To protect both the landlord and tenant, you have to tailor the lease to the circumstances.

SHOPPING CENTERS are among the most complex forms of commercial real estate, and a question naturally arises: How do shopping center leases work? The leases are as likely to be as varied as the shopping centers themselves, but one thing is certain: For the protection of both the landlord and the tenant, the lease should be as comprehensive as possible. Of course all of the basic terms have to be covered: the term of the lease, the leased area, renewal periods, rental amounts, use and occupancy, construction (when applicable), and delivery. But the smaller details have to be covered, too. Things like signage, repairs and alterations, insurance, SNDAs, fixtures, easements, antennas, satellite dishes and so forth have to be addressed, or some kind of difficulty will come up later. And it is equally important to cover environmental matters. The sample shopping center lease that follows is for the situation in which the shopping center is to be constructed on the leased premises. Many of its terms are applicable to other situations; nevertheless, as in all matters relating to commercial leasing, the final document should be narrowly tailored to the exact circumstances of the landlord and tenant.
LEASE

THIS LEASE, made as of this __________ day of ________________ 200__, between __________ _____________________ (hereinafter called “Landlord”), and ____________________________, a _____ ______ corporation, having an office at ___________________________ (hereinafter called “Tenant”).

WITNESSETH

Landlord and Tenant covenant and agree as follows:

1. EXHIBITS. (Editor’s note: The referenced Exhibits are not included in this article.)

The following Exhibits are annexed hereto and made a part hereof:

A. Exhibit A, a site plan of the Shopping Center (as hereinafter defined);
B. Exhibit B, a legal description of the Land (as hereinafter defined);
C. Exhibit C, a list of documents pertaining to construction of the Tenant’s Building and some, but not all, of the remainder of the Improvements (as such terms are hereinafter defined);
D. Exhibit D, form of agreement setting forth the Rent Commencement Date (as hereinafter defined), the date of expiration of the initial term of this Lease, and the commencement dates of the Renewal Periods (as hereinafter defined);
E. Exhibit E, Permitted Encumbrances (as hereinafter defined);
F. Exhibit F, form of Subordination, Recognition and Non-Disturbance Agreement; and
G. Exhibit G, form of Ground Lessor Consent Agreement.

2. DEMISED PREMISES AND COMMON AREA.

Landlord hereby leases to Tenant, and Tenant hereby takes from Landlord, the premises labeled “Demised Premises” and shown crosshatched on Exhibit A and the improvements now or hereafter erected on said premises (said premises and improvements being hereinafter collectively called the “Demised Premises”), together with the benefit of any and all easements, appurtenances, rights, and privileges now or hereafter belonging thereto. The Demised Premises is located within that certain parcel of land (hereinafter called the “Land”) described on Exhibit B. Any buildings and improvements now or hereafter erected on the Land shall be hereinafter called “Improvements.” The Land and the Improvements shall be hereinafter collectively called the “Shopping Center.” Landlord hereby grants to Tenant the right and easement to use, in common with other permitted tenants of the Shopping Center, those portions of the Shopping Center not included within the building sites referred to in Article 9A hereof including, but not limited to, parking areas, roads, streets, drives, tunnels, passageways, landscaped areas, open and enclosed malls, exterior ramps, walks, and arcades (hereinafter collectively called the “Common Area”) for all customary and proper purposes.

3. TERM.

A. The term of this Lease shall commence on the date hereof and shall continue to and include the date which is twenty (20) years after the day before the Rent Commencement Date (as hereinafter defined) if the Rent Commencement Date is the first day of a month, or twenty (20) years after the last day of the month in which the Rent Commencement Date occurs if the Rent Commencement Date is not the first day of a month. The Rent Commencement Date shall be the date which is the earlier of (a) the date on
which Tenant opens the Demised Premises to the public for business or (b) the date which is sixty (60) days after the date of Delivery of Possession (as hereinafter defined). The term “Expiration Date” shall mean that date on which the term of this Lease, as same may have been extended, shall expire. Tenant shall not be obligated to pay fixed annual rent or additional charges or to perform any of Tenant’s obligations hereunder during the period between the date hereof and the day before the Rent Commencement Date (such period being hereinafter called the “Interim Term”). Tenant may enter the Demised Premises during the Interim Term as hereinafter provided in this Lease.

B. Within ten (10) days after request of either party after the Rent Commencement Date has been determined, Landlord and Tenant shall execute, acknowledge, and deliver to each other an agreement in the form provided in Exhibit D and in form for recording setting forth the Rent Commencement Date, the date of expiration of the initial term of this Lease and the dates of commencement of the Renewal Periods. The term “Lease Year” shall mean the following: the first Lease Year shall be the twelve (12) month period commencing on the Rent Commencement Date if the Rent Commencement Date is the first day of a month, or on the first day of the month immediately following the month in which the Rent Commencement Date occurs if the Rent Commencement Date is not the first day of a month; and each succeeding twelve (12) month period thereafter shall be a Lease Year.

4. RENEWAL PERIODS.
Tenant shall have the right and option to extend the term of this Lease from the date upon which it would otherwise expire for eight (8) separate renewal periods of five (5) years each (each such period being hereinafter called a “Renewal Period”) upon the same terms and conditions as are herein set forth. If Tenant elects to exercise any one or more of said options to renew, it shall do so by giving notice of such election to Landlord at any time during the term of this Lease (including any Renewal Periods) on or before the date which is one hundred eighty (180) days before the beginning of the Renewal Period or Renewal Periods for which the term hereof is to be renewed by the exercise of such option or options. If Tenant elects to exercise any one or more of said options to renew, the term of this Lease shall be automatically extended for the Renewal Period covered by the option or options so exercised without execution of an extension or renewal lease. If Tenant shall not have given notice of such election to Landlord by such date in respect of any Renewal Period, Landlord shall (unless notice shall have been given as hereinafter specifically permitted) give notice to Tenant that Tenant has failed to give notice of such election to Landlord (hereinafter called the “Option Notice”). Tenant’s time to give notice of such election shall continue until the date which is one hundred eighty (180) days after the beginning of the next succeeding Renewal Period, the term of this Lease shall be extended beyond the Expiration Date to the date which is one hundred eighty (180) days after the date on which the Option Notice is received by Tenant, but on and after the Expiration Date, Tenant shall have the right to terminate this Lease by giving thirty (30) days prior notice of termination to Landlord. If Tenant so terminates this Lease, any fixed annual rent and all other charges payable by Tenant hereunder (said other charges being hereinafter called the “Charges”) paid for the period after the date of such termination shall be refunded to Tenant upon demand. The expiration date of any Renewal Period for which Tenant exercises its option to renew after having received the Option Notice shall be the last day of the month in the fifth year
following the month in which Tenant shall have exercised the option to renew and the expiration dates of all remaining Renewal Periods, if any, shall be postponed in order to grant to Tenant full successive five (5) year Renewal Periods. Landlord and Tenant shall execute an agreement in the form attached hereto as Exhibit D and in form for recording for the purpose of setting forth the new expiration dates of the Renewal Periods.

5. FIXED ANNUAL RENT.

The fixed annual rent, commencing on the Rent Commencement Date, shall be payable at the rate of: ($ ) Dollars per annum unless abated or diminished as hereinafter provided. Tenant shall pay the fixed annual rent to Landlord at the address of Landlord as hereinabove set forth (or such other address as Landlord may designate by notice to Tenant) in equal monthly installments of ($ ) Dollars in advance on the first day of each month during the term of this Lease (including any Renewal Periods). Rent for a part of a month shall be prorated on a daily basis and paid on the first day of the month immediately following the month in which the Rent Commencement Date occurs.

6. USE AND OCCUPANCY.

A. The Demised Premises may be used and occupied for the operation of a supermarket, drugstore, automated teller machine, bank and/or for any other lawful purpose or purposes. Notwithstanding anything to the contrary contained in this Lease, Tenant shall not be obligated to open, to conduct, or to remain open for the conduct of any business in the Demised Premises. Landlord warrants and represents that the present zoning of the Land permits the construction of the Improvements as contemplated herein and the use and occupancy of the Demised Premises for the operation of a supermarket and drugstore and the use of the Land as a full retail and service shopping center.

B. Tenant shall indemnify and hold harmless Landlord, its employees and agents from any and all claims, causes of action, damages, expenses, and liability, including reasonable attorneys’ fees, sustained or incurred by any persons (other than Landlord, its employees, and agents) which are based upon or arise out of illness or injury, including death of any person or property damage to any property and which arise from or in any manner grow out of any act or omission of Tenant, its agents, partners, or employees in the interior of the Tenant’s Building (as hereinafter defined). Tenant shall immediately respond and assume the investigation, defense and expense of all claims and causes of action arising out of or in connection with occurrences within the interior of the Tenant’s Building. Landlord may, at its sole cost and expense, join in such defense with counsel of its choice.

7. CONSTRUCTION.

A. Tenant has furnished Landlord with the preliminary plans, outline specifications, and other details more particularly set forth on Exhibit C (hereinafter collectively called the “Criteria Drawings”), receipt of which is hereby acknowledged by Landlord. The Criteria Drawings have been executed by Landlord and Tenant and are hereby incorporated herein by reference and made a part hereof. Landlord agrees to prepare and furnish to Tenant within sixty (60) days after the date hereof complete architectural drawings and specifications (hereinafter called the “Plans and Specifications”) incorporating therein the items specified and shown in the Criteria Drawings for the construction of the building to be built by Landlord for Tenant on the Demised Premises (hereinafter called “Tenant’s Building”) and (to the extent covered by the
Criteria Drawings) any other Improvements to be built by Landlord in the Shopping Center. The Plans and Specifications shall be prepared by a licensed architect retained by Landlord, which architect shall be subject to the reasonable approval of Tenant. Tenant agrees to review the Plans and Specifications and in each case to approve same or to state what changes, if any, Tenant requires therein within thirty (30) days after receipt thereof. If Tenant requires any changes Landlord shall cause the Plans and Specifications to be revised in accordance with any reasonable requirements of Tenant and to resubmit same to Tenant for Tenant’s review within fifteen (15) days after receipt of Tenant’s changes. In addition, Tenant may review said drawings and specifications and request changes therein during the course of preparation thereof by said architect and Landlord shall cause said architect to revise said drawings and specifications accordingly. The revisions and re-submissions shall continue until Tenant shall have approved the Plans and Specifications (said approved Plans and Specifications being hereinafter called the “Approved Plans and Specifications”). Tenant’s approval of the Plans and Specifications shall not constitute an opinion or agreement by Tenant that the Tenant’s Building, or other Improvements including, without limitation, the Common Area paving and sub-strata thereof, are structurally sufficient or that the Approved Plans and Specifications are in compliance with law (it being agreed that such compliance is solely Landlord’s responsibility) nor shall such approval impose any present or future liability on Tenant or waive any of Tenant’s rights hereunder, it being agreed that in all instances the Criteria Drawings shall prevail. Landlord shall provide Tenant with two (2) sets of the Approved Plans and Specifications and Landlord and Tenant shall execute counterparts thereof. The Approved Plans and Specifications shall be final and shall not be changed by Landlord without the prior consent of Tenant, but Tenant shall have the right to make changes therein. If the direct cost and expense of construction of the Tenant’s Building and other improvements on the Demised Premises is increased or decreased by any change or changes made by Tenant to the Approved Plans and Specifications, then Tenant shall pay to Landlord the amount by which the cost and expense was thereby increased, or Landlord shall pay to Tenant the amount by which the cost and expense was thereby decreased. The payment provided for in the immediately preceding sentence shall be made on the Rent Commencement Date or, if said increase or decrease in the cost and expenses shall not have been determined by the Rent Commencement Date, then within ten (10) days after such increase or decrease shall have been determined but in no event later than one hundred eighty (180) days after the Rent Commencement Date.

B. Landlord covenants and agrees that upon Tenant’s approval of the Plans and Specifications, it shall, in accordance with the Approved Plans and Specifications, promptly commence and with due diligence proceed to construct the Tenant’s Building and other improvements on the Demised Premises and the remainder of the Improvements including, without limitation, utility lines, drainage, lighting facilities, grading and paving, landscaping, approaches, entrances, exits, ramps, sidewalks, roadways, curb cuts, loading areas, platforms, service roads, and all buildings required to be constructed hereunder. The construction work on the Tenant’s Building, other improvements on the Demised Premises and the remainder of the Improvements shall be done by a contractor approved by Tenant and shall be done in a good and workmanlike manner and in compliance with all applicable laws, orders, and regulations of federal, state, county, and municipal authorities, with any direction by any public officer pursuant to law and with all regulations of any board of fire underwriters having jurisdiction. Landlord, at its sole cost and expense, shall obtain or cause to be obtained all building permits, licenses, temporary and permanent certificates of occupancy, and other governmental approvals which may be required to permit the construction of the
Tenant’s Building in accordance with the Approved Plans and Specifications and the occupancy thereof as a supermarket and drugstore.

C. During the course of construction of the Tenant’s Building and other improvements on the Demised Premises, Tenant may enter upon the Demised Premises for purposes of inspecting the work, taking measurements, making plans, installing trade fixtures, erecting temporary or permanent signs, and doing such other work as may be appropriate or desirable without being deemed thereby to have taken possession or obligated itself to pay fixed annual rent and/or charges. Tenant agrees that Landlord shall have no liability to Tenant for damage to any property of Tenant stored on the Demised Premises except for damages caused by the negligence of Landlord or its employees, agents, invitees, or contractors. Tenant shall not unreasonably interfere with Landlord’s construction work on the Demised Premises in the exercise of Tenant’s rights under this subdivision 7C.

D. If the footings and foundations of the Tenant’s Building shall not have been completed and the structural steel erected on or before ____________, 200__, or if Delivery of Possession shall not have occurred on or before ______________, 200__ or if the Rent Commencement Date shall not have occurred on or before ____________, 200____, (each of the above dates being hereinafter called a “Completion Date”) Tenant shall have the right, at its option, in any such event, to:

1. Extend from time to time a Completion Date; or
2. Terminate this Lease by giving notice to Landlord after a Completion Date or any extension thereof, as the case may be, and upon the giving of such notice this Lease and the term hereof shall immediately cease and expire and any fixed annual rent and/or Charges paid hereunder shall be refunded to Tenant upon demand; or
3. Require Landlord, on or after a Completion Date or any extension thereof, as the case may be, to transfer Landlord’s interest in the Shopping Center to Tenant or Tenant’s nominee. The purchase price shall be: ($ ) Dollars if Landlord shall not have commenced construction of the Shopping Center. If Landlord shall have so commenced construction, then the purchase price shall be the sum of Landlord’s actual costs incurred in connection with the development of the Shopping Center (hereinafter called the “Costs”) before the transfer to Tenant. If Tenant’s right to purchase the Shopping Center hereunder shall have become effective, Landlord shall, within ten (10) days after receipt of Tenant’s request therefor (hereinafter called the “Document Request”), deliver to Tenant all documents listed in the Document Request for the purpose of enabling Tenant to determine whether or not it shall exercise its right to purchase the Shopping Center. Tenant or its nominee shall have the right to audit all of Landlord’s books and records pertaining to the Costs before exercising its right to purchase the Shopping Center. Any dispute with respect to the Costs shall be submitted to a court of law for a declaratory judgment but Tenant may require Landlord to convey title to Landlord’s estate if Tenant deposits the disputed amount in escrow with instructions that said amount shall be paid in accordance with the decision of such court. If Tenant elects to purchase the Shopping Center, it shall notify Landlord of such election and closing shall occur as of the date specified in the notice, but in no event later than sixty (60) days after the giving of said notice. At closing Tenant shall pay the purchase price to Landlord and Landlord shall deliver to Tenant such instruments as shall be requested by Tenant including, without limitation, such documents as Tenant shall require in order to vest in Tenant title to Landlord’s estate in the Shopping Center, subject only to the Permitted Encumbrances, this Lease and all other leases affecting the Shopping Center. Landlord covenants and agrees not to execute and deliver any leases or other documents granting rights in the Shopping Center within the ninety
(90) day period following the giving of the Document Request and Tenant’s purchase shall not be subject to any leases or documents made in violation hereof; or

4. Commence or complete the construction work on all of, or any portion of, the Improvements, after giving notice to Landlord of its intention to do so after a Completion Date or any extension thereof, as the case may be, and deduct the cost and expense thereof with interest at the Lease Interest Rate (as hereinafter defined) from fixed annual rent and/or charges thereafter becoming due and payable to Landlord. Upon receiving such notice of Tenant’s intention, Landlord shall cease doing any work which would in any way interfere with Tenant’s construction work on the Improvements. Tenant’s election to commence or complete the construction of all or any portion of the Improvements shall not relieve Landlord of the obligation of completing the construction of the remainder of the Improvements. If this Lease and the term hereof shall be terminated pursuant to the provisions of Subdivision 7D(2), then for a period of two (2) years thereafter Landlord shall not use, or permit or suffer others to use, any portion of the Land as a supermarket and/or drugstore, and this restriction shall run with and be binding upon the Land for said two (2) year period.

E. Within thirty (30) days after the date hereof, Landlord shall deliver to Tenant an accurate survey of the Shopping Center dated as of a date not earlier than the date hereof. Within ninety (90) days after completion of construction of the Tenant’s Building and other improvements on the Demised Premises, Landlord shall deliver to Tenant an accurate “as built” survey of the Shopping Center certified to Tenant by a duly licensed surveyor together with three (3) sets of “as built” plans of the Tenant’s Building, including, without limitation, architectural and mechanical plans and operating manuals and specifications.

8. DELIVERY OF POSSESSION.

A. Landlord shall be deemed to have delivered possession of the Demised Premises to Tenant (hereinafter called “Delivery of Possession”) on the date on which the latest of all of the following shall have occurred:

1. Actual possession of the Demised Premises shall have been delivered to Tenant free of all tenancies, occupancies and leases (other than this Lease), and title shall be as warranted and represented in Article 22 hereof;

2. Construction of the Tenant’s Building and other improvements on the Demised Premises and all construction and/or improvements to the Common Area including, but not limited to, curb cuts, landscaping, the sign pylons permitted under Article 10, the finished paving and striping in the Common Area, the connection of utilities to and in the Tenant’s Building and the installation of the storm and sanitary sewer drainage in the Common Area shall have been completed; all utilities shall be in adequate supply for Tenant’s use; the fire protection sprinkler system shall be charged and in operation at designed pressure and the storm and sanitary sewer drainage shall be adequate for Tenant’s use;

3. A temporary or final or permanent certificate of occupancy (or its local equivalent if certificates of occupancy are not issued in the jurisdiction) for the Demised Premises (as constructed in accordance with the Approved Plans and Specifications) permitting the use thereof as a supermarket and drugstore shall have been issued and delivered to Tenant with all applicable appeal periods having expired without any appeal having been taken. If a temporary certificate is issued, then Landlord shall procure a final or permanent certificate as promptly as practicable thereafter. If the temporary certificate of occupancy terminates or expires, Landlord shall be liable for consequential damages, and fixed annual rent and all
charges shall abate for the period commencing with the date of expiration of such temporary certificate until the date of issuance of the final or permanent certificate; and

4. Construction or installation of the foundations, structural steel, finished exterior walls, roof and roofing of all of the buildings labeled Required Construction on Exhibit A shall have been completed.

B. Tenant’s opening of the Demised Premises to the public for business before Delivery of Possession shall not relieve Landlord of any of its obligations under this Lease including, without limitation, the obligations of completing construction of the Improvements and providing any certificates and approvals required hereunder.

C. If at any time, either before or after Delivery of Possession, any deviation from the Approved Plans and Specifications appears and Landlord fails to correct such deviation within thirty (30) days after notice thereof from Tenant, Tenant may perform the work to correct any such deviation. Any cost or expense incurred by Tenant in correcting such deviation may be deducted by Tenant from any fixed annual rent and Charges becoming due and payable under this Lease together with the greater of (i) interest at the Prime Rate (as hereinafter defined) per annum plus two (2%) percent per annum or (ii) nine (9%) percent per annum, or if such rate is illegal, at the highest rate permitted by law (hereinafter called the “Lease Interest Rate”). Prime Rate shall mean the rate per annum publicly announced from time to time by _______________ as its Prime Rate in effect at its principal office in ______________ and each change in the Prime Rate shall be effective on the date such change is publicly announced.

9. REMAINDER OF THE IMPROVEMENTS.

A. Landlord has induced Tenant to execute and deliver this Lease by making the following warranties, representations, and agreements:

1. The Shopping Center, as shown on Exhibit A, shall not be amended or modified in any manner whatsoever without first obtaining Tenant’s consent thereto;

2. All buildings in the Shopping Center shall at all times be located entirely within the building sites labeled on Exhibit A. The perimeter lines of such building sites shall be deemed to represent maximum building limits and no buildings shall extend beyond said limits or be constructed in whole or in part on any other portion of the Shopping Center without Tenant’s consent;

3. The exterior of buildings for other tenants in the Shopping Center shall be similar in appearance to and harmonious with the exterior of the Tenant’s Building;

4. Except for the Tenant’s Building, no improvement or structure in the Shopping Center shall be of an exterior height greater than _____ feet above ground level, contain more than one (1) story, or contain a basement or mezzanine; and

5. The total floor area of all buildings in the Shopping Center shall not exceed _______ square feet.

B. Landlord shall not permit the Common Area to be used for parking or any other purpose by any occupant or occupants of adjacent or contiguous property (which includes property which would be adjacent or contiguous to the Common Area but for any intervening road, street, highway, or waterway) or by customers or invitees of such occupant or occupants, and upon request of Tenant, Landlord shall erect (and maintain as part of the Common Area) a fence or fences or any other barriers meeting Tenant’s requirements to separate the Common Area from any such adjacent or contiguous property. Tenant shall pay its proportionate share of the cost of constructing said fence, fences, or other barrier. Tenant’s proportionate share shall be the product of the cost of construction of said fence, fences, or other barrier
and a fraction, the numerator of which shall be the total ground floor area of Tenant’s Building and the
denominator of which shall be the total floor area of all buildings in the Shopping Center.

C. There shall be no flashing or animated sign, roof, or free-standing sign or exposed neon sign in the
Shopping Center. All exterior signs shall be affixed parallel to, and shall not project more than twelve (12)
inches from any building or canopy, except that Tenant shall have a free-standing sign or signs as hereinafter
provided and any other sign provided for in the Criteria Drawings. There shall be no restrictions with
respect to Tenant’s interior signs. Tenant may remove any or all of its signs at or before the Expiration
Date or as soon thereafter as is reasonably practical.

D. All portions of water, gas, electricity, sewage, and other utility lines within the Shopping Center
and not within the exterior walls of any structure or enclosed area may be installed above ground provided
Landlord first obtains Tenant’s consent to the location and height thereof.

10. PYLON SIGNS AND ANNOUNCEMENT SIGNS.

A. Landlord shall, at its sole cost and expense, erect a sign pylon for the exclusive use of Tenant in the
location labeled Tenant’s Sign Pylon on Exhibit A in accordance with Tenant’s requirements. Tenant shall
have the right, at its cost and expense, to place its sign thereon. Landlord shall maintain said sign pylon and
Tenant shall pay the costs of lighting and maintaining its sign. In addition thereto, in the event that Ten-
ant enters into an agreement to have an in-store banking facility (hereinafter called the “Instore Bank”) in
the Demised Premises, then the In-store Bank shall have the right, at its cost and expense, to place its sign
thereon and In-store Bank shall pay the costs of lighting and maintaining its sign.

B. In the event that, pursuant to applicable law, more than one sign pylon shall be permitted in the
Shopping Center, Landlord may erect a sign pylon supporting a sign advertising the name of the Shop-
ping Center in the location labeled Shopping Center Pylon on Exhibit A (hereinafter called the “Shopping
Center Pylon”). The Shopping Center Pylon shall have no other sign placed thereon without Tenant’s
prior consent in each instance.

C. Tenant may, at any time after the date hereof, place a sign on the property announcing Tenant’s
intent to locate a store in the Shopping Center provided; however, that:

1. In the event that Landlord is not the owner of the Shopping Center at this time then Tenant
shall wait until such time as Landlord actually acquires the fee; and

2. Tenant shall, at its own cost and expense, obtain any and all required municipal approvals for
said sign and Landlord shall cooperate with Tenant in obtaining same.

11. COMMON AREA.

A. Landlord shall, at its sole cost and expense, keep and maintain the Common Area in good condi-
tion and repair, including but not limited to, re-striping (at least once each Lease Year); repairing and
replacing paving and the sub-strata thereof; keeping the Common Area properly policed, drained, free of
snow, ice, water, rubbish, and obstructions, and in a neat, clean, orderly, and sanitary condition; keeping
the Common Area safe and suitably lighted in accordance with the Approved Plans and Specifications
during and for appropriate periods [in any event not less than one (1) hour] before and after Tenant’s busi-
ness hours; maintaining signs, markers and other means and methods of pedestrian and vehicular traffic
control; and maintaining any plantings and landscaped areas.
B. Except as otherwise expressly provided herein, the parking spaces in the Common Area shall be used only for the parking of private vehicles of customers, invitees, and employees of tenants of the Shopping Center and for no other purpose. The roads, streets, and drives shall be used for pedestrian and vehicular traffic serving the Shopping Center and for no other purpose. Employees of the tenants of the Shopping Center shall not park their automobiles in the Common Area except in that portion thereof designated as Employee Parking on Exhibit A and Landlord shall require all other tenants of the Shopping Center to use their best efforts to prevent any violation of this provision. Tenant shall use its best efforts to prevent any such violation by its employees.

C. Landlord shall not exact any charge or permit others to exact any charge for use of the Common Area from Tenant or its customers, invitees, or employees or of any other tenant or from any other parties using the Shopping Center in accordance with the terms of this Lease.

D. There shall be no advertisements or signs in the Common Area except the sign pylon or pylons and/or the announcement signs hereinbefore provided for and traffic control signs. No merchandise shall be sold or displayed in the Common Area. Notwithstanding the foregoing, any occupant of the Demised Premises may use the sidewalk adjacent to the Demised Premises for selling and for the storage of shopping carts, may erect a cart corral or similar device thereon and may use said sidewalk for any other lawful purpose or purposes.

E. Landlord shall indemnify and hold harmless Tenant, its employees, and agents from any and all claims, causes of action, damages, expenses, and liability, including reasonable attorneys’ fees, sustained or incurred by any persons (other than Tenant, its employees and agents) that are based upon or arise out of illness or injury, including death of any person or property damage to any property and that arise from, or in any manner grow out of, any act or omission of Landlord, its agents, partners or employees in the Common Area. Landlord shall immediately respond and assume the investigation, defense and expense of all claims and causes of action arising out of or in connection with occurrences within the Common Area. Tenant may, at its sole cost and expense, join in such defense with counsel of its choosing.

12. REPAIRS.

A. Tenant shall make all necessary interior non-structural repairs (but not replacements) to Tenant’s Building including repairs to the heating, ventilating, and air conditioning system located therein, to the interior exposed plumbing, and exposed portions of the electrical systems, and those required as a result of Tenant’s negligence except that Tenant shall not be obligated to make any of the foregoing arising out of or in any way connected with:

1. Fire or other casualty;
2. Settling;
3. Defects in labor, workmanship, materials, or equipment employed, supplied, or installed in the construction of Tenant’s Building; or
4. The negligence of Landlord, its agents, employees, or contractors.

B. Landlord shall make all replacements to the Demised Premises and all repairs which are not required to be made by Tenant under Subdivision A hereof including, without limitation, all structural repairs and replacements and all repairs and replacements to the exterior, floor, and roof of Tenant’s Building and to the water, sewer, and electrical systems serving the Demised Premises.
C. Except for repairs necessitated by Tenant’s negligence, notwithstanding anything to the contrary contained in this Lease, Landlord agrees that until the expiration of the first Lease Year, Landlord shall make all repairs and replacements to the Demised Premises. In addition, Landlord shall deliver to Tenant certificates of all warranties required pursuant to the Criteria Drawings. Should Landlord fail to obtain any warranty required pursuant to the Criteria Drawings, Landlord shall reimburse Tenant for any expense incurred by Tenant by reason of Landlord’s failure to obtain any such warranty.

D. Landlord shall indemnify Tenant and hold harmless Tenant, its employees, and agents from any and all charges, claims, causes of action, damages, expenses, and liability, including attorneys’ fees, sustained or incurred by any person (other than Tenant, its employees and agents) which are based upon or arise out of illness or injury, including death of any person or property damage to any property and which arise from or in any manner grow out of any act or omission of Landlord, Landlord’s agents, partners, employees, contractors, or subcontractors in connection with the construction of Tenant’s Building or any other improvements constructed on the Demised Premises and/or repairs and replacements required to be made by Landlord hereunder. Landlord shall immediately respond and take over the expense, defense, and investigation of all claims arising out of or in connection with any defect in the construction of Tenant’s Building or any other improvements constructed on the Demised Premises and/or claims attributable to acts or omissions concerning the exterior, structural portions, roof, or floor of Tenant’s Building or any other portions of Tenant’s Building or the Demised Premises which Landlord is obligated to repair and/or replace. Tenant may, at its sole cost and expense, join in such defense with counsel of its choice.

E. Landlord shall maintain the exterior of all buildings and other structures in the Shopping Center in good order and condition, which shall include re-painting when necessary.

13. INSURANCE.

A. Landlord agrees to maintain insurance policies providing against loss by fire, lightning, the perils of extended coverage and malicious mischief covering the Demised Premises and the other Improvements in the Shopping Center. In addition, until possession of Tenant’s Building shall have been delivered to Tenant, Landlord shall insure Tenant’s Building under a Builder’s Risk Policy on an all-risk basis. The policies covering the Demised Premises required under this Subdivision 13A shall contain the following endorsements:

1. An endorsement providing for thirty (30) day notice of cancellation of insurance to all who are or become additional insureds as required under this Lease;

2. An endorsement naming Tenant [and any future occupant(s) of the Demised Premises designated by Tenant] as an additional insured; and

3. An endorsement whereby insurer acknowledges that Landlord has waived any and all rights of recovery against Tenant and any other occupant(s) of the Demised Premises and their agents and employees for damage or destruction to any or all of the Improvements including, without limitation, Tenant’s Building, whether or not caused by acts or negligence of Tenant or said occupant(s) or any of their agents or employees.

All policies of insurance required under this Subdivision 13A shall be for the full replacement value of Tenant’s Building and other Improvements required to be insured hereunder. Such policy or policies shall provide that the proceeds of any loss shall be payable to Landlord and Tenant and to the holder (as its interest may appear) of any mortgage to which this Lease is subordinate so long as such holder and future holders of such mortgage are obligated to apply proceeds of insurance in the manner provided for in this
Lease. Landlord covenants that it shall not permit any occupant or occupants of premises in the Shopping Center and adjoining the Demised Premises to use said adjoining premises for any purpose which would increase the fire insurance rate applicable to the Demised Premises and/or to Tenant’s merchandise, fixtures, and other property in the Demised Premises.

B. Landlord hereby waives all rights of recovery against Tenant and any other occupant(s) of the Demised Premises and any of their agents and employees for damage or destruction to any and all of the Improvements, including without limitation, Tenant’s Building, arising out of fire or other casualty whether or not caused by acts or negligence of the aforementioned persons. Tenant hereby waives all rights of recovery against Landlord, its agents, and employees for damage or destruction to its fixtures, equipment and inventory arising out of fire or other casualty whether or not caused by the acts or negligence of Landlord, its agents, or employees.

C. Landlord shall maintain at its own cost and expense public liability insurance having minimum limits of coverage of five million dollars ($5,000,000.00) per occurrence combined single limit for bodily injury, personal injury, and property damage. Said public liability policy shall contain the following provisions:

1. Tenant shall be named as an additional insured endorsed in the insurance contract as follows: “Tenant, is hereby named as an additional insured and covered under this insurance contract but only to the extent of losses or claims caused by or arising out of the negligent acts of the named insured (Landlord), named insured’s employees, agents and partners”;

2. An agreement providing that the hold harmless and indemnification wording of this Lease is insured as a contractual obligation; and

3. A thirty (30) day notice of cancellation of insurance to all who are or who become additional insureds as required in this Lease.

D. Tenant shall maintain at its own cost and expense public liability insurance having minimum limits of coverage of five million dollars ($5,000,000.00) per occurrence combined single limit for bodily injury, personal injury, and property damage. Said public liability policy shall contain the following provisions:

1. Landlord shall be named as an additional insured endorsed in the insurance contract as follows: “Landlord, is hereby named as an additional insured and covered under this insurance contract but only to the extent of losses or claims caused or arising out of the negligent acts of the named insured (Tenant), named insured’s employees, agents, and partners”;

2. An agreement providing that the hold harmless and indemnification wording of this Lease is insured as a contractual obligation; and

3. A thirty (30) day notice of cancellation of insurance to all who are or who become additional insureds as required in this Lease.

E. All policies of insurance required under this Article 13 shall be written and signed by solvent and responsible insurance companies reasonably acceptable to both Landlord and Tenant and authorized to do business in the jurisdiction wherein the Shopping Center is located. Within fifteen (15) days after the date on which Landlord shall have commenced construction of the Shopping Center, Landlord shall provide Tenant with certificates of Landlord’s insurers evidencing the insurance coverage required of Landlord under this Article 13. Within fifteen (15) days after the Rent Commencement Date, Tenant shall provide Landlord with certificates of Tenant’s insurers evidencing the insurance coverage required of Tenant under this Article 13. In addition, each party shall deliver to the other renewal policies or certificates
thereof not later than thirty (30) days before the expiration of any policies which such party is required to carry hereunder.

F. Notwithstanding anything to the contrary contained herein, if any party required to carry insurance hereunder has a net worth in excess of one hundred million dollars ($100,000,000.00), then such insurance may be carried in whole or in part under a program of self-insurance.

14. REQUIREMENTS OF LAW AND FIRE INSURANCE.
Tenant shall comply with and shall from time to time conform the Demised Premises to every applicable requirement of law, duly constituted authority, Board of Fire Underwriters having jurisdiction or of the carriers of all insurance on the Demised Premises (all of the foregoing being hereinafter called “Requirements”) insofar as the necessity therefor shall arise solely out of its manner or method of use of the Demised Premises; provided, however, that the foregoing shall not require Tenant to make any structural, exterior, floor, or roof changes, replacements, alterations, installations, or repairs at any time. Landlord shall comply with all Requirements except to the extent that Tenant is obligated to comply therewith. Tenant shall have the right upon giving notice to Landlord to contest any obligations imposed upon Tenant pursuant to the provisions of this Article and to defer compliance during the pendency of such contest, if the failure of Tenant to so comply will not subject Landlord to criminal penalty. Landlord shall cooperate with Tenant in such contest and shall execute any documents reasonably required in furtherance of such purpose. This Article is not intended to impose on Tenant any obligation which, pursuant to this Lease, is an obligation of Landlord.

15. ALTERATIONS.
The Tenant may at its own expense from time to time, during the term hereof, make such alterations, additions, improvements, and changes, structural or otherwise (hereinafter called “Alterations”), in and to the Demised Premises which it may deem necessary or desirable, provided such Alterations shall not materially and adversely affect the structural integrity of the Demised Premises. Tenant, in making any Alterations, shall use materials of equal or better quality than those used in the construction of the Demised Premises and comply with all applicable laws, orders, and regulations of federal, state, county, and municipal authorities and with any direction given by a public officer pursuant to law and with all regulations of any Board of Fire Underwriters having jurisdiction. Tenant shall obtain or cause to be obtained all building permits, licenses, temporary and permanent certificates of occupancy, and other governmental approvals that may be required in connection with the making of Alterations. Landlord shall cooperate with Tenant in the obtaining thereof and shall execute any documents required in furtherance of such purpose. Tenant may, but shall not be obligated to, remove any Alteration.

16. ACCESS TO PREMISES.
Tenant shall permit Landlord to enter upon the Demised Premises at all reasonable times approved by Tenant (a) to make repairs, changes, replacements, and restorations to the Tenant’s Building which are required to be made by Landlord; and (b) during the six (6) month period preceding the Expiration Date, to exhibit the Demised Premises to prospective tenants, provided that Landlord shall not unreasonably interfere with the conduct of business therein.
17. UTILITIES.
   A. Tenant shall pay for water, gas, electricity, and fuel used by it in the Tenant’s Building provided
   same is separately metered (Landlord hereby agreeing to install said meters at its sole cost and expense)
   to measure Tenant’s actual consumption. Tenant shall pay all sewer charges assessed by the municipal
   authority having jurisdiction provided same are based upon the amount of water Tenant consumes in the
   Tenant’s Building but in no event shall Tenant pay assessments for public improvements relating to the
   construction, installation, or improvement of a sewer system and/or sewage treatment plant whether or
   not such assessments are measured by the amount of water consumed by Tenant in the Tenant’s Building.
   Landlord shall pay all charges arising out of, connected with, or attributable to any fire sprinkler or other
   sprinkler system.
   B. Tenant shall have the sole right to apply for, claim, and receive any rebate, reimbursement, credit,
   or payment from any utility company providing service to Tenant’s Building resulting from the installation
   of energy saving equipment in or on Tenant’s Building.

18. SUBORDINATION, RECOGNITION, NON-DISTURBANCE, AND ATTORNMENT.
   This Lease shall become subject and subordinate to the lien of any first mortgage of the entire fee interest
   of the Shopping Center made to a bank, trust company, savings and loan association, title company,
   college, university, insurance company, or federal or state pension or retirement fund, and any renewals,
   modifications, or extensions thereof, provided that a Subordination, Recognition and Non-Disturbance
   Agreement in recordable form and in the form annexed hereto as Exhibit “F” is executed, acknowledged
   and delivered by such mortgagee to Tenant. If the holder of any first mortgage of the entire fee interest
   of the Shopping Center requires that this Lease have priority over such mortgage, Tenant shall, upon request
   of such holder, execute, acknowledge, and deliver to such holder an agreement acknowledging such priority.
   In the event that Landlord requests a Subordination, Recognition and Non-Disturbance Agreement from Tenant, such request shall be accompanied by a check in the amount of one thousand and 00/100 ($1000.00) dollars to cover Tenant’s costs in relation thereto.

19. FIXTURES.
   A. All fixtures and equipment whether owned by Tenant or leased by Tenant from a Lessor/Owner
      (hereinafter called the “Equipment Lessor”) installed in the Shopping Center, regardless of the manner or
      mode of attachment, shall be and remain the property of Tenant or any such Equipment Lessor and may
      be removed by Tenant or any such Equipment Lessor at any time. In no event (including a default under
      this Lease) shall Landlord have any liens, rights or claims in Tenant’s or Equipment Lessor’s fixtures and
      equipment and Landlord agrees to execute and deliver to Tenant and Equipment Lessor, within ten (10)
      days after request therefor, any document required by Tenant or Equipment Lessor in order to evidence
      the foregoing. Tenant shall promptly repair all damage to the Tenant’s Building caused by the removal of
      any such fixtures or equipment.
   B. In the event Tenant shall enter into any arrangement to finance all or any portion of its fixtures or
      equipment either before or after the installation thereof in the Shopping Center and whether such financing shall be in the form of a mortgage, financing agreement, equipment lease, equipment sale-leaseback, or otherwise and in the event the Lessor or secured party thereunder (hereinafter called the “Owner/Secured Party”) shall require a copy of any notice sent by Landlord to Tenant under this Lease also to be sent
to the Owner/Secured Party, then Landlord shall simultaneously send a copy of any such notice to such Owner/Secured Party at the address furnished to Landlord. The copy of any such notice shall be sent to such Owner/Secured Party in the same manner as notices are required to be sent and in the same manner as such notice is being sent to Tenant hereunder. Landlord further agrees that any such Owner/Secured Party shall have the right, but not the obligation, to remedy or cure any default of Tenant under this Lease within a period of time which shall in all events be thirty (30) days longer than the period of time granted to Tenant to remedy or cure any such default under this Lease.

20. ASSIGNMENT AND SUBLETTING.

A. Tenant may sublet all or any part of the Demised Premises, or license the use of any portion thereof or assign this Lease, but Tenant shall nevertheless continue to remain liable hereunder. If Tenant assigns this Lease, Landlord, when giving notice to said assignee or any future assignee with respect to any default, shall also serve a copy of such notice upon ______________________________. (______________________________, or its successor being herein called “Original Tenant”), and no notice of default shall be effective until a copy thereof is received by the Original Tenant. The Original Tenant shall have the same period after receipt of such notice to cure such default as is given to Tenant under this Lease. If this Lease terminates or this Lease and the term hereof cease and expire because of a default of such assignee or because of the occurrence of any of the contingencies set forth in Subdivision 29B after an assignment of this Lease shall have been made, Landlord shall promptly give the Original Tenant notice thereof. The Original Tenant shall have the option, to be exercised by notifying Landlord within thirty (30) days after receipt by the Original Tenant of Landlord’s notice, to cure any default and become tenant under a new lease for the remainder of the term of this Lease (including any Renewal Periods) upon all of the same terms and conditions as then remain under this Lease as it may have been amended by agreement between Landlord and Original Tenant. If any default of such assignee is incapable of being cured by the Original Tenant then, notwithstanding the failure to cure same, the Original Tenant shall have the foregoing option to enter into a new lease. Such new lease shall commence on the date of termination of this Lease. Notwithstanding the foregoing, if Landlord delivers to the Original Tenant, together with Landlord’s notice, a release as to all liability under this Lease as theretofore amended, the Original Tenant shall not have the foregoing option.

B. Landlord shall, within ten (10) days after Tenant’s request, deliver to Tenant a non-disturbance agreement reasonably acceptable to Tenant, executed and acknowledged by Landlord, for the benefit of any subtenant of all or any part of the Demised Premises.

21. RESTRICTIVE COVENANT.

A. Landlord covenants and agrees that, except for the Demised Premises, it shall not lease, rent, or occupy or permit any premises in the Shopping Center to be occupied for the sale of food, including, but not limited to, beverages and pet food, for off-premises consumption, the sale of health and beauty aids and/or the sale of prescription drugs. Landlord further covenants and agrees that, except for the Demised Premises, it shall not lease, rent, or occupy or permit any premises in the Shopping Center to be occupied for any noxious or offensive use, for manufacturing or for use as a restaurant, theater, bowling alley, funeral parlor, warehouse, office (except for such office or warehouse use as shall be incidental to a permitted retail use) or non-retail use (nothing herein intended to characterize the uses listed in this sentence as retail uses).
B. Landlord expressly agrees that the covenants contained in this Article shall run with all lands affected thereby, and Landlord shall execute, acknowledge and deliver to Tenant, in form for recording, such instrument or instruments as shall be necessary in Tenant’s judgment to impose such covenants upon all lands which shall become affected thereby.

C. If the covenants contained in Subdivision A of this Article 21 are breached, Tenant may, in addition to all other remedies available to it, withhold payment of fixed annual rent and charges accruing during any period from the date of any breach until same be cured, and the monies so withheld may be retained by Tenant as liquidated damages and not as a penalty.

22. LANDLORD’S TITLE.

A. Landlord warrants and represents to Tenant that Landlord has the right and lawful authority to enter into this Lease for the term hereof (including the Renewal Periods), that Landlord is the owner of the fee simple of the Shopping Center and that title to the Shopping Center is and shall continue to be, until the Rent Commencement Date, free and clear of any liens and encumbrances except for those set forth on Exhibit E (hereinafter called “Permitted Encumbrances”) and except as follows:________________________. Landlord covenants and agrees to execute any documents reasonably required by Tenant for the purpose of curing any title defects.

B. Landlord and Tenant have executed a Memorandum of Lease (hereinafter called the “Memorandum”) simultaneously with the execution hereof. Landlord covenants and agrees that, if it is the fee owner of the Land on the date hereof, it shall record the Memorandum not later than five (5) days after said date and that, if Landlord is not the fee owner on said date, it shall record the Memorandum on the date on which it shall purchase the Land. Landlord covenants and agrees to record the Memorandum before the recordation of any other lease (or memorandum thereof) affecting the Shopping Center. Landlord further covenants and agrees that within fifteen (15) days after the date of recording of the Memorandum Landlord shall furnish Tenant with a title report updated to show the Memorandum of record and the title to be as warranted and represented herein and shall, within thirty (30) days after the date on which Landlord shall have commenced construction of any portion of the Improvements, furnish Tenant with a title policy (which for the purposes hereof may be a mortgagee’s title policy) showing the Memorandum of record and the title to be as warranted and represented herein. If the state of title as indicated by such report or policy, as the case may be, shall be other than as warranted and represented, Tenant may, in addition to any other rights it may have hereunder, terminate this Lease by giving notice of termination to Landlord, whereupon this Lease and the term hereof shall immediately cease and expire and any fixed annual rent and/or Charges paid hereunder shall be refunded to Tenant upon demand.

23. QUIET ENJOYMENT.

Landlord covenants and agrees that Tenant shall peaceably and quietly have, hold, and enjoy the Demised Premises and all rights, easements, appurtenances, and privileges belonging or in anywise appertaining thereto during the full term of this Lease and any extension thereof.

24. UNAVOIDABLE DELAYS.

If either party shall be prevented or delayed from punctually performing any obligation or satisfying any condition under this Lease by any strike, lockout, labor dispute, inability to obtain labor or material, Act
of God, governmental restriction, regulation, or control, enemy or hostile governmental action, civil commotion, insurrection, sabotage, fire, or other casualty or by any other event similar to the foregoing and beyond the control of such party, then the time to perform such obligation or to satisfy such condition shall be postponed by the period of time consumed by the delay. If either party shall, as a result of any such event, be unable to exercise any right or option within any time limit provided therefor in this Lease, the time for exercise thereof shall be postponed for the period of time consumed by such delay. In no event shall the Completion Dates set forth in Article 7 or the time limits for restoration after a Destruction or a Taking as set forth in Article 30A and Article 31B be extended by reason of the foregoing events for a period in excess of ninety (90) days.

25. END OF TERM.
Upon expiration or other termination of the term of this Lease, Tenant shall peaceably and quietly quit and surrender the Demised Premises in good order and condition, reasonable wear and tear and damage by fire, the elements, or casualty or causes beyond Tenant’s control excepted.

26. HOLDING OVER.
Except as otherwise set forth in this Lease, should Tenant hold over in possession after the Expiration Date, such holding over shall not be deemed to extend the term or to renew this Lease; but the tenancy thereafter shall continue as a tenancy from month to month upon the terms and conditions herein contained and at the fixed annual rent and Charges in effect immediately preceding the Expiration Date.

27. LANDLORD’S DEFAULT.
A. If Landlord shall be in default hereunder, Tenant may:

1. After thirty (30) days notice that Landlord is in default in the payment of any monies which Landlord is obligated to pay to Tenant pursuant to the terms of this Lease, deduct the amount thereof plus interest at the Lease Interest Rate from fixed annual rent and/or charges;

2. After thirty (30) days notice that Tenant intends to cure such default or without notice, if in Tenant’s reasonable judgment an emergency shall exist, cure such default and Landlord shall pay to Tenant upon demand the reasonable cost thereof plus interest at the Lease Interest Rate, failing which Tenant may deduct same from any payments of fixed annual rent and/or charges; or

3. After thirty (30) days notice that Landlord is in default under this Lease, terminate this Lease by giving ten (10) days notice of termination to Landlord. Any such deduction from fixed annual rent and/or charges shall not constitute a default unless Tenant shall fail to pay the amount of such deduction to Landlord within thirty (30) days after final adjudication by a court of competent jurisdiction that such amount is owing to Landlord.

B. Tenant shall not terminate this Lease or, except in an emergency, commence to cure any default of such a nature that said default could not reasonably be cured within such period of thirty (30) days, if Landlord promptly commences and thereafter proceeds with due diligence and in good faith to cure such default.

C. In the event that the holder of a mortgage covering the Demised Premises shall have given written notice to Tenant that it is the holder of said mortgage, and provided such notice includes the address to which notices to such mortgagee are to be sent, Tenant agrees that in the event it shall give written notice
to Landlord to cure a default of Landlord as provided for in this Article 27, Tenant shall give a copy of said notice to said mortgagee. Tenant agrees that said mortgagee may cure or remedy such default within the time permitted to Landlord pursuant to this Article 27.

28. ADDITIONAL CHARGES.

If Tenant shall be in default hereunder, Landlord, after thirty (30) days notice that Landlord intends to cure such default, shall have the right, but not the obligation, to cure such default and Tenant shall pay to Landlord, upon demand, as additional charges the reasonable cost thereof plus interest at the Lease Interest Rate. Landlord shall not commence to cure any default of such a nature that it could not reasonably be cured within such period of thirty (30) days, if Tenant commences to cure same within said period, and thereafter proceeds with reasonable diligence and in good faith to cure such default.

29. TENANT’S DEFAULT.

A. If Tenant defaults in the performance of any obligation under this Lease, Landlord may give Tenant a notice specifying the nature of the default. If Tenant does not, within thirty (30) days after receipt of such notice, cure a default (other than a default in the payment of fixed annual rent and/or Charges) or, if such default is of such a nature that it could not reasonably be cured within such period of thirty (30) days, and Tenant does not commence and proceed with reasonable diligence and in good faith to cure such default then, after the expiration of such thirty (30) day period [or longer period if such default cannot reasonably be cured within said thirty (30) day period], Landlord shall have the right, in addition to the rights set forth in Article 28 hereof, to seek damages or an injunction. If Tenant does not, within thirty (30) days after receipt of such notice, cure a default in the payment of fixed annual rent and/or Charges, then after the expiration of such thirty (30) day period Landlord may, but only during the continuance of such default, reenter the Demised Premises and dispossess Tenant and any other occupants thereof, remove their effects not previously removed by them, and hold the Demised Premises as if this Lease had not been made; and Tenant waives the service of any additional notice of intention to reenter or to institute legal proceedings to that end.

B. If, pursuant to an order, judgment or decree entered by any court of competent jurisdiction:

1. A receiver, trustee, or liquidator of Tenant or of all or substantially all of the assets of Tenant shall be appointed; or

2. Tenant shall be adjudicated a bankrupt or insolvent; or

3. A petition seeking reorganization of Tenant or an arrangement with creditors or a petition to take advantage of any insolvency law shall be approved, and fixed annual rent and charges shall not thereafter be paid in accordance with the terms hereof, Landlord may serve notice of termination of this Lease upon Tenant, stating the date of termination, which date of termination shall be at least ten (10) days after the date on which such notice is received by Tenant, and upon the date specified in such notice this Lease and the term hereof shall cease and expire [unless payment is made within such ten (10) day period] and Tenant shall then quit and surrender the Demised Premises, but Tenant shall remain liable as hereinafter provided. If this Lease and the term hereof shall cease and expire in accordance with this Subdivision B, Landlord may dispossess or remove Tenant or any other occupant of the Demised Premises by summary proceedings or otherwise and remove their effects and hold the Demised Premises as if this Lease had not been made.
C. After a dispossess or removal in accordance with Subdivision A or Subdivision B of this Article:
   1. The fixed annual rent and charges shall be paid up to the date of such dispossess or removal;
   2. Landlord may re-let the Demised Premises or any part or parts thereof, either in the name of Landlord or otherwise, for a term or terms which may, at the option of Landlord, be less than or exceed the period which would otherwise have constituted the balance of the term of this Lease; and
   3. Tenant shall pay to Landlord, as liquidated damages, any deficiency between the fixed annual rent and charges due hereunder and the amount, if any, of the rents collected on account of the new lease or leases of the Demised Premises for each month of the period which would otherwise have constituted the balance of the term of this Lease (not including any Renewal Periods, the commencement of which shall not have occurred before such dispossess or removal). In computing such liquidated damages there shall be added to said deficiency the expenses which Landlord incurs in connection with re-letting the Demised Premises including reasonable attorneys’ and brokerage fees. Such liquidated damages shall be paid by Tenant in monthly installments on the dates specified in this Lease for payment of fixed annual rent and any suit brought to collect the amount of the deficiency for any month shall not prejudice in any way the rights of Landlord to collect the deficiency for any subsequent month by a similar proceeding. Landlord shall not be liable for failure to re-let the Demised Premises or, in the event that the Demised Premises are re-let, for failure to collect the rent under such re-letting, unless Landlord shall not have used its best efforts to re-let promptly the Demised Premises for the reasonable rental value thereof and to collect the rent under such re-letting. Landlord shall use its best efforts to mitigate damages.

D. Landlord hereby expressly waives any and all rights granted by or under any present or future laws to reenter the Demised Premises, to dispossess Tenant or any other occupant thereof or to remove their effects not previously removed by them, or to terminate this Lease for any reason or in any manner other than as set forth in Subdivisions A or B of this Article, Subdivision B of Article 30, or Subdivision A of Article 31.

30. DAMAGE OR DESTRUCTION.

A. In the event of any damage or destruction by fire, the elements, or casualty (hereinafter called “Destruction”) to all or any part of the Improvements including but not limited to the Common Area, Landlord shall commence promptly, and with due diligence continue, to restore same to substantially the same condition as existed immediately preceding the Destruction, except as otherwise provided in this Article. If the Destruction is partial, Landlord shall complete the restoration within ninety (90) days after the Destruction. If the Destruction is total, Landlord shall complete the restoration within one hundred eighty (180) days after the Destruction. Tenant shall have the right to require Landlord to make changes to the Tenant’s Building in the course of such restoration. If the cost and expense of restoration of the Tenant’s Building is increased by any change or changes required by Tenant then Tenant shall pay to Landlord, as additional charges after the completion of such restoration, within thirty (30) days after demand therefor, the amount by which the cost and expense of restoration of the Tenant’s Building was thereby increased.

B. If, as a result of any Destruction, fifty (50%) percent or more of the total floor area of the Tenant’s Building is damaged, destroyed or, in Tenant’s reasonable opinion, rendered untenantable when less than three (3) years remain under the term of this Lease [and, if said term shall have been extended, then this provision shall apply only to the last three (3) years of the then existing Renewal Period], Landlord or Tenant may elect to terminate this Lease by giving notice to the other of such election on or before the date
which is ninety (90) days after the Destruction, stating the date of termination, which shall be not more than thirty (30) days after the date on which such notice of termination shall have been given, and: (1) upon the date specified in such notice this Lease and the term hereof shall cease and expire; and (2) any fixed annual rent and Charges paid for a period after the date of the Destruction shall be refunded to Tenant upon demand. Landlord’s notice of termination hereunder shall be null and void if Tenant, within thirty (30) days after receipt of such notice from Landlord, shall give notice of the exercise of an option to extend the term for the next succeeding Renewal Period.

C. If, as a result of any Destruction, Tenant loses the use of the whole or any part of the Tenant’s Building or the whole or any part of the Common Area, fixed annual rent and Charges shall abate equitably to the extent Tenant is deprived of such use. If by reason of any Destruction Tenant, in its reasonable opinion, determines that to remain open for business is not practicable and Tenant closes the Demised Premises for business, fixed annual rent and Charges shall be abated in full until the condition which caused Tenant to so close shall have been remedied.

D. Insurance proceeds shall be deposited in trust with a bank or trust company acceptable to Tenant and under the control of Landlord and Tenant, as trustees, or, if the holder of the first mortgage on the Shopping Center shall be a bank, trust company, or insurance company, such proceeds shall be deposited in trust with such holder, as trustee, and shall be held and disbursed for restoration as provided in this Lease.

31. EMINENT DOMAIN.

A. In the event of a taking for any public or quasi-public use by any lawful power or authority by exercise of the right of condemnation or of eminent domain or by agreement between Landlord and those having the authority to exercise such right (hereinafter called “Taking”) of the entire Tenant’s Building, then: (1) this Lease and the term hereof shall cease and expire as of the date of vesting of title or transfer of possession, whichever occurs earlier, as a result of the Taking; and (2) any fixed annual rent and Charges paid for a period after such date of termination shall be refunded to Tenant upon demand.

B. 1. In the event of a Taking of any part of the Demised Premises, or in the event of a Taking resulting in a reduction of ten (10%) percent or more of the parking spaces (unless Landlord provides adequate and sufficient additional contiguous parking areas in substitution therefor acceptable to Tenant in Tenant’s sole discretion), or in the event of a Taking of any part of the area labeled Prohibited Taking Area on Exhibit A, or in the event of a Taking resulting in a divided Shopping Center, or in the event of a denial of adequate access or diminishing of access to the Shopping Center whether or not a Taking shall have occurred, Tenant may elect to terminate this Lease by giving notice of termination to Landlord on or before the date which is ninety (90) days after receipt by Tenant of notice that the Taking or denial or diminishing of access shall have occurred. Said notice of termination shall state the date of termination, which date of termination shall be not more than thirty (30) days after the date on which such notice of termination is given to Landlord, and: (a) upon the date specified in such notice of termination this Lease and the term hereof shall cease and expire; and (b) any fixed annual rent and Charges paid for a period after such date of termination shall be refunded to Tenant upon demand.

2. If Tenant does not elect to terminate this Lease as aforesaid, then the award or payment for the Taking shall be paid to and used by Landlord for restoration as hereinafter set forth and Landlord shall promptly commence and with due diligence continue to restore the portion of the Common Area and the Demised Premises remaining after the Taking to substantially the same condition and tenantability
as existed immediately preceding the Taking, except that Tenant shall have the right to require Landlord to make changes to the Tenant’s Building in the course of such restoration. Landlord shall complete the restoration within one hundred twenty (120) days after the Taking. In the event of a Taking of any part of Tenant’s Building then, commencing upon the date of vesting of title or transfer of possession, whichever occurs earlier, fixed annual rent (except as same shall be abated as hereinafter provided) shall be the product of the fixed annual rent immediately preceding the Taking and a fraction, the numerator of which shall be the total floor area of the Tenant’s Building remaining after the Taking and the denominator of which shall be the total floor area of the Tenant’s Building immediately preceding the Taking. Fixed annual rent shall also be justly and equitably reduced to reflect a Taking of or denial or diminishing of adequate access to all or any part of the Common Area and, at a minimum, such reduction shall be equal to the product of the award attributable to the Land so taken and ______%. During the period of any restoration, the fixed annual rent and Charges shall be abated justly and equitably. Nothing herein contained shall be deemed or construed to prevent either Landlord or Tenant from enforcing and prosecuting a claim for the value of its respective interest in any condemnation proceedings.

C. The proceeds of any award or payment belonging to Landlord shall be paid and disbursed in the same manner that the proceeds of fire insurance are required to be paid and disbursed pursuant to Subdivision D of Article 30.

32. LANDLORD’S PAYMENTS.
All taxes, assessments, and charges on the Shopping Center and obligations secured by mortgage or other lien upon the Shopping Center shall be paid by Landlord when due. If Tenant performs, acquires, or satisfies any lien, encumbrance, or agreement of Landlord, any monies paid in connection therewith shall be paid by Landlord to Tenant upon demand. Tenant, in addition to all of its rights hereunder, shall be subrogated to all rights of the obligee against Landlord, the Demised Premises and/or the Shopping Center and no merger shall be construed which would defeat such subrogation. The provisions hereof shall apply only to those liens, encumbrances or agreements which are prior in lien to this Lease.

33. WAIVER OF DISTRAINT.
Landlord hereby expressly waives any and all rights granted by or under any present or future laws to levy or distrain for rent, in arrears, in advance or both, upon all goods, merchandise, equipment, fixtures, furniture, and personal property of Tenant or any nominee of Tenant in the Shopping Center, delivered or to be delivered thereto.

34. INVALIDITY OF CERTAIN PROVISIONS.
If any provision of this Lease shall be invalid or unenforceable, the remainder of the provisions of this Lease shall not be affected thereby and each and every provision of this Lease shall be enforceable to the fullest extent permitted by law.

35. CHOICE OF LAW.
This Lease, and the rights and obligations of the parties hereto, shall be interpreted and construed in accordance with the laws of the state in which the Shopping Center is located.
36. **ESTOPPEL CERTIFICATES.**
Upon the request of either party, at any time and from time to time, Landlord and Tenant agree to execute and deliver to the other, within thirty (30) days after such request, a written instrument, duly executed, (a) certifying that this Lease has not been modified and is in full force and effect or, if there has been a modification of this Lease, that this Lease is in full force and effect as modified, stating such modifications, (b) specifying the dates to which the fixed annual rent and Charges have been paid, (c) stating whether or not, to the knowledge of the party executing such instrument, the other party hereto is in default and, if such party is in default, stating the nature of such default, (d) stating the Rent Commencement Date, and (e) stating which options to renew the term have been exercised, if any. In the event that Landlord requests an estoppel from Tenant, such request shall be accompanied by a check in the amount of five hundred and 00/100 ($500.00) dollars to cover Tenant’s costs in relation thereto.

37. **NOTICES.**

A. No successor to Landlord’s interest in the Shopping Center shall be entitled to receive fixed annual rent and/or Charges until fifteen (15) days after Tenant’s receipt of proper notice of such change together with a copy of the executed document or documents evidencing such change from the grantor, assignor or party entitled to receive fixed annual rent and/or Charges immediately preceding such change. Until such receipt Tenant shall continue to pay the fixed annual rent and Charges to the party to which, and in the manner in which, the last preceding installment of fixed annual rent was paid or pending receipt of such proper notification and documentation, accrue and withhold payment of fixed annual rent and Charges.

B. Any notices, consents, approvals, submissions, or demands given under this Lease or pursuant to any law or governmental regulation, including, without limitation, those by Landlord to Tenant or by Tenant to Landlord shall be in writing. Unless otherwise required by law, governmental regulation, or this Lease, any such notice, consent, approval, submission or demand shall be deemed given if sent by registered or certified mail, return receipt requested, postage prepaid (a) to Landlord, at the address of Landlord as hereinabove set forth or such other address as Landlord may designate by notice to Tenant; or (b) to Tenant, then in triplicate (under separate cover), one copy to the attention of the Vice President of Real Estate of Tenant and one copy to the attention of the Corporate Group Counsel of Tenant at the address of Tenant at ______________ and one copy to the Regional Director of Real Estate of Tenant at or to such other addresses as Tenant may designate by notice to Landlord. During the period of any postal strike or other interference with the mails, personal delivery shall be substituted for registered or certified mail. If Tenant shall be in doubt as to Landlord’s address, Tenant may send any communication to Landlord at the address to which fixed annual rent was last sent.

38. **NO WAIVER.**
The failure of either party to seek redress for violation of, or to insist upon the strict performance of, any term, covenant, or condition contained in this Lease shall not prevent a similar subsequent act from constituting a default under this Lease.

39. **ENTIRE AGREEMENT.**
This Lease contains the entire agreement between the parties and cannot be changed, modified, or amended unless such change, modification, or amendment is in writing and executed by the party against which
the enforcement of the change, modification, or amendment is sought. Any document, notice, or consent including, without limitation, this Lease, any amendment thereto or extensions thereof or any notice given under Article 7 shall only be binding upon Tenant if executed by a corporate officer duly authorized to do so or by such other party authorized in writing by the Board of Directors of Tenant to execute documents on behalf of Tenant. Any such notice, document, or extension not so executed may be ratified by Tenant.

40. BROKER.
Landlord represents that it dealt with no broker or brokers and Tenant represents that it dealt with no broker or brokers, in connection with the negotiation, execution, and delivery of this Lease, except Landlord agrees to pay the brokerage commission to said broker or brokers pursuant to a separate agreement between Landlord and said broker or brokers and shall defend, indemnify, and hold harmless Tenant from and against any claims or demands for brokerage commissions and finder’s fees.

41. MECHANIC’S LIENS.
Tenant will not permit any mechanic’s or materialmen’s or other liens to stand against the Demised Premises for any labor or material furnished the Tenant in connection with work of any character performed on said premises by or at the direction of Tenant and Landlord will not permit any such liens for work or material furnished the Landlord to stand against said premises. However, Landlord and Tenant shall respectively have the right to contest the validity or amount of any such lien, provided that the payment of such amount is bonded during the pendency of such contest, but upon the final determination of such contest the party responsible for such lien shall immediately pay any judgment rendered with all proper costs and charges (including reasonable attorneys’ fees) and shall have the lien released at its own expense. In lieu of bonding either party may obtain other security acceptable to the other party.

42. CAPTIONS.
The captions preceding the Articles of this Lease are intended only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Lease or the intent of any provision hereof.

43. RIGHT OF FIRST REFUSAL.
If, at any time during the term of this Lease or any Renewal period, any offer for the purchase of all or any portion of Landlord’s interest in the Demised Premises and/or Shopping Center be made to Landlord, Landlord shall (if Landlord intends to accept same) send Tenant notice of such offer together with, in all instances, a copy of the executed documents pertaining thereto. Tenant is hereby granted thirty (30) days after receipt of such notice and documents in which to enter into a contract with Landlord for the purchase of Landlord’s said estate on the same terms and conditions as therein contained, with closing to take place on the later of thirty (30) days after the date set for closing in the offer to purchase or a date mutually convenient to Landlord and Tenant. This right shall be a continuing right which shall survive any sale of Landlord’s interest to others (notwithstanding Tenant’s failure to exercise any rights hereunder as to any prior sale) and shall bind Landlord, its successors and assigns.
44. **DEFINITION OF LANDLORD.**
The term “Landlord” as used herein, means Landlord named herein and any subsequent owner of Landlord’s estate hereunder; but any owner of Landlord’s estate hereunder shall be relieved of all liability under this Lease after the date that it ceases to be the owner of Landlord’s estate (except for any liability arising before to such date) provided that the party succeeding to Landlord’s estate shall have executed an agreement, satisfactory to Tenant, wherein it assumes and agrees to perform all of Landlord’s obligations under this Lease from and after the date it acquires Landlord’s estate. Notwithstanding the foregoing, Landlord named herein shall not, in any event, be relieved of its obligations to complete construction of Tenant’s Building and the Shopping Center in accordance with the terms hereof, which obligations shall remain a personal covenant of Landlord named herein.

45. **ADJOINING OR ADJACENT PROPERTY.**
Landlord shall promptly forward to Tenant any notice or other communication received by Landlord from any owner of property adjoining or adjacent to the Land or from any municipal or other governmental authority in connection with any hearing or other administrative proceeding relating to the use of the Land or any adjoining or adjacent property. Tenant may, at its sole cost and expense, in its own name and/or in the name of Landlord, appear in any such proceeding. Landlord shall fully cooperate with Tenant and shall, without limitation, make such appearances and furnish such information as may be required by Tenant. Landlord agrees to execute any instruments requested by Tenant in connection with any such proceeding.

46. **ENVIRONMENTAL LAWS.**
*(All states except New Jersey)*

A. Landlord represents and warrants that there are no Hazardous Materials (as hereinafter defined) contained within, upon, or under the Demised Premises and/or Land and that the Demised Premises and Land are in compliance with all applicable Environmental Laws (as hereinafter defined). Landlord represents and warrants that neither Landlord, nor to the best of Landlord’s knowledge and belief, after thorough investigation, any former owner or occupant of the Demised Premises and/or Land has used Hazardous Materials on, from, or affecting the Demised Premises and/or Land (or any part thereof) in any manner which violates any Environmental Laws. Landlord agrees not to maintain or install or allow to be installed or maintained Hazardous Materials in the Demised Premises in violation of any Environmental Laws. “Environmental Laws” shall mean all federal, state, or local laws, ordinances, rules, regulations, or policies, whether now or hereafter enacted, governing the use, clean-up storage, treatment, transportation, manufacture, refinement, handling, production, or disposal of Hazardous Materials including, without limitation:

2. The Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. §6991 et seq.);
5. The Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and
any amendments thereto and any regulations adopted and publications promulgated pursuant thereto, or any other federal, state, or local environmental laws, ordinances, rules, or regulations whether now or hereafter enacted. “Hazardous Materials” shall mean any hazardous wastes or hazardous substances as defined in any Environmental Law including, without limitation, any asbestos, PCB, toxic noxious or radioactive substances, methane, volatile hydrocarbons, petroleum, petroleum by-products, industrial solvents, or any other material or substance which could cause or constitute a health, safety, or other environmental hazard to any person or property.

B. Tenant shall, at its own expense, during the term of this Lease comply with all Environmental Laws to the extent that same is necessary solely as a result of Tenant’s acts or omissions and/or Tenant’s business operations conducted at the Demised Premises. Notwithstanding anything contained in this Lease to the contrary, Tenant shall have no obligation to clean up, to comply with any Environmental Law regarding, or to indemnify, defend or hold Landlord harmless with respect to, any Hazardous Materials which were not used, stored, disposed of, transported from or manufactured within the Demised Premises by Tenant or its agents, contractors, or employees, and Landlord waives any right of contribution against Tenant with respect to any loss, cost, or expense, including reasonable attorneys’ fees and monitoring, clean-up, or compliance costs (all such loss, cost or expense, including attorneys’ fees and monitoring, clean-up, or compliance costs being hereinafter collectively called “Compliance Costs”) incurred by Landlord with respect to any such Hazardous Materials.

C. Landlord shall at Landlord’s own cost and expense comply with all Environmental Laws during the term of this Lease except to the extent Tenant is required to do so under subparagraph 46B above. Landlord shall defend, indemnify, and hold Tenant harmless from and against any and all Compliance Costs which may be incurred by or assessed against Tenant to the extent same arise out of or result from the presence of Hazardous Materials in, on, from or affecting the Demised Premises and/or Land, now or in the future, and/or Landlord’s breach of the provisions of this Article 46.

D. Landlord and Tenant each agree to provide the other with copies of any notices pertaining to any governmental proceedings or actions under any Environmental Law (including requests or demands for entry onto the Demised Premises and/or Land for purposes of inspection regarding the handling, disposal or clean-up of Hazardous Materials or claims, penalties, fines or assessments for Compliance Costs) within ten (10) business days after receipt thereof. Landlord and Tenant agree to cooperate with each other and provide such documents, affidavits, and information as may be reasonably necessary for each of the parties to comply with all Environmental Laws.

E. Tenant shall have the right to obtain, at Landlord’s sole cost and expense, a Phase I Environmental Audit (the “Audit”) prepared by an environmental engineering firm chosen by Tenant for a cost not to exceed three thousand five hundred and no/100 ($3,500.00) dollars, which report shall be in form and content also satisfactory to Tenant and shall disclose that the Demised Premises is free and clear of all Hazardous Materials. The Audit shall be certified to Tenant. If Tenant is unsatisfied with the contents of the Audit, it may (i) require Landlord to correct the unsatisfactory condition provided that the cost thereof is not reasonably estimated to exceed ___________ ($________) dollars; or (ii) it may terminate this Lease by sending written notice thereof to Landlord, in which case this Lease shall be null and void and of no further force and effect. The Audit shall be delivered to Landlord on or before that certain date on which the Approved Plans and Specifications are executed by Landlord and Tenant as provided for in Subdivision 7A.
F. Notwithstanding anything to the contrary contained in the Lease which limits or attempts to limit Landlord’s liability hereunder to its interest in the Demised Premises and/or Land, such provisions shall not be applicable to any Compliance Costs or other environmental liability or in the indemnities set forth in this Article 46 and Tenant shall have full rights of recourse against Landlord and all of Landlord’s assets, including without limitation, the Demised Premises.

G. The provisions of this Article 46 shall survive the termination, cancellation, modification, expiration or rescission of this Lease.

46. ENVIRONMENTAL LAWS.

(New Jersey version)

A. Landlord represents and warrants that there are no Hazardous Materials (as hereinafter defined) contained within, upon, or under the Demised Premises and/or Land and that the Demised Premises and Land are in compliance with all applicable Environmental Laws (as hereinafter defined). Landlord represents and warrants that neither Landlord, nor to the best of Landlord’s knowledge and belief, after thorough investigation, any former owner or occupant of the Demised Premises and/or Land has used Hazardous Materials on, from, or affecting the Demised Premises and/or Land (or any part thereof) in any manner which violates any Environmental Laws. Landlord agrees not to maintain or install or allow to be installed or maintained Hazardous Materials in the Demised Premises in violation of any Environmental Laws.

“Environmental Laws” shall mean all federal, state, or local laws, ordinances, rules, regulations, or policies, whether now or hereafter enacted, governing the use, clean-up storage, treatment, transportation, manufacture, refinement, handling, production, or disposal of Hazardous Materials including, without limitation:

5. The Toxic Substances Control Act; and
7. The Spill Compensation and Control Act N.J. Stat. Ann. 58:10-23.11 et seq.; and any amendments thereto and any regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental laws, ordinances, rules, or regulations whether now or hereafter enacted. “Hazardous Materials” shall mean any hazardous wastes or hazardous substances as defined in any Environmental Law including, without limitation, any asbestos, PCB, toxic, noxious, or radioactive substances, methane, volatile hydrocarbons, petroleum, petroleum by-products, industrial solvents or any other material or substance which could cause or constitute a health, safety, or other environmental hazard to any person or property.

B. Tenant shall, at its own expense, during the term of this Lease comply with all Environmental Laws to the extent that same is necessary solely as a result of Tenant’s acts or omissions and/or Tenant’s business operations conducted at the Demised Premises. Notwithstanding anything contained in this Lease to the contrary, Tenant shall have no obligation to clean up, to comply with any Environmental Law regarding, or to indemnify, defend or hold Landlord harmless with respect to, any Hazardous Materials which were
not used, stored, disposed of, transported from or manufactured within the Demised Premises by Tenant or its agents, contractors, or employees, and Landlord waives any right of contribution against Tenant with respect to any loss, cost or expense, including reasonable attorneys’ fees and monitoring, clean-up, or compliance costs (all such loss, cost, or expense, including attorneys’ fees and monitoring, clean-up, or compliance costs being hereinafter collectively called “Compliance Costs”) incurred by Landlord with respect to any such Hazardous Materials.

C. Landlord shall at Landlord’s own cost and expense comply with all Environmental Laws during the term of this Lease except to the extent Tenant is required to do so under subparagraph 46B above. Landlord shall defend, indemnify and hold Tenant harmless from and against any and all Compliance Costs which may be incurred by or assessed against Tenant to the extent same arise out of or result from the presence of Hazardous Materials in, on, from, or affecting the Demised Premises and/or Land, now or in the future, and/or Landlord’s breach of the provisions of this Article 46.

D. Landlord and Tenant each agree to provide the other with copies of any notices pertaining to any governmental proceedings or actions under any Environmental Law (including requests or demands for entry onto the Demised Premises and/or Land for purposes of inspection regarding the handling, disposal, or clean-up of Hazardous Materials or claims, penalties, fines, or assessments for Compliance Costs) within ten (10) business days after receipt thereof. Landlord and Tenant agree to cooperate with each other and provide such documents, affidavits, and information as may be reasonably necessary for each of the parties to comply with all Environmental Laws.

E. Tenant shall have the right to obtain, at Landlord’s sole cost and expense, a Phase I Environmental Audit (the “Audit”) prepared by an environmental engineering firm chosen by Tenant for a cost not to exceed three thousand five hundred and no/100 ($3,500.00) dollars, which report shall be in form and content also satisfactory to Tenant and shall disclose that the Demised Premises is free and clear of all Hazardous Materials. The Audit shall be certified to Tenant. If Tenant is unsatisfied with the contents of the Audit, it may:

1. Require Landlord to correct the unsatisfactory condition provided that the cost thereof is not reasonably estimated to exceed ___________ ($________) dollars; or

2. Terminate this Lease by sending written notice thereof to Landlord, in which case this Lease shall be null and void and of no further force and effect. The Audit shall be delivered to Landlord on or before that certain date on which the Approved Plans and Specifications are executed by Landlord and Tenant as provided for in Subdivision 7A.

F. Notwithstanding anything to the contrary contained in the Lease which limits or attempts to limit Landlord’s liability hereunder to its interest in the Demised Premises and/or Land, such provisions shall not be applicable to any Compliance Costs or other environmental liability or in the indemnities set forth in this Article 46 and Tenant shall have full rights of recourse against Landlord and all of Landlord’s assets, including without limitation, the Demised Premises.

G. Landlord and Tenant agree as follows:

1. Subject to subsection 3 below, Tenant shall, at its own cost and expense, comply with ISRA during the term of this Lease to the extent that same is necessary as a result of an assignment of this Lease by Tenant or sublease or license of the Demised Premises by Tenant or termination of the Lease as a result of a default of Tenant (but not if the termination is due to the default of Landlord or otherwise permitted under the Lease, or because of the occurrence of the Expiration Date), but Landlord shall execute such
documents as may be required by ISRA. Tenant shall indemnify and defend Landlord against any and all liabilities, losses and costs including Landlord’s reasonable attorneys’ fees which Landlord may incur by reason of Tenant’s breach of the provisions of this Subdivision 46G;

2. Landlord shall, at its own cost and expense, comply with ISRA during the term of this Lease in all instances (except to the extent Tenant is expressly required to comply with ISRA pursuant to subsection 1 of this Subdivision 46G), including without limitation, as same may be necessary as a result of a sale or other transfer of the Demised Premises (or any part thereof) or expiration or sooner termination of this Lease, but Tenant shall execute such documents as may be required by ISRA. Landlord shall indemnify and defend Tenant from and against any and all liabilities, losses, and costs, including Tenant’s reasonable attorney’s fees which Tenant may incur by reason of Landlord’s breach of the provisions of this Subdivision 46G(2);

3. Notwithstanding anything to the contrary contained herein, in the event that Tenant is responsible for complying with ISRA hereunder, such responsibility shall not impose upon Tenant any obligation to perform any cleanup or incur any Compliance Costs or otherwise conform the Demised Premises and/or Land to the requirements of any Environmental Laws except to the extent that same are required of Tenant as set forth above in Subdivision B of this Article 46.

H. The provisions of this Article 46 shall survive the termination, cancellation, modification, expiration, or rescission of this Lease.

47. OPTION TO EXECUTE.
In consideration of Ten Dollars ($10.00) paid by Tenant to Landlord, the receipt and sufficiency of which are hereby acknowledged, Landlord agrees that Tenant shall have the option to execute this instrument at any time within ninety (90) days after receipt of the same duly executed by Landlord.

48. SATELLITE DISH.
Tenant shall have the right to place on the roof or wall of the Demised Premises at Tenant’s sole cost and expense, a satellite dish (hereinafter called the “Dish”) for transmission of data (both receiving and sending) between Tenant’s various operations and its headquarters. During the construction provided for in Article 7 hereinafore, the Dish shall be installed by Landlord’s contractor or a contractor approved by Landlord for such installation which approval shall not be unreasonably withheld or delayed.

49. SUCCESSORS AND ASSIGNS.
The covenants and agreements contained in this Lease shall bind and inure to the benefit of Landlord and its heirs, executors, successors, and assigns and Tenant and its successors and assigns.

50. NO PRESUMPTION AGAINST DRAFTER.
Landlord and Tenant agree and acknowledge that:

1. This Lease has been freely negotiated by Landlord and Tenant; and

2. In any event of any ambiguity, controversy, dispute, or disagreement over the interpretation, validity, or enforceability of this Lease or any of its covenants, terms, or conditions, no inference, presumption, or conclusion whatsoever shall be drawn against Tenant by virtue of Tenant’s having drafted this Lease.
51. **EMPLOYMENT JOB CREDITS.**
Landlord recognizes that Tenant is investigating the possibility of obtaining employment job credits for its business in the Demised Premises. Landlord, at no cost to Landlord, covenants and agrees to make any and all necessary applications and to cooperate and coordinate with Tenant and the applicable governmental authority in order to secure same.

IN WITNESS WHEREOF this Lease has been duly executed under seal as of the day and year first above written.

WITNESS or ATTEST:

___________________
(Seal)

___________________
(Seal)

As to Landlord

WITNESS:

___________________

By:

___________________

Attest:

___________________

As to Tenant

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