B 10 (Official Form 10) (4/10)

UNITED STATES BANKRUPTCY COURT DISTRICT OF DELAWARE	PROOF OF CLAIM
Name of Debtor: **Marianne USPR, Inc.**	Case Number: **10-13030 (ASD)**

NOTE: *This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.*

Name of Creditor (The person or other entity to whom the debtor owes money or property):
The New 5-7-9 and Beyond, Inc.

☐ Check box to indicate that this claim amends a previously filed claim.

Name and address where notices should be sent:
Platzer, Swergold, Karlin, *et al.*, 1065 Avenue of The Americas, 18th Floor New York, NY 10018, Attn: Sherri D. Lydell, Esq.
Telephone Number: **(212) 593-3000**

Court Claim Number: _____ *(If known)*

Filed on: _____

Name and address where payment should be sent (if different from above):

RECEIVED
JAN 14 2011
BMC GROUP

Telephone Number:

☐ Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

☐ Check this box if you are the debtor or trustee in this case.

1. Amount of Claim as of Date Case Filed: Not less than $ 3,429,429.06

If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.

If all or part of your claim is entitled to priority, complete item 5.

■ Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

2. Basis for Claim: See Attachment
(See instruction #2 on reverse side.)

3. Last four digits of any number by which creditor identifies debtor: PSK File No. 8954-66

3a. Debtor may have scheduled account as: _____
(See instruction #3a on reverse side.)

4. Secured Claim (See instruction #4 on reverse side.)
Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

Nature of property or right of setoff: ☐ Real Estate ☐ Motor Vehicle ■ Other
Describe: Funds in Escrow Account

Value of Property: $ 373,787.84 **Annual Interest Rate: __%**

Amount of arrearage and other charges as of time case filed included in secured claim, if any: $_____ **Basis for perfection: _____**

Amount of Secured Claim: $ 373,787.84 **Amount Unsecured: Not less than $ 3,055,641.22**

6. Amount of Claim that qualifies as an Administrative Expense under 11 U.S.C. § 503(b)(9): $ _____
(See Instruction #6 on reverse side.)

6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. *(See instruction 7 and definition of "redacted" on reverse side.)*

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.

Specify the priority of the claim.

☐ Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

☐ Wages, salaries, or commissions (up to $11,725*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).

☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).

☐ Up to $2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).

☐ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).

☐ Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(___).

Amount entitled to priority:

$_____

* *Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.*

Date: **1/ 10 /11**

Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.

Joseph Cheheber, Vice President

FOR COURT USE ONLY
Urban Brands
00474

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

Attachment to Proof of Claim
Filed by The New 5-7-9 and Beyond, Inc.
Against Marianne USPR, Inc., Case No. 10-13030 (ASD)

Debtor Marianne USPR, Inc. ("Debtor") is a party to an Asset Purchase Agreement, dated January 23, 2009, by and among The New 5-7-9 and Beyond, Inc. ("Buyer-Creditor") as buyer, and Marianne USPR, Inc., Carraizo Alto Apparel Corporation, Large Apparel of New Jersey, Inc., and Marianne VI, Inc., as sellers (collectively, "Sellers"), and Urban Brands, Inc. ("UBI"), as modified and amended pursuant those certain letter agreements dated as of February 2, 2009, February 5, 2009, February 18, 2009, March 5, 2009, March 31, 2009, and April 23, 2009 (collectively, the "Asset Purchase Agreement").

Pursuant to Section 8.01 of the Asset Purchase Agreement, the Sellers and UBI agreed to indemnify and hold Buyer-Creditor harmless from any and all claims made against Buyer-Creditor relating to the stores sold under the Asset Purchase Agreement, which are the obligations of Sellers or UBI.

In conjunction with the Asset Purchase Agreement, Buyer-Creditor, Sellers and UBI entered into a certain Escrow Agreement dated as of January 23, 2009, as modified and amended pursuant to First Amendment to Escrow Agreement, dated April 23, 2009, by and among Buyer-Creditor, Sellers and UBI, as consented to by Bank of America, N.A. (collectively, the "Escrow Agreement"), pursuant to which Buyer-Creditor deposited a portion of the Purchase Price (as defined in the Asset Purchase Agreement") with Seltzer Sussman Habermann & Heitner LLP (the "Escrow Agent") for release in accordance with the terms of the Asset Purchase Agreement and the Escrow Agreement.

Section 2.06 of the Asset Purchase Agreement provides that the portion of the Purchase Price deposited with the Escrow Agent shall be the sole property of Buyer-Creditor, and that Buyer-Creditor shall have a lien and security interest in such funds. The current balance with the Escrow Agent is Three Hundred Seventy Three Thousand Seven Hundred Eighty Seven and 84/100 ($373,787.84) Dollars.

The Asset Purchase Agreement provides for the assignment and assumption of the lease (the "Lease") relating to the store located at 70-72 De Diego Street, San Juan, Puerto Rico, and identified as Store #37 in the Asset Purchase Agreement, provided, however, that such assumption relates solely to the period from and after the effective date of such assignment and specifically excludes any and all Excluded Liabilities (as defined in Section 10.15(ss) of the Asset Purchase Agreement), including without limitation, "any causes of action, lawsuits, claims and demands of any nature that arose or arise or relate to events that occurred prior to the Applicable Closing Date" (see Section 10.15(ss)(v) of the Asset Purchase Agreement).

On or about January 15, 2010, the landlord under the Lease, Morales Realty, Inc. ("Plaintiff"), commenced litigation against, among others, Buyer-Creditor captioned, Morales Realty, Inc. v. Franklin Thirty Four-Rio Corp., *et al.*, bearing Civil No. KAC-2010-0121 (905) in the Puerto Rico Court of First Instance, San Juan Part (which litigation has a related appellate matter pending in the Puerto Rico Supreme Court, bearing Civil No. CC-2010-0720) (collectively, the "Litigation"), which Buyer-Creditor is defending against. In the Litigation,

Plaintiff is seeking contractual damages of not less than Three Million Four Hundred Two Thousand Three and 00/100 ($3,402,003.00) Dollars, plus tort damages in an unliquidated amount, plus attorneys' fees and costs to be determined. In addition, as of November 30, 2010, Buyer-Creditor has incurred Twenty Seven Thousand Four Hundred Twenty Six and 06/100 ($27,426.06) Dollars in legal fees and expenses to defend the Litigation. A copy of the Complaint which initiated the Litigation is annexed hereto.

Pursuant to § 8.01 of the Asset Purchase Agreement, the exposure to liability from the Litigation, and the costs incurred to defend against same, are claims subject to indemnification by the Debtor. Accordingly, Buyer-Creditor hereby submits this Proof of Claim in the contingent and unliquidated amount of not less than Three Million Four Hundred Twenty Nine Thousand Four Hundred Twenty Nine and 06/100 ($3,429,429.06) Dollars, of which Three Hundred Seventy Three Thousand Seven Hundred Eighty Seven and 84/100 ($373,787.84) Dollars is a secured claim. The balance thereof is a general unsecured claim.

ESTADO LIBRE ASOCIADO DE PUERTO RICO
TRIBUNAL DE PRIMERA INSTANCIA
SALA SUPERIOR DE SAN JUAN

95
KAC10-0121

MORALES REALTY, INC. Demandante VS. FRANKLIN THIRTY FOUR-RÍO CORP.; URBAN BRANDS, INC.;MARIANNE USPR, INC., MARIANNE PR FOUR, INC., MARIANNE PR FIVE, INC., CARRAÍZO ALTO APPAREL CORP.; THE NEW 5-7-9 AND BEYOND, INC.; COMPAÑÍAS DE SEGURO X, Y Y Z; D, E Y F;PERSONAS DESCONOCIDAS A, B Y C, Demandados	CIVIL NUMERO: SOBRE: Resolución de Contrato

2010 JAN 15 PM 12:40
DIVISIÓN RADICACIONES
SALA SUPERIOR
SAN JUAN

DEMANDA

AL HONORABLE TRIBUNAL:

Comparece la parte demandante por conducto de la representación legal que suscribe y ante este Honorable Tribunal muy respetuosamente **EXPONE, ALEGA y SOLICITA:**

I. ALEGACIONES INTRODUCTORIAS:

1. Este Tribunal tiene jurisdicción en este caso toda vez que el contrato que da origen al presente pleito se otorgó en San Juan, Puerto Rico. Así mismo, el inmueble objeto de la presente acción, así como el domicilio de la parte demandante se encuentran en el Municipio de San Juan, Puerto Rico y la cuantía reclamada excede de $50,000.00.

2. La dirección postal de la demandante es P.O. Box 9454, San Juan, P.R. 00908-0454.

3. La Codemandada Franklin Thirty Four-Rio, Corp. Es una corporación foránea con fines de lucro, cuyo número de registro ante el Departamento de Estado de Puerto Rico es el 1109. Su dirección es 320 West 31 Street, New York, New York. Esta

corporación es la que suscribió originalmente como arrendataria el contrato objeto del presente pleito.

4. La Codemandada Urban Brands, Inc., es una corporación de Delaware, cuya dirección es 100 Metro Way, Secaucus, New Jersey 07094. Esta es la compañía matriz de las co-demandadas Marianne USPR, Inc., corporación foránea con número de registro 10,937-F; Marianne P.R. Four, Inc., corporación doméstica con número de registro 103,913 y Marianne P.R. Five, corporación doméstica con número de registro 103,917, las cuales por información y creencia son las operadoras de la Tienda Marianne localizada en el inmueble objeto del contrato de arrendamiento en el presente caso y que se benefician económicamente de dicho contrato.

5. La Codemandada Carraízo Alto Apparel, Corp. Es una corporación doméstica con fines de lucro, con número de Registro ante el Departamento de Estado de Puerto Rico 42,732. Esta corporación es sucesora en los intereses de Franklin Thirty Four-Río, Corp. Sobre el contrato de arrendamiento objeto de la presente acción.

6. La Codemandada The New 5-7-9 and Beyond, Inc., es una corporación foránea con fines de lucro, cuyo número de registro en el Departamento de Estado de Puerto Rico es el 10,993. Su dirección es 100 Pennsylvania Avenue, Brooklyn, New York 11207. Dicha corporación obtuvo el derecho de arrendamiento de la propiedad objeto del presente contrato de Carraízo Alto Apparel Corp.

7. Se traen como codemandadas a las Compañías de Seguro X, Y y Z; D, E y F, las cuales son las compañías aseguradoras y/o de ajustadores de seguro de las codemandadas mencionadas en los párrafos 3 a 6 de la presente demanda, las cuales tienen pólizas de seguros expedidas a favor de aquéllas para cubrir este tipo de reclamación.

8. Se traen como codemandados a las personas desconocidas A, B y C, y a sus respectivas compañías de Seguro desconocidas, en la eventualidad de que alguna de éstas sea hallada responsable de la presente causa de acción, ya sea porque es dueño de alguna de las corporaciones demandadas y/o porque sea responsable por los daños a la demandante.

II. HECHOS QUE DAN LUGAR A LA PRESENTE CAUSA DE ACCION:

9. El día 6 de febrero de 1959 la demandante Morales Realty, Inc., otorgó un contrato de arrendamiento con la codemandada Franklin Thirty Four Corp., sobre un local comercial de 13,230 pies cuadrados localizado en el número 70 de la Calle de Diego, hoy Paseo de Diego, en Río Piedras, Puerto Rico por un canon mensual de $1,574.99. Dicho contrato fue suscrito por un término original de catorce (14) años prorrogable a opción del arrendatario por cuatro términos adicionales de diez (10) años cada uno, estando vigente en virtud de la última renovación hasta febrero del año 2013.

10. De lo anterior se desprende que el antes referido contrato de arrendamiento ha estado vigente por los pasados 50 años con un cánon de arrendamiento inalterado, el cual en esta época resulta ridículo para una propiedad de la magnitud de la de la demandante, con el agravante de que ello puede extenderse por los próximos 3 años.

11. Desde el momento en que se suscribió el contrato objeto del presente pleito hasta el presente han pasado 50 años. Durante ese tiempo, el valor de las propiedades en el lugar donde se encuentra localizada la propiedad ha incrementado sustancialmente, trayendo ello como consecuencia un aumento considerable en el costo del arrendamiento por pie cuadrado, muy

por encima de las proyecciones razonables de aumento de valor que podían vislumbrarse para el año 1959.

12. Esta situación se ha dado como consecuencia de los drásticos cambios económicos que se han experimentado en las pasadas décadas en Puerto Rico, especialmente en el área metropolitana de San Juan, lugar donde se encuentra localizada la propiedad objeto del presente contrato. Han contribuído a dichos cambios el aumento sustancial en el costo de vida, el aumento poblacional registrado en las pasadas décadas el cual ha excedido las expectativas de crecimiento para los años 50, el desarrollo económico y el mejoramiento del nivel de vida en Puerto Rico, que también superó todas las expectativas habidas para entonces. También ha influído considerablemente, el aumento geométrico en el número de estudiantes universitarios en el sector donde ubica la propiedad que históricamente ha sido una ciudad eminentemente universitaria.

13. Cabe destacar que la propiedad objeto del presente pleito está localizada en el casco de Río Piedras, lugar donde se encuentra el principal centro de estudios universitarios del país y donde han surgido nuevas instituciones educativas en el área que lo han convertido en el Centro Universitario de Puerto Rico. Por otro lado, dicha localidad se ha desarrollado y convertido en un gigantesco Centro Comercial para toda el área Metropolitana promovido en parte por el desarrollo de proyectos como el Paseo de Diego, el plan para la Revitalización y Desarrollo del casco urbano de Río Piedras y otros programas de infraestructura dirigidos a la rehabilitación económica de este sector, así como el establecimiento del Tren Urbano, que tiene una estación a pasos de la propiedad de los demandantes, entre otros. Todos estos fenómenos eran elementos inanticipables razonablemente para el 1959. Estos constituyen cambios sustanciales a las circunstancias que rodearon el otorgamiento

del contrato objeto del presente pleito, las cuales permitirían su resolución al tornarse demasiado oneroso su cumplimiento al presente, bajo los términos y condiciones pactados para el año 1959.

III. PRIMERA CAUSA DE ACCION:

14. Se adoptan y se hacen formar parte de todas las causas de acción de la presente demanda las alegaciones antes enumeradas.

15. El mantenimiento de los términos de este contrato según acordados en el 1959, luego de transformaciones y cambios tan sustanciales e inanticipables de las circunstancias y realidades imperantes al momento de su celebración, constituye un enriquecimiento injusto, desproporcionado y abusivo para el arrendatario en perjuicio y a expensas de los legítimos derechos propietarios del dueño y arrendador de esta propiedad.

16. De continuar vigente este contrato bajo los términos pactados, el arrendador vería menoscabado sus derechos titulares sobre esta propiedad por tres años adicionales, en exceso de los cincuenta que han transcurrido, bajo un régimen injusto, cuando se han registrado aumentos tan significativos en el costo de vida, así como seguramente en las operaciones y ganancias de la empresa arrendataria que no guardan ni remota proporción con la situación de ésta para el 1959, atentando ello contra toda noción de lo justo en nuestro ordenamiento jurídico.

17. El resultado neto de todo ello es que gracias al contrato objeto del presente pleito la parte arrendataria paga un canon de renta de $1.43 por pie cuadrado cuando actualmente el valor real de arrendamiento en el mercado para una propiedad comercial como la de los demandantes es de $10.00. Véase Certificación del Tasador Enrique Meléndez Lugo, **(Exhibit I)**.

18. Ante un cuadro como el antes esbozado, no cabe duda que es de aplicación la doctrina de "***rebus sic-stantibus***". Mediante ésta lees permitido a una parte en un contrato resolver el mismo cuando han ocurrido cambios sustanciales en las circunstancias del contrato que fueron inanticipables al momento de su otorgamiento, que hacen su cumplimiento uno demasiado oneroso e injusto para una de las partes. Como una condición implícita y sobre entendida en la contratación, esta doctrina parte del supuesto que los contratos de tracto sucesivo, como el presente o de cumplimiento aplazado obligan mientras no ocurran cambios importantes en el estado de hechos contemplado por las partes al momento de contratar.

19. Asimismo, nuestro ordenamiento legal no tolera, ni permite que una parte, amparándose en sutilezas técnico-jurídicas cubiertas con ropaje de legalidad, se enriquezca injustamente a expensas y en perjuicio de los derechos y legítimos intereses de la otra parte. Conforme al principio de la equidad, la cláusula ***rebus sic stantibus*** atempera la inflexibilidad y severidad del principio de ***pacta sunt servanda*** recogido en el artículo 1044 del Código Civil y le permite al tribunal intervenir en aquellos contratos en los que se laceraría la buena fe o se causaría una injusticia al obligar a su cumplimiento específico.

20. En Puerto Rico nuestro Tribunal Supremo ha aplicado la cláusula ***rebus sic stantibus*** en aquellas situaciones en que el desequilibrio entre las prestaciones producido por cambios extraordinarios e imprevisibles en el estado de hechos posterior a la celebración de un contrato, llega a dimensiones de mala fe, hiere el principio de la voluntariedad y hace el cumplimiento excesivamente oneroso para una de las partes.

21. Se solicita como primera causa de acción la resolución del contrato bajo la teoría de ***rebus sic stantibus***. Dicha

resolución del contrato en cuestión no causa a la parte demandada un perjuicio irrazonable y desproporcionado frente la justicia que ello acarearía para la demandante.

IV. SEGUNDA CAUSA DE ACCION:

22. Por otro lado, la parte demandante estaría dispuesta a suscribir un nuevo contrato de arrendamiento a la luz de las realidades económicas importantes a este momento, en el cual se establezca un canon de arrendamiento a tono con la realidad actual del mercado. También estaría dispuesta a ofrecer el local a la venta, si así lo interesa la parte demandada, a fin de balancear los intereses de ambas partes en esta relación contractual.

V. TERCERA CAUSA DE ACCION:

23. Desde el año 1980 la parte demandante ha requerido a la demandada renegociar los términos del contrato de arrendamiento a los efectos de atemperar los cambios en el valor de la propiedad acecidos desde al año en que se otorgó dicho contrato, **(Exhibit II)**.

24. A pesar de ello, la demandada ignoró de mala fé los requerimientos de la demandante, logrando enriquecerse injustamente al dejar de pagar por espacio de treinta años una suma sustancial por concepto de arrendamiento según correspondía de acuerdo a las circunstancias vigentes.

25. Considerando un costo de alquiler promedio de diez dólares ($10.00), tenemos que la parte demandada dejó de pagar a la demandante la suma anual de $113,400.12. Por tanto, la demandada adeuda a la demandante la suma de $3,402,003.60 de rentas por los últimos 30 años, suma que es liquida y exigibe, la cual se reclama en la presente causa de acción.

VI. CUARTA CAUSA DE ACCION:

26. El contrato de arrendamiento objeto del presente pleito le imponía a la parte demandada en su cláusula número 8 la

obligación de mantener en buenas condiciones las instalaciones eléctricas y de plomería y en su cláusula número 11 la obligación de hacer las reparaciones al inmueble.

27. A pesar de ello, durante el tiempo que el inmueble lleva en su poder la demandada nunca le dio mantenimiento a dicha propiedad.

28. En vista del referido incumplimiento de contrato por parte de la demandada, la demandante invoca su derecho a resolver el contrato, bajo la cláusula 14 de éste, **(Exhibit III)**.

EN VIRTUD DE LO ANTERIORMENTE EXPUESTOse solicita muy respetuosamente de este Honorable Tribunal que: **(a)**en función de los cambios sustanciales habidos en la realidad y circunstancias de la relación contractual entre las partes desde su constitución hasta el presente y en virtud de la doctrina que proscribe el enriquecimiento injusto de una parte en perjuicio de la otra, se decrete la resolución del presente contrato; **(b)**se ordene la modificación del contrato a los efectos de que se establezca un cánon de arrendamiento a tono con la realidad económica actual; **(c)** se le imponga a la demandada el pago de las suma correspondiente a la que dejó de pagar por concepto de cánones de arrendamiento, desde el momento en que se le requirió renegociar el contrato, suma que asciende a la cantidad de $3,402,003.60; y **(d)** se ordene la resolución del contrato por no haber cumplido la demandada con sus obligaciones contractuales y se imponga a la demandada el pago de las costas, gastos y honorarios de abogado, junto a cualquier otro pronunciamiento que proceda en derecho.

En San Juan, Puerto Rico, hoy 8 de enero de 2010.

RESPETUOSAMENTE SOMETIDA.

MOISES ABREU CORDERO
Número TS 6876

ALBERTO A. ACEVEDO VALLEJO
Número TS 6830
Ave. Luis Muñiz Souffront 454
Urbanización Los Maestros
Río Piedras, P.R. 00923
Tel.787-758-7275/787-296-2463
Fax: 787-281-8797

Exhibit I

Enrique S. Meléndez
Valoración, Revisiones y Consultaría en Bienes Raíces
PO Box 20,000 PMB 535, Canóvanas, PR 00729
Tel. 787-550-8322 Fax. 787-957-7890
email: tasator@libertypr.net

18 de diciembre de 2009

Lcdo. Alberto Acevedo
Calle Luis Muñiz Soufront #454
Urb. Los Maestros
San Juan, PR 00923

Estimado Lcdo. Acevedo,

Sirva la presente para aclarar los valores estimados en la tasación que le preparé a Morales Realty, Inc, sobre la propiedad localizada en la calle De Diego #70, Rio Piedras, PR. En dicha tasación se realizaron los tres métodos de valoración. Estos son el método de Costo, el método de Comparación de Venta Directa y el método de Capitalización de Rentas. Estos últimos dos se conocen comúnmente como el método de Ventas Comparables y el método de Ingresos. Debido a que el sujeto es una propiedad generadora de ingresos y a que existen numerosas propiedades generadoras de ingreso en el vecindario, le di más peso al método de Ingresos.

Empleando el método de Ingresos estimé dos valores por separado. Primero, el valor de la propiedad como si estuviera vacante y lista para rentarse, lo que equivale al valor del mercado asumiendo el pleno dominio del sujeto. Este valor es de **$1,066,000.** Segundo, el valor del arrendatario (leased fee) basándome en la renta según el contrato de arrendamiento existente. Este valor es de **$96,500.** En este caso fue prudente estimar el valor del arrendatario ya que la renta basada en el contrato de arrendamiento estaba extremadamente por debajo de la renta del mercado. Si lo analizamos desde el punto de vista de renta por pie cuadrado, podemos concluir que la renta del mercado fluctúa entre $10 a $12 el pie cuadrado, y bajo el contrato actual la renta por pie cuadrado se está pagando a razón de $1.43, lo cual va en detrimento del valor de la propiedad.

Luego de leer el actual contrato de arrendamiento del sujeto puedo concluir varias cosas:

1. El contrato de arrendamiento del sujeto no es típico.
2. El contrato de arrendamiento del sujeto es irrisorio y oneroso. La conclusión de los valores estimados así lo demuestra.
3. El contrato de arrendamiento del sujeto perjudica enormemente el valor del edificio.
4. El contrato de arrendamiento del sujeto perjudica el tiempo de mercadeo y el tiempo de exposición del mercado del sujeto.
5. Las condiciones bajo las cuales se pudo haber negociado un contrato como este son irregulares.

Enrique S. Meléndez
Valoración, Revisiones y Consultaría en Bienes Raíces
PO Box 20,000 PMB 535, Canóvanas, PR 00729
Tel. 787-550-8322 Fax. 787-957-7890
email: tasator@libertypr.net

De tener alguna pregunta al respecto no dude en comunicarse conmigo.

Atentamente,

Enrique S. Meléndez Lugo
718 EPA, 237 CG

Exhibit II

Box 22476, U.P.R. Station
San Juan, P. R. 00931
30 de enero de 1980

Lcdo. José A. Ledesma Vivaldi
Bufete Nigaglioni, Palou & Ledesma
Edificio Banco de Ponce - Oficina 1103
Hato Rey, P. R. 00918

Re: Contrato de Arendamiento
Franklin 34 Corp./Morales
Realty Inc.

Estimado licenciado Ledesma:

En relación con su requerimiento para la inscripción del contrato de arrendamiento en el Registro de la Propiedad, pueden contar con nuestra cooperación para que el mismo se realice, de acuerdo con los términos del referido contrato.

No obstante, aprovechamos esta oportunidad para solicitar de usted le indique a su cliente que interesamos re-negociar el referido contrato de arrendamiento, a tono con el alto costo de vida actual.

Cordialmente,

Morales Realty Inc.
Alicia S. Morales
Por: Alicia S. Morales
Presidenta

JL 1 w 10
Lourdes
Exhibit III

THIS AGREEMENT made this 6th day of February, 1959, between Morales Realty, Inc., a Puerto Rican corporation with offices at Edificio Plaza, San Juan and represented by its president, Isaías Rodríguez Moreno, hereinafter referred to as Landlord

And, Franklin Thirty-Four Río Corp., a Delaware corporation with address at 320 West 31 Street, New York, New York and represented by its president, Albert Rubenstein, hereinafter referred to as Tenant.

WITNESSETH:

1. PREMISES: That in consideration of the payment of the rent hereinafter agreed to be paid and in consideration of the covenants of the parties hereto, one with another, to be performed by them at the time and in the manner hereinafter set forth, the said Landlord does hereby lease unto said Tenant the property situated in Río Piedras, San Juan, Puerto Rico, and known as 70-72 De Diego Street and more particularly described as follows: lot with entire building which consists of store covering 4150 square feet, balcony of 3750 square feet and second floor of 4150 square feet.

2. TERM: The term for which the premises are leased shall be fourteen (14) years, beginning upon delivery of the premises by Landlord to Tenant completed in accordance with plans and specifications and after Tenant will have received the "Permiso de Uso."

3. OPTION TO RENEW: The Tenant is hereby granted a first option to renew the lease upon the leased premises for an additional term of ten (10) years at the expiration of the term of this lease, on the same covenants, conditions and agreements as contained in this lease, provided that the tenant shall give the Landlord at least sixty (60) days written notice prior to the expiration of this lease, of its

intention to exercise this option. Tenant is hereby granted a second option to renew the lease upon the leased premises for an additional term of ten (10) years at the expiration of the first option on the same covenants, conditions and agreements as contained in this lease, provided Tenant shall give Landlord at least sixty (60) days written notice prior to the expiration of the first option of its intention to exercise the second option.

4. RENTAL: The Tenant hereby agrees to pay the Landlord as rent for the premises herein referred to the sum of $17,500.00 per annum, payable in advance in equal monthly installments of $1,458.33 on the first day of each and every month.

5. USE AND OCCUPANCY: The Tenant will not use or occupy, or permit to be used or occupied, the said premises for any purpose or purposes in violation of the law, local statutes, ordinances or regulations, and the said Tenant will exempt, exonerate, and discharge the said Landlord from all claims on account of any damage or injuries incurred by it by reason of Tenant's violation of any such laws, ordinances or regulations.

6. SURFACING: The Tenant shall have the right to assign or SUBLEASE the premises as whole or as part during the term of this lease, provided, however, that the Tenant shall remain liable under this lease in the event of the default on the part of the assignee or sub-tenant in carrying out the terms, conditions and obligations of this lease.

7. INSURANCE: The Tenant will not do, suffer or permit anything to be done in or about the said premises that will increase the premiums on any fire insurance policies placed by the Landlord and in the event there is a violation of this paragraph by the Tenant, then it agrees to pay the amount of increase in premiums caused by such violation.

8. REPAIRS AND MAINTENANCE: The Tenant agrees to maintain in good order and condition, all plumbing, heating, electrical fixtures and plate glass in the leased premises during the term of this lease. All roof, structural and exterior repairs shall be made by the Landlord and the Landlord represents that there are no violations concerning the same and should any such violations be placed against the premises then the Landlord will remove them.

9. TRADE FIXTURES: All shelving, counters and trade fixtures, including air conditioning, placed to the within leased premises by the Tenant shall remain the property of the said Tenant, and removed by it at any time during or at the end of this lease.

10. GAS, ELECTRICITY AND WATER: The Tenant agrees to promptly pay all bills and charges for water, electric current and/or gas assessed against it or consumed in the within leased premises during the term of this lease.

11. ALTERATIONS AND CONSTRUCTION: The Tenant may, at its own cost and expense, make repairs, replacements, additions, improvements, alterations or changes necessary for the business of the Tenant, provided, always, that such repairs, replacements, additions, improvements, alterations or changes shall not lessen the value of the premises. All such work shall be done in a good and workmanlike manner.

12. TERMINATION AND SURRENDER: The Tenant agrees that at the termination of this lease or any sooner legal termination thereof, to quit and surrender the premises hereby leased in as good order and condition as at the time of its acquisition, reasonable wear and tear excepted.

13. LIABILITY: The Tenant shall, during the term of this lease, hold and save the Landlord harmless against any and all claims, suits or judgments for damages to person or persons, whether in the employment of the Tenant or otherwise, or property, arising out of any cause or condition in

connection with the premises hereby leased, and due to the Tenant's fault.

14. RE-ENTRY: It is further understood and covenanted between the parties, that in the event of any breach of any covenant on the part of the Tenant to be performed and provided that such breach is not remedied by the Tenant after reasonable notice in writing to the Tenant by the Landlord, the said Landlord may re-enter and terminate this tenancy upon giving the Tenant thirty (30) days notice in writing to quit and whether or not the Landlord exercises its right to re-enter and terminate such tenancy as set for a, it shall at all times be entitled to recover by all lawful means any and all damages sustained by it through the breach of any of the said covenants on the part of the said Tenant to be performed. It is further agreed, understood and covenanted that in the event of default of the payment of the rent hereby reserved or any part thereof, when and as the same may be due and payable, the Landlord, after giving twenty (20) days notice to the Tenant, by registered air mail, shall then have the right by all lawful means recover same and the tenancy may be terminated unless the rent shall have been paid.

15. FIRE OR OTHER CASUALTY: In case of fire or other casualty the premises shall be repaired, restored and rebuilt as speedily as may be reasonably possible, and at the expense of the Landlord, and the rent and other payments by the Tenant, if any, shall cease for such period as the demised premises shall be wholly untenantable, and shall be reduced by a just and reasonable amount for such period as the same shall be partially untenantable. If the Landlord repairs, restores or rebuilds within ninety (90) days, the Landlord shall be deemed to have compled with the provisions hereof. In the event the Landlord fails to so do within the ninety (90) day period, then and in that event the Tenant may at its option, in addition to all other rights and remedies available to it,

within ten (10) days after the ninety (90) day period elect to terminate and cancel this lease, in which event this lease shall from such date be terminated and cancelled, and neither party shall thereafter have any further obligation with respect to the other.

16. PUBLIC SERVICE: The Landlord shall not be responsible for the temporary or other failure of the supply of city water, electric current and/or gas, from any cause whatsoever.

17. WARRANTY OF TITLE AND POSSESSION: The Landlord covenants that he is vested with the legal title to the leased premises and has the right to make this lease and that it will put the Tenant in complete and exclusive possession of the demised premises and free from all orders and notices of violations.

18. HOLD AND ENJOY: The Tenant on paying such monthly rentals and conforming to the covenants herein contained, shall and may peacefully and quietly have, enjoy and hold the said leased premises for the term aforesaid. And it is further understood and agreed that the covenants and agreements contained in the foregoing lease are binding upon the parties hereto, and their respective heirs, executors, administrators, successors, legal representatives and assigns. This lease embodies the entire contract of the parties, and shall not be altered, changed or modified in any respect whatsoever, except in writing, endorsed thereon or attached hereto, duly executed by the parties hereto, or their duly authorized agents.

19. DEFAULT BY LANDLORD: The Landlord agrees that if it fails to pay any installment of taxes or assessments or any interest, principal, costs or other charges upon any mortgage or mortgages, or other liens and encumbrances affecting the leased premises and to which this lease may be subordinate when any of the same become due, or if the Landlord fails to

make any repairs or do any work required of the Landlord by the provisions of this lease, or in any other respect fails to perform any covenant and agreement in this lease contained on the part of the Landlord to be performed, then and in any such event or events, the Tenant, after the continuance of any such failure or default for ten (10) days after notice in writing thereof is given by the Tenant to the Landlord, may at its option pay said taxes, assessments, interest, principal, costs and other charges and cure such defaults all on behalf of and at the expense of the Landlord, and do all necessary work and make all necessary payments in connection therewith including but not limiting the same to the payment of any fees, costs and charges of or in connection with any legal action which may have been brought, and the Landlord agrees to pay to the Tenant forthwith the amount so paid by the Tenant, together with interest thereon at the rate of six (6) percent, per annum, and agrees that the Tenant may withhold any and all rental payments and other payments thereafter becoming due to the Landlord pursuant to the provisions of this lease or any extension thereof and may apply the same to the payment of such indebtedness of the Landlord to the Tenant until such indebtedness is fully paid with interest thereon as herein provided. Nothing herein contained shall preclude the Tenant from proceeding to collect the amount so paid be it as aforesaid without waiting for rental off-sets to accrue.

20. NOTICES: All notices required under the terms of this lease shall be sent by registered mail to the Landlord addressed only as follows: To Landlord, care of Lic. Isaías Rodríguez Moreno at Edificio Plaza, San Juan and to the Tenant at the leased premises and at 320 West 31 Street, New York, New York, or at such other places as may be designated in writing hereafter.

21. The following is added to paragraph 3 above:

Tenant is hereby granted a third option to renew this lease upon the leased premises for an additional term of 10 years at the expiration of the second option on the same covenants, conditions and agreements as contained in this lease, provided Tenant shall give Landlord at least 60 days written notice prior to the expiration of second option of its intention to exercise this third option.

Tenant is hereby granted a fourth option to renew this lease upon the leased premises for an additional term of 10 years at the expiration of the third option on the same covenants, conditions and agreements as contained in this lease, provided Tenant shall give Landlord at least 60 days written notice prior to the expiration of third option of its intention to exercise this fourth option.

22. In the event that the term of this lease shall start on other than the first day of a calendar month, the term of this lease shall be for twelve (12) years plus such portion of the calendar month and Tenant agrees to pay the apportioned rent thereof.

23. Landlord agrees to install air conditioning pursuant to plans to be furnished by Tenant and at price to be approved by Tenant. Tenant agrees to pay any excess in Landlord's cost over $10,000.00. Tenant will attend to servicing and repair. In the event that Tenant shall exercise its first renewal option, Tenant shall immediately receive from Landlord $2,500.00 which parties agree will partially reimburse Landlord for servicing and repairs. If not paid, such amount may be deducted from rent.

SEE RIDER ATTACHED

Rider attached to lease - Morales Realty, Inc., with Franklin Thirty-Four Rio Corp.

24. No action shall lie in favor of the Landlord to evict the Tenant so long as the Landlord is in default of any of the terms and conditions of this lease.

25. Tenant may install its trade fixtures during the ~~reconstruction of the building its trade fixtures during the~~ reconstruction of the building so long as such installation does not interfere with the reconstruction of the building. The installation of Tenant's fixtures shall not constitute an acceptance of the premises by Tenant.

26. The parties agree that they, or either of them may raise this writing to the category of a public deed and that such deed may be recorded in the corresponding Registry of Property. In such case the expenses therefore shall be for the account of the party desiring to do so. In the event either party shall desire to record this instrument, the other party agrees to re-execute and perform any acts necessary to satisfy recording requirements. The party who shall pay the expenses for same shall be entitled to designate the notary.

27. Landlord at its own cost and expense agrees to proceed promptly and expeditiously with the reconstruction of this property in accordance with the plans and specifications to be submitted by Landlord within 10 days and subject to Tenant's approval, and to deliver the completed premises with the necessary Use Permit to Tenant by November 30, 1959. In the event the property is not ready for Tenant's use and occupancy by November 30, 1959, Tenant may elect to cancel and terminate this lease, and upon such election to cancel and terminate this lease, there shall be no liability or obligation to either party from the other or Tenant may take such other steps or action as the law may permit. In the event Landlord is prevented from completing the construction of said premises by November 30, 1959 due to an Act of God, then the Landlord's obligation to deliver the completed premises to Tenant shall be extended up to the completed

premises to Tenant shall be extended up to February 28, 1960. If for any reason, including an Act of God or causes beyond Landlord's control, the premises are not ready for Tenant's occupancy by February 28, 1960, Tenant may elect to cancel and terminate this lease, and upon such election to cancel and terminate this lease, there shall be no liability or obligation to either party from the other, or Tenant may take such other steps or action as the law may permit.

28. Tenant is hereby granted sole and exclusive right to erect signs wherever and in such manner as it shall see fit upon the demised premises and the building and roof in which the leased premises are located, subject only to the Tenant obtaining the necessary approval and permits therefore.

29. This lease is conditioned upon and subject to the written approval by both Landlord and Tenant of the reconstruction plans and specifications for the demised premises.

30. Landlord represents that the within premises are free and clear of all liens and encumbrances and that it is the owner in full dominion title.

31. In the event that Tenant shall exercise renewal option, Tenant shall be obligated to pay each year thereafter commencing with such year to Landlord, upon demand, the ___ increase each year in real property taxes over and above the property taxes charged against the within premises during the _____ year of the term of this lease, with appropriate apportionment for parts of a year.

32. Landlord agrees to furnish and install primary electric service including transformer bank, distribution panels and secondary service. Any difference between cost of all of above and cost of secondary service over the sum of $2,500.00 will be paid for by Tenant.

(signed) Isaías Rodríguez Moreno

"LANDLORD" and "TENANT": The word "Landlord" or "Tenant" as herein used shall include their heirs, executors, administrators, successors and assigns, respectively.

IN WITNESS WHEREOF, the parties hereto have hereunto set their respective hands and seals the year and date first above written to this agreement consisting of 32 numbered paragraphs.

MORALES REALTY INC.

(signed) Isaías Rodríguez Moreno
By _____(Landlord)
President

(signed) Albert Rubenstein
By_____(Tenant)
President

Affidavit. No. 3193

Commonwealth of Puerto Rico)
) ss
Municipality of San Juan)

Subscribed to before me by Isaías Rodríguez Moreno, of legal age, married, resident of San Juan and attorney, as President of Morales Realty Inc. and by Albert Rubenstein, of legal age, married, resident of Connecticut and executive, as President of Franklin Thirty-Four Río corp. both to me personally known, this 6th day of February 1959.

SEAL

(signed)

_____
Notary Public

SUPPLEMENTARY AGREEMENT

Supplemental Agreement made and entered into at San Juan, Puerto Rico by and between Morales Realty, Inc., a Puerto Rican corporation, having an office in the Plaza Building in San Juan, Puerto Rico and represented the execution hereof by its president, Isaías Rodríguez Moreno, hereinafter referred to as the "Landlord" and Franklin Thirty-Four Río Corp., a Delaware corporation, having an office at Room 303, New York Department Store Building, Stop 16, San Juan, Puerto Rico, and represented the execution hereof by Albert Rubenstein, its president, hereinafter referred to as the "Tenant".

WITNESSETH:

WHEREAS, simultaneously with the signing of this Supplemental Agreement, the parties hereto have entered into a lease covering land and building located in Río Piedras and commonly known as and by the street number 70 and 72 de Diego Street, and

WHEREAS, Landlord desires to prepare for Tenant's occupancy, an additional portion of the premises, as more particularly set forth herein,

Now, therefore, in consideration for the mutual agreements herein contained, the parties agree as follows:

1. Landlord does hereby agree to enclose and cover the rear patio so that there will be an additional 1,400 square feet of space for the Tenant.

2. The work to be done by the landlord shall consist of, generally, roughing in with three outside walls and sealing with adequate roof, al plastered and painted with adequate electric outlets and power and provided with air conditioning facilities. Landlord agrees, within ten days from the date hereof, to submit to the Tenant detailed plans showing the work to be done by the Landlord and this agreement

shall not be effective until after Tenant shall have approved such plans and specifications.

3. Upon full completion of the work to be done, Tenant does hereby agree to accept such additional 1,400 square feet as part of the leased premises described in the written lease between the parties hereto referred to above and Tenant agrees to pay for such additional space the sum of fifteen hundred dollars ($1,500.00) per annum in equal monthly installments of one hundred and sixteen dollars and sixty six cents monthly, in addition to the rent reserved in the aforesaid lease.

4. Landlord agrees to assume all risks involved if any, in connection with the construction and in connection with the existence or continued existence of such additional space and to pay any and all penalties or fines which may be imposed upon Tenant by reason therefore, should any penalties or fines ever be imposed and, should tenant have to pay any fines or expenses in connection therewith, Landlord agrees to reimburse the Tenant and in event that the Tenant does not receive reimbursement upon demand, Tenant shall have the right to deduct from any sum due the Landlord for rent under the aforesaid lease, such money as may be due to the Tenant hereunder.

5. Except as specifically set forth herein, the foregoing premises shall become part of the leased premises pursuant to the aforesaid lease and all of the terms, covenants and conditions thereof shall apply as though specifically set forth with respect to the above premises.

6. In case it shall become necessary to demolish the construction referred to above, same shall be done by Landlord at its expense and at no cost to Tenant and Landlord further agrees to finish off rear of the leased premises as described in the aforesaid lease as though the construction hereunder had never been done.

IN WITNESS WHEREOF the parties hereto do sign their respective names at San Juan, Puerto Rico.

MORALES REALTY INC.

(signed) Isaías Rodríguez Moreno
BY_____
President

FRANKLIN THIRTY FOUR RIO CORP.

(signed) Albert Rubenstein
BY_____
President

AFFIDAVIT NO. 3194

Commonwealth of Puerto Rico)
) ss
Municipality of San Juan)

Subscribed to before me by Isaías Rodríguez Moreno, of legal age, married and resident of San Juan and attorney in his capacity as President of Morales Realty, Inc., and by Albert Rubenstein, of legal age, married, resident of Connecticut and executive in his capacity as President of Franklin Thirty-Four Río Corp., both to me personally known, this 6th day of February, 1959.

Seal

(signed)
_____
Notary Public

ATTACHEMENT "A"

THIS AGREEMENT made this 6th day of February 1959, between Morales Realty Inc., a Puerto Rican corporation with office at Edificio Plaza, San Juan and represented by its president, Isaias Rodriguez Moreno

as Landlord

and Franklin Thirty-Four Rio Corp., a Delaware corporation with address at 320 West 31 Street, New York, New York and represented by its president, Albert Rubenstein

, hereinafter referred to as Tenant.

WITNESSETH:

1. PREMISES: That in consideration of the payment of the rent hereinafter agreed to be paid and in consideration of the covenants of the parties hereto, one with another, to be performed by them at the time and in the manner hereinafter set forth, the said Landlord does hereby lease unto said Tenant the property situated in Rio Piedras, San Juan, Puerto Rico, and known as 70-72 de Diego Street and more particularly described as follows:

with entire building which consists of store covering 4150 square feet balcony of 3750 square feet and second floor of 4150 square feet.

2. TERM: The term for which the premises are leased shall be fourteen (14) years, beginning upon delivery of the premises by Landlord to Tenant completed in accordance with plans and specifications and after Tenant will have received the "Permiso de Uso."

3. OPTION TO RENEW: The Tenant is hereby granted a first option to renew the lease upon the leased premises for an additional term of ten years at the expiration of the term of this lease, on the same covenants, conditions and agreements as contained in this lease, provided that the tenant shall give the landlord at least sixty (60) days written notice prior to the expiration of this lease, of its intention to exercise this option. Tenant is hereby granted a second option to renew the lease upon the leased premises for an additional term of ten years at the expiration of the first option on the same covenants, conditions and agreements as contained in this lease, provided Tenant shall give Landlord at least sixty days written notice prior to the expiration of the first option of its intention to exercise the second option.

4. RENTAL: The Tenant hereby agrees to pay to the Landlord as rent for the premises herein referred to the sum of $17,500.00 per annum, payable in advance in equal monthly installments of $ 1458.33 on the first day of each and every month.

5. USE AND OCCUPANCY: The Tenant will not use or occupy, or permit to be used or occupied, the said premises for any purpose or purposes in violation of the law, local statutes, ordinances or regulations, and the said Tenant will exempt, exonerate, and discharge the said Landlord from all claims on account of any damage or injuries incurred by it by reason of Tenant's violation of any such laws, ordinances or regulations.

6. SUBLEASING: The Tenant shall have the right to assign or sublease the premises in whole or in part during the term of this lease, provided, however, that the Tenant shall remain liable under this lease in the event of the default on the part of the assignee or sub-tenant in carrying out the terms, conditions and obligations of this lease.

7. INSURANCE: The Tenant will not do, suffer or permit anything to be done in or about the said premises that will increase the premiums on any fire insurance policies placed by the Landlord and in the event there is a violation of this paragraph by the Tenant, then it agrees to pay the amount of increase in premiums caused by such violation.

8. REPAIRS AND MAINTENANCE: The Tenant agrees to maintain in good order and condition, all plumbing, heating, electrical fixtures and plate glass in the leased premises during the term of this lease. All roof, structural and exterior repairs shall be made by the Landlord, and the Landlord represents that there are no violations concerning the same and should any such violations be placed against the premises then the Landlord will remove them.

9. TRADE FIXTURES: All shelving, counters and trade fixtures, including air conditioning, placed in the within leased premises by the Tenant shall remain the property of the said Tenant, and removed by it at any time during or at the end of this lease.

10. GAS, ELECTRICITY AND WATER: The Tenant agrees to promptly pay all bills and charges for water, electric current and/or gas assessed against it or consumed in the within leased premises during the term of this lease.

11. ALTERATIONS AND CONSTRUCTION: The Tenant may, at its own cost and expense, make repairs, replacements, additions, improvements, alterations or changes necessary for the business of the Tenant, provided, always, that such repairs, replacements, additions, improvements, alterations or changes shall not lessen the value of the premises. All such work shall be done in a good and workmanlike manner.

12. TERMINATION AND SURRENDER: The Tenant agrees that at the termination of this lease or any sooner legal termination thereof, to quit and surrender the premises hereby leased in as good order and condition as at the time of its acquisition, reasonable wear and tear excepted.

13. LIABILITY: The Tenant shall, during the term of this lease, hold and save the Landlord harmless against any and all claims, suits or judgments for damages to person or persons, whether in the employment of the Tenant or otherwise, or property, arising out of any cause or condition in connection with the premises hereby leased and due to the Tenant's fault.

14. REENTRY: It is further understood and covenanted between the parties, that in the event of any breach of any covenant on the part of the Tenant to be performed and provided that such breach is not remedied by the Tenant after reasonable notice in writing to the Tenant by the Landlord, the said Landlord may re-enter and terminate this tenancy upon giving the Tenant thirty (30) days notice in writing to quit and whether or not the Landlord exercises its right to re-enter and terminate such tenancy as set forth, it shall at all times be entitled to recover by all lawful means any and all damages sustained by it through the breach of any of the said covenants on the part of the said Tenant to be performed. It is further agreed, understood and covenanted that in the event of default of the payment of the rent hereby reserved or any part thereof, when and as the same may be due and payable, the Landlord, after giving twenty (20) days notice to the Tenant, by registered mail, shall then have the right ~~[illegible]~~ by all lawful means recover same, and ~~[illegible]~~ the tenancy may be terminated unless the rent shall have been paid.

15. FIRE OR OTHER CASUALTY: In case of fire or other casualty the premises shall be repaired, restored and rebuilt as speedily as may be reasonably possible, and at the expense of the Landlord, and the rent and other payments by the Tenant, if any, shall cease for such period as the demised premises shall be wholly untenantable, and shall be reduced by a just and reasonable amount for such period as the same shall be partially untenantable. If the Landlord repairs, restores or rebuilds within ninety (90) days, the Landlord shall be deemed to have complied with the provisions hereof. In the event the Landlord fails to so do within the ninety (90) day period, then and in that event the Tenant may, at its option, in addition to all other rights and remedies available to it, within ten (10) days after the ninety (90) day period elect to terminate and cancel this lease, in which event this lease shall from such date be terminated and cancelled, and neither party shall thereafter have any further obligation with respect to the other.

16. PUBLIC SERVICE: The Landlord shall not be responsible for the temporary or other failure of the supply of city water, electric current and/or gas, from any cause whatsoever.

17. WARRANTY OF TITLE AND POSSESSION: The Landlord covenants that he is vested with the legal title to the leased premises and has the right to make this lease, and that it will put the Tenant in complete and exclusive possession of the demised premises and free from all orders and notices of violations.

JOSE A. LEDESMA
ABOGADO NOTARIO
PUERTO RICO

18. HOLD AND ENJOY. The Tenant on paying such monthly rentals and conforming to the covenants herein contained, shall and may peacefully and quietly have, enjoy and hold the said leased premises for the term aforesaid. And it is further understood and agreed that the covenants and agreements contained in the foregoing lease are binding upon the parties hereto, and their respective heirs, executors, administrators, successors, legal representatives and assigns. This lease embodies the entire contract of the parties, and shall not be altered, changed or modified in any respect whatsoever, except in writing, endorsed thereon or attached hereto, duly executed by the parties hereto, or their duly authorized agents.

19. DEFAULT BY LANDLORD. The Landlord agrees that if it fails to pay any installment of taxes or assessments or any interest, principal, costs or other charges upon any mortgage or mortgages, or other liens and encumbrances affecting the leased premises and to which this lease may be subordinate when any of the same become due, or if the Landlord fails to make any repairs or do any work required of the Landlord by the provisions of this lease, or in any other respect fails to perform any covenant and agreement in this lease contained on the part of the Landlord to be performed, then and in any such event or events, the Tenant, after the continuance of any such failure or default for ten (10) days after notice in writing thereof is given by the Tenant to the Landlord, may at its option pay said taxes, assessments, interest, principal, costs and other charges and cure such defaults all on behalf of and at the expense of the Landlord, and do all necessary work and make all necessary payments in connection therewith including but not limiting the same to the payment of any fees, costs and charges of or in connection with any legal action which may have been brought, and the Landlord agrees to pay to the Tenant forthwith the amount so paid by the Tenant, together with interest thereon at the rate of six (6) percent, per annum, and agrees that the Tenant may withhold any and all rental payments and other payments thereafter becoming due to the Landlord pursuant to the provisions of this lease or any extension thereof and may apply the same to the payment of such indebtedness of the Landlord to the Tenant until such indebtedness is fully paid with interest thereon as herein provided. Nothing herein contained shall preclude the Tenant from proceeding to collect the amount so paid by it as aforesaid without waiting for rental off-sets to accrue.

20. NOTICES. All notices ~~and rent payments~~ required under the terms of this lease shall be sent by registered mail to the Landlord addressed only as follows: To Landlord, care of Lic. Isaias Rodríguez Moreno at Edificio Plaza, San Juan and to the Tenant at the leased premises and at 320 West 31 Street New York, New York, or at such other places as may be designated in writing hereafter.

~~21. The parties agree at any time at the request of either party to execute a short form of this lease for recording purposes.~~

21. The following is added to paragraph 3 above:

Tenant is hereby granted a third option to renew this lease upon the leased premises for an additional term of 10 years at the expiration of the second option on the same covenants, conditions and agreements as contained in this lease, provided Tenant shall give Landlord at least 60 days written notice prior to the expiration of second option of its intention to exercise this third option.

Tenant is hereby granted a fourth option to renew this lease upon the leased premises for an additional term of 10 years at the expiration of the third option on the same covenants, conditions and agreements as contained in this lease, provided Tenant shall give Landlord at least 60 days written notice prior to the expiration of third option of its intention to exercise this fourth option.

22. In the event that the term of this lease shall start on other than the first day of a calendar month, the term of this lease shall be for twelve (12) years plus such portion of the calendar month and Tenant agrees to pay the apportioned rent thereof.

23. Landlord agrees to install air conditioning pursuant to plans to be furnished by Tenant and at price to be approved by Tenant. Tenant agrees to pay any excess in Landlord's cost over $10,000.00 Tenant will attend to servicing and repair. In the event that Tenant shall exercise its first renewal option, Tenant shall immediately receive from Landlord $2500.00 which parties agree will partially reimburse Landlord for servicing and repairs. If not paid, such amount may be deducted from rent.

SEE RIDER ATTACHED

A. LEDESMA ABOGADO NOTARIO PUERTO RICO

Rider attached to lease - Morales Realty Inc. with
Franklin Thirty-Four Rio Corp.

24. No action shall lie in favor of the Landlord to evict the Tenant so long as the Landlord is in default of any of the terms and conditions of this lease.

25. Tenant may install its trade fixtures during the reconstruction of the building so long as such installation does not interfere with the reconstruction of the building. The installation of Tenant's fixtures shall not constitute an acceptance of the premises by Tenant.

26. The parties agree that they, or either of them may raise this writing to the category of a public deed and that such deed may be recorded in the corresponding Registry of Property. In such case the expenses therefor shall be for the account of the party desiring to do so. In the event either party shall desire to record this instrument, the other party agrees to re-execute and perform any acts necessary to satisfy recording requirements. The party who shall pay the expenses for same shall be entitled to designate the notary.

27. Landlord at its own cost and expense agrees to proceed promptly and expeditiously with the reconstruction of this property in accordance with the plans and specifications to be submitted by Landlord within 10 days and subject to Tenant's approval, and to deliver the completed premises with the necessary Use Permit to Tenant by November 30, 1959. In the event the property is not ready for Tenant's use and occupancy by November 30, 1959, Tenant may elect to cancel and terminate this lease, and upon such election to cancel and terminate this lease, there shall be no liability or obligation to either party from the other or Tenant may take such other steps or action as the law may permit. In the event Landlord is prevented from completing the construction of said premises by November 30, 1959 due to an Act of God, then the Landlord's obligation to deliver the completed premises to Tenant shall be extended up to February 28, 1960. If for any reason, including an Act of God or causes beyond Landlord's control, the premises are not ready for Tenant's occupancy by February 28, 1960, Tenant may elect to cancel and terminate this lease, and upon such election to cancel and terminate this lease, there shall be no liability or obligation to either party from the other, or Tenant may take such other steps or action as the law may permit.

28. Tenant is hereby granted sole and exclusive right to erect signs wherever and in such manner as it shall see fit upon the demised premises and the building and roof in which the leased premises are located, subject only to the Tenant obtaining the necessary approval and permits therefor.

29. This lease is conditioned upon and subject to the written approval by both Landlord and Tenant of the reconstruction plans and specifications for the demised premises.

30. Landlord represents that the within premises are free and clear of all liens and encumbrances and that it is the owner in full dominion title

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PUERTO RICO

31. In the event that Tenant shall exercise renewal option, Tenant shall be obligated to pay each year thereafter, commencing with such year to Landlord, upon demand, the net increase each year in real property taxes over and above the property taxes charged against the within premises during the year of the term of this lease, with appropriate apportionment for parts of a year.

32. Landlord agrees to furnish and install primary electric service including transformer bank, distribution panels and secondary service. Any difference between cost of all of above and cost of secondary service over the sum of $2500.00 will be paid for by Tenant.

Luis Rodriguez Ramos

JOSE A. LEDESMA VIVALDI
ABOGADO NOTARIO
PUERTO RICO

"LANDLORD" AND "TENANT": The word "Landlord" or "Tenant" as herein used shall include their heirs, executors, administrators, successors and assigns, respectively.

IN WITNESS WHEREOF, the parties hereto have hereunto set their respective hands and seals the year and date first above written to this agreement consisting of 32 numbered paragraphs.

Morales Realty Inc.

By _____ (Landlord)
President

Franklin Thirty-Four Rio Corp.

By _____ (Tenant)
President

Agreement 46.3153

Affidavit No. 3193

Commonwealth of Puerto Rico)
Municipality of San Juan) ss

Subscribed to before me by Isaias Rodriguez Moreno, of legal age, married, resident of San Juan and attorney, as president of Morales Realty Inc. and by Albert Rubenstein, of legal age, married, resident of Connecticut and executive, as president of Franklin Thirty-Four Rio Corp. both to me personally known, this 6 day of February 1959.

Notary Public

JOSE A. LEDESMA VIVALDI
ABOGADO NOTARIO
PUERTO RICO

JOSHUA HELLINGER
ABOGADO
NOTARIO
Islas de Puerto Rico

STATE OF
COUNTY OF

On this day of 19 before me personally appeared to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

SUPPLEMENTAL AGREEMENT

Supplemental Agreement made and entered into at San Juan, Puerto Rico by and between Morales Realty, Inc., a Puerto Rican corporation, having an office in the Plaza Building in San Juan, Puerto Rico and represented in the execution hereof by its president, Isaias Rodrigues Moreno, hereinafter referred to as the "Landlord" and Franklin Thirty-Four Rio Corp., a Delaware corporation, having an office at Room 303, New York Department Store Building, Stop 16, San Juan, Puerto Rico, and represented in the execution hereof by Albert Rubenstein, its president, hereinafter referred to as the "Tenant".

WITNESSETH:

WHEREAS, simultaneously with the signing of this Supplemental Agreement, the parties hereto have entered into a lease covering land and building located in Rio Piedras and commonly known as and by the street number ~~thirty-four~~ 70-72 de Diego Street and

WHEREAS, Landlord desires to prepare for tenant's occupancy, an additional portion of the premises, as more particularly set forth herein,

Now, therefore, in consideration for the mutual agreements herein contained, the parties agree as follows:

1. Landlord does hereby agree to enclose and cover the rear patio so that there will be an additional 1,400 square feet of space for the tenant.

2. The work to be done by the landlord shall consist of, generally, roughing in with three outside walls and sealing with adequate roof, all plastered and painted with adequate electric outlets and power and provided with air conditioning facilities. Landlord agrees, within ten days from the date hereof, to submit

JOSE A. LEDESMA VIVALDI
ABOGADO NOTARIO
PUERTO RICO

to submit to the tenant detailed plans showing the work to be done by the landlord and this agreement shall not be effective until after tenant shall have approved such plans and specifications.

3. Upon full completion of the work to be done, tenant does hereby agree to accept such additional 1,400 square feet as part of the leased premises described in the written lease between the parties hereto referred to above and tenant agrees to pay for such additional space the sum of f~~ifteen~~ hundred dollars ($1500.) per annum in equal monthly installments of one hundred and sixteen dollars and sixty six cents monthly, in addition to the rent reserved in the aforesaid lease.

4. Landlord agrees to assume all risks involved, if any, in connection with the construction and in connection with the existence or continued existence of such additional space and to pay any and all penalties or fines which may be imposed upon tenant by reason therefore, should any penalties or fines ever be imposed and, should tenant have to pay any fines or expenses in connection therewith, landlord agrees to reimburse the tenant and in event that the tenant does not receive reimoursement upon demand, tenant shall have the right to deduct from any sum due the landlord for rent under the aforesaid lease, such money as may be due to the tenant hereunder.

5. Except as specifically set forth herein, the foregoing premises shall become part of the leased premises pursuant to the aforesaid lease and all of the terms, covenants and conditions thereof shall apply as though specifically set forth with respect to the above premises.

JOSE A. LEDESMA VIVALDI
ABOGADO NOTARIO
PUERTO RICO

6. In case it shall become necessary to demolish the construction referred to above, same shall be done by landlord at its expense and at no cost to tenant and landlord further agrees to finish off rear of the leased premises as described in the aforesaid lease as though the construction hereunder had never been done.

IN WITNESS WHEREOF the parties hereto do sign their respective names at San Juan, Puerto Rico.

MORALES REALTY INC.

BY Isaias Rodriguez Moreno
President

FRANKLIN THIRTY-FOUR RIO CORP.

BY Albert Rubenstein
President

AFFIDAVIT NO. 3194

Commonwealth of Puerto Rico)
Municipality of San Juan) ss.

Subscribed to before me by Isaias Rodriguez Moreno, of legal age, married and resident of San Juan and attorney in his capacity as President of Morales Realty Inc. and by Albert Rubenstein, of legal age, married, resident of Connecticut and executive in his capacity as President of Franklin Thirty-Four Rio Corp., both to me personally known, this 6 day of February, 1959.

Notary Public

JOSE A. LEDESMA AVALDI
ABOGADO NOTARIO
PUERTO RICO

JOSHUA HELLMAN
NOTARIO
San Juan, Puerto Rico

GUARANTEE

For and in consideration of the sum of One ($1.00) Dollar and other good and valuable consideration paid by FRANKLIN STORES CORPORATION, a Delaware corporation, hereinafter described as "Guarantor", to Morales Realty Inc. hereinafter referred to as "Obligee-Lessor", receipt of which is hereby acknowledged, and for and in consideration of the sum of One ($1.00) Dollar and other good and valuable consideration paid by the aforesaid Obligee-Lessor to FRANKLIN STORES CORPORATION, receipt of which is hereby acknowledged, and in consideration of the execution and delivery of a certain lease dated Feb. 1959 between Franklin Thirty-Four Rio Corp. and the Obligee-Lessor, for a certain term of years commencing on or before Nov. 30, 1959 it is hereby agreed as follows:

1. Duplicates of all notices required to be given by the Obligee-Lessor in the said lease to as Lessee in said lease shall likewise be given, in the same manner as provided in the said lease, to FRANKLIN STORES CORPORATION, the Guarantor herein. The giving of such notices by registered mail, addressed to FRANKLIN STORES CORPORATION, [illegible] 34th St., New York, New York, or any other address furnished by said FRANKLIN STORES CORPORATION, shall be conclusive evidence of receipt thereof by FRANKLIN STORES CORPORATION.

2. FRANKLIN STORES CORPORATION, the Guarantor herein, does hereby guarantee that the said Franklin Thirty-Four Rio Corp. shall strictly and punctually perform each and every covenant undertaken in or under the provisions of said lease dated February 1959 hereinabove described, by said Franklin Thirty-Four Rio Corp. or by any sublessee or assignee thereof.

3. FRANKLIN STORES CORPORATION, the Guarantor herein, will pay to the Obligee-Lessor described in said lease, as said term is defined in the said lease directly upon [illegible] such sums or amounts as may be owing to the Obligee-Lessor, when due, by Franklin Thirty-Four Rio Corp. or by any sublessee or assignee thereof, at any time under any of the terms of the said lease.

4. FRANKLIN STORES CORPORATION, the Guarantor herein, shall have the same right to cure defaults, and with like effect, under the terms of the said lease, as does [illegible] or any sublessee or assignee thereof and may at its election, by written notice given to the Obligee-Lessor upon any default, elect to take over the leasehold interest of Franklin Thirty-Four Rio Corp. or, of any sublessee or assignee thereof and assume and become primarily liable for all the obligations imposed by the term of said lease, and the same shall thereafter continue and exist as a lease between the Obligee-Lessor and FRANKLIN STORES CORPORATION, with the latter occupying the same status prior thereto as did Franklin Thirty Four Rio Corp. or any sublessee or assignee thereof.

IN WITNESS WHEREOF, the Obligee-Lessor has hereunto set its hand and seal, and the said FRANKLIN STORES CORPORATION, has caused this instrument to be executed in its own name by its duly authorized officers and its corporate seal to be hereunto affixed this 25 day of February, 1959.

ATTEST: FRANKLIN STORES CORPORATION

By [signature]
President

ATTEST: MORALES REALTY INC.

By [signature]
President
Obligee-Lessor

JOSE A. LEDESMA VIVALDI
ABOGADO
PUERTO RICO

ESTADO LIBRE ASOCIADO DE PUERTO RICO 905
TRIBUNAL DE PRIMERA INSTANCIA
SALA SUPERIOR DE SAN JUAN

KAC 2010 - 0121

MORALES REALTY, INC. Demandante VS. FRANKLIN THIRTY FOUR-RÍO CORP.; URBAN BRANDS, INC.;MARIANNE USPR, INC., MARIANNE PR FOUR, INC., MARIANNE PR FIVE, INC., CARRAÍZO ALTO APPAREL CORP.; THE NEW 5-7-9 AND BEYOND, INC.; COMPAÑÍAS DE SEGURO X, Y Y Z; D, E Y F;PERSONAS DESCONOCIDAS A, B Y C, Demandados	CIVIL NUMERO: SOBRE: Resolución de Contrato

EMPLAZAMIENTO

ESTADOS UNIDOS DE AMERICA)
EL PRESIDENTE DE LOS ESTADOS UNIDOS) SS.
EL ESTADO LIBRE ASOCIADO DE PUERTO RICO)

THE NEW 5-7-9 AND BEYOND, INC.
250 MUÑOZ RIVERA AVE.
AMERICAN INTERNATIONAL PLAZA
SUITE 800
SAN JUAN, P.R.

o sea, la parte demandada arriba mencionada.

POR LA PRESENTE, se le emplaza y requiere para que notifique a los Lcdos.

MOISES ABREU CORDERO y/o
ALBERTO A. ACEVEDO VALLEJO
Ave. Luis Muñiz Souffront #454
Urb. Los Maestros,
Rio Piedras, P.R. 00923
Tel. (787)758-7275
Fax (787)281-8797

abogado de la parte demandante, cuya dirección es la que se deja indicada, con copia de su contestación a la demanda, copia de la cual le es servida en este acto, dentro de los veinte (20) días de haber sido diligenciado este emplazamiento, si la citación se hiciere en la isla de Puerto Rico y dentro de los veinte (20) días si se hiciere en otra parte fuera de Puerto Rico, excluyéndose el día del diligenciamiento, apercibiéndosele que en caso de no hacerlo así podrá dictarse sentencia en rebeldía en contra suya, concediendo el remedio solicitado en la demanda.

EXTENDIDO BAJO MI FIRMA y el sello del Tribunal, hoy día JAN 15 2010 de de 2002.

LCDA. REBECCA RIVERA TORRES
SECRETARIA REGIONAL

SECRETARIO(A)

KEREN OLIVERAS PADILLA

CERTIFICADO DEL DILIGENCIAMIENTO DEL ALGUACIL

CERTIFICO: Que recibí este emplazamiento el día____de_____de 2010, notificándolo personalmente a_____, o sea, el demandado mencionado en dicho emplazamiento, el día____de_____de 2002, a las_____de la_____, en_____, Puerto Rico, entregándole personalmente copia de la Demanda presentada y copia de este emplazamiento, al dorso de la cual hice constar bajo mi firma la fecha y sitio de su entrega y notificación.

Fechado hoy día____ de_____de 2010, en_____, Puerto Rico.

_____
Alguacil

Por:_____
Alguacil Auxiliar

DILIGENCIAMIENTO POR PERSONA PARTICULAR

Yo, Altagracia Vázquez, previamente juramentado, DECLARO:

Que me llamo como queda dicho; soy mayor de 21 años de edad; se leer y escribir; y no soy abogado del demandante en este asunto, ni parte en este pleito, no teniendo tampoco interés en el mismo.

Que recibí este emplazamiento el día 15 de Enero de 2010, notificándolo personalmente a The New 5-7-9 And Beyond Inc. P/c de Lcdo Carlos Valldejuly Res. Resident systems o sea el demandado mencionado en dicho emplazamiento, el día 15 de Enero de 2010, a las 2:15 de la tarde en American Int. Plaza suite 800 M. Rivera 250 S. Juan Puerto Rico, entregándole personalmente copia de la Demanda presentada y copia de este Emplazamiento, al dorso de la cual hice constar, bajo mi firma, la fecha y sitio de su entrega y notificación.

Diligenciante

Jurado y suscrito ante mí por_____quien es mayor de edad,_____y vecino de_____, Puerto Rico, a quien conozco personalmente en _____, Puerto Rico, hoy día____ de _____de 2010.

_____
NOTARIO PÚBLICO

PLATZER, SWERGOLD, KARLIN,
LEVINE, GOLDBERG & JASLOW, LLP
COUNSELORS AT LAW

1065 AVENUE OF THE AMERICAS
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WWW.PLATZERLAW.COM

PLAZA 1000 AT MAIN STREET
SUITE 208
VOORHEES, NEW JERSEY 08043
TELEPHONE 856.782.8644

☐ *If checked, reply to New Jersey Office*

January 13, 2011

Via Federal Express

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

Re: Marianne USPR, Inc.
Chapter 11
Case No. 10-13030 (ASD)

Dear Sir/Madam,

Enclosed please find an original and two (2) copies of a proof of claim of The New 5-7-9 and Beyond, Inc. to be filed against the estate of the above-referenced debtor. Kindly time-stamp both copies to confirm receipt of same and return them in the self-addressed stamped envelope provided for your convenience.

If you have any questions or require any additional information, please contact me.

Very truly yours,

PLATZER, SWERGOLD, KARLIN,
LEVINE, GOLDBERG & JASLOW, LLP

By: Andrew S. Muller
Andrew S. Muller

Enclosures