FORM B10 (Official Form 10) (Rev. 4/98)

United States Bankruptcy Court **SOUTHERN DISTRICT OF TEXAS P.O.Box 61288, Houston TX 77208** **(Houston Division)**

PROOF OF CLAIM

Name of Debtors

____**Stage Stores, Inc., a Delaware corporation**
X **Specialty Retailers, Inc., a Texas corporation**
____**Specialty Retailers, Inc. (NV), a Nevada corporation**

*place an "x" beside the name of the Debtor you are filing a claim against

Case Number

00-35078-H2-11
00-35079-H2-11
00-35080-H2-11

Creditor ID#: 788-8735

Name of Creditor (The person or other entity to whom the debtor owes money or property):

Brownsville Sunrise Devel, Lp Sunrise Mall

__ **Check box if you are aware that anyone else a filed a proof of claim relating to your claim. Attach copy of statement giving particulars.**

United States District Court
Southern District of Texas
FILED
JUL 11 2000
Michael N. Milby, Clerk

Name and address where notices should be sent:

**********AUTO**3-DIGIT 752
Brownsville Sunrise Devel, Lp Sunrise Mall
5710 Lbj Fwy Ste 450
Dallas TX 75240-6350

__**Check box if you have never received any notices from the bankruptcy court in this case**

__ **Check box if the address differs from the address on the envelope sent to you by the court.**

Account or other number by which creditor identifies debtor:

Check here if this claim __ replaces __ amends a previously filed claim, dated: _____

1. Basis for Claim

__ Goods sold
X Services performed
__ Money loaned
__ Personal injury/wrongful death
__ Taxes
__ Other_____

__ Retiree benefits as defined in 11 U.S.C. § 1114(a)
__ Wages, salaries, and compensation (Fill out below)
Your SS#: _____ - _____ - _____
Unpaid compensation for services performed from N/A * (date) to N/A * (date)

*We reserve the right to file a claim in the future if there is a default under the terms of the attached lease.

2. Date debt was incurred: N/A

3. If court judgment, date obtained:

4. Total Amount of Claim at Time Case Filed: $ 0 * We reserve the right to file a claim in the future if ther is a default under the terms of the attached lease.
If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.
__ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. Secured Claim.

__ Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral:
__ Real Estate __ Motor Vehicle
__ Other All personal and intangible property of Debtor's Estate

Value of Collateral: $ ____

Amount of arrearage and other charges at time case filed included in secured claim, if any $ _____

6. Unsecured Priority Claim.

X Check this box if you have an unsecured priority claim
Amount entitled to priority $ _____
Specify the priority of the claim:
__ Wages, salaries, or commissions (up to $4,300),* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3)
__ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4).
__ Up to $1,950* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6).
__ Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).
__ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
__ Other – Specify applicable paragraph of 11 U.S.C. § 507(a-____).
Amounts are subject to adjustment on 4/1/98 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. Supporting Documents: *Attach copies of supporting documents*, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

This Space Is for Court Use Only

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Date 7/5/00

Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):

Jan Lester, General Manager

Penalty for presenting fraudulent claim: Fine of up to $500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

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JACK JACOBS AND COMPANY

Bank Bros Lease

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ARTICLE I. BASIC LEASE PROVISIONS AND ENUMERATION OF EXHIBITS.

Section 1.1 Basic Lease Provisions

DATE: June 26, 1978

LANDLORD: Jacobs-Kahan Associates, Inc., an Illinois corporation, agent for owner

ADDRESS OF LANDLORD: 6160 North Cicero Avenue, Suite 400, Chicago, Illinois 60646

TENANT: 3 Beall Brothers 3, Inc., a Texas Corporation

ADDRESS OF TENANT: P. O. Drawer 511 Jacksonville, Texas 75766

TENANT'S TRADE NAME: Beall Brothers

LEASE TERM: Twenty YEARS: 20 plus three 5-year options Lease Years (plus a Partial Lease Year, if any, prior to the first Lease Year).

COMMENCEMENT DATE: as hereinafter provided

FIXED MINIMUM RENT: One Hundred Forty Seven Thousand ($147,000.00) Dollars annually

PERCENTAGE RENT: Three Per Cent (3 %) OF ANNUAL GROSS SALES, AS HEREINAFTER DEFINED, ABOVE THE FIXED MINIMUM RENT:

PERCENTAGE RENT PERIODS: Annually. (Commencing Jan. 1 of each Lease Year).

PERMITTED USES: Operation of a Junior Department Store

TIME ALLOWED TO TENANT FOR COMPLETION OF TENANT'S WORK: 45 days after notice by Landlord or its Architect that the premises are available to Tenant for Tenant's work to be completed.

~~LANDLORD'S CONTRIBUTION TO TENANT'S WORK:~~

~~SECURITY DEPOSIT:~~

~~GUARANTOR:~~

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Section 1.2 Significance of a Basic Lease Provision. Each reference in this Lease to any of the Basic Lease Provisions contained in Section 1.1 of this Article shall be deemed and construed to incorporate all of the terms provided under each such Basic Lease Provision.

Section 1.3 Enumeration of Exhibits. The exhibits enumerated in this Section and attached to this Lease are incorporated in this Lease by this reference and are to be construed as part of this Lease.

Exhibit A. Site Plan of .....Sunrise Mall.....

Exhibit B. Plan of Leased Premises (which shall establish the floor area contained therein, sometimes hereinafter referred to as "Floor Area").

Exhibit C. Description of Landlord's Work.

Exhibit D. Description of Tenant's Work.

Exhibit E. Design Criteria for Tenant's Architectural Standards and Tenant's Signs.

Exhibit F. Design Criteria for Tenant's Mechanical and Electrical Work.

ARTICLE II. LEASED PREMISES AND TERM

Section 2.1 Shopping Center. Landlord is the owner of a tract of land located at the Northeas corner of U. S. Expressway 77/83 and Texas State FM802, Brownsville, Texas. which premises are sometimes hereinafter referred to as "Landlord's Tract." "Landlord's Tract, together with the tentative original buildings to be constructed thereon, are depicted on Exhibit A, and said tracts and any improvements and appurtenances constructed thereon are sometimes hereinafter referred to as ".Sunrise Mall .....". Landlord reserves the right to change the number and location of buildings, building dimensions, the number of floors in any of the buildings, store dimensions, and the identity and type of other stores and tenancies, provided only that the size of the Leased Premises (as hereinafter defined), reasonable access to Tenant's store premises and the parking facilities to be provided shall not be materially impaired.

Section 2.2 Leased Premises. Landlord hereby leases and demises to Tenant, and Tenant hereby leases from Landlord, subject to and with the benefit of the terms of this Lease, the store premises herein referred to as the "Leased Premises" and/or the "demised premises," and more particularly described as follows: All of the storeroom lettered .....C..... and being approximately 210 feet..... in width and .....200..... feet in depth, as measured from the centerline of all common walls and to the outside of all exterior walls, as shown on the site plan attached hereto and made a part hereof as Exhibit B.

Section 2.3 Commencement of the Term. The term of this lease, as provided in Section 1.1 and the obligations of the Tenant to pay rent and other charges herein and to commence retail operations in the demised premises shall commence and accrue on the earlier of (a) the date that the tenant is open for business in the demised premises; or (b) 45.... days after the completion of the Landlord's work in the demised premises in accordance with Exhibit C and the delivery of possession of the demised premises to the Tenant. The receipt by Tenant of certification by Landlord or Landlord's architect that Landlord's work in the demised premises has been completed shall determine the date of delivery by Landlord of possession of the premises to Tenant, provided however, Landlord's work shall be deemed completed if it is being delayed by failure of Tenant to complete its work. The date of commencement of the term of this lease, determined as hereinabove provided, is herein sometimes referred to as "the commencement date." Each of the parties hereto agrees that, upon the commencement date of this lease or from time to time thereafter, upon the request of the other party, it will execute and deliver such further instruments as may be appropriate, setting forth the date of commencement and the date of expiration of the term of this lease.

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Notwithstanding anything contained herein to the contrary, Tenant shall not be required to open for business prior to 10-1-78. Further, Tennant shall not be required to open for business between 11-1 and 2-15 of any year.

Tenant shall have the right, during the period of days set forth in (b) above to enter the demised premises for the purpose of fixturing and otherwise preparing the demised premises for the conduct of Tenant's business therein. Such entry by Tenant on the demised premises shall be subject to all the terms, covenants, and conditions of this lease, except, however, the covenants relating to payment of rent and other charges which shall nevertheless accrue in accordance with the previous paragraph. During such fixturing and other work performed by and/or for Tenant in or about the demised premises or the shopping center, the Tenant, its agents, employees, and contractors shall work in harmony with and subject to the schedule of Landlord, its agents, employees and contractors.

Section 2.4 Completion Date. Landlord agrees that it shall use reasonable efforts to substantially complete construction of the demised premises on or before September 1, 1980, which time to complete and deliver shall be extended to a period equivalent to any time lost by reason of strike, governmental restrictions, acts of God or other causes beyond Landlord's control.

Section 2.5 Term of Lease. The term of this Lease shall be for a period of 20 and a fraction years, if any, from the date of its commencement as hereinabove provided and ending on the twenty-first January 31st thereafter, unless otherwise terminated or extended as provided herein.

Section 2.6 - Options of Renewal -- See Rider

ARTICLE III. CONSTRUCTION BY LANDLORD AND TENANT

Section 3.1 Construction by Landlord. Landlord will construct or cause to be constructed a new building in which the Leased Premises are to be located as shown on Exhibit A, and will construct the Leased Premises as shown on Exhibit B – substantially in accordance with the plans and specifications described in the schedule entitled Landlord's Work which shall hereafter be attached hereto as Exhibit C. Tenant agrees that no mechanical or structural additions or minor changes from any plans or from said outline specifications which may hereafter be made during the construction of the Leased Premises shall change the provisions hereof. Landlord's work shall be deemed approved by Tenant in all respects except for items of Landlord's Work which are not completed or do not conform to Exhibit C, and as to which Tenant shall have given notice to Landlord within 30 days after the last day allowed to Tenant for the completion of Tenant's Work as provided in Section 1.1. Any disagreement which may arise between Landlord and Tenant with reference to the work to be performed by either pursuant to this lease or whether such work has been properly completed shall be resolved by the decision of Landlord's architect.

Section 3.2 Construction by Tenant. All work other than that to be performed by Landlord pursuant to Exhibit C, is to be done by Tenant, in a good and workmanlike manner, free of all mechanics liens, by bonded contractors approved by Landlord, at Tenant's expense and ~~in accordance with the outline description set~~ forth in the schedule entitled Tenant's Work and attached hereto as Exhibit D, the Design Criteria set forth in Exhibits E and F and the plans and specifications hereinafter referred to in this Section 3.2. Tenant agrees to submit to Landlord, within 60 days from the date hereof, complete plans and specifications including engineering, mechanical and electrical work covering Tenant's Work as described in Exhibit D in such detail as Landlord may require and in compliance with Exhibits D, E & F and all applicable statutes, ordinances, regulations and codes, certified by both a licensed registered architect and a licensed registered professional engineer. If said plans and specifications are not so submitted within said 60 days, Landlord may (a) proceed with its work, as hereinabove provided and any changes or revisions thereof required thereafter shall be made at Tenant's sole expense (Landlord shall have the right to determine whether said changes shall be made by Landlord's contractor or Tenant's contractor) or (b) terminate this Lease as provided in Section 10.1 of Article X herein. In such event Landlord shall have the right to recover as its liquidated damages, and not ~~as a penalty a sum of money equal to the Fixed Minimum Rent for three months.~~

SEE INSERT Section 3.2

Section 3.3 Obligations of Tenant Before Lease Term Begins. Tenant shall perform diligently such of its obligations contained in Exhibit D as are to be performed by which shall hereafter be attached at such time as the final plans and specifications have been approved by the parties hereto.

it prior to the beginning of the Lease Term, and shall complete its work not later than 45 days after the premises are made available to it for its work. Tenant shall also observe and perform all of its obligations under this Lease (except its obligations to pay Fixed Minimum Rent, Percentage Rent, and its prorata share for charges for Common Areas and Facilities provided for in Section 5.3) from the date upon which the Leased Premises are made available to Tenant for its work until the Commencement Date of the Lease Term in the same manner as though the Lease Term began when the Leased Premises were so made available to Tenant.

Section 3.4 Contribution Towards Cost of Tenant's Work. When the work described under Tenant's Work in Exhibit D shall have been completed in all respects in accordance with the provisions of Exhibits D, E, and F and the plans and specifications required in Section 3.2 to be submitted by Tenant and approved by Landlord, and when Tenant shall have furnished evidence satisfactory, which shall include a contractor's affidavit and waivers in statutory form from all contractors, subcontractors and materialmen, to Landlord that all of Tenant's Work has been completed and paid for in full and that any and all liens therefor have been or which may be filed have been satisfied of record, and when Tenant shall have opened the Leased Premises for business as provided in this Lease, Landlord shall pay to Tenant Landlord's Contribution, if any, to Tenant's Work, provided Tenant shall execute and deliver to Landlord an estoppel certificate as provided in Section 11.9 hereof, or any other document which may be reasonably requested to be executed by Landlord's mortgagee.

ARTICLE IV. METHOD OF RENT PAYMENT, DETERMINATION OF PERCENTAGE RENT

Section 4.1 The Rent, Fixed Minimum and Percentage. Tenant agrees to pay rent to Landlord, or to such other persons as Landlord may direct, without demand, at such place as Landlord may by notice in writing to Tenant from time to time direct, at the following rates and times:

(a) Fixed Minimum Rent, as provided in Section 1.1, payable in advance in equal successive monthly installments on the first day of each calendar month included in the Lease Term. For any portion of a calendar month included at the beginning of said term, one-thirtieth of such a monthly payment for each day of such portion, payable on the first day of such portion. All past due rentals, additional rentals, and/or other sums due to Landlord pursuant to the terms of this Lease shall bear interest at the rate of ten (10%) percent per annum or the maximum legal rate, whichever is the lesser, from the due date until paid by Tenant.

(b) In addition to Fixed Minimum Rent, Percentage Rent as provided in Section 1.1 shall be payable at the end of each Percentage Rent Period as provided in Section 1.1 in each Lease Year, including renewals, if any, or Partial Lease Year or at the end of a Partial Lease Year if circumstances produce a period of less than a Percentage Rent Period, or otherwise as provided in Section 4.4.

Section 4.2 Lease Year. The term "Lease Year" means a period of twelve (12) consecutive calendar months. The first full Lease Year shall commence on the first day of January following the commencement date of the Lease Term, and each succeeding Lease Year shall commence upon the anniversary date of the first Lease Year. Any portion of the Lease Term commencing prior to the first full Lease Year shall be deemed a "Partial Lease Year."

Section 4.3 Definition of Gross Sales. The term "Gross Sales" as used herein is defined to mean the total amount in dollars of the actual sales price, whether for cash or on credit or partly for cash and partly on credit, of all sales of merchandise and services, and all other receipts of business conducted in or from the Leased Premises and all mail or telephone orders received or filled at or from the Leased Premises and all deposits not refunded to purchasers and all orders taken in and from the Leased Premises whether or not said orders are filled elsewhere and receipts or sales by any sublessee, concessionaire, licensee and any other person or persons doing business in or from the Leased Premises. Gross Sales shall not, however, include any sums collected and paid out by Tenant for any sales or retail

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excise tax imposed by any duly constituted governmental authority, nor shall they include any exchange of goods or merchandise between the stores of Tenant where such exchange of goods or merchandise is made solely for the convenient operation of the business of Tenant and not for the purpose of consummating a sale which has theretofore been made at, in or from the Leased Premises or for the purpose of depriving Landlord of the benefit of a sale which otherwise would be made at, in or from the Leased Premises, nor the amount of returns to shippers or manufacturers, nor the amount of any cash or credit refund made upon any sales, nor sales of fixtures which are not a part of Tenant's stock in trade. Each sale upon installment or credit shall be treated as a sale for the full price in the month during which such sale shall be made, irrespective of the time when Tenant may receive payment from its customer.

nor sales to employees at regular employee discounts

Section 4.4 Payment of Percentage Rent. On or before the thirtieth day after expiration of each Percentage Rent Period included in the Lease Term and thirty (30) days after the expiration or earlier termination of the Lease Term, Tenant shall pay as Percentage Rent a sum equal to the amount, if any, of Tenant's Gross Sales during the preceding Percentage Rent Period, or portion thereof, included in the Lease Term, multiplied by the percentage rent rate as provided in Section 1.1, which exceeds the Fixed Minimum Rent paid for the same period. Percentage Rent due, if any, for the partial lease year commencing on the date Tenant opens for business and ending on the next following December 31st, shall be computed by multiplying the Gross Sales made during said partial lease year by the percentage rent rate set forth in Section 1.1, and thereafter deducting therefrom, the fixed Minimum Rent paid by Tenant for said partial lease year.

~~Notwithstanding anything herein contained to the contrary, at Landlord's re~~quest, payment of Percentage Rent shall be made by Tenant to Landlord on the 15th day of each month in each Lease Year following the month in which Tenant's Gross Sales for said Lease Year (computed from the beginning thereof) have reached

Section 4.5 Maintenance of Records and Examination. Tenant shall ~~utilize cash registers equipped with sealed continuous totals to~~ record all Gross Sales and Tenant shall keep on the Leased Premises or at its main office for a least 18 months after expiration of each Lease Year or Partial Lease Year records conforming to usual accounting practices showing all of the Gross Sales at, in, from, and upon the Leased Premises for such Lease Year or Partial Lease Year, including all tax reports, sales slips, sales checks, bank deposit records and other supporting data. Within 15 days after the end of each calendar month, or portion thereof in the Lease Term, Tenant shall furnish Landlord a statement, ~~certified by one of Tenant's Executive Officers~~, of Tenant's Gross Sales during such month or portion thereof; and on or before March 1st in each calendar year included in the Lease Term and within 60 days after the end of the Lease Term, Tenant shall furnish Landlord a statement, hereinafter called the annual statement, certified by ~~an independent Certified Public Accountant or~~ a corporate officer, approved by the Landlord, of Tenant's Gross Sales during the preceding Lease Year or Partial Lease Year. Landlord shall have the right from time to time by its accountants or representatives to audit all annual statements of Gross Sales and in connection with such audits to examine all of Tenant's records (including all supporting data) of Gross Sales and Tenant shall make all such records available for such examination. If any such audit discloses that the actual Gross Sales by Tenant exceeded those reported, Tenant shall forthwith pay the percentage rent due for the excess ~~and if such audit discloses that said Gross Sales exceeded those reported by more than 1%, Tenant shall pay the cost of such audit and examination, and if such audit discloses that said Gross Sales exceeded those reported by more than 5%, Landlord shall have the right to terminate this Lease.~~

ARTICLE V. COMMON AREAS AND FACILITIES

Section 5.1 Common Areas and Facilities. Landlord shall make available, from time to time, such areas and facilities of common benefit to the Tenants and occupants of the Landlord's Tract, as Landlord shall deem appropriate. The "common areas," as herein referred to, shall consist of all parking areas, streets, sidewalks, malls, roof, driveways, loading platforms, canopies, elevators, escalators, washrooms, lounges and shelters, landscaped areas, service drives and all other facilities available for common use, all as they may from time to time

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exist and be available to all the tenants in the Shopping Center, their employees, agents, customers, licensees and invitees.

Section 5.2 Use of Common Areas. Tenant and it's permitted concessionaires, officers, employees, agents, customers and invitees shall have the nonexclusive right, in common with Landlord and all others to whom Landlord has or may hereafter grant rights, to use the common areas as designated from time to time by Landlord, subject to such reasonable regulations as Landlord may from time to time impose including the designation of specific areas in which cars owned by Tenant, its permitted concessionaires, officers, employees and agents must be parked. Tenant agrees to abide by such regulation and to use its best efforts to cause its permitted concessionaires, officers, employees, agents, customers and invitees to conform thereto. Landlord may at any time close temporarily any common area to make repairs or changes to prevent the acquisition of public rights in such area or to discourage noncustomer parking; and may do such other acts in and to the common areas as in its judgment may be desirable to improve the convenience thereof. Tenant shall upon request furnish to Landlord the license numbers and description of the cars operated by Tenant and it's permitted concessionaires, officers and employees. Tenant shall not at any time interfere with the rights of Landlord and other tenants, it's and their permitted concessionaires, officers, employees, agents, customers, and invitees, to use any part of the parking areas and other common areas. Failure of Tenant to abide by Landlord's rules and regulations shall be considered to be a default by Tenant hereunder and shall entitle Landlord to exercise any of its rights and/or remedies herein set forth.

Section 5.3 Charge for Common Area and Facilities. As used in this lease, the term "common area costs" means the total of all items of expense relating to operating, managing, equipping, policing and protecting if provided, lighting, insuring, repairing, replacing and maintaining the utility of the common areas in the same condition as when originally installed. Such costs and expense shall include, but not be limited to, removal of snow, ice, rubbish, dirt and debris, costs of planting, replanting and replacing flowers and landscaping and supplies required therefor, and all costs of utilities used in connection therewith, including, but not by way of limitation, all costs of maintaining elevators, speed ramps and escalators, lighting facilities and storm drainage systems, the cost for boiler and electrical apparatus insurance, the costs of heating and cooling the enclosed malls, the cost of a supervised fire sprinkler alarm system, and all premiums for Workmen's Compensation insurance, wages, unemployment taxes, social security taxes and personal property taxes, fees for required licenses and permits and administrative costs equal to fifteen percent (15%) of the total costs of operating and maintaining the "common area".

Effective upon the date on which rental shall be determined to commence under the provisions of Article IV hereof, and as additional rent hereunder, Tenant shall pay to Landlord, upon demand, but not more often than once a month, Tenant's share of the common areas costs (based upon Landlord's estimates), which share shall be computed as follows: (i) During the Lease Term hereof, Tenant's share of common area costs shall be the product which results by multiplying such common area costs ~~(less any contributions to said costs made by the department store or stores)~~ by the percentage that the gross square foot area of the Leased Premises is of the gross square foot area of all stores or store spaces in said Shopping Center (including the building areas occupied by said department store or stores) which are occupied and open for business including the Leased Premises, provided, however, in no event will Tenant's share of the common area costs be calculated on the basis of less than eighty percent (80%) occupancy. In the event Tenant shall open the Leased Premises for business on Sundays and or holidays when less than fifty percent (50%) of the gross square foot area of the Shopping Center is open for business, then Tenant shall pay to Landlord, in addition to Tenant's share of the common area costs due to Landlord hereunder, a sum equivalent to one twenty-fifth (1/25th) of Tenant's monthly share of the common area costs for each such Sunday and/or holiday on which Tenant shall open the leased premises for business. Nothwithstanding any other provisions of this Article V, in no event will Tenant's share of total common area costs be less than the greater of (i) fifty ($.50) cents ----- per square foot of floor area of the Leased Premises per year or (ii) its pro-rata share as herein above provided.

Within ninety (90) days following the end of each lease year, Landlord shall furnish to Tenant a statement, certified as correct by a Certified Public Accountant or an officer of Landlord, showing the total common area costs for the lease year just expired, the amount of Tenant's share of such common area costs and payment made by Tenant during such calendar year under paragraph 5.3 of this Article V. If Tenant's share of such common area costs for such lease year shall exceed Tenant's payment so made, Tenant shall pay to Landlord the deficiency within ten (10) days after receipt of said statement.

ARTICLE VI. UTILITY SERVICE

Section 6.1 Utilities. Tenant agrees that throughout the term of this lease, it will pay for and provide its own water meter, water meter pit, and other meters, heat, air conditioning, water, gas, electricity and all other utilities, and Tenant further agrees that it will pay all water and sewage charges imposed by government authority or otherwise.

If Tenant receives utilities through a meter which utilities are also supplied to other Tenants of the Shopping Center, then Tenant shall pay to Landlord as additional rent within five (5) days after demand therefor a sum equivalent to its proportionate share of the total utility meter charges as Tenant's portion thereof and a sum equivalent to its proportionate share of the total water and sewer charges as Tenant's portion thereof. Tenant's proportionate share of such charges shall be determined by multiplying the total charges incurred by Landlord for said charges by a fraction, the numerator of which shall be the total number of square feet within the Leased Premises, and the denominator of which shall be the total number of square feet within that portion of the Shopping Center which is included in and connected to the same utility meters as the Leased Premises.

Tenant acknowledges that the installation by Landlord of a covered, heated and air conditioned Enclosed Mall in the Shopping Center shall not relieve the Tenant of its obligations to supply all heat, air conditioning and other utilities to the demised premises, and Tenant further covenants and agrees in furtherance thereof that it will at all times supply to the demised premises such heat and air conditioning as may be necessary to bring the demised premises to the proper temperatures and that it will not at any time obtain or seek to obtain any such conditioned or heated air by methods or means which would draw such conditioned or heated air from the air conditioned and heated Enclosed Mall in the Shopping Center.

Landlord and Tenant agree that each will pay its equitable share of all utilities used in the demised premises from and after the date Tenant shall have entered into possession thereof as permitted under the provisions of Section 2.3 for fixturing, until the Commencement Date.

Regardless of the foregoing agreements in this Section 6.1, in the event the Landlord elects to supply the water, gas, heat, electricity or other utilities in lieu of the same being furnished by public utilities, the Tenant agrees to participate in the Landlord's utility operation on the following basis: Tenant shall be solely responsible for and promptly pay as additional rent all charges for heat, water, gas, electricity or any other utility used or consumed in the leased premises. Tenant agrees to purchase and pay for the same in accordance with separate Subscriber's Service Agreement to be negotiated and entered into between Tenant and Landlord. The rates to be charged by Landlord shall not exceed the lowest public utility rates available to the Tenant, plus reasonable maintenance charges. Such maintenance charges to apply to the HVAC equipment serving the premises only and not for the maintenance of any central plant operation nor any electrical maintenance. In no event shall Landlord be liable for an interruption or failure in the supply of any such utilities to the leased premises.

~~If toilets and washroom facilities are designed to be used in common by Tenant~~ and its employees with occupants of other stores, ~~Tenant agrees~~ to share equally with the occupants of the other ~~stores in the~~ expense of lighting and maintaining such common ~~facilities in a~~ clean, orderly and sanitary manner, including the ~~expense of the~~ usual toilet and washroom supplies of paper, soap, and towels. ~~Landlord shall have the right to assume the obligation of maintaining such common~~

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~~facilities, and if it elects to do so, Tenant shall pay its proportionate share of the cost thereof as additional rent due on the first day of the month following rendition of a bill therefor.~~

Section 6.2 Agency or Independent Contractor. Any utility services which Landlord is required or elects to furnish pursuant to this Article VI may be furnished by any agent employed by Landlord or by an Independent Contractor.

ARTICLE VII. LANDLORD'S ADDITIONAL COVENANTS

Section 7.1 Repairs by Landlord. Landlord covenants at its expense to keep the foundations of the Leased Premises and the structural soundness of the concrete floors and exterior walls [as same is defined in Article VIII, Subsection 8.1 F (b)]; thereof, in good order, repair and condition, unless any necessary work is required because of damage caused by any act, omission or negligence of Tenant, any permitted concessionaire or their respective employees, agents, invitees, licensees or contractors. Landlord shall not be required to commence any such repair until a reasonable time after written notice from Tenant that the same is necessary. The provisions of this paragraph shall not apply in the case of damage or destruction by fire or other casualty or a taking under the power of eminent domain, in which events the obligations of Landlord shall be controlled by Article IX. Except as provided in this Section 7.1, all other repairs, replacements, or improvements to the Leased Premises shall be the responsibility of Tenant.

Section 7.2 Quiet Enjoyment. Landlord covenants that Tenant on paying the rent and performing Tenant's obligations in this Lease shall peacefully and quietly have, hold and enjoy the Leased Premises throughout the Lease Term or until it is terminated as in this Lease provided.

ARTICLE VIII. TENANT'S ADDITIONAL COVENANTS

Section 8.1 Affirmative Covenants. Tenant covenants at its expense at all times during the Lease Term and such further time as Tenant occupies the Leased Premises or any part thereof.

A. To perform promptly all of the obligations of Tenant set forth in this Lease, and to pay when due the Fixed Minimum Rent, Percentage Rent and all charges, rates and other sums which by the terms of this Lease are to be paid by Tenant, without any set-offs whatsoever.

B. To use the Leased Premises only for the Permitted Uses; to operate its business in the Leased Premises under Tenant's Name provided in Section 1.1; for the entire lease term, and to conduct its business at all times in a high grade and reputable manner so as to produce the maximum volume of sales and transactions and to help establish and maintain a high reputation for ....Sunrise Mall.....

C. To refer to the Shopping Center as .....Sunrise Mall..... in designating the location of the Leased Premises in all newspaper or other advertising, stationery, other printed material and all other references to location; to include the address and identity of its business activity in the Leased Premises in all advertisements made by Tenant in which the address and identity of any other business activity of like character conducted by Tenant within the ....Brownsville..... Metropolitan Area shall be mentioned and to use in such advertising, only the Tenant's trade name provided in Section 1.1.

D. Except when and to the extent that the Leased Premises are untenantable by reason of damage by fire or other casualty to use and continuously operate for retail sales purposes all of the Leased Premises other than such minor portions thereof as are reasonably required for storage and office purposes; to use such storage and office space only in connection with the business conducted by Tenant in the Leased Premises; to furnish and install all trade fixtures which shall at all times be suitable and proper for carrying on Tenant's business; to carry a full and complete stock of seasonable merchandise offered

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and operate as a Beall Brothers Department Store,

for sale at competitive prices; to maintain adequate trained personnel for efficient service to customers; to open for business and remain open during the entire Lease Term on all business days, including such evenings and during such business hours as shall be determined by Landlord; and to light its display windows and signs, if any, during any hours when either Sunrise Mall or the Leased Premises are open for business or when any enclosed court areas or other enclosed common areas are open to the public.

provided however, that Tenant shall not be required to ope for business if both Sears and K mart are not also open for business. Further, Tenant shall not be required to open on Sundays. It is expressly understood that in the event either one of the above Tenants is open for business, Tenant shall also be required to ope for business.

E. To store in the Leased Premises only such merchandise as is to be offered for sale at retail within a reasonable time after receipt; to store all trash and refuse in adequate containers within the Leased Premises which Tenant shall maintain in a neat and clean condition and so as not to be visible to members of the public shopping in Sunrise Mall and so as not to create any health or fire hazard, and to attend to the daily disposal thereof in the manner designated by Landlord; to keep all drains inside the Leased Premises clean; to receive and deliver goods and merchandise only in the manner and at such times and in such areas as may be designated by Landlord; and to conform to all rules and regulations which Landlord may make in the management and use of Sunrise Mall requiring such conformance by Tenant's employees. If the Leased Premises are used for the sale of food for consumption, such as for a restaurant or snack bar, Tenant shall store all trash, refuse and garbage in a garbage storeroom or compartment which Tenant shall install and keep in repair at its sole expense. The temperature thereof shall constantly be maintained at no less than 50 degrees or more than 55 degrees Fahrenheit.

F. (a) Throughout the term of this lease Tenant shall, at Tenant's sole cost and expense, take good care of the demised premises and the pipes, plumbing, glass, store-fronts, electric wiring, air conditioning and heating equipment, boilers, motors, engines, tanks, machinery, fixtures, appliances and appurtenances belonging thereto installed for the use or used in connection with the demised premises and shall, at Tenant's own expense, ~~by contractors or mechanics approved by Landlord,~~ make as and when needed all repairs in or about the demised premises and in and to all such equipment, fixtures, appliances and appurtenances necessary to keep the same in good order and condition.

except if occasioned by the negligent act or omissio of Landlord, its agents, se vants, or employees

When used in this lease the term "repairs" shall include all replacements, renewals, alterations, additions and betterments. All repairs made by Tenant shall be equal in quality and class to the original work.

(b) As used in this article and Article VII, the expression "exterior walls" shall not be deemed to include store front or store fronts, plate glass, window cases, or window frames, doors or door frames. It is understood and agreed that the Landlord shall be under no obligation to make any repairs, alterations, renewals, replacements or improvements to and upon the demised premises or the mechanical equipment exclusively serving the demised premises at any time except as in this lease expressly otherwise provided, except if occasioned by the negligent act o omission of Landlord, its agents, servant or employees.

~~(c) After the first five (5) years of the lease term, Tenant shall, upon~~ the request of Landlord, refurbish all or any portion of the interior of the demised premises to the end that the furnishings, furniture, flooring, walls, fixtures, equipment, and other appointments in the interior of the demised premises shall be substantially in the same condition and appearance as at the commencement of the lease term. If, at the time of such refurbishing, the unexpired portion will be less than five years, Tenant shall have the option to extend the lease term so that the unexpired portion will be five years from the completion of the refurbishing; provided that for the period which extends beyond the original lease term the minimum annual rental shall be the greater of (i) the minimum annual rental provided in Article 1 (1), or (ii) ninety (90%) percent of the aggregate of minimum and percentage rent actually paid by Tenant for the ~~calendar year immediately preceding Landlord's request for refurbishing.~~

G. To make all repairs, alterations, additions or replacements to the Leased Premises whether interior or exterior, or structural or non-structural required by any law or ordinance or any order or regulation of any public authority because of Tenant's use of the Leased Premises; to keep the Leased Premises equipped with all safety appliances so required because of such use; to procure any license and permits required for any such use; and to comply with the orders and regulations of all governmental authorities.

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H. If the demised premises be or becomes infested with vermin, Tenant shall at Tenant's expense cause the same to be exterminated from time to time to the satisfaction of Landlord and shall employ such exterminators and such exterminating company or companies as shall be approved by Landlord.

I. To pay promptly when due the entire cost of any work in the Leased Premises undertaken by Tenant so that the Leased Premises shall at all times be free of liens for labor and materials; to procure all necessary permits before undertaking such work; to do all of such work in a good and workmanlike manner, employing materials of good quality; to perform such work only with contractors and plans previously approved of in writing by Landlord; to comply with all governmental requirements; and to save Landlord and Landlord's beneficiaries and agents harmless and indemnified from all injury, loss, claims or damage to any person or property (including the cost for defending against the foregoing) occasioned by or growing out of such work.

J. To save Landlord, Landlord's beneficiaries and agents and their respective successors and assigns harmless and indemnified from all injury, loss, claims or damage to any person or property while on the Leased Premises or any other part of Sunrise Mall occasioned by an act or omission of Tenant; or anyone claiming by, through or under Tenant; to maintain in responsible companies ~~approved by Landlord~~ authorized to do business in the State of Texas; public liability insurance, insuring Landlord, Landlord's beneficiaries and agents, as their interests may appear, against all claims, demands, or actions for injury to or death in an amount of not less than $1,000,000 arising out of any one occurance and for damage to property in an amount of not less than $250,000 arising out of any one occurance, made by or on behalf of any person, firm or corporation, arising from, related to, or connected with the conduct and operation of Tenant's business in the Leased Premises, and anywhere upon Landlord's Tract, ~~(Landlord shall have the right to direct Tenant to increase said amounts whenever it considers them inadquate)~~ and, in addition, and in like amounts, covering Tenant's contractural liability under the aforesaid hold harmless clause. In the event, Tenant installs its own boilers, machinery, and/or compressors within the Leased Premises, Tenant shall maintain at its expense, boiler, machinery, and/or compressor insurance coverage, insuring against loss or damage to persons and/or property resulting from same, in limits equal to the amounts hereinabove setforth. Tenant shall maintain plate glass insurance covering all exterior plate glass in the Leased Premises, and fire, extended coverage, vandalism, and malicious mischief insurance and such other insurance as Landlord may from time to time require covering all of Tenant's stock in trade, fixtures, furniture, furnishings, floor coverings and equipment in the Leased Premises to the extent of at least eighty percent (80%) of their replacement cost. Tenant shall have the right to self insure against plate glass damage All of said insurance shall be in form and in responsible companies ~~satisfactory to Landlord~~ authorized to do business in the State of Texas and shall provide that it will not be subject to cancellation, termination or change except after at least thirty (30) days prior written notice to Landlord. The policies or duly executed certificates for the same (which certificates shall evidence the insurance waiver of subrogation) together with satisfactory evidence of the payment of the premium thereon, shall be deposited with Landlord on the day Tenant begins Tenant's work, and upon renewals of such policies, not less than thirty (30) days prior to the expiration of the term of such coverage; and that if Tenant fails to comply with such requirements, Landlord may obtain such insurance and keep the same in effect and Tenant shall pay Landlord the premium cost thereof upon demand. Each such payment shall constitute additional rent payable by Tenant under this Lease, and Landlord shall not be limited in the proof of any damages which Landlord may claim against Tenant arising out of or by reason of Tenant's failure to provide and keep in force insurance as aforesaid, to the amount of insurance premium or premiums not paid or incurred by Tenant and which would have been payable upon such insurance, but Landlord, in addition to any and all other rights and remedies provided Landlord under the terms of this lease, shall also be entitled to recover as damages for such breach the uninsured amounts of any loss, to the extent of any deficiency in the insurance required by the provisions of this lease.

K. Landlord and Landlord's agents and employees shall not be liable for, and Tenant waives all claims for, damage to person or property sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in or upon the Leased Premises or the building of which they shall

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be a part, or any other part of .....Sunrise Mall....., including, but not limited to, claims for damage resulting from: (a) Any equipment or appurtenances becoming out of repair; (b) Landlord's failure to keep said building or the Leased Premises in repair; (c) injury done or occasioned by wind, water, or other natural element; (d) any defect in or failure of plumbing, heating, or air-conditioning equipment, electric wiring or installation thereof, gas, water and steam pipes, stairs, porches, railings, or walks; (e) broken glass; (f) the backing up of any sewer pipe or downspout; (g) the bursting, leaking or running of any tank, tub, washstand, sprinkler system, water closet, waste pipe, drain or any other pipe or tank in, upon or about such building or Leased Premises; (h) the escape of steam or hot water (it being agreed that all of the foregoing are under the control of Tenant); (i) water, snow, or ice being upon or coming through the roof, skylight, trapdoor, stairs, walks or any other place upon or near such building or the Leased Premises or otherwise; (j) the falling of any fixtures, plaster or stucco; and (k) any act, omission or negligence of co-tenants or of other persons or occupants of said building or of adjoining or contiguous buildings or of owners of adjacent or contiguous property.

L. To permit Landlord, Landlord's mortgagee and their agents to enter the Leased Premises at reasonable times for the purpose of inspecting the same, of making repairs, additions or alterations thereto or to the building in which the same are located and of showing the Leased Premises to prospective purchasers, lenders and tenants.

M. To remove, at the termination of this Lease, provided Tenant is not in default, such of Tenant's moveable trade fixtures, and other personal property, as are not permanently affixed to the Leased Premises; to remove such of the alterations and additions and signs made by Tenant as Landlord may request; to repair any damage caused by such removal; and peaceably to yield up the Leased Premises and all alterations and additions thereto (except such as Landlord has requested Tenant to remove) and all fixtures, furnishings, floor coverings and equipment which are permanently affixed to the Leased Premises, including carpet, which, for the purpose of this Lease shall be deemed to be permanently affixed to the Leased Premises, which shall thereupon become the property of the Landlord, in clean and good order, repair and condition, damage by fire or other unavoidable casualty excepted. Any personal property of Tenant not removed within five (5) days following such termination shall, at Landlord's option, become the property of the Landlord.

N. The rights and interest of Tenant under this Lease shall be subject and subordinate to any first mortgages or trust deeds hereafter placed upon the Landlord's Tract and the Leased Premises, and to any advances made thereunder, and to the interest thereon, and all extensions, renewals, refinancing, and modifications thereof, if the mortgagee or trustee named in said mortgage or trust deed shall elect, by written notice delivered to Tenant, to subject and subordinate the rights and interest of Tenant under this Lease to the Lien of its mortgage or trust deed and shall agree to recognize this Lease of Tenant in the event of foreclosure if Tenant is not in default. Any mortgagee or trustee may elect also to give the rights and interest of Tenant under this Lease priority over the lien of its mortgage or trust deed. In the event of either such election and upon notification by such mortgagee or trustee to Tenant to that affect, the rights and interest of Tenant under his Lease shall be deemed to be subordinate to, or to have priority over, as the case may be, the lien of said mortgage or trust deed, whether this lease is dated prior to or subsequent to the date of said mortgage or trust deed. Tenant shall execute and deliver whatever instruments may be required for such purposes, ~~and in the event Tenant fails to do so~~ within ten (10) days after demand in writing, ~~Tenant does hereby make, constitute and irrevocably appoint Landlord as its attorney in fact and in its name, place and stead so to do.~~

Further, if any financing institution requires any modifications of the terms and provisions of this lease as a condition to such financing as Landlord may desire, then Tenant shall execute and deliver such modification as may be required for such purposes, ~~and in the event Tenant fails to do so~~ within ten (10) days after demand in writing, ~~Tenant does hereby make, constitute and irrevocably appoint Landlord as its attorney in fact, and, in its name, place and stead so to do.~~ Such modification or modifications shall not effect any of

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the provisions of the lease relating to the amount of Minimum and Percentage Rents reserved, reducing the purposes for which the Leased Premises may be used, the size and/or location of the premises, the duration and/or commencement date of the terms, or reducing the improvements to be made by Landlord to the premises prior to delivery of possession, or increase any obligation or reduce any rights of Tenant hereunder.

O. The Tenant will become a member of, participate fully in, and remain in good standing in the Merchants' Association (as soon as the same has been formed) limited to tenants occupying premises in the Shopping Center, and abide by the regulations of such Association. Each member tenant shall have one vote and the Owner shall also have one vote in the operation of said Association. The objects of such association shall be to encourage its members to deal fairly and courteously with their customers, to sell their merchandise or services at fair prices, to follow ethical business practices, to assist the business of the Tenants by sale promotions and center-wide advertising, and in particular to help the interests of members of said Association. The Tenant agrees to pay on the date established for the payment of Fixed Minimum Rent dues to the Merchants' Association in the amount of $525.00 per month (calulated annually on the basis of .15 ¢ per sq. ft.), ~~or a minimum annual fee of $600, whichever is greater~~ subject however to annual adjustments, approved by a majority vote of the members of the Association, increasing said dues to the extent required by increases in the costs of promotional public relations and advertising services. In any event, the continuing monthly contributions to the Association will be adjusted annually by a percentage increase in the same proportion that the Consumer Price Index (1967=100) for All Urban Consumers, U.S. City Average, for all items, as published by the United States Department of Labor, Bureau of Labor Statistics, as published at the end of each lease year shall increase from that Index published closest to the date of this Lease. The Tenant also agrees to pay, as an initiation fee, to the Merchants' Association, in addition to the foregoing dues, an amount of $ 6300.00 (calculated on the basis of $ .15 ¢ per square foot of the area of the leased premises) ~~or $600 whichever is greater~~, which fee shall be payable at such time as Tenant opens for business. The Owner shall pay to the Merchants' Association as its initiation fee an amount equal to one-fourth of the aggregate assessments paid by all members of the Association, and shall pay to the Merchants' Association for the continuing promotion of the Shopping Center an amount equal to one-fourth of the aggregate monthly dues paid by the members of the Association. Nothing in the By-Laws or regulations of the said Association shall be in conflict with the provisions of this lease, including without limiting the generality of the foregoing any reasonable rules and regulations adopted pursuant to the provisions of Section 8.1 U hereof, or in any way shall affect the rights of the Owner.

P. (a) Tenant agrees to pay to Landlord, Tenant's prorata share of the real estate taxes during the term of this Lease, any renewal or extension thereof, including any period during which Tenant shall transact business in the Leased Premises prior to the commencement of the term of this Lease. For the purposes of this Section, the term "real estate taxes" shall include all real estate taxes and assessments, both general and special, water and sewer rents (except water meter charges and sewer rent based thereon) and other governmental impositions and charges of every kind and nature whatsoever which may be assessed against the land and buildings, extraordinary as well as ordinary, foreseen and unforeseen, and each and every installment thereof which shall or may, during the Lease Term, be levied, assessed, imposed, become due and payable, or liens upon, or arising in connection with, the use, occupancy or possession of or grow due or payable out of or for, the Shopping Center or any part thereof, and all costs incurred by Landlord in contesting or negotiating the same with governmental authority. Tenant's prorata share shall be equal to the product obtained by multiplying such taxes and assessments by a fraction, the numerator of which shall be the number of square feet of floor area in the Leased Premises and the denominator of which shall be the total number of square feet of constructed gross leasable floor area in the Shopping Center as of the day of assessment excluding the floor area contained in any department store buildings owned by the respective Tenant occupying same, or its successors and/or assigns.

Nothing herein contained shall be construed to include as a tax which shall be the basis of real estate taxes, any inheritance, estate, succession, transfer, gift, franchise, corporation, income or profit tax or capital levy that is or may

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be imposed upon Landlord; provided, however, that, if at any time during the Lease term the methods of taxation prevailing at the commencement of the Lease term shall be altered so that in lieu of or as a substitute for the whole or any part of the taxes now levied, assessed or imposed on real estate as such, there shall be levied, assessed or imposed (i) a tax on the rents received from such real estate, or (ii) a license fee measured by the rents receivable by Landlord from the Shopping Center or any portion thereof, or (iii) a tax or license fee imposed upon Landlord which is otherwise measured by or based in whole or in part upon the Shopping Center or any portion thereof, then the same shall be included in the computation of real estate taxes hereunder, computed as if the amount of such tax or fee so payable were that due if the Shopping Center were the only property of Landlord subject thereto.

~~Tenant agrees to pay to the Landlord _____ cents (____) per month~~ for each square foot of Floor Area contained in the Leased Premises on the first day of each calendar month as its estimated payment of first years taxes. For each year thereafter Tenant shall pay Landlord monthly one-twelfth (1/12th) of the amount of the Tenant's tax liability for the preceding calendar year. Within 30 days prior to the actual payment of the tax bill, Landlord shall notify Tenant in writing of the actual amount due by Tenant for the preceding calendar year or any portion thereof. Any amount paid by Tenant which exceeds the true amount due shall be credited on the next succeeding payment due pursuant to this section. If Tenant has paid less than the amount due, Tenant shall pay the difference within ten (10) days of receipt of notice from Landlord. If the term of this Lease shall begin or end other than on the first or last day of a calendar year, these charges shall be billed and adjusted on the basis of such fraction of a calendar year. Should the taxing authority include in such real estate taxes, machinery, equipment, fixtures, inventory or other personal property or assets of Tenant, then Tenant shall pay the entire real ~~estate taxes for such items~~.

(b) Tenant shall also pay to Landlord, as additional rent, Tenant's prorata share of premiums for fire, rental, and liability insurance (with all its endorsements) paid annually by Landlord during the Lease term . Tenant's prorata share shall be based on the ratio of the total floor area on all floors of the Leased Premises to the total rentable floor area of all floors of building space constructed in Landlord's Tract as of the first day of such Lease year, but excluding any building or store leased, owned, and/or occupied by a department store or stores. The payment by Tenant of its share of insurance premium will be made to Landlord in equal monthly installments on the first day of every calendar month with Tenant's Fixed Minimum Rent, and this covenant shall survive the expiration or earlier termination of the Lease term.

Q. To remain fully obligated under this Lease notwithstanding any assignment or sublease or any indulgence granted by Landlord to Tenant or to any assignee or sublessee.

R. To obtain any music that Tenant elects to play in the Leased Premises from the same source as Landlord's music, in the event that Landlord contracts for a system of music for use in any Enclosed Malls.

S. To promptly furnish Landlord, from time to time, financial statements reflecting Tenant's current financial condition, whenever requested by Landlord.

T. (a) Prior to the commencement date and thereafter throughout the term of this lease Tenant, at Tenant's sole cost and expense, shall promptly comply with all present and future laws, ordinances, orders, rules, regulations and requirements of all federal state, municipal and local governments, departments, commissions, boards and officers, and all orders, rules and regulations of the National Board of Fire Underwriters, the local Board of Fire Underwriters, or any other body or bodies exercising similar functions, foreseen or unforeseen, ordinary as well as extraordinary, which may be applicable to the demised premises and to all or any parts thereof and/or any and all facilities used in connection therewith ~~and the sidewalks, areaways, passageways, curbs and vaults, if any, adjoining the demised premises, or to the use or manner of use of the demised premises, or the owners, tenants or occupants thereof,~~ whether or not any such law, ordinance, order, rule, regulation or requirement shall interfere with the use and enjoyment of the demised premises. Tenant shall not be required to make structural repairs or alterations unless

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it has by its use of the demised premises or method of operation therein violated any such laws, ordinances, orders, rules, regulations or requirements.

Tenant's use of

(b) Tenant shall likewise observe and comply with the requirements of all policies of public liability, fire and all other policies of insurance at any time in force with respect to the demised premises or any part thereof.

(c) The Tenant shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of or be imposed because of the failure of Tenant to comply with the provisions of this Article VIII, and in any event agrees to indemnify the Landlord against all liability. Tenant shall promptly give notice to Landlord of any notice of violation received by Tenant. Without diminishing the obligation of Tenant, if Tenant shall at any time after ~~five (5)~~ fifteen (15) days notice by Landlord fail or neglect to comply, or commence to comply as expeditiously as is reasonably feasible, with any of said laws, rules, requirements, orders, directions, ordinances or regulations concerning or affecting the demised premises, or the use and occupancy thereof, as hereinbefore provided, and, if a stay is necessary, shall have failed to obtain a stay or continuance thereof, Landlord shall be at liberty to comply therewith, and all expenses consequent thereon shall be borne and paid by Tenant; and upon Tenant's failure so to pay, Landlord may pay the same, and any payments so made by Landlord, together with the interest thereon to be computed at the rate of ten (10%) percent per annum or the maximum legal rate from the date of payment, shall immediately become due and payable by Tenant as additional rent.

U. To comply with all further reasonable and non discriminating rules and regulations for the use and occupancy of the Shopping Center as Landlord, in its sole discretion, from time to time promulgates for the best interests of the Shopping Center. Landlord shall have no liability for violation by any other tenant of the Shopping Center of any rules or regulations, nor shall such violation or the waiver thereof excuse Tenant from compliance.

V. To advertise, with a minimum of a one-quarter of a page advertisement in at least six (6) Shopping Center joint advertising circulars.

Section 8.2 Negative Covenants. Tenant covenants at all times during the Lease Term and such further time as Tenant occupies the Leased Premises or any part thereof:

~~A. If Tenant, or (if a corporation) any officers, directors, or shareholders,~~ or any entity affiliated with Tenant in any manner whatsoever, ~~owning~~ more than twenty-five (25%) percent of the issued and outstanding capital stock of Tenant shall be interested directly or indirectly in any other business or store of a similar nature as contemplated in this lease within a radius of five (5) miles from ....., then any gross sales from such business or store shall be included in determining the percentage rental due and ~~payable to Landlord under this Lease.~~

B. Not to injure, overload, deface, or otherwise harm the Leased Premises; or commit any nuisance; nor unreasonably annoy owners or occupants of neighboring property; nor use the Leased Premises for any extra-hazardous purpose or in any manner that will suspend, void or make inoperative any policy or policies of insurance of the kind generally in use in the State of .....Texas..... at any time carried on any improvement within ...Sunrise Mall..... or in any manner which will increase the cost of any of Landlord's insurance; nor burn any trash or refuse within ...Sunrise Mall.....; or sell, display, distribute or give away any alcoholic liquors or beverages; nor sell, distribute or give away any product which tends to create a nuisance in the common areas; nor make any use of the Leased Premises which is improper, offensive or contrary to any law or ordinance or any regulation of any governmental authority; nor conduct or permit any going-out-of-business, bankruptcy, fire, or auction sales on the Leased Premises; nor use any system for the reception of music which has not been approved by Landlord; nor use any advertising such as hand bills, flashing lights, searchlights, loud speakers, phonographs, sound amplifiers or radio or television receiving equipment in a manner to be seen or heard out-

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side the Leased Premises; nor load, unload, or park any truck or other delivery vehicle in any area of .....Sunrise Mall..... other than the area or areas designated therefor by Landlord; nor use any sidewalks, walkways, malls or common areas in .....Sunrise Mall..... for the storage or disposal of trash or refuse or the keeping or displaying of any merchandise or other object, including, but not by way of limitation, the use of any of the foregoing for any newstand, cigar stand, sidewalk shop or any business occupation or undertaking (such uses of such areas being reserved to Landlord and its designees); nor place any fence, structure, barricade, building, improvement, division rail or obstruction of any type or kind on any part of the common areas; nor use the malls, courts and walks for any purpose other than pedestrian traffic; nor install or use any sign or other advertising device on the exterior of the Leased Premises, other than a store identity sign approved by Landlord on that part of the exterior of the Leased Premises which fronts on the Enclosed Mall; nor use or permit the use of any portion of the Leased Premises as living quarters, sleeping apartments or lodging rooms; nor do any act tending to injure the reputation of .....Sunrise Mall.....

Further, Tenant may place a sign on the exterior of the Mall, the size, design, and location of which must be approved by Landlord

in excess of Ten Thousand ($10,000) Dollars

C. Not to make any alterations or additions; nor permit the making of any holes in the walls, partitions, ceilings or floors, nor permit the painting or placing of any exterior signs, placards or other advertising media, awnings, aerials, antenna, or the like, without on each occasion obtaining the prior written consent of Landlord, and not to attach interior signs, placards or other advertising media to the windows or locate the same in such manner as to materially obstruct the view of Tenant's store from the Enclosed Mall area or from the outside.

D. Not to operate any coin or token operating vending machine or similar device for the sale of any goods, wares, merchandise, food, beverages, or services to the general public, including, but not limited to, pay telephones, pay lockers, pay toilets, scales, amusement devices and machines for the sale of beverages, food, candy, cigarettes or other commodities.

E. Not to assign, sell, mortgage, pledge or in any manner transfer this Lease or any interest therein, by operation of law or otherwise, or sublet the Leased Premises or any part or parts thereof, or permit occupancy by anyone with, through or under it, without Landlord's consent, which consent shall not be unreasonably withheld.

If this Lease be assigned or if the demised premises or any part thereof be underlet or occupied by anybody other than Tenant, Landlord may, after default by Tenant collect rent from the assignee, undertenant or occupant, and apply the net amount collected to the rent herein reserved, but no such assignment, underletting, occupancy or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, undertenant or occupant as Tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained. The consent by Landlord to an assignment or underletting shall not in anyway be construed to relieve Tenant from obtaining the express consent in writing of Landlord to further assignment or underletting.

F. Not to operate or use, or permit or suffer to be operated or used, all or any part of the Leased Premises as or for a discount house, Army-Navy store, surplus store, bargain store, or any similar use; or to use, or permit any subtenant of Tenant to use, any sidewalks in .....Sunrise Mall..... for any newsstand, cigar stand, sidewalk shop, taxi stand, or other business, occupation or undertaking without the prior written consent of Landlord.

G. Not to suffer any mechanic's lien to be filed against the Leased Premises or .....Sunrise Mall..... by reason of any work, labor, services or materials performed at or furnished to the Leased Premises, to Tenant, or to anyone holding the Leased Premises through or under the Tenant. If any such mechanic's lien shall at any time be filed, Tenant shall forthwith cause the same to be discharged of record by payment, bond, order of a court of competent jurisdiction or otherwise, but Tenant shall have the right to contest any and all such liens, provided security satisfactory to Landlord is deposited with it. If Tenant shall fail to cause such a lien to be discharged within thirty (30) days after being notified of the filing thereof and before judgment or sale thereunder, then, in addition to any other right or remedy of

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Landlord, Landlord may, but shall not be obligated to, discharge the same by paying the amount claimed to be due or by bonding or other proceeding deemed appropriate by Landlord, and the amount so paid by Landlord and/or all costs and expenses, including reasonable attorney's fees, incurred by Landlord in procuring the discharge of such lien, shall be deemed to be additional rent and together with interest thereon as provided in Section 10.3 shall be due and payable by Tenant to Landlord on the first day of the next following month. Nothing in this Lease contained shall be construed as a consent on the part of Landlord to subject Landlord's estate in the Leased Premises to any lien or liability under the Mechanic's Lien Law of the State of .....Texas.....

ARTICLE IX. DAMAGE OR TAKING AND RESTORATION

Section 9.1 Fire, Explosion or Other Casualty. In the event the Leased Premises are damaged by fire, explosion or any other insured casualty to an extent which is less than fifty percent (50%) of the cost of replacement of the Leased Premises, the damage shall be repaired by Landlord at Landlord's expense within a reasonable time period thereafter, ~~provided that Landlord shall not be obligated to expend for such repair an amount in excess of the insurance proceeds recoverable as a result of such damage~~ and that in no event shall Landlord be required to repair or replace Tenant's stock in trade, fixtures, furniture, furnishings, floor coverings and equipment. In the event of any such damage and (a) Landlord is not required to repair as hereinafter provided or (b) the Leased Premises shall be damaged to the extent of fifty percent (50%) or more of the cost of replacement, or (c) the building which the Leased Premises are a part is damaged to the extent of twenty-five percent (25%) or more of the cost of replacement notwithstanding the extent of damage to the Leased Premises or (d) the buildings (taken in the aggregate) in .....Sunrise Mall..... shall be damaged to the extent of more than twenty-five percent (25%) of the aggregate cost of replacement, Landlord may elect either to repair or rebuild the Leased Premises or the building or buildings, or to terminate this Lease upon giving notice of such election in writing to Tenant within ninety (90) days after the occurrence of the event causing the damage. If the casualty, repairing, or rebuilding shall render the Leased Premises untenantable, in whole or in part, and the damage shall not have been due to the default or neglect of Tenant, a proportionate abatement of the Fixed Minimum Rent shall be allowed from the date when the damage occurred until the date Landlord completes its work, said proration to be computed on the basis of the relation which the gross square foot area of the space rendered untenantable bears to the floor space of the Leased Premises. If Landlord is required or elects to repair the Leased Premises as herein provided, Tenant shall repair or replace its stock in trade, fixtures, furniture, furnishings, floor coverings and equipment, and if Tenant has closed, Tenant shall promptly reopen for business.

in the event Landlord fails to give Tenant notice of its intent to repair or rebuild within said ninety (90) day period, Tenant shall have the right to terminate this lease.

Section 9.2 Eminent Domain. If the whole of the Leased Premises shall be taken by any public authority under the power of eminent domain, the Lease Term shall cease as of the day possession shall be taken by such public authority, and Tenant shall pay rent up to that date with an appropriate refund by Landlord of such rent as may have been paid in advance for any period subsequent to the date possession is taken. If less than all of the floor area of the Leased Premises shall be so taken, the Lease Term shall cease only on the parts so taken as of the day possession shall be taken by such public authority, and Tenant shall pay rent up to that day with appropriate refund by Landlord of such rent as may have been paid in advance for any period subsequent to the date possession is taken and thereafter the Fixed Minimum Rent shall be equitably adjusted. Landlord shall at its expense make all necessary repairs or alterations to the basic building and exterior work so as to constitute the remaining premises a complete architectural unit, provided that Landlord shall not be obligated to undertake any such repairs and alterations if the cost thereof exceeds the award. If the floor area of the Leased Premises so taken leaves space no longer suitable for the purposes set forth in this Lease, then the Lease Term shall cease and Tenant shall pay rent up to the day possession is taken, with an appropriate refund by Landlord of such rent as may have been paid in advance for any period subsequent to the date of the taking of possession. If more than twenty-five per cent (25%) of the floor area of the building in which the Leased Premises are located, or more than twenty-five per

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cent (25%) of the aggregate floor area of all the buildings in the Landlord's Tract shall be taken under the power of eminent domain, Landlord may, by notice in writing to Tenant delivered on or before the day of surrendering possession to the public authority, terminate this Lease and rent shall be paid or refunded as of the date of termination. All compensation awarded for any taking under the power of eminent domain, whether for the whole or a part of the Leased Premises, shall be the property of Landlord, whether such damages shall be awarded as compensation for diminution in the value of the leasehold or to the fee of the Leased Premises or otherwise and Tenant hereby assigns to Landlord all of the Tenant's rights, title and interest in and to any and all such compensation; provided, however, that Landlord shall not be entitled to any award specifically made to Tenant for the taking of Tenant's trade fixtures, furniture or leasehold improvements to the extent of the cost to tenant of said improvements (exclusive of Landlord's contribution), less depreciation computed from the date of said improvements to the expiration of the original term of this Lease.

ARTICLE X. DEFAULTS BY TENANT AND REMEDIES

SEE RIDER ARTICLE X

~~*Section 10.1.* If any one or more of the following events (here sometimes called "events of default") shall happen:~~

~~(a) if default shall be made in the due and punctual payment of any net rent, or additional rent payable under this lease or any part thereof, when and as the same shall become due and payable, and such default shall continue for a period of ten days after notice from Landlord to Tenant specifying the items in default; or~~

~~(b) if default shall be made by Tenant in the performance or compliance with any of the agreements, terms, covenants or conditions in this lease provided other than those referred to in the foregoing paragraph (a) of this Section for a period of twenty days after notice from Landlord to Tenant specifying the items in default, or in the case of a default or a contingency which cannot with due diligence be cured within said twenty day period, Tenant fails to proceed within said twenty days period to cure the same and thereafter to prosecute the curing of such default with due diligence (it being intended in connection with a default not susceptible of being cured with due diligence within said twenty day period that the time of Tenant within which to cure the same shall be extended for such period as may be necessary to complete the same with all due diligence); or~~

~~(c) if Tenant shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future federal, state or other bankruptcy or insolvency statute or law, or shall seek or consent to or acquiesce in the appointment of any bankruptcy or insolvency trustee, receiver or liquidator of Tenant or of all or any substantial part of its properties or of the demised premises, and if such condition shall continue for a period of twenty days after notice from Landlord specifying the matter involved, or~~

~~(d) if within thirty days after the commencement of any proceeding against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future federal, state or other bankruptcy or insolvency statute or law, such proceeding shall not have been dismissed within twenty days after notice (to be given not before the expiration of said thirty day period) from Landlord to Tenant of an intention to terminate this lease for failure to remove the condition in question or if, within ninety days after the appointment, without the consent or acquiescence of Tenant, of any trustee, receiver or liquidator of Tenant or of all or substantially all of its properties or of the demised premises, such appointment shall not have been vacated or stayed on appeal or otherwise, or if, within ninety days after the expiration of any such stay, such appointment shall not have been vacated, within twenty days after notice (to be given not before the expiration of said ninety day period) from Landlord to Tenant of an intention to terminate this lease for failure to remove the condition in question;~~

~~then and in any such event Landlord at any time thereafter may give written notice to Tenant specifying such event of default or events of default and stating that~~

~~this lease and the term hereby demised shall expire and terminate on due date~~ specified in such notice, which shall be at least ten days after the giving of such notice, and upon the date specified in such notice this lease and the term hereby demised and all rights of Tenant under this lease, including any renewal privileges whether or not exercised, shall expire and terminate, and Tenant shall remain liable as hereinafter provided.

Section 10.2 Any such proceeding or action involving bankruptcy, insolvency, reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, above set forth in paragraphs (c) and (d) of Section 10.1 hereof, shall be grounds for the termination of this lease pursuant to the terms of this Article, only when such proceeding, action or remedy shall be taken or brought by or against the then holder of the leasehold estate under this lease.

Section 10.3 Upon any such expiration or termination of this lease, Tenant shall quit and peacefully surrender the demised premises to Landlord, and Landlord, upon or at any such expiration or termination, may without further notice, enter upon and re-enter the demised premises and possess and repossess itself thereof, by force, summary proceedings, ejectment or otherwise, and may dispossess Tenant and remove Tenant and all other persons and property from the demised premises and may have, hold and enjoy the demised premises and the right to receive all rental income of and from the same.

Section 10.4 If this lease shall be terminated pursuant to this Article 10, or by summary proceedings or otherwise, or if the demised premises or any part thereof shall be abandoned by Tenant, or shall become vacant during the term hereof, Landlord may in its own name, or as agent for Tenant if this lease not be terminated, or if this lease be terminated, in its own behalf, relet the demised premises or any part thereof, or said premises, with additional premises for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the term of this lease) and on such conditions (which may include concessions or free rent and alterations of the demised premises) as Landlord, in its uncontrolled discretion, may determine and may collect and receive the rents therefor. Landlord shall in no way be responsible or liable for any failure to relet the demised premises or any part thereof, or of any failure to collect any rent due upon such reletting.

Section 10.5 No such expiration or termination of this lease, or summary proceedings, abandonment or vacancy, shall relieve Tenant of its liability and obligation under this lease, whether or not the demised premises shall be relet. In any such event Tenant shall pay Landlord the net rent and all other charges required to be paid by Tenant up to the time of such event. Thereafter:

(1) (i) Tenant, until the end of the term of this lease, or what would have been such term in the absence of any such event, shall be liable to Landlord as damages for Tenant's default, the equivalent of the amount of the net rent and the other rent and charges which would be payable under this lease by Tenant if this lease were still in effect, less the net proceeds of any reletting effected pursuant to the provisions of Section 10.4, after deducting all Landlord's expenses in connection with such reletting, including, without limitation, all repossession costs, brokerage and management commissions, operating expenses, legal expenses, reasonable attorneys' fees, alterations costs, and expenses of preparation for such reletting.

(ii) Tenant shall pay such current damages (herein called "deficiency") to Landlord monthly on the days on which the net rent would have been payable under this lease if this lease were still in effect, and Landlord shall be entitled to recover from Tenant each monthly deficiency as the same shall arise.

(iii) At any time after the expiration or termination of this lease pursuant to this Article 10, in lieu of collecting any further monthly deficiencies as aforesaid, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, as damages, in addition to the damages provided for in Subdivision D, damages computed in the manner set forth in Section 10.5 A (2), minus any such monthly deficiencies previously recovered from Tenant.

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(2) (i) In case of any breach of this lease mentioned in subdivisions (c) and (d) of Section 10.1, Landlord shall immediately and ipso facto, without notice or other action by Landlord, become entitled to recover from Tenant, as damages for such breach, in addition to any damages becoming due under subdivisions C and D, an amount equal to the difference between the rent and additional rent reserved in this lease from the date of such breach to the date of the expiration of the original term demised and the then fair and reasonable rental value of the premises for the same period. Said damages shall become due and payable to Landlord immediately upon such breach of this lease and without regard to whether this lease be terminated or not, and if this lease be terminated, without regard to the manner in which it is terminated. In the computation of such damages, the difference between any installment of rent thereafter becoming due and the fair and reasonable rental value of the premises for the period for which such installment was payable shall be discounted to the date of such breach at the rate of not more than 4% per annum.

(ii) If and so long as the term of this lease shall continue, the rent reserved herein for the unexpired term of the lease after a breach mentioned in subdivisions (c) and (d) of Section 10.1 shall be reduced by the amount of such liquidated damages as may be paid to Landlord, such reduction being applied proportionately to each installment of rent thereafter becoming due. During the continuance of the lease after such a breach and until such damages are paid to Landlord, the whole amount of each installment of rent herein reserved shall be due and payable at the time herein specified, and if, by reason of the subsequent payment of liquidated damages, and the resulting reduction in rental, Landlord shall have received a sum in excess of all installments, as so reduced, becoming due after the breach and before the collection of such damages, such excess shall be refunded upon the receipt of such liquidated damages.

B. If the demised premises or any part thereof be relet by Landlord for the unexpired term of this lease, or any part thereof, before presentation of proof of such liquidated damages to any court, commission or tribunal, the amount of rent reserved upon such reletting shall **prima facie** be the fair and reasonable rental value for the part or the whole of the premises so relet during the term of the reletting. Nothing herein contained shall limit or prejudice the right of Landlord to prove for and obtain as liquidated damages by reason of such termination, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved, whether or not such amount be greater, equal to, or less than the amount of the difference referred to above.

C. If this lease be terminated by summary proceedings or otherwise, or if the premises are abandoned or become vacant, and whether or not the premises be relet, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, in addition to any damages becoming due under this Article 10, the following: an amount equal to all expenses, if any, including reasonable counsel fees, incurred by Landlord in recovering possession of the demised premises, and all reasonable costs and charges for the care of said premises while vacant, which damages shall be due and payable by Tenant to Landlord at such time or times as such expenses are incurred by Landlord.

D. If this lease be terminated in any manner whatsoever, or if there be any breach of this lease specified in subdivisions (c) and (d) of Sections 10.1, then and in either of such events, Tenant covenants and agrees, any other covenant in this lease notwithstanding:

(i) That the premises shall be in the same condition as that in which Tenant has agreed to surrender them to Landlord at the expiration of the term hereof;

(ii) That Tenant, on or before the occurrence of any such event shall perform any covenant contained in this lease for the making of any improvements, alteration or betterment to the premises, or for restoring or rebuilding any part thereof; and

(iii) That, for the breach of any covenant above stated in this subdivision D, Landlord shall be entitled to recover and Tenant shall pay, **ipso facto**, without notice or other action by Landlord the then cost of performing such covenant, less interest thereon at the rate of four percent per annum for the period between the occurrence of any such event and the time when any

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~~such work or act, the cost of which is computed, should have been per~~formed under the other provisions of this lease had such event not occurred.

Section 10.6 Tenant hereby expressly waives, so far as permitted by law, the service of any notice of intention to re-enter provided for in any statute, and except as is herein otherwise provided Tenant, for and on behalf of itself and all persons claiming through or under Tenant (including any leasehold mortgagee or other creditor), also waives any and all right of redemption or re-entry or repossession in case Tenant shall be dispossessed by a judgment or by warrant of any court or judge or in case of re-entry or repossession by Landlord or in case of any expiration or termination of this lease. The terms "enter," "re-enter," "entry" or "re-entry" as used in this lease are not restricted to their technical legal meanings.

Section 10.7 No failure by Landlord to insist upon the strict performance of any agreement, term, covenant or condition hereof or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent during the continuance of any such breach, shall constitute a waiver of any such breach or of such agreement, term, covenant or condition. No agreement, term, covenant or condition hereof to be performed or complied with by Tenant, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by Landlord. No waiver of any breach shall affect or alter this lease, but each and every agreement, term, covenant and condition hereof shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

Section 10.8 In the event of any breach or threatened breach by Tenant of any of the agreements, terms, covenants or conditions contained in this lease, Landlord shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise as though re-entry, summary proceedings, and other remedies were not provided for in this lease.

Section 10.9 Each right and remedy provided for in this lease shall be cumulative and shall be in addition to every other right or remedy provided for in this lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord or Tenant of any one or more of the rights or remedies provided for in this lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this lease or now or hereafter existing at law or in ~~equity or by statute or otherwise.~~

Section 10.10 Holdover by Tenant. In the event Tenant remains in possession of the Leased Premises after the expiration of the tenancy created hereunder, and without the execution of a new lease, Tenant, at the option of Landlord, shall be deemed to be occupying the Leased Premises as a tenant from month to month, at twice the Fixed Minimum Rent ~~and percentage rent~~, subject to all the other conditions, provisions and obligations of this Lease in so far as the same are applicable to a month-to-month tenancy.

after notice as provided in this lease

Section 10.11 Landlord's Right to Cure Defaults. Landlord may, but shall not be obligated to, cure, at any time ~~without notice~~, any default by Tenant under this Lease; and whenever Landlord so elects, all costs and expenses incurred by Landlord including without limitation reasonable attorneys' fees together with interest on the amount of costs and expenses so incurred at the maximum legal rate then in effect in the State of Texas shall be paid by Tenant to Landlord on demand. If not paid forthwith, Landlord may (in addition to all other remedies otherwise available to Landlord including the right of termination) deduct such costs and expenses from Landlord's Contribution to Tenant's Work as set forth in Section 1.1.

~~*Section 10.12 Security Deposit.* To secure the faithful performance by Tenant of~~ all of the covenants, conditions and greements in this ~~Lease set~~ forth and contained on the part of the Tenant ~~to be fulfilled~~, kept, observed and performed, including, but ~~without limiting~~ the generality of the foregoing, such covenants, con~~ditions, and agreements in this Lease which became applicable upon its termination~~

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~~by re-entry or otherwise. Tenant has deposited with Landlord the sum set for in Sec-~~ tion 1.1 as a Security Deposit on the understanding: (a) that such deposit or any portion thereof may be applied to the curing of any default that may exist, without prejudice to any other remedy or remedies which the Landlord may have on account thereof, and upon such application Tenant shall pay Landlord on demand the amount so applied which shall be added to the Security Deposit so the same will be restored to its original amount (b) that should the Leased Premises be conveyed by Landlord, the Security Deposit or any portion thereof may be turned over to Landlord's grantee, and if the same be turned over as aforesaid, Tenant hereby releases Landlord from any and all liability with respect to the Security Deposit and its application or return, and Tenant agrees to look to such grantee for such application or return; (c) that Landlord or its beneficiaries shall not be obligated to hold said deposit as a separate fund but on the contrary may commingle it with other funds; and (d) that if Tenant shall faithfully perform all of the covenants and agreements in this Lease contained on the part of Tenant to be performed, the sum deposited or the part of portion thereof not previously applied, shall be returned to Tenant without interest no later than thirty (30) days after the expiration of the Lease Term or any renewal or extension thereof, provided Tenant has vacated the Leased Premises and surrendered possession thereof to Landlord at ~~the expiration of the Lease Term or any extension thereof as provided herein.~~

ARTICLE XI. MISCELLANEOUS PROVISIONS

Section 11.1 Mutual Waiver of Subrogation Right Whenever (a) any loss, cost, damage or expense resulting from fire, explosion, or any other casualty or occurrence is incurred by either of the parties to this Lease in connection with the Leased Premises, and (b) such party is then covered in whole or in part by insurance with respect to such loss, cost, damage or expense, then the party so insured hereby releases the other party from any liability it may have on account of such loss, cost, damage, or expense to the extent of any amount recovered by reason of such insurance and waives any right of subrogation which might otherwise exist in or accrue to any person on account thereof, provided that such release of liability and waiver of the right of subrogation shall not be operative in any case where the effect thereof is to invalidate such insurance coverage or increase the cost thereof.

Section 11.2 Passageways, etc. No permanent or temporary revocations or modifications of any license, permit or privilege to occupy or use or maintain any passageway or structure in, over or under any street or sidewalk, nor any permanent or temporary deprivation of any existing right, privilege or easement appurtenant to the demised premises, shall operate as or be deemed an eviction of the Tenant, or in any way terminate, modify, diminish or abate the obligation of the Tenant to pay the full rental and additional rental as in this lease provided and to perform each and every covenant thereof.

Section 11.3 Adjacent Excavation-Shoring. If an excavation shall be made upon land adjacent to the demised premises, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation license to enter upon the demised premises for the purpose of doing such work as said person shall deem necessary to preserve the wall or the building of which the demised premises form a part from injury or damages and to support the same by proper foundations without any claim for damages or indemnify against Landlord, or diminution or abatement of rent.

Section 11.4 Tenant's Conflicts. Tenant and Landlord hereby covenants, warrants and represents that by executing this lease and by the operation of the demised premises under this lease, ~~it is~~ they are not violating, ~~has~~ have not violated and will not be violating any restrictive covenant or agreement contained in any other lease or contract affecting the Tenant or any affiliate, associate or any other person or entity with whom or with which Tenant and Landlord is related or connected financially or otherwise. Tenant hereby covenants and agrees to indemnify and save harmless ~~Landlord~~ Both parties, any future owner of the fee or any part thereof, and any mortgagee thereof against and from each other all liabilities, obligations, damages, penalties, claims, costs and expenses, including attorney's fees, paid, suffered or incurred by them or any of them as a result of any breach of the foregoing covenant. Tenant's liability under this covenant extends to the acts and omissions of any sub-tenant, and any agent, servant, employee or licensee of any sub-tenant of tenant.

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Section 11.5 Notices from One Party to the Other. Any notice or demand from Landlord to Tenant or from Tenant to Landlord shall be mailed by registered or certified mail, return receipt requested, addressed, if to Tenant, at the address of Tenant or such other address as Tenant shall have last designated by notice in writing to Landlord, and, if to Landlord, to the place then established for the payment of rent, or such other address as Landlord shall have last designated by notice in writing to Tenant. Depositing any notice required hereunder, postage prepaid, in the U.S. mail shall be conclusive evidence of such service.

Section 11.6 Brokerage. Tenant warrants that it has had no dealings with any broker or agent in connection with this Lease other than Landlord's broker, and covenants to pay, hold harmless and indemnify Landlord from and against any and all cost, expense or liability for any compensation, commissions and charges claimed by any other broker or other agent with respect to this Lease or the negotiation thereof.

~~*Section 11.7 Voting Control of Tenant.* If Tenant is a corporation, and if at any~~ time during the Lease Term the person or persons who ~~own or control~~ a majority of its voting shares at the time ~~of the execution~~ of this Lease cease to own or control a majority ~~of such shares~~, Tenant shall so notify Landlord and Landlord may ~~terminate this Lease by notice to Tenant given within 90 days thereafter.~~

Section 11.8 Relationship of the Parties. Nothing contained herein shall be deemed or construed by the parties hereto nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither the method of computation of rent nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any other relationship than Landlord and Tenant. Whenever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.

Section 11.9 Estoppel Certificates. At any time and from time to time, Tenant agrees, upon request in writing from Landlord, to execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and the dates to which the Fixed Minimum Rent, Percentage Rent, and other charges have been paid.

Section 11.10 Short Form Lease. Tenant agrees not to record this Lease and both Landlord and Tenant agree to execute, acknowledge and deliver at any time after the date of this Lease, at the request of the other, a "short form lease" suitable for recording, setting forth those items, except rental, contained herein.

Section 11.11 Applicable Law and Construction. The laws of the State of .....Texas..... shall govern the validity, performance and enforcement of this Lease. Whenever a period of time is provided in this Lease for Landlord or Tenant to do or perform any act or thing, Landlord or Tenant shall not be liable or responsible for any delays due to strikes, lockouts, casualties, acts of God, war, governmental regulation or control or other causes beyond the reasonable control of the Landlord or Tenant and in any such event said time period shall be extended for the amount of time Landlord or Tenant is so delayed. The invalidity or unenforceability of any provision of this Lease shall not affect or impair any other provision. The headings of the several articles contained herein are for convenience only and do not define, limit or construe the contents of such articles. This provision shall not apply to the obligations of Tenant to pay the Fixed Minimum Rent or other charges herein provided.

Section 11.12 Execution of Lease by Landlord and Landlord's Exculpation. Employees or agents of Landlord, or of Landlord's broker, if any, have no authority to make or agree to make a lease or any other agreement or undertaking in connection herewith. The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Leased Premises and this document becomes effective and binding only upon the execution and delivery hereof by Landlord and Tenant. All negotiations, considerations, representations and understandings between Landord and Tenant are incorporated herein and may be modified or altered only by agreement in writing between Landlord and Tenant, and no act or omission of any employee or agent of

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Landlord or of Landlord's broker shall alter, change or modify any of the provisions hereof. Further, if the Landlord or any successors in interest shall be an individual, joint venture, tenancy in common, firm, or partnership, general or limited, there shall be no personal liability on such individual or on the members of such joint venture, tenancy in common, firm, or partnership or on such joint venture, tenancy in common, firm, or partnership, in respect to any of the covenants or conditions of this lease, and in the event of any default or breach by Landlord with respect to any of the terms, covenants and conditions of this lease to be observed, honored or performed by Landlord, Tenant shall look solely to the estate and property of Landlord in the land and buildings owned by Landlord comprising the Shopping Center for the collection of any judgment (or any other judicial procedures requiring the payment of money by Landlord) and no other property or assets of Landlord shall be subject to levy, execution, or other procedures for satisfaction of Tenant's remedies.

Section 11.13 Binding Effect of Lease. The covenants, agreements and obligations herein contained except as herein otherwise specifically provided, shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns. Landlord, at any time and from time to time, may make an assignment of its interest in this Lease, and, in the event of such assignment and the assumption by the assignee of the covenants and agreements to be performed by Landlord herein, Landlord and its successors and assigns (other than the assignee of this Lease) shall be released from any and all liability hereunder.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease the day and year first above written.

LANDLORD

ATTEST:

Asst. Secretary

Jacobs-Kahan Associates, Inc., an Illinois corporation, agent for owner

By: Vice President

TENANT

ATTEST:

Secretary-Treasurer

3 Beall Brothers 3, Inc., a Texas Corporation

By: President (Title)

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STATE OF ILLINOIS
COUNTY OF COOK } SS

I, Eileen Chapman, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Marc A. Kahan, ~~Assistant~~ Vice President of Jacobs-Kahan Associates Inc, and Richard J. McGrath Assistant Secretary thereof, personally known to me to be the same persons whose names are subscribed to the foregoing Instrument as such ~~Assistant~~ Vice President and Assistant Secretary respectively, appeared before me this day in person and acknowledged that they signed and delivered the said Instrument as their own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth; and the Assistant Secretary did also then and there acknowledge that he, as custodian of the corporate seal of said Corporation, did affix the said corporate seal to said Instrument as his own free and voluntary act, and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 26th day of June 19 78

My Commission Expires
5-21-82

Eileen Chapman
Notary Public

(If Tenant Is an Individual or a Partnership)

STATE OF
COUNTY OF } SS

I, ..., a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that ....., personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/they signed, sealed and delivered the said instrument as his/their free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this ..... day of ..... 19.....

My Commission Expires

.....
Notary Public

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(If Tenant Is a Corporation)

STATE OF Texas }
COUNTY OF Cherokee } SS

I, Evelyn Clark, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Kayce Bull, personally known to me to be the ~~Assistant Vice~~ President of J. Bull Brothers, Inc. a Texas corporation, duly licensed to transact business in the State of Texas and E. M. Shank, personally known to be the ~~Assistant~~ Secretary Treasurer of said corporation and personally known to me to be the same persons whose names are subscribed to the foregoing instruments appeared before me this date in person and severally acknowledge that they signed and delivered the said instrument as ~~Assistant Vice~~ President and ~~Assistant~~ Secretary Treasurer of said corporation and caused the Corporate Seal of said Corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 21st day of June 1978.

My Commission Expires
July 31, 1978

Evelyn Clark
Notary Public

GUARANTY

In consideration of, and as an inducement for the granting execution and delivery of the foregoing lease dated ..... (hereinafter called the "Lease"), by .....
.....
the Landlord therein named (hereinafter called the "Landlord") to .....
.....
the Tenant therein named (hereinafter called the "Tenant"), and in further consideration of the sum of One ($1.00) Dollar and other good and valuable consideration paid by the Landlord to the undersigned, the undersigned, (hereinafter called the "Guarantor"), hereby guarantees to the Landlord, its successors and assigns, the full and prompt payment of rent, including, but not limited to, the fixed minimum rent, common area charge, percentage rent, additional rent and any and all other sums and charges payable by the Tenant, its successors and assigns under said Lease, and full performance and observance of all the covenants, terms, conditions and agreements therein provided to be performed and observed by the Tenant, its successors and assigns; and the Guarantor hereby covenants and agrees to and with the Landlord, its successors and assigns, that if default shall at any time be made by the Tenant, its successors and assigns, in the payment of any such rent, payable by the Tenant under said Lease, or in the performance of any of the terms, covenants, provisions or conditions contained in said Lease, the Guarantor will forthwith pay such rent to the Landlord, its successors and assigns, and any arrears thereof, and will forthwith faithfully perform and fulfill all of such terms, covenants, conditions and provisions, and will forthwith pay to the Landlord all damages that may arise in consequence of any default by the Tenant, its successors and assigns under said Lease, including, without limitation, all reasonable attorneys' fees incurred by the Landlord or caused by any such default and/or by the enforcement of this Guaranty.

This Guaranty is an absolute and unconditional Guaranty of payment and of performance. It shall be enforceable against the Guarantor, its successors and assigns, without the necessity for any suit or proceedings on the Landlord's part of any kind or nature whatsoever against the Tenant, its successors and assigns, and without the necessity of any notice of non-payment, non-performance or non-observance or any notice of acceptance of this Guaranty or any other notice or demand to which the Guarantor might otherwise be entitled, all of which the Guarantor hereby expressly waives; and the Guarantor hereby expressly agrees that the validity of this Guaranty and the obligations of the Guarantor hereunder shall in no way be terminated, affected or impaired by reason of the assertion or the failure to assert by the Landlord against the Tenant, or the Tenant's successors and assigns, of any of the rights or remedies reserved to the Landlord pursuant to the provisions of the said Lease.

The Guaranty shall be a continuing Guaranty, and the liability of the Guarantor hereunder shall in no way be affected, modified or diminished by reason of any assignment, renewal, modification or extension of the Lease or by reason of any modification or waiver of or change in any of the terms, covenants, conditions or provisions of said Lease, or by reason of any extension of time that may be granted by the Landlord to the Tenant, it successors or assigns, or by reason of any dealings or transactions or matter or things occurring between the Landlord and the Tenant, its successors or assigns, whether or not notice thereof is given to the Guarantor.

Dated: .....

GUARANTOR

BY: .....

Its' .....

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STATE OF
COUNTY OF } SS

On this ..... day of ....., 19....., before me personally came ....., to me known, who being being by me duly sworn, did depose and say that he resides in .....

that he is the ..... of .....
the corporation described in and which executed the foregoing Guaranty; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the Board of Directors of said Corporation, and that he signed his name thereto by like order.

My Commission Expires .....
Notary Public

.....

STATE OF
COUNTY OF } SS

On this ..... day of ....., 19....., before me personally came .....
to me known and known to me to be the individual described in and who executed the foregoing Guaranty and acknowledged to me that he executed the same.

My Commission Expires .....
Notary Public

.....

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RIDER ATTACHED TO LEASE BETWEEN JACORS-KAHAN ASSOCIATES, INC., AN ILLINOIS CORPORATION, AGENT FOR OWNER, AS LANDLORD, AND 3 BEALL BROTHERS 3, INC., A TEXAS CORPORATION, AS TENANT

Section 2.6
Options of
Renewal

Provided Tenant is not in default in the performance of any of the terms, covenants, conditions or obligations on its part to be performed hereunder, Tenant shall have option(s) to renew and extend this Lease for three (3) successive additional period(s) of five (5) year(s) each (hereinafter generally called the "Renewal Terms"). Said options to be exercised by written notice either by registered or certified mail addressed to Landlord at least six (6) months prior to the expiration of the original lease term, and the Renewal Terms respectively, of Tenant's intent to renew and extend this Lease for the next renewal term; provided, however, that if Tenant should fail to give notice of the exercise of any option to renew and extend this Lease into the Renewal Term(s), after the expiration of the time hereinbefore specified for such notice, this Lease shall terminate on the last day of the term before the expiration of which such option might have been exercised, just as though such option was not provided for herein. And, provided, further that if the original lease term, or any renewal term, as the case may be, shall not have been renewed or extended by the end thereof, as in this section provided, and hold-over by Tenant after the expiration thereof shall be deemed to be a tenancy from month-to-month only.

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INSERT. - Section 3.2 Construction by Tenant. All work other than that to be performed by Landlord pursuant to Exhibit C, is to be done by Tenant, in a good and workmanlike manner, free of all mechanics liens, by bonded contractors approved by Landlord, at Tenant's expense. Tenant shall provide Landlord, within thirty (30) days from the date hereof, a detailed floor plan and interior decor plan from which Landlord shall prepare, within SIXTY (60) ----------days following receipt thereof, architectural plans and specifications, including all mechanical and electrical drawings required to construct the Leased Premises, and Landlord shall forthwith, deliver said drawings to Tenant, for Tenant's approval. Tenant shall, within thirty (30) days after submission of said plans and specifications as herein set forth, give Landlord notice in writing as to any objections it may have to said plans and specifications. Failure of Tenant to give such notice shall be deemed its approval thereof. Landlord agrees, within thirty (30) days after receipt of any such notice, to amend and modify such plans and specifications appropriately so as to reflect all changes, modifications and corrections properly required by Tenant or any municipal authority having jurisdiction over same, and to resubmit such amended and modified plans and specifications to Tenant for its approval provided said changes do not materially increase the cost to construct the Leased Premises. Tenant shall, within fifteen (15) days of such resubmission, approve such amended and modified working plans and specifications which after approval, shall become the final plans and specifications and shall become a part of and incorporated herein as Exhibit "C". Tenant shall not thereafter modify or change said final plans and specifications, elevations, studies or delineations without Landlord's prior written consent, except that Tenant may, without such consent, make any changes in the arrangement of space within its building that may be required by it and may make such minor changes in the plans and drawings at its sole cost and expense as may be required by job conditions so long as such changes are generally in accordance and consistent with the plans and specifications and the Plot Plan.

In the event the parties hereto cannot agree as to the final plans and specifications within the time periods as herein provided, then in such event, either party shall have the right to terminate this lease within ten (10) days thereafter, and shall be released and relieved from any and/or all liability hereunder.

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RIDER - ARTICLE X.

Section 10.1 Defaults by Tenant. Landlord may terminate this Lease if any default by Tenant continues after notice, in case of nonpayment of rent or any other payment provided to be made hereunder for more than ten (10) days, or in any other case if Tenant does not cure such default within a reasonable time, but no later than thirty (30) days; or such reasonable time as is necessary providing Tenant commences to cure such default within the thirty (30) day period; or if Tenant makes an assignment for the benefit of creditors, commits any act of bankruptcy or files a petition under any bankruptcy or insolvency law; or if such a petition filed against Tenant is not dismissed within ninety (90) days or if Tenant does not pay after demand any other liability to Landlord arising out of or in connection with, the construction of operation of Richland Mall, Waco, Texas ; or if a receiver or similar officer becomes entitled to this leasehold; or if Tenant's interest in this Lease is taken on execution or other process of law in any action against Tenant; or if Tenant does or permits to be done, any act which creates a mechanic's lien or claim therefor against the land or building of which the Leased Premises are a part and Tenant does not comply with the provisions of Section 8.2 G. Upon termination of this Lease, Landlord may reenter the Leased Premises, with or without process of law, using such force as may be necessary, and remove all persons, fixtures, and chattels therefrom, and Landlord shall not be liable for any damages resulting therefrom. Upon such repossession of the Leased Premises, Landlord shall be entitled to recover as liquidated damages, and not as a penalty, a sum of money equal to the value of the Fixed Minimum Rent, Percentage Rent, (in an amount per year equal to the average Percentage Rent theretofore paid by Tenant or, if such repossession occurs during the first Lease year, the amount of Percentage Rent that would have been payable at the end of such Lease Year if the average monthly Gross Sales to the date of such repossession are projected to the end of such Lease Year) and other sums provided herein to be paid by Tenant to Landlord for the remainder of the Lease Term, less the fair rental value of the Leased Premises for said period. Upon the happening of any one or more of the above-mentioned events Landlord may repossess the leased Premises by forcible entry or detainer suit, or otherwise, without demand or notice of any kind to Tenant (except as hereinabove expressly provided for) and without terminating this Lease, in which event Landlord may, but shall be under no obligation to do so, relet all or any part of the Leased Premises for such rent and upon such terms as shall be satisfactory to Landlord (including the right to relet the Leased Premises for a term greater or lesser than that remaining under the Lease Term, and the right to relet the Leased Premises as a part of a larger area, and the right to change the character or use made of the Leased Premises). For the purpose of such reletting, Landlord may decorate and make any repairs, changes, alterations or additions in or to the Leased Premises that may be necessary or convenient. If Landlord does not relet the Leased Premises, Tenant shall pay to Landlord on demand as liquidated damages

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and not as a penalty a sum equal to the amount of the Fixed Minimum Rent, Percentage Rent (in an amount per year equal to the average yearly Percentage Rent theretofore paid by Tenant or, if such repossession occurs during the first Lease Year, the amount of Percentage Rent that would have been payable at the end of such Lease Year if the average monthly Gross Sales to the date of such repossession are projected to the end of such Lease Year) and other sums provided herein to be paid by Tenant for the remainder of the Lease Term. If the Leased Premises are relet and a sufficient sum shall not be realized from such reletting after paying all of the expenses of such decorations, repairs, changes, alterations, additions, the expenses of such reletting and the collection of the rent accruing therefrom, to satisfy the rent herein provided to be paid for the remainder of the Lease Term, Tenant shall pay to Landlord on demand any deficiency and Tenant agrees that Landlord may file suit from time to time to recover any sums falling due under the terms of this Section.

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EXHIBIT C

SUNRISE MALL

BROWNSVILLE, TEXAS

DESCRIPTION OF LANDLORD'S WORK

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EXHIBIT C

Description of Lessor's (Landlord and/or Developer) work is as follows:

LESSOR'S WORK DONE AT LESSOR'S EXPENSE

The Lessor's work which shall conform to all applicable governing codes shall be limited to the following work:

A. BUILDING FRAME: Shall, at Lessor's option, be of steel, reinforced concrete or bearing wall construction.

B. ROOF: Shall be insulated built-up roof of a twenty (20) year bondable type.

C. EXTERIOR WALLS: Shall be of masonry or such other materials selected by Lessor.

D. DEMISING WALL: Between Tenants and/or between Tenant and corridor shall be exposed wood/metal stud framing only or masonry at Lessor's option. Metal/wood stud framing for firewalls shall be provided as required.

E. CLEAR HEIGHT: Between the finished floor elevation and lowest structural roof member shall be as dictated by the structural limitations. Clear height shall permit a ceiling height of approximately 11' ½". Underside of structural roof system to be left exposed.

F. DOOR: Hollow metal frame and exit/delivery door along with Lessor's standard hardware shall be provided at location designated by Lessor.

G. FLOOR AREA: Shall consist of subgrade material rough graded to within approximately 8" of the finished floor elevation.

H. UTILITIES: If Lessor elects to provide any such utilities, the following utilities shall be located approximately 6" within the Demised Premises at locations designated by Lessor:

1. Domestic water
2. Sprinkler main
3. Sanitary sewer
4. Gas (or on roof)
5. Electricity (empty conduit only)
6. Telephone (empty conduit only)

Lessor does not warrant the availability of any utility services to the Demised Premises.

I. Landlord reserves the right to require changes in Tenant's work when necessary by reason of code requirements, or building facility necessity, or directives of building authorities having jurisdiction over the leased premises, or directive of Landlords insurance underwriting.

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EXHIBIT D

SUNRISE MALL

BROWNSVILLE, TEXAS

DESCRIPTION OF TENANT'S WORK

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EXHIBIT D

escription of Lessee's (Tenant) work is as follows:

ESSEE'S WORK DONE AT LESSEE'S EXPENSE:

The Lessee's work which shall conform to all applicable governing codes shall include, but not be limited to, the following:

Lessee to construct and equip its Demised Premises in accordance with the following and complete plans and specifications prepared by the Lessee and approved in writing by Lessor prior to commencement of said construction as provided for in this Lease. The Lessee must follow the provisions of the Lessor's Procedure, Address and Minimum Requirement forms in the submission of preliminary and working plans to the Lessor. These procedural forms will be supplied to Lessee with Lessor's Blockout Plans.

A. FLOOR: Shall be a full 4 deep reinforced concrete slab on top of 4" of porous fill. Slab to be finished to accept floor tile or other covering. Floor finish to be level with the mall floor finish. Tenant may be required, if the floor slabs on either side are not poured, to pour an additional 6" wide strip of concrete to accommodate steel stud demising partitions.

B. FLOORING: All floor coverings.

C. WALLS: All interior partitions, and curtain walls within premises. No exposed studs or block permitted. All wood materials used for framing to be fire treated. No combustible material permitted above ceiling or sprinkler coverage.

D. COLUMNS: Centerline of tenant divider walls may or may not be on the centerline on columns. Any special treatment, furring or finishes of these columns occurring the tenant divider walls shall be by the Lessee in accordance with applicable building and fire codes.

E. CEILINGS: All special coves, drops, and ceilings. Ceilings to be constructed of Underwriters approved non-combustible materials. No combustible material permitted above ceiling or sprinkler coverage.

F. PAINTING: All painting or covering of interior wall and ceiling surfaces.

G. STOREFRONT: Storefront closure shall be glass doors or windows, grille, etc. Swinging doors not permitted to swing beyond lease line.

H. SIGN: Shall be in accordance with Lessor's sign requirements.

I. FIXTURES: All store fixtures, cases, paneling, cornices, etc.

J. SPECIAL EQUIPMENT: Alarm systems or other protective devices, P.A. system, fire extinguishers, conveyors, elevators, escalators, dumb waiters, timeclocks, delivery door buzzers, storm and screen doors, storm enclosures, dry chemical fire protection systems, pilot light for HVAC equipment, etc.

K. HEATING & AIR CONDITIONING: Mandatory heating and air conditioning system complete with all duct work, insulation, wiring controls, accessories, and connections. Roof mounted equipment subject to structural limitations of the building and requires Lessor's written consent prior to beginning of design. Air intake or exhaust into the mall not permitted and systems must be fully operable on the day Lessee opens for business.
Lessee shall design the H.V.A.C. System in accordance with the following minimum design requirements: Actual installed light load; people load (use larger value) 50 square feet per person or actual number of persons; outside air(use larger value) 10CFM per person or total exhaust air; equipment loads (if any); for outside design conditions use Ashrae 2½% column; inside design conditions 78 F - 50% R.H.

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EXHIBIT D

L. SPECIAL VENTILATION: All ventilation and related equipment.

M. PLUMBING: All plumbing and fixtures including a minimum six (6) gallon water heater for toilet rooms.

N. ROOF OPENINGS: All roof openings, reinforcing, curbs, flashing, etc. FOR H.V.A.C. Plumbing and electrical equipment, with burglar bars. All roof openings and roof repairs are to be completed by Lessor's roofer and paid for by Lessee.

O. TOILET FACILITIES: Complete toilet room(s) equipped with all required fixtures, partitions, floor and wall finishes, ventilation, etc. In the event that the occupancy requires only one toilet room, rough in provisions shall be made for the second toilet room.

P. SPRINKLER SYSTEM: Complete sprinkler system including all branch lines, head, etc. Subject to approval of Lessor's insurance company rating bureau.

Q. ELECTRICAL EQUIPMENT: All light fixtures, meters, wiring, service from main terminal, lamps and equipment including support thereof. Lighting fixtures with exposed flourescent tubes not permitted in sales areas or areas accessible to the public unless a prior agreement has been made with the Lessor.

R. TELEPHONE EQUIPMENT: All conduits for telephone wires. Lessee shall make all necessary arrangements with telephone company for service.

S. UTILITY CONNECTIONS: All connections to the following utilities including meters, equipment, hookup, etc:

1. Domestic water
2. Sprinkler main
3. Sanitary sewer
4. Gas
5. Electricity (including wire to landlord's main distribution panel)
6. Telephone

T. Lessee agrees that utility lines may pass through its store area to service other tenants and building areas.

U. Lessee agrees that only Union labor affiliated with the A.F.L./C.I.O. Building Trades will be used in performance of Lessee's work.

V. Lessee and/or its contractor and/or subcontractors to obtain and pay for all permits and comply with all building codes, ordinances, regulations and requirements of Fire Insurance Rating Bureau. Lessor's approval of plans does not release Lessee from this obligation.

W. Lessee agrees to require its contractor and/or subcontractors to furnish Lessor evidence of adequate insurance coverage prior to Lessee's contractors performing any work in Lessee's premises, and Lessee agrees to indemnify and hold harmless Lessor from and against any claims, actions or damages resulting from acts or neglects of Lessee, its agents, employees, contractors or subcontractors in the performance of Lessee's work.

X. Lessee and/or its contractors and/or subcontractors are limited to performing their work including any office or storage for construction purposes within the Demised premises only. Lessee and/or its contractors shall each be responsible for daily removal from the project all trash, rubbish and surplus material resulting from construction, fixturing and merchandising of the Demised Premises.

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Y. Lessee and/or its contractors and/or subcontractors shall be responsible for temporary utilities for their work including payment of utility charges. The cost of this temporary service shall be four ¢ per square foot of the leased premises per month and be payable to the Landlord on or before the first day of each month after service is initiated.

Z. Upon approval by Lessor of Lessee's working plans, Lessee shall cause construction to promptly commence and will use every effort to cause the Demised Premises to be completed in time for the Grand Opening date of the project.

AA. Lessor may require Lessee to erect temporary barricades to close off the Demised Premises from the mall until Lessee's heating and air conditioning are operative, or to screen Lessee's premises from public view during construction if the mall is open to the public. Said temporary barricade or screen to be constructed and painted in accordance with Lessor's plans that are in the possession of the Project Manager.

BB. The Lessee and/or its contractor must present to the Lessor's Project Manager at the project one(1) complete set of working drawings and specifications approved by the Lessor and applicable governing authorities before permission will be given to start construction on the Demised Premises.

CC. Lessee shall obtain all necessary permits for Lessee's work and forward to Lessor reportductions of such permits prior to beginning work.

DD. Lessee and/or his subcontractor must carry the following insurance requirements and deliver copies to the Lessor prior to the start of construction.

A. Workman's Compensation
B. $1,000,000. Public Liability
C. $1,000,000. Property Damage

EE. Any equipment and/or fixtures to be hanged from the ceiling shall be attached to structural members only, and not from any duct work, conduit, decking, etc.

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EXHIBIT E

SUNRISE MALL

BROWNSVILLE, TEXAS

DESIGN CRITERIA

FOR

TENANT'S ARCHITECTURAL STANDARDS AND TENANT'S SIGNS

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EXHIBIT E

Tenant Sign Criteria

A. Purpose, Administration, and Responsibility

The purpose of this Sign Exhibit is to establish a quality atmosphere while creating an environment which produces maximum traffic and promotes the greatest sales for all Tenants in the Shopping Center.

Tenant's storefront signing must be unique, original, in proportion, in excellent taste, and will be approved only after this criteria has been demonstrated to the Landlord.

Detail drawings, in triplicate and one set of sepias, as well as samples of materials and colors to be used for each sign, must be prepared and submitted by Tenant in conjunction with the storefront design information. Sign drawings must be approved in writing by the Landlord before the sign may be installed. No Tenant will be allowed to open without an approved sign.

Tenant's sign drawings and submittal must include the following:

1. Elevation view of storefront showing sign (drawn to accurate scale) with dimensions of height of letters and length of sign.

2. Color sample of sign.

3. Color sample of sign letters (unless they are to be WHITE).

4. Cross section view through sign letter and sign panel showing location of sign relative to the storefront line and showing the dimensioned projection of the face of the letter from the face of the sign panel. The drawings shall also show other elements such as soffits, canopies, and the relationship of the sign to the other elements of the storefront, especially the vertical facia.

The Landlord shall not be responsible for the cost of refabrication of signs fabricated, ordered or constructed, that do not conform to the sign criteria.

All signs, permits and related or resulting construction shall be Tenant's responsibility, and all signs shall be installed with the approval of the Project Supervisor. No sign maker's identification tabs or stickers shall be permitted. Sign contractor shall repair any damage to any work caused by his work. All signs must conform to Local Building and Electrical Codes.

B. Criteria-Interior Signs

Tenant will not erect signs except in conformity with the following policy:

Wording shall be limited to the name of the store; however, each party's customary signature or logo, hallmark, insignia, or other trade identification will be respected.

All signs must be compatible to colors and materials of Tenant's storefront and submitted to the Landlord for approval.

All signs must be internally illuminated, and connected to Tenant's electric service.

Light boxes will not be permitted.

Signs with individually illuminated letters should have lamps or tubes entirely concealed within the depth of the letter with translucent plastic face with no visible openings. Maximum brightness allowed for interior (Enclosed Mall) signs will be 100 foot lamberts taken at the letter face and must comply with all building and electrical codes.

Reverse channel letter signs are not permitted.

The size of all Tenant's signs shall be limited. The scale and concept of the Enclosed Mall requires the use of signs which are not larger than necessary to be legible from within the Enclosed Mall. Thus, except for department store signs, Tenant's signs shall be located within the limits of its storefront and shall not project more than six inches (6") beyond the store front and shall conform to the following maximum height criteria:

(1) Up to 30' storefront: ..... 18" capitals, 12" body all capital letters 15"

(2) 30' to 60' storefront: ..... 21" capitals, 15" body all capital letters 18"

(3) 60' and over storefront: ..... 24" capitals, 18" body all capital letters 21"

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In addition to complying with above criteria, signs in the Enclosed Mall shall be limited in length to 70% of Tenant's frontage on the Enclosed Mall, and shall in no case exceed a length of thirty feet (30'-0").

Signs and identifying marks shall be placed entirely within the boundaries of the leased premises with no part higher than twelve feet (12'-0") above the finished floor line, nor shall any projecting sign be located closer than eight feet (8') to the finished floor line, but in no event shall such a sign extend above the wall or parapet upon which it is mounted.

The total sign area (rectangle enclosing each group of letters, symbols or logos) shall not exceed ten percent (10%) of the area of the storefront, and shall be located at least thirty (30") inches from each lease line.

Except as otherwise approved in writing by Landlord, only one sign per Tenant will be permitted within the Enclosed Mall area. Corner Tenants must have two (2) such signs, one on each mall front.

Signs which are under building canopies may be installed at right angles to the mall storefront provided that they are wholly contained within the lease line of the leased premises and otherwise conform to the provisions of these regulations and criteria. Said signs may not exceed fifty inches (50") in width and eighteen inches (18") in height.

There shall be no exposed conduits, raceways, transformers, or other electrical connections.

Signs with exposed neon tubing or exposed lamps and signs of the flashing, blinking, rotating, moving, or animated types or audible type signs are not permitted.

Sign company names or stamps shall be concealed (Code permitting).

Banners or flags are prohibited.

Tenant shall not install any roof top signs.

Pylon signs are not permitted, except at the locations shown on the site plan and they shall be subject to the approval of the parties hereto as to the design and size.

No signs will be permitted at the rear of any building, except in the case of stores with customer entrances opening directly on to the parking areas and only as approved by the Landlord in writing.

Lettering on doors, in windows or on show windows may not be illuminated on either exterior or interior, shall not exceed 2" in height and shall be submitted for approval. Each Tenant will be permitted to place upon each entrance of its leased premises not more than 144 square inches (rectangle enclosing each group of letters, symbols or logos) of gold leaf or decal application lettering, not to exceed two inches (2") in height, indicating hours of business, emergency telephone numbers, and address as required by local authorities. No temporary or permanent paper signs or decals shall be permitted to be applied to the interior or exterior faces of the storefront glass or other storefront materials.

All non-customer service doors for receiving merchandise will have a standard block letter sign with the name of the Tenant and mall address. These signs will be furnished by Landlord to Tenant at a cost of $10.00 per sign to be paid within thirty (30) days of opening of Tenant's store.

Public safety decals or artwork on glass in minimum sizes to comply with applicable Code, subject to the approval of Landlord may be used, as required by building codes or other governmental regulations.

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TENANT'S INITIAL LANDLORD'S INITIAL

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EXHIBIT F

SUNRISE MALL

BROWNSVILLE, TEXAS

DESIGN CRITERIA

FOR

TENANT'S MECHANICAL AND ELECTRICAL WORK

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A. UTILITY CONNECTIONS

1. Tenant shall provide all connections to the following utilities, including equipment, hookup, etc.

   a. Domestic water

   b. Sprinkler main

   c. Sanitary sewer

   d. Electricity (including wire to distribution panel)

   e. Telephone (including cable from terminal cabinet)

B. SPRINKLERS

1. The sprinkler system shall comply with N.B.F.U. Pamphlet No. 24 and/or the requirements of Factory Mutual as to number of heads, spacing of heads, temperature rating and material and workmanship, and shall be installed in conformance with local codes and other agencies having jurisdiction, including connection(s) to sprinkler service branch main provided by Landlord.

C. ELECTRICAL

1. The installation shall conform to the following minimum specifications:

   a. All electrical work shall conform to the latest edition of the National Electrical Code, electrical ordinance of the City of Brownsville, Texas, and the requirements of other governmental or recognized inspection bodies having jurisdiction.

   b. All materials and equipment shall be new and shall bear the Underwriters' Laboratories Label.

   c. All distribution panelboards shall be totally enclosed, wall mounted or free standing depending on size.

   d. Panelboards shall be 120/208 volt, three phase, four wire, wye, solid neutral, having an adequate number of branch circuits for the connected load plus 10 per cent spare circuits.

   e. All exposed wiring shall be in steel or aluminum tubing or rigid conduit. Any code approved wiring method may be used above hung ceiling, in dry partitions and for connecting store fixtures. Conduit in concrete shall be rigid steel.

   f. Lighting fixtures shall bear the Underwriters' Label and shall be of a type approved by the inspection authorities. Recessed lighting fixtures installed in furred spaces or in the hung ceiling shall be connected by means of flexible conduit and wire to a branch circuit outlet box, independent of the fixture. The use of exposed surface mounted strip flurescent units in finished areas shall not be permitted unless specifically approved by Landlord.

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h. Connection of Tenant's electrical service wire to Landlord's distribution system shall be done by Landlord's electrician at Tenant's expense.

D. TELEPHONE EQUIPMENT

1. Tenant shall furnish and install all conduits for telephone wires, and shall make all necessary arrangements with telephone company for service.

E. PLUMBING

1. The installation shall conform to the following minimum specifications:

a. PLUMBING

(1) Furnish and install adequate toilet facilities, including plumbing fixtures and equipment, drainage, vent, hot and cold water piping, soap and toilet tissue dispensers, all in accordance with plumbing ordinance of the City of Brownsville , Texas, and as required by the governing building code and Board of Health.

The adequacy of the above facilities will be based on the number of employees occupying the demised premises during normal working hours.

(2) Plumbing fixtures and equipment shall include legal toilet fixture requirements, including grease, oil, volatile liquid, and hair interceptors, acid neutralizing basins, ejectors, sump pumps, electric water coolers, electric water heaters and all piping to points of connection with utilities provided by Landlord on the demised premises.

(3) Water meters for temporary and permanent service if required by Landlord, are to be installed at Tenant's expense at locations to be designated by Landlord.

(4) Tenant shall, at its own cost and expense, provide all equipment necessary to heat and chill domestic water for process purposes.

F. SPECIAL EQUIPMENT

1. Water heaters for supplementary plumbing facilities shall be copper or glass lined electric water heaters.

2. Hair interceptors shall be provided at each sink, lavatory or special equipment where animal or human hair may enter the sanitary system. Hair interceptors in beauty salons and barber shops shall be chrome plated cast iron.

3. Grease interceptors shall be installed where required by code. Interceptors shall be adequately sized for the use intended.

4. Oil and volatile liquid interceptors shall be installed where required by code, Fire Prevention Bureau or Landlord.

5. Maintenance, all interceptors shall be policed by Tenant to keep the sanitary system free of clogging.

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6. Garbage disposal units which shred, grind or masticate garbage or rubbish and discharge the end product into the sewerage or drainage system are prohibited unless specific approval by Landlord is provided in writing.

G. MISCELLANEOUS EQUIPMENT

1. Tenant shall furnish and install all systems, where required for alarm systems or other protective devices, p.a. systems, fire extinguishers, conveyors, elevators, escalators, dumb waiters, timeclocks, delivery door buzzers, dry chemical fire protection systems, pilot light for HVAC equipment etc.

H. HEATING, VENTILATING AND AIR CONDITIONING

1. All finished areas shall be heated, air conditioned and ventilated and all unfinished areas shall be heated and ventilated in accordance with design criteria herein set forth. Permission for any deviations from the provisions of these criteria shall be obtained from the Landlord in writing.

2. Tenant shall provide a complete HVAC system using a split system with air cooled condensing unit with compressor on roof and blower unit with evaporator cooling coil and heating element within demised premises. Units shall utilize electric resistance heaters. All toilet rooms shall have mechanical ventilation to exterior.

3. Design conditions:

   a. Heating: Inside dry bulb temperature 72 F.
      Outside dry bulb temperature 15 F.

   b. Cooling: Outside dry bulb temperature 100 F.
      Outside wet bulb temperature 76 F.
      Inside conditions DB 75 -RH 50%
      Positive static pressure 0.1" W.C.

4. If an economizer system is used, provision shall be made for 100% exhaust air relief in Tenant space. No air intakes or exhausts into the mall shall be permitted.

5. Fresh air requirements shall meet local and state codes and/or ASHRAE standards.

6. All rooftop units shall be low silouhette type, installed in accordance with detailed drawings which shall be submitted to Landlord for approval. Tenant's rooftop heating and air conditioning equipment shall be locsted where indicated on Landlord's space drawings. Refer to Exhibit D for requirements pertaining to roof cuts and roof openings.

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