

RETAIL LEASE AGREEMENT

THIS LEASE, made as of this _____ day of _____, 1994, by and between Brook Highland Limited Partnership, a Georgia limited partnership, whose address is 1900 International Park Drive, Suite 303, Birmingham, Alabama 35243 ("LANDLORD") and Wings of Inverness, Inc. ("TENANT").

1.0 PREMISES.

LANDLORD does hereby lease to TENANT and TENANT hereby leases from LANDLORD that certain space (the "Premises" reflected as the area crosshatched on Exhibit A attached hereto) identified as Store Number E-12, having approximately 86 feet of frontage and irregular depth and a floor area of approximately 7,830 square feet and located within Brook Highland Plaza Shopping Center, a shopping center located in Birmingham, Shelby County, Alabama (the "Shopping Center"). The address to be used for any Notice requirements herein shall be 1831 37th Street, Tuscaloosa, Alabama 35405.

This LEASE is subject to the terms, covenants and conditions herein set forth and the TENANT covenants, as a material part of the consideration for this LEASE, to keep and perform each and all of said terms, covenants and conditions. The relationship between LANDLORD and TENANT hereunder is that of usufruct only, and no estate for years shall be deemed to have been granted hereby.

The parties acknowledge that TENANT may have general and specific requirements and needs relating to the operation of its business from the Premises, and LANDLORD and TENANT are entering into this Lease in reliance solely upon TENANT's expertise and ability to evaluate the suitability of the Premises and Shopping Center for the conduct of TENANT's business. TENANT has entered into this Lease without reliance upon any obligation of LANDLORD to make, and TENANT agrees that LANDLORD shall not be obligated to make any disclosures concerning the value, condition or suitability of the Premises.

2.0 TERM AND COMMENCEMENT DATE.

2.1 LEASE TERM. The term of the LEASE (the "LEASE Term") shall be Ten (10) LEASE Years and shall commence (the "Commencement Date") on a date which is the earlier of the first to occur: (i) sixty (60) days following notice from LANDLORD that the LANDLORD has substantially completed LANDLORD'S work on the Premises as set forth in Exhibit B attached hereto or; (ii) the date TENANT opens the Premises for business to the public. When the Commencement Date and termination date of the LEASE Term have been determined, LANDLORD and TENANT shall execute and deliver a written statement in recordable form specifying therein the Commencement Date and termination date of the LEASE Term. In the event the Lease has not commenced on or before December 1, 1995, then this Lease shall be automatically null and void and neither LANDLORD nor TENANT shall have any liability or obligation to the other.

2.2 ACCEPTANCE OF PREMISES. TENANT acknowledges that it has fully inspected and accepts the Premises in its present "as is" condition, or if the Premises are yet to be constructed, that it has reviewed the drawings and specifications for construction of the Premises and will take possession of the Premises within ten (10) days following notice from LANDLORD that LANDLORD has substantially completed LANDLORD's work on the Premises. All construction to the Premises by TENANT after taking possession of same shall be performed in accordance with Exhibit B. Except as may otherwise be specifically set forth herein, LANDLORD shall not be required to make any alterations, improvements or repairs to the Premises or the Shopping Center at any time.

2.3 FAILURE TO OPEN. If TENANT fails to take possession on or before the Commencement Date and open the Premises for business, fully fixtured, stocked and staffed within two (2) days after the Commencement Date, then LANDLORD shall have, in addition to any and all remedies herein provided, the option to immediately cancel and terminate this LEASE or the option to collect not only the Base Rent as provided in Section 4.1 but additional rent at the rate of Fifty (\$50.00) Dollars per day for each and every day TENANT shall fail to commence to do business as herein provided.

2.4 LEASE YEAR DEFINED. The term "LEASE Year" shall mean a period of twelve (12) consecutive full calendar months. If the Commencement Date is not the first day of a calendar month, then the first LEASE Year shall consist of the first twelve (12) consecutive full calendar months of this LEASE plus the partial month beginning on the Commencement Date and ending on the last day of that month. Each succeeding LEASE Year shall commence upon the first day of the calendar month coinciding with or following the anniversary date of the Commencement Date of the LEASE Term. If the term of the LEASE expires on a date not at the end of a full LEASE Year, the period of time following the final full LEASE Year shall be defined to be a "Partial LEASE Year".

April 6, 1994

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2.5 EFFECTIVE DATE. LANDLORD and TENANT acknowledge that certain obligations under various Articles of this LEASE may commence prior to the Commencement Date of the LEASE Term (e.g. construction, Indemnities, Liability Insurance) and they agree that this is a binding and enforceable agreement as of the date LANDLORD and TENANT execute this LEASE (the "Effective Date").

3.0 USE.

TENANT shall use and occupy the Premises as a restaurant and sport lounge, along with the retail sale of sports related merchandise and apparel and for no other purpose or use without LANDLORD's prior written consent. During the term of this LEASE, TENANT shall be in continuous use and occupancy of the Premises and shall not vacate or abandon the same, and except as may otherwise be required or prohibited by law, ~~TENANT shall be open for business throughout the business hours of the Shopping Center as from time to time established by LANDLORD.~~ TENANT shall comply with the rules and regulations established by LANDLORD from time to time, a copy of the current rules and regulations is attached hereto as Exhibit C and made a part hereof.

4.0 RENT.

TENANT shall pay to LANDLORD at the office of LANDLORD or at such other place designated by LANDLORD in lawful United States currency without notice, demand, deduction or set-off whatsoever the following rentals (collectively the "Rent") together with any sales, use or other taxes assessed from time to time on the Rent or on the use and occupancy of the Premises:

4.1 BASE RENT. Base Rent, as set forth below in monthly installments in advance on or before the first day of each calendar month during the LEASE Term:

<u>PERIOD</u>	<u>MONTHLY BASE RENT</u>
LEASE Years 1-3	\$6,525.00
LEASE Years 4-10	\$8,156.25

Payments of Base Rent not received by the fifth (5th) of the month shall be subject to a late charge of (2%) per month that said Base Rent is not paid to offset administrative expenses and other costs incurred by LANDLORD. If the Commencement Date is other than the first day of a calendar month, the Base Rent for the period from the Commencement Date to the first day of the first full month shall be pro-rated on a per diem basis and shall be paid on the Commencement Date.

4.2 TENANT'S RECORD AND ACCOUNTS.

(a) In addition to the Base Rent as provided in Section 4.1 hereof, TENANT shall pay Four percent (4%) of the amount by which TENANT'S Annual Gross Sales from the Premises exceeds the following sums during the following periods of time:

<u>PERIOD</u>	<u>ANNUAL GROSS SALES</u>
LEASE Years 1-5	Not applicable
LEASE Years 6-10	\$2,446,875.00

For purposes of computing Percentage Rent due hereunder, each LEASE Year shall be divided into four (4) quarterly periods ending respectively on the last day of March, June, September, and December provided however, a proration shall be applied with respect to the computing of Percentage Rent due for the initial period prior to and the final period following the most recent quarterly period used for determining the amount of any Percentage Rent due LANDLORD.

Within twenty (20) days after the end of each month during the LEASE Term TENANT shall submit to LANDLORD an accurate, and complete copy of TENANT'S sales and use tax reports (or other similar reports) showing the full amount of TENANT'S Gross Sales (as hereinafter defined) from the Premises during the previous month. TENANT shall pay a Twenty-Five Dollar (\$25.00) late submission fee for each month that TENANT not furnish to LANDLORD copies of such report by the 20th day of each month. Such fee shall continue to accrue on a monthly basis at the monthly rate as aforesaid until such time as TENANT shall have furnished such report. TENANT will remit to LANDLORD any Percentage Rent due by the 20th day of the month following each quarterly period.

(b) The term TENANT'S "Gross Sales" as used herein is hereby defined to mean receipts from gross sales of TENANT and of all licenses, concessionaires and TENANTS of TENANT, from all business conducted upon or from the Premises by TENANT and all others, and whether such sales be evidenced by check, credit, charge account, exchange or the like, and shall include, without limitation, amounts received from the sale of goods, wares, merchandise and for services performed on, at or off the Premises, together with the amount of all orders taken or received at the Premises, whether such orders be filled from the Premises or elsewhere, and whether such sales be made by means of merchandise or other vending devices in the Premises. Each charge or sale upon installment or credit shall be treated as a sales for the full price in the month during which such charge or sale shall be made irrespective of the time when TENANT shall receive payment (whether full or partial) thereof. No deductions shall be allowed for uncollectible credit accounts.

(c) During the term of this LEASE, TENANT shall maintain and keep at the Premises full, complete and accurate permanent records and accounts relating to the Premises in accordance with general accounting practices acceptable to LANDLORD and such records and accounts and all supporting records shall at all times be open to inspection and audit at the Premises by LANDLORD or its duly authorized agents or representatives during ordinary business hours. TENANT shall keep and preserve said records for not less than thirty-six (36) months.

If, at the end of any LEASE Year, the total amount of Percentage Rent actually paid by TENANT exceeds the total amount of Percentage Rent required to be paid by TENANT hereunder, TENANT shall receive a credit equivalent to such excess against the next payment of Percentage Rent due LANDLORD.

In the event that TENANT under-reports Gross Sales, TENANT shall promptly pay any such deficiency to LANDLORD and, if such under-reporting is by more than five percent (5%), then, in addition to immediately remitting any additional Percentage Rent due, TENANT, shall also pay to LANDLORD an administrative fee equal to 50% of the additional Percentage Rent due as well as all costs incurred by LANDLORD in determining such deficiency, and, should any under-reporting exceed ten percent (10%), then, in addition to TENANT'S remitting of any additional Percentage Rent due, TENANT shall also pay to LANDLORD the administrative fee and costs as hereinabove set forth, and LANDLORD may, at its sole discretion, terminate this LEASE.

(d) The acceptance by the LANDLORD of payments of Percentage Rent shall be without prejudice to the LANDLORD'S right to an examination of the TENANT'S books and records of its gross receipts and inventories of merchandise at the Premises in order to verify the amount of Gross Sales from the Premises.

(e) At its option, LANDLORD may cause, at any reasonable time upon forty-eight (48) hours prior written notice to TENANT, a complete audit to be made of TENANT'S entire business affairs and records relating to the Premises for the period covered by any statement issued by the TENANT as above set forth. If such audit shall disclose a liability for rent to the extent of three (3%) percent or more in excess of the Percentage Rent theretofore computed and paid by TENANT for such period, TENANT shall promptly pay to LANDLORD the cost of said audit in addition to the deficiency, which deficiency shall be payable in any event.


(f) TENANT shall, during the LEASE, keep the Premises open for business during all days and hours as are in keeping with the Rules and Regulations established by LANDLORD or, if none have been established, then for such days and hours as shall be utilized by a majority of other TENANTS in the Shopping Center who conduct retail businesses and, at all such times, TENANT shall keep the Premises fully manned and in full operation and shall in good faith maintain a complete and sufficient stock of new, first class merchandise of current style and type, attractive displays and with sufficient and competent personnel and with such materials and supplies as are necessary for the proper operation of the Premises.

4.3 ADDITIONAL RENT. It is the intent of the parties that the Rent payable to LANDLORD is absolutely net of all expenses associated with the operation of the Shopping Center and all sales or use taxes imposed on the Rent or otherwise and, accordingly, in addition to all other amounts that may be due pursuant to this LEASE, TENANT shall pay as Additional Rent:

(a) **TAXES.** TENANT'S Pro Rata Share (as hereinafter defined) of the amount of all real and personal property taxes and assessments (including without limitation sanitary taxes, extraordinary or special assessments and all costs and fees, including reasonable attorneys' fees incurred by LANDLORD in contesting or negotiating the same with public authorities) levied, imposed or assessed upon the Shopping Center during each LEASE Year, plus the full amount of any real property tax assessment that is directly attributable to improvements by TENANT to the Premises as defined and

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permitted by Section 7.1, plus the full amount of any sales or use taxes imposed on the Rent and/or TENANT's operation of its business in the Premises.

(b) INSURANCE. TENANT's Pro Rata Share of the total cost to LANDLORD of all fire, extended coverage, liability, workmen's compensation and other insurance coverage carried by LANDLORD with respect to the Shopping Center. If TENANT's approved use or occupancy of the Premises shall cause any increase in the premiums for the insurance coverage of the Shopping Center as carried from time to time by LANDLORD, then TENANT shall pay to LANDLORD as Additional Rent the entire increase in said premiums or that portion thereof allocable to TENANT if more than one TENANT's use causes such an increase, and said payment shall be due with the next monthly Base Rent payment following LANDLORD's written notice specifying the amount of such increase.

(c) COMMON AREA MAINTENANCE. For the maintenance of the Common Areas, an amount equal to TENANT's Pro Rata Share of the Shopping Center's Operating Costs as that term is defined in Section 5.3. LANDLORD shall establish the fiscal period for determining the Shopping Center Operating Costs.

(d) OTHER ADDITIONAL RENT. All other sums of money or charges required to be paid by TENANT including but not be limited to late fees, attorney's fees incurred by LANDLORD to enforce the provisions of this LEASE or interest charges on past due payments, which sums shall be payable as Additional Rent with the next installment of Base Rent.

(e) TENANT'S PRO RATA SHARE. TENANT's Pro Rata Share shall be determined by first deducting the contribution, if any, made by an Anchor Tenant (Anchor Tenant being defined as any tenant leasing 15,000 square feet or more within the Shopping Center) from the costs of the ad valorem taxes, common area maintenance or insurance and then multiplying the difference by a fraction, the numerator of which shall be the square footage of the Premises and the denominator of which shall be the approximate square footage of the total leasable area of the Shopping Center exclusive of the square footage leased by Anchor Tenants. TENANT'S Pro Rata Share is subject to adjustment by LANDLORD based on the foregoing formula if the leasable area of the Shopping Center is diminished by casualty, condemnation or similar takings or other events reducing the leasable area or if the leasable area is increased by additions to the Shopping Center.

(f) PAYMENT OF ADDITIONAL RENT. No later than thirty (30) days after the Commencement Date, and thereafter at least once each calendar year, LANDLORD shall deliver to TENANT a statement setting forth the monthly installment of Additional Rent that LANDLORD estimates will be needed to pay in full for that calendar year. If at any time during the calendar year LANDLORD determines that the initial estimate should be revised so that it will more closely approximate the expected actual Additional Rent, LANDLORD may revise the initial estimate by delivering to TENANT a subsequent statement. TENANT shall pay LANDLORD, together with the Base Rent, on the first day of each month during this LEASE, the monthly installments of estimated Additional Rent as set forth in the last statement received by TENANT. Within sixty (60) days following each calendar year for the Shopping Center, LANDLORD shall endeavor to deliver to TENANT a statement of the actual Additional Rent payable by TENANT for the previous calendar period. LANDLORD's failure to include an item as Additional Rent or to submit statements as called for herein shall not be deemed to be a waiver of TENANT's requirement to pay the sums herein provided. If the total amount of estimated payments paid by TENANT for any calendar period is less than the actual amount payable by TENANT, then TENANT shall pay the balance of Additional Rent in a lump sum within fifteen (15) days after LANDLORD delivers to TENANT the statement of the actual amount. If the total of the estimated payments is greater than the actual Additional Rent for the same period, then TENANT shall receive a credit against the next due payment(s) of estimated Additional Rent.

(g) PRORATION. If the first LEASE Year commences on any day other than January 1, or if the LEASE ends on any day other than December 31, any payment due to LANDLORD by reason of any Additional Rent or estimated installment thereof shall be justly and fairly prorated. This covenant shall survive the expiration or termination of this LEASE, if LANDLORD estimates that Additional Rent will be payable by TENANT at the end of the calendar year and subsequent to LEASE expiration.

4.4 CONTRACTUAL SECURITY INTEREST. INTENTIONALLY STRICKEN

5.0 COMMON AREAS.

5.1 USE OF COMMON AREAS. The use and occupancy by TENANT of the Premises shall include the use in common with others entitled thereto of the common areas, employee parking areas, service roads, loading facilities, sidewalks and customer parking areas within the Shopping Center

together with such other facilities as may be designated from time to time by LANDLORD (collectively referred to as the "Common Areas").

5.2 SIDEWALKS. TENANT shall neither encumber nor obstruct the sidewalks adjoining the Premises nor allow the same to be obstructed or encumbered in any manner. TENANT shall not place or cause to be placed any merchandise, signs, vending machines or anything else on any sidewalk or exterior of the Premises without prior written consent of LANDLORD which consent is in the LANDLORD'S absolute discretion.

5.3 MODIFICATION. The Common Areas are the private property of LANDLORD and are at all times subject to the unrestricted control of LANDLORD. Exhibit A sets forth the general layout of the Shopping Center and shall not be deemed to be a warranty, representation or agreement on the part of LANDLORD that the Shopping Center will be or is exactly as indicated on said diagram. LANDLORD may increase, reduce or change the number, dimensions or location of the walks, buildings and parking areas in any manner whatsoever that LANDLORD shall deem proper and reserves the right to make alterations or additions to the building in which the Premises are contained and to add buildings adjoining the same or elsewhere in the Shopping Center. If the amount or type of such areas is diminished, increased or otherwise altered, LANDLORD shall not be subject to any liability nor shall TENANT be entitled to any compensation or diminution or abatement of Rent nor shall the diminution, enlargement or alteration of such areas be deemed constructive or actual eviction, provided, however, LANDLORD agrees not to make any such alterations or additions if the result of same would materially adverse the access to or visibility to the Premises.

LANDLORD agrees to maintain, throughout the term of this Lease and any extensions thereof, the center and all common areas in a professional manner.

LANDLORD agrees not to modify the center, excluding the outlots, including but not limited to the Common Areas so as to alter the access or visibility of TENANT'S Premises.

5.4 COST OF MAINTENANCE. TENANT shall reimburse LANDLORD for the cost of maintenance, operation and administration of the Common Areas as hereinbefore provided. The term "Shopping Center Operating Costs" shall mean the total cost and expenses incurred in connection with the normal administration, operation, preventive and corrective maintenance and repair of the Shopping Center, whether paid to employees of LANDLORD or parties engaged by LANDLORD, including without limitation: landscaping, building repairs, line painting, building painting, roof cleaning, bumpering and top coating; lighting; electricity; sanitary control; depreciation or rental on machinery or equipment used in such maintenance; the cost of personnel to implement such services (including social security, unemployment and disability insurance); property owner association fees assessed to the Shopping Center; legal fees; management fees; together with casualty, liability workmen's compensation and other insurance, together with an administrative fee of ten percent (10%).

6.0 SIGNS.

TENANT shall not place, erect or install any signs on any portion of the Premises nor allow to be erected or installed any signs, printed displays or show window lettering visible from outside the Premises without the prior written approval of LANDLORD. The standards with which TENANT must comply regarding its signs are attached hereto as Exhibit D. LANDLORD shall have complete authority over size, art work, design, color, taste, text and content of all signs, which authority may be arbitrarily exercised to deny use of any sign or proposed sign. All such signs shall be maintained in a good and safe condition and appearance by TENANT at its own expense. TENANT shall repair any damage to the Premises, either inside or outside, resulting from the erection, maintenance or removal of said signs.

7.0 IMPROVEMENTS AND ALTERATIONS OF PREMISES BY TENANT.

TENANT may at any time during the LEASE, with the written consent of LANDLORD, whose consent shall not be unreasonably withheld, make improvements or alterations to the Premises as TENANT may from time to time deem necessary or desirable, provided however, TENANT shall not have the right to make any improvements or alterations that affect the structure, structural strength or outward appearance of the Premises or the Shopping Center. TENANT shall submit to LANDLORD complete and detailed plans and specifications for such work at the time approval is sought. LANDLORD may withhold approval in its absolute discretion. Any improvements or alterations made to the Premises shall be in compliance with all insurance requirements and regulations and ordinances of governmental authorities and shall, upon the expiration or sooner termination of the LEASE, become the property of LANDLORD, provided however, LANDLORD may, at its option, require TENANT, at TENANT'S sole cost and expense, to remove any such improvements or alterations at the expiration or sooner termination of the LEASE and to repair any damages to the Premises caused by such removal.

The interest of the LANDLORD in the Premises and the Shopping Center is not subject to liens for improvements or alterations made by TENANT. TENANT will not create or permit to be created or remain as a result of any action or work done or contracted for by TENANT, any lien, encumbrance or charge levied on account of any imposition of any mechanic's, laborer's or materialman's lien which might be or become a lien, encumbrance or charge upon the Premises, the Shopping Center, or any part thereof, or the income therefrom, whether or not the same shall have any priority or preference over or ranking on a parity with the estate, rights and interest of LANDLORD in the Premises or the Shopping Center, or any part thereof, or the income therefrom, and TENANT will not suffer any other matter or thing whereby the estate, rights and interest of LANDLORD in the Premises or the Shopping Center, or any part thereof, might be impaired. Any mechanic's, laborer's or materialman's lien shall be discharged in accordance with the following:

If any mechanic's, laborer's or materialman's lien shall at any time be filed against the Premises or the Shopping Center, or any part thereof, as a result of any action or work done on behalf of or contracted for by TENANT, TENANT, within seven (7) days after notice of the filing thereof, shall cause it to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If TENANT shall fail to cause such lien to be so discharged within the period aforesaid, then, in addition to any other right or remedy available to LANDLORD, LANDLORD may, but shall not be obligated to, discharge such lien by paying the amount claimed to be due. Any amount so paid by LANDLORD and all costs, expenses, and fees, including without limitation attorneys' fees, incurred by LANDLORD in connection with any mechanic's, laborer's or materialman's lien, whether or not the same has been discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise, together with interest thereon at one and one-half percent (1 1/2%) per month from the respective dates of LANDLORD's making of the payments and incurring of the costs and expenses, shall constitute Additional Rent payable by TENANT to LANDLORD upon demand.

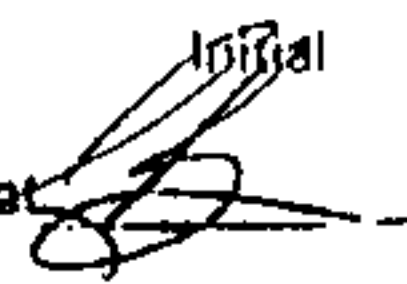
Nothing contained in this LEASE shall be deemed or construed in any way as constituting the consent or request of LANDLORD, express or implied by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any alteration, addition, improvement or repair to the Premises or the Shopping Center, or any part thereof, or as giving TENANT any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any lien against the Premises or the Shopping Center, or any part thereof, nor to subject LANDLORD's estate in the Premises or the Shopping Center, or any part thereof, to liability in any way under any mechanic's and/or materialman's lien laws of the State of Alabama, it being expressly understood that LANDLORD's estate shall not be subject to any such liability.

7.1 IMPROVEMENTS AND ALTERATIONS BY LANDLORD. LANDLORD hereby reserves the right at any time and from time to time during the LEASE to make any additions, alterations, changes or improvements (including without limitation building additional stores) to the building in which the Premises are contained and to build additional structures adjoining thereto. LANDLORD also reserves the right to construct other buildings and improvements in the Shopping Center from time to time and at any time during the LEASE, including multi-level parking facilities and to make alterations thereto and to build additional stories on any such buildings.

7.2 REPAIRS BY LANDLORD. LANDLORD agrees to keep and maintain in good order and repair only the structural components of the roof, structural components and exterior walls (excluding all signs, doors, windows and glass, including plate glass) of the Premises. If any such maintenance and repairs are caused in part or in whole by the act, neglect, fault or omission of any duty by TENANT, its agents, servants, employees, or invitees, or any damage is caused by breaking and entering, then TENANT shall pay to LANDLORD the actual cost of such maintenance and repairs. Except as may otherwise be herein expressly retained, LANDLORD gives to TENANT exclusive control of the Premises and shall be under no obligation to inspect the Premises. TENANT shall at once report in writing to LANDLORD any known defective condition which LANDLORD is required to repair pursuant to this Section. TENANT's failure to report to LANDLORD any such condition or defect shall make TENANT responsible to LANDLORD for any liabilities, costs, expenses, and attorneys' fees incurred by LANDLORD as a result of such defect. LANDLORD shall not be liable for any failure to make such repairs or to perform any maintenance unless such failure shall persist for an unreasonable time after written notice of the need of such repairs or maintenance is given to LANDLORD by TENANT. Except as herein provided regarding casualty loss, there shall be no abatement of rent and no liability of LANDLORD by reason of any injury to or interference with TENANT's business arising from the making of any repairs, alterations or improvements in or to any portion of the Shopping Center or the Premises or in or to fixtures, appurtenances and equipment therein. ~~TENANT waives the right to make repairs at LANDLORD's expense under any law, statute or ordinance now or hereafter in effect.~~

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7.3 REPAIRS BY TENANT. TENANT shall, at its own cost and expense, keep and maintain the Premises and appurtenances thereto and every part thereof in good order and repair except portions of the Premises to be repaired by LANDLORD pursuant to Section 7.2 hereof. Without limiting the foregoing, TENANT agrees to keep in good order and repair and to replace as needed all fixtures pertaining to heating, air-conditioning (including compressors, fans and ducts), ventilation, water, sewer, electrical and sprinkler systems and TENANT shall be liable for any damage to such systems resulting from TENANT's misuse. TENANT shall obtain at its expense a service contract for repairs and maintenance of the heating and air-conditioning system that conforms to the warranty requirements of said system. TENANT shall provide LANDLORD with a current copy of said service contract. TENANT agrees to return the Premises to LANDLORD at the expiration or sooner termination of this LEASE in as good condition and repair as when first received, reasonable wear and tear and damage by fire or other insurable casualty excepted. All damage or injury to the Shopping Center, the Premises, the building, or the Common Areas caused by the act or negligence of TENANT, its agents, employees, licensees, invitees, or by visitors shall be promptly repaired by TENANT at its sole cost and expense and to the satisfaction of LANDLORD. LANDLORD may make such repairs which are not promptly made by TENANT and charge TENANT for the cost thereof and TENANT hereby agrees to pay such amounts on demand as Additional Rent hereunder.

8.0 UTILITIES.

TENANT shall pay from the date the Premises are delivered to TENANT, the cost of water/sewer, demand or reservation fees, gas, electricity, fuel, light, heat, power, telephone, cable, trash and garbage removal, and all other utilities furnished to the Premises or used by TENANT in connection therewith, whether such utility costs are determined by separate billing and metering or are billed by LANDLORD to TENANT as Additional Rent for TENANT's proportionate share of the utility costs. TENANT shall not install any equipment nor shall TENANT use the Premises in a manner that will exceed or overload the capacity of any utility facilities. If TENANT's use of the Premises shall require additional utility facilities, the same shall be installed only after obtaining LANDLORD's written approval (which may be withheld in LANDLORD's absolute discretion) and shall be installed at TENANT's expense in accordance with plans and specifications approved in writing by LANDLORD. If TENANT's use or occupancy of the Premises results in an increase to LANDLORD of any utilities expense or connection or user fees or charges for increased usage or capacity or assessments of any kind whatsoever, TENANT shall pay the entire amount thereof within ten (10) days of LANDLORD's written demand. In no event shall LANDLORD be liable for any interruption or failure in the supply of utilities to the Premises unless same is caused by LANDLORD's negligent acts.

9.0 PERSONAL PROPERTY TAXES.

TENANT shall pay, prior to delinquency, all taxes, both real and personal, assessed against or levied upon the Premises and upon its fixtures, signs, furnishings, equipment, leasehold improvements and all other personal property of any kind owned by or used in connection with the Premises by TENANT. In the event any of TENANT's leasehold improvements, equipment, furniture, fixtures and other personal property shall be assessed and taxed with the real property, TENANT shall pay to LANDLORD the full amount of such taxes applicable to TENANT's property within ten (10) days after delivery to TENANT by LANDLORD of a statement in writing setting forth the amount of such taxes applicable to TENANT's property. LANDLORD maintains the right but not the obligation to pay said taxes for the benefit of TENANT and consider same as Additional Rent due under this LEASE.

10.0 INSURANCE.

10.1 TENANT'S INSURANCE.

(a) TENANT shall at all times during the term of this LEASE maintain in full force and effect the following insurance in standard form generally in use in the state in which the shopping center is located, with insurance companies authorized to do business in said State, which are satisfactory to LANDLORD:

(i) Comprehensive public liability insurance in the amount of at least One Million Dollars (\$1,000,000) for any occurrence resulting in bodily or personal injury to or the death of one person and consequential damages arising therefrom, and in the amount of at least Two Million Dollars (\$2,000,000) for any occurrence resulting in bodily or personal injury to or death of more than one person and consequential damages arising therefrom. In the event the business being conducted from the Premises includes the sale or other disposition of alcoholic beverages for on or off Premise consumption, TENANT shall, in addition to the public liability insurance, obtain liquor liability insurance in the amounts equal to that required above for public liability insurance.

(ii) Comprehensive property damage insurance covering liability for damage to all property in the amount of at least Two Hundred (\$200,000) for each occurrence. Such insurance shall not contain the "care, custody and control" exclusion or it shall include fire and extended coverage legal liability insurance.

(iii) Workmen's Compensation Insurance and employees insurance as required by law.

Except with the respect to the insurance in subparagraph (3) above, all such insurance shall name LANDLORD as additional insured for the full amount of the insurance herein required and shall be primary to any other coverage which may be in effect.

(b) At all time during the term of this LEASE, TENANT shall pay all premiums for and maintain in effect, with a responsible insurance company or companies, policies of insurance for the benefit of LANDLORD and TENANT, as their interests may appear, as follows:

(i) Insurance covering all trade fixtures, signs, plate glass, floor covering, decorative items, furniture, equipment, and merchandise in the Premises to the extent of (100%) of the insurable value of the same against all casualties included in the classification "Fire and Extended Coverage, Vandalism and Malicious Mischief," and including sprinkler leakage.

(c) TENANT shall furnish to LANDLORD, before the Commencement Date, and at least thirty (30) days before expiration or termination of any such policy, copies of policies or certificates of insurance evidencing coverages required by this LEASE. All policies required hereunder shall contain an endorsement providing that the insurer will not cancel, fail to renew or amend the policy or policies without first giving twenty (20) days' prior written notice thereof to the LANDLORD.

(d) The insurance required by this Section may be included in policies of "blanket insurance", provided that, in all other respects, each such policy shall comply with the requirements of this SECTION 10.1 and provided that no other loss which may or may not be also insured thereby, shall in any way affect or limit the coverages and amount of insurance required hereby.


10.2 INCREASE IN LANDLORD'S INSURANCE. TENANT agrees that it will not keep, use, sell or offer for sale in or upon the LEASED Premises any article which may be prohibited by the standard form of fire insurance policy. TENANT agrees to pay any increase in premiums for fire and extended coverage insurance that may be charged during the LEASE Term on the amount of such insurance which may be carried by LANDLORD on the Premises or the Shopping Center, resulting from the type of merchandise sold or the type of business conducted by TENANT in the Premises, whether or not LANDLORD has consented to the same. In determining whether increased premiums are the result of TENANT's use of the Premises, a schedule, issued by the organization making the insurance rate on the Premises, showing the various components of such rate, shall be conclusive evidence of the several items and charges which make up the fire insurance rate on the LEASED Premises.

In the event TENANT's occupancy causes any increase in premium for the fire, boiler and/or casualty rates on the Premises or Shopping Center or any part thereof above the rate for the least hazardous type of occupancy legally permitted in the Premises, the TENANT shall pay the additional premium on the fire, boiler and/or casualty insurance policies by reasons thereof. Bills for such additional premiums shall be rendered by LANDLORD to TENANT at such times as LANDLORD may elect, and shall be due from, and payable by, TENANT when rendered, and the amount thereof shall be deemed to be, and be paid as, Additional Rent.

10.3 SUBROGATION. As long as their respective insurers so permit, LANDLORD and TENANT hereby mutually waive their respective rights of recovery against each other to the extent of losses covered by insurance for any loss insured by fire, extended coverage and other property insurance policies existing for the benefit of the respective parties. Each party shall apply to their insurers to obtain said waivers and each party shall obtain any special endorsements if required by their insurer to evidence compliance with the aforementioned waiver.

11.0 INDEMNIFICATION.

11.1 LIMITED LIABILITY. LANDLORD or its agents shall not be liable for any loss or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the building or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface or from any other place resulting from dampness or any other cause whatsoever unless caused by or due to the gross negligence or willful misconduct of LANDLORD, its agents, servants, or employees. LANDLORD or its agents shall not be liable for interference with the light, air or for any latent defect in the Premises. LANDLORD shall not be liable for

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any such damage caused by other lessees of the Shopping Center or persons in or about the Premises or the Shopping Center, occupants of adjacent property or the public or caused by operations in construction of any private, public or quasi-public work. All property of TENANT kept or stored on the Premises shall be so kept or stored at the risk of TENANT only and TENANT shall hold LANDLORD harmless from any claims arising out of damage to the same, including subrogation claims by TENANT's insurance carrier unless such damage shall be caused by the willful act or gross neglect of LANDLORD.

11.2 . INDEMNIFICATION. TENANT shall indemnify and hold harmless LANDLORD against and from any and all claims arising from TENANT's use of the Premises or from the conduct of its business or from any activity, work or other things done, permitted or suffered by TENANT in or about the Premises and shall further indemnify and hold harmless LANDLORD against and from any and all claims arising from any breach or Default in the performance of any obligation on TENANT's part to be performed under the terms of this LEASE or arising from any act or negligence of the TENANT or any officer, agent, employee, guest or invitee of TENANT and from all costs, attorney's fees, whether at trial or on appeal, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon. If any action or proceeding is brought against LANDLORD by reason of such claim, TENANT, upon notice from LANDLORD, shall defend the same at TENANT's expense by counsel reasonably satisfactory to LANDLORD. TENANT, as a material part of the consideration to LANDLORD, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises from any cause other than LANDLORD's gross negligence or willful misconduct and TENANT hereby waives all claims in respect thereof against LANDLORD. TENANT shall give prompt notice to LANDLORD in case of casualty or accidents in the Premises.

12.0 DAMAGE OR DESTRUCTION.


If the Premises or the building of which the same are a part are damaged by fire or other insured casualty and the insurance proceeds have been made available therefor by the holder(s) of any mortgages covering the Premises, the damage shall be repaired by and at the expense of LANDLORD to the extent of such available insurance proceeds, provided such repairs can, in LANDLORD's sole opinion, be made within sixty (60) days after the occurrence of the casualty without the payment of overtime or other premiums. Until such repairs are completed, the Base Rent shall be abated in proportion to that part of the Premises which is unusable by TENANT in the conduct of its business, as determined in the sole discretion of LANDLORD, except that there shall be no abatement of Rent if any portion of the Premises are unusable for a period equal to one day or less. If the damage is due to the fault or neglect of TENANT or its employees, contractors, agents or invitees, there shall be no abatement of Base Rent. If the Premises are damaged as the result of any cause other than fire or other insured casualty covered by fire and extended coverage insurance or if the insurance proceeds have not been made available or if, in LANDLORD's sole opinion, the repairs cannot be made within sixty (60) days, then LANDLORD shall have the option: (1) to repair or restore such damage, in which case this LEASE shall continue in full force and effect but the Base Rent will be proportionately reduced as hereinabove provided; or (2) to give Notice to TENANT at any time within sixty (60) days after such damage, terminating this LEASE as of the date specified in such Notice, which date shall be no more than thirty (30) days after the giving of such Notice. In the event of giving such Notice, this LEASE shall expire and all interest of the TENANT in the Premises shall terminate on the date so specified in such Notice and the Base Rent, reduced by a proportionate reduction as hereinabove provided, shall be paid to the date of said termination.

Notwithstanding anything to the contrary contained in this Article, LANDLORD shall not have any obligation to repair, reconstruct or restore the Premises when the damage resulting from any casualty covered under this Article occurs during the last twelve (12) months of the LEASE TERM or any extension thereof.

Except as provided in this Article, there shall be no abatement of Rent and no liability of LANDLORD by reason of injury to or interference with TENANT's business or property arising from the making of any repairs, alterations or improvements in or to any portion of the building or the Premises or to fixtures, appurtenances and equipment therein. TENANT understands and agrees that LANDLORD shall have no obligation to carry insurance of any kind on TENANT's furniture and furnishings or on any fixtures or equipment removable by TENANT under the provisions of this LEASE and that LANDLORD shall not be obligated to make any repairs thereto or to replace the same.

13.0 CONDEMNATION.

If the whole of the Premises or so much thereof as to render the balance unusable by TENANT shall be taken under power of eminent domain or otherwise transferred in lieu thereof, this LEASE shall automatically terminate as of the date of such condemnation authority or taking, whichever is later. No award for any total or partial taking shall be apportioned and TENANT hereby assigns to LANDLORD any

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award which may be made in such taking in condemnation, together with any or all rights of TENANT now or hereafter arising in or to the same or any part thereof.

14.0 ASSIGNMENT AND SUBLETTING.

TENANT shall not, either voluntarily or by operation of law, sell, assign, hypothecate or transfer this LEASE or sublet the Premises or any part thereof or permit the Premises or any part thereof to be used for any purpose other than as set forth in Article 3.0 hereof. Any sale, assignment, mortgage, transfer or subletting of this LEASE or the Premises or any parts hereof or thereof contrary to the provisions of this Article shall be void, unless approved in writing by LANDLORD, which approval shall be in LANDLORD's sole and absolute discretion, and shall, at the option of LANDLORD, constitute a Default under this LEASE.

15.0 ESTOPPEL CERTIFICATE, ATTORNMENT, SUBORDINATION.

15.1 ESTOPPEL CERTIFICATE. Within ten (10) days after request thereof by LANDLORD, or in the event that upon any sale, assignment or hypothecation of the Premises and/or the land thereunder by LANDLORD an Estoppel Certificate shall be required from TENANT, TENANT agrees to deliver in recordable form, a certificate to any proposed mortgagee or purchaser, or to LANDLORD, certifying that this LEASE is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified, and stating the modifications), that there are no defenses or offsets thereto or stating those claimed by TENANT and the dates to which Base Rent, Percentage Rent and other charges have been paid, and such other matters as may be required by such mortgagee or purchaser of the Shopping Center. The form of such Estoppel Certificate shall be in form and content substantially the same as set forth in Exhibit "E" hereto, or such other form as may be required by such purchaser or mortgagee of the Shopping Center.

15.2 ATTORNMENT. TENANT shall, in the event any proceedings are brought for the foreclosure of the Shopping Center or the Premises or in the event of exercise of the power of sale under any mortgage made by the LANDLORD covering the Shopping Center or the Premises, attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the LANDLORD under this LEASE.

15.3 SUBORDINATION. (a) Except as the contrary is hereinafter set out in Section 15.3 (B), TENANT agrees that this LEASE shall at all times be subject and subordinate to the lien of any mortgage (including any amendment or modification thereof), which at any time may be placed on the Premises by the LANDLORD. If requested in writing by the holder or prospective holder thereof, TENANT agrees, upon demand, without cost to execute and deliver an instrument in substantially the form attached hereto as Exhibit "F", or such other form as may be reasonably required by the mortgagee or a proposed mortgagee, to effectuate such subordination, which instrument shall include, among and with any other provisions required by the mortgagee, an agreement on the part of TENANT to attorn to any and all successors, resulting from any foreclosure of any such mortgage or conveyance in lieu of the foreclosure and shall also provide that TENANT shall be entitled to continue possession of Premises under this LEASE so long as TENANT complies with all terms, conditions, and provisions of this LEASE.

(b) Anything to the contrary herein notwithstanding, the TENANT covenants and agrees that, if the present or future holder of any mortgage (including any amendment and/or modification thereof, whether made prior or subsequent to the subordination provided by this Section 15.3) affecting the Premises subordinates said mortgage to this LEASE, whether the same be part of a general subordination by such mortgagee or specifically refers to this LEASE, then this LEASE shall for all intents and purposes be considered to be paramount and superior to said mortgage and shall survive and continue to remain in full force and effect, even though said mortgage be foreclosed; and, in the event of any such foreclosure, TENANT agrees to thereafter attorn to the mortgagee, its successors and assigns, and to any purchaser at foreclosure, its successors and assigns.

(c) TENANT agrees that, without the prior written consent of the mortgagee, it will not (i) prepay any rents or other charges more than fifteen (15) days in advance of the due date required by this LEASE, (ii) ~~terminate this LEASE or exercise a right of set-off, if any there be,~~ or (iii) amend this LEASE.

(d) Notwithstanding anything to the contrary contained herein, LANDLORD agrees to subordinate any and all lien rights it may have or may in the future acquire against TENANT's equipment or other personal property. LANDLORD further agrees to execute any documentation, so long as documentation requires lender to (i) pay rent while in possession, and (ii) repair or pay for damages caused by installation or removal of equipment.

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15.4 ATTORNEY-IN-FACT. The TENANT, upon request of any party in interest, shall execute promptly such instruments or certificates to carry out the intent of Sections 15.1, 15.2 and 15.3 above as shall be requested by the LANDLORD. ~~The TENANT hereby irrevocably appoints the LANDLORD as attorney-in-fact for the TENANT with full power and authority to execute and deliver in the name of the TENANT any such instruments or certificates.~~ If fifteen (15) days after the date of a written request by LANDLORD to execute such instruments, the TENANT shall not have executed the same, the LANDLORD may, at its option, cancel this LEASE without incurring any liability on account thereof, and the term hereby granted is expressly limited accordingly.


16.0 DEFAULT.

16.1 DEFAULT. If TENANT shall: (a) fail to pay the Rent or any other item to be paid by TENANT hereunder when due and such failure shall not have been cured within three (3) days after written notice thereof by LANDLORD to TENANT; or (b) fail to perform any other term, covenant, or condition of this LEASE and such failure shall not have been cured or commenced to be cured to the satisfaction of LANDLORD within fifteen (15) days after written Notice thereof by LANDLORD to TENANT; or (c) vacate or abandon the Premises; or (d) fail to open within thirty (30) days after the Commencement Date as set forth in Section 2.1, LANDLORD may, at its option, declare TENANT to be in Default hereunder and thereupon LANDLORD shall be entitled, without further Notice, to exercise any one or more of the remedies provided herein or permitted by law.

Upon Notice of Default on account of the failure of performance of any term, covenant or condition of this LEASE, other than the payment of Rent or other sums, TENANT agrees to cure or proceed with due diligence to cure such Default within fifteen (15) days of the Notice. If TENANT shall fail to do so, LANDLORD may, at its option, cure the Default, in which case all costs and expenses, including reasonable attorney's fees, incurred by LANDLORD, together with interest at one and one-half percent (1 1/2%) per month, shall be deemed to be Additional Rent to be paid by TENANT, said payment due on the next regular Base Rent payment date.

In the event of Default, LANDLORD may immediately or any time thereafter, and without further Notice or demand, reenter and take possession of the Premises and remove all persons and property therefrom as provided below and, at that time or any time thereafter, at its option, terminate this LEASE and LANDLORD, at its option, shall thereupon be entitled to recover from TENANT all damages incurred by LANDLORD by reason of TENANT's default, including, but not limited to, the cost of recovering possession of the Premises, expenses of reletting (including necessary renovation and alteration of the Premises), LANDLORD's reasonable attorneys' fees and brokerage commissions in connection with reletting, and to the extent permitted by law the worth at the time of termination of the amount by which all unpaid amounts payable hereunder for the balance of the LEASE Term (including Base Rent, Percentage Rent and Additional Rent) exceeds the amount of such loss for the same period which TENANT proves could be reasonably avoided. LANDLORD may elect to reenter and take possession of the Premises without terminating this LEASE and, if such election is made, LANDLORD may, at its sole option, relet the Premises or any part thereof for such term or terms, which may be for a term extending beyond the term of this LEASE, at such rental or rentals and upon such other terms and conditions as LANDLORD, in its discretion, may deem advisable, with the right to make alterations and repairs to the Premises. Upon any such reletting, LANDLORD shall receive and collect the rents therefor, applying the same first to the payment of such expenses as LANDLORD may have paid, assumed or incurred in recovering possession of the Premises, including costs, expenses and attorney's fees, and for placing the same in good order and condition or repairing or altering the same for reletting, and all other expenses, commissions and charges paid, assumed and incurred by LANDLORD in or about reletting the Premises, and then to the fulfillment of the obligations of TENANT. LANDLORD agrees to act reasonably to mitigate TENANT's damages, but shall not be required to initiate or pursue reletting of the Premises. In any event and whether or not the Premises or any part thereof is relet, TENANT shall pay to LANDLORD all such amounts required to be paid by TENANT up to the time of reentry by LANDLORD and thereafter TENANT shall, to the extent permitted by law if required by LANDLORD, pay to LANDLORD until the end of the LEASE an equivalent of the amount of all Rent and other charges required to be paid by TENANT under the terms hereof, less the avails, if any, of such reletting after payment of the expenses of LANDLORD as aforesaid, and the same shall be due and payable on the first day of each calendar month during the balance of the LEASE. In the alternative, LANDLORD may, to the extent permitted by law without reentering and taking repossession of the Premises, declare the entire remaining Rent and charges equivalent to rent to be immediately due and payable and shall be entitled to recover from TENANT the amount of Rent and charges equivalent to rent reserved in this LEASE for the balance of the LEASE. In the event LANDLORD elects to mitigate its damages, no amounts shall be due TENANT should proceeds from reletting exceed TENANT's Rent due under this LEASE.

Upon Default, and in addition to any other rights or remedies which LANDLORD may have, if LANDLORD has elected to reenter, LANDLORD may remove all persons and property from the Premises

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and dispose or discard such property in any manner whatsoever, including being stored in a public warehouse or elsewhere at the cost of and for the account of TENANT, all without service of additional Notice to TENANT or any person claiming an interest in said property or resort to legal process and without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby.

16.2 BANKRUPTCY. If, during the LEASE, TENANT or any guarantor of TENANT's obligations hereunder commits or permits to be committed any act of Bankruptcy or Insolvency, LANDLORD may, at its election, terminate this LEASE by giving not less than three (3) days written Notice to TENANT and, when so terminated, LANDLORD may reenter the Premises. The leasehold interest created by this LEASE shall not be treated as an asset of TENANT's or guarantor's estate. It is further understood and agreed that LANDLORD shall be entitled, upon such reentry and notwithstanding any other provisions of this LEASE, to exercise such rights and remedies and to recover from TENANT or any guarantor of TENANT, as damages for loss of the bargain resulting from such breach and not as a penalty, such amounts as are specified in Section 16.1 hereof unless any statute or rule or law governing a proceeding in which such damages are to be proved shall lawfully limit the amount of such claims capable of being so proved, in which case LANDLORD shall be entitled to recover as liquidated damages the maximum amounts which may be allowed under any such statute or rule or law.

16.3 RIGHTS AND REMEDIES. The various rights and remedies herein granted to LANDLORD may be exercised concurrently and shall be cumulative and in addition to any others LANDLORD may be entitled to by law, and the exercise of one or more rights or remedies shall not impair LANDLORD's right to exercise any other right or remedy. The failure or forbearance of LANDLORD to enforce any right or remedy in connection with any Default shall not be deemed a waiver of such Default nor a consent to a continuation thereof nor waiver of the same Default at any subsequent date.

Any waiver of rights by LANDLORD must be in writing and shall apply only to that written waiver and shall not have general or prospective application. LANDLORD may, at its option, accept partial payments of Rent or Rent payments in arrears without waiving any rights concerning the existence of any monetary or non-monetary default condition under this LEASE, which default condition shall serve and continue unaffected by receipt of any such payment.

16.4 WAIVER OF JURY. INTENTIONALLY STRICKEN

17.0 ACCESS BY LANDLORD.

LANDLORD and its agents shall have the right to enter the Premises whenever reasonably necessary, in the case of an emergency, and/or at all reasonable times for the purpose of examining or inspecting the same; showing the same to prospective purchasers or lessees of the Shopping Center and making such alterations, repairs, improvements or additions to the Premises or the Shopping Center of which they are a part as LANDLORD may deem necessary or desirable. TENANT acknowledges and consents to LANDLORD retaining a front door key to Premises for emergency use only. TENANT agrees to provide LANDLORD with a duplicate front door key in the event TENANT has the front door lock re-keyed.

18.0 SALE BY LANDLORD.

In the event of any transfer or transfers of LANDLORD's interest in the Premises or the Shopping Center, other than a transfer for security purposes only, the transferor shall be automatically relieved of any and all obligations and liabilities on the part of LANDLORD occurring from and after the date of such transfer, provided however, that any funds in the hands of LANDLORD at the time of such transfer, in which TENANT has an interest, shall be turned over to the transferee and any amounts then due and payable to TENANT by LANDLORD under any provisions of this LEASE shall be paid to TENANT. It being intended hereby that the covenants and obligations contained in this LEASE on the part of LANDLORD shall, subject as aforesaid, be binding on LANDLORD, its successors and assigns, only during their respective successive periods of ownership. TENANT agrees to look solely to LANDLORD's estate and property in the Shopping Center, or the proceeds thereof, for the satisfaction of TENANT's remedies for the collection of a judgment or other judicial process requiring the payment of money by LANDLORD in the event of any default by LANDLORD hereunder, and no other property or assets of LANDLORD shall be subject to levy, execution or other enforcement procedure for the satisfaction of TENANT's claims. TENANT shall, upon request by LANDLORD, at the closing of any transfer or transfers of LANDLORD's interest in the Premises or the Shopping Center, provide an estoppel certificate to LANDLORD and any transferee in such form as LANDLORD may reasonably request. This paragraph will apply equally to LANDLORD and TENANT.

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19.0 SURRENDER OF PREMISES.

At the expiration or termination of this LEASE, TENANT shall surrender the Premises to Lessor broom clean and in good condition and repair, reasonable wear and tear excepted. Any liability of TENANT hereunder shall survive termination of this LEASE, whether by expiration of the LEASE, eviction or otherwise.

20.0 NOTICES.

Any Notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery or by mail and, if given by mail, shall be deemed sufficiently given on the date transmitted by registered or certified mail, postage prepaid, return receipt requested, addressed to TENANT or to LANDLORD at the address noted on the first page hereof. Either party may, by Notice to the other, specify a different address for Notice purposes. Notwithstanding the foregoing, upon TENANT's taking possession of the Premises, the Premises shall constitute TENANT's address for Notice purposes. A copy of all Notices required or permitted to be given to LANDLORD shall be concurrently transmitted to such party or parties at such address as LANDLORD may from time to time hereafter designate by Notice to TENANT.

21.0 INABILITY TO PERFORM.

This LEASE and the obligations of TENANT hereunder shall not be affected or impaired because LANDLORD is unable to fulfill any of its obligations hereunder or is delayed in doing so if such inability or delay is caused by reason of strike or other labor troubles, civil commotion, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain any material, service or financing, energy shortages, acts of God or by any other causes beyond the control of LANDLORD. If LANDLORD is unable to give possession of the Premises to TENANT within one (1) year from the Effective Date, this LEASE shall automatically terminate and LANDLORD, by reason thereof, shall not be subject to any liability therefor except that LANDLORD shall return to TENANT all monies which LANDLORD has heretofore received from TENANT.

22.0 RULES AND REGULATIONS.

LANDLORD reserves the right to make, and TENANT hereby agrees to comply with, the Rules and Regulations with respect to the parking area, grounds and the building of which the Premises are a part, including but not limited to those Rules and Regulations attached hereto as Exhibit C.

23.0 ATTORNEY'S FEES. INTENTIONALLY OMITTED

24.0 INTEREST ON PAST DUE OBLIGATIONS.

Any amount due from TENANT to LANDLORD hereunder which is not paid when due, including late payment charges, shall bear interest at one and one-half percent (1 1/2%) per month from the due date until paid unless otherwise specifically provided herein, but the payment of such interest shall not excuse or cure any Default by TENANT under this LEASE.

25.0 TIME OF ESSENCE.

Time is of the essence with respect to the performance of each of TENANT's covenants of this LEASE and the strict performance of each shall be a condition precedent to TENANT's rights to remain in possession of the Premises or to have this LEASE continue in effect.

26.0 HOLDING OVER.

Should TENANT continue in occupancy of the Premises after the termination or expiration of this LEASE, TENANT shall become a TENANT from month to month only upon each and all of the terms herein provided as may be applicable to such month to month tenancy and any such holding over shall not constitute a renewal or extension of this LEASE. During such holding over, TENANT shall pay, at LANDLORD's sole discretion, rent at twice the monthly rate provided for herein during the period immediately preceding the hold over period.

27.0 PARTIAL INVALIDITY.

Any provision of this LEASE which shall be held to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

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28.0 BROKERS.

TENANT warrants that it has had no dealings with any real estate broker or agents in connection with the negotiation of this LEASE.

29.0 WAIVER.

No waiver by LANDLORD of any provision of this LEASE shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by TENANT of the same or any other provision. LANDLORD's consent or approval of any act by TENANT requiring LANDLORD's consent or approval shall not be deemed to render unnecessary the obtaining of LANDLORD's consent or approval of any act by TENANT requiring LANDLORD's consent or approval of any subsequent act of TENANT, whether or not similar to the act consented to or approved. No act or thing done by LANDLORD or by LANDLORD's agents during the LEASE shall be deemed an acceptance of or surrender of the Premises, and no agreement to accept such surrender shall be valid unless in writing and signed by LANDLORD. No employee of LANDLORD or of LANDLORD's agents shall have any power to accept the keys to the Premises prior to the expiration or termination of this LEASE and the delivery of the keys to any such employee shall not operate as a termination of this LEASE or surrender of the Premises.

30.0 LEASE GUARANTY.

If TENANT is a corporation or a partnership, the person signing this LEASE on behalf of such corporation or partnership hereby warrants that he has full authority from such corporation or partnership to sign this LEASE and obligate the corporation or partnership hereunder and said person hereby agrees to execute a personal guaranty of all terms, conditions and obligations of TENANT, said guaranty attached hereto as Exhibit G.

~~If TENANT is an individual, TENANT unconditionally guarantees to LANDLORD and becomes personally liable for the full and timely payment, whether by declaration, acceleration or otherwise, of all rents, common area charges and other payments of any nature whatsoever during the term of this LEASE and any extensions or renewals thereof, along with any other amounts which may become due, including, without limitation, all costs and expenses of enforcement and collection, including reasonable attorney's fees.~~

31.0 SUCCESSORS AND ASSIGNS

All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors and assigns of the said parties; and if there shall be more than one TENANT, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee unless the same has been approved by LANDLORD in writing which approval is in the absolute discretion of LANDLORD. Nevertheless, LANDLORD at any time and from time to time, may make an assignment of its interest in this LEASE and, in the event of such assignment and the assumption by the assignee of the covenants and agreements to be performed by LANDLORD herein, LANDLORD and its heirs, executors, administrators, successors and assigns (other than the assignee of this LEASE) shall be released from any and all liability hereunder.

32.0 HEADINGS: LANDLORD AND TENANT.

The Article and Section captions contained in this LEASE are for convenience only and do not in any way limit or simplify any term or provision hereof. The terms "LANDLORD" and "TENANT" as used herein shall include the plural as well as the singular, the neuter shall include the masculine and feminine genders and, if there be more than one TENANT, the obligations herein imposed upon TENANT shall be joint and several.

33.0 NO ESTATE BY TENANT.

This LEASE shall create the relationship of lessor and lessee between LANDLORD and TENANT and no estate shall pass out of LANDLORD. TENANT has only a right of use not subject to levy or sale and not assignable by TENANT except as expressly provided herein.

34.0 ENTIRE AGREEMENT.

TENANT acknowledges that it has read this entire LEASE and all Exhibits and understands and accepts all the terms and conditions contained in the LEASE. This LEASE and the Exhibits and Addendum, if any are attached hereto, constitute the entire agreement between the parties with respect to the subject

matter hereof and no prior agreement or understandings with regard to any such matter shall be effective for any purpose. No provision of this LEASE may be amended except by an agreement in writing signed by the parties or their respective successors in interest.

35.0 GOVERNING LAW.

This LEASE is made and accepted by the parties in the State of Alabama with reference to the laws of such state and shall be construed, interpreted and governed by and in accordance with the laws of the State of Alabama. TENANT agrees that LANDLORD may institute any legal proceedings with respect to this LEASE or the Premises in the Circuit Court of Shelby County and submits itself to the jurisdiction of such court. If TENANT is a corporation chartered other than in the State of Alabama, TENANT acknowledges and agrees that it is "doing business" in the State of Alabama and appoints the Secretary of State of Alabama as its agent for service of process for all matters pertaining to this LEASE or the Premises unless TENANT has qualified to do business in Alabama and has registered another person with the Secretary of State of Alabama as its agent for service of process within the State of Alabama.

36.0 HAZARDOUS SUBSTANCES.

The term "Hazardous Substances", as used in this LEASE, shall include, without limitation, flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and petroleum products, and substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority.

(a) TENANT'S RESTRICTIONS. TENANT shall not cause or permit to occur:

(i) Any violation of any federal, state or local law, ordinance, or regulation now or hereafter enacted, related to environmental conditions on, under or about the Premises or arising from TENANT's use or occupancy of the Premises, including, but not limited to, soil and ground water conditions; or

(ii) The use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Substance without LANDLORD's prior written consent, which consent may be withdrawn, conditioned, or modified by LANDLORD in its sole and absolute discretion in order to insure compliance with all applicable Laws (hereinafter defined), as such Laws may be enacted or amended from time to time.

(b) ENVIRONMENTAL CLEAN-UP.

(i) TENANT shall, at TENANT's own expense, comply with all laws regulating the use, generation, storage, transportation or disposal of Hazardous Substances ("Law").

(ii) TENANT shall, at TENANT's own expense, make all submissions to, provide all information required by and comply with all requirements of all governmental authorities (the "Authorities") under the Laws.

(iii) Should any Authority or any third party demand that a cleanup plan be prepared and a clean-up 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 Premises or which arises at any time as a direct result from TENANT's use or occupancy of the Premises, then TENANT shall, at TENANT's own expense, prepare and submit the required plans and all related bonds and other financial assurances and TENANT shall carry out all such cleanup plans.

(iv) TENANT shall promptly provide all information regarding the use, generation, storage, transportation or disposal of Hazardous Substances that is requested by LANDLORD. If TENANT fails to fulfill any duty imposed under this Paragraph 36(b) within thirty (30) days following its request, LANDLORD may proceed with such efforts and, in such case, TENANT shall cooperate with LANDLORD in order to prepare all documents LANDLORD deems necessary or appropriate to determine the applicability of the Laws to the Premises and TENANT's use thereof and for compliance therewith and TENANT shall execute all documents promptly upon LANDLORD's request and any expenses incurred by LANDLORD shall be payable by TENANT as Additional Rent. No such action by LANDLORD and no attempt made by LANDLORD to mitigate damages under any Law shall constitute a waiver of any of TENANT's obligations under this Paragraph 36(b).

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(v) TENANT's obligations and liabilities under this Paragraph 37(b) shall survive the expiration or other termination of this LEASE

(c) TENANT'S INDEMNITY.

(i) TENANT shall indemnify, defend and hold harmless LANDLORD, its respective officers, directors, beneficiaries, shareholders, partners, agents, and employees, from all fines, suits, procedures, claims, and actions of every kind and all costs associated therewith, including attorneys' and consultants' fees, arising out of or in any way connected with any deposit, spill, discharge or other release of Hazardous Substances that occurs during the term of this LEASE at or from the Premises or which arises at any time from TENANT's use or occupancy of the Premises or from TENANT's failure to provide all information, make all submissions and take all steps required by all Authorities under the Laws and all other environmental laws.

(ii) TENANT's obligations and liabilities under this Paragraph 37(c) shall survive the expiration or other termination of this LEASE.

37.0 EXHIBITS AND ADDENDUM.

Exhibits A, B, C, D, E, F, G, and H with sections numbered consecutively, are attached hereto and made a part hereof.

38.0 NO RECORDING.

This LEASE shall not be recorded in the public records without LANDLORD's prior written consent. However, a Memorandum of LEASE, acceptable to LANDLORD, may be executed and delivered by the parties hereto for the purpose of recording in the public records.

39.0 OPTION TO RENEW.

So long as TENANT is not in default under any of the terms and conditions contained within the LEASE, LANDLORD grants to TENANT an option to renew the LEASE for one (1) additional five (5) year term subject to the following:

(a) TENANT provides written notice to LANDLORD of TENANT's intent to renew the LEASE not less than ninety (90) days prior to the originally scheduled expiration date of the LEASE.

(b) TENANT is not late on more than two (2) occasions within any twelve (12) month period during the term of this LEASE in the required payment of Rent. For definition herein, a rental payment shall be considered "late" if its receipt by LANDLORD is on or after the sixth (6th) calendar day of the month.

(c) TENANT is not late on more than two (2) occasions within any twelve (12) month period during the term of this LEASE in the remittance of Sales Reports as set forth under Section 4.2. For definition herein, a Monthly Sales Report shall be considered "late" if its receipt by LANDLORD is on or after the twenty-first (21st) calendar day of the month.

(d) TENANT is in full compliance with Paragraph 4.2(a) and, in particular, with the provisions of that paragraph pertaining to the maintaining of full, complete and accurate permanent records and accounts in accordance with general accounting practices acceptable to LANDLORD.

(e) TENANT has remained in full compliance with Article 8.0 during the term of the LEASE and, in particular, with LANDLORD's guidelines and regulations on printed displays or show window lettering established for the Premises, and TENANT has not failed to remove any printed display or show window lettering not approved by LANDLORD within ten (10) days following LANDLORD's notice to correct.

(f) As a further condition by LANDLORD for granting this renewal option, TENANT's reported Gross Sales for the twelve (12) month period immediately preceding TENANT's written notice of its intent to renew the LEASE shall not be less than \$2,000,000.00 and LANDLORD shall have the sole right to terminate this LEASE at any time during the renewal term, upon thirty (30) days written notice, in the event TENANT's reported Gross Sales for any twelve (12) month period are below \$2,000,000.00.

(g) All other terms and conditions of the LEASE shall remain unchanged with the exception of monthly Base Rent, which shall be increased on the beginning of the renewal term and on each anniversary date as hereinafter provided:

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RENEWAL PERIOD

MONTHLY BASE RENT

Renewal Period Years 11-15

\$8,482.50

40.0 TENANT'S OPTION PERIOD BREAKPOINTS.

In addition to the Base Rent as provided in Section 4.1 hereof, TENANT shall pay Four percent (4%) of the amount by which TENANT'S Annual Gross Sales from the Premises exceeds the following sums during the following periods of time:

PERIOD

ANNUAL GROSS SALES

Renewal Period Years 11-15

\$2,544,750.00

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IN WITNESS WHEREOF, the parties hereto have signed and sealed this LEASE as of the day and year first above written.

LANDLORD:

Brook Highland Limited Partnership
a Georgia limited partnership

Witnessed as to LANDLORD

BY: SNA, Inc., a general partner

BY: _____

Its: _____

Date Executed: _____

TENANT: Wings of Inverness, Inc.

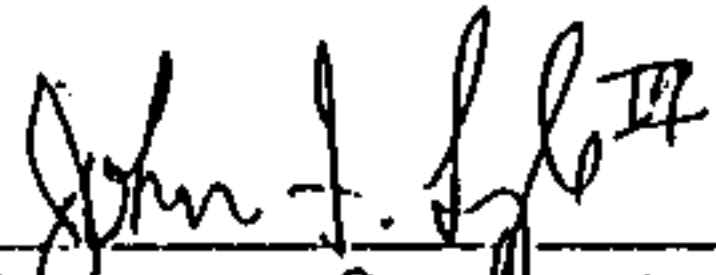
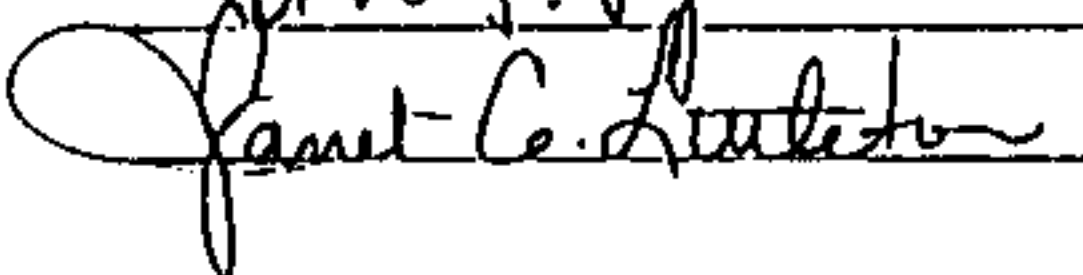
BY:  _____

Its: President _____

Date Executed: 5-6-94 _____

Federal I. D. Number: 63-1110793 _____

Witnessed as to TENANT

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EXHIBIT 'A'

THIS EXHIBIT IS DIAGRAMMATIC AND IS INTENDED ONLY FOR THE PURPOSE OF INDICATING THE LOCATION OF THE PREMISES IN THE SHOPPING CENTER. EXCEPT AS MAY BE OTHERWISE EXPRESSLY SET FORTH IN THE LEASE, THE LANDLORD RESERVES THE RIGHT TO MAKE CHANGES IN THE SITE PLAN AS THE LANDLORD DEEMS NECESSARY OR APPROPRIATE.

INITIAL:

TENANT

LANDLORD:

Levee Engineering Limited Partnership
BROOK HIGHLAND PLAZA
 CITY OF BIRMINGHAM/SOLAR COUNTY, ALABAMA

Law represented by:
Baker, Berthoff, Inc.

Wings

1

~~FORN - 72-119-7476~~

1003

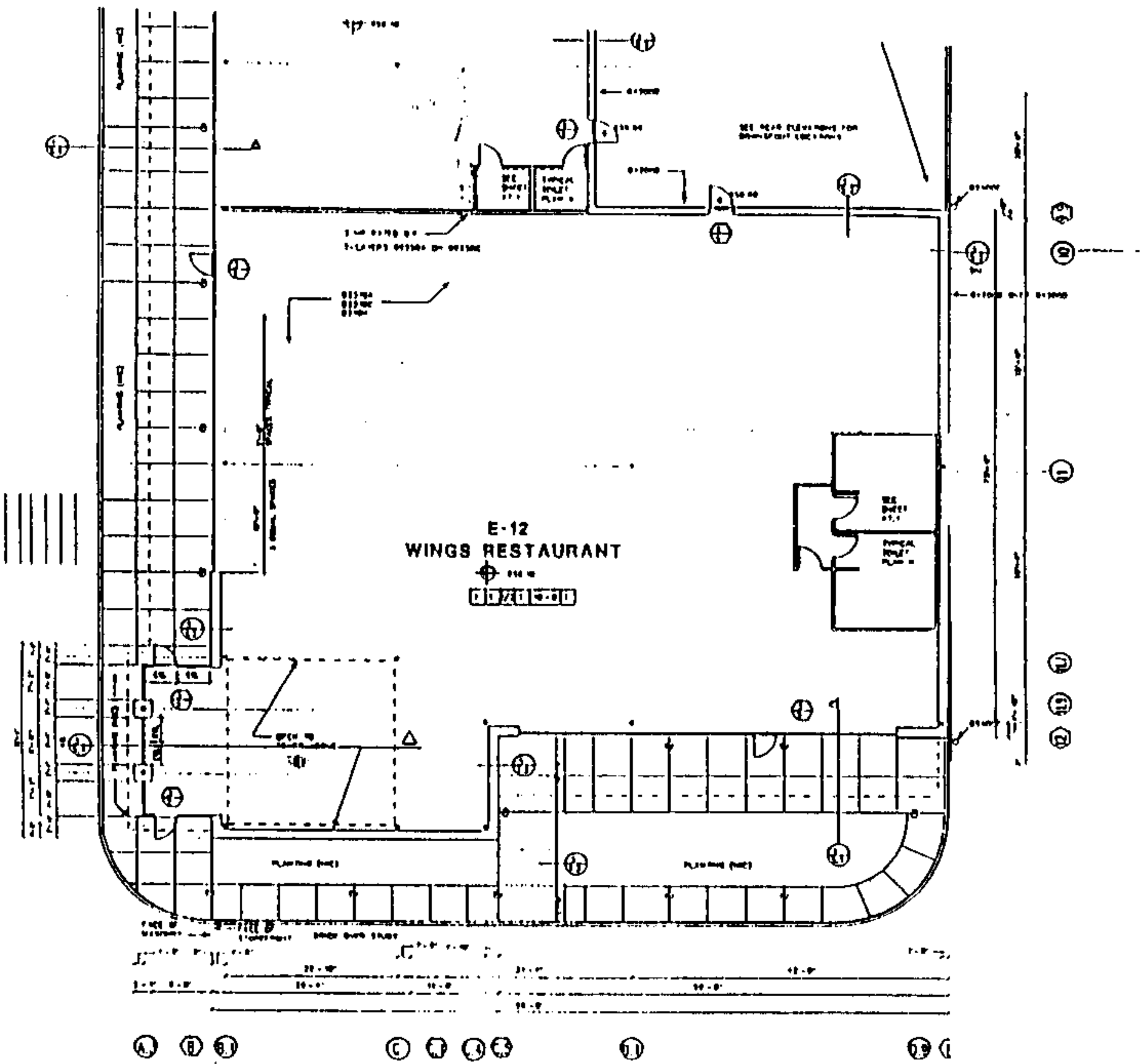


EXHIBIT B

TENANT'S AND LANDLORD'S WORK RELATING TO BASE BUILDING COMPONENTS AND PREMISES

GENERAL

Exhibit B is intended to describe the obligations of both the LANDLORD and the TENANT with respect to the design and construction of the base building and of the Premises.

LANDLORD and TENANT have a common interest in completing and opening the Premises on the date specified in Section 2.1 of the LEASE. To this end, both LANDLORD and TENANT will coordinate their respective work with the other insofar as the schedule and prudent construction practices will allow.

A. Base Building - LANDLORD'S Work

1. Structural frame and roof system designed in accordance with local conditions and applicable codes. Live and dead loads based on typical retail requirements.
2. Exterior walls of materials and finishes selected by the LANDLORD.
3. Concrete sidewalks and pavement at locations as indicated on the project design drawings.
4. Built-up, composition, single ply membrane, modified bitumen or metal standing seam roof.

B. Premises - LANDLORD'S Work

1. Floor: concrete slab on grade with smooth trowel finish. Porous fill and vapor barrier in accordance with project design drawings. Slab on grade designed for 100# psf live load.
2. Demising walls: metal studs and gypsum board, or masonry with furring channels and gypsum board. Walls shall be installed from floor to underside of roof deck in accordance with applicable building codes. Rear masonry walls will not receive any finish.
3. Restroom walls: restroom walls shall be dry-wall construction in its place. The restroom walls shall be installed as shown on the project design drawings.
4. Restroom door: door in the restroom shall be hollow core, flush wood veneer door units in a wood frame.
5. Wall finishes: gypsum board installed by the LANDLORD shall be prepared and sanded, ready for paint.
6. Storefront: bronze aluminum framing, clear glazing with one three-foot wide door (additional doors if required by applicable codes). The extent of glass area, bulkheads, etc., shall be as shown on the project design drawings.
7. Ceiling: Underwriters approved noncombustible acoustical tile or equivalent with fire ratings as required by applicable code. Ceiling tile and suspended grid system shall be as specified in the project design documents.
8. Plumbing: restroom(s) in accordance with applicable codes for typical retail occupancy.
9. Fire Protection: sprinklers and/or alarm system if required by applicable codes for the type of base building being constructed by the LANDLORD. If building is sprinklered, it will meet NFPA standards of one sprinkler head per 120 square feet. Should TENANT'S store design requires supplementary lines and additional sprinkler head(s), LANDLORD shall provide and install same at TENANT'S expense.
10. Heating, Ventilation, Air Conditioning: a complete system including all wiring, controls, ductwork, grilles, diffusers and equipment. The type of equipment, energy source, ductwork, routing, size and design shall be as specified by the LANDLORD'S Mechanical Engineer. When approved by applicable codes, the ceiling cavity may be used as a return air plenum. Additional tonnage and any related work associated with the additional tonnage beyond design requirements that may be required by the TENANT'S air conditioning demands will be installed by the LANDLORD at the expense of the TENANT. Exhaust/ventilation for the restroom(s) will be provided by the

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LANDLORD. LANDLORD's typical HVAC system will be sized at 1 ton per 350 square feet or as specified on project design drawings.

Additional rooftop equipment may require reinforcement of the roofs structural components. Design of such alterations are the responsibility of the LANDLORD at TENANT'S expense. TENANT shall provide LANDLORD with all the data pertinent to additional equipment.

11. Telephone: conduit or similar raceway will be provided above the ceiling for access to the building service entry location.
12. Electrical: Including service, wire, meter base, panels, devices and 2' x 4' lay-in ceiling light fixtures in accordance with local utility company requirements, applicable electrical codes and the project design drawings.
 - (a) Electrical service will be sized at approximately 15 watts per square foot and minimum 100 amp panel. Specific provisions shall be as indicated on the project design drawings.
 - (b) Ceiling light fixtures will be installed at approximately one fixture per 100 square feet.
 - (c) Duplex receptacles will be installed in the demising partitions walls at intervals specified by project design drawings.
 - (d) Conduit and wire from the electrical panel to the sign band with one junction box mounted behind the sign field will be provided by the LANDLORD. Final hook up of TENANT's signage will be by TENANT.
13. LANDLORD will file for and obtain all necessary permits and Certificates of Occupancy for the work performed by it.
14. LANDLORD shall perform all of its work so as to comply with all governing statutes, ordinances, regulations, building codes, and insurance rating boards.
15. Any materials, equipment, fixtures or machinery other than or in addition to those items specifically enumerated in this EXHIBIT B which LANDLORD is to install or construct in the Premises on TENANT'S behalf shall be paid for by TENANT at the earlier of thirty (30) days following receipt of invoice from LANDLORD or commencement of construction. Payment by TENANT of such costs shall not operate, expressly or implicitly, to create in TENANT any interest in the Premises beyond the leasehold interest granted herein.
16. Failure by TENANT to remit payment within the time required and stipulated in Paragraph B.15 of this EXHIBIT B shall be a material default under this LEASE and LANDLORD may, at its option and in addition to all other remedies available to it, have the sole right to cancel this LEASE.

C. Premises - TENANT'S Work

1. Floor: modifications an/or additions necessitated by the TENANT'S interior development design. Floor finishes such as carpet, tile, sheet vinyl, etc.
2. Interior walls: all walls other than restroom walls specified in paragraph B.3 of Exhibit B.
3. Interior doors: all doors and frames other than the aluminum entrance door(s), wood restroom door, and metal exterior door (if applicable).
4. Wall finishes: all paint wallcovering and other wall finishes for demising wall and interior walls, if any.
5. Storefront: modifications and/or additions necessitated by TENANT'S development design, which has been previously approved by LANDLORD.
6. Ceiling: modifications and/or additions necessitated by TENANT'S development design, which has been previously approved by LANDLORD.
7. Plumbing: modifications and/or additions necessitated by TENANT'S development design, which has been previously approved by LANDLORD.

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8. Fire protection: modifications and/or additions necessitated by TENANT'S development design, which has been previously approved by LANDLORD.
9. Heating, Ventilation, Air Conditioning: modifications and/or additions necessitated by TENANT'S development design, which has been previously approved by LANDLORD.
10. Telephone: wiring, equipment, devices and instruments.
11. Electrical: modifications and/or additions necessitated by TENANT'S development design, which has been previously approved by LANDLORD.

TENANT'S electrical engineer shall verify if base building electrical service capacity is adequate for TENANT'S specific demand. Additional capacity shall be furnished by LANDLORD at TENANT'S expense. Wiring from junction box to the TENANT'S sign shall be installed by the TENANT'S electrician.


12. Utilities: service orders, deposits and meters.
13. Signs: all signs. Refer to Sign Standards in Exhibit D.
14. General Requirements:

- (a) Store construction: design and layout will be submitted as soon as possible, but in no event later than the earlier of: (i) thirty (30) days from the full execution of the LEASE, or, (ii) five (5) days after LANDLORD has notified TENANT that LANDLORD has completed its work required herein for approval as hereinafter provided for approval. Construction will be in accordance with the requirements and standards of all jurisdictional authorities.
- (b) Incombustible construction: all TENANT construction shall be incombustible except that fire resistant wood will be permitted where approved by the jurisdictional authorities.
- (c) Above ceiling: all material installed above the ceiling of the Premises for the attachment of equipment as approved by LANDLORD shall be incombustible. All materials shall be secured to the structural framing system with approved fasteners.
- (d) Fixture Support: All TENANT improvements other than ceilings and lighting fixtures shall be floor mounted unless contrary written approval is obtained from the LANDLORD.
- (e) Mezzanines: TENANT may construct a mezzanine with LANDLORD'S prior written approval provided the mezzanine framing is completely independent of the basic building structural frame. All construction is subject to prior approval by the Local Building Authority and LANDLORD'S Architect.
- (f) TENANT electrical: all electrical requirements for fixtures and/or special equipment shall be approved by the LANDLORD and its engineers prior to installation. The cost of all TENANT electrical and connections to LANDLORD system will be borne by the TENANT.
- (g) Temporary services: Although it is anticipated the utilities will be turned over or transferred to TENANT at the time the Premises are delivered to TENANT for TENANT's work, in the event LANDLORD provides temporary light, power and water, during the construction period, TENANT may use the temporary services for its construction, for which it agrees to compensate LANDLORD at the rate of fifteen cents (.15) per foot of the Premises per month during said period of use.
- (h) Employees: TENANT at all times will enforce strict discipline and good order among its employees and contractors hired or retained by TENANT and their subcontractors and their respective employees to perform TENANT's work. TENANT's contractors and their subcontractors will not employ persons who will cause labor disputes or stoppages in TENANT's work or among other contractor's personnel performing work in the Shopping Center.

TENANT agrees that if, during the period of construction of the Premises, any of its employees strike or if picket lines or boycotts or other visible activities objectionable to LANDLORD are established or conducted or carried out against TENANT or its employees or any of them, on or about the Premises of the Shopping Center, TENANT shall immediately close the Premises

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to the public and remove all employees therefrom until dispute giving rise to such strike, picket line, boycott or objectionable activity has been settled to LANDLORD'S satisfaction.

- (i) Insurance: TENANT agrees, prior to commencement of construction, to furnish LANDLORD with a Certificate of Insurance, evidencing that TENANT has obtained Builder's Risk Insurance in an amount equal to the cost of TENANT'S work insuring same against fire, standard extended coverage risks and other such risks as LANDLORD may elect to have insured by TENANT.

TENANT will, during the period of construction of its work, secure and maintain at its expense, a policy of insurance covering TENANT'S trade fixtures and equipment, furniture and furnishings to the extent of full replacement value against all casualties included under a standard form of Fire, Extended Coverage and Malicious Mischief Insurance policy in use where the Shopping Center is located. LANDLORD will be furnished with a certificate thereof.

TENANT or TENANT'S contractor and/or subcontractor will, during the period of construction of its work, secure and maintain a Comprehensive General Liability Policy and furnish LANDLORD with a certificate thereof.

TENANT will cause its contractor and subcontractors to secure and maintain in effect statutory Workmen's Compensation and other insurance as required by the state where the Shopping Center is located and will furnish LANDLORD with a certificate thereof.

Once contract is completed, TENANT shall carry insurance as provided in Section 10 of the LEASE.

- (j) Miscellaneous: whether or not otherwise specifically required herein, all TENANT'S work shall comply with the requirements, rules and regulations of all authorities having governmental jurisdiction over the Premises. In all instances where TENANT is to install any item, it shall also furnish such item.

- (k) Work changes: any changes in TENANT'S work during the course of its construction which may be required by the jurisdictional authorities or LANDLORD'S underwriters shall be performed by TENANT at TENANT'S expense.

D. Procedure

1. Within ten (10) calendar days of the execution of this LEASE, of which this Exhibit B is a part and to which it is attached, TENANT will prepare and forward to LANDLORD at its sole cost and expense, two (2) sets of preliminary/complete drawings, plans, and specifications of TENANT'S Premise for review and appraisal of LANDLORD. TENANT may obtain project design documents from the LANDLORD for TENANT'S use in preparing Premise construction drawings, plans, and specifications.
 - (a) Drawings to include dimensions, elevations, materials, and color schedule (color chips shall be included).
 - (b) Plans and specifications must be prepared by a duly licensed architect or engineer. All drawings (plans) must be stamped by the duly licensed architect or engineer.
2. Within ten (10) calendar days thereafter, LANDLORD will return to TENANT one (1) copy of the preliminary plans, specifications, and drawings marked "Approved as Noted", "Approved" or "Disapproved".
3. Within ten (10) calendar days thereafter, TENANT will submit five (5) sets of "Complete Working Drawings and Specifications", incorporating any changes, which LANDLORD may have requested in the preliminary plans, specifications, and drawings, which will be designated as Exhibit B-1 and will be attached to this LEASE and be made a part hereof.
4. The Complete Working Drawings and Specification of TENANT'S work in TENANT'S premises must be approved in writing by LANDLORD prior to TENANT'S performing any work in the Premises.
5. Any changes to TENANT'S Working Drawings and Specifications made after submission and approval by LANDLORD shall be subject to LANDLORD'S approval again, and furthermore, TENANT agrees to pay any extra cost that may be incurred by LANDLORD which is caused by the changes requested by TENANT.

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Initial
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6. It is understood and agreed between LANDLORD and TENANT that costs incurred by LANDLORD, if any, as a result of TENANT's failure or delay in providing plans, specifications, and/or drawings shall be the sole responsibility of the TENANT. Moreover, TENANT's failure to submit drawings, plans, and specifications to LANDLORD within the time required and stipulated herein shall be a material default under this LEASE and LANDLORD may, at its option and in addition to all other remedies available to it, have the sole right to cancel this LEASE.
7. TENANT will start construction within thirty (30) calendar days after being notified by LANDLORD that the Premises are ready for the TENANT to perform its work. Before beginning such work, TENANT shall obtain all necessary permits from the jurisdictional authorities and submit copies of same to LANDLORD.
8. TENANT shall complete all work within the Premises as expeditiously as possible, but in no event later than such time that will be required for TENANT to open its store on the completion date of the Shopping Center.
9. TENANT shall secure an occupancy permit, if required, from the jurisdictional authorities at least three (3) calendar days prior to the opening date of the Premises and furnish a copy of same to LANDLORD.
10. The approval by LANDLORD or LANDLORD's Architect of any Preliminary Plans and/or Complete Working Drawings and Specifications or any work performed by TENANT shall not constitute or be deemed a waiver of any requirement of the LEASE, or the drawings referred to in paragraph D.1, above; and all requirements contained in any and all of the foregoing are reserved. TENANT shall be liable for any failure of TENANT or TENANT's Architects or Engineers to comply with any of said requirements.

E. Construction Procedure and Special Provisions Applicable to TENANT's Work

1. TENANT and TENANT's Contractors are limited to performing their work, including any office or storage for construction purposes, within the Premises only.
2. TENANT and TENANT's Contractors shall each be responsible for daily removal from the Shopping Center site of all trash, rubbish and surplus material resulting from construction. If TENANT, its agents or Contractors fail to remove these items daily, LANDLORD or its Contractor may remove them at their discretion and charge TENANT for the cost of the removal.
3. The TENANT's work shall be done in such a manner as to be coordinated with all work being performed or to be performed by LANDLORD and other TENANTS of LANDLORD in the project to such an extent that TENANT's work shall not interfere with nor delay the completion of any such work in the project.

In the event LANDLORD's Work and TENANT's Work shall progress simultaneously, LANDLORD shall not be liable for any injury to person or damage to property of TENANT or of TENANT's employees, licensees or invitees, from any cause whatsoever occurring upon or about the Premises, and TENANT shall and will indemnify and save LANDLORD harmless from any and all liability and claims arising out of or connected with such injury or damage.

4. TENANT agrees that it, its General Contractors and their Subcontractors shall use only labor which is compatible with the labor force of LANDLORD's General Contractor.
5. LANDLORD's General Contractor shall have the right to establish reasonable rules and regulations governing TENANT and TENANT's Contractors in order that the construction of the Shopping Center proceed in a safe and orderly manner in accordance with all of the provisions of this LEASE and governing building and safety codes.

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EXHIBIT C

RULES AND REGULATIONS

TENANT agrees:

1. To continuously during the full term of this LEASE beginning with the LEASE Term hereof and every extension hereof keep the entire Premises occupied and open for business during the hours hereinafter specified.
2. To load and unload goods only at such times, in such areas and through such entrances as may be designated for such purposes by LANDLORD. Trailers or trucks shall not be permitted to remain parked overnight in any area of the Shopping Center, whether loaded or unloaded.
3. To keep all garbage and refuse in the kind of container specified by LANDLORD and to place the same outside of the Premises prepared for collection in the manner and at the times and places specified by LANDLORD and in accordance with municipal regulations.
4. To keep the outside areas immediately adjoining the Premises clean and not to burn, place or permit any rubbish, obstruction or merchandise in such areas.
5. To keep the Premises clean, orderly, sanitary and free from objectionable odors and from insects, vermin and other pests.
6. To warehouse, store and/or stock in the Premises only such goods, wares and merchandise as TENANT intends to offer for sale at retail at, in, from or upon the Premises. This shall not preclude occasional emergency transfers of merchandise to the other stores of TENANT if any, not located in the Shopping Center. TENANT shall use for office, clerical or other non-selling purposes only such space in the Premises as is from time to time reasonably required for TENANT's business in the Premises.
7. Not to use or operate any machinery that, in LANDLORD's opinion, is harmful to the building or disturbing to other lessees in the Shopping Center of which the Premises are a part nor shall TENANT use any loud speakers, televisions, phonographs, radios or other devices in a manner so as to be heard or seen outside of the Premises nor display merchandise on the exterior of the Premises either for sale or for promotion purposes.
8. Not to conduct any auction, fire, bankruptcy or selling-out sale on or about the Premises.
9. Not to conduct any other commercial business or enterprise within three (3) miles of the Premises during the term hereof.
10. TENANT agrees to keep its display windows, including window or shadow boxes, in the Premises dressed and illuminated and its signs and exterior lights well lighted every day during the term of this LEASE from dusk to 9:00 p.m., excluding Sundays and holidays. TENANT agrees that its store shall open for business by 10:00 a.m. and remain open for business until 6:00 p.m. on weekdays and Saturdays or such other or additional hours as may be determined.

LANDLORD agrees to enforce any and all Rules against all tenants equally, and further agrees to use its best efforts to prevent other tenants from interfering with the business operation of TENANT, and quiet use and enjoyment of TENANT's Premises.

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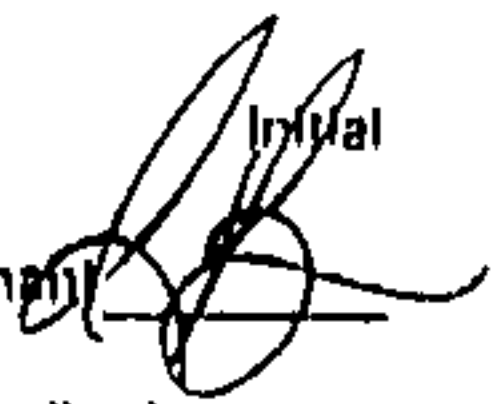
Tenant  Initial
Landlord _____

EXHIBIT D

TENANT SIGN STANDARDS

These sign standards are intended to encourage and develop creative and diversified signage for the stores, providing not only effective store identification, but also good design practice. Any deviations in these standards must be approved in writing by LANDLORD.

Except as hereinafter qualified with respect to national or regional entities which may be a tenant, purchaser or occupant of all or a portion of the Property (including Outparcels), all signs on the Property, including building and business identification and promotional signs, of a temporary or permanent nature shall conform to the following criteria:

1. The signs must use individual channel letters that are interior-lighted.
2. The signs shall be located above the storefront and within the area designated by Landlord as the "sign band".
3. The signs must be centered vertically within the sign band and horizontally within the lineal front footage of the building or leased premises, as the case may be;
4. The signs shall be limited to a maximum of seventy-five percent (75%) of the lineal front footage of the building or leased premises as the case may be.
5. The letters of the signs shall have a maximum height of eighty percent (80%) of the sign band height and a minimum height of fifty percent (50%) of the sign band height.
6. All signs must be placed on raceways, which must be painted the same color as the fascia.
7. All TENANT signs will be white with bronze anodized return around letters. White shall match Plexiglass White #W-7328.
8. Wording of large scale signs shall be limited to TENANT's store or trade name only.
9. Only one sign for each TENANT will be permitted unless otherwise approved by LANDLORD in writing.
10. Signs and identifying marks shall have no part extending higher than sign band.

Any sign visible from any public right-of-way (except form traffic control signs within a public right-of-way) that by reason of its shape, size, position, color or other characteristics and features may be confused with a governmentally-authorized traffic control sign or signal is specifically prohibited from being used or placed on the Property. Illuminated sign cabinets, modules or "box" signs, and signs which flash, rotate, move, blink, or are constructed of paper, cloth or cardboard are specifically prohibited from being used or placed on the Property. No exposed ballast boxes or electrical transformers shall be permitted, unless required by applicable building codes or the approving governmental authority. No roof mounted signs will be permitted. No free-standing sign erected on the Property (including the Outparcels) shall have a height in excess of thirty (30) feet measured to the top of the sign (including fixtures).

In the event TENANT installs or permits any sign to be installed which has not been approved by LANDLORD, then the LANDLORD shall have the right to require TENANT to remove said sign and install a sign approved by LANDLORD. In the event TENANT refuses to remove any non-conforming sign, LANDLORD shall have the right to cause said sign to be removed, at TENANT's expense, which expense shall include not only the costs associated with removing said sign, but also the costs of any repairs made by the installation or removal of such non-conforming sign. TENANT's failure to reimburse LANDLORD for such costs within five (5) days after LANDLORD has submitted an itemization of such costs shall constitute a Default under this Lease and LANDLORD shall have all rights and remedies as set forth in this Lease for a Default by TENANT.

April 5, 1994

Initial
Tenant
Landlord

EXHIBIT E

TENANT ESTOPPEL CERTIFICATE

To: _____

Name: _____

Address: _____

City _____ State _____ Zip _____

THIS IS TO CERTIFY THAT:

1. The undersigned is the TENANT under that certain Lease dated _____, 19____ ("Lease") by and between Brook Highland Limited Partnership as LANDLORD and _____ as TENANT, covering those certain premises commonly known and designated as Space _____ ("Premises").
2. The Lease has not been modified, changed, altered, assigned, supplemented or amended in any respect (except as indicated below; if none, state "none"). The Lease is not in default and is valid and in full force and effect on the date hereof. The Lease is the only Lease or agreement between the TENANT and the LANDLORD affecting or relating to the Premises. The Lease represents the entire agreement between the LANDLORD and the TENANT with respect to the Premises.
3. The TENANT is not entitled to, and has made no agreement(s) with the LANDLORD or its agents or employees concerning free rent, partial rent, rebate or rental payments, credit or offset or deduction in rent, or any other type of rental concession, including, without limitation, lease support payments or lease buy-outs (except as indicated below; if none, state "none").
4. The TENANT has accepted and now occupies the Premises, and is and has been open for business since _____, 19____. The Lease term began _____, 19____. The termination date of the present term of the Lease, excluding unexercised renewals is _____, 19____.
5. The TENANT has paid rent for the Premises for the period up to and including _____, 19____. The fixed minimum rent (excluding the TENANT's share of taxes, insurance and common area maintenance) payable to the TENANT presently is \$ _____ per month. No such rent has been paid more than one (1) month in advance of its due date, except as indicated below (if none, state "none"). The TENANT's security deposit is \$ _____.
6. No event has occurred and no condition exists which, with the giving of notice or the lapse of time or both, will constitute a default under the Lease. The TENANT has no existing defenses or offsets against the enforcement of this Lease by the LANDLORD.
7. The TENANT has received or will receive payment or credit for TENANT improvement work in the total amount of \$ _____ (or if other than cash, describe below; if none, state "none"). All conditions under this Lease to be performed by the LANDLORD have been satisfied. All required contributions by the LANDLORD to the TENANT on account of the TENANT's TENANT improvements have been received by TENANT.
8. No actions, whether voluntary or otherwise, are pending against the TENANT or any general partner of the TENANT under the bankruptcy laws of the United States or any state thereof.
9. The TENANT has not sublet the Premises to any sublessee and has not assigned any of its rights under the Lease, except as indicated below (if none, state "none"). No one except the TENANT has its employees occupying the Premises.
10. The address for notices to be sent to the TENANT is as set forth in the Lease.
11. The TENANT acknowledges that all the interest of the LANDLORD in and to the Lease is being duly assigned to _____ and that pursuant to the terms thereof all rental payments under the Lease shall continue to be paid to the LANDLORD in accordance with the terms of the Lease unless and until the TENANT is notified in writing by _____, or its successor or assigns.

April 5, 1994

1


 Tenant _____

Landlord _____

EXHIBIT G
INTENTIONALLY OMITTED

April 5, 1994


Tenant 
Landlord _____

EXHIBIT II

TENANT IMPROVEMENT ALLOWANCE

The terms of the TENANT Improvement Allowance payments are as follows:

LANDLORD agrees to pay Thirty Six Thousand and No/100 Dollars (~~\$36,000.00~~) as partial reimbursement for TENANT's work performed on the PREMISES pursuant to Exhibit B hereof within thirty (30) days after the following events have occurred:

- (i) TENANT shall have opened the PREMISES for business to the public fully stocked, staffed.
- (ii) TENANT has had installed TENANT's storefront sign, which shall be operational.
- (iii) TENANT shall have commenced paying Base Rent and other charges pursuant to this LEASE,
- (iv) TENANT shall have provided LANDLORD with lien waivers from all contractors, laborers and materialmen who have provided work, services or material for TENANT's work to the PREMISES and
- (v) TENANT has provided LANDLORD with the Certificate of Insurance as required by Section 10 hereof, and
- (vi) TENANT shall have executed and delivered to LANDLORD an estoppel certificate in form reasonably required by LANDLORD, provided LANDLORD shall have provided TENANT with the form of such estoppel certificate at least ten (10) days prior to the date LANDLORD is requesting same to be executed and delivered by TENANT, and
- (vii) TENANT shall have executed and delivered to LANDLORD a Commencement of Term Agreement setting forth the commencement and expiration of the original lease term and the commencement of rent.

April 5, 1994

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Tenant 

Landlord _____

It is particularly noted that:

- (a) Under the provisions of this assignment, the Lease cannot be terminated without notice (either directly or by the exercise of any option which consent could lead to termination) or modified in any of its terms without consent, or consent be given to the release of any party having liability thereon, without prior written consent of _____, or its successors and assigns, no rent may be collected or accepted more than (1) month in advance.
- (b) The interest of the LANDLORD in the Lease has been assigned to _____ for the purposes specified in the assignment _____ or its successors and assigns assumes no duty, liability or obligation whatever under the Lease or any extension or renewal thereof;
- (c) Any notices sent to _____ or its affiliates should be sent by Registered or Certified Mail and addressed to _____.

12. TENANT agrees to give any Mortgagees and/or Trust Deed Holders, by Registered or Certified Mail, a copy of any Notice of Default served upon the LANDLORD, provided that prior to such notice TENANT has been notified in writing, (by way of Notice of Assignment of Rents and Leases, or otherwise) of the address of such Mortgagees and/or Trust Deed Holder. TENANT further agrees that if LANDLORD shall have failed to cure such default within the time provided for in this Lease, then the Mortgagees and/or Trust Deed Holders shall have an additional thirty (30) days within which to cure such default or if such default cannot be cured with that time, then such additional time as may be necessary if within thirty (30) days, any Mortgagee and/or Trust Deed Holder has commenced and is diligently pursuing the remedies necessary to cure such default, (including but not limited to commencement of foreclosure proceedings, if necessary to effect such cure) in which event this Lease shall not be terminated while such remedies are being so diligently pursued.
13. This certification is made to induce _____ to make certain fundings, knowing that _____ relies upon the truth of this certification in disbursing said funds.
14. The undersigned is authorized to execute this TENANT Estoppel Certificate on behalf of the TENANT.

Dated this _____ day of _____, 19 ____.

TENANT

BY: _____

ITS: _____

DATE: _____

The undersigned hereby certifies that the certifications set forth above are true as of the date hereof.

LANDLORD: Brook Highland Limited Partnership,
a Georgia limited partnership

BY: SNA, Inc., a general partner

BY: _____

ITS: _____

April 5, 1994

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Tenant 
Landlord _____

EXHIBIT F

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT, made as of this _____ day of _____, 19____, between _____, whose address is _____, (hereinafter called "TENANT"), SouthTrust Bank of Alabama, National Association, whose address for notices is Post Office Box 2554, Birmingham, Alabama 35290, ATTENTION: Commercial Loan Department (hereinafter called "Mortgagee") and Brook Highland Limited Partnership (hereinafter called "LANDLORD").

WITNESSETH:

WHEREAS, the TENANT has entered into a certain Lease dated _____, 19____, with LANDLORD, which Lease has not been amended (said Lease is hereinafter referred to as the "Lease") covering premises (the "Premises") in the Shopping Center known as Brook Highland Plaza Shopping Center, (the "Shopping Center"); and

WHEREAS, Mortgagee has agreed to make a loan to LANDLORD, which loan will be evidenced by a promissory note (the "Mortgage Note") and secured by a real estate mortgage security agreement and other security documents or agreements which shall cover LANDLORD's interest in the Shopping Center (hereinafter collectively referred to as the "Mortgage"); and

WHEREAS, Mortgagee has been requested by TENANT and by LANDLORD to enter into a Non-Disturbance Agreement with TENANT;

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto mutually covenant and agree, as follows:

1. The Lease and any extensions, renewals, replacements or modifications thereof, and all of the right, title and interest of the TENANT in and to said Premises are and shall be subject and subordinate to the mortgage and to all of the terms and conditions contained therein, and to any renewals, modifications, replacements, consolidations and extensions thereof; and
2. Mortgagee consents to the Lease and, in the event of foreclosure of said Mortgage, or in the event Mortgagee comes into possession or acquires title to the Premises as a result of the enforcement of foreclosure of the Mortgage or Mortgage Note, or as a result of any other means, Mortgagee agrees that TENANT shall not be disturbed in its possession of the Premises for any reason other than one which would entitle the LANDLORD to terminate the Lease, under its terms, or would cause, without any further action by such LANDLORD, the termination of the Lease, or would entitle such LANDLORD to dispossess the TENANT from the Premises; provided, however, that at the time Mortgagee comes into possession of the Premises, TENANT is not in default under the Lease and that no event has occurred and no condition then exists which, after the passage of time (after notice required by the Lease, if any) would entitle the LANDLORD to terminate the Lease under its terms or would cause, without any further action of such LANDLORD, the termination of the Lease, or would entitle such LANDLORD to dispossess the TENANT from the Premises.
3. TENANT agrees with Mortgagee that, if the interests of LANDLORD in the Premises shall be transferred to and owned by Mortgagee by reason of foreclosure or other proceedings brought by it, or by any other manner, TENANT shall be bound to Mortgagee under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Mortgagee were the LANDLORD, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Mortgagee succeeding to the interest of the LANDLORD in the Premises. TENANT agrees, however, upon the election of and written demand by Mortgagee, within sixty (60) days after Mortgagee receives title to the Premises, to execute an instrument in confirmation of the foregoing provisions, satisfactory to Mortgagee, in which TENANT shall acknowledge such attornment and shall set forth the terms and conditions of its tenancy.
4. In the event of a foreclosure sale of the Leased Premises under any present or future lien against LANDLORD's estate in the Premises, or in the event that LANDLORD conveys its estate in the Premises, or in the event that LANDLORD's estate in the Premises passes to any other person, firm or corporation by operation of law or any other means, then in any of said events, TENANT shall

Tenant 

Landlord _____

April 5, 1994

EXHIBIT F

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT

THIS AGREEMENT, made as of this _____ day of _____, 19____, between _____, whose address is _____, (hereinafter called "TENANT"), SouthTrust Bank of Alabama, National Association, whose address for notices is Post Office Box 2554, Birmingham, Alabama 35280, ATTENTION: Commercial Loan Department (hereinafter called "Mortgagee") and Brook Highland Limited Partnership (hereinafter called "LANDLORD").

WITNESSETH:

WHEREAS, the TENANT has entered into a certain Lease dated _____, 19____, with LANDLORD, which Lease has not been amended (said Lease is hereinafter referred to as the "Lease") covering premises (the "Premises") in the Shopping Center known as Brook Highland Plaza Shopping Center, (the "Shopping Center"); and

WHEREAS, Mortgagee has agreed to make a loan to LANDLORD, which loan will be evidenced by a promissory note (the "Mortgage Note") and secured by a real estate mortgage security agreement and other security documents or agreements which shall cover LANDLORD's interest in the Shopping Center (hereinafter collectively referred to as the "Mortgage"); and

WHEREAS, Mortgagee has been requested by TENANT and by LANDLORD to enter into a Non-Disturbance Agreement with TENANT;

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto mutually covenant and agree, as follows:

1. The Lease and any extensions, renewals, replacements or modifications thereof, and all of the right, title and interest of the TENANT in and to said Premises are and shall be subject and subordinate to the mortgage and to all of the terms and conditions contained therein, and to any renewals, modifications, replacements, consolidations and extensions thereof; and
2. Mortgagee consents to the Lease and, in the event of foreclosure of said Mortgage, or in the event Mortgagee comes into possession or acquires title to the Premises as a result of the enforcement of foreclosure of the Mortgage or Mortgage Note, or as a result of any other means, Mortgagee agrees that TENANT shall not be disturbed in its possession of the Premises for any reason other than one which would entitle the LANDLORD to terminate the Lease, under its terms, or would cause, without any further action by such LANDLORD, the termination of the Lease, or would entitle such LANDLORD to dispossess the TENANT from the Premises; provided, however, that at the time Mortgagee comes into possession of the Premises, TENANT is not in default under the Lease and that no event has occurred and no condition then exists which, after the passage of time (after notice required by the Lease, if any) would entitle the LANDLORD to terminate the Lease under its terms or would cause, without any further action of such LANDLORD, the termination of the Lease, or would entitle such LANDLORD to dispossess the TENANT from the Premises.
3. TENANT agrees with Mortgagee that, if the interests of LANDLORD in the Premises shall be transferred to and owned by Mortgagee by reason of foreclosure or other proceedings brought by it, or by any other manner, TENANT shall be bound to Mortgagee under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Mortgagee were the LANDLORD, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Mortgagee succeeding to the interest of the LANDLORD in the Premises. TENANT agrees, however, upon the election of and written demand by Mortgagee, within sixty (60) days after Mortgagee receives title to the Premises, to execute an instrument in confirmation of the foregoing provisions, satisfactory to Mortgagee, in which TENANT shall acknowledge such attornment and shall set forth the terms and conditions of its tenancy.
4. In the event of a foreclosure sale of the Leased Premises under any present or future lien against LANDLORD's estate in the Premises, or in the event that LANDLORD conveys its estate in the Premises, or in the event that LANDLORD's estate in the Premises passes to any other person, firm or corporation by operation of law or any other means, then in any of said events, TENANT shall

Tenant

Initial

Landlord

April 5, 1994

promptly attorn to the purchaser at such foreclosure sale, or to the grantee of the Premises from LANDLORD or to such other successor to LANDLORD's estate, under all of the terms, covenants and conditions of the Lease; and, the purchaser or other successor entitled to the Premises shall not disturb TENANT in its possession of the Premises; provided, however, that at the time such purchaser or other successor to LANDLORD comes into possession of the premises, TENANT is not in default under the Lease and that no event has occurred or thereafter occurs and no condition then or thereafter exists which, after the passage of time (after notice required by the Lease, if any) would entitle the LANDLORD to terminate the Lease under its terms or would cause, without any further action of such LANDLORD, the termination of the Lease, or would entitle such LANDLORD to dispossess the TENANT from the Premises. Said attornment is to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon the successor to LANDLORD's estate succeeding to the interest of the LANDLORD in the premises. TENANT agrees, however, upon the election of and written demand by any such successor to LANDLORD's estate within sixty (60) days after said successor to LANDLORD's estate receives title to the Premises, to execute an instrument in confirmation of the foregoing provisions, satisfactory to any such successor to LANDLORD's estate, in which TENANT shall acknowledge such attornment and shall set forth the terms and conditions of its tenancy.

5. TENANT agrees with Mortgagee that if Mortgagee shall succeed to the interest of LANDLORD under the Lease, Mortgagee shall not be:

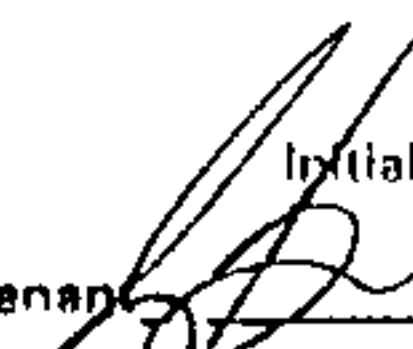

- (a) liable for any action or omission of any prior LANDLORD under the Lease; or
- (b) subject to any offsets or defenses which TENANT might have against any prior LANDLORD; or
- (c) bound by any rent or additional rent which TENANT might have paid for more than the current month to any prior LANDLORD; or
- (d) bound by any security deposit which TENANT may have paid to any prior LANDLORD, unless such deposit is in an escrow fund available to Mortgagee, or
- (e) bound by any amendment or modification of the Lease made without Mortgagee's written consent.

TENANT further agrees with Mortgagee that TENANT will not voluntarily subordinate the Lease to any lien or encumbrance other than the Mortgage without Mortgagee's written consent.

6. In the event that the LANDLORD shall default in the performance or observance of any of the terms, conditions or agreements in the Lease, TENANT shall give written notice thereof to the Mortgagee and the Mortgagee shall have the right (but not the obligation) to cure such default. TENANT shall not take any action with respect to such default under the Lease, including without limitation any action in order to terminate, rescind or avoid the Lease or to withhold any rental thereunder for a period of thirty (30) days after giving of such written notice thereof to the Mortgagee with respect to any such default, provided that, in the case of any default which cannot with diligence be cured within such thirty-day period, if the Mortgagee shall proceed promptly to cure the same and thereafter shall prosecute the curing of such default with diligence and continuity, then the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence and continuity.)
7. LANDLORD agrees with Mortgagee that LANDLORD's estate in the Premises shall not be conveyed, nor shall LANDLORD further assign LANDLORD's interest in the Lease, unless the grantee or assignee shall acknowledge in writing to the Mortgagee that the conveyance or assignment is accepted subject to the Lease. LANDLORD further agrees that in the event said estate in the Premises or said interest in the Lease passes to any other person, firm or corporation, by operation of law or by any other means, such passage of title shall be subject to the Lease.
8. This Agreement shall bind and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns. As used herein, the term "TENANT" shall include the TENANT, its successors and assigns; the words "foreclosure" and "foreclosure sale" as used herein shall be deemed to include the acquisition of LANDLORD's estate in the Premises by voluntary deed (or assignment) in lieu of foreclosure; and the word "Mortgagee" shall include the Mortgagee herein specifically named and any of its successors and assigns, including anyone who shall have succeeded to LANDLORD's interest in the Premises, by, through or under foreclosure of the Mortgage.

April 5, 1994

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Initial
Tenant 
Landlord 

9. This agreement shall not be modified or amended except in writing signed by all parties hereto.
10. The use of the neuter gender in the Agreement shall be deemed to include any other gender, and words to the singular number shall be held to include the plural, when the sense requires.

IN WITNESS WHEREOF, the parties hereto have placed their hands and seals as of the day and year first above written.

TENANT

A Corporation

By: _____

As Its: _____

(CORPORATE SEAL)

ATTEST: _____

Its: _____

A _____ Partnership

By: _____

As Its Partner

By: _____

As Its Partner

Individual L.S.

LANDLORD

BROOK HIGHLAND LIMITED PARTNERSHIP, a Georgia limited partnership

By: Baker Limited Partnership, a general partner

By: Alex Baker, Inc., a general partner

By: _____


As Its: _____

SOUTHTRUST BANK OF ALABAMA,
NATIONAL ASSOCIATION

By: _____

As Its: _____

April 5, 1994

Initial
Tenant 
Landlord _____

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Exhibit H	TENANT IMPROVEMENT ALLOWANCE

Inst # 1994-36744

April 5, 1994

12/16/1994-36744
09:53 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
037 MCD 776.00

Inst # 1994-36744