


<b>UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE</b>		<b>PROOF OF CLAIM</b>
Name of Debtor: <b>LARGE APPAREL OF TEXAS, INC.</b>		Case Number: <b>10-13043 (KJC)</b>
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <b>GPM HOUSTON PROPERTIES, LTD.</b>		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. <b>Court Claim Number:</b> _____ (If known)  <b>Filed on:</b> _____
Name and address where notices should be sent: Jeff Carruth WEYCER, KAPLAN, PULASKI & ZUBER, P.C. 3030 Matlock Rd., Ste. 201 Arlington, TX 76015 (817) 795-5046, Fax: (866) 666-5322 E-mail: jcarruth@wkpz.com <div style="text-align: right;"><i>CLAIM SCHEDULE I.D. s930</i></div>		
Name and address where payment should be sent (if different from above): GPM HOUSTON PROPERTIES, LTD. Attn. Mr. Carl Esser 208 Greenspoint Mall Houston, TX 77060		<div style="text-align: center;"> <b>RECEIVED</b>  <b>JAN 24 2011</b>  <b>BMC GROUP</b> </div> <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.  <input type="checkbox"/> Check this box if you are the debtor or
<b>1. Amount of Claim as of Date Case Filed: \$ See itemization, Page 2</b>  If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.  If all or part of your claim is entitled to priority, complete item 5.  <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges. See itemization of claim on page 2.		<b>5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.</b>  Specify the priority of the claim.  <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).  <input type="checkbox"/> Wages, salaries, or commissions (up to \$11,275*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).  <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).  <input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).  <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).  <input checked="" type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(2).  <b>Amount entitled to priority:</b> <b>See itemization, Page 2.</b>
<b>2. Basis for Claim: All amounts due and unpaid under Lease, Exhibit A.</b> (See instruction #2 on reverse side.)		*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
<b>3. Last four digits of any number by which creditor identifies debtor:</b> <b>3a. Debtor may have scheduled account as:</b> (See instruction #3a on reverse side.)		
<b>4. Secured Claim</b> (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.  Nature of property or right of setoff: <input checked="" type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input checked="" type="checkbox"/> Other Describe: <i>Landlord's lien pursuant to the Lease, Exhibit A, and/or Chapter 54 of the Texas Property Code.</i>  Value of Property: <i>To be determined.</i> Annual Interest Rate: _____		
Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____		
<b>Amount of Secured Claim: Not less than \$ To be determined / See itemization, Page 2. Amount Unsecured:</b> _____		
<b>6. Credits:</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim.  <b>7. Documents:</b> Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.)  DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.  If the documents are not available, please explain: _____		
Date: 1/22/11	Jeff Carruth, WEYCER, KAPLAN, PULASKI & ZUBER, P.C., Attorneys for Creditor	
Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.		<b>FOR COURT USE ONLY</b>  Urban Brands  00630

**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.**

**Itemization of claim:**

All amounts due and owing under the Lease, Exhibit A, as of the Petition Date, September 21, 2010. \$ To be determined.

All amounts due and owing under the Lease, Exhibit A, arising subsequent to the Petition Date, September 21, 2010 (which amounts may also be subject to treatment as an administrative expense claim under 11 U.S.C. § 503(b) and 507(a)(2)). \$ To be determined.

**Information in support of claim.**

The Lease (Exhibit A) between the Debtor(s) and GPM Houston Properties, Ltd. was subject to designation pursuant to the sale and lease procedures approved by the Court on or about October 27, 2010. As January 22, 2011, the Debtor(s) have not assumed or rejected the Lease. Until such time as the Debtor(s) act to assume or reject the Lease, the claim of GPM Houston Properties, Ltd. cannot be completely determined. Accordingly, GPM Houston Properties, Ltd. files this proof of claim to preserve its right to assert all charges and amounts due and owing under the Lease, pre-petition and post-petition, which amounts may be finally determined once the Debtor(s) take definitive action with respect to the Lease.

**Summary of Exhibits.**

**Exhibit A** – Lease between Debtor(s) and GPM Houston Properties, Ltd. (The attached Lease has been reduced in size. Please contact counsel for creditor as shown above for a complete, full-sized copy of the Lease.)

**Reservation of Rights.**

Creditor reserves the right to amend and/or revise this proof of claim, to supply additional supporting documentation, and to revise and verify the amount of the claim.

**Certificate of Service.**

A true, correct, and complete copy of this Proof of Claim with Exhibits was served upon the Debtor's claim agent on the date shown on Page 1.



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EXHIBIT "A-1" PART 2

## SHOPPING CENTER LEASE

THIS LEASE, made as of the \_\_\_\_\_ day of January, 2006, between GMA HOLDINGS PROPERTIES, LTD. ("Landlord"), a Texas Limited Partnership having a place of business at 10850 Wilshire Blvd., STE 1000, Los Angeles, CA 90024 and Larry Appert of Truist, Inc. d/b/a Ashley Stewart ("Tenant"), whose principal place of business is located at 60 Union Blvd., Inc. 100 Metro Way, Secaucus, NJ 07094.

## BASIC PROVISIONS

## 1. BASIC LEASE PROVISIONS

- A. Tenant's Business: Ashley Stewart  
 Tenant's Name: Ashley Stewart  
 Office Address: 60 Union Blvd., Inc.  
 100 Metro Way  
 Secaucus, NJ 07094
- B. Shopping Center: One-stop Mall that is more particularly described on Exhibit "A," Landlord's name and by this reference make a part hereof.
- Address: 2708 Overport Mall  
 Houston, TX 77060

- C. Premises: Space Nos. 311 & 315 at the Shopping Center, consisting of approximately 3,411 rentable square feet, the approximate location of which is shown, cross hatched on Exhibit "A," hereto. (See Pw. 2)

- D. Lease Term: (See Pw. 3 and Pw. 4) Ten (10) years and four (4) months from the date of the Commencement Date. If the Commencement Date is any day other than the first day of a calendar month, the first lease year shall be the period of time from the Commencement Date through July 31; each lease year thereafter shall be a successive period of twelve (12) calendar months beginning on August 1, and expiring on July 31 (hereinafter referred to as "Lease Year").

- E. Delivery Date: Landlord shall deliver Premises to Tenant no later than March 1, 2006. Landlord recognizes that the delivery date is extremely important for Tenant to maintain its store opening program, which is coordinated with its national advertising and promotional program. Delay in delivering the Premises to Tenant will cause Tenant financial harm, therefore, Landlord shall pay to Tenant two hundred dollars (\$200.00) per day in rental abatement for each day that delivery of Premises exceeds March 1, 2006.

- F. Commencement Date: (i) May 1, 2006. However, if the Delivery Date of the Premises is extended for any reason, the Commencement Date shall be sixty (60) days from the date of Delivery and Tenant's receipt of all necessary permits and approvals for the start of pre-opening construction, or the date upon which Tenant opens the Premises for business to the public. Notwithstanding, anything herein to the contrary, if this Lease is fully executed no later than January 23, 2006, then if such sixty (60) day build out period ends (i) between May 2 through August 1, then Tenant shall not

be required to open or pay rent until August 2 of that year or (ii) between October 1 through March 1, Tenant shall not be required to open or pay rent until March 2 of that year. If the Lease is not fully executed by the above time periods listed in (i) or (ii) above, Tenant shall pay Rent in accordance with this Lease.

## G. Expiration Date: July 31, 2016

- H. Permitted Use: The Premises shall be used and occupied for the retail sale of women's clothing, including accessories, the incidental sale of shoes and other related items, customarily sold in typical Ashley Stewart stores and for no other use or purpose whatsoever.

## I. Fixed Minimum Rent: (See Pw. 6)

Start Period	Monthly Amount	Annual Amount
Commencement Date through July 31, 2006	As set	—
August 1, 2006 through July 31, 2011	\$6,517.75	\$78,453.00
August 1, 2011 through July 31, 2016	\$7,106.25	\$85,275.00

## J. Percentage Rent:

## Amount Each Lease Year

Period	Amount
Commencement Date through July 31, 2006	As set
August 1, 2006 through July 31, 2011	Three (3) percent of Gross Sales exceeding a Minimum Breakpoint of \$2,615,000.00
August 1, 2011 through July 31, 2016	Three (3) percent of Gross Sales exceeding a Minimum Breakpoint of \$2,842,200.00

Percentage of Breakpoints for Partial Lease Years, and amounts for Lease Years containing two different Breakpoints for different periods, shall be as described in Pw. 7

## K. Initial Estimated Annual Operating Costs: \$1.35 per sq. ft. (See Pw. 15)

## L. Initial Estimated Annual Taxes: \$1.50 per sq. ft. (See Pw. 13)

## M. Initial Annual Promotional Fund Charge: N/A

## N. Media Fund: N/A

## O. Initial Annual Sprinkler Main Charge: N/A

## P. Water Charge: \$10.00 per month (See Pw. 21(a))

## Q. Sewerage Charge: \$0.25 per sq. ft. (See Pw. 22)

## R. Security Deposit: N/A (See Pw. 13)

## S. Flood Cert Charge: N/A

## T. HVAC: N/A

(C:\Users\lappert\My Documents\10001\10001 lease agreement.docx)

(i) This Lease must be in full force and effect and Tenant must not be in default hereunder beyond any applicable notice and cure periods.

<p>(3) Landlord shall notify Tenant in writing, if a qualified prospective third party tenant ("Prospective Tenant") desires to lease the Right of First Refusal ("Right of First Refusal") in the Identified Space, to the Prospective Tenant, and shall be prepared to accept, and give Tenant the Right of First Refusal to lease each space which the Prospective Tenant desires.</p> <p>(4) Upon receipt of each written notification from Landlord, Tenant shall have ten (10) calendar days in which to either (i) exercise its Right of First Refusal to lease the space identified (the "Identified Space") in Landlord's notification or (ii) decline to exercise its Right of First Refusal to lease the Identified Space. If Tenant declines to exercise its Right of First Refusal to lease the Identified Space, it shall be deemed that Tenant has elected to decline its right to exercise the Right of First Refusal for the Identified Space.</p> <p>(5) Should Tenant decline to exercise the Right of First Refusal or fail to provide written notification within the time period prescribed in Section (4) herein, then Landlord shall be free to pursue the leasing of the Identified Space to the Prospective Tenant who contacted the broker this offer. If Tenant declines to exercise its Right of First Refusal to lease the Identified Space, it shall be deemed that Tenant has elected to decline its right to exercise the Right of First Refusal to lease the Identified Space. If each Prospective Tenant does not enter into a lease covering the Identified Space within twelve (12) months of Landlord's receipt of the Prospective Tenant's written notification, Tenant's Right of First Refusal is again applicable to each Identified Space.</p> <p>(6) Should Tenant exercise its Right of First Refusal in accordance with Section (4) herein, Tenant shall execute an instrument (which shall be in the form of an amendment of the Lease) no later than thirty (30) days after Landlord shall have submitted Tenant copies of each instrument for purposes of execution. Joint instrument shall incorporate the terms and conditions pertaining to the leasing of the Identified Space.</p> <p>(7) All Rental terms for the Right of First Refusal Space shall be based on the same terms and conditions offered by the Prospective Tenant in the bona fide offer, with the exception that the term for each instrument shall commence upon the date each Right of First Refusal Space is substantially completed and is made available for Tenant's occupancy for the purpose of conducting its business, and shall be commensurate with Tenant's then current lease term. Tenant shall be deemed to have accepted the terms of First Refusal Space shall require landlord improvements or modifications in order that Tenant may conduct business therein, Landlord shall provide Tenant with an improvement allowance and/or concessions based on the terms and conditions offered by the Prospective Tenant; however, all such allowances and/or concessions shall be proportionately adjusted based on Tenant's remaining lease term, in months divided by the length of the term set forth in the Prospective Tenant's.</p> <p>(8) If there is less than twenty-four (24) months remaining in the then current Term of the Lease, Tenant will have no right to exercise the Right of First Refusal.</p> <p>(9) Upon the exercise of the Right of First Refusal, the Identified Space shall be deemed a part of the Lease Premises and Landlord and Tenant shall execute a written agreement modifying and supplementing this Lease accordingly. The agreement shall specify the terms and conditions of the lease, including the terms and conditions of the Lease, including the Term of</p>	<p>the Lease, and containing such other appropriate terms and provisions relating to the addition of such Identified Space to this Lease (including, specifically, but not limited to any increase, adjustment, or augmentation of Rent, Common Area Charges as a result of such addition).</p> <p>(10) Tenant shall not have the right to assign its Right of First Refusal to any other party other than an affiliate, subsidiary company, successor by merger or consolidation by Tenant.</p> <p>(11) In all other respects, the terms and conditions set forth in this Lease shall apply, and the Right of First Refusal Space shall constitute a part of the Premises.</p> <p>3. <b>LEASE TERM:</b> To have and to hold the Premises for the period set forth in paragraph 1(b) of this Lease unless sooner terminated or extended as hereinafter provided.</p> <p>4. <b>COMMENCEMENT OF LEASE TERM:</b> (a) The Commencement Date of the Lease Term shall be the date set forth in Paragraph 1(b) of this Lease. If Paragraph 1(b) does not provide for a fixed Commencement Date, then the Lease Term shall commence upon the earlier of the following: (i) the date on which the Lease is executed by both parties; (ii) the date on which the Premises are ready for use by Tenant; or (iii) the date on which the Premises are ready for use by Tenant. However, Tenant agrees to cooperate with Landlord to effect a joint opening or reopening of the Shopping Center (where the Shopping Center is not yet open to the public or a grand reopening is planned following renovation of the Shopping Center) and, at Landlord's request, agree to delay the opening of Tenant's business in the Premises (and to delay the Commencement Date hereof) from the date of the Shopping Center's opening until the date of the Shopping Center's reopening. If Landlord requires such a delay, then the Commencement Date shall be the date set by Landlord for such joint opening or reopening ("Grand Opening") of the Shopping Center. Landlord shall not be responsible or liable to Tenant or those claiming by, through or under Tenant for lost or damages caused by or resulting from a delayed joint opening of the Shopping Center.</p> <p>(b) When the Commencement Date is determined, Tenant agrees, upon request of Landlord, to execute and deliver to Landlord, without charge, a certificate: (1) certifying that Tenant is in occupancy of the Premises, the date Tenant commenced operating Tenant's business therein and that this Lease is in full force and effect and has not been assigned, modified, terminated, or otherwise affected in any way; (2) certifying that Tenant is in full compliance with all covenants, conditions, and restrictions contained in this Lease; (3) certifying that there are no encumbrances or other claims against the enforcement of this Lease by Landlord, or claims otherwise claimed by Tenant; (4) reciting the amount of advance rental, if any, paid by Tenant and the date to which rental has been paid; and (5) reciting the amount of Security Deposit, if any. Tenant further agrees to execute and deliver similar certificates from time to time when requested by Landlord. Landlord's acceptance of such certificates shall constitute an acknowledgment of the truth of the facts stated therein and shall be evidence to any third party that the certificate was made by Tenant.</p> <p>5. <b>WARRANTY OF NO DEFECTS:</b> The parties covenant and agree that because of the difficulty or impossibility of determining Landlord's damages by way of loss of the anticipated Percentage Rent from Tenant or other tenants or occupants in or adjoining the Shopping Center, or by way of loss of value in the property because of diminished suitability or marketability or adverse publicity, the parties agree that in the event of a breach of the Lease by Tenant, the parties shall, in the event of a breach, fail to take possession and open for business in the Premises until the date of the breach, on the Commencement Date of the Lease Term, or (b) vacate, abandon or desert the Premises; or (c) cease operating or conducting Tenant's business in the Premises (except where the Premises are made unusable by reason of fire, casualty, partial or total repairs or alterations or other causes beyond Tenant's control) as provided in Paragraph 11, hereof; or (d) fail or refuse to accept the Lease and to return the Lease to Landlord as provided in Paragraph 22, hereof; then each party shall be deemed to have agreed to pay to the other party, as liquidated damages, the amount of the loss of the anticipated Percentage Rent and other rents and charges herein reserved, for the period of the Tenant's failure to do business, computed at a monthly rate for each and every month or part thereof during such period. As used herein the terms "week," "quarter," or "year" shall not be avoided because Tenant may have paid all or any part of its obligations for the period of the breach of the Lease. Notwithstanding anything herein to the contrary, the parties agree that the amount of the loss of the anticipated Percentage Rent shall be the amount of the loss of the anticipated Percentage Rent for the period of the breach of the Lease.</p>
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(b) Each charge or sale upon installment or credit shall be treated as a sale for the full price in the month during which such charge or sale is made, whether Tenant shall actually

(b) If Treasurer's Orders are required to be reported on any Federal, State or local sales tax return and Gross Sales so reported on any of said returns shall exceed the Gross Sales reported by 7 percent under this Law, then the Gross Sales shall be taken at the highest figure so reported. If any governmental authority shall increase the Gross Sales reported by 7 percent on any return for any later Year for which such sales have been reported, then 1 percent shall be added to the Gross Sales reported on the return for that later Year. The addition of 1 percent shall not be taken into account in computing the additional percentage limit under this Law. The addition of 1 percent shall not pay any additional percentage limit under this Law.

11. **ADDITIONAL:** Lessor shall have the right, upon fifteen (15) day's written notice to Tenant's Home Office, to cause a complete audit of all statements of Gross Sales and in connection with



12. **ADDITIONAL, BACK AND ABANDONMENT.** In addition to the First Minimum Rent and Percentage Rent, all other payments to be made by Tenant hereunder shall be extended for the purpose of securing collections to the Additional Rent and the Back Rent, whether or not proposed or proposed to be extended, and the Back Rent, whether or not proposed or proposed to be extended, shall be extended for the purpose of securing collections to the First Minimum Rent, whichever shall be first due; and Landlord shall have the same rights and remedies upon a Tenant's failure to pay the Back Rent as for the non-payment of First Minimum Rent. The obligation to pay the Back Rent shall not be subject to any set-off or payment by or for the Back Rent against the expenditures of any sums of money by Tenant for the share or benefit of Tenant or payment by Tenant of any sums of money for the benefit of any other person, and the obligation to pay the Back Rent shall be subject to the obligation to pay the First Minimum Rent. Landlord, upon demand, if at such time, which shall be extended for the purpose of securing collections thereof to the Additional Rent hereunder.

**PAY THE DEBTOR:** (4) If Tenant shall fail to pay any rent, Additional Rents or other charges after the same become due and payable, such unpaid amounts shall bear interest from the date thereof at the rate of five percent (5%) above the prime rate in effect on the date thereof as determined by the Federal Reserve Bank of New York, N.Y., or (5) two percent above the prime rate then being charged by the Federal Reserve Bank of New York, N.Y., whichever shall be the greater, until the same are paid in full. Tenant shall be liable for the same, because due and payable by Tenant under this lease ("Default Interest Rate") provided, however, that said Default Interest Rate shall not exceed the maximum legal rate of interest allowed to be charged to Tenant under any applicable law of the state where the Shipping Center is located.

(b) Landed shall estimate the amount of monthly Additional Rent required to be paid by Tenant and shall bill Tenant for the amount of such rent either prior to or as promptly as possible after the term Commencement Date and thereafter from time to time during the Lease Term. Tenant shall continue to pay said estimated monthly charges until billed for the new estimated monthly charges, at which time the new estimated monthly charges shall be paid. For convenience, Tenant may include the total of the new estimated monthly charges with its payment.

The Additional Rent to be estimated pursuant to this subparagraph (b) shall consist of the Tax Charge, Common Area Charge, Saver/veiger Charge, Sprinkler Charge, Water, Storm and Sewer Charge, Utilities Charge, Media Fund, Promotion Fund, and any other fixed or adjustable charge required to be paid by Tenant under this Lease excluding the Fixed Minimum Rent and Percent ~~age~~ Rent.

16. ~~ENNAWONE: [INTENTIONALLY DELETED]~~

19. **CONVEYANCE OF INTERESTS** (a) All betterments and improvements in or upon the Premises made by either party (except Tenant's personal property, furniture, silver and trade fixtures) including all attached building, heating, ventilation and air conditioning equipment, and all pipes, ducts, conduits, wiring, plumbing, partitions, floor covering, railing, mezzanine floors, balconies and the like, shall become the property of Landlord and shall remain upon and be surrendered with the Premises at the expiration or sooner termination of the Lease term.

20. **Premises alterations.** Tenant shall only equip the Premises with all trade fixtures and equipment necessary for the proper operation of Tenant's business. Tenant shall not install any equipment or fixtures on the roof or exterior to the Premises without the prior written consent of Landlord. Should Tenant fail to conflict with, hesitate or refuse equipment on the roof or exterior premises and roof of the building which the Premises forms a part, Tenant agrees to assume primary responsibility for the cost of maintenance and repairs of that portion of the roof (including all steel and pipes covered by said equipment or predicaments) within such installation.

20. **Premises alterations.** Tenant shall only equip the Premises with all trade fixtures and equipment necessary for the proper operation of Tenant's business. Tenant shall not install any equipment or fixtures on the roof or exterior to the Premises without the prior written consent of Landlord. Should Tenant fail to conflict with, hesitate or refuse equipment on the roof or exterior premises and roof of the building which the Premises forms a part, Tenant agrees to assume primary responsibility for the cost of maintenance and repairs of that portion of the roof (including all steel and pipes covered by said equipment or predicaments) within such installation.

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24. **HARALDOUS MATTHEWAKS:** (a) I want that not to incorporate into the Shopping Center nor

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[illegible][illegible]

Laudandus makes no representation or warranty whatsoever to Tarent regarding (1) hazardous materials at the Center or in the Premises or (2) the asbestos survey the team prepared as a courtesy, and Laudandus disclaims any liability for any asbestos survey or asbestos testing materials. Tarent has the right and should make its own studies and investigations, conduct sampling, test, sort, analyze and package and pack, as Tarent deems appropriate, to fully evaluate the Premises or the Center and any land from the presence of asbestos-containing materials at the Center or hazardous or toxic materials. In connection with any inspections or tests to be conducted by Tarent or the Premises or at the Center, Tarent shall first notify Laudandus of scheduled inspections or test and the scope, impact and extent thereof and obtain Laudandus's written consent to perform same, which consent will not be unreasonably withheld. Tarent shall immediately liaisons with a competent and capable group of any kind, report, test, analyze or investigate materials at the Center and the Premises and the Center or the Premises, and shall ensure the Premises and/or the Center or the Premises existing immediately prior to any inspection or test, analysis or investigation, and shall ensure that any lost, damage, liability or Tarent liability arising from or arising from Tarent's sampling, investigation or activities (including, but not limited to, those of the Premises's agents, employees or contractors) if Tarent ever uses the knowledge of the presence of the Premises or the Center of toxic or hazardous materials is asbestos-containing material, Tarent shall notify Laudandus of writing promptly after obtaining such knowledge.

26. **CONCURRENCES AND LICENSES:** Tenant shall not grant any concurrences or licenses except upon Landlord's written consent and except for the operation in the Premises of one or more departments of the business permitted to be conducted by Tenant under this Lease; provided, however, that such concurrences or licenses shall be subject to the following conditions:

(a) each such concurrence or license shall be subject to all of the terms and provisions of this Lease including provisions concerning statements, reports and audits;

(d) in no event shall Tenant alter, permit, install or operate in the Premises any coin-operated vending machines or similar or other devices for the sale of goods, wares, merchandise, food and beverages, including, but not limited to, machines for the sale of candy,

[illegible]

28. **ASSIGNMENT AND SURRENDER:** (a) Tenant may sublet the Premises in part or in its

(b) A request for Landlord's consent to a subletting or an assignment shall be deemed an offer by Tenant for Landlord to either release the Premises for the remainder of the Lease term upon the terms and conditions contained herein or to take an assignment of this Lease, which offer shall remain irrevocable for a one (1) month period commencing on the date Landlord actually receives a written request for such consent.

(c) Whether than the foregoing permitted assignment or subletting, Tenant shall not voluntarily, involuntarily or by operation of law, assign, transfer, mortgage or otherwise encumber this Lease or any interest in Tenant therein, in whole or in part, nor sublet the whole or any part of the Premises or permit the Premises or any part thereof to be used or occupied by others. Any attempt to encumber, assign the Lease or sublet the Premises not in compliance with the provisions of this Paragraph shall be void and of no force and effect.

(c) *Notwithstanding anything herein to the contrary*, Tenant may assign or sublet the Premises, in whole or in part, to any person or entity, without the consent of Landlord, only under the following circumstances: (i) to facilitate the sale of all or a substantial portion of the assets or controlling interest in its associates or affiliates; (ii) the sale of the separate operating division of the Tenant; (iii) merger or other corporate reorganization, or transfer to an affiliated company; and provided that such assignment or subletting is for the continued use of the Premises for the purposes set forth herein.

[illegible][illegible]

[illegible]

(f) "Repairing," as used in this Paragraph, shall mean all repairs, replacements, alterations, additions, improvements and betterments. "Maintain" or "maintainment," as used in this Paragraph 29, shall include appropriate heating, cooling, inspection, drainage, ventilation and cleaning or cleansing of all portions of the Premises, including all lines and pipes, as appropriate.

30. TENANT'S FAILURE TO REPAIR: If Tenant shall fail, refuse

[illegible][illegible]

(c) Should landlord elect or be required to supply any utility services:

[illegible]

(4)  $\text{Mg}(\text{H}_2\text{PO}_4)_2 \cdot 6\text{H}_2\text{O}$  (DAP) and  $\text{Ca}(\text{H}_2\text{PO}_4)_2$  (C) 99.995 GIGAPAC, PULVERTECH, PROLAB

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(f) Landlord shall have the right (if permitted by law, to make installment payments of any assessment levied against the Shopping Center, and such Tax shall be computed upon the basis of the actual amount of such assessment levied against the Shopping Center, and the installment method. Landlord shall have the right to contest the liability or amount of any Tax by installment method. In the event a landlord receives any refund of such Tax, Landlord shall appropriately credit such refund as may be allowable to payments of the Tax. Change actually

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to use the common areas of the Shopping Center as they may now or at any time during the Lease Term (in common with all others to whom Landlord has or may hereafter grant rights) to use the common areas of the Shopping Center as they may now or at any time during the Lease

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to this Tenant as Electricity Charges as detailed in paragraph 35(c) below. Landlord may cause any or all of said services to be provided by an independent contractor or contractors.

(b) "Tenant's Operating Gross Charge" shall be an amount equal to the product (obtained by multiplying the Total Operating Gross Charge set forth on a Tenant's Schedule A of the Lease) of the Premises and the economic rate of which shall be the greater of (i) fifty percent (50%) of the C.A. in the Shipping Center, or (ii) the C.A. in the Shipping Center occupied by Tenant's Shipping Center, being determined as of August 1st of each Lease Year. If any Tenant or Occupant of any free-standing building is not an Operating Gross Charge Tenant, then the C.A. of such free-standing building or structure shall be the C.A. in the C.A. in the Shipping Center and payments actually received by Landlord from the Tenant or Occupant of such free-standing building or structure as in excess of the Operating Gross Charge shall be deducted from the Total Operating Gross Charge as incurred by a Landlord during the period accounting period when such payments are received before computing Tenant's Operating Gross Charge. Tenant's share of the Operating Gross Charge shall be determined by dividing the Operating Gross Charge then in the process of being incurred by Landlord by the number of Operating Gross Charge Tenants then occupying the Shipping Center, the Operating Gross Charge paid or incurred by Landlord in maintaining such adjacent common areas shall be included in the Operating Gross Charge under paragraph (b) of this paragraph and payment actually received by Landlord from such Tenant shall be included in the Operating Gross Charge. The Operating Gross Charge shall be computed (if necessary) by the date of Operating Gross Charge being delivered from a Tenant operating under a Lease with a term of less than one year. The Operating Gross Charge shall be computed as each period as Landlord shall select using accepted accounting principles and practices (including, but not limited to, the accrual method of accounting). Tenant's share of the Operating Gross Charge shall be payable as follows: Tenant's share of such

(i) During that portion of the Lease Term falling within the first accounting period (subject to adjustment as set forth in subparagraph (b)(3) hereof), Tenant shall pay Landlord monthly, in advance, on the first day of each month, a sum in such amounts as are billed to Tenant by Landlord, as an estimate of Tenant's share of such Total Operating Costs during the first accounting period.

(2) The foregoing estimated sum under subchapter (b)(1) shall be adjusted and verified by Lessor, no more than one year after Lease Year ending the Lease Term on the basis of the actual Total Operating Costs for the immediately preceding accounting period, plus reasonable anticipated increases or decreases in such costs. Upon Lessor's furnishing to Tenant a written statement setting forth such revised estimated Operating Costs, Tenant shall pay Lessor the revised Common Area Charge in monthly installments, in advance, on the first day of each month until the next succeeding revision to total estimate.

Within ninety (90) days following the end of the first accounting period and each subsequent accounting period, Landstar shall furnish Tenant a written statement covering the accounting period just expired, showing a reasonable detail of general breakdown of the actual Total Operating Costs, the amount of Tenant's Common Area Charges for such accounting period and the payments made by Tenant with respect to such accounting period. Tenant shall pay Landstar the deficiency within fifteen (15) days after the furnishing of said statement and if said payment exceeds Tenant's Common Area Charges, Tenant shall be entitled to a credit for such excess against payments next thereafter to become due. Landstar on account of Tenant's Common Area Charges or during the last lease year, Landstar will refund such excess to Tenant within ninety (90) days following the expiration of the last lease term.

(4) As to the first accounting period or any subsequent accounting period a portion only of which is contained in the Lease Term, Tenant's obligation for a share of the actual Total Operating Costs shall be provided on the basis of the actual number of days in the portion of such accounting period contained in the Lease Term, as to which Tenant's obligation shall survive the expiration of the Lease Term.

(3) In the event of any dispute, Tenant shall pay the amount of Landlord's bill or statement, and such payment shall be without prejudice to Tenant's position. If the dispute shall be determined in Tenant's favor, by agreement or otherwise, Landlord shall refund to Tenant the amount of Tenant's overpayment. Provided, Tenant is not in default under this Lease, Tenant may, at its expense and not for less than three (3) day prior written notice to Landlord

and not more than once during each Lease Year, review the Total Common Area Charges for the immediately preceding Lease Year at the office of landlord where such records are maintained.

Nonwithstanding anything to the contrary, contained herein, failure by Tenant to exercise any said right herein, or Landlord to dispute any Tenant said within the specified time period or the failure of either party to otherwise fail to contest or dispute the allocation of Additional Rent or Common Area Maintenance Charges ("CAM") within twelve (12) months of the date any statement for Additional Rent or CAM charges or fees is submitted to Tenant.

(e) is deemed a waiver of the applicable audit or dispute right and any right to contest the Additional Rent charges (undercharges or overcharges) for the applicable Lease Year;

(b) is deemed acceptance of the Additional Rent charges as submitted to and reviewed by Tenant; and

(c) constitutes full release of Landlord by Tenant for any overcharges of Additional Rent more than one (1) year old and a full release of Tenant by Landlord for any undercharging of Additional Rent more than one (1) year old.

(5) Any such bill or statement shall be deemed binding and conclusive if Tenant fails to object thereto in writing (stating the reason therefor), within thirty (30) days after the date thereof or if Tenant fails to comply with the provisions of subparagraph (5) of this Paragraph 35.

(c) The following shall apply:

(i) The amount of the electricity charges incurred by Landlord in relation to the common areas of the Shopping Center, the Electricity Charges shall be an amount equal to the cost (based on the actual multiplying the Total Electricity Charge (the amount of electricity used for the common areas)) paid or to be paid by Landlord during the last accounting period and each subsequent accounting period, as hereinafter defined, by a factor, the numerator of which shall be the CUA of the Premises and the denominator of which shall be the square of (1) eighty percent (80%) of the CUA in the Shopping Center; or (ii) the CUA in the Shopping Center computed by means of the Shopping Charge Schedule.

Change shall not be subject to any cap or annual increase.

36. **PROMOTION OF CATERER AND TENANT'S BUSINESS INTENTIONALLY DECEIVED.**

[illegible]



[illegible]

(D) UNDRAIDED SHALL NOT BE RESPONSIBLE OR LIABLE FOR DAMAGES AT ANY TIME FOR ANY DEFECTS, LATENT OR OTHERWISE, IN ANY BUILDINGS OR IMPROVEMENTS IN THE SHEDDING CENTER OR ANY OF THE BUILDINGS OR IMPROVEMENTS IN THE SHEDDING CENTER, OR FOR ANY LOSS OR DAMAGE TO ANY PERSON OR TO ANY PROPERTY OR BUSINESS OF TENANT, OR THOSE CLAIMING BY, THROUGH OR UNDER, TENANT, CAUSED BY OR RESULTING FROM THE HOUSING, BREAKING, LEAKING, ROTTING, SEEDING, OVERGROWING OR BACKING UP OF WATER, STEAM, GAS, SEWAGE, SNOW OR ICE IN ANY PART OF THE PREMISES

(b) TENANT EXPRESSLY ACKNOWLEDGES THAT ALL OF THE FOREGOING PROVISIONS OF THIS AGREEMENT SHALL APPLY AND BECOME EFFECTIVE FROM AND AFTER THE DATE TENANT OR ITS AGENTS ENTERED INTO THIS AGREEMENT AND SHALL APPLY TO ALL ACTS AND OMISSIONS OF THEIR PERSONS TO UNDERTAKE ACTIVITIES DESCRIBED HEREIN.

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(180) days after such destruction occurs. If time is unable or unwilling to make such request within the time period specified in the statute, the statute provides that the court may, upon a motion by the trustee, order the trustee to produce the records. The trustee is required to produce the records to the court and the court is required to make such records available to the requester. The statute also provides that the trustee is required to produce the records to the court and the court is required to make such records available to the requester. The statute also provides that the trustee is required to produce the records to the court and the court is required to make such records available to the requester.

42. **COMBINATION:** (a) *Joint:* If the whole of the Premises or such part thereof as will provide the remainder untenantable or inaccessible shall be acquired or taken by eminent domain for any public or quasi-public use or purpose or by private purchase in lieu thereof, then this Lease and the Lease Term hereof shall automatically cease and terminate as of the date of title vesting in such proceedings.

[illegible]

(c) As used herein, the amount received by Landlord shall mean that portion of the award in condemnation received by Landlord from the condemning authority which is free and clear of all prior claims or collections by the holders of any mortgages or deeds of trust or any ground or underlying interests and less reasonable attorney's and appraiser's fees.

(d) If more than fifty percent (50%) of the GMA of the building of which the Promise forms a part or of the Shopping Center shall be taken as aforesaid, Landlord shall have the right, by written notice given to Tenant, to terminate this Lease, such termination to be effective as of the date of the writing in such proceeding.

(e) It as a result of such taking, any or all of the Department Stores adjoining the Shopping Center ceases operating its business with the public or cannot or terminate it or their respective leases or operating agreements, Landlord shall have the right, by written notice given to Tenant, to terminate this Lease, such termination to be effective as of the date of cessation of business with the public or cancellation of such leases or agreements, whichever the case may be.

[illegible]

(b) If this Lease is terminated as provided in this Paragraph, all rents shall be paid by Tenant up to the date the possession is so taken by public authority or the date Tenant vacates the Premises, and Landlord shall make an equitable refund of any rents paid by Tenant in advance and not earned.

[illegible]

(i) Any sale, grant, dedication or taking of partial or permanent parts or portions of the parking area of the Shopping Center for road widening or road improvement purposes or for the installation of utilities shall not be deemed a condemnation or taking within the meaning of this Paragraph and Tenant shall not, in any such event, be entitled to compensation, diminution or abatement of any rent or other charges.

[illegible][illegible]

3) REPOSSESSION AND RE-ENTRY. Upon the occurrence of a default by Tenant hereunder, Landlord may, immediately terminate Tenant's right of possession of the Premises (whereupon all obligations and liability of Landlord hereunder shall terminate), but not terminate this Lease, and, without notice, demand or liability, enter upon the Premises or any part thereof.

(7) **LANDLORD'S CARE OF TENANT'S DEFECTS.** If Tenant fails to perform any obligation under this Lease for five (5) days after notice directed by Landlord (except that no notice shall be required in situations where Landlord shall have the right (but not the duty), to perform such obligation on Tenant's behalf and for the amount of Tenant's rent), Tenant shall reimburse Landlord for the cost of such repairs. If the cost of such repairs for performing such obligation together with an amount equal to fifteen percent (15%) thereof for Landlord's overhead, and interest thereon at the Default Rate from the date such expenses were incurred, Landlord's performance of Tenant's obligations hereunder shall not be deemed a waiver or release of Tenant's default.

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(*C*-KORNAID0160047) IS TOE.DOC;1.DOC(C); THIS CASE CONCERNING POLAR

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[illegible]

(B) TENANT IS REPRESENTED BY LEGAL COUNSEL IN CONNECTION WITH THIS LEASE.

[illegible]

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[illegible][illegible][illegible][illegible]

50. **TRANSPORTATION:** In the event Transit shall fail or refuse to receive and deliver to Landlord the documents that may be required to evidence the title of Paragraphs 4, 42, 43 and 44 hereof within (10) days after the date of the termination of this Lease, Landlord shall have given Transit a further ten (10) day notice written, Transit thereby, and after Landlord shall have given Transit a further ten (10) day notice written, Transit hereby agrees that such failure shall be considered an act of default.

51. **OTHER DOCUMENTS:** If Transit timely pays the rent reserved and performs all of the other terms, covenants and conditions of this Lease on the 1st instant, part to the Lease, then Transit shall peacefully and quietly have, hold and enjoy the premises during the Lease Term, subject to the terms of this Lease, and to any mortgages, liens, and underlying taxes, assessments and encumbrances to which this Lease is or may be subject.

50. **TRANSPORTATION:** In the event Transit shall fail or refuse to receive and deliver to the Shipper the documents that may be required to evidence the title of Paragraphs 4, 42, 45 and 46 hereof within (10) days after the date of the receipt of the documents, the Shipper shall have given to Transit a further ten (10) day notice therein, Transit hereby agrees that such failure shall be considered an act of Transit.

51. **DISCLAIMER:** If Transit timely pays the freight received and performs all of the other terms, covenants and conditions of this Lease on the Transit, prior to the Lease Term, Transit shall peacefully and quietly have, hold and enjoy the Shipments during the Lease Term, subject to the terms of this Lease, and to any mortgages, liens, and underlying taxes, assessments and encumbrances to which this Lease or to any of the Shipments is subject.

[illegible][illegible][illegible]

[illegible][illegible]

( $\beta$ -VCPM) 1000-4545 (9.95 DDC), 1 (6.6 DDC), 1 (more of the present period)

58. **RECORDING:** Tenant shall not record this Lease or any memorandum thereof without the prior written consent of the Landlord.

59. **PARTIAL INVALIDITY:** If any provision of this Lease or the application thereof to any person or circumstance shall to any extent be held void and invalid, then the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held void or invalid shall not be affected thereby, and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

61. **DETERMINATION OF LANE:** "Law" or "Lawyer" shall mean all applicable federal, state, county and local governmental and municipal law, statute, ordinance, rule, regulation, code, decree, orders and other such requirements, as from time to time are in force or promulgated by any governmental entity, whether or not such laws, rules, regulations, codes, decrees, orders and other such requirements and directives by court in cases where such directives are binding upon individuals in the state in which the Shopping Center is located, and decisions of Federal courts applying the Laws of such state.

63. **ENTIRE AGREEMENT, ETC.:** (a) This Lease, including the Exhibits attached hereto, sets forth the entire agreement between the parties.

(c) This Lease shall not be modified except by a writing signed by the parties, nor may this Lease be cancelled by Tenant or the Premises surrendered except with the express written authorization of Landlord, unless otherwise specifically provided herein.

(e) If any provision contained in any attached Exhibit is inconsistent or in conflict with any printed provision of this Lease, the provision contained in such Exhibit shall supersede said printed provision and shall be per amount and superior.

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merchant shall open or remain open for business or occupy or continue to occupy any premises in the Shopping Center during the Lease Term or any part thereof and Tenant hereby expressly waives all claims with respect thereto and acknowledges that Tenant is not relying on any such warranty, representation or agreement by Landlord either as a matter of inducement to entering into this Lease or as a condition of this Lease or as a covenant by Landlord.

(c) The captions, numbers and index appearing herein are inserted only as a matter of convenience and are not intended to define, limit, or describe the scope or intent of any Paragraph, nor in any way affect this Lease.

[illegible][illegible]

65. **TENANT STATUS:** If Tenant is or will be a corporation, the persons executing this Agreement on behalf of Tenant hereby covenant, represent and warrant that Tenant is duly incorporated or a duly qualified partnership and is authorized to do business in the State where Tenant has its principal office. A copy of evidence thereof to be supplied to Landlord upon request, and that the person or persons executing this Lease on behalf of Tenant is an officer or

are officers of such Tenants and that he or they as such officers are duly authorized to sign and execute this Lease (a copy of a resolution of this nature to be supplied to Landlord upon request).

[illegible]

66. **DELETIONS.** Provisions which have been deleted from the printed portions of the Laws or any of its Exhibits shall not be used to interpret the remaining provisions thereof and no implication can be drawn from such deletion nor shall such deletions be deemed to constitute a waiver, consent or acquiescence with respect to the subject matter of the deleted provision.

67. **RULES AND REGATIONS:** Tenant covenants and agrees to fully comply with all of the Rules, Regulations and agreements set forth and mentioned under Exhibit "C" attached to this Lease and made a part hereof.

68. **COUNTERPARTS:** This Lease may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument.

[illegible]

(a) Any rent deposits, security deposits, or advance rentals paid

(b) The fact that no default exists hereunder by either Landlord or Tenant, or if any is claimed, specify the nature of such default.

**17.000.000.000.000.** If annual gross sales in the fourth (4<sup>th</sup>) Lease Year are less than \$10,000,000.000, then Tenant has a one time right to terminate the Lease after the 48<sup>th</sup> month. If Tenant terminates this Lease after the 48<sup>th</sup> month, then Tenant must provide a Landlord any (99) days written notification of such exercise of termination. Tenant must provide a Landlord any (99) days written notification of such exercise and such written notice must be received by Landlord prior to the last day of the 48<sup>th</sup> month of the Lease Term. However, if Tenant exercises such Termination Right, Tenant shall reimburse Landlord for any unamortized portion of the Construction Allowance. Tenant's reimbursement to Landlord for such amount shall be due no later than ten (10) days after the date the Lease is terminated.

[illegible]



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## 1

THENCE South 42.134° West with the said Westerly line of Greenpoint Drive, a distance of 1122 feet to an iron rod for corner in the North line of Highway 8;

THENCE North 88.453° West with the said North line of Highway 8, a distance of 1182.29 feet to an iron rod for corner.

THENCE in a Westerly direction with the said North line of Highway 8, following a curve to the left and curve having a radius of 650.80 feet, a central angle of 17.110° and a long chord that bears South 82.3931° West (190.00 foot chord), an arc distance of 198.79 feet to an iron rod for corner.

THENCE South 74.0310° West with the said North line of Highway 8, a distance of 188.44 feet to an iron rod for corner.

THENCE in a Northwesterly direction with the said North line of Highway 8 and then the said East line of Interstate Highway No. 45, following a curve to the right, said curve having a radius of 370.59 feet, a central angle of 86.5034°, and a long chord that bears North 61.3172° West (209.16 foot chord), an arc distance of 361.60 feet to the T.I.D. corner B.O.W. monument for corner.

THENCE North 19.0605° West with the said East line of Interstate Highway No. 45, a distance of 239.34 feet to an iron rod for corner.

THENCE North 24.2605° West with the said East line of Interstate Highway No. 45, a distance of 381.40 feet to an iron rod for corner.

THENCE North 19.0570° West with the said East line of Interstate Highway No. 45, a distance of 1146.93 feet to an iron rod for corner.

THENCE North 14.1508° West with the said East line of Interstate Highway No. 45, a distance of 228.29 feet to an iron rod for corner.

THENCE North 19.0464° West with the said East line of Interstate Highway No. 45, a distance of 49.61 feet to an iron rod for corner.

THENCE South 78.2710° East, a distance of 240.33 feet to an iron rod for corner.

THENCE in a Northeasterly direction, following a curve to the left, said curve having a radius of 430.50 feet, a central angle of 10.257° and a long chord that bears North 35.0649° East (44.22 foot chord), an arc distance of 45.36 feet to a point for corner.

THENCE North 11.3239° East, a distance of 382.65 feet to the POINT OF BEGINNING, containing 138.694 acres of land, more or less.

A tract of land containing 41,234 acres out of Block 2, Travers 7<sup>th</sup>, Greenacre Subdivision, located in the County of San Diego, State of California, as shown on the map of the Prince Sublime Society, Abstract No. 749, Grant County, Texas, corner map of said Greenacre Subdivision, Section 1 being of record in Volume 225, Page 113 of the Map Records of Grant County, Texas, said 41,234 acres of land being fully described as follows:

COMMENCING at an iron rod in the West line of Greenpoint Drive, said iron rod marking the Northwesterly corner of said Block 2, Travers 7<sup>th</sup>, and located North 42.134° East, a distance of 1122 feet from an iron rod in the North line of Highway 8;

THENCE North 02.4618° West, with the west line of said Greenpoint Drive, a distance of 744.71 feet to the POINT OF BEGINNING.

THENCE South 87.134° West, a distance of 35.31 feet to a point of curvature for corner.

THENCE, in a westerly direction, following a curve to the right, said curve having a radius of 470.00 feet, a central angle of 14.223° and a long chord that bears North 83.3438° West (117.61 foot chord), an arc distance of 117.94 feet to a point of tangency for corner.

THENCE, in a westerly direction, following a curve to the right, said curve having a radius of 100.00 feet, a central angle of 97.2851° and a long chord that bears North 29.394° West (73.17 foot chord), an arc distance of 85.97 feet to a point for corner.

THENCE North 19.0512° East, a distance of 156.75 feet to a point of curvature for corner.

THENCE, in a westerly direction, following a curve to the left, said curve having a radius of 150.00 feet, a central angle of 48.0070° and a long chord that bears North 05.2468° West (154.81 foot chord), an arc distance of 117.51 feet to a point of tangency for corner.

THENCE North 33.5448° West, a distance of 219.78 feet to a point of curvature for corner.

THENCE, in a westerly direction, following a curve to the left, said curve having a radius of 100.00 feet, a central angle of 69.295° and a long chord that bears North 05.2468° West (82.78 foot chord), an arc distance of 82.88 feet to a point for corner.

THENCE South 64.0512° West, a distance of 397.65 feet to a point for corner.

THENCE South 19.0512° West, a distance of 290.65 feet to a point for corner.

THENCE North 70.5448° West, a distance of 63.00 feet to a point for corner.

THENCE South 19.0512° West, a distance of 372.88 feet to a point for corner.

THENCE South 70.5448° East, a distance of 317.50 feet to a point for corner.

THENCE South 64.0512° West, a distance of 35.36 feet to a point for corner.

THENCE South 19.0512° West, a distance of 380.30 feet to a point on the said north line of Highway 8 for corner.

THENCE, with said north line of Highway 8, the following 2 corners and distances:

1. North 88.453° West, a distance of 214.41 feet to a point of curvature for corner; and

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**Exhibits 1-3**

## **WRITING:**

The work described in Section C will be performed by Lundberg at Tennant's expense.

Landlord and Tenant have a common interest in opening the Premises on the Commencement Date. To this end, Landlord will coordinate its work with the Tenant's work insofar as the schedule and prudent construction practice will allow.

WHICH THE PREMISES ARE LOCATED ("LANDLORD'S BUILDING")

**Notes**

- (6) Exits from the Enclosed Mall to the exterior in accordance with the requirements of jurisdictional authorities.

- United States**

(10) Every Door

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**(11) HVAC System**

(12) Wages Service

(13) **Spivak**

(1.4) Interior Partition

**Flow** (15)

(16) Utility Meter

### **QUESTION 6: WORK BY TENANT IN PREMISES**

and approved in advance by Landlord.

**Tenant's expense, see Section Chertina**

and other codes as required.

replace or reconstruct such Work.

[illegible]

<p>(1) <b>Utilities by Tenant</b></p> <p>Tenant shall directly arrange for and procure at Tenant's expense:</p> <ul style="list-style-type: none"> <li>(a) All building plumbing, occupancy and other required permits.</li> <li>(b) Telephone service between the point of entry in Landlord's building and the Premises.</li> <li>(c) Connection to the Landlord furnished utilities.</li> <li>(d) Copper electrical conductor from Landlord's Utility Room to and throughout the Premises.</li> </ul> <p>(2) <b>Insulation</b></p> <p>Tenant shall install wall insulation to the interior surface of the building exterior wall to the underside of the roof deck, which insulation shall have an R factor of 10.22 BTU per hour square foot.</p> <p>The Tenant shall have a finished drop ceiling, unless Landlord gives the prior written consent not to have such a ceiling (which consent Landlord may withhold at its sole judgment). Tenant shall not construct any mezzanine in the Premises without Landlord's prior written approval. If Tenant shall construct a mezzanine in the Premises without such approval, or fails to construct a drop ceiling throughout the Premises without such consent, Landlord may in addition to its other remedies hereunder and at law and in equity, either (i) cause Tenant to remove the mezzanine, or install drop ceiling, as the case may be, at Tenant's expense or (ii) if Tenant has not removed the mezzanine or installed drop ceiling, as the case may be, after thirty (30) days written notice from Landlord to Tenant to do so, remove the mezzanine or install drop ceiling, as the case may be, and charge Tenant the actual cost of doing so plus fifteen percent (15%) of the cost as an administration fee.</p> <p>(3) <b>Drainage Partitions</b></p> <p>One-half (1/2) inch drywall shall be installed, taped and finished upon all inside and draining partitions from the floor to the underside of the deck and provided the ceiling in the deck drains over the top track when the partition is 90 deg. to the deck floor direction.</p> <p>(4) <b>New-Convertible Construction</b></p> <p>All Tenant construction shall be non-combustible. Trimmed fire retardant (Class A) wood will be permitted where approved by the jurisdictional authorities.</p> <p>(5) <b>Ceilings</b></p> <p>A drop ceiling shall be installed throughout the ceiling Premises with a minimum fire rating of at least 2 hours, but shall not be more than twelve feet (12 ft.) nor less than nine feet (9 ft.) above finished floor with our prior approval by Landlord. Access (i.e. access panels) will be provided by Tenant where Landlord deems necessary. All ceilings must also conform to the requirements of the jurisdictional authorities.</p> <p>(6) <b>Column Protection</b></p> <p>All freestanding structural steel columns shall be enclosed in accordance with the details indicated on the Latest Outline Drawing and the requirements of jurisdictional authorities.</p> <p>(7) <b>Exterior Staircase</b></p>	<p>All Tenant improvements, other than ceilings and lighting fixtures, shall be done in accordance with the requirements of the jurisdictional authorities. If Landlord approves such construction, in writing, the construction shall be constructed in accordance with the requirements of the jurisdictional authorities.</p> <p>(8) <b>Mezzanine</b></p> <p>No mezzanine shall be constructed unless Landlord approves such construction, in writing. If Landlord approves the construction of a mezzanine in the Premises, it must meet the following criteria:</p> <ul style="list-style-type: none"> <li>(a) The mezzanine framing shall be completely independent of the Landlord's Building's structural frame.</li> <li>(b) Additional loading, venting, air conditioning, plumbing, electrical and sprinkler costs will be at Tenant's expense as described in Section C hereof.</li> <li>(c) Mezzanine area and construction shall also be in accordance with the requirements of the jurisdictional authorities.</li> </ul> <p>(9) <b>INTENTIONALLY LEFT BLANK</b></p> <p>(10) <b>Tenant Mechanical System</b></p> <ul style="list-style-type: none"> <li>(a) No exhaust or vent shall be located within twenty-five (25) feet of any supply of air intake.</li> <li>(b) No opening, fan, vent, flue, or other device shall be installed in any draining partition or exterior wall without Landlord's written approval.</li> <li>(c) The requirement for no openings described in Section C hereof.</li> <li>(d) An independent ventilation system composed of makeup and exhaust air supply of fresh air shall be provided to the Premises at all times and shall be installed in the exterior of Landlord's Building.</li> <li>(e) Hood and exhaust systems for food processing shall be protected by a CO2 fire extinguishing system installed in accordance with the requirements of the jurisdictional authorities and the Landlord's insurance carrier.</li> <li>(f) Product-of-combustion vents for gas fired equipment shall be discharged directly to the exterior of Landlord's Building.</li> <li>(g) Construction of make-up air for any Tenant-installed system or appliance shall be obtained directly from the exterior.</li> <li>(h) Coolant lines that for refrigeration and/or conditioning shall terminate within the Premises in accordance with jurisdictional authorities.</li> <li>(i) Exhaust trap for any Tenant-installed system or appliance producing grease or fat.</li> </ul> <p>(11) <b>Tenant Electrical System</b></p> <p>All electrical work, including without limitation Tenant's main disconnect switch, current transformers, meter socket, dry type transformers, circuit panels, branch circuit wiring, wiring devices, lighting fixtures, wiring, emergency lighting, communication system, power alarm, open end signaling, and TV antenna system shall conform to the following criteria:</p> <ul style="list-style-type: none"> <li>(a) The requirements of the jurisdictional authorities, the National Electric Code and the local utility.</li> </ul>
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- (b) The requirements for roof openings described in Section C hereof.
- (c) All basement lighting should have High Power T8 or PAR Metal.
- (d) Main basement is 1 level only, 1 Utility Room shall be the dedicated breaker type but this plan, complete with Landlord's list of dedicated breakers, listing of new electrical shall be approved by Landlord's prior to purchase by Tenant. No apartment shall be the effort to the interior wall, exterior wall or roof of the Landlord's Building without Landlord's written approval.
- (e) Current Tenant's fixtures and other business shall be
- (f) Service conductors must be copper throughout the premises
- (g) 1. 200 AMP service and under, Minimum 15'x42", 7.6AN, complete with double plates and manual by pass.
2. Once 200 AMP service - CRT is approved and shown, Minimum 5' 7'x45", 13.5AN, complete with double plates and manual by pass.
- (h) No apartment shall be the effort to the exterior wall or roof of the Landlord's Building without Landlord's written approval
- (i) Backdrop must be verified and requires Landlord's written approval and shall not be made after the premises.
- (12) INDEPENDENTLY OBTAINED
- (13) Certificate of Occupancy
- Tenant must secure a certificate of occupancy from the jurisdictional authorities in accordance with Tenant to open the premises in accordance with the opening requirements of this Lease and will deliver a copy of the certificate to the Landlord.
- (14) Tenant's Obligation
- Landlord's work is limited to that required of Landlord by this Exhibit "CC" and Tenant shall be required to make all improvements to the premises in accordance with this Tenant's obligation. Landlord shall not be responsible for the cost of any improvements to the premises, but shall deliver the construction work in such a manner as to not disturb neighbors by dust, odors, noise, or any other activity. If any activity would be a nuisance to others it should be done before, or after hours. Tenant's contractor is required to continue the construction procedure to the standard Landlord's occupy is contained to the finished Mail to send the contractor. Tenant shall commence and proceed continually with construction of the premises in such a way as not to interfere unreasonably with Landlord, other tenants or any other person.
- (15) Discipline
- Tenant shall enforce strict discipline and good order among the employees of Tenant's contractors and subcontractors.
- (16) Contractor's Employees
- Tenant shall not employ any utility person or anyone not skilled in the work he is performing, or any workman that is incompatible with the balance of the work force or who will cause, or whose presence will cause, labor disputes or work stoppages.
- (17) General
- Tenant shall maintain the premises in a clean and orderly condition during construction and merchandising. Tenant shall promptly remove at least once a day all unused

construction materials, equipment, shipping containers, packaging, debris and flammable waste from the Center. Tenant shall contain all construction materials, equipment, fixtures, mechanically, shipping containers and debris within the Premises. Mail, coats, arsons, public equipment, portable containers and the contents of the said Center Building shall be clear of tenant's equipment, merchandise and debris at all times. Trash storage within the Premises shall be confined to covered metal containers.

(18) As-Built Plans

Within thirty (30) days after completion of Tenant's Work, Tenant shall furnish to Landlord a complete set of as-built plans for the Premises, prepared from Tenant's Final Plans (the "As-Built Plans"). If Tenant is able to provide the As-Built Plans, Landlord may obtain such plans from the local jurisdiction building or planning authorities or otherwise at Tenant's cost. Such cost shall be payable to Landlord as additional Rent immediately upon delivery to Tenant of a **As-Built Certificate**.

**SECTION C:** WORK BY LANDLORD IN PREMISES AT TENANT'S EXPENSE

(1) INVENTIONALLY DELFTED

(2) **Temporary Storage**

[illegible]

If Landlord has not installed a temporary storefront as contemplated herein as of the date of the execution of this Lease, Tenant may request permission from Landlord to have Tenant's contractor construct the temporary storefront or hardware to Landlord's specifications at Tenant's expense. In such event, the temporary storefront must be completely installed prior to the commencement of demolition or construction within the Premises.

At such time as Tenant commences construction of the permanent structure, the temporary storefront barricade may be moved into the Packard Mall with additional visible endorsement to be constructed by Tenant's contractor or Tenant's expense. The distance that barricade may be moved into the Packard Mall must be approved by Landlord's site manager. Because the Center is currently open for business, all construction in the Pavilions that produces loud or obnoxious noise (such as jackhammering concrete) must be performed prior to 9:00 a.m. and after the pavilion Mall is closed to the public.

It shall be Tenant's responsibility to remove the temporary barricade after the completion of Tenant's construction. However, Tenant shall not remove said temporary barricade without prior written approval from Landlord. If Tenant removes, either partially or completely, the temporary barricade without Landlord's prior written approval, Tenant shall be required to pay to Landlord a fine of One Thousand Dollars (\$1,000.00) as additional Rent and shall be required to reconstruct the barricade at Tenant's expense.

(3) **INTENTIONALLY DELIBERED**

**(4) Players**

A limited supply of building standard pavers is available for purchase from Landlord for use as limited floor material between the storefront lease line and Tenant's storefront closure. Tenant may use compatible, similar pavers of equal or better quality subject to Landlord's prior written approval.

(5) Additional Words

(1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38,39,40,41,42,43,44,45,46,47,48,49,50,51,52,53,54,55,56,57,58,59,60,61,62,63,64,65,66,67,68,69,70,71,72,73,74,75,76,77,78,79,80,81,82,83,84,85,86,87,88,89,90,91,92,93,94,95,96,97,98,99,100,101,102,103,104,105,106,107,108,109,110,111,112,113,114,115,116,117,118,119,120,121,122,123,124,125,126,127,128,129,130,131,132,133,134,135,136,137,138,139,140,141,142,143,144,145,146,147,148,149,150,151,152,153,154,155,156,157,158,159,160,161,162,163,164,165,166,167,168,169,170,171,172,173,174,175,176,177,178,179,180,181,182,183,184,185,186,187,188,189,190,191,192,193,194,195,196,197,198,199,200,201,202,203,204,205,206,207,208,209,210,211,212,213,214,215,216,217,218,219,220,221,222,223,224,225,226,227,228,229,230,231,232,233,234,235,236,237,238,239,240,241,242,243,244,245,246,247,248,249,250,251,252,253,254,255,256,257,258,259,260,261,262,263,264,265,266,267,268,269,270,271,272,273,274,275,276,277,278,279,280,281,282,283,284,285,286,287,288,289,290,291,292,293,294,295,296,297,298,299,300,301,302,303,304,305,306,307,308,309,310,311,312,313,314,315,316,317,318,319,320,321,322,323,324,325,326,327,328,329,330,331,332,333,334,335,336,337,338,339,340,341,342,343,344,345,346,347,348,349,350,351,352,353,354,355,356,357,358,359,360,361,362,363,364,365,366,367,368,369,370,371,372,373,374,375,376,377,378,379,380,381,382,383,384,385,386,387,388,389,390,391,392,393,394,395,396,397,398,399,400,401,402,403,404,405,406,407,408,409,410,411,412,413,414,415,416,417,418,419,420,421,422,423,424,425,426,427,428,429,430,431,432,433,434,435,436,437,438,439,440,441,442,443,444,445,446,447,448,449,450,451,452,453,454,455,456,457,458,459,460,461,462,463,464,465,466,467,468,469,470,471,472,473,474,475,476,477,478,479,480,481,482,483,484,485,486,487,488,489,490,491,492,493,494,495,496,497,498,499,500,501,502,503,504,505,506,507,508,509,510,511,512,513,514,515,516,517,518,519,520,521,522,523,524,525,526,527,528,529,530,531,532,533,534,535,536,537,538,539,540,541,542,543,544,545,546,547,548,549,550,551,552,553,554,555,556,557,558,559,560,561,562,563,564,565,566,567,568,569,570,571,572,573,574,575,576,577,578,579,580,581,582,583,584,585,586,587,588,589,590,591,592,593,594,595,596,597,598,599,600,601,602,603,604,605,606,607,608,609,610,611,612,613,614,615,616,617,618,619,620,621,622,623,624,625,626,627,628,629,630,631,632,633,634,635,636,637,638,639,640,641,642,643,644,645,646,647,648,649,650,651,652,653,654,655,656,657,658,659,660,661,662,663,664,665,666,667,668,669,670,671,672,673,674,675,676,677,678,679,680,681,682,683,684,685,686,687,688,689,690,691,692,693,694,695,696,697,698,699,700,701,702,703,704,705,706,707,708,709,710,711,712,713,714,715,716,717,718,719,720,721,722,723,724,725,726,727,728,729,730,731,732,733,734,735,736,737,738,739,740,741,742,743,744,745,746,747,748,749,750,751,752,753,754,755,756,757,758,759,760,761,762,763,764,765,766,767,768,769,770,771,772,773,774,775,776,777,778,779,780,781,782,783,784,785,786,787,788,789,790,791,792,793,794,795,796,797,798,799,800,801,802,803,804,805,806,807,808,809,810,811,812,813,814,815,816,817,818,819,820,821,822,823,824,825,826,827,828,829,830,831,832,833,834,835,836,837,838,839,840,841,842,843,844,845,846,847,848,849,850,851,852,853,854,855,856,857,858,859,860,861,862,863,864,865,866,867,868,869,870,871,872,873,874,875,876,877,878,879,880,881,882,883,884,885,886,887,888,889,890,891,892,893,894,895,896,897,898,899,900,901,902,903,904,905,906,907,908,909,910,911,912,913,914,915,916,917,918,919,920,921,922,923,924,925,926,927,928,929,930,931,932,933,934,935,936,937,938,939,940,941,942,943,944,945,946,947,948,949,950,951,952,953,954,955,956,957,958,959,960,961,962,963,964,965,966,967,968,969,970,971,972,973,974,975,976,977,978,979,980,981,982,983,984,985,986,987,988,989,990,991,992,993,994,995,996,997,998,999,1000)



(6) **STOPS AND DISPLAYS WINDOWS.** Tarnoff shall not place any sign or other thing of any kind outside the Premises (including, without limitation, exterior walls and roof), or on the interior or exterior surface of glass panels or doors, except such signs as a Licensed Retailer expressly approves in writing for use in connection with Tarnoff's merchandise. With the Premises, Tarnoff shall not (i) install any signs that advertise any product, (ii) install any





