only excepted) and Tenant shall deliver the keys at the office of Landlord or Landlord's agent.

33. SHORT FORM LEASE.

This Lease shall not be recorded, but a Memorandum of Lease describing the property herein demised, giving the term of this Lease and renewal rights, if any, and referring to this Lease, may be recorded by either party. All governmental charges attributable to the execution or recording of this Lease shall be charged to and be paid by the party recording the Memorandum of Lease.

34. RENT DEMAND; ACCORD AND SATISFACTION; BAD CHECKS.

(a) After the service of any notice, the commencement of any suit, or the rendering of a final judgment therein, Landlord may receive and collect any rent due and such collection or receipt shall not operate as a waiver of nor affect or prejudice any such notice, suit or judgment.

(b) No payment by Tenant or receipt by Landlord of a lesser amount than the rental herein stipulated shall be deemed to be other than on account of the earliest stipulated rent nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction. Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy provided for in this Lease or available at law or in equity.

(c) In the event that any of Tenant's checks payable to Landlord or Landlord's agent shall be returned for insufficient funds, Landlord shall have the right to demand from Tenant that all future rent payments be made by certified or bank check or money order, and Landlord shall not be required to accept any check from Tenant which does not so conform.

35. NOTICES.

Any notice or consents required to be given by or on behalf of either party upon the other shall be in writing and shall be given by mailing such notices or consents by registered or certified mail addressed to the Landlord c/o Robert L. Stark Enterprises, Inc., Three Commerce Park Square, 23230

Chagrin Boulevard, Suite 330, Beachwood, Ohio 44122, with a copy to Robert A. Fuerst, Kohrman Jackson & Krantz P.L.L., 1375 East Ninth Street, One Cleveland Center, 20th Floor, Cleveland, Ohio 44114, and to the Tenant at Seaman Furniture Company, Inc., 300 Crossways Park Drive, Woodbury, New York 11797, with a copy to Robert Webber, General Counsel, Seaman Furniture Company, Inc., 300 Crossways Park Drive, Woodbury, New York 11797, or at such other address as may be specified from time to time, in writing, delivered to the other party provided, however, that from and after the Commencement Date of the term of this Lease notice to Tenant delivered to the Premises shall be deemed to be sufficient for all purposes of notice required by this Lease. Notice shall be deemed received on the date of delivery as set forth in the return receipt card, the date that such notice shall be rejected if rejected by the addressee, or the date of first attempted delivery of such notice, whichever shall be the first to occur.

36. APPLICABLE LAW AND CONSTRUCTION.

The laws of the State of Ohio shall govern the validity, performance and enforcement of this Lease. Any provision of this Lease which is contrary to a law which the parties cannot legally waive or contract against (such, for example, as antitrust laws) is and shall be void and not binding on either party hereto; provided, however, that the invalidity or unenforceability of any provision of this Lease shall not affect or impair the Lease or any other provision. The submission of this document for examination does not constitute an offer to lease, or a reservation of or option for the Premises, and becomes effective only upon execution and delivery thereof by Landlord and Tenant, which is to be within seven (7) business days after Tenant delivers a properly executed copy of this Lease to Landlord. All negotiations, considerations, representations and understandings between the parties are incorporated herein and may be modified or altered only by agreement in writing between the parties; and this Lease supersedes any prior agreements or understandings between the parties. Any previous agreements, understanding, warranties or representations made by a party or the agents, employees or contractors of such party shall not be binding on such party unless expressly set forth in this Lease. Tenant agrees to keep all terms and conditions set forth herein confidential and Tenant shall not disclose any such terms without the express written consent of Landlord. Landlord makes no representations or warranties as to any other tenants or occupants of the Shopping Center which may be contemplated by Tenant. The headings of the several paragraphs contained herein are for convenience only and do not define, limit or construe the contents of such paragraphs. This Lease has been negotiated by Landlord and Tenant and the Lease, together with all of the terms and provisions hereof, shall not be deemed to have been prepared by either Landlord or Tenant but by both equally. Notwithstanding the termination of this Lease for any reason whatsoever, including, without limitation, as the result of the mutual agreement of the parties or the default by Tenant, the provisions relating to the indemnity by each party to the other and the covenants regarding liability insurance shall survive such termination. Time is declared to be of the essence in all provisions of this Lease. If this Lease is executed by more than one person or entity as "Tenant," each such person or entity executing this Lease as Tenant shall be jointly and severally bound and liable hereunder. Notwithstanding the Commencement Date of this Lease, Tenant shall comply with all of the obligations and duties of Tenant hereunder upon delivery of possession of the Premises to Tenant,

except for the payment of rent and other sums which shall be due and payable at the times set forth in this Lease.

37. TRANSFER OF LANDLORD'S INTEREST; LIABILITY OF LANDLORD.

(a) If Landlord should sell or otherwise transfer Landlord's interest in the Premises, Tenant agrees that Landlord shall thereafter have no liability to Tenant under this Lease or any modification or amendment thereof or extensions or renewals thereof, except for such liabilities which might have accrued prior to the date of such sale or transfer of Landlord's interest. The Landlord shall be liable under this Lease only while owner of the Premises.

(b) If Landlord shall fail to perform any covenant, term or condition of this Lease upon Landlord's part to be performed or if Landlord shall be liable to Tenant in any way arising out of this Lease, or pursuant to statute, law, ordinance or regulation, or under the common law, and, as a consequence, if Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the proceeds received at a judicial sale upon execution and levy against the right, title and interest of Landlord in the Shopping Center Site. If Landlord is an individual, corporation, a trustee of a trust or a partnership (general or limited), there shall be no personal liability on the part of the individual, corporation, the trustees of said trust, the beneficiaries of said trust, the partnership, or the partners of the partnership, and any such liability shall be limited to the interest of the Landlord in the Shopping Center Site.

38. NO PARTNERSHIP.

Landlord is not and shall not become by this Lease or by any rights granted or reserved herein a partner or joint venturer of or with Tenant in the conduct of Tenant's business or otherwise.

39. MORTGAGE FINANCING.

(a) Tenant will cooperate with Landlord so that Landlord will be able to sell, transfer or lease the Shopping Center or to procure mortgage financing for the Shopping Center. Within ten (10) days after request by Landlord Tenant agrees to execute and deliver to Landlord estoppel or offset letters as required by Landlord or by Landlord's mortgage lenders, instruments modifying provisions of this Lease as reasonably required by Landlord's mortgage lenders (which modifications shall not materially affect Tenant's obligations under this Lease) and applications for any lease guarantee insurance Landlord may wish to acquire for this Lease. The estoppel letters shall certify the date of this Lease and any amendments, that Landlord is not in default of any of the terms and provisions of this Lease or specifying the provisions as to which Landlord is in default if Landlord shall be in default, that Landlord has performed all inducements required of Landlord in connection with this Lease including any construction obligations, or specifying any inducements which have not been

fulfilled by Landlord, the date to which rent has been paid, and any other matters which Landlord or its proposed lenders may reasonably require.

(b) Tenant also agrees to deliver to Landlord, within ten (10) days after Landlord's request, a correct and complete copy of Tenant's most current financial statement including, without limitation, its most current profit and loss statement and balance sheet. Landlord agrees that it shall keep such information confidential except as such information is requested by any present or future mortgagee, and/or by any prospective mortgagee or purchaser of the Center, provided any such mortgagee or purchaser signs a confidentiality agreement in form reasonably acceptable to Tenant and such mortgagee or purchaser.

40. QUIET ENJOYMENT.

Landlord hereby covenants and agrees that if Tenant shall perform all of the covenants and agreements herein stipulated to be performed on Tenant's part, Tenant shall at all times during the continuance hereof have peaceable and quiet enjoyment and possession of the Premises without hindrance from Landlord or any person or persons lawfully claiming the Premises by or through Landlord, subject, however, to the terms of this Lease and to all mortgages, leases and agreements of record to which this Lease is subordinate.

41. BROKER.

Tenant and Landlord warrant and represent to each other that except for Julius M. Feinblum Real Estate, Inc. ("Broker"), whose commission shall be paid by Landlord pursuant to a separate agreement with Broker, neither party has dealt with any real estate broker, agent or finder in connection with this transaction; and Tenant and Landlord agree to indemnify and save each other harmless from and against any and all liabilities, costs, causes of action, damages and expenses, including, without limitation, attorneys' fees, for any claims made by any real estate broker, agent or finder, other than Broker, based on the acts of the indemnifying party with respect to this Lease.

42. FORCE MAJEURE.

If either Landlord or Tenant is prevented or hindered from timely satisfying any provisions set forth herein because of a shortage or inability to obtain materials or equipment, strikes or other labor difficulties, governmental restrictions, fire, casualties, acts of God, or any other cause beyond such party's reasonable control, said party shall be permitted an extension of time of performance by the number of days during which such performance was prevented or hindered; provided, however, that this paragraph shall not apply to the payment of rent or other monies by Landlord or Tenant, nor shall the provisions of this paragraph postpone the date that rent is payable pursuant to this Lease; and provided, further that in no event shall the financial difficulties or bankruptcy of a party constitute an event beyond such party's reasonable control.

43. EMPLOYEE PARKING. All of Tenant's employees shall park their automobiles in the areas designated on Exhibit B of this Lease (as said areas may be modified by Landlord from time to time) as employee parking areas (the "Employee Parking Areas"); and the parking of employee automobiles in any other parking areas of the Shopping Center shall constitute a material breach and default of this Lease by Tenant. In addition to all other remedies of Landlord, Tenant shall pay to Landlord (for Shopping Center promotional use) the sum of Fifty Dollars ($50.00) for each day for each of Tenant's employees who park in Shopping Center parking areas other than the Employee Parking Areas, as liquidated damages, it being acknowledged by Tenant that the damages Landlord would suffer are difficult to determine and that said liquidated damages represent a fair approximation of what said damages would be.

44. INTENTIONALLY DELETED.

45. AUTHORITY TO SIGN LEASE.

Each person(s) signing this Lease as an officer of Tenant and as a member of Landlord represents to the other that such person(s) is authorized to execute this Lease without the necessity of obtaining any other signature of any officer or member, that the execution of this Lease has been properly authorized by the Board of Directors of the corporation or by the members of the limited liability company, as the case may be, and that this Lease is fully binding on Tenant and Landlord, as the case may be.

46. OPTION TO EXTEND TERM.

If Tenant shall not be in default under any of the terms and provisions of this Lease, shall be operating the Premises in accordance with the provisions of Section 11(a) of this Lease, and if this Lease shall be in full force and effect, then Tenant shall have the option to extend the term of this Lease for three (3) consecutive periods of five (5) years each (individually an "Extended Term" and together the "Extended Terms"), upon the same terms and provisions set forth in this Lease, except that the Fixed Minimum Rent for the Extended Terms shall be as follows:

	Annual Fixed Minimum Rent	Monthly Installments
First Extended Term	$492,800.00	$41,066.67
Second Extended Term	$551,936.00	$45,994.67
Third Extended Term	$618,168.32	$51,514.03

The annual Fixed Minimum Rent due during each year of the Extended Terms shall be payable in twelve equal monthly installments each in advance on the first day of each and every calendar month in the manner more fully set forth in Section 4(b) of this Lease. To exercise said option, Tenant shall give written notice which must be received by Landlord at least six months prior

but no more than twelve (12) months prior to the beginning of the Extended Term. Tenant shall have no right to extend the term of this Lease following the end of the second Extended Term.

47. MORTGAGEE PROTECTION.

Tenant agrees to deliver to any of Landlord's mortgagees and to the holder of any trust deed concerning the Premises, a copy of any notice of default served upon Landlord, provided that prior thereto Tenant has been notified, in writing, (by way of Notice of Assignment of Rents and Leases, or otherwise) of the address of such mortgagees and/or trust deed holders. Anything contained herein to the contrary notwithstanding, Tenant agrees that if Landlord shall fail to cure the default recited in such notice of default within the time provided for herein, then such mortgagees and/or trust deed holders shall have an additional thirty (30) days within which to cure such default. Provided, however, that if such default cannot be cured within said thirty (30) days, then such mortgagees and/or trust deed holders shall have such additional time as may be necessary to cure such default, if within said thirty (30) days, such mortgagee and/or trust deed holder have commenced and are diligently pursuing the cure of such default, (including but not limited to commencement of foreclosure proceedings, if necessary to effect such cure). This Lease shall not be terminated by Tenant while such remedies and cures are being so pursued.

IN WITNESS WHEREOF, the parties hereto set their hands to four (4) counterparts hereof, each of which shall have the same force and effect as if it were an original, as of the date set forth at the top of Page 1, but have actually executed the same on the dates set forth in the acknowledgments hereto.

SIGNED IN THE PRESENCE OF:

SHOPS OF FAIRLAWN RETAIL LIMITED PARTNERSHIP, an Ohio limited partnership

By: Shops of Fairlawn Retail Co., its general partner

By: _____
Robert L. Stark, President

"LANDLORD"

SEAMAN FURNITURE COMPANY, INC.

By: _____ EVP
Title: EXECUTIVE VICE President

By: _____
Title: Assistant Secretary
"TENANT"

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

The foregoing instrument was acknowledged before me, a Notary Public, this 14th day of ~~January~~ December, 2000 ~~1999~~ by ROBERT L. STARK, President of Shops of Fairlawn Retail Co., General Partner of SHOPS OF FAIRLAWN RETAIL LIMITED PARTNERSHIP, an Ohio limited partnership, on behalf of and as the duly authorized representative of said corporation and limited partnership.

Heather Hamilton
Notary Public

HEATHER HAMILTON, NOTARY PUBLIC
State of Ohio
My Commission Expires 3/29/03

STATE OF New York)
) SS:
COUNTY OF Nassau)

The foregoing instrument was acknowledged before me, a Notary Public, this 24th day of December, 1999, by Steven H. Walker, the Exec V.P., and by Robert N. Wilkie, the Asst Secy, of Seaman Furniture Company, Inc., a Delaware corporation, on behalf of the corporation.

Sybil Handwerker
Notary Public

SYBIL HANDWERKER
Notary Public, State of New York
No. 30-4815964
Qualified in Nassau County
Commission Expires November 30, 2000

EXHIBIT "A"

LEGAL DESCRIPTION

THE SHOPS OF FAIRLAWN

Situated in the City of Fairlawn, County of Summit, State of Ohio and known as being all of Sublot Nos. 2 and 3 and part of Sublot No. 1 in the Montrose Acres Allotment as shown by the recorded plat in Volume 30 of Maps, Page 64 of Summit County Records, part of Clouse Avenue, 60 feet wide, as vacated in Ordinance No. 85-202 all of and more land being part of said Original Bath Township, Lot No. 90 and is further bounded and described as follows:

Beginning at the intersection of the original center line of West Market Street, variable width (S.R. 18) with the center line of Cleveland-Massillon Road, 60 feet wide (C.R. 17). The same being the Southwesterly corner of said Original Lot No. 95. Thence South 86°-33'-56" East, along said original center line of West Market Street and said Southerly line of Original Lot No. 95, a distance of 462.00 feet to the Southeasterly corner of a parcel of land conveyed to William A. and Ernestine Zuehlke by deed recorded in Volume 5808, Page 820 of Summit County Records. Thence North 3°-56'-43" East, along the Easterly line of land so conveyed to William A. and Ernestine Zuehlke, a distance of 60.00 feet to the Northerly line of said West Market Street as shown by the Dedication Plat in Plat Cabinet H, Slide Number 418 of Summit County Records and the principal place of beginning of the land herein described;

Course 1 Thence North 3°-56'-43" East, continuing along said Easterly line of land so conveyed to William A. and Ernestine Zuehlke, a distance of 438.16 feet to the Northeasterly corner thereof and the Southerly line of a parcel of land conveyed to the Northern Ohio Telephone Company by deed recorded in Volume 4982, Page 418 of Summit County Records;

Course 2 Thence South 85°-24'-19" East, along said Southerly line of land so conveyed to the Northern Ohio Telephone Company, a distance of 131.99 feet to the Southeasterly corner thereof;

Course 3 Thence North 3°-56'-43" East, along the Easterly line of land so conveyed to the Northern Ohio Telephone Company, a distance of 18.13 feet to the Southwesterly corner of Parcel No. II of land conveyed to Jack G. and H. Joanne Allen by deed recorded in Volume 6312, Page 159 of Summit County Records;

Course 4 — Thence South 85°-34'-19" East, along the Southerly line of said Parcel No. II of land so conveyed to Jack G. and H. Joanne Allen, a distance of 150.69 feet to the Southeasterly corner thereof and the Westerly line of Parcel #1 of land conveyed to E.E. Barrett by deed recorded in OR 582, Page 703 of Summit County Records;

Course 5 — Thence South 3°-54'-18" West, along said Westerly line of Parcel #1 of land so conveyed to E.E. Barrett, a distance of 44.77 feet to the Southwesterly corner thereof;

Course 6 — Thence South 86°-36'-26" East, along the Southerly line of said Parcel #1 of land so conveyed to E.E. Barrett and along the Southerly line of Parcel 2 of land conveyed to John D. Grafton by deed recorded in Volume 8865, Page 591 of Summit County Records, a distance of 280.00 feet to the Southeasterly corner thereof;

Course 7 — Thence North 3°-54'-18" East, along the Easterly line of said Parcel 2 of land so conveyed to John D. Grafton, a distance of 134.78 feet to the Southwesterly corner of Parcel II of land conveyed to Lawrence J. and Lea A. Banner by deed recorded in Volume 5213, Page 197 of Summit County Records;

Course 8 — Thence South 86°-36'-26" East, along the Southerly line of said Parcel II of land so conveyed to Lawrence J. and Lea A. Banner, a distance of 115.00 feet to the Southeasterly corner thereof and the Westerly line of a parcel of land conveyed to Arthur E. and Edna Torrey by deed recorded in Volume 6037, Page 849 of Summit County Records;

Course 9 — Thence South 3°-54'-18" West, along said Westerly line of land so conveyed to Arthur E. and Edna Torrey, a distance of 134.78 feet to the Southwesterly corner thereof;

Course 10 — Thence South 86°-36'-26" West, along the Southerly line of land so conveyed to Arthur E. and Edna Torrey and along the Southerly lines of parcels of land conveyed to Kenneth G. and Janet Alison Graf by deed recorded in Volume 6444, Page 836 of Summit County Records, Eugene G. and Eleanor J. Palmer by deed recorded in Volume 4790, Page 478 of Summit County Records, Janice Lucille Connell by deed recorded in Volume 6922, Page 142 of Summit County Records and Clouse Avenue, 60 feet wide, a distance of 590.00 feet to the center line of said Clouse Avenue and the Northwesterly corner of a parcel of land conveyed to the Gibraltar Mausoleum Corp. by deed recorded in Volume 7231, Page 178 of Summit County Records;

Course 11 — Thence South 3°-54'-16" West, along the Westerly line of land so conveyed to the Gibraltar Mausoleum Corp., a distance of 404.70 feet to the Northerly line of West Market Street, as aforesaid;

Course 12 — Thence North 86°-33'-56" West, along said Northerly line of West Market Street, a distance of 950.97 feet to an angle point therein;

Course 13 — Thence North 41°-33'-56" West, continuing along said Northerly line of West Market Street, a distance of 14.14 feet to an angle point therein;

Course 14 — Thence North 3°-26'-04" East, continuing along said Northerly line of West Market Street, a distance of 10.00 feet to an angle point therein;

Course 15 — Thence North 86°-33'-56" West, continuing along said Northerly line of West Market Street a distance of 65.00 feet to an angle point therein;

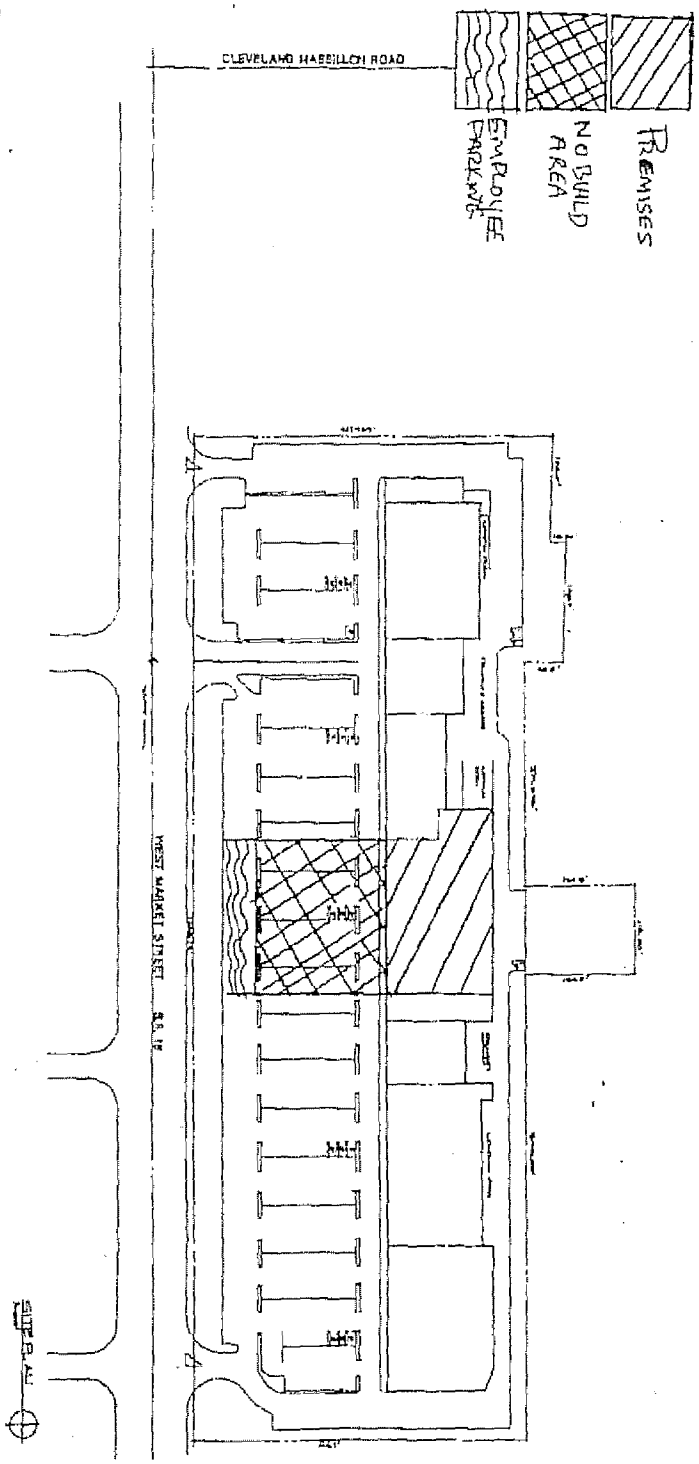
Course 16 — Thence South 3°-26'-04" West, continuing along said Northerly line of West Market Street, a distance of 10.00 feet to an angle point therein;

Course 17 — Thence South 48°-26'-04" West, continuing along said Northerly line of West Market Street, a distance of 14.14 feet to an angle point therein;

Course 18 — Thence North 86°-33'-56" West, continuing along said Northerly line of West Market Street, a distance of 232.02 feet to the principal place of beginning and containing 12.3561 Acres of land according to a survey made by Thomas J. Neff, Jr., Reg. Surveyor No. 7065-Ohio in January of 1993.

Be the same more or less but subject to all legal highways.

EXHIBIT B



G. HERSCHMAN ARCHITECTS

SHOPS FAIRLAWN

EXHIBIT "C"

RULES AND REGULATIONS

These Rules and Regulations are appended to and constitute an integral part of the Lease dated January 6, 2000, ~~1999,~~ between SHOPS OF FAIRLAWN RETAIL LIMITED PARTNERSHIP, as Landlord, and SEAMAN FURNITURE COMPANY, INC., and as Tenant, demising a store unit in the Center described in said Lease.

The Tenant shall obey, comply with and perform the following Rules and Regulations:

1. No articles deemed extra hazardous on account of fire and no explosives shall be brought into the Premises. All requirements of constituted public authority applicable to the conduct of Tenant's business or use of the Premises, shall be complied with, and Tenant shall save Landlord harmless from penalties, fines, costs, expenses or damages resulting from failure to so comply, except for those structural alterations which are Landlord's obligation under the Lease.

2. The lights within the windows in the front of the Premises shall be illuminated together with all signs and external lights every evening from dusk until at least 10:00 P.M. including evenings when the Center is not open for business.

3. As promptly as shall be possible under the circumstances then existing, written notice of any accident, fire, casualty or damage occurring on or about the Premises shall be given by Tenant to Landlord. All loading and unloading of merchandise shall be done only at such times in the areas and at such locations and through such entrances as shall be designated in writing by Landlord for such purposes.

4. All garbage, rubbish and refuse shall be kept in proper containers. Tenant, at Tenant's expense, shall dispose of or cause to be disposed of and carried away all garbage, rubbish and refuse quickly and expeditiously, not placing or allowing to be placed any rubbish outside the Premises at any time, except for anticipated pickup within a short time after said placement. Tenant agrees to comply with all orders, rules and regulations of public authorities and Landlord relating to the disposition of rubbish.

5. The Premises shall be painted and decorated as often as necessary to maintain them visually attractive and in first-class condition and shall be kept in a clean, orderly and sanitary condition free from objectionable odors and from insects, vermin and other pests. All nonenclosed areas under the control of Tenant (such as vestibules and store entranceways) shall be kept clean of debris and free from ice and snow, and no rubbish, obstructions or merchandise shall be placed in such areas.

6. No music or noise shall be permitted in the Premises the volume of which shall be reasonably objectionable to Landlord or to other tenants in the Center, and nothing shall be done in the Premises which will injure the reputation of the Center or unreasonably annoy any of the other tenants of the Center or constitute a nuisance.

7. All employees shall park their automobiles only in the portions of the parking area designated from time to time for that purpose by Landlord.

8. Business shall be conducted in a dignified manner and in accordance with high standards of retail merchandising and service operation similar to other Seaman's Stores. No auction, distress, fire, bankruptcy, going out of business sale, "lost lease" sale or similar sales shall be conducted.

9. No machinery shall be installed, used or operated that in Landlord's opinion is harmful to the Premises or to the building of which the Premises are a part, or constitute a disturbance to other tenants in the Center.

10. Except for the convenience of employees only, Tenant shall not operate or permit the operation on the Premises of any coin- or token-operated vending machines or similar device for the sale of any goods, wares, merchandise, food, beverage or service, including, but not limited to, pay telephones, pay lockers, pay toilets, scales, amusement devices and machines for the sale of beverages, foods, candy, cigarettes or other commodities, without the prior written consent of Landlord.

EXHIBIT D

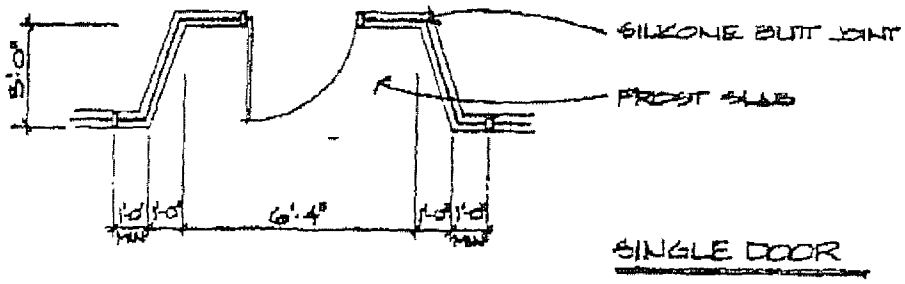
LANDLORD'S WORK

Landlord shall demise the first floor of the Premises by separating the space with a studded demising wall and separating the utilities with meters provided.

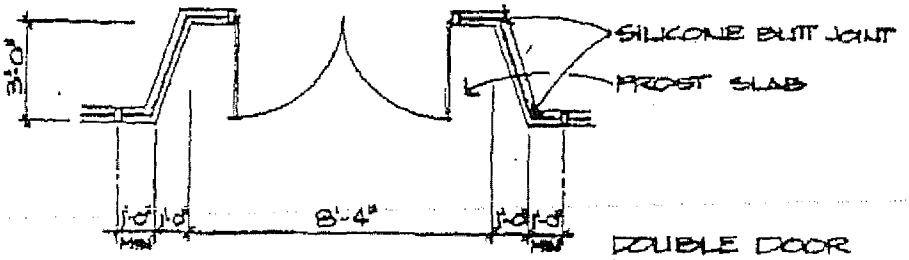
THE SHOPS FAIRLAWN

STOREFRONT CRITERIA

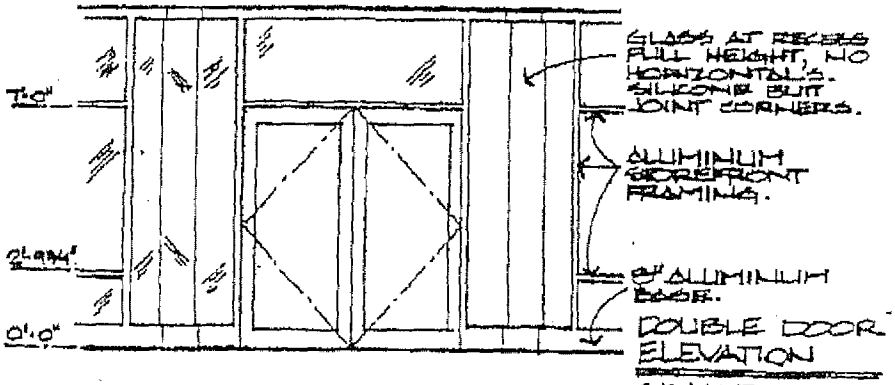
EXHIBIT D-1



SINGLE DOOR



DOUBLE DOOR



DOUBLE DOOR ELEVATION

SINGLE DOOR SIMILAR

THE SHOPS FAIRLAWN

SIGN CRITERIA
BUILDING SIGN
EXHIBIT E

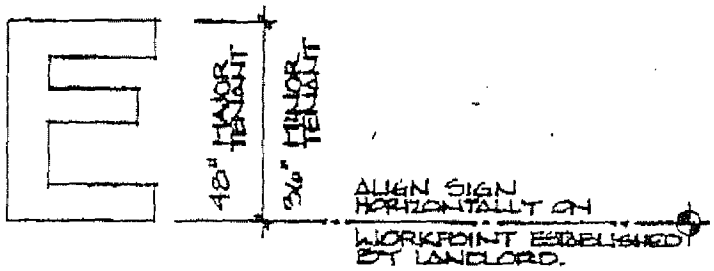
STOREFRONT SIGN

1. SIGNS ARE TO BE INDIVIDUALLY ILLUMINATED CHANNEL LETTERS DIRECTLY ATTACHED TO SHOPPING CENTER MASONRY WALL.
2. SIGN SHALL BE LOCATED WITHIN THE AREA DESIGNATED ON THE LEASE OUTLINE DRAWINGS AND LOCATE VERTICALLY RELATIVE TO WORKPOINT DETERMINED BY THE LANDLORD.
3. ALLOWABLE SIGN WIDTH IS 75% (3/4) OF TENANT STOREFRONT WIDTH.
4. ALLOWABLE SIGN HEIGHT:
   TYPICAL SIGN: 36" MAXIMUM OVERALL.
   MAJOR TENANT SIGN: 48" MAXIMUM OVERALL.
5. SIGN SHALL BE OF GOOD QUALITY CONSTRUCTION AND INSTALLATION, MAINTAINED AND ILLUMINATED BY THE TENANT THROUGHOUT THE LEASE TERM.
6. ALL SIGNS, WIRING AND ELECTRICAL DEVICES SHALL BE CONSTRUCTED AND INSTALLED IN CONFORMANCE WITH THE NATIONAL ELECTRIC CODE AND ALL LOCAL CODES AND ORDINANCES. ALL SIGNS SHALL BEAR A U.L. LABEL.
   A. ALL WIRING TO BE RUN IN CONDUIT.
   B. NO EXPOSED CONDUCTORS OR CONNECTIONS WILL BE PERMITTED.
   C. P.K. HOUSINGS ARE REQUIRED.
7. HOLES IN THE SHOPPING CENTER FASCIA WILL BE ACCURATELY DRILLED TO MINIMUM DIAMETERS. CAULK ALL PENETRATIONS, INCLUDING FASTENERS, WATERTIGHT.
8. SIGNS SHALL BE CONTROLLED BY PHOTOCELL ON, TIME CLOCK OFF. POWER CONNECTION IS TO TENANT ELECTRICAL PANEL.
9. DESIGN AND CONSTRUCTION:
   A. SIGN SHALL BE MAXIMUM 8" DEEP.
   B. SIGN SHALL BE FABRICATED OF ALUMINUM, CAN RETURNS TO BE PAINTED GLOSS. BLACK.
   C. ALL FASTENERS, ATTACHMENT, MOUNTING HARDWARE SHALL BE CONCEALED.
   D. NO EXPOSED LOGO/TRADEMARKS ARE PERMITTED.
   E. ILLUMINATION TO BE DESIGNED TO PROVIDE BRIGHTNESS EQUIVALENT TO: 13 MM RED NEON WITH 60 MILILAMP TRANSFORMER, 1 ROW OF NEON FOR STROKE WIDTH UP TO 3" 2 ROWS FOR STROKE WIDTHS FROM 3" TO 8", 3 ROWS FOR STROKE WIDTH 8"-12", 4 ROWS FOR STROKE WIDTH ABOVE 12".
   F. ALL SIGNS TO BE RED FACES WITH RED ILLUMINATION. RED FACE TO BE ROHM & HAAS #2793 RED PLEXIGLAS.
   G. TRIM CAPS TO BE GLOSS RED TO MATCH SIGN FACE.
10. UNDERCANOPY SIGNS TO BE PROVIDED AND INSTALLED BY TENANT. SIGN TO BE TWO SIDED ILLUMINATED SIGN MOUNTED TO SOFFIT AT CENTER OF ENTRY DOORS. REFER TO ATTACHED SHEETS FOR DRAWING DETAILS.

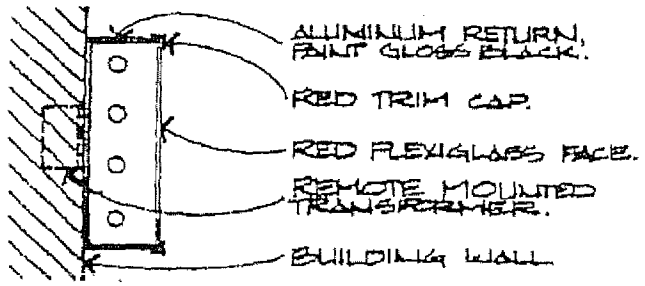
THE SHOPS FAIRLAWN

SIGN CRITERIA
BUILDING SIGN
EXHIBIT E

11. A. TENANT SHALL SUBMIT 1 PRINT AND 1 REPRODUCIBLE COPY OF TENANT SIGN DRAWINGS TO LANDLORD ARCHITECT FOR REVIEW. DRAWING INFORMATION WILL INCLUDE:
    1. TENANT STOREFRONT ELEVATION SHOWN TO SCALE WITH TENANT SIGN SHOWN AND DIMENSIONALLY LOCATED.
    2. LETTER CONSTRUCTION DETAILS INDICATING MATERIALS, COLORS, FINISHES NEON SIZE, COLOR, METHOD OF ATTACHMENT TO FASCIA, TRANSFORMER LOCATION AND WIRING.
12. TENANT TO OBTAIN ALL APPLICABLE PERMITS FROM THE CITY AND COUNTY.



ELEVATION



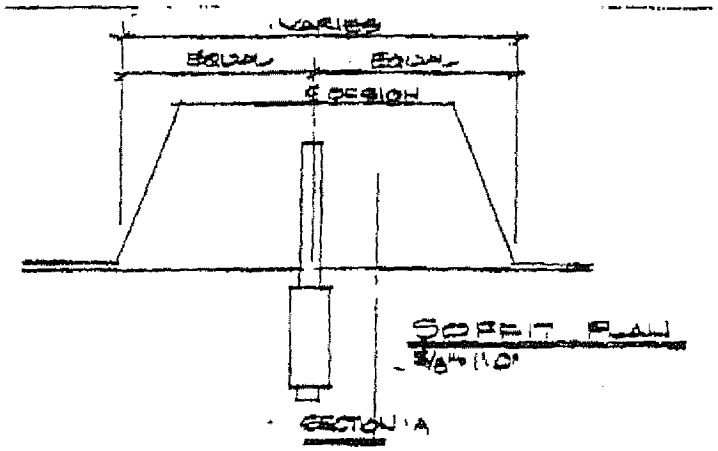
SECTION

THE SHOPS FAIRLAWN

SIGN CRITERIA

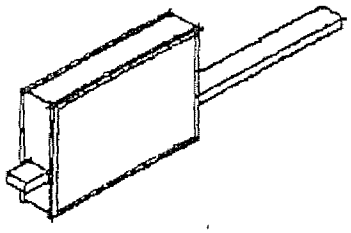
UNDERCANOPY SIGN

EXHIBIT E

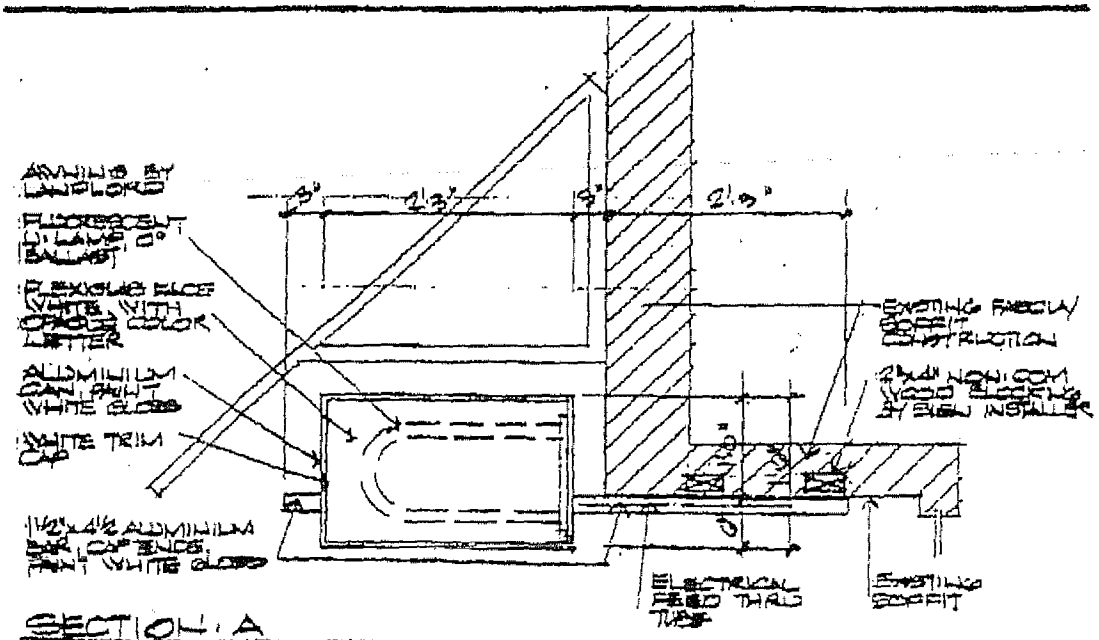


SOFFIT PLAN
3/8" = 1'-0"

SECTION A



ISOMETRIC
NTS



SECTION A
3/4" = 1'-0"

EXHIBIT G

THE SHOPS OF FAIRLAWN
TENANT EXCLUSIVE USES

TENANT	EXCLUSIVE USES	RESTRICTIVE USES
Bruegger's Bagels	Bagels (excluding supermarket)	In no event shall Tenant carry or sell breads (excluding bagels), pies, cakes, or other bakery products (excluding bagels) intended to serve more than one (1) person.
Buddy's Carpet	None	In no event shall bolts of carpeting or other bulk supplies of any such products be maintained on the Premises, either for storage or for display.
Borders Books & Music	Books, books on tape, periodicals and/or music products (i.e. records audio tapes and compact discs) unless the sale books, periodicals or music products is incidental to the primary use of their Premises. Not applicable to any supermarket, drugstore discount drugstore, department store, variety store, or catalog general merchandise store such as Service Merchandise.	Tenant shall sell on an incidental basis only, calendars, periodicals maps, globes, posters, art prints, cards, stationery, computer software (no more than 10% of sales area), electronic searching and laser printing of information and educational material and musical scores, storage/organizing cases, carrying cases, cleaning equipment. Landlord will not permit any tenant to engage in the sale of books, periodicals and/or music products unless the sale of books, periodicals or music products are incidental. Landlord will not lease any space to a health club, school, or any restaurant providing on-site consumption of food within 100' of Tenant.
Comp USA	Sale and servicing of computer hardware and software, general office equipment, multi-media electronics, telecommunications equipment, any other consumer electronics and such other products and	Landlord will not lease space to an amusement park or game parlor, bowling alley, skating rink, theater, movie theater, sports facility, health club, coin operated laundry, funeral parlor, off track betting, car

	accessories, for training in computer usage, and tele-marketing unless the foregoing are incidental to the primary business (no use in excess of the lesser of 10% or 2,500 sf of the Premises). The space limitation shall not be applicable to Service Merchandise; however, Landlord will not permit Service Merchandise to use its Premises primarily for the operation of a computer super store.	wash, automobile dealership, flea market, massage parlor, adult book store, adult movie theater, sexually oriented shops, night club, discotheque, cocktail lounge, bar or tavern, billiards parlor (unless high class), operation of a restaurant within 250 ft of the front entrance, operation of an office (except retail offices such as a travel agency), operation of an industrial manufacturing plant, or operation of a business which creates a nuisance.
	The space limitation not applicable to Borders Books & Music. Borders shall be limited to 10% of the sales area for the sale or servicing of the foregoing products. If the Office Max Parcel becomes part of the Shopping Center, Office Max shall not be used primarily for the operation of a computer super store.	Any tenant's coffee bar may not exceed 1,500 sf and 70 seat sit-down capacity
Men's Wearhouse	Primary purpose of a Retail men's clothing Store for the retail Sale of men's suits. Not applicable to any Department store who Occupies 15,000 sf. Or Those outlined in red On the site plan.	
Ohio Discount Golf	None	None
Paul Harris	None	None
Pier 1	Household Furniture (excluding Borders, Comp USA, Sears, Homeowners Warehouse)	Landlord shall not lease space within the Shopping Center to a bowling alley; movie theater; arcade; tavern or bar, unless part of a restaurant; health club, spa or gymnasium; night club or discotheque; mobile home park, trailer court, labor camp, junk yard, or

		stockyard; any dumping, disposing, incineration, or reduction of garbage; any fire sale, bankruptcy sale or auction house; any automobile, truck, trailer or R.V. sales, leasing, display or repair; skating rink; living quarters, sleeping apartments, or lodging rooms; veterinary hospital, animal raising facilities or pet shop; any mortuary; "Adult" book stores.
Sears Hardware	Sale, servicing and storing of paint and hardware, all other items or services normally sold in Sears Hardware stores.	None
Second National Bank of Warren	None	None

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

IN RE:	)	
	)	**Case No. 07-09024**
SOFA EXPRESS, INC.	)	**Chapter 11**
	)	**Judge Paine**
Debtor.	)	

ORDER GRANTING APPLICATION FOR ADMINISTRATIVE EXPENSES OF CLAIM OF LANDLORD AND FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE CLAIM

This matter is presently before the Court on the motion of Shops of Fairlawn Delaware, LLC (the "Landlord"), the Landlord of certain commercial property leased to the Debtor, for the allowance and payment of an administrative expense claim, filed herein under date of February 6, 2008 (the "Motion").

It appears to the Court that proper notice of the Motion and an opportunity for hearing were served on the Debtor and parties-in-interest herein, and that no objections or other responses were timely filed.

It further appears to the Court that the relief requested in the Motion is reasonable in all respects, and that the Motion should be granted.

It is, therefore, ORDERED that the Motion filed by the Landlord for the allowance and payment of an administrative expense claim will be and hereby is granted. The Landlord is allowed an administrative expense claim of $84,300.25 (calculated as rent due for February, 2008 in the amount of $46,666.21, and post-petition rent for December, 2007 in the amount of

PROPOSED

$37,634.04). The Debtor is hereby directed to remit the sum of $84,300.25 to the Landlord, immediately upon the entry of this order.

IT IS SO ORDERED.

This order was signed and entered electronically as indicated at the top of the first page.

PREPARED FOR ENTRY:

/s/ Thomas H. Forrester
Thomas H. Forrester
Gullett, Sanford, Robinson & Martin, PLLC
P.O. Box 198888
Nashville, Tennessee 37219-8888
(615) 244-4994
tforrester@gsrm.com; bke@gsrm.com

Attorneys for Shops at Fairlawn of Delaware, LLC

PROPOSED

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

RECD
FEB 06 2008

In re	)	
	)	Chapter 11
SOFA EXPRESS,	)	Case No 07-09024
	)	Hon George C Paine II
Debtor	)	

THE DEADLINE FOR FILING A TIMELY RESPONSE IS February 26, 2008
IF A TIMELY RESPONSE IS FILED, THE HEARING WILL BE MARCH 11, 2008, at 9 30 a m in Courtroom One, Customs House, 701 Broadway, Nashville, TN 37203

LANDLORD'S MOTION FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE EXPENSE CLAIM

Shops of Fairlawn Delaware, LLC ("Landlord") hereby moves for the allowance and immediate payment of the Debtor's post-petition obligations to Landlord in the amount of $84,300 25 pursuant to 11 U S C §§ 365(d), 503(b) and 507(a) In support hereof, Landlord respectfully states as follows

BACKGROUND

1 On December 6, 2007 (the "Petition Date"), the Debtor filed its voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") Pursuant to Sections 1107 and 1108 of the Bankruptcy Code, the Debtor continues to operate its business as a debtor in possession

2 The Debtor leases the premises located at The Shops of Fairlawn Shopping Center, 3737 West Market Street, City of Fairlawn, Summit County, Ohio 44333 (the "Premises") pursuant to the lease by and between Landlord, as successor by assignment from Shops of Fairlawn Retail Limited Partnership, and the Debtor, as successor by assignment from

FILED
FEB 06 2008
SofaExpress Inc
00102

Seaman Furniture Company, Inc , dated as of January 6, 2000, as the same may have been amended (the "Lease") A copy of the Lease is attached hereto as Exhibit A

3 The Lease expires on July 31, 2010 Debtor's current aggregate rent obligations under the Lease total $46,666 21 per month (calculated as base rent at $36,666 66 per month and additional rent (common area maintenance) at $9,999 55 per month through July 31, 2010) (the "Rent") Under the Lease, Rent is due on the first day of each month

4 Debtor failed to pay Landlord for Debtor's post-petition use and occupancy of the Premises during December, 2007

5 Debtor also failed to pay Landlord for the Rent that was due on February 1, 2008

6 On January 21, 2008, Debtor filed Debtor's Third Motion to Reject Certain Unexpired Nonresidential Real Property Leases and Executory Contracts (the "Motion to Reject") requesting the entry of an Order authorizing the rejection of the Lease effective as of the date that the Debtor filed the Motion to Reject

7 On February 5, 2008, Landlord filed Landlord's Limited Objection to Debtor's Third Motion to Reject Certain Unexpired Nonresidential Real Property Leases and Executory Contracts (the "Limited Objection"), in which Landlord opposed only Debtor's request that the rejection of the Lease be effective as of the date of the Motion to Reject, rather than the date that the Court enters an Order approving the rejection

LANDLORD'S REQUEST FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE EXPENSE CLAIM

8 As set forth above, Landlord filed a Limited Objection requesting that the Lease be rejected effective as of the date that the Court enters an Order approving such rejection

9 The determination of the effective date of rejection is significant because § 365 of the Bankruptcy Code provides in part that

> The trustee shall timely perform all the obligations of the debtor, except those specified in section 365(b)(2), arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected,

11 U S C § 365(d)(3)

10 The Sixth Circuit holds that, where the specific obligation to pay rent arises on the first of the month during the post-petition, pre-rejection period, "§ 365(d)(3) is unambiguous as to the debtor's rent obligation and requires payment of the full month's rent" *In re Koenig Sporting Goods Inc*, 203 F 3d 986, 989 (6th Cir 2000) *See also, Matter of Federated Dep't Stores, Inc*, 131 B R at 814 (lessor is entitled to rent as a postpetition administrative expense until the lease is rejected by operation of 11 U S C § 365(d)(4) or with court approval), *Paul Harris Stores, Inc v Mabel L Slater Realty Trust*, 148 B R 307 (S D Ind 1992) (debtor tenant is liable for rent as administrative expense for entire period preceding court approval of lease rejection even though debtor had earlier physically surrendered premises) Accordingly, if the Lease is rejected after February 1, 2008, the Debtor must pay Landlord full Rent for the month of February

11 In *Koenig*, the debtor was obligated under the terms of the lease to pay in advance on the first of each month for that month's rent The debtor notified the landlord on November 25, 1997 that it was rejecting the lease effective December 2, 1997, which was the date that the

debtor vacated the property The landlord thereafter filed a request with the bankruptcy court seeking payment of the rent for the full month of December The debtor objected, arguing that the landlord was entitled to receive only the pro rata value of rent for December 1 and 2 The bankruptcy court disagreed and granted the landlord's request *See, In re Koenig Sporting Goods Inc*, 221 B R 737 (Bankr N D Ohio 1998) The Sixth Circuit affirmed, specifically rejecting the "*pro rata*" approach advanced by the debtor and recognizing that "equity as well as [11 U S C § 365(d)(3)] favors full payment" *Koenig*, 203 F 3d at 989-90 (citing *Krystal*, 194 B R 161, 164 (Bankr E D Tenn 1996)

12 As of the date of this motion, the Court has not yet entered an order approving the rejection of the Lease and, presumably, such an order would not be entered until after February 12, 2008, the date of the hearing on the Motion to Reject Under the Lease, the Rent for the entire month of February, 2008 was due on February 1, 2008 Landlord, therefore, is entitled to an administrative claim for Rent for February, 2008, in the amount of $46,666 21

13 In addition, Landlord is entitled to an administrative claim on account of Debtor's post-petition Rent obligations for Debtor's use and occupancy of the Premises for the twenty-five day "stub period" from December 6, 2007 through December 31, 2007, in the amount of $37,634 04

14 11 U S C § 503(b)(1)(A) provides for the allowance of an administrative claim for "the actual, necessary costs and expenses of preserving the estate" 11 U S C § 503(b)(1)(A) To that end, Landlord is entitled to an administrative claim on account of the Debtor's post-petition Rent obligations *See, Dayton Hydraulic Co v Felsenthall*, 116 F 961, 969 (6th Cir 1902) (receiver required to pay rent at amount stipulated in lease), *In re Zagata Fabricators, Inc v Superior Air Products*, 893 F 2d 624, 627 (3d Cir 1990) ("There is no

question, of course, that the payment of rent for the use and occupancy of real estate ordinarily counts as an 'actual, necessary' cost to which a landlord, as a creditor is entitled "), *In re Macomb Occupational Health Care, LLC*, 300 B R 270, 278 (Bankr E D Mich 2003) (Section 503(b)(1)(A) requires the estate to pay the landlord the actual rent which debtor was obligated to pay landlord under the lease during the post-petition interval before rejection), *In re ZB Company Inc* , 302 B R 316, 319 (Bankr D Del 2003) (Section 503(b)(1)(A) allows an "administrative expense claim for 'the actual, necessary costs and expenses of preserving the estate ' which fills the stub period gap ") *See also, In re Rhodes, Inc* , 321 B R 80, 92 (Bankr N D Ga 2005) ("It would be a strange result indeed, bordering on the absurd, to hold that in enacting section 365(d)(3) to protect landlords, Congress intended to strip landlords of any right to payment of an administrative expense for use of their premises for the stub rent period and to leave them with only pre-petition, unsecured claims "), *In re Travel 2000 Inc* , 264 B R 444 (Bankr W D Mich 2001) (relying on § 365(d)(3) in holding that, although debtor's obligation for February rent had already crystallized on the first day of the month, one day prior to its bankruptcy filing, debtor was obligated for rent relating to its postpetition occupancy on pro rata basis)

15 Here, the Debtor not only occupied the Premises, but continued its operations, including going-out-of business sales, during the entire month of December, 2007 Debtor's use of the Premises during December, 2007 clearly provided a benefit to the estate, yet Debtor has failed to pay Landlord for its post-petition use and occupancy of the Premises from December 6, 2007 through December 31, 2007 Accordingly, Landlord is entitled to compensation for Debtor's the post-petition use and occupancy of the Premises during December, 2007 in the amount of $37,634 04

WHEREFORE, for the foregoing reasons, Landlord respectfully requests that the Court enter an Order (i) allowing and directing the prompt payment of an administrative expense claim in favor of Landlord in the amount of $84,300 25 (calculated as Rent due for February, 2008, in the amount of $46,666 21 plus post-petition rent for December, 2007 in the amount of $37,634 04), and (ii) granting Landlord such other and further relief as is just and proper under the circumstances

Dated February 6, 2008

Respectfully submitted,

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Attorneys for Landlord

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been served according to the rules of CM/ECF, on this 6th day of February, 2008

/s/ Thomas H Forrester
Thomas H Forrester

EXHIBIT A

SHOPS AT FAIRLAWN

IN LINE STORE LEASE SUMMARY

The following is a summary of some of the essential provisions in the Lease in SHOPS OF FAIRLAWN, Fairlawn, Ohio The Lease Summary is included for convenience only, but in the event of any discrepancy or conflict between the provisions of this Lease Summary and the provisions of the Lease, the provisions of the Lease shall control

LANDLORD	SHOPS OF FAIRLAWN RETAIL LIMITED PARTNERSHIP c/o Robert L Stark Enterprises, Inc Suite 330 Three Commerce Park Square 23230 Chagrin Boulevard Beachwood, Ohio 44122
TENANT	SEAMAN FURNITURE COMPANY, INC 300 Crossways Park Drive Woodbury, New York 11797
GUARANTOR	N/A
PREMISES	Square footage 47,196
TERM	Ten (10) years plus three Five (5) year Options

	Years	Annual	Monthly
FIXED MINIMUM RENT	1-5	$400,000 00	33,333 33
	6-10	$440,000 00	36,666 66
	First Extended Term		
		$492,800 00	41,066 67
	Second Extended Term		
		$551,936 00	45,994 67
	Third Extended Term		
		$618,168 32	51,514 03

PROMOTION FUND	None

Other Additional Charges are prorata

SHOPS OF FAIRLAWN

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LEASE

THIS INDENTURE OF LEASE dated as of January 6, 2000 ~~1999~~ by and between SHOPS OF FAIRLAWN RETAIL LIMITED PARTNERSHIP, an Ohio limited partnership (hereinafter called "LANDLORD") and SEAMAN FURNITURE COMPANY, INC , a Delaware corporation d/b/a Seaman's Furniture (hereinafter called "TENANT")

WITNESSETH

1 EXHIBITS TO LEASE AND DEFINITIONS

The following listed exhibits are attached to and made a part of this Lease

EXHIBIT A The description of the lands upon which THE SHOPS OF FAIRLAWN SHOPPING CENTER has been or will be constructed, sometimes hereinafter referred to as the "Shopping Center Site "

EXHIBIT B The initial Site Plan which the Landlord may change from time to time (subject to the "No-Build Area" shown on the Site Plan) showing, in general, the location of the contemplated Shopping Center buildings, parking areas, driveways, and other Common Areas

EXHIBIT C The Rules and Regulations governing the Shopping Center in effect at the time of execution of this Lease, which Rules and Regulations may be amended and supplemented by the Landlord at all times in its sole discretion

EXHIBIT D Landlord's Work

EXHIBIT D-1 Storefront Criteria

EXHIBIT E Sign Criteria

EXHIBIT F Intentionally Deleted

EXHIBIT G Restrictions

The following definitions are applicable to the provisions of this Lease

"Building" means the building in which the Premises are located

"Common Areas" means the parking areas, driveways, landscaped areas, loading docks, aisles, sidewalks, courts, canopies, facade and other areas within the Shopping Center Site which are

designated as Common Areas by Landlord from time to time (subject to the No-Build Area), with the improvements therein, whether or not shown on Exhibit B, and as the same may be changed by Landlord from time to time, in its sole discretion In no event may Landlord relocate Tenant's Premises

"Fixture Date" means the ninetieth (90th) day after Landlord substantially completes Landlord's Work in the Premises to the extent required, in Tenant's reasonable business judgment, for Tenant to commence Tenant's work and delivers possession of the Premises to Tenant, which date shall be no later than sixty (60) days after the later of (a) Landlord's approval of Tenant's plans and specifications or (b) the date Landlord obtains a building permit for Landlord's Work (as defined in Section 10)

"Legal Requirements" means all laws, ordinances, codes, rules and regulations of all applicable public authorities and the rules, regulations and requirements of any fire rating organizations or rating bureaus

"Premises" means the specific storeroom leased to the Tenant by the Landlord

"Prorata Share" means the ratio or percentage which the number of square feet in the Premises bears to the total number of leasable square feet in the Shopping Center excluding kiosks, mezzanines, outdoor garden or storage areas and non-selling second floor areas If Tenant begins to use the second floor of the Premises as a sales area, the square footage of such second floor area shall be included for purposes of calculating Tenant's Prorata Share If Landlord shall not be required to pay taxes or furnish hazard insurance with respect to any building or premises in the Shopping Center, the square footage of such building or premises shall be excluded in calculating Tenant's Prorata Share with respect to the payment of such Additional Charges In addition, if any items comprising Common Area Charges (hereinafter defined) are furnished by individual tenants as opposed to Landlord (as, for example, if Sears Hardware lights the parking field in front of its building at its expense), the cost of the service furnished by such tenant shall not be included in Common Area Charges and the square footage of the tenant furnished such services shall not be included in the calculation of Tenant's Prorata Share for such service In the above example, Sears Hardware's square footage shall not be used in the determination of Tenant's Prorata Share of the lighting costs of the Common Areas of the Center Landlord estimates that Tenant's initial Prorata Share will be 20 44% Tenant acknowledges that such estimate shall not be binding on Landlord and is subject to Section 42 of this Lease

"Shopping Center" means THE SHOPS OF FAIRLAWN SHOPPING CENTER, consisting of all buildings, Common Areas and improvements located entirely on the Shopping Center Site or upon the Shopping Center Site and additional land as said Shopping Center is contracted or expanded by Landlord from time to time

2 PREMISES - RELOCATION

For the rent and upon the agreements contained in this Lease, Landlord leases to

Tenant and Tenant rents from Landlord the Premises described as follows

> Situated in the City of Fairlawn, Summit County, Ohio, and consisting of a storeroom within Building containing approximately 27,196 square feet of floor area on the first floor and approximately 20,000 square feet of floor area on the second floor, for a total of 47,196 square feet (all measurements being to the center of common walls and to the exterior of all exterior walls, including without limitation, the area within any recessed doorway) The Premises do not include the use of the exterior faces of the exterior walls or the roof (except for Tenant's sign and the repair or replacement of any rooftop heating or air conditioning equipment which is Tenant's obligation under this Lease, Tenant's use of the roof, however, to be limited in accordance with the conditions and limitations hereinafter set forth) or extend beyond the exterior faces of the storefront or the exterior walls of the building of which the Premises are a part

The Premises are outlined in red on Exhibit B for the purpose of more specifically locating the space leased to Tenant

Landlord expressly reserves the exclusive use of the exterior walls, including, without limitation, the right to use exterior walls as a party wall or for the attachment of any additions to the Shopping Center and, except as expressly set forth herein to the contrary, the roof of the Premises (provided that no signs shall be installed on the roof), and the right to install, maintain, use, repair and replace pipes, ducts, conduits and wires through the Premises in locations which will serve other areas of the Shopping Center, provided that such pipes, ducts, conduits and wires shall be within the walls of the Premises or more than eleven (11) feet above the floor slab and if any portion of the Premises is used for such pipes, ducts, conduits or wires in a manner which reduces Tenant's usable square footage by more than one hundred (100) square feet, Fixed Minimum Rent and other charges shall be proportionately reduced and provide further that in no event shall the installation, maintenance, use, repair or replacement of such pipes, ducts, conduits and wires unreasonably interfere with the conduct of Tenant's business

Landlord represents and warrants to Tenant that, to Landlord's actual knowledge, the Premises are free of hazardous substances, including but not limited to asbestos and lead based paint

3 TERM

(a) The "Commencement Date" of the term of this Lease shall be the Fixture Date if such date is the first day of a calendar month, otherwise, the Commencement Date shall be the first day of the first month thereafter Notwithstanding the foregoing, as of the Fixture Date (or such earlier date as Tenant may, subject to the Landlord's consent, enter the Premises), all of the terms and conditions of this Lease shall be in full force and

effect, except that Tenant's obligations to pay Fixed Minimum Rent shall commence as set forth in Paragraph 4 below

(b) The term of this Lease shall be for a period of ten (10) lease years beginning with the "Commencement Date" and ending on the last day of the twelfth (12th) month of the tenth (10th) lease year thereafter The first lease year shall begin on the Commencement Date of this Lease and shall end on the last day of the twelfth (12th) full month following the Commencement Date Succeeding lease years shall each consist of the twelve (12) month period beginning with the first day following the prior lease year

(c) If for any reason whatsoever Landlord shall not deliver possession of the Premises to Tenant by within six (6) months following the date Landlord shall execute this Lease, Tenant may terminate this Lease on sixty (60) days prior written notice to Landlord, provided, however, that if Landlord delivers possession within such sixty (60) day period, Tenant's termination notice shall be void and this Lease shall remain in full force and effect If this Lease is so terminated, neither Landlord nor Tenant shall have any claim against the other in damages or otherwise and Landlord shall refund to Tenant any monies previously paid to Landlord by Tenant

4 FIXED MINIMUM RENT

(a) Tenant's obligations to pay Fixed Minimum Rent and Additional Charges, regardless of the Commencement Date of this Lease, shall begin on the Fixture Date as hereinabove defined or the date upon which Tenant shall open for business, whichever shall be the first to occur

If the Fixture Date is not the first day of the month, Fixed Minimum Rent and Additional Charges due for each day prior to the Commencement Date of the term of this Lease shall be computed on the basis of Tenant's monthly installments of Fixed Minimum Rent and Additional Charges hereinafter set forth and Tenant shall pay the Fixed Minimum Rent and Additional Charges for all such days to Landlord on the Commencement Date

(b) Tenant agrees without demand and without any deduction or set-off to pay to Landlord at Landlord's office or such place as Landlord may from time to time designate as the Fixed Minimum Rent as follows

(1) For the first five (5) lease years of the term of this Lease (together with any partial month at the beginning of the term) the sum of Four Hundred Thousand Dollars ($400,000 00) per year in equal monthly installments of Thirty-Three Thousand Three Hundred Thirty-Three Dollars Thirty-Three Cents ($33,333 33), and

(ii) For the last five (5) lease years of the term of this Lease, the sum of Four Hundred Forty Thousand Dollars ($440,000 00) per year in equal monthly installments of Thirty-Six Thousand Six Hundred Sixty Dollars and Sixty-Six Cents ($36,666 66)

Monthly installments of Fixed Minimum Rent shall be payable in advance upon the first day of each and every calendar month during the term of the Lease

5 INTENTIONALLY DELETED

6 GROSS SALES DEFINED

The term "gross sales" means the aggregate dollar amount of all revenue, income and receipts emanating from, and all business done in, on, or resulting from, the Premises, including, without limitation, all sales of merchandise, food or beverages, including sales through vending or similar machines not used solely for the convenience of employees, rental and license fees, income from manufacture or production of merchandise, income from classes, and all charges for services of any nature performed in, upon, emanating from or resulting from the Premises, whether evidenced by cash, check, credit charge account, trade-in, exchange or otherwise, and regardless of collection, whether such sales are made to persons present at the Premises, by mail, telephone orders, or otherwise, whether any such orders which are made at the Premises are filled at the Premises or elsewhere or whether orders made elsewhere are filled at the Premises, and whether made by Tenant or any sublessees, concessionaires, licensees, assignees, vendors, occupants or otherwise Gross sales shall exclude interstore transfers of merchandise, returns of merchandise to the extent of cash refunds, and allowances made on sales of defective or unsatisfactory merchandise Gross sales shall not include the amount of any sales tax imposed by any governmental authority directly on the sales and collected from the customers, provided that the amount thereof is separately recorded, is added to the selling price and is paid by Tenant to the governmental authority

7 REPORTING OF GROSS SALES

(a) Tenant, on or before the fifteenth (15th) day following the end of each calendar quarter shall furnish to Landlord a written statement certified by Tenant to be correct of gross sales from the commencement of the current lease year to the end of the quarter for which the report is due

(b) Tenant on or before the thirtieth (30th) day following the end of each lease year during the term of this Lease shall furnish to Landlord a written statement showing in reasonably accurate detail satisfactory in form, scope and style to Landlord, the aggregate gross sales for the preceding lease year and an itemized list of all exclusions or deductions from gross sales duly certified by an officer of Tenant to be correct

8 INTENTIONALLY DELETED

9 ADDITIONAL CHARGES

(a) In addition to all other rents payable hereunder, Tenant agrees to pay to Landlord, at the times hereinafter set forth, without deduction, set-off (except as set forth herein) or abatement, the following "Additional Charges," deemed to be rent for all purposes of this Lease, the nonpayment of which shall be subject to all provisions of this Lease and of law as to default in the payment of rent or other sums of money

(1) Common Area Charges Tenant's Prorata Share of Landlord's total annual costs and expenses of operating, maintaining, insuring, repairing, upgrading and supervising the Shopping Center including the Common Areas of the Shopping Center, which includes, but is not limited to, removing snow and ice, cleaning, gardening and landscaping the Common Areas, providing any security or traffic control for the Common Areas to the extent (if any) that Landlord in its sole discretion determines to provide security or traffic control, all insurance carried for the Shopping Center (including, without limitation, public liability, hazard, property, rental, workers' compensation covering personnel, rent loss and/or business interruption, sign and other insurance in limits and amounts selected by Landlord),

seasonal decorations, repairs and replacements of the paving, curbs, walkways, light poles, bulbs, drainage and equipment used in the Common Areas, repairs and replacements of the roofs, exterior walls, foundations, gutters, and roof drainage systems of the buildings within the Shopping Center, capital improvements made to the Shopping Center (provided that any capital improvement costing in excess of $75,000 shall be amortized over seven (7) years at a reasonable rate of interest and the yearly amortization expense shall be included as a Common Area charge), line painting, attending the parking areas, costs of rubbish, garbage and trash disposal for tenants of the Shopping Center unless Landlord elects to charge such costs pursuant to Section 9(a)(v) hereof, any governmental charges, surcharges, fees, or taxes on the parking areas, parking spaces or on cars parking therein, cost of all utilities used or consumed in the Common Areas, repair and replacement of on-site gas lines, water lines, sanitary sewer lines, storm sewer lines, and any other common utility lines, pipes, wires, facilities and related appurtenances serving the Shopping Center, inspection, depreciation of machinery and equipment used in such maintenance, costs of signs, sign maintenance, repair, or replacement, and sound systems, all personal property and similar taxes, the cost of all Common Area equipment, machinery, tools, supplies and other personal property and facilities, the cost of personnel to implement such services and similar services and functions (including all compensation and benefits), the cost of any contracts entered into for the performance of any such operations, maintenance, repairs, and supervision, reasonable reserves, trash removal from the Common Areas, any deductible portion paid by Landlord with respect to insurance maintained by Landlord for the Center, fire protection and fire

hydrant charges, licenses and permit fees, rent paid for any equipment used in the Common Areas accounting and legal fees in connection with the operation of the Center, plus fifteen percent (15%) of the foregoing costs for Landlord's administration expenses

Notwithstanding the foregoing, Common Area Charges shall exclude

(A) Any cost of initially constructing and installing the Common Areas, including without limitation all paving areas, driveways, aisles, sidewalks, traffic and safety equipment, signs, landscaping, and other improvements in the Common Areas or any expansion thereof,

(B) Interest, late charges, and penalties on any charges payable by Landlord which are included within Common Area charges,

(C) Attorneys' fees and costs except reasonable attorneys fees and costs incurred to enforce contracts relating to and to preserve Tenant's rights in and to the Common Areas,

(D) The cost of any tenant improvements or other improvements, or other services or other Common Area Charges which are performed by or incurred by Landlord for the benefit of a single or several specific tenants, but are not incurred for the general benefit of all tenants of the Shopping Center

(E) Expenses of maintenance, repair and insurance of any outparcels or other parcels which are separately maintained, insured, and/or paid for by the users of such outparcels or other parcels,

(F) Common Area Charges which are reimbursed by insurance proceeds and/or condemnation awards,

(G) Any and all expenses incurred in negotiating, amending, extending, administering, or terminating leases with any other tenants, including without limitation brokerage commissions, architectural fees, or legal fees,

(H) Any amounts payable under mortgages encumbering all or any part of the Shopping Center,

(I) Any costs and expenses of removing, maintaining or replacing any substance or matter which may be deemed hazardous under any federal, state, or local environmental law, rule, regulation, ordinance, or order, or any costs and expenses of complying with such federal, state,

or local environmental law, rule, regulation, ordinance, or order, including, without limitation any cost of maintaining or removing asbestos containing materials or any underground storage tanks, or any cost of complying with applicable wetlands statutes,

(J) the expense of any repair or replacement required of Landlord pursuant to the reconstruction obligation of Section 24 except to the extent of Landlord's deductible,

(K) depreciation (other than depreciation as above specified),

(L) any utilities which are paid for by other tenants in Landlord's Building,

(M) costs for repairing original construction due to design defects and other extraordinary costs incurred during the first year of the Term for repairing original construction not caused by ordinary wear and tear,

(N) costs of repairs and replacements to the extent covered by warranty or guaranty,

(O) advertising, marketing and promotional expenses,

(P) costs or repairs and replacements incurred by reason of fire or other casualty or by reason of condemnation,

(Q) refundable deposits,

(R) charitable or political contributions,

(S) salary and benefits for Landlord employees above the grade of building manager, to the extend any employee whose salary and benefits are included in Common Area Charges does not devote his/her entire time to the Shopping Center, said salary and benefits shall be included only in proportion amount of time spent at the Shopping Center,

(T) consultant's fees and disbursements not related to the Common Areas,

(U) to the extent any service is provided by an affiliate or subsidiary of Landlord, the cost of such service shall not exceed the

reasonable and customary cost charged by an independent third party performing the same service,

(V) all payments of fines and penalties resulting from Landlord's failure to comply with applicable law or to timely pay bills,

(W) all contributions to reserves,

(X) any costs and expenses relating to any concessions operated by Landlord for its own profit,

(Y) contributions for off-site improvements, and

(Z) Notwithstanding anything contained herein to the contrary, Tenant shall not be required to pay any portion of the following capital expenditures, (i) any repair, replacement or other costs which are considered capital improvements to a store which is added to the Shopping Center after the date of this Lease, (ii) construction of new store space or buildings for new stores, and (iii) a major renovation of the Shopping Center which for the purposes herewith shall mean a physical refurbishing of the interior and/or exterior of the Shopping Center performed as one project over a reasonable period of time

(ii) Taxes Tenant's Prorata Share of the annual Shopping Center real property taxes and assessments payable with respect to the Shopping Center land and buildings, general and special, foreseen and unforeseen, ordinary and extraordinary

"Real property taxes and assessments" shall include all costs and fees incurred and paid by Landlord in contesting or defending the same and/or negotiating with public authorities A copy of Landlord's tax bill shall be conclusive evidence of the amount of taxes and assessments assessed or levied Landlord shall have the right to cause a separate assessment to be made against such portions of the Shopping Center as the Landlord may determine

(iii) Taxes on Rent The amount of any tax or excise on rent or on any service or services provided by Landlord under this Lease (except net income or estate inheritance, succession, transfer, gift, franchise corporation, profit or capital levy taxes) which is assessed or imposed by any governmental authority upon Landlord or upon Tenant and which is so assessed, imposed or paid as a result of Landlord's ownership of the demised Premises or of this Lease or the rentals accruing under this Lease, any tax which may be in lieu of, as a substitute for or in addition to real property taxes and assessments, and any tax or surcharge of any kind or nature imposed upon Landlord which is otherwise measured by or based in whole

or in part upon the Shopping Center or any portion thereof, it being the intention of the parties hereto that the rentals to be paid hereunder shall be paid to Landlord absolutely without deduction or set-off (except as set forth herein) of any nature whatsoever

(iv) Rubbish Disposal In the event that there shall be a dumpster or compactor for the disposition of rubbish, garbage and refuse from the Premises, Tenant shall use said dumpster or compactor and, unless Landlord elects to charge Tenant pursuant to Section 9(a)(i) hereof, shall pay monthly to Landlord the amount invoiced by Landlord as Tenant's cost of said service, which shall be at competitive rates

(b) Payment - Calculation - Audit Unless otherwise stated, the foregoing amounts if separately invoiced by Landlord shall be paid by Tenant within fifteen (15) days after the date of such invoice, or said amounts may be estimated by the Landlord in which event Landlord shall notify Tenant of Landlord's estimate Tenant shall pay said estimate in advance, on the first day of each and every calendar month After the end of each calendar year, when Landlord has calculated the exact amount actually payable by Tenant, Landlord shall send an annual statement to Tenant Any deficiency in payment by Tenant for any item shall be paid by Tenant to Landlord within thirty (30) days following receipt of such statement Any surplus in respect thereto shall be credited against the next ensuing installments of Landlord's estimates for the next year The amounts payable by Tenant for the first year and last year of this Lease shall be prorated for the parts of such first and last years that Tenant is obligated to pay Additional Charges under this Lease including any fraction of a month Unless a building is being operated on an outlot (as described in Exhibit A hereof), such outlot shall be deemed to be part of the Shopping Center for the sole purpose of calculating Tenant's Prorata Share and the Additional Charges set forth in Sections 9(a)(i) and (ii) hereof In addition, if while a building shall be in operation any work is done on an outlot by Landlord for the benefit of the Shopping Center (such as, for example, landscaping work or maintenance of Shopping Center signage), the cost of such work shall be a Common Area Charge Tenant shall have the right to examine and/or audit Landlord's books and records relating to the Additional Charges set forth in Section 9(a) of this Lease for the preceding two (2) calendar years only during the one hundred twenty (120) day period following the mailing of Landlord's annual statement for such Additional Charges for such calendar year Such examination and/or audit shall be made at Landlord's office during normal business hours, provided Tenant shall notify Landlord in writing during such one hundred twenty (120) day period that Tenant desires to conduct such examination and/or audit Tenant agrees that any information obtained by Tenant during the course of such audit shall be kept confidential and may not be shared with anyone other than Tenant's employees and accountants who shall also be required to maintain the confidentiality of such information Any unauthorized disclosure of any such confidential information shall constitute a default under this Lease

(c) Interest - Late Payment Charge Any payment due from Tenant to Landlord which is not paid within seven (7) days following receipt of notice from Landlord shall bear interest from the date such payment is due to the date of actual payment at the rate of eighteen percent (18%) per annum or the highest lawful rate of interest permitted in Ohio, whichever rate of interest is lower In addition Tenant shall pay to Landlord a late payment charge equal to five percent (5%) of any amount due if not received by Landlord within five (5) days from the date required to be paid hereunder, provided, however, that Tenant shall be entitled to one (1) late payment during each twelve (12) month period during the Term before such late charge is assessed Notwithstanding the interest charge and/or late payment charge, nonpayment of any Fixed Minimum Rent, Overage Rent, Additional Charge, interest or late payment charge or other monies due under this Lease which is not paid within seven (7) days following due date and receipt of notice from Landlord shall constitute an Event of Default of this Lease

(d) Net Leases This Lease shall be deemed and construed to be a "net lease", and Tenant shall pay to Landlord, absolutely net throughout the term of this Lease, the rent and other payments hereunder, free of any charges, assessments, impositions or deductions of any kind and without abatement, deduction or setoff (except as set forth herein), and under no circumstances or conditions, whether now existing or hereafter arising, or whether beyond the present contemplation of the parties, shall Landlord be expected or required to make any payment of any kind whatsoever or be under any other obligation or liability hereunder except as herein otherwise expressly set forth

10 CONSTRUCTION OF PREMISES

(a) Landlord shall perform the work set forth on Exhibit D ("Landlord's Work") in a good and workmanlike manner at Landlord's sole expense, in conformity with all Legal Requirements When Landlord substantially completes Landlord's Work to the extent that Tenant may commence Tenant's Work (as defined in paragraph (b) below), Landlord shall deliver (and Tenant shall accept) possession of the Premises, notwithstanding that Landlord may complete Landlord's Work while Tenant is performing Tenant's Work, provided Landlord's Work does not unreasonably interfere with Tenant's Work Landlord shall also deliver to Tenant all required approvals and "sign offs" regarding Landlord's Work as may be required by such governmental or municipal department having jurisdiction over the performance of Landlord's Work Landlord's Work shall be deemed approved by Tenant in all respects when Tenant opens for business in the Premises, except for any items of Landlord's Work which contain defects of materials or workmanship, and as to which Tenant shall give Landlord written notice within thirty (30) days following the date Tenant opens for business In the event of a dispute as to whether the Premises shall have been substantially or properly completed, the decision of Landlord's architect shall be binding and conclusive on both parties

(b) Except for Landlord's Work and any representations of Landlord contained in Section 2 of this Lease, the Premises shall be delivered to Tenant in "as is" condition and

any other work Tenant desires to do in the Premises ("Tenant's Work") shall be at Tenant's sole cost and expense in conformity with plans and specifications to be approved by Landlord prior to Tenant's commencing any such work Within thirty (30) days after Landlord delivers an executed copy of this Lease to Tenant, Tenant, at Tenant's sole cost and expense, shall deliver to Landlord final and complete plans and specifications for Tenant's Work prepared by an architect licensed in Ohio Said plans and specifications shall incorporate the Shops of Fairlawn Storefront Criteria attached hereto as Exhibit D-1

(c) Landlord shall have the absolute right to approve or disapprove any and all matters contained in the plans and specifications submitted by Tenant Tenant agrees to have the plans and specifications revised (and re-revised, if necessary) within ten (10) days after receiving Landlord's comments

(d) If Tenant shall be delinquent in submitting such plans and specifications (or revisions thereof) for three (3) months or more, Landlord shall have the right to terminate this Lease by giving written notice to Tenant, in addition to any other rights and remedies Landlord may have pursuant to this Lease, at law or in equity

(e) The submission to Landlord by Tenant of plans and specifications (and any revisions thereof) shall constitute a warranty by Tenant that the work provided for therein is in conformity with all Legal Requirements, and provides for construction of a safe facility, and no approval by Landlord of such plans and specifications (or any revisions thereof) shall constitute in any manner a waiver by Landlord of Landlord's right under this warranty Tenant acknowledges and agrees that any review or approval by Landlord of any construction drawings, plans or specifications, and/or any changes thereto, shall not create any liability or responsibility on the part of Landlord for any design contained therein

(f) Tenant's work shall be done in a good and workmanlike manner, using new materials only, employing labor which is compatible with any other labor force then being used in the Shopping Center and in conformity with all Legal Requirements Tenant shall open for business on or before the Fixture Date, subject to Article 42 During the course of Tenant's work, Tenant shall not unreasonably interfere with the use of the Shopping Center by Landlord and/or any tenants thereof Tenant shall indemnify and hold Landlord harmless from and against any and all damages, suites, liabilities, claims, and expenses (including attorney's fees and costs) resulting from performance of Tenant's work

(g) To comply with the regulations of the City of Fairlawn, Landlord has contracted with the city-designated contractor to install within the Premises a multi-zone fire alarm control panel to provide an integrated fire alarm system in which the Premises and all other stores will be monitored by the City of Fairlawn Fire Department in the event of a fire The system will include a signal to the Fire Department identifying the location of the fire as well as the activation of a strobe light and fire horn within the Premises Tenant shall

maintain the system and shall be responsible for the payment of the monthly service charge for such system directly to the city-designated contractor

11 USE - OPERATION

(a) Tenant covenants that the Premises shall be opened for business, kept open for business and used by Tenant and any assignee, subtenant or occupant, continuously during the term of this Lease, for the operation of a furniture store displaying and selling, at retail, furniture, home furnishings and related accessories Tenant agrees that Tenant will not use or permit or suffer the Premises or any part thereof to be used for any other business or purpose than that specifically defined and permitted by this Section or for the sale of any merchandise or the performance of any services other than the merchandise or services expressly described in this Section Tenant acknowledges that the covenant to use the Premises as set forth in this Section is a material inducement for Landlord to enter into this Lease and without such covenant, Landlord would not have entered into this Lease Therefore, Landlord may in Landlord's sole discretion withhold consent to any requested change of the use of the Premises, except as otherwise provided in Section 23 with respect to an assignment or subletting

(b) Except as otherwise provided in Section 23, Tenant and any assignee or sublessee or any other occupant of the Premises shall conduct business in the Premises solely and exclusively under the name of Seaman's Furniture or "Seaman's Kids" without change unless consented to in writing by Landlord

(c) Tenant, at Tenant's sole cost and expense, shall obtain all building permits, use and occupancy permits and licenses required by applicable governmental authorities for any construction or remodeling Tenant shall do in the Premises and for the use of the Premises and the conduct of Tenant's business, and Tenant shall operate its business in accordance with all Legal Requirements Tenant agrees to comply with all Legal Requirements applicable to the Premises Tenant, at Tenant's cost and expense, shall make all installations, replacements, alterations and any and all repairs to the Premises required to comply with such Legal Requirements including, without limitation, replacements, alterations and repairs which relate to fire prevention, detection, control or extinguishment, except that any such structural installations, replacements, alterations and repairs, shall be made by Landlord, at Landlord's expense unless such structural alterations are required because of Tenant's specific use of the Premises Tenant shall obtain Landlord's written approval before commencing structural work

(d) If Tenant fails to open the Premises for business within sixty (60) days following the Fixture Date, subject to Section 42 hereof, Landlord at any time thereafter prior to Tenant's actual opening for business in addition to any other remedies of Landlord

provided herein or by law, may terminate this Lease by notice in writing to Tenant and may relet the Premises and recover from Tenant all damages to which Landlord may be entitled

(e) Daily, except for Saturdays, Sundays and legal holidays, the Premises shall be open for business to the public not later than 10 00 A M (except for periodic "midnight sales") and shall remain open for the conduct of business to the public until at least 9 00 P M In addition, the Premises shall remain open for business to the public on Saturdays at least between 10 00 A M and 6 00 P M , on Sundays at least between noon and 5 00 P M and on such legal holidays and for such hours as may become the standard as established by Landlord, provided that the Premises may be closed for the purpose of making repairs or improvements or during the period of strikes, lockouts, or other causes beyond Tenant's control, so long as Tenant shall make all reasonable efforts to shorten such periods Landlord reserves the right (i) to permit certain tenants to observe different hours of business operation, (ii) to establish the time that the Shopping Center shall close (so long as it shall be open at least during the hours specified above), and (iii) to extend the hours set forth above by giving written notice to Tenant If, and to the extent, Tenant shall remain open for business later than 10 00 P M , Tenant shall bear its equitable share of the cost of lighting that portion of the Common Areas adjacent to the Premises, however, Landlord may in such instance, retain dual control over such lighting

(f) Tenant acknowledges that as a member of the Shopping Center community, Tenant and all other occupants of the Shopping Center are dependent on each other to draw people to the Shopping Center and to create an atmosphere within each store and facility conducive to the fulfillment of the needs and demands of the customers of the Shopping Center Tenant agrees to maintain at all times an adequate number of fully trained employees and to maintain sufficient merchandise and/or to provide the service required pursuant to this Lease to satisfy the demands of Tenant's customers and patrons Tenant recognizes that the Shopping Center, other occupants and Landlord will suffer severe harm if Tenant is not open for business when required under this Lease Therefore, Tenant agrees to continuously operate its business during the days and hours as set forth above except when prevented by strikes, fires, casualty or other causes beyond Tenant's reasonable control Each failure of Tenant to keep the Premises open for business as herein required shall be deemed a breach of this Lease In recognition of the serious consequences of Tenant's failure to remain open for business, in addition to any other rights and remedies Landlord may have for such breach by Tenant Tenant agrees to pay to Landlord (in addition to the Fixed Minimum Rent and all Additional Charges) for each day following the thirtieth (30th) day after the Fixture Date subject to those events referred to in Section 42 that prevent Tenant's timely opening, that Tenant shall not have initially opened for business and for each day thereafter that Tenant shall not be open for business as required under this Lease, a sum equal to fifty percent (50%) of the monthly Fixed Minimum Rent payable by Tenant pursuant to this Lease, divided by thirty (30), it being acknowledged by Landlord and Tenant that Landlord will suffer damages for Tenant's failure to open and operate Tenant's business,

that the actual damages would be difficult to calculate, and that the liquidated damages set forth above represents a fair and reasonable approximation of Landlord's actual damages

(g) Tenant shall not install in the Premises any video, pinball, or similar arcade-type games

(h) Tenant at Tenant's expense shall keep all rubbish, garbage, trash and refuse only within the Premises and only in rat-proof containers which shall be delivered daily to and emptied by Tenant in the dumpster or compactor designated by Landlord for Tenant's use, and Tenant shall clean all areas adjacent to the dumpster or compactor which contain rubbish, garbage, trash and refuse emanating from the Premises, not permit any rubbish, garbage, trash and litter to accumulate outside of the Premises, keep any vestibules or entries to the Premises and the sidewalks and other Common Areas adjacent to the Premises free of all trash, refuse or other articles, not use any objectionable advertising medium such as loudspeakers, phonographs, sound amplifiers, or the reception of radios or television broadcasts within the Shopping Center, place a load upon any floor which exceeds the floor load which the floor was designed to carry, not cause or permit objectionable odors to emanate or to be dispelled from the Premises, keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the Premises, and not operate in or solicit or conduct business in the parking or other Common Areas

(i) Tenant shall not allow any hazardous wastes or hazardous or toxic substances (as defined under any applicable law) to be placed or kept within the Premises (except small amounts of cleaning fluids and similar items used in the ordinary course of Tenant's business provided such items are kept in accordance with all Legal Requirements) or Shopping Center or disposed of through the Shopping Center sewers or in any other manner, unless otherwise approved in advance in writing by Landlord If Tenant breaches the covenants set forth in this Section, Tenant shall indemnify and save Landlord harmless from and against any clean-up costs, remedial or restoration work, 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 space in the Shopping Center, damages due to adverse impact on marketing of space in the Shopping Center, and reasonable attorneys, consultant and expert fees, which arise during or after the term of this Lease, arising out of or in connection with any hazardous wastes or hazardous toxic substances brought to or disposed of in the Premises or the Center by Tenant, its agents, employees or contractors Tenant's obligations under this Paragraph 11(i) shall survive the termination or expiration of this Lease

12 COMMON AREAS

(a) Tenant and Tenant's customers, employees and visitors shall have the right,

in common with all others granted similar rights by Landlord (including, without limitation, any owners and occupants of any lands to be designated by Landlord adjacent to the Shopping Center Site whether or not owned by Landlord), to the nonexclusive use of all Common Areas provided by Landlord from time to time for the Shopping Center

(b) Landlord shall operate, manage, equip, light, repair and maintain the Shopping Center Common Areas in such manner as other comparable centers in the trading area Except in the No-Build Area designated on Exhibit B, Landlord reserves the right in its sole discretion to modify, alter, remove, reduce and redesign the Common Areas, to make changes, additions, alterations and improvements in the Common Areas, to construct or install buildings or other installations in the Common Areas or any portion thereof including the parking areas, and to use the Common Areas for promotional or sales activities, provided that no unreasonable obstruction of Tenant's right of access to the Premises shall be caused by any of the above changes

(c) Notwithstanding any other provision of this Lease, Tenant (not Landlord) shall remove snow and ice from the sidewalks contiguous to the exterior of the Premises and any entranceways or vestibules connected with the Premises, on an as needed basis between Landlord's regular snow removal times

13 UTILITIES

(a) Tenant shall timely pay for all utilities rendered or furnished to the Premises from the date Landlord delivers possession of the Premises to Tenant unless Landlord's trades are still working in the Premises (except to finish punch list items) and continuing throughout the term of this Lease, including water, electricity, sewer charges, electricity, telephone and gas Landlord shall not be liable for any permanent or temporary interruption or termination of utility services nor shall any of Tenant's obligations under this Lease be affected by any such interruption or termination of utility services, provided, however, that if such interruption is caused by the negligence or willful misconduct of Landlord or Landlord's agents and such interruption continues for forty-eight (48) consecutive hours or more, Fixed Minimum Rent and other charges payable hereunder shall abate until such service is restored In the event that water is not metered and charged directly against the Premises, Tenant will pay to the Landlord water and sewer charges at city rates for the amount of water registered during the term of this Lease by the re-registering meter connected with the water pipes supplying the Premises, all water charges resulting from any overhead sprinkling system and any costs incurred by Landlord to read said meters Tenant shall maintain sufficient heat within the Premises at all times to prevent the freezing of pipes and other damage to the Premises

(b) Landlord reserves the right, in Landlord's sole discretion, to alter from time to time the method and/or source of supply of any utility used in the Premises, including, without limitation, the right of Landlord to furnish any such utility If Landlord furnishes

any utility, the cost of such utility to Tenant shall not exceed the cost Tenant would be required to pay if Tenant purchased such utility directly from the utility company Tenant shall pay such utility charges to Landlord within fifteen (15) days following the rendering of an invoice Tenant shall execute and deliver to Landlord such instruments as Landlord deems necessary or desirable to effect such alteration

14 COMPETITION, TENANT'S EXCLUSIVE USE

(a) Tenant agrees that Tenant (or any member of Tenant's family or any parent, subsidiary, affiliate, officer, director or shareholder of Tenant if Tenant be a corporation) will not within a radius of three (3) miles of the perimeter of the Shopping Center either directly or indirectly own, operate or be financially interested in, with or without others, a business like or similar to the business permitted to be conducted pursuant to this Lease, under the name "Seaman's Furniture" or such other tradename as may then be used by Tenant at the Premises, provided that the foregoing restriction shall not apply to a Seamans clearance outlet or Seaman's Kids Landlord shall have the right to an injunction to prevent a violation of this covenant The provisions of this Section shall survive the termination of this Lease or the re-entry into the Premises by Landlord resulting from a breach of this Lease by Tenant provided, however, that Tenant's obligations under this Section shall terminate on the later of the date Tenant shall vacate the Premises or the expiration of the original term and any option periods duly exercised by Tenant

(b) Exclusive Use Landlord agrees that provided, Tenant shall not be in default beyond any applicable notice or grace period, it hereafter shall not lease any space in the Shopping Center Site to any other tenant whose primary use is the sale of indoor furniture of the same or similar type, style, brands and price points being sold by Tenant at the time Landlord desires to lease such space to such other Tenant To the extent Landlord lawfully has the right to withhold consent, it will not consent to any existing tenant (or any assignee) of the Shopping Center Site whose primary use is the sale of indoor furniture of the same or similar type, styles, brands and price points being sold by Tenant at the time Landlord is requested to consent to such use except as set forth on Exhibit G

(c) Pier 1 Exclusive Landlord hereby represents that the lease for the Pier 1 store in the Shopping Center provides that Landlord "shall not operate or lease or permit to be leased or operated any other store located within the Shopping Center for the principal use or purpose of selling or displaying for sale household furniture customarily sold in Tenant's retail stores " The quoted language in the preceding sentence is herein called the "Pier 1 Exclusive " Landlord hereby agrees that so long as Tenant continues not to sell the type of household furniture sold by Pier 1, Landlord shall indemnify, defend and hold Tenant harmless against any claimed violation of the Pier 1 Exclusive

15 RULES AND REGULATIONS

Landlord reserves the right to and Tenant agrees that Landlord may at any time and from time to time for the general welfare of the Shopping Center, the avoidance of nuisance, or the maintenance of a good reputation, safety, order and cleanliness in the Premises and at the Shopping Center, impose reasonable rules and regulations of general application governing the conduct of tenants in the Shopping Center and the use of the Premises or Common Areas Such rules and regulations shall not be enforced against Tenant in a discriminatory manner Tenant agrees to comply with and perform any and all such rules and regulations imposed by Landlord as if they had existed and been attached hereto at the time of execution of this Lease The rules and regulations in force and effect at the time of the execution of this Lease and which may be supplemented or amended by Landlord at any time and from time to time are attached hereto as Exhibit C, marked "Rules and Regulations," and made a part of this Lease as if expressly written herein

16 ALTERATIONS, LIENS, REMOVAL OF IMPROVEMENTS BY TENANT, AND USE OF ROOF BY TENANT

(a) Tenant shall not make any alterations, changes or improvements to the exterior of the Premises, structural or nonstructural, without first obtaining Landlord's prior written consent, which consent may be given or withheld in Landlord's sole discretion Any interior alterations, structural or non-structural, shall require Landlord's prior written consent, which consent shall not be unnecessarily withheld or delayed, except that painting and other minor interior alterations, the cost of which is $50,000 or less may be done without Landlord's consent Tenant upon request of Landlord shall submit to Landlord plans and specifications prepared by a licensed architect showing all of the alterations, changes or improvements Tenant desires to make Tenant shall revise (and re-revise if necessary) said plans and specifications in accordance with Landlord's comments In the event that Landlord shall approve Tenant's request to make alterations, changes or improvements, including, without limitation, any original construction by Tenant, Tenant shall pay all costs and expenses thereof and shall make such alterations, changes and improvements in a good and workmanlike manner, in accordance with all Legal Requirements, and using only labor which is compatible with other labor then being used in the Shopping Center Prior to the making of such alterations, changes and improvements, Tenant shall procure all necessary permits and assure Landlord that payment for the same will be made by Tenant

(b) Any alterations, changes or improvements specified by Landlord within thirty (30) days after Tenant vacates the Premises shall be removed by Tenant within fifteen (15) days after receipt of Landlord's notice, except that Tenant need not remove any such alterations, changes or improvements which were consented by Landlord unless Landlord conditioned such consent on the removal of such items upon vacation of the Premises by Tenant Except as otherwise provided, all signs, furnishings, trade fixtures and equipment installed in or on the Premises by Tenant and paid for by Tenant shall remain the property of Tenant and shall be removed by Tenant upon the termination of this Lease Tenant shall repair any damage caused by such removal, including replacement of fascia materials if

necessary and shall restore the Premises to its condition prior to installation If Tenant shall not have removed all of such property upon the expiration or termination of this Lease, Landlord shall have the right to treat such remaining property as abandoned and keep all or any portion thereof for Landlord's account or dispose of all or any portion of such property, Tenant to reimburse Landlord for the cost of such disposal Notwithstanding the foregoing, all floor and wall coverings, sinks, vanities, light fixtures, and the complete electrical, plumbing, air conditioning and heating systems, including ducts, diffusers, grills, controls and all other equipment and parts related to such systems, shall be and remain in the Premises at all times for the benefit of Landlord

(c) Tenant shall not make or permit any installations through, to or on the roof of the Premises without first obtaining Landlord's prior written consent to the work to be done and the contractor to perform such work, and Landlord shall have the right to require Tenant to use Landlord's roofing contractor in connection with any such work affecting the roof of the Premises In addition, Tenant shall not make any repairs, maintenance or replacements of Tenant's heating, air conditioning, or other equipment on the roof without first obtaining Landlord's prior written approval of the contractor to perform such work, which approval shall not be unreasonably withheld or delayed and subject to Landlord's right to require its roofing contractor to do any work affecting the roof, provided Landlord's roofing contractor's rate is competitive In addition to the foregoing, Tenant agrees that it shall notify Landlord prior to any time Tenant (or its employees, agents or representatives) intends to go upon the roof of the Building and neither Tenant nor any employee, agent or representative of Tenant shall go upon such roof without a representative of Landlord being present, except in an emergency or if Landlord's representative does not show up despite having been notified in advance by Tenant Tenant recognizes that Landlord's roofing warranty may be jeopardized by any other use of the roof by Tenant, its employees, agents or contractors

(d) Tenant shall not do or suffer anything to be done whereby the Premises and/or the Center may be encumbered by any liens of mechanics, laborers, or materialmen, chattel mortgages or any other liens Tenant shall, whenever and as often as any such liens are filed against the Premises and/or the Center purporting to be for labor or material furnished or to be furnished to Tenant, discharge the same of record within thirty (30) days after the date of receipt of notice of filing by payment, bonding or other wise, as provided by law Tenant, upon reasonable notice and request in writing from Landlord, shall also defend for Landlord, at Tenant's sole cost and expense, any action, suit or proceeding which may be brought on or for the enforcement of any such lien and will pay any damages and satisfy and discharge any judgments entered in such action, suit or proceeding and save harmless Landlord from any liability, claim or damages resulting therefrom In default of Tenant procuring the discharge, as aforesaid, of any such lien, Landlord may, without further notice, procure the discharge thereof by bonding or payment or otherwise, and all costs and expenses to which

Landlord may be put in obtaining such discharge shall be paid by Tenant as additional rent within thirty (30) days after notice from Landlord of the amount due

Notwithstanding anything to the contrary contained in Ohio Revised Code Section 1311 10 or in this Lease, Tenant shall not be deemed to be a partner, joint venturer or agent of Landlord, and in no event shall any lien resulting from Tenant's improvements to the Premises encumber Landlord's underlying fee simple estate Tenant agrees that it shall not enter into any contract for any improvements to the Premises unless the following language is included in such contract

> "Notwithstanding anything herein contained to the contrary, the contractor acknowledges that Tenant holds only a leasehold interest in the property which is the subject of this contract Tenant is not the agent or the owner of the property, and no lien resulting from work performed under this contract shall attach to the interest of such owner "

Tenant shall not permit any work to be commenced until such time as Tenant has provided Landlord with a fully executed copy of the construction contract evidencing incorporation of the aforesaid language In addition, prior to the commencement of work, Tenant shall post the following notice in a conspicuous place on the Premises, and shall assure that such notice is maintained throughout the entire course of construction

> "NOTICE TO CONTRACTORS, SUBCONTRACTORS, MATERIALMEN AND LABORERS
>
> Notice is hereby given that work on Seaman's is being performed for Tenant Tenant is not the agent or the owner of this property, and any lien rights shall be limited to the leasehold estate of Tenant and shall in no event attach to the interest of the owner "

17 REPAIRS BY LANDLORD

Except as otherwise provided in this Lease, Landlord will, within a reasonable time after receipt of written notice from Tenant of the necessity of such repair, keep the roof (including the underside thereof), structural portions (including but not limited to load bearing walls, columns and the floor slab, but Landlord shall not be required to repair minor shrinkage cracks in the floor slab unless water is seeping through) and exterior of the Premises in good and tenantable condition and repair during the term of this Lease Except as set forth herein, Landlord shall not be required to make any other improvements or repairs of any kind with respect to the Premises and appurtenances thereto, unless due to Landlord's or its agents' negligence or willful misconduct (subject to Section 20 of this Lease) Notwithstanding the above, Tenant shall pay to Landlord the cost of any repairs

and replacements to any portion of the Premises or the building in which the Premises are located necessitated by reason of (a) the acts, neglect, fault or default of Tenant, or Tenant's agents, employees, invitees, contractors or customers, (b) the operations of Tenant or the storage of Tenant's merchandise within the Premises, (c) structural and exterior work done or installed by Tenant, and (d) Landlord hereby warrants its construction work in the Premises against defects in materials and workmanship for one (1) year following the Fixture Date Landlord will also assign to Tenant any warranties obtained by Landlord which remain in effect following Landlord's one (1) year warranty period Further, and notwithstanding anything in this Lease to the contrary, Tenant shall pay to Landlord the cost of all repairs, alterations and replacements to the property which Landlord is required to maintain which may be required as the result of repairs, alterations, other improvements or installations made by Tenant or the agent of Tenant

18 REPAIRS BY TENANT

Except as provided in Paragraph 17 above, Tenant, at Tenant's expense, shall make all other repairs and replacements to keep and maintain the Premises in good condition and repair, including, but not limited to, the heating, hot water, electrical, air conditioning and other mechanical installations exclusively serving the Premises, whether or not located within the Premises, the plumbing and sewer systems exclusively serving the Premises, the exterior and interior portions of all doors including door checks and hardware, all windows including hardware and other appurtenances, and all other glass, and the ceiling, and Tenant shall promptly replace all broken or cracked glass All items that Tenant shall replace during the term of this Lease shall be new and be of equal or better quality, type and style than the item being replaced Tenant will maintain and keep in good condition and repair the storefront (except exterior walls) and all structural and exterior work done or installed by Tenant Tenant shall not permit any waste, damage or injury to the Premises Tenant shall keep in full force and effect a contract, with a reputable heating contractor approved in advance in writing by Landlord, which approval shall not be unreasonably withheld or delayed, for not less than the semi-annual inspection, maintenance and repair of the air conditioning and heating systems servicing the Premises, including oiling, filter changes, belt repair and/or replacements, refills of freezing compound to the air conditioning, required compliance with any environmental laws, rules, regulations, ordinances with respect to such systems, and similar maintenance and minor repair procedures Upon request, Tenant shall furnish a current copy of said contract to Landlord and shall furnish Landlord with copies of all service reports prepared by such contractor in connection with all service performed on the HVAC system Tenant further agrees to schedule all service calls for the HVAC system with Landlord so that Landlord's representative can be present when any such service work is performed Tenant shall further keep the Premises clean, attractive and free of rubbish, rubble, debris and retain an exterminator as necessary to prevent, insects, rodents and other pests

19 WAIVER OF LIABILITY BY TENANT

Landlord and Landlord's agents and employees shall not be liable for and Tenant waives and releases all claims for damage to person or property, loss of business, loss due to business interruption, loss of income, and any and all other losses or damages sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in or upon the Premises or any other part of the Shopping Center

Said waiver shall include but not be limited to claims resulting from the following whether or not Landlord may have any obligation under this Lease to repair or maintain any of the following (a) any equipment or appurtenances becoming out of repair, (b) injury done or occasioned by wind, (c) any defect in or failure of plumbing, heating, cooling or air conditioning equipment, sprinkler system, electric wiring, gas, pipes and installations, stairs, rails or walks, (d) broken glass, (e) the backing up of any sewer pipe or downspout, (f) the bursting, leaking or running of any pipe, line, tank, water closet, waste pipe, or drain upon or about the Premises, (g) the escape of steam or hot water, (h) water, snow or ice coming through the roof, skylight, trap door, stairs, walks, foundation, exterior walls, or any other place upon or near the Premises, (i) the falling of any fixture, plaster or stucco, and (j) any act, omission or negligence of trespassers, thieves, or covenants or of other persons or occupants of the building, or adjoining or contiguous buildings or of owners of adjacent or contiguous property, unless due to Landlord's or its agents' negligence or willful misconduct, subject to Section 20 below

20 WAIVER OF SUBROGATION

Notwithstanding anything in this Lease to the contrary, Landlord and Tenant agree, provided such agreement does not increase the cost of any policy of insurance or invalidate or prejudice any policy of insurance, in which case the party whose policy will be so invalidated or prejudiced shall notify the other party so that such party can choose an alternative, that, in the event the Premises, any part or parts of the Shopping Center, or the fixtures or merchandise therein, are damaged or destroyed by fire or other casualty that is coverable under or is covered by the insurance of the Landlord or Tenant or the sublessees, assignees or transferees of Tenant, regardless of cause or origin, including negligence, the rights, if any, of Landlord or Tenant or any sublessee of a Tenant against the party causing such damage or destruction or against the employees, agents or licensees of such party, with respect to such damage or destruction and with respect to any loss resulting therefrom, including the interruption of the business, are hereby waived

21 INDEMNIFICATION AND INSURANCE

(a) Tenant will indemnify Landlord and save Landlord harmless from and against any and all claims, actions, damages, liabilities and expenses (including, without limitation, attorneys fees) in connection with loss, damage or injury to persons or property occurring in, on or about, or arising out of the Premises or any loading platforms, or the use or occupancy thereof, or the conduct or operation of Tenant's business, or occasioned wholly or in part by any act or omission of Tenant, Tenant's agents, contractors, customers or

employees Landlord will indemnify Tenant and save Tenant harmless from and against any and all claims, actions, damages, liabilities and expenses (including, without limitation, attorneys fees) in connection with loss, damage or injury to persons or property occurring in, on or about, or arising out of the Common Areas, or the use or occupancy thereof, or occasioned wholly or in part by any act or omission of Landlord, Landlord's agents, contractors, customers or employees

(b) Tenant at all times during the term of this Lease shall, at its own expense, keep in full force and effect commercial general liability insurance, with minimum single limits of THREE MILLION DOLLARS ($3,000,000 00) on account of bodily injuries to, or death of, one or more than one person as the result of any one accident or occurrence and on account of damage to property, which shall be written on an "occurrence" basis Landlord shall have the right to require Tenant to increase its minimum single limits of liability coverage from time to time in accordance with practices of similar shopping centers in the area

(c) If Tenant has any equipment, boilers, or other pressure vessels and systems, Tenant shall maintain boiler insurance on all such equipment, boilers, hot water tanks, and other pressure vessels and systems whether fired or unfired, if any of such equipment shall have been installed in the Premises in amounts not less than FIVE HUNDRED THOUSAND DOLLARS ($500,000 00)

(d) Tenant shall obtain special risk insurance coverage on all personal property, furnishings, equipment, furniture, trade fixtures, floor covering, contents and merchandise in an amount equal to their full replacement cost

(e) During the course of construction of Tenant's work and/or during the course of any other work in connection with any alterations, changes, or other improvements to the Premises, Tenant shall maintain (and shall cause its contractors and subcontractors to maintain) (i) builder's risk insurance (in such amounts as Landlord may require) and (ii) workers' compensation insurance (in such amounts as Landlord may require) covering all persons employed in connection with such work

(f) All of the insurance set forth in Paragraphs (b), (c) and (d) above shall be with companies licensed in Ohio and satisfactory to Landlord and shall provide that said policies shall not be subject to cancellation, termination or change except after at least thirty (30) days prior written notice to Landlord All insurance provided by Tenant as required by Paragraphs (b) and (c) shall name Landlord as an additional insured No insurance policy of Tenant shall have a "deductible" in excess of Twenty-Five Thousand Dollars ($25,000 00) The policy or policies or duly executed certificates for the same, together with satisfactory evidence of the payment of the premium thereof, shall be deposited with Landlord on the date Tenant first enters the Premises to perform work, fixture or otherwise

and upon renewals of such policies not less than ten (10) days prior to the expiration of the term of such coverage If Tenant fails to comply with such requirements, Landlord may, but shall not be obligated to, obtain such insurance and keep the same in effect and Tenant shall pay Landlord the premium cost thereof upon demand

(g) Tenant shall comply with any reasonable rules, orders on directives issued by Landlord's insurance companies or agents and Tenant agrees to pay to Landlord any increase in each of Landlord's insurance policies or in the insurance policies insuring any other tenant in the Shopping Center resulting from Tenant's particular use or occupancy of the Premises

22 SIGNS AND ADVERTISING

(a) Tenant agrees not later than the date upon which Tenant shall open for business to erect an appropriate sign advertising Tenant's business on the portion of the exterior of the Premises designated by Landlord for the placement of Tenant's sign in conformity with Exhibit E of this Lease The size, type, design, wording, appearance and location of all signs shall require Landlord's written approval prior to installation which approval shall not be unreasonably withheld or delayed Tenant shall submit plans of all such signs to Landlord for Landlord's approval within the time periods set forth in Section 10(a) of this Lease for Tenant to submit to Landlord final plans and specifications for the Premises All signs shall comply with Exhibit E and all requirements of appropriate governmental authority and all necessary permits or licenses shall be obtained by Tenant prior to erecting said sign Tenant shall maintain all signs in good condition and repair, and shall save the Landlord harmless from injury to person or property arising from the erection, use, maintenance, or removal of said signs Tenant shall, in addition to any other sign purchase and install an under-canopy identification sign for the exterior of the Premises uniform in size, design and appearance with the signs required by Landlord of other tenants Upon vacation of the Premises, Tenant shall remove all signs and repair any damage caused thereby

(b) No sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted or affixed on any part of the outside of the Premises, or on the building of which the Premises are a part, or on the exterior or interior side of any window or door, or inside the Premises if located within four (4) feet from the outside, nor shall any awning, antenna, satellite dish, or other projecting thing be attached to the roof or outside walls of the Premises or the building of which the Premises are a part, without first obtaining the Landlord's written approval in each instance

(c) Display lights and lighting for Tenant's storefront and exterior sign shall be operated until at least 11 00 p m daily except on Sundays when they may be turned off at 5 00 p m

(d) All of Tenant's local advertising and promotional activities in any form of medium which includes the address of any of Tenant's or its affiliates' businesses shall include the name of the Shopping Center, now THE SHOPS OF FAIRLAWN SHOPPING CENTER, and its address Landlord reserves the right to change the name of the Shopping Center from time to time

(e) If at any time during the term of this Lease or any extension thereof, Landlord installs a pylon sign or signs for the Shopping Center which pylon sign will include the names of any tenants of the Shopping Center and provided Tenant is not then in default under any of the terms, covenants or conditions of this Lease and is operating its business in the entire first floor of the Premises, Tenant shall be entitled to one of the top panels on said pylon sign(s), subject to the terms of any existing leases in the Shopping Center

23 ASSIGNMENT AND SUBLETTING

(a) This Lease shall not be assigned, mortgaged, pledged, encumbered or in any other manner transferred by the Tenant, voluntarily or involuntarily, by operation of law or otherwise, nor shall the Premises or any part thereof be sublet, licensed, granted to a concessionaire or used or occupied by anyone other than Tenant without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld or delayed In no event shall Tenant have the right to assign this Lease and/or sublease all or any portion of the Premises at any time Tenant is in default under this Lease Notwithstanding anything herein to the contrary, the merger or consolidation by Tenant with an affiliate of Tenant shall not constitute an assignment for purposes of this Section 23 As used herein an "affiliate" shall mean any person or entity controlling, controlled by or under common control with Tenant For purposes of this Section 23, Landlord shall be deemed to have reasonably withheld consent to any proposed assignment or sublease if (i) the proposed assignment or sublease would require a subdivision of the Premises, (ii) the Premises will be used for any purpose other than a lawful retail use, (iii) the Premises would be used for any purpose in violation of any exclusive or other restriction granted to any existing or future tenant or occupant of the Center, or for any purpose which would duplicate or conflict with any then existing use by any other Tenant or occupant of the Center, or for any purpose in violation of Exhibit G attached hereto, (iv) the retail experience and business reputation of the proposed assignee or subtenant shall not be acceptable to Landlord in its reasonable discretion, or (v) the creditworthiness of the proposed assignee or subtenant shall not be acceptable to Landlord in its sole discretion Notwithstanding the specific criteria set forth in (i) through (v) of the immediately preceding sentence, Landlord shall have the right to consider any other factors or circumstances with respect to Landlord's decision to consent, or to not consent to, any proposed assignment or subletting pursuant to this Section 24, and the absence of any or all of the factors set forth in (i) through (v) of the immediately preceding sentence shall not cause Landlord's refusal to consent to any proposed assignment or sublease to be deemed unreasonable if Landlord's refusal to consent to such assignment or sublease is otherwise reasonable under the particular circumstances

(b) A change in the control of Tenant or any guarantor of this Lease whose stock is not publicly traded, whether said change of control shall consist of the transfer of stock or any agreement creating a right in anyone other than the original shareholders of said Tenant to conduct Tenant's business or to control any such guarantor, shall be deemed to be an assignment of this Lease for all purposes of this Lease, but Landlord's consent to such change in control shall not be required

(c) If Tenant is associated with or is part of a franchise, chain or multi-store operation at the time of the execution of this Lease, or if the operation of Tenant within the Premises is part of a chain or multi-store operation, then whether or not Tenant is a separate legal entity, Tenant shall remain a part of said franchise, chain or multi-store operation and the Premises shall continue to be operated as an integral part of Tenant's franchise, chain or multi-store operation Any action whether by sale of corporate stock or otherwise which would sever Tenant's business operation from said franchise, chain or multi-store operation shall be deemed to be an assignment of this Lease for all purposes of this Lease, provided, however, that Landlord's consent shall not be required for any such action which would sever all of Tenant's Ohio stores from the remainder of Tenant's business

(d) If at any time during the term of this Lease Tenant shall request Landlord's consent to assign this Lease or to sublet all or substantially all of the Premises, Tenant shall include with such requests the name and business experience of the proposed assignee or sublessee, complete financial statements of said assignee or sublessee, and the rent and other terms of the proposed assignment or subletting Landlord shall have the right in lieu of either granting such consent or denying the same, to terminate this Lease on the effective date of such proposed assignment or subletting by delivering written notice to Tenant, provided, however, that Tenant shall have the right to void such termination by withdrawing its request to assign or sublet within fifteen (15) days following the receipt of Landlord's notice of termination in which case this Lease shall remain in full force and effect Landlord shall have the right at any time to deal directly with Tenant's proposed assignee or sublessee

(e) If Landlord permits the assignment of this Lease or the subletting of all or substantially all of the Premises (hereinafter a "Qualified Transaction") as a condition of, and in consideration of Landlord's consent to the Qualified Transaction, if Landlord so elects to consent, Tenant shall pay to Landlord, as additional rent under this Lease, as and when Tenant receives the amounts due or payable from its obligor, fifty percent (50%) of any and all profit ("Tenant's Profit") realized by Tenant as a result of such Qualified Transaction Tenants Profit shall be calculated by determining the gross economic consideration ("Consideration") received by Tenant which is reasonably attributed to the then fair rental value of the Premises, subtracting the following amounts (i) the total sums which Tenant is obligated to pay Landlord under this Lease (prorated to reflect obligations allocable to that portion of the Premises subject to such Qualified Transaction) and (ii) the total of Tenant's actual direct costs incurred in connection with the Qualified Transaction

(including but not limited to broker's commissions and marketing costs, leasehold improvement costs and assumed lease obligation costs)

Consideration shall include, by way of example and not limitation, any rent payable under a sublease, any fee payable on an assignment and any sums paid to Tenant for the sale or rental of Tenant's fixtures and leasehold improvements in excess of Tenant's depreciated or amortized cost Tenant shall furnish Landlord with a sworn statement, certified by Tenant's chief financial officer, setting forth in detail the computation of Tenant's Profit (which computation shall be based upon generally accepted accounting principles), and Landlord and its representatives shall have the right to audit and have assess to the books, records and papers of Tenant in relation thereto, and the right to make copies thereof Landlord's percentage of Tenant's Profit shall be paid to Landlord as additional rent promptly upon Tenant's receipt from time-to-time of periodic payments from such assignee or subtenant or at such other time as Tenant shall realize the payments from such assignment or sublease

(f) If Tenant shall at any time during the term of this Lease sublet all or any part of said Premises or assign this Lease, Tenant shall nevertheless remain fully and primarily liable under all of the terms, covenants, and conditions of this Lease, which liability of Tenant shall remain in effect as to any amendment, renewal or extension of this Lease, to all of which Tenant hereby consents in advance, but in no event shall Tenant's liability extend beyond the original term and any renewal options set forth herein and Tenant will not be bound by any amendment to this Lease made without Tenant's consent to the extent such amendment increases Tenant's obligations hereunder If this Lease is assigned, or if the Premises or any part thereof are subleased or occupied by anybody other than Tenant, Landlord may collect from the assignee, sublessee or occupant any rent or other charges payable by Tenant under this Lease and apply the amount collected to the rent and other charges herein reserved, but such collection by Landlord shall not be deemed an acceptance of the assignee, sublessee or occupant as a tenant nor a release of Tenant from the performance by Tenant under this Lease

(g) Notwithstanding Landlord's consent to any assignment or subletting, any subsequent assignment or subletting shall require Landlord's prior written consent as set forth in this Section 23

24 DAMAGE OR DESTRUCTION

(a) If (i) either the Premises or buildings (taken in aggregate) on the Shopping Center Site shall be damaged to the extent of more than fifty percent (50%) of the cost of replacement thereof, respectively, or (ii) the proceeds of Landlord's insurance paid to Landlord as a result of the damage shall be insufficient to pay fully for the cost of replacement of the Premises and the buildings in which they are located, or (iii) the Premises or said buildings shall be damaged as a result of a risk which is not covered by Landlord's insurance, or (iv) the Premises shall be damaged in whole or in part during the last two (2) years of the Lease term or of any renewal term hereof and Tenant does not exercise any option to extend the Term, or (v) the building of which the Premises are a part shall be damaged to the extent of fifty percent (50%) or more of the cost of replacement thereof, whether

or not the Premises shall be damaged, or (vi) Landlord's mortgagee elects to require Landlord to make advanced payments upon or full payment of the outstanding mortgage indebtedness for the Center from the proceeds recoverable under Landlord's insurance policies with respect to such damage, provided, however, this Lease shall be reinstated in the event Landlord within two (2) years rebuilds the Shopping Center Site in substantially the same size, then in any such event Landlord may terminate this Lease by notice given within ninety (90) days after such event and upon the date specified in such notice, which shall not be less than thirty (30) days nor more than sixty (60) days after the giving of said notice, this Lease shall terminate and come to an end, and Tenant shall vacate and surrender the Premises to Landlord Landlord shall make such election to terminate within ninety (90) days following the date of casualty If the casualty, repairing or rebuilding shall render the Premises untenantable, in whole or in part, a proportionate abatement of the Fixed Minimum Rent and all Additional Charges shall be allowed from the date when the damage occurred until completion of the repairs or rebuilding or, in the event Landlord elects to terminate this Lease, until said date of termination Said proportion shall be computed on the basis of the ratio which the amount of floor space rendered untenantable bears to the total floor space of the Premises

(b) If this Lease shall not be terminated as provided in Paragraph 24(a) above, Landlord, at Landlord's expense, shall, following the receipt of the insurance proceeds, proceed with the repair or restoration of the Premises (including all improvements and betterments and leasehold improvements (except floor covering) whether made or paid for by Landlord or Tenant) to place the damaged Premises (including improvements and betterments and leasehold improvements) in substantially the same condition they were in immediately preceding the damage or destruction Landlord shall prosecute all such work diligently to completion and finish within twelve (12) months following receipt of proceeds At the completion of Landlord's work, Tenant shall promptly replace Tenant's stock-in-trade, trade fixtures, floor covering, equipment and furnishings and, if Tenant is not open for business, reopen for business

(c) Notwithstanding anything herein to the contrary, Tenant shall have the right to terminate this Lease by written notice to Landlord if (i) Landlord fails to notify Tenant within ninety (90) days following the date of casualty of its intent to rebuild, or (ii) Landlord fails to complete restoration within twelve (12) months following receipt of proceeds, subject to Section 42 hereof, and provided that Landlord shall have the right to void Tenant's notice of termination under this subparagraph (ii) if Landlord completes restoration within sixty (60) days following receipt of Tenant's notice, in which case this Lease shall remain in full force and effect Tenant shall also have the right to terminate this Lease for any reason if Landlord fails to compete restoration within two (2) years following the date of casualty

25 EMINENT DOMAIN

(a) In the event that the Premises, the Shopping Center or any part thereof shall at any time after the execution of this Lease be taken for public or quasi-public use or condemned under eminent domain or conveyed under threat of such a taking or condemnation, Tenant shall not be entitled to claim, or have paid to Tenant any compensation or damages whatsoever for or on account of any loss, injury, damage, taking or conveyance of any right, interest or estate of Tenant and the

Tenant hereby relinquishes and hereby assigns to Landlord any rights to any such damages Landlord shall be entitled to claim and have paid to it for the use and benefit of Landlord all compensation and damages for and on account of or arising out of such taking, condemnation or conveyance without deduction from the amount thereof for or on account of any right, title, interest or estate of Tenant in or to said property Tenant upon request of Landlord will execute any and all releases, transfers or other documents as shall be required by such public or quasi-public authority to effect and give further evidence and assurances of the foregoing

(b) In case of any taking, condemnation or conveyance referred to in this paragraph, then (i) if and when there is an actual taking or conveyance of physical possession of more than fifteen percent (15%) of the Premises or any material part of the Shopping Center, or (ii) if Landlord's mortgagee elects to require Landlord to make advance payments upon or full payment of the outstanding mortgage indebtedness with respect to the Center from the proceeds receivable by Landlord as a result of such taking, condemnation, or conveyance, provided, however, this Lease shall be reinstated in the event Landlord within two (2) years rebuilds the Shopping Center Site in substantially the same size, then Landlord may cancel and terminate this Lease by giving notice to Tenant within ten (10) days after such an actual taking or conveyance of physical possession In the event of a taking of the type referred to in (i) above or a taking of so much of the Premises as Tenant, in its reasonable business judgment, will be unable to operate its business in the remainder of the Premises, Tenant shall have the right to terminate this Lease by giving notice to Landlord within ten (10) days after an actual taking or conveyance of physical possession If this Lease is not terminated following any of said actual takings or conveyances of any part of the Premises, then Landlord shall at Landlord's own expense, but only to the extent of an equitable proportion of the award (after payment of all of Landlord's costs and expenses (including attorney's fees) with respect to such taking, condemnation or conveyance), for the portion of the Premises taken (excluding any award of land), make such repairs to the Premises as are necessary to constitute a complete architectural and tenantable unit In the event of a partial taking or conveyance of the Premises a proportionate allowance shall be made in the Fixed Minimum Rent based on the proportion of the Premises remaining as compared to the original Premises

26 LANDLORD'S REMEDIES UPON DEFAULT

(a) If (i) Tenant shall at any time be in default in the payment of rent or other sums of money required to be paid by Tenant, or in the performance of any of the covenants, terms, conditions, provisions, rules and regulations of this Lease, and Tenant shall fail to remedy such default within seven (7) days after the receipt of notice thereof by Tenant from Landlord, in the event the default is as to payment of rent or other sums of money or within twenty (20) days after the giving of notice thereof by Landlord, if the default relates to matters other than the payment of rent and other sums of money (but Tenant shall not be deemed to be in default if Tenant commences to remedy said defaults other than related to the payment of rent and other sums of money within said twenty (20) day period and proceeds thereafter with due diligence), or (ii) Tenant shall commit waste, or Tenant or any guarantor of this Lease shall assign this Lease or sublet the Premises except as expressly

permitted by this Lease (including, without limitation, a change of control of Tenant or a guarantor of this Lease or a failure to remain a part of a chain, franchise or multi-store operation in violation of Section 23(b) and (c)), or Tenant shall vacate the Premises or fail to continuously occupy and conduct Tenant's business in the Premises, or Tenant or any guarantor of this Lease or any assignee or sublessee of the entire Premises shall file or have filed against it a petition for adjudication as a bankrupt, reorganization, an arrangement, or for any other debtor or capital structure relief under any existing or future Bankruptcy Code as same may be amended, supplemented or replaced, or make an assignment for the benefit of creditors, or a receiver of any property of Tenant be appointed in any action, suit or proceeding by or against Tenant or if the interest of Tenant in the Premises and not discharged within forty-five (45) days or in any assets or property of Tenant shall be offered for sale or sold under execution or other legal process [it being understood that no notice of default shall be required to be given for an event described in this Item (ii)], Landlord in addition to all other remedies given to Landlord in law or in equity may terminate this Lease, or without terminating this Lease terminate Tenant's right of possession, and in either event Landlord may re-enter the Premises by summary proceedings or otherwise and dispossess the Tenant

(b) Tenant agrees to be liable for and to pay to Landlord (i) all rent and other charges and sums due under this Lease at the time of termination of this Lease or termination of Tenant's right of possession, as the case may be, and (ii) damages equal to the rent and all other charges and sums due under this Lease for the entire term, which liability shall survive the termination of this Lease, the re-entry into the Premises by Landlord, and the commencement of any action to secure possession of the Premises Landlord shall have the right to maintain a single action against Tenant for recovery as they come due of all damages including, without limitation, amounts equal to the rents and other charges and sums payable under this Lease so that such court shall retain jurisdiction for a period equal to the remainder of the term of this Lease if this Lease would not have been terminated Such court shall obtain judgments for such rents and other amounts due as and when said rents and other charges and sums are payable under this Lease, and Landlord shall not be required to file separate monthly actions or legal proceedings or to wait until this Lease would have expired In addition, at Landlord's election, Landlord shall have the right to obtain a judgment for the total of all of the rents and other charges and sums due to Landlord at the time of the termination of this Lease or Tenant's right of possession, plus an amount equal to all rents and other charges due under this Lease for the remainder of the term hereof, minus the fair rental value of the Premises at the time such judgment is obtained, discounted to present value at ten percent (10%) If Landlord shall have leased the Premises to another tenant, then the rental payable by that tenant shall be deemed to be the fair rental value of the Premises for this purpose Landlord shall use reasonable efforts to mitigate damages

(c) Landlord's damages in the event of Tenant's default under this Lease shall include, in addition to any other damages set forth in this Lease or permitted at law or in equity, all of Landlord's expenses incurred with respect to such default including, without limitation, attorneys' fees, commissions, rental concessions to new tenants, and the cost of any repairs, renovations or alterations of the Premises

(d) If this Lease be terminated for any reason whatsoever or if Landlord should re-enter the Premises as a result of any breach of Tenant hereunder without terminating the Lease, Tenant covenants any other covenant herein to the contrary notwithstanding (except where this Lease is terminated following eminent domain proceedings or casualty) that (i) the Premises shall then be in the condition required by all applicable provisions of this Lease, and (ii) Tenant shall perform any covenant contained in this Lease or the making of any repair, improvement, alteration or betterment to the Premises or for restoring or rebuilding any part thereof For the breach of either of the foregoing obligations Landlord shall be entitled to recover and Tenant shall pay forthwith, without notice or other action by Landlord, the then cost of performing such obligation(s)

(e) If the obligation to pay Fixed Minimum Rent and/or Additional Charges has not commenced prior to the termination of this Lease as a result of Tenant's default, whether or not possession of the Premises has been delivered to Tenant, Landlord shall have the right to determine the date that such obligations would most likely have commenced if Tenant had not defaulted, and the date so determined by Landlord shall be used in the calculation of damages payable by Tenant to Landlord as a result of such default

(f) In the event Landlord obtains possession of the Premises, Landlord may, without being obligated so to do, relet the whole or any portion of the Premises, or the whole or any portion thereof with additional space, for any period equal to, greater than or less than the remainder of the term of this Lease, for any sum (including any rental concessions and rent-free occupancy) which it may deem reasonable, to any tenant which it may deem suitable and satisfactory, and for any use and purpose which it may deem appropriate Landlord shall use reasonable efforts to mitigate damages In the event of any releting, Landlord may apply the rent therefrom first to the payment of Landlord's expenses, including attorneys' fees incurred by reason of Tenant's default, commissions and the repair, renovation or alteration of the Premises and then to any other damages Landlord is entitled to including, without limitation, amounts equal to the rent and all other sums due from Tenant hereunder, Tenant remaining liable for any deficiency In no event shall Tenant be entitled to any payment or credit if any subsequent tenant pays rent and other charges in excess of those required to be paid under this Lease

(g) No surrender of the Premises shall be effected by Landlord's acceptance of the keys of the Premises, or by any other means whatsoever, unless the same is evidenced by Landlord's written agreement to accept surrender of the Premises, and if Landlord does accept surrender of the Premises, Tenant's obligations to pay rents and to perform the duties and provisions of this Lease required of Tenant hereunder shall not be released or terminated but shall continue for the remainder of the term of this Lease

(h) Any obligation imposed by law upon Landlord to relet the Premises shall be subject to the right of Landlord to develop and maintain the "tenant mix" Landlord determines, in Landlord's reasonable discretion, to be appropriate for the Shopping Center, and the failure of Landlord to relet, or if relet, to collect the rent under such releting, shall not release or affect Tenant's liability for

damages hereunder In any event, if the Premises and other stores in the Shopping Center are vacant, Landlord shall not be required to show or lease the Premises to the exclusion of other stores in the Shopping Center, but this shall not be deemed to affect Landlord's duty to mitigate damages

(i) In the event of a default or threatened default by Tenant of any of the terms, provisions, covenants, conditions, rules and regulations of this Lease, Landlord shall have the right to injunction and the right to invoke any remedy permitted to Landlord in law or in equity

(j) All remedies available to Landlord under this Lease are declared to be cumulative and concurrent and may be exercised at one time or at separate times No termination of this Lease nor any taking or recovering of possession of the Premises shall deprive Landlord of any of its remedies or actions against Tenant for all damages resulting from Tenant's default

(k) Landlord and Tenant shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters not relating to personal injury or property damage but otherwise arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises and any statutory remedy Tenant further agrees that it shall not interpose any counterclaim or counterclaims in a summary proceeding for possession, restitution or dispossession of the Premises, except compulsory counterclaims

27 HOLDOVER BY TENANT

If Tenant remains in possession of the Premises after the expiration of the tenancy created hereunder and without the execution of a new lease, Tenant shall be deemed to be occupying the Premises as a tenant from month to month and subject to all of the rents and provisions of this Lease in effect on the day before the expiration of the tenancy, except those relating to term and except that the Fixed Minimum Rent shall be one hundred fifty percent (150%) the amount payable during the last month of the Lease term, without prejudice to any damages or other rights Landlord may have against Tenant for Tenant's failure to vacate the Premises on the date required hereunder Said month-to-month tenancy may be terminated by Landlord or Tenant by giving written notice to the other, in which event this Lease shall terminate on the last day of the calendar month next following the month in which such notice was received, except that neither Landlord nor Tenant shall be required to give notice with respect to vacation of the Premises at the end of the term or upon the earlier termination of this Lease

28 RIGHTS OF LANDLORD AND TENANT

(a) Landlord and Landlord's agents shall have the right to (i) show the Premises

to prospective purchasers, mortgagees and lessees upon reasonable oral notice, (ii) go upon and inspect the Premises and every part thereof upon reasonable oral notice, (iii) at Landlord's option cure

Tenant's defaults and/or make emergency repairs or to make other repairs which are the obligation of Tenant hereunder if Tenant fails to make such repairs and (iv) make repairs, alterations and additions to the Premises or the building of which the Premises are a part, provided Landlord shall not unreasonably interfere with the conduct of Landlord's business

(b) If Landlord shall make any payments on behalf of Tenant or otherwise cure any default of Tenant, or if Landlord shall make repairs to the Premises which are Tenant's obligation under this Lease (whether or not an emergency situation exists) then any amounts so paid or incurred by Landlord are agreed and declared to be "additional rent" and shall be due and payable to Landlord from Tenant upon submission to Tenant of an invoice, bill or statement therefor

(c) If Tenant gives Landlord notice of any repairs needed to the Premises, Landlord shall commence to effect the same with reasonable diligence but in no event later than twenty (20) days after having received notice In the event of an "emergency" (as hereinafter defined), Tenant shall notify Landlord and if repairs are not undertaken promptly by Landlord and completed in a timely manner so as to eliminate such emergency, Tenant may make immediate repairs of such nature as would normally be Landlord's responsibility and notify Landlord promptly after such repairs have been undertaken, provided, however, that in no event may Tenant make or attempt to make any repairs to any portion of the Shopping Center outside of Tenant's Premises If Landlord fails to repair or maintain or to commence to repair or maintain the Premises within the twenty (20) day period imposed herein, Tenant may, but shall have no obligation to perform the repairs or maintenance itself, provided, however, that in no event may Tenant make or attempt to make any repairs to any portion of the Shopping Center outside of Tenant's Premises If Landlord fails to reimburse Tenant for the reasonable cost of such repairs within thirty (30) days after receipt of Tenant's invoice therefor, Tenant may deduct such cost from the next payment of Fixed Minimum Rent or additional charges hereunder The term "emergency" means those situations which, in Tenant's good faith judgment represent a threat to the life, health, safety, or property of Tenant's employees or invitees of such significance that immediate steps are necessary to remove the threat

29 SUBORDINATION, ATTORNMENT

(a) Landlord reserves the right to demand and obtain from Tenant, and Tenant shall deliver to Landlord within five (5) days after receipt of such demand, a waiver of priority or subordination of this Lease, in recordable form, subordinating Tenant's Lease in favor of any mortgages, refinancings, replacements, renewals, modifications, extensions or consolidations placed upon the Premises from time to time by the Landlord, provided that Landlord shall procure from any mortgagees an agreement providing in substance that so long as Tenant shall faithfully discharge the obligations on its part to be kept and performed under the terms of this Lease, Tenant's tenancy will not be disturbed by any default under such mortgage, and Tenant agrees that this Lease shall remain in full force and effect even though default in the mortgage may occur Tenant agrees to attorn to any mortgagee or purchaser in a foreclosure sale as Landlord under this Lease Landlord shall deliver a non-disturbance agreement from its existing mortgagee within thirty (30) days after the date this

Lease is fully executed by Landlord and Tenant If Landlord shall fail to deliver such non-disturbance agreement within said thirty (30) days period, Tenant may terminate this Lease by written notice to Landlord, provided, however, that if Landlord delivers such non-disturbance agreement within thirty (30) days after receipt of Tenant's notice of termination, said termination notice shall be void and this Lease shall remain in full force and effect

(b) Tenant covenants and agrees that Tenant shall within five (5) days after Landlord's request execute in recordable form and deliver to Landlord whatever instruments may be required to acknowledge and further evidence the subordination of Tenant's Lease and/or the attornment by Tenant to such mortgagee or purchaser If Tenant within ten (10) business days after submission of any such instrument fails to execute the same, Landlord is hereby authorized to execute the same as attorney-in-fact for Tenant

(c) Any mortgagee of all or any part of the Shopping Center Site may at any time elect to have this Lease have priority over its mortgage, by executing unilaterally an instrument subordinating its mortgage to this Lease, or placing a clause of such subordination in its mortgage and recording the same or in any pleadings filed by such mortgagee, in which events this Lease shall have priority over said mortgage

30 SHOPPING CENTER EASEMENTS AND RESTRICTIONS

Tenant covenants to comply with all easements, agreements, covenants and restrictions pertaining to the Shopping Center Site including, without limitation those set forth in Exhibit G Landlord is leasing the Premises to Tenant free and clear of all easements, covenants, restrictions, and agreements between or among the various owners of the fee or any leasehold interest in the fee of the Shopping Center Site and/or between or among the owners of leasehold interests in the fee of lands adjoining the Shopping Center Site, affecting the Shopping Center, except for those easements, covenants, restrictions and agreements of record and those set forth in Exhibit G and such other subsequent easements, covenants, and agreements affecting the Shopping Center which do not materially adversely affect Tenant's use or operation of the Premises Tenant acknowledges the restrictions set forth on Exhibit G of this Lease and hereby further acknowledges, covenants and agrees that notwithstanding anything contained herein to the contrary, in no event shall Tenant (or any successor or assign) violate any such restrictions Landlord represents it is the fee owner of the Shopping Center Site

31 NO WAIVER

No waiver of any of the terms, covenants, provisions, conditions, rules and regulations required under this Lease and no waiver of any legal or equitable relief or remedy of either party against the other shall be implied by the failure of such party to assert any rights or for any other reason, unless said waiver shall be in writing signed by such party No waiver by Landlord or forgiveness of performance by Landlord in respect to one or more tenants of the Shopping Center constitutes a waiver or forgiveness of performance in favor of Tenant herein, or any other tenants The forgiveness of performance of any one or more of the terms, provisions, conditions, rules and regulations of this Lease

shall not be claimed or pleaded by a party to excuse a subsequent failure of performance of such party of any of the terms, provisions, conditions, covenants, rules and regulations of this Lease

32 VACATION OF PREMISES

Tenant shall deliver up and surrender to Landlord possession of the Premises, including all Tenant's work (and all replacements thereof), all fixtures permanently attached to the Premises during the term (except such fixtures and improvements as Landlord shall direct Tenant to remove) and all property required to be left in the Premises pursuant to this Lease upon the expiration of this Lease or its termination in any way, in the same condition as the Premises shall be when Tenant opens for business (ordinary wear and tear, casualty and condemnation only excepted) and Tenant shall deliver the keys at the office of Landlord or Landlord's agent

33 SHORT FORM LEASE

This Lease shall not be recorded, but a Memorandum of Lease describing the property herein demised, giving the term of this Lease and renewal rights, if any, and referring to this Lease, may be recorded by either party All governmental charges attributable to the execution or recording of this Lease shall be charged to and be paid by the party recording the Memorandum of Lease

34 RENT DEMAND, ACCORD AND SATISFACTION, BAD CHECKS

(a) After the service of any notice, the commencement of any suit, or the rendering of a final judgment therein, Landlord may receive and collect any rent due and such collection or receipt shall not operate as a waiver of nor affect or prejudice any such notice, suit or judgment

(b) No payment by Tenant or receipt by Landlord of a lesser amount than the rental herein stipulated shall be deemed to be other than on account of the earliest stipulated rent nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy provided for in this Lease or available at law or in equity

(c) In the event that any of Tenant's checks payable to Landlord or Landlord's agent shall be returned for insufficient funds, Landlord shall have the right to demand from Tenant that all future rent payments be made by certified or bank check or money order, and Landlord shall not be required to accept any check from Tenant which does not so conform

35 NOTICES

Any notice or consents required to be given by or on behalf of either party upon the other shall be in writing and shall be given by mailing such notices or consents by registered or certified mail addressed to the Landlord c/o Robert L Stark Enterprises, Inc , Three Commerce Park Square, 23230

Chagrin Boulevard, Suite 330, Beachwood, Ohio 44122, with a copy to Robert A Fuerst, Kohrman Jackson & Krantz P L L , 1375 East Ninth Street, One Cleveland Center, 20th Floor, Cleveland, Ohio 44114, and to the Tenant at Seaman Furniture Company, Inc , 300 Crossways Park Drive, Woodbury, New York 11797, with a copy to Robert Webber, General Counsel, Seaman Furniture Company, Inc , 300 Crossways Park Drive, Woodbury, New York 11797, or at such other address as may be specified from time to time, in writing, delivered to the other party provided, however that from and after the Commencement Date of the term of this Lease notice to Tenant delivered to the Premises shall be deemed to be sufficient for all purposes of notice required by this Lease Notice shall be deemed received on the date of delivery as set forth in the return receipt card, the date that such notice shall be rejected if rejected by the addressee, or the date of first attempted delivery of such notice, whichever shall be the first to occur

36 APPLICABLE LAW AND CONSTRUCTION

The laws of the State of Ohio shall govern the validity, performance and enforcement of this Lease Any provision of this Lease which is contrary to a law which the parties cannot legally waive or contract against (such, for example, as antitrust laws) is and shall be void and not binding on either party hereto, provided, however, that the invalidity or unenforceability of any provision of this Lease shall not affect or impair the Lease or any other provision The submission of this document for examination does not constitute an offer to lease, or a reservation of or option for the Premises, and becomes effective only upon execution and delivery thereof by Landlord and Tenant, which is to be within seven (7) business days after Tenant delivers a properly executed copy of this Lease to Landlord All negotiations, considerations, representations and understandings between the parties are incorporated herein and may be modified or altered only by agreement in writing between the parties, and this Lease supersedes any prior agreements or understandings between the parties Any previous agreements, understanding, warranties or representations made by a party or the agents, employees or contractors of such party shall not be binding on such party unless expressly set forth in this Lease Tenant agrees to keep all terms and conditions set forth herein confidential and Tenant shall not disclose any such terms without the express written consent of Landlord Landlord makes no representations or warranties as to any other tenants or occupants of the Shopping Center which may be contemplated by Tenant The headings of the several paragraphs contained herein are for convenience only and do not define, limit or construe the contents of such paragraphs This Lease has been negotiated by Landlord and Tenant and the Lease, together with all of the terms and provisions hereof, shall not be deemed to have been prepared by either Landlord or Tenant but by both equally Notwithstanding the termination of this Lease for any reason whatsoever, including, without limitation, as the result of the mutual agreement of the parties or the default by Tenant, the provisions relating to the indemnity by each party to the other and the covenants regarding liability insurance shall survive such termination Time is declared to be of the essence in all provisions of this Lease If this Lease is executed by more than one person or entity as "Tenant," each such person or entity executing this Lease as Tenant shall be jointly and severally bound and liable hereunder Notwithstanding the Commencement Date of this Lease, Tenant shall comply with all of the obligations and duties of Tenant hereunder upon delivery of possession of the Premises to Tenant,

except for the payment of rent and other sums which shall be due and payable at the times set forth in this Lease

37 TRANSFER OF LANDLORD'S INTEREST, LIABILITY OF LANDLORD

(a) If Landlord should sell or otherwise transfer Landlord's interest in the Premises, Tenant agrees that Landlord shall thereafter have no liability to Tenant under this Lease or any modification or amendment thereof or extensions or renewals thereof, except for such liabilities which might have accrued prior to the date of such sale or transfer of Landlord's interest The Landlord shall be liable under this Lease only while owner of the Premises

(b) If Landlord shall fail to perform any covenant, term or condition of this Lease upon Landlord's part to be performed or if Landlord shall be liable to Tenant in any way arising out of this Lease, or pursuant to statute, law, ordinance or regulation, or under the common law, and, as a consequence, if Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the proceeds received at a judicial sale upon execution and levy against the right, title and interest of Landlord in the Shopping Center Site If Landlord is an individual, corporation, a trustee of a trust or a partnership (general or limited), there shall be no personal liability on the part of the individual, corporation, the trustees of said trust, the beneficiaries of said trust, the partnership, or the partners of the partnership, and any such liability shall be limited to the interest of the Landlord in the Shopping Center Site

38 NO PARTNERSHIP

Landlord is not and shall not become by this Lease or by any rights granted or reserved herein a partner or joint venturer of or with Tenant in the conduct of Tenant's business or otherwise

39 MORTGAGE FINANCING

(a) Tenant will cooperate with Landlord so that Landlord will be able to sell, transfer or lease the Shopping Center or to procure mortgage financing for the Shopping Center Within ten (10) days after request by Landlord Tenant agrees to execute and deliver to Landlord estoppel or offset letters as required by Landlord or by Landlord's mortgage lenders, instruments modifying provisions of this I ease as reasonably required by Landlord's mortgage lenders (which modifications shall not materially affect Tenant's obligations under this Lease) and applications for any lease guarantee insurance Landlord may wish to acquire for this Lease The estoppel letters shall certify the date of this Lease and any amendments, that Landlord is not in default of any of the terms and provisions of this Lease or specifying the provisions as to which Landlord is in default if Landlord shall be in default, that Landlord has performed all inducements required of Landlord in connection with this Lease including any construction obligations, or specifying any inducements which have not been

fulfilled by Landlord, the date to which rent has been paid, and any other matters which Landlord or its proposed lenders may reasonably require

(b) Tenant also agrees to deliver to Landlord, within ten (10) days after Landlord's request, a correct and complete copy of Tenant's most current financial statement including, without limitation, its most current profit and loss statement and balance sheet Landlord agrees that it shall keep such information confidential except as such information is requested by any present or future mortgagee, and/or by any prospective mortgagee or purchaser of the Center, provided any such mortgagee or purchaser signs a confidentiality agreement in form reasonably acceptable to Tenant and such mortgagee or purchaser

40 QUIET ENJOYMENT

Landlord hereby covenants and agrees that if Tenant shall perform all of the covenants and agreements herein stipulated to be performed on Tenant's part, Tenant shall at all times during the continuance hereof have peaceable and quiet enjoyment and possession of the Premises without hindrance from Landlord or any person or persons lawfully claiming the Premises by or through Landlord, subject, however, to the terms of this Lease and to all mortgages, leases and agreements of record to which this Lease is subordinate

41 BROKER

Tenant and Landlord warrant and represent to each other that except for Julius M Feinblum Real Estate, Inc ("Broker"), whose commission shall be paid by Landlord pursuant to a separate agreement with Broker, neither party has dealt with any real estate broker, agent or finder in connection with this transaction, and Tenant and Landlord agree to indemnify and save each other harmless from and against any and all liabilities, costs, causes of action, damages and expenses, including, without limitation, attorneys' fees, for any claims made by any real estate broker, agent or finder, other than Broker, based on the acts of the indemnifying party with respect to this Lease

42 FORCE MAJEURE

If either Landlord or Tenant is prevented or hindered from timely satisfying any provisions set forth herein because of a shortage or inability to obtain materials or equipment, strikes or other labor difficulties, governmental restrictions, fire, casualties, acts of God, or any other cause beyond such party's reasonable control, said party shall be permitted an extension of time of performance by the number of days during which such performance was prevented or hindered, provided, however, that this paragraph shall not apply to the payment of rent or other monies by Landlord or Tenant, nor shall the provisions of this paragraph postpone the date that rent is payable pursuant to this Lease, and provided, further that in no event shall the financial difficulties or bankruptcy of a party constitute an event beyond such party's reasonable control

43 EMPLOYEE PARKING All of Tenant's employees shall park their automobiles in the areas designated on Exhibit B of this Lease (as said areas may be modified by Landlord from time to time) as employee parking areas (the "Employee Parking Areas"), and the parking of employee automobiles in any other parking areas of the Shopping Center shall constitute a material breach and default of this Lease by Tenant In addition to all other remedies of Landlord, Tenant shall pay to Landlord (for Shopping Center promotional use) the sum of Fifty Dollars ($50 00) for each day for each of Tenant's employees who park in Shopping Center parking areas other than the Employee Parking Areas, as liquidated damages, it being acknowledged by Tenant that the damages Landlord would suffer are difficult to determine and that said liquidated damages represent a fair approximation of what said damages would be

44 INTENTIONALLY DELETED

45 AUTHORITY TO SIGN LEASE

Each person(s) signing this Lease as an officer of Tenant and as a member of Landlord represents to the other that such person(s) is authorized to execute this Lease without the necessity of obtaining any other signature of any officer or member, that the execution of this Lease has been properly authorized by the Board of Directors of the corporation or by the members of the limited liability company, as the case may be, and that this Lease is fully binding on Tenant and Landlord, as the case may be

46 OPTION TO EXTEND TERM

If Tenant shall not be in default under any of the terms and provisions of this Lease, shall be operating the Premises in accordance with the provisions of Section 11(a) of this Lease, and if this Lease shall be in full force and effect, then Tenant shall have the option to extend the term of this Lease for three (3) consecutive periods of five (5) years each (individually an "Extended Term" and together the "Extended Terms"), upon the same terms and provisions set forth in this Lease, except that the Fixed Minimum Rent for the Extended Terms shall be as follows

	Annual Fixed Minimum Rent	Monthly Installments
First Extended Term	$492,800 00	$41,066 67
Second Extended Term	$551,936 00	$45,994 67
Third Extended Term	$618,168 32	$51,514 03

The annual Fixed Minimum Rent due during each year of the Extended Terms shall be payable in twelve equal monthly installments each in advance on the first day of each and every calendar month in the manner more fully set forth in Section 4(b) of this Lease To exercise said option, Tenant shall give written notice which must be received by Landlord at least six months prior

but no more than twelve (12) months prior to the beginning of the Extended Term Tenant shall have no right to extend the term of this Lease following the end of the second Extended Term

47 MORTGAGEE PROTECTION

Tenant agrees to deliver to any of Landlord's mortgagees and to the holder of any trust deed concerning the Premises, a copy of any notice of default served upon Landlord, provided that prior thereto Tenant has been notified in writing, (by way of Notice of Assignment of Rents and Leases, or otherwise) of the address of such mortgagees and/or trust deed holders Anything contained herein to the contrary notwithstanding, Tenant agrees that if Landlord shall fail to cure the default recited in such notice of default within the time provided for herein, then such mortgagees and/or trust deed holders shall have an additional thirty (30) days within which to cure such default Provided, however, that if such default cannot be cured within said thirty (30) days, then such mortgagees and/or trust deed holders shall have such additional time as may be necessary to cure such default, if within said thirty (30) days, such mortgagee and/or trust deed holder have commenced and are diligently pursuing the cure of such default, (including but not limited to commencement of foreclosure proceedings, if necessary to effect such cure) This Lease shall not be terminated by Tenant while such remedies and cures are being so pursued

IN WITNESS WHEREOF, the parties hereto set their hands to four (4) counterparts hereof, each of which shall have the same force and effect as if it were an original, as of the date set forth at the top of Page 1, but have actually executed the same on the dates set forth in the acknowledgments hereto

SIGNED IN THE PRESENCE OF

SHOPS OF FAIRLAWN RETAIL LIMITED PARTNERSHIP, an Ohio limited partnership

By Shops of Fairlawn Retail Co , its general partner

By _____
Robert L Stark, President

"LANDLORD"

SEAMAN FURNITURE COMPANY, INC

By _____ EVP
Title EXECUTIVE VICE President

By _____
Title Assistant Secretary

"TENANT"

STATE OF OHIO)
) SS
COUNTY OF CUYAHOGA)

The foregoing instrument was acknowledged before me, a Notary Public, this 6th day of January, 2000 ~~1999~~ by ROBERT L STARK, President of Shops of Fairlawn Retail Co , General Partner of SHOPS OF FAIRLAWN RETAIL LIMITED PARTNERSHIP, an Ohio limited partnership, on behalf of and as the duly authorized representative of said corporation and limited partnership

Heather Hamilton
Notary Public

HEATHER HAMILTON, NOTARY PUBLIC
State of Ohio
My Commission Expires 3/29/03

STATE OF New York)
) SS
COUNTY OF Nassau)

The foregoing instrument was acknowledged before me, a Notary Public, this 24th day of December, 1999, by Steven H Halper, the Exec V P, and by Robert N Weber, the Asst Secy, of Seaman Furniture Company, Inc , a Delaware corporation, on behalf of the corporation

Sybil Handwerker
Notary Public

SYBIL HANDWERKER
Notary Public, State of New York
No 30 4815964
Qualified in Nassau County
Commission Expires November 30, 2000

F \clients\0322\015\1701(b) raf
12/21/99

EXHIBIT "A"

LEGAL DESCRIPTION

THE SHOPS OF FAIRLAWN

Situated in the City of Fairlawn, County of Summit, State of Ohio and known as being all of Sublot Nos. 2 and 3 and part of Sublot No. 1 in the Montrose Acres Allotment as shown by the recorded plat in Volume 30 of Maps, Page 64 of Summit County Records, part of Clouse Avenue, 60 feet wide, as vacated in Ordinance No. 88-202 all of and more land being part of said Original Bath Township, Lot No. 95 and is further bounded and described as follows:

Beginning at the intersection of the original center line of West Market Street, variable width (S.R. 18) with the center line of Cleveland-Massillon Road, 60 feet wide (C.H. 17). The same being the Southwesterly corner of said Original Lot No. 95. Thence South 86°-33'-56" East, along said original center line of West Market Street and said Southerly line of Original Lot No. 95, a distance of 462.00 feet to the Southeasterly corner of a parcel of land conveyed to William A. and Ernestine Zuehlke by deed recorded in Volume 3808, Page 420 of Summit County Records. Thence North 3°-56'-43" East, along the Easterly line of land so conveyed to William A. and Ernestine Zuehlke, a distance of 60.00 feet to the Northerly line of said West Market Street as shown by the Dedication Plat in Plat Cabinet H, Slide Number 418 of Summit County Records and the principal place of beginning of the land herein described;

Course 1 — Thence North 3°-56'-43" East, continuing along said Easterly line of land so conveyed to William A. and Ernestine Zuehlke, a distance of 438.16 feet to the Northeasterly corner thereof and the Southerly line of a parcel of land conveyed to the Northern Ohio Telephone Company by deed recorded in Volume 4982, Page 418 of Summit County Records;

Course 2 — Thence South 85°-24'-19" East, along said Southerly line of land so conveyed to the Northern Ohio Telephone Company, a distance of 131.98 feet to the Southeasterly corner thereof;

Course 3 — Thence North 3°-56'-43" East, along the Easterly line of land so conveyed to the Northern Ohio Telephone Company, a distance of 18.33 feet to the Southwesterly corner of Parcel No. II of land conveyed to Jack G. and H. Joanne Allen by deed recorded in Volume 6312, Page 159 of Summit County Records;

Course 4 — Thence South 85°-24'-19" East, along the Southerly line of said Parcel No. II of land so conveyed to Jack G and H Joanne Allen, a distance of 150 69 feet to the Southeasterly corner thereof and the Westerly line of Parcel #1 of land conveyed to E B. Barrett by deed recorded in OR 982, Page 703 of Summit County Records;

Course 5 — Thence South 3 -54'-18" West, along said Westerly line of Parcel #1 of land so conveyed to E B Barrett, a distance of 46.77 feet to the Southwesterly corner thereof;

Course 6 — Thence South 86'-36'-26" East, along the Southerly line of said Parcel #1 of land so conveyed to E.B. Barrett and along the Southerly line of Parcel 3 of land conveyed to John D Grafton by deed recorded in Volume 5565, Page 591 of Summit County Records, a distance of 280'00 feet to the Southeasterly corner thereof;

Course 7 — Thence North 3'-54'-18" East, along the Easterly line of said Parcel 3 of land so conveyed to John D Grafton, a distance of 134 78 feet to the Southwesterly corner of Parcel II of land conveyed to Lawrence J and Lea A Banner by deed recorded in Volume 5243, Page 197 of Summit County Records;

Course 8 — Thence South 86'-36'-26" East, along the Southerly line of said Parcel II of land so conveyed to Lawrence J. and Lea A. Banner, a distance of 115 00 feet to the Southeasterly corner thereof and the Westerly line of a parcel of land conveyed to Arthur E. and Edna Torrey by deed recorded in Volume 6037, Page 849 of Summit County Records;

Course 9 — Thence South 3 -54'-18" West, along said Westerly line of land so conveyed to Arthur E and Edna Torrey, a distance of 134.78 feet to the Southwesterly corner thereof;

Course 10 — Thence South 86'-36'-26" East, along the Southerly line of land so conveyed to Arthur E and Edna Torrey and along the Southerly lines of parcels of land conveyed to Kenneth C and Janet Allison Graf by deed recorded in Volume 6444, Page 836 of Summit County Records Eugene G. and Eleanor J. Palmer by deed recorded in Volume 4790, Page 478 of Summit County Records, Janice Lucille Connell by deed recorded in Volume 6922, Page 142 of Summit County Records and Clouse Avenue, 60 feet wide, a distance of 590 00 feet to the center line of said Clouse Avenue and the Northwesterly corner of a parcel of land conveyed to the Gibraltar Mausoleum Corp by deed recorded in Volume 7231, Page 178 of Summit County Records;

Course 11 — Thence South 3°-54'-18" West, along the Westerly line of land so conveyed to the Gibraltar Mausoleum Corp., a distance of 404.70 feet to the Northerly line of West Market Street, as aforesaid;

Course 12 — Thence North 86°-33'-56" West, along said Northerly line of West Market Street, a distance of 950 97 feet to an angle point therein;

Course 13 — Thence North 41°-33'-56" West, continuing along said Northerly line of West Market Street, a distance of 14.14 feet to an angle point therein;

Course 14 — Thence North 3°-26'-04" East, continuing along said Northerly line of West Market Street, a distance of 10 00 feet to an angle point therein;

Course 15 — Thence North 86°-33'-56" West, continuing along said Northerly line of West Market Street a distance of 65 00 feet to an angle point therein;

Course 16 — Thence South 3°-26'-04" West, continuing along said Northerly line of West Market Street, a distance of 10 00 feet to an angle point therein;

Course 17 — Thence South 48°-26'-04" West, continuing along said Northerly line of West Market Street, a distance of 14 14 feet to an angle point therein;

Course 18 — Thence North 86°-33'-56" West, continuing along said Northerly line of West Market Street, a distance of 234 02 feet to the principal place of beginning and containing 12.3561 Acres of land according to a survey made by Thomas J. Neff, Jr., Reg Surveyor No. 7065-Ohio in January of 1993.

Be the same more or less but subject to all legal highways

EXHIBIT B

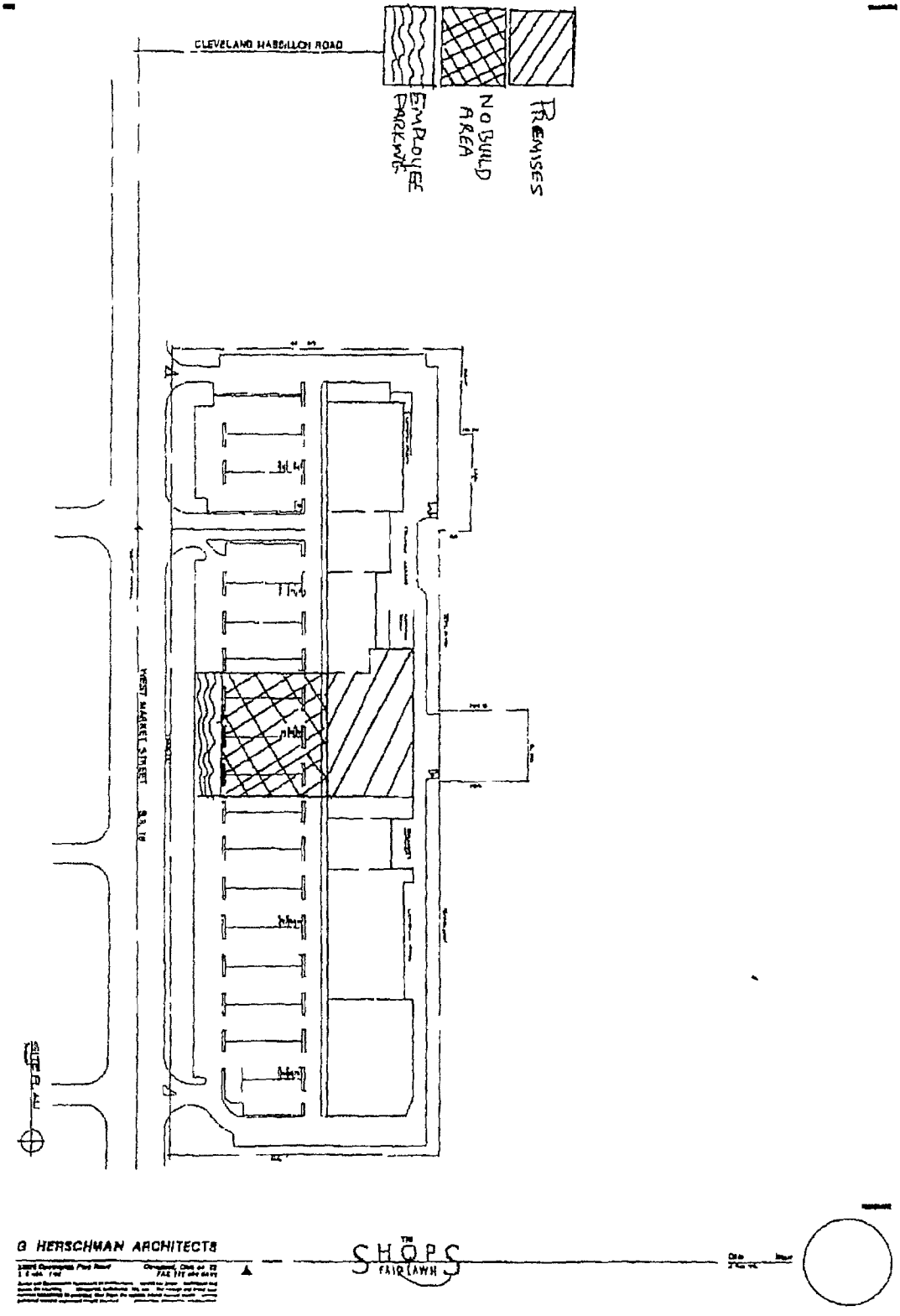

CLEVELAND MASSILLON ROAD
EMPLOYEE PARKING
NO BUILD AREA
PREMISES
WEST MARKET STREET
SITE PLAN
G HERSCHMAN ARCHITECTS
THE SHOPS
FAIRLAWN

EXHIBIT "C"

RULES AND REGULATIONS

2000

These Rules and Regulations are appended to and constitute an integral part of the Lease dated ~~1999, between~~ SHOPS OF FAIRLAWN RETAIL LIMITED PARTNERSHIP, as Landlord, and SEAMAN FURNITURE COMPANY, INC , and as Tenant, demising a store unit in the Center described in said Lease

The Tenant shall obey, comply with and perform the following Rules and Regulations

1 No articles deemed extra hazardous on account of fire and no explosives shall be brought into the Premises All requirements of constituted public authority applicable to the conduct of Tenant's business or use of the Premises, shall be complied with, and Tenant shall save Landlord harmless from penalties, fines, costs, expenses or damages resulting from failure to so comply, except for those structural alterations which are Landlord's obligation under the Lease

2 The lights within the windows in the front of the Premises shall be illuminated together with all signs and external lights every evening from dusk until at least 10 00 P M including evenings when the Center is not open for business

3 As promptly as shall be possible under the circumstances then existing, written notice of any accident, fire, casualty or damage occurring on or about the Premises shall be given by Tenant to Landlord All loading and unloading of merchandise shall be done only at such times in the areas and at such locations and through such entrances as shall be designated in writing by Landlord for such purposes

4 All garbage, rubbish and refuse shall be kept in proper containers Tenant, at Tenant's expense, shall dispose of or cause to be disposed of and carried away all garbage, rubbish and refuse quickly and expeditiously, not placing or allowing to be placed any rubbish outside the Premises at any time, except for anticipated pickup within a short time after said placement Tenant agrees to comply with all orders, rules and regulations of public authorities and Landlord relating to the disposition of rubbish

5 The Premises shall be painted and decorated as often as necessary to maintain them visually attractive and in first-class condition and shall be kept in a clean, orderly and sanitary condition free from objectionable odors and from insects, vermin and other pests All nonenclosed areas under the control of Tenant (such as vestibules and store entranceways) shall be kept clean of debris and free from ice and snow, and no rubbish, obstructions or merchandise shall be placed in such areas

6 No music or noise shall be permitted in the Premises the volume of which shall be reasonably objectionable to Landlord or to other tenants in the Center, and nothing shall be done in the Premises which will injure the reputation of the Center or unreasonably annoy any of the other tenants of the Center or constitute a nuisance

7 All employees shall park their automobiles only in the portions of the parking area designated from time to time for that purpose by Landlord

8 Business shall be conducted in a dignified manner and in accordance with high standards of retail merchandising and service operation similar to other Seaman's Stores No auction, distress, fire, bankruptcy, going out of business sale, "lost lease" sale or similar sales shall be conducted

9 No machinery shall be installed, used or operated that in Landlord's opinion is harmful to the Premises or to the building of which the Premises are a part, or constitute a disturbance to other tenants in the Center

10 Except for the convenience of employees only, Tenant shall not operate or permit the operation on the Premises of any coin- or token-operated vending machines or similar device for the sale of any goods, wares, merchandise, food, beverage or service, including, but not limited to, pay telephones, pay lockers, pay toilets, scales, amusement devices and machines for the sale of beverages, foods, candy, cigarettes or other commodities, without the prior written consent of Landlord

EXHIBIT D

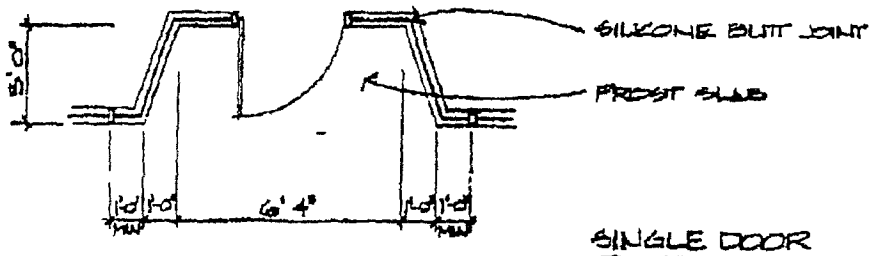
LANDLORD'S WORK

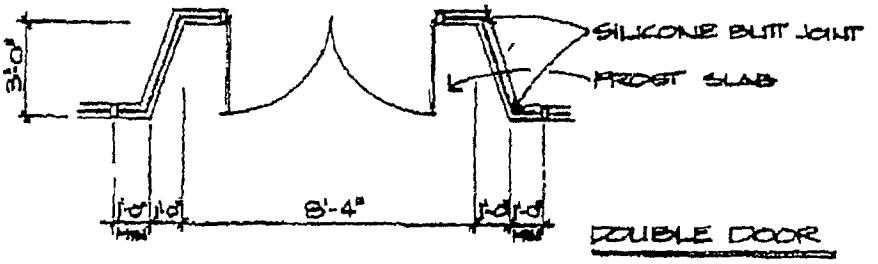
Landlord shall demise the first floor of the Premises by separating the space with a studded demising wall and separating the utilities with meters provided

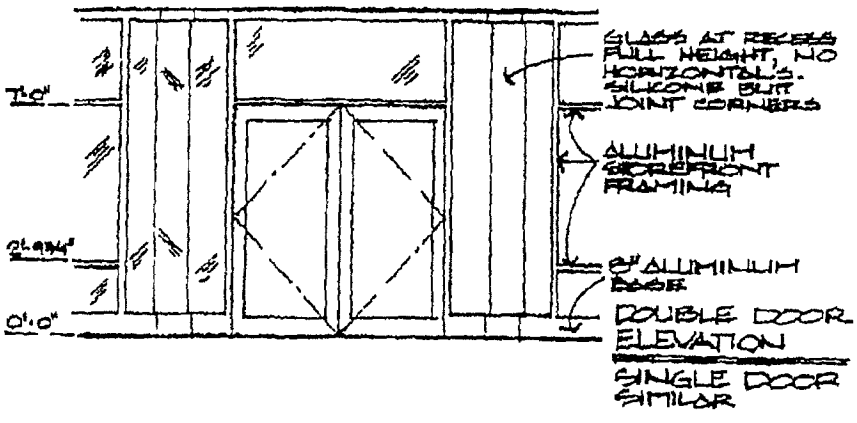
THE SHOPS FAIRLAWN

STOREFRONT CRITERIA

EXHIBIT D-1







THE SHOPS FAIRLAWN

SIGN CRITERIA
BUILDING SIGN
EXHIBIT E

STOREFRONT SIGN

1 SIGNS ARE TO BE INDIVIDUALLY ILLUMINATED CHANNEL LETTERS DIRECTLY ATTACHED TO SHOPPING CENTER MASONRY WALL

2 SIGN SHALL BE LOCATED WITHIN THE AREA DESIGNATED ON THE LEASE OUTLINE DRAWINGS AND LOCATE VERTICALLY RELATIVE TO WORKPOINT DETERMINED BY THE LANDLORD

3 ALLOWABLE SIGN WIDTH IS 75% (3/4) OF TENANT STOREFRONT WIDTH.

4 ALLOWABLE SIGN HEIGHT:
TYPICAL SIGN 36" MAXIMUM OVERALL.
MAJOR TENANT SIGN: 48" MAXIMUM OVERALL

5 SIGN SHALL BE OF GOOD QUALITY CONSTRUCTION AND INSTALLATION MAINTAINED AND ILLUMINATED BY THE TENANT THROUGHOUT THE LEASE TERM

6 ALL SIGNS, WIRING AND ELECTRICAL DEVICES SHALL BE CONSTRUCTED AND INSTALLED IN CONFORMANCE WITH THE NATIONAL ELECTRIC CODE AND ALL LOCAL CODES AND ORDINANCES ALL SIGNS SHALL BEAR A U.L LABEL.
A ALL WIRING TO BE RUN IN CONDUIT.
B NO EXPOSED CONDUCTORS OR CONNECTIONS WILL BE PERMITTED
C P K HOUSINGS ARE REQUIRED

7 HOLES IN THE SHOPPING CENTER FASCIA WILL BE ACCURATELY DRILLED TO MINIMUM DIAMETERS CAULK ALL PENETRATIONS, INCLUDING FASTENERS, WATERTIGHT

8 SIGNS SHALL BE CONTROLLED BY PHOTOCELL ON, TIME CLOCK OFF POWER CONNECTION IS TO TENANT ELECTRICAL PANEL

9 DESIGN AND CONSTRUCTION:
A SIGN SHALL BE MAXIMUM 8" DEEP
B SIGN SHALL BE FABRICATED OF ALUMINUM, CAN RETURNS TO BE PAINTED GLOSS. BLACK.
C ALL FASTENERS, ATTACHMENT, MOUNTING HARDWARE SHALL BE CONCEALED
D NO EXPOSED LOGO/TRADEMARKS ARE PERMITTED
E ILLUMINATION TO BE DESIGNED TO PROVIDE BRIGHTNESS EQUIVALENT TO 13 MM RED NEON WITH 60 MILILAMP TRANSFORMER, 1 ROW OF NEON FOR STROKE WIDTH UP TO 3' 2 ROWS FOR STROKE WIDTHS FROM 3' TO 8 , 3 ROWS FOR STROKE WIDTH 8 -12', 4 ROWS FOR STROKE WIDTH ABOVE 12"
F ALL SIGNS TO BE RED FACES WITH RED ILLUMINATION RED FACE TO BE ROHM & HAAS #2793 RED PLEXIGLAS.
G TRIM CAPS TO BE GLOSS RED TO MATCH SIGN FACE.

10 UNDERCANOPY SIGNS TO BE PROVIDED AND INSTALLED BY TENANT SIGN TO BE TWO SIDED ILLUMINATED SIGN MOUNTED TO SOFFIT AT CENTER OF ENTRY DOORS REFER TO ATTACHED SHEETS FOR DRAWING DETAILS

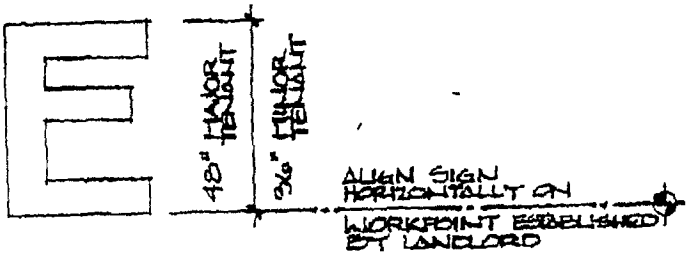
SHOPS FAIRLAWN

SIGN CRITERIA
BUILDING SIGN
EXHIBIT E

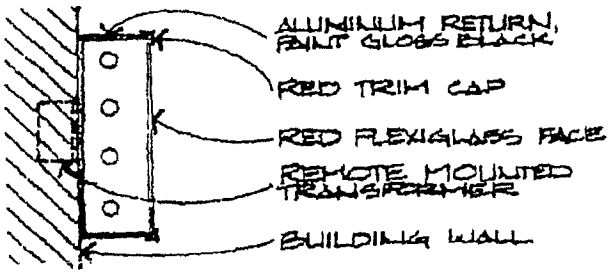
11 A. TENANT SHALL SUBMIT 1 PRINT AND 1 REPRODUCIBLE COPY OF TENANT SIGN DRAWINGS TO LANDLORD ARCHITECT FOR REVIEW. DRAWING INFORMATION WILL INCLUDE

1. TENANT STOREFRONT ELEVATION SHOWN TO SCALE WITH TENANT SIGN SHOWN AND DIMENSIONALLY LOCATED
2. LETTER CONSTRUCTION DETAILS INDICATING MATERIALS, COLORS, FINISHES NEON SIZE, COLOR, METHOD OF ATTACHMENT TO FASCIA, TRANSFORMER LOCATION AND WIRING

12. TENANT TO OBTAIN ALL APPLICABLE PERMITS FROM THE CITY AND COUNTY.



ELEVATION



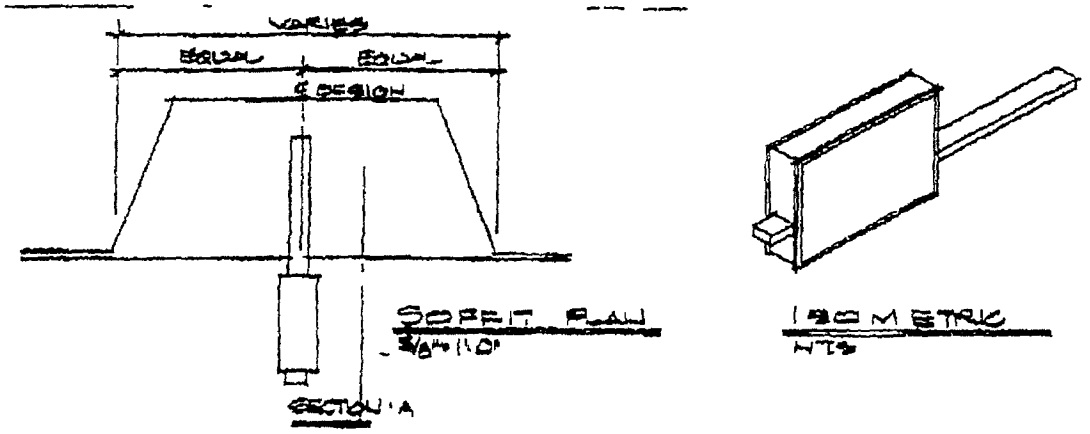
SECTION

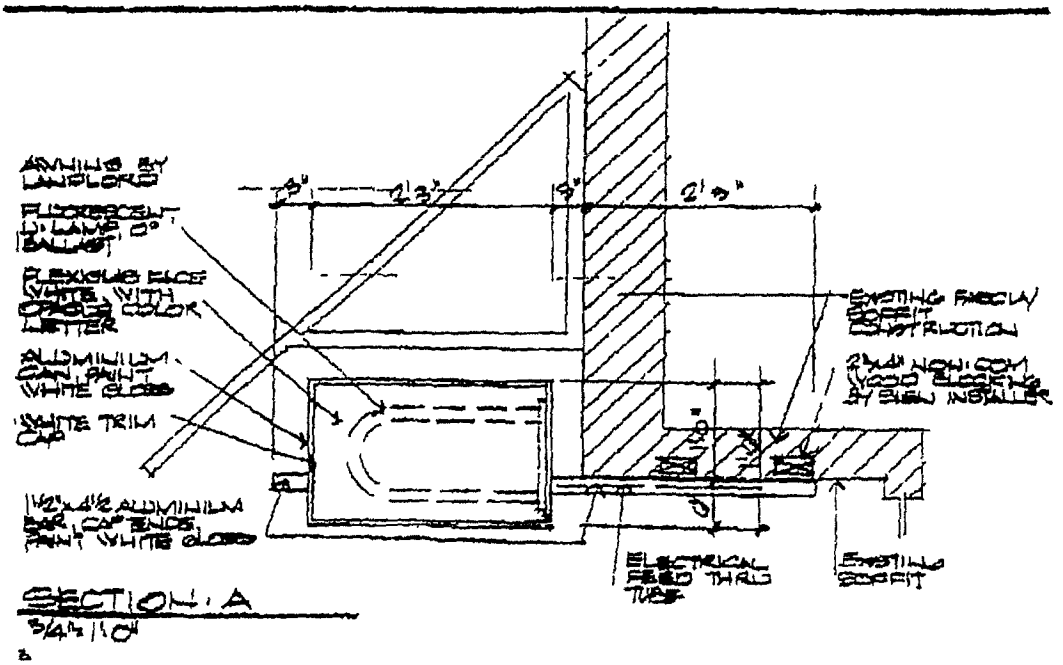
THE SHOPS FAIR LAWN

SIGN CRITERIA

UNDERCANOPY SIGN

EXHIBIT E





SECTION - A
3/4" = 1'-0"

EXHIBIT G

THE SHOPS OF FAIRLAWN
TENANT EXCLUSIVE USES

TENANT	EXCLUSIVE USES	RESTRICTIVE USES
Bruegger's Bagels	Bagels (excluding supermarket)	In no event shall Tenant carry or sell breads (excluding bagels), pies, cakes, or other bakery products (excluding bagels) intended to serve more than one (1) person
Buddy's Carpet	None	In no event shall bolts of carpeting or other bulk supplies of any such products be maintained on the Premises, either for storage or for display
Borders Books & Music	Books, books on tape, periodicals and/or music products (i e records audio tapes and compact discs) unless the sale books, periodicals or music products is incidental to the primary use of their Premises Not applicable to any supermarket drugstore discount drugstore, department store, variety store, or catalog general merchandise store such as Service Merchandise	Tenant shall sell on an incidental basis only calendars, periodicals maps, globes, posters, art prints, cards, stationery, computer software (no more than 10% of sales area), electronic searching and laser printing of information and educational material and musical scores, storage/organizing cases carrying cases, cleaning equipment Landlord will not permit any tenant to engage in the sale of books periodicals and/or music products unless the sale of books, periodicals or music products are incidental Landlord will not lease any space to a health club school or any restaurant providing on-site consumption of food within 100' of Tenant
Comp USA	Sale and servicing of computer hardware and software, general office equipment multi-media electronics telecommunications equipment any other consumer electronics and such other products and	Landlord will not lease space to an amusement park or game parlor, bowling alley skating rink, theater, movie theater, sports facility, health club, coin operated laundry, funeral parlor off track betting, car

	accessories, for training in computer usage, and tele-marketing unless the foregoing are incidental to the primary business (no use in excess of the lesser of 10% or 2,500 sf of the Premises) The space limitation shall not be applicable to Service Merchandise, however, Landlord will not permit Service Merchandise to use its Premises primarily for the operation of a computer super store	wash automobile dealership, flea market, massage parlor, adult book store adult movie theater sexually oriented shops night club, discotheque cocktail lounge, bar or tavern, billiards parlor (unless high class), operation of a restaurant within 250 ft of the front entrance operation of an office (except retail offices such as a travel agency), operation of an industrial manufacturing plant or operation of a business which creates a nuisance
	The space limitation not applicable to Borders Books & Music Borders shall be limited to 10% of the sales area for the sale or servicing of the foregoing products If the Office Max Parcel becomes part of the Shopping Center, Office Max shall not be used primarily for the operation of a computer super store	Any tenant's coffee bar may not exceed 1,500 sf and 70 seat sit-down capacity
Men s Wearhouse	Primary purpose of a Retail men s clothing Store for the retail Sale of men s suits Not applicable to any Department store who Occupies 15 000 sf Or Those outlined in red On the site plan	
Ohio Discount Golf	None	None
Paul Harris	None	None
Pier 1	Household Furniture (excluding Borders, Comp USA, Sears, Homeowners Warehouse)	Landlord shall not lease space within the Shopping Center to a bowling alley, movie theater, arcade tavern or bar unless part of a restaurant, health club spa or gymnasium, night club or discotheque mobile home park, trailer court, labor camp, junk yard, or

		stockyard, any dumping, disposing incineration or reduction of garbage any fire sale, bankruptcy sale or auction house, any automobile truck, trailer or R V sales leasing, display or repair skating rink living quarters, sleeping apartments, or lodging rooms veterinary, hospital animal raising facilities or pet shop any mortuary, "Adult" book stores
Sears Hardware	Sale, servicing and storing of paint ard hardware, all other items or services normally sold in Sears Hardware stores	None
Second National Bark of Warren	None	None

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

IN RE	)	
	)	**Case No 07-09024**
SOFA EXPRESS, INC	)	**Chapter 11**
	)	**Judge Paine**
Debtor	)	

ORDER GRANTING MOTION FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE EXPENSE CLAIM

This matter is presently before the Court on the motion of Shops of Fairlawn Delaware, LLC (the "Landlord"), the Landlord of certain commercial property leased to the Debtor, for the allowance and payment of an administrative expense claim, filed herein under date of February 6, 2008 (the 'Motion")

It appears to the Court that proper notice of the Motion and an opportunity for hearing were served on the Debtor and parties-in-interest herein, and that no objections or other responses were timely filed.

It further appears to the Court that the relief requested in the Motion is reasonable in all respects, and that the Motion should be granted

It is, therefore, ORDERED that the Motion filed by the Landlord for the allowance and payment of an administrative expense claim will be and hereby is granted The Landlord is allowed an administrative expense claim of $84,300 25 (calculated as rent due for February, 2008 in the amount of $46,666 21, and post-petition rent for December, 2007 in the amount of

$37,634 04) The Debtor is hereby directed to remit the sum of $84,300 25 to the Landlord, immediately upon the entry of this order

IT IS SO ORDERED

This order was signed and entered electronically as indicated at the top of the first page.

PREPARED FOR ENTRY

/s/ Thomas H Forrester
Thomas H Forrester
Gullett, Sanford, Robinson & Martin, PLLC
P O Box 198888
Nashville, Tennessee 37219-8888
(615) 244-4994
tforrester@gsrm com, bke@gsrm com

Attorneys for Shops at Fairlawn of Delaware, LLC

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

In re	)	
	)	
SOFA EXPRESS, INC ,	)	Case No 307-09024
	)	Chapter 11
Debtor	)	Judge George C Paine, II
	)	

THE DEADLINE FOR FILING A TIMELY RESPONSE IS February 26, 2008
IF A RESPONSE IS TIMELY FILED, A HEARING WILL BE March 11, 2008, at 9 30 a m , Courtroom One, Customs House, 701 Broadway, Nashville, Tennessee 37203

NOTICE OF LANDLORD'S MOTION FOR ALLOWANCE OF PAYMENT OF ADMINISTRATIVE EXPENSE CLAIM

Shops of Fairlawn Delaware, LLC, the Landlord and creditor herein, hereby requests allowance of payment of administrative expense claim for the above-referenced case

YOUR RIGHTS MAY BE AFFECTED If you do not want the Court to grant the attached Motion by entering the attached proposed Order, of if you want the court to consider your views on the Motion, then on or before **February 26, 2008** you or your attorney must

1 File with the Court your Response, explaining with specificity the legal and factual grounds for your position THE BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE REQUIRES ELECTRONIC FILING ANY RESPONSE MUST BE FILED ELECTRONICALLY TO FILE ELECTRONICALLY YOU OR YOUR ATTORNEY MUST GO TO THE COURT WEBSITE AND FOLLOW THE INSTRUCTIONS AT https //ecf tnmb uscourts gov If you need assistance with Electronic Filing you may call the Bankruptcy Court at (615) 736-5584 You may also visit the Bankruptcy Court in person at 701 Broadway, 1st Floor, Nashville, TN (Monday – Friday, 8 00 A M – 4 00 P M)

2 Your Response must state that the deadline for filing responses is **February 26, 2008**, that the date of the scheduled hearing is **March 11, 2008**, and that the Motion to which you are responding is ***Landlord's Motion for Allowance of Payment of Administrative Expense Claim***

3 You must serve your Responses or Objection by electronic service through the Electronic Filing system described above You must also mail a copy of your Response or Objection to

Thomas H Forrester
Gullett, Sanford, Robinson & Martin, PLLC
P O Box 198888
Nashville, TN 37219-8888
tforrester@gsrm com, rbucy@gsrm com, bke@gsrm com

If a Response is filed before the deadline stated above the hearing will be held at the time and place indicated above THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE You may check whether a timely Response has been filed by calling the Clerk's office at (615) 736-5584 or viewing the case on the Court's website at https //ecf tnmb uscourts gov

If you or your attorney does not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter the attached proposed Order granting that relief

Dated February 6, 2008

/s/ Thomas H Forrester
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(615) 244-4994
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bke@gsrm com

Attorneys for Shops of Fairlawn Delaware LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been served according to the rules of CM/ECF, on this 6th day of February, 2008

/s/ Thomas H Forrester
Thomas H Forrester