

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.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, there may be exceptions to these general rules.

Items to be completed in Proof of Claim form**Court, Name of Debtor, and Case Number:**

Fill in the federal judicial district where the bankruptcy case was filed (for example, District of Delaware), the bankruptcy debtor's name, and the bankruptcy case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is located at the top of the notice.

Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the Bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if the trustee or another party in interest files an objection to your claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:

Use this space to report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

4. Secured Claim.

Check the appropriate box and provide the requested information if the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See DEFINITIONS, below.) State the type and the value of property that secures the claim, attach copies of lien documentation, and state annual interest rate and the amount past due on the claim as of the date of the bankruptcy filing.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. §§ 507(a).
If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See DEFINITIONS, below.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Amount of Claim that qualifies as an Administrative Expense under 11 U.S.C. § 503(b)(9) State the value of any goods received by the debtor within 20 days before the date of commencement in which the goods have been sold to the debtor in the ordinary course of the debtor's business.

7. Credits:

An authorized signature on this proof of claim serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

8. Documents:

Attach to this proof of claim form redacted copies documenting the existence of the debt and of any lien securing the debt. You may also attach a summary. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary. FRBP 3001(c) and (d). If the claim is based on the delivery of health care goods or services, see instruction 2. Do not send original documents, as attachments may be destroyed after scanning.

Date and Signature:

The person filing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. Attach a complete copy of any power of attorney. Criminal penalties apply for making a false statement on a proof of claim.

DEFINITIONS**Debtor**

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

Creditor

A creditor is the person, corporation, or other entity owed a debt by the debtor on the date of the bankruptcy filing. See 11 U.S.C. § 101(10).

Claim

A claim is the creditor's right to receive payment on a debt that was owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. § 101(5). A claim may be secured or unsecured.

Proof of Claim

A proof of claim form is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

Secured Claim Under 11 U.S.C. § 506(a)

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car.

A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C. §§ 507(a)
Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor should redact and use only the last four digits of any social-security, individual's tax-identification, or financial-account number, all but the initials of a minor's name and only the year of any person's date of birth.

Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

INFORMATION**Acknowledgement of Filing a Claim**

To receive acknowledgment of your filing, please enclose a stamped self-addressed envelope and a copy of this proof of claim. You may view a list of filed claims in this case by visiting the Claims and Noticing Agent's website at <http://www.bmcgroup.com/UrbanBrands>

Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(c), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

PLEASE SEND COMPLETED PROOFS OF CLAIM TO:**Via Regular U.S. Mail Via Overnight Courier**

BMC Group, Inc.	BMC Group, Inc.
Attn: Urban Brands	Attn: Urban Brands
Claims Processing	Claims Processing
P.O. Box 3020	18750 Lake Drive East
Chanhassen, MN 55317	Chanhassen, MN 55317

Large Apparel of Texas, Inc. d/b/a Ashley Stewart
Real Property Lease
Proof of Claim Exhibit

Petition Date: 9/21/2010

Pre Petition Charges:

2009 Real Estate Taxes:	\$4,642.05
2009 Cam Reconciliation Short Pay	\$1,752.45
July 2010 Legal Expense - Delinquent Account Review	\$82.50

Unsecured Claims	
Total:	\$6,477.00
Total Claim Amount:	
\$6,477.00	

* Note: TKG Southeast Market Center Development, L.P. hereby reserves the right to file additional claims against Debtor should they arise in the future.

1/21/2011

User: BRIAN

TKG MANAGEMENT INC.

1:31:42PM

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OCCUPANT LEDGER

Unit Reference Number : 105-104

Occupant Type : CURRENT

Open Items

Date	Charge Code	Charge Description	Amount	Balance
10/30/2009	TBR	TAX BILLING - 2009	4,642.05	4,642.05
03/31/2010	CBR	CAM BILLING - 2009	1,752.45	6,394.50
10/04/2010	LEG	LEGAL EXPENSE JULY 2010	82.50	6,477.00

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is entered into pursuant to the following terms and conditions:

ARTICLE I: GRANT & BASIC TERMS

1.01 Basic Terms & Definitions. This Lease is subject to the following basic terms and definitions:

- (a) Date of Lease: **January 8, 2007**
- (b) "Lessor": **TKG Southeast Market Center Development, L. P.**
Address: **1001 Cherry Street, Suite 308 Columbia, MO 65201**
- (c) "Lessee": **Large Apparel of Texas, Inc. d/b/a Ashley Stewart**
Address:
- (d) "Shopping Center": **Located at 12250 Lake June Road, Balch Springs, TX 75180**
- (e) Lessee's "leased premises": **Shop containing 3,500 square feet located at 12250 Lake June Road, #104 more particularly described on Exhibit A.**
- (f) Original Term: **Ten (10) years and several months ending on the Expiration Date, which shall be either January 31 or July 31 closest to the Commencement Date (See Section 1.04).**
Option Term: **Two (2) terms of five (5) years each (See Section 24.01).**
- (g) Lease Commencement Date: **Lessee's possession** subject to Section 1.03.

Rent Commencement Date: **The earlier of ninety (90) days after Lessee's possession or the date Lessee opens to the public for business** subject to Section 1.03.

Expiration Date: subject to Section 1.03.

- (h) Minimum Annual Rental: (See Section 2.01)

Year 1:	\$65,940.00 annually;	\$5,495.00 monthly	\$18.84 psf
Year 2:	\$65,940.00 annually;	\$5,495.00 monthly	\$18.84 psf
Year 3:	\$65,940.00 annually;	\$5,495.00 monthly	\$18.84 psf
Year 4:	\$65,940.00 annually;	\$5,495.00 monthly	\$18.84 psf
Year 5:	\$65,940.00 annually;	\$5,495.00 monthly	\$18.84 psf
Year 6:	\$72,534.00 annually;	\$6,044.50 monthly	\$20.72 psf
Year 7:	\$72,534.00 annually;	\$6,044.50 monthly	\$20.72 psf
Year 8:	\$72,534.00 annually;	\$6,044.50 monthly	\$20.72 psf
Year 9:	\$72,534.00 annually;	\$6,044.50 monthly	\$20.72 psf
Year 10:	\$72,534.00 annually;	\$6,044.50 monthly	\$20.72 psf

Option Year 1: \$79,772.00 annually; \$6,647.67 monthly \$22.79 psf

Option Year 4: \$87,741.50 annually; \$7,311.79 monthly \$25.07 psf
Option Year 5: \$87,741.50 annually; \$7,311.79 monthly \$25.07 psf

(i) ~~Percentage Rent: 3.0% of gross receipts in excess of the natural breakpoint(See Section 2.02)~~

(j) Use: The retail sale of clothing including accessories, the incidental sale of shoes and other related items as well as gift and sundry items **and for no other use or purpose. Lessee may not use the premises in violation of applicable law or existing lessee exclusives.**

(k) Trade Name of Lessee: **Ashley Stewart**

(l) "Broker": **TKG Management, Inc. and The Retail Connection—**
by separate agreement (See Section 22.01)

(m) ~~Rent Deposit: \$ _____ (See Section 22.03)~~

(o) Estimated contributions for current calendar year, based upon Lessee's pro rata share of the Shopping Center:

	Annual Amount <u>per Square Foot</u>	<u>Monthly</u>
Taxes (See Section 2.06)	\$2.68	\$781.67
Insurance (See Section 2.06)	\$0.29	\$84.58
Common Area Operating Costs (See	\$1.36	\$396.67

(p) Condition of leased premises (See Section 1.05): **Lessee will take premises in "As Is" condition.**

(q) Guarantor(s):

(r) ~~Riders: Riders consisting of a total of _____ (_____) pages are attached to this Lease and incorporated herein.~~

1.02 Use of Common Areas. The use and occupation by Lessee of the leased premises shall include the use, in common with others entitled thereto, of the common areas, employees' parking areas, service roads, loading facilities, sidewalks and customer car parking areas of the Shopping Center, and such other facilities as may be designated from time to time by Lessor, subject, however, to the terms and conditions of this Lease. Lessor may designate certain portions of the parking areas as reserved for use of certain Lessees or customers of certain Lessees. All parking rights are also subject to ordinances of the City.

1.03 Commencement of Rental and Other Charges. Lessee's obligation to pay minimum rent shall commence on the "Rent Commencement Date" which shall be the date set forth in Section 1.01(g). Tenant's obligation to pay other charges due hereunder (including but not limited to Common Area Maintenance, Insurance and Real Estate Taxes) shall commence on the "Lease Commencement Date" as set forth in Section 1.01(g), unless Lessor is to perform any Lessor's Work, in which event the Lease Commencement Date shall be the earlier of the following dates: (a) the date which is ~~fifteen (15)~~ **ninety (90)** days after Lessor notifies Lessee in writing that the leased premises have been substantially completed and are available to lessee for

the work by Lessor of completing construction, and Lessor shall have no liability or responsibility for loss of or any damage to fixtures, equipment or other property of Lessee so installed or placed on the leased premises. Once known, the Lease Commencement Date shall be set forth in writing by letter agreement signed by both parties.

- 1.04 Length of Term. The term of this Lease shall be as set forth in Section 1.01(f), commencing with the Commencement Date determined in accordance with Section 1.03 hereof, if said date shall occur on the first day of a calendar month. If the Commencement Date is other than the first day of the month, the first year of the lease term shall be deemed to be extended to include such partial month and the following twelve (12) months, so as to end on the last day of the month.
- 1.05 Conditions of Leased Premises. If Lessee is to take the leased premises "as is" pursuant to Section 1.01(p), Lessor shall have no obligation to prepare the leased premises for Lessee's use and there shall be no Lessor's Work. If Lessee is not taking the leased premises "as is" pursuant to Section 1.01(p), Lessor agrees At its cost and expense to complete Lessor's Work and to deliver possession of the leased premises to Lessee in a substantially completed condition (as defined in Section 1.03) on or before one year from the date of the commencement of Lessor's Work; provided, however, that in the event Lessor's Work is delayed or hindered by strike, casualty, fire, injunction, inability to secure materials, or restraint of law, unusual action of the elements, or any other cause beyond the control of Lessor, then the said period shall be extended to the extent of such delays. If Lessor fails to complete Lessor's Work or Lessor does not obtain acceptable financing for the Shopping Center and/or Lessor's Work within said period of time, including any extensions as herein provided or which may be agreed to by the parties, then Lessee shall have the option of canceling and terminating this Lease by giving notice in writing to Lessor. In the event this Lease is so terminated, Lessee shall not be liable to Lessor on account of any covenant or obligation herein contained, and any security deposit shall be refunded to Lessee. Lessee's sole remedy for the breach of Lessor's obligations under this Section 1.05 shall be the foregoing option to terminate this Lease as herein provided, and Lessee shall not have an action for damages, specific performance, or any other remedy arising out of this provision.
- 1.06 Lessee's Work. Other than Lessor's Work, Lessee shall make all other necessary improvements to the leased premises to operate Lessee's business ("Lessee's Work"). Lessee's Work shall comply with all applicable statutes, ordinances, regulations, and codes and shall strictly comply with the requirements of Article VI hereof. Lessee may not puncture the roof or interfere with the sprinkler system without specific written permission from Lessor.
- 1.07 Shopping Center Provisions. No rights or remedies shall accrue to Lessee arising out of the failure of Lessor to construct or Lease any other parts of the Shopping Center or from any changes in occupancy by Lessees in the Shopping Center. It is understood that said Exhibit "A" sets forth the general layout of the Shopping Center but shall not be deemed as a warranty, representation or agreement on the part of Lessor that the Shopping Center layout will be exactly as depicted on said Exhibit, and Lessor specifically reserves the right from time to time and without the consent of Lessee: (i) to change the number, size, height (including additional stores) or locations of the buildings or common areas in the Shopping Center as Lessor may deem proper; (ii) to change or modify any means of ingress or egress; (iii) construct building(s) and/or kiosk(s) on or in the common area; or (iv) to add additional land or buildings or both to the Shopping Center.

- 2.01 Minimum Annual Rental. Minimum rental hereunder shall be as set forth in Section 1.01(h) and shall be payable in monthly installments in advance, without set off, on the first day of each and every month throughout the lease term at the office of Lessor or at such other place designated by Lessor, without any prior demand. **Rent shall not be considered late until the fifth (5th) of the month.** Minimum rental for any fractional month shall be prorated and payable in advance. For purposes of this Lease, the gross leasable area of the leased premises shall be deemed to be that set forth in Section 1.01(e).
- 2.02 Percentage Rent. In addition to the payment of the fixed minimum rent as hereinbefore provided, Lessee shall pay to Lessor for each applicable full or partial Lease Year (including during any renewal term), as percentage rent, a sum equivalent to the amount, if any, by which the percentage set forth in Section 1.01(i) of the gross receipts, as hereinafter defined, exceeds the breakpoint set forth in Section 1.01(i). Within forty-five (45) days after the close of each Lease Year during the term hereof, Lessee shall furnish to Lessor a statement showing in such detail as Lessor shall reasonably require the amount of gross receipts for such Lease Year and the authorized exclusions and deductions therefrom; contemporaneously with furnishing such statement, Lessee shall pay to Lessor an amount equal to any percentage rental due for said Lease Year. The term "Lease Year," as used herein, shall refer to each calendar year during the lease term, but for the first and last year of the term shall mean the partial calendar year involved as to each, and for any such partial years, the percentage rent breakpoint shall be proportionately adjusted based upon the length of the partial year. Lessee's statement of gross receipts shall be certified (in a form acceptable to Lessor) under oath by Lessee's president or chief financial officer.
- 2.03 Gross Receipts Defined. The term "gross receipts," as used herein, is defined to mean the aggregate of all gross receipts of Lessee and of all licensees, concessionaires and sublessees of Lessee from all business conducted upon or from the leased premises, regardless of whether the such receipts are collected by or made through persons within or without the leased premises, and irrespective of whether such receipts be evidenced by check, credit, charge account, exchange, or otherwise. Such gross receipts shall include those received from any transaction, including, but not be limited to, the amounts received from the sale and rental of goods, wares, merchandise and shelf and/or floor space, gift certificates and for services and repairs performed on or from the leased premises, together with the amount of all orders taken or received at the leased premises, whether such orders be filled therefrom or elsewhere, and shall include sales made by or from vending devices in the leased premises. Gross receipts shall also include, but not be limited to, all deposits not refunded to purchasers and all sales to employees or agents of Lessee. Gross receipts shall not include (or if included shall be deducted therefrom) cash or credit refunds upon gross receipts where the merchandise sold or some part of it is returned by the purchaser to and accepted by Lessee; the sales price of merchandise returned by customers for exchange, provided that the sales price of merchandise delivered to the customer in exchange shall be included in gross receipts; and the amount of any sales, use, or gross receipts tax imposed by any federal, state, municipal or other governmental authority directly on sales and collected from customers, provided that the amount thereof is billed separately to the customer and is required to be paid by Lessee to such governmental authority. No franchise or capital stock tax and no inheritance, income, occupation, or similar tax or license fee based upon income, sales or profits, as such, shall be deducted from gross receipts.

Notwithstanding anything to the contrary contained herein, the following items shall be excluded from gross sales: transfers from other stores, credit card fees, check cashing fees and sales to employees.

transactions whether for cash or credit in a cash register or in cash registers having a cumulative total which shall be sealed in a manner approved by Lessor, and having such other features as shall be approved by Lessor. Lessee further agrees to keep on the leased premises for at least three (3) years following the end of any partial Lease Year and each Lease Year the gross income, sales and occupation tax returns with respect to said partial Lease year and Lease years and all pertinent original sales records. Pertinent original sales records shall include: (a) Cash register tapes, including tapes from temporary registers; (b) serially numbered sales slips; (c) the originals of all mail orders at and to the leased premises; (d) the original records of all telephone orders at and to the leased premises; (e) settlement report sheets of transactions with sublessees, concessionaires and licensees; (f) the original records showing that merchandise returned by customer was purchased at the leased premises by such customers; (g) memorandum receipts or other records of merchandise taken out on approval (h) such other sales records, if any, which would normally be examined by an independent accountant pursuant to accepted auditing standards in performing an audit of Lessee's sales; and (i) the records specified in (a) to (h) above of sublessees, assignees, concessionaires or licensees. In the event of any dispute as to the amount of percentage rent due, Lessee agrees to keep all the foregoing records until such dispute is resolved.

2.05 Audit. The acceptance by Lessor of payments of percentage rent shall be without prejudice to Lessor's right to an examination of Lessee's books and records of its gross receipts and inventories of merchandise on the leased premises for purposes of verification. At its option, Lessor may at any reasonable time, upon ten (10) days' prior written notice to Lessee, cause a complete audit to be made of Lessee's entire business affairs, tax returns and records relating to the leased premises for the period covered by any statement issued by Lessee as above set forth. **All such audits will be conducted at Lessee's Home Office.** If such audit shall disclose a liability for rent to the extent of ~~one percent (1%)~~ **two percent (2%)** or more in excess of the rentals theretofore computed and paid by Lessee for such period, or if Lessee's records are not adequate or the records are not made available within ten (10) days after written notice to Lessee to permit said accountants to determine gross receipts, Lessee shall promptly pay to Lessor the reasonable cost of said audit in addition to the deficiency, which deficiency shall be payable in any event, and, in addition, Lessor, at Lessor's option may terminate this Lease upon five (5) days' notice to Lessee of Lessor's election to do so. Any information obtained by Lessor as a result of such audit shall not be made public except to the extent necessary to enforce this Lease and to provide information to Lessor's Lender(s) or potential purchasers of the Shopping Center. If Lessee shall fail to furnish any report of gross receipts within seven (7) days after the period required, Lessor may charge Lessee a penalty of Fifty Dollars (\$50) for each day the report is thereafter delinquent.

2.06 Taxes and Insurance. Lessee shall pay to Lessor as additional rent its proportionate share of real estate taxes, special taxes and assessments, assessed during the term of this lease, and all insurance for the Shopping Center (excluding any Lessees separately taxed or charged for insurance or insurance paid pursuant to Section 5.03). Insurance shall include fire insurance, extended coverage and all other perils coverage, loss of rents coverage, plus all endorsements and other coverages deemed reasonable and necessary by Lessor. Lessor shall notify Lessee of the amount of such charges, and Lessee shall pay Lessor such amounts within ~~fifteen (15)~~ **twenty (20)** days from the date of notice to it by Lessor. Lessee's proportionate share is the fraction, the numerator of which is the gross leasable area in the leased premises and the denominator of which is the total gross leasable area of the Shopping Center, (excluding any Lessees separately taxed or charged for insurance), provided that if the taxes for the Shopping Center are increased materially because of assessment of

- (a) Right To Contest Assessments. Lessor may contest any and all such real estate taxes. If the result of any such contest shall be a reduction in the amount of the real estate taxes so contested, that portion of any refund, reduction, credit or recovery from the taxing authorities with respect to such real estate taxes which is in the same proportion for the total refund or recovery as Lessee's share of taxes, shall belong to Lessee, and the balance shall belong to Lessor. The cost of any such contest shall be paid as additional rent in the same proportionate share as the real estate taxes are paid.
- (b) Real Estate Tax. Real estate tax means: (i) any fee, license fee, license tax, business license fee, commercial rental tax, levy, charge, assessment, penalty or tax imposed by any taxing or judicial authority against the Shopping Center or land upon which the Shopping Center is located; (ii) any tax on Lessor's right to receive, or the receipt of, rent or income from the Shopping Center or against Lessor's business of leasing the Shopping Center; (iii) any tax or charge for fire protection, streets, sidewalks, road maintenance, refuse or other services provided to the Shopping Center by any governmental agency; (iv) any tax imposed upon this transaction, or based upon a reassessment of the Shopping Center due to a change in ownership or transfer of all or part of Lessor's interest in the Shopping Center; and (v) any charge or fee replacing any tax previously included within the definition of real property tax.
- 2.07 Interest on Delinquent Rent. All delinquent minimum rent, percentage rent and other charges due under this Lease shall accrue interest at a rate equal to the greater of one and one-half percent (1.5%) per month or the maximum amount permitted by law, from due the date of such payment and shall constitute additional rent payable by Lessee under this Lease and shall be paid by Lessee to Lessor upon demand. Payment shall not be deemed received if Lessee's payment is not actually collected (such as payment by insufficient funds check).

ARTICLE III: CLEANING AND REPAIR OF LEASED PREMISES

- 3.01 Lessor's Obligations. Lessee must serve Lessor by registered mail, return receipt requested within 15 days from the date the Commencement Date, written notice of any components of air conditioning, heating, plumbing, or electrical systems and equipment that are not in working condition. So long as Lessor has received said written notice from Lessee in accordance with this provision, Lessor shall be required to return said components to a working condition. Except as above, the respective obligations of the Lessor and Lessee as regards maintenance and repair are governed by Article VII hereinafter.

Notwithstanding anything to the contrary contained herein, Lessor will assign all HVAC warranties as they may exist, to Lessee for the duration of Lessee's Lease Term and the extension of any options.

ARTICLE IV: CONDUCT OF BUSINESS

- 4.01 Use of Premises. Lessee shall use the leased premises solely for the purpose set forth in Section 1.01 (j) and shall operate under the trade name set forth in Section 1.01 (k), and for no other business or purpose or under any other name without the prior written consent of Lessor. Consent may be subject to conditions as Lessor deems appropriate.

requirement of the law or of any public authority) the making of an addition alteration in or to the leased premises by Lessor.

Notwithstanding any to the contrary contained herein, Lessee may close its store when in its sole judgment the operation of the Leased Premises cannot be economically justified. Such closing shall not release Lessee from any of its obligations provided herein.

ARTICLE V: COMMON USE FACILITIES

- 5.01 **Control of Common Facilities by Lessor.** The common facilities as defined in this Lease shall at all times be subject to the exclusive control and management of Lessor, and Lessor shall have the right from time to time to establish, revoke, modify and enforce reasonable rules and regulations with respect to all or any part of said facilities. Lessor shall also have the right to close all or any portion of said areas or facilities to such extent as may, in the opinion of Lessor's counsel, be legally sufficient to prevent a dedication thereof or the accrual of any rights to any person or the public therein; and to do and perform such other acts in and to said areas and improvements, and/or revise and develop the same, as Lessor shall determine to be advisable, with a view to the improvement of the convenience and use thereof by the Lessees of the Shopping Center and their customers, provided proper access to the leased premises is maintained. **Lessor will not install or plant any objects over six feet (6') in height within twenty-five feet (25') of the Lessee's premises, excluding any objects that may be planted or in existence as of the date of this Lease. Additionally, any landscaping in the parking lot is specifically excluded.**
- 5.02 **Common Facilities Contribution.** During each calendar year or any portion thereof during the Lease term, Lessee will pay to Lessor as additional rent, subject to the limitations hereinafter set forth, a proportion of the common area operating costs hereinafter defined based upon the ratio that the square feet of gross leasable area leased to Lessee herein bears to the total square feet of all of the gross leasable area ~~leased~~ and available for lease to all Lessees in the Shopping Center, excluding for any item of costs the square footage of gross leasable area allocated to any Lessee responsible for directly paying such costs; provided, however, if any item of common area operating cost for the Shopping Center is increased materially because of Lessee's use, Lessee shall additionally pay for such excess cost. Lessee's share of such costs shall be estimated by Lessor on an annual basis for each calendar twelve (12) month period ending on December 31,, prorating fractional years. The initial estimate shall be as set forth in Section 1.01 (0) Lessee shall pay such estimated charge in monthly installments on the first day of each month in advance, and shall pay any excess charge within thirty (30) days of receiving a detailed statement therefore from Lessor or Lessee shall be in default of the Lease.
- 5.03 **Definitions.** For the purpose of this paragraph, "common area operating costs" means the total cost (other than the cost properly chargeable to capital account except as herein specifically provided) and expense incurred in operating, managing, maintaining, repairing, relocating, modifying, renovating and replacing the common facilities hereinafter defined, including without limitation the costs of maintaining roof, walls, foundations, detention ponds, porches, sprinkler systems, security, utility lines and resurfacing or patching the parking areas and labor associated with line painting, sidewalks and curbs, security and traffic control, security alarm system, public liability and umbrella insurance, gardening, watering and landscaping, lighting, maintenance of sanitary control, all costs for utilities to common areas, removal of

which are related to proper maintenance of the common facilities, plus fifteen percent (15%) of all of the foregoing costs to cover the administrative cost relative to common facilities.

"Common facilities" means all areas, space, equipment, and special services provided by Lessor for common or joint use and benefit of the occupants of the tracts shown on Exhibit "A", their employees, agents, servants, customers and invitees, including without limitation roofs, walls, common area lighting, parking areas, access roads, driveways, retaining walls, landscaped and vacant areas, loading facilities, pedestrian malls, walkways, ramps, wash rooms, foundations, shelters, signs, security, lighting fixtures and equipment, cost of utility service, and the facilities appurtenant to each of the aforesaid, and any other facilities maintained for the benefit of the Shopping Center. Lessor shall have the right to modify the common facilities from time to time as deemed reasonable by the Lessor.

Notwithstanding anything to the contrary contained herein, capital expenditures are excluded from Common Area Operating Costs. Capital expenditures do not include the roof, parking lot, lighting, or parking lot lighting.

Notwithstanding anything to the contrary contained herein, any increase in Lessee's proportionate share of any of the Common Area Operating Costs after the first full year's actual operating expenses shall not exceed, on a yearly basis, the lesser of (i.) actual increases in the Common Area Operating Costs or (ii.) five percent (5%) of Lessee's proportionate share for the prior lease year, excluding uncontrollable expenses including utilities, snow and ice removal and security.

5.04 ~~Pylon Sign Charges.~~ Lessee agrees to pay to Lessor, Lessee's proportionate share (as calculated below) of the cost of constructing and maintaining a pylon sign as shown on Exhibit ~~_____~~ attached hereto ("Pylon Sign"). The Lessee's proportionate share of the cost of constructing and maintaining the Pylon Sign shall be calculated by multiplying the total cost of the construction or maintenance of the Pylon Sign, as applicable, by the fraction, the numerator of which is the total square feet of said Pylon Sign allocated by Lessor to Lessee for Lessee's use and the denominator of which is the total square footage of the Pylon Sign. Lessee shall pay to Lessor Lessee's proportionate share of the cost of constructing the Pylon Sign within thirty (30) days after receipt by Lessee of Lessee's proportionate share of the cost of maintaining the Pylon Sign in monthly installments on the first day of each month in advance, and shall pay any excess charge within thirty days (30) days of receiving a detailed statement therefor from Lessor. Lessee's share of such maintenance costs shall be estimated by Lessor on an annual basis for each calendar twelve (12) month period ending on December 31, prorating fractional years. In the event that Lessee does not make said payment monthly, Lessee shall be in default of this Lease.

5.05 ~~Special Assessments and Indirect Source Fees.~~ Lessee acknowledges and agrees that certain special assessments ("Special Assessments") related to utility lines installed to service the Shopping Center and other property will be assessed against the Shopping Center but not against the Wal-Mart Tax Parcel. Lessee's proportionate share is the fraction, the numerator of which is the gross leasable area in the Demised Premises and the denominator of which is the total gross leasable area of the Shopping Center which is available for leasing. The Lessee's proportionate share shall be adjusted as each phase of the Shopping Center becomes available for leasing. Lessee shall pay its pro rata share of the Special Assessments and ISP Fee when incurred by Lessor, but no more often than monthly, within thirty (30) days after receiving a bill therefor from Lessor.

~~of gross leasable square feet in the Demised Premises and the denominator of which is the number of gross leasable square feet in the Shopping Center which is available for leasing. The Lessee's proportionate share shall be adjusted as each phase of the Shopping Center becomes available for leasing. Lessee shall pay its pro rata share of the Signalization Maintenance Cost when incurred by Lessor, but no more often than monthly, within thirty (30) days after receiving a bill therefor from Lessor.~~

ARTICLE VI: ALTERATIONS, LIENS AND SIGNS

- 6.01 **Alterations.** The requirements of this Section 6.01 shall apply to Lessee's Work as described in Section 1.06 and any alterations thereafter. Lessee shall not, without Lessor's prior written consent, either make or cause to be made any alterations, including additions and improvements, to the leased premises or to any exterior signs, shades or awnings. Consent shall be at Lessor's sole discretion. Any alterations consented to by Lessor shall be made at Lessee's sole expense. Lessee shall provide its own trash containers for construction debris; use service entrances to the leased premises, if any; conduct no core drillings during business hours; and disrupt other Lessee's as little as possible. Lessee shall secure any and all governmental permits, approvals and authorizations required in connection with any such work and shall hold Lessor harmless from any and all liability, costs, damages, expenses (including attorney's fees) and liens resulting therefrom. All alterations (expressly including all light fixtures and floor coverings, except trade fixtures, appliances and equipment that do not become a part of the leased premises), shall immediately become the property of Lessor. At Lessor's request, Lessee shall utilize only contractors or subcontractors who have contracts in effect at the time the improvements are made with respective building trade unions which traditionally and normally perform the work of the crafts involved in such work. Upon completion of any such work, Lessee shall provide Lessor with "as built" plans, copies of all construction contracts, and proof of payment for all labor and materials.

Notwithstanding anything to the contrary contained herein, Lessor shall not require consent and approval for repairs to the interior of Lessee's premises whose total cost is under Ten Thousand Dollars (\$10,000.00).

- 6.02 **Lessee Shall Discharge All Liens.** Lessee shall promptly pay its contractors and materialmen for all work done and performed by Lessee, so as to prevent the assertion or imposition of liens upon or against the leased premises, and shall, upon request provide Lessor with lien waivers, and should any such lien be asserted or filed, Lessee shall bond against or discharge the same within ~~ten (10)~~ **twenty (20)** days after written request by Lessor. In the event Lessee fails to remove said lien within ~~said ten (10)~~ **twenty (20)** days, Lessor may, at its sole option, elect to satisfy and remove the lien by paying the full amount claimed or otherwise, without investigating the validity thereof, and Lessee shall pay Lessor upon demand the amount paid out by Lessor in Lessee's behalf, including Lessor's costs and expenses with interest or Lessee shall be in default hereunder. Lessor's election to discharge liens as provided hereunder shall not be construed to be a waiver or cure of Lessee's default hereunder.

- 6.03 **Signs, Awnings and Canopies.** Lessee will not, without Lessor's prior written consent, such consent at Lessor's sole discretion, place or suffer to be placed or maintained upon the roof or on any exterior door, wall or window of the leased premises, any sign, awning or canopy, or advertising matter or other thing of any kind, and will not without such consent place or maintain any decoration, lettering or advertising matter on the glass of any window or door of the leased premises. All signs, awnings, canopies, decorations, lettering, advertising matter or other thing so installed by Lessee shall at all times be maintained by Lessee, at its expense, in good

Notwithstanding anything to the contrary contained herein, Urban Brands, Inc., shall have the right to use its standard signage in its Corporate colors. One (1) set of individual letters with a minimum height of thirty six inches (36") by twenty five feet (25') long on the front-facing store elevations. Lessee may also request, from time to time, the right to display professionally prepared window signs and banners. Any signage subject to approval by Lessor's property manager and Lessor's architect.

ARTICLE VII: MAINTENANCE OF LEASED PREMISES, SURRENDER AND RULES

- 7.01 Maintenance, Repair, and Replacement by Lessee. Lessee shall, at its expense, at all times repair, maintain, and replace (a) the interior of the leased premises, together with exterior entrances, all glass and all window moldings, (b) all fixtures, partitions, ceilings, floor coverings and utility lines in the leased premises, and all plumbing and sewage facilities within the leased premises including free flow up to utility owned sewer lines, and (c) all doors, door openers, equipment, machinery, appliances, signs and appurtenances thereof (including lighting, heating, air conditioning, and plumbing equipment and fixtures), in conformity with governmental regulations and all rules and regulations of the Board of Fire Underwriters, in good order, condition, maintenance and repair. If any item which Lessee is obligated to repair cannot be fully repaired, Lessee shall promptly replace such item, regardless of whether the benefit of such replacement extends beyond the term of this Lease. Lessee shall make any structural, interior and exterior alterations and/or repairs to the leased premises required by any governmental entity or insurance carrier or arising from damage caused by Lessee, its employees, servants or agents. If Lessee be required to make any exterior, interior or structural alterations, additions or improvements in the leased premises, Lessee shall proceed with same at its own cost after first obtaining Lessor's written approval of the plans therefore and satisfaction of each of the conditions set forth in Section 6.01 hereof. Lessee shall use, at its cost and at intervals as Lessor shall reasonably require, a reputable service company to clean and replace air-conditioning filters; or, at Lessor's option, Lessor may contract for such services and include the charges therefore as a common area operating cost. If Lessee refuses or neglects to commence or complete repairs, maintenance or replacements promptly and adequately, Lessor may make or complete said repairs, maintenance or replacements and Lessee shall pay the cost thereof to Lessor upon demand.
- 7.02 Maintenance by Lessor. Subject to Articles XIV and XV, the structural portions of the leased premises, the roof, exterior walls and the foundations, shall be maintained by the Lessor, except when the condition requiring such repairs shall result from Lessee's act or the fault of Lessee, its officers, agents, customers or employees. In the event Lessor fails to commence repairs it is obligated hereunder to make within thirty (30) days after written notice from Lessee specifying the necessary repairs, Lessee may make such repairs and be entitled to a credit from Lessor for the reasonable costs of said repairs.
- 7.03 Surrender of Premises. At the expiration of the tenancy hereby created, Lessee shall peaceably surrender the leased premises, including all alterations, additions, improvements, decorations and repairs made thereto (but excluding all trade fixtures, equipment, signs and other personal property installed by Lessee, provided that in no event shall Lessee remove any of the following materials or equipment without Lessor's prior written consent: any free standing signs, any power wiring or power panels; lighting or lighting fixtures; wall coverings; drapes, blinds or other window coverings; carpets or other floor coverings; or other similar building operating equipment and decorations), broom clean and in good condition and repair, reasonable wear and tear excepted. Lessee shall remove all its property not required to be surrendered to Lessor before said expiration of the tenancy.

surrendering the leased premises, including without limitation claims made by the succeeding Lessee founded on such delay. Lessee's obligation to observe or perform this covenant shall survive the expiration or other termination of the term of this Lease.

7.04 Rules and Regulations. Lessee agrees as follows:

- (a) The delivery or shipping of goods, merchandise, supplies and fixtures to and from the leased premises shall be subject to such rules and regulations as in the judgment of Lessor are necessary for the operation of the Shopping Center.
- (b) No loud speakers, televisions, phonographs, radios, or other devices shall be used in any manner so as to be heard or seen outside the leased premises without the prior written consent of Lessor.
- (c) Lessee shall not place or permit any obstructions or merchandise in the outside areas immediately adjoining the leased premises or other common facilities and shall not use such areas for business purposes other than for ingress and egress.
- (d) Lessee and Lessee's employees shall park their cars only in those portions of the parking area designated for that purpose by Lessor.
- (e) Lessee shall have full responsibility for protecting the leased premises and the property located therein from theft and robbery.
- (f) Lessee shall not permit on the leased premises any act or practice which is unlawful, immoral, or which might injure the reputation of the Shopping Center.
- (g) Lessee and Lessee's employees and agents shall not solicit business in the parking or other common areas, nor shall Lessee distribute or place handbills or other advertising matter on or on automobiles parked in the parking areas or in other common areas.
- (h) Lessee shall not conduct any auction, fire, bankruptcy sales ,or close out sales in the leased premises.
- (i) Lessee shall keep the leased premises free and clear of rodents, bugs, vermin, and Lessee shall use, at its cost and at such intervals as Lessor shall reasonably require, a reputable pest extermination contractor to provide extermination services in the leased premises.
- (j) Lessee shall keep the leased premises and adjacent common areas orderly, neat, clean, and free from rubbish and trash at all times and to permit no refuse to accumulate around the exterior of the leased premises. Lessee shall not burn any trash, rubbish or garbage in or about the leased premises. Trash shall be stored in a sanitary and inoffensive manner inside the leased premises or in screened areas approved by Lessor, and Lessee shall cause the same to be removed at reasonable intervals.
- (k) The leased premises shall; be open for business each and every day, except legal holidays, during the minimum hours established by Lessor.
- (l) To use or permit the use of common facilities by others to whom Lessor may grant to may have granted such rights in such manner as Lessor may from time to time designate, including but not limited to truck and trailer sales and special promotional events.

Lessor reserves the right from time to time to amend or supplement the foregoing rules and regulations and to adopt and promulgate reasonable additional rules and regulations applicable to the leases premises. Notice of such rules and regulations and amendments thereto, if any, shall be given to Lessee in writing. Lessee agrees to comply with all such rules and regulations, and Lessee shall be responsible for the observance of these rules and regulations by Lessee's employees, agents, and invitees. The foregoing rules are solely for the benefit of Lessor, and Lessor shall have no obligation to enforce such rules for the benefit of Lessee. Lessor, at its option, may waive certain rules with respect to individual Lessees. If Lessee violates any rule,

ARTICLE VIII: INSURANCE AND INDEMNITY

- 8.01 Casualty Insurance. Lessee shall at all times keep and maintain in force and effect its own insurance coverage, protecting it from loss, damage, or injury by whatever means, with respect to all furniture, fixtures, machinery, equipment, stock in trade, and all other items kept, used, or maintained by Lessee in, on, or about the leased premises.
- 8.02 Waiver of Subrogation. Each of the parties hereto does hereby release the other party from all liability for damage due to any act of neglect of the other party (except as hereinafter provided) occasioned to property owned by said parties which is or might be incident to or the result of a fire or any other casualty against loss from which either of the parties is now carrying or hereafter may carry insurance; provided, however, that the released herein contained shall not apply to any loss or damage occasioned by the willful acts of either of the parties hereto. The parties further covenant that any insurance obtained on their respective properties shall contain an appropriate provision whereby the insurance company or companies consent (s) to the mutual release of liability contained in this paragraph.
- 8.03 Increase in Fire Insurance Premiums. Lessee agrees not to keep use, sell or offer for sale, in or upon the leased premises, any articles or goods which may be prohibited by the standard form of insurance policy. Lessee agrees to pay upon demand any increase in premium for fire and extended coverage insurance and all other perils that may be charged during the term of this Lease on the amount of such insurance which may be carried by Lessor on said premises, or the building of which the same are a part, resulting from the use of the leased premises by Lessee, whether or not Lessor has consented to such use.
- 8.04 Liability Insurance. Lessee shall, during the entire term hereof, keep in full force and effect a policy of public liability and property damage insurance with respect to the leased premises and the business operated by Lessee and permitted sublessees of Lessee in the leased premises in which the limits of coverage shall not be less than \$1,000,000 per occurrence for bodily and/or personal injuries, and in which the coverage for property damage liability shall not be less than \$1,000,000 or a combined single limit of \$1,000,000.
- 8.05 Indemnification of Lessor. Lessee will protect, indemnify, defend and save harmless Lessor, its agents and servants, from and against any and all claims, actions, damages, suits, judgments, decrees, orders, liability and expense (including costs and attorney fees) in connection with loss of life, bodily injury, personal injury and/or damage to property of whatever kind or character, howsoever caused, arising from or out of any occurrence in, upon or about the leased premises, or in the occupancy or use by the Lessee of the leased premises or any part thereof, or occasioned wholly or in part by any act or omission of Lessee, its agents, contractors, employees, servants, sublessees or concessionaires, notwithstanding any possible negligence (whether sole, concurrent or otherwise) on the part of Lessor, its agents, contractors, employees or servants.
- 8.06 Plate Glass Insurance. Lessee shall keep and maintain in force during the term hereof, plate glass insurance upon windows and doors in the leased premises or self-insured.
- 8.07 Liquor Liability Insurance. ~~In the event that at any time during the term of this Lease or any extension or renewal thereof, beer, wines or other alcoholic liquors or beverages are sold or given away upon or from the leased premises (it being~~

- 8.08 Insurance Policy. The insurance policy required in this Article VIII shall be in form approved by Lessor, shall name Lessor and Lessee as the insured, and shall contain a clause that the insurer will not cancel, materially modify or fail to renew the insurance without first giving Lessor thirty (30) days' prior written notice. The insurance shall be in an insurance company approved by the Lessor, authorized to do business in the State and have a policy holder's rating of no less than "A" in the most current edition of Best's Insurance Reports. A copy of the policy or a certificate of insurance shall be delivered to Lessor. The policy shall insure Lessee's performance of the indemnity provisions of Section 8.05 hereof.

ARTICLE IX: UTILITIES

- 9.01 Utility Charges. Lessee shall be solely responsible for and promptly pay all charges for heat, water, gas, sewer, electricity, or any other utility or service used on or attributable to the leased premises. Lessor may elect to furnish any one or more of the above utility services, in which event Lessee shall accept and use such services as furnished by Lessor. Lessor's charges therefore shall not exceed the rates charged by local public utility companies to retail customers for the same or similar services. In no event shall Lessor be liable for an interruption or failure in the supply of any such utilities or services supplied by Lessor because of necessary repairs or improvements or for any cause beyond Lessor's control.

Notwithstanding anything to the contrary contained herein, if utilities are interrupted due to Lessor's gross negligence and Lessee is unable to operate in the ordinary course of business, Lessee's minimum rent shall abate until such time as Lessee is able to operate.

ARTICLE X: PRIORITY OF LEASE

- 10.01 Subordination. Lessor shall have the right to transfer, mortgage, assign, pledge, and convey in whole or in part the leased premises, the Shopping Center, this Lease and all rights of Lessor existing and to exist, and rents and amounts payable to it under the provisions hereof; and nothing herein contained shall limit or restrict any such right, and the rights of Lessee under this Lease shall be subject and subordinate to all instruments executed and to be executed in connection with the exercise of any such right of Lessor, including, but not limited to, the lien of any mortgage, deed of trust or security agreement now or hereafter placed upon the leased premises and the Shopping Center and to all renewals, modifications, consolidations, participations, replacements and extensions thereof. Said subordination shall not require the agreement or consent of Lessee, but Lessee covenants and agrees, if requested, to execute and deliver upon demand such further instruments subordinating this Lease to the lien of any such mortgage, deed or trust or security agreement as shall be requested of Lessor and/or any mortgage, proposed mortgagee or holder of any security agreement, ~~and Lessee hereby irrevocably appoints Lessor as its attorneys-in-fact to execute and deliver any such instrument for and in the name of Lessee.~~ Notwithstanding anything set out in this Lease to the contrary, in the event the holder of any mortgage or deed of trust elects to have this Lease superior to its mortgage or deed of trust, then, upon Lessee being notified to that effect by such encumbrance holder, this Lease shall be deemed prior to the lien of said mortgage or deed of trust, whether this Lease is adopted prior to or subsequent to the date of said mortgage or deed of trust.

- 10.02 Notice to Lessor of Default. In the event of any act or omission by Lessor which would give Lessee the right to terminate this Lease or claim a partial or total eviction, or make any claim against Lessor for the payment of money, Lessee will not make such claim or exercise such right until it has given written notice of such act or omission to

10.03 Estoppel Certificate. Lessee agrees, at any time, and from time to time, upon on not less than ten (10) days' prior notice by Lessor, to execute, acknowledge and deliver to Lessor, a statement in writing addressed to Lessor or other party designated by Lessor certifying that this Lease is in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), stating the actual commencement and expiration dates of the lease, stating the dates to which rent, and other charges, if any, have been paid, that the leased premises have been completed on or before the date of such certificate and that all conditions precedent to the lease taking effect have been carried out, that Lessee has accepted possession, that the lease term has commenced, Lessee is occupying the leased premises and is open for business, and stating whether or not there exists any default by either party in the performance of any covenant, agreement, term provision or condition contained in this Lease, and, if so, specifying each such default of which the signer may have knowledge and the claims or offsets, if any, claimed by Lessee; it being intended that any such statement delivered pursuant hereto may be relied upon by Lessor or a purchaser or Lessor's interest and by any mortgagee or prospective mortgagee of any mortgage affecting the leased premises or the Shopping Center. If Lessee does not deliver such statement to Lessor within such ten (10) day period, Lessor and any prospective purchaser or encumbrance may conclusively presume and rely upon the following facts: (i) that the terms and provisions of this Lease have not been changed except as otherwise represented by Lessor; (ii) that this Lease has not been canceled or terminated except as otherwise represented by Lessor; (iii) that not more than one (1) month's minimum rent or other charges have been paid in advance; and (iv) that Lessor is not in default under the Lease. In such event, Lessee shall be estopped from denying the truth of such facts. Lessee shall also, on ten (10) days' written notice, provide an agreement in favor of and in the form customarily used by such encumbrance holder, by terms of which Lessee will agree to give prompt written notice to any such encumbrance holder in the event of any casualty damage to the leased premises or in the event of any default on the part of Lessor under this Lease, and will agree to allow such encumbrance holder a reasonable length of time after notice to cure or cause the curing of such default before exercising Lessee's right of self-help under this Lease, if any, or terminating or declaring a default under this Lease.

10.04 Attornment. At the option of the holder of any mortgage affecting the leased premises, Lessee agrees that no foreclosure of a mortgage affecting the leased premises, nor the institution of any suit, action, summary or other proceeding against Lessor herein, or any successor Lessor, or any foreclosure proceeding brought by the holder of any such mortgage to recover possession of such property, shall by operation of law or otherwise result in cancellation or termination of this Lease or the obligations of Lessee hereunder, and upon the request of the holder of any such mortgage, Lessee covenants and agrees to execute an instrument in writing satisfactory to such party or parties or to the purchaser of the leased premises in foreclosure whereby Lessee attorns to such successor in interest.

ARTICLE XI: ASSIGNMENT AND SUBLETTING

11.01 Consent Required. Lessee shall not voluntarily or involuntarily assign this Lease in whole or in part, nor sublet all or any part of the leased premises without following the procedures detailed herein and the prior written consent of Lessor in each instance (In the event Lessor consents to an assignment or subletting, Lessee shall immediately pay Lessor \$1,00.00 to compensate Lessor for Lessor's expense incurred in subletting such assignment or subletting), which consent by Lessor shall be granted

upon the terms of said offer, whereupon Lessor shall have thirty (30) days to accept or reject said assignment or sublease, or at Lessor's sole option cancel and terminate this Lease, including the right to enter into a direct lease with the proposed assignee or sublessee before or after such termination.

Notwithstanding any assignment or sublease, Lessee shall remain fully liable on this lease and shall not be released from performing any of the terms, covenants and condition hereof. If Lessee is a corporation or partnership, any sale, transfer, leveraged buyout or other disposition of more than fifty percent (50%) of the corporate stock or more than fifty percent (50%) of partnership ownership, or any reorganization or restructuring which results in the net worth of Lessee decreasing by more than ten percent (10%) shall be deemed to be an assignment.

Lessor shall have the right to sell, convey, transfer or assign all or any part of its interest in the real property and the buildings of which the leased premises are a part or its interest in this Lease, Lessee agrees to attorn to Lessor's purchaser or assignee. All covenants and obligations of Lessor under this lease shall cease upon the execution of such conveyance, transfer or assignment, but such covenants and obligations shall run with the land and shall be binding upon subsequent owner or owners thereof or of this Lease.

Notwithstanding anything to the contrary contained herein, Lessee may assign or sublet this Lease without the consent of the Lessor if such assignment or subletting is to facilitate the sale of all or a substantial portion of the assets or controlling interest in the securities of Lessee, the sale of the appropriate operating division of Lessee, merger or other corporate reorganization, or transfer to an affiliated company; provided such assignment or subletting is for the continued use of the Leased Premises for the purposes set forth herein.

ARTICLE XII: WASTE, GOVERNMENTAL AND INSURANCE REQUIREMENTS AND HAZARDOUS SUBSTANCES

12.01 Waste or Nuisance. Lessee shall not commit or suffer to be committed any waste upon the leased premises or any nuisance or other act or thing which may disturb the quiet enjoyment of any other Lessee in the building which the leased premises may be located or in the Shopping Center, or which may disturb the quiet enjoyment of occupants of adjoining properties.

12.02 Governmental and Insurance Requirements. Lessees shall, at its sole cost and expense, comply with all of the requirements of any insurance carrier for the Shopping Center and all of county, municipal, state, federal and other applicable governmental authorities, now in force or which may hereafter be in force.

12.03 Hazardous Substances. Lessee covenants and warrants that Lessee, Lessee's Work and any alterations thereto and Lessee's use of leased premises will at all time comply with and conform to, at Lessee's own cost and expense, all laws, statutes, ordinances, rules and regulations of any governmental, quasi-governmental or regulatory authorities ("Laws") which relate to the transportation, storage, placement handling, treatment, discharge, generation, production or disposal (collectively "Treatment") of any waste, petroleum product, waste products, radioactive waste, poly-chlorinated biphenyls, asbestos, hazardous materials of any kind, and any substance which is regulated by any law, statute ordinance, rule or regulation (collectively "Waste"). Lessee further covenants and warrants that it will not engage in or permit any person or entity to engage in any Treatment of any Waste which is prohibited by any law, statute, ordinance, rule or regulation.

Lessee hereby agrees it will indemnify, defend, save and hold harmless Lessor and Lessor's officers, directors, shareholders, employees, agents, partners, and their respective heirs, successors and assigns (collectively "Indemnified Partners") against and from, and to reimburse the Indemnified Parties with respect to, any and all damages, claims, liabilities, loss, costs and expense (including, without limitation, all attorneys' fees and expenses, court costs, administrative costs and costs of appeals), incurred by or asserted against the Indemnified Parties by reason of or arising out of: (a) the breach of any representation or undertaking of Lessee under this Section 12.03 or (b) arising out of the Treatment of any waste by Lessee or any licensee, concessionaire, manager or other party occupying or using the leased premises, in or affecting the leased premises.

Lessor is given the right, but not the obligation, to inspect and monitor the leased premises and Lessee's use of the leased premises in order to confirm Lessee's compliance with the terms of this Section 12.03 and the representations set forth in this Section 12.03. Lessor may require that Lessee deliver to Lessor concurrent with Lessee's vacating the leased premises upon the expiration of this Lease, or any earlier vacation of the leased premises by Lessee, at Lessee's expense, a certified statement by licensed engineers satisfactory to Lessor, in form and substance satisfactory to Lessor, stating that Lessee, Lessee's Work and any conformed to all Laws which relate to the Treatment of any Waste in or affecting the leased premises.

Lessee agrees to deliver upon request from Lessor estoppel certificates to Lessor expressly stipulating whether Lessee is engaged in or has engaged in the Treatment of any Waste in or affecting the leased premises, and whether Lessee has caused any spill, contamination, discharge, leakage, release or escape of any Waste in or affecting the leased premises, whether sudden or gradual, accidental or anticipated, or any other nature at or affecting the leased premises and whether, to the best of the Lessee's knowledge, such an occurrence has otherwise occurred at or affecting the leased premises.

Notwithstanding any contained to the contrary herein, Lessor shall be responsible for removal of asbestos. Lessee shall not be responsible for any Hazardous Materials or asbestos that is in Lessee's premises prior to Lessee's taking possession of the premises. Lessee is only responsible for the items that it introduces to the premises.

ARTICLE XIII: PROMOTION FUND

- 13.01 ~~Promotion Fund.~~ Lessor may establish an Advertising, Marketing and Promotional Program (hereinafter referred to as the "Program") to furnish and maintain advertising and sales promotions which will benefit the Shopping Center. The Promotion Fund shall be used by Lessor to pay all costs and expenses associated with the formulation and carrying out of an ongoing Program for the promotion of the Shopping Center, which Program may include, without limitation, special events, shows, displays, signs, seasonal events, institutional advertising for the Shopping Center, promotional material to be distributed within the Shopping Center, and other activities within the Shopping Center designed to attract customers. The staff and any consultants hired by Lessor to direct and perform the activities of the Program shall be under direction and supervision of Lessor. Lessor has the exclusive right to review and approve of all proposed activities and acts of the Program and, in its sole discretion, may approve, disapprove and/or establish its own conditions for the Program.

Lessee agrees to pay monthly, in advance, the sum set forth in Section 1.01 (c) as its estimated share of the Promotion Fund. Lessor shall supply Lessee with a statement

~~part on the statement of expense for the preceding period modified by any known increases in the cost of the Program.~~

~~Upon request of Lessor, Lessee shall submit to Lessor on a calendar quarterly basis its completed Promotion Report, which will be supplied by Lessor and will include sales results and other information necessary from Lessee in determining the Program's effectiveness.~~

ARTICLE XIV: DESTRUCTION OF LEASED PREMISES

- 14.01 Partial Destruction. In the event of the partial destruction of the building or improvements located on the leased premises by fire or any other casualty, Lessor shall restore or repair said building and improvements with reasonable diligence. Lessor shall expend such sums as required to repair or restore improvements to the condition they were in immediately prior to the date of the destruction. A just and proportionate part of the rent payable to Lessor to the extent that such damage or destruction renders the leased premises unleaseable shall abate from the date of such damage or destruction until the leased premises are repaired or restored.

Notwithstanding anything to the contrary contained herein, if Lessee's premises are damaged such that Lessee is unable to operate and if Lessee's premises are damaged by twenty percent (20%) or more, then Lessee's minimum rent shall abate.

Notwithstanding anything to the contrary contained herein, if Lessee's premises are not repaired within one-hundred eighty (180) days of damage or destruction, then Lessee shall have the right to terminate this Lease on not less than thirty (30) days' notice.

- 14.02 Substantial Destruction. If the leased premises shall be so damaged by fire or other casualty or happening as to be substantially destroyed, then Lessor shall have the option to terminate this Lease by giving Lessee written notice within thirty (30) days after such destruction, and any unearned rent shall be apportioned and returned to Lessee. If Lessor does not elect to cancel this Lease as aforesaid, then the same shall remain in full force and effect and Lessor shall proceed with all reasonable diligence to repair and replace the leased premises to the condition they were in prior to the date of such destruction, and during the time the leased premises are so destroyed and totally untenable, the rent shall be abated.
- 14.03 Partial Destruction of Shopping Center. In the event that sixty percent (60%) or more of the gross leasable area in the Shopping Center shall be damaged or destroyed by fire or other cause, notwithstanding that the leased premises may be unaffected by such fire or other cause, Lessor shall have the right, to be exercised by notice in writing delivered to the Lessee within sixty (60) days after said occurrence, to cancel and terminate this lease. Upon the giving of such notice to Lessee, the term of this Lease shall expire by lapse of time upon the third (3rd) day after such notice is given, and Lessee shall vacate the leased premises and surrender the same to Lessor pursuant to the terms of this Lease.

ARTICLE XV: EMINENT DOMAIN

- 15.01 Condemnation. In the event of any condemnation or conveyance in lieu thereof of the leased premises or the Shopping Center, or both, whether whole or partial, Lessor may terminate this Lease and in any event Lessee shall have no claim against Lessor

by reason of the condemnation and any cost which Lessee may incur in removing Lessee's property from the leased premises. Provided, further, Lessee's rights to recover under this paragraph shall be subordinate to the rights of Lessor's first mortgagee.

ARTICLE XVI: DEFAULT OF LESSEE

16.01 **Default.** The following shall constitute an "Event of Default" under this Lease:

- (a) failure of Lessee to make, within five (5) days after the date when due, any payment of rent, percentage rent, additional rent or other charge payable by Lessee hereunder or to timely discharge any other monetary obligation (it being understood that Lessee's obligation to pay any rental without offset or deduction).
- (b) Lessee's failure to perform any other of the terms, conditions or covenants of this Lease to be observed or performed by Lessee for more than thirty (30) days after written notice thereof; provided, however, that such right to written notice shall be noncumulative and limited to a maximum of two (2) times during each calendar year of the term of this Lease.
- (c) if Lessee shall become bankrupt or insolvent, or file or have filed against it any bankruptcy proceedings, or take or have taken against it in any court pursuant to any statute, either of the United States or of any state, a petition of bankruptcy or insolvency, or for reorganization or for the appointment of a receiver or trustee of all or a portion of Lessee's property, or if Lessee makes an assignment for the benefit of creditors, or petitions for or enters into an arrangement.
- (d) if Lessee shall abandon or vacate the leased premises, or suffer this Lease to be taken under any writ of execution.
- (e) if Lessee shall default in the timely payment of rent, additional rent, taxes, insurance or common area charges or other charge payable by Lessee hereunder or to timely discharge any other monetary obligation three (3) times in any twelve (12) month period notwithstanding the fact that any such default shall have been cured.
- (f) the falsification by Lessee or any agent of Lessee of any report or statement required to be furnished to Lessor pursuant to the terms of this Lease. The falsification of any such document shall be deemed an incurable, material breach of this Lease and, at Lessor's option, constitute an immediate termination of Lessee's right to possession of the leased premises.

If any Event of Default occurs, Lessor, besides all such other rights or remedies it may have under this Lease or in law or in equity, shall have the immediate right to enter the leased premises and take possession thereof and of all permanent improvements thereon and may remove all persons and property from the leased premises by force, summary action, or otherwise, and such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Lessee, all without service of notice or resort to legal process, and without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby. Lessee agrees that Lessee shall have no further claim under this Lease and shall quit and deliver up the possession of the leased premises, including permanent improvements to the leased premises, when this Lease terminates by limitation or in any other manner provided for herein.

Notwithstanding anything to the contrary contained herein, Lessor shall give Lessee a notice and cure period of ten (10) days before default for late rent.

other than rent due hereunder from Lessee to Lessor; second, to the payment of any costs and expenses of such reletting, including brokerage fees and attorneys fees, and of costs of such alterations and repairs; third, to the payment of the most current rent owed at that time; and the residue, if any, shall be held by Lessor and applied in payment of future rent as the same may become due and payable hereunder from Lessee. If such rentals received from such reletting during any month be less than that to be paid during that month by Lessee hereunder, Lessee shall be liable for the payment of such deficiency to Lessor. Such deficiency shall be calculated and become payable monthly. No such re-entry or the taking of possession of the leased premises by Lessor shall be construed as an election on its part to terminate this Lease or to accept a surrender thereof unless a written notice of such intention to be given to Lessee. Notwithstanding any such reletting without termination, Lessor may at any time thereafter elect to terminate this Lease for such previous breach. Should Lessor at any time terminate this Lease for any Event of Default, in addition to any other remedies it may have, it may recover from Lessee all damages it may incur by reason of such breach, including the cost of recovering the leased premises, and the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the stated term over the then-reasonable rental value of the leased premises for the remainder of the stated term, all of which amounts shall be immediately due and payable from Lessee to Lessor. In determining the rent which would be payable by Lessee hereunder subsequent to default, the annual rent for each year of the unexpired term shall be equal to the average annual minimum and percentage rents paid by Lessee from the commencement of the term to the time of default, or during the preceding three (3) full calendar years, whichever period is shorter. Any reletting shall be done in such a manner as Lessor may deem proper, and if Lessee believes Lessor's efforts are not sufficient, Lessee shall so notify Lessor in writing and shall specify in detail such additional action Lessor should take. Unless such notice is given, Lessor's efforts to relet shall be deemed to be adequate. Lessee agrees that this Lease is a lease of "real property in a shopping center" and that a debtor in possession and/or trustee in bankruptcy acting pursuant to the provisions of the revised bankruptcy code, may assume this Lease only if, in addition to such other conditions of this Lease and of applicable law, said debtor in possession/trustee shall provide Lessor with such written assurances of future performance as are acceptable to Lessor. Any closing of Lessee's business, change in product or service mix, alteration in the size of the leased premises, change in advertising program, change in method of operation or change of Lessee's trade name by said debtor in possession/trustee shall be deemed to be a material disruption in the Lessee mix and balance of the Shopping Center. Lessor shall have at all time a valid lien for all rentals and other sums of money becoming due hereunder from Lessee, upon all goods, wares, equipment, fixtures, furniture and other personal property shall not be removed therefrom without the consent of Lessor until all arrearages in rent as well and all other sums of money then due to Lessor hereunder shall first have been paid and discharged. Upon the occurrence of any Event of Default by Lessee, Lessor may, in addition to any other remedies provided herein or by law or equity, enter upon the leased premises and take possession of any and all goods, wares, equipment, fixtures, furniture and other personal property of Lessee situated on the leased premises without liability for trespass or conversion, and sell the same with or without notice at public or private sale, with or without having such property at the sale, at which Lessor or its assigns may purchase, and apply the proceeds thereof less any and all expenses connected with the taking of possession and sale of the property, as a credit against any sums due by Lessee to Lessor. Any surplus shall be paid to Lessee, and Lessee agrees to pay any deficiency forthwith. Alternatively, the lien hereby granted may be foreclosed in the manner and form provided by law for foreclosure of security interest or in any other form provided by law. Any statutory lien for rent is not hereby waived, the express contractual lien herein granted being in addition and supplementary thereto. Lessee will

remedy shall not preclude Lessor for any other remedy, in law or in equity. Lessee hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event Lessee is evicted or dispossessed for any cause, or in the event Lessor obtains possession of the leased premises. No receipt of monies by Lessor from or for the account of Lessee or from anyone in possession or occupancy of the leased premises after the termination in any way of this Lease or after the giving of any notice of termination shall reinstate, continue or extend the term of this Lease or affect any notice given to Lessee prior to the receipt of such money; it being agreed that after the service of notice of termination or commencement of a suit, or after final judgment for possession of the leased premises, Lessor may receive and collect any rent or their amounts due Lessor and such payment shall not in any respect reinstate this Lease and shall not waive, affect or impair said notice, said suit or said judgment without the express written consent of Lessor. No delay or omission of Lessor to exercise any right or remedy under this Lease, or in law or in equity shall be construed as a waiver of such right or remedy of any Event of Default.

16.03 Legal Expenses. If suit shall be brought or claim shall be made (whether or not suit is commenced or judgment entered) for recovery of possession of the leased premises, and/or the recovery of rent or any other amount due under provisions of this Lease, or because of the breach of any other covenant herein contained, and the breach shall be established, the non-prevailing party shall pay to the prevailing party, in addition to all other sums and relief available to the prevailing party, all expenses incurred therefore, including reasonable attorneys' fees to the extent permitted by Law.

16.04 Failure to Pay; Interest. If Lessee at any time shall fail to pay any taxes, assessments or liens, provide insurance or perform any act required by this Lease to be made or performed by it, or fail to pay any charge payable by Lessee or to timely discharge any other monetary obligation of Lessee required by this Lease, Lessor, without waiving or releasing Lessee from any obligation or default under this Lease, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of Lessee. All sums so paid by Lessor and all costs and expenses so incurred shall accrue interest at a rate equal to the greater of one and one-half percent (1.5%) per month of the maximum rate permitted by law, from the date of payment or incurring thereof by Lessor and shall constitute additional rent payable by Lessee under this Lease and shall be paid by Lessee to Lessor upon demand.

ARTICLE XVII: ACCESS BY LESSOR

17.01 Right of Entry. Lessor or Lessor's agents shall have the right to enter the leased premises at all reasonable times to examine the same and to show it to purchasers and to make such repairs, alterations, improvements or the additions as Lessor may deem necessary or desirable, and Lessor shall be allowed to take all material into and upon the leased premises that may be required therefore without the same constituting an eviction of Lessee in whole or in part. During the six (6) months prior to the expiration of the term of this Lease or any renewal term, Lessor may exhibit the leased premises to prospective Lessees or purchasers and place upon the leased premises the usual signage for space rental. Nothing herein contained, however, shall be deemed or construed to impose upon Lessor any obligation, responsibility or liability whatsoever for the care, maintenance or repair of the building or part thereof, except as otherwise herein specifically provided.

Notwithstanding anything to the contrary contained herein, Lessor shall give reasonable notice to Lessee's home office before entering Lessee's

18.02 Loss and Damage. Lessor shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow, or leaks from any part of the leased premises, or from the pipes, appliances or plumbing works, or from the roof, street or subsurface, or from any other place, or by dampness or by any other cause of whatsoever nature, and whether originating in the leased premises or elsewhere. All property of Lessee kept or stored on the leased premises shall be so kept or stored at the risk of Lessee only, and Lessee hereby holds Lessor harmless from any claims arising out of damage to the same, including subrogation claims by Lessee's insurance carries, a waiver of which shall be obtained in advance by Lessee.

18.03 Notice by Lessee. Lessee shall give immediate notice to Lessor in case of fire or accidents, or damage to or of defects in the leased premises or in the building of which the leased premises are a part.

ARTICLE XIX: HOLDING OVER; SUCCESSORS

19.01 Holding Over. Any holding over after the expiration of the term hereof, with or without the consent of Lessor, shall be construed to be a tenancy from month to month at the rents herein specified (prorated on a monthly basis) and shall otherwise be on the terms and conditions herein specified, so far as applicable; provided, however, if such holding over is without the consent of Lessor; minimum rent for such holdover period shall be two (2) time the minimum rent due for the last month of the lease term.

19.02 Successors and Assigns. Except as otherwise herein provided, this Lease and all the covenants, terms, provisions and conditions herein contained shall inure to the benefit of and be binding upon the heirs, representatives, successors and assigns of each party hereto, and all covenants herein contained shall run with the land and bind any and all successors in title to Lessor.

ARTICLE XX: QUIET ENJOYMENT

20.01 Lessor's Covenant. Upon payment by Lessee of the rents herein provided, and upon the observance and performance of all the covenants, terms and conditions on Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the leased premises for the term hereby demised without hindrance or interruption by Lessor or any other person or persons lawfully or equitably claiming by, through or under Lessor; subject, nevertheless, to all the terms and conditions of this Lease.

ARTICLE XXI: MISCELLANEOUS

21.01 Waiver. The waiver by Lessor of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained. No covenant, term or condition of this Lease shall be deemed to have been waived by Lessor unless such waiver shall be in writing.

21.02 Accord and Satisfaction. No payment by Lessee or receipt by Lessor of a lesser amount than the monthly rent installments herein stipulated shall be deemed to be other than on account of the most current stipulated rent owed at that time, nor shall any endorsement or statement on any check or letter accompanying any check or payment as rent be deemed an accord and satisfaction.

required under the terms of this Lease, then the time allowed for performance for such act shall be extended by a period equivalent to the period of such delay. The provisions of this Section 21.04 shall not operate to excuse Lessee from the prompt payment of rent, percentage rent, additional rent or any other payments required by the terms of this Lease.

- 21.05 Lessor's Liability. If Lessor shall fail to perform any covenant, term or condition of this Lease upon Lessor's part to be performed, Lessee may not terminate the Lease, and Lessee's sole remedies shall be money damages (except as set forth in Section 1.16) and specific performance. If Lessee shall recover a money judgment against Lessor, such judgment shall be satisfied only out of the proceeds of sale received upon execution of such judgment and levy thereon against the right, title and interest of Lessor in the Shopping Center as the same may then be encumbered and neither Lessor nor if Lessor be a partnership, any of the partners comprising such partnership shall be liable for any deficiency. It is understood that in no event shall Lessee have any right to levy execution against any property of Lessor other than its interest in the Shopping Center as hereinabove expressly provided. In the event of the sale or other transfer of Lessor's right, title and interest in the leased premises or the Shopping Center, Lessor shall be released from all liability and obligations hereunder.
- 21.06 Notices and Payments. Any notice by Lessee to Lessor must be served by Federal Express or similar overnight delivery service or by certified mail, postage prepaid, addressed to Lessor at the place designated for the payment of rent, or at such other address as Lessor may designate from time to time by written notice. Any notice by Lessor (which may be given by Lessor or Lessor's attorney or management company) to Lessee must be served by Federal Express or similar overnight delivery service or by certified mail, postage prepaid, addressed to Lessee at the leased premises, or at such other address as Lessee may designate from time to time by written notice to Lessor. All notices shall be effective upon delivery or attempted delivery in accordance with this Section 21.06. Until otherwise notified in writing, Lessee shall pay all rent reserved herein and all other sums required under this Lease by check payable to the order of Lessor and shall forward the same to Lessor as herein provided.
- 21.07 Financial Statement. The persons signing this Lease on behalf of Lessee hereby personally represent and warrant to Lessor that the financial statements delivered to Lessor prior to the execution of this Lease properly reflect the true and correct value of all the assets and liabilities of Lessee and Guarantors. Lessee acknowledges that in entering into this Lease, Lessor is relying upon such statements and Lessee shall supply Lessor updated financial statements of Lessee and Guarantors each Lease Year and from time to time as requested by Lessor.
- 21.08 Guarantors. This Lease shall not be effective unless the persons, if any, listed in Section 1.01(q) hereof shall execute the Guaranty attached as Exhibit "C" of this Lease.
- 21.09 Captions and Section Numbers. The captions, section numbers, article numbers and headings appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such section or articles of this Lease.
- 21.10 Definitions. The word "Lessee" shall mean each and every person, firm or corporation mentioned as a Lessee herein, be the same one or more; and if there shall be more than one Lessee, any notice required or permitted by the terms of this Lease may be given by or to any one thereof, and it shall have the same force and effect as if given by or to all thereof. If there shall be more than one Lessee, they shall all be bound jointly and severally

- 21.12 Recording. This Lease or a certificate or memorandum thereof prepared by Lessor may, at the option of Lessor, be recorded. Lessee shall execute any such certificate, short form lease or memorandum upon demand by Lessor.
- 21.13 Entire Agreement. The Lease, the exhibits and rider, if any, set forth all the covenants, promises, agreements, conditions and understandings between Lessor and Lessee concerning the leased premises, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as herein set forth. All prior communications, negotiations, arrangements, representations, agreements and understandings, whether oral, written or both, between the parties hereto and their representatives are merged herein and extinguished, this Lease superseding and canceling the same. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Lessor or Lessee unless reduced to writing and executed by the party against which such subsequent alteration, amendment, change or modification is to be enforced. If any provision contained, in any rider hereto is inconsistent with any printed provisions of this Lease, the provision contained in such rider shall supersede said printed provision. Lessee hereby acknowledges that (a) this Lease contains no restrictive covenants or exclusives in favor of Lessee; and (b) this Lease shall not be deemed or interpreted to contain, by implication or otherwise, any warranty, representation or agreement on the part of Lessor that any department store or regional or national chain store or any other merchant shall open for business or occupy or continue to occupy any premises in or adjoining the Shopping Center during the term of this Lease or any part thereof, and Lessee hereby expressly waives all claims with respect thereto and acknowledges that Lessee is not relying on any such warranty, representation or agreement by Lessor either as a matter of inducement in entering into this Lease or as a condition of this Lease or as a covenant by Lessor.
- 21.14 Jury Trial; Claims; Survival. To the extent permitted by applicable law, and acknowledging that the consequences of said waiver are fully understood, Lessee hereby expressly waives the right to trial by jury in any action taken with respect to this Lease and waives the right to interpose any set-off of counterclaim of any nature or description in any action or proceeding instituted against Lessee pursuant to this Lease. Notwithstanding anything in this Lease to the contrary, the representations and undertakings of Lessee under this Lease shall survive the expiration or termination of this Lease regardless of the means of such expiration or termination.
- 21.15 Applicable Law. This Lease and the rights and obligations of the parties arising hereunder shall be construed in accordance with the laws of the State.
- 21.16 Consents and Approvals. Whenever Lessor's consent or approval is required herein, such consent or approval shall not be deemed given until Lessor has provided such consent or approval in writing. Lessee shall pay Lessor's reasonable attorneys' fees incurred in connection with Lessee's request for Lessor's consent or approval. Where the consent or approval of Lessor shall be required, such consent or approval shall be granted in Lessor's sole discretion unless otherwise expressly provided. With respect to any provision of this Lease which either expressly provides or is held to provide that Lessor shall not unreasonably withhold or unreasonably delay any consent or approval, Lessee shall not be entitled to make claim for, and Lessee expressly waives claim for, damages incurred by Lessee by reason of Lessor's failure to comply, it being understood and agreed that Lessee's sole remedy shall be an action for specific performance.
- 21.17 Authority. In the event Lessee hereunder shall be a corporation, the persons

been taken prior to the date hereof to qualify Lessee to do business in the State, if required by law; all franchise and partnership taxes have been paid to date; all future forms, reports, fees and other documents necessary to comply with applicable laws will be filed when due; and those entities executing this Lease on behalf of partnership are duly qualified to bind, and in fact do bind, the partnership. This Lease shall be effective only when it is signed by both Lessor and Lessee. Lessee's submission of a signed Lease for review by Lessor does not give Lessee any interest, right or option in the leased premises.

- 21.18 ~~Interpretation.~~ Both parties have read this Lease and had the opportunity to employ legal counsel and negotiate changes to the Lease. The Lease is the joint product of the parties and, in the event of any ambiguity herein, no inference shall be drawn against a party by reason of document preparation.
- 21.19 ~~Brokers.~~ Lessee represents and warrants to Lessor that no broker or agent negotiated or was instrumental in negotiating or consummating this Lease excepting only Broker. Broker is representing Lessor on this Lease, and Broker's commission shall be paid by Lessor. Lessee knows of no other real estate broker or agent who is or might be entitled to a commission or compensation in connection with this Lease. All fees, commissions or other compensation payable to any broker or agent of Lessee shall be paid by Lessee. Lessee shall hold Lessor harmless from all damages and shall indemnify Lessor for all damages paid or incurred by Lessor resulting from any claims asserted against Lessor by brokers or agents claiming through Lessee. Lessee acknowledges that Lessee has been informed that person(s) associated with Broker may have or may acquire an ownership interest in the Shopping Center, and Lessee acknowledges by signing this Lease that such ownership interest shall not affect the terms, conditions or validity of this Lease.
- 21.19 ~~Tax Financing.~~ ~~Tenant acknowledges that the Shopping Center may at present or in the future be included within a Transportation Development District or similar tax district (TDD), which would impose an additional sales tax on sales by retailers within said TDD to pay for various on and off-site improvements benefitting, directly or indirectly, the Shopping Center. Tenant agrees to comply with any and all rules and regulations of said TDD and any successor or replacement tax district imposing comparable additional sales tax obligations and to reasonably cooperate with Landlord in the establishment and administration of same, including but not limited to promptly collecting and remitting the additional sales tax as directed by the relevant TDD authority. Tenant further agrees that said TDD or relevant TDD authority shall be a third party beneficiary hereof and shall be entitled to enforce Tenant's obligations hereunder.~~

ARTICLE XXII: SECURITY AND RENT DEPOSITS

- 22.01 ~~Amount of Security Deposit.~~ Lessee, contemporaneously with the execution of this Lease, has deposited with Lessor the sum set forth in Section 1.01 (m), the receipt of which is hereby acknowledged by Lessor. Said deposit shall be held by Lessor, without liability for interest, as security for the faithful performance by Lessee of all the terms, covenants and conditions of this Lease by said Lessee to be kept and performed during the term hereof. Lessee specifically agrees that any deposit held hereunder by Lessor may be commingled with any other funds of Lessor.
- 22.02 ~~Use and Return of Security Deposit.~~ Should Lessee fail to keep and perform any of the terms, covenants and conditions of this Lease to be kept and performed by Lessee, as provided in Article XVI, Lessor may appropriate and apply said entire deposit, or so

~~22.03 Rent Deposit.~~ Lessee, contemporaneously with the execution of this Lease has deposited with Lessor the sum set forth in Section 1.01(n) to be held and applied to the initial rent due under this Lease.

ARTICLE XXIII: LESSEE COVENANTS; EASEMENTS

23.01 Lessee Covenants. Notwithstanding anything to the contrary contained herein, this Lease is subject to and made on the understanding that Lessor has granted and/or will grant certain restrictions and exclusive use covenants to other Lessees of the Shopping Center (herein the "Lessee Covenants"). Lessee acknowledges that Lessee's use and/or occupancy of the leased premises in violation of any current or future Lessee Covenants would subject Lessor to substantial damages, and as such, Lessee acknowledges and agrees that any such violation by Lessee of any such Lessee Covenants shall constitute a default hereunder entitling Lessor to cancel this Lease or enjoin Lessee from violating such Lessee Covenants, or exercise any of the remedies stated in Article XVI hereof and any other remedies available under the law of the State. Nothing contained in this Section 23.01 shall be construed to permit Lessee to expand the use restrictions set forth in Section 4.01 hereof. *Lessee Covenants attached as Exhibit E.*

23.02 Easements. The Shopping Center is and/or may be encumbered and/or benefited from time to time by certain easements, development and operating covenants, and similar agreements. Lessee agrees that it shall abide by any such agreement, including as any such agreement may be amended from time to time in Lessor's sole discretion. Lessor shall have the right to enter into and/or terminate any such agreement in Lessor's sole discretion.

23.03 Expansion: If, at any time during the term of this Lease or any extension thereof, Lessor determines that the premises leased to Lessee hereunder are needed to accommodate and facilitate expansion of any anchor tenant located (anchor tenant being defined as any tenant over 50,000 square feet of gross leasable area) in the Shopping Center, then Lessee shall, at Lessor's sole expense, move the location of Lessee's business to another site of equal or better location in the Shopping Center so that Lessee's business is put back in a manner similar to its original location. Said work shall be completed within a reasonable time frame. Rent shall abate for the period of time Lessee's business is interrupted as a result of such move, but Lessee shall be entitled to no other compensation from Lessor other than abatement of rent as aforesaid for the business interruption.

ARTICLE XXIV: OPTIONS TO RENEW

24.01 Right to Renew. Tenant shall, subject to the terms of Sections 24.02 and 24.03, have the right to extend the term of this Lease two (2) periods of five (5) lease years (such five (5) year period being herein referred to as the "Option Period") from the date upon which the term of this Lease would otherwise expire upon the same terms and conditions as those specified in this Lease, except that Minimum Rent for each Option Period shall be as set forth in Section 1.01(h).

24.02 Notice of Exercise. If Tenant elects to exercise its option for the Option Period, Tenant shall do so by giving Landlord notice of such election, in accordance with the provisions of Section 21.06 of this Lease, at least one hundred eighty (180) days before the beginning of the Option Period.

24.03 Conditions to Exercise of Option. Notwithstanding anything to the contrary contained

option for the Option Period and if Landlord so notifies Tenant that Landlord elects to negate such notice by reason of such default, then Tenant shall be deemed without further notice and without further agreement between Landlord and Tenant to have elected not to exercise its option for the Option Period. Any holding over or failure to vacate the Leased Premises at the end of any term shall not be deemed or construed to be in exercise of the Option Period or an extension of this Lease. Any termination of this Lease shall terminate Tenant's rights of further extension hereunder. Notwithstanding anything to the contrary contained in this Lease, the rights granted Tenant named herein under this Article shall be personal to Tenant named herein and, in the event of an assignment of this Lease pursuant to Article XI of this Lease, the rights granted Tenant named herein under this Article shall be of no further force and effect.

Section XXV: Exclusive

25.01 During the term of this Lease and any extension or renewal thereof, Lessor shall not lease space to a large size women's apparel. Lessor also agrees not to permit any existing tenant in this center as of the date of lease execution to change its business for the sale of large size women's apparel. In the event that Lessor allows a tenant selling large size women's apparel to open for business during this lease term or any extension thereof, Lessee shall have the option to (i) pay one half (1/2) of the fixed minimum rent or (ii) terminate this Lease upon not less than thirty (30) days' prior written notice. This exclusive clause does not apply to existing leases that are in full force and effect at the time this Lease is executed. Exclusive does not include WalMart as it is currently or may in the future be configured; nor does it include any tenant over 10,000 square feet.

Section XXVI: Anchor Tenant

26.01 The anchor tenant in the Shopping Center for the purpose of this section is Wal-Mart Supercenter. As of the date of this Lease, Lessor has no knowledge that Walmart is planning any action which would result in said anchor ceasing operation of their store. If Lessor is aware of such plans and fails to notify Lessee of same, and/or if an anchor tenant ceases operation or "downsizes" (i.e. reduces the amount of sales area square footage in their store, excluding garden center), on or before Lessee opens for business, Lessee shall have the right to: (i) delay opening of its store until a comparable replacement tenant is open and operating for business or; (ii) consider this Lease null and void and Lessor will reimburse Lessee for any reasonable improvements expenses by Lessee.

If Lessee has already opened for business (iii) beginning on the date any of the anchor tenants cease operation, Lessee will continue its operation in the Leased Premises paying three percent (3%) of previous month's Gross Sales, not to exceed fixed minimum rent, on a monthly basis until such time as a comparable replacement anchor tenant opens for business or; (iv) Lessee may cancel this Lease altogether and vacate the Leased Premises without further notice or obligation to Lessor in the event the anchor tenant is not replaced with a comparable anchor tenant within a six (6) month period.

Lessor shall be required to give Lessee written notice of the closing of any anchor tenant in the Shopping Center.

Section XXVIII: Gross Sales

28.01 Lessee shall have the right to terminate the lease upon sixty (60) days prior written notice if Lessee's Gross Sales in the fourth lease year or any lease year thereafter are less than \$900,000.00.

Section XXIX: Tenant Improvement Allowance

29.01 Lessor shall pay to Lessee, upon completion of Lessee's improvements and proof of costs thereof, a sum equal to \$15.00 per square foot (\$52,500.00).

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

LESSOR: TKG Southeast Market Center Development, L. P.

By: E. Stanley Kroenke
Its: Manager

2/12/07
Date

[Signature]
Witness

[Signature]
LESSEE: LARGE APPAREL OF TEXAS, INC D/B/A ASHLEY STEWART

By: Ethan Shapiro
Its: President/CEO

2/12/07
Date

Brenda K Buchanan
Witness

EXHIBIT "A" TO LEASE AGREEMENT

SITE PLAN

The Kroenke Group

Commercial Real Estate Development & Investment

Southeast Market

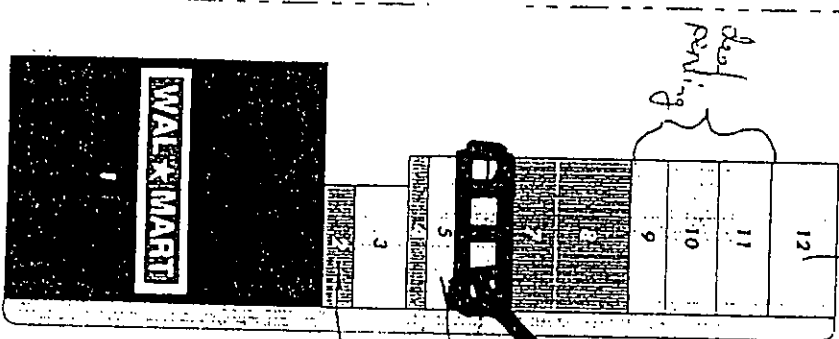
Balch Spr

KEY

□	AVAILABLE
■	ANCHOR
▨	LEASED
□	FUTURE DEVELOPMENT

SITE SUMMARY
xxx sq. ft.

1	Wal-Mart	130,000 SQ. FT.
2	Sally Beauty	16,000 SQ. FT.
3	Available	2,800 SQ. FT.
4	U Consign	1,400 SQ. FT.
5	Available	21,000 SQ. FT.
6	Available	3,500 SQ. FT.
7	Poyloss	3,000 SQ. FT.
8	Dohs	5,000 SQ. FT.
9	Available	2,600 SQ. FT.
10	Available	3,500 SQ. FT.
11	Available	4,500 SQ. FT.
12	Available	1,200 SQ. FT.
13	Subway	1,400 SQ. FT.
14	Dr. Silbey, Dentist	1,800 SQ. FT.
15	Sally Beauty Supply	9,000 SQ. FT.
16	Photo Fantasy	1,040 SQ. FT.
17	H&R Black	780 SQ. FT.
18	Neil Selom	2,222 SQ. FT.
19	Radio Shack	1,368 SQ. FT.
20	Cingular	3,000 SQ. FT.
21	51 Mori	



Double Davis.
Pizza Davis.

All in One Party Store

3500 sq
Leased Premises

1034 sq

1800 sq

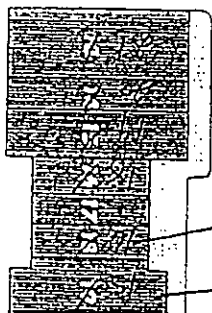


EXHIBIT "B"
TO LEASE AGREEMENT

DESCRIPTION OF LESSOR'S WORK AND LESSEE'S WORK

Attached to and forming a part of Lease

Lessor: TKG Southeast Market Center Development, L. P.

Lessee: Large Apparel of Texas, Inc. d/b/a Ashley Stewart

Date: January 8, 2007

LESSOR'S WORK: AS IS.

A. STRUCTURE

- ~~1. Frame, etc.: The structural frame, columns, beams, floor and roof slabs shall be constructed with incombustible and/or wood framing, and the floor and roof slabs shall be designed to carry live loads in accordance with the governing building codes. Roofs will be insulated roof deck construction. Exterior walls above grade will be concrete block and/or suitable structural members, with ties for anchorage of exterior veneers such as brick, stone, and other suitable materials. If any loads are applied to the roof or structural areas of the building which, in the opinion of Lessor shall be considered excessive, any costs for handling these structural changes shall be borne by Lessee.~~
- ~~2. Space height: The minimum clear height measures between the floor slab and the ceiling when finished shall generally be, as follows:~~

~~Sales Areas: 10 feet Stock Areas: 10 feet~~

B. STORE FRONTS

- ~~1. Design: Store fronts will be designed by Lessor's architect. Special store front designs may be used if desired by Lessee, at Lessee's expense, as set out below, provided the same is approved by Lessor in writing.~~

C. INTERIOR FINISH

- ~~1. Floors: All floors will be concrete with smooth cement finish.~~
- ~~2. Ceilings: A suspended 2 x 4 grid system and 2 x 4 acoustical tiles will be installed. At Lessor's option, in any stock areas so designated by Lessee, such area may either have finished acoustical ceiling or exposed bar joist.~~
- ~~3. Walls: Interior surfaces of walls enclosing leased areas will be finished with sheet rock (taped and ready for paint), concrete or haydite block.~~
- ~~4. Toilet Rooms: One toilet room will be provided in the leased premises with common toilet facilities for men and women. Where the local codes require more than one toilet, the cost of said second toilet shall be borne by Lessee.~~

D. PARKING AREAS AND WALKS

- ~~1. Surface: Parking areas will be concrete or asphaltic concrete over crushed rock~~

- ~~1. Public and service areas: Electrical wiring, electrical fixtures in common service areas and public areas will be provided by Lessor.~~
- ~~2. Leases space: Lessor will furnish six (6) duplex wall or duplex column outlets as set forth on plans. Lessor will provide one (1) empty 3/4" conduit for any necessary hookups. Lessor will supply initial installation of fluorescent strip lighting fixtures.~~
- ~~3. Service: Lessor will provide a 125 amp 3 phase service entrance, and power will be brought to the leased premises and stubbed in at panel and any increase in power requirements shall be paid for by Lessee.~~

~~F. HEATING AND AIR CONDITIONING~~

- ~~1. Heating: Lessor will provide a heating system which will supply _____ BTU's, and air conditioning system that is rated at _____ tons to be located as set forth in the plans.~~

~~G. UTILITIES~~

- ~~1. Water, Gas, Etc.: Normal waste lines shall be brought to the leased premises, stubbed in and connected to the public sewer.~~
- ~~2. In respect to gas, if this utility is available, subject to the sole discretion of Lessor, it shall be brought to the leased premises. Water and electricity will also be brought to the leased premises. Lessee will be obligated to supply Lessee's own meter, and in the event that Lessor has supplied a meter, Lessee shall reimburse Lessor for said cost of the meter. This cost shall be determined as that amount paid by Lessor to the utility company for the installation of said meter.~~

LESSEE'S WORK

Lessor's Work is limited to the work hereinabove described and excludes work described as Lessee's Work; all work not classified as Lessor's Work is Lessee's Work.

Lessee's Work shall include all other necessary improvements to operate Lessee's business and shall include, but not be limited to, the purchase and/or installation and/or performance of the following, and all the following shall be at Lessee's expense. The plans and specifications, if any are needed, and the detail and design shall be subject to the written approval of Lessor's architect.

A. ITEMS TO BE DONE

1. Telephone wiring, devices, and installation and service costs.
2. Intercom, radio and TV conduit, devices and wiring.
3. Light covers and other ceilings not standard to the project.
4. Fire protection and detection devices, other than Lessor's sprinkler system, if any.
5. Store fixtures, furnishings, display devices and special column treatments.
6. Display window platforms, floors, backs and ceilings, interior or special rooms.
7. Store signs and special structural stiffeners and anchorage therefore.
8. Lessee shall bear the additional cost of a special store front over that of the standard "straight" front provided by Lessor, including installation of automatic doors.
9. Complete plans showing all details of interior design, electrical and mechanical items which affect Lessor's Work if required by Lessor in order to prepare

12. All requirements related to bottled water.

B. CONSTRUCTION

1. All work undertaken by Lessee shall be at Lessee's expense and shall not damage the building or any part thereof; design and details shall conform with the standards of the project and shall be approved by Lessor's architect.
2. Work undertaken by Lessee during general construction shall be handled in the following manner:
 - a. Work attached to the structure such as additional plumbing, electrical work, plastering, terrazzo, etc., may be handled in any of the following ways:
 - (1) Awarded by Lessee to his own Contractor, who has been approved by Lessor's architect.
 - (2) Awarded to the Project Contractor through the use of unit prices which have been established for this type of work by previous bidding.
 - b. Store furniture, fixtures, painting, floor coverings, etc., may be let to any contractor approved by Lessor's architect. Lessees should attempt to allow Contractors for this category of work who are already on the site to bid on their work.

PROCEDURE

1. Lessor will provide Lessee, when preliminary plans have been prepared by Lessor's architect, with scale drawings, showing the general features of the leased premises, together with information on suitable locations for air-handling units, toilet rooms and design.
2. In developing the working drawing, Lessor reserves the right to make such necessary reasonable changes and adjustments which are the result of detailed technical development of the preliminary studies.
3. Lessee shall have the right to substitute more expensive items for items normally provided by Lessee hereunder, in which event Lessee shall complete such items at Lessee's cost, and Lessor shall give Lessee an allowance based upon the cost of the item Lessor would have been required to complete. All such work performed by Lessee shall be subject to the approval of Lessor's architect.

The aforesaid is agreed to as of the day and year first above written.

EXHIBIT "C"
TO LEASE AGREEMENT

GUARANTY

In order to induce _____ ("Lessor") to enter into that certain Lease Agreement dated _____ (the "Lease") between Lessor and _____ ("Lessee"), and in consideration of the benefits inuring to the undersigned (the "Guarantor") under said Lease, the receipt and sufficiency of which is represented by the Guarantor to Lessor to be sufficient and adequate, the Guarantor hereby unconditionally guarantees the performance of all of Lessee's obligations under the Lease, including, without limitation, the payment of rental as provided therein. This Guaranty shall remain in full force throughout the original lease term and any renewals thereof. This Guaranty shall be binding upon Guarantor and Guarantor's heirs, legal representatives, successors and assigns, and shall inure to the benefit of Lessor and its successors and assigns. If there is more than one Guarantor, the liability of each Guarantor shall be joint and several.

_____ This Guaranty is a guaranty of payment and performance and not of collection. Guarantor hereby waives notice of acceptance of this Guaranty agreement and all other notices in connection herewith or in connection with the liabilities, obligations and duties guaranteed hereby, including notices to it of default by Lessee under the Lease, and hereby waives diligence, presentment, protest and suit on the part of Lessor in the enforcement of any liability, obligation or duty guaranteed hereby. Guarantor further agrees that Lessor shall not be first or concurrently required to enforce against Lessee or any other person, any liability, obligation or duty guaranteed hereby before seeking enforcement thereof against Guarantor. The liability of Guarantor shall not be affected by any indulgence, compromise, settlement or variation of terms which may be extended to Lessee by Lessor, or agreed upon by Lessor or Lessee, and shall not be affected by any assignment or sublease by Lessee of its interest in the Lease, nor shall the liability of the Guarantor be affected by the insolvency, bankruptcy (voluntary or involuntary), or reorganization of Lessee, nor by the voluntary or involuntary liquidation, sale, or other disposition of all or substantially all of the assets of Lessee, or by the release of any other guarantor. Lessor and Lessee, without notice to or consent by Guarantor, may at any time or times enter into such modifications, extensions, amendments or other covenants respecting the Lease as they may deem appropriate, and Guarantor shall not be released thereby but shall constitute to be fully liable to the performance of all obligations and duties of Lessee under the Lease as so modified, extended or amended.

_____ Guarantor further agrees (1) to indemnify and hold harmless Lessor from and against any claims, damages, expenses, or losses, including to the extent permitted by law, the reasonable fees of an attorney, resulting from or arising out of any breach of the Lease by Lessee or by reason of Lessee's failure to perform any of its obligations thereunder, and (2) to the extent permitted by law, to pay any costs or expenses, including the reasonable fees of an attorney, incurred by Lessor in enforcing this Guaranty.

_____ The Guarantor acknowledges that Lessor may assign its rights under the Lease to an institutional investor as security for a loan to be made by such institutional investor to Lessor, and as long as any indebtedness of Lessor shall be outstanding and such assignment of the Lease shall exist, such institutional investor assignee shall be entitled to bring any suit, action or proceeding against the undersigned for the enforcement of any provision of this Guaranty, and it shall not be necessary in any such suit, action or proceeding to make Lessor a party thereto. This Guaranty may not be modified or amended without the prior written consent of such assignee of Lessor's interest in the Lease, and any attempted modification or amendment without such consent shall be void.

~~any indebtedness made or created in reliance upon the professed exercise of such powers shall be guaranteed under this Guaranty. Each Guarantor hereby represents and Warrants to Lessor that such Guarantor has received a copy of the Lease, has read or had the opportunity to read the Lease, and understands the terms of the Lease. The provisions in the Lease relating to the execution of additional documents, legal proceedings by Lessor against Lessee, severability of the provisions of the Lease, interpretation of the Lease, notices, waivers, the applicable laws which govern the interpretation of the Lease and the authority of Lessee to execute the Lease are incorporated herein in their entirety by this reference and made a part thereof. Any reference in those provisions to "Lessee" shall mean each Guarantor and any reference in those provisions to the "Lease" shall mean this Guaranty.~~

~~—— If any one or more of the provisions of this Guaranty shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Guaranty, and this Guaranty shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. This Guaranty shall be construed according to the laws of the state where the leased premises are located (the "State"). By execution hereof, the undersigned specifically consent to this choice of law designation and consent that all actions or proceedings arising directly, indirectly or otherwise in connection with, out of, related to, or from this Guaranty or the Lease shall be litigated only in the courts located in the State, and the undersigned (i) consent and submit to the in personam jurisdiction of any state or federal court locating within the State, (ii) waive any right to transfer or change the venue of litigation brought against the undersigned, and (iii) agree to service of process, to the extent permitted by law, by mail.~~

~~—— TO THE EXTENT PERMITTED BY APPLICABLE LAW, AND ACKNOWLEDGING THAT THE CONSEQUENCES OF SAID WAIVER ARE FULLY UNDERSTOOD, THE UNDERSIGNED HEREBY EXPRESSLY WAIVE THE RIGHT TO TRIAL BY JURY, THE RIGHT TO INTERPOSE ANY DEFENSE BASED UPON ANY STATUTE OF LIMITATIONS, ANY CLAIM OF LACHES AND ANY SET-OFF OR COUNTERCLAIM OF ANY NATURE OR DESCRIPTION IN ANY ACTION OR PROCEEDING INSTITUTED AGAINST THE UNDERSIGNED OR ANY OTHER PERSON LIABLE ON THE LEASE.~~

~~—— IN WITNESS WHEREOF, Guarantor(s) has/have caused this instrument to be executed this _____ day of _____, 20____.~~

Personal Guaranty:

BY:
ITS:
Social Security Number: _____
Date of Birth: _____

Date

Witness

BY:
ITS:

Date

Witness

EXHIBIT "D"
SIGN CRITERIA
SHOPPING CENTER

Establishing certain basic guidelines which must be followed by both the Lessee and the sign company serves a two-fold purpose. First, it meets standard of good design and workmanship. Secondly, it helps to assure a pleasing and attractive shopping center -- a goal desired by the owner, the Lessees, and the community.

A. GENERAL REQUIREMENTS:

1. The sign company or the Lessee must submit to owner for written approval two copies of detailed drawings showing the size, layout, design and color of the proposed sign.
2. All public permits for sign shall be obtained by the sign company.
3. All signs shall be constructed and installed at Lessee's expense.
4. Lessees shall be responsible for the fulfillment of all requirements of these criteria.

B. DESIGN REQUIREMENTS:

1. Letters may not overlap with top or bottom edge of the building fascia and must be a minimum of six inches (6") from the edge of the building fascia or backing frame. The width of the entire store sign cannot exceed 80% of the store frontage.
2. Signs shall be composed of individual illuminated letters. Sign boxes or cabinets will not be permitted. There shall be no signage above the roof overhang.
3. Letter sizes are not to exceed 42" in height or not less than 24".
4. Letters are to be lighted behind with neon tubing, channel type with 3/16" Plexiglas faces - letter returns are to be aluminum. Minimum return depth is to be five (5") for even dispersions of the illumination. Illumination backing or external lighting of signs is prohibited.
5. No signs perpendicular to the face of a building or structure shall be permitted.
6. No signs shall exceed a maximum brightness of 200 foot candles.
7. Flashing, blinking, moving, flickering, animated or audible signs will not be permitted.
8. Paper signs and/or stickers utilized as signs, as well as signs of a temporary character or purpose will not be permitted.
9. All electrical signs shall bear the UL label and their installation must comply with the local building and electrical codes.
10. Interior illumination of signs shall be even across the letter face. Easy access to neon tubes for servicing shall be provided. Sign shall be free of light leakage.

C. CONSTRUCTION REQUIREMENTS:

1. All letters shall be fabricated using full-welded construction, using aluminum returns and backs. No Channel-ply backing shall be permitted.
2. Location of all openings for conduit sleeves and supports in sign panels of building walls shall be indicated by the sign contractor on drawings submitted to the Lessor. Sign contractor shall install same in accordance with the approved drawings.
3. Sign contractor shall repair any damage to and any work caused by his work.
4. Lessee shall be fully responsible for the operators of Lessee's sign contractor. All sign installation will be coordinated with the Lessor prior to initiation of any work by the Lessee and/or his subcontractors.

9. Threaded rods or anchor bolts shall be used to mount sign letters which are spaced out from background panel. Angle clips attached to letter sides will not be permitted.
10. The size, design, color, materials, specific location, content, type of construction, method of mounting and illumination of each sign, as well as Lessee's storefront design, shall be subject to the approval of the Lessor's architect. Lessee shall submit complete, detailed drawings, in triplicate, containing all of the above information for each sign to Lessor's architect for review and approval.
11. When approved, one (1) copy of sign design drawings will be returned to Lessee.
12. Said approval must be in writing and received by Lessee before fabrication or installation of any signs on storefronts. Signs, storefronts or their components which are installed without first receiving said approval shall be ordered promptly removed from the leased premises at the expense of the Lessee.

Any deviations from this sign criteria are strictly subject to prior written approval by the lessor or his authorized representatives. All signs must be approved by the Lessor.

EXHIBIT E TO LEASE AGREEMENT
EXCLUSIVE USES & OTHER RESTRICTIONS TO SOUTHEAST MARKET CENTER,
BALCH SPRINGS

November 2, 2006

Americash Services

Provided that Tenant shall (i) continuously operate its business in the Lease Premises as provided in Section 4.02, (ii) use the Leased Premises as provided in Section 4.01, and (iii) not be in default under this Lease beyond any applicable cure period allowed herein, landlord covenants that during the term of this Lease, it will neither lease nor permit the occupancy of any store located in the Shopping Center, other than the Leased Premises, for the primary purpose of operating a store performing cash advances. This restriction shall not apply to any tenant greater than 4,000 square feet, Wal-Mart as it exists now or in the future, consumer bank that is FDIC insured, and any tenant leasing space in the Shopping Center whose lease was executed prior to the date of this Lease and such tenants' subtenants, successors and assigns.

Tenant shall not be entitled to any monetary or pecuniary damages against Landlord so long as Landlord shall use reasonable efforts to comply with this Article XXVI by restricting other tenant leases in the Shopping Center executed after the date hereof as aforesaid, shall not affirmatively authorize the performance of conflicting services in violation of Section 25.01 in any tenant lease executed after the date hereof. If another Tenant in the Shopping Center violates said Exclusive, Tenant shall have the option to terminate the Lease upon not less than thirty (30) days' written notice to Landlord.

December 29, 2006

Dots, LLC

Tenant has been induced to enter into this Lease based on Landlord's agreement not to permit certain types of occupants at the Shopping Center due to the anticipated detrimental effect such occupants would have on Tenant's gross sales. Accordingly, in the event that there shall occur a violation of the inducement condition (as hereinafter described) and such violation continues for ninety (90) days during any period that Tenant is operating its business for the uses contemplated hereby, and provided that Tenant is not then in default hereunder beyond any applicable cure period, Tenant shall have the right, upon thirty (30) days' written notice to Landlord, to terminate this Lease. In the event Tenant elects to terminate the Lease, neither party shall have any further liability to the other hereunder for any obligations accruing after the date of termination, except that Landlord shall refund immediately all sums prepaid by Tenant. A violation of the inducement condition shall occur if (a) any occupant of the Shopping Center shall sell misses, juniors or women's apparel and greater than fifty percent (50%) of such apparel is priced at Twenty-Two Dollars (\$22.00) per unit or less (the "Concept") or (b) any of the

any tenant of the Shopping Center which occupies in excess of six thousand (6,000) square feet of leasable area, Wal-Mart as it exists now or in the future, any outparcels, or any tenants leases in the Shopping Center whose leases were executed prior to the date of this Lease and whose leases would permit such Concept without Landlord's consent and such tenants subtenants, successors and assigns.

July 17, 2003

Foto Fantasy

Subject to any leases in effect as of the date this lease is executed and not including Wal-Mart Stores as it exists now or in the future and any other tenant over 2,500 square feet, Lessor agrees that it will not lease any property in the shopping center to any entity whose sole purpose of business is the operation of a photographic studio.

H & R Block

Notwithstanding anything to the contrary in this lease, Lessor shall not lease space in the Shopping Center excluding the Wal-Mart building as it exists now or in the future to any tenant whose sole and primary purpose of business is tax preparation and electronic filing.

December 29, 2006

Payless Shoesource, Inc.

To the extent that Landlord may lawfully do so, Landlord covenants and agrees that it will not directly or indirectly lease or rent any additional property within the Shopping Center for principal use as a non-branded retail shoe store; nor will Landlord permit any tenant or occupant of such property to lease or rent any part thereof for such use, excepting therefrom all existing leases as of the date of this Lease. If at any time during the primary or extended terms of this Lease, a person, firm or corporation does so operate a retail shoe store within the Shopping Center, then Base Rent payable hereunder shall be reduced by fifty percent (50%) while such conditions continues to exit. Reduced rent is capped at 12 months at which time Tenant either (a) terminates the Lease upon written Notice to Landlord or (b) resumes paying full Base Rent. This Section 5.04 shall not apply to the property owned by or premises occupied by Wal-Mart, its tenants, subtenants, successors and assigns, or any premises of any tenant over 5,000 square feet or their respective subtenants, successors and assigns.

December 11, 2006

Pizzaworks of N. Texas/Double Dave's

Provided that Tenant shall (i) continuously operate its business in the Leased Premises as provided in Section 4.02, (ii) use the Leased Premises as provided in Section 4.01 and (iii) not be used for any other purpose than the operation of a pizza restaurant.

and related accessories, and audio/video equipment and accessories; or (ii) the connection, installation, sale, display or promotion of off-premises [internet, on-line, broadband, narrowband, DSL, cable modem, satellite] access services, access devices or related goods, services, equipment, or accessories which enable or utilize connection to what is commonly known today as the Internet or any enhancement thereof or successor thereto (the Protected Merchandise).

B. If Landlord fails to comply with the provisions of this section within 30 days after Landlord s receipt of notice of the violation, Tenant may: (i) pay Landlord the lesser of (a) Fixed Minimum Rent or (b) 3% of Gross Sales monthly, in arrears within 20 days after the end of each calendar month, in lieu of Fixed Minimum Rent and all additional charges under the Lease until the violation is cured; or (ii) seek an injunction. Gross Sales shall be defined as all merchandise sales credited to the Demised Premises.

C. The provisions of this section shall not apply to: (i) Cingular Wireless; (ii) Gamestop; (iii) any tenant existing in the Shopping Center effective as of the date of this Agreement; or (iv) any tenant occupying a single rentable area exceeding 5,000 square feet.

Sally Beauty Supply

Lessor shall not enter into any leases or space in the Shopping Center with tenants engaged solely in the business of beauty supply sales, provided, however, that nothing contained herein shall be deemed to prohibit or prevent Lessor from renewing or extending the leases of presently existing tenants of the Shopping Center on substantially the same terms and conditions, and nothing contained herein shall be deemed to impose any liability on the Lessor if any presently existing tenant of the Shopping Center begins operations which compete with Lessee s business, provided the lease of such pre-existing tenant allows such operation. In other words, Lessor may enter into leases with tenants in the business of beauty supply sales, so long as they are not primarily engaged in said business.

Subway Restaurant

Landlord agrees not to sell, lease, let, use or permit to be used, any other property owned or controlled by it within one mile of the leased premises now or at any time during the period of this lease, or any extension, to any entity whose primary business is the sale of submarine sandwiches in competition with Tenant s or subtenant s business.

The Noor Dollar Mart

At no time during the term of this Lease or any extensions thereof, will Lessor lease space to another Tenant in the shopping center whose sole and primary purpose is a discount/variety/dollar store. If Lessor violates this provision, Lessee shall be entitled to terminate this Lease upon thirty (30) days prior written notice to Landlord at any time prior

It is further stipulated and agreed that in case of a breach of this covenant, all rent herein reserved shall be reduced by twenty-five percent (25%), as liquidated damages, and shall remain so reduced so long as such breach shall continue. Lessee shall also be entitled to seek any and all other legal and equitable remedies afforded by law.

WM

ARTICLE I

BUILDING/COMMON AREAS

"*Building Areas*" as used herein shall mean those portions of the Shopping Center shown on Exhibit A-1 as "Building Area" (and "Future Building Area" and "Future Expansion Area"). Canopies may encroach from the Building Areas over the Common Areas provided the canopies do not interfere with the use of the Common Areas.

"*Common Areas*" shall be all of the Shopping Center except the Building Areas.

"*Tracts*" as used herein shall mean the Wal-Mart Tract and the Developer Tract but not the Outparcel. Reference to a "Tract" refers to the Wal-Mart Tract or the Developer Tract but not the Outparcel.

Conversion to Common Areas: Those portions of the Building Areas which are not from time to time used or cannot, under the terms of this Agreement, be used for buildings shall become part of the Common Area for the uses permitted hereunder and shall be improved, kept and maintained as provided herein.

ARTICLE II

USE

Buildings in the Shopping Center shall be used for commercial purposes of the type normally found in a retail shopping center including, without limitation, financial institutions, service shops, offices, and retail stores. Except as shown on Exhibit A-1, no cafeteria, restaurant, theatre, bowling alley, billiard parlor, night club or other place of recreation or amusement, or any business serving alcoholic beverages (except for off-premises consumption or as an ancillary part of a permitted restaurant business, so long as the revenues from the sale of alcohol in said restaurant do not comprise more than 50% of gross revenues for the restaurant in question) shall occupy space within the Shopping Center without the prior written consent of Wal-Mart. Notwithstanding the foregoing, cafeteria and restaurant uses shall be expressly permitted on the Outparcel and restaurants shall be expressly permitted to occupy in-line space within the strip center to be constructed by Developer on the Developer Tract as shown on Exhibit A-1.

express or implied, to either commence the operation of a business or thereafter continuously operate a business by Wal-Mart on the Wal-Mart Tract. Developer recognizes and agrees that Wal-Mart may, at Wal-Mart's sole discretion and at any time during the term of this Agreement, cease the operation of its business on the Wal-Mart Tract and Developer hereby waives any legal action for damages or for equitable relief which might be available to Developer because of such cessation of business activity by Wal-Mart.

ARTICLE III

COMPETING BUSINESS

Developer covenants that as long as Wal-Mart, or any affiliate of Wal-Mart, occupies and conducts business upon the Wal-Mart Tract, no space in or portion of the Developer Tract or the Outparcel shall be leased or occupied by or conveyed to any other party for use as (a) a membership warehouse club operation similar to that of a 'Sam's Club', (b) a pharmacy, (c) a discount department store or other discount store, as such terms are defined below, or (d) a grocery store or supermarket as such terms are defined below. In the event of a breach of this covenant, Wal-Mart shall have the right to terminate this Agreement and to seek any and all remedies afforded by either law or equity, including, without limitation, the rights to injunctive relief. "Grocery store" and "supermarket," as those terms are used herein, shall mean a food store or a food department containing more than 10,000 square feet of gross leasable area used for the purpose of selling food for off premises consumption, which shall include but not be limited to the sale of dry, refrigerated or frozen groceries, meat, seafood, poultry, produce, delicatessen or bakery products, refrigerated or frozen dairy products, or any grocery products normally sold in such stores or departments. "Discount department store" and/or "discount store," as those terms are used herein, shall mean a discount department store or discount store containing more than 35,000 square feet of gross leaseable area used for the purpose of selling a full line of hard goods and soft goods (e.g., clothing, cards, gifts, electronics, garden supplies, furniture, lawnmowers, toys, health and beauty aids, hardware items, bath accessories and auto accessories) at a discount in a retail operation similar to that of Wal-Mart as of the date of this Agreement.

ARTICLE IV

BUILDINGS