

STATE OF ALABAMA)

COUNTY OF SHELBY)

212

LEASE AGREEMENT

THIS LEASE, made this 4 day of APRIL, 1985, between ERNEST A. JOSEPH and JOE J. JOSEPH, of 3164 Starlake Drive, Birmingham, Alabama 35226 (hereinafter called "Landlord") and BIG B, INC., 201 8th Street West, Birmingham, Alabama, 35202, (hereinafter called "Tenant"), which terms Landlord and Tenant shall include, whatever the context admits or requires, singular and plural, and the heirs, legal representatives, successors and assigns of the respective parties;

W I T N E S S E T H:

That the Landlord, in consideration of the covenants of the Tenant, does hereby lease and demise unto said Tenant, and the Tenant hereby agrees to take and lease from the Landlord, for the term hereinafter specified, the following described premises:

PREMISES:

That certain store building, approximately 75 feet in width by 120 feet in depth, a loading dock, as shown on Exhibit "A" attached hereto, containing approximately 9,000 square feet measuring from center line to center line, and the land on which both the same shall stand (hereinafter collectively called the "demised premises" or the "leased premises"), which store building and related improvements are to be constructed by Landlord according to plans and specifications to be approved by the parties as herein provided, and shall be in the location and of the dimensions as outlined on the plot plan attached hereto, marked Exhibit "A" and by this reference made a part hereof. The demised premises are located in a shopping center to be known as

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South Brook Village Shopping Center, located in the City of Alabaster, County of Shelby, State of Alabama, the legal description of the shopping center being described in Exhibit "B" attached hereto and made a part hereof.

TERM:

FOR THE TENANT TO HAVE AND TO HOLD from the date when Tenant opens said premises for the transaction of its business as hereinafter provided for an initial term of fifteen (15) years from the commencement date (commencement date being the date when rent shall begin to accrue under this lease as hereinafter provided), if such date of commencement of the term hereof shall occur on the first day of a calendar month, and if not, such term shall commence upon the first day of the calendar month next following the date of commencement. The parties agree to execute a supplemental agreement fixing the commencement and termination dates of the term hereof when the same shall have been determined as herein provided.

This lease is granted and accepted upon the foregoing and upon the following terms, covenants, conditions and stipulations:

1. USE:

(a) The demised premises may be used for a retail super drug store, including, but not limited to, sale of drug items, and drugs prepared and compounded from prescriptions of medical doctors, health and beauty aids, sale of other general merchandise, commodities and services, and such other articles commonly sold in other super drug stores in the State of Alabama, or for the conduct of any other lawful business, provided, however, the demised premises shall not be used or assigned or subleased under the provisions of Paragraph 27 hereof for any primary use or business which

shall be in direct competition with the primary use or business engaged in by any other then tenant of the Landlord in the shopping center who has a right of exclusive use. Tenant shall not do or permit anything to be done in or about the premises, or bring or keep anything therein, which will in any way increase the rate of fire insurance upon the building wherein the premises are situated. Tenant shall promptly comply with all laws, ordinances, orders and regulations affecting the premises, and the cleanliness, safety, occupation, and use of the same. No auction, fire or bankruptcy sales may be conducted in the premises without Landlord's consent.

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(b) Tenant shall not perform any acts or carry on any practices which may injure the building of which the premises form a part or be a nuisance or menace to other tenants in the shopping center, and shall keep the premises and the walkways adjacent to the premises and any loading platform and service area and freight elevators allocated for the use of Tenant (whether or not such use be exclusive), clean and free from rubbish and dirt at all times, and shall store all trash and garbage within the premises and arrange for the regular pick-up of such trash and garbage at Tenant's expense. Tenant shall not burn any trash or garbage of any kind in or about the premises or shopping center.

2. EXCLUSIVE DRUG STORE, ETC.: Landlord covenants and agrees that the Tenant shall have the exclusive right to operate a retail super drug store in that portion of the shopping center and any enlargement thereof owned directly or indirectly by Landlord. Landlord further covenants and agrees that it will not directly or indirectly lease or rent any property, located within the shopping center, or located in any enlargement thereof, or located in any out-parcel or in any other property contiguous to the shopping center which

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is owned, directly or indirectly, by Landlord, for occupancy as a retail super drug store as hereinafter defined, unless leased to Tenant, nor will the Landlord permit any tenant or occupant of any such property to sublet in any manner, directly or indirectly, any part thereof to any person, firm or corporation engaged in any such business without written permission of the Tenant. For such purposes, a "retail super drug store" shall be deemed to include a super drug store engaged in the sale of drug items, and drugs prepared and compounded from prescriptions of medical doctors, sale of other general merchandise, commodities and services, and such other articles commonly sold in other super drug stores in the State of Alabama. Landlord further covenants and agrees that it will not, directly or indirectly, permit any tenant, subtenant or other occupant in that portion of the shopping center, or in any enlargement thereof, or in any out-parcel or in any other property contiguous to the shopping center which is owned, directly or indirectly, by Landlord, to engage in the sale of drugs and drug items prepared and compounded from prescriptions of medical doctors. Under no conditions may Landlord lease any property located within that portion of the shopping center or located in any enlargement thereof, or located in any out-parcel or in any other property contiguous to the shopping center which is owned, directly or indirectly, by Landlord, for the conduct and operation of a photo kiosk store, which kiosk store is engaged in the business of developing film and/or selling photographic supplies, unless leased to Tenant, nor will Landlord permit any tenant or occupant of any such property to sublet in any manner, directly or indirectly, any part thereof to any person, firm or corporation engaged in any such business without written permission of the Tenant, it being understood that the prohibitions contained in this sentence shall not prevent any other tenant in the shopping

center, other than a photo kiosk store, from developing film and selling photographic supplies in connection with its business conducted in the shopping center.

3. RENTAL:

(a) Minimum Guaranteed Rental During First Five (5) Years of Primary Term.

During the first five (5) years of the primary term, Tenant agrees to pay to Landlord as minimum guaranteed rental the sum of Thirty-Nine Thousand One Hundred Fifty Dollars (\$39,150.00) per annum. Such minimum guaranteed rental during the first five (5) years of the primary term shall be paid in twelve (12) equal monthly installments of Three Thousand Two Hundred Sixty-Two and 50/100 Dollars (\$3,262.50) per month, which installments shall be due and payable in advance on the first day of each and every calendar month during the first five (5) years of the primary lease term.

(b) Minimum Guaranteed Rental During Last Ten (10) Years of Primary Term.

During the last ten (10) years of the primary term, Tenant agrees to pay to Landlord as minimum guaranteed rental the sum of Forty-Five Thousand Nine Hundred Dollars (\$45,900.00) per annum. Such minimum guaranteed rental during the last ten (10) years of the primary term shall be paid in twelve (12) equal monthly installments of Three Thousand Eight Hundred Twenty-Five Dollars (\$3,825.00) per month, which installments shall be due and payable in advance on the first day of each and every calendar month during the last ten (10) years of the primary lease term.

(c) Percentage Rental During Primary Term and Any Extended Terms.

In addition, the Tenant agrees to pay to the Landlord a percentage rental equal to the amount, if any by

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which two percent (2%) of Tenant's gross sales made from the demised premises in each fiscal year ending January 31 during the term of the lease, and any extensions thereof, exceeds (i) the annual minimum guaranteed rental of \$39,150.00 paid each such fiscal year during the first five (5) years of the primary term; (ii) exceeds the annual minimum guaranteed rental of \$45,900.00 paid each such fiscal year during the last ten (10) years of the primary term; and (iii) exceeds the annual minimum guaranteed rental required to be paid during each year of any extended period, as hereinafter provided.

Any excess rent which may become due by reason of the percentage of sales provision shall be payable by the Tenant within sixty (60) days after the expiration of each fiscal year. However, upon final termination of the lease, if not extended, or upon termination of the last extension thereof, any excess rent which may be due by reason of said percentage of sales provision shall be payable by Tenant within sixty (60) days after such termination or expiration of the leasehold. The percentage rent for each fiscal year shall be calculated separately and without reference to the volume of sales of any other year. For purposes of calculating the percentage rental due hereunder, the Tenant's fiscal year shall be from February 1 of each year to January 31 of the next year. The first monthly installment of rental shall be due on the first day of the next succeeding complete calendar month after the date the lease commences as hereinafter provided, and shall include any rent due for the preceding fractional month. Both guaranteed rental and percentage rental for fractional years and fractional months occurring at the beginning and end of the term, or any extension thereof, shall be prorated on the basis of the annual rental.

(d) Gross Sales: The term "gross sales" as used herein shall mean the aggregate gross sales price of all

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merchandise sold, and gross charges for all services rendered in or from the demised premises, both for cash and on credit; provided, however, such term shall not include (1) any sales tax, gross receipts tax, or similar tax by whatever name called, the amount of which is determined by the amount of sales made, and which Tenant may be required to collect and account for to any governmental agency; (2) transfers of merchandise made by the Tenant from the demised premises to any other stores or warehouses of Tenant or its affiliated companies; (3) credits or refunds made to customers for merchandise returned or exchanged; (4) accommodation sales, such as sales of postage stamps, government bonds or savings stamps or similar items; (5) returns of merchandise to suppliers or manufacturers; (6) net amount of discounts allowed to any customer, including discounts resulting from the issuance to customers of trading stamps, receipts or coupons for exchange of merchandise or other things of value issued by Tenant; (7) merchandise or other things of value issued in redemption of Tenant's trading stamps or as a premium in connection with any sales promotion program by Tenant; (8) receipts or commissions from public pay telephones; (9) sales by postal substations; (10) sales of fixtures, machinery or equipment after use thereof in the conduct of Tenant's business in the leased premises; (11) all sales at discount to Tenant's employees; (12) all receipts from the sales of tobacco, tobacco products, beer and wine and any other alcoholic beverages; and (13) service and interest charges for time payment accounts and charge accounts. Tenant makes no representation or warranty as to the amount of sales it expects to make in the demised premises.

(e) Record Of Sales:

The Tenant shall keep complete and accurate books and records of its gross sales made from the demised premises, which books and records shall be kept by the Tenant at

the office address hereinafter designated for notices. At the end of each fiscal year, or at the end of the leasehold, if it sooner occurs, and at such time as the percentage rental shall be payable by Tenant as hereinabove provided, the Tenant shall submit to the Landlord a written statement of the gross sales made by Tenant from the demised premises during the preceding fiscal year. Such statement of sales shall be treated as confidential by the Landlord and shall be conclusive unless the Landlord, within ninety (90) days after receipt thereof, shall cause applicable records to be audited in a manner not to unreasonably interfere with Tenant's business by a certified public accountant employed and paid by the Landlord. If such audit shall disclose a liability for rent to the extent of three percent (3%) or more in excess of the rentals theretofore computed and paid by Tenant for such period, Tenant shall promptly pay Landlord the cost of such audit in addition to the deficiency, which deficiency shall be payable in any event.

Landlord may disclose Tenant's sales statements to any present or future mortgagee or prospective purchaser of the demised premises provided any such mortgagee or prospective purchaser shall treat said sales statements as confidential.

(f) Confidentiality.

Any information obtained by Landlord pursuant to the provisions of this paragraph shall be treated as confidential, except in any litigation or arbitration proceedings between the parties, and except further that Landlord may divulge such information to a prospective buyer or encumbrancer of the premises.

4. CONSTRUCTION: The Landlord covenants and agrees that there shall be constructed a shopping center, substantially as shown on Exhibit "A", consisting of all the

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buildings shown thereon, together with all sidewalks, streets, entranceways, malls, parking areas, service drives, driveways and related improvements, said improvements (excluding buildings) being sometimes hereinafter referred to as "common areas". The Landlord further covenants and agrees that all paved portions of the common areas (including parking area), shall be graded and surfaced with top quality materials and Landlord shall provide proper and adequate water drainage and lighting system and operations therefor. Landlord shall operate and maintain those common areas located within that portion of the shopping center owned by Landlord in good repair and useable condition for use by the patrons of the shopping center and the tenants and their employees during the term of this lease and any extensions thereof. The arrangement and location of all existing store buildings and common areas (including parking area) within the shopping center shall at all times during the term of this lease be maintained as shown on Exhibit "A" and shall not be changed without the written consent of the Tenant.

Notwithstanding the foregoing, it is agreed that Landlord shall be obligated to construct only Tenant's store building together with the common areas (including parking area) in the locations and of the dimensions shown on Exhibit "A", and that Landlord does not obligate itself to construct additional buildings or improvements in the shopping center. However, Landlord reserves the right to construct additional buildings as set forth and depicted on the plot plan attached hereto as Exhibit "A". Landlord agrees, however, not to construct additional buildings or improvements of any kind or nature in the shopping center other than as depicted on Exhibit "A" without obtaining the prior written consent of Tenant. Despite such additional buildings, Landlord agrees to maintain within the shopping center at least the ratio of 4.0 automobile parking spaces to each 1,000 square feet of

gross building area (including additional floor levels) as hereinafter provided. Landlord agrees that Tenant shall have uninterrupted use and enjoyment of the demised premises and the common areas during any additional construction without unreasonable interference therewith by reason of or on account of such construction work.

Concurrently with the above construction, Landlord agrees at its sole cost and expense, to construct the store building for occupancy by Tenant in accordance with the plans and specifications to be approved by both Landlord and Tenant. Plans and specifications shall be approved when initialed by both parties, and when initialed shall constitute a part of this lease. Said plans and specifications shall provide for a completed store building, commonly referred to as a "lock and key job", and shall include, but without limitation, the following: Air conditioning and heating equipment including insulated duct work with registers and grilles and roof or ceiling structural system adequately designed to support said air conditioning and heating equipment, plumbing and plumbing fixtures, drains, interior walls and partitions, electrical wiring, lighting fixtures to Tenant's requirements, vinyl asbestos flooring in the sales area and hardened concrete in warehouse and storage areas (color at Tenant's option), connection of air conditioning and heating equipment and connections to all utilities. Tenant shall provide its own trade fixtures which shall be connected by Landlord, but Landlord shall have no liability with regard to any damage which might be caused to such trade fixtures by virtue of the connection thereof by Landlord, except that the plans and specifications for construction of the premises included in the contract between Landlord and contractor will require that Tenant's trade fixtures will be connected in a good workmanlike manner. All equipment and fixtures provided by Tenant shall remain the

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property of Tenant and may be removed by Tenant from the demised premises at any time.

5. COMPLETION DATE:

Landlord covenants and agrees that the improvements on the demised premises, as hereinabove referred to, shall begin not later than sixty (60) days from the date of commencement of construction of the store to be occupied by Bruno's, Inc. and shall be completed not later than thirty (30) days following completion of construction of the store to be occupied by Bruno's, Inc. and if the same shall not be begun or completed by the respective dates, the Tenant, at its option, may, in either of such events, cancel and terminate this lease or may extend the Landlord additional time for the beginning or completion of construction; provided, however, that if, after the beginning of construction, the Landlord's failure to complete said improvements within the stipulated time shall be due to acts of God, strikes, riots, fire, flood, war, delay of carriers, material shortages, embargoes or inclement weather, or other similar happenings which are beyond the control of Landlord, and provided, further, the improvements shall be completed with all due diligence commensurate with such delay and in all events not later than February 28, 1986, said option to terminate shall not arise.

Landlord shall give at least thirty (30) days' advance written notice to Tenant of the date Tenant's building leased hereunder will be completed and ready for Tenant's inspection, occupancy and use. Upon receiving said thirty (30) day notice, Tenant shall be permitted to enter said building for the purpose of storing and installing fixtures, equipment and merchandise, and preparing for opening of Tenant's retail store operation therein. The parties hereto agree that such entry by Tenant does not constitute

acceptance of the premises as being completed or as a waiver of any of the provisions hereof; that Tenant shall not interfere with completion of construction work; and that Landlord shall have no liability for damage or loss to Tenant's property placed in said building except for Landlord's negligence or willful act or default hereunder.

6. COMMENCEMENT DATE:

The Tenant shall open its store for business within thirty (30) days following performance of the following:

(a) Tenant's store building and other improvements constructed for Tenant on the demised premises, as shown on Exhibit "A" attached hereto, shall have been delivered to Tenant completed in accordance with the plans and specifications.

(b) The building and facilities to be occupied by Bruno's, Inc. as shown on Exhibit "A" attached hereto have been completed and are ready for the opening of business by Bruno's, Inc. simultaneously with the operation to be conducted by Tenant herein.

(c) Construction of all of the common areas in Phase I (including parking area hereinafter specifically required) shall have been completed substantially as shown on Exhibit "A".

In the event that all the above requirements shall not have been met on or prior to February 28, 1986, the Tenant or Landlord may cancel and terminate this lease.

Rent shall begin to accrue hereunder upon the date the Tenant opens its store for business, or upon the expiration of thirty (30) days following the performance of all the above requirements, whichever date shall sooner occur; provided, however, notwithstanding any provision in this lease contained, in the event the expiration of thirty (30) days following the performance of all of the above

requirements shall occur on any date during the months of December or January, rent shall not begin to accrue until the next occurring February 1 unless Tenant shall elect to open for business prior to such next occurring February 1, in which event rent shall begin to accrue on the date that Tenant shall elect to open for business. No acceptance of possession of the demised premises, opening for business by Tenant nor payment of rent under this lease shall constitute acceptance by Tenant of defective work or materials or of work not completed in accordance with plans and specifications.

7. PARKING AND COMMON AREAS:

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Landlord hereby dedicates and grants to Tenant, Tenant's employees, agents, suppliers, customers and invitees, a non-exclusive right at all times to use, free of charge, during the term of this lease, or any extensions thereof, all the common areas, including parking area, as shown on Exhibit "A", which areas are acknowledged to be for use by such persons, along with others similarly entitled, for parking and for ingress and egress between the demised premises and all other portions of the shopping center and the adjoining streets, alleys and sidewalks.

Landlord shall at all times during the term of this lease, and any extensions thereof, provide and maintain a surfaced parking area substantially as shown on Exhibit "A", and of sufficient area to provide a minimum ratio of at least four (4.0) standard-sized automobile parking spaces to each one thousand (1,000) square foot of gross leaseable building area in the shopping center, standard size parking spaces to conform to regulations of the City of Alabaster; and in the event the parking area furnished should at any time be substantially less, and such deficiency of parking facilities shall continue for thirty (30) days after written notice

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thereof is received by Landlord giving reasonable details, then the Tenant at its option shall have the right to cancel or terminate the lease. All of the common areas (including parking areas) shall be adequately lighted by Landlord at its expense during customary shopping hours for the type of business operated by Tenant; provided, however, in the event Tenant requires lighting of all or any portion of the common areas (including parking area) past 10:00 P.M., then Tenant agrees to pay its prorata share of the cost of such electricity consumed after 10:00 P.M. Tenant's prorata share for purposes of this provision shall be the ratio which the total square foot floor area of Tenant's store building bears to the total square foot floor area of all store buildings then existing in the shopping center which are making use of such common area lighting past 10:00 P.M. (by remaining open for business beyond 10:00 P.M.). Landlord further agrees, at its cost and expense, to keep the said common areas, including the parking areas, free and clear of all rubbish and to mark and stripe the same for automobile parking purposes as often as is necessary, and to police the said parking and common areas in a reasonably acceptable fashion to Tenant and other tenants occupying the shopping center. Landlord shall have the right to designate certain portions of the parking areas for parking by the employees of the tenants in the shopping center.

Tenant acknowledges and agrees that its rights hereunder are subject to the terms and provisions of that certain Indenture of Establishment of Protective Covenants, Conditions and Restrictions and Grants of Easements, dated Sept. 15, 1983, and recorded in Volume 52, at Page 692, in the Shelby County Probate Office.

8. SERVICE AREA:

Landlord further agrees to provide for the exclusive use of the Tenant at its service entrances such loading docks as are shown on the approved plans and specifications and further agrees that Tenant shall have 24-hour a day facilities for ingress and egress to the rear of the demised premises and the non-exclusive right to such space as may be reasonably needed by Tenant for loading and unloading merchandise for its store into and from trucks and trailers at such service entrances.

9. UTILITIES:

Landlord covenants and agrees that the demised premises shall be properly serviced with electricity, telephone, water, sewer and other utilities sufficient to meet Tenant's requirements as of the commencement of the lease term. Tenant shall pay all charges for utility services furnished to the demised premises during the lease term.

10. TENANT'S REPAIRS:

Upon completion of construction by Landlord and acceptance of the demised premises by Tenant, Tenant agrees to keep the interior of the demised premises in good condition and repair, excepting structural repairs and all repairs which are the responsibilities of the Landlord or which are made necessary by reason of fire and other unavoidable casualties covered by Landlord's fire and extended coverage insurance, and excepting reasonable wear and tear.

Within the repair responsibilities of Tenant shall be included: floor surfacing; interior, exposed plumbing and interior wiring; heating, air-conditioning and grilles; interior wall finish and ceiling tile; and windows and plate glass; except such damage caused by faulty construction or settling of the building or covered by Landlord's fire and

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extended coverage insurance which shall be the responsibility of Landlord. Landlord hereby agrees to transfer to Tenant all warranties Landlord may have on any of the fixtures and equipment which are to be maintained by Tenant. Tenant further agrees to perform regular routine maintenance on equipment up to the final date of Tenant's occupancy of the demised premises.

11. LANDLORD'S REPAIRS:

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The Landlord shall, at its cost and expense, keep and maintain the common areas (including parking area) in good condition and repair, and shall maintain the exterior of Tenant's store building, including the roof, gutter, downspouts, exterior protective painting, masonry walls, foundation and structural members, and the exterior concealed plumbing (including septic tank, if any), and exterior wiring, of the store building in good condition and repair, and shall make any and all structural repairs to both the exterior and interior of said premises. If any portion of the common areas (including parking area) or any portion of the store building, which is the responsibility of the Landlord, shall at any time be in need of repair, Landlord will repair same immediately upon receipt of written notice from Tenant to do so, except that the Landlord shall not be obligated to make or pay for any repairs to Tenant's store building rendered necessary by the fault, act or negligence of the Tenant, or any of its servants, agents or employees, except in the case of damage by fire or the elements, or other casualty covered by Landlord's fire and extended coverage insurance.

Notwithstanding the provisions of this lease, Landlord shall not be responsible to Tenant for damages resulting from Landlord's failure to make repairs to Tenant's store building unless Landlord shall have received written

notice of the requirements for repair and shall have failed to act with reasonable promptness to remedy the conditions described in said notice; provided, however, this condition shall be inapplicable to Landlord's common areas and parking area repair responsibilities above stipulated; and provided further, this condition shall not in any way abrogate Tenant's right to make emergency repairs as hereinbelow permitted.

If in order to protect the Tenant's property in the store building it shall be necessary to make emergency repairs to any portion thereof which is the responsibility of the Landlord to repair, or if the Landlord after receipt of notice as above provided fails or neglects to make with all due diligence such other repairs to the store building or common areas in the immediate area of Tenant's store building (including parking area) which are the responsibility of the Landlord, the Tenant shall have the right to make such repairs and to deduct from the rental installments then due or thereafter to become due such sums as may be necessary to reimburse the Tenant for the money expended or expense incurred by it in making such repairs. Landlord further covenants that the store building will be so constructed and maintained at all times so as structurally (exclusive of fixtures, equipment, floor coverings, wall coverings and finished ceilings) to comply with and conform to the requirements prescribed by any and all ordinances, statutes, rules or regulations of municipal or other governmental authority relating to public health and sanitation or safety, and that Landlord will promptly make any changes or alterations in the premises which may become necessary in order that said premises may conform to such ordinances, statutes, rules or regulations now in force or which may be hereafter passed, adopted or promulgated; provided, however, that should Tenant's building plans not conform to the

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existing building ordinances and statutes, Tenant shall have the responsibility for bringing the demised premises into conformity with such existing buildings ordinances and statutes.

12. SIGNS:

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Tenant may place, erect and maintain on the building to be occupied by Tenant, any signs selected by Tenant, consistent with building signs presently existing in other locations in Alabama in which Tenant is operating, which such signs shall remain the property of Tenant and may be removed at any time during the term of this lease or any extension thereof, provided Tenant shall repair or reimburse Landlord for the cost of any damage to the demised premises resulting from the installation or removal of such signs. Tenant reserves the right to construct and erect, at Tenant's cost and expense, its own sign on the shopping center pylon sign at the location shown on Exhibit "A" attached hereto. Tenant shall be responsible for the cost of maintenance and electricity in connection with its sign.

13. FIXTURES AND INTERIOR ALTERATIONS:

The Tenant, at its own expense, and without approval of Landlord, may from time to time during the term of this lease make any interior alterations, additions and improvements in and to the demised premises which it may deem necessary or desirable and which do not adversely affect the structural integrity thereof; but it shall make them in a good workmanlike manner and in accordance with all valid requirements of municipal or other governmental authorities. All permanent structural improvements shall belong to the Landlord and become a part of the premises upon termination or expiration of this lease.

Tenant may construct and build or install in said premises any and all racks, counters, shelves and other fixtures and equipment of every kind and nature as may be necessary or desirable in the Tenant's business, which racks, counters, shelves and other fixtures and equipment shall at all times be and remain the property of the Tenant; and Tenant shall have the right to remove all or any part of the same from said premises at any time; provided, Tenant shall repair or reimburse Landlord for the cost of repairing any damage to said premises resulting from the installation or removal of such items.

14. INDEMNIFICATIONS:

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Tenant agrees to indemnify and save harmless the Landlord from any claim or loss by reason of an accident or damage to any person or property happening on or about the demised premises; and Tenant further agrees to carry, at its expense, public liability insurance coverage in a company qualified to transact business in the state in which the demised premises are located, stipulating limits of liability of not less than \$200,000.00 for an accident affecting any one person; not less than \$500,000.00 for an accident affecting more than one person; \$50,000.00 property damage; and together with an umbrella liability policy in the amount of not less than Five Million Dollars (\$5,000,000). Certificate of such coverage from the insurer providing thirty (30) days' notice prior to cancellation or termination shall be furnished to Landlord.

Likewise, Landlord shall indemnify and save harmless the Tenant from any claim or loss by reason of an accident or damage to any person or property happening on or about all common areas (including parking area) of the shopping center; and Landlord further agrees to carry, at its expense, public liability insurance coverage on all common

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areas (including parking area) of the shopping center, with a contractual liability endorsement on the policy in a company qualified to transact business in the state in which the demised premises are located, stipulating limits of liability of not less than \$200,000.00 for an accident affecting any one person; not less than \$500,000.00 for an accident affecting more than one person; and \$50,000.00 property damage. Certificate of such coverage from the insurer providing thirty (30) days' notice prior to cancellation or termination shall be furnished to Tenant.

15. CLEANLINESS:

Tenant shall at all times keep the interior of the store building in a reasonably neat and orderly condition and shall keep the entryways and delivery areas adjoining the building reasonably clean and free from rubbish and dirt. Tenant will not make or suffer any waste of the premises or permit anything to be done in or upon the demised premises creating a nuisance thereon, and Tenant further agrees to permit the Landlord or its agent at all reasonable times to enter upon the premises for making repairs and for examining or showing the same to prospective purchasers.

16. FIRE:

In the event that the leased premises are partially damaged or totally destroyed by fire, casualty or other disaster, the term of this lease shall not be affected thereby except as hereinafter provided. In the event that the building on the leased premises is damaged or destroyed by fire, casualty or other disaster, Landlord shall promptly cause the same to be restored to its prior existing condition; provided, however, Landlord shall have whatever time is reasonably necessary to adjust the loss with the insurance companies insuring the leased premises at the time of the

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happening of the fire or other casualty, and due allowance shall be made for delay occasioned by strikes, walkouts and conditions beyond the control of Landlord. In the event Landlord fails to completely restore and rebuild same within six (6) months after such fire, casualty or disaster, then and in that event Tenant may, at its option, elect to terminate and cancel this lease, in which event this lease shall, upon written notice from Tenant to Landlord, be terminated and cancelled and neither party shall thereafter have any further obligation with respect to the other. Should the leased premises or a portion thereof be rendered untenable by reason of damage or destruction thereof by fire, casualty or other disaster during the term of this lease, as provided in this paragraph, rent shall abate in proportion to the area of the leased premises rendered untenable from the date of the happening of the fire or other casualty or disaster up to the date of the restoration of the premises; provided, however, no rent shall accrue for any portion of the premises unless Tenant is able to conduct its usual business in that portion of the premises which remains tenantable. If at the date of the happening of the fire, casualty or other disaster Tenant shall have paid any rent for a period beyond such date, Tenant shall be entitled to a proportionate refund.

If, however, such damage occurs during the last three (3) years of the original term hereof or the last three (3) years of any renewal term hereof and the cost of restoration amounts to more than one-third (1/3) of the replacement value of the building as certified by a reputable registered architect selected by Landlord and Tenant, Landlord shall have the right to terminate this lease upon written notice to Tenant within thirty (30) days after the rendition of the certification by such architect, unless Tenant shall elect to exercise its next option to renew this lease for an additional period of five (5) years, in which event Landlord shall

have no option to terminate this lease and shall be obligated to restore the premises with due diligence.

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In the event that, at any time during the term of this lease, any one or more of the buildings located in Phase I of the shopping center of which the demised premises form a part are damaged or destroyed by fire or other casualty, notwithstanding that the demised premises may or may not be affected by such fire or casualty, and, as a result thereof, the aggregate ground floor area of buildings remaining vacant (and in which reconstruction has not commenced within ninety (90) days from the date of such fire or casualty) resulting from such fire or other casualty shall exceed twenty-five percent (25%) of the aggregate ground floor area of all buildings in Phase I of the shopping center, then in such event Tenant may terminate this lease and the tenancy hereby created, by giving ten (10) days' written notice to Landlord. Rent and other charges, if any, shall be adjusted as of the date of such termination. Any rent or other charges paid by Tenant in advance shall be refunded to Tenant.

If at any time during the term of this lease or any extensions thereof any of the buildings in Phase I in that portion of the shopping center owned by Landlord, exclusive of Tenant's store building, are damaged by fire, other casualty, or otherwise, Landlord shall immediately commence and diligently prosecute to completion repair of all such damage and shall restore said improvements to their condition prior to such damage; provided, however, that Landlord shall not be required to repair or restore its leaseable areas which are not occupied prior to such damage, or will not be occupied or will not be reoccupied if the same be restored.

Tenant agrees, upon notice from Landlord, to remove such fixtures and other property from the leased premises as shall be required by Landlord for such restoration work and

agrees to permit Landlord, its agents, servants, employees and contractors to enter upon the leased premises and remain thereon without molestation for the purpose of restoring the leased premises. Should Tenant have paid any rent upon the leased premises beyond the date of termination, as in this paragraph provided, Tenant shall be entitled to a proportionate refund.

BOOK 074 PAGE 721
If Tenant desires to insure any merchandise or other property located within the demised premises, it shall do so at Tenant's expense; and Tenant expressly waives any and all claims against Landlord for loss or damage to any such merchandise or other property, whether or not covered by Tenant's insurance, regardless of the cause of such damage, including, without limitation, damage resulting from negligence of Landlord, its agents, servants or employees; provided that the insurance of such merchandise and property obtained by Tenant shall contain a waiver of subrogation clause by which the insurance companies waive all right of recovery from Landlord, its agents, servants or employees.

Landlord agrees to carry fire and extended coverage insurance on Tenant's building and all other buildings within that portion of the shopping center owned by Landlord in an amount not less than eighty percent (80%) of the full insurable value thereof, above foundation walls, and hereby expressly waives any and all claims against the Tenant for loss or damage due to fire, explosion, windstorm, or other casualty covered by such insurance, regardless of the cause of such damage, including, without limitation, damage resulting from the negligence of the Tenant, its agents, servants or employees; provided, that the insurance carried by Landlord on its building occupied by Tenant shall contain a waiver of subrogation clause waiving the right of recovery by the insurance company or companies from Tenant, its agents, servants and employees.

17. QUIET ENJOYMENT:

BOOK 074 PAGE 722
The Landlord covenants, warrants and represents that upon commencement of the lease term, the shopping center, including the demised premises, will be free and clear of all liens and encumbrances superior to the leasehold hereby created, except for current taxes and except for the Indenture referenced above; that the Landlord has full right and power to execute and perform this lease and to grant the estate demised herein; and that the Tenant on paying the rent herein reserved and performing this lease and the covenants and agreements of same, shall peaceably and quietly have, hold and enjoy the demised premises, and all rights, easements, appurtenances and privileges belonging or in anywise appertaining thereto, during the full term of this lease and any extensions thereof.

The Landlord warrants the non-existence of any zoning or other restriction preventing or restricting use of the demised premises as permitted in Paragraph 1 hereof or use of common areas for parking purposes; and should such zoning or other restriction be in effect or adopted at any time during the term of this lease, preventing or restricting Tenant from conducting its business as permitted herein or using the common areas (including parking area) in conjunction therewith, the Tenant at its option may terminate this lease and shall stand released of and from all further liability hereunder.

18. TAXES AND LIENS:

All taxes, assessments and charges on land or improvements and obligations secured by mortgage or other lien upon the demised premises or that portion of the shopping center owned by Landlord shall be promptly paid by the Landlord when due. The Tenant may perform, acquire or satisfy any lien, encumbrance, agreement or obligation of the

Landlord which may threaten its enjoyment of the premises; and if it does so it shall be subrogated to all rights of the obligee against the Landlord or the premises or both and shall be reimbursed by the Landlord for resulting expenses and disbursements together with interest thereon at twelve percent (12%) per annum.

19. CONDEMNATION:

If there is a partial taking of the demised premises by eminent domain, as the result of which the ground floor area is reduced by not more than ten percent (10%), the term of this lease will continue and Landlord, at Landlord's expense, will restore the remaining premises to a complete architectural unit with store front, signs and interior of equal appearance and utility as they had previous to the taking, but there will be a pro rata reduction in the rent payable each month and Tenant will have no right to any of the proceeds of such taking. If on the other hand, the taking exceeds ten percent (10%) of the ground floor area, Tenant may, at Tenant's option, terminate this lease by giving Landlord thirty (30) days' notice in writing; or in the event the improvements are condemned and ordered torn down or removed by a lawful authority, then the term of this lease shall cease as of the date possession shall be taken by such authority, and the rent will be apportioned as of the date of such taking. In the event that any portion of the common areas (including parking area and access thereto) designated as such on Exhibit "A" be taken for any public or quasi-public use, under any statute or by right of eminent domain, or private purchase in lieu thereof, so as to materially or substantially interfere with the conduct of Tenant's business in the demised premises, or as to reduce the required parking area below a ratio of 3.6 parking spaces per 1,000 square feet of building area, Tenant may, at Tenant's

BOOK 074 PAGE 723

option, terminate this lease by giving Landlord thirty (30) days' notice in writing and be liable for rent only up to the time of such taking, provided, however, that Tenant may not terminate the lease in the event Landlord shall make available other reasonably accessible parking area as a substitute for the parking area so taken.

20. DEFAULT:

BOOK 074 PAGE 724
In the event the Tenant should fail to pay any of the monthly installments of rent reserved herein for a period of more than ten (10) days after the same shall become due and payable, or if the Tenant shall fail to keep or shall violate any other condition, stipulation or agreement herein contained, on the part of the Tenant to be kept and performed, and if either such failure or violation shall have continued for a period of thirty (30) days after the Tenant shall have received written notice by certified or registered mail at its office address hereinafter designated from the Landlord to pay such rent or to cure such violation or failure, then, in any such event, the Landlord at its option, may either (a) terminate this lease or (b) re-enter the demised premises by summary proceedings or otherwise expel Tenant and remove all property therefrom and relet the premises at the best possible rent obtainable, making reasonable efforts therefor and receive the rent therefrom; but Tenant shall remain liable for the deficiency, if any, between Tenant's rent under this lease and the price obtained by Landlord on reletting. However, a default (except as to payment of rentals) shall be deemed cured if Tenant in good faith commences performance requisite to cure same within thirty (30) days after receipt of notice and thereafter continuously and with reasonable diligence proceeds to complete the performance required to cure such default.

BOOK 074 PAGE 725

If Tenant shall default in the performance or observance of any agreement or condition in this lease contained on its part to be performed or observed, and if Tenant shall not cure such default within thirty (30) days after notice from Landlord to Tenant specifying the default (or shall not within said period commence to cure such default and thereafter prosecute the curing of such default to completion with due diligence), Landlord may, at its option, without waiving any claim for damages for breach of agreement, at any time thereafter, cure such default for the account of Tenant; and any amount paid or any contractual liability incurred by Landlord in so doing shall be deemed paid or incurred for the account of Tenant; and Tenant agrees to reimburse Landlord therefor or save Landlord harmless therefrom, together with interest thereon at twelve percent (12%) per annum.

21. BANKRUPTCY:

The Tenant further covenants and agrees that if, at any time, the Tenant is adjudged a bankrupt, or insolvent under the laws of the United States or of any state, or makes a general assignment for the benefit of creditors, or if a receiver of the property or assets of the Tenant is appointed, and if such shall not be discharged within ninety (90) days after such appointment, then the Landlord may, at its option, declare the term of this lease agreement at an end and shall forthwith be entitled to immediate possession of the said premises as aforesaid.

22. CONSTRUCTION RISKS:

It is understood and agreed that nothing contained herein shall constitute the Landlord as the agent in any sense of the Tenant in construction of any of said improvements, and that the Tenant shall have no control or authority

over the construction of said improvements. The Tenant shall not in any manner be answerable or accountable for any loss or damage arising from the negligence or the carelessness of Landlord's contractor or of any of their subcontractors, employees, agents or servants by reason of Landlord's construction of said improvements called for under the terms of this lease. Landlord shall indemnify Tenant and save Tenant harmless from and against all claims and suits for damage to persons or property from defects in material or from the use of unskilled labor or from any negligence caused by Landlord, Landlord's contractors, subcontractors or any of their employees, agents or servants during the progress of the work in constructing said improvements or from any faulty construction thereof.

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23. NOTICES:

All rent payments due hereunder and all notices required to be given to Landlord hereunder shall be sent to Landlord in care of 3164 Starlake Drive, Birmingham, Alabama 35226, and to such other address as Landlord may direct from time to time by written notice forwarded to Tenant by Landlord. All notices required to be given by Landlord to Tenant hereunder shall be sent to Tenant at Post Office Box 10166, Birmingham, Alabama, 35202, or to such address as Tenant may direct Landlord by written notice.

24. TERMINATION:

The Tenant will yield up the demised premises and all additions thereto (except signs, equipment and trade fixtures installed by Tenant at its expense) at the termination of the tenancy in as good and tenantable condition as the same are at the beginning of Tenant's occupancy, less reasonable wear and tear, damage by fire and other casualties, and condemnation proceedings by eminent domain

excepted, and also excepting any damage, disrepair or other condition that the Landlord is obligated hereunder to repair or correct; provided, however, any provision hereinabove in this paragraph to the contrary notwithstanding, Tenant shall not be required to restore, remove, renovate, reconstruct or rebuild any walls, partitions, windows, doors or other openings or other facilities in the building on the leased premises to the same condition as at the beginning of Tenant's occupancy, but, on the contrary, all improvements then located on the leased premises and all machinery and equipment located thereon, including, but not limited to, heating and air-conditioning, will be delivered to Landlord in their "as is" condition at such time, it being understood and agreed that Tenant shall have no responsibility whatever for repairing or replacing any such machinery and equipment, and that Tenant shall not be responsible for repairing, renovating, restoring or replacing any part of the improvements caused by ordinary and usual wear during the occupancy of the leased premises by Tenant.

25. HOLDING OVER:

In the absence of any written agreement to the contrary, if Tenant should remain in occupancy of the demised premises after the expiration of the lease term and any extensions thereof, it shall so remain as a tenant from month to month and all provisions of this Lease applicable to such tenancy shall remain in full force and effect, except that the minimum guaranteed rent shall be 125% of the last rental rate in effect prior to the expiration of the lease term. Percentage rental shall also apply to any holding over period.

26. ARBITRATION:

In the event there should arise a misunderstanding between the parties hereto as to the compliance with the terms and conditions of this lease upon the part of either of the parties hereto, or as to whether the premises tendered by the Landlord have been improved in substantial conformity with said Plans and Specifications, or as to whether either party has grounds hereunder entitling it to terminate this lease, it is mutually agreed that such differences, if they cannot be satisfactorily adjusted between the parties within thirty (30) days, shall be submitted to a single arbitrator, if the parties hereto agree upon one; otherwise, to a board of three arbitrators, of whom one shall be selected by each party within ten (10) days after such thirty (30) day period and a third person shall be selected by these two; and the decision and award of such single arbitrator, if only one is used, or any two (2) of such board, if three (3) are used, as the case may be, shall be final and binding upon the said parties and their successors and assigns, respectively, and shall have the same force and effect as though any such decision had been handed down by a court of final and competent jurisdiction. Each of the parties hereto covenants to abide by such arbitration decision.

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27. ASSIGNMENT AND SUBLEASING:

In the event Tenant is desirous of transferring, assigning or subleasing the leased premises, in whole or in part, for any of the permitted uses and purposes as set forth hereinabove in Paragraph 1, Tenant shall first give Landlord not less than thirty (30) days' notice in writing of such transfer, assignment or subletting. Notwithstanding the foregoing, in the event Tenant shall be merged with, reorganized or consolidated into a new corporation, the stock of which is substantially owned by the

BOOK 074 PAGE 729

present shareholders of Tenant, then in such event, Tenant shall not be required to give any notice to Landlord prior to transferring, assigning or subleasing the leased premises to such other corporation into which it shall be merged or with which it will be reorganized, and no consent and approval of Landlord shall be required of such transfer, assignment or subletting to such other corporation. Upon receipt of such written notice from Tenant, Landlord shall have the option of terminating and cancelling this lease or of accepting the proposed transfer, assignment or subletting; and Landlord shall notify Tenant in writing within ten (10) days from receipt of such written notice from Tenant whether it approves of such proposed transfer, assignment or subletting, or whether it desires to cancel and terminate this lease. In the event that upon the expiration of ten (10) days from receipt by Landlord of the written notice from Tenant as referred to hereinabove, Tenant shall have received written notice from Landlord consenting to and approving its proposed transfer, assignment or subletting, or in the event by the end of the said ten-day period Tenant has received no answer whatever from Landlord to Tenant's written notice as hereinabove referred to, Tenant shall be permitted to proceed with such transfer, assignment or subletting. In the event that Landlord notifies Tenant in writing within the time limit referred to hereinabove that it desires to cancel and terminate this lease, then within thirty (30) days after receipt of such notice, Tenant shall vacate the premises and the within Lease Agreement shall be cancelled and terminated, and Tenant shall be released and discharged of and from any and all further obligations to Landlord accruing under the Lease Agreement subsequent to such termination date, provided that Tenant vacates the premises in accordance with the terms and provisions of the Lease Agreement on or prior to such termination date. In the event Tenant should transfer,

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assign or sublet all or any portion of the leased premises pursuant to the provisions set forth herein, and Landlord shall not have exercised its option to cancel and terminate the Lease as hereinabove provided, Tenant shall continue to remain liable and responsible for the payment of rentals and due performance of all of the terms, covenants and conditions as set forth in this Lease, but any assignee or sublessee of Tenant shall not be entitled to the option privileges of extending the lease term which are granted to Tenant herein pursuant to Paragraph 34 of this lease. In the event of any subletting of all or any portion of the demised premises by Tenant, if the rental under the sublease agreement exceeds the minimum guaranteed rental and percentage rental provided herein, Tenant shall pay to Landlord immediately upon receipt of same from its subtenant, the excess of the rental.

Tenant may, at any time during the term of this Lease or any extensions hereof, vacate all or any part of the herein leased premises, provided that Tenant shall continue to remain liable and responsible for the payment of rentals and for the due performance of all other terms, covenants and conditions set forth in this Lease. In the event, however, that Tenant should vacate a substantial part of the leased premises and the same shall remain vacant for a period of more than ninety (90) days, then Landlord shall have the right, privilege and option of cancelling and terminating this entire Lease by thirty (30) days' notice in writing to Tenant of the exercise of such option, in which event at the end of such period of time, this entire Lease shall be considered as cancelled and made null and void, and Tenant shall be released and discharged of any and all obligations to Landlord accruing hereunder subsequent to the date of such cancellation and termination.

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28. TAX INCREASES: Beginning with the second (2nd) full tax year of the lease term hereof in which the value of both the land in the shopping center and the buildings thereon shall be assessed for tax purposes, Tenant agrees to pay to Landlord as additional rental an amount equal to the increase, if any, in ad valorem real estate taxes and assessments for public improvements (or any other taxes adopted by proper governmental authorities as a substitute for or in the nature of real estate taxes) levied against that portion of the shopping center owned by Landlord in excess of the amount of such taxes for the first (1st) full tax year of the lease term hereof in which the value of both the said land and the buildings is assessed for tax purposes. Tenant shall be responsible only for its pro rata share of such taxes for any fractional lease year occurring during the period in which Tenant shall be responsible for tax payments as hereinabove described.

Such apportionment shall be made in the ratio which the total square foot floor area of Tenant's building bears to the total square foot floor area of all store buildings and improvements from time to time existing in that portion of the shopping center owned by Landlord. The amount of taxes attributable to such portion of the shopping center, and for which Tenant is to reimburse Landlord in part, shall be less any abatements, discounts or refunds thereon. Upon request of Tenant, Landlord agrees to exhibit to Tenant the paid tax statements as evidence of the basis upon which increase in taxes is chargeable to Tenant, and such additional rental shall be payable by Tenant on demand after payment by Landlord. Landlord further agrees upon request of Tenant to furnish copies of final survey or certification of surveyor or engineer as to total square footage of floor area from time to time existing in that portion of the shopping center owned by Landlord.

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Tenant shall have the right from time to time to contest or protest or review by legal proceedings or in such other manner as may be provided, any such taxes, assessments or other governmental impositions aforementioned, and to institute such proceedings in the name of Landlord as Tenant may deem necessary, provided, however, any expenses incurred by reason thereof shall be borne by Tenant and such proceedings conducted free of all expense by Landlord.

29. TENANT TO PAY INCREASE IN LANDLORD'S INSURANCE PREMIUMS:

Beginning with the second (2nd) year following the commencement date of the within lease, and each lease year thereafter, Tenant agrees to pay to Landlord, Tenant's pro rata share of any increase in the insurance premiums paid by Landlord during the preceding lease year to carry the insurance referred to hereinabove. Tenant's pro rata share of such insurance premium increase shall be determined by multiplying the amount of such increase in insurance premiums so paid by Landlord by a fraction, the numerator of which is the number of square feet of ground floor area contained in the building occupied by Tenant in said center and the denominator of which is the number of square feet of ground floor area in all buildings and improvements from time to time existing in that portion of the shopping center owned by Landlord. Tenant agrees to pay its said pro rata share of such insurance premium increase each year within ten (10) days from receipt from Landlord of a statement covering such increase.

30. LIMITATION OF PERSONAL LIABILITY:

Anything in this lease to the contrary notwithstanding, Tenant agrees that it shall look solely to the estate and property of Landlord in the land and buildings

comprising that portion of the shopping center owned by Landlord of which the demised premises are a part subject to rights of any mortgagee of the premises which may have priority, for the collection of any judgment (or other judicial process) requiring the payment of money by Landlord, in the event of any default or breach by Landlord with respect to any of the terms, covenants and conditions of this lease to be observed and/or performed by Landlord; and no other property or assets of Landlord shall be subject to levy, execution or other procedures for the satisfaction of Tenant's remedies. Nothing herein contained shall act as a limitation on any right of Tenant to make a deduction from rent as in this lease may be otherwise provided.

31. SELF HELP:

If Landlord shall default in the performance or observance of any agreement or condition in this lease contained on its part to be performed or observed, and if Landlord or any first mortgagee shall not cure such default within thirty (30) days after notice from Tenant to Landlord and said mortgagee (except that no such notice shall be required in emergencies as herein stipulated) specifying the default (or shall not within said period commence to cure such default and thereafter prosecute the curing of such default to completion with due diligence), Tenant may, at its option, without waiving any claim for damages for breach of agreement, at any time thereafter, cure such default for the account of Landlord; and any amount paid or any contractual liability incurred by Tenant in so doing shall be deemed paid or incurred for the account of Landlord; and Landlord agrees to reimburse Tenant therefor or save Tenant harmless therefrom; provided, however, that Tenant may cure any such default as aforesaid prior to the expiration of said waiting period and without such notice to Landlord and first

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mortgagee if the curing of such default prior thereto is reasonably necessary to protect the real estate or Tenant's interest therein or to prevent injury or damage to persons or property. If Landlord shall fail to reimburse Tenant upon demand for any amount paid for the account of Landlord hereunder, said amount may be deducted by Tenant from the next or any succeeding payments of rent due hereunder.

32. NOTICE OF LANDLORD'S DEFAULT:

Anything in this lease to the contrary notwithstanding, Tenant agrees that it will not terminate this lease because of Landlord's default in performance hereof until Tenant has first given written notice as herein stipulated to Landlord and to any holder of a first mortgage encumbering the demised premises (provided Tenant has first been notified in writing of the name and address of said mortgage holder),... specifying the nature of the default by Landlord and allowing Landlord and said mortgage holder, or either of them, thirty (30) days after date of such notice to cure such default and a reasonable period of time in addition thereto if circumstances are such that said default cannot reasonably be cured within said thirty (30) day period; provided, however, that no such notice shall be required in emergencies as herein stipulated. Tenant further agrees not to prepay any rents more than fifteen (15) days in advance of the due dates thereof as required or made by this lease without the prior written consent of said first mortgagee.

33. ATTORNEYS' FEE:

Tenant agrees to pay Landlord all reasonable attorneys' fees incurred in the event Landlord employs an attorney to collect any rental or other obligations due hereunder by Tenant, or in the event Tenant violates any of the terms, conditions or covenants on the part of Tenant

herein contained. Likewise, Landlord agrees to pay Tenant all reasonable attorneys' fees incurred in the event Landlord violates any of the terms, conditions and covenants on the part of Landlord herein contained.

34. EXTENSIONS: It is further agreed that Tenant, at its option, shall be entitled to the privilege of two (2) successive extensions of this lease, each extension to be for a period of five (5) years and on the same terms and conditions as apply to the primary term, except that the annual minimum guaranteed rental payable during each of such five (5) year extension periods shall be the following:

(i) The guaranteed annual minimum rental payable during each of the five (5) years of the first extended term shall be the sum of Fifty Thousand Four Hundred Dollars (\$50,400.00) per annum, payable in twelve (12) equal monthly installments of Four Thousand Two Hundred Dollars (\$4,200.00); and

(ii) The guaranteed annual minimum rental payable by Tenant during each of the five (5) years of the second extended term shall be the sum of Fifty-Four Thousand Nine Hundred Dollars (\$54,900.00) per annum, payable in twelve (12) equal monthly installments of Four Thousand Five Hundred Seventy-Five Dollars (\$4,575.00).

Such option privilege may be exercised by the Tenant giving to the Landlord a notice in writing at least six (6) months before the expiration of the initial term, and if extended, at least six (6) months before the expiration of such extended term, stating the intention of the Tenant to exercise such option, and the period for which such option is exercised, and thereupon this lease shall be so extended without the execution of any other or further document.

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35. PRO RATA COMMON AREA MAINTENANCE CHARGE DURING
EXTENDED TERMS:

As additional rental, and as reimbursement for Tenant's pro rata share of Landlord's cost and expense in maintaining the common areas pursuant to the provisions of Section 7 hereinabove, Tenant agrees to pay to Landlord during each of the five year extended terms, Tenant's prorata share of the amount by which Landlord's annual cost and expense in maintaining that portion of the common areas owned by Landlord (hereinafter referred to as "The Common Areas") exceeds Twenty Cents (\$0.20) per square foot of floor area of all store buildings existing in that portion of the shopping center owned by Landlord (hereinafter referred to as "The Shopping Center") (i) up to a maximum of Forty Cents (\$0.40) per square foot during the first extended term; and (ii) up to a maximum of Fifty Cents (\$0.50) per square foot during the second extended term. In order to determine if Tenant owes such additional rental, Landlord will divide the aggregate annual sum expended by Landlord in maintaining The Common Areas by the total number of square feet of building area in The Shopping Center to determine the cost per square foot of such common area maintenance. If the resulting figure is less than 20¢ per square foot, then Tenant will have no obligation to pay any additional rental. If the resulting figure exceeds 20¢ per square foot, then Tenant will owe additional rental in a sum representing the amount by which the resulting figure exceeds 20¢ multiplied by the number of square feet in the demised premises (9,000 square feet). Anything hereinabove to the contrary notwithstanding, in no event shall Tenant be liable to the Landlord for additional rental (i) in excess of 40¢ per square foot per annum (\$3,600.00) during the first extended term; and (ii) in excess of 50¢ per square foot per annum (\$4,500.00) during the second extended term. Such additional rental shall be

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payable within thirty (30) days from receipt from Landlord of a statement covering Tenant's share of such expense. Landlord shall submit to Tenant such information concerning Landlord's actual cost and expense in maintaining the common areas as Tenant may reasonably request.

36. SUBORDINATION:

The Tenant agrees that this lease shall at all times be subject and subordinate to the lien of any mortgage (which term shall include all security instruments), that may be placed on the demised premises by the Landlord; and Tenant agrees, upon demand, without cost, to execute any instrument as may be required to effectuate such subordination; provided, however, as a condition to this subordination provision, the Landlord shall obtain from any such mortgagee an agreement in writing, which shall be delivered to Tenant, providing in substance that, so long as Tenant shall faithfully discharge the obligations on its part to be kept and performed under the terms of this lease, its tenancy shall be undisturbed, nor shall this lease be affected by any default under such mortgage; and in the event of foreclosure or any enforcement of any such mortgage, the rights of Tenant hereunder shall expressly survive, and this lease shall in all respects continue in full force and effect; provided, however, that Tenant fully performs all of its obligations under this lease.

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37. BENEFIT:

This lease and all of the covenants and conditions hereof shall inure to the benefit of and be binding upon the heirs, legal representatives, successors and assigns of the parties hereto. Each provision hereof shall be deemed both a covenant and a condition and shall run with the land.

38. TITLES:

The titles appearing in this lease are for reference only and shall not be considered a part of this lease or in any way modify, amend or affect the provisions hereof.

39. RECORDING OF LEASE:

Landlord agrees to file the entire within lease agreement for record within six months from date of execution in the Office of the Judge of Probate of Shelby County, and to pay all costs and expense which is required in connection with such recording; and Tenant shall reimburse Landlord for one-half (50%) of such costs and expenses within fourteen (14) days following submission of a statement to Tenant. In the event Landlord fails to record the lease within the time limit set forth hereinabove, Tenant shall be permitted to record the same and to deduct one-half (50%) of the costs and expenses incurred in such recording from the next maturing installment of rent which Tenant is required to pay under the terms of the lease.

40. COMPLETE AGREEMENT:

This written lease contains the complete agreement of the parties with reference to the leasing of the demised premises, except plans and specifications for Tenant's store and related improvements, and ~~a construction cost agreement therefor to be formally approved by the parties prior to the effective date of this lease.~~ No waiver of any breach of

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covenant herein shall be construed as a waiver of the covenant itself or any subsequent breach thereof.

IN WITNESS WHEREOF, Landlord and Tenant have each caused this lease to be executed, ALL IN DUPLICATE, on this the 4 day of APRIL, 1985.

Steve Taylor
Witness

Ernest A. Joseph
Ernest A. Joseph

Steve Taylor
Witness

Joe J. Joseph
Joe J. Joseph

LANDLORD

BIG B, INC

By

Anthony J. Bruno
Anthony J. Bruno
Its President

ATTEST:

Arthur M. Jones
Its Secretary

TENANT

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STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Ernest A. Joseph and Joe J. Joseph, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of APRIL, 1985.


NOTARY PUBLIC

My Commission Expires: 9/13/87

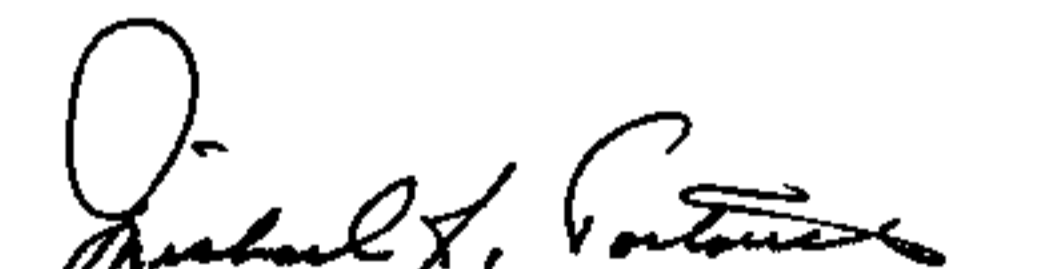


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STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Anthony J. Bruno, whose name as President of Big B, Inc., a corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 4 day of APRIL, 1985.

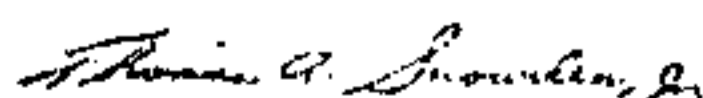

NOTARY PUBLIC

My Commission Expires: 9/13/87



Ref: STATE OF ALABAMA
I CERTIFY THIS
INSTRUMENT WAS FILED

1986 JUN -3 PM 5:08


JUDGE OF PROBATE

1. Deed Tax \$ 424.00
2. Mtg. Tax _____
3. Recording Fee 105.00
4. Indexing Fee 1.00
TOTAL 530.00