**SHOPPING CENTER LEASE**

THIS LEASE made as of the 5th day of \_\_\_\_\_\_\_\_\_\_\_\_, between CCM ASSOCIATES OF CLIFTON PARK, LLC, a New York limited liability company ("Landlord"), having a place of business at 200 Clifton Corporate Parkway, Suite 240, and \_\_\_\_\_\_\_\_\_\_\_\_\_, ("Tenant"), whose principal place of business is located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**ARTICLE 1**

**BASIC PROVISIONS**

**A. Tenant's Trade Name:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**B. Center:** Clifton Park Center

**Address:** 22 Clifton Country Road

Clifton Park, NY 12065

**C. Premises:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**D. Rent Commencement Date:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**E. Expiration Date:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**F. Permitted Use:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**G. Minimum Rent:**

**Period** **Monthly Annual Rent Per**

**Amount** **Amount Square Footage**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ $0,0000.00 $00,0000.00 $00.00

The above stated Monthly and Annual Amounts are plus utilities.

**Option to Renew**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Period** **Monthly Annual Rent Per**

**Amount** **Amount Square Footage**

The above stated Monthly and Annual Amounts are plus utilities.

Should Tenant wish to exercise this Option, Tenant shall notify Landlord in writing of thedesire to exercisethe Option no later than one hundred and twenty (120) days prior to termination of the Term.

**H. Possession Date:** Upon Lease signing and receipt of first months rent, security deposit and proof that Tenant has put utilities in Tenant’s name.

**I. Security Deposit:** One Months Rent

**J. Guarantor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**K. Address for Sending Insurance Certificates and Gross Sales Reports:** Tenant shall forward all insurance certificates and Gross Sales reports to Landlord at the following address, or such other address or addresses as to which Landlord shall provide advance notice:

CCM Associates of Clifton Park, LLC

200 Clifton Corporate Parkway

Suite 240

Clifton Park, NY 12065

Rent Payment Address: All rent payments shall be sent to the following address, or such other address of which Landlord may notify Tenant:

CCM Associates of Clifton Park, LLC

200 Clifton Corporate Parkway

Suite 240

Clifton Park, NY 12065

**L. Rent Shall Be Payable To:** CCM Associates of Clifton Park, LLC or such other entity as Landlord shall designate from time to time in writing.

The foregoing provisions shall be interpreted and applied in accordance with the other provisions of this Lease set forth below. The terms in this Article, and the terms defined in Article 28, shall have the meanings specified therefor, herein or therein, when used as capitalized terms in other provisions of this Lease.

**ARTICLE 2**  
**PREMISES, TERM AND COMMENCEMENT DATE**

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises for a term ("Term") commencing on the Commencement Date and ending on the Expiration Date set forth in Article 1, unless sooner terminated as provided herein, subject to the provisions herein contained. The Commencement Date set forth in Article 1 shall be advanced to such earlier date as Tenant opens the Premises for business. If Landlord delays delivering possession of the Premises or substantial completion of any Landlord's Work under Exhibit B, this Lease shall not be void or voidable and Landlord shall have no liability for loss or damage resulting therefrom. In such case, the Commencement Date shall be postponed for a period equal to the delay, except to the extent that such delays arise from the acts or omissions of Tenant or Tenant's employees, agents or contractors. If the Commencement Date is advanced or postponed, the Rent and other obligations of Tenant, and the Term and initial Lease Year hereunder, shall all commence on the Commencement Date as advanced or postponed. However, the Expiration Date set forth in Article 1 shall not be changed. Landlord and Tenant shall confirm in writing any adjustment to the Commencement Date hereunder upon written request by either party. In the event of any dispute concerning such adjustment, Tenant shall pay Rent commencing on the Commencement Date set forth in Article 1, subject to adjustment between the parties after such dispute is resolved. Notwithstanding the foregoing to the contrary, Landlord may delay delivery of the Premises and performance of any Landlord's Work until this Lease has been mutually signed and delivered, and such delays shall not postpone the Commencement Date set forth in Article 1 or the commencement of Rent hereunder, except as the parties may expressly agree otherwise in writing.

**ARTICLE 3**

**RENT**

**A. Rent.** Tenant shall pay Landlord the monthly Rent set forth in Article 1 in advance on or before the first day of each calendar month during the Term, except that Rent for the first full and any initial partial calendar month shall be paid, when Tenant executes this Lease.

**ARTICLE 4**

**PAYMENT OF RENT AND PRORATIONS**

**A. Rent.** Minimum Rent, and any other amounts which Tenant is or becomes obligated to pay Landlord under this Lease are sometimes herein referred to collectively as "Rent", and all remedies applicable to the non-payment of Rent shall be applicable thereto. Rent shall be paid without any prior demand or notice and shall in all events be paid without any deduction, recoupment, set-off or counterclaim, and without relief from any valuation or appraisement laws. Tenant shall pay any rent tax, sales tax, service tax, transfer tax, value added tax, or any other applicable tax on the Rent, utilities or services herein or otherwise respecting this Lease or any other document entered in connection herewith. Landlord may apply payments received from Tenant to any obligations of Tenant then accrued, without regard to such obligations as may be designated by Tenant.

**B. Prorations.** If the Term commences on a day other than the first day of a calendar month or ends on a day other than the last day of a calendar month, the Minimum Rent and any other amounts payable on a monthly basis shall be prorated on a per diem basis for such partial calendar months.

**ARTICLE 5**  
**CONDITION OF PREMISES; OPENING FOR BUSINESS**

Tenant agrees to accept the Premises, Center, and any Systems and Equipment serving the Premises "as is," without any agreements, representations, understandings or obligations on the part of Landlord to perform any alterations, repairs or improvements except as may be expressly provided in Exhibit B hereto or elsewhere in this Lease ("Landlord's Work"). Accordingly, as a fair and reasonable estimate and liquidation of Landlord's damages and not a penalty, if Tenant fails to complete Tenant's Initial Work and open the Premises for business in the manner required herein by the Commencement Date, Tenant shall pay Landlord as additional Rent an amount equal to 50% of the Minimum Rent then in effect prorated on a per diem basis until Tenant completes Tenant's Initial Work and so opens for business. Acceptance by Landlord of such liquidated damages shall not be deemed permission for Tenant to continue such violation, and shall not preclude Landlord from seeking any other remedy (other than damages) for such violation including, without limitation, specific performance or termination of this Lease or Tenant's right to possession as described in Article 22.

**ARTICLE 6**  
**TRADE FIXTURES, ALTERATIONS AND LIENS**

**A. Approval.** Tenant shall not attach any fixtures, equipment or other items to the Premises or make any additions, changes, alterations or improvements to the Premises or the Systems and Equipment serving the Premises, including without limitation Tenant's Initial Work described in Article 6 and Exhibit B hereto (all such work referred to collectively herein as the "Work"), without the prior written consent of Landlord. Landlord shall not unreasonably withhold consent, except that Landlord reserves the right to withhold consent in Landlord's sole discretion for Tenant's Initial Work, and Work affecting the structure, safety or security of the Center or Premises, the Systems and Equipment, or the appearance of the Premises from any Common Areas.

**B. Conditions.** Landlord reserves the right to impose requirements as a condition of such consent or otherwise in connection with the Work, including without limitation, requirements that Tenant: (i) submit for Landlord's prior written approval detailed plans and specifications prepared by licensed and competent architects and engineers, (ii) submit for Landlord's prior written approval the names, addresses and background information concerning all contractors, subcontractors and suppliers, (iii) obtain and post permits, bonds, and additional insurance, (iv) submit contractor, subcontractor and supplier lien waivers, (v) use union labor, and (vi) comply with such other requirements as Landlord may impose concerning the manner and times in which such Work shall be done and other aspects of the Work. Landlord may require that all Work be performed under Landlord's supervision. If Landlord consents or supervises, or recommends any suppliers, contractors, architects, or engineers, the same shall not be deemed a warranty as to the adequacy of the design, workmanship or quality of materials, or compliance of the Work with any Laws.

**C. Performance of Work.** All Work shall be performed: (i) in a thoroughly first class, professional and workmanlike manner, (ii) only with materials that are new, high quality, and free of material defects, (iii) strictly in accordance with plans and specifications approved by Landlord in advance in writing, (iv) not to adversely affect the Systems and Equipment or the structure of the Center, (v) diligently to completion and so as to cause the least possible interference with other tenants and the operation of the Center, and (vi) in compliance with all Laws and other provisions of this Lease, including without limitation, Exhibit B and the Rules attached hereto as Rider One. If Tenant fails to perform the Work as required herein or the materials supplied fail to comply herewith or with the specifications approved by Landlord, and Tenant fails to cure such failure within 48 hours after notice by Landlord (except that notice shall not be required in emergencies), Landlord shall have the right to stop the Work until such failure is cured (which shall not be in limitation Landlord's other remedies and shall not serve to abate the Rent or Tenant's other obligations and this Lease).

**D. Liens.** Tenant shall keep the Center, Premises and this Lease free from all mechanics, materialman's or similar liens or encumbrances, and any claims therefor, in connection with any Work. Tenant shall give Landlord notice at least ten (10) days prior to the commencement of any Work (or such additional time as may be necessary under applicable Laws), to afford Landlord the opportunity of posting and recording appropriate notices of non-responsibility. Tenant shall remove any such claim, lien or encumbrance by bond or otherwise within twenty (20) days after notice by Landlord. If Tenant fails to do so, Landlord may pay the amount or take such other action as Landlord deems necessary to remove such claim, lien or encumbrance, without being responsible for investigating the validity thereof. The amount so paid and costs incurred by Landlord shall be deemed additional Rent under this Lease payable upon demand, without limitation as to other remedies available to Landlord. Nothing contained in this Lease shall authorize Tenant to do any act which shall subject Landlord's title to the Center or Premises to any such notices, liens or encumbrances whether claimed by operation of statute or other Law or express or implied contract. Any claim to a lien or encumbrance upon the Center or Premises arising in connection with any Work shall be null and void, or at Landlord's option shall attach only against Tenant's interest in the Premises and shall in all respects be subordinate to Landlord's title to the Center and Premises.

**ARTICLE 7**

**USE AND OPERATING REQUIREMENTS**

**A. Use; Compliance With Laws.** Tenant shall use the Premises for the purposes specified in Article 1 (and Tenant shall use the Premises for all the purposes specified therein), and for no other purpose whatsoever, subject to and in compliance with all other provisions of this Lease, including without limitation the Rules attached as Rider One hereto. Tenant shall comply with all Laws relating to the Premises and Tenant's use thereof, including without limitation, Laws requiring the Premises to be closed on Sundays or any other days or hours, health, safety and building codes, and any permit or license requirements. Landlord makes no representation that the Premises are suitable for Tenant's purposes.

**B. Required Operations.** Tenant shall conduct its business at all times in a first-class, professional and businesslike manner consistent with reputable business standards and practices, and such that a high reputation of the Center is developed and enhanced. Tenant shall operate the Premises continuously, actively and diligently in a good faith manner designed to maximize Gross Sales. Tenant shall keep the Premises adequately staffed with well-trained personnel for efficient first class service, and adequately stocked with new "in season" merchandise in good condition and displayed in a professional and tasteful manner. Tenant agrees that storage and office space in the Premises shall be limited to that necessary for, and used in conjunction with, the business provided in Article 1 to be conducted in the Premises. Sales and services permitted under Article 1 shall be provided only on a retail basis to the general public. Tenant shall not use the Premises for catalogue sales.

**C. Trade Name and Radius Restrictions.** Tenant shall conduct Tenant's business only under the trade name set forth in Article 1. Tenant and Tenant's affiliates, owners and subsidiaries shall not directly or indirectly own, operate, control, engage or have a financial interest in any business similar to that authorized to be conducted hereunder (including a department or concession in another store), or use or permit the use of the same or similar trade names, within the area set forth in Article 1; provided, however, that nothing herein shall prevent the operation of any of Tenant's existing stores under their present trade names, or require that Tenant violate any Law.

**ARTICLE 8**

**UTILITIES**

**A. Utilities Provided By Tenant.** Tenant shall: (1) make application in Tenant's own name for all utilities not provided by Landlord, (ii) comply with all utility company regulations for such utilities, including requirements for the installation of meters, and (iii) obtain such utilities directly from, and pay for the same when due directly to, the applicable utility company. The term "utilities" for purposes hereof shall include but not be limited to electricity, gas, water, sewer, steam, fire protection, telephone and other communication and alarm services, HVAC, and all taxes or other charges thereon. Tenant shall install and connect all equipment and lines required to supply such utilities to the extent not already available at or serving the Premises, or at Landlord's option shall repair, alter or replace any such existing items (or Tenant shall share the costs thereof for any HVAC unit or hot water heater shared with other tenants as described in Article 11). Tenant shall maintain, repair and replace all such items, operate the same, and keep the same in good working order and condition, as further provided in Article 11. Tenant shall not install any equipment or fixtures, or use the same, so as to exceed the safe and lawful capacity of any utility equipment or lines serving the same. The installation, alteration, replacement or connection of any utility equipment and lines shall be subject to the requirements for alterations of the Premises set forth in Article 7. Tenant shall ensure that all HVAC equipment is installed and operated at all times in a manner to prevent roof leaks, damage, or noise due to vibrations or improper installation, maintenance or operation. Tenant shall at all times keep the Premises sufficiently heated or air-conditioned such that heated or chilled air is not drawn to or from the Premises.

**B. Interruptions.** Landlord does not warrant that any utilities provided by Landlord will be free from shortages, failures, variations, or interruptions caused by repairs, maintenance, replacements, improvements, alterations, changes of service, strikes, lockouts, labor controversies, accidents, inability to obtain services, fuel, steam, water or supplies, governmental requirements or requests, or other causes beyond Landlord's reasonable control. None of the same shall be deemed an eviction or disturbance of Tenant's use and possession of the Premises or any part thereof, or render Landlord liable to Tenant for abatement of Rent, or relieve Tenant from performance of Tenant's obligations under this Lease. Landlord in no event shall be liable for damages by reason of such shortage, failure, variation, or interruption, including without limitation, loss of profits, business interruption or other incidental or consequential damages.

**ARTICLE 9**

**MAINTENANCE AND REPAIR OF PREMISES**

**A. Tenant Maintenance and Repairs.** Tenant shall keep the Premises (including interior) in good working order, repair and condition (which condition shall also be clean, sanitary, sightly and free of pests and rodents, and which repairs shall include necessary replacements and capital expenditures and compliance with all Laws now or hereafter adopted), except to the extent provided to the contrary in Article 14 respecting casualty damage. Tenant's obligations hereunder shall include but not be limited to Tenant's trade fixtures and equipment, security gates, ceilings, walls, storefront, entrances, signs, interior decorations, floor-coverings, wall-coverings, entry and interior doors, exterior and interior glass, plumbing fixtures, light fixtures and bulbs, keys and locks, fire extinguishers and fire protection systems, and equipment and lines for water, sewer (including free flow up to the common sewer line), grease trap, HVAC, electrical, gas, steam, sprinkler and mechanical facilities, and other systems and equipment which serve the Premises exclusively whether located within or outside the Premises, and all alterations and improvements to the Premises whether installed by Landlord or Tenant. Tenant shall also at Landlord's option perform or reimburse Landlord for any repairs, maintenance and replacements to areas of the Center outside the Premises caused as a result of moving any furniture, fixtures, or other property to or from the Premises, or otherwise caused by Tenant or any other occupant of the Premises, or any of their employees, agents, invitees or contractors. Any repairs or other work by Tenant hereunder shall be deemed "Work" under Article 7, and shall be subject to all of the requirements thereunder, including Landlord's prior written approval. Tenant shall provide Landlord with evidence that any Work required hereunder has been performed from time to time within five (5) days after Landlord's request therefor.

**B. HVAC Maintenance.** If the Premises are served exclusively by any HVAC units or other systems or equipment, Tenant shall enter annual, written maintenance contracts with competent, licensed contractors reasonably approved or designated by Landlord. Such contracts shall include, and Tenant shall require that such contractors provide: (i) inspection, cleaning and testing at least semi annually for HVAC units and other systems and equipment (or more frequently if required by applicable Law or if reasonably required by Landlord), (ii) any servicing, maintenance, repairs and replacements of filters, belts or other items determined to be necessary or appropriate as a result of such inspections and tests, or by the manufacturers' warranty, service manual or technical bulletins, or otherwise required to ensure proper and efficient operation, including emergency work, (iii) all other work as shall be reasonably required by Tenant, Landlord or Landlord's insurance carriers, (iv) a detailed record of all services performed, and (v) an annual service report at the end of each calendar year (Tenant shall provide Landlord with a copy of such annual reports promptly upon Tenant's receipt thereof. Not later than 30 days prior to the Commencement Date and annually thereafter, Tenant shall provide Landlord with a copy of all maintenance contracts required hereunder, and written evidence reasonably satisfactory to Landlord that the annual fees therefor have been paid. Such maintenance contracts represent part of Tenant's obligations under this Article, and shall not be deemed to limit Tenant's general obligations to keep any HVAC equipment and other systems and equipment hereunder in good working order, repair and condition as further described in Paragraph A, above. Landlord will warranty the major components(compressor and heat exchanger) of the HVAC unit. If at any time a major component needs to be repaired or replaced Tenant should notify Landlord to make repairs at Landlords cost.

**C. Shared Equipment.** If the Premises are served by one or more HVAC units or other such systems or equipment that also serve one or more other tenants, Tenant shall at Landlord's option made by Landlord from time to time in writing either: (a) make arrangements directly with such other tenant or tenants to reasonably share responsibility and expenses for inspection, maintenance, repairs, operation and replacements of such items, or (b) reimburse Landlord for Tenant's reasonable share of all costs incurred by Landlord in making such arrangements or performing such work (such share to be based on the ratio of the square footage of the Premises to the square footage of the areas leased to such other tenant or tenants, or at Landlord's option such other factors as Landlord shall deem reasonable).

**D. Landlord Maintenance and Repairs.** Landlord shall keep the roof above, foundation, exterior walls other than storefront, common utility lines to the point of connection for Tenant, and structural portions of the Premises in good working order and repair, provided that Tenant shall give Landlord reasonable prior notice of the necessity for such repairs, and further provided that any damage thereto shall not have been caused by any act or omission of, or violation of this Lease by, Tenant or any other occupant of the Premises, or any of their employees, agents, invitees or contractors, in which event Landlord may perform or require that Tenant perform such repairs as provided above (without limiting Landlord's other remedies therefor).

**ARTICLE 10**

**COMMON AREAS**

**A. Use of Common Areas.** Tenant may use the Common Areas to which, and for the purposes for which, other tenants at the Center are given access during the Term, subject to the following conditions:

(1) The Common Areas shall be used by Tenant and Tenant's employees and invitees on a non-exclusive basis in common with employees and invitees of Landlord and other tenants and parties to whom the right to use the Common Areas has been or is hereafter granted.

(2) Tenant shall not directly or indirectly conduct business in the Common Areas or make any use of the Common Areas which interferes in any way with the use of the Common Areas by other parties.

(3) Tenant's use of the Common Areas shall be subject to the other provisions of this Lease, including without limitation, the Rules attached as Rider One hereto.

(4) Tenant's right to use the Common Areas shall terminate upon the expiration or earlier termination of this Lease or Tenant's right to possession of the Premises.

**B. Common Area Maintenance and Control.** Landlord shall administer, operate, clean, maintain and repair the Common Areas. Landlord reserves the right at all times to determine the nature and extent of all Common Areas, and shall have exclusive control and management thereof (except to the extent that Majors or other parties own or control portions thereof). Landlord shall have the right to close all or a portion of the Common Areas to discourage non-customer parking or prevent a dedication thereof to public use or otherwise prevent the acquisition of public rights in such areas, and shall have the right to take such other actions as are further described in Article 21. Landlord reserves the right to use, permit or deny the use of the Common Areas for any purpose which in Landlord's sole opinion may be in the best interests of the Center, including without limitation promotions, events, exhibits, displays, shows and other activities.

**C. Interruption of Services or Use.** Landlord does not warrant that any services to, or any use of, the Common Areas will be free from shortages, failures, variations, or interruptions caused by repairs, maintenance, replacements, improvements, alterations, changes of service, strikes, lockouts, labor controversies, accidents, inability to obtain services, fuel, steam, water or other utilities or supplies, governmental requirements or requests, or other causes beyond Landlord's reasonable control. None of the same shall be deemed an eviction or disturbance of Tenant's use and possession of the Premises or any part thereof, or render Landlord liable to Tenant for abatement of Rent, or relieve Tenant from performance of Tenant's obligations under this Lease. Landlord in no event shall be liable for damages by reason of such shortages, failures, variations or interruptions, including without limitation loss of profits, business interruption or other incidental or consequential damages.

**D. Definition of Common Areas.** The term "Common Areas" herein means all areas of the Center which are now or hereafter made available by Landlord from time to time for the general use or benefit of Landlord, any Majors, other tenants at the Center, other parties to whom the right to use the Common Areas has been or is hereafter granted, and their employees and invitees, as such areas currently exist and as they may be changed from time to time. The Common Areas may, at Landlord's election, include areas in adjoining properties which are or become available to Landlord, tenants, employees and invitees of the Center and which are maintained with the Common Areas under any reciprocal easement agreement, operating agreement or other such agreement now or hereafter in effect. Without limiting the generality of the foregoing, the Common Areas may include, as designated by Landlord from time to time, any parking areas and structures (whether in tiers or at, above or below grade), mall enclosures and roofs covering Center buildings, entrances, sidewalks, streets or roadways, passageways, concourses, courts, arcades, service corridors, loading platforms and truck docks, delivery areas, escalators and elevators, ramps, stairs, landscaped and vacant areas, public bathrooms, information and telephone booths, directory signs and equipment, common lighting facilities, drainage areas, lounges and shelters, package pick-up stations, drinking fountains, public comfort and first aid stations, public meeting rooms, auditoriums, bus stops, taxi stands, and all furniture, decorations, fixtures, improvements, Systems and Equipment, and other facilities, located in or serving any of the foregoing.

**ARTICLE 11**

**INSURANCE, SUBROGATION, AND WAIVER OF CLAIMS**

**A. Required Insurance.** Tenant shall maintain during the Term: (i) commercial general liability insurance, with a contractual liability endorsement covering Tenant's indemnity obligations under this Lease, and with limits of not less than $2,000,000 combined single limit for personal injury, bodily injury or death, or property damage or destruction (including loss of use thereof) per occurrence, (ii) workers' compensation insurance as required by statute, and employer's liability insurance in the amount of at least $500,000 per occurrence, (iii) plate glass insurance covering all plate glass in the Premises and the storefront therefor, and (iv) "all-risk" property damage insurance covering Tenant's inventory, personal property, business records, furniture, floor coverings, fixtures and equipment, and all Work installed by Tenant for damage or other loss caused by fire or other casualty or cause including, but not limited to, vandalism and malicious mischief, theft, explosion, business interruption, and water damage of any type, including sprinkler leakage, bursting and stoppage of pipes. All insurance required hereunder shall be provided by responsible insurers rated at least A and 10 in the then current edition of Best's Insurance Guide and shall be licensed in the State in which the Center is located. Tenant's property damage insurance shall include full replacement cost coverage and the amount shall satisfy any coinsurance requirements under the applicable policy. Tenant's insurance shall be primary, and any insurance maintained by Landlord or any other additional insureds hereunder shall be excess and noncontributory. Landlord shall have the right to reasonably increase the amount or expand the scope of insurance to be maintained by Tenant hereunder from time to time.

**B. Certificates, Subrogation and Other Matters.** Tenant shall provide Landlord with certificates evidencing the coverage required hereunder (and, with respect to liability coverage showing Landlord and Landlord's managing agent for the Center and others designated by Landlord as additional insureds, and with respect to leasehold improvements showing Landlord as an additional named insured). Tenant shall provide such certificates prior to the Commencement Date or Tenant's possession of the Premises or construction of improvements therein (whichever first occurs). Tenant shall provide renewal certificates to Landlord at least thirty (30) days prior to the expiration of such policies. Such certificates shall state that the coverage may not be changed or cancelled without at least thirty (30) days prior written notice to Landlord. The parties mutually hereby waive all rights and claims against each other for all losses covered by their respective insurance policies, and waive all rights of subrogation of their respective insurers. The parties agree that their respective insurance policies are now, or shall be, endorsed so that such waivers of subrogation shall not affect their respective rights to recover thereunder.

**C. Waiver of Claims.** Except for claims arising from Landlord's intentional or the grossly negligent acts that are not covered by Tenant's insurance hereunder, Tenant waives all claims against Landlord for injury or death to persons, damage to property or to any other interest of Tenant sustained by Tenant or any party claiming through Tenant resulting from: (i) any occurrence in or upon the Premises, (ii) leaking of roofs, bursting, stoppage or leaking of water, gas, sewer or steam pipes or equipment, including sprinklers, (iii) wind, rain, snow, ice, flooding, freezing, fire, explosion, earthquake, excessive heat or cold, fire or other casualty, (iv) the Center, Premises, Systems or Equipment being defective, out of repair, or failing, and (v) vandalism, malicious mischief, theft or other acts or omissions of any other parties including without limitation, other tenants, contractors and invitees at the Center. To the extent that Tenant is required to or does carry insurance hereunder, Tenant agrees that Tenant's property loss risks shall be borne by such insurance, and Tenant agrees to look solely to and seek recovery only from its insurance carriers in the event of such losses; for purposes hereof, any deductible amount shall be treated as though it were recoverable under such policies.

**ARTICLE 12**

**CASUALTY DAMAGE**

**A. Restoration by Landlord.** If the Premises shall be damaged by fire or other casualty, Landlord shall use available insurance proceeds to repair the Premises, except that Landlord shall not be required to repair or replace any of Tenant's furniture, furnishings, fixtures or equipment, or any alterations or improvements in excess of any Landlord's Work under Exhibit B hereto, and Landlord's obligations shall be subject to any governmental requirements or requirements of any Lender and such Lender's right to control, apply or withhold such insurance proceeds. Landlord shall not be liable for any inconvenience or annoyance to Tenant or its visitors, or injury to Tenant's business resulting in any way from such damage or the repair thereof.

**B. Restoration by Tenant.** If Landlord repairs the Premises as provided herein, Tenant shall repair and replace Tenant's Work, all items required to be insured by Tenant hereunder, and all other items required to restore the Premises to the condition required under Article 11 of this Lease. Tenant shall commence such work within ten (10) days following substantial completion by Landlord of any repairs required by Landlord hereunder and shall proceed diligently therewith to completion. Tenant's work hereunder shall constitute "Work" under Article 7 and shall be subject to all of the provisions thereof. Tenant may close the Premises for business to the extent reasonably required in connection with such Work.

**C. Abatement of Rent.** Landlord shall allow Tenant a proportionate abatement of Minimum Rent from the date of the casualty through the date that Landlord substantially completes Landlord's repair obligations hereunder (or the date that Landlord would have substantially completed such repairs, but for delays by Tenant, its agents, employees, invitees, Transferees and contractors, provided such abatement: (i) shall apply only to the extent the Premises are untenantable for the purposes permitted under this Lease and not used by Tenant as a result thereof, based proportionately on the square footage of the Premises so affected and not used, and (ii) shall not apply if Tenant or any other occupant of the Premises, or any of their employees, agents, invitees or contractors cause the damage.

**D. Termination of Lease.** Notwithstanding the foregoing to the contrary, Landlord may elect to terminate this Lease, if the Center is materially damaged by Tenant or any other occupant of the Premises, or any of their agents, employees, invitees or contractors, or if the Center is damaged by fire or other casualty or cause such that: (a) more than 25% of the Premises is affected by the damage, (b) the damage occurs less than one year prior to the end of the Term, (c) any Lender requires that the insurance proceeds or any portion thereof be applied to the Mortgage debt (or terminates the ground lease, as the case may be), or the damage is not fully covered by Landlord's insurance policies, or (d) in Landlord's reasonable opinion, the cost of the repairs, alterations, restoration or improvement work would exceed 25% of the replacement value of the Center or of the portion thereof owned or ground leased by Landlord (whether or not the Premises are affected). In any such case, Landlord may terminate this Lease by notice to Tenant within 120 days after the date of damage (such termination notice to include a termination date providing at least thirty (30) days for Tenant to vacate the Premises). Tenant agrees that Landlord's obligation to restore, and the abatement of Rent provided herein, shall be Tenant's sole recourse in the event of such damage, and waives any other rights Tenant may have under any applicable Law to terminate this Lease by reason of damage to the Premises or Center.

**ARTICLE 13**

**CONDEMNATION**

If at least 25% of the rentable area of the Premises shall be taken by power of eminent domain or condemned by a competent authority or by conveyance in lieu thereof for public or quasi-public use ("Condemnation"), including any temporary taking for a period of one year or longer, this Lease shall terminate on the date possession for such use is so taken. If: (i) less than 25% of the Premises is taken, but the taking includes a material portion of the Center or of the portion thereof owned or ground leased by Landlord, or (ii) the taking is temporary and will be in effect for less than one year but more than thirty (30) days, then in either such event, Landlord may elect to terminate this Lease upon at least thirty (30) days prior written notice to Tenant. The parties further agree that: (a) if this Lease is terminated, all Rent shall be apportioned as of the date of such termination or the date of such taking, whichever shall first occur, (b) if the taking is temporary, Rent shall be abated for the period of the taking (but the Term shall not be extended thereby), and (c) if this Lease is not terminated but any part of the Premises is taken, the Minimum Rent, Breakpoint, Taxes, Center Expenses, and Promotion Fund Charge shall be proportionately abated based on the square footage of the Premises so taken. Landlord shall be entitled to receive the entire award or payment in connection with such Condemnation and Tenant hereby assigns to Landlord any interest therein for the value of Tenant's unexpired leasehold estate or any other claim and waives any right to participate therein, except that Tenant shall have the right to file any separate claim available to Tenant for moving expenses and any taking of Tenant's personal property, provided such award is separately payable to Tenant and does not diminish the award available to Landlord or any Lender.

**ARTICLE 14**

**RETURN OF POSSESSION**

At the expiration or earlier termination of this Lease or Tenant's right of possession, Tenant shall surrender possession of the Premises in broom-clean condition and good repair, free of debris, and otherwise in the condition required under Article 11 and shall ensure that all signs, vaults, safes, shelving, showcases, mirrors, and movable trade fixtures and personal property have been removed therefrom (subject to Article 36) and that any damage caused thereby has been repaired. All leasehold improvements and other fixtures, such as light fixtures and HVAC equipment, plumbing fixtures, hot water heaters, fire suppression and sprinkler systems, wall coverings, carpeting and drapes, in or serving the Premises, whether installed by Tenant or Landlord, shall be Landlord's property and shall remain, all without compensation, allowance or credit to Tenant. However, if prior to such termination or within thirty (30) days thereafter Landlord so directs by notice, Tenant shall promptly remove such of the foregoing items as are designated in such notice and repair any damage to the Premises caused by such removal. If Tenant shall fail to perform any repairs or restoration, or fail to remove any items from the Premises as require hereunder, Landlord may do so, and Tenant shall pay Landlord the cost thereof upon demand property removed from the Premises by Landlord hereunder may be handled, discarded or stored by Landlord at Tenant's expense, and Landlord shall in no event be responsible for the value, preservation or safekeeping thereof. All such property shall at Landlord's option be conclusively deemed to have been conveyed by Tenant to Landlord as if by bill of sale without payment by Landlord. If Landlord arranges for storage of any such property, Landlord shall have a lien against such property for costs incurred in removing and storing the same.

**ARTICLE 15**

**HOLDING OVER**

Tenant shall pay Landlord 200% of the amount of Rent then applicable prorated on a per diem basis for each day Tenant shall retain possession of the Premises or any part thereof after expiration or earlier termination of this Lease, together with all damages sustained by Landlord on account thereof. The foregoing provisions shall not serve as permission for Tenant to hold-over, nor serve to extend the Term (although Tenant shall remain a tenant at sufferance, bound to comply with all provisions of this Lease until Tenant vacates the Premises). Landlord shall have the right, at any time after expiration or earlier termination of this Lease or Tenant's right to possession, to reenter and possess the Premises and remove all property and persons therefrom, and Landlord shall have such other remedies for holdover as may be available to Landlord under other provisions of this Lease or applicable Laws.

**ARTICLE 16**

**SUBORDINATION, ATTORNMENT AND MORTGAGEE PROTECTION**

This Lease is subject and subordinate to all Mortgages now or hereafter placed upon the Center, and all other encumbrances and matters of public record applicable to the Center, including without limitation, any reciprocal easement or operating agreements, covenants, conditions and restrictions (and Tenant shall not act or permit the Premises to be operated in violation thereof). If any foreclosure or power of sale proceedings are initiated by any Lender or a deed in lieu is granted (or if any ground lease is terminated), Tenant agrees, upon written request of any such Lender or any purchaser at such sale, to attorn and pay Rent to such party and to execute and deliver any instruments necessary or appropriate to evidence or effectuate such attornment. In the event of attornment, no Lender shall be: (i) liable for any act or omission of Landlord, or subject to any offsets or defenses which Tenant might have against Landlord (prior to such Lender becoming Landlord under such attornment), (ii) liable for any security deposit or bound by any prepaid Rent not actually received by such Lender, or (iii) bound by any future modification of this Lease not consented to by such Lender. Any Lender may elect to make this Lease prior to the lien of its Mortgage, and if the Lender under any prior Mortgage shall require, this Lease shall be prior to any subordinate Mortgage; such elections shall be effective upon written notice to Tenant. Tenant agrees to give any Lender by certified mail, return receipt requested, a copy of any notice of default served by Tenant upon Landlord, provided that prior to such notice Tenant has been notified in writing (by way of service on Tenant of a copy of an assignment of leases, or otherwise) of the name and address of such Lender. Tenant further agrees that if Landlord shall have failed to cure such default within the time permitted Landlord for cure under this Lease, any such Lender whose address has been so provided to Tenant shall have an additional period of thirty (30) days in which to cure (or such additional time as may be required due to causes beyond such Lender's control, including time to obtain possession of the Center by power of sale or judicial action). The provisions of this Article shall be self-operative; however, Tenant shall execute such documentation as Landlord or any Lender may request from time to time in order to confirm the matters set forth in this Article in recordable form. To the extent not expressly prohibited by Law, Tenant waives the provisions of any Law now or hereafter adopted which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease or Tenant's obligations hereunder if such foreclosure or power of sale proceedings are initiated, prosecuted or completed.

**ARTICLE 17**

**ESTOPPEL CERTIFICATE**

Tenant shall from time to time, within fifteen (15) days after written request from Landlord, execute, acknowledge and deliver a statement: (i) certifying that this Lease is unmodified and in full force and effect or, if modified, stating the nature of such modification and certifying that this Lease as so modified, is in full force and effect (or if this Lease is claimed not to be in force and effect, specifying the ground therefor) and the dates to which the Minimum Rent, Percentage Rent and other charges hereunder have been paid, and the amount of any Security Deposit, (ii) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of. Landlord hereunder, or specifying such defaults if any are claimed, and (iii) certifying such other matters as Landlord may reasonably request, or as may be requested by Landlord's current or prospective Lenders, insurance carriers, auditors, and prospective purchasers. Any such statement may be relied upon by any such parties. If Tenant shall fail to execute and return such statement within the time required herein, Tenant shall be deemed to have agreed with the matters set forth therein, and Landlord acting in good faith shall be authorized as Tenant's attorney in fact to execute such statement on behalf of Tenant (which shall not be in limitation of Landlord's other remedies therefor).

**ARTICLE 18**

**ASSIGNMENT AND SUBLETTING**

**A. Transfers.** Tenant acknowledges that Landlord has entered this Lease in order to obtain the unique attraction of Tenant's trade name, the unique services and/or merchandising mix and product lines associated with Tenant's business and the unique combination of Tenant's apparent operating expertise and financial integrity. Tenant shall not, without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion: (i) assign, mortgage, pledge, hypothecate, encumber, permit any lien to attach to, or otherwise transfer, this Lease or any interest hereunder, by operation of law or otherwise, (ii) sublet the Premises or any part thereof, or extend, renew or modify any sublease, or (iii) permit the use of the Premises by any parties other than Tenant and its employees, whether as licensee, concessionaire, franchisee or otherwise (all of the foregoing are hereinafter referred to collectively as "Transfers" and any party to whom any Transfer is made or sought to be made is hereinafter referred to as a "Transferee"). Any Transfer made without complying with this Article shall, at Landlord's option, be null, void and of no effect (which shall not be in limitation of Landlord's other remedies).

**B. Procedure.** If Tenant shall desire Landlord's consent to any Transfer, Tenant shall notify Landlord, which notice shall include: (a) a reference to the Center, Premises and this Lease, (b) the name and address of the proposed Transferee and a detailed description of the business operation proposed to be conducted in the Premises, (c) the proposed effective date (which shall not be less than 45 nor more than 180 days after Tenant's notice), (d) the terms of the proposed Transfer, a copy of all documentation pertaining thereto, and a detailed description of any alterations to the Premises required in connection with the Transfer, (e) current financial statements of the proposed Transferee certified by an officer, partner or owner thereof, (f) names, addresses, periods of ownership and operation, and reasonable description of all other businesses owned and operated by the Transferee then or within the three (3) previous years, and (g) business and character references and any other information to enable Landlord to determine the retail business experience, financial responsibility, character, and reputation of the proposed Transferee, nature of such Transferee's business, and such other information as Landlord may reasonably require.

**C. Consent.** If Landlord consents to a Transfer: (a) the terms and conditions of this Lease shall in no way be deemed to have been waived or modified, including without limitation, the purposes for which the Premises shall be used under Article 1, (b) Tenant shall remain fully liable for all obligations under this Lease, including without limitation, those obligations arising before and after the Transfer, and any assignee shall expressly assume all of Tenant's obligations, (c) such consent shall not be deemed consent to any further Transfer by either Tenant or a Transferee, and (d) Tenant shall deliver to Landlord promptly after execution, an original executed copy of all documentation pertaining to the Transfer in form reasonably acceptable to Landlord. Any sublease hereunder shall be subordinate and subject to the provisions of this Lease, and if this Lease shall be terminated during the term of any sublease, Landlord shall have the right to: (1) treat such sublease as cancelled and repossess the Premises by any lawful means, or (ii) require that such subtenant attorn to and recognize Landlord as its landlord under any such sublease. If Tenant shall Default hereunder, Landlord is hereby irrevocably authorized, as Tenant's agent and attorney-in-fact, to direct any Transferee to make all payments under or in connection with the Transfer directly to Landlord (which Landlord shall apply towards Tenant's obligations under this Lease).

**D. Recapture.** Notwithstanding anything to the contrary contained in this Article, Landlord shall have the option, by giving notice to Tenant within thirty (30) days after receipt of Tenant's notice of any proposed transfer to recapture the Premises. Such recapture notice shall cancel and terminate this Lease as of the date stated in Tenant's notice as the effective date of the proposed Transfer, unless Tenant revokes Tenant's notice of proposed Transfer by notice to Landlord within ten (10) days after Landlord's notice of recapture.

**E. Certain Transfers.** For purposes of this Lease, the term "Transfer" shall also include the following, whether accomplished directly or indirectly: (a) if Tenant is a partnership, the withdrawal or change, voluntary, involuntary or by operation of law, of a majority of the partners, or a transfer of a majority of partnership interests, in the aggregate on a cumulative basis, or the dissolution of the partnership, and (b) if Tenant is a closely held corporation (i.e., whose stock is not publicly held and not traded through an exchange or over the counter), the: (i) dissolution, merger, consolidation or other reorganization of Tenant, (ii) sale or other transfer of more than a cumulative aggregate of 50% of the voting shares of Tenant (other than to immediate family members by reason of gift or death) or (iii) sale, mortgage, hypothecation or pledge of more than a cumulative aggregate of 50% of Tenant's net assets.

**ARTICLE 19**

**RIGHTS RESERVED BY LANDLORD**

Except to the extent expressly limited herein, Landlord reserves full rights to control the Center (which rights may be exercised without subjecting Landlord to claims for constructive eviction, abatement of Rent, damages or other claims of any kind), including more particularly, but without limitation, the following rights:

**A. Access to Premises.** Landlord and its authorized representatives may (i) inspect the Premises, (ii) exhibit the Premises to current and prospective tenants, purchasers, lenders, insurers, governmental authorities, and brokers, (iii) place in and upon the Premises or such other places as may be determined by Landlord "For Rent" signs or notices if Tenant shall abandon or vacate the Premises, or at any time during the last 120 days of the Term, (iv) enter or permit entry to the Premises in emergencies or for any other reasonable purpose, or for the purpose of exercising any other rights or remedies expressly granted or reserved to Landlord under this Lease or applicable Law, or to make any repairs, maintenance, improvements or alterations, or other work in or about the Center, and (v) in connection therewith, erect scaffolding and temporary barricades and take into, upon or through the Premises, materials required to perform the same, and if reasonably required, move Tenant's leasehold improvements, fixtures, property and equipment. However, in connection with entering the Premises to exercise any of the foregoing rights, Landlord shall take reasonable steps to minimize any interference with Tenant's business, and following completion of the work, return Tenant's leasehold improvements, fixtures, property and equipment to the original locations and condition to the fullest extent reasonably possible.

**B. Reserved Areas.** Landlord reserves all rights to use (or grant other parties the right to use) and Tenant shall have no right, title or interest in: (i) the roof of the Center, (ii) exterior non-storefront portions of the Premises (including, without limitation, demising walls and outer walls of the area of the Center in which the Premises are located), (iii) air rights above the Premises and rights to the land and improvements below the floor level of the Premises, and (iv) areas within the Premises necessary for utilities, services, safety and operation of the Center that will not materially interfere with Tenant's use of the Premises, including the Systems and Equipment, fire stairways, and space between the suspended ceiling of the Premises and the slab of the floor or roof of the Center thereabove. If the Premises does not contain a suspended ceiling, the Premises shall extend vertically to the height where, in Landlord's reasonable opinion, a suspended ceiling would otherwise exist, and Landlord reserves the right to install a suspended ceiling and use the area thereabove.

**C. Access to Center.** Landlord may prevent or restrict access to the Center or designated portions thereof by such security procedures as Landlord may from time to time impose on days and hours when the Center is, or portions thereof are, closed for business to the public. Landlord reserves the right to control, prevent access by and remove, any person whose presence in the judgment of Landlord shall be prejudicial to the safety, character, reputation and interests of the Center, or who in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs.

**D. Emergency Closings.** Landlord shall have the right (but not the obligation) to limit or prevent access to all or any portion of the Center, shut down elevator and escalator service, activate emergency controls or procedures, or otherwise take such action or preventive measures deemed necessary by Landlord for the safety of tenants or other occupants of the Center or the protection of the Center or other property located thereon or therein, in case of fire or other casualty, riot or other civil disorder, strike or labor unrest, public excitement or other dangerous condition, or threat thereof.

**E. Other Tenants.** Landlord reserves the right to lease any portion of the Center to such other tenants as Landlord, in Landlord's sole discretion, deems appropriate, whether or not engaged in the same or similar business for which Tenant is permitted to use the Premises under this Lease. Tenant acknowledges that Landlord has made no representations as to the presence of any specific tenant or number or types of tenants at the Center as of or after the Commencement Date, hours or days that such other tenants shall or may be open for business, or gross sales which may be achieved by Tenant or any other tenants at the Center. A vacation or abandonment of its premises or cessation of business in the Center by any other tenant or occupant shall not release or excuse Tenant from Tenant's obligations under any provision of this Lease.

**F. Changes to the Center.** Landlord reserves the right to: (i) change the name of the Center and the address or designation of the Premises or the building in which the Premises are located, (ii) install, maintain, alter and remove signs on or about the exterior and interior of the Center, (iii) add land, easements or other interests to or eliminate the same from the Center, and grant easements and other interests and rights in the Center to other parties, (iv) add, alter, expand, reduce, eliminate, relocate or change the shape, size, location, character, design, appearance, use, number or height of any permanent or temporary buildings, structures, improvements, surface parking, subterranean and multiple level parking decks, kiosks, planters, pools, waterfalls, parking areas, driveways, landscaped areas and other Common Areas, change the striping of parking areas and direction and flow of traffic, and convert Common Areas to leasable areas and leasable areas to Common Areas, (v) enclose any mall or other area, or remove any such enclosure, or add one or more additional levels or stories to the Center or any portion thereof, whether or not the Premises are contained therein, and add structural support columns that may be required within the Premises or Common Areas, (vi) relocate any HVAC equipment serving the Premises installed on the roof or other area outside the Premises if Landlord constructs an additional story or level or otherwise alters the Center, and (vii) in connection with the foregoing matters, or with any other inspections, repairs, maintenance, improvements or alterations in or about the Center, or as a result of any casualty, incident, strike, condemnation, act of God, Law or governmental requirement or request, or any other cause, erect scaffolding, barricades, and other structures reasonably required in, or otherwise close, Common Areas or portions thereof, including but not limited to public entry ways and areas, restrooms, stairways, escalators, elevators and corridors. However, in connection with exercising such rights, Landlord shall: (a) take reasonable steps to minimize or avoid any denial of access to the Premises except when necessary on a temporary basis, (b) take reasonable steps to avoid materially changing the configuration or reducing the square footage of the Premises, unless required by Laws or other causes beyond Landlord's reasonable control (and in the event of any permanent material reduction, the Minimum Rent, Breakpoint, Center Expenses, Taxes, and Promotion Fund Charge shall be proportionately reduced), (c) at Landlord's expense, move Tenant's entrance doorway if access thereto is materially impaired, and (d) if Landlord enters the Premises in connection with any of the foregoing matters, comply with Paragraph A above.

**G. Relocation.** Landlord reserves the right from time to time to substitute for the Premises other premises (“New Premises”) so long as (a) the new premises are similar to the Premises in square footage and within the Clifton Park Center shopping center (b) Landlord gives Tenant at least ninety days (90) days notice before making such change; (c) if Tenant has already taken possession of the Premises, Landlord pays reasonable direct out-of-pocket expenses of Tenant in moving from the Premises to the New Premises (including moving internet and phone service, reprinting of literature that includes new address, build-out and rewiring) and Landlord improves the New Premises to a condition substantially similar to the Premises (exclusive of trade fixtures, personal property, inventory and equipment). Landlord will not have any liability to Tenant for the loss or damage of Tenant’s property or business arising in connection with moving to the New Premises. At Landlord’s request, Tenant will execute and deliver to Landlord an amendment to the Lease confirming the change of the Premises, and, if necessary, adjusting the Monthly Rent.

**ARTICLE 20**

**LANDLORD'S REMEDIES**

**A. Default.** The occurrence of any one or more of the following events shall constitute a "Default" by Tenant and shall give rise to Landlord's remedies set forth in Paragraph (B), below: (1) failure to make when due any payment of Rent, unless such failure is cured within five (5) days after notice, (ii) failure to observe or perform any term or condition of this Lease other than the payment of Rent, unless such failure is cured within any period of time following notice expressly provided in other Articles hereof, or otherwise within a reasonable time, but in no event more than fifteen (15) days following notice (or such additional time as may be required due to Unavoidable Delays as described in Article 28), (iii) (a) making by Tenant or any guarantor of this Lease ("Guarantor") of any general assignment for the benefit of creditors, (b) filing by or against Tenant or any Guarantor of a petition to have Tenant or such Guarantor adjudged a bankrupt or a petition for reorganization or arrangement under any Law relating to bankruptcy or insolvency (unless, in the case of a petition filed against Tenant or such Guarantor, the same is dismissed within sixty (60) days), (c) appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located in the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days, (d) attachment, execution or other judicial seizure of substantially all of Tenant's assets located on the Premises or of Tenant's interest in this Lease, (e) Tenant's or any Guarantor's convening of a meeting of its creditors or any class thereof for the purpose of effecting a moratorium upon or composition of its debt, (f) Tenant's or any Guarantor's insolvency or admission of an inability to pay its debts as they mature, or (iv) a violation by Tenant or any affiliate of Tenant under any other lease or agreement with Landlord releting to the Center which is not cured within the time permitted for cure thereunder. Failure by Tenant to comply with the same term or condition of this Lease on two occasions during any twelve month period shall cause any failure to comply with such term or condition during the succeeding twelve month period, at Landlord's option, to constitute an incurable Default. The notice and cure periods provided herein are in lieu of, and not in addition to, any notice and cure periods provided by Law; provided, Landlord *may* at any time and from time to time elect to comply with such notice and cure periods as may be provided by Law in lieu of the notice and cure periods provided herein.

**B. Remedies.** If a Default occurs; Landlord shall have the rights and remedies hereinafter set forth to the extent permitted by Law, which shall be distinct, separate and cumulative with and in addition to any other right or remedy allowed under any Law or other provisions of this Lease:

(1) Landlord may terminate Tenant's right of possession, reenter and repossess the Premises by detainer suit, summary proceedings or other lawful means, with or without terminating this Lease (and if applicable Law permits, and Landlord shall not have expressly terminated this Lease in writing, any such action shall be deemed a termination of Tenant's right to possession only). In such event, Landlord may recover from Tenant: (i) any unpaid Rent as of the date possession is terminated, (ii) the amount by which : (a) any unpaid Rent which would have accrued after the termination date during the balance of the Term exceeds (b) the reasonable rental value of the Premises under a lease substantially similar to this Lease for the balance of the Term, taking into account among other things, the condition of the Premises, market conditions and the period of time the Premises may reasonably remain vacant before Landlord is able to re-lease the same to a suitable replacement tenant, and Costs of Reletting (as defined in Paragraph I below) that Landlord may incur in order to enter such replacement lease, and (iii) any other amounts necessary to compensate Landlord for all damages proximately caused by Tenant's failure to perform its obligations under this Lease. For purposes of computing the amount of Rent herein that would have accrued after the termination date, The amounts computed in accordance with the foregoing subclauses (a) and (b) shall both be discounted in accordance with accepted financial practice at the rate of four percent (4%) per annum to the then present value.

(2) Landlord may terminate Tenant's right of possession, reenter and repossess the Premises by detainer suit, summary proceedings or other lawful means, with or without terminating this Lease (and if applicable Law permits, and Landlord shall not have expressly terminated this Lease in writing, any such action shall be deemed a termination of Tenant's right of possession only). In such event, Landlord may recover from Tenant: (i) any unpaid Rent as of the date possession is terminated, (ii) any unpaid Rent which accrues during the Term from the date possession is terminated through the time of judgment (or which may have accrued from the time of any earlier judgment obtained by Landlord), less any consideration received from replacement tenants as further described and applied pursuant to Paragraph I, below, and (iii) any other amounts necessary to compensate Landlord for all damages proximately caused by Tenant's failure to perform its obligations under this Lease, including without limitation, all Costs of Reletting (as defined in Paragraph I). Tenant shall pay any such amounts to Landlord as the same accrue or after the same have accrued from time to time upon demand. At any time after terminating Tenant's right to possession as provided herein, Landlord may terminate this Lease as provided in clause (1) above by written notice to Tenant, and Landlord may pursue such other remedies as may be available to Landlord under this Lease or applicable Law.

**C. Reletting.** If this Lease or Tenant's right to possession is terminated, or Tenant vacates or abandons the Premises, Landlord may: (i) enter and secure the Premises, change the, locks, install barricades, remove any improvements, fixtures or other property of Tenant therein, perform any decorating, remodeling, repairs, alterations, improvements or additions and take such other actions as Landlord shall determine in Landlord's sole discretion to prevent damage or deterioration to the Premises or prepare the same for reletting, and (ii) relet all or any portion of the Premises (separately or as part of a larger space), for any rent, use or period of time (which may extend beyond the Term hereof), and upon any other terms as Landlord shall determine in Landlord's sole discretion, directly or as Tenant's agent (if permitted or required by applicable Law). The consideration received from such reletting shall be applied pursuant to the terms of Paragraph I hereof, and if such consideration, as so applied, is not sufficient to cover all Rent and damages to which Landlord may be entitled hereunder, Tenant shall pay any deficiency to Landlord as the same accrues or after the same has accrued from time to time upon demand, subject to the other provisions hereof.

**D. Specific Performance, Collection of Rent and Acceleration.** Landlord shall at all times have the right without prior demand or notice except as required by applicable Law to: (i) seek any declaratory, injunctive or other equitable relief, and specifically enforce this Lease or restrain or enjoin a violation of any provision hereof, and Tenant hereby waives any right to require that Landlord post a bond in connection therewith, and (ii) sue for and collect any unpaid Rent which has accrued. Notwithstanding anything to the contrary contained in this Lease, to the extent not expressly prohibited by applicable Law, in the event of any Default by Tenant, Landlord may terminate this Lease or Tenant's right to possession and accelerate and declare that all Rent reserved for the remainder of the Term shall be immediately due and payable; provided the Rent so accelerated shall be discounted in accordance with accepted financial practice at the rate of four percent (4%) per annum to the then present value, and Landlord shall, after receiving payment of the same from Tenant, be obligated to turn over to Tenant any actual net reletting proceeds (net of all Costs of Reletting) thereafter received during the remainder of the Term, up to the amount so received from Tenant pursuant to this provision.

**E. Late Charges and Interest.** Rent is due on the first of each month. Tenant shall pay, as additional Rent, a service charge of Two Hundred Dollars ($200.00) for bookkeeping and administrative expenses, if any portion of Rent is not received by the sixth of each month. If Landlord rightfully issues a Notice of Default to Tenant, Tenant shall pay Landlord an additional service charge in the amount of One Hundred Dollars ($100.00). In addition, any Rent not paid when due shall accrue interest from the due date at the Default Rate until payment is received by Landlord. Such service charges and interest payments shall not be deemed consent by Landlord to late payments, nor a waiver of Landlord's right to insist upon timely payments at any time, nor a waiver of any remedies to which Landlord is entitled as a result of the late payment of Rent.

**F. Landlord's Cure of Tenant Defaults.** If Tenant fails to perform any obligation under this Lease for five (5) days after notice thereof by Landlord (except that no notice shall be required in emergencies), Landlord shall have the right (but not the duty), to perform such obligation on behalf and for the account of Tenant. In such event, Tenant shall reimburse Landlord upon demand, as additional Rent, for all expenses incurred by Landlord in performing such obligation together with an amount equal to fifteen percent (15%) thereof for Landlord's overhead, and interest thereon at the Default Rate from the date such expenses were incurred. Landlord's performance of Tenant's obligations hereunder shall not be deemed a waiver or release of Tenant therefrom.

**G. Bad Rent Checks.** If during the Term, as it may be extended, Landlord receives two (2) or more checks from Tenant which are returned by Tenant's bank for insufficient funds, Landlord may require that all checks thereafter be bank certified or cashier's checks (without limiting Landlord's other remedies). All bank service charges resulting from any bad checks shall be borne by Tenant.

**H. Other Matters.** No re-entry or repossession, repairs, changes, alterations and additions, reletting, acceptance of keys from Tenant, or any other action or omission by Landlord shall be construed as an election by Landlord to terminate this Lease or Tenant's right to possession, or accept a surrender of the Premises, nor shall the same operate to release the Tenant in whole or in part from any of the Tenant's obligations hereunder, unless express written notice of such intention is sent by Landlord or its agent to Tenant. Landlord may bring suits for amounts owed by Tenant hereunder or any portions thereof, as the same accrue or after the same have accrued, and no suit or recovery of any portion due hereunder shall be deemed a waiver of Landlord's right to collect all amounts to which Landlord is entitled hereunder, nor shall the same serve as any defense to any subsequent suit brought for any amount not theretofore reduced to judgment. Landlord may pursue one or more remedies against Tenant and need not make an election of remedies until findings of fact are made by a court of competent jurisdiction. All rent and other consideration paid by any replacement tenants shall be applied, at Landlord's option: first, to the Costs of Reletting, second, to the payment of all costs of enforcing this Lease against Tenant or any Guarantor, third, to the payment of all interest and service charges accruing hereunder, fourth, to the payment of Rent theretofore accrued, and the residue, if any, shall be held by Landlord and applied to the payment of other obligations of Tenant to Landlord as the same become due (with any remaining residue to be retained by Landlord). "Costs of Reletting" shall include without limitation, all reasonable costs and expenses incurred by Landlord for any repairs, maintenance, changes, alterations and improvements to the Premises (whether to prevent damage or to prepare the Premises for reletting), brokerage commissions, advertising costs, attorneys' fees, any economic incentives given to enter leases with replacement tenants, and costs of collecting rent from replacement tenants. Landlord shall be under no obligation to observe or perform any provision of this Lease on its part to be observed or performed which accrues after the date of any Default by Tenant. The times set forth herein for the curing of violations by Tenant are of the essence of this Lease. Tenant hereby irrevocably waives any right otherwise available under any Law to redeem or reinstate this Lease or Tenant's right to possession after this Lease or Tenant's right to possession is terminated based on a Default by Tenant.

**ARTICLE 21**

**LANDLORD'S RIGHT TO CURE**

If Landlord shall fail to perform any obligation under this Lease required to be performed by Landlord, Landlord shall not be deemed to be in default hereunder nor subject to claims for damages of any kind, unless such failure shall have continued for a period of thirty (30) days after written notice thereof by Tenant or such additional time as may be required due to Unavoidable Delays. If Landlord shall fail to cure within the time permitted for cure herein, Landlord shall be subject to such claims for damages and remedies as may be available to Tenant (subject to the other provisions of this Lease); provided, Tenant shall have no right of self-help to perform repairs or any other obligation of Landlord, and shall have no right to withhold, set off, or abate Rent.

**ARTICLE 22**

**INDEMNIFICATION**

Except to the extent arising from the intentional or grossly negligent acts of Landlord or Landlord's agents or employees, Tenant shall defend, indemnify and hold harmless Landlord from and against any and all claims, demands, liabilities, damages, judgments, orders, decrees, actions, proceedings, fines, penalties, costs and expenses, including without limitation, court costs and attorneys' fees arising from or relating to any violation of Law, loss of life, diminution in value of the Center, damage or injury to persons, property or business occurring in, about or from the Premises, or directly or indirectly caused by or in connection with any violation of this Lease or use of the Premises or Center by, or any other act or omission of, Tenant, any other occupant of the Premises, or any of their respective agents, employees, invitees or contractors. Without limiting the generality of the foregoing, Tenant specifically acknowledges that the indemnity undertaking herein shall apply to claims in connection with or arising out of any "Work" as described in Article 7, the use or consumption of any utilities in the Premises under Article 10, any repairs or other work by or for Tenant under Article 11 and the transportation, use, storage, maintenance, generation, manufacturing, handling, disposal, release or discharge of any "Hazardous Material" as described in Article 26 (whether or not such matters shall have been theretofore approved by Landlord), except to the extent that any of the same arises from the intentional or grossly negligent acts of Landlord or Landlord's agents or employees.

**ARTICLE 23**

**SAFETY AND SECURITY DEVICES, SERVICES AND PROGRAMS**

Landlord shall have no obligation to provide any safety or security devices, services or programs for Tenant or the Center and shall have no liability for failure to provide the same or for inadequacy of any measures provided. However, Landlord may institute or continue such safety or security devices, services and programs as Landlord in its sole discretion deems necessary. The costs and expenses of instituting and maintaining such devices, services and programs shall be borne by Tenant as a part of Center Expenses, or as a separate, additional charge to Tenant based on Tenant's Proportionate Share or such other reasonable factors as Landlord shall determine. The parties acknowledge that safety and security devices, services and programs provided by Landlord, if any, while intended to deter crime and enhance safety, may not in given instances prevent theft or other injurious acts or ensure safety of parties or property. The risk that any safety or security device, service or program may not be effective, or may malfunction, or be circumvented, is assumed by Tenant with respect to Tenant's property and interests, and Tenant shall obtain insurance coverage to the extent Tenant desires protection against such acts and other losses, beyond that described in Article 13. Tenant agrees to cooperate in any safety or security program developed by Landlord or required by Law.

**ARTICLE 24**

**HAZARDOUS MATERIALS**

***Environmental Representations, Covenants and Indemnities.***

(A) Tenant covenants and agrees that:

(i) Tenant shall not bring, keep, discharge or release or permit to be brought, kept, discharged or released, in or from the Leased Premises or the Project any Hazardous Materials except in the ordinary course of Tenant’s business and in compliance with all applicable federal, state and local laws, regulations or ordinances. As used in this Lease, "Hazardous Materials" shall mean any toxic or hazardous substance, material or waste, including without limitation medical waste, or any other contaminant or pollutant which is or becomes regulated by any federal, state or local law, ordinance, rule or regulation and shall include asbestos and petroleum products and the terms "Hazardous Substance" and "Hazardous Waste" as defined in the Comprehensive Environmental Response, Compensations and Liability Act, as amended, 42 U.S.C. §9601 et. seq. and the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6901 et. seq. Any Hazardous Materials shall be used, kept, stored and disposed of in accordance with all applicable federal, state and local laws. Tenant shall comply with all federal, state and local reporting and disclosure requirements with respect to Hazardous Materials applicable in its business operations on the Leased Premises. Upon the written request of Landlord, Tenant shall provide periodic written reports of the type and quantities of any and all Hazardous Materials, waste and contaminants (whether or not believed by Tenant to be Hazardous Materials) used, stored or being disposed of by Tenant in or from the Leased Premises or the Project.

(ii) Should any governmental authority or any third party demand that a cleanup plan be prepared or that a clean-up or other remediation action be undertaken because of any deposit, spill, discharge, or other release of Hazardous Substances that occurs during the term of this Lease, at or from the Leased Premises or the Project and which arises from Tenant's use or occupancy of the Leased Premises or the Project, then Tenant shall, at Tenant's own expense, prepare and submit any required bonds and other financial assurances; and Tenant shall carry out all such required cleanup plans or other remediation action to Landlord’s reasonable satisfaction.

(iii) Tenant shall promptly provide all information regarding the use, generation, storage, transportation, or disposal of Hazardous Materials that is requested by Landlord. If Tenant fails to comply with any of its obligations under this Article 19 within a reasonable time, Landlord may do so; and in such case, Tenant shall cooperate with Landlord in order to prepare all documents Landlord deems necessary or appropriate to comply with such obligations. No such action by Landlord and no attempt made by Landlord to mitigate damages under any applicable law shall constitute a waiver of any of Tenant's obligations under this Article 19.

(B) Landlord represents and warrants that, to its actual knowledge (a) neither Landlord nor any third party has caused or permitted any activity to take place on, in or under the Project which has generated, manufactured, treated, stored, handled, disposed, produced or processed any Hazardous Materials except in compliance with all applicable federal, state and local laws, regulations or ordinances, and has not caused nor permitted and has no knowledge of any release, discharge or disposal of any Hazardous Materials on, in or under the Project; (b) Landlord is in compliance with all federal, state and local requirements relating to protection of health or the environment in connection with its ownership or use of the Project; (c) Landlord knows of no action brought by or threatened by any governmental agency against Landlord or any previous or prior tenant of Landlord to enforce any law, regulation or ordinance relating to protection of health or the environment or any litigation brought or threatened, or any settlements reached by any person(s) or group(s) alleging Hazardous Materials on or arising from any activity conducted on the Project; and (d) there are no underground storage tanks located on or under the Project.

(C) Anything in this Lease to the contrary notwithstanding, Tenant will indemnify, defend and hold Landlord, Landlord's lender, the manager of the Project and their respective constituent members, employees and agents harmless from and against any and all liabilities, claims, damages, penalties, expenditures, loss, demands, defenses, judgments, suits, actions, proceedings, or charges, including but not limited to, all reasonable costs of legal and expert fees and disbursements and of investigations, monitoring, legal representations, remedial response, removal, restoration or permit acquisitions, which may be required, undertaken, offered, paid, awarded or otherwise incurred as a result of any Hazardous Materials existing on, in or under the Leased Premises or the Project arising from the acts or omissions of the Tenant or any of its employees, agents, licensees, invitees or contractors activities on or about the Leased Premises or the Project during the Term.

(D) Anything in this Lease to the contrary notwithstanding, Landlord will indemnify, defend and hold Tenant, its employees and agents harmless from and against any and all liabilities, claims, damages, penalties, expenditures, loss, demands, defenses, judgments, suits, actions, proceedings, or charges, including but not limited to, all reasonable costs of legal and expert fees and disbursements and of investigations, monitoring, legal representations, remedial response, removal, restoration or permit acquisitions, which may be required, undertaken, offered, paid, awarded or otherwise incurred as a result of any Hazardous Materials existing on, in or under the Leased Premises or the Project arising from the acts or omissions of the Landlord or any of its employees, agents, licensees, invitees or contractors activities on or about the Leased Premises or the Project during the Term.

(E) The obligations and liabilities under this Article 19 shall survive the expiration or termination of this Lease.

Section 19.02. ***Negative Covenants****.* (A) The Tenant and its agents, employees, licensees, contractors and invitees shall neither encumber nor obstruct the sidewalk in front of, entrance to, or halls and stairs of the Common Building Facilities, the Building Parking Area or any other part of the Project.

(B) The Tenant will not nor will the Tenant permit any of its agents, employees, licensees, invitees, contractors or any other persons to do anything in the Leased Premises, or bring anything into said Leased Premises, or permit anything to be brought into the Leased Premises or to be kept therein, which will in any way increase the rate of fire insurance with respect to the Leased Premises, nor use the Leased Premises or any part thereof, nor suffer or permit their use for any business or purpose which would cause an increase in the rate of fire insurance on the Building, or conflict with the fire laws or regulations, or with any insurance policy upon the Building or any part thereof, or with any statutes, rules or regulations enacted or established by the appropriate governmental authority. Tenant agrees to pay on demand any increase in fire insurance arising from its failure to observe the terms and provisions of this paragraph.

(C) Tenant will not use or permit the Leased Premises or any part thereof to be used for any disorderly, disreputable, unlawful or extra hazardous purposes and will not manufacture any such commodity therein, under penalty of damages and forfeiture, and in the event of a breach hereof, the Term herein shall immediately cease and terminate at the option of the Landlord as if it were the expiration date of the Term. Tenant will not use or permit the Leased Premises to be used for any purposes that, in Landlord's opinion, impair the reputation or character of the Building. Tenant shall refrain from and discontinue such use immediately upon receipt of written notice from Landlord.

**ARTICLE 25**

**CAPTIONS AND SEVERABILITY**

The captions of the Articles and Paragraphs of this Lease are for convenience of reference only and shall not be considered or referred to in resolving questions of interpretation. If any term or provision of this Lease or portion thereof shall be found invalid, void, illegal, or unenforceable generally or with respect to any particular party, by a court of competent jurisdiction, it shall not affect, impair or invalidate any other terms or provisions or the remaining portion thereof, or its enforceability with respect to any other party.

**ARTICLE 26**

**DEFINITIONS**

A. "Center" shall mean the building or structure in which the Premises are located and any other buildings or structures owned or ground leased by Landlord from time to time and operated in conjunction therewith, whether or not shown on Exhibit A hereto, together with the Common Areas, and all parcels or tracts of land owned or ground leased by Landlord from time to time on which all or any portion of the foregoing items are located and any fixtures, Systems and Equipment, furniture and other personal property owned or leased by Landlord located thereon or therein and used in connection therewith. "Center" shall also include, at Landlord's election from time to time, Majors and other buildings, structures and parcels or tracts of land owned by other parties which adjoin the other areas of the Center or the Common Areas.

B. "Center Expenses" shall mean all expenses, costs and amounts of every kind and nature which Landlord shall pay during *any* calendar year any portion of which occurs during the Term in connection with the management, repair, maintenance, replacement, insurance and operation of the Center, including, without limitation, any amounts paid for: (a) utilities, including but not limited to electricity, power, gas, steam, oil or other fuel, water, sewer, lighting, heating, air conditioning and ventilating, (b) permits, licenses and certificates necessary to operate and manage the Center, and costs of complying with other legal requirements, including, without limitation, the "ADA" (as described in Article 39), (c) insurance applicable to the Center, which may include without limitation, commercial liability insurance for personal injury, death, property damage, defamation and false arrest, "all risk" insurance on the Center, including without limitation, earthquake, flood, boiler and rent loss coverage, automobile, worker compensation and employer liability insurance, (d) supplies, materials, tools, equipment, and vehicles used in the operation, repair, maintenance and security, floor care and cleaning, landscaping, and other services for the Center, including rental, installment purchase and financing agreements therefor and interest thereunder, (e) accounting, legal, inspection, consulting and other services, (f) wages, salaries, bonuses, and other compensation and benefits for any manager, personnel and other parties engaged in the operation, maintenance or security of the Center, and employer's Social Security taxes, unemployment taxes or insurance, and any other taxes which may be levied on such wages, salaries, compensation and .benefits, data or payroll processing expenses relating thereto (if the manager or other personnel are located off-site and handle other properties, the foregoing expenses shall be allocated appropriately between the Center and such other properties), (g) payments under any easement, operating agreement, declaration, restrictive covenant, or instrument pertaining to the sharing of costs in any development of which the Center is part, (h) alarm monitoring and security service, janitorial service, trash removal, removal of ice and snow (and salting and sanding in connection therewith), (i) parking surcharges or fees that may result from any environmental or other Law or guideline, and the cost of obtaining, providing and operating public transportation or shuttle bus systems to bring customers or workers to or from the Center if required by such Laws or guidelines, or if otherwise deemed desirable by Landlord, Q) the costs of operating and maintaining any on-site office at the Center, including without limitation, the fair rental value thereof, telephone charges, postage, stationery and photocopying expenses, (k) music programs and equipment, whether rented or purchased, (I) telephone directory listings for the Center, (m) appropriate reserves for operation of the Center and for covering uninsured portions, including deductible amounts, of casualty damage and general liability claims relating to the Center, (n) operation, maintenance, repair, installation, replacement, inspection, testing, painting, decorating and cleaning of: (i) elevators, escalators, fire exits and stairways, (ii) sidewalks, curbs, gutters, guardrails, bumpers, fences, flagpoles, flags, banners, bicycle racks, Center identification and pylon signs, directional signs, traffic signals and markers, including those located off-site but installed for the benefit of the Center, (iii) parking structures, parking lots, loading and service areas and driveways (including sweeping, cleaning, re-striping, repairing, sealing, re­surfacing and replacement), (iv) storm and sanitary drainage systems, including disposal plants, lift stations and detention ponds and basins, (v) irrigation systems, (vi) any Systems and Equipment, (vii) interior and exterior planting, replanting and replacement of flowers, shrubbery, plants, trees, grass, sod and other landscaping, (viii) all portions of buildings, both interior and exterior, in the Center, including without limitation, Common Areas and fixtures, equipment and other items therein or thereon, including but not limited to floors, floor coverings, corridors, ceilings, foundations, walls, wall-coverings, restrooms, lobbies, canopies, skylights, trash and ash cans and receptacles, trash compactors, planters, waterfalls, fountains, pools, benches, furniture, doors, locks and hardware, windows, glass and glazing, (ix) gutters and downspouts, roof flashings and roofs (including repairs and replacements), and (o) an amount equal to fifteen percent (15%) of all of the foregoing costs and expenses as a liquidation of Landlord's general off-site overhead (which amount shall be in addition to the compensation and related expenses for the manager and other aforementioned expenses). The foregoing provision is for definitional purposes only and shall not be construed to impose any obligation upon Landlord to incur such expenses. Landlord reserves the right to: (x) determine and bill Tenant's Proportionate Share of insurance costs relating to the Center separately from other Center Expenses, and (y) include Taxes attributable to the Common Areas as a part of Center Expenses rather than determining and billing the same separately. Notwithstanding the foregoing, Center Expenses shall not, however, include;

(i) interest and amortization on Mortgages, and other debt costs or ground lease payments, if any, except as provided herein; depreciation of buildings and other improvements (except permitted amortization of certain capital expenditures as provided below); improvements, repairs or alterations to spaces leased to other tenants; the cost of providing any service directly to and paid directly by, any tenant; costs of any items to the extent Landlord receives reimbursement from insurance proceeds or from a third party (such proceeds to be deducted from Center Expenses in the year in which received); and

(ii) capital expenditures, except those: (a) made primarily to reduce Center Expenses, or to comply with any Laws or other governmental requirements, or (b) for repairs or replacements (as opposed to additions or new improvements, except that Landlord shall be permitted to include new improvements involving pylon or other signs for the Center or the upgrading or addition of lights in the parking and other Common Areas); provided, all such permitted capital expenditures (together with reasonable finance charges) shall be amortized for purposes of this Lease over three (3) years. Tenant shall be responsible for Tenant’s Proportionate Share of such permitted amortization of capital expenditures during the Term, including any remaining amortization of permitted capital expenditures made prior to the Commencement Date.

C. "Common Areas" shall have the meaning specified therefor in Article 12.

D. "CPI" shall mean the Consumer Price Index for All Urban Consumers, All Items (Base year 1982-1984 = 100) published by the United States Department of Labor, Bureau of Labor Statistics, All City Average. If the Bureau of Labor Statistics substantially revises the manner in which the CPI is determined, an adjustment shall be made in the revised index which would produce results equivalent, as nearly as possible, to those which would be obtained hereunder if the CPI were not so revised. If the CPI becomes unavailable to the public because publication is discontinued, or otherwise, Landlord shall substitute therefor a comparable index based upon changes in the cost of living or purchasing power of the consumer dollar published by a governmental agency, major bank, other financial institution, university or recognized financial publisher.

E. "Default Rate" shall mean eighteen percent (18%) per annum, or the highest rate permitted by applicable Law, whichever shall be less.

F. "Gross Sales" shall have the meaning specified therefor in Article 3.

G. "HVAC" shall mean heating, ventilating and air-conditioning.

H. "Landlord" and "Tenant" shall be applicable to one or more parties as the case may be, and the singular shall include the plural, and the neuter shall include the masculine and feminine; and if there be more than one, the obligations thereof shall be joint and several. For purposes of any provisions indemnifying or limiting the liability of Landlord, the term "Landlord" shall include Landlord's present and future partners, beneficiaries, trustees, officers, directors, employees, shareholders, principals, Lenders, agents, affiliates, successors and assigns.

I. "Law" or "Laws" shall mean all federal, state, county and local governmental and municipal laws, statutes, ordinances, rules, regulations, codes, decrees, orders and other such requirements, applicable equitable remedies and decisions by courts in cases where such decisions are binding precedents in the state in which the Center is located, and decisions of federal courts applying the Laws of such state, at the time in question.

J. "Lease Year" shall mean each calendar year or portion thereof during the Term, and any initial or final partial years are sometimes referred to herein as "Partial Lease Years"; provided, Landlord reserves the right to change the "Lease Year" to each consecutive twelve month period commencing on the Commencement Date or such other date as Landlord shall designate by notice to Tenant.

K. "Lender" shall mean the holder of any Mortgage at the time in question, and where such Mortgage is a ground lease, such term shall refer to the ground lessor.

L. "Major" shall mean any store of any type in excess of 25,000 square feet of rentable area in, or at Landlord's election from time to time adjoining, the Center, whether in buildings or on parcels owned by Landlord or other parties.

M. "Mortgage" shall mean all mortgages, deeds of trust, ground leases and other such encumbrances now or hereafter placed upon the Center or any part thereof, and all renewals, modifications, consolidations, replacements or extensions thereof, and all indebtedness now or hereafter secured thereby and all interest thereon.

N. "Rent" shall have the meaning specified therefor in Article 4.

O. "Systems and Equipment" shall mean any plant, machinery, transformers, ducts, cables, wires, and other equipment, facilities, and systems designed to supply light, heat, ventilation, air conditioning and humidity or any other services or utilities, or comprising or serving as any component or portion of any electrical, gas, steam, plumbing, water, sewer, sprinkler, communications, alarm, security, or fire/life/safety systems or equipment, or any other mechanical, electrical, electronic, computer or other systems or equipment for the Center, except to the extent that any of the same serves any tenant exclusively or is subject to shared tenant use as described in Article 11.

P. "Taxes" shall mean all federal, state, county, or local governmental, special district, improvement district, municipal or other political subdivision taxes, fees, levies, assessments, charges or other impositions of every kind and nature, whether foreseen or unforeseen, general, special, ordinary or extraordinary (unless required to be paid by Tenant under Article 4), respecting the Center, including without limitation, real estate and other ad valorem taxes, general and special assessments, interest on any special assessments paid in installments, transit taxes, water and sewer rents, taxes based upon the receipt of rent including, without limitation, gross receipts taxes applicable to the receipt of rent, personal property taxes imposed upon the fixtures, machinery, equipment, apparatus, Systems and Equipment, appurtenances, furniture and other personal property used in connection with the Center which Landlord shall pay during any calendar year, any portion of which occurs during the Term (without regard to any different fiscal year used by such government or municipal authority except as provided in Article 5). Notwithstanding the foregoing, Taxes shall not include excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes, and other taxes to the extent applicable to Landlord's general or net income (as opposed to rents, receipts or income attributable to operations at the Center). If the method of taxation of real estate prevailing to the time of execution hereof shall be, or has been altered, so as to cause the whole or any part of the taxes now, hereafter or theretofore levied, assessed or imposed on real estate to be levied, assessed or imposed on Landlord, wholly or partially, as a capital levy or otherwise, or on or measured by the rents received therefrom, then such new or altered taxes attributable to the Center shall be included within the term "Taxes", except that the same shall not include any enhancement of said tax attributable to other income of Landlord. Tenant shall pay increased Taxes whether Taxes are increased as a result of increases in the assessment or valuation of the Center (whether based on a sale, change in ownership or refinancing of the Center or otherwise), increases in tax rates, reduction or elimination of any rollbacks or other deductions available under current law, scheduled reductions of any tax abatement, elimination, invalidity or withdrawal of any tax abatement, or for any other cause whatsoever. In addition, Landlord may include in Taxes any actual, out-of-pocket expenses incurred by Landlord in attempting to protest, reduce or minimize Taxes (including without limitation, fees for attorneys, consultants, appraisers and other experts) in the calendar year such expenses are paid.

Q. "Tenant's Proportionate Share" shall be a fraction equal to the rentable square footage of the Premises set forth in Article 1 (as the same may be remeasured pursuant to Article 21) divided by the total square footage of all rentable floor space in the Center; provided Landlord may, but shall not be obligated to exclude from such rentable floor space of the Center, at Landlord's option, any portions of the Center: (i) not occupied and open for business during all or any portion of the subject year, (ii) leased to or used by other parties as Majors, theatres, restaurants, kiosks, storage areas, or premises whichdo not front on any enclosed mall area of the Center, where such parties are not required to pay a full prorata share of Center Expenses or Taxes, as the case may be, pursuant to a lease or other agreement with Landlord, and (iii) with respect to Taxes, areas of the Center for which separate Tax bills are received and which are the sole responsibility of separate parties pursuant to a lease or other agreement with Landlord; provided, Landlord shall also deduct from Center Expenses or Taxes, as the case may be, all amounts received from such excluded parties for Center expenses or Taxes. If the Center shall be part of or shall include a group of buildings or structures collectively owned or managed by Landlord or its affiliates, or shall include any space used for office, medical, dental or other non-retail purposes, Landlord may determine separately and allocate Taxes or Center Expenses between such buildings and structures and the parcels on which they are located, and between the retail and non-retail areas of the Center, in accordance with sound accounting and management principles, in which event Tenant's Proportionate Share shall be based on the ratio of the rentable area of the Premises to the rentable floor space of the buildings, structures or areas for which Landlord separately determines such Taxes or Center Expenses, subject to the adjustments set forth above.

R. "Unavoidable Delays" shall mean delays due to strikes, lockouts, labor troubles, inability to procure labor or materials or reasonable substitutes therefor, failure of power, governmental requirements, restrictions or Laws, fire or other casualty damage, war or civil disorder, or other causes beyond the reasonable control of the party delayed; provided, Unavoidable Delays hereunder shall not include delays resulting from changes in economic or market conditions, or financial or internal problems of the parties or problems that can be satisfied by the payment of money. As a condition to Tenant's right to claim an Unavoidable Delay, Tenant shall notify Landlord within seven (7) days after the delay occurs and on at least a weekly basis thereafter describing in reasonable detail the nature and the status of Tenant's diligent efforts to end the delay.

**ARTICLE 27**

**RULES**

Tenant shall comply with all of the rules which are set forth in Rider One attached to this Lease, as the same may be amended or supplemented hereunder (the "Rules"). Landlord shall have the right by notice to Tenant or by posting at the Center to reasonably amend such Rules and supplement the same with other reasonable Rules relating to the Center or the promotion of safety, care, cleanliness or good order therein. Nothing herein shall be construed to give Tenant or *any* other party any claim against Landlord arising out of the violation of such Rules by any other tenant, occupant or visitor *of* the Center, or out *of* the enforcement, modification or waiver of the Rules by Landlord in any particular instance.

**ARTICLE 28**

**NO WAIVER**

No provision of this Lease will be deemed waived by either party unless expressly waived in writing signed by the waiving party. No waiver shall be implied by delay or any other act or omission of either party. No waiver by either party of any provision of this Lease shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision, and Landlord's consent respecting any action by Tenant shall not constitute a waiver of the requirement for obtaining Landlord's consent respecting any subsequent action. Acceptance of Rent by Landlord shall not constitute a waiver of any breach by Tenant of any term or provision of this Lease. No acceptance of a lesser amount than the Rent herein stipulated shall be deemed a waiver of Landlord's right to receive the full amount due, nor shall any endorsement or statement on any check or payment or any letter accompanying such check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the full amount due. The acceptance of Rent or of the performance of any other term or provision from any party other than Tenant, including any Transferee, shall not constitute a waiver of Landlord's right to approve any Transfer.

**ARTICLE 29**

**ATTORNEYS' FEES, COUNTERCLAIMS, VENUE AND JURY TRIAL**

If Landlord or any of its officers, directors, trustees, beneficiaries, partners, agents, affiliates or employees shall be made a party to any litigation commenced by or against Tenant and are not found to be at fault, Tenant shall pay all costs, expenses and reasonable attorneys' fees incurred by Landlord or any such party in connection with such litigation. Tenant shall also pay all costs, expenses and reasonable attorneys' fees that may be incurred by Landlord in successfully enforcing his Lease. **IN THE INTEREST OF OBTAINING A SPEEDIER AND LESS COSTLY HEARING OF ANY DISPUTE, EACH OF LANDLORD AND TENANT HEREBY EXPRESSLY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER AND ANY RIGHTS TO A TRIAL BY JURY UNDER ANY STATUTE, RULE OF LAW OR PUBLIC POLICY IN CONNECTION WITH ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATING TO THIS LEASE, THE PREMISES OR THE CENTER.** Although such jury waiver is intended to be self-operative and irrevocable, Landlord and Tenant each further agree, if requested, to confirm such waivers in writing at the time of commencement of any such action, proceeding or counterclaim. If Landlord commences any detainer suit, summary proceedings or other action seeking possession of the Premises, Tenant agrees not to interpose by consolidation of actions, removal to chancery or otherwise, any counterclaim, claim for set-off, recoupment or deduction of Rent, or other claim seeking affirmative relief of any kind (except a mandatory or compulsory counterclaim which Tenant would forfeit if not so interposed). Any action or proceeding brought by either party against the other for any matter arising out of or in any way relating to this Lease, the Premises or the Center, shall be heard, at Landlord's option, in the County where the Center is located.

**ARTICLE 30**

**PERSONAL PROPERTY TAXES**

Tenant shall pay before delinquent all taxes, assessments, license fees, charges or other governmental impositions assessed against or levied or imposed upon Tenant's business operations, Tenant's leasehold interest, or based on Tenant's use or occupancy of the Premises, or Tenant's fixtures, furnishings, equipment, leasehold improvements, inventory, merchandise, and personal property located in the Premises (whether or not title shall have vested in Landlord pursuant to any provision hereof). Whenever possible, Tenant shall cause all such items to be assessed and billed separately from the property of Landlord and other parties. If any such items shall be assessed and billed with the property of Landlord or another party, Landlord shall include the same or an appropriate portion thereof in Center Expenses, or shall reasonably allocate the same or an appropriate share thereof between Tenant and such other party (and Tenant shall promptly pay the amount so allocated to Tenant).

**ARTICLE 31**

**CONVEYANCE BY LANDLORD AND LIABILITY**

In case Landlord or any successor owner of the Center shall convey or otherwise dispose, of any portion thereof in which the Premises are located to another party (and nothing herein shall be construed to restrict or prevent such conveyance or disposition), such other party shall thereupon be and become landlord hereunder and shall be deemed to have fully assumed and be liable for all obligations of this Lease to be performed by Landlord, including the return of any Security Deposit. Tenant shall attorn to such other party, and Landlord or such successor owner shall, from and after the date of conveyance, be free of all liabilities and obligations hereunder.

**THE LIABILITY OF LANDLORD TO TENANT FOR ANY DEFAULT BY LANDLORD UNDER THIS LEASE OR ARISING IN CONNECTION HEREWITH OR WITH LANDLORD'S OPERATION, MANAGEMENT, LEASING, REPAIR, RENOVATION, ALTERATION, OR ANY OTHER MATTER RELATING TO THE CENTER OR THE PREMISES, SHALL BE LIMITED TO THE INTEREST OF LANDLORD IN THE CENTER (AND RENTAL PROCEEDS). TENANT AGREES TO LOOK SOLELY TO LANDLORD'S INTEREST IN THE CENTER (AND RENTAL PROCEEDS) FOR THE RECOVERY OF ANY JUDGMENT AGAINST LANDLORD, AND LANDLORD SHALL NOT BE PERSONALLY LIABLE FOR ANY SUCH JUDGMENT OR DEFICIENCY AFTER EXECUTION THEREON. UNDER NO CIRCUMSTANCES SHALL ANY PRESENT OR FUTURE GENERAL OR LIMITED PARTNER OF LANDLORD (IF LANDLORD IS A PARTNERSHIP), OR TRUSTEE OR BENEFICIARY (IF LANDLORD OR ANY PARTNER OF LANDLORD IS A TRUST) HAVE ANY LIABILITY FOR THE PERFORMANCE OF LANDLORD'S OBLIGATIONS UNDER THIS LEASE.**

**ARTICLE 32**

**NOTICES**

Except as expressly provided to the contrary in this Lease, every notice, demand or other communication given by either party to the other with respect hereto or to the Premises or Center, shall be in writing and shall not be effective for any purpose unless the same shall be served personally or by national air courier service, or United States registered or certified mail, return receipt requested, postage prepaid, addressed, if to Tenant, at the address first set forth in the Lease, and if to Landlord, at the address at which the last payment of Rent was required to be made and to CCM Associates of Clifton Park, LLC, 200 Clifton Corporate Parkway, Suite 240, Clifton Park, New York 12065, or such other address or addresses as Tenant or Landlord may from time to time designate by notice given as above provided. Every notice or other communication hereunder shall be deemed to have been given as of the second business day following the date of such mailing or dispatch by national air courier service (or as of any earlier date evidenced by a receipt from such national air carrier service or the United States Postal Service) or immediately if personally delivered. Notices not sent in accordance with the foregoing shall be of no force or effect until received by the foregoing parties at such addresses required herein.

**ARTICLE 33**

**REAL ESTATE BROKERS**

Tenant shall defend, indemnify and hold Landlord harmless from all damages, judgments, liabilities and expenses (including attorneys' fees) arising from any claims or demands of any broker, agent or finder with whom Tenant has dealt for any commission or fee alleged to be due in connection with its participation in the procurement of Tenant or the negotiation with Tenant of this Lease, other than a broker with whom Landlord has signed a written agreement relating to this Lease.

**ARTICLE 34**

**SECURITY DEPOSIT AND LANDLORD’S LIEN**

**Tenant shall deposit with Landlord the amount set forth in Article 1 as a Security Deposit upon Tenant's execution and submission of this Lease. The Security Deposit shall serve as security for the prompt, full and faithful performance by Tenant of the terms and provisions of this Lease. If Tenant commits a Default, or owes any amount to Landlord upon the expiration of this Lease, Landlord may use or apply the whole or any part of the Security Deposit for the payment of Tenant's obligations hereunder. The use or application of the Security Deposit shall not prevent Landlord from exercising any other right or remedy available to Landlord and shall not be construed as liquidated damages. If the Security Deposit is reduced by such use or application, Tenant shall deposit with Landlord within ten (10) days after written notice, an amount sufficient to restore the full amount of the Security Deposit. In the event of bankruptcy or other insolvency proceeding against Tenant or Tenant's guarantor, the Security Deposit shall be deemed automatically applied to the payment of overdue Rent from the earliest time such Rent became overdue prior to the filing of such proceeding. Landlord shall not be required to keep the Security Deposit separate from Landlord's general funds or pay interest on the Security Deposit. Any remaining portion of the Security Deposit shall be returned to Tenant within sixty (60) days after Tenant has vacated the Premises in accordance with Article 16.**

**As further security for Tenant's performance under this Lease, to the extent not expressly prohibited by applicable Law, Tenant hereby grants Landlord a lien and security interest in all existing and after acquired property of Tenant placed in or relating to Tenant's business at the Premises, including but not limited to, accounts receivable, insurance proceeds, good will, contracts, intangibles, fixtures, equipment, inventory, furnishings and personal property, and all proceeds thereof, and all rents and other consideration from any Transfer. Notwithstanding the foregoing, Tenant may freely use, replace and dispose of such property (provided Tenant immediately replaces the same with similar property of comparable or better quality), and receive such rents and consideration, in the ordinary curse of Tenant's business, until such time as Tenant shall commit a Default; upon such Default, Tenant's right to remove or use such property shall terminate, and all other parties shall be entitled to rely on written notification thereof given by Landlord without requiring any proof of such Default or any other matter. Tenant agrees to execute such financing statements, collateral assignment or rents or subleases, and other documents necessary to perfect a security interest, as Landlord may now or hereafter reasonably request in recordable form. Landlord may at its election at any time execute such a financing statement and collateral assignment as Tenant's agent and attorney in fact or file a copy of this Lease as such financing statement and collateral assignment. Landlord shall be entitled hereunder to all of the rights and remedies afforded a secured party under the Uniform Commercial Code or other applicable Law in addition to any landlord's lien and rights provided by applicable Law.**

**ARTICLE 35**

**MISCELLANEOUS**

A. Each of the terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, guardians, custodians, successors and assigns, subject to the provisions of Article 20 respecting Transfers. However, if Tenant is an individual and dies or becomes incapacitated, Landlord reserves the right to terminate this Lease upon thirty (30) days' advance notice to Tenant or Tenant's legal representative.

B. Neither this Lease nor any memorandum of lease or short form lease shall be recorded by Tenant.

C. This Lease shall be construed in accordance with the Laws of the state and county in which the Center is located.

D. All obligations (including indemnity obligations) or rights of either party arising during or attributable to the period prior to expiration or earlier termination of this Lease shall survive such expiration or earlier termination, except as provided to the contrary in Article 33.

E. If the Commencement Date is delayed in accordance with Article 2 for more than one year, Landlord may declare this Lease terminated by notice to Tenant, and if the Commencement Date is so delayed for more than three years, this Lease shall thereupon be deemed terminated without further action by either party.

F. Landlord agrees that if Tenant timely pays the Rent and performs the terms and provisions hereunder, Tenant shall hold and enjoy the Premises during the Term, free of lawful claims by any party acting by or through Landlord, subject to all other terms and provisions of this Lease.

G. The parties agree that they intend hereby to create only the relationship of landlord and tenant. No provision hereof, or act of either party hereunder, shall be construed as creating the relationship of principal and agent, or as creating a partnership, joint venture or other enterprise, or render either party liable for any of the debts or obligations of the other party, except under any indemnity provisions of this Lease.

H. Tenant acknowledges that any site or lease plan of the Center attached as an Exhibit hereto shall not be deemed a representation, warranty or agreement by Landlord respecting the Center or any other matter shown thereon other than the approximate location of the Premises, and that Majors and other parties unrelated to Landlord may own or control portions of the Center shown on such Exhibit.

I. If applicable Laws require that this Lease be in the form of a deed, this Lease shall be deemed a deed of lease for all purposes, and Landlord shall be deemed to have granted and demised the Premises to Tenant for the Term hereof, subject to the other terms and provisions contained herein.

J. This Lease, and any Riders and Exhibits hereto, have been mutually negotiated by Landlord and Tenant, and any ambiguities shall not be interpreted in favor of either party. Any printed provisions that have been deleted shall not be used to interpret the remaining provisions.

**ARTICLE 36**

**OFFER**

The submission and negotiation of this Lease shall not be deemed; an offer to enter the same by Landlord, but the solicitation of such an offer by Tenant. Tenant agrees that its execution of this Lease constitutes a firm offer to enter the same which may not be withdrawn for a period of six (6) weeks after delivery to Landlord. During such period and in reliance on the foregoing, Landlord may, at Landlord's option, deposit any Security Deposit and Rent, proceed with any alterations or improvements, and permit Tenant to enter the Premises and make alterations or improvements. If Landlord shall fail to execute and mail or deliver this Lease to Tenant within such period, Tenant may revoke its offer to enter this Lease by sending notice thereof to Landlord before Landlord mails or delivers an executed copy of this Lease to Tenant. In such case, Landlord shall return any Security Deposit and Rent to Tenant, and Tenant shall promptly remove any alterations, improvements, fixtures or personal property made or placed in or upon the Premises by Tenant or its contractors, agents or employees and restore the same to good condition as required under Article 16. If Tenant shall seek to revoke its offer to enter this Lease in violation of the foregoing provisions, Landlord shall have the options of forfeiting and retaining any Security Deposit and Rent theretofore paid, as liquidated damages without executing and delivering this Lease to Tenant, or executing and delivering this Lease to Tenant and enforcing the same as a valid and binding lease agreement.

**ARTICLE 37**

**AMERICANS WITH DISABILITIES ACT**

The parties acknowledge that the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.)* and regulations and guidelines promulgated thereunder, as all of the same may be amended and supplemented from time to time (collectively referred to herein as the "ADA' establish requirements for business operations, accessibility and barrier removal, and that such requirements may or may not apply to the Premises and Center depending on, among other things: (1) whether Tenant's business is deemed a "public accommodation" or "commercial facility", (2) whether such requirements are "readily achievable", and (3) whether a given alteration affects a "primary function area" or triggers "path of travel" requirements. The parties hereby agree that: (a) Landlord shall be responsible for ADA Title III compliance in the Common Areas, except as provided below, (b) Tenant shall be responsible for ADA Title III compliance in the Premises, including any leasehold improvements or other work to be performed in the Premises under or in connection with this Lease, and (c) Landlord may perform, or require that Tenant perform, and Tenant shall be responsible for the cost of, ADA Title III "path of travel" requirements triggered by alterations in the Premises. Tenant shall be solely responsible for requirements under Title I of the ADA relating to Tenant's employees.

**ARTICLE 38**

**ENTIRE AGREEMENT**

This Lease, together with Riders One through Three, and Exhibits A through D **(WHICH COLLECTIVELY ARE HEREBY INCORPORATED WHERE REFERRED TO HEREIN AND MADE A PART HEREOF AS THOUGH FULLY SET FORTH)**, contains all the terms and provisions between Landlord and Tenant relating to the matters set forth herein and no prior or contemporaneous agreement or understanding pertaining to the same shall be of any force or effect. Without limiting the generality of the foregoing, Tenant hereby acknowledges and agrees that Landlord's leasing and field personnel are only authorized to show the Premises and negotiate terms and conditions for leases subject to Landlord's final approval, and are not authorized to make any agreements, representations, understandings or obligations binding upon Landlord, respecting the present or future condition of the Premises or Center, suitability of the same for Tenant's business, or any other matter, and no such agreements, representations, understandings or obligations not expressly contained herein shall be of any force or effect. TENANT HAS RELIED ON TENANT'S INSPECTIONS AND DUE DILIGENCE IN ENTERING THIS LEASE AND NOT ON ANY REPRESENTATIONS OR WARRANTIES MADE BY LANDLORD CONCERNING THE CONDITION OR SUITABILITY OF THE PREMISES OR CENTER FOR ANY PARTICULAR PURPOSE. Neither this Lease, nor any Riders or Exhibits referred to above, may be modified, except in writing signed by both parties.

IN TESTIMONY WHEREOF, the parties have caused this Lease to be signed under seal by their respective representatives designated below, or if either party is a corporation, it has caused these presents to be signed by its president or other officer designated below, attested by its secretary and its corporate seal to be affixed.

**LANDLORD:**

CCM ASSOCIATES OF CLIFTON PARK, LLC

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

Authorized Representative

**TENANT:**

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

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

State of New York )

) ss.:

County of Saratoga )

On this day of \_\_\_\_\_\_\_\_\_\_\_, in the year 2015, before me, the undersigned, a Notary Public in and for said state, personally appeared **\_\_\_\_\_\_\_\_\_\_\_\_\_**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual acted, executed the instrument.

Notary Public

State of New York )

) ss.:

County of Saratoga )

On this day of \_\_\_\_\_\_\_\_\_\_\_, in the year 2015, before me, the undersigned, a Notary Public in and for said state, personally appeared **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual acted, executed the instrument.

Notary Public

**RIDER ONE**

**Rules**

(1) **Common Areas.** Tenant shall not use the Common Areas, including areas adjacent to the Premises, for any purpose other than ingress and egress, and any such use thereof shall be subject to the other provisions of this Lease, including these Rules. Without limiting the generality of the foregoing, Tenant shall not use the Common Areas to canvass, solicit business or information from, or distribute any article or material to, other tenants, occupants or invitees of the Center. Tenant shall not allow anything to remain in any passageway, sidewalk, court, corridor, stairway, entrance, exit, elevator, shipping area, or other area outside the Premises. Janitorial closets, utility closets, telephone closets, broom closets, electrical closets, storage closets, and other such closets rooms and areas shall be used only for the purposes and in the manner designated by Landlord, and may not be used by Tenant, or its contractors, agents, employees, or other parties without Landlord's prior written consent.

(2) **Deliveries.** Furniture, inventory and all other deliveries may be brought into the Center only at times and in the manner designated by Landlord, in compliance with all Laws, and always at Tenant's sole risk. Landlord may inspect items brought into the Center or Premises with respect to weight or dangerous nature or compliance with this Lease or applicable Laws. Tenant's use of any freight elevators, loading and service areas at the Center shall be subject to scheduling by Landlord. Tenant shall not take or permit to be taken in or out of other entrances or elevators of the Center, any item normally taken, or which Landlord otherwise requires to be taken, in or out through service doors or on freight elevators. Tenant shall move all inventory, supplies, furniture, equipment and other items as soon as received directly to the Premises. Any hand-carts used at the Center shall have rubber wheels and side guards and no other material handling equipment may be brought upon the Center except as Landlord shall approve in writing in advance.

(3) **Trash.** All garbage, refuse, trash and other waste shall be kept in the kind of container, placed in the areas, and prepared for collection in the manner and at the times and places specified by Landlord. If Landlord designates a service to pick up such items, Tenant shall use the same at Tenant's cost. Landlord reserves the right to require that Tenant participate in any recycling program designated by Landlord.

(4) **Fire Protection.** If Landlord installs or has heretofore installed a supervised fire sprinkler and/or alarm system for the protection of the Center, Tenant shall pay Tenant's Proportionate Share of the cost thereof (or such other share as Landlord may fairly and reasonably determine) to Landlord on or before the first day for each calendar month in advance, or Landlord may include such charges in Center Expenses.

(5) **Pest Control.** Tenant shall use, at Tenant's cost, such pest and rodent extermination contractor as Landlord may direct and at such intervals as Landlord mayrequire. In the alternative, from time to time, Landlord may arrange for pest control (in which case, Tenant shall pay Tenant's Proportionate Share of the cost thereof, or such other share as Landlord may fairly and reasonably determine to Landlord on or before the first day of each calendar month in advance. or Landlord may include such charges in Center Expenses). Tenant shall provide Landlord with evidence of Tenant's compliance with this provision within five (5) days after Landlord's written request.

(6) **Signs and Display Windows.** Tenant shall not place any sign or other thing of any kind outside the Premises (including without limitation, exterior walls and roof), or on the interior or exterior surfaces of glass panes or doors, except such single sign as Landlord shall expressly approve in writing for or in connection with Tenant's storefront. Within the Premises, Tenant shall not: (i) install any sign that advertises any Product,. (ii) install any sign within 24 inches of any window, or (iii) install any sign that is visible from outside the Premises or that is illuminated, without Landlord's prior written approval. If Landlord approves or requires illuminated signs, Tenant shall keep the same illuminated each day of the Term during the hours designated by Landlord from time to time. All Tenant's signs shall be professionally designed, prepared and installed and in good taste so as not to detract from the general appearance of the Premises or the Center and shall comply with the sign criteria attached hereto as Exhibit C or otherwise developed by Landlord from time to time. After the initial installation of Tenant's storefront sign as approved in writing by Landlord in accordance with these provisions, Landlord reserves the right to require from time to time that Tenant change or replace such sign in order to comply with any new sign criteria developed by Landlord, at Landlord's expense. The term "sign" in this Rule shall mean any sign, placard,- picture, name, direction, lettering, insignia or trademark, advertising material, advertising display, awning or other such item, except that Tenant's storefront sign shall be an actual sign. Blinds, shades, drapes or other such items shall not be placed in or about the windows in the Premises except to the extent, if any, that the character, shape, design, color, material and make thereof is first approved by Landlord in writing.

(7) **Display of Merchandise.** Tenant shall not place or maintain any permanent or temporary fixture or item or display any merchandise: (i) beyond the storefront, or (ii) anywhere inside the Premises within six (6) feet of any entrance to the Premises (except that for any recessed entry of the Premises, Tenant shall not so place or maintain fixtures within three (3) feet of such entrance). All displays of merchandise shall be tasteful and professional.

(8) **Plumbing Equipment.** The toilet rooms, urinals, wash bowls, drains and sewers and other plumbing fixtures, equipment and lines shall not be misused or used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein, and Tenant shall properly install, maintain, clean, repair and replace adequate grease traps.

(9) **Roof; Awnings and Projections.** Tenant shall not install any aerial, antennae, satellite dish or any other device on the roof, exterior walls or Common Areas of the Center. Tenant may install and have access to rooftop HVAC equipment only to the extent approved or required by Landlord from time to time in connection with Tenant's obligations under Articles 10 and 11 of this Lease. No awning or other projection shall be attached by or for Tenant to the exterior walls of the Premises or the building of which it is a part.

(10) **Overloading Floors.** Tenant shall not overload any floor or part thereof in the Premises or Center including any public corridors or elevators therein, and Landlord may direct and control the location of safes, vaults and all other heavy articles and require supplementary supports of such material and dimensions as Landlord may deem necessary to properly distribute the weight at Tenant's expense (including expenses for structural review and engineering).

(11) **Locks and Keys.** Upon termination of the Lease or Tenant's right to possession, Tenant shall: (i) return to Landlord all keys, parking stickers or key cards, and in the event of loss of any such items shall pay Landlord therefor, and (ii) advise Landlord as to the combination of any vaults or locks that Landlord permits to remain in the Premises.

(12) **Unattended Premises.** Before leaving the Premises unattended, Tenant shall close and securely lock all doors or other means of entry to the Premises and shut off all lights (except signs required to be illuminated hereunder), water faucets and other utilities in the Premises (except heat to the extent necessary to prevent the freezing or bursting of pipes). This provision shall not imply that Tenant may leave the Premises unattended in violation of the operating requirements set forth elsewhere in this Lease.

(13) **Energy Conservation.** Tenant shall not waste electricity, water, heat or air conditioning, or other utilities or services, and agrees to cooperate fully with Landlord and comply with any Laws to assure the most effective and energy efficient operation of the Center.

(14) **Food, Beverages, Game and Vending Machines.** Except to the extent expressly permitted under Article 1 of this Lease, Tenant shall not: (i) use the Premises for the manufacture, preparation, display, sale, barter, trade, gift or service of food or beverages, including without limitation, intoxicating liquors, or (ii) install, operate or use any video, electronic or pinball game or machine, or any coin or token operated vending machine or device to provide products, merchandise, food, beverages, candy, cigarettes or other commodities or services including, but not limited to, pay telephones, pay lockers, pay toilets, scales, and amusement devices; provided, however, that Tenant may install vending machines for the sale of non-alcoholic beverages, food, and candy in an area not visible from the sale area or exterior of the Premises for the exclusive use of Tenant's employees.

(15) **Going-Out-Of-Business Sales and Auctions.** Tenant shall not use, or permit any other party to use, the Premises for any distress, fire, bankruptcy, close-out, "lost our lease" or going-out-of-business sale or auction. Tenant shall not display any signs advertising the foregoing anywhere in or about the Premises. This prohibition shall also apply to Tenant's creditors.

(16) **Labor Relations.** Tenant shall conduct its labor relations and relations with employees so as to avoid strikes, picketing, and boycotts of, on or about the Premises or Center. If any employees strike, or if picket lines or boycotts or other visible activities objectionable to Landlord are established, conducted or carried out against Tenant, its employees, agents, contractors, or subcontractors in or about the Premises or Center, Tenant shall immediately close the Premises and remove or cause to be removed all such employees, agents, contractors, and subcontractors until the dispute has been settled.

(17) **Landlord's Trade name and Trademarks.** No symbol, design, name, mark or insignia adopted by Landlord for the Center or picture or likeness of the Center shall be used by Tenant without the prior written consent of Landlord, except as provided in Article 9 of this Lease.

(18) **Prohibited Activities.** Tenant shall not: (i) use strobe or flashing lights in or on the Premises or in any signs therefor, (ii) use, sell or distribute any leaflets, handbills, bumper stickers, other stickers or decals, balloons or other such articles in the Premises (or other areas of the Center), (iii) operate any loudspeaker, television set, phonograph, radio, CD player or other musical or sound producing instrument or device so as to be heard outside the Premises, (iv) operate any electrical or other device which interferes with or impairs radio, television, microwave, or other broadcasting or reception from or in the Center or elsewhere, (v) bring or permit any bicycle or other vehicle, or dog (except in the company of a blind party) or other animal, fish or bird in the Center, (vi) make or permit objectionable noise, vibration or odor to emanate from the Premises or any equipment serving the same, (vii) do or permit anything in or about the Premises that is unlawful, immoral, obscene, pornographic, or which tends to create or maintain a nuisance or do any act tending to injure the reputation of the Center, (viii) use or permit upon the Premises anything that violates the certificates of occupancy issued for the Premises or the Center, or causes a cancellation of Landlord's insurance policies or increases Landlord's insurance premiums (and Tenant shall comply with all requirements of Landlord's insurance carriers, the American Insurance Association, and any board of fire underwriters), (ix) use the Premises for any purpose, or permit upon the Premises anything, that may be dangerous to parties or property (including but not limited to flammable oils, fluids, paints, chemicals, firearms or any explosive articles or materials), nor (x) do or permit anything to be done upon the Premises in any way tending to disturb, bother or annoy any other tenant at the Center or the occupants of neighboring property.

(19) **Parking.** Tenant and Tenant's employees shall park their cars only in those portions of the parking area designated by Landlord for tenant and employee parking and shall use such areas only for parking cars (or at Landlord's option, Landlord may require that any or all such employees park off-site). Tenant shall furnish Landlord with a list containing the description and automobile license numbers (and State of issuance) of the cars of Tenant and its employees within five (5) days of any request by Landlord, and shall thereafter advise Landlord of any changes, additions or deletions to such list. Landlord reserves the right to: (i) adopt additional requirements pertaining to parking, including without limitation, a parking system with charges favoring carpooling for tenants and their employees, and any other parking system by validation, metering or otherwise, (ii) assign specific spaces, and reserve spaces for small cars, handicapped individuals, and other tenants, customers of tenants or other parties (and Tenant and its employees and visitors shall not park in any such assigned or reserved spaces) and (iii) restrict or prohibit full size vans and other large vehicles. In case of any violation of these provisions or any applicable Laws, Landlord may: (a) refuse to permit the violator to park, and remove the vehicle owned or driven by the violator from the Center without liability whatsoever, at such violator's risk and expense and/or (b) charge Tenant such reasonable rates as Landlord may from time to time establish for such violations, which shall be at least $50.00 per day for each vehicle that is parked in violation of these Rules. These provisions shall be in addition to any other remedies available to Landlord under this Lease or otherwise.

(20) **Responsibility for Compliance.** Tenant shall be responsible for ensuring compliance with these Rules, as they may be amended, by Tenant's employees and as applicable, by Tenant's agents, invitees, contractors, subcontractors and suppliers.

**Exhibit A**

**Floor Plan of Premises**

**Exhibit B**

**Tenant's Work**

All terms herein that are defined in the body of the Lease to which this Exhibit is attached shall have the meanings provided for them in the body of the Lease. The term "Tenant's Work" shall mean any work performed by Tenant, whether Tenant's Initial Work or work subsequent thereto.

**SECTION I. DELIVERY OF PREMISES BY LANDLORD**

1. Except as may be otherwise specifically set forth in this Lease, Tenant shall take the Premises in an "as is" condition and all work to be performed at the Premises shall be performed by Tenant at Tenant's expense.

2. Landlord does not warrant any information Landlord may have furnished or will furnish Tenant regarding the Premises. It shall be Tenant's responsibility to verify existing field conditions of the Premises. Tenant's failure to verify the existing conditions of the Premises shall not relieve Tenant of any expenses or responsibilities resulting from such failure, nor shall Landlord have any liability or obligations to Tenant arising from such failure.

3. Landlord has provided the following at Landlord's expense:

a. A basic structure for the Premises.

b. One (1) ADA-compliant restroom.

c. Ceiling: 2x2 ceiling tiles with 2x4 light fixtures.

d. Designated connection point on a distribution backboard within Space for Tenant's telephone line. If the Premises are not adjacent to a service corridor, an empty conduit shall be provided to the Premises from the nearest service corridor.

e. Designated connection point within Tenant’s Space for Tenant's electric service.

f. Sprinkler system with heads in ceiling.

g. One (1) HVAC unit sized to space.

h. Smooth floor ready for Tenant floor covering.

**SECTION II. TENANT'S WORK**

PART ONE. General Criteria for Tenant's Work

1. Tenant shall perform Tenant's Work in accordance with all Laws including, without limitation, the building code of the jurisdiction in which the Center is located and all requirements of the Americans with Disabilities Act.

2. Tenant's Initial Work and, except to the extent as may be specifically otherwise provided in the Lease, all subsequent Work in the Premises which Tenant may wish to perform, shall be subject to the advance written approval by Landlord.

3. Tenant shall, prior to commencement of Work, obtain all required building and other permits at Tenant's expense and post said permits at the Premises as required.

4. The loads imposed by Work at the Premises (including dead and live loads) shall not exceed the allowable load capacity of the existing structural systems and components thereof.

5. Tenant shall use only new materials for the Work, including improvements, equipment, trade fixtures and all other fixtures. Notwithstanding the foregoing, Tenant may reuse portions of existing improvements subject to Landlord's prior written approval, provided that said approval shall in no manner relieve Tenant from the requirement that all Work comply with this Lease, the Design Criteria and all Laws. Reuse of existing improvements shall be clearly indicated on Tenant's Drawings (as defined below). Landlord makes no warranty or representation as to the condition or suitability of existing improvements reused by Tenant.

6. Tenant shall make no marks or penetrations into the roof, upper floor decks, exterior walls, or floors, unless approved by Landlord in advance.

7. If any Work being performed by Tenant to connect to Landlord's utilities requires access through the premises of any other tenant or otherwise will affect any other tenant and Landlord has approved such Work, Tenant shall be responsible for coordinating such Work with such other tenant, restoring said tenant's premises to its original condition following the Work, and compensating said other tenant for any costs incurred by it on account of such Work.

8. If any of Tenant's Work necessitates any special work outside the Premises, such as, but not limited to, increasing the size of electric conduit or adding or relocating water service or sanitary service, Landlord, at Landlord's election, may perform such work and Tenant shall reimburse Landlord the cost thereof plus 15% thereof for administration, or require Tenant perform the work at Tenant's cost.

9. No approval from Landlord with respect to any aspect of Tenant's Work shall be valid unless in writing.

PART TWO. Certain Specific Criteria for Tenant's Work

A. **Walls; Partitions; Doors; Floors**.

1. All partitions within the interior of the Premises shall be of metal stud construction, and shall extend to the structure with gypsum board to the ceiling (except if required as a rated wall in which case the gypsum board shall extend to the structure), and shall have gypsum board finish on all sides with taped and sanded joints. Any combustible materials applied to partitions shall be covered with a fire retardant coating.

2. Commercial grade finish hardware, labeled where required, shall be used throughout

B. **Ceilings.**

1. Ceilings shall be non-combustible construction, and shall be gypsum board or acoustical tile of concealed suspension type, or, at a minimum, a regular type regressed metal grid lay-in type incorporating a 2' x 2' regular type acoustical tile. 2' x 4' grid systems shall be permitted only in stock areas not visible to the public. The color of the gypsum board or tile shall match the grid. Other ornamental or acoustical tile ceilings may be permitted only if Landlord shall so approve in writing.

C. **Structural.**

1. Without limitation, any alterations, additions or reinforcements to Landlord's structure, piping, conduit or duct work to accommodate Tenant's Work, or any work that may otherwise affect Landlord's structure, including mezzanines, shall not be performed without in each instance the prior written approval of Landlord.

2. Tenant shall submit detailed and certified engineering documents to show any proposed work involving Landlord's structure, and Landlord may require said documents to be reviewed by Landlord's structural engineer at Tenant's cost. Further, Landlord may require Tenant to use, at Tenant's cost, Landlord's structural engineer to design Tenant's structural modifications.

3. No welding to building structure shall be permitted.

4. Support *of* all mechanical equipment shall be subject to Landlord's advance written approval. If in the Landlord's opinion structural analysis of the method of support is necessary, Tenant shall at Tenant's expense utilize Landlord's structural engineer to evaluate the support.

D. **Roofs.** All work affecting or pertaining to the roof, including roof penetration and installation of structural supports, curbing and flashing on or to the roof, shall be subject to Landlord’s prior written consent and, if consented to, shall be performed only in the manner specifically approved by Landlord. All such approved work (including repair or maintenance of such work) shall be performed by Landlord’s designated roofing contractor at Tenant's expense.

E. **Fire Protection.**

1. Tenant shall contract with a sprinkler contractor approved by Landlord to install within the Premises a sprinkler system as required in the Design Criteria. If feasible Tenant may use any existing sprinkler system within the Premises provided Tenant makes all modifications and additions necessary to bring the system into compliance with the Design Criteria and applicable Law.

2. All sprinkler work shall be done without interrupting service to the remainder of the Center during occupied hours. Draindown and recharge of sprinkler system will be performed by Landlord. Tenant shall give Landlord three (3) days' notice of any requested draindown. Tenant shall reimburse Landlord for each draindown the amount set forth on Attachment 1 hereto.

3. All sprinkler work shall be in accordance with the requirements of, and be approved by, Landlord's insurance underwriter and any governmental and quasi-governmental authorities having jurisdiction.

4. If Tenant is modifying an existing sprinkler system or installing a new system, Tenant's sprinkler contractor shall prepare shop drawings and sepia reproducible prints *of* the proposed work, with appropriate calculations, and submit them to the local Fire Marshall and Landlord's insurance underwriter for approval prior to commencing work. Approved sepia reproducible shop drawings shall be filed with Landlord prior to commencement of fire protection construction activity. Upon completion of work, copies *of* the material and test certificates shall be filed with all agencies and the Landlord prior to occupancy of the Premises.

5. Should Tenant's Work or use of the Premises require increases in Landlord's maintained main trunk lines or underground service, Tenant shall be responsible for the cost of providing such increase in service to meet its requirements.

6. Any damage to Landlord's sprinkler system caused by Tenant's Work will be repaired by Landlord at Tenant's expense.

7. Automatic sprinkler equipment and any required fire alarm system shall be tested by a party approved by Landlord before Tenant opens for business in the Premises. The introduction of stock, furniture, fixtures, equipment, or other combustible material to the Premises is prohibited until automatic sprinklers are placed in service.

8. Tenant shall install a fire alarm system for the Premises *if* required by Law and, if there is a central alarm system at the Center, Tenant shall connect up to Landlord's designated connection point, as further set forth in the Design Criteria. Landlord may require Tenant to use at Tenant's expense an alarm contractor designated by Landlord for any work that could affect Landlord's central system, such as, but not limited to, reprogramming or reconnection to the central system.

F. **Plumbing work done by Landlord**

G. **Heating, Ventilating, and Air Conditioning work done by Landlord**

H. **Electrical.** Any additional electrical work above the work done by the Landlord within the vanilla box condition will be subject to and in accordance with the following:

1. All work required to connect the electrical system within the Premises to the power source at the location designated by Landlord, using appropriate sized electrical conduit and feeders to connect up to Premises. (If existing conduit and feeders are adequate for Tenant's electrical load and are otherwise in compliance with the Design Criteria and Law, Tenant may use them.) Tenant shall have its electrical contractor coordinate the electrical connection with Landlord.

I. **Telephone.** Tenant shall make arrangements with the telephone company and provide all telephone system panels, outlets, and conduits in the Premises and wire to the distribution point outside the Premises. All telephone wire in the ceiling shall be installed to conform to applicable requirements of Law for a ceiling return air plenum if one exists.

J. **Storefront.** N/A

K. **Restroom.** N/A

L. **Security Devices.** Tenant's freestanding security devices, if any, shall not be installed or placed in operation unless the size, location and design of such security devices are shown on the Working Drawings and have specifically been approved by Landlord. Any such device installed without such prior consent shall be subject to removal by Landlord without notice to Tenant or liability therefor. Landlord's approval of the Working Drawings shall not be deemed as its approval of such security devices unless such devices are specifically shown as approved on said Working Drawings.

**SECTION III. CONSTRUCTION**

1. Tenant may not commence any Work until this Lease has been fully executed, Landlord has approved Tenant's Working Drawings, all required insurance certificates have been furnished to Landlord, all building permits have been obtained, and Tenant has complied with all other requirements herein and elsewhere in this Lease.

2. A representative of Tenant shall meet with Landlord at the mall office prior to start of construction to discuss construction-related items. Tenant's representative shall contact the mall office in advance to schedule said meeting at a mutually satisfactory time.

3. Without limitation to any provision of this Lease, prior to commencement of any Work at the Premises Tenant shall furnish Landlord the following:

a. The names, addresses, representatives and telephone numbers of the general contractor and all subcontractors ("Tenant's Contractors").

b. Amounts of the general contract and each subcontract.

c. Certificates of Insurance evidencing the insurance required of Tenant and Tenant's general contractors as provided in this Lease, including this Exhibit B.

d. A copy of the building permit(s).

e. A detailed construction schedule.

4. All Tenants’ Contractors shall be bondable, licensed contractors, having good labor relations, capable of working in harmony with Landlord's general contractor and other contractors in the Center. Tenant shall coordinate Tenant's Work with other construction work at the Center, if any. Landlord specifically reserves the right to approve Tenant's Contractors. If Landlord does not give Tenant such approval with respect to any contractor(s) Tenant shall contract with another general contractor and/or subcontractors(s), as the case may be, for the completion of Tenant's Work.

5. Tenant's Work shall be subject to the inspection of Landlord's representative from time to time during the period in which the Work is being performed.

6. The cost of any work permitted or required to be performed by Landlord on behalf of Tenant under this Exhibit shall become due and payable in full within thirty (30) days after Tenant has been invoiced for same by Landlord and said charges shall be deemed Rent under the Lease.

7. All work performed by Tenant during its construction period, or otherwise during the Term, shall be performed so as to cause the least possible interference with other tenants and the operation of the Center, and Landlord shall have the right to impose reasonable requirements with respect to timing and performance of the Work in order to minimize such interference. Work causing noise, odor or vibration outside the Premises shall be performed only during hours the stores at the Center are not open. Tenant shall take all precautionary steps to protect its facilities and the facilities of others affected by the Work and shall police same properly. Construction equipment and materials are to be located in confined areas and truck traffic is to be routed to and from the site as directed by Landlord so as not to burden the construction or operation of the Center. All Work shall be confined to the Premises. Tenant's Contractor shall coordinate with Landlord's on-site representative for the delivery and removal of its equipment and materials. Landlord shall have the right to order Tenant or any Tenant's contractor or subcontractor who willfully violates the above requirements to cease work and to remove its equipment and employees from the building.

8. Contractor Insurance. Tenant shall cause its general contractor and all subcontractors to maintain during the construction period the following insurance: (i) commercial general liability insurance, with limits of not less than $4 million per occurrence (the portion *of* such coverage over $1 million may be provided under an umbrella or excess liability policy), for personal injury, bodily injury or death, or property damage or destruction, arising out *of* or relating to the contractor's work at or in connection with the Premises, (ii) workers' compensation insurance with respect to each contractor's workers at the site or involved in the Work, in the amount required by statute, (iii) employer's liability insurance in the amount of at least $500,000 per accident and at least $500,000 for disease, each employee, (iv) comprehensive automobile liability insurance covering all owned, hired or non-owned vehicles, including the loading and unloading thereof, with limits of not less than $2 million per occurrence (the portion of such coverage over $1 million may be provided under an umbrella or excess liability policy), and (v) builder's risk property insurance upon the entire Work to the full replacement cost value thereof. Landlord, Landlord's managing agent, and such other parties as are designated by Landlord, shall be additional insureds under (i), (iv) and (v) above. All insurance required hereunder shall be provided by responsible insurers rated at least A and X in the then current edition of Best's Key Rating Insurance Guide and shall be licensed in the State in which the Center is located. Tenant shall provide, or cause its contractors to provide, such certificates prior to any Work being performed at the Premises. Such certificates shall state that the coverage may not be changed or cancelled without at least thirty (30) days' prior written notice to Landlord. All such insurance shall provide for a waiver of subrogation by the insurance carriers.

**Exhibit C**

**Sign Regulations**

Tenant's storefront sign shall be subject to Landlord's sign criteria and other requirements relating to the storefront sign (the "Sign Criteria") which Landlord has furnished or will furnish to Tenant. The Sign Criteria may be part of the overall store Design Criteria Landlord has furnished, or will furnish, to Tenant, or it may be separate therefrom. Without limitation, Tenant's storefront sign may contain only Tenant's approved trade name, and, without limitation, may not include any slogans or mottos.

All references in the Lease to Exhibit C or to sign criteria shall be deemed to mean the Sign Criteria. Without limitation to anything in the Lease or the Sign Criteria, all aspects of Tenant's storefront sign are subject to Landlord's advance written approval.

**PERSONAL GUARANTEE**

Landlord: **CCM Associates of Clifton Park, LLC**

Tenant:

Lease: **Lease dated**

Guarantor:

Tenant wishes to enter into the Lease with Landlord. Landlord is unwilling to enter into the Lease unless Guarantor assures Landlord of the full performance of Tenant's obligations under the Lease. Understanding the Lease and this Guaranty after an opportunity to review them with counsel and other advisors of its choice, Guarantor is willing to do so.

Accordingly, in order to induce Landlord to enter into the Lease with Tenant, and for good and valuable consideration, receipt and adequacy of which are acknowledged by Guarantor including without limitation, the benefits that Guarantor will derive from Tenant’s entry into the Lease:

1. Guarantor, for itself, its successors and assigns, irrevocably, absolutely, and unconditionally guarantees to Landlord, and the successors and assigns of Landlord, Tenant's full and punctual performance of its obligations under the Lease, including without limitation the payment of Rent and other charges due under the Lease, and not merely collection of Rent and other charges. Guarantor waives notice of any breach or default by Tenant under the Lease. If Tenant defaults in the performance of any of its obligations under the Lease, upon Landlord's demand, Guarantor will perform Tenant's obligations under the Lease.

2. Any act of Landlord, or the successors or assigns of Landlord, consisting of a waiver of any of the terms or conditions of the Lease, or the giving of any consent to any matter related to or thing relating to the Lease, or the granting of any indulgences or extensions of time to Tenant, or any delay or failure by Landlord in enforcing the Lease or a compromise of amounts due under the Lease, may be done without notice to Guarantor and without affecting the obligations of Guarantor under this Guaranty.

3. The obligations of Guarantor under this Guaranty will not be affected by Landlord's receipt, application, or release of security given for the performance of Tenant's obligations under the Lease, nor by any assignment, sublease, or modification of the Lease, including without limitation the alteration, enlargement, or change of the Premises described in the Lease, except that in case of any such modification, the liability of the Guarantor will be deemed modified in accordance with the terms of any such modification, or the termination of the Lease after an Event of Default, or an acceptance of a surrender of the Premises. Landlord’s request for Guarantor’s consent to any actions described in this Guaranty will not mean that Guarantor’s consent is required to that action or any other action described in this Guaranty in order to continue the Guaranty in effect.

4. The liability of Guarantor under this Guaranty will not be affected by (a) the release or discharge of Tenant from its obligations under the Lease in any creditors', receivership, bankruptcy, or other proceedings, or the commencement or pendency of any such proceedings; (b) the impairment, limitation, or modification of the liability of Tenant or the estate of Tenant in bankruptcy, or of any remedy for the enforcement of Tenant's liability under the Lease, resulting from the operation of any present or future bankruptcy code or other statute, or from the decision in any court; (c) the rejection or disaffirmance of the Lease in any such proceedings; (d) Tenant’s assignment or transfer of the Lease or sublease of all or part of the Premises described in the Lease; (e) any disability or other defense of Tenant or the invalidity of the Lease for any reason; or (f) the cessation from any cause whatsoever of the liability of Tenant under the Lease.

5. Until all of Tenant's obligations under the Lease are fully performed, Guarantor: (a) waives any right of subrogation against Tenant by reason of any payments or acts of performance by Guarantor, in compliance with the obligations of Guarantor under this Guaranty; (b) waives any other right that Guarantor may have against Tenant by reason of any one or more payments or acts in compliance with the obligations of Guarantor under this Guaranty; and (c) subordinates any liability or indebtedness of Tenant held by Guarantor to the obligations of Tenant to Landlord under the Lease.

6. This Guaranty will apply to the Lease, any extension or renewal of the Lease, and any holdover term following the term of the Lease, or any such extension or renewal.

7. Except as set forth in it, this Guaranty may not be changed, modified, discharged, or terminated orally or in any manner other than by an agreement in writing signed by Guarantor and Landlord. The Guarantor’s liability under this Lease will end only upon full performance and payment of Tenant’s obligations under this Lease.

8. Guarantor is primarily obligated under the Lease. Landlord may, at its option, proceed against Guarantor without proceeding against Tenant or anyone else obligated under the Lease or a guaranty of the Lease or against any security for any of Tenant's or Guarantor's obligations.

9. Guarantor will pay on demand the reasonable attorneys' fees and costs incurred by Landlord, or its successors and assigns, in connection with the enforcement of this Guaranty.

10. Guarantor irrevocably appoints Tenant as its agent for service of process related to this Guaranty. Guarantor consents to the exclusive jurisdiction of the state courts of the state in which the Premises are located. GUARANTOR WAIVES TRIAL BY JURY OF ANY MATTER ARISING OUT OF THIS GUARANTY.

Guarantor has executed this Guaranty as of the Date.

By:

STATE OF NEW YORK )

) SS.:

COUNTY OF SARATOGA )

On this day of , in the year 2015, before me, the undersigned, a Notary Public in and for said state, personally appeared **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) acted, executed the instrument.

Notary Public