

Cause No. DC-20-14503

HANOL, LLC	§	IN THE DISTRICT COURT OF
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	DALLAS COUNTY, TEXAS
	§	
LOCAL FAVORITE RESTAURANTS,	§	
LLC (f/k/a FIREBIRD RESTAURANT	§	
GROUP LLC), TAQUERIA	§	
LA VENTANA LLC, and SNUFFER'S	§	
RESTAURANTS, LLC	§	
<i>Defendants.</i>	§	____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION & JURY DEMAND

Plaintiff, HANOL, LLC ("Hanol" or "Landlord"), files this Original Petition & Jury Demand against Defendants LOCAL FAVORITE RESTAURANTS, LLC, f/k/a FIREBIRD RESTAURANT GROUP, LLC, ("Local Favorite Restaurants"), TAQUERIA LA VENTANA, LLC ("Taqueria La Ventana"), and SNUFFER'S RESTAURANTS, LLC ("Snuffer's") (collectively "Defendants") and would respectfully show the following:

Discovery Control Plan

1. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.

Parties

2. Plaintiff is a domestic limited liability company doing business in Texas.
3. Upon information and belief, Local Favorite Restaurants is a domestic limited liability company engaged in business in Texas, operating for the purpose of accumulating monetary profit. Upon information and belief, it was known as Firebird Restaurant Group, LLC until November 2019, at which point it changed its legal name. Local Favorite Restaurants may be served with process to **Michael D. Karns, 1845 Woodall Rodgers Freeway, Suite 1100, Dallas, Texas**

75201.

4. Upon information and belief, Taqueria La Ventana is a domestic limited liability company engaged in business in Texas, operating for the purpose of accumulating monetary profit. Taqueria La Ventana may be served with process to **Michael D. Karns, 1845 Woodall Rodgers Freeway, Suite 1100, Dallas, Texas 75201.**

5. Upon information and belief, Snuffers is a domestic limited liability company engaged in business in Texas, operating for the purpose of accumulating monetary profit. Snuffers may be served with process to **Michael D. Karns, 1845 Woodall Rodgers Freeway, Suite 1100, Dallas, Texas 75201.**

Venue & Jurisdiction

6. Venue is mandatory in Dallas County under §§ 29.9, 4.2, and 1.1 of the Leases and under § 17 of the Guaranties.

7. Plaintiff seeks damages within the jurisdictional limits of this Court. At this time, Plaintiff seeks monetary relief in an amount over \$1,000,000. Plaintiff reserves the right to modify the amount and type of relief sought in the future.

Facts

8. This case involves the Defendants' breaches of two separate commercial leases, and the associated forbearance agreements, guaranties, and other obligations relating to the real property located at 457 East Interstate 20 Highway, Arlington, Texas, 76014 (the "Property.")

The Parties

9. Plaintiff, Hanol, LLC, is a closely held, family owned company whose sole asset is the Property.

10. Local Favorite Restaurants is the parent company that "owns, operates and provides

management services to restaurants” throughout the North Texas area. It claims to own more than “40 locations.” Local Favorite Restaurants was formerly known as Firebird Restaurant Group, LLC, until it changed its name in November 2019.

11. Two of the restaurant brands that Local Favorite “owns, operates and provides management services to restaurants” include Taqueria La Ventana and Snuffer’s Restaurant and Bar. Those restaurants operate under their legal names under which they are named as defendants here: Taqueria La Ventana, LLC, and, and Snuffer’s Restaurants, LLC.

The Leases and Guaranties

12. On May 15, 2015, a shopping center lease was entered into by and between landlord I-20/South Collins III, LP and tenant, defendant Taqueria La Ventana, LLC. A fully executed copy of that lease (the “Taqueria La Ventana Lease”) is attached as Exhibit 1.

13. Also, on May 15, 2015, a shopping center lease was entered into by and between the landlord, I-20/South Collins III, LP and a different tenant, Snuffer’s Restaurants, LLC. A fully executed copy of that lease (the “(the “Snuffer’s Lease”) is attached as Exhibit 2.

14. Unless otherwise indicated, Taqueria La Ventana and Snuffer’s may be referred to individually as “Tenant” or, if collectively, “Tenants.”

15. In connection with the Tenants’ obligations under the respective Leases, Defendant Local Favorite Restaurants, then known as Firebird Restaurant Group, LLC, executed a separate guaranty (the “Guaranty” or “Guaranties”) under each Lease. A copy of each Guaranty is included within each Lease as Exhibit H.

16. Under the Guaranties, Local Favorite Restaurants agreed to “unconditionally, irrevocably and absolutely guarantee[] to Landlord the prompt and full payment and performance, when due, of all obligations and covenants” of the Tenants under the Leases.

17. On October 1, 2015, the parties executed amendments to the Leases whereby the parties agreed to expand the Snuffer's space to 4,896 square feet, and reduce the La Ventana space to 1,842 square feet, and modifying the guaranteed minimum rental, common area maintenance, and insurance charges under each Lease.

18. Local Favorite Restaurants signed each amendment as Guarantor.

19. The Commencement Date, as defined under both Leases, was January 1, 2016, beginning 10-year terms to expire December 31, 2026. La Ventana and Snuffer's began to pay rent as of the Commencement Date.

Hanol, LLC purchases the Property and succeeds as Landlord under the Leases

20. On or about April 25, 2016, Plaintiff Hanol, LLC purchased the Property from I-20/South Collins III, LP, and succeeded I-20/South Collins III, LP as landlord under both Leases. Unless otherwise indicated, all references to "Landlord" refer to Hanol, LLC as successor-in-interest to I-20/South Collins III, LP.

Tenants breach the Leases by failing to pay rent in October 2018; parties enter into Forbearance Agreements

21. Beginning with the commencement of the leases on January 1, 2016, La Ventana and Snuffer's made timely rent payments until October 2018, when they failed to pay, and vacated the premises. This nonpayment and vacation of the premises constituted a default under the terms of the Leases.

22. In lieu of filing suit against La Ventana, Snuffer's, and Local Favorite Restaurants, Landlord negotiated and ultimately entered into forbearance agreements with the Defendants. A copy of the Snuffer's Forbearance Agreement is attached as Exhibit 3. A copy of the La Ventana Forbearance Agreement is attached as Exhibit 4.

23. Under both of the Forbearance Agreements, both Snuffer's and La Ventana

acknowledged they were in default under their Lease. Landlord agreed to accept payment of 85% of base monthly rent, in addition to the tenants' continued payment of the "triple net" expenses under each Lease (property insurance, maintenance, and property taxes).

24. Under the Forbearance Agreements, Landlord agreed to forego filing suit against the Tenants, but retained, and did not waive, any and all rights with respect to the Tenants' defaults or continuing defaults under the Leases.

25. Specifically, Landlord did not forego the right to collect the full portions of rents due under the Lease, including the unpaid October 2018 rents, and the 15% difference in rental amount between the Leases and the Forbearance Agreements. The Forbearance Agreements merely deferred collection of the full rental amounts to a later date.

26. The Tenants made rent payments pursuant to the Forbearance Agreements beginning in November 2018, but did not make the payments for February 2020, and have not made any payments since.

Local Favorite Restaurants receives between \$5 - \$10 million in PPP loans, but fails to make payments on the Leases

27. Although the Defendants' failure to pay rent has continued into 2020 during the coronavirus pandemic, such failures predated the pandemic.

28. But in any event, publicly available records indicate that on April 4, 2020, Local Favorite Restaurants was approved for a Paycheck Protection Program (PPP) loan from Citizens National Bank of Texas, in the amount of "\$5 million – \$10 million."¹ Local Favorite Restaurants, which guarantied the rent obligations of the Tenants under both Leases, has deliberately chosen not to pay the rents owed, despite apparently receiving a federally backed cash infusion of at least \$5 million. It is generally required that recipients of PPP loans make "good-faith" representations to

¹ See <https://projects.propublica.org/coronavirus/bailouts/loans/local-favorite-restaurants-llc-d21915a180ee67be807ae95ffc0f65d5> (last accessed October 1, 2020).

lenders and to the Small Business Administration (SBA) regarding the need and underlying calculations of PPP loan amounts. Further “good-faith” representations are required upon completion of the Forgiveness Application or equivalent form from the lender.

29. Although the Defendants’ failures to pay rent long predated the pandemic, the pandemic has significantly hindered Hanol’s efforts to relet the premises and mitigate the damages caused by the Defendants. Despite Hanol’s continual diligent efforts to obtain replacement tenants, to date, no acceptable tenants have emerged. Hanol continues to market the Property in a diligent effort to mitigate the damages caused by Defendants.

CAUSE OF ACTION—Breach of Contract

30. Hanol re-alleges and incorporates each allegation contained in the previous paragraphs of the Petition as if fully set forth herein.

31. The Taqueria La Ventana Lease is a valid and binding contract. Taqueria La Ventana has breached that contract by, without limitation, its failure to pay rents due and owing. This has caused, and continues to cause, damages to Hanol.

32. The Snuffer’s Lease is a valid and binding contract. Snuffer’s has breached that contract by, without limitation, its failure to pay rents due and owing. This has caused, and continues to cause, damages to Hanol.

33. The Guaranties of the Taqueria La Ventana Lease and the Snuffer’s Lease are valid and binding contracts. Local Favorite Restaurants has breached its obligations under the Guaranties by failing to make the “prompt and full payment and performance, when due, of all obligations and covenants” owed by Taqueria La Ventana and Snuffer’s.

34. Additionally, and alternatively, Taqueria La Ventana Forbearance Agreement and Snuffer’s Forbearance Agreement constitute valid and binding contracts. Taqueria La Ventana

and Snuffer's have breached those contracts by, without limitation, their failure to pay rents due and owing.

35. Local Favorite Restaurants has breached its guaranty obligations under the of the Forbearance Agreements by failing to make the "prompt and full payment and performance, when due, of all obligations and covenants" owed by Taqueria La Ventana and Snuffer's.

36. Hanol has performed in compliance with all contracts referenced herein, and all conditions precedent have been performed by Hanol or waived by Defendants.

DAMAGES

37. Hanol is entitled to actual damages, including without limitation lost past rents, lost future rents through the end of the Lease period (as specified by the terms of the Leases), brokerage fees, tenant improvement allowance reimbursements, pre- and post-judgment interest at the maximum rate permissible by law.

ATTORNEY'S FEES AND EXPENSES

38. Plaintiff is entitled to the recovery of reasonable and necessary attorneys' fees, and expenses, pursuant to § 22.5 of the Leases and § 14 of the Guaranties.

Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that Plaintiff have judgment against Defendants for actual damages in excess of the minimum jurisdictional limits of this Court, pre- and post-judgment interest as allowed by law, costs of suit, and all other relief, at law or in equity, to which Plaintiff may be entitled.

Respectfully submitted,

RAIZNER SLANIA, LLP



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ATTORNEYS FOR PLAINTIFF

JURY DEMAND

Plaintiff hereby demand a trial by jury, a right enshrined in the Constitution of the United States of America and the State of Texas and preserved by the sacrifices of many. The necessary jury fee has been paid.



ANDREW P. SLANIA

SHOPPING CENTER LEASE

LEASE DATE: 15 day of April, 2015
(Insert latest date accompanying signature)

ARTICLE I. DEFINITIONS AND CERTAIN BASIC PROVISIONS

1.1 The following list sets out certain defined terms and certain financial and other information pertaining to this lease:

- (a) "Landlord": I-20/South Collins III, LP
- (b) Landlord's notice address: 7001 Preston Road, Suite 410
Dallas, TX 75205
- (c) Landlord's rent address: 7001 Preston Road, Suite 410
Dallas, TX 75205
- (d) "Tenant": Taqueria La Ventana, LLC.
- (e) Tenant's address: 2414 N. Akard, Suite 500, Dallas, Texas 75201
- (f) Tenant's trade name: La Ventana Taqueria
- (g) "Agent": Venture Commercial Real Estate, LLC / Amy Petrovic
- (h) "Cooperating Agent": Centennial Retail Services, LLC (Perren Gasc)
- (i) "Shopping Center": The property located in the City of Arlington, Tarrant County, Texas which property is described or shown on Exhibit "A" attached to this lease. With regard to Exhibit "A", the parties agree that the exhibit is attached solely for the purpose of locating the Shopping Center and the Demised Premises (hereinafter defined) within the Shopping Center and that no representation, warranty, or covenant is to be implied by any other information shown on the exhibit (i.e., any information as to buildings, tenants or prospective tenants, etc. is subject to change at any time).
- (j) "Demised Premises": A store unit in the Shopping Center being known as 457 E. I-20, Suite 400, Arlington, Texas 76014 in the Shopping Center and being described or shown on Exhibit "A" attached to this lease. For purposes of this lease, the gross leaseable square footage amount of the Demised Premises shall be deemed by the parties for all purposes to be two thousand seven-hundred eighty (2,780) square feet, notwithstanding that the actual gross leaseable square footage of the Demised Premises may be more or less.
- (k) "Delivery Date": Upon full execution of the Lease
- (l) "Commencement Date": The earlier of (i) the date upon which Tenant opens for business at the Demised Premises, or (ii) one hundred eighty (180) days after the Delivery Date.
- (m) "Lease Term": Commencing on the Commencement Date and continuing for ten (10) years after the Commencement Date; provided that if the Commencement Date is a date other than the first day of a calendar month, the Lease Term shall be extended to include the remainder of the calendar month in which the Commencement Date occurs.
- (n) "Minimum guaranteed rental": See "*" next page per month, payable in advance.
- (o) Percentage rental rate: None.
- (p) Common Area maintenance charge: A minimum of \$942.88 per month, payable in advance.
- (q) Prepaid rental: \$9,208.75, being an estimate of the minimum guaranteed rental, and Common Area maintenance, real estate and insurance charges, and (if applicable) merchants' association dues or promotional funds in each case for the first month of the Lease Term, such prepaid rental being due and payable upon execution of this lease.
- (r) Security deposit: \$9,208.75, such security deposit being due and payable upon execution of this lease.

(s) Permitted Use: As a restaurant featuring Mexican and related food and alcoholic beverages with dine-in and patio seating and with to-go and take out services, subject to REA and other tenant exclusives subject, however, to Section 29.21.

(t) Tenant's Proportionate Share: Tenant's Proportionate Share shall be a fraction, the numerator of which is the gross leaseable square footage of the Demised Premises and the denominator of which is the gross leaseable square footage of buildings within the Shopping Center as may be calculated by Landlord from time to time (excluding areas where a party other than Landlord is obligated directly to pay the expenses in question) unless a different formula is provided in this lease.

(u) Exclusive Use: See Section 29.21.

1.2 The following chart is provided as an estimate of Tenant's initial monthly payment broken down into its components. This chart, however, does not supersede the specific provisions contained elsewhere in this lease:

Initial minimum guaranteed rental (Section 1.1(n))		\$7,181.67	
Initial Common Area maintenance charge ("CAM" or "C") (Section 7.4)		\$942.88 (\$4.07 sf/yr)	
Initial escrow payment for real estate charges ("T") (Article VI)		\$984.58 (\$4.25 sf/yr)	
Initial escrow payment for insurance ("I") (Article VI)		\$99.62 (\$0.43 sf/yr)	
Total Initial Monthly Payment (includes C+T+I or "CTI", subject to reconciliation as provided in this lease)		\$9,208.75	
*1.1(n)	Years 1 through 5	\$7,181.67/month	\$86,180.00/year = \$31.00 /sf
	Years 6 through 10	\$7,413.33/month	\$88,960.00/year = \$32.00 /sf
	Years 11 through 20		
			See Exhibit "G"-- Renewal Options

ARTICLE II. GRANTING CLAUSE

2.1 Landlord leases the Demised Premises to Tenant upon the terms and conditions set forth in this lease.

ARTICLE III. DELIVERY OF PREMISES

3.1 Except to the extent modified by Landlord's express assumption of construction obligations, if any, in an exhibit attached to this lease, the Demised Premises are being leased "As Is" and "with all faults", if any, and Landlord makes no warranty of any kind, express or implied, with respect to the Demised Premises (without limitation, Landlord makes no warranty as to the habitability or fitness of the Demised Premises).

ARTICLE IV. ACCORD AND SATISFACTION

4.1 No payment by Tenant or receipt by Landlord of a lesser amount than any installment or payment of rent due shall be deemed to be other than on account of the amount due, and no endorsement or statement on any check or payment of rent shall be deemed an accord and satisfaction. Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or payment of rent, or pursue any other remedies available to Landlord. In the event of a partial payment, Landlord may apply such funds to sums presently due in such order as Landlord may elect.

4.2 Rental shall accrue from the Commencement Date (within 10 days after written request, Tenant shall sign a letter in form reasonably acceptable to Landlord and Tenant confirming the Commencement Date and such other factual matters as Landlord shall reasonably request), and if paid by "Automatic Withdrawal" (as further defined below), shall be due and payable on the first business day of the month to Landlord. If Tenant elects to pay rental by Automatic Withdrawal, then Tenant will authorize Landlord, on the first business day (or a day thereafter, as necessary) of each calendar month during the Lease Term, to withdraw the minimum guaranteed rental and other sums due Landlord hereunder from Tenant's bank account (the "Automatic Withdrawal"), as such bank account may be modified from time to time (the "Bank Account"). If Tenant elects to pay rental in such manner, then Tenant shall complete an information sheet in substantially the form of Exhibit "I" attached hereto and made a part hereof (the "Information Sheet"). In the event of a change in Tenant's Bank Account, Tenant shall have the right to change the information set forth in the Information Sheet upon thirty (30) day written notice to Landlord. In addition, if Tenant elects to pay rental by Automatic Withdrawal, then Tenant agrees to execute such other documents as may be reasonably requested by Landlord to effectuate Landlord's withdrawal of funds from the Bank Account. If, at any time during the Lease Term, Landlord elects not to withdraw from the Bank Account pursuant to this Section 4.2, Landlord shall so notify Tenant and thereafter, Tenant shall be

responsible for delivering the minimum guaranteed rental and other sums due Landlord hereunder to the payment address set forth in Section 1.1(c) above in accordance with this Article IV.

4.3 Tenant shall pay to Landlord minimum guaranteed rental in monthly installments in the amounts specified in Section 1.1(n) of this lease. The first such monthly installment shall be due and payable on or before the Commencement Date, and, if not paid by Automatic Withdrawal, the subsequent installments shall be due and payable on or before the first day of each succeeding calendar month during the Lease Term; provided that if the Commencement Date is a date other than the first day of a calendar month, there shall be due and payable on or before such date as minimum guaranteed rental for the balance of such calendar month a sum equal to that proportion of the rent specified for the first full calendar month as herein provided, which the number of days from the Commencement Date to the end of the calendar month during which the Commencement Date shall fall bears to the total number for days in such month.

4.4 It is understood that the minimum guaranteed rental is payable on or before the first day of each calendar month (in accordance with Section 4.3 above), or if paid by Automatic Withdrawal (in accordance with Section 4.2 above), the minimum guaranteed rental shall be payable on the first business day of the month. In the event any rental is not received within 5 days after its due date, for any reason whatsoever, then in addition to the past due amount Tenant shall pay to Landlord one of the following (the choice to be at the sole option of the Landlord unless one of the choices is improper under applicable law, in which event the other alternative will automatically be deemed to have been selected): (a) a late charge in an amount equal of five percent (5%) of the rental then due, in order to compensate Landlord for its administrative and other overhead expenses; or (b) interest on the rental then due at the maximum contractual rate which could legally be charged in the event of a loan of such rental to Tenant (but in no event to exceed 1-1/2% per month), such interest to accrue continuously on any unpaid balance due to Landlord by Tenant during the period commencing with the rental due date and terminating with the date on which Tenant makes full payment of all amounts owing to Landlord at the time of said payment. Any such late charge or interest payment shall be payable as additional rental under this lease, shall not be considered as a deduction from percentage rental, and shall be payable immediately on demand. None of the foregoing shall preclude Landlord from pursuing any available remedies under this lease for a default.

4.5 If Tenant fails in two consecutive months to make rental payments within ten days after due, Landlord, in order to reduce its administrative costs, may require, by giving written notice to Tenant (and in addition to any late charge or interest accruing pursuant to Section 4.7 above, as well as any other rights and remedies accruing pursuant to Article XXII or Article XXIII below, or any other provision of this lease or at law), that minimum guaranteed rentals are to be paid quarterly in advance instead of monthly. Any acceptance of a monthly rental payment or of a personal or corporate check thereafter by Landlord shall not be construed as a subsequent waiver of said rights.

ARTICLE V. SALES REPORTS, RECORDS AND FINANCIAL STATEMENTS

5.1 Tenant shall provide to Landlord within thirty (30) days from the end of each calendar quarter during the term of this Lease gross sales from the Demised Premises for the prior quarter which Landlord agrees to keep confidential, with disclosure limited to Landlord's lender (for this the property which the Demised Premises is a part) or a potential buyer of such property provided that such parties shall agree to maintain the confidentiality of such sales information. Tenant shall provide such information on a trailing twelve month basis within ten (10) days from written request therefor by Landlord, subject to the confidentiality provisions of the prior sentence.

ARTICLE VI. TENANT'S RESPONSIBILITY FOR TAXES, OTHER REAL ESTATE CHARGES AND INSURANCE EXPENSES

6.1 Tenant shall be liable for all taxes levied against personal property and trade fixtures placed by Tenant (or its concessionaires, subtenants or licensees) in the Demised Premises. If any such taxes are levied against Landlord or Landlord's property and if Landlord elects to pay the same or if the assessed value of Landlord's property is increased by inclusion of personal property and trade fixtures placed by Tenant (or its concessionaires, subtenants or licensees) in the Demised Premises and Landlord elects to pay the taxes based on such increase, Tenant shall pay to Landlord upon demand that part of such taxes for which Tenant is primarily liable hereunder.

6.2 During the Lease Term, Tenant shall also be liable for Tenant's Proportionate Share of all "real estate charges" (as defined below) and "insurance expenses" (as defined below) related to and/or allocable to the Shopping Center or Landlord's ownership of the Shopping Center. Tenant's obligations under this Section 6.2 shall be prorated during any partial year (i.e., the first year and the last year of the Lease Term). "Real estate charges" shall include ad valorem taxes, all reasonable fees, expenses and costs incurred by Landlord in investigating, protesting, contesting or in any way seeking to reduce or avoid increases in any assessments, levies or the tax rate pertaining to any taxes to be paid by Landlord, general and special assessments, property owner's assessments, parking surcharges, any tax or excise on rents, any tax or charge for governmental services (such as street maintenance or fire protection) and any tax or charge which replaces any of such above-described "real estate charges" and shall expressly include any margin tax imposed on Landlord's collection of rent (but not any margin tax imposed on Landlord for doing business in Texas or any or jurisdiction); provided, however, that "real estate charges" shall not be deemed to include any franchise, estate, inheritance or general income tax. "Insurance expenses" shall include all premiums and other expenses incurred by Landlord for commercial general liability insurance, property insurance and rental interruption insurance obtained in connection with the Shopping Center, as well as any other insurance, endorsements and special coverages in connection with the Shopping Center that Landlord may elect to obtain in Landlord's commercially reasonable discretion.

To the extent that the buildings and adjacent parking are taxed as separate tax parcels, Landlord, for purposes of calculating Tenant's Proportionate Share of real estate charges, may elect to calculate Tenant's Proportionate Share as a fraction, the numerator is the gross leaseable square footage of the Demised Premises and the denominator of which is the gross leaseable square footage of the building(s) within the tax parcel in question, and the real estate charges shall be those that relate to and/or are allocable to such tax parcel instead of the Shopping Center. In addition, to the extent that buildings within a tax parcel have disparate values, as reflected on the current records of the applicable tax authority, Landlord may equitably allocate such real estate charges among tenants to reflect such disparate values as determined by Landlord in its commercially reasonable discretion subject to Tenant's review and approval thereof, which approval will not be unreasonably withheld.

6.3 Landlord and Tenant shall attempt to obtain separate assessments for Tenant's obligations pursuant to Section 6.1 and, with respect to Section 6.2, for such of the "real estate charges" as are readily susceptible of separate assessment. To the extent of a separate assessment, Tenant agrees to pay such assessment before it becomes delinquent and to keep the Demised Premises free from any lien or attachment; moreover, as to all periods of time during the Lease Term, this covenant of Tenant shall survive the termination of the lease. With regard to the calendar year during which the Lease Term expires, Landlord at its option either may bill Tenant when the charges become payable or may charge Tenant upon demand by Landlord at intervals not more frequently than monthly an estimate of Tenant's prorata share of whichever charges have been paid directly by Tenant or Landlord (based upon information available for the current year plus, if current year information is not adequate in itself, information relating the immediately preceding year).

6.4 If at any time during the Lease Term, Landlord has been given reasonable evidence that during the immediately succeeding twelve (12) month period that Tenant will owe Landlord an additional payment pursuant to one or more of the preceding sections of this Article VI, upon written notice by Landlord to Tenant of such evidence, Landlord may direct that Tenant prepay monthly a pro rata portion of the prospective future payment (i.e., the prospective future payment divided by the number of months before the prospective future payment will be due). Tenant agrees that any such prepayment directed by Landlord shall be due and payable monthly on the same day that minimum guaranteed rental is due. Tenant shall not be entitled to interest on any such prepaid sums. Following the end of each calendar year, Tenant shall remit any deficiency (from any actual expenses so incurred) within thirty (30) days after receipt of an invoice from Landlord and Landlord shall remit (or apply to the then next due amounts from Tenant) any amount overpaid by Tenant (from any actual expenses so incurred).

ARTICLE VII. COMMON AREAS

7.1 The term "Common Area" is defined for all purposes of this lease as that part of the Shopping Center intended for the common use or enjoyment of all tenants, including among other facilities (as such may be applicable to the Shopping Center), parking areas, private streets and alleys, landscaping areas, greenbelt areas, curbs, loading area, elevators, sidewalks, malls and promenades (enclosed or otherwise), lighting facilities, drinking fountains, meeting rooms, public toilets, and the like and so designated by Landlord as Common Areas but excluding (i) space in buildings (now or hereafter existing) designated for rental for commercial purposes, as the same may exist from time to time, (ii) streets and alleys exclusively maintained by a public authority, (iii) areas within the Shopping Center which may from time to time not be owned by Landlord (and such other owner contractually maintains its own parcel), and (iv) areas leased to a single-purpose user (such as a bank or a fast-food restaurant) where such user contractually maintains its own parcel. In addition, although the roof(s) of the building(s) in the Shopping Center are not literally part of the Common Area, they will be deemed to be so included for purposes of (i) Landlord's ability to prescribe rules and regulations regarding same and (ii) their inclusion for purposes of Common Area maintenance reimbursements. Subject to the further provisions of this Lease regarding the "Restricted Area" (as described on Exhibit "A-1"), Landlord reserves the right to change from time to time the dimensions and location of the Common Area, as well as the dimensions, identity and type of any buildings in the Shopping Center. For example, and without limiting the generality of the immediately preceding sentence (but subject to the further provisions of this Lease regarding the Restricted Area), Landlord may substitute for any parking area other areas reasonably accessible to the tenants of the Shopping Center, which areas may be elevated, surface or underground.

7.2 Tenant, and its employees and customers, and when duly authorized pursuant to the provisions of this lease, its subtenants, licensees and concessionaires, shall have the nonexclusive right to use the Common Area (excluding roofs of buildings in the Shopping Center) as constituted from time to time, such use to be in common with Landlord, other tenants in the Shopping Center and other persons permitted by the Landlord to use the same, and subject to such reasonable rules and regulations governing use as Landlord from time to time prescribes. For example, and without limiting the generality of Landlord's ability to establish rules and regulations governing all aspects of the Common Area, Tenant agrees as follows:

(a) Tenant shall furnish to Landlord upon request a complete list of license numbers of all automobiles operated by Tenant, its employees, subtenant, licensees and concessionaires, and Tenant agrees that if any automobile or other vehicle owned by Tenant or any of its employees, subtenants, licensees or concessionaires shall at any time be parked in any part of the Shopping Center other than the specified areas designated by Landlord for employee parking (which such designation Landlord may make and with which Tenant and its employees, subtenants, licensees and concessionaires shall comply as a covenant of Tenant hereunder), Tenant shall pay to Landlord as additional rent upon demand an amount equal to the daily rate or charge for such parking as established by Landlord from time to time for each day, or part thereof, such automobile or other vehicle is so parked.

(b) Tenant shall not solicit business within the Common Area nor take any action which would interfere with the rights of other persons to use the Common Area, including, but not limited to, the parking of any automobiles or vehicles in the parking areas that, in the sole discretion of Landlord, are intended as a form of advertising for the Tenant.

(c) Subject to the further provisions of this Lease regarding the Restricted Area, Landlord may temporarily close any part of the Common Area for such periods of time as may be necessary to make repairs or alterations or to prevent the public from obtaining prescriptive rights.

(d) With regard to the roof(s) of the building(s) in the Shopping Center, use of the roof(s) is reserved to Landlord or, with regard to any tenant demonstrating to Landlord's satisfaction a need to same, to such tenant after receiving prior written consent from Landlord. Notwithstanding the foregoing, no use of the roof of the Demised Premises by Landlord shall interfere with Tenant's possession, use or enjoyment of the Demised Premises.

(e) Tenant's right to use the Common Areas shall be subject to any reciprocal easement agreement filed of record or to be filed of record and affecting the Shopping Center in effect as of the date of this Lease, copies of which have been delivered to Tenant on or before the date hereof.

7.3 Landlord shall be responsible for the operation, management and maintenance of the Common Area, the manner of maintenance and the expenditures therefore to be in the reasonable discretion of Landlord, generally in keeping with similar shopping centers within the same geographical area as the Shopping Center.

7.4 In addition to the rentals and other charges prescribed in this lease, during the Lease Term, Tenant shall pay to Landlord Tenant's Proportionate Share of the actual reasonable cost of repair, operation and maintenance of the Common Area (including, among other costs, those for lighting, painting, cleaning, policing, inspecting, repairing and replacing, and in the event of an enclosed mall or promenade in the Shopping Center, for heating and cooling) which may be incurred by Landlord, including Tenant's Proportionate Share of the cost of a management fee that Landlord pays to the manager of the Shopping Center. In addition, although the roof(s) of the building(s) in the Shopping Center are not literally part of the Common Area, Landlord and Tenant agree that reasonable costs and expenses associated with roof maintenance, repair and replacement shall be included as a Common Area maintenance item to the extent not specifically allocated to Tenant under this lease nor to another tenant pursuant to its lease. The expenses paid or reimbursed by Tenant pursuant to Article VI shall be excluded; moreover, with regard to capital expenditures (i) the original investment in capital improvements (i.e., upon the initial construction of the Shopping Center) shall not be included and (ii) improvements and replacements, to the extent capitalized on Landlord's records, shall be included only to the extent of a reasonable depreciation or amortization. Notwithstanding anything to the contrary, Landlord's reasonable cost of maintaining, repairing, striping, resurfacing, patching, improving and replacing the parking lot(s) (collectively, the "Resurfacing Costs") in the Common Area shall be deemed included as a part of the cost of operation and maintenance of the Common Area and shall not be considered a capital expenditure for purposes of the lease. If this lease should commence on a date other than the first day of a calendar year or terminate on a date other than the last day of the calendar year, Tenant's reimbursement obligations under this Section 7.4 shall be prorated based upon Landlord's expenses for the entire calendar year. Tenant shall make such payments to Landlord on demand. Landlord may at its option make monthly or other periodic charges based upon the estimated annual cost of repair, operation and maintenance of the Common Area, payable by Tenant in advance on the same day minimum guaranteed rental is due but subject to adjustment after the end of the year on the basis of the actual cost for such year. Tenant shall not be entitled to any interest on such prepaid sums. Following the end of each calendar year, Tenant shall remit any deficiency (from any actual expenses so incurred) within thirty (30) days after receipt of invoice from Landlord and any excess charges related to the prior period shall be offset against any rentals then due hereunder.

7.5 Notwithstanding any other provision of this Lease to the contrary, Landlord will not materially modify the Restricted Area in a way that materially adversely affects parking and access by Tenant's invitees, customers or employees in the Restricted area.

ARTICLE VIII. MERCHANTS' ASSOCIATION OR PROMOTIONAL FUND

8.1 Intentionally omitted.

ARTICLE IX. USE AND CARE OF PREMISES

9.1 Tenant shall commence business operations in the Demised Premises on or immediately after the Commencement Date and shall operate its business in an efficient, high class and reputable manner so as to produce the maximum amount of sales from the Demised Premises. Tenant shall not at any time leave the Demised Premises vacant, but shall in good faith, continuously throughout the Lease Term, conduct and carry on in the entire Demised Premises the type of business for which the Demised Premises are leased. Tenant shall, except during reasonable periods for repairing, cleaning and decorating, keep the Demised Premises open to the public for business with adequate personnel in attendance on all days and during all hours (including evenings) established by Landlord from time to time as store hours for the Shopping Center, and during any other hours when the Shopping Center generally is open to the public for business (including extended hours during the shopping season prior to Christmas and whenever else that the majority of the retail tenants in the Shopping Center open for business during extended hours), except to the extent Tenant may be prohibited from being open for business by applicable law, ordinance or governmental regulation.

9.2 Subject to Section 9.10, the Demised Premises may be used only for the Permitted Use, and only under the trade name specified in Article I above (or, if Article I does not provide a trade name, any trade name approved in advance by Landlord), and for no other purpose and under no other trade name without the prior written consent of Landlord. Landlord agrees,

however, that it will not withhold consent in a wholly unreasonable and arbitrary manner to a proposed change in Tenant's trade name (as further explained in Section 29.4 of this lease).

9.3 The Demised Premises shall not be used for any purpose which increases the insurance premium cost or invalidates any insurance policy carried on the Demised Premises or other parts of the Shopping Center. All property kept, stored or maintained within the Demised Premises by Tenant shall be at Tenant's sole risk.

9.4 Tenant shall not conduct within the Demised Premises any fire, auction, bankruptcy, "going-out-of-business," "lost-our-lease" or similar sale; nor shall Tenant operate within the Demised Premises a "wholesale" or "factory outlet" store, a cooperative store, a "second hand" store, a "surplus" store or a store commonly referred to as a "discount house." The purpose for this restriction is the maintenance of a first-class shopping center image, not price regulation; therefore, Landlord agrees that items may be sold, and on occasion be advertised as being sold, at discounted prices as long as Tenant complies with all applicable laws and maintains an image consistent with a first-class shopping center.

9.5 Tenant shall not permit any objectionable noises or odors to emanate from the Demised Premises (including, without limitation, during the period of any Tenant construction), provided that normal odors and noises associated with similar restaurant uses shall not be considered objectionable; nor place or permit any radio, television, loudspeaker or amplifier on the roof or outside the Demised Premises or where the same can be seen or heard from outside the Demised Premises except for typical speaker and/or television placements for similar restaurants in any patio area; nor place any antenna, equipment, awning or other projection on the exterior of the Demised Premises except for awnings or coverings typically used in connection with a patio seating area for a restaurant; nor take any other action which would constitute a nuisance or would disturb or endanger other tenants of the Shopping Center or unreasonably interfere with their use of their respective premises; nor permit any unlawful or immoral practice to be carried on or committed on the Demised Premises; nor do anything which would tend to injure the reputation of the Shopping Center. If required for odor suppression or sound attenuation, Tenant shall, at Tenant's sole cost and expense, install insulation and/or vinyl barriers and/or exhaust fans in the demising walls and take such other measures as may be reasonably required by Landlord. All uses shall comply with all restrictive covenants now or hereafter affecting the Demised Premises. In no event shall the Demised Premises be used for any of the uses described in Exhibit "F". In the event that Tenant violates any of the foregoing, Landlord, at Tenant's sole cost and expense, may take such actions as Landlord reasonably deems necessary to cause a cessation of such activities. The foregoing does not constitute an election of remedies.

9.6 Tenant shall take good care of the Demised Premises and keep the same free from waste at all times. Tenant shall not overload the floors in the Demised Premises, nor deface or injure the Demised Premises. Tenant shall keep the Demised Premises neat, clean and free from dirt, rubbish, ice or snow at all times. Tenant shall store all trash and garbage inside trash receptacles within the Demised Premises, or in a trash dumpster or similar container approved by Landlord as to type, location and screening (provided, however, the Shopping Center dumpster shall not be used for construction trash and packing material); and Tenant shall arrange for the regular pick-up of such trash and garbage at Tenant's expense (unless Landlord elects to furnish such a service, in which event Tenant shall be charged an equitable portion of the total of charges to all tenants using the service). Receiving and delivery of goods and merchandise and removal of garbage and trash shall be made only in a manner and areas prescribed by Landlord. Tenant shall not operate an incinerator or burn trash or garbage within the Shopping Center area.

9.7 Tenant shall maintain all display windows in a neat, attractive condition, and shall keep all display windows, exterior electric signs and exterior lighting under any canopy in front of the Demised Premises lighted from dusk until the closing time for the restaurant which shall be the same or similar times for Tenant's other restaurant locations in the DFW Metropolitan Area.

9.8 Tenant shall include the address and identity of its business activities in the Demised Premises in all advertisements made by Tenant in which the address and identity of any similar local business activity of Tenant is mentioned.

9.9 Tenant shall procure at its sole expense any permits and licenses required for the transaction of business in the Demised Premises and otherwise comply with all applicable laws, ordinances, restrictive covenants and governmental regulations affecting the Demised Premises. Landlord shall timely cooperate with Tenant in connection with any such licenses or permits (including, without limitation, a license from the Texas Alcoholic Beverage Commission) with respect to which information from Landlord is necessary or appropriate.

9.10 Tenant may change Tenant's use of the Demised Premises with Landlord's prior written approval, which approval will not be unreasonably withheld, delayed or conditioned, so long as (a) the new use is a restaurant use, (b) the new use does not violate any then exclusive use or prohibited use of another tenant of the Shopping Center, (c) Tenant presents Landlord with the new use, modifications of the Demised Premises and the time during which the Demised Premises will be closed for business for re-purposing. If Landlord approves the change in use, any approvals of Tenant's work, signage changes and similar matters shall remain subject to Landlord's approvals in accordance with the further terms of this Lease, provided such approval will not be unreasonably withheld, conditioned or delayed.

ARTICLE X. MAINTENANCE AND REPAIR OF PREMISES

10.1 Landlord shall keep the foundation, the exterior walls (but Landlord shall not be responsible for plate glass; windows, doors, door closure devices and other exterior openings, window and door frames, molding, locks and hardware, special

store fronts; lighting, heating, air conditioning, plumbing and other electrical, mechanical and electromotive installation, equipment and fixtures; signs, placards, decorations or other advertising media of any type; and interior painting or other treatment of interior walls) and roof (subject to the second sentence in Section 7.4 above) of the Demised Premises in good repair. Landlord, however, shall not be required to make any repairs occasioned by the act or negligence of Tenant, its agents, employees, subtenants, licensees and concessionaires (including, but not limited to, roof leaks resulting from Tenant's installation of air conditioning equipment or any other roof penetration or placement); and the provisions of the previous sentence are expressly recognized to be subject to the provisions of Article XVII and Article XVIII of this lease. In the event that the Demised Premises should become in need of repairs required to be made by Landlord hereunder, Tenant shall give immediate written notice thereof to Landlord; and Landlord shall not be responsible in any way for failure to make any such repairs until a reasonable time shall have elapsed (taking into account the nature of the repairs including those which may be required in connection with an emergency situation or to prevent further damage or danger to Tenants or Tenant's employees, customers or invitees) after receipt by Landlord of such written notice.

10.2 Tenant shall keep the Demised Premises in a good, clean and habitable condition and shall at its sole cost and expense (i) enter into a contract with a pest control vendor (reasonably acceptable to Landlord) requiring such vendor to regularly treat the Demised Premises to keep it free of insects, rodents, vermin and other pests, and (ii) make all needed repairs and replacements, including replacement of cracked or broken glass, except for repairs and replacements expressly required to be made by Landlord under the provisions of Section 10.1, Article XVII and Article XVIII. Without limiting the coverage of the previous sentence, it is agreed that Tenant's responsibilities herein include the repair and replacement of all lighting, heating, air conditioning, plumbing and other electrical, mechanical and electromotive installation, equipment and fixtures and also includes all utility repairs in ducts, conduits, pipes and wiring, and any sewer stoppage located in, under and above the Demised Premises. If any repairs required to be made by Tenant hereunder are not made within ten days after written notice delivered to Tenant by Landlord (no prior notice is required in the event of any emergency), Landlord may at its option make such repairs without liability to Tenant for any loss or damage which may result to its stock or business by reason of such repairs; and Tenant shall pay to Landlord upon demand, as additional rental hereunder, the cost of such repairs plus interest at the maximum contractual rate which could legally be charged in the event of a loan of such payment to Tenant (but in no event to exceed 1-1/2% per month), such interest to accrue continuously from the date of payment by Landlord until repayment by Tenant. In the event of an emergency, Landlord may make repairs immediately, without written notice to Tenant. At the expiration of this lease, Tenant shall surrender the Demised Premises in good condition, excepting reasonable wear and tear and losses required to be restored by Landlord in Section 10.1, Article XVII, and Article XVIII of this lease.

10.3 Tenant, at its sole cost and expense, shall regularly monitor the Demised Premises for the presence of mold or for any conditions that reasonably can be expected to give rise to mold (the "Mold Conditions"), including, but not limited to, observed or suspected instances of water damage, mold growth, repeated complaints of respiratory ailment or eye irritation by Tenant's employees or any other occupants in the Demised Premises, or any notice from a governmental agency of complaints regarding the indoor air quality at the Demised Premises; and promptly notify Landlord in writing if it suspects mold or Mold Conditions at the Demised Premises.

10.4 In the event of suspected mold or Mold Conditions at the Demised Premises that have, with reasonable probability, been caused by the act or omission of Tenant, Tenant, at its sole cost and expense, shall promptly cause an inspection of the Demised Premises to be conducted, during such time as Landlord may designate, to determine if mold or Mold Conditions are present at the Demised Premises, and shall (a) notify Landlord, in writing, at least ten days prior to the inspection, of the date on which the inspection shall occur, and which portion of the Demised Premises shall be subject to the inspection; (b) retain an industrial hygienist certified by the American Board of Industrial Hygienists ("CIH") or an otherwise qualified mold consultant (generally, "Mold Inspector") to conduct the inspection; and (c) cause such Mold Inspector to: (i) obtain or maintain errors and omissions insurance coverage with terms and limits customarily maintained by Mold Inspectors, adding Landlord as an additional insured with respect to Landlord's vicarious liability, and provide to Landlord evidence of such coverage and a copy of the endorsement granting Landlord additional insured status; (ii) perform the inspection in a manner that is strictly confidential and consistent with the duty of care exercised by a Mold Inspector; and (iii) prepare an inspection report, keep the results of the inspection report confidential, and promptly provide a copy to Landlord.

10.5 In the event the inspection required by Section 10.4 hereof determines that mold or Mold Conditions are present at the Demised Premises and that such Mold Conditions have been caused by the act or omission of Tenant, then Tenant, at its sole cost and expense, shall promptly (a) hire trained and experienced mold remediation contractors to prepare a remediation plan and to remediate the mold or Mold Conditions at the Demised Premises; (b) send Landlord notice, in writing, with a copy of the remediation plan, at least five days prior to the mold remediation, stating (i) the date on which the mold remediation shall start (which shall be as soon as practicable); (ii) which portion of the Demised Premises shall be subject to the remediation; (iii) the name, address, and telephone number of the certified mold remediation contractors performing the remediation; (iv) the remediation procedures and standards to be used at the Demised Premises; (v) the clearance criteria to be employed at the conclusion of the remediation; and (vi) the date the remediation will conclude; (c) notify, in accordance with any applicable state or local health or safety requirements, its employees as well as occupants and visitors of the Demised Premises of the nature, location, and schedule for the planned mold remediation; (d) ensure that the mold remediation is conducted in accordance with the relevant provisions of the document *Mold Remediation in Schools and Commercial Buildings* (EPA 402-K-01-001, September 2008) ("EPA Guidelines"), published by the U.S. Environmental Protection Agency, as may be amended or revised from time to time, or any other applicable, legally binding federal, state, or local laws, regulatory standards or guidelines; and (e) provide Landlord with a draft of the mold remediation report and give Landlord a reasonable opportunity to review and comment thereon, and when such report is finalized, promptly provide Landlord with a copy of the final remediation report. If the Mold Conditions have not been caused by the act or omission of Tenant, then Landlord shall, at its sole cost and expense, promptly remediate or cause the

remediation of the Mold Condition in accordance with the foregoing criteria and give Tenant periodic updates of Landlord's progress and timing in such regard. Landlord shall promptly give Tenant a copy of the final remediation report.

10.6 Tenant acknowledges and agrees that Landlord shall have a reasonable opportunity to inspect the remediated portion of the Demised Premises after the conclusion of the mold remediation. If the results of Landlord's inspection indicate that the remediation does not comply with the final remediation report or any other applicable federal, state, or local laws, regulatory standards or guidelines, including, without limitation, the EPA Guidelines, then, if Tenant is responsible for such remediation in accordance with the foregoing provisions, Tenant, at its sole cost and expense, shall immediately take all further actions necessary to ensure such compliance.

10.7 Tenant hereby indemnifies, protects and defends Landlord from and against claims by third parties because of Mold Conditions caused by the act or omission of Tenant in or emanating from the Demised Premises.

ARTICLE XI. ALTERATIONS

11.1 Tenant shall not make any alterations, additions or improvements to the Demised Premises without the prior written consent of Landlord, except for the installation of unattached, movable trade fixtures which may be installed without drilling, cutting or otherwise defacing the Demised Premises. Without limiting the generality of the immediately preceding sentence, any installation or replacement of Tenant's heating or air conditioning equipment must be effected strictly in accordance with Landlord's instructions. All alterations, additions, improvements and fixtures (including, without limitation, all floor coverings and all heating and air conditioning equipment but excluding Tenant's unattached, readily movable furniture and office equipment) which may be made or installed by either party upon the Demised Premises shall remain upon and be surrendered with the Demised Premises and become the property of Landlord at the termination of this lease, unless Landlord requests their removal, in which event Tenant shall remove the same and restore the Demised Premises to their original condition at Tenant's expense prior to the expiration or earlier termination of the Lease Term.

11.2 All construction work done by Tenant within the Demised Premises shall be performed in a good and workmanlike manner, in compliance with all governmental requirements, and in such manner as to cause a minimum of interference with other construction in progress and with the transaction of business in the Shopping Center. Tenant agrees to indemnify Landlord and hold Landlord harmless against any loss, liability or damage resulting from such work, and Tenant shall, if requested by Landlord, furnish bond or other security satisfactory to Landlord against any such loss, liability or damage.

11.3 In the event that Landlord elects to remodel all or any portion of the Shopping Center, Tenant will cooperate with such remodeling, including Tenant's tolerating temporary inconveniences (and even the temporary removal of Tenant's signs in order to facilitate such remodeling, as it may relate to the exterior of the Demised Premises) provided that Landlord shall cause any such remodeling to be completed promptly and with the least inconveniences to Tenant as reasonably practicable.

11.4 In no event shall Tenant allow any mechanic's or materialmen's liens to attach to the Demised Premises by virtue of any act or omission (or alleged act or omission) of Tenant or its subtenants, agents, employees or contractors and, if such lien does attach, Tenant shall remove such lien within thirty (30) days after attachment.

ARTICLE XII. LANDLORD'S RIGHT OF ACCESS

12.1 Landlord shall have the right to enter upon the Demised Premises at reasonable times for the purpose of inspecting the same, or of making repairs to the Demised Premises, or of making repairs, alterations or additions to adjacent premises, or of showing the Demised Premises to prospective purchasers, lessees or lenders; provided that any entry by Landlord shall (a) be with reasonable prior notice to Tenant (except in an emergency situation), (b) be with due regard to the invitees of Tenant, and (c) be by Landlord using reasonable efforts not to unreasonably interrupt the business operations of Tenant including scheduling such access (except in an emergency situation) at reasonable times in the morning and early afternoon.

12.2 Tenant will permit Landlord to place and maintain "For rent" or "For Lease" signs on the Demised Premises during the last one-hundred-eighty (180) days of the Lease Term, it being understood that such signs shall in no way affect Tenant's obligations pursuant to Section 9.4, Section 13.1 or any other provision of this lease.

12.3 Use of the roof above the Demised Premises is reserved to Landlord.

ARTICLE XIII. SIGNS; STORE FRONTS

13.1 Tenant shall not, without Landlord's prior written consent (a) make any changes to the store front, or (b) install any exterior lighting, decorations, paintings, awnings, canopies or the like, or (c) erect or install any signs, window or door lettering, placards, decorations or advertising media of any type which can be viewed from the exterior of the Demised Premises, excepting only dignified displays of customary type for its display windows. All signs, lettering, placards, decorations and advertising media (including, without limitation, the sign required by Section 13.2 below) shall conform in all respects to applicable law and the sign criteria established by Landlord for the Shopping Center from time to time in the exercise of its sole discretion, and shall be subject to Landlord's requirements as to construction, method of attachment, size, shape, height, lighting, color and general appearance.

Landlord's existing sign criteria is attached hereto as Exhibit "J" and incorporated herein by reference. All signs shall be kept in good condition and in proper operating order at all times. Tenant will be required to remove any signs upon its vacating the Demised Premises and repairing the building to its original condition. Tenant shall be permitted to advertise its business on one panel on both sides of the shopping center sign(s) in the location(s) shown on Exhibit A.

13.2 Subject to the restrictions of Section 13.1 above, Tenant agrees to install (or have Landlord install at Tenant's expense) and maintain a first-class sign on the front of the Demised Premises during the Lease Term.

ARTICLE XIV. UTILITIES

14.1 Landlord agrees to cause to be provided to the Shopping Center the necessary mains, conduits and other facilities necessary to supply water, gas, electricity, telephone service and sewerage service to the building in which the Demised Premises are located.

14.2 Effective as of the Lease Date, Tenant shall promptly pay all charges for electricity, water, gas, telephone service, sewerage service and other utilities furnished to the Demised Premises. Landlord, may, if it so elects, furnish one or more utility services to Tenant, and in such event Tenant shall purchase the use of such services as are tendered by Landlord, and shall pay on demand as additional rental the rates charged to Landlord (based on reasonable evidence thereof delivered by Landlord to Tenant) which shall not exceed the rates which would be charged for the same services if furnished directly by the local public utility companies. Landlord may at any time discontinue furnishing any such service without obligation to Tenant other than to connect the Demised Premises to the public utility, if any, furnishing such service. In such event, Tenant shall promptly pay all charges for such utilities directly to the provider thereof, and in all events before delinquency.

14.3 Landlord shall not be liable for any interruption whatsoever in utility services not furnished by Landlord, nor for interruptions in utility services furnished by Landlord which are due to fire, accident, strike, acts of God or other causes beyond the control of Landlord or in order to make alterations, repairs or improvements.

14.4 If a sub-meter is installed in the Demised Premises to measure the flow of water thereto, Tenant at the request of the Landlord shall be responsible to read said meter and provide all meter information to the Landlord. Tenant shall install and maintain a sub-meter for water unless such is the responsibility of Landlord under Exhibit "C".

14.5 Tenant shall cause all utilities serving the Demised Premises to be transferred to Tenant's name as of the earlier of (a) the date the Demised Premises are "ready for occupancy" or (b) the date that Tenant takes possession of the Demised Premises. Tenant shall reimburse Landlord for any utility costs incurred by Landlord arising due to a delay in such transfer.

ARTICLE XV. INSURANCE COVERAGES

15.1 Landlord shall procure and maintain throughout the Lease Term a policy or policies of insurance (but subject to Article VI above), causing the Shopping Center to be insured under commercial general liability insurance, property insurance and any other insurance, endorsements and special coverages that Landlord may elect to obtain in Landlord's commercially reasonable discretion.

15.2 Tenant shall procure and maintain throughout the Lease Term a policy or policies of insurance, at its sole cost and expense, causing Tenant's trade fixtures, inventory, and other contents to be insured under standard personal property insurance (special form) (full replacement cost) (or its equivalent) and, with regard to liability insurance, insuring I-20/South Collins III, LP and Tenant against all claims, demands or actions arising out of or in connection with Tenant's use or occupancy of the Demised Premises, or by the condition of the Demised Premises. The limits of Tenant's liability policy or policies shall be in an amount of not less than \$2,000,000 per occurrence, and shall be written by insurance companies satisfactory to Landlord. Tenant shall obtain a written obligation on the part of each insurance company to notify Landlord at least twenty days prior to cancellation of such insurance. Such policies or duly executed certificates of insurance shall be promptly delivered to Landlord and renewals thereof as required shall be delivered to Landlord at least thirty days prior to the expiration of the respective policy terms. If Tenant should fail to comply with the foregoing requirement relating to insurance, Landlord may obtain such insurance and Tenant shall pay to Landlord on demand as additional rental hereunder the premium cost thereof plus interest at the maximum contractual rate (but in no event to exceed 1-1/2% per month) from the date of payment by Landlord until repaid by Tenant. Such policies must be acceptable to Landlord in terms of issuer, form and content (including, without limitation, containing a waiver of subrogation acceptable to Landlord). Tenant's insurance shall be primary. Landlord may require that any of its lenders and the management company for the Shopping Center be named as insureds as their interests may appear. The references to a specific landlord and its general partner above shall be changed if ownership of the Demised Premises changes. If liquor is served at the Demised Premises, Landlord may require that Tenant carry liquor liability insurance in amounts, in a form, with a content and with an underwriter reasonably acceptable to Landlord.

ARTICLE XVI. WAIVER OF LIABILITY; MUTUAL WAIVER OF SUBROGATION

16.1 Landlord and Landlord's agents and employees shall not be liable to Tenant, nor to Tenant's employees, agents or visitors, nor to any other person whomsoever, for any injury to person, damage to property or lost profit caused by the Demised

Premises or other portions of the Shopping Center becoming out of repair, casualty loss, defect or failure of any structural element of the Demised Premises or of any equipment, pipes, alarm systems, or wiring, or broken glass, the backing up of drains, or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Demised Premises **EVEN IF DUE TO LANDLORD'S NEGLIGENCE** (except where due to Landlord's failure to make repairs required to be made hereunder, after the expiration of a reasonable time after written notice to Landlord of the need for such repairs). **ACCORDINGLY, LANDLORD SHALL NOT BE LIABLE FOR ITS OWN NEGLIGENCE (except as set forth in the preceding sentence) BUT SHALL BE LIABLE FOR ITS GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT.** Landlord shall not be liable to Tenant, nor to Tenant's employees, agents or visitors, nor to any other person whomsoever, for any loss or damage that may be occasioned by or through the acts or omissions of other tenants of the Shopping Center or of any other persons whomsoever. Landlord shall not be held responsible in any way on account of any construction, repair or reconstruction (including widening) of any private or public roadways, walkways or utility lines. **THIS SECTION RELEASES LANDLORD FOR THE CONSEQUENCES OF ITS OWN NEGLIGENCE UNDER THE CIRCUMSTANCES SET FORTH HEREIN.**

16.2 Landlord shall not be liable to Tenant or to Tenant's employees, agents, or visitors, or to any other person whomsoever for any injury to person or damage to property (a) on or about the Demised Premises **EVEN IF DUE TO THE NEGLIGENCE OF LANDLORD** or (b) arising out of the use of the Demised Premises by Tenant or its agents, visitors or employees or the conduct of Tenant's business therein **EVEN IF DUE TO LANDLORD'S NEGLIGENCE**, or (c) arising out of any breach of default by Tenant in the performance of its obligations under this lease (except as otherwise provided herein), and Tenant hereby agrees to indemnify, protect and hold Landlord harmless from and against any loss, expenses or claims arising out of such damage or injury **EVEN IF DUE TO THE NEGLIGENCE OF LANDLORD (BUT NOT LANDLORD'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT).** **THIS PROVISION INDEMNIFIES LANDLORD FOR ITS OWN NEGLIGENCE.**

16.3 **ANYTHING TO THE CONTRARY IN THIS LEASE NOTWITHSTANDING, NEITHER PARTY, NOR ITS OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS OR INVITEES OR THE MANAGEMENT COMPANY FOR THE SHOPPING CENTER (EACH, A "RELEASED PARTY") SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY INSURANCE COMPANY (BY WAY OF SUBROGATION OR OTHERWISE) INSURING THE OTHER PARTY FOR ANY LOSS OR DAMAGE TO ANY BUILDING STRUCTURE OR OTHER TANGIBLE PROPERTY (INCLUDING, WITHOUT LIMITATION, INVENTORY AND OTHER PERSONAL PROPERTY), WHEN SUCH LOSS IS CAUSED BY ANY OF THE PERILS WHICH ARE OR COULD BE INSURED AGAINST UNDER STANDARD COMMERCIAL BUILDING AND PERSONAL PROPERTY INSURANCE (SPECIAL FORM) (FULL REPLACEMENT COST) (OR ITS EQUIVALENT) OR LOSSES UNDER WORKER'S COMPENSATION LAWS AND BENEFITS, EVEN THOUGH SUCH LOSS OR DAMAGE MIGHT HAVE BEEN OCCASIONED BY THE NEGLIGENCE OF ANY RELEASED PARTY (THIS CLAUSE SHALL NOT APPLY, HOWEVER, TO ANY DAMAGE CAUSED BY GROSS NEGLIGENCE OR INTENTIONALLY WRONGFUL ACTIONS OR AS OTHERWISE PROVIDED HEREIN). EACH PARTY REPRESENTS AND COVENANTS THAT IT SHALL OBTAIN APPROPRIATE WAIVERS OF SUBROGATION IN ITS PROPERTY INSURANCE POLICIES. THIS SECTION RELEASES A PARTY FOR THE CONSEQUENCES OF ITS OWN NEGLIGENCE. PARTIES NAMED HEREIN NOT SIGNING THIS LEASE ARE EXPRESS AND INTENDED THIRD PARTY BENEFICIARIES OF THIS WAIVER OF SUBROGATION.**

ARTICLE XVII. DAMAGES BY CASUALTY

17.1 Tenant shall give immediate written notice to the Landlord of any damage caused to the Demised Premises by fire or other casualty.

17.2 In the event that the Demised Premises shall be damaged or destroyed by fire or other casualty insurable under standard commercial building insurance (special form) (full replacement cost) (or its equivalent) and Landlord does not elect to terminate this lease as hereinafter provided, Landlord shall proceed with reasonable diligence and at its sole cost and expense to rebuild and repair the Demised Premises. In the event (a) the building in which the Demised Premises are located or the Demised Premises shall be destroyed or rendered untenable to an extent in excess of fifteen (15%) percent of the its respective floor area by a casualty covered by Landlord's insurance, (b) the casualty is not insured (exclusive of deductibles) and exceeds 5% of the respective floor area of the building in which the Demised Premises is located, (c) the holder of a mortgage, deed of trust or other lien on the Demised Premises at the time of the casualty elects, pursuant to such mortgage, deed of trust or other lien, to require the use of all or part of Landlord's insurance proceeds in satisfaction of all or part of the indebtedness secured by the mortgage, deed of trust or other lien, or (d) fewer than two years exist on the then current term of the lease, then Landlord may elect either to terminate this lease or to proceed to rebuild and repair the Demised Premises. Landlord shall give written notice to Tenant of such election within sixty days after the occurrence of such casualty and, if it elects to rebuild and repair, shall proceed to do so with reasonable diligence and at its sole cost and expense.

17.3 Landlord's obligation to rebuild and repair under this Article XVII shall in any event be limited to restoring one of the following (as may be applicable): (a) if this lease does not include an attached exhibit describing Landlord's initial construction responsibility ("Landlord's Work"), Landlord shall restore the Demised Premises to substantially the condition in which the same existed prior to such casualty, exclusive of any alterations, additions, improvements, fixtures and equipment installed by Tenant; or (b) Landlord's Work, as described in the applicable exhibit attached to this lease (if such an exhibit is attached), to substantially the same condition in which the same existed prior to the casualty. Tenant agrees that promptly after

substantial completion of such work by Landlord, Tenant will proceed with reasonable diligence and at Tenant's sole cost and expense to restore, repair and replace all alterations, additions, improvements, fixtures, signs and equipment installed by Tenant, or, if an exhibit describing Tenant's Work is attached hereto, all items of Tenant's Work as described in such exhibit, as the case may be, and in all events shall complete such work within a reasonable time after substantial completion of Landlord's Work.

17.4 Tenant agrees that during any period of reconstruction or repair of the Demised Premises, Tenant shall continue the operation of its business within the Demised Premises to the extent practicable.

17.5 If the Demised Premises are damaged by fire or other casualty cause by other than the negligent acts or omissions of Tenant or its contractors, invitees, guests or subtenants, and Tenant is unable to carry on its business in a commercially reasonable manner in the Demised Premises and such inability is reasonably expected to last more than one-hundred-eighty (180) days based on a commercially reasonable estimate provided by Landlord's contractor, then Tenant shall have the right to terminate this Lease upon written notice to Landlord delivered within twenty (20) days of Tenant's receipt of such estimate, in which the provisions hereof regarding termination of the Lease at the end of the term hereof shall be applicable.

ARTICLE XVIII. EMINENT DOMAIN

18.1 If more than thirty percent (30%) of the floor area of the Demised Premises should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof, this lease shall terminate and the rent shall be abated during the unexpired portion of the Lease Term, effective on the date physical possession is taken by the condemning authority.

18.2 If less than thirty percent (30%) of the floor area of the Demised Premises should be taken as aforesaid and the remaining portion of the Demised Premises reasonably determined by Tenant to be commercially useable for the purposes for which Tenant has entered into this Lease, this lease shall not terminate; however, the minimum guaranteed rental (but not percentage rental) payable hereunder during the unexpired portion of the Lease Term shall be reduced in proportion to the area taken, effective on the date physical possession is taken by the condemning authority. Following such partial taking, Landlord shall make all necessary repairs or alterations to the remaining Demised Premises or, if an exhibit describing Landlord's Work is attached to this lease, all necessary repairs within the scope of Landlord's Work as described in such exhibit, as the case may be, required to make the remaining portions of the Demised Premises an architectural whole.

18.3 If any part of the Common Area should be taken as aforesaid, this lease shall not terminate, nor shall the rent payable hereunder be reduced, except that either Landlord or Tenant may terminate this lease if the area of the Common Area remaining following such taking, plus any additional parking area provided by Landlord in reasonable proximity to the Shopping Center, shall be less than seventy percent of the area of the Common Area immediately prior to the taking. Any election to terminate this lease in accordance with this provision shall be evidenced by written notice of termination delivered to the other party within thirty days after date physical possession is taken by condemning authority.

18.4 Notwithstanding the foregoing, if either the remaining portion of the Demised Premises or the remaining Common Area after the taking is reasonably determined by Tenant to not be commercially reasonable for Tenant to carry on the business for which the Demised Premises were leased, Tenant may terminate this Lease upon written notice to Landlord upon which the termination provisions of this Lease at the end of the term hereof shall be applicable.

18.5 All compensation awarded for any taking (or the proceeds of private sale in lieu thereof) of the Demised Premises or Common Area shall be the property of Landlord, and Tenant hereby assigns its interest in any such award to Landlord; provided, however, Landlord shall have no interest in any award made to Tenant for Tenant's moving and relocation expenses or for the loss of Tenant's fixtures and other tangible personal property if a separate award for such items is made to Tenant.

ARTICLE XIX. ASSIGNMENT AND SUBLETTING

19.1 Tenant shall not assign or in any manner transfer this lease or any estate or interest therein, or sublet the Demised Premises or any part thereof, or grant any license, concession or other right of occupancy of any portion of the Demised Premises without the prior written consent of Landlord, which consent will not be unreasonably withheld, delayed or conditioned; however, in determining whether or not to grant its consent, Landlord shall be entitled to take into consideration factors such as Landlord's desired tenant mix, the reputation and net worth of the proposed transferee, and the then current market conditions (including market rentals). In addition, Landlord shall also be entitled to charge Tenant a reasonable fee plus reasonable out-of-pocket costs incurred by Landlord for processing Tenant's request. Consent by Landlord to one or more assignments or sublettings shall not operate as a waiver of Landlord's rights as to any subsequent assignments and sublettings.

19.2 If Tenant is a corporation, partnership or other entity and if at any time during the primary Lease Term or any renewal or extension thereof the person or persons who beneficially own a majority of either the outstanding voting rights or the outstanding ownership interests of Tenant at the time of the execution of this lease cease to own a majority of such voting rights or ownership interests (except as a result of transfer by devise or descent), the loss of a majority of such voting rights or ownership interests shall be deemed an assignment of this lease by Tenant and, therefore, subject in all respects to the provisions of Section 19.1 above. The previous sentence shall not apply, however, if (a) at the time of the execution of this lease, Tenant is a corporation and the outstanding voting shares of capital stock of Tenant are listed on a recognized security exchange or

over-the-counter market or (b) the assignee is an experienced operator of a business similar to the purpose for which the Demised Premises is used, such use will not change and the net worth of the assignee is at least as much as the net worth of the Tenant or the Tenant remains liable on the Lease.

19.3 Notwithstanding any assignment or subletting, unless otherwise hereinafter agreed in writing by Landlord, Tenant and any guarantor of Tenant's obligations under this lease shall at all times remain fully and primarily responsible and liable for the payment of the rent herein specified and for compliance with all of its other obligations under this lease (even if future assignments and sublettings occur subsequent to the assignment or subletting by Tenant, and regardless of whether or not Tenant's approval has been obtained for such future assignments and sublettings).

19.4 Tenant may, from time to time, encumber Tenant's interest in this Lease and/or Tenant's leasehold estate in the Demised Premises by a leasehold deed of trust, leasehold mortgage or other security instrument (collectively, a "Leasehold Mortgage"). Any Leasehold Mortgage shall be subject and subordinate to any and all rights and interests of Landlord and any mortgagee of Landlord and shall be a lien only on Tenant's interest in the lease and the restrictions on use of the Demised Premises shall not be altered in connection with or by reason of such Leasehold Mortgage. It is understood and agreed that any foreclosure or assignment in lieu of foreclosure shall be considered a Transfer as defined in Section 19.1, above, requiring Landlord's consent, and if Landlord does not consent to the proposed transferee in accordance with 19.1, Landlord may declare a default and/or terminate this Lease. Tenant's leasehold interest in the Demised Premises shall not be a lien on Landlord's fee interest in the Shopping Center. The holder of any Leasehold Mortgage is referred to herein as a "Leasehold Mortgagee." In addition, Tenant may obtain financing for all or part of the equipment and/or personal property Tenant installs and/or uses in connection with its business in the Leased Premises and the provider of such financing may require that Tenant provide a priority security interest in and to such equipment and/or personal property as a condition to providing such financing. The holder of a lien on such equipment or personal property is referred to herein as an "Equipment Lender." Landlord agrees to provide to Tenant and either a Leasehold Mortgagee or Equipment Lender a document or documents (including consent and waiver) in a commercially reasonable form, acknowledging the financing and agreeing to give the Equipment Lender notice of Tenant's default and opportunity to cure (with respect to the Leasehold Mortgagee) or agreeing to subordinate Landlord's lien to the Equipment Lender's lien (with respect to unattached equipment for which the Equipment Lender is providing financing) and allow the Leasehold Mortgagee or Equipment Lender, as the case may be, access to the Demised Premises (so long as satisfactory liability insurance is in place by such parties protecting Landlord) and, with respect to the Equipment Lender, a reasonable time within which to remove the financed property (upon payment of rental to Landlord for such time period) upon Tenant's default with respect to either Landlord or Equipment Lender. Notwithstanding the foregoing, Landlord will not be required to subordinate its lien, and the Equipment Lender will acquire no lien against any fixture, equipment or improvement which Tenant is prohibited from removing under the terms of this Lease, or which was paid for with the monies of the tenant finish allowance referred to in Exhibit "C".

19.5 In the event of the transfer and assignment by Landlord of its interest in this lease and in the building containing the Demised Premises to a party expressly assuming Landlord's obligations under this lease accruing after such assignment, Landlord shall thereby be released from any further obligations hereunder accruing after such assignment, and Tenant agrees to look solely to such successor in interest of the Landlord for performance of such obligations accruing after such assignment. Any security given by Tenant to secure performance of Tenant's obligations hereunder may be assigned and transferred by Landlord to such successor in interest and Landlord shall thereby be discharged of any further obligation relating thereto.

ARTICLE XX. SUBORDINATION; ATTORNMEN; ESTOPPELS

20.1 Tenant accepts this lease subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter placed upon the Shopping Center or any portion of the Shopping Center which includes the Demised Premises, and to any renewals and extensions thereof. The foregoing subordination shall be self-operative and no additional documentation shall be needed to effectuate the same. Tenant agrees that any mortgagee shall have the right at any time to subordinate its mortgage, deed of trust or other lien to this lease; provided, however, notwithstanding that this lease may be (or made to be) superior to a mortgage, deed of trust or other lien, the mortgagee shall not be liable for prepaid rentals, security deposits and claims accruing during Landlord's ownership; further provided that the provisions of a mortgage, deed of trust or other lien relative to the rights of the mortgagee with respect to proceeds arising from an eminent domain taking (including a voluntary conveyance by Landlord) and provisions relative to proceeds arising from insurance payable by reason of damage to or destruction of the Demised Premises shall be prior and superior to any contrary provisions contained in this instrument with respect to the payment or usage thereof. Landlord is hereby irrevocably vested with full power and authority to subordinate this lease to any mortgage, deed of trust or other lien hereafter placed upon the Demised Premises or the Shopping Center as a whole, and Tenant agrees within ten (10) business days from written request by Landlord to execute such further commercially reasonable instruments subordinating this lease (and/or containing other provisions common in institutional subordination and attornment agreements) as Landlord may reasonably request; provided, however, that any such instrument shall include a written agreement (as may be common in an institutional subordination and non-disturbance agreement) that the rights of Tenant shall remain in full force and effect during the Lease Term so long as Tenant shall continue to recognize and perform all of the covenants and conditions of this lease. In the event of a foreclosure of the property of which the Demised Premises are a part or other acquisition of such property in lieu of such foreclosure, Tenant shall, upon request of such foreclosing or acquiring party (the "New Owner"), nonetheless attorn to and respect such New Owner as the then owner of the property and thereby entitled to all rights of Landlord pursuant to this lease, including, without limitation, the right to all rental payments.

20.2 At any time when the holder of an outstanding mortgage, deed of trust or other lien covering Landlord's interest in the Demised Premises has given Tenant written notice of its interest in this lease, Tenant may not exercise any remedies for default by Landlord hereunder unless and until the holder of the indebtedness secured by such mortgage, deed of trust or other lien shall have received written notice of such default and a reasonable time (not less than 30 days if such time is running concurrently with the time for Landlord to cure the default, otherwise within fifteen days) shall thereafter have elapsed without the default having been cured.

20.3 Tenant agrees that it will from time to time upon request by Landlord execute and deliver to Landlord a written statement addressed to Landlord (or a party designated by Landlord), which statement shall identify Tenant and this lease, shall certify that this lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), shall confirm that Landlord is not in default as to any obligations of Landlord under this lease (or if Landlord is in default, specifying any default), shall confirm Tenant's agreements contained above in this Article XX, and shall contain such other information or confirmations as Landlord may reasonably require.

ARTICLE XXI. DIRECTION OF TENANT'S ENERGIES

Intentionally omitted

ARTICLE XXII. DEFAULT BY TENANT AND REMEDIES

22.1 The following events shall be deemed to be events of default by Tenant under this lease:

- (a) Tenant shall fail to pay any installment of rent or any other obligation under this lease involving the payment of money and such failure shall continue for a period of ten (10) days following written notice thereof by Landlord to Tenant; provided, however that in any twelve (12) month period Landlord shall only be required to give two (2) such notices.
- (b) Tenant shall fail to comply with any term, provision or covenant of this lease, other than described in subsection (a) above, and shall not cure such failure within thirty (30) days after written notice thereof to Tenant; provided, however, that if such cure cannot reasonably be cured within such thirty (30) day period, within such additional period that is reasonably required to cure (but not more than sixty [60] days) provided that Tenant promptly commences to cure such default and diligently pursues the same.
- (c) Tenant or any guarantor of Tenant's obligations under this lease shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors.
- (d) Tenant or any guarantor of Tenant's obligations under this lease shall file a petition under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof; or Tenant or any guarantor of Tenant's obligations under this lease shall be adjudged bankrupt or insolvent in proceedings filed against Tenant or any guarantor of Tenant's obligations under this lease.
- (e) A receiver or trustee shall be appointed for the Demised Premises or for all or substantially all of the assets of Tenant or any guarantor of Tenant's obligation under this lease.
- (f) Tenant shall desert or vacate or shall commence to desert or vacate the Demised Premises or any substantial portion of the Demised Premises or shall remove or attempt to remove, without the prior written consent of Landlord, all or a substantial amount of Tenant's goods, wares, equipment, fixtures, furniture, or other personal property other than inventory in the ordinary course of business.
- (g) Tenant shall do or permit to be done anything which creates a lien upon the Demised Premises or Shopping Center which stays attached beyond the period set forth in Section 11.4 of this lease.

22.2 Upon the occurrence of any such events of default, Landlord shall have the option to pursue any one or more of the following remedies as well as any other remedies available at law or in equity:

- (a) Terminate this lease by giving Tenant written notice thereof, in which event Tenant shall pay to Landlord the sum of (1) all rent and other sums accrued hereunder through the date of termination, (2) all amounts due under Section 22.7, (3) an amount equal to (A) the total rent and other sums that Tenant would have been required to pay for the remainder of the Lease Term discounted to present value at a per annum rate equal to the "Prime Rate" as published on the date this lease is terminated by The Wall Street Journal, Southwest Edition, in its listing of "Money Rates" (or if The Wall Street Journal, Southwest Edition, is not published on the date on which this lease is terminated, then the "prime rate" of interest as published therein or in a comparable publication on the most recent date prior to the date on which this lease is so terminated), or seven percent (7%), whichever is lower, minus (B) the then-present fair rental value of the Demised Premises for such period, similarly discounted and (4) any other costs and damages allowed by law owing to such event of default and termination;
- (b) Terminate Tenant's right to possession of the Demised Premises without terminating this lease by giving written notice thereof to Tenant, in which event Tenant shall pay to Landlord (1) all rent and other amounts accrued

hereunder to the date of termination of possession, (2) all amounts due from time to time under Section 22.7, (3) all rent and other sums required hereunder to be paid by Tenant during the remainder of the Lease Term, diminished by any net sums thereafter received by Landlord through reletting the Demised Premises during such period and (4) any other costs and damages allowed by law; or

(c) Enter upon and take possession of the Demised Premises and, subject to compliance with applicable law, expel or remove Tenant and any other person who may be occupying the Demise Premises or any part thereof, by picking or changing locks, and locking out, expelling or removing Tenant or any other person who may be occupying all or a part of the Demised Premises, without being liable for prosecution or any claim for damages therefore. To the extent allowed by law, Tenant hereby waives any statutory requirement of prior written notice for filing eviction or damage suits for nonpayment of rent.

22.3 To the extent allowed by law, Landlord shall be deemed to have mitigated its damages as required by the Texas Property Code, Section 91.006 if, within 45 days after Tenant no longer occupies the Demised Premises, Landlord, to the extent it has access to the Demised Premises, has (i) placed a "For Lease" sign at the Demised Premises; (ii) placed the Demised Premises in Landlord's inventory of available space; (iii) made the Demised Premises available to show to area brokers during normal business hours; and (iv) shown the Demised Premises to prospective tenants who requested to see it. Without in any way limiting the foregoing, Tenant agrees that Landlord has no obligation to: (i) relet the Demised Premises prior to leasing any other space within the Shopping Center; or (ii) relet the Demised Premises (A) at a rental rate or otherwise on terms below market, as then reasonably determined by Landlord; (B) to any entity not satisfying Landlord's then standard financial credit risk criteria; (C) for a use (1) not consistent with Tenant's use prior to default; (2) which would violate then applicable law or any restrictive covenant or other lease affecting the Shopping Center; (3) which would impose a greater burden upon the Shopping Center's facilities; or (4) which would involve any use of hazardous materials (other than de minimus sums in the ordinary course of business and strictly in compliance with existing law); or (iii) make any alterations to the Demised Premises or otherwise incur any costs in connection with any such reletting, unless Tenant unconditionally delivers to Landlord, in good and sufficient funds, the full amount thereof in advance.

22.4 Landlord may restrain or enjoin any breach or threatened breach of any covenant, duty or obligation of Tenant herein contained without the necessity of proving the inadequacy of any legal remedy or irreparable harm. Except to the extent prohibited by law, the remedies of Landlord hereunder are cumulative and not exclusive of each other.

22.5 If on account of any breach or default by Tenant in its obligations hereunder, Landlord shall employ an attorney to present, enforce or defend any of Landlord's rights or remedies hereunder, Tenant agrees to pay any reasonable attorney's fees and court costs incurred by Landlord in such connection.

22.6 Tenant acknowledges its obligation to deposit with Landlord the sum stated in Section 1.1(r) above, to be held by Landlord without interest as security for the performance by Tenant of Tenant's covenants and obligations under this lease. Tenant agrees that such deposit may be co-mingled with Landlord's other funds and is not an advance payment of rental or a measure of Landlord's damages in case of default by Tenant. Upon the occurrence of any event of default by Tenant, Landlord may, from time to time, without prejudice to any other remedy provided herein or provided by law, use such funds to the extent necessary to make good any arrears of rentals and any other damage, injury, expense or liability caused to Landlord by such event of default, and Tenant shall pay to Landlord on demand the amount so applied in order to restore the security deposit to its original amount. If Tenant is not then in default hereunder, any remaining balance of such deposit shall be returned by Landlord to Tenant within 60 days after termination of this lease (subject to the provisions of Section 19.5 above) and provision of Tenant's address for the purpose of refunding the security deposit.

22.7 Tenant shall compensate Landlord for all reasonable expenses incurred by Landlord in repossession (including, among other expenses, repairs, remodeling, replacements, advertisements and brokerage fees) all losses incurred by Landlord as a result of Tenant's default and Landlord's pursuing the rights and remedies provided herein and under applicable law.

ARTICLE XXIII. LANDLORD'S CONTRACTUAL SECURITY INTEREST

23.1 **SUBJECT TO SECTION 19.4, IN ADDITION TO THE STATUTORY LANDLORD'S LIEN, LANDLORD SHALL HAVE AT ALL TIME (AND TENANT HEREBY GRANTS) A VALID SECURITY INTEREST TO SECURE PAYMENT OF ALL RENTALS AND OTHER SUMS OF MONEY BECOMING DUE HEREUNDER FROM TENANT, AND TO SECURE PAYMENT OF ANY DAMAGES OR LOSS WHICH LANDLORD MAY SUFFER BY REASON OF THE BREACH BY TENANT OF ANY COVENANT, AGREEMENT OR CONDITION CONTAINED HEREIN, UPON ALL GOODS, WARES, EQUIPMENT, FIXTURES, FURNITURE, IMPROVEMENTS AND OTHER PERSONAL PROPERTY OF TENANT PRESENTLY, OR WHICH MAY HEREAFTER BE, SITUATED ON THE DEMISED PREMISES, AND ALL PROCEEDS THEREFROM, AND SUCH PROPERTY SHALL NOT BE REMOVED (OTHER THAN INVENTORY IN THE ORDINARY COURSE OF BUSINESS) WITHOUT THE CONSENT OF LANDLORD UNTIL ALL ARREARAGES IN RENT AS WELL AS ANY AND ALL OTHER SUMS OF MONEY THEN DUE TO LANDLORD HEREUNDER SHALL FIRST HAVE BEEN PAID AND DISCHARGED AND ALL THE COVENANTS, AGREEMENTS AND CONDITIONS HEREOF HAVE BEEN FULLY COMPLIED WITH AND PERFORMED BY TENANT.** Upon the occurrence of any event of default by Tenant, Landlord may, in addition to any other remedies provided herein, enter upon the Demised Premises and take possession of any and all goods, wares, equipment, fixtures, furniture, improvements and other personal property of Tenant situated on the Demised Premises, without liability for trespass or conversion, and sell the same at public or private sale, with or without having such property at the sale, after giving Tenant

reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, at which sale the Landlord or its assigns may purchase unless otherwise prohibited by law. Unless otherwise provided by law, and without intending to exclude any other manner of giving Tenant reasonable notice, the requirement of reasonable notice shall be met if such notice is given in the manner prescribed in this lease at least five days before the time of sale. Any sale made pursuant to the provisions of this Article shall be deemed to have been a public sale conducted in a commercially reasonable manner if held in the Demised Premises or where the property is located after the time, place and method of sale and a general description of the types of property to be sold have been advertised in a daily newspaper published in the county in which the property is located for five consecutive days before the date of the sale. The proceeds from any such disposition, less any and all expenses connected with the taking of possession, holding and selling of the property (including reasonable attorney's fees and legal expenses), shall be applied as a credit against the indebtedness secured by the security interest granted in this Article. Any surplus shall be paid to Tenant or as otherwise required by law; the Tenant shall pay any deficiencies forthwith. Upon request by Landlord, Tenant agrees to execute and deliver to Landlord a financing statement in form sufficient to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the provision of the Uniform Commercial Code (or corresponding state statute or statutes) in force in the state in which the property is located, as well as any other state the laws of which Landlord may at any time consider to be applicable. In addition, Tenant hereby authorizes Landlord to perfect such security interest as Landlord may elect without the necessity of Tenant's signature to the extent allowed by law.

ARTICLE XXIV. HOLDING OVER

24.1 In the event Tenant remains in possession of the Demised Premises after the expiration of this lease and without the execution of a new lease, Tenant shall be deemed to be occupying said Demised Premises as a holdover tenant at a rental equal to the rental (including any percentage rental) herein provided plus twenty-five (25%) percent of such amount and otherwise subject to all the conditions, provisions and obligations of this lease insofar as the same are applicable to a holdover tenancy. The foregoing does not constitute authorization to hold over.

ARTICLE XXV. NOTICES

25.1 Wherever any notice is required or permitted hereunder, such notice shall be in writing. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered when actually received by the designated addressee or, if earlier and regardless of whether actually received or not, when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the parties hereto at the respective addresses set out in Section 1.1 above (or at Landlord's option, to Tenant at the Demised Premises), or at such other addresses as they have theretofore specified by written notice.

25.2 If and when included within the term "Landlord" as used in this instrument there are more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such notice specifying some individual at some specific address for the receipt of notices and payments to the Landlord; if and when included within the term "Tenant" as used in this instrument there are more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such a notice specifying some individual at some specific address for the receipt of notices and payment to Tenant. All parties included within the terms "Landlord" and "Tenant" respectively, shall be bound by notices and payments given in accordance with the provisions of this Article to the same effect as if each had received such notice or payment. In addition, Tenant agrees that notices to Tenant may be given by Landlord's attorney, property manager or other agent.

ARTICLE XXVI. COMMISSIONS; TITLE ADVICE

26.1 Landlord shall pay to Agent (and, if applicable, the Cooperating Agent) a commission for negotiating this lease pursuant to the terms of a separate commission agreement between Landlord and Agent (and, if applicable, the Cooperating Agent). All of said commissions shall be paid by Landlord to Agent (and, if applicable, the Cooperating Agent), at Agent's (and, if applicable, the Cooperating Agent's) principal office in the county where the Demised Premises are located. **LANDLORD SHALL NOT PAY A RENEWAL COMMISSION TO ANY OUTSIDE BROKER FOR THE RENEWAL OF THIS LEASE. IF TENANT ELECTS TO ENGAGE AN OUTSIDE BROKER FOR THE PURPOSE OF NEGOTIATING A RENEWAL TO THE LEASE, TENANT SHALL BE RESPONSIBLE FOR THE PAYMENT OF ALL FEES INCURRED.**

26.2 The provisions of this Article XXVI shall be binding upon Landlord and Landlord's heirs, personal representatives, assigns and successors in interest, and shall inure to the benefit of the Agent and its successors in interest; provided, however, that in the event of any assignment of this lease by Landlord or the sale of all or any part of the Demised Premises, both Landlord and such assignee or purchaser, and the assigns and successors of each, shall be jointly and severally liable for all commissions due and to become due hereunder, unless Landlord shall cause the assignee or purchaser to assume and agree to perform the covenants, duties and obligations of Landlord under this section accruing after such sale, in which event Landlord shall be deemed released at such time as the assignee or purchaser assumes such obligations.

26.3 Tenant hereby acknowledges that at the time of the execution of this lease, Agent advised Tenant by this writing that Tenant should have an abstract covering the real estate upon which the Shopping Center and the Demised Premises are located examined by attorney of Tenant's own selection or, at Tenant's option, that Tenant should obtain a leasehold owner's policy of title insurance.

ARTICLE XXVII. REGULATIONS

27.1 Landlord and Tenant acknowledge that there are in effect federal, state, county and municipal laws, order, rules, directives and regulations (collectively referred to herein after as the "Regulations") and that additional Regulations may hereafter be enacted or go into effect, relating to or affecting the Demised Premises or the Shopping Center, and concerning the impact on the environment of construction, land use, maintenance and operation of structures, and conduct of business. Subject to the express rights granted to Tenant under the terms of this lease, Tenant will not cause, or permit to be caused, any act or practice, by negligence, omission, or otherwise, that would adversely affect the environment, or do anything to permit anything to be done that would violate any of said laws, regulations or guidelines. Moreover, Tenant shall have no claim against Landlord by reason of any changes Landlord may make in the Shopping Center or the Demised Premises pursuant to said Regulations or any charges imposed upon Tenant, Tenant's customers or other invitees pursuant to same.

27.2 If, by reason of any Regulations, the payment to, or collection by, Landlord of any rental or other charge (collectively referred to hereinafter as "Lease Payments") payable by Tenant to Landlord pursuant to the provisions of this lease is in excess of the amount (the "Maximum Charge") permitted thereof by the Regulations, then Tenant, during the period (the "Freeze Period") when the Regulations shall be in force and effect, shall not be required to pay, nor shall Landlord be permitted to collect, any sum in excess of the Maximum Charge. Upon the earlier of (i) the expiration of the Freeze Period, or (ii) the issuance of a final order or judgment of a court of competent jurisdiction declaring the Regulations to be invalid or not applicable to the provision of this lease, Tenant, to the extent not then protected by law, and commencing with the first day of the month immediately following, shall pay to Landlord as additional rental, in equal monthly installments during the balance of the Lease Term, a sum equal to the cumulative difference between the Maximum Charges and the Lease Payments during the Freeze Period. If any provisions of this section, or the application thereof, shall to any extent be declared to be invalid and unenforceable, the same shall be deemed to not affect any of the other provisions of this section or of this lease, and all other provisions of this section or of this lease shall be deemed valid and enforceable to the fullest extent permitted by law.

ARTICLE XXVIII. HAZARDOUS SUBSTANCES

28.1 For purposes of this Article XXVIII, "hazardous substance" means any matter giving rise to liability under (i) the Resources Conservation Recovery Act as amended by the Hazardous and Solid Waste Amendments of 1984, as now or hereafter amended ("RCRA"), 42 U.S.C. Sections 6901 *et seq.*, (ii) the Comprehensive Environmental Response, Compensation and Liability Act as amended by the Superfund Amendments and Reauthorization Act of 1986, as now or hereafter amended ("CERCLA"), 42 U.S.C. Sections 9601 *et seq.*, (iii) the Clean Water Act, as now or hereafter amended ("CWA"), 33 U.S.C. Sections 1251 *et seq.*, (iv) the Toxic Substances and Control Act, as now or hereafter amended ("TSCA"), 15 U.S.C. Sections 2601 *et seq.*, (v) the Clean Air Act, as now or hereafter amended ("CAA"), 42 U.S.C. Sections 7401 *et seq.*, (the RCRA, CERCLA, CWA, TSCA and CAA shall collectively be referred to herein as the "Federal Toxic Waste Laws"), (vi) the Texas Solid Waste Disposal Act, as now or hereafter amended ("TSWDA"), Tex. Rev. Civ. Stat. Ann. Articles 4477-7 *et seq.*, (vii) the Texas Water Quality Control Act, as now or hereafter amended ("TWC"), Tex. Water Code Ann. Sections 26.001 *et seq.*, (viii) the Texas Clean Air Act, as now or hereafter amended ("TCAA"), Tex. Rev. Civ. Stat. Ann. Articles 4477-5 *et seq.*, (the TSWDA, TWC and TCAA shall collectively be referred to herein as the "Texas Toxic Waste Laws") and (ix) any common law theory based on nuisance or strict liability.

28.2 Tenant shall not in any manner permit, conduct or authorize the generation, transportation, storage, treatment or disposal at the Demised Premises of any hazardous substance without prior written authorization by Landlord (other than de minimus amounts used strictly in accordance with applicable law), and Tenant's failure to do so shall constitute a default under this lease.

28.3 If Tenant (or any party claiming by, through or under Tenant) generates, transports, stores, treats or disposes at the Demised Premises, any hazardous substance,

(a) Tenant shall, at its sole cost and expense, comply with all laws (federal, state or local) relating to hazardous substances, including, but not limited to, the Federal Toxic Waste Laws and the Texas Toxic Waste Laws;

(b) Tenant shall promptly provide Landlord with copies of all communications, permits or agreements with any governmental authority or agency (federal, state or local) or any private entity relating in any way to the presence, release, threat of release, placement on or in the Demised Premises, or the generation, transportation, storage, treatment or disposal at the Demised Premises, of any hazardous substances;

(c) Landlord and Landlord's agents and employees shall have the right to enter the Demised Premises and/or conduct appropriate tests for the purpose of ascertaining that Tenant complies with all applicable rules or permits relating in any way to the presence of hazardous substances on the Demised Premises; and

(d) Upon written request by Landlord, Tenant shall provide Landlord the results of appropriate tests of air, water or soil to demonstrate that Tenant complies with all applicable laws, rules or permits relating in any way to the presence of hazardous substances on the Demised Premises.

28.4 If the presence, release, threat of release, placement on or in the Demised Premises by, through or at the direction of Tenant, or the generation, transportation, storage, treatment or disposal at the Demised Premises of any hazardous substance by or at the direction of Tenant (a) gives rise to liability (including, but not limited to, a response action, remedial action, or removal action under the Federal Toxic Waste Laws, the Texas Toxic Waste Laws, or any common law theory based on nuisance or strict liability), (b) causes a significant public health effect, or (c) pollutes or threatens to pollute the environment, Tenant shall promptly take any and all remedial and removal action necessary to clean up the Demised Premises and mitigate exposure to liability arising from the hazardous substance, whether or not required by law, and shall indemnify, defend and protect Landlord from any claim or liability resulting therefrom. This indemnification survives the expiration of this Lease as to accrued claims.

ARTICLE XXIX. MISCELLANEOUS

29.1 Nothing in this lease shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. For the purposes of calculating gross leaseable square footage under this lease (where required under the terms of this lease), all such areas shall be measured from the exterior surface of exterior walls (and from the extensions thereof in the case of openings) from the front of the lease line, and from the center of party and interior demising walls. The parties agree that the methodology of determining the Tenant's Proportionate Share (and related pass-thru costs) is acceptable, clear and reasonable.

29.2 Landlord shall only be in default if it fails to perform any term, condition, covenant or obligation required under this lease for a period of thirty (30) days after written notice thereof from Tenant to Landlord; provided, however, that if the term, condition, covenant or obligation to be performed by Landlord is such that it cannot reasonably be performed within thirty (30) days, such default shall be deemed to have been cured if Landlord commences such performance within said thirty-day period and thereafter diligently undertakes to complete the same.

29.3 If, despite the limitation of remedies of Section 29.2 above, Tenant is ever assessed damages or other monetary judgment against Landlord under or relating to this lease, the liability of Landlord to Tenant for any default by Landlord under or relating to the terms of this lease shall be limited to the proceeds of sale on execution of the interest of Landlord in the Demised Premises; and Landlord shall not be personally liable for any deficiency. This clause shall not be deemed to limit or deny any remedies which Tenant may have in the event of default by Landlord hereunder, which do not involve the personal liability of Landlord. This agreement by Tenant is a material consideration for Landlord's execution of this lease.

29.4 In all circumstances under this lease where the prior consent of one party (the "Consenting Party"), whether it be Landlord or Tenant, is required before the other party (the "Requesting Party") is authorized to take any particular type of action, such consent shall not be withheld in a wholly unreasonable and arbitrary manner.

29.5 One or more waivers of any covenant, term or condition of this lease by either party shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act. All amendments to this lease must be in writing and signed by the parties hereto. No verbal amendment to this lease is binding upon the parties hereto.

29.6 Whenever a period of time is herein prescribed for action to be taken by Landlord, Landlord shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other cause of any kind whatsoever which are beyond the reasonable control of Landlord.

29.7 Intentionally omitted.

29.8 If any provisions of this lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this lease shall not be affected thereby, and such provision shall be automatically replaced with a provision as near as possible that is legal.

29.9 The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this lease. Venue for any action under this lease shall be the county in which rentals are due pursuant to Section 4.2 and Section 1.1 of this lease.

29.10 Time is of the essence with respect to the obligations hereunder.

29.11 Whenever herein the singular number is used, the same shall include the plural, and words of any gender shall include each other gender. The captions used herein are for convenience and do not limit or amplify the provisions hereof.

29.12 The terms, provisions and covenants in this lease shall apply to, inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors in interest and legal representatives except as otherwise herein expressly provided.

29.13 Tenant shall provide the following described items to Landlord for Landlord's written approval which approval will not be unreasonably withheld, delayed or conditioned (but Landlord and Tenant agree that such items are for the benefit of Landlord, and Landlord may waive the right to receive any or all of such items, and Tenant shall have no right to terminate the lease as a result thereof), prior to Tenant's receiving the reimbursement, if any, referred to in Article IV.E. of Exhibit "C", in the event Exhibit "C" shall then be attached hereto. Prior to commencement of any work in or to the Demised Premises, Tenant shall first obtain Landlord's written approval (which approval will not be unreasonably withheld, delayed or conditioned) of: Tenant's plans and written specifications covering the proposed work; Tenant's proposed Contractor(s); and Tenant's contract(s) covering the proposed work.

(a) Should there be construction work performed in the Demised Premises and upon completion thereof, Tenant shall provide to Landlord reasonably satisfactory evidence that all bills have been paid to all contractors, subcontractors, suppliers, and vendors who performed services or provided material in or on the Demised Premises. Additionally, Tenant shall furnish final notarized unconditional lien waivers reasonably acceptable to Landlord from all contractors, subcontractors, suppliers, and vendors performing such construction work, which lien waivers shall include but not be limited to the total contract amount of material and/or labor used in or on the Demised Premises;

(b) In connection with the installation of any equipment on or penetrations through the roof of the Demised Premises, Tenant at its sole cost and expense must provide to Landlord a letter reasonably satisfactory to Landlord from a structural engineer of Landlord's selection stating that said engineer has approved the location at which the equipment is to be installed and/or the location of any proposed roof penetrations. Additionally, the letter must clarify: (i) that the installation of all equipment and/or penetrations was located and completed in accordance with said engineer's instructions which may have included the requirements of some additional structural bracing; (ii) that all work was performed in a good and workmanlike manner; and (iii) that said work was completed in accordance with the specifications approved by Landlord.

Notwithstanding anything stated above, if Landlord's roof is still under warranty, then Tenant must use the roofing contractor of Landlord's designation; and in connection therewith, it is Tenant's obligation to ascertain Landlord's roof warranty status prior to any work being initiated on the roof. Tenant shall not cause any existing roof warranty to be invalidated. If the roof is not under warranty, Tenant shall nevertheless, prior to the commencement of any work on the roof, obtain Landlord's written approval (which approval will not be unreasonably withheld, conditioned or delayed) of the proposed roofing contractor Tenant intends to use. The cost of all engineer's inspections and certification letters as well as all work required by the engineers shall be paid by the Tenant.

(c) A true copy of Tenant's Certificate of Occupancy issued by the governmental authority in whose jurisdiction the Demised Premises are located;

(d) A Certificate of Insurance evidencing the insurance coverages as set forth in Section 15.2 herein;

(e) A Tenant Certification Letter, if requested by Landlord, stating that the lease is in full force and effect, confirming the commencement and expiration dates of the lease, rentals to be paid, status of Security Deposit, acknowledgment by Tenant that all construction work, if any, has been completed to Tenant's satisfaction, Tenant has accepted the Demised Premises, and that Tenant asserts no claim or default against Landlord and that Landlord is not in default under any of the terms and conditions of the lease;

(f) Tenant's Financing Statements in accordance with Section 23.1 herein;

(g) Evidence from Tenant that all appropriate utilities have been transferred into Tenant's name;

(h) To the extent that the Tenant is a corporation, then Tenant must provide to Landlord a corporate resolution in form and substance reasonably acceptable to Landlord authorizing Tenant to enter into this lease and authorizing the officer executing the lease to do so on behalf of the Tenant; and

(i) Evidence that the construction work performed in the Demised Premises complies with all previously approved plans.

29.14 This lease contains the entire agreement between the parties with respect to the subject matter hereto, and all prior and contemporaneous negotiations, understandings, statements, representations and agreements (oral or written) between the parties with respect to such matters are expressly merged into and superseded by this lease. No brochure, rendering, information or correspondence shall be deemed to be a part of this agreement unless specifically incorporated herein by reference. In addition, no agreement shall be effective to change, modify or terminate this lease in whole or in part unless such is in writing and duly signed by the party against whom enforcement of such change, modification or termination is sought. Both parties have participated in the drafting of this lease and this lease shall not be construed in favor of a party solely on the basis that it did not participate in the drafting of this document. Indemnification and other obligations of Tenant (e.g., pass-thru reconciliation) in this lease shall survive the termination or expiration of this lease as to accrued claims.

29.15 TENANT HEREBY ACKNOWLEDGES THAT IT IS NOT RELYING UPON ANY BROCHURE, RENDERING, INFORMATION, REPRESENTATION OR PROMISE OF LANDLORD, OR OF THE AGENT OR COOPERATING AGENT, EXCEPT AS MAY BE EXPRESSLY SET FORTH IN THIS LEASE.

29.16 This lease consists of twenty-nine articles and Exhibits "A" through "J". With the exception of Article VII, in the event any provision of an exhibit or other attached page shall be inconsistent with a provision in the body of this lease, the provision as set forth in the exhibit shall be deemed to control. The exhibits are incorporated herein and made a part hereof.

29.17 Intentionally omitted.

29.18 TENANT SHALL NOT ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES TO THE EXTENT ALLOWED BY LAW ANY RIGHT TO TRIAL BY JURY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH RESPECT TO THIS LEASE. THIS WAIVER IS VOLUNTARY, INTENTIONAL AND INFORMED. FURTHERMORE, LANDLORD AND TENANT ARE KNOWLEDGEABLE AND EXPERIENCED IN COMMERCIAL TRANSACTIONS AND AGREE THAT THE PROVISIONS OF THIS LEASE FOR DETERMINING CHARGES, AMOUNTS AND ADDITIONAL RENT PAYABLE BY TENANT (INCLUDING, WITHOUT LIMITATION, PAYMENTS UNDER ARTICLES VI AND VII AND OTHER APPLICABLE PROVISIONS OF THIS LEASE) ARE COMMERCIALY REASONABLE AND VALID EVEN THOUGH SUCH METHODS MAY NOT STATE A PRECISE MATHEMATICAL FORMULA FOR DETERMINING SUCH CHARGES. ACCORDINGLY, TENANT VOLUNTARILY AND KNOWINGLY WAIVES ALL RIGHTS AND BENEFITS OF TENANT UNDER SECTION 93.012 OF THE TEXAS PROPERTY CODE.

29.19 Intentionally omitted.

29.20 Tenant shall keep the terms and conditions of this lease (including, but not limited to, any charges assessed hereunder) strictly confidential and shall only disclose such terms and conditions to such of its employees, lawyers and accountants with a genuine need to know, and only then on the condition that they agree to keep such information strictly confidential. The obligation of confidentiality herein contained is a material inducement for Landlord's agreement to enter into this lease.

29.21 From and after the date hereof, Landlord shall not enter into a lease of space within the Shopping Center that permits more than 10% of the annual gross sales derived from such space to be derived from the Permitted Use. This covenant shall expire if Tenant ceases operation at the Demised Premises for reasons other than initial construction, bona fide remodeling or casualty repairs. This Section 29.21 shall be inapplicable to any lease existing as of the date hereof (as such may be renewed or extended) which lease provides for a permitted change of use without Landlord's consent or requires such consent without regard to a this then-applicable exclusivity provision which would not permit such use. Landlord shall give Tenant notice of any request for consent to a change of use under an existing lease promptly upon receipt of such request together with the documents reasonably necessary to review such request (including, for example, the lease and letter or accompanying material which identifies the request).

29.22 Landlord agrees that it will cooperate with Tenant in connection with the frequency of dumpster pick-ups required to keep the dumpster provided by Landlord pursuant to Exhibit C, Article III.A.6 available for Tenant's trash during the normal operation of Tenant's business.

29.23 Notwithstanding anything seemingly to the contrary, Landlord has disclosed that one of Landlord's affiliates may own a portion of the Shopping Center, and any references or implication that Landlord owns the entirety of the Shopping Center is hereby so modified. For purposes of calculating pass-through expenses (e.g., real estate charges, insurance expenses and common area charges), Landlord may, at its discretion, treat expenses for the portion of the Shopping Center owned by Landlord's affiliate as if owned by Landlord (i.e., Landlord may treat the Shopping Center as a unified whole). In addition, Landlord may separate the Shopping Center into different parts in its commercially reasonable discretion to allocate pass through costs as Landlord deems fair and reasonable.

[Remainder of page intentionally left blank.]

EXECUTED as of the latest date accompanying a signature by Landlord or Tenant below.

LANDLORD:

I-20/South Collins III, LP

a Texas limited partnership

By: I-20/South Collins III GP, LLC
a Texas limited liability company, Member

Name: [Signature]

Title: Manager

Date of Signature: 5/15/15

Taxpayer Identification No.: 47-2966206

TENANT:

TAQUERIA LA VENTANA, LLC.

By: [Signature]

Name: Michael D. KARR

Title: MANAGER

Date of Signature: 5.6.15

Taxpayer Identification No.: 36-9796218

Social Security No.: N/A

EXHIBITS

- A Site Plan (Locating the Shopping Center and Demised Premises with the Shopping Center)
- B Rules and Regulations
- C Interior Finish
- D HVAC Maintenance Requirements
- E Insurance Requirements
- F Article IX – Restrictions
- G Renewal Options
- H Lease Guaranty
- I Information Sheet
- J Landlord Sign Criteria

For purposes of this Lease, the Shopping Center (as defined in Section 1.1 (i)) shall refer to the buildings with address 457 E. Interstate 20 Highway, Arlington, Texas 76014

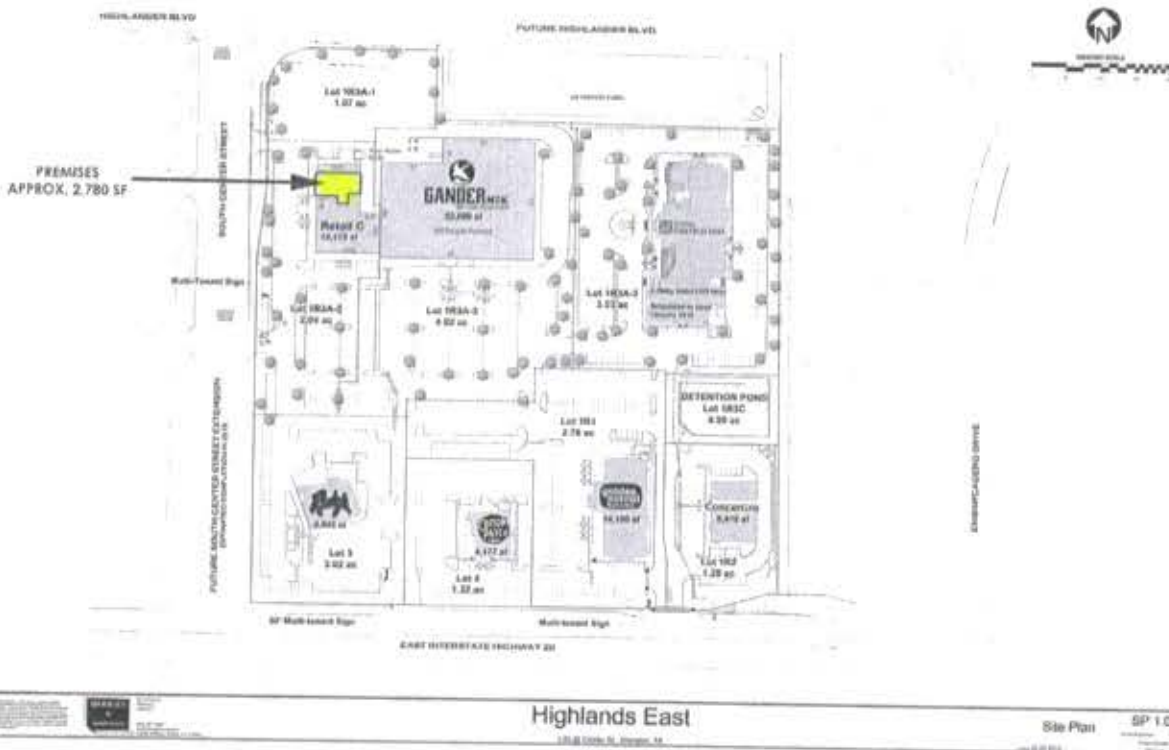
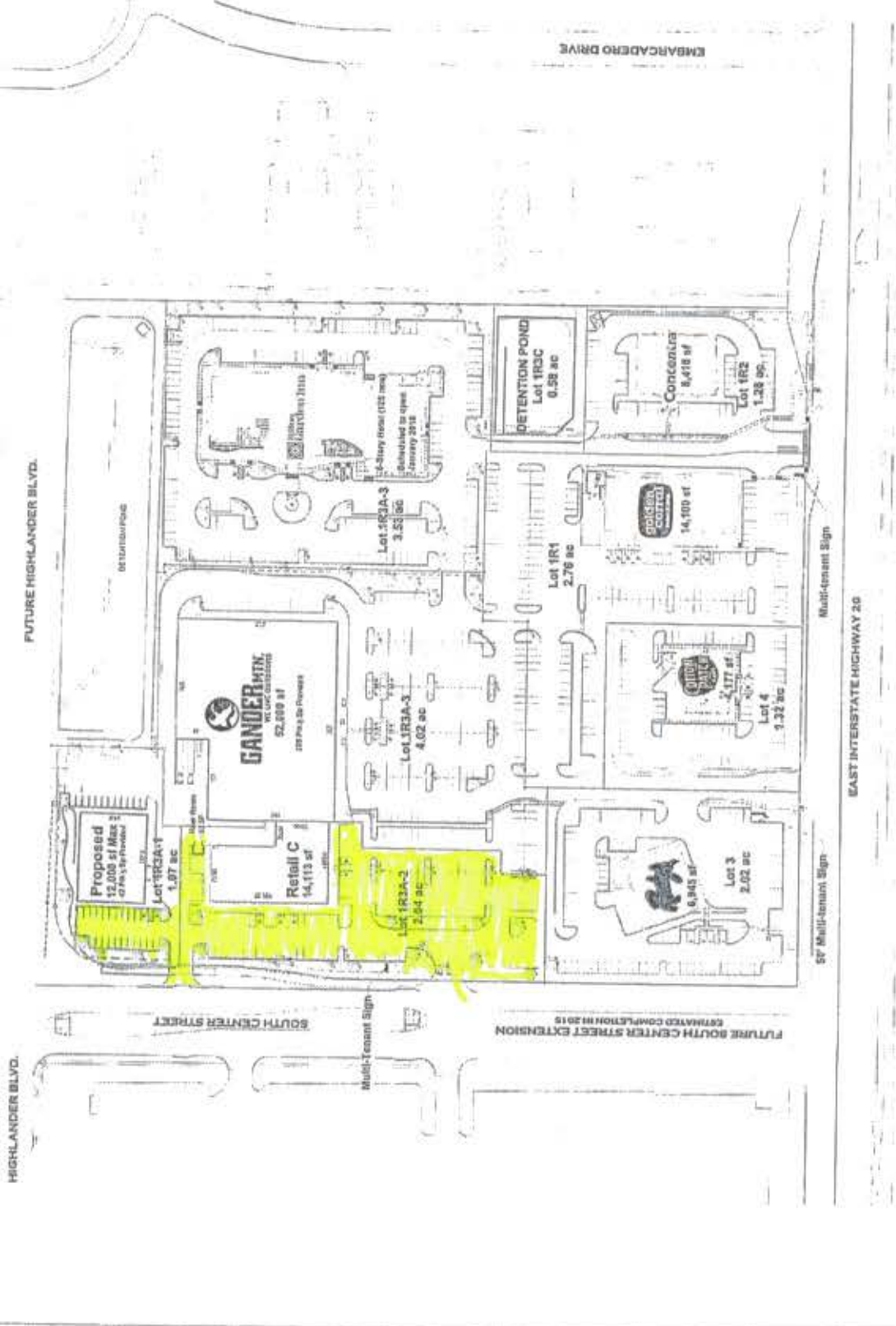


EXHIBIT A-1

Restricted Area

(shown in yellow on attached site plan)



HOOPER & PARTNERS
10000 Katy Road, Suite 100
Houston, Texas 77054
Tel: 281.460.0000
Fax: 281.460.0001
www.hoover.com

Project Name
Highlands East
10000 Center St., Arlington, TX

Site Plan

SP 1.00
Revision
Date: 05.08.2014
Project Number
000000

EXHIBIT "B"

RULES AND REGULATIONS

Tenant shall cause compliance with the following rules and regulations:

1. Tenant shall retain all copies of keys to the Demised Premises.
2. Tenant will refer all contractors, contractor's representatives and installation technicians rendering any service on or to the Demised Premises for Tenant to Landlord for Landlord's approval, which approval will not be unreasonably delayed, withheld or conditioned, before performance of any contractual service. Tenant's contractors and installation technicians shall comply with Landlord's rules and regulations pertaining to construction and installation. This provision shall apply to all work performed on or about the Demised Premises or Shopping Center, including installation of telephones, telegraph equipment, electrical devices and attachments and installations of any nature affecting floors, wall, woodwork, trim, windows, ceilings and equipment or any other physical portion of the Demised Premises or Shopping Center.
3. Tenant shall not at any time occupy any part of the Demised Premises or Shopping Center as sleeping or lodging quarters.
4. Tenant shall not place, install or operate on the Demised Premises or in any part of the building any engine, stove or machinery, or conduct mechanical operations or cook therein, or place or use in or about the Demised Premises or Shopping Center any explosives, gasoline, kerosene, oil, acids, caustics, or any flammable, explosive or hazardous material without written consent of Landlord. Notwithstanding the foregoing, Landlord consents to Tenant's use of the Demised Premises for the intended purposes including the use of stoves, etc. as ordinary and necessary for such use.
5. Landlord shall not be responsible for lost or stolen personal property, equipment, money or jewelry from the Demised Premises or the Shopping Center regardless of whether such loss occurs when the area is locked against entry or not.
6. No dogs, cats, fowl, or other animals shall be brought into or kept in or about the Demised Premises or Shopping Center.
7. None of the parking, plaza, recreation or lawn areas, entries, passages, doors, elevators, hallways or stairways shall be blocked or obstructed or any rubbish, litter, trash, or material of any nature placed, emptied or thrown into these areas or such area used by Tenant's agents, employees or invitees at any time for purposes inconsistent with their designation by Landlord.
8. The water closets and other water fixtures shall not be used for any purpose other than those for which they were constructed, and any damage resulting to them from misuse or by the defacing or injury of any part of the building shall be borne by the person who shall occasion it. No person shall waste water by interfering with the faucets or otherwise.
- 9.
10. Subject to the normal use of the Demised Premises including patio area as a restaurant, no person shall disturb occupants of the building by the use of any radios, record players, tape recorders, musical instruments, the making of unseemly noises or any unreasonable use.
11. Nothing shall be thrown out of the windows of the building or down the stairways or other passages.
12. Tenant and its employees, agents and invitees shall park their vehicles only in those parking areas designated by Landlord. Landlord may designate exclusive parking areas. Tenant shall furnish Landlord with state automobile license numbers of Tenant's vehicles and its employees' vehicles within five days after taking possession of the Demised Premises and shall notify Landlord of any changes within five days after such change occurs. Tenant shall not leave any vehicle in a state of disrepair (including without limitation, flat tires, out of date inspection stickers or license plates) on the Demised Premises or Shopping Center. If Tenant or its employees, agents or invitees park their vehicles in areas other than the designated parking areas or leave any vehicle in a state of disrepair, Landlord, after giving written notice to Tenant of such violation, shall have the right to remove such vehicles at Tenant's expense.
13. Parking in a parking garage or area shall be in compliance with all parking rules and regulations including any sticker or other identification system established by Landlord. Failure to observe the rules and regulations shall terminate Tenant's right to use any parking garage or area and subject the vehicle in violation of the parking rules and regulations to removal or impoundment. No termination of parking privileges or removal or impoundment of a vehicle shall create any liability on Landlord or be deemed to interfere with Tenant's right to possession of its Demised Premises. Vehicles must be parked entirely within the stall lines and all directional signs, arrows and posted speed limits must be observed. Parking is prohibited in areas not striped for parking, in aisles, where "No Parking" signs are posted, on ramps, in cross hatched areas, and in other areas as may be designated by Landlord. Parking stickers or other forms of identification supplied by Landlord shall remain the property of Landlord and not the property of Tenant and are not transferable. Every person is required to park and lock his vehicle. All responsibility for damage to vehicles or persons is assumed by the owner of the vehicle or its driver. Tenant shall not permit bumper stickers, sandwich boards or other advertising devices on any vehicle parked in the Shopping Center and belonging to Tenant and/or its agents or employees.
14. Movement in or out of the building of furniture or office supplies and equipment, or dispatch or receipt by Tenant of any merchandise or materials which requires use of elevators or stairways, or movement through the building entrances, or common, plaza or parking garage, shall be restricted to hours designated by Landlord. All such movement shall be under supervision of Landlord and carried out in the manner agreed between Tenant and Landlord, by prearrangement before performance. Such prearrangement will include determination by Landlord of time, method, and routing of movement and limitations imposed by safety or other concerns which may prohibit any article, equipment or any other item from being brought into the building. Tenant assumes, and shall indemnify Landlord against, all risks and claims of damage to persons and property arising in connection with any said movement.
15. Landlord shall not be liable for any damages from the stoppage of elevators for necessary or desirable repairs or improvements or delays of any sort or duration in connection with the elevator service, if any.
16. Tenant shall not lay floor covering within the Demised Premises without written approval of the Landlord. The use of cement or other similar adhesive materials not easily removed with water is expressly prohibited.

17. Tenant agrees to cooperate and assist Landlord in the prevention of canvassing, soliciting and peddling within the building or Shopping Center. Tenant shall not solicit business, distribute handbills or other advertising matter or hold demonstrations in the parking, plaza or common areas.
18. Landlord reserves the right to exclude from the Shopping Center during all hours in which the Shopping Center is closed, all persons who are not known to the Shopping Center security personnel and who do not present a pass to the building signed by the Tenant. Each Tenant shall be responsible for all persons for whom he supplies a pass.
19. Tenant shall keep the Demised Premises, store fronts, sidewalks, serviceways and loading areas adjacent to the Demised Premises neat, clean and free from garbage. Tenant shall store all trash and garbage within the area designated by Landlord for such trash storage and only in receptacles of the size, design and color from time to time prescribed by Landlord. Removal of garbage and trash shall be made only in the manner and areas and at the times from time to time prescribed by Landlord.
20. Tenant shall maintain and keep operational all electric signs within display areas at all times prescribed by Landlord for the Shopping Center.
21. Tenant shall not place goods, wares or merchandise or other articles in any vestibule or entry into the Demised Premises without Landlord's prior written consent.
22. Landlord reserves the right to make such other and further reasonable rules and regulations as in its judgment may from time to time be necessary for the safety, care and cleanliness of the Demised Premises and for the preservation of good order therein.
23. Tenant shall only use approved and acceptable contractors for any work done within the demised premises and contracted by Tenant, which approval and acceptance will not be unreasonably withheld, delayed or conditioned. Such contractor shall be pre-approved in writing from Landlord prior to the start of any HVAC, electrical, plumbing or roofing work required by Tenant.
24. Tenant shall not place any banners or other advertising material in the store front glass or on the exterior of the Demised Premises at any time during the Lease Term without Landlord's prior written consent first being obtained (such consent at Landlord's sole and absolute discretion).

EXHIBIT "C"

INTERIOR FINISH

ARTICLE I. GENERAL

A. Subject to the provisions below, Landlord agrees that it will proceed to construct (or, to the extent already partially constructed, will complete) a store unit upon the Demised Premises in substantial compliance with the description of Landlord's Work in Article III below. The Demised Premises shall be deemed "ready for occupancy" when Landlord's Work has been substantially completed (except for minor finishing jobs); provided, however, that if Landlord's Work is delayed because of a default or failure, or both, of Tenant, then the Demised Premises shall also be deemed "ready for occupancy" when Landlord's Work would have been substantially completed if Tenant's default or failure, or both, had not occurred. When the Demised Premises are ready for occupancy (which shall be the date Landlord delivers to Tenant the keys for the Demised Premises with a written or verbal statement to the effect that they are ready for occupancy), Tenant agrees to accept possession thereof and to proceed with due diligence to perform Tenant's Work, as described in Article IV below, and to open for business at the Demised Premises. Tenant agrees that at the request of Landlord, Tenant will, following the Commencement Date, execute and deliver a written statement acknowledging that Tenant has accepted possession and reciting the exact Commencement Date and termination date of this lease.

B. By occupying the Demised Premises, Tenant shall be deemed to have accepted the same and to have acknowledged that the same fully complies with Landlord's covenants and obligations under this lease. Occupancy of the Demised Premises by Tenant prior to the Commencement Date shall be subject to all of the terms and provisions of this lease, excepting only those requiring the payment of rent.

ARTICLE II: PRE-CONSTRUCTION OBLIGATIONS

A. All plans, diagrams, schedules, specifications and other data relating to Tenant's preferences in connection with Landlord's Work must be furnished by Tenant to Landlord complete, sufficient to obtain a building permit, and ready for Landlord's consideration and final approval within ~~fifteen (15) days~~ ^{30 days} after execution of this lease (or at such other time as may be specified in this exhibit). Without limiting the generality of the immediately preceding sentence, Tenant's submissions must include a floor plan, a reflected ceiling plan, elevations of walls and a fixture plan. All drawings shall be at a scale of either 1/8" or 1/4". Tenant shall reimburse Landlord for any loss or extra cost which may result to Landlord by reason of failure on the part of Tenant to submit any such plans, diagrams, schedules, specifications and/or other data within said period of time. During any construction and during the Lease Term, Tenant shall solely be responsible for making the Demised Premises compliant with the ADA and/or ABA (Architectural Barriers Act of Texas), TAS (Texas Accessibility Standards), and other regulations associated with accessibility.

B. Tenant shall secure Landlord's written approval of all designs, plans, specifications, materials, contractors and contracts for work to be performed by Tenant before beginning the work (including following whatever "work letter" instructions, if any, which Landlord may deliver to Tenant in connection with the work) and shall secure all necessary licenses and permits to be used in performing the work. Tenant's finished work shall be subject to Landlord's approval and acceptance which shall be a condition to any reimbursement hereinafter provided. Approval by Landlord does not mean that such plans are architecturally sound or comply with law. Prior to commencement of any work, Tenant's contractor must deliver to Landlord evidence of insurance coverage as set forth on the attached Exhibit "E".

C. Should Tenant request and Landlord approve any variation in the store front and/or interior finishing of the Demised Premises, and if such items are a part of Landlord's Work as described below, the variation shall be incorporated in the plans to be furnished by Tenant. In such event, Landlord shall reimburse Tenant (or Tenant shall reimburse Landlord, as applicable) for that part of the cost thereof equal to Landlord's determination of its savings (or overage, as applicable) for those parts of Landlord's Work described below. The amount of the reimbursement shall be determined by Landlord at the time of its approval of designs, plans, specifications and contracts, and shall be incorporated within the approval.

D. The insurance requirements under Article XV of the lease and the indemnity requirements under Article XVI of the lease shall apply during the construction contemplated in this exhibit, and Tenant shall provide evidence of appropriate insurance coverage prior to beginning any of Tenant's work. In addition and without limiting the generality of the immediately preceding sentence, at Landlord's opinion, Landlord may require that prior to beginning any of Tenant's Work, Tenant shall provide Landlord with evidence of insurance covering both Tenant and Tenant's contractor against damage to their personal property, as well as against third party liability and worker's compensation claims arising out of all construction and associated activities. All policies of insurance shall be subject to Landlord's approval and shall be endorsed showing Landlord and Landlord's General Contractor as an additional named insured (or, if permitted by Landlord, may provide a waiver of subrogation against Landlord).

ARTICLE III: DESCRIPTION OF LANDLORD'S WORK

A. Structure:

1. Exterior wall surfaces shall be selected by Landlord. Exterior trim and other exterior work normally requiring painting shall be painted.
2. Roofing shall be built-up composition roofing, or other material specified by Landlord.
3. Hollow metal door at rear of Demised Premises per Landlord's plans.
4. Roof insulation.
5. Fire protection system to meet building requirements.
6. Trash dumpster (minimum one per building).
7. 3000 psi 5" thick smooth concrete slab on grade except for 5-foot leave out in rear of building.
8. 14'-0" a.f.f. clear to bottom of lowest girder or joist (whichever is lower).
9. Roof access.

B. Store Front:

1. A standard storefront shall be provided in keeping with the overall architectural design for the Shopping Center.
- C. Parking Areas, Sidewalks and Walls:
1. Parking areas shall be hard surfaced.
 2. Walks shall be surfaced with concrete, stone, brick or other hard material as specified by Landlord.
 3. Parking areas and walks shall be provided with artificial lighting per Landlord's plans.
 4. Common areas shall be landscaped and irrigated per Landlord's plans.
- D. Utilities:
1. Plumbing:
 - 2" or other approved size cold water lines will be brought to the perimeter wall of the building. If Landlord brings water inside to all spaces, Tenant will be responsible for its Proportionate Share. Tenant shall be responsible for all fixtures and connections into and in the Demised Premises. 4" Sewer Line will be brought to the 5-foot leave out in the Demised Premises.
 - Gas service will be provided to the rear of the building perimeter, and Tenant is responsible for having the meter installed and service brought to the Demised Premises.
 2. Electrical service shall be brought to a location on perimeter wall as determined by Landlord. Meter and all service work shall provided by Tenant.
 3. Telephone service conduit shall be brought to a location on the outside perimeter wall of the shell building.
- E. Limitations and Conditions:
1. The work to be done by Landlord shall be limited to that described as Landlord's work in the foregoing paragraphs of this Article III. All work not so classified as Landlord's Work is Tenant's Work.
 2. All work performed by Landlord which is in excess of that required of Landlord by this Article III shall be undertaken only after Tenant has deposited full payment for same with Landlord in the form of cash, money order or cashier's check; and Tenant agrees to make such deposit promptly after execution of this lease (with any delay in Tenant's making such deposit to be deemed a default under this lease, without the requirement of additional notice from Landlord, and causing Tenant's time periods for completing Tenant's work and opening for business to commence as if Tenant's delay had not occurred).

ARTICLE IV: DESCRIPTION OF TENANT'S WORK

A. Signs: Tenant shall pay for all signs and the installation thereof, including front and rear door address numbers as specified by Landlord, including electrical hook-up, subject to the provisions of Section 13.1 of this lease. Modifications approved by Landlord to monument or tower signs shall be at the Tenant's sole expense and shall be performed by a sign contractor approved by Landlord.

B. Utilities: In the event that there is no provision for an individual water meter to be located to serve the Demised Premises, the Tenant, at Landlord's direction, shall install a meter or sub-meter pursuant to Landlord's specifications in order to measure the flow of water to the Demised Premises. Such installation shall be in a location where it can be conveniently read and shall be no higher than 4' from the floor. All meters or other measuring devices in connection with utility services shall be paid for by Tenant. Tenant shall also provide all connections to the utility services provided by Landlord. All service deposits shall be made by Tenant at Tenant's expense. Any special provisions necessary to serve a building beyond what is furnished under Landlord's responsibility for special telephone services, such as fiber optics, etc., shall be at Tenant's sole expense.

C. Store Front: Tenant will be responsible for storefront door to match existing storefront. All doors must be approved by Landlord prior to installation.

D. Interior Work: The work to be done by Tenant shall include, but not be limited to, the purchase and/or installation and/or performance and the use of Landlord-approved vendors only of the following:

1. Adequate electrical service, panel, wiring, fixtures, service disconnect switches, and meter sockets (approved by utility providers).
2. Demise partition(s) as required by existing conditions to separate the Demised Premises from other lease space(s) and to extend to the bottom of the roof deck. Partition shall be at least one-hour fire rated gyprock wall with 5/8" gypsum board on both sides of studs with insulation installed to meet R-19 between the studs. The exterior side is not to be taped and bedded. Notwithstanding anything contained above concerning partitions, it is agreed and understood that Tenant's construction of all partitions will conform to the building inspection code of the city in which its Demised Premises is located. A break metal wall cap to match storefront metal shall be installed at the storefront. Tenant is also responsible for studs, insulation (R-19), and 5/8" gypsum on any unfinished exterior walls.*
3. Interior partitions, including finishing, electrical wiring, and connections within the Demised Premises.

* See drawing on last page of this Exhibit.

- Arlington
INITIAL
4. 2' X 4' lay-in lights in adequate number to provide lighting, including emergency lighting requirements throughout the Demised Premises to satisfy minimum code requirements, plus light covers and special hung or furred ceilings. All lighting shall meet all applicable codes, including but not limited to the current energy code enforced by the City of ~~El Paso~~ Arlington. Tenant shall be responsible for emergency egress lighting at exterior when a new door is added. This will entail adding a remote emergency battery ballast to existing lights.
 5. Light covers and special hung or furred ceilings.
 6. Interior painting.
 7. Store fixtures and furnishings.
 8. Display window enclosures.
 9. Plumbing fixtures within the Demised Premises including extension of the sanitary sewer line(s) established by the Landlord. Tenant to provide a complete grease sanitary waste system including but not limited to grease trap, sampling wells, etc. as require by and in accordance with the applicable codes.
 10. 2' X 4' drop ceiling installed no lower than the top edge of the storefront glass.
 11. Ceiling and insulation.
 12. Heating, air conditioning and ventilating equipment (adequate to provide 25°F differential for cooling cycles and 60°F differential for heating cycles), including electrical and gas hookup, duct work and roof penetrations. Any new or replacement HVAC units (including but not limited to the roof top mounted units ("RTUs")) shall be new manufactured equipment by either Lennox® or Trane®, minimum 11.25 EER - NO EXCEPTIONS. No split units will be approved. All RTU's shall be placed in the proper mechanical zone as designated by Landlord or as determined by a structural engineer at Tenant's expense. All roof penetrations shall be performed using Landlord's approved roofing contractor.
 13. Floor covering and 4" vinyl cove base or equivalent.
 14. Water sub-meter as specified by Landlord.
 15. Fire sprinkler: Proportionate Share of main line and all vertical drops, heads, etc., after ceiling and lighting is installed, to be deducted from Tenant's finish out allowance.
 16. Adjustments to monument or tower signs shall be at the Tenant's expense by Landlord or Landlord's approved Sign Contractor.
 17. Permits required by City of Arlington must be obtained before work begins. All work must meet or exceed standards for accessible design requirements of the Americans with Disabilities Act.

D. Construction must begin within 30 days of lease execution.

E. "Allowance For Interior Finish" (Item 1. or 2.):

1. If Tenant is to be responsible for its construction finish-out, upon (a) Tenant having provided to Landlord's satisfaction the items, where applicable, set forth in Section 29.13 of the lease and (b) Tenant's commencement of business in the Demised Premises, Landlord shall thereafter pay to Tenant up to \$55.00 per square foot of the Demised Premises, as a reimbursement for Tenant's bona fide (and verified) construction expenses. As used herein, the term "construction" specifically excludes construction of Tenant's fixtures or other items which ordinarily are considered to be personal property of Tenant.
2. If Landlord contracts for Tenant's interior finish-out work, then in lieu of Landlord reimbursing Tenant for the amount referred to in Item E.1. above, Landlord shall pay up to such sum as a maximum payment to its contractor(s) and/or vendors for completion of said work in accordance with plans and specifications approved by Landlord and Tenant, and Tenant shall pay the remainder within 15 days after written demand.

F. Tenant is responsible for the disposal of any trash and/or packaging that is generated during the construction of "Tenant's Work" or during the initial stocking of the store with merchandise. Prior to opening for business, the Tenant must contact the trash removal company for a special pick-up of all packing materials and construction trash. Tenant shall not use the Shopping Center dumpsters for this use. The cost of this pick up is the responsibility of the Tenant.

G. If required for odor suppression or sound attenuation, Tenant shall, at Tenant's sole cost and expense, install insulation and/or vinyl barriers and/or exhaust fans in the demising walls and take such other measures as may be reasonably required by Landlord.

EXHIBIT "D"

**HEATING, VENTILATING AIR CONDITIONING
MAINTENANCE REQUIREMENTS**

In accordance with Tenant's maintenance of the HVAC system pursuant to Section 10.2 of this lease, following is a description of the maintenance work to be performed by Tenant during the primary lease Term and any option terms. *Tenant agrees to use only Landlord approved HVAC vendors to perform such work.*

SERVICE CHECK

1. Service checks by a licensed Texas air conditioning contractor approved and acceptable to Landlord (Landlord's approval of the Contractor shall be issued in writing) shall be performed twice a year. Servicing of the air conditioning units shall occur in the Spring and of the heating elements in the Fall. Suggested months for these are April and October.
2. The Contractor shall issue a written report after each visit with said report submitted to Landlord on or before April 20 and October 20 of each year. The report should consist of the following:
 - cleaning
 - oil motors
 - checking amp draw of motors
 - model number
 - serial number
 - suction pressure
 - head pressure
 - outdoor temperature
 - supply air temperature
 - return air temperature
3. Each unit should have its own individual report.

FILTERS

1. Filters should be cleaned or replaced every thirty days minimum.
2. The condenser coils should be checked, and cleaned if needed, every thirty days during cooling operation.

A written report must be submitted to Landlord describing the date and description of the specific work that has been performed.

OBSERVATION

1. A visual observation of the condition of the equipment should be included in the report. Example:
 - panels missing
 - hail damage
 - defective condensate drains
 - etc.

EXHIBIT "E"

INSURANCE REQUIREMENTS

Should Tenant or its Contractor effect any construction in the Demised Premises, prior to the commencement of such work, Contractor or Tenant shall furnish to Landlord a Certificate of Insurance evidencing the following coverages:

AUTOMOBILE LIABILITY

Types of Coverage: Comprehensive Form, Owned, Hired Non-Owned
Limits of Liability: Bodily Injury and Property Damage Combined - \$1,000,000

WORKER'S COMPENSATION & EMPLOYERS' LIABILITY

Limits of Liability: Coverage A- Statutory
Coverage B - \$500,000/\$500,000/\$500,000

COMMERCIAL GENERAL LIABILITY

Types of Coverage: Policies shall include Products/Completed Operations, Blanket Contractual Liability, Broad Form Property Damage, Independent Contractors (OCP), Personal Injury & Advertising, Underground, Collapse & Explosion Hazard
Limits of Liability: With Combined Single Limits of Not Less Than:
\$1,000,000 per Occurrence;
\$1,000,000 Aggregate;
\$1,000,000 Products/Completed Operations

Builders Risk Insurance in amounts reasonably requested by Landlord.

All policies shall be written on standard forms with insurers reasonably acceptable to Landlord.

I-20/South Collins III, LP and Landlord's lender, if any, shall be the certificate holder and shall be named as additional insured (unless ownership of the Shopping Center changes, in which case the new owner and its general partner (and lender) shall be named).

EXHIBIT "F"

ARTICLE IX – RESTRICTIONS

1. Restricted Businesses (Gander Mtn.). No portion of this Site shall be used for the following retail stores: Academy Sports, Cabela's, Bass Pro Shops, Sportsman's Warehouse, REI, Dick's Sporting Goods, Field and Stream or any similar sporting goods retailer.

2. Protected Merchandise (Gander Mtn.). All "Protected Merchandise" may not exceed the lesser of (1) three percent (3%) of the annual gross sales of such tenants or occupants of the Site or (2) sales conducted from two hundred fifty (250) square feet of floor area (including one-half of adjacent aisles) within such tenants' or occupants' premises. For purposes of this paragraph, Protected Merchandise shall mean (a) retail sales, rental and service of hunting and shooting (including without limitation new, used, and collectible firearms and ammunition, as well as firearms safes and storage solutions), fishing, camping, and archery and outdoor cooking products, equipment and related accessories; (b) retail sales and rental of videotapes, cassette tapes, compact disk or other visual or audio products related to the foregoing; (c) sale of specialized hunting apparel and footwear (such as camo wear, field duty, blaze wear, hunting vests and high performance and technical apparel designed for duty, tactical, self-defense, competing and/or training purposes) and specialized fishing apparel and footwear (such as waders, fishing vests or fishing bibs); (d) retail sales, rental and service of all-terrain vehicles, go-carts, dune-buggies, dirt bikes, utility vehicles, scooters, boats, boat trailers, utility trailers, marine products, motors and other similar vessels and merchandise; (f) education and training in hunting, fishing, camping and other outdoors skills (including without limitation classroom training, operation of a simulated or live-fire shooting range or operation of a virtual simulation environment); (g) the outside storage and display of any of the foregoing; and (h) other uses incidental or accessory to any of the foregoing.

3. Urgent Care Services (Concentra). No portion of this Site shall be used for "Urgent Care Services." For purposes of this paragraph, "Urgent Care Services" shall mean those medical services provided to a patient on a walk-in or same day appointment basis to treat a medical condition that is not an emergent condition (likely to result in serious jeopardy, serious impairment of bodily functions or serious dysfunction of any bodily organ or part) in a location dedicated to clinical care outside of a hospital emergency room.

4. Occupational Medical Clinic (Concentra). No portion of this Site shall be used for "Occupational Health Services." For purposes of this paragraph, an "Occupational Medical Clinic" is defined as a full service medical clinic devoted to on-site occupational healthcare including, but not limited to, injury care (medical treatment, physical therapy services, disability management and return-to-work programs) and non-injury services (pre-employment physicals, drug and alcohol testing and ADA and OSHA compliance testing).

5. Buffet Restaurant (Golden Corral). No portion of the Shopping Center shall be used for the operation of a cafeteria or restaurant that generates more than twenty-five (25%) of its annual gross sales from the sale of food served buffet style. For purposes of this Section, "buffet style" shall mean a traditional buffet whereby the patron walks to buffet bars and serves himself or herself. Examples of cafeterias or restaurants that violate this restriction include Luby's Cafeteria, Old Country Buffet, Hometown Buffet, Fire Mountain Grill, Ryan's Family Restaurant "buffet-style", Furr's Family Buffet, or any other cafeteria or restaurant serving any buffet-style cuisine (such as Asian Food or Mexican Food) in which such buffet-style cuisine generates more than twenty-five percent (25%) of annual gross sales. A Texas Roadhouse Grill, Mayflower Seafood Restaurant and a Hibachi Grill and Supreme Buffet shall also be considered a prohibited use under this paragraph.

- A business primarily engaged (more than 25% of gross sales) in providing nail salon services ~~(except for Tenant)~~.
- A business primarily engaged (more than 10% of gross sales) in dine in, take out and/or delivery of selling Mediterranean, Greek and Middle Eastern cuisine.



The foregoing are excerpts from various leases and other agreements that may impact the Demised Premises. Definitions in those leases or other agreements might not coincide with definitions under the lease. Nevertheless, Tenant shall comply with these restrictions as if they apply to the lease.

EXHIBIT "G"

RENEWAL OPTIONS

GRANT OF OPTION. Provided Tenant is not in default and is occupying the entire Demised Premises at the time of such election, Tenant may renew this lease for two (2) additional periods of five (5) years each on the same terms and conditions as provided in this lease (except as set forth below), by delivering written notice of the exercise thereof to Landlord not later than one-hundred-eighty (180) days before the expiration of the Lease Term. On or before three (3) months prior to the commencement date of the extended Lease Term in question, Landlord and Tenant shall execute an amendment to this lease extending the Lease Term on the same terms and conditions as provided in this lease, except as follows:

- (a) The minimum guaranteed rental payable during each such extended Lease Term shall be 110% of the minimum guaranteed rental payable hereunder during the last year prior to the commencement of such extended Lease Term
- (b) Tenant shall have no further renewal options unless expressly granted by Landlord in writing; and
- (c) Landlord shall lease to Tenant the Demised Premises in its then-current condition.

Tenant's rights under this Exhibit "G" shall terminate if (i) this lease or Tenant's right to possession of the Demised Premises is terminated, (ii) Tenant assigns any of its interest in this lease or sublets any portion of the Demised Premises, or (iii) Tenant fails to timely exercise its option under this Exhibit "G", time being of the essence with respect to Tenant's exercise thereof. If this lease is renewed or extended, the words "Lease Term" shall include the additional period covered by the renewal or extension, and this lease shall apply to such additional period except as otherwise provided for herein.

EXHIBIT "H"

LEASE GUARANTY

THIS LEASE GUARANTY ("Guaranty") is made to be effective this 15 day of May, 2015, by the undersigned (hereinafter referred to as "Guarantor", whether one or more) in favor of I-20/South Collins III, LP, a Texas limited partnership ("Landlord").

FOR VALUE RECEIVED, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby unconditionally, irrevocably and absolutely guarantees to Landlord the prompt and full payment and performance, when due, of all obligations and covenants of Taqueria La Ventana, LLC, ("Tenant"), fixed or contingent, arising out of the Shopping Center Lease dated April May 15, 2015, executed by and between Tenant and Landlord and any and all renewals, extensions, amendments, and modifications thereof (collectively, the "Lease"), or which Tenant, or its successors or assigns, may in any other manner now or at any time hereafter owe Landlord in connection with the Lease, including, but not limited to, rent, taxes, insurance, operating expenses, maintenance costs, damages and expenses resulting from Tenant's default under the Lease, and collection costs (collectively, the "Obligations").

1. **CONTINUING GUARANTY.** This is a continuing Guaranty and shall apply to the Obligations and any renewals, extensions, amendments, modifications, waivers and transfers thereof.

2. **OTHER REMEDIES.** Landlord shall not be required to pursue any other remedies before invoking the benefits of this Guaranty; specifically, Landlord shall not be required to take any action against Tenant or any other person, to exhaust its remedies against any other guarantor of the Obligations, any collateral or other security, or to resort to any balance of any deposit account or credit on the books of Landlord in favor of Tenant or any other person.

3. **OBLIGATIONS NOT IMPAIRED.** Prior to performance and satisfaction in full of the Obligations, the liability of Guarantor under this Guaranty shall not be released or impaired without the prior written consent of Landlord. Without limiting the generality of the foregoing, the liability of Guarantor shall not be released or impaired on account of any of the following events:

(a) the voluntary or involuntary liquidation, sale or other disposition of all or substantially all of the assets of Tenant, or any receivership, insolvency, bankruptcy, reorganization or other similar proceedings affecting Tenant or any of its assets;

(b) the addition of a new guarantor or guarantors;

(c) any bankruptcy or insolvency proceedings against or by Tenant, its property, or its estate or any modification, discharge or extension of the Obligations resulting from the operation of any present or future provision of the United States Bankruptcy Code or any other similar federal or state statute, or from the decision of any court, it being the intention hereof that Guarantor shall remain liable on the Obligations notwithstanding any act, omission, order, judgment or event which might, but for the provisions hereof, otherwise operate as a legal or equitable discharge of Guarantor;

(d) Landlord's failure to use diligence in preserving the liability of any person on the Obligations, or in bringing suit to enforce collection of the Obligations;

(e) the substitution or withdrawal of collateral, or release of collateral, or the exercise or failure to exercise by Landlord of any right conferred upon it herein or in any collateral agreement;

(f) if Tenant is not liable for any of the Obligations because the act of creating the Obligations is ultra vires, or the officers or persons creating the Obligations acted in excess of their authority, or for any reason the Obligations cannot be enforced against Tenant;

(g) any payment by Tenant to Landlord if such payment is held to constitute a preference under the bankruptcy laws, or if for any other reason Landlord is required to refund such payment to Tenant or pay the amount thereof to any other party;

(h) any dealings, transactions, or matters between Landlord and Tenant that may cause the Lease to terminate, including without limitation, any adjustment, compromise, deferral, waiver, settlement, accord and satisfaction, or release of Tenant's obligations under the Lease, regardless of whether Guarantor receives notice thereof, all of which notice Guarantor expressly waives;

(i) if this Guaranty is ever deemed invalid or unenforceable as to the Guarantor;

(j) any extension, renewal, amendment, or modification of the Lease; or

(k) any assignment of the Lease or subletting of all or any portion of the demised premises leased pursuant to the Lease.

4. **BENEFIT TO GUARANTOR.** Guarantor acknowledges and warrants that it derives or expects to derive financial and other advantage and benefit, directly or indirectly, from the Lease, the Obligations and the release of collateral or other relinquishment of legal rights made or granted or to be made or granted by Landlord to Tenant. Guarantor acknowledges that, in entering into the Lease, Landlord is relying on Guarantor's agreements contained in this Guaranty and on Guarantor's creditworthiness. Guarantor acknowledges that Landlord would not have entered into the Lease without Guarantor's guarantee of the Obligations pursuant to the terms hereof.

5. **JOINT AND SEVERAL LIABILITY.** Unless the context clearly indicates otherwise, "Guarantor" shall mean the guarantor hereunder, or any of them, if more than one. The obligations of said guarantors hereunder if more than one, shall be joint and several. Suit may be brought against said guarantors jointly and severally, and against any one or more of them, or less than all, without impairing the rights of Landlord against the others of said guarantors; and Landlord may compromise with any one of said guarantors for such sums or sum as it may see fit and release such of said guarantors from all further liability to Landlord for such indebtedness without impairing the right of Landlord to demand and collect the balance of such indebtedness from others of said guarantors not so released; but it is agreed among said guarantors themselves, however, that such compromising and release shall not impair the rights and obligations of said guarantors as among themselves.

6. **CHANGE IN COMPOSITION.** Should the status, composition, structure or name of Tenant change, including, but not limited to, by reason of any merger, dissolution, consolidation or reorganization, this Guaranty shall continue and also cover the indebtedness and Obligations of Tenant under the new status, composition structure or name according to the terms hereof. If Tenant is a general or limited partnership, no termination of said partnership, nor withdrawal therefrom by, or termination of any ownership interest therein owned by, any general or limited partner of such partnership shall alter, limit or modify Guarantor's obligations set forth in this Guaranty or otherwise affect this Guaranty in any manner whatsoever, all of which obligations of Guarantor shall remain in effect as herein written.
7. **WAIVER AND SUBROGATION OF GUARANTOR'S RIGHTS AGAINST TENANT.** Until all of Tenant's obligations under the Lease are fully performed, Guarantor
- (a) waives any rights that Guarantor may have against Tenant by reason of any one or more payments or acts in compliance with the obligations of Guarantor under this Guaranty; and
- (b) subordinates any liability or indebtedness of Tenant held by Guarantor to the obligations of Tenant to Landlord under the Lease.
8. **DEATH OR DISSOLUTION OF GUARANTOR.** Upon the death, dissolution or bankruptcy of Guarantor, the liability of Guarantor shall continue against its assets and estate, as applicable, as to all Obligations which shall have been incurred by Tenant.
9. **FINANCIAL STATEMENTS.** The Guarantor warrants and represents to Landlord that all financial statements heretofore delivered by Guarantor to Landlord are true and correct in all material respects and there are no material adverse changes with respect thereto as of the date hereof. Guarantor further agrees to deliver true, correct and complete, current financial statements (if available, audited) (which shall include, at a minimum, a balance sheet and profit and loss statement), bank references and Dun & Bradstreet reports (if available) on Guarantor within 15 days after Landlord's written request therefor.
10. **WAIVER OF NOTICE.** Guarantor waives diligence on the part of Landlord in the collection and enforcement of the Obligations, protest, and all extensions that may be granted to Tenant with respect thereto. Guarantor waives notice of acceptance of this Guaranty. Guarantor additionally waives grace, demand, presentment, notice of demand and all other notices (to the extent allowed by law).
11. **LIMITATION ON INTEREST.** To the extent that any law limiting the amount of interest that may be contracted for, charged or received is applicable to the indebtedness of Guarantor under this Guaranty, no provision of this Guaranty shall require the payment or permit the collection of any sum in excess of the maximum lawful amount of interest applicable to Guarantor's indebtedness under this Guaranty. If any sum in excess of the maximum lawful amount applicable to Guarantor's indebtedness under this Guaranty is provided for herein, the provision of this paragraph shall govern, and Guarantor shall not be obligated to pay any sum in excess of the maximum lawful amount applicable to Guarantor's indebtedness under this Guaranty. The intention of Guarantor and Landlord hereunder is to comply with all laws applicable to this Guaranty and Guarantor's liability hereunder.
12. **MODIFICATION OR CONSENT.** No modification, consent or waiver of any provision of this Guaranty, nor consent to any departure by Guarantor therefrom, shall be effective unless the same shall be in writing and signed by Landlord and Guarantor, and then shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on Guarantor in any case shall, of itself, entitle Guarantor to any other or further notice or demand in similar or other circumstances. No delay or omission by Landlord in exercising any power or right hereunder shall impair any such right or power or be construed as a waiver thereof or any acquiescence therein, nor shall any single or partial exercise of any such power preclude other or further exercise thereof or the exercise of any other right or power hereunder. All rights and remedies of Landlord hereunder are cumulative of each other and of every other right or remedy which Landlord may otherwise have at law or in equity or under any other contract or document, and the exercise of one or more rights or remedies shall not prejudice or impair the concurrent or subsequent exercise of other rights or remedies.
13. **INDUCEMENT TO LANDLORD.** Guarantor acknowledges that this Guaranty is given to induce Landlord to enter into the Lease and to extend credit to Tenant which would not be extended except in reliance upon this Guaranty.
14. **ATTORNEYS' FEES.** If a lawsuit is instituted in connection with this Guaranty, then Guarantor agrees to pay to Landlord all expenses incurred in connection with such lawsuit (including, but not limited to, reasonable attorneys' fees and costs of court).
15. **SUCCESSORS AND ASSIGNS.** This Guaranty is for the benefit of Landlord, and its successors or assigns. Landlord may assign its rights hereunder in whole or in part; and, upon any such assignment, all the terms and provisions of this Guaranty shall inure to the benefit of such assignee, to the extent so assigned. The liability of Guarantor hereunder shall be binding upon all heirs, estates, executors, administrators, legal representatives, successors and assigns of Guarantor.
16. **HEADINGS.** The section headings hereof are inserted for convenience of reference only and shall not alter, define or be used in construing the text of this instrument.
17. **PLACE OF PERFORMANCE.** Guarantor agrees that this agreement is performable in Dallas County, Texas. Suit on this Guaranty may be brought in any state or federal court in Dallas County, Texas and Guarantor waives the right to be sued elsewhere. This Guaranty shall be deemed to have been made under and shall be governed by the laws of the State of Texas in all respects.
18. **TERM.** This Guaranty shall terminate only when all of the Obligations have been fully performed and satisfied.
19. **GUARANTY OF PAYMENT AND PERFORMANCE.** This is a guaranty of payment and performance and not a guaranty of collection.
20. **PAST DUE AMOUNTS.** All past due payments of the Obligations shall bear interest at the maximum lawful rate, or if no maximum lawful rate is established by applicable law, then at the rate per annum which shall from day to day be equal to fifteen percent (15%).
21. **REPRESENTATIONS.** Guarantor represents and warrants to Landlord that (i) Guarantor has executed this Guaranty of its free will and accord; (ii) Guarantor has read and understands the terms of this Guaranty and the Lease; (iii)

Guarantor has had the opportunity to have this Guaranty and the Lease reviewed by an attorney of Guarantor's choice; and (iv) this Guaranty is duly authorized and valid, and is binding upon and enforceable against Guarantor in accordance with its terms.

22. **ENTIRE AGREEMENT.** Guarantor acknowledges and agrees that this Guaranty accurately represents and contains the entire agreement between Guarantor and Landlord with respect to the subject matter hereof, that Guarantor is not relying, in the execution of this Guaranty, on any representations (whether written or oral) made by or on behalf of Landlord except as expressly set forth in this Guaranty, and that any and all prior statements and/or representations made by or on behalf of Landlord to Guarantor (whether written or oral) in connection with the subject matter hereof are merged herein. This Guaranty shall not be waived, altered, modified or amended as to any of its terms or provisions except in writing duly signed by Landlord and Guarantor.

23. **SEVERABILITY.** A determination that any provision of this Guaranty is unenforceable or invalid shall not affect the enforceability or validity of any other provision.

24. **WAIVER OF RIGHT TO JURY TRIAL.** GUARANTOR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY KNOWINGLY, INTENTIONALLY, IRREVOCABLY, UNCONDITIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS GUARANTY OR THE LEASE OR ANY CONDUCT, ACT, FAILURE TO ACT OR OMISSION OF OR BY LANDLORD OR GUARANTOR, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH LANDLORD OR GUARANTOR, IN EACH OF THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, OR IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS GUARANTY OR THE LEASE. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS GUARANTY. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY GUARANTOR, AND GUARANTOR HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. GUARANTOR FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS GUARANTY AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL. Neither this provision nor any provision in the Lease regarding waiver of jury trial or submission to jurisdiction or venue in any court is intended or shall be construed to be in derogation of any provision herein or in the Lease for arbitration of any controversy or claim.

25. **STATE SPECIFIC PROVISIONS.** To the extent allowed by law, this Guaranty shall be effective as a waiver of, and Guarantor voluntarily, knowingly and intentionally waives, any and all rights and defenses to which Guarantor may otherwise have been entitled under any suretyship laws or similar laws in effect from time to time including, but not limited to, Chapter 34 of the *Texas Business and Commerce Code*, Rule 31 of the *Texas Rules of Civil Procedure*, and Section 17.001 of the *Texas Civil Practice & Remedies Code*. To the extent allowed by law, Guarantor additionally waives the benefit of any statute of limitations affecting Guarantor's liability under this Guaranty.

26. **EXPIRATION.** This Guaranty shall expire and Guarantor shall have no further responsibilities hereunder from and after the date which is three (3) years from the Commencement Date (as defined in the Lease), except for any liability that has accrued hereunder prior to such expiration.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the day and year first written above.

GUARANTOR:

ADDRESS OF GUARANTOR:

_____, individually

THE STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on the ____ day of _____, 201__, by _____, individually.

Notary Public, State of Texas

My Commission Expires:

Notary's Printed/Typed Name

If Guarantor is an entity, use the following signature block instead of the above:

GUARANTOR:

FIREBIRD RESTAURANT GROUP, LLC

ADDRESS OF GUARANTOR:

2414 N. Akard St., Ste 500
Dallas, Texas 75201

Its: Member / CEO

By: _____

Name: Michael D. Karas

THE STATE OF TEXAS

COUNTY OF Dallas

This instrument was acknowledged before me on the 11th day of May, 2015, by Michael D. Karas, Member / CEO of Firebird Restaurant Group, LLC, a Texas limited liability company, on behalf of said company.

Donna Michele Combs
Notary Public, State of Texas

My Commission Expires:

Donna Michele Combs
Notary's Printed/Typed Name



EXHIBIT "I"
INFORMATION SHEET

Lease /Company Name _____

Company Address _____

City, State, and Zip _____

Contact Name _____

Contact Phone Number _____

Contact Email _____

Bank Name _____

Bank Address _____

City, Address, and Zip _____

ABA Number _____

Account Number _____

Start Date _____

Checking _____ Savings _____ Other _____

Customer Lease ID _____

Note: All ACH debits will be attempted on or after the first business day of each month. Landlord reserves the right to reattempt such ACH debits if the first attempt is returned due to insufficient funds.

I/We hereby authorize _____ (Landlord) to present debit entries into the bank account referenced above and the depository named above. These debits will pertain to electronic funds transfer payments that Landlord has initiated for payment of **all charges billed to your lease.**

Signature _____	Title _____	Date _____
Signature _____	Title _____	Date _____

By signing the above this authority is to remain in full effect until Landlord or Tenant has received a thirty (30) day written notification of termination of this arrangement.

EXHIBIT "J"

LANDLORD SIGN CRITERIA

GENERAL CRITERIA

1. Tenant shall be required to obtain a sign permit, as required by code from the City of Arlington, for the installation of its exterior sign, prior to the installation of such sign. Note that Landlord signage requirements may not be the same as those of the City of Arlington. Local codes may be more restrictive. Tenant to verify local signage requirements.
2. Tenant shall be required, at his sole cost and expense, to manufacture and install an exterior storefront sign prior to opening for business in the premises. In-line position Tenants shall be allowed one (1) wall sign at the front exterior storefront. End-cap and corner position Tenants shall be allowed one (1) wall sign at the front exterior storefront and one (1) wall sign at the side exterior storefront.
3. Tenant is to submit all exterior signage including building mounted, monument, and pylon signs for review and approval by the Landlord. Tenant shall submit (a.) a detailed sign elevation showing text heights and lengths, (b.) a section showing dimensions and components of construction, and (c.) a building elevation showing location of proposed building signage. See Item 6 for further description of shop drawings. Tenant must submit (2) sets of drawings via email or hard copy.
4. All exterior signs shall be designed, manufactured and installed to U.L. specifications, using U.L. recognized components, and shall include the U.L. label number on the external back of the sign.
5. Tenant's exterior storefront sign shall be limited to the operating name of the store.

Tenant shall not use any other sign, symbol, crest, logo, other corporate insignia, information or advertising as part of its exterior sign, without Landlord's prior written approval. If Landlord, in his sole and absolute discretion, approves the use of a logo, such logo shall not exceed the approved letter height when installed, measured from the lowest to the highest point of the sign on installation.

6. Shop drawings are required for all signage. Shop drawings shall show complete sign layout elevation at a scale of not less than one inch equals one foot (1" = 1'), a cross section with mounting details, dimensions, materials, and colors at a scale of three inches equals one foot (3" = 1'), and a building elevation showing signage location at a scale of one-eighth inches equals one foot (1/8" = 1').
Signage shop drawings shall show all sources of illumination in the section. Shop drawings shall show all connection locations to the building shown dashed in the sign elevation. The sign elevation shall also indicate and note the top of the window with a dashed line. If requested by Landlord, Tenant shall furnish to Landlord samples of materials proposed for use.
7. The following types of signs shall not be permitted: Rotating, box, cabinet, painted signage, flashing, noise making, odor producing, backlit canopy, or exposed raceway. Exposed neon is not allowed.
8. Tenant shall not penetrate the roof of the premises in the course of installing Tenant's sign. If roof penetration is required for electrical, it must be done by Landlord's Roofing Contractor in accordance with the Construction Documents.
9. All materials and components used in the manufacture and installation of Tenant's sign shall be new stock, free from defects that impair strength, durability and appearance. All signage material shall be of non-corrosive material or treated. Any deviation from the Tenant Sign Criteria shall not be allowed unless specifically approved in writing by the Landlord.
10. Landlord reserves the right to change the Tenant Sign Criteria at any time prior to Landlord approval.
11. Landlord shall have the right to waive any and/or all of the provisions of this Tenant Sign Criteria at any time and for any reason he so deems necessary in his sole and absolute discretion.
12. Landlord shall have the right to inspect Tenant's sign during and after the installation process. Tenant shall be required to conform its sign to the approved sign drawings within five (5) days of receipt of written notice from Landlord that such sign does not conform to the approved sign drawings. In the event Tenant fails to make such changes within the five (5) day period, Landlord may, at its option, make the changes necessary and bill Tenant for the entire cost of the changes. Tenant shall reimburse Landlord upon receipt of Landlord's billing.

SIGN DESIGN CRITERIA

General Requirements:

1. The following restrictions shall apply:
 - A. Individual or can type letters shall not exceed a maximum height of 28". If 2 lines of signage are used, each line shall not exceed 24", and total height shall not exceed 4'-6" without special consideration of Landlord. Letters to be attached to a 1/8" thick-brushed aluminum background plate with a 2" x 12" aluminum raceway behind.
 - B. Channel letters shall have opaque metal sides and translucent plastic faces and shall have dark bronze metal returns. Illumination behind letters shall be 3200 K neon.
 - C. Each letter shall be at least 3" wide and the depth shall be 5".
 - D. All individual signage letters shall be of the same color without special consideration by the Landlord.
2. Landlord shall determine at his sole discretion for all Tenants the quantity of lines required for the signage.
3. The maximum overall length of the Tenant's installed storefront sign shall not exceed 75% of the storefront width, or the maximum length allowed by the local governing authority, whichever is less. If Tenant's fascia length is less than the storefront width, such as at the corners of canopies, then Tenant's maximum sign length shall be the lesser of (a.) 90% of the allotted space, (b.) 75% of the storefront width, or (c.) the maximum allowed by the local governing authority.
4. Raceways shall be painted Landlord's standard color to match the building brick. Color to be _____. All transformers are to be remote mounted in a concealed location.

METHOD OF INSTALLATION

1. Tenant's installation company must use industry standard safety equipment and methods during installation of Tenant's sign.
2. Signs shall be centered vertically and horizontally on sign band. All signs are to be hung level and plumb and placed on the exterior storefront as shown on the approved drawings using the approved method of installation. Should Tenant's installation company discover problems with the placement or method of installation of Tenant's sign once installation has begun, Tenant shall immediately stop all installation work and immediately inform Landlord of the problem. Landlord shall then approve a change in method of installation or notify Tenant to proceed in the manner previously approved. Tenant shall then proceed diligently to finish installation in a timely manner.
3. All fasteners, screws, bolts, etc. used in the mounting of the letters to the building shall be stainless steel. All signs shall be mounted with all wiring, transformers and reinforcing concealed. Penetrations through the building fascia shall be made through mortar only on masonry buildings. No penetration, mounting device or other sign-related item shall be attached to brick or drilled through brick. All wiring penetrating through the building fascia and inside the building shall use U.L. recognized components and be sealed and watertight.
4. Tenant's installation company shall protect all adjacent surfaces, including paving and sidewalks, from damage during installation and shall be responsible for repairing any damage prior to leaving the job site. Tenant shall notify Landlord of any damage prior to repair in order that Landlord specifies the correct repair materials. Tenant shall promptly repair the damage to "like-new condition."
5. Following installation, Tenant's sign installation company shall remove all traces of visible tape, adhesive, chalk lines and wrapping from the exterior building fascia. Tenant's installation company shall be responsible for clean up and removal of all debris caused by his installation at the job site, at the time of finish of installation.

SECONDARY SIGNS

1. Exterior Signs:
 - A. Rear wall signage may be allowed if specifically agreed to by Landlord and City.

- B. Tenant shall place no "sandwich" or easel/portable signs on the exterior of the premises, except with the written consent of the Landlord.
- C. Tenant shall be allowed to place the store address numerals on the front of the storefront using 3" high white vinyl numbers in the Helvetica Medium typeface. These numbers shall be mounted on the exterior storefront glass as directed by the U.S. Postal Service and local fire department.
- D. Store logo or name (maximum 3" high) may be used on glass or a graphic band to identify glass with maximum height being 36" from the floor, subject to Landlord's approval.
- E. Tenant shall be required to place the name of the store on the rear service door. Tenant's name shall be made of 3" high black vinyl letters in the Helvetica Medium typeface. The letters shall be mounted in the center of the rear service door at a height of 5'-6" from the bottom of the rear service door to the bottom of the letters.
- F. Tenant shall be required to place name of the store or the suite number in permanent 2" high letter/numbers on the housings of all roof top units.
- G.
- H. "Coming Soon" signage may be in place a maximum of ninety (90) days. Signage may not attach to the building or impair the progress of the work to the shell building. Tenant shall coordinate location with the Landlord.
- I.
- J. No banners, posters, flyers or advertising material of any kind shall be permitted to be mounted on the exterior glass or walls of the premises without Landlord's prior written approval. Notwithstanding the above, if Tenant opens later than 30 days after the "Grand Opening", Tenant shall be allowed one "Grand Opening" banner, limited in size to 50 square feet, with prior written approval of Landlord regarding (1.) design, (2.) materials used, (3.) location and (4.) method of installation. The "Grand Opening" banner shall be allowed on the exterior storefront from the date of Tenant's store opening business and continuing for a period of 10 days. Tenant must have a permit for such banner, if necessary by code. Tenant's banner shall be professionally made. Any and all damage to base building by banner shall be repaired by the Landlord at Tenant's expense.

- 2. Back exterior wall signage may be allowed only at the sole discretion of the Landlord.
- 3. Interior Signs – No interior signs, which can be viewed from the exterior of the Demised Premises shall be allowed within 5 feet of any exterior window or door, except as required by law.

SIGN OPERATION AND MAINTENANCE

Per operating hours of Center and Lease Agreement.

★

SHOPPING CENTER LEASE

LEASE DATE: 15 day of ^{May}~~April~~, 2015
(Insert latest date accompanying signature)

ARTICLE I. DEFINITIONS AND CERTAIN BASIC PROVISIONS

I.1 The following list sets out certain defined terms and certain financial and other information pertaining to this lease:

(a) "Landlord": I-20/South Collins III, LP

(b) Landlord's notice address: 7001 Preston Road, Suite 410
Dallas, TX 75205

(c) Landlord's rent address: 7001 Preston Road, Suite 410
Dallas, TX 75205

(d) "Tenant": Snuffer's Restaurants, LLC, a Texas limited liability company

(e) Tenant's address: 2414 N. Akard, Suite 500, Dallas, Texas 75201

(f) Tenant's trade name: Snuffer's Restaurant & Bar

(g) "Agent": Venture Commercial Real Estate, LLC / Amy Pietrovic

(h) "Cooperating Agent": Centennial Retail Services, LLC (Perren Gasc)

(i) "Shopping Center": The property located in the City of Arlington, Tarrant County, Texas which property is described or shown on Exhibit "A" attached to this lease. With regard to Exhibit "A", the parties agree that the exhibit is attached solely for the purpose of locating the Shopping Center and the Demised Premises (hereinafter defined) within the Shopping Center and that no representation, warranty, or covenant is to be implied by any other information shown on the exhibit (i.e., any information as to buildings, tenants or prospective tenants, etc. is subject to change at any time).

(j) "Demised Premises": A store unit in the Shopping Center being known as 457 E. I-20, Suite 200, Arlington, Texas 76014 in the Shopping Center and being described or shown on Exhibit "A" attached to this lease. For purposes of this lease, the gross leaseable square footage amount of the Demised Premises shall be deemed by the parties for all purposes to be three thousand nine-hundred sixty-eight (3968) square feet, notwithstanding that the actual gross leaseable square footage of the Demised Premises may be more or less.

(k) "Delivery Date": Upon full execution of the Lease

(l) "Commencement Date": The earlier of (i) the date upon which Tenant opens for business at the Demised Premises, or (ii) one hundred eighty (180) days after the Delivery Date.

(m) "Lease Term": Commencing on the Commencement Date and continuing for ten (10) years after the Commencement Date; provided that if the Commencement Date is a date other than the first day of a calendar month, the Lease Term shall be extended to include the remainder of the calendar month in which the Commencement Date occurs.

(n) "Minimum guaranteed rental": See "*" next page per month, payable in advance.

(o) Percentage rental rate: None.

(p) Common Area maintenance charge: A minimum of \$ 1,345.81 per month, payable in advance.

(q) Prepaid rental: \$13,144.00, being an estimate of the minimum guaranteed rental, and Common Area maintenance, real estate and insurance charges, and (if applicable) merchants' association dues or promotional funds in each case for the first month of the Lease Term, such prepaid rental being due and payable upon execution of this lease.

(r) Security deposit: \$13,144.00, such security deposit being due and payable upon execution of this lease.

(s) Permitted Use: As a restaurant featuring hamburgers, French fries, alcoholic beverages and American style cuisine with dine-in and patio seating with to-go and take-out service, subject to REA and other tenant exclusives subject, however, to Section 29.21.

(t) Tenant's Proportionate Share: Tenant's Proportionate Share shall be a fraction, the numerator of which is the gross leaseable square footage of the Demised Premises and the denominator of which is the gross leaseable square footage of buildings within the Shopping Center as may be calculated by Landlord from time to time (excluding areas where a party other than Landlord is obligated directly to pay the expenses in question) unless a different formula is provided in this lease.

(u) Exclusive Use: See Section 29.21.

1.2 The following chart is provided as an estimate of Tenant's initial monthly payment broken down into its components. This chart, however, does not supersede the specific provisions contained elsewhere in this lease:

Initial minimum guaranteed rental (Section 1.1(n))		\$10,250.67	
Initial Common Area maintenance charge ("CAM" or "C") (Section 7.4)		\$ 1,345.81 (\$4.07 sf/yr)	
Initial escrow payment for real estate charges ("T") (Article VI)		\$ 1,405.33 (\$4.25 sf/yr)	
Initial escrow payment for insurance ("I") (Article VI)		\$ 142.19 (\$0.43 sf/yr)	
Total Initial Monthly Payment (includes C+T+I or "CTI", subject to reconciliation as provided in this lease)		\$ 13,144.00	
*1.1(n)	Years 1 through 5	\$10,250.67/month	\$123,008.00/year = \$31.00 /sf
	Years 6 through 10	\$10,581.33/month	\$126,976.00_/year = \$32.00 /sf
	Years 11 through 20		See Exhibit "G"-- Renewal Options

ARTICLE II.
GRANTING CLAUSE

2.1 Landlord leases the Demised Premises to Tenant upon the terms and conditions set forth in this lease.

ARTICLE III.
DELIVERY OF PREMISES

3.1 Except to the extent modified by Landlord's express assumption of construction obligations, if any, in an exhibit attached to this lease, the Demised Premises are being leased "As Is" and "with all faults", if any, and Landlord makes no warranty of any kind, express or implied, with respect to the Demised Premises (without limitation, Landlord makes no warranty as to the habitability or fitness of the Demised Premises).

ARTICLE IV.
ACCORD AND SATISFACTION

4.1 No payment by Tenant or receipt by Landlord of a lesser amount than any installment or payment of rent due shall be deemed to be other than on account of the amount due, and no endorsement or statement on any check or payment of rent shall be deemed an accord and satisfaction. Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or payment of rent, or pursue any other remedies available to Landlord. In the event of a partial payment, Landlord may apply such funds to sums presently due in such order as Landlord may elect.

4.2 Rental shall accrue from the Commencement Date (within 10 days after written request, Tenant shall sign a letter in form reasonably acceptable to Landlord and Tenant confirming the Commencement Date and such other factual matters as Landlord shall reasonably request), and if paid by "Automatic Withdrawal" (as further defined below), shall be due and payable on the first business day of the month to Landlord. If Tenant elects to pay rental by Automatic Withdrawal, then Tenant will authorize Landlord, on the first business day (or a day thereafter, as necessary) of each calendar month during the Lease Term, to withdraw the minimum guaranteed rental and other sums due Landlord hereunder from Tenant's bank account (the "Automatic Withdrawal"), as such bank account may be modified from time to time (the "Bank Account"). If Tenant elects to pay rental in such manner, then Tenant shall complete an information sheet in substantially the form of Exhibit "I" attached hereto and made a part hereof (the "Information Sheet"). In the event of a change in Tenant's Bank Account, Tenant shall have the right to change the information set forth in the Information Sheet upon thirty (30) day written notice to Landlord. In addition, if Tenant elects to pay rental by Automatic Withdrawal, then Tenant agrees to execute such other documents as may be reasonably requested by Landlord to effectuate Landlord's withdrawal of funds from the Bank Account. If, at any time during the Lease Term, Landlord elects not to withdraw from the Bank Account pursuant to this Section 4.2, Landlord shall so notify Tenant and thereafter, Tenant shall be

responsible for delivering the minimum guaranteed rental and other sums due Landlord hereunder to the payment address set forth in Section 1.1(c) above in accordance with this Article IV.

4.3 Tenant shall pay to Landlord minimum guaranteed rental in monthly installments in the amounts specified in Section 1.1(n) of this lease. The first such monthly installment shall be due and payable on or before the Commencement Date, and, if not paid by Automatic Withdrawal, the subsequent installments shall be due and payable on or before the first day of each succeeding calendar month during the Lease Term; provided that if the Commencement Date is a date other than the first day of a calendar month, there shall be due and payable on or before such date as minimum guaranteed rental for the balance of such calendar month a sum equal to that proportion of the rent specified for the first full calendar month as herein provided, which the number of days from the Commencement Date to the end of the calendar month during which the Commencement Date shall fall bears to the total number for days in such month.

4.4 It is understood that the minimum guaranteed rental is payable on or before the first day of each calendar month (in accordance with Section 4.3 above), or if paid by Automatic Withdrawal (in accordance with Section 4.2 above), the minimum guaranteed rental shall be payable on the first business day of the month. In the event any rental is not received within 5 days after its due date, for any reason whatsoever, then in addition to the past due amount Tenant shall pay to Landlord one of the following (the choice to be at the sole option of the Landlord unless one of the choices is improper under applicable law, in which event the other alternative will automatically be deemed to have been selected): (a) a late charge in an amount equal of five percent (5%) of the rental then due, in order to compensate Landlord for its administrative and other overhead expenses; or (b) interest on the rental then due at the maximum contractual rate which could legally be charged in the event of a loan of such rental to Tenant (but in no event to exceed 1-1/2% per month), such interest to accrue continuously on any unpaid balance due to Landlord by Tenant during the period commencing with the rental due date and terminating with the date on which Tenant makes full payment of all amounts owing to Landlord at the time of said payment. Any such late charge or interest payment shall be payable as additional rental under this lease, shall not be considered as a deduction from percentage rental, and shall be payable immediately on demand. None of the foregoing shall preclude Landlord from pursuing any available remedies under this lease for a default.

4.5 If Tenant fails in two consecutive months to make rental payments within ten days after due, Landlord, in order to reduce its administrative costs, may require, by giving written notice to Tenant (and in addition to any late charge or interest accruing pursuant to Section 4.7 above, as well as any other rights and remedies accruing pursuant to Article XXII or Article XXIII below, or any other provision of this lease or at law), that minimum guaranteed rentals are to be paid quarterly in advance instead of monthly. Any acceptance of a monthly rental payment or of a personal or corporate check thereafter by Landlord shall not be construed as a subsequent waiver of said rights.

ARTICLE V. SALES REPORTS, RECORDS AND FINANCIAL STATEMENTS

5.1 Tenant shall provide to Landlord within thirty (30) days from the end of each calendar quarter during the term of this Lease gross sales from the Demised Premises for the prior quarter which Landlord agrees to keep confidential, with disclosure limited to Landlord's lender (for this the property which the Demised Premises is a part) or a potential buyer of such property provided that such parties shall agree to maintain the confidentiality of such sales information. Tenant shall provide such information on a trailing twelve month basis within ten (10) days from written request therefor by Landlord, subject to the confidentiality provisions of the prior sentence.

ARTICLE VI. TENANT'S RESPONSIBILITY FOR TAXES, OTHER REAL ESTATE CHARGES AND INSURANCE EXPENSES

6.1 Tenant shall be liable for all taxes levied against personal property and trade fixtures placed by Tenant (or its concessionaires, subtenants or licensees) in the Demised Premises. If any such taxes are levied against Landlord or Landlord's property and if Landlord elects to pay the same or if the assessed value of Landlord's property is increased by inclusion of personal property and trade fixtures placed by Tenant (or its concessionaires, subtenants or licensees) in the Demised Premises and Landlord elects to pay the taxes based on such increase, Tenant shall pay to Landlord upon demand that part of such taxes for which Tenant is primarily liable hereunder.

6.2 During the Lease Term, Tenant shall also be liable for Tenant's Proportionate Share of all "real estate charges" (as defined below) and "insurance expenses" (as defined below) related to and/or allocable to the Shopping Center or Landlord's ownership of the Shopping Center. Tenant's obligations under this Section 6.2 shall be prorated during any partial year (i.e., the first year and the last year of the Lease Term). "Real estate charges" shall include ad valorem taxes, all reasonable fees, expenses and costs incurred by Landlord in investigating, protesting, contesting or in any way seeking to reduce or avoid increases in any assessments, levies or the tax rate pertaining to any taxes to be paid by Landlord, general and special assessments, property owner's assessments, parking surcharges, any tax or excise on rents, any tax or charge for governmental services (such as street maintenance or fire protection) and any tax or charge which replaces any of such above-described "real estate charges" and shall expressly include any margin tax imposed on Landlord's collection of rent (but not any margin tax imposed on Landlord for doing business in Texas or any or jurisdiction); provided, however, that "real estate charges" shall not be deemed to include any franchise, estate, inheritance or general income tax. "Insurance expenses" shall include all premiums and other expenses incurred by Landlord for commercial general liability insurance, property insurance and rental interruption insurance obtained in connection with the Shopping Center, as well as any other insurance, endorsements and special coverages in connection with the Shopping Center that Landlord may elect to obtain in Landlord's commercially reasonable discretion.

To the extent that the buildings and adjacent parking are taxed as separate tax parcels, Landlord, for purposes of calculating Tenant's Proportionate Share of real estate charges, may elect to calculate Tenant's Proportionate Share as a fraction, the numerator is the gross leaseable square footage of the Demised Premises and the denominator of which is the gross leaseable square footage of the building(s) within the tax parcel in question, and the real estate charges shall be those that relate to and/or are allocable to such tax parcel instead of the Shopping Center. In addition, to the extent that buildings within a tax parcel have disparate values, as reflected on the current records of the applicable tax authority, Landlord may equitably allocate such real estate charges among tenants to reflect such disparate values as determined by Landlord in its commercially reasonable discretion subject to Tenant's review and approval thereof, which approval will not be unreasonably withheld.

6.3 Landlord and Tenant shall attempt to obtain separate assessments for Tenant's obligations pursuant to Section 6.1 and, with respect to Section 6.2, for such of the "real estate charges" as are readily susceptible of separate assessment. To the extent of a separate assessment, Tenant agrees to pay such assessment before it becomes delinquent and to keep the Demised Premises free from any lien or attachment; moreover, as to all periods of time during the Lease Term, this covenant of Tenant shall survive the termination of the lease. With regard to the calendar year during which the Lease Term expires, Landlord at its option either may bill Tenant when the charges become payable or may charge Tenant upon demand by Landlord at intervals not more frequently than monthly an estimate of Tenant's prorata share of whichever charges have been paid directly by Tenant or Landlord (based upon information available for the current year plus, if current year information is not adequate in itself, information relating the immediately preceding year).

6.4 If at any time during the Lease Term, Landlord has been given reasonable evidence that during the immediately succeeding twelve (12) month period that Tenant will owe Landlord an additional payment pursuant to one or more of the preceding sections of this Article VI, upon written notice by Landlord to Tenant of such evidence, Landlord may direct that Tenant prepay monthly a pro rata portion of the prospective future payment (i.e., the prospective future payment divided by the number of months before the prospective future payment will be due). Tenant agrees that any such prepayment directed by Landlord shall be due and payable monthly on the same day that minimum guaranteed rental is due. Tenant shall not be entitled to interest on any such prepaid sums. Following the end of each calendar year, Tenant shall remit any deficiency (from any actual expenses so incurred) within thirty (30) days after receipt of an invoice from Landlord and Landlord shall remit (or apply to the then next due amounts from Tenant) any amount overpaid by Tenant (from any actual expenses so incurred).

ARTICLE VII. COMMON AREAS

7.1 The term "Common Area" is defined for all purposes of this lease as that part of the Shopping Center intended for the common use or enjoyment of all tenants, including among other facilities (as such may be applicable to the Shopping Center), parking areas, private streets and alleys, landscaping areas, greenbelt areas, curbs, loading area, elevators, sidewalks, malls and promenades (enclosed or otherwise), lighting facilities, drinking fountains, meeting rooms, public toilets, and the like and so designated by Landlord as Common Areas but excluding (i) space in buildings (now or hereafter existing) designated for rental for commercial purposes, as the same may exist from time to time, (ii) streets and alleys exclusively maintained by a public authority, (iii) areas within the Shopping Center which may from time to time not be owned by Landlord (and such other owner contractually maintains its own parcel), and (iv) areas leased to a single-purpose user (such as a bank or a fast-food restaurant) where such user contractually maintains its own parcel. In addition, although the roof(s) of the building(s) in the Shopping Center are not literally part of the Common Area, they will be deemed to be so included for purposes of (i) Landlord's ability to prescribe rules and regulations regarding same and (ii) their inclusion for purposes of Common Area maintenance reimbursements. Subject to the further provisions of this Lease regarding the "Restricted Area" (as described on Exhibit "A-1"), Landlord reserves the right to change from time to time the dimensions and location of the Common Area, as well as the dimensions, identity and type of any buildings in the Shopping Center. For example, and without limiting the generality of the immediately preceding sentence (but subject to the further provisions of this Lease regarding the Restricted Area), Landlord may substitute for any parking area other areas reasonably accessible to the tenants of the Shopping Center, which areas may be elevated, surface or underground.

7.2 Tenant, and its employees and customers, and when duly authorized pursuant to the provisions of this lease, its subtenants, licensees and concessionaires, shall have the nonexclusive right to use the Common Area (excluding roofs of buildings in the Shopping Center) as constituted from time to time, such use to be in common with Landlord, other tenants in the Shopping Center and other persons permitted by the Landlord to use the same, and subject to such reasonable rules and regulations governing use as Landlord from time to time prescribes. For example, and without limiting the generality of Landlord's ability to establish rules and regulations governing all aspects of the Common Area, Tenant agrees as follows:

(a) Tenant shall furnish to Landlord upon request a complete list of license numbers of all automobiles operated by Tenant, its employees, subtenant, licensees and concessionaires, and Tenant agrees that if any automobile or other vehicle owned by Tenant or any of its employees, subtenants, licensees or concessionaires shall at any time be parked in any part of the Shopping Center other than the specified areas designated by Landlord for employee parking (which such designation Landlord may make and with which Tenant and its employees, subtenants, licensees and concessionaires shall comply as a covenant of Tenant hereunder), Tenant shall pay to Landlord as additional rent upon demand an amount equal to the daily rate or charge for such parking as established by Landlord from time to time for each day, or part thereof, such automobile or other vehicle is so parked.

(b) Tenant shall not solicit business within the Common Area nor take any action which would interfere with the rights of other persons to use the Common Area, including, but not limited to, the parking of any automobiles or vehicles in the parking areas that, in the sole discretion of Landlord, are intended as a form of advertising for the Tenant.

(c) Subject to the further provisions of this Lease regarding the Restricted Area, Landlord may temporarily close any part of the Common Area for such periods of time as may be necessary to make repairs or alterations or to prevent the public from obtaining prescriptive rights.

(d) With regard to the roof(s) of the building(s) in the Shopping Center, use of the roof(s) is reserved to Landlord or, with regard to any tenant demonstrating to Landlord's satisfaction a need to same, to such tenant after receiving prior written consent from Landlord. Notwithstanding the foregoing, no use of the roof of the Demised Premises by Landlord shall interfere with Tenant's possession, use or enjoyment of the Demised Premises.

(e) Tenant's right to use the Common Areas shall be subject to any reciprocal easement agreement filed of record or to be filed of record and affecting the Shopping Center in effect as of the date of this Lease, copies of which have been delivered to Tenant on or before the date hereof.

7.3 Landlord shall be responsible for the operation, management and maintenance of the Common Area, the manner of maintenance and the expenditures therefore to be in the reasonable discretion of Landlord, generally in keeping with similar shopping centers within the same geographical area as the Shopping Center.

7.4 In addition to the rentals and other charges prescribed in this lease, during the Lease Term, Tenant shall pay to Landlord Tenant's Proportionate Share of the actual reasonable cost of repair, operation and maintenance of the Common Area (including, among other costs, those for lighting, painting, cleaning, policing, inspecting, repairing and replacing, and in the event of an enclosed mall or promenade in the Shopping Center, for heating and cooling) which may be incurred by Landlord, including Tenant's Proportionate Share of the cost of a management fee that Landlord pays to the manager of the Shopping Center. In addition, although the roof(s) of the building(s) in the Shopping Center are not literally part of the Common Area, Landlord and Tenant agree that reasonable costs and expenses associated with roof maintenance, repair and replacement shall be included as a Common Area maintenance item to the extent not specifically allocated to Tenant under this lease nor to another tenant pursuant to its lease. The expenses paid or reimbursed by Tenant pursuant to Article VI shall be excluded; moreover, with regard to capital expenditures (i) the original investment in capital improvements (i.e., upon the initial construction of the Shopping Center) shall not be included and (ii) improvements and replacements, to the extent capitalized on Landlord's records, shall be included only to the extent of a reasonable depreciation or amortization. Notwithstanding anything to the contrary, Landlord's reasonable cost of maintaining, repairing, striping, resurfacing, patching, improving and replacing the parking lot(s) (collectively, the "Resurfacing Costs") in the Common Area shall be deemed included as a part of the cost of operation and maintenance of the Common Area and shall not be considered a capital expenditure for purposes of the lease. If this lease should commence on a date other than the first day of a calendar year or terminate on a date other than the last day of the calendar year, Tenant's reimbursement obligations under this Section 7.4 shall be prorated based upon Landlord's expenses for the entire calendar year. Tenant shall make such payments to Landlord on demand. Landlord may at its option make monthly or other periodic charges based upon the estimated annual cost of repair, operation and maintenance of the Common Area, payable by Tenant in advance on the same day minimum guaranteed rental is due but subject to adjustment after the end of the year on the basis of the actual cost for such year. Tenant shall not be entitled to any interest on such prepaid sums. Following the end of each calendar year, Tenant shall remit any deficiency (from any actual expenses so incurred) within thirty (30) days after receipt of invoice from Landlord and any excess charges related to the prior period shall be offset against any rentals then due hereunder.

7.5 Notwithstanding any other provision of this Lease to the contrary, Landlord will not materially modify the Restricted Area in a way that materially adversely affects parking and access by Tenant's invitees, customers or employees in the Restricted area.

ARTICLE VIII. MERCHANTS' ASSOCIATION OR PROMOTIONAL FUND

8.1 Intentionally omitted.

ARTICLE IX. USE AND CARE OF PREMISES

9.1 Tenant shall commence business operations in the Demised Premises on or immediately after the Commencement Date and shall operate its business in an efficient, high class and reputable manner so as to produce the maximum amount of sales from the Demised Premises. Tenant shall not at any time leave the Demised Premises vacant, but shall in good faith, continuously throughout the Lease Term, conduct and carry on in the entire Demised Premises the type of business for which the Demised Premises are leased. Tenant shall, except during reasonable periods for repairing, cleaning and decorating, keep the Demised Premises open to the public for business with adequate personnel in attendance on all days and during all hours (including evenings) established by Landlord from time to time as store hours for the Shopping Center, and during any other hours when the Shopping Center generally is open to the public for business (including extended hours during the shopping season prior to Christmas and whenever else that the majority of the retail tenants in the Shopping Center open for business during extended hours), except to the extent Tenant may be prohibited from being open for business by applicable law, ordinance or governmental regulation.

9.2 Subject to Section 9.10, the Demised Premises may be used only for the Permitted Use, and only under the trade name specified in Article I above (or, if Article I does not provide a trade name, any trade name approved in advance by Landlord), and for no other purpose and under no other trade name without the prior written consent of Landlord. Landlord agrees,

however, that it will not withhold consent in a wholly unreasonable and arbitrary manner to a proposed change in Tenant's trade name (as further explained in Section 29.4 of this lease).

9.3 The Demised Premises shall not be used for any purpose which increases the insurance premium cost or invalidates any insurance policy carried on the Demised Premises or other parts of the Shopping Center. All property kept, stored or maintained within the Demised Premises by Tenant shall be at Tenant's sole risk.

9.4 Tenant shall not conduct within the Demised Premises any fire, auction, bankruptcy, "going-out-of-business," "lost-our-lease" or similar sale; nor shall Tenant operate within the Demised Premises a "wholesale" or "factory outlet" store, a cooperative store, a "second hand" store, a "surplus" store or a store commonly referred to as a "discount house." The purpose for this restriction is the maintenance of a first-class shopping center image, not price regulation; therefore, Landlord agrees that items may be sold, and on occasion be advertised as being sold, at discounted prices as long as Tenant complies with all applicable laws and maintains an image consistent with a first-class shopping center.

9.5 Tenant shall not permit any objectionable noises or odors to emanate from the Demised Premises (including, without limitation, during the period of any Tenant construction), provided that normal odors and noises associated with similar restaurant uses shall not be considered objectionable; nor place or permit any radio, television, loudspeaker or amplifier on the roof or outside the Demised Premises or where the same can be seen or heard from outside the Demised Premises except for typical speaker and/or television placements for similar restaurants in any patio area; nor place any antenna, equipment, awning or other projection on the exterior of the Demised Premises except for awnings or coverings typically used in connection with a patio seating area for a restaurant; nor take any other action which would constitute a nuisance or would disturb or endanger other tenants of the Shopping Center or unreasonably interfere with their use of their respective premises; nor permit any unlawful or immoral practice to be carried on or committed on the Demised Premises; nor do anything which would tend to injure the reputation of the Shopping Center. If required for odor suppression or sound attenuation, Tenant shall, at Tenant's sole cost and expense, install insulation and/or vinyl barriers and/or exhaust fans in the demising walls and take such other measures as may be reasonably required by Landlord. All uses shall comply with all restrictive covenants now or hereafter affecting the Demised Premises. In no event shall the Demised Premises be used for any of the uses described in Exhibit "F". In the event that Tenant violates any of the foregoing, Landlord, at Tenant's sole cost and expense, may take such actions as Landlord reasonably deems necessary to cause a cessation of such activities. The foregoing does not constitute an election of remedies.

9.6 Tenant shall take good care of the Demised Premises and keep the same free from waste at all times. Tenant shall not overload the floors in the Demised Premises, nor deface or injure the Demised Premises. Tenant shall keep the Demised Premises neat, clean and free from dirt, rubbish, ice or snow at all times. Tenant shall store all trash and garbage inside trash receptacles within the Demised Premises, or in a trash dumpster or similar container approved by Landlord as to type, location and screening (provided, however, the Shopping Center dumpster shall not be used for construction trash and packing material); and Tenant shall arrange for the regular pick-up of such trash and garbage at Tenant's expense (unless Landlord elects to furnish such a service, in which event Tenant shall be charged an equitable portion of the total of charges to all tenants using the service). Receiving and delivery of goods and merchandise and removal of garbage and trash shall be made only in a manner and areas prescribed by Landlord. Tenant shall not operate an incinerator or burn trash or garbage within the Shopping Center area.

9.7 Tenant shall maintain all display windows in a neat, attractive condition, and shall keep all display windows, exterior electric signs and exterior lighting under any canopy in front of the Demised Premises lighted from dusk until the closing time for the restaurant which shall be the same or similar times for Tenant's other restaurant locations in the DFW Metropolitan Area..

9.8 Tenant shall include the address and identity of its business activities in the Demised Premises in all advertisements made by Tenant in which the address and identity of any similar local business activity of Tenant is mentioned.

9.9 Tenant shall procure at its sole expense any permits and licenses required for the transaction of business in the Demised Premises and otherwise comply with all applicable laws, ordinances, restrictive covenants and governmental regulations affecting the Demised Premises. Landlord shall timely cooperate with Tenant in connection with any such licenses or permits (including, without limitation, a license from the Texas Alcoholic Beverage Commission) with respect to which information from Landlord is necessary or appropriate.

9.10 Tenant may change Tenant's use of the Demised Premises with Landlord's prior written approval, which approval will not be unreasonably withheld, delayed or conditioned, so long as (a) the new use is a restaurant use, (b) the new use does not violate any then exclusive use or prohibited use of another tenant of the Shopping Center, (c) Tenant presents Landlord with the new use, modifications of the Demised Premises and the time during which the Demised Premises will be closed for business for re-purposing. If Landlord approves the change in use, any approvals of Tenant's work, signage changes and similar matters shall remain subject to Landlord's approvals in accordance with the further terms of this Lease, provided such approval will not be unreasonably withheld, conditioned or delayed.

ARTICLE X. MAINTENANCE AND REPAIR OF PREMISES

10.1 Landlord shall keep the foundation, the exterior walls (but Landlord shall not be responsible for plate glass; windows, doors, door closure devices and other exterior openings, window and door frames, molding, locks and hardware, special

store fronts; lighting, heating, air conditioning, plumbing and other electrical, mechanical and electromotive installation, equipment and fixtures; signs, placards, decorations or other advertising media of any type; and interior painting or other treatment of interior walls) and roof (subject to the second sentence in Section 7.4 above) of the Demised Premises in good repair. Landlord, however, shall not be required to make any repairs occasioned by the act or negligence of Tenant, its agents, employees, subtenants, licensees and concessionaires (including, but not limited to, roof leaks resulting from Tenant's installation of air conditioning equipment or any other roof penetration or placement); and the provisions of the previous sentence are expressly recognized to be subject to the provisions of Article XVII and Article XVIII of this lease. In the event that the Demised Premises should become in need of repairs required to be made by Landlord hereunder, Tenant shall give immediate written notice thereof to Landlord; and Landlord shall not be responsible in any way for failure to make any such repairs until a reasonable time shall have elapsed (taking into account the nature of the repairs including those which may be required in connection with an emergency situation or to prevent further damage or danger to Tenants or Tenant's employees, customers or invitees) after receipt by Landlord of such written notice.

10.2 Tenant shall keep the Demised Premises in a good, clean and habitable condition and shall at its sole cost and expense (i) enter into a contract with a pest control vendor (reasonably acceptable to Landlord) requiring such vendor to regularly treat the Demised Premises to keep it free of insects, rodents, vermin and other pests, and (ii) make all needed repairs and replacements, including replacement of cracked or broken glass, except for repairs and replacements expressly required to be made by Landlord under the provisions of Section 10.1, Article XVII and Article XVIII. Without limiting the coverage of the previous sentence, it is agreed that Tenant's responsibilities herein include the repair and replacement of all lighting, heating, air conditioning, plumbing and other electrical, mechanical and electromotive installation, equipment and fixtures and also includes all utility repairs in ducts, conduits, pipes and wiring, and any sewer stoppage located in, under and above the Demised Premises. If any repairs required to be made by Tenant hereunder are not made within ten days after written notice delivered to Tenant by Landlord (no prior notice is required in the event of any emergency), Landlord may at its option make such repairs without liability to Tenant for any loss or damage which may result to its stock or business by reason of such repairs; and Tenant shall pay to Landlord upon demand, as additional rental hereunder, the cost of such repairs plus interest at the maximum contractual rate which could legally be charged in the event of a loan of such payment to Tenant (but in no event to exceed 1-1/2% per month), such interest to accrue continuously from the date of payment by Landlord until repayment by Tenant. In the event of an emergency, Landlord may make repairs immediately, without written notice to Tenant. At the expiration of this lease, Tenant shall surrender the Demised Premises in good condition, excepting reasonable wear and tear and losses required to be restored by Landlord in Section 10.1, Article XVII, and Article XVIII of this lease.

10.3 Tenant, at its sole cost and expense, shall regularly monitor the Demised Premises for the presence of mold or for any conditions that reasonably can be expected to give rise to mold (the "Mold Conditions"), including, but not limited to, observed or suspected instances of water damage, mold growth, repeated complaints of respiratory ailment or eye irritation by Tenant's employees or any other occupants in the Demised Premises, or any notice from a governmental agency of complaints regarding the indoor air quality at the Demised Premises; and promptly notify Landlord in writing if it suspects mold or Mold Conditions at the Demised Premises.

10.4 In the event of suspected mold or Mold Conditions at the Demised Premises that have, with reasonable probability, been caused by the act or omission of Tenant, Tenant, at its sole cost and expense, shall promptly cause an inspection of the Demised Premises to be conducted, during such time as Landlord may designate, to determine if mold or Mold Conditions are present at the Demised Premises, and shall (a) notify Landlord, in writing, at least ten days prior to the inspection, of the date on which the inspection shall occur, and which portion of the Demised Premises shall be subject to the inspection; (b) retain an industrial hygienist certified by the American Board of Industrial Hygienists ("CIH") or an otherwise qualified mold consultant (generally, "Mold Inspector") to conduct the inspection; and (c) cause such Mold Inspector to: (i) obtain or maintain errors and omissions insurance coverage with terms and limits customarily maintained by Mold Inspectors, adding Landlord as an additional insured with respect to Landlord's vicarious liability, and provide to Landlord evidence of such coverage and a copy of the endorsement granting Landlord additional insured status; (ii) perform the inspection in a manner that is strictly confidential and consistent with the duty of care exercised by a Mold Inspector; and (iii) prepare an inspection report, keep the results of the inspection report confidential, and promptly provide a copy to Landlord.

10.5 In the event the inspection required by Section 10.4 hereof determines that mold or Mold Conditions are present at the Demised Premises and that such Mold Conditions have been caused by the act or omission of Tenant, then Tenant, at its sole cost and expense, shall promptly (a) hire trained and experienced mold remediation contractors to prepare a remediation plan and to remediate the mold or Mold Conditions at the Demised Premises; (b) send Landlord notice, in writing, with a copy of the remediation plan, at least five days prior to the mold remediation, stating (i) the date on which the mold remediation shall start (which shall be as soon as practicable); (ii) which portion of the Demised Premises shall be subject to the remediation; (iii) the name, address, and telephone number of the certified mold remediation contractors performing the remediation; (iv) the remediation procedures and standards to be used at the Demised Premises; (v) the clearance criteria to be employed at the conclusion of the remediation; and (vi) the date the remediation will conclude; (c) notify, in accordance with any applicable state or local health or safety requirements, its employees as well as occupants and visitors of the Demised Premises of the nature, location, and schedule for the planned mold remediation; (d) ensure that the mold remediation is conducted in accordance with the relevant provisions of the document *Mold Remediation in Schools and Commercial Buildings* (EPA 402-K-01-001, September 2008) ("EPA Guidelines"), published by the U.S. Environmental Protection Agency, as may be amended or revised from time to time, or any other applicable, legally binding federal, state, or local laws, regulatory standards or guidelines; and (e) provide Landlord with a draft of the mold remediation report and give Landlord a reasonable opportunity to review and comment thereon, and when such report is finalized, promptly provide Landlord with a copy of the final remediation report. If the Mold Conditions have not been caused by the act or omission of Tenant, then Landlord shall, at its sole cost and expense, promptly remediate or cause the

remediation of the Mold Condition in accordance with the foregoing criteria and give Tenant periodic updates of Landlord's progress and timing in such regard. Landlord shall promptly give Tenant a copy of the final remediation report.

10.6 Tenant acknowledges and agrees that Landlord shall have a reasonable opportunity to inspect the remediated portion of the Demised Premises after the conclusion of the mold remediation. If the results of Landlord's inspection indicate that the remediation does not comply with the final remediation report or any other applicable federal, state, or local laws, regulatory standards or guidelines, including, without limitation, the EPA Guidelines, then, if Tenant is responsible for such remediation in accordance with the foregoing provisions, Tenant, at its sole cost and expense, shall immediately take all further actions necessary to ensure such compliance.

10.7 Tenant hereby indemnifies, protects and defends Landlord from and against claims by third parties because of Mold Conditions caused by the act or omission of Tenant in or emanating from the Demised Premises.

ARTICLE XI. ALTERATIONS

11.1 Tenant shall not make any alterations, additions or improvements to the Demised Premises without the prior written consent of Landlord, except for the installation of unattached, movable trade fixtures which may be installed without drilling, cutting or otherwise defacing the Demised Premises. Without limiting the generality of the immediately preceding sentence, any installation or replacement of Tenant's heating or air conditioning equipment must be effected strictly in accordance with Landlord's instructions. All alterations, additions, improvements and fixtures (including, without limitation, all floor coverings and all heating and air conditioning equipment but excluding Tenant's unattached, readily movable furniture and office equipment) which may be made or installed by either party upon the Demised Premises shall remain upon and be surrendered with the Demised Premises and become the property of Landlord at the termination of this lease, unless Landlord requests their removal, in which event Tenant shall remove the same and restore the Demised Premises to their original condition at Tenant's expense prior to the expiration or earlier termination of the Lease Term.

11.2 All construction work done by Tenant within the Demised Premises shall be performed in a good and workmanlike manner, in compliance with all governmental requirements, and in such manner as to cause a minimum of interference with other construction in progress and with the transaction of business in the Shopping Center. Tenant agrees to indemnify Landlord and hold Landlord harmless against any loss, liability or damage resulting from such work, and Tenant shall, if requested by Landlord, furnish bond or other security satisfactory to Landlord against any such loss, liability or damage.

11.3 In the event that Landlord elects to remodel all or any portion of the Shopping Center, Tenant will cooperate with such remodeling, including Tenant's tolerating temporary inconveniences (and even the temporary removal of Tenant's signs in order to facilitate such remodeling, as it may relate to the exterior of the Demised Premises) provided that Landlord shall cause any such remodeling to be completed promptly and with the least inconveniences to Tenant as reasonably practicable.

11.4 In no event shall Tenant allow any mechanic's or materialmen's liens to attach to the Demised Premises by virtue of any act or omission (or alleged act or omission) of Tenant or its subtenants, agents, employees or contractors and, if such lien does attach, Tenant shall remove such lien within thirty (30) days after attachment.

ARTICLE XII. LANDLORD'S RIGHT OF ACCESS

12.1 Landlord shall have the right to enter upon the Demised Premises at reasonable times for the purpose of inspecting the same, or of making repairs to the Demised Premises, or of making repairs, alterations or additions to adjacent premises, or of showing the Demised Premises to prospective purchasers, lessees or lenders; provided that any entry by Landlord shall (a) be with reasonable prior notice to Tenant (except in an emergency situation), (b) be with due regard to the invitees of Tenant, and (c) be by Landlord using reasonable efforts not to unreasonably interrupt the business operations of Tenant including scheduling such access (except in an emergency situation) at reasonable times in the morning and early afternoon.

12.2 Tenant will permit Landlord to place and maintain "For rent" or "For Lease" signs on the Demised Premises during the last one-hundred-eighty (180) days of the Lease Term, it being understood that such signs shall in no way affect Tenant's obligations pursuant to Section 9.4, Section 13.1 or any other provision of this lease.

12.3 Use of the roof above the Demised Premises is reserved to Landlord.

ARTICLE XIII. SIGNS; STORE FRONTS

13.1 Tenant shall not, without Landlord's prior written consent (a) make any changes to the store front, or (b) install any exterior lighting, decorations, paintings, awnings, canopies or the like, or (c) erect or install any signs, window or door lettering, placards, decorations or advertising media of any type which can be viewed from the exterior of the Demised Premises, excepting only dignified displays of customary type for its display windows. All signs, lettering, placards, decorations and advertising media (including, without limitation, the sign required by Section 13.2 below) shall conform in all respects to applicable law and the sign criteria established by Landlord for the Shopping Center from time to time in the exercise of its sole discretion, and shall be subject to Landlord's requirements as to construction, method of attachment, size, shape, height, lighting, color and general appearance.

Landlord's existing sign criteria is attached hereto as Exhibit "J" and incorporated herein by reference. All signs shall be kept in good condition and in proper operating order at all times. Tenant will be required to remove any signs upon its vacating the Demised Premises and repairing the building to its original condition. Tenant shall be permitted to advertise its business on one panel on both sides of the shopping center sign(s) in the location(s) shown on Exhibit A.

13.2 Subject to the restrictions of Section 13.1 above, Tenant agrees to install (or have Landlord install at Tenant's expense) and maintain a first-class sign on the front of the Demised Premises during the Lease Term.

ARTICLE XIV. UTILITIES

14.1 Landlord agrees to cause to be provided to the Shopping Center the necessary mains, conduits and other facilities necessary to supply water, gas, electricity, telephone service and sewerage service to the building in which the Demised Premises are located.

14.2 Effective as of the Lease Date, Tenant shall promptly pay all charges for electricity, water, gas, telephone service, sewerage service and other utilities furnished to the Demised Premises. Landlord, may, if it so elects, furnish one or more utility services to Tenant, and in such event Tenant shall purchase the use of such services as are tendered by Landlord, and shall pay on demand as additional rental the rates charged to Landlord (based on reasonable evidence thereof delivered by Landlord to Tenant) which shall not exceed the rates which would be charged for the same services if furnished directly by the local public utility companies. Landlord may at any time discontinue furnishing any such service without obligation to Tenant other than to connect the Demised Premises to the public utility, if any, furnishing such service. In such event, Tenant shall promptly pay all charges for such utilities directly to the provider thereof, and in all events before delinquency.

14.3 Landlord shall not be liable for any interruption whatsoever in utility services not furnished by Landlord, nor for interruptions in utility services furnished by Landlord which are due to fire, accident, strike, acts of God or other causes beyond the control of Landlord or in order to make alterations, repairs or improvements.

14.4 If a sub-meter is installed in the Demised Premises to measure the flow of water thereto, Tenant at the request of the Landlord shall be responsible to read said meter and provide all meter information to the Landlord. Tenant shall install and maintain a sub-meter for water unless such is the responsibility of Landlord under Exhibit "C".

14.5 Tenant shall cause all utilities serving the Demised Premises to be transferred to Tenant's name as of the earlier of (a) the date the Demised Premises are "ready for occupancy" or (b) the date that Tenant takes possession of the Demised Premises. Tenant shall reimburse Landlord for any utility costs incurred by Landlord arising due to a delay in such transfer.

ARTICLE XV. INSURANCE COVERAGES

15.1 Landlord shall procure and maintain throughout the Lease Term a policy or policies of insurance (but subject to Article VI above), causing the Shopping Center to be insured under commercial general liability insurance, property insurance and any other insurance, endorsements and special coverages that Landlord may elect to obtain in Landlord's commercially reasonable discretion.

15.2 Tenant shall procure and maintain throughout the Lease Term a policy or policies of insurance, at its sole cost and expense, causing Tenant's trade fixtures, inventory, and other contents to be insured under standard personal property insurance (special form) (full replacement cost) (or its equivalent) and, with regard to liability insurance, insuring I-20/South Collins III, LP and Tenant against all claims, demands or actions arising out of or in connection with Tenant's use or occupancy of the Demised Premises, or by the condition of the Demised Premises. The limits of Tenant's liability policy or policies shall be in an amount of not less than \$2,000,000 per occurrence, and shall be written by insurance companies satisfactory to Landlord. Tenant shall obtain a written obligation on the part of each insurance company to notify Landlord at least twenty days prior to cancellation of such insurance. Such policies or duly executed certificates of insurance shall be promptly delivered to Landlord and renewals thereof as required shall be delivered to Landlord at least thirty days prior to the expiration of the respective policy terms. If Tenant should fail to comply with the foregoing requirement relating to insurance, Landlord may obtain such insurance and Tenant shall pay to Landlord on demand as additional rental hereunder the premium cost thereof plus interest at the maximum contractual rate (but in no event to exceed 1-1/2% per month) from the date of payment by Landlord until repaid by Tenant. Such policies must be acceptable to Landlord in terms of issuer, form and content (including, without limitation, containing a waiver of subrogation acceptable to Landlord). Tenant's insurance shall be primary. Landlord may require that any of its lenders and the management company for the Shopping Center be named as insureds as their interests may appear. The references to a specific landlord and its general partner above shall be changed if ownership of the Demised Premises changes. If liquor is served at the Demised Premises, Landlord may require that Tenant carry liquor liability insurance in amounts, in a form, with a content and with an underwriter reasonably acceptable to Landlord.

ARTICLE XVI. WAIVER OF LIABILITY; MUTUAL WAIVER OF SUBROGATION

16.1 Landlord and Landlord's agents and employees shall not be liable to Tenant, nor to Tenant's employees, agents or visitors, nor to any other person whomsoever, for any injury to person, damage to property or lost profit caused by the Demised

Premises or other portions of the Shopping Center becoming out of repair, casualty loss, defect or failure of any structural element of the Demised Premises or of any equipment, pipes, alarm systems, or wiring, or broken glass, the backing up of drains, or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Demised Premises **EVEN IF DUE TO LANDLORD'S NEGLIGENCE** (except where due to Landlord's failure to make repairs required to be made hereunder, after the expiration of a reasonable time after written notice to Landlord of the need for such repairs). **ACCORDINGLY, LANDLORD SHALL NOT BE LIABLE FOR ITS OWN NEGLIGENCE (except as set forth in the preceding sentence) BUT SHALL BE LIABLE FOR ITS GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT.** Landlord shall not be liable to Tenant, nor to Tenant's employees, agents or visitors, nor to any other person whomsoever, for any loss or damage that may be occasioned by or through the acts or omissions of other tenants of the Shopping Center or of any other persons whomsoever. Landlord shall not be held responsible in any way on account of any construction, repair or reconstruction (including widening) of any private or public roadways, walkways or utility lines. **THIS SECTION RELEASES LANDLORD FOR THE CONSEQUENCES OF ITS OWN NEGLIGENCE UNDER THE CIRCUMSTANCES SET FORTH HEREIN.**

16.2 Landlord shall not be liable to Tenant or to Tenant's employees, agents, or visitors, or to any other person whomsoever for any injury to person or damage to property (a) on or about the Demised Premises **EVEN IF DUE TO THE NEGLIGENCE OF LANDLORD** or (b) arising out of the use of the Demised Premises by Tenant or its agents, visitors or employees or the conduct of Tenant's business therein **EVEN IF DUE TO LANDLORD'S NEGLIGENCE**, or (c) arising out of any breach of default by Tenant in the performance of its obligations under this lease (except as otherwise provided herein), and Tenant hereby agrees to indemnify, protect and hold Landlord harmless from and against any loss, expenses or claims arising out of such damage or injury **EVEN IF DUE TO THE NEGLIGENCE OF LANDLORD (BUT NOT LANDLORD'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT).** **THIS PROVISION INDEMNIFIES LANDLORD FOR ITS OWN NEGLIGENCE.**

16.3 **ANYTHING TO THE CONTRARY IN THIS LEASE NOTWITHSTANDING, NEITHER PARTY, NOR ITS OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS OR INVITEES OR THE MANAGEMENT COMPANY FOR THE SHOPPING CENTER (EACH, A "RELEASED PARTY") SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY INSURANCE COMPANY (BY WAY OF SUBROGATION OR OTHERWISE) INSURING THE OTHER PARTY FOR ANY LOSS OR DAMAGE TO ANY BUILDING STRUCTURE OR OTHER TANGIBLE PROPERTY (INCLUDING, WITHOUT LIMITATION, INVENTORY AND OTHER PERSONAL PROPERTY), WHEN SUCH LOSS IS CAUSED BY ANY OF THE PERILS WHICH ARE OR COULD BE INSURED AGAINST UNDER STANDARD COMMERCIAL BUILDING AND PERSONAL PROPERTY INSURANCE (SPECIAL FORM) (FULL REPLACEMENT COST) (OR ITS EQUIVALENT) OR LOSSES UNDER WORKER'S COMPENSATION LAWS AND BENEFITS, EVEN THOUGH SUCH LOSS OR DAMAGE MIGHT HAVE BEEN OCCASIONED BY THE NEGLIGENCE OF ANY RELEASED PARTY (THIS CLAUSE SHALL NOT APPLY, HOWEVER, TO ANY DAMAGE CAUSED BY GROSS NEGLIGENCE OR INTENTIONALLY WRONGFUL ACTIONS OR AS OTHERWISE PROVIDED HEREIN). EACH PARTY REPRESENTS AND COVENANTS THAT IT SHALL OBTAIN APPROPRIATE WAIVERS OF SUBROGATION IN ITS PROPERTY INSURANCE POLICIES. THIS SECTION RELEASES A PARTY FOR THE CONSEQUENCES OF ITS OWN NEGLIGENCE. PARTIES NAMED HEREIN NOT SIGNING THIS LEASE ARE EXPRESS AND INTENDED THIRD PARTY BENEFICIARIES OF THIS WAIVER OF SUBROGATION.**

ARTICLE XVII. DAMAGES BY CASUALTY

17.1 Tenant shall give immediate written notice to the Landlord of any damage caused to the Demised Premises by fire or other casualty.

17.2 In the event that the Demised Premises shall be damaged or destroyed by fire or other casualty insurable under standard commercial building insurance (special form) (full replacement cost) (or its equivalent) and Landlord does not elect to terminate this lease as hereinafter provided, Landlord shall proceed with reasonable diligence and at its sole cost and expense to rebuild and repair the Demised Premises. In the event (a) the building in which the Demised Premises are located or the Demised Premises shall be destroyed or rendered untenable to an extent in excess of fifteen (15%) percent of the its respective floor area by a casualty covered by Landlord's insurance, (b) the casualty is not insured (exclusive of deductibles) and exceeds 5% of the respective floor area of the building in which the Demised Premises is located, (c) the holder of a mortgage, deed of trust or other lien on the Demised Premises at the time of the casualty elects, pursuant to such mortgage, deed of trust or other lien, to require the use of all or part of Landlord's insurance proceeds in satisfaction of all or part of the indebtedness secured by the mortgage, deed of trust or other lien, or (d) fewer than two years exist on the then current term of the lease, then Landlord may elect either to terminate this lease or to proceed to rebuild and repair the Demised Premises. Landlord shall give written notice to Tenant of such election within sixty days after the occurrence of such casualty and, if it elects to rebuild and repair, shall proceed to do so with reasonable diligence and at its sole cost and expense.

17.3 Landlord's obligation to rebuild and repair under this Article XVII shall in any event be limited to restoring one of the following (as may be applicable): (a) if this lease does not include an attached exhibit describing Landlord's initial construction responsibility ("Landlord's Work"), Landlord shall restore the Demised Premises to substantially the condition in which the same existed prior to such casualty, exclusive of any alterations, additions, improvements, fixtures and equipment installed by Tenant; or (b) Landlord's Work, as described in the applicable exhibit attached to this lease (if such an exhibit is attached), to substantially the same condition in which the same existed prior to the casualty. Tenant agrees that promptly after

substantial completion of such work by Landlord, Tenant will proceed with reasonable diligence and at Tenant's sole cost and expense to restore, repair and replace all alterations, additions, improvements, fixtures, signs and equipment installed by Tenant, or, if an exhibit describing Tenant's Work is attached hereto, all items of Tenant's Work as described in such exhibit, as the case may be, and in all events shall complete such work within a reasonable time after substantial completion of Landlord's Work.

17.4 Tenant agrees that during any period of reconstruction or repair of the Demised Premises, Tenant shall continue the operation of its business within the Demised Premises to the extent practicable.

17.5 If the Demised Premises are damaged by fire or other casualty cause by other than the negligent acts or omissions of Tenant or its contractors, invitees, guests or subtenants, and Tenant is unable to carry on its business in a commercially reasonable manner in the Demised Premises and such inability is reasonably expected to last more than one-hundred-eighty (180) days based on a commercially reasonable estimate provided by Landlord's contractor, then Tenant shall have the right to terminate this Lease upon written notice to Landlord delivered within twenty (20) days of Tenant's receipt of such estimate, in which the provisions hereof regarding termination of the Lease at the end of the term hereof shall be applicable.

ARTICLE XVIII. EMINENT DOMAIN

18.1 If more than thirty percent (30%) of the floor area of the Demised Premises should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof; this lease shall terminate and the rent shall be abated during the unexpired portion of the Lease Term, effective on the date physical possession is taken by the condemning authority.

18.2 If less than thirty percent (30%) of the floor area of the Demised Premises should be taken as aforesaid and the remaining portion of the Demised Premises reasonably determined by Tenant to be commercially useable for the purposes for which Tenant has entered into this Lease, this lease shall not terminate; however, the minimum guaranteed rental (but not percentage rental) payable hereunder during the unexpired portion of the Lease Term shall be reduced in proportion to the area taken, effective on the date physical possession is taken by the condemning authority. Following such partial taking, Landlord shall make all necessary repairs or alterations to the remaining Demised Premises or, if an exhibit describing Landlord's Work is attached to this lease, all necessary repairs within the scope of Landlord's Work as described in such exhibit, as the case may be, required to make the remaining portions of the Demised Premises an architectural whole.

18.3 If any part of the Common Area should be taken as aforesaid, this lease shall not terminate, nor shall the rent payable hereunder be reduced, except that either Landlord or Tenant may terminate this lease if the area of the Common Area remaining following such taking, plus any additional parking area provided by Landlord in reasonable proximity to the Shopping Center, shall be less than seventy percent of the area of the Common Area immediately prior to the taking. Any election to terminate this lease in accordance with this provision shall be evidenced by written notice of termination delivered to the other party within thirty days after date physical possession is taken by condemning authority.

18.4 Notwithstanding the foregoing, if either the remaining portion of the Demised Premises or the remaining Common Area after the taking is reasonably determined by Tenant to not be commercially reasonable for Tenant to carry on the business for which the Demised Premises were leased, Tenant may terminate this Lease upon written notice to Landlord upon which the termination provisions of this Lease at the end of the term hereof shall be applicable.

18.5 All compensation awarded for any taking (or the proceeds of private sale in lieu thereof) of the Demised Premises or Common Area shall be the property of Landlord, and Tenant hereby assigns its interest in any such award to Landlord; provided, however, Landlord shall have no interest in any award made to Tenant for Tenant's moving and relocation expenses or for the loss of Tenant's fixtures and other tangible personal property if a separate award for such items is made to Tenant.

ARTICLE XIX. ASSIGNMENT AND SUBLETTING

19.1 Tenant shall not assign or in any manner transfer this lease or any estate or interest therein, or sublet the Demised Premises or any part thereof, or grant any license, concession or other right of occupancy of any portion of the Demised Premises without the prior written consent of Landlord, which consent will not be unreasonably withheld, delayed or conditioned; however, in determining whether or not to grant its consent, Landlord shall be entitled to take into consideration factors such as Landlord's desired tenant mix, the reputation and net worth of the proposed transferee, and the then current market conditions (including market rentals). In addition, Landlord shall also be entitled to charge Tenant a reasonable fee plus reasonable out-of-pocket costs incurred by Landlord for processing Tenant's request. Consent by Landlord to one or more assignments or sublettings shall not operate as a waiver of Landlord's rights as to any subsequent assignments and sublettings.

19.2 If Tenant is a corporation, partnership or other entity and if at any time during the primary Lease Term or any renewal or extension thereof the person or persons who beneficially own a majority of either the outstanding voting rights or the outstanding ownership interests of Tenant at the time of the execution of this lease cease to own a majority of such voting rights or ownership interests (except as a result of transfer by devise or descent), the loss of a majority of such voting rights or ownership interests shall be deemed an assignment of this lease by Tenant and, therefore, subject in all respects to the provisions of Section 19.1 above. The previous sentence shall not apply, however, if (a) at the time of the execution of this lease, Tenant is a corporation and the outstanding voting shares of capital stock of Tenant are listed on a recognized security exchange or

over-the-counter market or (b) the assignee is an experienced operator of a business similar to the purpose for which the Demised Premises is used, such use will not change and the net worth of the assignee is at least as much as the net worth of the Tenant or the Tenant remains liable on the Lease.

19.3 Notwithstanding any assignment or subletting, unless otherwise hereinafter agreed in writing by Landlord, Tenant and any guarantor of Tenant's obligations under this lease shall at all times remain fully and primarily responsible and liable for the payment of the rent herein specified and for compliance with all of its other obligations under this lease (even if future assignments and sublettings occur subsequent to the assignment or subletting by Tenant, and regardless of whether or not Tenant's approval has been obtained for such future assignments and sublettings).

19.4 Tenant may, from time to time, encumber Tenant's interest in this Lease and/or Tenant's leasehold estate in the Demised Premises by a leasehold deed of trust, leasehold mortgage or other security instrument (collectively, a "Leasehold Mortgage"). Any Leasehold Mortgage shall be subject and subordinate to any and all rights and interests of Landlord and any mortgagee of Landlord and shall be a lien only on Tenant's interest in the lease and the restrictions on use of the Demised Premises shall not be altered in connection with or by reason of such Leasehold Mortgage. It is understood and agreed that any foreclosure or assignment in lieu of foreclosure shall be considered a Transfer as defined in Section 19.1, above, requiring Landlord's consent, and if Landlord does not consent to the proposed transferee in accordance with 19.1, Landlord may declare a default and/or terminate this Lease. Tenant's leasehold interest in the Demised Premises shall not be a lien on Landlord's fee interest in the Shopping Center. The holder of any Leasehold Mortgage is referred to herein as a "Leasehold Mortgagee." In addition, Tenant may obtain financing for all or part of the equipment and/or personal property Tenant installs and/or uses in connection with its business in the Leased Premises and the provider of such financing may require that Tenant provide a priority security interest in and to such equipment and/or personal property as a condition to providing such financing. The holder of a lien on such equipment or personal property is referred to herein as an "Equipment Lender." Landlord agrees to provide to Tenant and either a Leasehold Mortgagee or Equipment Lender a document or documents (including consent and waiver) in a commercially reasonable form, acknowledging the financing and agreeing to give the Equipment Lender notice of Tenant's default and opportunity to cure (with respect to the Leasehold Mortgagee) or agreeing to subordinate Landlord's lien to the Equipment Lender's lien (with respect to unattached equipment for which the Equipment Lender is providing financing) and allow the Leasehold Mortgagee or Equipment Lender, as the case may be, access to the Demised Premises (so long as satisfactory liability insurance is in place by such parties protecting Landlord) and, with respect to the Equipment Lender, a reasonable time within which to remove the financed property (upon payment of rental to Landlord for such time period) upon Tenant's default with respect to either Landlord or Equipment Lender. Notwithstanding the foregoing, Landlord will not be required to subordinate its lien, and the Equipment Lender will acquire no lien against any fixture, equipment or improvement which Tenant is prohibited from removing under the terms of this Lease, or which was paid for with the monies of the tenant finish allowance referred to in Exhibit "C".

19.5 In the event of the transfer and assignment by Landlord of its interest in this lease and in the building containing the Demised Premises to a party expressly assuming Landlord's obligations under this lease accruing after such assignment, Landlord shall thereby be released from any further obligations hereunder accruing after such assignment, and Tenant agrees to look solely to such successor in interest of the Landlord for performance of such obligations accruing after such assignment. Any security given by Tenant to secure performance of Tenants obligations hereunder may be assigned and transferred by Landlord to such successor in interest and Landlord shall thereby be discharged of any further obligation relating thereto.

ARTICLE XX. SUBORDINATION; ATTORNMENT; ESTOPPELS

20.1 Tenant accepts this lease subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter placed upon the Shopping Center or any portion of the Shopping Center which includes the Demised Premises, and to any renewals and extensions thereof. The foregoing subordination shall be self-operative and no additional documentation shall be needed to effectuate the same. Tenant agrees that any mortgagee shall have the right at any time to subordinate its mortgage, deed of trust or other lien to this lease; provided, however, notwithstanding that this lease may be (or made to be) superior to a mortgage, deed of trust or other lien, the mortgagee shall not be liable for prepaid rentals, security deposits and claims accruing during Landlord's ownership; further provided that the provisions of a mortgage, deed of trust or other lien relative to the rights of the mortgagee with respect to proceeds arising from an eminent domain taking (including a voluntary conveyance by Landlord) and provisions relative to proceeds arising from insurance payable by reason of damage to or destruction of the Demised Premises shall be prior and superior to any contrary provisions contained in this instrument with respect to the payment or usage thereof. Landlord is hereby irrevocably vested with full power and authority to subordinate this lease to any mortgage, deed of trust or other lien hereafter placed upon the Demised Premises or the Shopping Center as a whole, and Tenant agrees within ten (10) business days from written request by Landlord to execute such further commercially reasonable instruments subordinating this lease (and/or containing other provisions common in institutional subordination and attornment agreements) as Landlord may reasonably request; provided, however, that any such instrument shall include a written agreement (as may be common in an institutional subordination and non-disturbance agreement) that the rights of Tenant shall remain in full force and effect during the Lease Term so long as Tenant shall continue to recognize and perform all of the covenants and conditions of this lease. In the event of a foreclosure of the property of which the Demised Premises are a part or other acquisition of such property in lieu of such foreclosure, Tenant shall, upon request of such foreclosing or acquiring party (the "New Owner"), nonetheless attorn to and respect such New Owner as the then owner of the property and thereby entitled to all rights of Landlord pursuant to this lease, including, without limitation, the right to all rental payments.

20.2 At any time when the holder of an outstanding mortgage, deed of trust or other lien covering Landlord's interest in the Demised Premises has given Tenant written notice of its interest in this lease, Tenant may not exercise any remedies for default by Landlord hereunder unless and until the holder of the indebtedness secured by such mortgage, deed of trust or other lien shall have received written notice of such default and a reasonable time (not less than 30 days if such time is running concurrently with the time for Landlord to cure the default, otherwise within fifteen days) shall thereafter have elapsed without the default having been cured.

20.3 Tenant agrees that it will from time to time upon request by Landlord execute and deliver to Landlord a written statement addressed to Landlord (or a party designated by Landlord), which statement shall identify Tenant and this lease, shall certify that this lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), shall confirm that Landlord is not in default as to any obligations of Landlord under this lease (or if Landlord is in default, specifying any default), shall confirm Tenant's agreements contained above in this Article XX, and shall contain such other information or confirmations as Landlord may reasonably require.

ARTICLE XXI. DIRECTION OF TENANT'S ENERGIES

Intentionally omitted

ARTICLE XXII. DEFAULT BY TENANT AND REMEDIES

22.1 The following events shall be deemed to be events of default by Tenant under this lease:

(a) Tenant shall fail to pay any installment of rent or any other obligation under this lease involving the payment of money and such failure shall continue for a period of ten (10) days following written notice thereof by Landlord to Tenant; provided, however that in any twelve (12) month period Landlord shall only be required to give two (2) such notices.

(b) Tenant shall fail to comply with any term, provision or covenant of this lease, other than described in subsection (a) above, and shall not cure such failure within thirty (30) days after written notice thereof to Tenant; provided, however, that if such cure cannot reasonably be cured within such thirty (30) day period, within such additional period that is reasonably required to cure (but not more than sixty [60] days) provided that Tenant promptly commences to cure such default and diligently pursues the same.

(c) Tenant or any guarantor of Tenant's obligations under this lease shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors.

(d) Tenant or any guarantor of Tenant's obligations under this lease shall file a petition under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof; or Tenant or any guarantor of Tenant's obligations under this lease shall be adjudged bankrupt or insolvent in proceedings filed against Tenant or any guarantor of Tenant's obligations under this lease.

(e) A receiver or trustee shall be appointed for the Demised Premises or for all or substantially all of the assets of Tenant or any guarantor of Tenant's obligation under this lease.

(f) Tenant shall desert or vacate or shall commence to desert or vacate the Demised Premises or any substantial portion of the Demised Premises or shall remove or attempt to remove, without the prior written consent of Landlord, all or a substantial amount of Tenant's goods, wares, equipment, fixtures, furniture, or other personal property other than inventory in the ordinary course of business.

(g) Tenant shall do or permit to be done anything which creates a lien upon the Demised Premises or Shopping Center which stays attached beyond the period set forth in Section 11.4 of this lease.

22.2 Upon the occurrence of any such events of default, Landlord shall have the option to pursue any one or more of the following remedies as well as any other remedies available at law or in equity:

(a) Terminate this lease by giving Tenant written notice thereof, in which event Tenant shall pay to Landlord the sum of (1) all rent and other sums accrued hereunder through the date of termination, (2) all amounts due under Section 22.7, (3) an amount equal to (A) the total rent and other sums that Tenant would have been required to pay for the remainder of the Lease Term discounted to present value at a per annum rate equal to the "Prime Rate" as published on the date this lease is terminated by The Wall Street Journal, Southwest Edition, in its listing of "Money Rates" (or if The Wall Street Journal, Southwest Edition, is not published on the date on which this lease is terminated, then the "prime rate" of interest as published therein or in a comparable publication on the most recent date prior to the date on which this lease is so terminated), or seven percent (7%), whichever is lower, minus (B) the then-present fair rental value of the Demised Premises for such period, similarly discounted and (4) any other costs and damages allowed by law owing to such event of default and termination;

(b) Terminate Tenant's right to possession of the Demised Premises without terminating this lease by giving written notice thereof to Tenant, in which event Tenant shall pay to Landlord (1) all rent and other amounts accrued

hereunder to the date of termination of possession, (2) all amounts due from time to time under Section 22.7, (3) all rent and other sums required hereunder to be paid by Tenant during the remainder of the Lease Term, diminished by any net sums thereafter received by Landlord through reletting the Demised Premises during such period and (4) any other costs and damages allowed by law; or

(c) Enter upon and take possession of the Demised Premises and, subject to compliance with applicable law, expel or remove Tenant and any other person who may be occupying the Demise Premises or any part thereof, by picking or changing locks, and locking out, expelling or removing Tenant or any other person who may be occupying all or a part of the Demised Premises, without being liable for prosecution or any claim for damages therefore. To the extent allowed by law, Tenant hereby waives any statutory requirement of prior written notice for filing eviction or damage suits for nonpayment of rent.

22.3 To the extent allowed by law, Landlord shall be deemed to have mitigated its damages as required by the Texas Property Code, Section 91.006 if, within 45 days after Tenant no longer occupies the Demised Premises, Landlord, to the extent it has access to the Demised Premises, has (i) placed a "For Lease" sign at the Demised Premises; (ii) placed the Demised Premises in Landlord's inventory of available space; (iii) made the Demised Premises available to show to area brokers during normal business hours; and (iv) shown the Demised Premises to prospective tenants who requested to see it. Without in any way limiting the foregoing, Tenant agrees that Landlord has no obligation to: (i) relet the Demised Premises prior to leasing any other space within the Shopping Center; or (ii) relet the Demised Premises (A) at a rental rate or otherwise on terms below market, as then reasonably determined by Landlord; (B) to any entity not satisfying Landlord's then standard financial credit risk criteria; (C) for a use (1) not consistent with Tenant's use prior to default; (2) which would violate then applicable law or any restrictive covenant or other lease affecting the Shopping Center; (3) which would impose a greater burden upon the Shopping Center's facilities; or (4) which would involve any use of hazardous materials (other than de minimus sums in the ordinary course of business and strictly in compliance with existing law); or (iii) make any alterations to the Demised Premises or otherwise incur any costs in connection with any such reletting, unless Tenant unconditionally delivers to Landlord, in good and sufficient funds, the full amount thereof in advance.

22.4 Landlord may restrain or enjoin any breach or threatened breach of any covenant, duty or obligation of Tenant herein contained without the necessity of proving the inadequacy of any legal remedy or irreparable harm. Except to the extent prohibited by law, the remedies of Landlord hereunder are cumulative and not exclusive of each other.

22.5 If on account of any breach or default by Tenant in its obligations hereunder, Landlord shall employ an attorney to present, enforce or defend any of Landlord's rights or remedies hereunder, Tenant agrees to pay any reasonable attorney's fees and court costs incurred by Landlord in such connection.

22.6 Tenant acknowledges its obligation to deposit with Landlord the sum stated in Section 1.1(r) above, to be held by Landlord without interest as security for the performance by Tenant of Tenant's covenants and obligations under this lease. Tenant agrees that such deposit may be co-mingled with Landlord's other funds and is not an advance payment of rental or a measure of Landlord's damages in case of default by Tenant. Upon the occurrence of any event of default by Tenant, Landlord may, from time to time, without prejudice to any other remedy provided herein or provided by law, use such funds to the extent necessary to make good any arrears of rentals and any other damage, injury, expense or liability caused to Landlord by such event of default, and Tenant shall pay to Landlord on demand the amount so applied in order to restore the security deposit to its original amount. If Tenant is not then in default hereunder, any remaining balance of such deposit shall be returned by Landlord to Tenant within 60 days after termination of this lease (subject to the provisions of Section 19.5 above) and provision of Tenant's address for the purpose of refunding the security deposit.

22.7 Tenant shall compensate Landlord for all reasonable expenses incurred by Landlord in repossession (including, among other expenses, repairs, remodeling, replacements, advertisements and brokerage fees) all losses incurred by Landlord as a result of Tenant's default and Landlord's pursuing the rights and remedies provided herein and under applicable law.

ARTICLE XXIII. LANDLORD'S CONTRACTUAL SECURITY INTEREST

23.1 **SUBJECT TO SECTION 19.4, IN ADDITION TO THE STATUTORY LANDLORD'S LIEN, LANDLORD SHALL HAVE AT ALL TIME (AND TENANT HEREBY GRANTS) A VALID SECURITY INTEREST TO SECURE PAYMENT OF ALL RENTALS AND OTHER SUMS OF MONEY BECOMING DUE HEREUNDER FROM TENANT, AND TO SECURE PAYMENT OF ANY DAMAGES OR LOSS WHICH LANDLORD MAY SUFFER BY REASON OF THE BREACH BY TENANT OF ANY COVENANT, AGREEMENT OR CONDITION CONTAINED HEREIN, UPON ALL GOODS, WARES, EQUIPMENT, FIXTURES, FURNITURE, IMPROVEMENTS AND OTHER PERSONAL PROPERTY OF TENANT PRESENTLY, OR WHICH MAY HEREAFTER BE, SITUATED ON THE DEMISED PREMISES, AND ALL PROCEEDS THEREFROM, AND SUCH PROPERTY SHALL NOT BE REMOVED (OTHER THAN INVENTORY IN THE ORDINARY COURSE OF BUSINESS) WITHOUT THE CONSENT OF LANDLORD UNTIL ALL ARREARAGES IN RENT AS WELL AS ANY AND ALL OTHER SUMS OF MONEY THEN DUE TO LANDLORD HEREUNDER SHALL FIRST HAVE BEEN PAID AND DISCHARGED AND ALL THE COVENANTS, AGREEMENTS AND CONDITIONS HEREOF HAVE BEEN FULLY COMPLIED WITH AND PERFORMED BY TENANT.** Upon the occurrence of any event of default by Tenant, Landlord may, in addition to any other remedies provided herein, enter upon the Demised Premises and take possession of any and all goods, wares, equipment, fixtures, furniture, improvements and other personal property of Tenant situated on the Demised Premises, without liability for trespass or conversion, and sell the same at public or private sale, with or without having such property at the sale, after giving Tenant

reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, at which sale the Landlord or its assigns may purchase unless otherwise prohibited by law. Unless otherwise provided by law, and without intending to exclude any other manner of giving Tenant reasonable notice, the requirement of reasonable notice shall be met if such notice is given in the manner prescribed in this lease at least five days before the time of sale. Any sale made pursuant to the provisions of this Article shall be deemed to have been a public sale conducted in a commercially reasonable manner if held in the Demised Premises or where the property is located after the time, place and method of sale and a general description of the types of property to be sold have been advertised in a daily newspaper published in the county in which the property is located for five consecutive days before the date of the sale. The proceeds from any such disposition, less any and all expenses connected with the taking of possession, holding and selling of the property (including reasonable attorney's fees and legal expenses), shall be applied as a credit against the indebtedness secured by the security interest granted in this Article. Any surplus shall be paid to Tenant or as otherwise required by law; the Tenant shall pay any deficiencies forthwith. Upon request by Landlord, Tenant agrees to execute and deliver to Landlord a financing statement in form sufficient to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the provision of the Uniform Commercial Code (or corresponding state statute or statutes) in force in the state in which the property is located, as well as any other state the laws of which Landlord may at any time consider to be applicable. In addition, Tenant hereby authorizes Landlord to perfect such security interest as Landlord may elect without the necessity of Tenant's signature to the extent allowed by law.

ARTICLE XXIV. HOLDING OVER

24.1 In the event Tenant remains in possession of the Demised Premises after the expiration of this lease and without the execution of a new lease, Tenant shall be deemed to be occupying said Demised Premises as a holdover tenant at a rental equal to the rental (including any percentage rental) herein provided plus twenty-five (25%) percent of such amount and otherwise subject to all the conditions, provisions and obligations of this lease insofar as the same are applicable to a holdover tenancy. The foregoing does not constitute authorization to hold over.

ARTICLE XXV. NOTICES

25.1 Wherever any notice is required or permitted hereunder, such notice shall be in writing. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered when actually received by the designated addressee or, if earlier and regardless of whether actually received or not, when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the parties hereto at the respective addresses set out in Section 1.1 above (or at Landlord's option, to Tenant at the Demised Premises), or at such other addresses as they have theretofore specified by written notice.

25.2 If and when included within the term "Landlord" as used in this instrument there are more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such notice specifying some individual at some specific address for the receipt of notices and payments to the Landlord; if and when included within the term "Tenant" as used in this instrument there are more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such a notice specifying some individual at some specific address for the receipt of notices and payment to Tenant. All parties included within the terms "Landlord" and "Tenant" respectively, shall be bound by notices and payments given in accordance with the provisions of this Article to the same effect as if each had received such notice or payment. In addition, Tenant agrees that notices to Tenant may be given by Landlord's attorney, property manager or other agent.

ARTICLE XXVI. COMMISSIONS; TITLE ADVICE

26.1 Landlord shall pay to Agent (and, if applicable, the Cooperating Agent) a commission for negotiating this lease pursuant to the terms of a separate commission agreement between Landlord and Agent (and, if applicable, the Cooperating Agent). All of said commissions shall be paid by Landlord to Agent (and, if applicable, the Cooperating Agent), at Agent's (and, if applicable, the Cooperating Agent's) principal office in the county where the Demised Premises are located. **LANDLORD SHALL NOT PAY A RENEWAL COMMISSION TO ANY OUTSIDE BROKER FOR THE RENEWAL OF THIS LEASE. IF TENANT ELECTS TO ENGAGE AN OUTSIDE BROKER FOR THE PURPOSE OF NEGOTIATING A RENEWAL TO THE LEASE, TENANT SHALL BE RESPONSIBLE FOR THE PAYMENT OF ALL FEES INCURRED.**

26.2 The provisions of this Article XXVI shall be binding upon Landlord and Landlord's heirs, personal representatives, assigns and successors in interest, and shall inure to the benefit of the Agent and its successors in interest; provided, however, that in the event of any assignment of this lease by Landlord or the sale of all or any part of the Demised Premises, both Landlord and such assignee or purchaser, and the assigns and successors of each, shall be jointly and severally liable for all commissions due and to become due hereunder, unless Landlord shall cause the assignee or purchaser to assume and agree to perform the covenants, duties and obligations of Landlord under this section accruing after such sale, in which event Landlord shall be deemed released at such time as the assignee or purchaser assumes such obligations.

26.3 Tenant hereby acknowledges that at the time of the execution of this lease, Agent advised Tenant by this writing that Tenant should have an abstract covering the real estate upon which the Shopping Center and the Demised Premises are located examined by attorney of Tenant's own selection or, at Tenant's option, that Tenant should obtain a leasehold owner's policy of title insurance.

ARTICLE XXVII. REGULATIONS

27.1 Landlord and Tenant acknowledge that there are in effect federal, state, county and municipal laws, order, rules, directives and regulations (collectively referred to herein after as the "Regulations") and that additional Regulations may hereafter be enacted or go into effect, relating to or affecting the Demised Premises or the Shopping Center, and concerning the impact on the environment of construction, land use, maintenance and operation of structures, and conduct of business. Subject to the express rights granted to Tenant under the terms of this lease, Tenant will not cause, or permit to be caused, any act or practice, by negligence, omission, or otherwise, that would adversely affect the environment, or do anything to permit anything to be done that would violate any of said laws, regulations or guidelines. Moreover, Tenant shall have no claim against Landlord by reason of any changes Landlord may make in the Shopping Center or the Demised Premises pursuant to said Regulations or any charges imposed upon Tenant, Tenant's customers or other invitees pursuant to same.

27.2 If, by reason of any Regulations, the payment to, or collection by, Landlord of any rental or other charge (collectively referred to hereinafter as "Lease Payments") payable by Tenant to Landlord pursuant to the provisions of this lease is in excess of the amount (the "Maximum Charge") permitted thereof by the Regulations, then Tenant, during the period (the "Freeze Period") when the Regulations shall be in force and effect, shall not be required to pay, nor shall Landlord be permitted to collect, any sum in excess of the Maximum Charge. Upon the earlier of (i) the expiration of the Freeze Period, or (ii) the issuance of a final order or judgment of a court of competent jurisdiction declaring the Regulations to be invalid or not applicable to the provision of this lease, Tenant, to the extent not then protected by law, and commencing with the first day of the month immediately following, shall pay to Landlord as additional rental, in equal monthly installments during the balance of the Lease Term, a sum equal to the cumulative difference between the Maximum Charges and the Lease Payments during the Freeze Period. If any provisions of this section, or the application thereof, shall to any extent be declared to be invalid and unenforceable, the same shall be deemed to not affect any of the other provisions of this section or of this lease, and all other provisions of this section or of this lease shall be deemed valid and enforceable to the fullest extent permitted by law.

ARTICLE XXVIII. HAZARDOUS SUBSTANCES

28.1 For purposes of this Article XXVIII, "hazardous substance" means any matter giving rise to liability under (i) the Resources Conservation Recovery Act as amended by the Hazardous and Solid Waste Amendments of 1984, as now or hereafter amended ("RCRA"), 42 U.S.C. Sections 6901 *et seq.*, (ii) the Comprehensive Environmental Response, Compensation and Liability Act as amended by the Superfund Amendments and Reauthorization Act of 1986, as now or hereafter amended ("CERCLA"), 42 U.S.C. Sections 9601 *et seq.*, (iii) the Clean Water Act, as now or hereafter amended ("CWA"), 33 U.S.C. Sections 1251 *et seq.*, (iv) the Toxic Substances and Control Act, as now or hereafter amended ("TSCA"), 15 U.S.C. Sections 2601 *et seq.*, (v) the Clean Air Act, as now or hereafter amended ("CAA"), 42 U.S.C. Sections 7401 *et seq.*, (the RCRA, CERCLA, CWA, TSCA and CAA shall collectively be referred to herein as the "Federal Toxic Waste Laws"), (vi) the Texas Solid Waste Disposal Act, as now or hereafter amended ("TSWDA"), Tex. Rev. Civ. Stat. Ann. Articles 4477-7 *et seq.*, (vii) the Texas Water Quality Control Act, as now or hereafter amended ("TWC"), Tex. Water Code Ann. Sections 26.001 *et seq.*, (viii) the Texas Clean Air Act, as now or hereafter amended ("TCAA"), Tex. Rev. Civ. Stat. Ann. Articles 4477-5 *et seq.*, (the TSWDA, TWC and TCAA shall collectively be referred to herein as the "Texas Toxic Waste Laws") and (ix) any common law theory based on nuisance or strict liability.

28.2 Tenant shall not in any manner permit, conduct or authorize the generation, transportation, storage, treatment or disposal at the Demised Premises of any hazardous substance without prior written authorization by Landlord (other than de minimus amounts used strictly in accordance with applicable law), and Tenant's failure to do so shall constitute a default under this lease.

28.3 If Tenant (or any party claiming by, through or under Tenant) generates, transports, stores, treats or disposes at the Demised Premises, any hazardous substance,

(a) Tenant shall, at its sole cost and expense, comply with all laws (federal, state or local) relating to hazardous substances, including, but not limited to, the Federal Toxic Waste Laws and the Texas Toxic Waste Laws;

(b) Tenant shall promptly provide Landlord with copies of all communications, permits or agreements with any governmental authority or agency (federal, state or local) or any private entity relating in any way to the presence, release, threat of release, placement on or in the Demised Premises, or the generation, transportation, storage, treatment or disposal at the Demised Premises, of any hazardous substances;

(c) Landlord and Landlord's agents and employees shall have the right to enter the Demised Premises and/or conduct appropriate tests for the purpose of ascertaining that Tenant complies with all applicable rules or permits relating in any way to the presence of hazardous substances on the Demised Premises; and

(d) Upon written request by Landlord, Tenant shall provide Landlord the results of appropriate tests of air, water or soil to demonstrate that Tenant complies with all applicable laws, rules or permits relating in any way to the presence of hazardous substances on the Demised Premises.

28.4 If the presence, release, threat of release, placement on or in the Demised Premises by, through or at the direction of Tenant, or the generation, transportation, storage, treatment or disposal at the Demised Premises of any hazardous substance by or at the direction of Tenant (a) gives rise to liability (including, but not limited to, a response action, remedial action, or removal action under the Federal Toxic Waste Laws, the Texas Toxic Waste Laws, or any common law theory based on nuisance or strict liability), (b) causes a significant public health effect, or (c) pollutes or threatens to pollute the environment, Tenant shall promptly take any and all remedial and removal action necessary to clean up the Demised Premises and mitigate exposure to liability arising from the hazardous substance, whether or not required by law, and shall indemnify, defend and protect Landlord from any claim or liability resulting therefrom. This indemnification survives the expiration of this Lease as to accrued claims.

ARTICLE XXIX. MISCELLANEOUS

29.1 Nothing in this lease shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. For the purposes of calculating gross leaseable square footage under this lease (where required under the terms of this lease), all such areas shall be measured from the exterior surface of exterior walls (and from the extensions thereof in the case of openings) from the front of the lease line, and from the center of party and interior demising walls. The parties agree that the methodology of determining the Tenant's Proportionate Share (and related pass-thru costs) is acceptable, clear and reasonable.

29.2 Landlord shall only be in default if it fails to perform any term, condition, covenant or obligation required under this lease for a period of thirty (30) days after written notice thereof from Tenant to Landlord; provided, however, that if the term, condition, covenant or obligation to be performed by Landlord is such that it cannot reasonably be performed within thirty (30) days, such default shall be deemed to have been cured if Landlord commences such performance within said thirty-day period and thereafter diligently undertakes to complete the same.

29.3 If, despite the limitation of remedies of Section 29.2 above, Tenant is ever assessed damages or other monetary judgment against Landlord under or relating to this lease, the liability of Landlord to Tenant for any default by Landlord under or relating to the terms of this lease shall be limited to the proceeds of sale on execution of the interest of Landlord in the Demised Premises; and Landlord shall not be personally liable for any deficiency. This clause shall not be deemed to limit or deny any remedies which Tenant may have in the event of default by Landlord hereunder, which do not involve the personal liability of Landlord. This agreement by Tenant is a material consideration for Landlord's execution of this lease.

29.4 In all circumstances under this lease where the prior consent of one party (the "Consenting Party"), whether it be Landlord or Tenant, is required before the other party (the "Requesting Party") is authorized to take any particular type of action, such consent shall not be withheld in a wholly unreasonable and arbitrary manner.

29.5 One or more waivers of any covenant, term or condition of this lease by either party shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act. All amendments to this lease must be in writing and signed by the parties hereto. No verbal amendment to this lease is binding upon the parties hereto.

29.6 Whenever a period of time is herein prescribed for action to be taken by Landlord, Landlord shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other cause of any kind whatsoever which are beyond the reasonable control of Landlord.

29.7 Intentionally omitted.

29.8 If any provisions of this lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this lease shall not be affected thereby, and such provision shall be automatically replaced with a provision as near as possible that is legal.

29.9 The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this lease. Venue for any action under this lease shall be the county in which rentals are due pursuant to Section 4.2 and Section 1.1 of this lease.

29.10 Time is of the essence with respect to the obligations hereunder.

29.11 Whenever herein the singular number is used, the same shall include the plural, and words of any gender shall include each other gender. The captions used herein are for convenience and do not limit or amplify the provisions hereof.

29.12 The terms, provisions and covenants in this lease shall apply to, inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors in interest and legal representatives except as otherwise herein expressly provided.

29.13 Tenant shall provide the following described items to Landlord for Landlord's written approval which approval will not be unreasonably withheld, delayed or conditioned (but Landlord and Tenant agree that such items are for the benefit of Landlord, and Landlord may waive the right to receive any or all of such items, and Tenant shall have no right to terminate the lease as a result thereof), prior to Tenant's receiving the reimbursement, if any, referred to in Article IV.E. of Exhibit "C", in the event Exhibit "C" shall then be attached hereto. Prior to commencement of any work in or to the Demised Premises, Tenant shall first obtain Landlord's written approval (which approval will not be unreasonably withheld, delayed or conditioned) of: Tenant's plans and written specifications covering the proposed work; Tenant's proposed Contractor(s); and Tenant's contract(s) covering the proposed work.

(a) Should there be construction work performed in the Demised Premises and upon completion thereof, Tenant shall provide to Landlord reasonably satisfactory evidence that all bills have been paid to all contractors, subcontractors, suppliers, and vendors who performed services or provided material in or on the Demised Premises. Additionally, Tenant shall furnish final notarized unconditional lien waivers reasonably acceptable to Landlord from all contractors, subcontractors, suppliers, and vendors performing such construction work, which lien waivers shall include but not be limited to the total contract amount of material and/or labor used in or on the Demised Premises;

(b) In connection with the installation of any equipment on or penetrations through the roof of the Demised Premises, Tenant at its sole cost and expense must provide to Landlord a letter reasonably satisfactory to Landlord from a structural engineer of Landlord's selection stating that said engineer has approved the location at which the equipment is to be installed and/or the location of any proposed roof penetrations. Additionally, the letter must clarify: (i) that the installation of all equipment and/or penetrations was located and completed in accordance with said engineer's instructions which may have included the requirements of some additional structural bracing; (ii) that all work was performed in a good and workmanlike manner; and (iii) that said work was completed in accordance with the specifications approved by Landlord.

Notwithstanding anything stated above, if Landlord's roof is still under warranty, then Tenant must use the roofing contractor of Landlord's designation; and in connection therewith, it is Tenant's obligation to ascertain Landlord's roof warranty status prior to any work being initiated on the roof. Tenant shall not cause any existing roof warranty to be invalidated. If the roof is not under warranty, Tenant shall nevertheless, prior to the commencement of any work on the roof, obtain Landlord's written approval (which approval will not be unreasonably withheld, conditioned or delayed) of the proposed roofing contractor Tenant intends to use. The cost of all engineer's inspections and certification letters as well as all work required by the engineers shall be paid by the Tenant.

(c) A true copy of Tenant's Certificate of Occupancy issued by the governmental authority in whose jurisdiction the Demised Premises are located;

(d) A Certificate of Insurance evidencing the insurance coverages as set forth in Section 15.2 herein;

(e) A Tenant Certification Letter, if requested by Landlord, stating that the lease is in full force and effect, confirming the commencement and expiration dates of the lease, rentals to be paid, status of Security Deposit, acknowledgment by Tenant that all construction work, if any, has been completed to Tenant's satisfaction, Tenant has accepted the Demised Premises, and that Tenant asserts no claim or default against Landlord and that Landlord is not in default under any of the terms and conditions of the lease;

(f) Tenant's Financing Statements in accordance with Section 23.1 herein;

(g) Evidence from Tenant that all appropriate utilities have been transferred into Tenant's name;

(h) To the extent that the Tenant is a corporation, then Tenant must provide to Landlord a corporate resolution in form and substance reasonably acceptable to Landlord authorizing Tenant to enter into this lease and authorizing the officer executing the lease to do so on behalf of the Tenant; and

(i) Evidence that the construction work performed in the Demised Premises complies with all previously approved plans.

29.14 This lease contains the entire agreement between the parties with respect to the subject matter hereto, and all prior and contemporaneous negotiations, understandings, statements, representations and agreements (oral or written) between the parties with respect to such matters are expressly merged into and superseded by this lease. No brochure, rendering, information or correspondence shall be deemed to be a part of this agreement unless specifically incorporated herein by reference. In addition, no agreement shall be effective to change, modify or terminate this lease in whole or in part unless such is in writing and duly signed by the party against whom enforcement of such change, modification or termination is sought. Both parties have participated in the drafting of this lease and this lease shall not be construed in favor of a party solely on the basis that it did not participate in the drafting of this document. Indemnification and other obligations of Tenant (e.g., pass-thru reconciliation) in this lease shall survive the termination or expiration of this lease as to accrued claims.

29.15 TENANT HEREBY ACKNOWLEDGES THAT IT IS NOT RELYING UPON ANY BROCHURE, RENDERING, INFORMATION, REPRESENTATION OR PROMISE OF LANDLORD, OR OF THE AGENT OR COOPERATING AGENT, EXCEPT AS MAY BE EXPRESSLY SET FORTH IN THIS LEASE.

29.16 This lease consists of twenty-nine articles and Exhibits "A" through "J". With the exception of Article VII, in the event any provision of an exhibit or other attached page shall be inconsistent with a provision in the body of this lease, the provision as set forth in the exhibit shall be deemed to control. The exhibits are incorporated herein and made a part hereof.

29.17 Intentionally omitted.

29.18 TENANT SHALL NOT ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES TO THE EXTENT ALLOWED BY LAW ANY RIGHT TO TRIAL BY JURY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH RESPECT TO THIS LEASE. THIS WAIVER IS VOLUNTARY, INTENTIONAL AND INFORMED. FURTHERMORE, LANDLORD AND TENANT ARE KNOWLEDGEABLE AND EXPERIENCED IN COMMERCIAL TRANSACTIONS AND AGREE THAT THE PROVISIONS OF THIS LEASE FOR DETERMINING CHARGES, AMOUNTS AND ADDITIONAL RENT PAYABLE BY TENANT (INCLUDING, WITHOUT LIMITATION, PAYMENTS UNDER ARTICLES VI AND VII AND OTHER APPLICABLE PROVISIONS OF THIS LEASE) ARE COMMERCIALY REASONABLE AND VALID EVEN THOUGH SUCH METHODS MAY NOT STATE A PRECISE MATHEMATICAL FORMULA FOR DETERMINING SUCH CHARGES. ACCORDINGLY, TENANT VOLUNTARILY AND KNOWINGLY WAIVES ALL RIGHTS AND BENEFITS OF TENANT UNDER SECTION 93.012 OF THE TEXAS PROPERTY CODE.

29.19 Intentionally omitted.

29.20 Tenant shall keep the terms and conditions of this lease (including, but not limited to, any charges assessed hereunder) strictly confidential and shall only disclose such terms and conditions to such of its employees, lawyers and accountants with a genuine need to know, and only then on the condition that they agree to keep such information strictly confidential. The obligation of confidentiality herein contained is a material inducement for Landlord's agreement to enter into this lease.

29.21 From and after the date hereof, Landlord shall not enter into a lease of space within the Shopping Center that permits more than 10% of the annual gross sales derived from such space to be derived from the Permitted Use. This covenant shall expire if Tenant ceases operation at the Demised Premises for reasons other than initial construction, bona fide remodeling or casualty repairs. This Section 29.21 shall be inapplicable to any lease existing as of the date hereof (as such may be renewed or extended) which lease provides for a permitted change of use without Landlord's consent or requires such consent without regard to a this then-applicable exclusivity provision which would not permit such use. Landlord shall give Tenant notice of any request for consent to a change of use under an existing lease promptly upon receipt of such request together with the documents reasonably necessary to review such request (including, for example, the lease and letter or accompanying material which identifies the request).

29.22 Landlord agrees that it will cooperate with Tenant in connection with the frequency of dumpster pick-ups required to keep the dumpster provided by Landlord pursuant to Exhibit C, Article III.A.6 available for Tenant's trash during the normal operation of Tenant's business.

29.23 Notwithstanding anything seemingly to the contrary, Landlord has disclosed that one of Landlord's affiliates may own a portion of the Shopping Center, and any references or implication that Landlord owns the entirety of the Shopping Center is hereby so modified. For purposes of calculating pass-through expenses (e.g., real estate charges, insurance expenses and common area charges), Landlord may, at its discretion, treat expenses for the portion of the Shopping Center owned by Landlord's affiliate as if owned by Landlord (i.e., Landlord may treat the Shopping Center as a unified whole). In addition, Landlord may separate the Shopping Center into different parts in its commercially reasonable discretion to allocate pass through costs as Landlord deems fair and reasonable.

[Remainder of page intentionally left blank.]

EXHIBITS

- A Site Plan (Locating the Shopping Center and Demised Premises with the Shopping Center)
- B Rules and Regulations
- C Interior Finish
- D HVAC Maintenance Requirements
- E Insurance Requirements
- F Article IX – Restrictions
- G Renewal Options
- H Lease Guaranty
- I Information Sheet
- J Landlord Sign Criteria

EXECUTED as of the latest date accompanying a signature by Landlord or Tenant below.

LANDLORD:

I-20/South Collins III, LP

a Texas limited partnership

By: I-20/South Collins III GP, LLC
a Texas limited liability company, Member

Name: [Signature]

Title: Manager

Date of Signature: 5/15/15

Taxpayer Identification No.: 44-2966206

TENANT:

SNUFFER'S RESTAURANTS, LLC

By: [Signature]

Name: Michael D. Karas

Title: Manager

Date of Signature: 5-6-15

Taxpayer Identification No.: 27-3542015

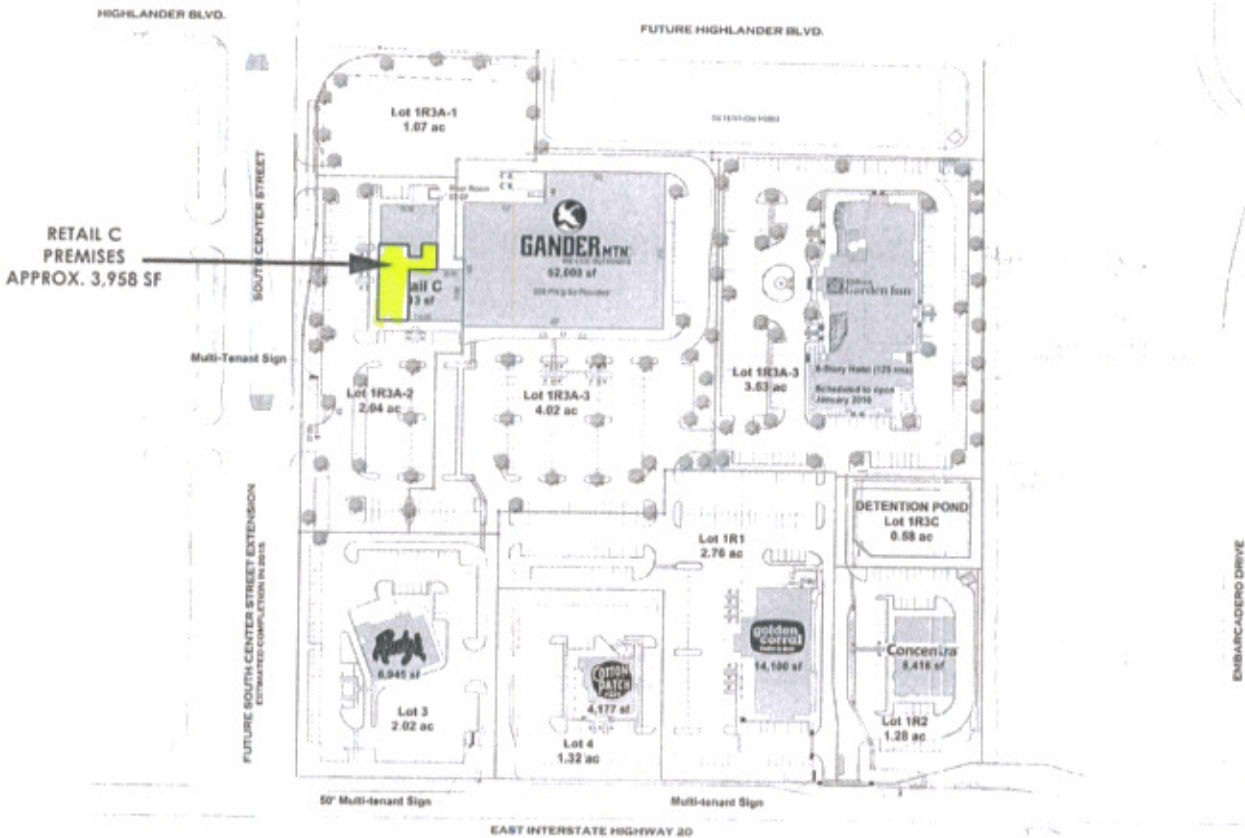
Social Security No.: N/A

EXHIBIT "A"

SITE PLAN

EXHIBIT "A"
PREMISES – APPROX. 3,958 SF

For purposes of this Lease, the Shopping Center (as defined in Section 1.1 (i)) shall refer to the buildings with address 457 E. Interstate 20 Highway, Arlington, Texas 76014



Highlands East

Site Plan

SP 1.00

EXHIBIT A-1

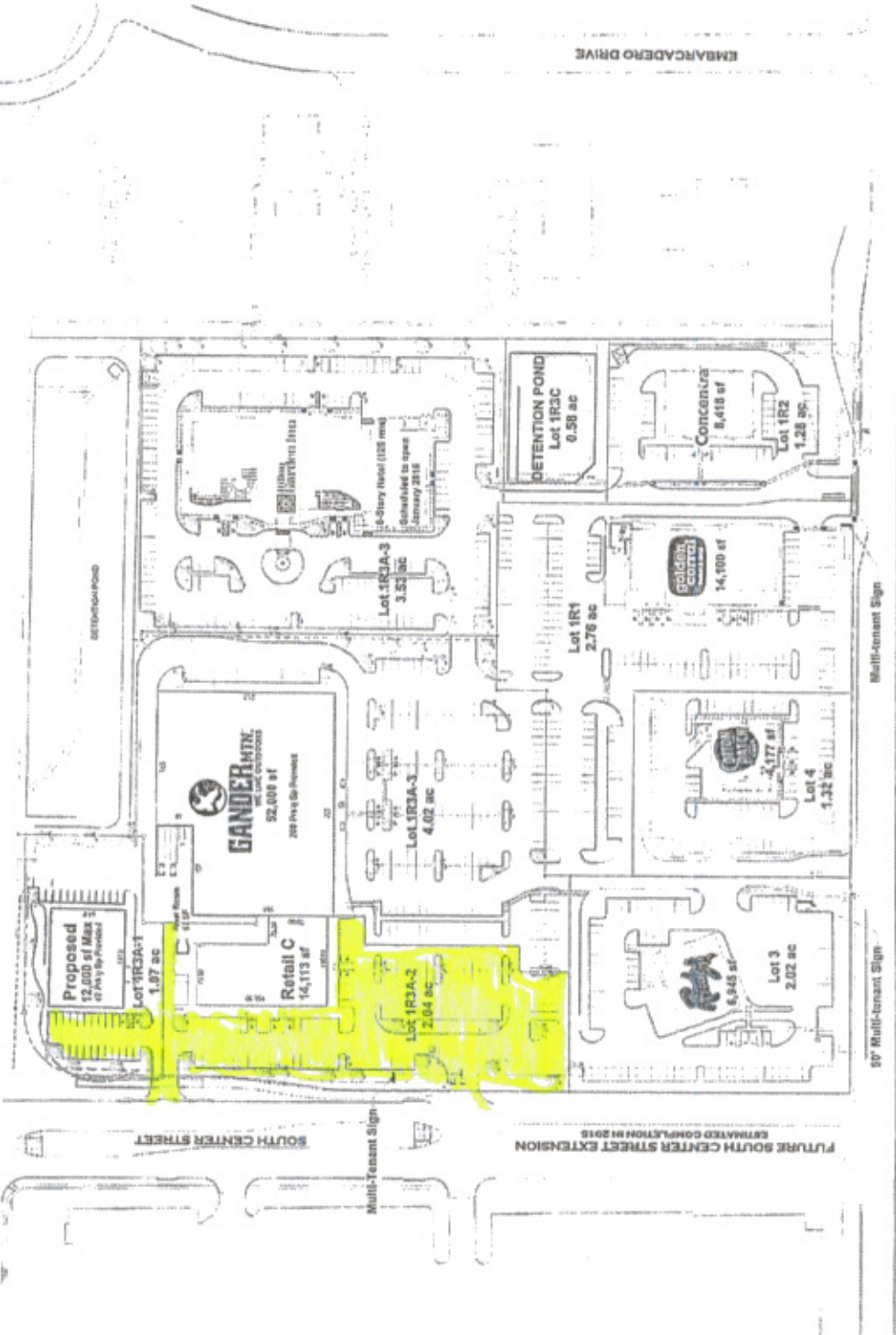
Restricted Area

(shown in yellow on attached site plan)



FUTURE HIGHLANDER BLVD.

HIGHLANDER BLVD.



BRIDGES & CONSTRUCTION
11000 Highway 20, Suite 100
Austin, TX 78758
Phone: (512) 336-1000
Fax: (512) 336-1001
www.bridgesandconstruction.com

Highlands East
1-20 @ Center St., Arlington, TX

Site Plan
SP 1.00
Date: 02.28.2014

EXHIBIT "B"

RULES AND REGULATIONS

Tenant shall cause compliance with the following rules and regulations:

1. Tenant shall retain all copies of keys to the Demised Premises.
2. Tenant will refer all contractors, contractor's representatives and installation technicians rendering any service on or to the Demised Premises for Tenant to Landlord for Landlord's approval, which approval will not be unreasonably delayed, withheld or conditioned, before performance of any contractual service. Tenant's contractors and installation technicians shall comply with Landlord's rules and regulations pertaining to construction and installation. This provision shall apply to all work performed on or about the Demised Premises or Shopping Center, including installation of telephones, telegraph equipment, electrical devices and attachments and installations of any nature affecting floors, wall, woodwork, trim, windows, ceilings and equipment or any other physical portion of the Demised Premises or Shopping Center.
3. Tenant shall not at any time occupy any part of the Demised Premises or Shopping Center as sleeping or lodging quarters.
4. Tenant shall not place, install or operate on the Demised Premises or in any part of the building any engine, stove or machinery, or conduct mechanical operations or cook therein, or place or use in or about the Demised Premises or Shopping Center any explosives, gasoline, kerosene, oil, acids, caustics, or any flammable, explosive or hazardous material without written consent of Landlord. Notwithstanding the foregoing, Landlord consents to Tenant's use of the Demised Premises for the intended purposes including the use of stoves, etc. as ordinary and necessary for such use.
5. Landlord shall not be responsible for lost or stolen personal property, equipment, money or jewelry from the Demised Premises or the Shopping Center regardless of whether such loss occurs when the area is locked against entry or not.
6. No dogs, cats, fowl, or other animals shall be brought into or kept in or about the Demised Premises or Shopping Center.
7. None of the parking, plaza, recreation or lawn areas, entries, passages, doors, elevators, hallways or stairways shall be blocked or obstructed or any rubbish, litter, trash, or material of any nature placed, emptied or thrown into these areas or such area used by Tenant's agents, employees or invitees at any time for purposes inconsistent with their designation by Landlord.
8. The water closets and other water fixtures shall not be used for any purpose other than those for which they were constructed, and any damage resulting to them from misuse or by the defacing or injury of any part of the building shall be borne by the person who shall occasion it. No person shall waste water by interfering with the faucets or otherwise.
- 9.
10. Subject to the normal use of the Demised Premises including patio area as a restaurant, no person shall disturb occupants of the building by the use of any radios, record players, tape recorders, musical instruments, the making of unseemly noises or any unreasonable use.
11. Nothing shall be thrown out of the windows of the building or down the stairways or other passages.
12. Tenant and its employees, agents and invitees shall park their vehicles only in those parking areas designated by Landlord. Landlord may designate exclusive parking areas. Tenant shall furnish Landlord with state automobile license numbers of Tenant's vehicles and its employees' vehicles within five days after taking possession of the Demised Premises and shall notify Landlord of any changes within five days after such change occurs. Tenant shall not leave any vehicle in a state of disrepair (including without limitation, flat tires, out of date inspection stickers or license plates) on the Demised Premises or Shopping Center. If Tenant or its employees, agents or invitees park their vehicles in areas other than the designated parking areas or leave any vehicle in a state of disrepair, Landlord, after giving written notice to Tenant of such violation, shall have the right to remove such vehicles at Tenant's expense.
13. Parking in a parking garage or area shall be in compliance with all parking rules and regulations including any sticker or other identification system established by Landlord. Failure to observe the rules and regulations shall terminate Tenant's right to use any parking garage or area and subject the vehicle in violation of the parking rules and regulations to removal or impoundment. No termination of parking privileges or removal or impoundment of a vehicle shall create any liability on Landlord or be deemed to interfere with Tenant's right to possession of its Demised Premises. Vehicles must be parked entirely within the stall lines and all directional signs, arrows and posted speed limits must be observed. Parking is prohibited in areas not striped for parking, in aisles, where "No Parking" signs are posted, on ramps, in cross hatched areas, and in other areas as may be designated by Landlord. Parking stickers or other forms of identification supplied by Landlord shall remain the property of Landlord and not the property of Tenant and are not transferable. Every person is required to park and lock his vehicle. All responsibility for damage to vehicles or persons is assumed by the owner of the vehicle or its driver. Tenant shall not permit bumper stickers, sandwich boards or other advertising devices on any vehicle parked in the Shopping Center and belonging to Tenant and/or its agents or employees.
14. Movement in or out of the building of furniture or office supplies and equipment, or dispatch or receipt by Tenant of any merchandise or materials which requires use of elevators or stairways, or movement through the building entrances, or common, plaza or parking garage, shall be restricted to hours designated by Landlord. All such movement shall be under supervision of Landlord and carried out in the manner agreed between Tenant and Landlord by prearrangement before performance. Such prearrangement will include determination by Landlord of time, method, and routing of movement and limitations imposed by safety or other concerns which may prohibit any article, equipment or any other item from being brought into the building. Tenant assumes, and shall indemnify Landlord against, all risks and claims of damage to persons and property arising in connection with any said movement.
15. Landlord shall not be liable for any damages from the stoppage of elevators for necessary or desirable repairs or improvements or delays of any sort or duration in connection with the elevator service, if any.
16. Tenant shall not lay floor covering within the Demised Premises without written approval of the Landlord. The use of cement or other similar adhesive materials not easily removed with water is expressly prohibited.

17. Tenant agrees to cooperate and assist Landlord in the prevention of canvassing, soliciting and peddling within the building or Shopping Center. Tenant shall not solicit business, distribute handbills or other advertising matter or hold demonstrations in the parking, plaza or common areas.
18. Landlord reserves the right to exclude from the Shopping Center during all hours in which the Shopping Center is closed, all persons who are not known to the Shopping Center security personnel and who do not present a pass to the building signed by the Tenant. Each Tenant shall be responsible for all persons for whom he supplies a pass.
19. Tenant shall keep the Demised Premises, store fronts, sidewalks, serviceways and loading areas adjacent to the Demised Premises neat, clean and free from garbage. Tenant shall store all trash and garbage within the area designated by Landlord for such trash storage and only in receptacles of the size, design and color from time to time prescribed by Landlord. Removal of garbage and trash shall be made only in the manner and areas and at the times from time to time prescribed by Landlord.
20. Tenant shall maintain and keep operational all electric signs within display areas at all times prescribed by Landlord for the Shopping Center.
21. Tenant shall not place goods, wares or merchandise or other articles in any vestibule or entry into the Demised Premises without Landlord's prior written consent.
22. Landlord reserves the right to make such other and further reasonable rules and regulations as in its judgment may from time to time be necessary for the safety, care and cleanliness of the Demised Premises and for the preservation of good order therein.
23. Tenant shall only use approved and acceptable contractors for any work done within the demised premises and contracted by Tenant, which approval and acceptance will not be unreasonably withheld, delayed or conditioned. Such contractor shall be pre-approved in writing from Landlord prior to the start of any HVAC, electrical, plumbing or roofing work required by Tenant.
24. Tenant shall not place any banners or other advertising material in the store front glass or on the exterior of the Demised Premises at any time during the Lease Term without Landlord's prior written consent first being obtained (such consent at Landlord's sole and absolute discretion).

EXHIBIT "C"

INTERIOR FINISH

ARTICLE I. GENERAL

A. Subject to the provisions below, Landlord agrees that it will proceed to construct (or, to the extent already partially constructed, will complete) a store unit upon the Demised Premises in substantial compliance with the description of Landlord's Work in Article III below. The Demised Premises shall be deemed "ready for occupancy" when Landlord's Work has been substantially completed (except for minor finishing jobs); provided, however, that if Landlord's Work is delayed because of a default or failure, or both, of Tenant, then the Demised Premises shall also be deemed "ready for occupancy" when Landlord's Work would have been substantially completed if Tenant's default or failure, or both, had not occurred. When the Demised Premises are ready for occupancy (which shall be the date Landlord delivers to Tenant the keys for the Demised Premises with a written or verbal statement to the effect that they are ready for occupancy), Tenant agrees to accept possession thereof and to proceed with due diligence to perform Tenant's Work, as described in Article IV below, and to open for business at the Demised Premises. Tenant agrees that at the request of Landlord, Tenant will, following the Commencement Date, execute and deliver a written statement acknowledging that Tenant has accepted possession and reciting the exact Commencement Date and termination date of this lease.

B. By occupying the Demised Premises, Tenant shall be deemed to have accepted the same and to have acknowledged that the same fully complies with Landlord's covenants and obligations under this lease. Occupancy of the Demised Premises by Tenant prior to the Commencement Date shall be subject to all of the terms and provisions of this lease, excepting only those requiring the payment of rent.

ARTICLE II: PRE-CONSTRUCTION OBLIGATIONS

A. All plans, diagrams, schedules, specifications and other data relating to Tenant's preferences in connection with Landlord's Work must be furnished by Tenant to Landlord complete, sufficient to obtain a building permit, and ready for Landlord's consideration and final approval within ~~fifteen (15) days~~ ^{90 days} after execution of this lease (or at such other time as may be specified in this exhibit). Without limiting the generality of the immediately preceding sentence, Tenant's submissions must include a floor plan, a reflected ceiling plan, elevations of walls and a fixture plan. All drawings shall be at a scale of either 1/8" or 1/4". Tenant shall reimburse Landlord for any loss or extra cost which may result to Landlord by reason of failure on the part of Tenant to submit any such plans, diagrams, schedules, specifications and/or other data within said period of time. During any construction and during the Lease Term, Tenant shall soely be responsible for making the Demised Premises compliant with the ADA and/or ABA (Architectural Barriers Act of Texas), TAS (Texas Accessibility Standards), and other regulations associated with accessibility.

B. Tenant shall secure Landlord's written approval of all designs, plans, specifications, materials, contractors and contracts for work to be performed by Tenant before beginning the work (including following whatever "work letter" instructions, if any, which Landlord may deliver to Tenant in connection with the work) and shall secure all necessary licenses and permits to be used in performing the work. Tenant's finished work shall be subject to Landlord's approval and acceptance which shall be a condition to any reimbursement hereinafter provided. Approval by Landlord does not mean that such plans are architecturally sound or comply with law. Prior to commencement of any work, Tenant's contractor must deliver to Landlord evidence of insurance coverage as set forth on the attached Exhibit "E".

C. Should Tenant request and Landlord approve any variation in the store front and/or interior finishing of the Demised Premises, and if such items are a part of Landlord's Work as described below, the variation shall be incorporated in the plans to be furnished by Tenant. In such event, Landlord shall reimburse Tenant (or Tenant shall reimburse Landlord, as applicable) for that part of the cost thereof equal to Landlord's determination of its savings (or overage, as applicable) for those parts of Landlord's Work described below. The amount of the reimbursement shall be determined by Landlord at the time of its approval of designs, plans, specifications and contracts, and shall be incorporated within the approval.

D. The insurance requirements under Article XV of the lease and the indemnity requirements under Article XVI of the lease shall apply during the construction contemplated in this exhibit, and Tenant shall provide evidence of appropriate insurance coverage prior to beginning any of Tenant's work. In addition and without limiting the generality of the immediately preceding sentence, at Landlord's opinion, Landlord may require that prior to beginning any of Tenant's Work, Tenant shall provide Landlord with evidence of insurance covering both Tenant and Tenant's contractor against damage to their personal property, as well as against third party liability and worker's compensation claims arising out of all construction and associated activities. All policies of insurance shall be subject to Landlord's approval and shall be endorsed showing Landlord and Landlord's General Contractor as an additional named insured (or, if permitted by Landlord, may provide a waiver of subrogation against Landlord).

ARTICLE III: DESCRIPTION OF LANDLORD'S WORK

A. Structure:

1. Exterior wall surfaces shall be selected by Landlord. Exterior trim and other exterior work normally requiring painting shall be painted.
2. Roofing shall be built-up composition roofing, or other material specified by Landlord.
3. Hollow metal door at rear of Demised Premises per Landlord's plans.
4. Roof insulation.
5. Fire protection system to meet building requirements.
6. Trash dumpster (minimum one per building).
7. 3000 psi 5" thick smooth concrete slab on grade except for 5-foot leave out in rear of building.
8. 14'-0" a.f.f. clear to bottom of lowest girder or joist (whichever is lower).
9. Roof access.

B. Store Front:

1. A standard storefront shall be provided in keeping with the overall architectural design for the Shopping Center.
- C. Parking Areas, Sidewalks and Walls:
1. Parking areas shall be hard surfaced.
 2. Walks shall be surfaced with concrete, stone, brick or other hard material as specified by Landlord.
 3. Parking areas and walks shall be provided with artificial lighting per Landlord's plans.
 4. Common areas shall be landscaped and irrigated per Landlord's plans.
- D. Utilities:
1. Plumbing:
 - 2" or other approved size cold water lines will be brought to the perimeter wall of the building. If Landlord brings water inside to all spaces, Tenant will be responsible for its Proportionate Share. Tenant shall be responsible for all fixtures and connections into and in the Demised Premises. 4" Sewer Line will be brought to the 5-foot leave out in the Demised Premises.
 - Gas service will be provided to the rear of the building perimeter, and Tenant is responsible for having the meter installed and service brought to the Demised Premises.
 2. Electrical service shall be brought to a location on perimeter wall as determined by Landlord. Meter and all service work shall provided by Tenant.
 3. Telephone service conduit shall be brought to a location on the outside perimeter wall of the shell building.
- E. Limitations and Conditions:
1. The work to be done by Landlord shall be limited to that described as Landlord's work in the foregoing paragraphs of this Article III. All work not so classified as Landlord's Work is Tenant's Work.
 2. All work performed by Landlord which is in excess of that required of Landlord by this Article III shall be undertaken only after Tenant has deposited full payment for same with Landlord in the form of cash, money order or cashier's check; and Tenant agrees to make such deposit promptly after execution of this lease (with any delay in Tenant's making such deposit to be deemed a default under this lease, without the requirement of additional notice from Landlord, and causing Tenant's time periods for completing Tenant's work and opening for business to commence as if Tenant's delay had not occurred).

ARTICLE IV: DESCRIPTION OF TENANT'S WORK

A. Signs: Tenant shall pay for all signs and the installation thereof, including front and rear door address numbers as specified by Landlord, including electrical hook-up, subject to the provisions of Section 13.1 of this lease. Modifications approved by Landlord to monument or tower signs shall be at the Tenant's sole expense and shall be performed by a sign contractor approved by Landlord.

B. Utilities: In the event that there is no provision for an individual water meter to be located to serve the Demised Premises, the Tenant, at Landlord's direction, shall install a meter or sub-meter pursuant to Landlord's specifications in order to measure the flow of water to the Demised Premises. Such installation shall be in a location where it can be conveniently read and shall be no higher than 4' from the floor. All meters or other measuring devices in connection with utility services shall be paid for by Tenant. Tenant shall also provide all connections to the utility services provided by Landlord. All service deposits shall be made by Tenant at Tenant's expense. Any special provisions necessary to serve a building beyond what is furnished under Landlord's responsibility for special telephone services, such as fiber optics, etc., shall be at Tenant's sole expense.

C. Store Front: Tenant will be responsible for storefront door to match existing storefront. All doors must be approved by Landlord prior to installation.

D. Interior Work: The work to be done by Tenant shall include, but not be limited to, the purchase and/or installation and/or performance and the use of Landlord-approved vendors only of the following:

1. Adequate electrical service, panel, wiring, fixtures, service disconnect switches, and meter sockets (approved by utility providers).
2. Demise partition(s) as required by existing conditions to separate the Demised Premises from other lease space(s) and to extend to the bottom of the roof deck. Partition shall be at least one-hour fire rated gyprock wall with 5/8" gypsum board on both sides of studs with insulation installed to meet R-19 between the studs. The exterior side is not to be taped and bedded. Notwithstanding anything contained above concerning partitions, it is agreed and understood that Tenant's construction of all partitions will conform to the building inspection code of the city in which its Demised Premises is located. A break metal wall cap to match storefront metal shall be installed at the storefront. Tenant is also responsible for studs, insulation (R-19), and 5/8" gypsum on any unfinished exterior walls.*
3. Interior partitions, including finishing, electrical wiring, and connections within the Demised Premises.

* See drawing on last page of this Exhibit.

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4. 2' X 4' lay-in lights in adequate number to provide lighting, including emergency lighting requirements throughout the Demised Premises to satisfy minimum code requirements, plus light covers and special hung or furred ceilings. All lighting shall meet all applicable codes, including but not limited to the current energy code enforced by the City of ~~Frisco~~ ^{Frisco}. Tenant shall be responsible for emergency egress lighting at exterior when a new door is added. This will entail adding a remote emergency battery ballast to existing lights.
 5. Light covers and special hung or furred ceilings.
 6. Interior painting.
 7. Store fixtures and furnishings.
 8. Display window enclosures.
 9. Plumbing fixtures within the Demised Premises including extension of the sanitary sewer line(s) established by the Landlord. Tenant to provide a complete grease sanitary waste system including but not limited to grease trap, sampling wells, etc. as require by and in accordance with the applicable codes.
 10. 2' X 4' drop ceiling installed no lower than the top edge of the storefront glass.
 11. Ceiling and insulation.
 12. Heating, air conditioning and ventilating equipment (adequate to provide 25°F differential for cooling cycles and 60°F differential for heating cycles), including electrical and gas hookup, duct work and roof penetrations. Any new or replacement HVAC units (including but not limited to the roof top mounted units ("RTUs")) shall be new manufactured equipment by either Lennox® or Trane®, minimum 11.25 EER - NO EXCEPTIONS. No split units will be approved. All RTU's shall be placed in the proper mechanical zone as designated by Landlord or as determined by a structural engineer at Tenant's expense. All roof penetrations shall be performed using Landlord's approved roofing contractor.
 13. Floor covering and 4" vinyl cove base or equivalent.
 14. Water sub-meter as specified by Landlord.
 15. Fire sprinkler: Proportionate Share of main line and all vertical drops, heads, etc., after ceiling and lighting is installed, to be deducted from Tenant's finish out allowance.
 16. Adjustments to monument or tower signs shall be at the Tenant's expense by Landlord or Landlord's approved Sign Contractor.
 17. Permits required by City of Arlington must be obtained before work begins. All work must meet or exceed standards for accessible design requirements of the Americans with Disabilities Act.
- D. Construction must begin within 30 days of lease execution.
- E. "Allowance For Interior Finish" (Item 1. or 2.):
1. If Tenant is to be responsible for its construction finish-out, upon (a) Tenant having provided to Landlord's satisfaction the items, where applicable, set forth in Section 29.13 of the lease and (b) Tenant's commencement of business in the Demised Premises, Landlord shall thereafter pay to Tenant up to \$55.00 per square foot of the Demised Premises, as a reimbursement for Tenant's bona fide (and verified) construction expenses. As used herein, the term "construction" specifically excludes construction of Tenant's fixtures or other items which ordinarily are considered to be personal property of Tenant.
 2. If Landlord contracts for Tenant's interior finish-out work, then in lieu of Landlord reimbursing Tenant for the amount referred to in Item E.1. above, Landlord shall pay up to such sum as a maximum payment to its contractor(s) and/or vendors for completion of said work in accordance with plans and specifications approved by Landlord and Tenant, and Tenant shall pay the remainder within 15 days after written demand.
- F. Tenant is responsible for the disposal of any trash and/or packaging that is generated during the construction of "Tenant's Work" or during the initial stocking of the store with merchandise. Prior to opening for business, the Tenant must contact the trash removal company for a special pick-up of all packing materials and construction trash. Tenant shall not use the Shopping Center dumpsters for this use. The cost of this pick up is the responsibility of the Tenant.
- G. If required for odor suppression or sound attenuation, Tenant shall, at Tenant's sole cost and expense, install insulation and/or vinyl barriers and/or exhaust fans in the demising walls and take such other measures as may be reasonably required by Landlord.

EXHIBIT "D"

**HEATING, VENTILATING AIR CONDITIONING
MAINTENANCE REQUIREMENTS**

In accordance with Tenant's maintenance of the HVAC system pursuant to Section 10.2 of this lease, following is a description of the maintenance work to be performed by Tenant during the primary lease Term and any option terms. *Tenant agrees to use only Landlord approved HVAC vendors to perform such work.*

SERVICE CHECK

1. Service checks by a licensed Texas air conditioning contractor approved and acceptable to Landlord (Landlord's approval of the Contractor shall be issued in writing) shall be performed twice a year. Servicing of the air conditioning units shall occur in the Spring and of the heating elements in the Fall. Suggested months for these are April and October.
2. The Contractor shall issue a written report after each visit with said report submitted to Landlord on or before April 20 and October 20 of each year. The report should consist of the following:
 - cleaning
 - oil motors
 - checking amp draw of motors
 - model number
 - serial number
 - suction pressure
 - head pressure
 - outdoor temperature
 - supply air temperature
 - return air temperature
3. Each unit should have its own individual report.

FILTERS

1. Filters should be cleaned or replaced every thirty days minimum.
2. The condenser coils should be checked, and cleaned if needed, every thirty days during cooling operation.

A written report must be submitted to Landlord describing the date and description of the specific work that has been performed.

OBSERVATION

1. A visual observation of the condition of the equipment should be included in the report. Example:
 - panels missing
 - hail damage
 - defective condensate drains
 - etc.

EXHIBIT "E"

INSURANCE REQUIREMENTS

Should Tenant or its Contractor effect any construction in the Demised Premises, prior to the commencement of such work, Contractor or Tenant shall furnish to Landlord a Certificate of Insurance evidencing the following coverages:

AUTOMOBILE LIABILITY

Types of Coverage: Comprehensive Form, Owned, Hired Non-Owned
Limits of Liability: Bodily Injury and Property Damage Combined - \$1,000,000

WORKER'S COMPENSATION & EMPLOYERS' LIABILITY

Limits of Liability: Coverage A- Statutory
Coverage B - \$500,000/\$500,000/\$500,000

COMMERCIAL GENERAL LIABILITY

Types of Coverage: Policies shall include Products/Completed Operations, Blanket Contractual Liability, Broad Form Property Damage, Independent Contractors (OCP), Personal Injury & Advertising, Underground, Collapse & Explosion Hazard
Limits of Liability: With Combined Single Limits of Not Less Than:
\$1,000,000 per Occurrence;
\$1,000,000 Aggregate;
\$1,000,000 Products/Completed Operations

Builders Risk Insurance in amounts reasonably requested by Landlord.

All policies shall be written on standard forms with insurers reasonably acceptable to Landlord.

I-20/South Collins III, LP and Landlord's lender, if any, shall be the certificate holder and shall be named as additional insured (unless ownership of the Shopping Center changes, in which case the new owner and its general partner (and lender) shall be named).

EXHIBIT "F"

ARTICLE IX – RESTRICTIONS

1. Restricted Businesses (Gander Mtn.). No portion of this Site shall be used for the following retail stores: Academy Sports, Cabela's, Bass Pro Shops, Sportsman's Warehouse, REI, Dick's Sporting Goods, Field and Stream or any similar sporting goods retailer.

2. Protected Merchandise (Gander Mtn.). All "Protected Merchandise" may not exceed the lesser of (1) three percent (3%) of the annual gross sales of such tenants or occupants of the Site or (2) sales conducted from two hundred fifty (250) square feet of floor area (including one-half of adjacent aisles) within such tenants' or occupants' premises. For purposes of this paragraph, Protected Merchandise shall mean (a) retail sales, rental and service of hunting and shooting (including without limitation new, used, and collectible firearms and ammunition, as well as firearms safes and storage solutions), fishing, camping, and archery and outdoor cooking products, equipment and related accessories; (b) retail sales and rental of videotapes, cassette tapes, compact disk or other visual or audio products related to the foregoing; (c) sale of specialized hunting apparel and footwear (such as camo wear, field duty, blaze wear, hunting vests and high performance and technical apparel designed for duty, tactical, self-defense, competing and/or training purposes) and specialized fishing apparel and footwear (such as waders, fishing vests or fishing bibs); (d) retail sales, rental and service of all-terrain vehicles, go-carts, dune-buggies, dirt bikes, utility vehicles, scooters, boats, boat trailers, utility trailers, marine products, motors and other similar vessels and merchandise; (f) education and training in hunting, fishing, camping and other outdoors skills (including without limitation classroom training, operation of a simulated or live-fire shooting range or operation of a virtual simulation environment); (g) the outside storage and display of any of the foregoing; and (h) other uses incidental or accessory to any of the foregoing.

3. Urgent Care Services (Concentra). No portion of this Site shall be used for "Urgent Care Services." For purposes of this paragraph, "Urgent Care Services" shall mean those medical services provided to a patient on a walk-in or same day appointment basis to treat a medical condition that is not a emergent condition (likely to result in serious jeopardy, serious impairment of bodily functions or serious dysfunction of any bodily organ or part) in a location dedicated to clinical care outside of a hospital emergency room.

4. Occupational Medical Clinic (Concentra). No portion of this Site shall be used for "Occupational Health Services." For purposes of this paragraph, an "Occupational Medical Clinic" is defined as a full service medical clinic devoted to on-site occupational healthcare including, but not limited to, injury care (medical treatment, physical therapy services, disability management and return-to-work programs) and non-injury services (pre-employment physicals, drug and alcohol testing and ADA and OSHA compliance testing).

5. Buffet Restaurant (Golden Corral). No portion of the Shopping Center shall be used for the operation of a cafeteria or restaurant that generates more than twenty-five (25%) of its annual gross sales from the sale of food served buffet style. For purposes of this Section, "buffet style" shall mean a traditional buffet whereby the patron walks to buffet bars and serves himself or herself. Examples of cafeterias or restaurants that violate this restriction include Luby's Cafeteria, Old Country Buffet, Hometown Buffet, Fire Mountain Grill, Ryan's Family Restaurant "buffet-style", Furr's Family Buffet, or any other cafeteria or restaurant serving any buffet-style cuisine (such as Asian Food or Mexican Food) in which such buffet-style cuisine generates more than twenty-five percent (25%) of annual gross sales. A Texas Roadhouse Grill, Mayflower Seafood Restaurant and a Hibachi Grill and Supreme Buffet shall also be considered a prohibited use under this paragraph.

- A business primarily engaged (more than 25% of gross sales) in providing nail salon services (~~except for Tenant~~).
- A business primarily engaged (more than 10% of gross sales) in dine in, take out and/or delivery of selling Mediterranean, Greek and Middle Eastern cuisine.



The foregoing are excerpts from various leases and other agreements that may impact the Demised Premises. Definitions in those leases or other agreements might not coincide with definitions under the lease. Nevertheless, Tenant shall comply with these restrictions as if they apply to the lease.

EXHIBIT "G"

RENEWAL OPTIONS

GRANT OF OPTION. Provided Tenant is not in default and is occupying the entire Demised Premises at the time of such election, Tenant may renew this lease for two (2) additional periods of five (5) years each on the same terms and conditions as provided in this lease (except as set forth below), by delivering written notice of the exercise thereof to Landlord not later than one-hundred-eighty (180) days before the expiration of the Lease Term. On or before three (3) months prior to the commencement date of the extended Lease Term in question, Landlord and Tenant shall execute an amendment to this lease extending the Lease Term on the same terms and conditions as provided in this lease, except as follows:

- (a) The minimum guaranteed rental payable during each such extended Lease Term shall be 110% of the minimum guaranteed rental payable hereunder during the last year prior to the commencement of such extended Lease Term
- (b) Tenant shall have no further renewal options unless expressly granted by Landlord in writing; and
- (c) Landlord shall lease to Tenant the Demised Premises in its then-current condition.

Tenant's rights under this Exhibit "G" shall terminate if (i) this lease or Tenant's right to possession of the Demised Premises is terminated, (ii) Tenant assigns any of its interest in this lease or sublets any portion of the Demised Premises, or (iii) Tenant fails to timely exercise its option under this Exhibit "G", time being of the essence with respect to Tenant's exercise thereof. If this lease is renewed or extended, the words "Lease Term" shall include the additional period covered by the renewal or extension, and this lease shall apply to such additional period except as otherwise provided for herein.

EXHIBIT "H"

LEASE GUARANTY

THIS LEASE GUARANTY ("Guaranty") is made to be effective this 15 day of May, 2015, by the undersigned (hereinafter referred to as "Guarantor", whether one or more) in favor of I-20/South Collins III, LP, a Texas limited partnership ("Landlord").

FOR VALUE RECEIVED, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby unconditionally, irrevocably and absolutely guarantees to Landlord the prompt and full payment and performance, when due, of all obligations and covenants of Snuffer's Restaurants, LLC, a Texas limited liability company ("Tenant"), fixed or contingent, arising out of the Shopping Center Lease dated April May 15, 2015, executed by and between Tenant and Landlord and any and all renewals, extensions, amendments, and modifications thereof (collectively, the "Lease"), or which Tenant, or its successors or assigns, may in any other manner now or at any time hereafter owe Landlord in connection with the Lease, including, but not limited to, rent, taxes, insurance, operating expenses, maintenance costs, damages and expenses resulting from Tenant's default under the Lease, and collection costs (collectively, the "Obligations").

1. **CONTINUING GUARANTY.** This is a continuing Guaranty and shall apply to the Obligations and any renewals, extensions, amendments, modifications, waivers and transfers thereof.

2. **OTHER REMEDIES.** Landlord shall not be required to pursue any other remedies before invoking the benefits of this Guaranty; specifically, Landlord shall not be required to take any action against Tenant or any other person, to exhaust its remedies against any other guarantor of the Obligations, any collateral or other security, or to resort to any balance of any deposit account or credit on the books of Landlord in favor of Tenant or any other person.

3. **OBLIGATIONS NOT IMPAIRED.** Prior to performance and satisfaction in full of the Obligations, the liability of Guarantor under this Guaranty shall not be released or impaired without the prior written consent of Landlord. Without limiting the generality of the foregoing, the liability of Guarantor shall not be released or impaired on account of any of the following events:

- (a) the voluntary or involuntary liquidation, sale or other disposition of all or substantially all of the assets of Tenant, or any receivership, insolvency, bankruptcy, reorganization or other similar proceedings affecting Tenant or any of its assets;
- (b) the addition of a new guarantor or guarantors;
- (c) any bankruptcy or insolvency proceedings against or by Tenant, its property, or its estate or any modification, discharge or extension of the Obligations resulting from the operation of any present or future provision of the United States Bankruptcy Code or any other similar federal or state statute, or from the decision of any court, it being the intention hereof that Guarantor shall remain liable on the Obligations notwithstanding any act, omission, order, judgment or event which might, but for the provisions hereof, otherwise operate as a legal or equitable discharge of Guarantor;
- (d) Landlord's failure to use diligence in preserving the liability of any person on the Obligations, or in bringing suit to enforce collection of the Obligations;
- (e) the substitution or withdrawal of collateral, or release of collateral, or the exercise or failure to exercise by Landlord of any right conferred upon it herein or in any collateral agreement;
- (f) if Tenant is not liable for any of the Obligations because the act of creating the Obligations is ultra vires, or the officers or persons creating the Obligations acted in excess of their authority, or for any reason the Obligations cannot be enforced against Tenant;
- (g) any payment by Tenant to Landlord if such payment is held to constitute a preference under the bankruptcy laws, or if for any other reason Landlord is required to refund such payment to Tenant or pay the amount thereof to any other party;
- (h) any dealings, transactions, or matters between Landlord and Tenant that may cause the Lease to terminate, including without limitation, any adjustment, compromise, deferral, waiver, settlement, accord and satisfaction, or release of Tenant's obligations under the Lease, regardless of whether Guarantor receives notice thereof, all of which notice Guarantor expressly waives;
- (i) if this Guaranty is ever deemed invalid or unenforceable as to the Guarantor;
- (j) any extension, renewal, amendment, or modification of the Lease; or
- (k) any assignment of the Lease or subletting of all or any portion of the demised premises leased pursuant to the Lease.

4. **BENEFIT TO GUARANTOR.** Guarantor acknowledges and warrants that it derives or expects to derive financial and other advantage and benefit, directly or indirectly, from the Lease, the Obligations and the release of collateral or other relinquishment of legal rights made or granted or to be made or granted by Landlord to Tenant. Guarantor acknowledges that, in entering into the Lease, Landlord is relying on Guarantor's agreements contained in this Guaranty and on Guarantor's creditworthiness. Guarantor acknowledges that Landlord would not have entered into the Lease without Guarantor's guarantee of the Obligations pursuant to the terms hereof.

5. **JOINT AND SEVERAL LIABILITY.** Unless the context clearly indicates otherwise, "Guarantor" shall mean the guarantor hereunder, or any of them, if more than one. The obligations of said guarantors hereunder if more than one, shall be joint and several. Suit may be brought against said guarantors jointly and severally, and against any one or more of them, or less than all, without impairing the rights of Landlord against the others of said guarantors; and Landlord may compromise with any one of said guarantors for such sums or sum as it may see fit and release such of said guarantors from all further liability to Landlord for such indebtedness without impairing the right of Landlord to demand and collect the balance of such indebtedness from others of said guarantors not so released; but it is agreed among said guarantors themselves, however, that such compromising and release shall not impair the rights and obligations of said guarantors as among themselves.

6. **CHANGE IN COMPOSITION.** Should the status, composition, structure or name of Tenant change, including, but not limited to, by reason of any merger, dissolution, consolidation or reorganization, this Guaranty shall continue and also cover the indebtedness and Obligations of Tenant under the new status, composition structure or name according to the terms hereof. If Tenant is a general or limited partnership, no termination of said partnership, nor withdrawal therefrom by, or termination of any ownership interest therein owned by, any general or limited partner of such partnership shall alter, limit or modify Guarantor's obligations set forth in this Guaranty or otherwise affect this Guaranty in any manner whatsoever, all of which obligations of Guarantor shall remain in effect as herein written.
7. **WAIVER AND SUBROGATION OF GUARANTOR'S RIGHTS AGAINST TENANT.** Until all of Tenant's obligations under the Lease are fully performed, Guarantor
- (a) waives any rights that Guarantor may have against Tenant by reason of any one or more payments or acts in compliance with the obligations of Guarantor under this Guaranty; and
- (b) subordinates any liability or indebtedness of Tenant held by Guarantor to the obligations of Tenant to Landlord under the Lease.
8. **DEATH OR DISSOLUTION OF GUARANTOR.** Upon the death, dissolution or bankruptcy of Guarantor, the liability of Guarantor shall continue against its assets and estate, as applicable, as to all Obligations which shall have been incurred by Tenant.
9. **FINANCIAL STATEMENTS.** The Guarantor warrants and represents to Landlord that all financial statements heretofore delivered by Guarantor to Landlord are true and correct in all material respects and there are no material adverse changes with respect thereto as of the date hereof. Guarantor further agrees to deliver true, correct and complete, current financial statements (if available, audited) (which shall include, at a minimum, a balance sheet and profit and loss statement), bank references and Dun & Bradstreet reports (if available) on Guarantor within 15 days after Landlord's written request therefor.
10. **WAIVER OF NOTICE.** Guarantor waives diligence on the part of Landlord in the collection and enforcement of the Obligations, protest, and all extensions that may be granted to Tenant with respect thereto. Guarantor waives notice of acceptance of this Guaranty. Guarantor additionally waives grace, demand, presentment, notice of demand and all other notices (to the extent allowed by law).
11. **LIMITATION ON INTEREST.** To the extent that any law limiting the amount of interest that may be contracted for, charged or received is applicable to the indebtedness of Guarantor under this Guaranty, no provision of this Guaranty shall require the payment or permit the collection of any sum in excess of the maximum lawful amount of interest applicable to Guarantor's indebtedness under this Guaranty. If any sum in excess of the maximum lawful amount applicable to Guarantor's indebtedness under this Guaranty is provided for herein, the provision of this paragraph shall govern, and Guarantor shall not be obligated to pay any sum in excess of the maximum lawful amount applicable to Guarantor's indebtedness under this Guaranty. The intention of Guarantor and Landlord hereunder is to comply with all laws applicable to this Guaranty and Guarantor's liability hereunder.
12. **MODIFICATION OR CONSENT.** No modification, consent or waiver of any provision of this Guaranty, nor consent to any departure by Guarantor therefrom, shall be effective unless the same shall be in writing and signed by Landlord and Guarantor, and then shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on Guarantor in any case shall, of itself, entitle Guarantor to any other or further notice or demand in similar or other circumstances. No delay or omission by Landlord in exercising any power or right hereunder shall impair any such right or power or be construed as a waiver thereof or any acquiescence therein, nor shall any single or partial exercise of any such power preclude other or further exercise thereof or the exercise of any other right or power hereunder. All rights and remedies of Landlord hereunder are cumulative of each other and of every other right or remedy which Landlord may otherwise have at law or in equity or under any other contract or document, and the exercise of one or more rights or remedies shall not prejudice or impair the concurrent or subsequent exercise of other rights or remedies.
13. **INDUCEMENT TO LANDLORD.** Guarantor acknowledges that this Guaranty is given to induce Landlord to enter into the Lease and to extend credit to Tenant which would not be extended except in reliance upon this Guaranty.
14. **ATTORNEYS' FEES.** If a lawsuit is instituted in connection with this Guaranty, then Guarantor agrees to pay to Landlord all expenses incurred in connection with such lawsuit (including, but not limited to, reasonable attorneys' fees and costs of court).
15. **SUCCESSORS AND ASSIGNS.** This Guaranty is for the benefit of Landlord, and its successors or assigns. Landlord may assign its rights hereunder in whole or in part; and, upon any such assignment, all the terms and provisions of this Guaranty shall inure to the benefit of such assignee, to the extent so assigned. The liability of Guarantor hereunder shall be binding upon all heirs, estates, executors, administrators, legal representatives, successors and assigns of Guarantor.
16. **HEADINGS.** The section headings hereof are inserted for convenience of reference only and shall not alter, define or be used in construing the text of this instrument.
17. **PLACE OF PERFORMANCE.** Guarantor agrees that this agreement is performable in Dallas County, Texas. Suit on this Guaranty may be brought in any state or federal court in Dallas County, Texas and Guarantor waives the right to be sued elsewhere. This Guaranty shall be deemed to have been made under and shall be governed by the laws of the State of Texas in all respects.
18. **TERM.** This Guaranty shall terminate only when all of the Obligations have been fully performed and satisfied.
19. **GUARANTY OF PAYMENT AND PERFORMANCE.** This is a guaranty of payment and performance and not a guaranty of collection.
20. **PAST DUE AMOUNTS.** All past due payments of the Obligations shall bear interest at the maximum lawful rate, or if no maximum lawful rate is established by applicable law, then at the rate per annum which shall from day to day be equal to fifteen percent (15%).
21. **REPRESENTATIONS.** Guarantor represents and warrants to Landlord that (i) Guarantor has executed this Guaranty of its free will and accord; (ii) Guarantor has read and understands the terms of this Guaranty and the Lease; (iii)

Guarantor has had the opportunity to have this Guaranty and the Lease reviewed by an attorney of Guarantor's choice; and (iv) this Guaranty is duly authorized and valid, and is binding upon and enforceable against Guarantor in accordance with its terms.

22. **ENTIRE AGREEMENT.** Guarantor acknowledges and agrees that this Guaranty accurately represents and contains the entire agreement between Guarantor and Landlord with respect to the subject matter hereof, that Guarantor is not relying, in the execution of this Guaranty, on any representations (whether written or oral) made by or on behalf of Landlord except as expressly set forth in this Guaranty, and that any and all prior statements and/or representations made by or on behalf of Landlord to Guarantor (whether written or oral) in connection with the subject matter hereof are merged herein. This Guaranty shall not be waived, altered, modified or amended as to any of its terms or provisions except in writing duly signed by Landlord and Guarantor.

23. **SEVERABILITY.** A determination that any provision of this Guaranty is unenforceable or invalid shall not affect the enforceability or validity of any other provision.

24. **WAIVER OF RIGHT TO JURY TRIAL.** GUARANTOR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY KNOWINGLY, INTENTIONALLY, IRREVOCABLY, UNCONDITIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS GUARANTY OR THE LEASE OR ANY CONDUCT, ACT, FAILURE TO ACT OR OMISSION OF OR BY LANDLORD OR GUARANTOR, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH LANDLORD OR GUARANTOR, IN EACH OF THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, OR IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS GUARANTY OR THE LEASE. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS GUARANTY. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY GUARANTOR, AND GUARANTOR HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. GUARANTOR FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS GUARANTY AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL. Neither this provision nor any provision in the Lease regarding waiver of jury trial or submission to jurisdiction or venue in any court is intended or shall be construed to be in derogation of any provision herein or in the Lease for arbitration of any controversy or claim.

25. **STATE SPECIFIC PROVISIONS.** To the extent allowed by law, this Guaranty shall be effective as a waiver of, and Guarantor voluntarily, knowingly and intentionally waives, any and all rights and defenses to which Guarantor may otherwise have been entitled under any suretyship laws or similar laws in effect from time to time including, but not limited to, Chapter 34 of the *Texas Business and Commerce Code*, Rule 31 of the *Texas Rules of Civil Procedure*, and Section 17.001 of the *Texas Civil Practice & Remedies Code*. To the extent allowed by law, Guarantor additionally waives the benefit of any statute of limitations affecting Guarantor's liability under this Guaranty.

26. **EXPIRATION.** This Guaranty shall expire and Guarantor shall have no further responsibilities hereunder from and after the date which is three (3) years from the Commencement Date (as defined in the Lease), except for any liability that has accrued hereunder prior to such expiration.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the day and year first written above.

GUARANTOR:

ADDRESS OF GUARANTOR:

_____, individually

THE STATE OF TEXAS

§

§

COUNTY OF _____

§

This instrument was acknowledged before me on the ____ day of _____, 201__, by _____, individually.

Notary Public, State of Texas

My Commission Expires:

Notary's Printed/Typed Name

If Guarantor is an entity, use the following signature block instead of the above:

GUARANTOR:

FIREBIRD RESTAURANT GROUP, LLC

ADDRESS OF GUARANTOR:

2414 N. Akard St., Ste 500
Dallas, Texas 75201

Its: _____

By: _____

Name: _____

Michael D. Kaars

THE STATE OF TEXAS

§

COUNTY OF Dallas

§

§

This instrument was acknowledged before me on the 11th day of May, 2015, by Michael D. Kaars, Member / CEO of Firebird Restaurant Group, LLC, a Texas limited liability company, on behalf of said company.

Donna Michele Combs
Notary Public, State of Texas

Donna Michele Combs

Notary's Printed/Typed Name

My Commission Expires:

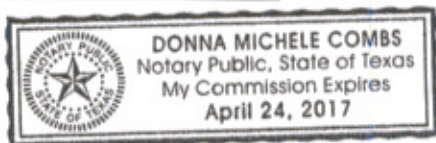


EXHIBIT "I"
INFORMATION SHEET

Lease /Company Name _____

Company Address _____

City, State, and Zip _____

Contact Name _____

Contact Phone Number _____

Contact Email _____

Bank Name _____

Bank Address _____

City, Address, and Zip _____

ABA Number _____

Account Number _____

Start Date _____

Checking _____ Savings _____ Other _____

Customer Lease ID _____

Note: All ACH debits will be attempted on or after the first business day of each month. Landlord reserves the right to reattempt such ACH debits if the first attempt is returned due to insufficient funds.

I/We hereby authorize _____ (Landlord) to present debit entries into the bank account referenced above and the depository named above. These debits will pertain to electronic funds transfer payments that Landlord has initiated for payment of **all charges billed to your lease**.

Signature _____	Title _____	Date _____
Signature _____	Title _____	Date _____

By signing the above this authority is to remain in full effect until Landlord or Tenant has received a thirty (30) day written notification of termination of this arrangement.

EXHIBIT "J"

LANDLORD SIGN CRITERIA

GENERAL CRITERIA

1. Tenant shall be required to obtain a sign permit, as required by code from the City of Arlington, for the installation of its exterior sign, prior to the installation of such sign. Note that Landlord signage requirements may not be the same as those of the City of Arlington. Local codes may be more restrictive. Tenant to verify local signage requirements.
2. Tenant shall be required, at his sole cost and expense, to manufacture and install an exterior storefront sign prior to opening for business in the premises. In-line position Tenants shall be allowed one (1) wall sign at the front exterior storefront. End-cap and corner position Tenants shall be allowed one (1) wall sign at the front exterior storefront and one (1) wall sign at the side exterior storefront.
3. Tenant is to submit all exterior signage including building mounted, monument, and pylon signs for review and approval by the Landlord. Tenant shall submit (a.) a detailed sign elevation showing text heights and lengths, (b.) a section showing dimensions and components of construction, and (c.) a building elevation showing location of proposed building signage. See Item 6 for further description of shop drawings. Tenant must submit (2) sets of drawings via email or hard copy.
4. All exterior signs shall be designed, manufactured and installed to U.L. specifications, using U.L. recognized components, and shall include the U.L. label number on the external back of the sign.
5. Tenant's exterior storefront sign shall be limited to the operating name of the store.

Tenant shall not use any other sign, symbol, crest, logo, other corporate insignia, information or advertising as part of its exterior sign, without Landlord's prior written approval. If Landlord, in his sole and absolute discretion, approves the use of a logo, such logo shall not exceed the approved letter height when installed, measured from the lowest to the highest point of the sign on installation.
6. Shop drawings are required for all signage. Shop drawings shall show complete sign layout elevation at a scale of not less than one inch equals one foot (1" = 1'), a cross section with mounting details, dimensions, materials, and colors at a scale of three inches equals one foot (3" = 1'), and a building elevation showing signage location at a scale of one-eighth inches equals one foot (1/8" = 1').

Signage shop drawings shall show all sources of illumination in the section. Shop drawings shall show all connection locations to the building shown dashed in the sign elevation. The sign elevation shall also indicate and note the top of the window with a dashed line. If requested by Landlord, Tenant shall furnish to Landlord samples of materials proposed for use.
7. The following types of signs shall not be permitted: Rotating, box, cabinet, painted signage, flashing, noise making, odor producing, backlit canopy, or exposed raceway. Exposed neon is not allowed.
8. Tenant shall not penetrate the roof of the premises in the course of installing Tenant's sign. If roof penetration is required for electrical, it must be done by Landlord's Roofing Contractor in accordance with the Construction Documents.
9. All materials and components used in the manufacture and installation of Tenant's sign shall be new stock, free from defects that impair strength, durability and appearance. All signage material shall be of non-corrosive material or treated. Any deviation from the Tenant Sign Criteria shall not be allowed unless specifically approved in writing by the Landlord.
10. Landlord reserves the right to change the Tenant Sign Criteria at any time prior to Landlord approval.
11. Landlord shall have the right to waive any and/or all of the provisions of this Tenant Sign Criteria at any time and for any reason he so deems necessary in his sole and absolute discretion.
12. Landlord shall have the right to inspect Tenant's sign during and after the installation process. Tenant shall be required to conform its sign to the approved sign drawings within five (5) days of receipt of written notice from Landlord that such sign does not conform to the approved sign drawings. In the event Tenant fails to make such changes within the five (5) day period, Landlord may, at its option, make the changes necessary and bill Tenant for the entire cost of the changes. Tenant shall reimburse Landlord upon receipt of Landlord's billing.

SIGN DESIGN CRITERIA

General Requirements:

1. The following restrictions shall apply:
 - A. Individual or can type letters shall not exceed a maximum height of 28". If 2 lines of signage are used, each line shall not exceed 24", and total height shall not exceed 4'-6" without special consideration of Landlord. Letters to be attached to a 1/8" thick-brushed aluminum background plate with a 2" x 12" aluminum raceway behind.
 - B. Channel letters shall have opaque metal sides and translucent plastic faces and shall have dark bronze metal returns. Illumination behind letters shall be 3200 K neon.
 - C. Each letter shall be at least 3" wide and the depth shall be 5".
 - D. All individual signage letters shall be of the same color without special consideration by the Landlord.
2. Landlord shall determine at his sole discretion for all Tenants the quantity of lines required for the signage.
3. The maximum overall length of the Tenant's installed storefront sign shall not exceed 75% of the storefront width, or the maximum length allowed by the local governing authority, whichever is less. If Tenant's fascia length is less than the storefront width, such as at the corners of canopies, then Tenant's maximum sign length shall be the lesser of (a.) 90% of the allotted space, (b.) 75% of the storefront width, or (c.) the maximum allowed by the local governing authority.
4. Raceways shall be painted Landlord's standard color to match the building brick. Color to be _____. All transformers are to be remote mounted in a concealed location.

METHOD OF INSTALLATION

1. Tenant's installation company must use industry standard safety equipment and methods during installation of Tenant's sign.
2. Signs shall be centered vertically and horizontally on sign band. All signs are to be hung level and plumb and placed on the exterior storefront as shown on the approved drawings using the approved method of installation. Should Tenant's installation company discover problems with the placement or method of installation of Tenant's sign once installation has begun, Tenant shall immediately stop all installation work and immediately inform Landlord of the problem. Landlord shall then approve a change in method of installation or notify Tenant to proceed in the manner previously approved. Tenant shall then proceed diligently to finish installation in a timely manner.
3. All fasteners, screws, bolts, etc. used in the mounting of the letters to the building shall be stainless steel. All signs shall be mounted with all wiring, transformers and reinforcing concealed. Penetrations through the building fascia shall be made through mortar only on masonry buildings. No penetration, mounting device or other sign-related item shall be attached to brick or drilled through brick. All wiring penetrating through the building fascia and inside the building shall use U.L. recognized components and be sealed and watertight.
4. Tenant's installation company shall protect all adjacent surfaces, including paving and sidewalks, from damage during installation and shall be responsible for repairing any damage prior to leaving the job site. Tenant shall notify Landlord of any damage prior to repair in order that Landlord specifies the correct repair materials. Tenant shall promptly repair the damage to "like-new condition."
5. Following installation, Tenant's sign installation company shall remove all traces of visible tape, adhesive, chalk lines and wrapping from the exterior building fascia. Tenant's installation company shall be responsible for clean up and removal of all debris caused by his installation at the job site, at the time of finish of installation.

SECONDARY SIGNS

1. Exterior Signs:
 - A. Rear wall signage may be allowed if specifically agreed to by Landlord and City.

- B. Tenant shall place no "sandwich" or easel/portable signs on the exterior of the premises, except with the written consent of the Landlord.
 - C. Tenant shall be allowed to place the store address numerals on the front of the storefront using 3" high white vinyl numbers in the Helvetica Medium typeface. These numbers shall be mounted on the exterior storefront glass as directed by the U.S. Postal Service and local fire department.
 - D. Store logo or name (maximum 3" high) may be used on glass or a graphic band to identify glass with maximum height being 36" from the floor, subject to Landlord's approval.
 - E. Tenant shall be required to place the name of the store on the rear service door. Tenant's name shall be made of 3" high black vinyl letters in the Helvetica Medium typeface. The letters shall be mounted in the center of the rear service door at a height of 5'-6" from the bottom of the rear service door to the bottom of the letters.
 - F. Tenant shall be required to place name of the store or the suite number in permanent 2" high letter/numbers on the housings of all roof top units.
 - G.
 - H. "Coming Soon" signage may be in place a maximum of ninety (90) days. Signage may not attach to the building or impair the progress of the work to the shell building. Tenant shall coordinate location with the Landlord.
 - I.
 - J. No banners, posters, flyers or advertising material of any kind shall be permitted to be mounted on the exterior glass or walls of the premises without Landlord's prior written approval. Notwithstanding the above, if Tenant opens later than 30 days after the "Grand Opening", Tenant shall be allowed one "Grand Opening" banner, limited in size to 50 square feet, with prior written approval of Landlord regarding (1.) design, (2.) materials used, (3.) location and (4.) method of installation. The "Grand Opening" banner shall be allowed on the exterior storefront from the date of Tenant's store opening business and continuing for a period of 10 days. Tenant must have a permit for such banner, if necessary by code. Tenant's banner shall be professionally made. Any and all damage to base building by banner shall be repaired by the Landlord at Tenant's expense.
- 2. Back exterior wall signage may be allowed only at the sole discretion of the Landlord.
 - 3. Interior Signs – No interior signs, which can be viewed from the exterior of the Demised Premises shall be allowed within 5 feet of any exterior window or door, except as required by law.

SIGN OPERATION AND MAINTENANCE

Per operating hours of Center and Lease Agreement.

FORBEARANCE AGREEMENT

THIS FORBEARANCE AGREEMENT ("Agreement") is made and entered into on this 26 day of November, 2018, by and between HANOL, LLC, a Texas limited liability company ("**Landlord**") and SNUFFER'S RESTAURANTS, LLC, a Texas limited liability company ("**Tenant**"), joined herein by FIREBIRD RESTAURANT GROUP, LLC, a Texas limited liability company ("**Guarantor**").

RECITALS:

- A. Tenant entered into that certain Shopping Center Lease dated May 15, 2015, with I-20/South Collins III, LP, a Texas limited partnership ("**I-20/South Collins**") regarding Suite 200 in the shopping center known as 457 E. I-20, Arlington, Tarrant County, Texas, and amended the same on or about October 1, 2015 (the original lease, as amended is referred to herein as the "**Lease**").
- B. I-20/South Collins assigned the Lease to Landlord on and as of April 25, 2016.
- C. Tenant has vacated the "**Demised Premises**" (as such term is defined in the Lease) and by letter dated October 15, 2018 ("**Default Letter**") Landlord has given Tenant notice of a default of the Lease for abandonment of the Demised Premises and failure to pay rent for October 2018. Tenant has not paid the rent due pursuant to the Lease for November 2018.
- D. Tenant has requested and Landlord has agreed to enter into this Agreement to evidence their mutual intent and agreements during the pendency hereof.

AGREEMENT:

In consideration of the foregoing, the covenants and agreements contained here and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. Known Default. Tenant acknowledges that it is in default under the terms of the Lease.
2. Forbearance. Subject to compliance with the "**Forbearance Conditions**" (as defined herein), and without intending to waive or waiving any rights Landlord may have with respect to Tenant's default or continuing default under or pursuant to the Lease, Landlord agrees to forego filing any lawsuit or other action against Tenant during the "**Forbearance Term**" (as defined herein). As used herein, the following terms have the meanings set forth:

(a) "**Forbearance Conditions**" means (i) Tenant's payment of \$15,314.38 -- comprising of 85% base rent + actual NNN for November 2018 -- to Landlord immediately upon the execution and delivery of this Agreement and again on the first day of each month starting December 1, 2018 at 85% base rent + actual NNN per month, consisting of \$15,314.38 per month ~~following the date hereof~~ and (ii) no further event of default occurring under or pursuant to the Lease (except failure to pay the full amount owing) including, without limitation, Tenant or any guarantor filing a petition under any section or chapter of the United States Bankruptcy Code, as amended, as provided in Section 22.1(d) of the Lease.

~~section or chapter of the United States Bankruptcy Code, as amended, as provided in Section 22.1(d) of the Lease.~~

(b) **“Forbearance Term”** means the period ending on the earlier of (i) the date on which Tenant fails to comply with a Forbearance Condition or (ii) thirty (30) days after notice to Tenant by Landlord that Landlord elects to terminate this Agreement.

For the avoidance of doubt, this Agreement is not intended to be or construed to be any waiver of any obligations of Tenant under or pursuant to the Lease nor a waiver or election of any rights or remedies that Landlord may have with respect to the Lease. Landlord hereby expressly reserves all rights and remedies it may have with respect to the Lease and Landlord's acceptance of any partial payments made with respect to the Lease shall not be deemed or construed to cure any default or preclude Landlord's further exercise or enforcement of any rights Landlord may have as a result of any and all defaults by Tenant pursuant to the Lease. Tenant hereby acknowledges that Tenant's obligation to pay to the Landlord the full portion of the rent due, including the unpaid October 2018 rent in the amount of \$17,212.00 and all abated portions of the rent payments during the effective term of this Agreement, has been deferred to a later date and Landlord's acceptance of any partial payments or non-payments shall not be construed as waiver by the Landlord.

3. Notices. Any notices given pursuant to this Agreement shall be given in the manner provided in the Lease.

4. No Modification of Lease. This Agreement is not intended to and does not modify the Lease in any respect.

5. Counterparts. This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument. Delivery of an executed counterpart by facsimile, PDF or other electronic means shall be equally as effective as delivery of an executed original counterpart and shall constitute a covenant to deliver an executed original counterpart, but the failure to do so shall not affect the validity, enforceability and binding effect of this Agreement.


6. Joinder by Guarantor. By the execution and delivery hereof, Guarantor (a) acknowledges and consents to the terms and provision hereof, (b) ratifies and confirms the terms of the Lease Guaranty executed in connection with the execution and delivery of the Lease by Tenant (the **“Guaranty”**) and (c) agrees that the Guaranty remains in effect in accordance with its terms.

[execution on following page]

EXECUTED to be effective on the date first above written.



LANDLORD:

HANOL, LLC

By: 
Name: Patrick Lee
Title: Manager



TENANT:

SNUFFER'S RESTAURANTS, LLC

By:  
Name: MARTIN F. ADLER
Title: PRESIDENT

GUARANTOR:

FIREBIRD RESTAURANT GROUP, LLC

By:  
Name: MARTIN F. ADLER
Title: PRESIDENT

FORBEARANCE AGREEMENT

THIS FORBEARANCE AGREEMENT ("Agreement") is made and entered into on this 26 day of November, 2018, by and between HANOL, LLC, a Texas limited liability company ("**Landlord**") and Taqueria La Ventana, LLC, a Texas limited liability company ("**Tenant**"), joined herein by FIREBIRD RESTAURANT GROUP, LLC, a Texas limited liability company ("**Guarantor**").

RECITALS:

A. Tenant entered into that certain Shopping Center Lease dated May 15, 2015, with I-20/South Collins III, LP, a Texas limited partnership ("**I-20/South Collins**") regarding Suite 400 in the shopping center known as 457 E. I-20, Arlington, Tarrant County, Texas, and amended the same on or about October 1, 2015 (the original lease, as amended is referred to herein as the "**Lease**").

B. I-20/South Collins assigned the Lease to Landlord on and as of April 25, 2016.

C. Tenant has vacated the "**Demised Premises**" (as such term is defined in the Lease) and by letter dated October 15, 2018 ("**Default Letter**") Landlord has given Tenant notice of a default of the Lease for abandonment of the Demised Premises and failure to pay rent for October 2018. Tenant has not paid the rent due pursuant to the Lease for November 2018.

D. Tenant has requested and Landlord has agreed to enter into this Agreement to evidence their mutual intent and agreements during the pendency hereof.

AGREEMENT:

In consideration of the foregoing, the covenants and agreements contained here and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. Known Default. Tenant acknowledges that it is in default under the terms of the Lease.

2. Forbearance. Subject to compliance with the "**Forbearance Conditions**" (as defined herein), and without intending to waive or waiving any rights Landlord may have with respect to Tenant's default or continuing default under or pursuant to the Lease, Landlord agrees to forego filing any lawsuit or other action against Tenant during the "**Forbearance Term**" (as defined herein). As used herein, the following terms have the meanings set forth:

(a) "**Forbearance Conditions**" means (i) Tenant's payment of \$5,761.23 -- comprising of 85% base rent + actual NNN for November 2018 -- to Landlord immediately upon the execution and delivery of this Agreement and again on the first day of each month starting December 1, 2018 at 85% base rent + actual NNN per month, currently consisting of \$5,761.23 per month ~~following the date hereof~~ and (ii) no further event of default occurring under or pursuant to the Lease (except failure to pay the full amount owing) including, without limitation, Tenant or any guarantor filing a petition under any section or chapter of the United States Bankruptcy Code, as amended, as provided in Section 22.1(d) of the Lease.

(b) **“Forbearance Term”** means the period ending on the earlier of (i) the date on which Tenant fails to comply with a Forbearance Condition or (ii) thirty (30) days after notice to Tenant by Landlord that Landlord elects to terminate this Agreement.

For the avoidance of doubt, this Agreement is not intended to be or construed to be any waiver of any obligations of Tenant under or pursuant to the Lease nor a waiver or election of any rights or remedies that Landlord may have with respect to the Lease. Landlord hereby expressly reserves all rights and remedies it may have with respect to the Lease and Landlord's acceptance of any partial payments made with respect to the Lease shall not be deemed or construed to cure any default or preclude Landlord's further exercise or enforcement of any rights Landlord may have as a result of any and all defaults by Tenant pursuant to the Lease. Tenant hereby acknowledges that Tenant's obligation to pay to the Landlord the full portion of the rent due, including the unpaid October 2018 rent in the amount of \$6,475.00 and all abated portions of the rent payments during the effective term of this Agreement, has been deferred to a later date and Landlord's acceptance of any partial payments or non-payments shall not be construed as waiver by the Landlord.

3. Notices. Any notices given pursuant to this Agreement shall be given in the manner provided in the Lease.

4. No Modification of Lease. This Agreement is not intended to and does not modify the Lease in any respect.

5. Counterparts. This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument. Delivery of an executed counterpart by facsimile, PDF or other electronic means shall be equally as effective as delivery of an executed original counterpart and shall constitute a covenant to deliver an executed original counterpart, but the failure to do so shall not affect the validity, enforceability and binding effect of this Agreement.


6. Joinder by Guarantor. By the execution and delivery hereof, Guarantor (a) acknowledges and consents to the terms and provision hereof, (b) ratifies and confirms the terms of the Lease Guaranty executed in connection with the execution and delivery of the Lease by Tenant (the **“Guaranty”**) and (c) agrees that the Guaranty remains in effect in accordance with its terms.

[execution on following page]

EXECUTED to be effective on the date first above written.



LANDLORD:

HANOL, LLC

By: 
Name: Patrick Lee
Title: Manager

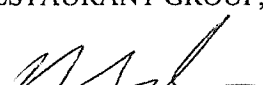

TENANT:

TAQUERIA LA VENTANA, LLC

By:  
Name: MARTIN P. ADICK
Title: PRESIDENT

GUARANTOR:

FIREBIRD RESTAURANT GROUP, LLC

By:  
Name: MARTIN P. ADICK
Title: PRESIDENT

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Andrew Slania on behalf of Andrew Slania
Bar No. 24056338
aslania@raiznerlaw.com
Envelope ID: 46793460
Status as of 10/5/2020 9:02 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Raizner Slania		efile@raiznerlaw.com	10/2/2020 12:03:05 PM	SENT