

# United States Bankruptcy Court, District of Delaware

Fill in this information to identify the case (Select only one Debtor per claim form):

**Debtor:** 99 Cents Only Stores LLC

**Case Number:** 24-10721

## Modified Official Form 410

## Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense (other than a claim entitled to priority under 11 U.S.C. § 503(b)(9)). Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

### Part 1: Identify the Claim

1. Who is the current creditor?	31033 Date Palm LLC Name of the current creditor (the person or entity to be paid for this claim)		
	Other names the creditor used with the debtor _____		
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____		
3. Where should notices and payments to the creditor be sent?  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent?  Address1: c/o Stark & Stark Address2: Att: J. Lemkin Address3: PO Box 5315 Address4: City: Princeton State: NJ Postal Code: 08543 Country:  Contact phone <u>609-791-7022</u> Contact email <u>jlemkin@stark-stark.com</u>	Where should payments to the creditor be sent? (if different)  Address1: Address2: Address3: Address4: City: State: Postal Code: Country:  Contact phone _____ Contact email _____	
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____	Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____		

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
7. How much is the claim? \$ 443,223.99		. Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?		Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. lease/stub rent/rejection damages
9. Is all or part of the claim secured?		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. <p style="margin-left: 20px;"><b>Nature of property:</b></p> <p><input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i>.</p> <p><input type="checkbox"/> Motor vehicle</p> <p><input type="checkbox"/> Other. Describe: _____</p> <p style="margin-left: 20px;"><b>Basis for perfection:</b> _____</p> <p>Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)</p> <p style="margin-left: 20px;"><b>Value of property:</b> \$_____</p> <p style="margin-left: 20px;"><b>Amount of the claim that is secured:</b> \$_____</p> <p style="margin-left: 20px;"><b>Amount of the claim that is unsecured:</b> \$_____ (The sum of the secured and unsecured amounts should match the amount in line 7.)</p> <p style="margin-left: 20px;"><b>Amount necessary to cure any default as of the date of the petition:</b> \$_____</p> <p style="margin-left: 20px;"><b>Annual Interest Rate (when case was filed)</b> _____ %</p> <p><input type="checkbox"/> Fixed <input type="checkbox"/> Variable</p>
10. Is this claim based on a lease?		<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ 53,429.31
11. Is this claim subject to a right of setoff?		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?		<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes. Check one:	Amount entitled to priority
		<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____		
		<input type="checkbox"/> Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____		
		<input type="checkbox"/> Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____		
		<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____		
		<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____		
		<input checked="" type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(2) that applies. \$ <u>\$28,942.32</u>		
<p>* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.</p>				
13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?		<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes. Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim. \$ _____	
14. Is all or part of the claim being asserted entitled to administrative priority arising from unpaid rent for the period following the Petition Date through the end of the month of April 2024?		<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes. Indicate the amount of such claim. \$ <u>\$28,942.32</u>	

**The person completing  
this proof of claim must  
sign and date it.  
FRBP 9011(b).**

If you file this claim  
electronically, FRBP  
5005(a)(2) authorizes courts  
to establish local rules  
specifying what a signature  
is.

**A person who files a  
fraudulent claim could be  
fined up to \$500,000,  
imprisoned for up to 5  
years, or both.**

**18 U.S.C. §§ 152, 157, and  
3571.**

*Check the appropriate box:*

- I am the creditor.  
 I am the creditor's attorney or authorized agent.  
 I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.  
 I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

*Joseph H. Lemkin*

07/02/2024

---

Electronic Signature

Date

**Name of the person who is completing and signing this claim**

Joseph H. Lemkin

Name

First name

Middle name

Last name

Title/Company

Shareholder/Stark & Stark

Identify the corporate servicer as the company if the authorized agent is a servicer.

PO Box 5315

Address

---

Number Street

Princeton

NJ

08543

City

State

ZIP Code

Country

Contact phone

609-250-5126

Email

jlemkin@stark-stark.com

## Additional Noticing Addresses (if provided):

### **Additional Address 1**

Name:

Address1:

Address2:

Address3:

Address4:

City:

State:

Postal Code:

Country:

Contact Phone:

Contact Email:

---

### **Additional Address 2**

Name:

Address1:

Address2:

Address3:

Address4:

City:

State:

Postal Code:

Country:

Contact Phone:

Contact Email:

## Additional Supporting Documentation Provided

- Yes  
 No
- 

Attachment Filename:

Date Palm Rider with attachments final.pdf

**RIDER TO PROOF OF CLAIM OF  
31033 DATE PALM LLC (“CLAIMANT”)  
NUMBER HOLDINGS, INC. (“DEBTOR”)**  
**(Case No.: 24-10719 (JKS))**

Claimant is a landlord regarding one of Debtors’ leases dated August 23, 2006, as amended by the Amendment to Lease and Consent by Lender dated February 27, 2007 (the “Lease”) for premises located at 31033 Date Palm Drive, Cathedral City, California (the “Premises”). The Lease was rejected by the Debtor as of April 30, 2024. Accordingly, Claimant is owed no less than the following amounts:

**Unsecured Non-Priority**

Rejection damages representing rent due for one year	\$389,794.68 <sup>1</sup>
<b>Pre-Petition Arrearage</b>	
Credit Balance	-\$14,945.89
Credit CAM/Insurance/Taxes 2023	-\$ 3,980.70
March 1 <sup>st</sup> – March 31 <sup>st</sup>	\$ 36,178.00
April 1 <sup>st</sup> – 7th, 2024 (pro-rated)	\$ 7,235.58

**Chapter 11 Administrative Priority for Post-Petition Stub Rent**

April 7 <sup>th</sup> – April 30, 2024,	\$28,942.32
<b>Total All Claims</b>	<b>\$443,223.99</b>

Claimant reserves the right to amend and/or supplement this claim to include additional amounts due which have not yet been liquidated and/or discovered.

The supporting documents for this claim are voluminous and have not been submitted herewith, other than the original lease and the calculation of CAM/Insurance/Tax Credit calculations. To the extent requested by a party in interest, Claimant will supply additional

---

<sup>1</sup> The total remaining lease value through January 2026 is \$682,140.69. Fifteen percent of the total lease value is \$102,321.10. One year would be \$389,794.68. Accordingly, the rejection claim is \$389,794.68.

supporting documents.

For additional information and/or documentation regarding this claim, please contact  
counsel for Claimant:

Joseph H. Lemkin, Esq.  
Stark & Stark  
PO Box 5315  
Princeton, NJ 08543-5315  
(609)791-7022  
[jlemkin@stark-stark.com](mailto:jlemkin@stark-stark.com)

99 Cents Store Only

2023

2023	SCE	Fire - Water	Irrigation - Water
Jan	2,465.66	86.99	45.07
Feb	2,627.49	86.99	45.07
Mar	2,937.09	86.99	45.07
Apr	3,024.63	86.99	45.07
May	3,035.20	86.99	45.07
Jun	2,752.26	86.99	45.07
Jul	4,416.38	86.99	45.07
Aug	4,432.84	86.99	46.89
Sep	3,803.63	86.99	46.89
Oct	2,844.62	86.99	46.89
Nov	2,369.90	86.99	46.89
Dec	2,986.50	86.99	46.89
Total 2023	37,696.20	1,043.88	549.94

	Total 2023	Prorata Share at 19.24%	99Cent Pmts	Difference
Insurance	7,640.48	1,470.03	1,765.32	-295.29
Property Taxes	103,442.67	19,902.37	17,025.84	2,876.53
CAM Charges	96,444.18	18,555.86	25,117.80	-6,561.94

-3,980.70

**99¢ ONLY STORES  
STANDARD MULTI-TENANT FORM LEASE  
(DATE PALM PLAZA, CATHEDRAL CITY, CALIFORNIA)**

4                 THIS LEASE (the "LEASE") is made and executed as of the 23rd day of August,  
5     2006, by and between 31033 DATE PALM, LLC, a California limited liability company (the  
6     "LANDLORD"), and 99¢ ONLY STORES, INC., a California corporation (the "TENANT"),  
7     who agree as follows:

8     **ARTICLE ONE: BASIC TERMS**

9                 This Article One contains the Basic Terms of the LEASE between LANDLORD  
10    and TENANT named below. Other Articles, Sections and Paragraphs of the LEASE referred to in  
11    this Article One explain and define the Basic Terms and are to be read in conjunction with the  
12    Basic Terms. In the event of any conflict or contradiction between this Article One and such other  
13    Articles, Sections and Paragraphs of the LEASE, such other Articles, Sections and Paragraphs  
14    shall control and supersede the provisions of this Article One in regards to such conflict or  
15    contradiction.

16                 Section 1.01 **Landlord's Address.**

17                     Management Office  
18                     13017 Artesia Boulevard, Suite D200  
19                     Cerritos, California 90703  
20                     Telephone: (562) 229-3091  
21                     ATTN: Mr. Eli Yoel

22                 Section 1.02 **Tenant's Address.**

23                     4000 East Union Pacific Avenue  
24                     Commerce, CA 90023  
25                     Telephone: (323) 980-8145  
26                     ATTN: Real Estate Department

27                 Section 1.03 **Premises.** The demised premises (the "PREMISES") are part of  
28    the multi-tenant real property depicted in Exhibit "A" (the "SHOPPING CENTER").  
29    LANDLORD owns the SHOPPING CENTER. LANDLORD has provided a legal description of  
30    the SHOPPING CENTER, which is attached hereto as Exhibit "C". The SHOPPING CENTER  
31    includes the land, the buildings and all other improvements located on the land, and the  
32    "COMMON AREA," as described in Section 4.05(a). The PREMISES is located at 31033 Date  
33    Palm Drive, Cathedral City, California 92234 and is a portion of what is commonly known as  
34    Date Palm Plaza. The PREMISES is shown on the site plan attached to this LEASE as Exhibit  
35    "A" and comprises approximately 23,341 square feet of ground floor building area, including  
36    TENANT'S loading areas.

37                 Section 1.04 **Lease Term.** Approximately ten (10) years beginning on the  
38    delivery date as set forth in Section 2.03 and ending on January 31, 2016, unless sooner  
39    terminated in accordance with this LEASE (the "INITIAL LEASE TERM"). TENANT shall  
40    have the option to extend the LEASE TERM beyond the INITIAL LEASE TERM as set forth in  
41    Section 2.02. The INITIAL LEASE TERM plus all EXTENDED TERMS exercised by  
42    TENANT pursuant to Section 2.02 below shall hereinafter be referred to collectively as the  
43    LEASE TERM.

44                 Section 1.05 **Permitted Uses.** Retail sales of general merchandise, including  
45    beer and wine for off-premises consumption and all other products sold in TENANT'S other 99¢  
46    Only Stores, as more particularly described in Article 5 hereof.

47                 Section 1.06 **Intentionally omitted.**

48                 Section 1.07 **Brokers.** Ron Barbieri of Lee & Associates – Victorville is the  
49    broker for TENANT ("TENANT'S BROKER"). Margie Taft of Taft and Associates is the  
50    broker for LANDLORD ("LANDLORD'S BROKER"). LANDLORD shall pay all  
51    commissions to TENANT'S BROKER and LANDLORD'S BROKER pursuant to a separate



1 commission agreement. LANDLORD and TENANT represent each to the other that no other  
2 real estate broker has been dealt with in regard to this transaction.

3           Section 1.08   Rent and Other Charges Payable by Tenant.

4           (a)   Base Rent. Beginning on the RENT COMMENCEMENT DATE (as  
5 defined in Section 3.02), TENANT shall pay the sum of Twenty-Four Thousand Four Hundred  
6 Ten and 80/100 Dollars (\$24,410.80) per month (the "BASE RENT") as rent for the PREMISES.  
7 All references in this LEASE to "BASE RENT" shall mean monthly rent unless the reference is  
8 expressly to "ANNUAL BASE RENT" in which event the reference shall mean the monthly  
9 BASE RENT multiplied by twelve (12). The BASE RENT shall be subject to adjustment during  
10 the INITIAL LEASE TERM and the EXTENDED TERMS in accordance with Section 3.03  
11 below. Notwithstanding the foregoing, TENANT may, at its own cost and expense, cause the  
12 PREMISES to be remeasured (measurement to made to the exterior wall face of the PREMISES  
13 and to the center of any demising walls with space adjacent to the PREMISES without deduction  
14 for any interior elements such as columns, projections or vertical penetrations) after the  
15 completion of LANDLORD'S WORK, and, in the event that upon such remeasurement, it is  
16 found that the leaseable square footage of the PREMISES is less than the square footage stated in  
17 Section 1.03 above, then the BASE RENT during the INITIAL LEASE TERM and the  
18 EXTENDED TERMS (and TENANT'S pro rata share of OPERATING EXPENSES) shall be  
19 recalculated to reflect the correct square footage of the PREMISES; provided, however, if the  
20 leaseable square footage of the PREMISES is determined to be more than one hundred two and  
21 one-half percent (102.5%) of the square footage stated in Section 1.03 above (to wit, 23,924.53  
22 leaseable square feet), then the BASE RENT during the INITIAL LEASE TERM and the  
23 EXTENDED TERMS (and TENANT'S pro rata share of OPERATING EXPENSES) shall be  
24 recalculated based upon one hundred two and one-half percent (102.5%) of the square footage  
25 stated in Section 1.03 above (to wit, 23,924.53 leaseable square feet) and TENANT shall not be  
26 responsible for any BASE RENT or TENANT'S pro rata share of OPERATING EXPENSES  
27 attributable to any leaseable square footage in the PREMISES in excess of the foregoing cap  
28 amount.

29           (b)   Other Periodic Payments. (i) REAL PROPERTY TAXES (See Section  
30 4.02); (ii) Utilities (See Section 4.03); (iii) Insurance Premiums (See Section 4.04); (iv)  
31 COMMON AREA COSTS (See Section 4.05). LANDLORD represents and warrants that  
32 TENANT'S initial pro rata share of "OPERATING EXPENSES," as defined in Section 4.06, is  
33 19.35% (See Section 4.05); (v) Maintenance, Repairs and Alterations (See Article Six).

34           Section 1.09   Riders. The following Riders are attached to and made a part of  
35 this LEASE: None.

36           ARTICLE TWO: LEASE TERM

37           Section 2.01   Lease of Premises For Lease Term. LANDLORD leases the  
38 PREMISES to TENANT and TENANT leases the PREMISES from LANDLORD for the  
39 LEASE TERM. The LEASE TERM is for the period stated in Section 1.04 above and shall  
40 begin and end on the dates specified in Section 1.04 above, unless the beginning or end of the  
41 LEASE TERM is changed under any provision of this LEASE.

42           Notwithstanding anything to the contrary contained herein, this LEASE is contingent  
43 upon (a) TENANT'S receipt of all applicable governmental approvals (other than permits/licenses  
44 for the sale of beer and wine), but including, without limitation, permits for and approval of final  
45 site plan, final elevations and final signage plans; (b) TENANT'S receipt, through recordation of  
46 the same in the Official Records of Riverside County, California ("OFFICIAL RECORDS"), of an  
47 acceptable form of subordination and non-disturbance agreement from each and all beneficiaries of  
48 deeds of trust prior in interest to the leasehold estate created hereby; (c) LANDLORD'S approval,  
49 to the extent required pursuant to the terms of this LEASE, of all work contemplated to be done by  
50 TENANT pursuant to the "WORK LETTER" attached hereto as Exhibit "B"; (d) a memorandum  
51 of this LEASE is recorded, subject and subordinate only to: (i) one or more deeds of trust which  
52 satisfy the requirements of the provisions of clause (b) of this sentence; and (ii) such other matters  
53 as are disclosed in a preliminary title report (or title commitment) of the PREMISES and the parcel  
54 on which it is situated delivered by LANDLORD to TENANT (with legible copies of all  
55 exceptions disclosed by Schedule B of said preliminary title report or title commitment) and  
56 approved by TENANT. In the event that, after commercially reasonable efforts, the foregoing



1 conditions are not satisfied on or before the date occurring ninety (90) days following execution of  
2 this LEASE, then TENANT may terminate this LEASE by written notice to LANDLORD. If this  
3 LEASE is so terminated, then neither party shall have any obligations to the other and this LEASE  
4 shall be of no further force or effect, except that LANDLORD shall repay to TENANT  
5 immediately any advance payments made by TENANT to LANDLORD which apply to any time  
6 periods after the effective date of the termination of this LEASE.

7           Section 2.02 Right to Extend Lease Term. So long as no Default (as defined  
8 in Section 10.02) by TENANT is then existing and uncured at the time of exercise, TENANT  
9 shall have the right to extend the LEASE TERM, on the terms and provisions set forth in this  
10 LEASE, for four (4) additional periods of five (5) years each (the "EXTENDED TERMS")  
11 following expiration of the INITIAL LEASE TERM by giving written notice of exercise to  
12 LANDLORD at least one hundred eighty (180) days prior to the expiration of the INITIAL  
13 LEASE TERM, or the then current EXTENDED TERM, as the case may be. The BASE RENT  
14 during each such EXTENDED TERM shall be subject to increase as set forth in Section 3.03.

15           Section 2.03 Delivery of Premises. The date that LANDLORD delivers  
16 TENANT possession of the "PREMISES" in the condition specified in 6.01 shall be known as  
17 the "DELIVERY DATE" provided the conditions set forth in Section 2.01 have been satisfied or  
18 waived in writing by TENANT. LANDLORD shall deliver possession of the PREMISES to  
19 TENANT in the condition specified in Section 6.01 hereof on or before May 31, 2007.  
20 LANDLORD shall provide TENANT with a written notice setting forth the estimated  
21 DELIVERY DATE at least thirty (30) days in advance thereof. Within ten (10) days after such  
22 DELIVERY DATE, LANDLORD shall send a written notice to TENANT memorializing the  
23 DELIVERY DATE and the RENT COMMENCEMENT DATE, and if TENANT does not  
24 object to such dates set forth in LANDLORD'S notice within ten (10) calendar days of receipt  
25 thereof, then such dates shall be deemed correct and such notice shall be attached to this LEASE  
26 and be incorporated herein. If the DELIVERY DATE has not occurred on or before May 31,  
27 2007, then the period described in Section 3.02 during which all rent (both BASE RENT and  
28 OPERATING EXPENSES) shall be abated shall be increased by a period equal to the number of  
29 days from June 1, 2007 to and including the DELIVERY DATE. If the DELIVERY DATE does  
30 not occur on or before June 1, 2007, the same shall constitute a material breach of this LEASE,  
31 and TENANT shall, without prejudice to any of TENANT'S other rights or remedies, have the  
32 right to terminate this LEASE upon written notice by TENANT to LANDLORD; provided,  
33 however, if TENANT terminates this LEASE pursuant to this Section, LANDLORD shall  
34 immediately return to TENANT all PREPAID RENT, and other sums, if any, paid by TENANT  
35 to LANDLORD; provided, further, if the DELIVERY DATE does not occur on or before July  
36 31, 2007 and if TENANT terminates this LEASE pursuant to this Section, in addition to the  
37 amounts set forth above, LANDLORD shall reimburse TENANT for all out of pocket legal and  
38 architectural costs reasonably incurred by TENANT in connection with this LEASE (not to  
39 exceed a total of \$25,000.00).

40           Section 2.04 Holding Over. If TENANT does not vacate the PREMISES upon  
41 the expiration or earlier termination of the LEASE and LANDLORD thereafter accepts rent from  
42 TENANT, TENANT'S occupancy of the PREMISES shall be a "month-to-month" tenancy,  
43 subject to all of the terms of this LEASE applicable to a month-to-month tenancy.

44 **ARTICLE THREE: BASE RENT**

45           Section 3.01 Time and Manner of Payment. Beginning on the RENT  
46 COMMENCEMENT DATE (as defined below) and the first day of each calendar month  
47 thereafter, TENANT shall pay LANDLORD the BASE RENT, in advance. The BASE RENT  
48 shall be payable to LANDLORD at LANDLORD'S address or to such other party and/or address  
49 as LANDLORD may designate by written notice to TENANT at least ten (10) days prior to the  
50 effective date of such notice. BASE RENT for any partial month shall be prorated based on the  
51 actual number of days in the calendar month involved.

52           Section 3.02 Rent Commencement Date. The "RENT COMMENCEMENT  
53 DATE" shall be the one hundred twentieth (120th) day following the DELIVERY DATE (as set  
54 forth in Section 2.03).

55           Section 3.03 Base Rent Adjustment. If, upon the measurement of the leaseable  
56 floor area of the PREMISES, as described in subsection 1.08(a) above, the leaseable square



1 footage of the PREMISES is determined to be different than 23,341 square feet, then the BASE  
2 RENT payable each month during the TERM of this LEASE shall be revised to an amount equal  
3 to the product of the number of leaseable square footage of the PREMISES so determined  
4 multiplied by the sum of \$12.55 per annum; provided, however, as stated in subsection 1.08(a)  
5 above, if the leaseable square footage of the PREMISES is determined to be more than 23,924.53  
6 leaseable square feet, then the BASE RENT during the INITIAL LEASE TERM and the  
7 EXTENDED TERMS shall be recalculated based upon 23,924.53 leaseable square feet and  
8 TENANT shall not be responsible for any BASE RENT attributable to any leaseable square  
9 footage in the PREMISES in excess of the foregoing cap amount. After the first five (5) years of  
10 the INITIAL TERM and during each of the EXTENDED TERMS of this LEASE, the BASE  
11 RENT payable for each month shall increase from the monthly BASE RENT payable during the  
12 immediately preceding portion of the LEASE TERM to an amount equal to the amount shown  
13 below:

	ANNUAL RENT/SF	ANNUAL BASE RENT	MONTHLY BASE RENT	DATES OF TERM
<b>SECOND HALF OF INITIAL TERM</b>	\$13.80	\$322,105.80	\$26,842.15	Fifth Anniversary of Commencement Date - 1/31/16
<b>EXTENDED TERM 1</b>	\$15.20	\$354,783.20	\$29,565.27	2/1/16 - 1/31/21
<b>EXTENDED TERM 2</b>	\$16.70	\$389,794.70	\$32,482.89	2/1/21 - 1/31/26
<b>EXTENDED TERM 3</b>	\$18.35	\$428,307.35	\$35,692.28	2/1/26 - 1/31/31
<b>EXTENDED TERM 4</b>	See Section 3.06, below	See Section 3.06, below	See Section 3.06, below	2/1/31 - 1/31/36

14  
15       Section 3.04 **Termination; Advance Payments.** Upon termination of this  
16 LEASE under Article Seven (Damage or Destruction), Article Eight (Condemnation) or any  
17 other termination not resulting from TENANT'S DEFAULT, and after TENANT has vacated the  
18 PREMISES in the manner required by this LEASE, LANDLORD shall immediately refund or  
19 credit to TENANT (or TENANT'S successor) the unused portion of any Security Deposit, any  
20 advance rent or other advance payments made by TENANT to LANDLORD, any amounts paid  
21 for OPERATING EXPENSES or otherwise which apply to any time periods after the effective  
22 date of the termination of the LEASE.

23       Section 3.05 **Work Letter.** The work letter (the "WORK LETTER") attached  
24 to this LEASE as Exhibit "B" sets forth certain work and improvements which may be  
25 constructed by TENANT with respect to the PREMISES prior to TENANT'S opening for  
26 business ("TENANT'S WORK"). TENANT shall pay for the cost of constructing TENANT'S  
27 WORK. Following the execution of this LEASE, TENANT shall have the right to enter upon  
28 the PREMISES for the purpose of constructing TENANT'S WORK; provided, however, that  
29 prior to such entry, TENANT shall have obtained the policies of insurance required to be  
30 obtained by TENANT under Section 4.04 hereof. TENANT'S entry upon the PREMISES  
31 pursuant to this paragraph shall not advance the DELIVERY DATE. The WORK LETTER also  
32 sets forth certain work to be performed by LANDLORD ("LANDLORD'S WORK") including,  
33 without limitation, the reconfiguration of the building in the SHOPPING CENTER of which the  
34 PREMISES is a part ("BUILDING"), as more particularly set forth on the elevations attached to  
35 this LEASE as Exhibit "B-1". LANDLORD shall pay for the cost of LANDLORD'S WORK.  
36 LANDLORD'S WORK shall be completed prior to the DELIVERY DATE, as applicable.  
37 LANDLORD agrees that, prior to commencing LANDLORD'S WORK and as otherwise set  
38 forth in the WORK LETTER, LANDLORD shall submit the plans for LANDLORD'S WORK to  
39 TENANT for approval by TENANT. LANDLORD and TENANT hereby agree to cooperate  
40 (including providing sufficient advance notice) with each other with respect to their respective  
41 work as set forth in this Section 3.05, so as not to unreasonably interfere with the other party's  
42 work and business operations.

43       Section 3.06 **Determination of Fair Market Rental.** In the event TENANT  
44 exercises its option for EXTENDED TERM 4 pursuant to and in accordance with the terms set  
45 forth in Section 2.02, BASE RENT for EXTENDED TERM 4 shall be the lesser of (i) \$22.02



1 per leaseable square foot per annum, and (ii) ninety-five percent (95%) of the FAIR MARKET  
2 RENT (as defined below) for the PREMISES. If TENANT timely exercises its option  
3 EXTENDED TERM 4, then the parties shall first meet and confer in good faith in an attempt to  
4 agree within thirty (30) days after TENANT'S delivery of its exercise notice to LANDLORD  
5 (the "OUTSIDE AGREEMENT DATE") upon the FAIR MARKET RENT. If the parties are  
6 unable to agree upon the FAIR MARKET RENT by the OUTSIDE AGREEMENT DATE, then  
7 the FAIR MARKET RENT for the PREMISES shall be determined by arbitration in the manner  
8 herein described. For purposes of this LEASE, "FAIR MARKET RENT" shall mean the fair  
9 market rental rate, as of the commencement of EXTENDED TERM 4, for leases of non-  
10 sublease, non-encumbered, non-equity and non-expansion space in the SHOPPING CENTER  
11 and SIMILAR SHOPPING CENTERS (as defined in Section 4.05(d), below) which is  
12 comparable in size, location and quality to the PREMISES for a term of five (5) years.

13 (a) If LANDLORD and TENANT fail to reach agreement by the OUTSIDE  
14 AGREEMENT DATE, then each party shall submit to the other party a separate written  
15 determination of such FAIR MARKET RENT within ten (10) business days after the OUTSIDE  
16 AGREEMENT DATE, and such determinations shall be submitted to arbitration in accordance  
17 with subparagraphs (b) through (h), below. Failure of TENANT or LANDLORD to submit a  
18 written determination of such FAIR MARKET RENT within such ten (10) business day period  
19 shall conclusively be deemed to be the non-determining party's approval of such FAIR  
20 MARKET RENT submitted within such ten (10) business day period by the other party.

21 (b) LANDLORD and TENANT shall each appoint one arbitrator who shall by  
22 profession be an independent real estate broker who has no financial interest in LANDLORD or  
23 TENANT, who has no ongoing relationship with LANDLORD or TENANT and who shall have  
24 been active over the five (5) year period ending on the date of such appointment in the leasing of  
25 retail space in Cathedral City, California. The determination of the arbitrators shall be limited  
26 solely to the issue of whether LANDLORD'S or TENANT'S submitted FAIR MARKET RENT  
27 is the closest to the actual FAIR MARKET RENT, as determined by the arbitrators, taking into  
28 account the requirements of Section 3.06, above. Each such arbitrator shall be appointed within  
29 thirty (30) days after the OUTSIDE AGREEMENT DATE.

30 (c) The two (2) arbitrators so appointed shall, within ten (10) business days  
31 after the date of the appointment of the last appointed arbitrator, agree upon and appoint a third  
32 arbitrator who shall be qualified under the same criteria as set forth hereinabove for qualification  
33 of the initial two (2) arbitrators, except that the third arbitrator shall not have been previously  
34 engaged by LANDLORD or TENANT for any purpose.

35 (d) The three (3) arbitrators shall conduct a hearing within twenty (20) days  
36 after the appointment of the third arbitrator and within ten (10) days thereafter reach a decision  
37 as to which of the LANDLORD'S or TENANT'S submitted FAIR MARKET RENT is the  
38 closest to the actual FAIR MARKET RENT, and the arbitrators shall use whichever of  
39 LANDLORD'S or TENANT'S submitted FAIR MARKET RENT is the closest to the actual  
40 FAIR MARKET RENT and shall notify LANDLORD and TENANT thereof.

41 (e) The decision of the majority of the three (3) arbitrators shall be binding  
42 upon LANDLORD and TENANT.

43 (f) If either LANDLORD or TENANT fails to appoint an arbitrator within  
44 thirty (30) days after the OUTSIDE AGREEMENT DATE, the arbitrator appointed by one of  
45 them shall reach a decision, notify LANDLORD and TENANT thereof, and such arbitrator's  
46 decision shall be binding upon LANDLORD and TENANT.

47 (g) If the two (2) arbitrators fail to agree upon and appoint a third arbitrator  
48 within the time period provided hereinabove, then the parties shall mutually select the third  
49 arbitrator. If LANDLORD and TENANT are unable to agree upon the third arbitrator within ten  
50 (10) days, then either party may, upon at least five (5) days' prior written notice to the other  
51 party, request the Presiding Judge of the Riverside County Superior Court, in accordance with  
52 the terms of Section 1281.6 of the California Code of Civil Procedure, to appoint the third  
53 arbitrator (who shall meet the criteria set forth hereinabove). Following the appointment of the  
54 third arbitrator, the panel of arbitrators shall within thirty (30) days thereafter reach a decision as  
55 to whether LANDLORD'S or TENANT'S submitted FAIR MARKET RENT shall be used and  
56 shall notify Landlord and Tenant thereof. As noted above, BASE RENT for EXTENDED



1 TERM 4 shall be in an amount equal to the lesser of (i) \$22.02 per leaseable square foot per  
2 annum, and (ii) ninety-five percent (95%) of the FAIR MARKET RENT that the arbitrators  
3 determine is to be used.

4 (h) All costs and fees of the arbitrators hereunder and all other expenses of the  
5 arbitration proceedings hereunder, shall be borne equally by LANDLORD and TENANT, except  
6 that (i) all costs and expenses incurred by a party to retain its own attorneys, other independent  
7 consultants or expert witnesses in connection with the arbitration proceeding hereunder shall be  
8 borne by such party, and (ii) the party whose determination of FAIR MARKET RENTAL is not  
9 selected by the arbitrators shall pay for the fees and expenses of the third arbitrator selected.

10 (i) During the time before the determination of the BASE RENT for  
11 EXTENDED TERM 4, TENANT shall continue to pay the BASE RENT at the same rate as paid  
12 for EXTENDED TERM 3; provided, however, that, once the FAIR MARKET RENT is  
13 determined, the BASE RENT owed by TENANT shall be effective retroactively as of the first  
14 day of EXTENDED TERM 4. If, after the BASE RENT for EXTENDED TERM 4 is adjusted  
15 and applied retroactively as of the first day of EXTENDED TERM 4, it is determined that  
16 additional rent is due LANDLORD or a reimbursement is due TENANT, the amount of any such  
17 additional rent or reimbursement shall be paid to the party to whom it is due within thirty (30)  
18 days of the determination of the BASE RENT for such EXTENDED TERM 4.

19 **ARTICLE FOUR: OTHER CHARGES PAYABLE BY TENANT**

20 Section 4.01 Additional Rent. All charges payable by TENANT other than  
21 BASE RENT are called "ADDITIONAL RENT." Unless this LEASE provides otherwise,  
22 TENANT shall pay all ADDITIONAL RENT then due with the next monthly installment of  
23 BASE RENT. The term "rent" shall mean BASE RENT and ADDITIONAL RENT.

24 **Section 4.02 Property Taxes.**

25 (a) **Payment of Real Property Taxes.**

26 (i) Subject to Sections 4.07 and 12.21 below, TENANT shall  
27 reimburse LANDLORD for its pro rata share of all "REAL PROPERTY TAXES," as hereinafter  
28 defined, which are assessed against the tax parcels on which the SHOPPING CENTER is  
29 located. For purposes hereof, TENANT'S pro rata share of REAL PROPERTY TAXES shall be  
30 equal to the amount of REAL PROPERTY TAXES assessed against the tax parcels comprising  
31 the SHOPPING CENTER multiplied by a fraction, the numerator of which is the number of  
32 square feet of ground floor leaseable square footage of the PREMISES and the denominator of  
33 which is the total leaseable square footage of the buildings and improvements in the SHOPPING  
34 CENTER. LANDLORD and TENANT acknowledge and agree that (A) as of the date of this  
35 LEASE, the SHOPPING CENTER is comprised of only one (1) tax parcel; (B) during the  
36 LEASE TERM, LANDLORD may decide to create more than one (1) tax parcel for the area  
37 comprising the SHOPPING CENTER; and (C) LANDLORD shall be permitted to subdivide the  
38 SHOPPING CENTER in multiple tax parcels provided that in no event shall TENANT'S pro  
39 rata share of REAL PROPERTY TAXES so computed exceed the amount which TENANT  
40 would be required to pay if TENANT'S pro rata share were calculated as a portion of the total  
41 bill for all REAL PROPERTY TAXES affecting the SHOPPING CENTER of which the  
42 PREMISES is a part, where the total of such tax bill were multiplied by a fraction, the numerator  
43 of which is the ground floor leaseable square footage of the PREMISES and the denominator of  
44 which is the total ground floor leaseable square footage of all space occupied or held out for  
45 lease in the SHOPPING CENTER, including the PREMISES.

46 (ii) Notwithstanding anything to the contrary contained herein, if the  
47 PREMISES is on a separate tax parcel(s), there are no other buildings contained thereon, and the  
48 PREMISES comprises all of the leaseable space on such tax parcel, LANDLORD shall provide  
49 TENANT with the tax bill for such tax parcel(s) at least twenty (20) days prior to the date such  
50 payment is due and, subject to Section 4.07 below, and except as otherwise hereinafter provided,  
51 TENANT shall pay all REAL PROPERTY TAXES assessed against such tax parcel(s) during  
52 the LEASE TERM directly to the taxing authority before the date upon which penalties for late  
53 payment of taxes would begin to accrue thereon. If TENANT pays such REAL PROPERTY  
54 TAXES directly, then TENANT shall not be required to reimburse LANDLORD for any portion  
55 of the REAL PROPERTY TAXES assessed against the rest of the SHOPPING CENTER.



1 Notwithstanding the foregoing, LANDLORD shall pay the first and last tax bills issued during  
2 the LEASE TERM for such REAL PROPERTY TAXES if such tax bills cover a period of time  
3 prior to the RENT COMMENCEMENT DATE or a period of time following the expiration or  
4 earlier termination of the LEASE TERM, as the case may be, and, subject to Section 12.21  
5 below, TENANT shall reimburse LANDLORD for its share thereof, prorated on a daily basis.  
6 The payment of all REAL PROPERTY TAXES by TENANT hereunder shall include one  
7 hundred percent (100%) of any fees, taxes or assessments against, or as a result of, any tenant  
8 improvements installed on the PREMISES by or for the benefit of TENANT.

9   (b)      **Definition of "Real Property Taxes."** "REAL PROPERTY TAXES"  
10 shall mean all real property taxes due and applicable during the LEASE TERM which are  
11 assessed by any lawful authority against the SHOPPING CENTER, less any rebates, credits or  
12 abatements which are granted or agreed upon by such lawful authority with respect to the  
13 SHOPPING CENTER. The term "REAL PROPERTY TAXES" shall not, however, include the  
14 following: (i) any special assessments, including any assessment for highway, street or traffic  
15 control improvements, sanitary or storm sewers, utilities or for other off-site improvements of  
16 any nature made in connection with, or as a result of, any new development of the SHOPPING  
17 CENTER or any agreement entered into voluntarily by LANDLORD with any governmental  
18 authority, whether or not related to the SHOPPING CENTER or the new development thereof;  
19 (ii) income, profits, including gross profits, franchise, gift, estate, inheritance, succession,  
20 conveyance, transfer, sales, transaction, excise, capital or other tax assessments upon  
21 LANDLORD or the rent payable under this LEASE; (iii) any property tax applicable to a so  
22 called "pad site" or "out parcel" which is separately assessed, or land/improvements not within  
23 the boundaries of the SHOPPING CENTER; (iv) any interest, fine or penalty for late payment or  
24 nonpayment by LANDLORD of REAL PROPERTY TAXES; or (v) any increase in REAL  
25 PROPERTY TAXES caused by a "change of ownership," as defined under the law under which  
26 such reassessment or tax increase results, resulting from any transfer of all or a portion of  
27 LANDLORD'S interest in the PREMISES or the SHOPPING CENTER.

28   (c)      **Personal Property Taxes.**

29   (i)      TENANT shall pay all taxes charged against trade fixtures,  
30 furnishings, equipment or any other personal property belonging to TENANT. TENANT shall  
31 try to have personal property taxes assessed separately from the SHOPPING CENTER.

32   (ii)     If any of TENANT'S personal property is taxed with the  
33 SHOPPING CENTER, TENANT shall pay LANDLORD the taxes for the personal property  
34 within fifteen (15) days after TENANT receives a written statement from LANDLORD for such  
35 personal property taxes.

36   (d)      TENANT shall have the right to contest, or to cause LANDLORD to  
37 contest, the REAL PROPERTY TAXES, and TENANT shall be entitled to its pro rata share of  
38 any refund obtained hereunder for any period of time during which TENANT was responsible  
39 for payment of REAL PROPERTY TAXES under this Section 4.02, less any reasonable out-of-  
40 pocket costs incurred by LANDLORD to collect said refund. In the event LANDLORD contests  
41 the REAL PROPERTY TAXES at the request of TENANT and such contest is not successful,  
42 TENANT shall reimburse LANDLORD, within thirty (30) days after the receipt of a detailed  
43 written invoice therefor, for all of LANDLORD'S actual, reasonable, out-of-pocket costs  
44 incurred in connection with such a contest. LANDLORD shall, immediately upon receipt  
45 thereof, provide TENANT with copies of any notices from the county assessor's office of the  
46 county in which the PREMISES is located (including all notices of changes assessed value) in  
47 order to allow TENANT to review same and timely pursue TENANT'S rights, as provided for in  
48 this Section 4.02(d), to contest REAL PROPERTY TAXES.

49   Section 4.03 Utilities. TENANT shall pay, directly to the appropriate supplier,  
50 the cost of all natural gas, heat, light, power, sewer service, telephone, water, refuse disposal and  
51 other utilities and services supplied to the PREMISES. LANDLORD represents to TENANT  
52 that no services or utilities provided to the PREMISES are or will be jointly metered with any  
53 other premises or with any services or utilities provided to the COMMON AREAS and that the  
54 COMMON AREAS will be separately metered from all portions of the PREMISES leased to,  
55 occupied by, or held out for lease to any person. Utilities serving the COMMON AREAS will  
56 not be jointly metered with any non-COMMON AREAS.



1                   Section 4.04 Insurance Policies.

2                   (a) Tenant's Insurance.

3                   During the LEASE TERM, TENANT shall maintain a policy of commercial general  
4 liability insurance (sometimes known as broad form comprehensive general liability insurance)  
5 insuring TENANT against liability for bodily injury, property damage (including loss of use of  
6 property) and personal injury arising out of the operation, use or occupancy of the PREMISES.  
7 TENANT shall name LANDLORD as an additional insured under such policy. The amount of  
8 such insurance shall be Two Million Dollars (\$2,000,000.00) per occurrence. The liability  
9 insurance obtained by TENANT under this Section 4.04(a) shall:

- 10                  (i) be primary and non-contributing;  
11                  (ii) contain cross-liability endorsements; and  
12                  (iii) insure LANDLORD against TENANT'S lack of performance  
13 under Section 5.04.

14                  (b) Landlord's Property Insurance. During the LEASE TERM,  
15 LANDLORD shall maintain policies of insurance covering all buildings and improvements  
16 within the SHOPPING CENTER. The limits for such insurance shall be for the full replacement  
17 value of the property so insured, as such amount may be mutually agreeable to LANDLORD and  
18 TENANT from time to time. Such policy shall provide protection against all perils included  
19 within the classification of fire, extended coverage, vandalism, malicious mischief, special  
20 extended perils (all risk), sprinkler leakage and any other perils which LANDLORD deems  
21 reasonably necessary. Such insurance shall be carried with an insurance company with a Best  
22 rating of B+ or better and LANDLORD shall, upon TENANT'S request, provide TENANT with  
23 a certificate of insurance evidencing such coverage. LANDLORD shall not obtain insurance for  
24 TENANT'S fixtures or equipment or building improvements installed by TENANT on the  
25 PREMISES. TENANT shall not do or permit anything to be done which invalidates any such  
26 insurance policies. LANDLORD may maintain earthquake insurance at LANDLORD'S sole  
27 cost and expense and TENANT shall not be required to pay its pro rata share thereof.

28                  (c) Landlord's Liability Insurance. During the LEASE TERM,  
29 LANDLORD shall maintain, in full force and effect, general public liability insurance, insuring  
30 against liability for injury or death to persons and loss of or damage to property occurring in, on  
31 or about the SHOPPING CENTER, in an amount equal to not less than Two Million Dollars  
32 (\$2,000,000.00) per occurrence. Such insurance shall also provide contractual coverage of  
33 LANDLORD'S liability to TENANT under the indemnification provisions of this LEASE and  
34 shall name TENANT as an additional insured. Such insurance shall be with an insurance carrier  
35 having a Best rating of B+ or better. LANDLORD shall, upon TENANT'S request, provide  
36 TENANT with a certificate of insurance evidencing such coverage.

37                  (d) Payment of Premiums. LANDLORD shall pay all premiums for the  
38 insurance policies described in Sections 4.04(b) and 4.04(c) above. Subject to Section 12.21 below,  
39 TENANT shall, in accordance with Sections 4.06, as limited by Section 4.07, reimburse  
40 LANDLORD for (i) its pro rata share of the insurance premiums for policies which  
41 LANDLORD is obligated to maintain under Section 4.04(b) above, and (ii) its pro rata share of  
42 that portion of the insurance premiums for policies which LANDLORD is required to maintain  
43 pursuant to Section 4.04(c) above. Upon LANDLORD'S request, TENANT shall deliver to  
44 LANDLORD a copy of any policy of insurance (or certificate of insurance, at TENANT'S  
45 option) which TENANT is required to maintain under this Section 4.04. At least thirty (30) days  
46 prior to the expiration of any such policy, TENANT shall deliver to LANDLORD a certificate of  
47 insurance, executed by an authorized officer of the insurance company, showing that the  
48 insurance which TENANT is required to maintain under this Section 4.04 is in full force and  
49 effect and containing such other information which LANDLORD reasonably requires.

50                  (e) General Insurance Provisions.

51                  (i) Any insurance which TENANT is required to maintain under this  
52 LEASE shall include a provision stating that TENANT'S insurance carrier shall give



1 LANDLORD not less than thirty (30) days' written notice prior to any cancellation or  
2 modification of such coverage.

3 (ii) If TENANT fails to deliver any policy of insurance (or certificate  
4 or renewal) to LANDLORD required under this LEASE within thirty (30) days following written  
5 request from LANDLORD for such evidence of insurance, LANDLORD may obtain such  
6 insurance, in which case LANDLORD shall immediately notify TENANT and, subject to  
7 Section 12.21 below, TENANT shall reimburse LANDLORD for the cost of such insurance  
8 within fifteen (15) days after receipt of a statement that indicates the cost of such insurance.

9 (iii) TENANT shall maintain all insurance required under this LEASE  
10 with companies holding a "General Policy Rating" of B+ or better, as set forth in the most  
11 current issue of "Best Key Rating Guide". LANDLORD and TENANT acknowledge the  
12 insurance markets are rapidly changing and that insurance in the form and amounts described in  
13 this Section 4.04 may not be available in the future. If at any time during the LEASE TERM,  
14 LANDLORD or TENANT are unable to maintain the insurance required under the LEASE  
15 because such insurance is not available, LANDLORD and TENANT shall nevertheless maintain  
16 insurance coverage which is customary and commercially reasonable in the insurance industry  
17 for LANDLORD'S or TENANT'S type of business (as the case may be), as that coverage may  
18 change from time to time.

19 (iv) Unless prohibited under any applicable insurance policies  
20 maintained, LANDLORD and TENANT each hereby waive any and all rights of recovery  
21 against the other, or against the officers, employees, agents or representatives of the other, for  
22 loss of or damage to its property or the property of others under its control, if such loss or  
23 damage is covered by any insurance policy in force (whether or not described in this LEASE) at  
24 the time of such loss or damage. Upon obtaining the required policies of insurance,  
25 LANDLORD and TENANT shall give notice to the insurance carriers of this mutual waiver of  
26 subrogation.

27           Section 4.05 Common Areas; Use, Maintenance and Costs.

28 (a) **Common Areas.** As used in this LEASE, "COMMON AREAS" shall  
29 mean all areas within the SHOPPING CENTER which are not leased by or held for the exclusive  
30 use of TENANT or other tenants, including, but not limited to, all parking areas, driveways,  
31 sidewalks, loading areas (except any loading area for the exclusive use of TENANT or any other  
32 tenants in the SHOPPING CENTER), access roads, lobby areas, elevators, corridors, landscaping  
33 and planted areas as depicted on Exhibit "A" or existing, or to be in existence, in the SHOPPING  
34 CENTER upon the execution hereof.

35           LANDLORD represents and warrants to TENANT that there are currently no  
36 agreements or other arrangements made with neighboring property owners, other tenants of the  
37 SHOPPING CENTER, or other parties, that affect the PREMISES, the COMMON AREAS, or the  
38 SHOPPING CENTER, or portions thereof or conflict with TENANT'S rights or LANDLORD'S  
39 obligations hereunder, including but not limited to: the use of vehicle parking spaces, the  
40 maintenance of asphalt, concrete, landscaping or other areas without structures, future  
41 development, utility services, security, vehicular or pedestrian access or egress, signage, drainage,  
42 advertising or TENANT'S use of the PREMISES or the SHOPPING CENTER, except (i)  
43 Declaration of Covenants, Conditions and Restrictions and Reciprocal Easements dated July 26,  
44 1991 and recorded on July 26, 1991 in the OFFICIAL RECORDS as Instrument No. 255361, and  
45 (ii) Agreement recorded on July 26, 1991 in the OFFICIAL RECORDS as Instrument No. 255362  
46 (collectively, the "DECLARATIONS"). LANDLORD represents and warrants that (i) it has  
47 provided copies of the DECLARATIONS to TENANT prior to the execution of this LEASE by  
48 TENANT, (ii) the DECLARATIONS, as delivered to TENANT, have not been modified or  
49 amended, (iii) LANDLORD has not granted its consent to any matter requiring its consent under  
50 the DECLARATIONS, (iv) LANDLORD has not waived any provisions of the  
51 DECLARATIONS, (v) LANDLORD is not aware of any defaults, breaches or violations of any  
52 provisions of the DECLARATIONS, (vi) LANDLORD is not in violation of any of the provisions  
53 of the DECLARATIONS, (vii) the DECLARATIONS are binding agreements in full force and  
54 effect, and (viii) no provisions of the DECLARATIONS conflict with or interfere with  
55 LANDLORD'S obligations or TENANT'S rights under this LEASE and LANDLORD hereby  
56 assumes full responsibility for any and all such conflicting or interfering provisions. LANDLORD  
57 agrees that TENANT'S prior written consent (which consent will not be unreasonably withheld)

1 shall be required for LANDLORD to (1) waive any provisions of the DECLARATIONS, (2) grant  
2 its consent for any matter requiring LANDLORD'S consent under the DECLARATIONS, (3)  
3 modify or amend any of the DECLARATIONS, or (4) enter into additional covenants, conditions,  
4 restrictions or easements, if (and only if) any of the foregoing actions (A) impact, pertain to or  
5 involve TENANT'S rights with respect to the PROTECTED AREA (as defined in Section 4.05(e),  
6 below), or (B) will result in a material change (being the converse of a non-material change, as  
7 defined in Section 4.05(e), below) to the SEMI-PROTECTED AREA (as such term is also defined  
8 in Section 4.05(e), below). LANDLORD shall immediately send TENANT copies of all notices,  
9 requests for changes, consents, waivers or any material correspondence made or received under the  
10 DECLARATIONS.

11 (b) **Use of Common Areas.** TENANT shall have the nonexclusive right (in  
12 common with other tenants and any beneficiary of the DECLARATIONS) to use the COMMON  
13 AREAS for the purposes intended at no additional cost to TENANT, subject to such reasonable,  
14 and non-discriminatory rules and regulations as LANDLORD may establish from time to time  
15 which do not conflict with any express or implied terms of the LEASE. TENANT shall abide by  
16 such rules and regulations. Notwithstanding the provisions of Section 4.05(a) above,  
17 LANDLORD may temporarily close any COMMON AREAS, but only as necessary to perform  
18 any acts in the COMMON AREAS as are necessary to meet LANDLORD'S obligations  
19 hereunder or under the DECLARATIONS; provided that (1) except in the case of an emergency,  
20 LANDLORD gives TENANT a minimum of seven (7) days written notice thereof, (2)  
21 LANDLORD takes all reasonable actions to avoid so doing during any of TENANT'S peak  
22 business periods (October 1 - December 24, Fridays, Saturdays, Sundays, and the one week  
23 periods preceding and including Independence Day, Valentine's Day, Easter, and Labor Day),  
24 and (3) LANDLORD takes all reasonable actions to minimize any detrimental affects to  
25 TENANT'S business operations at the PREMISES as a result of such closure. LANDLORD  
26 shall not permit (i) any carnivals, fireworks stands, Christmas Tree sales, kiddy rides, recycling  
27 centers or machines or any such or similar activities in the COMMON AREAS at any time, and  
28 (ii) any telephones or vending machines to be located within fifty (50) feet of any perimeter wall  
29 of the PREMISES.

30 (c) **Vehicle Parking.** TENANT and its invitees and customers shall be  
31 entitled to the nonexclusive use of all vehicle parking spaces in the SHOPPING CENTER for  
32 non-reserved parking without the payment of any additional rent by TENANT or charge to  
33 TENANT or its invitees or customers. All such vehicle parking spaces shall be available only  
34 for customers of tenants of the SHOPPING CENTER, the tenants of the SHOPPING CENTER  
35 and their employees, and as otherwise permitted by the DECLARATIONS. LANDLORD shall  
36 institute and use commercially reasonable efforts to enforce rules (such as time limits, no  
37 employee parking, etc.) regulating the use of the parking spaces to help insure that there is  
38 adequate parking available for TENANT'S customers at all times.

39 (d) **Maintenance of Common Areas.** LANDLORD shall maintain and  
40 operate the COMMON AREAS in good order, condition and repair, comparable with similar  
41 quality shopping centers in the county in which the PREMISES is located. Subject to Section  
42 12.21 below, TENANT shall pay TENANT'S pro rata share (as set forth in Section 4.06 and  
43 limited as set forth in Section 4.07) of the "out of pocket" costs incurred by LANDLORD as  
44 reasonably necessary for the maintenance, operation and repair of the COMMON AREAS  
45 ("COMMON AREA COSTS"). COMMON AREA COSTS include, but are not limited to, the  
46 following: utilities for the COMMON AREAS; repairing, signs (lamps, ballasts, sign faces and  
47 cabinet) maintaining, painting, lighting (which shall be provided from at least, one hour before  
48 sunset and one hour after TENANT closes for business), cleaning parking areas; providing  
49 security for the COMMON AREAS, all as LANDLORD may reasonably deem necessary for the  
50 maintenance, operation, and repair of the COMMON AREAS; and an administrative fee equal to  
51 five percent (5%) of the COMMON AREA COSTS excluding, utilities, taxes and insurance. In  
52 no event shall TENANT hereby have any responsibility for the payment of any marketing,  
53 advertising, or promotional expenses. Further, if (i) as of the date hereof a portion of the  
54 SHOPPING CENTER is enclosed, or (ii) during the LEASE TERM, LANDLORD elects to  
55 enclose all or any portion of the SHOPPING CENTER, then, notwithstanding anything to the  
56 contrary contained herein, in no event shall TENANT be obligated to pay any portion of the  
57 additional costs attributable to maintaining such enclosed portion of the SHOPPING CENTER  
58 (by way of example only, the cost of air conditioning or lighting such enclosed portion of the  
59 SHOPPING CENTER). If any portion of the COMMON AREA for which TENANT is

1 obligated to bear a portion of the repair expense cannot be repaired in an economical manner, the  
2 cost of any replacement shall be amortized over its useful life, and TENANT shall be liable only  
3 for its pro rata share of that portion of the amortized cost which is applicable to the remaining  
4 LEASE TERM. Should LANDLORD utilize any affiliates of LANDLORD or any companies  
5 affiliated to LANDLORD (any such affiliate or affiliated company hereinafter referred to as  
6 "LANDLORD'S AFFILIATE") to provide any item(s) of COMMON AREA COSTS, the  
7 amounts charged by any such LANDLORD'S AFFILIATE shall not exceed the amount which is  
8 customarily charged by unaffiliated professional providers of the same service(s) to shopping  
9 centers which are similar to the SHOPPING CENTER in the same geographic area as the  
10 SHOPPING CENTER ("SIMILAR SHOPPING CENTERS"). LANDLORD shall,  
11 simultaneously with delivery to TENANT of a copy of the ESTIMATED OPERATING  
12 EXPENSES, as provided for in Section 4.06 below, provide TENANT with written notice of the  
13 use of any such LANDLORD'S AFFILIATE.

14 Notwithstanding anything to the contrary contained herein, COMMON AREA  
15 COSTS shall not include the following

16 (i) Supervision or management salaries or similar fees;

17 (ii) Security costs or other similar fees, unless TENANT expressly  
18 agrees thereto in writing;

19 (iii) Depreciation of real property or improvements which form part of  
20 the COMMON AREAS;

21 (iv) Repairs, replacement or improvements made prior to the date  
22 hereof;

23 (v) Repairs arising from defects in any new construction at the  
24 SHOPPING CENTER;

25 (vi) Repairs necessitated by the negligence of LANDLORD and which  
26 are required to cure violations of laws in effect on the date hereof;

27 (vii) Payments of principal and interest and amortization of  
28 indebtedness or any cost of financing or refinancing, depreciation or ground rent;

29 (viii) Compensation paid to officers or executives of LANDLORD who  
30 are not directly involved in the management of the SHOPPING CENTER;

31 (ix) Costs incurred by LANDLORD in connection with the leasing of  
32 space in the SHOPPING CENTER, including, without limitation, commissions and advertising  
33 and promotional expenses;

34 (x) Legal fees, other than those incurred by LANDLORD in the filing,  
35 institution or prosecution of any application or proceeding filed or instituted by LANDLORD in  
36 order to reduce REAL PROPERTY TAXES;

37 (xi) The cost of repairs or replacements incurred by reason of fire or  
38 other casualty or condemnation to the extent that either (1) LANDLORD is compensated  
39 therefor through proceeds of insurance or condemnation awards; or (2) LANDLORD failed to  
40 obtain insurance against fire or casualty as required under the terms of this LEASE;

41 (xii) The cost of initial construction or completion of the COMMON  
42 AREAS or any part of the SHOPPING CENTER;

43 (xiii) Intentionally omitted;

44 (xiv) Expenditures made by LANDLORD which are in the nature of  
45 capital improvements;

46 (xv) Costs arising from any cleanup, repair or remediation of  
47 "HAZARDOUS MATERIALS," as defined in Section 12.20 below, to the extent that such  
48 action is attributable to the presence, use, generation, storage, release or disposal of

1 HAZARDOUS MATERIALS on, under or in the SHOPPING CENTER (unless caused by the  
2 acts TENANT or TENANT'S agents or employees);

3 (xvi) Legal expenses incurred by LANDLORD in enforcing and/or  
4 negotiating the terms of any lease for space in the SHOPPING CENTER;

5 (xvii) The cost of any work or service performed for, or facilities  
6 furnished to, any other tenant in the SHOPPING CENTER at such tenant's cost;

7 (xviii) The amount of any judgment applicable to the operation,  
8 ownership or maintenance of the SHOPPING CENTER and all costs associated with the defense  
9 of such action;

10 (xix) The amount of any rent paid by LANDLORD to a ground lessor;

11 (xx) Any license, permit and inspection fees, consulting, legal and  
12 accounting fees or similar fees and other costs incurred by LANDLORD in connection with the  
13 ownership, operations and leasing of the SHOPPING CENTER;

14 (xxi) The cost of rubbish removal for rubbish generated within the  
15 premises of all other tenants or occupants of space within the SHOPPING CENTER (except that  
16 COMMON AREA COSTS shall include the cost of rubbish removal of rubbish generated within  
17 the COMMON AREA);

18 (xxii) The additional cost of maintaining the common areas of any  
19 portion of the SHOPPING CENTER which is enclosed compared to the cost that would be  
20 incurred if such portion of the SHOPPING CENTER was not enclosed;

21 (xxiii) The cost of funds borrowed by LANDLORD;

22 (xxiv) That portion of the costs charged by any of LANDLORD'S  
23 AFFILIATES for any items of the COMMON AREA COSTS provided by such LANDLORD  
24 AFFILIATE to the extent that such costs exceed the amount that unaffiliated professional  
25 providers generally charge for such service(s) to SIMILAR SHOPPING CENTERS;

26 (xxv) The entire amount of the costs charged by any of LANDLORD'S  
27 AFFILIATES for any items of COMMON AREA COSTS if LANDLORD fails to disclose to  
28 TENANT the use of such LANDLORD'S AFFILIATE, as required above in this Section  
29 4.05(d);

30 (xxvi) Other than costs related to the resealing or restriping of the parking  
31 lot and parking areas, the cost of replacing or repaving the parking lot and parking areas; and

32 (xxvii) the repair, replacement or maintenance of any roof or roof  
33 membrane, any structural element, including, but not limited to, the slab and subsurface elements  
34 of any building in the SHOPPING CENTER, any fire sprinkler system, water, sewer and  
35 electrical connections to any buildings within the SHOPPING CENTER.

36 (e) **Modifications to Common Areas and Shopping Center.**

37 Notwithstanding anything to the contrary herein, LANDLORD acknowledges and agrees that:  
38 (i) a portion of the COMMON AREAS depicted on Exhibit "A-1" attached hereto and  
39 incorporated herein by this reference is marked (A) "Protected Area" (the "PROTECTED  
40 AREA"), (B) "Semi-Protected Area" (which shall also include the roof of the PREMISES) (the  
41 "SEMI-PROTECTED AREA"), and (C) "Development Area" (the "DEVELOPMENT AREA");  
42 (ii) the granting of the PROTECTED AREA and the SEMI-PROTECTED AREA is a material  
43 consideration for TENANT entering into this LEASE; (iii) no changes (including, but not limited  
44 to, any new structures, temporary or permanent changes to the size, location, nature and use of  
45 any of the COMMON AREAS in the PROTECTED AREA, including vehicle parking spaces, or  
46 conversion of the COMMON AREAS in the PROTECTED AREA into leaseable areas, or  
47 increases or decreases to the COMMON AREA land and/or facilities in the PROTECTED  
48 AREA) may be made in the PROTECTED AREA without TENANT'S prior written consent  
49 (which consent shall not be unreasonably withheld, conditioned or delayed); (iv) no material  
50 changes (the converse of non-material changes, as defined below) may be made in the SEMI-



1 PROTECTED AREA without TENANT'S prior written consent (which consent shall not be  
2 unreasonably withheld, conditioned or delayed; provided, however, in the case of a proposed  
3 cellular telephone transmitting site to be located on the roof of the PREMISES, it shall be  
4 unreasonable for TENANT to condition its consent thereto based upon a demand for a  
5 percentage of any compensation LANDLORD is to receive for such cellular telephone  
6 transmitting site); and (v) outside of the PROTECTED AREA and the SEMI-PROTECTED  
7 AREA (to wit, the DEVELOPMENT AREA), changes to the COMMON AREAS may be made  
8 without TENANT'S consent; provided, however, no work (as described above or otherwise) may  
9 be done in any of the COMMON AREAS during the period from October 1 to January 3 of any  
10 year, nor during the ten (10) day period in advance of Easter, Valentine's Day, Memorial Day,  
11 Independence Day and Labor Day; and (vi) upon prior notice to LANDLORD and subject to  
12 LANDLORD'S approval as to location (which approval shall not be unreasonably withheld,  
13 delayed, or conditioned) and with all necessary governmental approvals, TENANT, at  
14 TENANT'S election and expense, shall have the right to install a cart retention system within the  
15 parking area of the COMMON AREAS utilizing wires or other embedded objects as a means of  
16 perimeter control, provided that TENANT shall repair any damage caused by such installation.  
17 For the purposes of this LEASE, "non-material changes" are those in which: (1) there is no  
18 impediment, prevention or other adverse effect to the ingress and egress (pedestrian and  
19 vehicular) to and from the PREMISES, or to the loading areas servicing the PREMISES, or  
20 between the PREMISES or to TENANT'S LOADING AREAS (as defined herein) and the  
21 adjacent streets, nor between the PREMISES and any of the parking areas in the SHOPPING  
22 CENTER; and (2) neither the visibility of the PREMISES nor of any signs for the PREMISES  
23 (whether on the PREMISES or in the COMMON AREAS) are blocked or made less visible from  
24 either adjoining streets or parking areas.

25 (f) **Areas Abutting PREMISES.** TENANT shall be permitted, at all times,  
26 the non-exclusive use of portions of the COMMON AREAS abutting the PREMISES for storing  
27 shopping carts and installing bike racks as depicted on Exhibit "A-1" attached hereto.

28 **Section 4.06 Operating Expenses – Tenant's Share and Payment.** For the  
29 purposes of Sections 4.06 and 4.07, the term "OPERATING EXPENSES" shall mean  
30 TENANT'S responsibility for all: REAL PROPERTY TAXES (as defined and calculated in  
31 accordance with Section 4.02 above), insurance premiums (as set forth in Sections 4.04(b) and  
32 4.04(c)), and COMMON AREA COSTS (as set forth in Section 4.05(d)). TENANT shall be  
33 responsible, subject to Sections 4.07 and 12.21 below, for the payment of its pro rata share of all  
34 OPERATING EXPENSES commencing on the RENT COMMENCEMENT DATE.

35 LANDLORD shall take all reasonable actions to minimize (to the extent reasonably  
36 possible) the OPERATING EXPENSES (and each component thereof). The foregoing sentence  
37 shall not in any way affect any of LANDLORD'S obligations, including maintenance of the  
38 COMMON AREAS as otherwise provided in the LEASE.

39 Except as otherwise provided in this LEASE, TENANT'S pro rata share shall be  
40 calculated by dividing the leaseable square foot area of the ground floor of the PREMISES by the  
41 aggregate leaseable square foot area of the SHOPPING CENTER, as of the date on which the  
42 computation is made. Any changes in the aggregate square footage of the SHOPPING CENTER  
43 during the LEASE TERM shall be effective on the first day of the month after such change occurs.  
44 TENANT shall be responsible only for TENANT'S pro rata share (as set forth above) of all  
45 OPERATING EXPENSES which relate solely to the COMMON AREAS or to the entire  
46 SHOPPING CENTER. TENANT shall be responsible for all of any OPERATING EXPENSES  
47 which relate solely to the PREMISES and TENANT shall have no responsibility for any  
48 OPERATING EXPENSES relating solely to other tenants of the SHOPPING CENTER or for  
49 services not offered to TENANT (but offered to other tenants in the SHOPPING CENTER).

50 At least 30 days prior to the RENT COMMENCEMENT DATE and at least 30 days  
51 prior to the start of each calendar year, and on other occasions if LANDLORD so elects, during the  
52 LEASE TERM, LANDLORD shall provide a written notice to TENANT setting forth in  
53 reasonable detail LANDLORD'S best estimate of all OPERATING EXPENSES for the ensuing  
54 calendar year (which may be based on the ACTUAL OPERATING EXPENSES for the then  
55 current calendar year) and TENANT'S share thereof, and such supporting documentation as  
56 TENANT may reasonably request ("ESTIMATED OPERATING EXPENSES"). Subject to  
57 Section 12.21 below, TENANT shall thereafter pay on a monthly basis (subject to the limitations

1 in Section 4.07) TENANT'S pro rata share of the ESTIMATED OPERATING EXPENSES  
2 (prorated for any fractional periods) with each subsequent monthly installment of BASE RENT.

3 Within one hundred twenty (120) days after the end of each calendar year during the  
4 LEASE TERM and within one hundred twenty (120) days of the expiration of the LEASE TERM,  
5 LANDLORD shall provide a written notice to TENANT setting forth in reasonable detail  
6 LANDLORD'S calculation of all OPERATING EXPENSES for the prior calendar year and  
7 TENANT'S share thereof, and such supporting documentation as TENANT may reasonably  
8 request ("ACTUAL OPERATING EXPENSE NOTICE"). LANDLORD shall indicate the total  
9 amount of ESTIMATED OPERATING EXPENSES paid by TENANT for such period on such  
10 ACTUAL OPERATING EXPENSE NOTICE, and TENANT shall pay (in a lump sum) any  
11 shortfall (if the ESTIMATED OPERATING EXPENSES paid by TENANT were less than  
12 TENANT'S pro rata share of the ACTUAL OPERATING EXPENSES for such period) as set  
13 forth in any such ACTUAL OPERATING EXPENSE NOTICE to LANDLORD within fifteen  
14 (15) days after receipt thereof, except that TENANT may object to any costs included therein  
15 which TENANT, in good faith and in reasonable detail, objects by written notice to LANDLORD  
16 within said 15 day period. If the ESTIMATED OPERATING EXPENSES paid by TENANT  
17 exceed TENANT'S pro rata share of the ACTUAL OPERATING EXPENSES for such period as  
18 set forth herein and in such ACTUAL OPERATING EXPENSE NOTICE, then such overpayment  
19 shall be credited to any of TENANT'S subsequent payment obligations to LANDLORD under this  
20 LEASE, if any, and if any credit remains unapplied as of the expiration or earlier termination of the  
21 LEASE TERM, then such amounts shall be paid in a lump sum to TENANT by LANDLORD  
22 within ten (10) days. In the event that LANDLORD shall not provide TENANT with an ACTUAL  
23 OPERATING EXPENSE NOTICE within one hundred twenty (120) days after the end of the  
24 calendar year in question, TENANT shall not be required to continue paying its pro rata share of  
25 OPERATING EXPENSES until such time as TENANT has received a copy of said ACTUAL  
26 OPERATING EXPENSE NOTICE, at which time, TENANT shall, within ten (10) business days  
27 after receipt of a copy of said ACTUAL OPERATING EXPENSE NOTICE, subject to the  
28 foregoing, pay to LANDLORD any amounts of OPERATING EXPENSES due and owing from  
29 TENANT.

30 Section 4.07 Limitations on Operating Expenses. Notwithstanding anything  
31 herein to the contrary, TENANT'S share of OPERATING EXPENSES (ESTIMATED and  
32 ACTUAL) for each calendar year during the LEASE TERM hereof shall be the lesser of: 1)  
33 TENANT'S pro rata share of OPERATING EXPENSES, as calculated pursuant to Sections 4.02  
34 and 4.06 above, or 2) during the period from the RENT COMMENCEMENT DATE through the  
35 expiration of the first full calendar year thereafter, TENANT'S PRO RATA SHARE of  
36 OPERATING EXPENSES otherwise required to be paid under this Lease shall not exceed Three  
37 and 45/100 Dollars (\$3.45) per square foot of ground floor building area of the PREMISES and  
38 thereafter, one hundred five percent (105%) of the OPERATING EXPENSES (not including  
39 REAL PROPERTY TAXES, insurance premiums and the cost of utilities which shall not be  
40 subject to any ceiling or cap other than as expressly set forth herein including, without limitation,  
41 Section 4.02(b) above) payable by TENANT during the immediately preceding calendar year.

42 Section 4.08 Audit. LANDLORD shall maintain, in a single location in Los  
43 Angeles County, California, commercially reasonable and detailed records concerning all  
44 components of OPERATING EXPENSES for at least twenty four (24) months following the  
45 completion of each calendar year. TENANT shall have the right to audit such records not more  
46 than once for each calendar year during the LEASE TERM. If any such audit reveals an  
47 overpayment of OPERATING EXPENSES by TENANT, LANDLORD shall promptly refund  
48 said overpayment to TENANT. In addition, if any such audit reveals errors in LANDLORD'S  
49 favor exceeding three percent (3%) then LANDLORD shall also reimburse TENANT for the  
50 cost of the audit.

51 **ARTICLE FIVE: USE OF PREMISES**

52 Section 5.01 Permitted Uses. TENANT may use the PREMISES only for the  
53 purpose of conducting a general merchandise retail store (including, without limitation, all  
54 merchandise generally sold at TENANT'S other locations from time to time), for business  
55 offices in connection therewith and such other uses related or incidental thereto, consistent with  
56 all laws, federal, state or local, and with any applicable regulation of any government body and  
57 for any other legal use or purpose during the LEASE TERM; provided, however, TENANT shall

1 not be permitted to sell prescription drugs from the PREMISES. LANDLORD agrees to fully  
2 cooperate with TENANT in obtaining an off-site beer and wine sales permit. LANDLORD shall  
3 indemnify and defend TENANT against any and all claims asserted by third parties claiming  
4 infringement of exclusivity in the SHOPPING CENTER. Nothing in this Article or elsewhere in  
5 this LEASE shall be construed as a covenant by TENANT of continuous operations and  
6 TENANT shall have no obligation under this LEASE to continuously operate its business in the  
7 PREMISES during the LEASE TERM.

8       Section 5.02 Manner of Use. TENANT shall not cause or permit the  
9 PREMISES to be used in any way which constitutes a violation of any law, ordinance, or  
10 governmental regulation or order, which unreasonably interferes with the rights of the other  
11 tenants of the SHOPPING CENTER, or which constitutes a nuisance or waste. TENANT shall  
12 obtain and pay for all permits required for TENANT'S occupancy of the PREMISES and, except  
13 as otherwise hereinafter provided, shall promptly take all actions necessary to comply with all  
14 applicable statutes, ordinances, rules, regulations, orders and requirements regulating the specific  
15 use by TENANT of the PREMISES as set forth in Section 1.05 above. Notwithstanding any  
16 other provision of this LEASE, if at any time during the LEASE TERM either the PREMISES or  
17 the SHOPPING CENTER is not in conformity with any present or future law or regulation  
18 relating to the use, occupation or reconstruction thereof (including, without limitation, the  
19 Americans with Disabilities Act, earthquake safety codes, fire sprinkler codes, and laws  
20 governing the presence of regulated or hazardous substances (such as asbestos) incorporated into  
21 the PREMISES (which were not placed there by TENANT) or is subject to any order of any  
22 governmental agency ordering any rebuilding, alteration or repair thereof, LANDLORD shall  
23 immediately at its own cost and expense, and without any right of reimbursement from  
24 TENANT (unless the work is required because of TENANT'S particular use of the PREMISES,  
25 in which case TENANT shall promptly perform such work), effect such alterations and repairs to  
26 the PREMISES or the SHOPPING CENTER as may be necessary to comply with such laws,  
27 regulations, orders or requirements. All such alterations and repairs, if made to the PREMISES,  
28 shall be made in accordance with the plans and specifications approved in writing by TENANT,  
29 which approval shall not be unreasonably withheld, conditioned or delayed.

30       Section 5.03 Signs. Between execution of this LEASE and delivery of  
31 possession of the PREMISES to TENANT, TENANT may place temporary banners on the  
32 PREMISES advertising that TENANT'S business is 'coming soon' to that location. TENANT  
33 shall have the right to place such signs as TENANT may desire on the exterior of the  
34 PREMISES of the size and at the locations TENANT elects, subject only to obtaining all  
35 applicable governmental permits and LANDLORD'S consent, which consent shall not be  
36 unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, all of  
37 TENANT'S signs may be in its standard corporate colors with its usual corporate logo. All of  
38 TENANT'S signs on the PREMISES and in the COMMON AREAS may be configured in a  
39 manner that the width is 125% to 150% of the height. TENANT may also use panels on both  
40 sides of any monument or pylon signs LANDLORD installs in the COMMON AREAS of the  
41 SHOPPING CENTER; provided, however, the position and size of TENANT'S signage on all  
42 such signs shall be at least the second most prominent on such signs. All temporary and building  
43 signs and all sign panels installed by TENANT on sign monuments shall comply with applicable  
44 laws including those pertaining to construction and maintenance and shall be made, installed,  
45 and maintained in a professional manner. TENANT'S standard signage, including colors, and  
46 TENANT'S proposed storefront, are depicted in Exhibit "F" attached hereto, and LANDLORD hereby  
47 approves all of the elements and features set forth in Exhibit "F". In addition, the location, design and size  
48 of the new pylon sign to be constructed by LANDLORD and which shall replace the existing Wal-Mart  
49 pylon sign is also depicted on Exhibit "F" attached hereto and incorporated herein by this reference.  
50 LANDLORD shall use reasonable efforts (at no out-of-pocket cost to LANDLORD) to obtain  
51 any required approvals from governmental agencies in connection with any signs desired to be  
52 installed by TENANT. TENANT shall have the right to install periodically on the PREMISES  
53 during the LEASE TERM banners, pennants, copies of its newspaper articles, and other signage  
54 customarily used in connection the operation of TENANT'S stores. LANDLORD shall  
55 indemnify and defend TENANT against any and all claims asserted by third parties claiming that  
56 any of TENANT'S signage rights under this LEASE violate or are prohibited by any agreement  
57 entered into by LANDLORD (or its predecessors) pertaining to any portion of the SHOPPING  
58 CENTER.



1                   Section 5.04 Indemnity.

2                   (a) Except for losses, damages and claims arising out of the acts or omissions  
3 of LANDLORD or LANDLORD'S agents, contractors or employees, TENANT shall indemnify  
4 LANDLORD against and hold LANDLORD harmless from any and all costs, claims, demands  
5 or liability arising from:

6                   (i) TENANT'S use of the PREMISES;

7                   (ii) the conduct of TENANT'S business or anything else done by  
8 TENANT or its agents, contractors, employees or invitees or permitted by TENANT to be done  
9 in or about the PREMISES,

10                  (iii) any DEFAULT by TENANT under this LEASE; or

11                  (iv) any misrepresentation or breach of warranty by TENANT under  
12 this LEASE.

13                  TENANT shall defend LANDLORD against any such cost, claim or liability at TENANT'S  
14 expense with counsel reasonably acceptable to LANDLORD.

15                  (b) Except for losses, damages and claims to the extent arising out of the acts  
16 or omissions of TENANT or TENANT'S agents, contractors and employees, LANDLORD shall  
17 indemnify TENANT against and hold TENANT harmless from any and all costs, claims,  
18 demands or liability arising from:

19                  (i) LANDLORD'S ownership or operation of the PREMISES and the  
20 SHOPPING CENTER;

21                  (ii) the conduct of LANDLORD or anything else done by  
22 LANDLORD or permitted by LANDLORD to be done in or about the PREMISES or the  
23 SHOPPING CENTER;

24                  (iii) any breach or default in the performance of LANDLORD'S  
25 obligations under this LEASE;

26                  (iv) any misrepresentation or breach of warranty by LANDLORD  
27 under this LEASE; and

28                  (v) actual or threatened violations of any laws governing or regulating  
29 "HAZARDOUS MATERIALS" as defined in Section 12.20 below, within, upon, under, or  
30 adjacent to the PREMISES or the SHOPPING CENTER or other damages, fines, penalties, acts,  
31 costs, claims, or liabilities incurred in connection therewith, including, without limitation, the  
32 cost of any investigation, remediation, restoration, cleanup and/or abatement.

33                  LANDLORD shall defend TENANT against any such cost, claim or liability at  
34 LANDLORD'S expense with counsel reasonably acceptable to TENANT.

35                  Section 5.05 Landlord's Access. LANDLORD or its agents may enter the  
36 PREMISES at reasonable times to inspect the PREMISES; or for any other purpose  
37 LANDLORD deems reasonably necessary. LANDLORD shall give TENANT prior notice of  
38 such entry, except in the case of an emergency.

39                  Section 5.06 Quiet Possession. So long as TENANT is not in DEFAULT  
40 under this LEASE, TENANT may occupy and enjoy the PREMISES for the full LEASE TERM.  
41 subject to the provisions of this LEASE.

42                   Section 5.07 Exclusivity; Use Restrictions; Co-Tenancy.

43                  (a) Exclusivity. LANDLORD represents and warrants that, except as set  
44 forth in the List Of Exclusives in the Shopping Center attached hereto as Exhibit "E," there are  
45 currently no restrictions of any kind which in any way now or hereafter will limit TENANT'S  
46 ability to sell any specific product or assortment of products which are now or may hereafter be  
47 sold as of the date of this LEASE at any of TENANT'S other locations. LANDLORD hereby



1 warrants that there shall not hereafter be any new such restrictions and, except for any existing  
2 exclusives that have been granted as of the date of this LEASE, there shall be no exclusives  
3 granted to tenants within the SHOPPING CENTER which would restrict TENANT'S ability to  
4 sell any such products or assortment of products; provided, however, TENANT will be bound by  
5 any future exclusives granted by LANDLORD to other tenants of the SHOPPING CENTER for  
6 use of a portion of the SHOPPING CENTER as an auto parts store or a health club or gym  
7 provided that (i) notwithstanding the exclusives granted to other tenants, TENANT shall be  
8 entitled to continue to operate its business in and from the PREMISES in the same manner it  
9 operated its business as of the date such exclusives are granted, and (ii) such exclusives granted  
10 to other tenants do not interfere with, restrict, limit or otherwise affect the use of the PREMISES  
11 as of the date such exclusives are granted.

12                   (b) **Use Restrictions.** No portion of the SHOPPING CENTER may used for  
13 any of the following:

14                   (i) Any uses that are not consistent with SIMILAR SHOPPING  
15 CENTERS, which shall include, but not be limited to any uses which include:

- 16                   (1) (nude (or partially nude) bars or nightclubs, or theaters of  
17 any kind
- 18                   (2) massage parlors
- 19                   (3) adult book stores,
- 20                   (4) escort services,
- 21                   (5) bail bonds or pawn shops,
- 22                   (6) the sale of used or second hand products of any kind (other  
23 than used books, videos, compact discs, DVDs or similar  
24 products),
- 25                   (7) tattoo parlors,
- 26                   (8) adult video stores,
- 27                   (9) any use of a questionable moral character,
- 28                   (10) indoor swap meets, and
- 29                   (11) any movie theater, gymnasium (other than in the 20,062  
30 square foot space located in the northeast portion of the  
31 BUILDING as more particularly depicted on the Site Plan  
32 attached to this LEASE as Exhibit "A"), bowling alley,  
33 school, call center, library, church, auditorium, museum,  
34 automobile repair, automobile sales, high volume buffet  
35 style restaurant exceeding 3,000 square feet in size (such as  
36 Home Town Buffet), banquet facility or bar, disco,  
37 nightclub, hotel, manufacturing, warehouse or other  
38 industrial use (except incidental to other permitted uses), or  
39 entertainment facility (such as Chuck E Cheese, Discovery  
40 Zone, Tutor Time, or Leaps and Bounds).

41  
42                   (ii) Any use which requires a zoning variance or conditional use  
43 permit.

44                   (iii) Any use which uses the terms "99," "98," "dollar," or any similar  
45 terms (whether "spelled out" or in numerical form) in any manner as part of a trade name or logo  
46 or in any manner as a material portion of any signage or trade dress.

47                   (c) **Co-Tenancy Requirements.**

48                   (i) Notwithstanding anything to the contrary herein, TENANT'S  
49 obligations under this LEASE are expressly conditioned upon LANDLORD entering into a lease  
50 with Ross Dress for Less (or DD's Discounts (which is owned by Ross Dress for Less) or  
51 another nationally recognized replacement ANCHOR TENANT (as defined below) replacing the  
52 named co tenant ("REQUIRED CO-TENANT") for space in the SHOPPING CENTER and  
53 REQUIRED CO-TENANT opening for business in the SHOPPING CENTER. As used herein,  
54 the term "ANCHOR TENANT" shall mean and refer to a national retailer operating at least one  
55 hundred (100) stores in the continental United States which occupies a minimum of 20,000



1 leaseable square feet in the SHOPPING CENTER and whose use does not violate the terms of  
2 Sections 5.07(a) and (b), above.

3 (ii) A "REDUCED OCCUPANCY PERIOD" shall occur if the  
4 following requirements are not satisfied: (i) on or before the RENT COMMENCEMENT  
5 DATE, the REQUIRED CO-TENANT has executed a bona fide lease with LANDLORD for a  
6 minimum of three (3) years' duration; and (ii) on or before the date occurring nine (9) months  
7 after the RENT COMMENCEMENT DATE, the REQUIRED CO-TENANT has opened for  
8 business in the SHOPPING CENTER. If a REDUCED OCCUPANCY PERIOD occurs,  
9 TENANT shall have the ongoing option to terminate this LEASE upon giving LANDLORD a  
10 written notice terminating this LEASE at any time prior to the expiration of the REDUCED  
11 OCCUPANCY PERIOD. Unless and until such option to terminate is exercised, TENANT shall  
12 not be relieved of any of its obligations under this LEASE.

13 Section 5.08 Additional Access. LANDLORD agrees to use its best efforts to  
14 assist TENANT in obtaining the approval of the City of Cathedral City ("CITY") (and/or any  
15 other required governmental authority) for additional left turn access from Date Palm Drive  
16 Street into the SHOPPING CENTER at the curb cut nearest to the PREMISES. The cost to  
17 obtain any such approvals from the CITY (and/or any other required governmental authority)  
18 shall be at the cost of TENANT; provided, however, if approved, the cost to construct such  
19 additional access shall be the sole responsibility of LANDLORD.

20 **ARTICLE SIX: CONDITION OF PREMISES; MAINTENANCE, REPAIRS AND**  
21 **ALTERATIONS**

22 Section 6.01 Condition of Premises. LANDLORD shall deliver the  
23 PREMISES to TENANT in a clean and good condition and with the LANDLORD'S WORK  
24 completed, as set forth in Section 3.05. LANDLORD warrants to TENANT that the  
25 PREMISES, in the state existing on the DELIVERY DATE, but without regard to alterations or  
26 improvements made by TENANT or the specific use for which TENANT will occupy the  
27 PREMISES, does not violate any covenants or restrictions of record, or any applicable building  
28 or other code, regulation or ordinance in effect. In the event it is determined that any of the  
29 foregoing covenants or warranties have been violated, then it shall be the obligation of  
30 LANDLORD, after written notice from TENANT, to promptly, at LANDLORD'S sole cost and  
31 expense, rectify any such violation.

32 Section 6.02 Intentionally omitted.

33 Section 6.03 Landlord's Obligations.

34 Except as provided in Article Seven (Damage or Destruction) and Article Eight (Condemnation),  
35 LANDLORD shall, at its sole cost and expense (subject to the terms of Section 4.05, above),  
36 keep the foundations, roof membrane (including all related flashings, gutters, downspouts, etc.),  
37 structural portions of the BUILDING (including foundations, the slab, and compliance with  
38 earthquake code where such code exists under applicable law), the structural portions of the roof,  
39 the structural portions of the roof top sign and the existing COMMON AREA signs and  
40 electrical service thereto, exterior walls (excluding plate glass), fire sprinkler system (if any)  
41 including the fire monitoring system (to the extent such systems do not exclusively serve the  
42 PREMISES (in which case TENANT shall be required to maintain such systems)), and utility  
43 connections to the BUILDING (water, sewer, electrical, phone, etc.) and any sewer backflow  
44 devices including required periodic testing of the same, in good order, condition and repair.  
45 LANDLORD shall make repairs under this Section 6.03 within a reasonable time after receipt of  
46 written notice from TENANT of the need for such repairs. LANDLORD represents and  
47 warrants to TENANT that, as of the DELIVERY DATE, the heating, ventilation, air  
48 conditioning, electrical, plumbing and other systems contained within or servicing the  
49 PREMISES shall be in good working condition and repair. If LANDLORD fails to commence  
50 to meet any obligation hereunder, including without limitation Section 6.03 and Section 4.05,  
51 within a reasonable amount of time after TENANT'S notice thereof (not exceeding 15 days,  
52 except in the case of an emergency or dangerous condition, in which event only reasonable  
53 notice shall be required), then TENANT may, but shall not be obligated to do so and without  
54 waiving any other rights or remedies provided hereunder or by law, perform any portion of  
55 LANDLORD'S obligations and deduct all reasonable amounts expended in connection therewith  
56 from TENANT'S subsequent financial obligations to LANDLORD.



1                   Section 6.04 Tenant's Obligations.

2                   (a) Except as provided in Section 5.02, Section 6.03, Article Seven (Damage  
3 or Destruction) and Article Eight (Condemnation), TENANT shall keep all portions of the  
4 PREMISES (excepting foundations, exterior walls (including plate glass), roofs, sidewalks, and  
5 other obligations of LANDLORD) in good order, condition and repair (including interior and  
6 exterior repainting and refinishing and repair and maintenance of plate glass, as needed). In  
7 addition, TENANT shall during the LEASE TERM, at its sole cost and expense, (i) have all  
8 rubbish removed from the PREMISES, and (ii) maintain a commercially reasonable service  
9 maintenance contract for the HVAC equipment serving the PREMISES (a copy of which  
10 contract shall be provided to LANDLORD).

11                  (b) TENANT shall fulfill all of TENANT'S obligations under this Section  
12 6.04, except as otherwise provided, at TENANT'S expense. If TENANT fails to maintain, repair  
13 or replace the PREMISES as required by this Section 6.04, LANDLORD may, upon fifteen (15)  
14 days' prior notice to TENANT (except that no notice shall be required in the case of an  
15 emergency), enter the PREMISES and perform such maintenance or repair (including  
16 replacement, as needed) on behalf of TENANT; provided that TENANT has not begun such  
17 repairs prior to LANDLORD'S entry upon the PREMISES to perform such work. In the event  
18 that LANDLORD performs such work on behalf of TENANT, then, subject to Section 12.21  
19 below, TENANT shall reimburse LANDLORD for reasonable costs incurred in performing such  
20 maintenance or repair for which TENANT is responsible promptly upon demand.

21                  Section 6.05 Alterations, Additions, and Improvements.

22                  (a) TENANT shall have the right, during the LEASE TERM, to make (i) (1)  
23 any non-structural, non-exterior alterations, additions or improvements to the PREMISES (which  
24 do not involve changes to the systems serving the BUILDING), without LANDLORD'S prior  
25 written consent, and (ii) any other alterations, additions, or improvements to the PREMISES with  
26 LANDLORD'S prior written consent, which consent shall not be unreasonably withheld,  
27 conditioned or delayed; provided, however, if LANDLORD shall fail to respond to a request for  
28 approval of any such alterations, additions or improvements to the PREMISES within ten (10)  
29 days after TENANT'S request therefor, LANDLORD'S approval of such alterations, additions  
30 and improvements to the PREMISES shall be conclusively deemed to have been granted;  
31 provided, further, with respect to any structural alterations, additions or improvements to the  
32 PREMISES which are required to comply with applicable laws, rules or regulations which may  
33 now or hereafter be in effect, LANDLORD, as part of its review and consent, shall only be  
34 permitted to address the manner in which such alterations, additions or improvements are  
35 proposed to be completed (rather than if such alterations, additions or improvements shall be  
36 permitted at all). All alterations, additions, and improvements shall be done in a good and  
37 workmanlike manner, in conformity with all applicable laws and regulations and in a manner to  
38 minimize any interference with other tenants of the SHOPPING CENTER. TENANT'S WORK,  
39 as set forth in Exhibit "B," is hereby consented to by LANDLORD. Upon completion of any  
40 such work and within a reasonable time after LANDLORD provides TENANT with a notice so  
41 requesting, TENANT shall provide LANDLORD with copies of as built" plans, copies of all  
42 constructions contracts, and proof of payment for all labor and materials, to the extent that the  
43 same are available to TENANT.

44                  (b) TENANT shall pay when due all claims for labor and material furnished  
45 to the PREMISES and shall not permit any liens to be filed against the PREMISES or  
46 SHOPPING CENTER by any person under any mechanic's, materialmen's or other lien statute.  
47 If any such lien is filed, Tenant shall give Landlord written notice thereof and shall cause such  
48 lien to be discharged within thirty (30) days of the filing or recording thereof; provided,  
49 however, Tenant may contest such liens or encumbrances as long as such contest prevents  
50 foreclosure of the lien or encumbrance and Tenant causes such lien or encumbrance to be bonded  
51 or insured over in a manner reasonably satisfactory within such 30 day period. TENANT shall  
52 give LANDLORD at least twenty (20) days' prior written notice of the commencement of any  
53 work on the PREMISES, regardless of whether LANDLORD'S consent to such work is  
54 required. LANDLORD may elect to record and post notices of non-responsibility on the  
55 PREMISES.

56                  Section 6.06 Condition upon Termination. Upon the termination of the  
57 LEASE, TENANT shall surrender the PREMISES to LANDLORD, broom clean and in the



1 same condition as received, ordinary wear and tear and damage by casualty excepted. TENANT  
2 shall not be obligated to repair any damage which LANDLORD is required to repair under  
3 Article Seven or elsewhere under this LEASE. All alterations, additions and improvements shall  
4 become LANDLORD'S property and shall be surrendered to LANDLORD upon the expiration  
5 or earlier termination of the LEASE, except that TENANT may remove any of TENANT'S trade  
6 fixtures, machinery or equipment. TENANT shall repair, at TENANT'S expense, any damage to  
7 the PREMISES caused by the removal of any such trade fixtures, machinery or equipment.

8 **ARTICLE SEVEN: DAMAGE OR DESTRUCTION**

9       Section 7.01   Partial Damage to Premises.

10      (a)     TENANT shall notify LANDLORD in writing immediately upon the  
11 occurrence of any damage to the PREMISES. If the PREMISES is only partially damaged (i.e.,  
12 (i) less than twenty-five percent (25%) of the PREMISES is untenable as a result of such  
13 damage or (ii) less than twenty-five percent (25%) of TENANT'S operations are materially  
14 impaired), and if such damage is covered by insurance required to be carried by LANDLORD  
15 hereunder or otherwise carried by LANDLORD, this LEASE shall remain in effect and  
16 LANDLORD shall repair the damage as soon as reasonably possible. LANDLORD may elect  
17 (but is not required) to repair any damage to TENANT'S fixtures, equipment, or improvements.  
18 Notwithstanding the foregoing, in the event that (i) twenty-five percent (25%) or more of the  
19 PREMISES is untenable as a result of such casualty, or (ii) twenty-five percent (25%) or more  
20 of TENANT'S operations in the PREMISES are materially impaired as a result of such casualty,  
21 or (iii) in TENANT'S reasonable opinion, it would take more than two hundred ten (210) days  
22 after the date of such casualty, to restore the PREMISES and for TENANT to reopen for  
23 business therein, then TENANT shall have the right to terminate this LEASE, upon notice  
24 thereof to LANDLORD; provided, however, during the last twelve (12) months of the LEASE  
25 TERM, the applicable threshold above shall be revised to ten percent (10%) (rather than twenty-  
26 five percent (25%)).

27      (b)     If the cause of the damage is not covered by the insurance policies which  
28 LANDLORD is obligated to maintain under Section 4.04(b) or otherwise carried by  
29 LANDLORD, and if the cost of repairing such damage is less than or equal to an amount equal  
30 to the BASE RENT payable by TENANT under the terms of this LEASE for the six (6) month  
31 period following the date of such damage and destruction (disregarding any abatement which  
32 TENANT may be entitled to under Section 7.02 below), then LANDLORD shall, subject to  
33 Section 7.01(a) above, repair such damage, in which case this LEASE shall remain in full force  
34 and effect. If the cost of repairing such damage exceeds an amount equal to the BASE RENT  
35 payable by TENANT under the terms of this LEASE for the six (6) month period following the  
36 date of such damage and destruction (disregarding any abatement which TENANT may be  
37 entitled to under Section 7.04 below), then LANDLORD may elect either to:

38       (i)    repair the damage as soon as reasonably possible, in which case  
39 this LEASE shall remain in full force and effect, or

40       (ii)    terminate this LEASE as of the date the damage occurred.  
41 LANDLORD shall notify TENANT within thirty (30) days after receipt of notice of the  
42 occurrence of the damage whether LANDLORD elects to repair the damage or terminate the  
43 LEASE. If LANDLORD elects to terminate this LEASE, TENANT may elect to continue this  
44 LEASE in full force and effect, in which case TENANT shall repair any damage to the  
45 PREMISES and the BUILDING. TENANT shall pay the cost of such repairs, except that upon  
46 satisfactory completion of such repairs, LANDLORD shall deliver to TENANT any insurance  
47 proceeds received by LANDLORD for the damage repaired by TENANT. TENANT shall give  
48 LANDLORD written notice of such election within ten (10) days after receiving LANDLORD'S  
49 termination notice, and in such event LANDLORD shall have no responsibility to repair or  
50 replace TENANT'S trade fixtures, inventory, or other personal property, all of which shall be  
51 TENANT'S responsibility to handle as TENANT determines in TENANT'S sole discretion

52       (c)    If the damage to the PREMISES occurs during the last six (6) months of  
53 the LEASE TERM (including any previously exercised option granted pursuant to Section 2.02  
54 above) and such damage will require more than thirty (30) days to repair, or (ii) if, in the  
55 reasonable opinion of either party hereto, less than twelve (12) months of the LEASE TERM  
56 (including any previously exercised option granted pursuant to Section 2.02 above) would

1 remain following completion of the repair of the PREMISES and such damage will require more  
2 than thirty (30) days to repair, then either LANDLORD or TENANT may elect to terminate this  
3 LEASE as of the date the damage occurred, regardless of the sufficiency of any insurance  
4 proceeds. The party electing to terminate this LEASE shall give written notification to the other  
5 party of such election within thirty (30) days after TENANT'S notice to LANDLORD of the  
6 occurrence of the damage. Notwithstanding anything to the contrary contained in this Section  
7 7.01(c), in the event of any such damage or destruction to the PREMISES, if TENANT has not  
8 yet exercised one of its options to extend the LEASE TERM pursuant to Section 2.02 above (and  
9 such option has not expired), then TENANT shall have thirty (30) days following the date of  
10 such damage and destruction, to exercise any such option, in which event LANDLORD shall not  
11 be permitted to terminate this LEASE, and any notice from LANDLORD of its intention to  
12 terminate the LEASE pursuant to this Section 7.01(c) prior to TENANT'S notice of its intention  
13 to exercise such option shall be null and void.

14           Section 7.02 Substantial or Total Destruction. If the PREMISES are  
15 substantially or totally destroyed by any cause whatsoever, and regardless of whether  
16 LANDLORD receives any insurance proceeds, this LEASE shall terminate as of the date the  
17 destruction occurred. Notwithstanding the preceding sentence, and subject to Section 7.01(a) and  
18 7.01 (c) above, if the PREMISES can be rebuilt within one hundred twenty (120) days after the  
19 date of destruction, LANDLORD may elect to rebuild the PREMISES, in which case  
20 LANDLORD shall, at LANDLORD'S sole cost and expense, rebuild the PREMISES within said  
21 120-day period and this LEASE shall remain in full force and effect. LANDLORD shall notify  
22 TENANT of such election within thirty (30) days after TENANT'S notice of the occurrence of  
23 total or substantial destruction.

24           Section 7.03 Damage To The Shopping Center. Notwithstanding anything to  
25 the contrary herein contained, in the event of a total destruction of the SHOPPING CENTER, a  
26 partial destruction of twenty-five percent (25%) or more of the SHOPPING CENTER (as  
27 constituted at the execution of this LEASE) or a partial destruction of fifty percent (50%) or  
28 more of the SHOPPING CENTER as to be redeveloped (as depicted on Exhibits "A" and "A-1"  
29 attached hereto), whether or not insured against and whether or not the PREMISES are partially  
30 or totally destroyed, TENANT may elect to terminate this LEASE by giving LANDLORD notice  
31 thereof within thirty (30) days following the date of such casualty, in which event this LEASE  
32 shall cease and terminate as of the date of such casualty.

33           Section 7.04 Temporary Reduction of Rent. If the PREMISES is damaged or  
34 destroyed and LANDLORD or TENANT repairs or restores the PREMISES pursuant to the  
35 provisions of this Article Seven, any BASE RENT and ADDITIONAL RENT payable during the  
36 period of such damage, repair and/or restoration (including a reasonable time for TENANT to reopen  
37 the PREMISES) shall be reduced in proportion to the amount of square footage damaged or  
38 destroyed. In the event that it is reasonably impossible or impractical to operate its business in  
39 the PREMISES in the ordinary course in that portion of the PREMISES not so damaged or  
40 destroyed, then all BASE RENT and ADDITIONAL RENT shall abate until the PREMISES  
41 have been repaired and restored.

## 42 ARTICLE EIGHT: CONDEMNATION

43           Section 8.01 Eminent Domain. If all or any portion of the PREMISES is taken  
44 under the power of eminent domain ("CONDEMNATION"), this LEASE shall terminate as to  
45 the part taken on the date the condemning authority takes title or possession (hereinafter referred  
46 to as the "CONDEMNATION DATE"). Upon the CONDEMNATION of more than twenty  
47 percent (20%) of the floor area of the BUILDING, or which is located in the PREMISES, then  
48 TENANT may terminate this LEASE as of the CONDEMNATION DATE, by delivering written  
49 notice to LANDLORD within ten (10) days after receipt of written notice of such  
50 CONDEMNATION (or in the absence of such notice, within ten (10) days after the  
51 CONDEMNATION DATE). If, in TENANT'S judgment, TENANT'S use has been materially  
52 impaired by any CONDEMNATION hereunder then TENANT may terminate this LEASE by  
53 delivering written notice thereof to LANDLORD within ten (10) days after receipt of written  
54 notice of such CONDEMNATION (or in the absence of such notice, within ten (10) days after  
55 the CONDEMNATION DATE). If TENANT does not terminate this LEASE as hereinabove  
56 provided, this LEASE shall remain in effect as to the portion of the PREMISES not taken, except  
57 that the BASE RENT and ADDITIONAL RENT shall be reduced in proportion to the reduction

1 in the floor area of the PREMISES. Any award for the CONDEMNATION of all or any part of  
2 the PREMISES or the SHOPPING CENTER shall be the property of LANDLORD; provided,  
3 however, that TENANT shall be entitled to any award for, or to bring an action for a separate  
4 award for, the following:

- 5                 (a) loss of or damage to TENANT'S trade fixtures, personal property and  
6 tenant improvements that have been paid for by TENANT;  
7                 (b) the value of the leasehold estate (i.e., the leasehold bonus value);  
8                 (c) relocation expenses incurred by TENANT as a result of such  
9 CONDEMNATION; and  
10                 (d) loss of business and good will.

11 In the event that this LEASE is not terminated by reason of such CONDEMNATION,  
12 LANDLORD shall to the extent of award of damages received by LANDLORD in connection  
13 with such CONDEMNATION, repair any damage to the PREMISES caused by such  
14 CONDEMNATION.

15 **ARTICLE NINE: ASSIGNMENT AND SUBLETTING**

16                 Section 9.01 **Assignment and Subletting.** TENANT, without LANDLORD'S  
17 consent, may assign or sublet any or all of its interest in the PREMISES. Except as set forth  
18 below, no such assignment or subletting shall relieve TENANT of any of its obligations under  
19 this LEASE. Promptly following any such assignment or subletting, TENANT shall notify  
20 LANDLORD of the name and address of such sublessee or assignee. Any such subletting or  
21 assignment shall be subject to all of the terms of this LEASE including, without limitation, any  
22 restrictions pertaining to the use of the PREMISES. Notwithstanding the foregoing or anything  
23 to the contrary herein, TENANT shall be automatically released (without the need for the  
24 execution of any additional documentation) from any further liability under this LEASE if, and  
25 only if, it assigns its interest in this LEASE to an assignee which has a net worth in excess of  
26 One Hundred Million Dollars (\$100,000,000), which net worth shall be determined as of the date  
27 of the assignment in accordance with generally accepted accounting principles.

28 **ARTICLE TEN: DEFAULTS; REMEDIES**

29                 Section 10.01 **Covenants and Conditions.** TENANT'S performance of each of  
30 TENANT'S obligations under this LEASE is a condition as well as a covenant. TENANT'S  
31 right to continue in possession of the PREMISES is conditioned upon such performance.

32                 Section 10.02 **Defaults.** The occurrence of any of the following shall be deemed  
33 to be a "DEFAULT" under this LEASE:

34                 (a) TENANT'S failure to pay rent or any other charge due within five (5)  
35 business days following written notice from LANDLORD that such sum is past due;

36                 (b) TENANT'S failure to perform any of TENANT'S non-monetary  
37 obligations under this LEASE for a period of thirty (30) days after written notice from  
38 LANDLORD; provided that if more than thirty (30) days are required to complete such  
39 performance, TENANT shall not be in DEFAULT if TENANT commences such performance  
40 within the thirty (30) day period and thereafter diligently pursues its completion;

41                 (c) if TENANT makes a general assignment or general arrangement for the  
42 benefit of creditors;

43                 (d) if a petition for adjudication of bankruptcy or for reorganization or  
44 rearrangement is filed by or against TENANT and is not dismissed within thirty (30) days;

45                 (e) if a trustee or receiver is appointed to take possession of substantially all  
46 of TENANT'S assets located at the PREMISES or of TENANT'S interest in this LEASE and  
47 possession is not restored to TENANT within thirty (30) days; or



1                         (f) if substantially all of TENANT'S assets located at the PREMISES or of  
2 TENANT'S interest in this LEASE is subjected to attachment, execution or other judicial seizure  
3 which is not discharged within thirty (30) days.

4                         If a court of competent jurisdiction determines that any of the acts described in this  
5 subparagraph (c) is not a DEFAULT under this LEASE, and a trustee is appointed to take  
6 possession (or if TENANT remains a debtor in possession) and such trustee or TENANT transfers  
7 TENANT'S interest hereunder, then LANDLORD shall receive, as ADDITIONAL RENT, the  
8 excess, if any, of the rent (or any other consideration) paid in connection with such assignment or  
9 sublease over the rent payable by TENANT under this LEASE.

10                         (g) All notices which are sent to TENANT pursuant to the terms of this  
11 LEASE which are prerequisite to a DEFAULT shall be signed and shall contain the words  
12 "Notice of Default" in prominent, bold letters.

13                         Section 10.03 Remedies. On the occurrence of any DEFAULT by TENANT,  
14 LANDLORD may, at any time thereafter, with or without notice or demand and without limiting  
15 LANDLORD in the exercise of any right or remedy which LANDLORD may have:

16                         (a) Terminate TENANT'S right to possession of the PREMISES by any  
17 lawful means, in which case this LEASE shall terminate and TENANT shall immediately  
18 surrender possession of the PREMISES to LANDLORD. In such event, LANDLORD shall,  
19 subject to Section 12.21 below, be entitled to recover from TENANT all damages incurred by  
20 LANDLORD by reason of TENANT'S DEFAULT, including:

21                         (i) the worth at the time of the award of the unpaid BASE RENT,  
22 ADDITIONAL RENT and other charges which LANDLORD had earned at the time of the  
23 termination;

24                         (ii) the worth at the time of the award of the amount by which the  
25 unpaid BASE RENT, ADDITIONAL RENT and other charges which LANDLORD would have  
26 earned after termination until the time of the award exceeds the amount of such rental loss that  
27 TENANT proves LANDLORD could have reasonably avoided;

28                         (iii) the worth at the time of the award of the amount by which the  
29 unpaid BASE RENT, ADDITIONAL RENT and other charges which TENANT would have  
30 paid for the balance of the LEASE TERM after the time of award exceeds the amount of such  
31 rental loss that TENANT proves LANDLORD could have reasonably avoided; and

32                         (iv) any other amount necessary to compensate LANDLORD for all  
33 the detriment proximately caused by TENANT'S DEFAULT under the LEASE or which in the  
34 ordinary course of things would be likely to result therefrom, including, but not limited to, any  
35 costs or expenses LANDLORD incurs in maintaining or preserving the PREMISES after such  
36 DEFAULT, the cost of recovering possession of the PREMISES, expenses of reletting, including  
37 necessary renovation or alteration of the PREMISES, LANDLORD'S reasonable attorneys' fees  
38 incurred in connection therewith, and any real estate commission paid or payable.

39                         As used in subparts (i) and (ii) above, the "worth at the time of the award" is  
40 computed by allowing interest on unpaid amounts at the rate of fifteen percent (15%) per annum,  
41 or such lesser amount as may then be the maximum lawful rate. As used in subpart (iii) above, the  
42 "worth at the time of the award" is computed by discounting such amount at the discount rate of  
43 the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%). If  
44 TENANT has abandoned the PREMISES, LANDLORD shall have the option of (i) retaking  
45 possession of the PREMISES and recovering from TENANT the amount specified in this Section  
46 10.03(a), or (ii) proceeding under Section 10.03(b); or

47                         (b) Maintain TENANT'S right to possession, in which case this LEASE shall  
48 continue in effect whether or not TENANT has abandoned the PREMISES. In such event,  
49 LANDLORD shall be entitled to enforce all of LANDLORD'S rights and remedies under this  
50 LEASE, including the right to recover the rent as it becomes due.

51                         (c) Notwithstanding any other provision of this LEASE, LANDLORD hereby  
52 waives the benefit of any statutory, decisional or other right or rule which would permit



1 LANDLORD to obtain possession of the PREMISES prior to entry of a judgment of a court of  
2 competent jurisdiction (which may be a judgment obtained following any summary proceeding  
3 in unlawful detainer or otherwise) awarding possession of the PREMISES to LANDLORD.

4 (d) Notwithstanding anything to the contrary contained herein, LANDLORD  
5 hereby waives any statutory right to a lien on any personal property or fixtures contained in the  
6 PREMISES that LANDLORD may have.

7 Section 10.04 **Landlord's Default.** In the event that LANDLORD shall fail to  
8 perform any obligation required to be performed by it as set forth in this LEASE, and such  
9 failure shall continue for a period of thirty (30) days after receipt of written notice from  
10 TENANT specifying such failure, then LANDLORD shall be in default hereunder, provided  
11 that, if the nature of LANDLORD'S obligation is such that more than thirty (30) days are  
12 required for performance, then LANDLORD shall not be in default if LANDLORD commences  
13 performance within such 30 day period and thereafter diligently prosecutes same to completion.  
14 In the event that LANDLORD shall be in default under the terms of this LEASE, then TENANT  
15 shall have the right, in addition to any other remedies it may have at law or in equity, to  
16 (i) remedy any default by LANDLORD under this LEASE and deduct from the next payments of  
17 rent due under the LEASE any amounts incurred by TENANT in so remedying any such default  
18 by LANDLORD, or (ii) terminate this LEASE upon written notice thereof to LANDLORD.

19 Section 10.05 **Cumulative Remedies.** The exercise of any right or remedy  
20 hereunder by either party under this Article Ten shall not prevent such party from exercising any  
21 other right or remedy hereunder.

22 **ARTICLE ELEVEN: PROTECTION OF LENDERS**

23 Section 11.01 **Subordination.** LANDLORD shall have the right to subordinate  
24 this LEASE to any ground lease, deed of trust or mortgage encumbering the PREMISES, any  
25 advances made on the security thereof and any renewals, modifications, consolidations,  
26 replacements or extensions thereof, whenever made or recorded; provided that the holder of such  
27 encumbrance enters into a non-disturbance agreement with TENANT in a form which is  
28 reasonably acceptable with TENANT. In the event that TENANT is provided with a non-  
29 disturbance agreement in a form reasonably acceptable to TENANT, then TENANT shall  
30 cooperate with LANDLORD and any lender which is acquiring a security interest in the  
31 PREMISES or the LEASE and shall execute such further documents and assurances as such  
32 lender may require, provided that TENANT'S obligations under this LEASE shall not be  
33 increased in any material way (the performance of ministerial acts shall not be deemed material),  
34 and TENANT shall not be deprived of its rights under this LEASE. TENANT'S right to quiet  
35 possession of the PREMISES during the LEASE TERM shall not be disturbed so long as  
36 TENANT is not in DEFAULT under this LEASE. LANDLORD shall, promptly following  
37 execution of this LEASE, cause any holder of an existing ground lease, deed of trust or mortgage  
38 encumbering the PREMISES or the SHOPPING CENTER to enter into a non-disturbance  
39 agreement with TENANT in a form reasonably acceptable to TENANT. LANDLORD  
40 represents and warrants to TENANT that LANDLORD has no outstanding obligations which are  
41 secured by the real property of which the PREMISES is a part, except that certain Deed of Trust,  
42 Security Agreement, Assignment of Leases and Rents and Fixture Filing dated January 12, 2006  
43 and recorded on January 27, 2006 in the OFFICIAL RECORDS as Instrument No. 2006-  
44 0067004 ("EXISTING ENCUMBRANCES"). LANDLORD shall, within thirty (30) days after  
45 the execution of this LEASE, provide TENANT with non-disturbance agreements for  
46 TENANT'S benefit, in a form reasonably acceptable to TENANT, from the holders of all such  
47 EXISTING ENCUMBRANCES.

48 Section 11.02 **Attornment.** If LANDLORD'S interest in the PREMISES is  
49 acquired by any ground lessor, beneficiary under a deed of trust, mortgagee, or purchaser at a  
50 foreclosure sale, TENANT shall attorn to the transferee of or successor to LANDLORD'S  
51 interest in the PREMISES and recognize such transferee or successor as LANDLORD under this  
52 LEASE. TENANT waives the protection of any statute or rule of law which gives or purports to  
53 give TENANT any right to terminate this LEASE or surrender possession of the PREMISES  
54 upon the transfer of LANDLORD'S interest.



1                   Section 11.03 **Signing of Documents.** TENANT shall sign and deliver any  
2 instrument or documents necessary or appropriate to evidence any such attornment or  
3 subordination or agreement to do so.

4                   Section 11.04 **Estoppel Certificates.** Upon the written request of either party  
5 hereto, the other party shall execute, acknowledge and deliver to the requesting party a written  
6 statement certifying:

7                   (a) that none of the terms or provisions of this LEASE have been changed (or  
8 if they have been changed, stating how they have been changed);

9                   (b) that this LEASE has not been canceled or terminated;

10                  (c) the last date of payment of the BASE RENT and other charges and the  
11 time period covered by such payment;

12                  (d) that the requesting party is not in default under this LEASE (or, if the  
13 requesting party is claimed to be in default, stating why); and

14                  (e) that TENANT has accepted possession of the PREMISES and the LEASE  
15 is in full force and effect.

16                  Such statement shall be delivered to the requesting party within thirty (30) days after  
17 receipt of such request. The requesting party may give any such statement to any prospective  
18 purchaser of the PREMISES (or of all or any part of TENANT'S business, as the case may be) or  
19 encumbrancer of the PREMISES. Such purchaser or encumbrancer may rely conclusively upon  
20 such statement as true and correct.

21 **ARTICLE TWELVE: MISCELLANEOUS PROVISIONS**

22                  Section 12.01 **Non-Discrimination.** TENANT promises, and it is a condition to  
23 the continuance of this LEASE, that there will be no discrimination against, or segregation of,  
24 any person or group of persons on the basis of race, color, sex, creed, national origin or ancestry  
25 in the leasing, subleasing, transferring, occupancy of the PREMISES or any portion thereof.

26                  Section 12.02 **Severability.** A determination by a court of competent jurisdiction  
27 that any provision of this LEASE or any part thereof is illegal or unenforceable shall not cancel  
28 or invalidate the remainder of such provision or this LEASE, which shall remain in full force and  
29 effect.

30                  Section 12.03 **Interpretation.** The captions of the Articles or Sections of this  
31 LEASE are to assist the parties in reading this LEASE and are not a part of the terms or  
32 provisions of this LEASE. Whenever required by the context of this LEASE, the singular shall  
33 include the plural the plural shall include the singular. The masculine, feminine and neuter  
34 genders shall each include the other. No provision of this Agreement is to be interpreted for or  
35 against either party because that party or that party's legal representative drafted such provision.

36                  Section 12.04 **Incorporation of Prior Agreements; Modifications.** This  
37 LEASE is the only agreement between the parties pertaining to the lease of the PREMISES and  
38 no other agreements are effective. All amendments to this LEASE shall be in writing and signed  
39 by all parties. Any other attempted amendment shall be void.

40                  Section 12.05 **Notices.** All notices required or permitted under this LEASE shall  
41 be in writing and shall be personally delivered, or sent by certified mail, return receipt requested,  
42 postage prepaid. Notices to TENANT shall be delivered to the address specified in Section 1.02.  
43 Notices to LANDLORD shall be delivered to the address specified in Section 1.01. In addition,  
44 the parties may each designate, in writing, up to one (1) additional person at a time during the  
45 LEASE TERM to whom simultaneous notice shall be given by the other party. All notices shall  
46 be effective upon delivery or refusal to accept delivery. Either party may change its notice  
47 address, or the notice address for the additional person whom it has designated as hereinabove  
48 provided, upon written notice to the other party. Notwithstanding anything to the contrary  
49 contained herein, notices shall not be deemed delivered for purposes of this Section 12.05 if sent  
50 by facsimile, electronic mail or any other electronic means.



1                   **Section 12.06 Waivers.** All waivers must be in writing and signed by the  
2 waiving party. LANDLORD'S failure to enforce any provision of this LEASE or its acceptance  
3 of rent shall not be a waiver and shall not prevent LANDLORD from enforcing that provision or  
4 any other provision of this LEASE in the future.

5                   **Section 12.07 No Recordation.** Neither party shall record this LEASE without  
6 prior written consent from the other party. However, either LANDLORD or TENANT may  
7 require that a "Short Form" memorandum of this LEASE executed by both parties be recorded.  
8 The party requiring such recording shall pay all transfer taxes and recording fees.

9                   **Section 12.08 Binding Effect; Choice of Law.** This LEASE binds and inures to  
10 the benefit of any party who legally acquires any rights or interest in this LEASE from  
11 LANDLORD or TENANT. However, LANDLORD shall have no obligation to TENANT'S  
12 successor unless the rights or interests of TENANT'S successor are properly acquired in  
13 accordance with the terms of this LEASE. The laws of the state in which the PREMISES are  
14 located shall govern this LEASE without regard to choice of law principles.

15                  **Section 12.09 Corporate Authority; Partnership Authority.** If LANDLORD  
16 or TENANT is a corporation, each person signing this LEASE on behalf of such party represents  
17 and warrants that he has full authority to do so and that this LEASE binds the corporation. If  
18 LANDLORD or TENANT is a partnership, each person or entity signing this LEASE for such  
19 party represents and warrants that he or it is a general partner of the partnership, that he or it has  
20 full authority to sign for the partnership and that this LEASE binds the partnership and all  
21 general partners of the partnership.

22                  **Section 12.10 Execution of Lease.** This LEASE may be executed in  
23 counterparts and, when all counterpart documents are executed, the counterparts shall constitute  
24 a single binding instrument.

25                  **Section 12.11 Survival.** All representations and warranties of LANDLORD and  
26 TENANT shall survive the termination of this LEASE.

27                  **Section 12.12 Confidentiality.** The parties hereto shall keep this LEASE and all  
28 documents delivered pursuant to this LEASE strictly confidential, except as deemed reasonably  
29 necessary for bona fide lenders, prospective purchasers, governmental entities, accountants, legal  
30 advisers, etc. The parties agree that all of the provisions of the LEASE (other than those set forth  
31 in the above-referenced Memorandum of Lease) are intended to be confidential, and except for  
32 disclosures made to "PERMISSIBLE PERSONS" (as defined below), no disclosures will be  
33 made to any person or party other than in response to a subpoena or other legal process.  
34 "Permissible Persons," as such term is used herein, means the accountants, attorneys, lenders, or  
35 prospective lenders of each of the respective parties hereto, and persons acquiring (or potentially  
36 acquiring) the respective interest of either party in and to the leasehold estate evidenced by the  
37 Lease. Each party agrees that it will direct each Permissible Person to whom copies of the Lease  
38 may be given by such party that the same and all provisions set forth in the Lease is and are to be  
39 held as confidential and not disclosed to any other person.

40                  **Section 12.13 Right of First Offer-Leases.** If LANDLORD determines to let  
41 (upon the expiration hereof) all or any part of any premises adjacent to the PREMISES (with a  
42 desire to market the property in question for lease, by the receipt of an unsolicited offer, or  
43 otherwise), LANDLORD shall notify TENANT of the terms on which LANDLORD is willing to  
44 lease (which shall be commercially reasonable). If TENANT, within ten (10) business days after  
45 receipt of LANDLORD'S notice, indicates in writing its agreement to lease the applicable  
46 property on the terms stated in LANDLORD'S notice, LANDLORD shall lease the applicable  
47 property to TENANT on the terms stated in the notice. If TENANT does not indicate its  
48 agreement within ten (10) business days, LANDLORD thereafter shall have the right to lease the  
49 applicable property to a third party on substantially the same terms stated in the notice (which  
50 shall not be for a price less than 90% of the price set forth in LANDLORD'S notice to TENANT). If  
51 LANDLORD does not lease the applicable property within two hundred seventy (270) days on  
52 substantially the same terms stated in the notice (which shall not be for a price of less than 90% of the  
53 original price specified in LANDLORD'S notice to TENANT), any further transaction shall be deemed a  
54 new determination by LANDLORD to lease the applicable property and the provisions of this Section shall  
55 be applicable; provided, however, if LANDLORD is actively negotiating with a prospective tenant at the  
56 expiration of such two hundred seventy (270) day period for such adjacent space (as evidenced by the



1 exchange of written lease proposals), then such two hundred seventy (270) day period shall be extended  
2 with respect to only the identified prospective tenant until such time as a written lease is executed or such  
3 lease negotiations terminate or cease; provided, further, LANDLORD shall have the right, at anytime during  
4 such two hundred seventy (270) day period, to provide TENANT with an additional notice regarding the  
5 terms upon which LANDLORD is then willing to lease the adjacent premises to TENANT, which notice  
6 shall restart the process set forth above.

7       **Section 12.14 Consent/Duty to Act Reasonably.** All requests for consent or  
8 approval required or permitted under this LEASE shall be made in writing and in reasonable  
9 detail and otherwise in the manner required for notices hereunder. No such requests for consent  
10 or approval shall be unreasonably refused or delayed unless otherwise provided for herein. Any  
11 refusal of any such request for consent or approval shall also be made in writing and otherwise in  
12 the manner required for notices hereunder and shall identify, in reasonable detail, the reasons for  
13 such refusal. Without affecting the generality of this Section 12.14, unless otherwise specifically  
14 stated in this LEASE, if any such request for consent or approval shall not be refused within ten  
15 (10) business days after the making thereof, then such consent or approval shall be deemed  
16 granted. LANDLORD and TENANT shall act reasonably and in good faith and take no action  
17 which might result in the frustration of the reasonable expectations of a sophisticated lessor or  
18 lessee concerning the benefits and use enjoyed under the LEASE.

19       **Section 12.15 Brokers.** Each of the parties represents and warrants to the other  
20 that it has dealt with no broker, other than as set forth in Section 1.08, in connection with this  
21 LEASE, and, insofar as it knows, no other broker or other person is entitled to any commission  
22 or fee in connection with this LEASE. LANDLORD represents and warrants to TENANT that  
23 TENANT shall have no responsibility regarding any agreement made between LANDLORD and  
24 any broker and that TENANT shall have no responsibility for the payment of any commission or  
25 fee. Each of the parties hereby indemnifies the other against any commission or fee such  
26 indemnifying party may have incurred in connection with this LEASE.

27       **Section 12.16 Legal Proceedings.** If TENANT shall be in DEFAULT under this  
28 LEASE or if LANDLORD shall be in default under this LEASE (as defined in Section 10.04,  
29 above), such party (the "DEFAULTING PARTY") shall reimburse the other party (the  
30 "NONDEFAULTING PARTY") upon demand for any costs or expenses that the  
31 NONDEFAULTING PARTY reasonably incurs in connection with any breach or default of the  
32 DEFAULTING PARTY under this LEASE, whether or not suit is commenced or judgment  
33 entered. Such costs shall include actual legal fees and costs incurred for the negotiation of a  
34 settlement, enforcement of rights or otherwise. Furthermore, if any action for breach of or to  
35 enforce the provisions of this LEASE is commenced, the court in such action shall award to the  
36 prevailing party, a reasonable sum as attorneys' fees and costs. The losing party in such action  
37 shall pay such attorneys' fees and costs.

38       **Section 12.17 Right of First Negotiation.** If LANDLORD intends to offer the  
39 PREMISES, the BUILDING or the SHOPPING CENTER (or any part thereof) for sale or  
40 ground lease, LANDLORD shall provide written notice thereof to TENANT, and thereafter for  
41 the next thirty (30) days, LANDLORD shall exclusively negotiate with TENANT in good faith  
42 for the sale or ground lease of the PREMISES, the BUILDING or the SHOPPING CENTER (or  
43 portion thereof) to TENANT or TENANT'S designee.

44       **Section 12.18 Successors and Assigns.** All agreements, covenants, rights and  
45 liabilities contained herein shall be binding upon and shall inure to the benefit of the respective  
46 parties hereto, and their several respective heirs, executors, administrators, successors and  
47 assigns.

48       **Section 12.19 Economic Termination.** Notwithstanding anything to the  
49 contrary contained herein, if, at anytime after TENANT has been open and operating in the  
50 PREMISES for twenty-four (24) months, sales from the PREMISES (which shall not include  
51 sales taxes, returns and other amounts not customarily included in the definition of "sales") have  
52 not met or exceeded Three Million and No/100 Dollars (\$3,000,000.00) for any consecutive  
53 twelve (12) month period, TENANT shall have the right, to terminate this LEASE by giving at  
54 least one hundred eighty (180) days written notice of such election to LANDLORD, which  
55 termination may not be effective any (a) sooner than the fifth (5th) anniversary of the  
56 DELIVERY DATE, and (b) later than the sixth (6th) anniversary of the DELIVERY DATE  
57 (either such date specified to be referred to herein as the "EARLY TERMINATION DATE"). If

1 TENANT shall terminate the LEASE under this Section 12.19, then, as of the EARLY  
2 TERMINATION DATE, neither party shall have any further obligations to the other party  
3 hereunder, except that TENANT shall reimburse LANDLORD for the unamortized portion of  
4 the (i) leasing commissions paid by LANDLORD in connection with this Lease (not to exceed of  
5 Two and No/100 Dollars (\$2.00) per square foot of the PREMISES), and (ii) the actual, out-of-  
6 pocket cost of LANDLORD'S WORK (both of which shall be computed over the INITIAL  
7 LEASE TERM on a straight-line basis without any interest thereon).

8           Section 12.20 Hazardous Materials.

9           (a) As used in this LEASE, the term "HAZARDOUS MATERIALS" means  
10 any flammable items, explosives, radioactive materials, and any other substances defined as or  
11 included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials,"  
12 "toxic substances" or similar term now or subsequently regulated under any applicable federal,  
13 state or local laws or regulations including, without limitation, petroleum-based products, paints,  
14 solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonia compounds and other  
15 chemical products, asbestos, PCBs, and similar compounds, and any other products and materials  
16 which are subsequently found to have adverse effects on the environment or the health and safety  
17 of persons.

18           (b) Except as otherwise provided herein, TENANT shall not cause or permit  
19 any HAZARDOUS MATERIAL to be generated, produced, brought upon, used, stored, treated  
20 or disposed of in or about the PREMISES, the SHOPPING CENTER or the property on which  
21 the SHOPPING CENTER is located by TENANT, its agents, employees, or contractors without  
22 the prior written consent of LANDLORD, which consent shall be in LANDLORD'S sole and  
23 absolute discretion. In addition, TENANT shall not cause or permit an underground storage tank  
24 to be installed under the PREMISES or the SHOPPING CENTER without the prior written  
25 consent of LANDLORD, which consent shall be in LANDLORD'S sole and absolute discretion.  
26 Notwithstanding anything to the contrary contained herein, TENANT shall be permitted to store,  
27 use and dispose of, in the PREMISES, such HAZARDOUS MATERIALS which are incidental  
28 and customary to the operation of TENANT'S business, or which TENANT sells as a matter of  
29 course at other 99¢ Only Stores, provided that TENANT shall comply with all applicable laws,  
30 rules and regulations in the storage, use and disposal of such HAZARDOUS MATERIALS.  
31 TENANT shall indemnify and hold LANDLORD, its agents and employees, harmless from any  
32 and all costs, liabilities, claims, expenses, penalties, and damages of any kind including, but not  
33 limited to, attorneys' fees and the cost of any investigation, remediation, restoration, cleanup  
34 and/or abatement which is necessary as a result of TENANT'S violation of this Section.

35           (c) LANDLORD represents and warrants that, with the exception of  
36 HAZARDOUS MATERIALS which are incidental and customary to the operation of the  
37 SHOPPING CENTER or other tenant's businesses (but only to the extent LANDLORD and/or  
38 such other tenants have complied with all applicable laws, rules and regulations for the storage,  
39 use and disposal of such HAZARDOUS MATERIALS), (i) there are no HAZARDOUS  
40 MATERIALS in, on or about the PREMISES or the SHOPPING CENTER, (ii) LANDLORD  
41 has not caused or permitted, and shall not cause or permit, any HAZARDOUS MATERIALS to  
42 be brought onto the PREMISES or the SHOPPING CENTER. LANDLORD shall indemnify  
43 and hold TENANT and TENANT'S agents and employees harmless from any and all costs,  
44 liabilities, claims, expenses, penalties, and damages of any kind including, but not limited to,  
45 attorneys' fees and the cost of any investigation, remediation, restoration, cleanup and/or  
46 abatement which is necessary as a result of LANDLORD'S violation of this Section. In  
47 addition, LANDLORD (i) shall be responsible (at no cost to TENANT) for the abatement of any  
48 HAZARDOUS MATERIALS from the SHOPPING CENTER for which TENANT is not  
49 responsible under Section 12.20 (b) above including, without limitation, any migration of  
50 HAZARDOUS MATERIALS onto, upon or under the PREMISES which is not caused by  
51 TENANT; and (ii) shall indemnify and hold TENANT and TENANT'S agents and employees  
52 harmless from any damage to TENANT'S property and all other out of pocket expenses or  
53 claims by third parties, arising out of the existence of such HAZARDOUS MATERIALS. In the  
54 event that TENANT closes its business in the PREMISES as a result of the existence of  
55 HAZARDOUS MATERIALS in the PREMISES or the work associated therewith, then,  
56 provided that the existence thereof is not caused by TENANT, then TENANT shall not be  
57 required to pay BASE RENT or TENANT'S payment of ADDITIONAL RENT until such  
58 abatement is complete.

(d) The obligations under this Section 12.20 shall survive the expiration or earlier termination of this LEASE.

**Section 12.21 Limitation on Payments by Tenant.** Notwithstanding anything to the contrary contained in this LEASE, in no event shall TENANT be required to pay to LANDLORD any amounts which TENANT would otherwise be obligated to pay hereunder if LANDLORD notifies TENANT of such amounts more than twelve (12) months after LANDLORD had knowledge that the obligation for such amounts shall have accrued.

**Section 12.22 Sale Of The Shopping Center.** In the event that LANDLORD sells or transfers all or any portion of the SHOPPING CENTER during the LEASE TERM, LANDLORD shall not be released from its obligations under the LEASE occurring thereafter unless and until any such purchaser or transferee agrees, in writing, to assume and be bound by all of LANDLORD'S obligations hereunder including, without limitation, maintenance of the COMMON AREAS.

ADDITIONAL PROVISIONS MAY BE SET FORTH IN A RIDER OR RIDERS ATTACHED HERETO. IF ADDITIONAL PROVISIONS ARE TO BE INSERTED, PLEASE CHECK BELOW.

### Rider Attached

IN WITNESS WHEREOF, LANDLORD and TENANT have executed this LEASE effective as of the date first written above, and have initialed all Riders which are attached to or incorporated by reference in this LEASE.

**"LANDLORD":** 31033 DATE PALM LLC,  
a California limited liability company

By: \_\_\_\_\_

Its:

By:

Its:

**"TENANT":** 99¢ ONLY STORES,  
a California corporation

**By** Seward Bee

Richard J. Frick  
Its: Vice President

By: Steven J. Horowitz  
Its: Vice President Property Development

EXHIBIT "A"

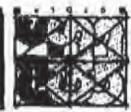
Site Plan

Exhibit "A" page 1 of 2

Store #0262  
8/23/06

Initials





DATE PALM PLAZA  
OWNER  
13033 DATE PALM DR., CATHEDRAL CITY, CA  
13157 ANTENNA SOURCE INC  
SUITE B 300  
CATHEDRAL CITY, CA 92324

PHASE II - OFFICE & RETAIL BUILDING  
31033 DATE PALM DR., CATHEDRAL CITY, CA  
DATE PALM PLAZA

31033 DATE PALM DR.  
CATHEDRAL CITY, CA  
DATE PALM PLAZA  
PHASE II

SITE PLAN

### PARKING DATA

PARKING PROVIDED ON SITE:  
TWO SPACES  
PARKING RATIO: 4.05 SPACES PER 1000 SF FT.

### PHASE II SITE PLAN

NORTH

### DATE PALM DRIVE

### BUILDING DATA

A	ANCHOR RETAIL	561SF
B	RESTAURANT RETAIL	4,687.00 SF
C	DRIVE-IN	6,400.00 SF
D	DRIVER-IN	4,000.00 SF
E	DRIVING RETAIL (N.A.P.)	12,026.00 SF
F1	RETAIL	1,920.00 SF
F2	OFFICES	970.00 SF
G1	RETAIL	6,571.00 SF
G2	OFFICES	6,280.00 SF
H1	RETAIL	4,025.00 SF
H2	OFFICES	2,858.00 SF

TOTAL SF = 167,425.00 SF

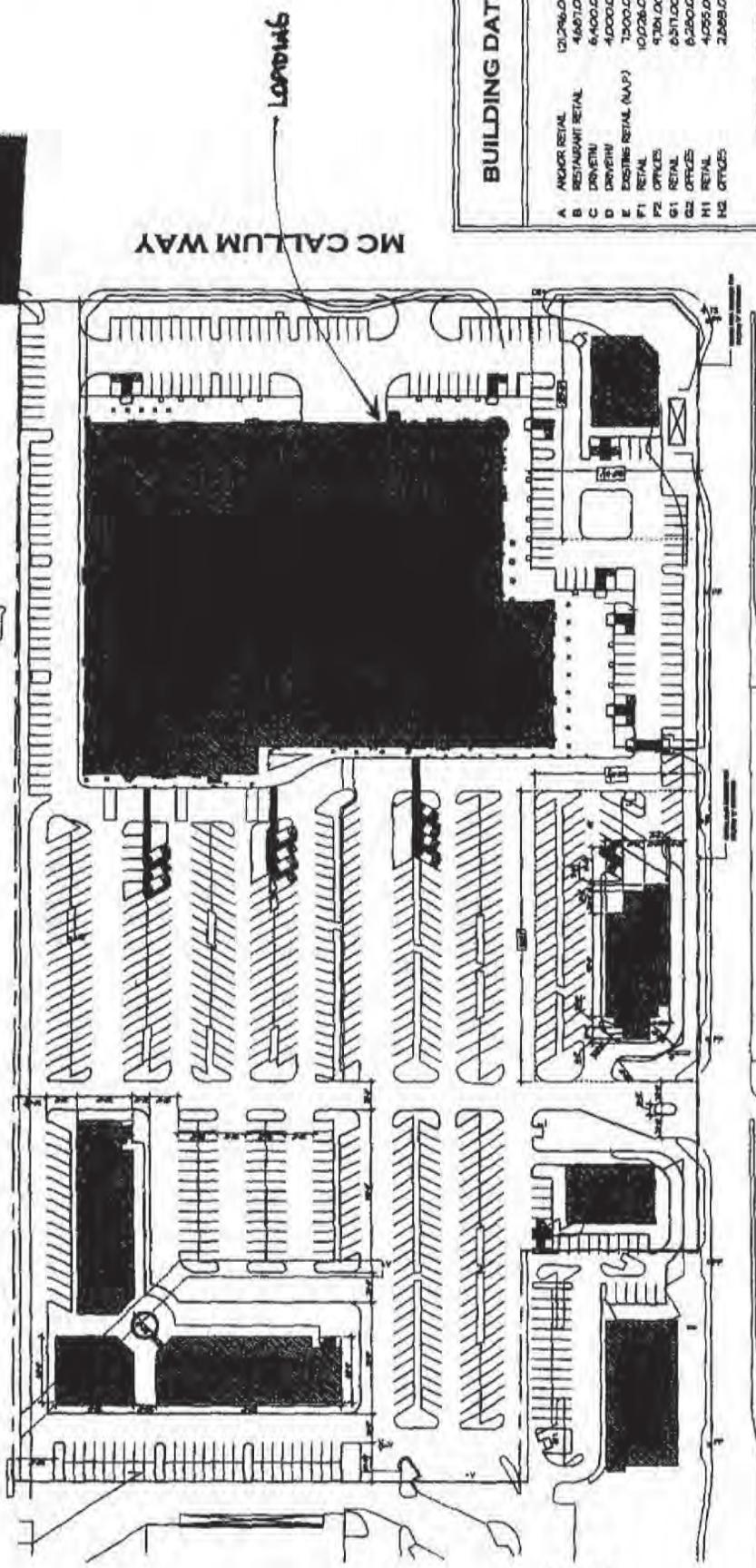


EXHIBIT "A-1"

PROTECTED AREA, SEMI-PROTECTED AREA AND DEVELOPMENT AREA

Store #0262  
8/23/06

Exhibit "A-1" page 1 of 2

Initials

(D)



1/2"

19033 DATE PALM DR., CATHEDRAL CITY, CA 92324  
19033 DATE PALM DR., CATHEDRAL CITY, CA 92324  
DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

CONTRACTOR:

DATE PALM DR., CATHEDRAL CITY, CA 92324

PHASE II - OFFICE & RETAIL BUILDING  
DATE PALM PLAZA

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

DRAWING NO. 00000000000000000000000000000000

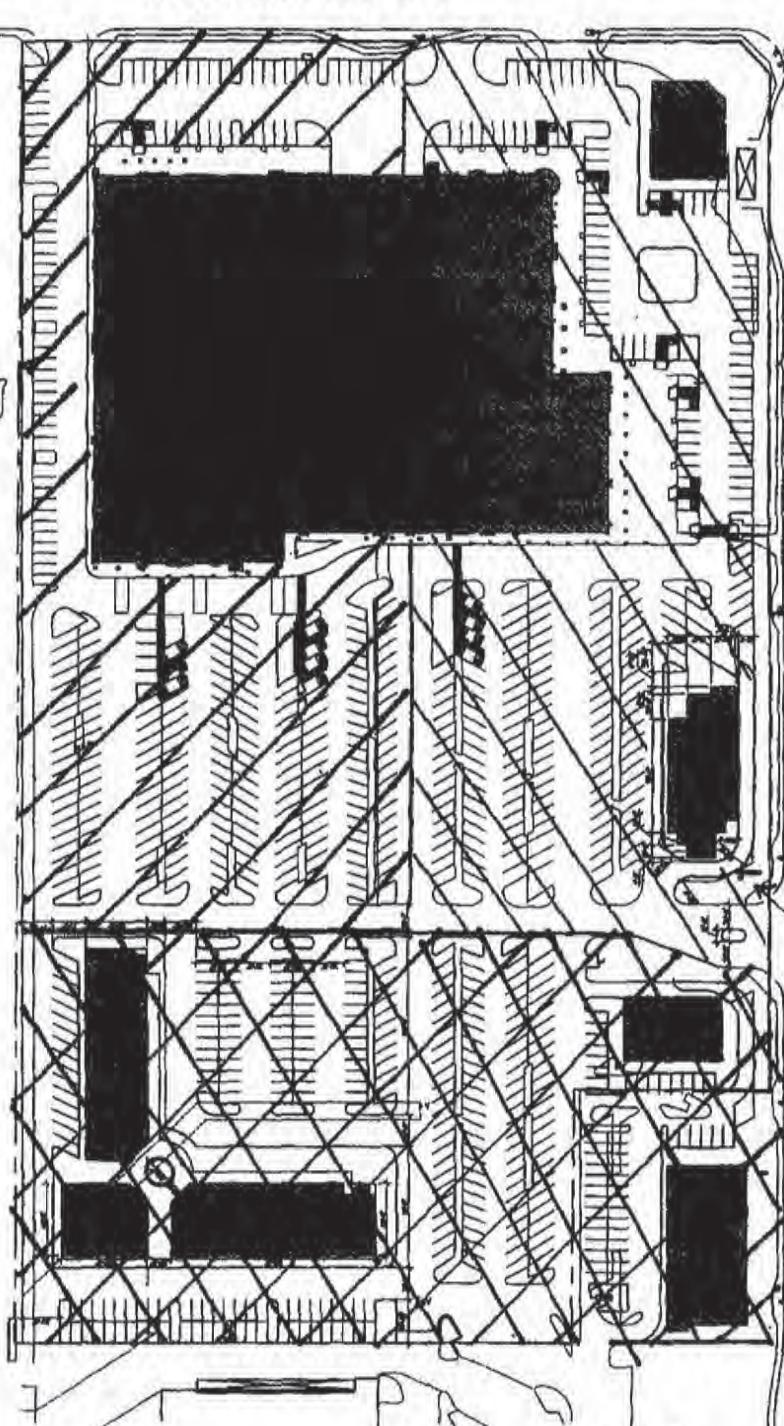
OWNER:

ARCHITECT:

DATE PALM DR., CATHEDRAL CITY, CA 92324

Development Area

- Protected Area (Red)
- Semi Protected Area (Green)



Store #262

DATE PALM PLAZA

PHASE TWO  
SHEET ONE  
SITE PLAN

PHASE TWO  
SHEET ONE  
SITE PLAN

PHASE TWO  
SHEET ONE  
SITE PLAN

PHASE II  
SITE PLAN

NORTH

DATE PALM DRIVE  
NON SIGN

②

EXHIBIT "B"

WORK LETTER

(A) LANDLORD'S WORK.

IMMEDIATELY UPON EXECUTION OF THIS LEASE, LANDLORD SHALL PROVIDE TENANT WITH "AS BUILT" DRAWINGS OF THE PREMISES. IF "AS BUILT" DRAWINGS OF THE PREMISES ARE NOT AVAILABLE, THEN IMMEDIATELY UPON EXECUTION OF THIS LEASE LANDLORD SHALL COOPERATE WITH TENANT IN OBTAINING SUCH DRAWINGS AS MAY HAVE BEEN FILED WITH THE CITY. LANDLORD SHALL ALSO PERMIT TENANT IMMEDIATE ENTRY INTO THE PREMISES FOR PURPOSES OF EVALUATION OF THE PHYSICAL STRUCTURE AND MEASUREMENT.

In addition, LANDLORD shall, at its sole cost and expense, perform the work as set forth below, including all architectural plans, demolition, materials, labor, permit fees and utility meter installation fees and assessments, in accordance with all federal laws, rules and regulations, (including the Americans with Disabilities Act of 1990 as amended), and all state, county and municipal or other local codes, regulations, requirements and ordinances applicable to the PREMISES, including any requirements of the local fire marshal and/or building inspector. All work shall be done using new materials and equipment, and shall be performed in a first-class workmanlike manner and shall be in a good and usable condition. TENANT shall have right to review and approve LANDLORD'S plans for conformance to TENANT'S specifications and use. LANDLORD shall, at its sole cost and expense:

1. Provide all utilities separately metered, and all services (i.e. fire sprinklers, gas, sewer, water, phone and electrical) to be for TENANT'S exclusive use.
2. Provide the PREMISES in a substantially "AS IS/WHERE IS" condition, except as stated, in water tight and good working condition throughout the LEASE TERM (including a roof warranty that extends, at a minimum, until the twenty (20) year anniversary of the DELIVERY DATE). Alternatively, LANDLORD may, at its expense, deliver a roof inspection report with respect to the roof of the PREMISES certified to TENANT, prepared by a roof inspection (not construction) company, satisfactory to TENANT. The roof inspection report shall be dated no more than one hundred twenty (120) days prior to the DELIVERY DATE of the PREMISES. The roof inspection report shall be a condition to delivery and must prove that the roof has an expected useful life of at least ten (10) years. Should the roof inspection report indicate that the roof has a "life expectancy of less than five (5) years" from the date of the report, LANDLORD shall, at its sole cost and expense, replace the roof, and LANDLORD'S replacement of the roof and written evidence thereof satisfactory to TENANT shall be a condition to delivery of the PREMISES. For purposes hereof, "life expectancy of less than five (5) years" means that the roof is likely to require more than one (1) repair in any twelve (12) month period. If the roof inspection report indicates that the roof has a life expectancy of five (5) years or more from the date of the report but recommends specific repairs to be made, then LANDLORD shall, at its sole cost and expense, make all recommended repairs to the roof and LANDLORD'S repair of the roof and written evidence thereof satisfactory to TENANT shall be a condition to delivery of the PREMISES.
3. Deliver the PREMISES with a floor to ceiling demising wall(s) per code, including all j-boxes, electrical work and electrical outlets within the interior of the wall(s) spaced appropriately per code.
4. Provide walls taped, finished smooth and painted.
5. Provide (a) even, clean and in new condition a 14' drop t-bar ceiling, including ceiling grid with ceiling tiles in a 2' x 4' size from the finished floor throughout the sales area, and (b) fluorescent T-8 strip lighting w/reflectors at 6' on center with continuous runs from front to rear and a run around perimeter of sales area. Reasonable warehouse/industrial lighting in stock area.
6. Provide new HVAC at 1 ton/285 square feet of gross building area, fully distributed, in first class working order. HVAC System to be warranted for 24 months. TENANT to provide

(continued on following page)

Exhibit "B" page 1 of 4

Store #0262  
8/23/06

Initials

Exhibit "B"  
(continued from previous page)

maintenance during and after warranty period. HVAC to be Carrier MODEL 5OHJQ012, or TENANT approved equal.

7. Separate the existing electrical and provide 1,600 amps, 120/208 volt system, or provide 800 amps at a minimum of 277/480 volt (3 phase, 4 wire), in a single location within the PREMISES, and coordinated with the TENANT. Work includes electrical for cash-wraps, lighting, equipment, outlets, signage, cooler boxes, baler, etc. LANDLORD shall provide conduit for low voltage system (if required by local codes), such as phones, data, speakers, cameras, alarms, etc. Should additional electrical lines be necessary, LANDLORD to bring additional electrical from outside the PREMISES to the PREMISES, to a location satisfactory to TENANT.
8. Provide plumbing stubbed to two bathroom locations to TENANT'S specifications.
9. Provide roof (including rooftop platforms for refrigeration equipment) in water tight and good working condition throughout the LEASE TERM (including a roof warranty that extends, at a minimum, until twenty (20) year anniversary of the DELIVERY DATE).
10. Provide (a) dock high loading (with dock leveler) and rear roll up door (min. 8'x10') to accommodate access for a minimum of 55' trailer plus cab, utilizing an 80' D.O.T. template, and (b) a loading dock to TENANT which must be configured to permit TENANT rear loading through a dedicated truck well or other acceptable means. TENANT'S LOADING AREAS shall not be shared with any other tenant within the SHOPPING CENTER.
11. Deliver the PREMISES free of all asbestos and any hazardous materials.
12. Apply fresh paint to the exterior of the PREMISES in a color approved by TENANT and approved by LANDLORD. LANDLORD has provided sample of the color to TENANT.
13. Provide exterior lighting for BUILDING and throughout SHOPPING CENTER as currently existing as of the date hereof in good working order and condition.
14. LANDLORD is not aware that any part of the PREMISES or the SHOPPING CENTER is not in compliance with all building codes and all laws.
15. Provide separate and fully fire sprinkled PREMISES.
16. Patch, slurry and reseal parking area within the area marked PROTECTED AREA on Exhibit "A-1".
17. Provide smooth and level (level within  $\frac{1}{4}$ " +/- in 10') concrete slab.
18. Provide retail glass frontage (12' high from floor & no bulkhead) and sliding automatic front entry doors all in 99¢ Only Stores® standard blue. Plans subject to TENANT'S approval.
19. Provide all emergency exits and equipment to code, including alarmed panic bars to TENANT'S specifications.
20. Provide parking lot and public access from parking lot into PREMISES (including ramps and signage), rear exit door and any required landings, ramps and handrails, which comply with all federal, state, and local codes which apply to the Americans with Disabilities Act. Copies of a site plan, which depicts public access to the PREMISES shall be provided to the TENANT.
21. Provide TENANT'S parapets, tower, and storefront; provided TENANT shall pay for TENANT'S building signage and sign panels and LANDLORD, at its sole cost and expense, shall pay for the new pylon sign.

(continued on following page)



Exhibit "B"  
(continued from previous page)

22. Provide six hose bibs at PREMISES (front, back and roof).
23. Provide concrete block trash enclosure with steel gates w/in 20' of rear loading door for TENANT'S exclusive use.
24. Landscaping has already been approved by the City. TENANT to review, without approval rights, the landscaping.
25. All components of COMMON AREAS (including signage) to be completed before possession of PREMISES delivered to TENANT, LANDLORD shall complete all of its work, and provide to TENANT the Certificate of Occupancy.
26. Provide TENANT with a shell drawing of SHOPPING CENTER and TENANT'S LOADING AREAS (in Auto Cad 14 or above).

(B) TENANT'S WORK.

TENANT may, as TENANT may determine in TENANT'S reasonable discretion, completely build out the PREMISES in its normal and customary manner for a 99¢ Only Stores retail location.

TENANT'S WORK may, at TENANT'S discretion, include any of the following:

1. Intentionally omitted.
2. Installing new floor covering.
3. Adding, removing, or altering interior lighting (in addition to (and not in lieu of) any such work to be completed by LANDLORD as part of LANDLORD'S WORK).
4. Installing cardboard baler.
5. Installing alarm, phone, and PA systems.
6. Installing fixtures, equipment, and inventory.
7. Demolition of interior walls (in addition to (and not in lieu of) any such work to be completed by LANDLORD as part of LANDLORD'S WORK).
8. Building new partition walls (in addition to (and not in lieu of) any such work to be completed by LANDLORD as part of LANDLORD'S WORK).
9. Interior signage.
10. Modifying storefront glass with reasonable approval of LANDLORD'S Architect and Engineer.
11. Intentionally omitted.
12. Installing window displays.
13. Modifying, removing, adding drop ceiling with reasonable approval of LANDLORD'S Architect and Engineer (in addition to (and not in lieu of) any such work to be completed by LANDLORD as part of LANDLORD'S WORK).
14. Installing drinking fountain and mop sink.
15. Neon lights on front of BUILDING.
16. Interior patching.
17. Interior painting.

(continued on following page)

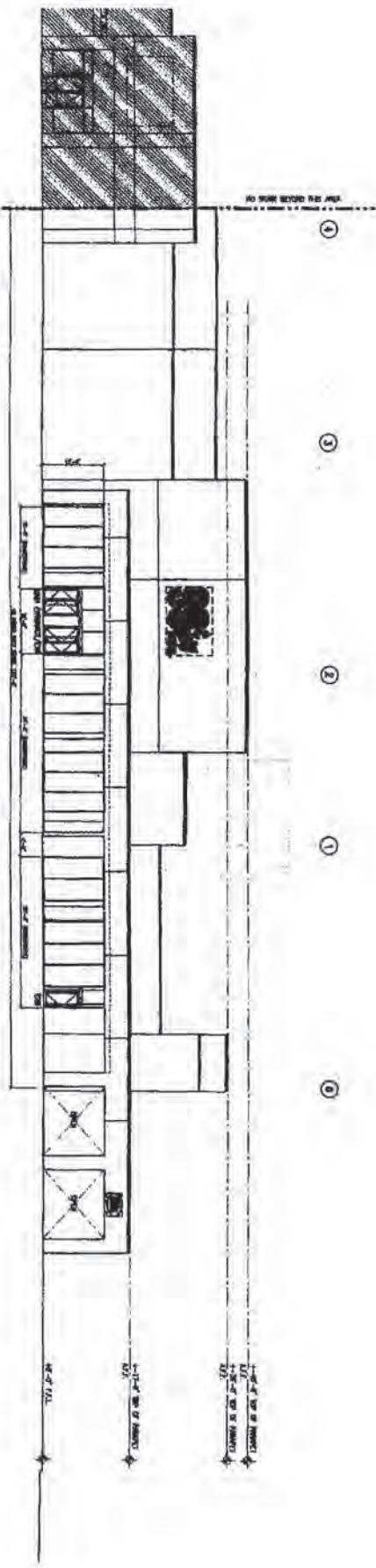
Exhibit "B"  
(continued from previous page)

18. Install illuminated awnings on front of BUILDING with reasonable approval of LANDLORD'S Architect and Engineer.
19. Loading facilities for TENANT'S regular deliveries via 45 and 48 foot semi-trucks, which may include new loading door(s), loading zone, loading dock, truck well, scissor lift, and/or ramp.
20. Building high-profile building fascia/sign tower with reasonable approval of LANDLORD'S Architect and Engineer (in addition to (and not in lieu of) any such work to be completed by LANDLORD as part of LANDLORD'S WORK).
21. Electrical work.
22. Removing landscaping planters, if any, in COMMON AREAS near the PREMISES with reasonable approval of LANDLORD'S Architect and Engineer.
23. Installation of electrical cart control system in common area (including parking field) of SHOPPING CENTER, and applicable descriptive placards, all at TENANT'S expense.
24. Any other work deemed reasonably necessary by TENANT for TENANT'S use.

(D)

EXHIBIT "B-1"

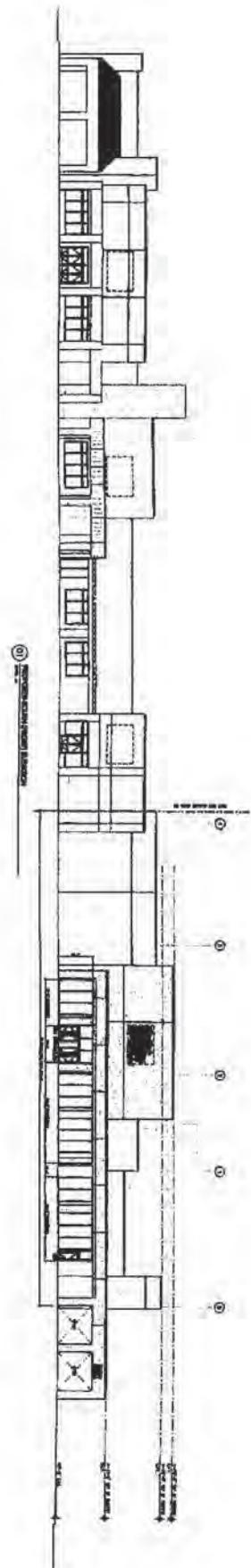
Elevations for Building Reconfiguration



(1) PROPOSED SOUTH (FRONT) ELEVATION

100-#262

10

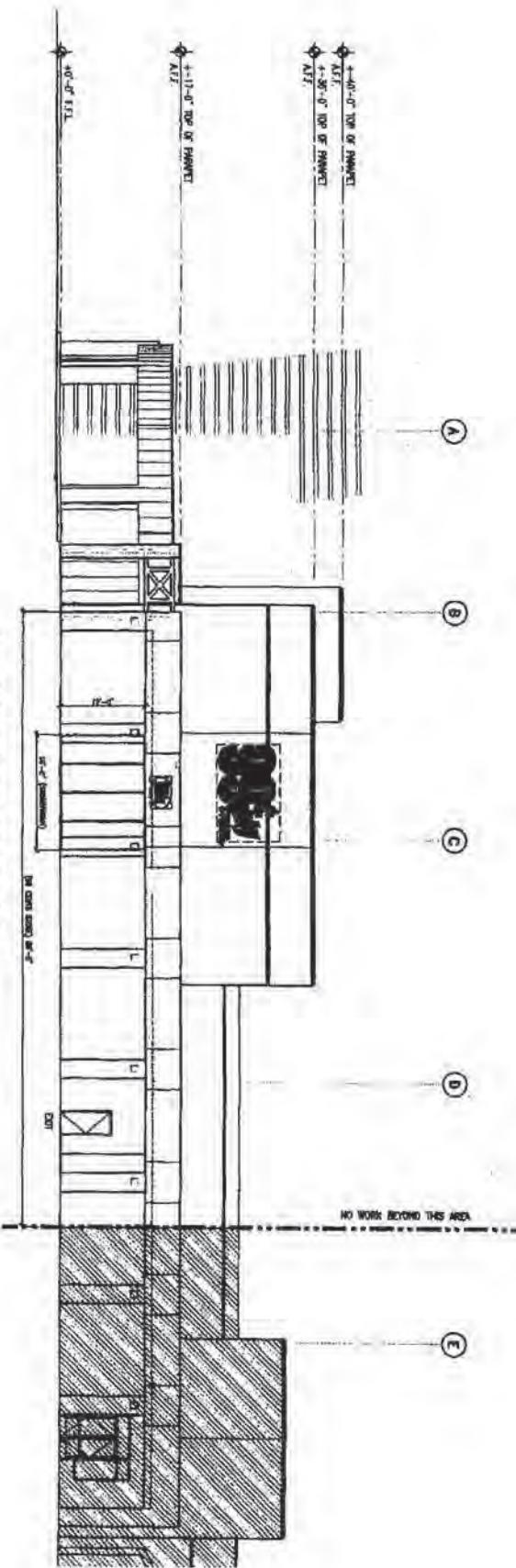


Store #262

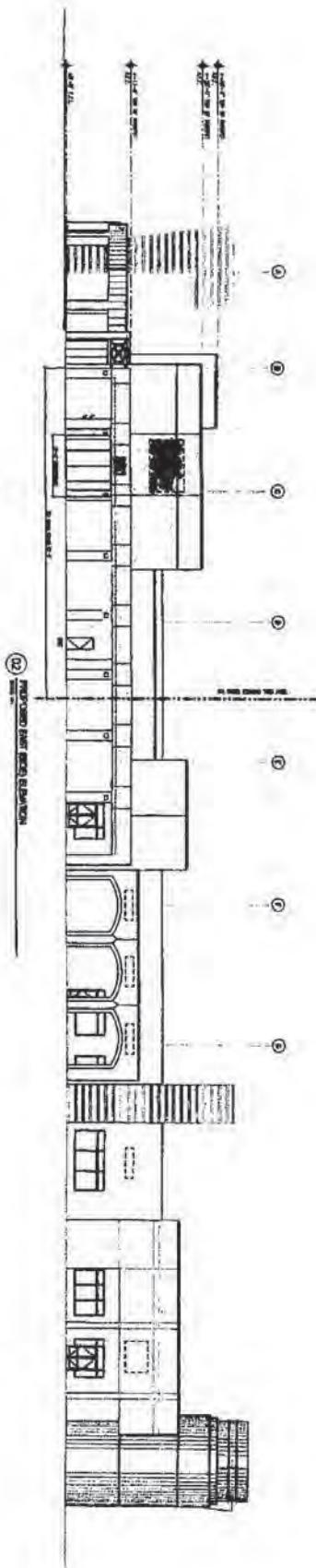
(P2)

**PROPOSED EAST (SIDE) ELEVATION**

**FRONT ELEVATION (SIDE)**



Store #262



Store #262

(8)

EXHIBIT "C"

Legal Description of Shopping Center

Real Property in the City of Cathedral City, County of Riverside, State of California, described as follows:

PARCEL 1 OF PARCEL MAP 26615, IN THE CITY OF CATHEDRAL CITY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 171 PAGE(S) 40-41, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY.

EXHIBIT "D"

[Intentionally omitted]

Store #0262  
8/23/06

Exhibit "D" page 1 of 1

Initials



EXHIBIT "E"

Exclusives In The Shopping Center

None.

Store #0262  
8/23/06

Exhibit "E" page 1 of 1

Initials

(B)

EXHIBIT "F"

Proposed Signage

Store #0262  
8/23/06

Exhibit "F" page 1 of 7

Initials

(K)

Electronic Proof of Claim Confirmation: 3620-1-OAOGT-517259657

Claim Electronically Submitted on (UTC) : 2024-07-02T16:20:28.358Z

Submitted by: 31033 Date Palm LLC  
jlemkin@stark-stark.com