

CAUSE NO. DC-20-06408

CEC ENTERTAINMENT, INC. d/b/a	§	IN THE DISTRICT COURT
CHUCK E. CHEESE,	§	
	§	
Plaintiff,	§	
	§	
v.	§	DALLAS COUNTY, TEXAS
	§	
TX DALLAS MIDTOWN, L.P.,	§	
	§	
Defendant.	§	_____ JUDICIAL DISTRICT

PLAINTIFF’S ORIGINAL PETITION

Plaintiff CEC Entertainment, Inc. d/b/a Chuck E. Cheese (“**Plaintiff**” or “**CEC**”) files this Original Petition (“**Petition**”) against TX Dallas Midtown, L.P. (“**Defendant**” or “**Midtown**”). In support of its Petition, Plaintiff respectfully states the matters set forth below.

A. SUMMARY

1. CEC brings this suit for breach of contract and request for declaratory judgment to stop Midtown from improperly leveraging the economic fallout caused by the COVID-19 Pandemic to terminate the valid and enforceable lease it has with CEC for its Valley View location at 13364 Montfort Drive in Dallas, Texas.

2. Like countless businesses across the State of Texas and the nation, CEC, which operates Chuck E. Cheese and Peter Piper Pizza establishments across the nation, has faced severe financial hardships in the face of government restrictions and reduced economic demand imposed by the COVID-19 Pandemic since mid-March 2020.

3. In light of these hardships, CEC contacted—along with numerous other landlords—Midtown, the landlord for one of CEC’s properties in Dallas County, to request an abatement of its rental obligations for the month of April.

4. In response, Midtown sent a proposed lease amendment that would abate the rent, but also give Midtown the unilateral right to terminate the lease in the future and for any reason or no reason at all. When CEC did not accept that “offer” (which was not really an abatement so much as a unilateral right to terminate CEC’s lease), Midtown improperly attempted to manufacture a default to achieve the same result—termination of the lease. Importantly, **there has been no default**. When CEC actually received a proper notice from Midtown on April 20, it promptly cured the issue. That should have been the end of the situation. Instead, Midtown has threatened to evict CEC notwithstanding April rent has been paid in full including all fees and charges and there is no default.

5. CEC brings this suit only after trying to resolve matters with Midtown. However, Midtown has made clear that the only solution it will accept is termination of the lease. Midtown’s insistence on terminating CEC’s lease necessitates the filing of this action to protect CEC’s rights.

6. Regardless of Midtown’s motivations, it has not terminated and cannot properly terminate the lease. The lease contains numerous notice requirements that are conditions precedent to termination and that, to this day, have not been satisfied. Even if Midtown had properly noticed a default, the earliest it could have done so was on April 20, 2020. Any default that existed was cured on April 22, 2020, when CEC paid all outstanding rent obligations within the 10-day cure period provided by the lease.

7. Accordingly, CEC respectfully requests that this Court find that Midtown materially breached the lease agreement and order Midtown to pay CEC damages and attorneys’ fees. CEC further requests that this Court render declaratory relief that CEC has cured any default and that Midtown does not have the right to evict CEC or terminate the lease.

B. DISCOVERY

8. Discovery will be conducted under Level 2, pursuant to Texas Rule of Civil Procedure 190.3.

C. PARTIES

9. Plaintiff CEC is a corporation organized and existing under the laws of the state of Kansas, having its principal offices in Irving, Dallas County, Texas.

10. Defendant Midtown, also known as 13331 Preston Road, L.P., is a Texas limited partnership that owns and controls the real property located in Dallas that is the subject of this suit. Service of process may be made upon Midtown's registered agent, Rosemary Papa, at 12222 Merit Dr., Suite 120, Dallas, Texas 75251, or wherever else she may be found.

D. JURISDICTION; VENUE

11. The Court has personal jurisdiction over Defendant because Defendant does business in Texas and is amenable to service by a Texas court. The Court has subject matter jurisdiction over the controversy because there is a justiciable controversy between Plaintiff and Defendant and the amount at issue is within the jurisdictional limits of the Court.

12. Venue is mandatory in Dallas County, Texas, because this suit concerns a dispute between a landlord and a tenant arising under a lease for which all of the property is located in Dallas County. TEX. CIV. PRAC. & REM. CODE § 15.0115(a).

C. FACTS

i. Key Provisions in the Midtown–CEC Lease Agreement

13. On or about February 28, 2001, CEC, as tenant, entered into the Ground Lease Agreement with Midtown’s predecessor in interest, Macerich Valley View Adjacent Limited Partnership, as the landlord.¹

14. The Lease provided an initial term plus two additional terms, exercised at CEC’s option, of five years each. The rent is based on a percentage of sales, with a fixed minimum rent provision.²

15. On or about August 1, 2010, Midtown’s predecessor in interest and CEC entered into a Second Amendment of Ground Lease Agreement for Expansion Premises and First Extension extending the initial term through December 31, 2021 and retaining the two additional option terms.

16. The Lease contains provisions requiring the timely payment of rent, as well as a provision to calculate the penalty for any late payments of rent—*i.e.*, “(a) interest on the unpaid Rent at the Agreed Rate from the date payment is due until the date payment is made and (b) a service charge equal to five percent (5%) of the overdue amount up to a maximum of \$500.00 per instance.”³

¹ See Ground Lease Agreement (the “Lease”) (see pp. 14-81), a true and correct copy of which is attached hereto as **Exhibit A** and incorporated herein by reference.

² Ex. A §§ 1.8–1.10 (see p. 16).

³ Ex. A § 5.3 (see p. 20).

17. The Lease also expressly defines the conditions and remedies for any defaults by CEC.⁴ The Lease also provides Midtown’s remedies in the event of default, including termination.⁵ However, the Lease provides that:

19.2. Notices. Following the occurrence of a default specified in Sections 19.1.1, 19.1.2, 19.1.3, 19.1.4, 19.1.6 or 19.1.7, prior to exercising any remedy described in Section 20.1, Landlord shall give Tenant written notice thereof specifying the nature of such default and demanding that Tenant quit the Premises and Improvements and surrender the Premises and Improvements to Landlord or, except as otherwise provided, fully cure the default, within the time period specified below:

19.2.1. Monetary Notice. For a monetary default specified under Section 19.1.1, within ten (10) days after written notice from Landlord.

18. The Lease requires that “[a]ny notice, demand or communication required or permitted to be given by one party to the other shall be in writing and addressed to the other party at the addresses set forth in . . . Section 1.18.”⁶ Further, any notice “shall be (a) personally served, (b) deposited in the United States mails, duly registered or certified with postage fully prepaid thereon or (c) delivered by an overnight courier service that confirms delivery.”⁷

19. Section 1.18 provides:

**1.18. Tenant’s
Address For
Notices:**

CEC Entertainment, Inc.
4441 West Airport Freeway
Irving, Texas 75062
Attention: Real Estate Department

20. Roughly six years ago, CEC relocated its corporate offices to a new address and accordingly designated that notices under the Lease be sent to “1707 Market Place Blvd, Suite 200, Irving, Texas 75063.”

⁴ See Ex. A. § 19 *et seq* (see pp. 42-43).

⁵ See Ex. A § 20 *et seq* (see pp. 43-44).

⁶ Ex. A § 18.1 (see p. 42).

⁷ *Id.*

21. Section 27.25 provides that “[s]o long as Tenant timely pays all Rent, timely performs its covenants and obligations under this Lease and recognizes any successor to Landlord in accordance with the terms of this Lease, Tenant shall lawfully and quietly have, hold and enjoy the Premises and the Improvements during the Term without hindrance or molestation by Landlord.”

22. Finally, section 22.2 provides that “if either party brings action for relief against the other, declaratory or otherwise, arising out of this Lease, . . . the losing party shall pay the successful party its costs incurred in connection with and in preparation for said action, including its reasonable attorneys’ fees.”

ii. Midtown Attempts to Leverage the COVID-19 Pandemic to Terminate the Lease

23. On or about March 16, 2020, in light of the economic hardship caused by the COVID-19 Pandemic—which is having an outsized effect on CEC’s restaurants due to their reliance on in-person, interactive experiences—CEC requested that Midtown abate CEC’s April rent under the Lease.

24. On or about March 27, 2020, Midtown sent a proposal via e-mail, which included a letter (the “**March 27 Offer Letter**”) and a proposed Third Amendment to Ground Lease Agreement (the “**Proposed Amendment**”).

25. Section 2 of the Proposed Amendment provides that Midtown, “at any time during the Term (including any Extended Terms), . . . may deliver written notice to [CEC] terminating the Lease (the “Notice of Termination”) for any reason or no reason whatsoever.” The Proposed Amendment is a clear attempt to leverage the financial hardship imposed by the COVID-19 Pandemic on CEC into a unilateral and costless lease termination provision—a free option—to allow Midtown to escape its Lease obligations.

26. On April 6, 2020, Midtown sent another e-mail and accompanying letter, attaching a purported “Notice of Default” for failure to pay rent and reattaching the Proposed Amendment (the “**April 6 Offer Letter**”).⁸ The April 6 Offer Letter did not comply with the notice requirements in § 18.1 of the Lease because it was sent “C/O CEC Legal,” as reflected in the Domestic Return Receipt (the “**Green Slip**”).⁹ The Green Slip was filled out on April 8, with “STran” under “Signature” and “6377” under “Received by (*Printed Name*).” Because the April 6 Offer Letter was not sent to the Real Estate Department, as required by the Lease, it did not come to the attention of the relevant employees at CEC. Further, those employees do not know any “STran” or “6377,” and cannot confirm that individual is a representative of CEC.

27. Likewise, the April 6 Offer Letter was also deficient as a notice of default under section 19.2 of the Lease because it did not “demand[] that [CEC] quit the Premises and Improvement and surrender the Premises and Improvements to [Midtown].”¹⁰ Instead, the April 6 Offer Letter states:

Per your lease, all rental payments are due on the 1st of the month and must be sent to:

TX Dallas Midtown
13101 Preston Road, Suite 510
Dallas, Texas 75240

Also attached is our counter offer we previously sent. Please either sign and return or tender the delinquent rent within 10 days of this letter. If neither of those options are exercised within 10 days, the Landlord will withdraw its offer and pursue its remedies under the lease.

28. On April 17, 2020, Midtown sent a letter which rescinded the March 27 Offer Letter and April 6 Offer Letter, specifying the event of default pursuant to Lease and

⁸ A true and correct copy of the April 6 Offer Letter (*see* pp. 83-88) is attached hereto as **Exhibit B** and incorporated herein by reference.

⁹ A true and correct copy of the Green Slip (*see* pp. 90-91) is attached hereto as **Exhibit C** and incorporated herein by reference.

¹⁰ Ex. A. § 19.2 (*see* pp. 42-43).

demanding that CEC “quit the premises and improvements and surrender possession of the premises to [Midtown] on or before April 30, 2020 (“**Midtown’s Article 19 Notice**”).¹¹

29. Midtown’s Article 19 Notice was sent by physical mail and properly addressed care of the “Real Estate Department” pursuant to sections 18.1 and 1.18 of the Lease and came to the attention of the intended and proper recipients at CEC on April 20, 2020. However, Midtown’s Article 19 Notice was ineffective as notice under § 19.2 of the Lease—a condition precedent to termination under § 20.1 of the Lease—because it did not include mention of the 10-day cure period CEC had in lieu of vacating the premises that was triggered pursuant to § 19.2.1 of the Lease.

30. Nevertheless, two days after physically receiving Midtown’s Article 19 Notice, on April 22, 2020, CEC rendered payment in full satisfaction of its rental obligations and within the cure period specific in § 19.2.1 of the Lease. That same day, CEC sent Midtown proof of payment in a letter delivered to Midtown via FedEx “OVERNIGHT MAIL/HAND DELIVERY” (the “**April 22 Cure Payment**”).¹²

31. Despite CEC’s proper cure of the default under the Lease, on May 1, 2020, Midtown sent CEC a “3-Day Notice to Vacate,” pursuant to Article 24.005 of the Texas Property Code (the “**Purported Notice to Vacate**”).¹³ The Purported Notice to Vacate states that it gives CEC three days to vacate the premises on the grounds that it had terminated the

¹¹ A true and correct copy of Midtown’s Article 19 Notice (*see* pp. 93-95) is attached hereto as **Exhibit D** and incorporated herein by reference.

¹² A true and correct copy of the April 22 Cure Payment (*see* pp. 97-99) is attached hereto as **Exhibit E** and incorporated herein by reference.

¹³ A true and correct copy of the Purported Notice to Vacate (*see* pp. 101-102) is attached hereto as **Exhibit F** and incorporated herein by reference.

Lease on April 17, 2020 (it had not), and says otherwise Midtown will proceed with a forcible detainer and eviction lawsuit.

32. On May 4, 2020, in an attempt to resolve this dispute without litigation, CEC called its landlord at Midtown. On that call, Midtown made it clear that it would not accept any resolution that did not include an amendment allowing it to unilaterally terminate the Lease.

CAUSES OF ACTION

Count 1 – Breach of Contract

33. CEC re-alleges and incorporates the matters set forth in each of the preceding paragraphs as if fully set forth.

34. CEC entered into the Lease with Midtown’s predecessor in interest. The Lease is a valid, enforceable contract. CEC performed all of its obligations under the Lease and satisfied all conditions precedent to recovery.

35. As described herein, Midtown materially breached the Lease and CEC’s contractual right to quiet enjoyment by improperly attempting to terminate the Lease and refusing to recognize that CEC cured the default pursuant to the terms of the Lease.

36. CEC is entitled to actual damages in an amount exceeding the minimum jurisdictional limits of this Court. CEC is entitled to recover its actual, consequential and incidental damages, as well as its reasonable and necessary attorneys’ fees.

Count 2 - Declaratory Relief

37. CEC re-alleges and incorporates the matters set forth in each of the preceding paragraphs as if fully set forth.

38. CEC requests that the Court declare the rights, status, and other legal relations between the parties. All parties who have or claim any interest that would be affected by the declaration are parties to this lawsuit.

39. Specifically, CEC asks the Court to declare that:

- a. The April 6 Offer Letter did not comply with the notice requirements in the Lease such that the 10-day cure period under section 19.2.1 of the Lease was triggered;
- b. Midtown's Article 19 Notice, to the extent it purports to require CEC to surrender the premises without recognizing the 10-day cure period, was sent in violation of sections 19.2 and 19.2.1 of the Lease;
- c. CEC fully satisfied or cured any default for nonpayment of rent existing under the Lease (whether or not it was properly noticed) on April 22; and
- d. Midtown's attempt to terminate the Lease is in violation of the express terms of the Lease and, therefore, the Lease remains a valid and enforceable agreement.

ATTORNEYS' FEES

40. CEC incorporates and re-alleges the matters set forth in each of the preceding paragraphs as if fully set forth.

41. CEC has retained the undersigned counsel to represent it in this action and has agreed to pay the reasonable and necessary fees of these attorneys. CEC is entitled to an award of reasonable and necessary attorneys' fees in connection with its claim for breach of contract under the Lease, TEX. CIV. PRAC. & REM. CODE § 38.001, declaratory judgment, TEX. CIV. PRAC. & REM. CODE § 37.009, and/or under the terms of the Lease.

REQUEST FOR DISCLOSURE

42. Pursuant to TEX. R. CIV. P. 194, Midtown is requested to disclose, within 50 days of service of this request, the information or material described in Rule 194.2(a)-(1).

D. PRAYER

WHEREFORE, Plaintiff respectfully requests that Defendant be cited to appear and answer, and that the Court enter judgment:

- a. awarding CEC its actual damages incurred as a result of Midtown's breach of the Lease;
- b. declaring that:
 - (1) CEC has cured any default for nonpayment of rent and that Midtown does not have the right to evict CEC or terminate the Lease;
 - (2) the April 6 Offer Letter did not comply with the notice requirements in the Lease such that the 10-day cure period under Section 19.2.1 of the Lease was triggered;
 - (3) Midtown's Article 19 Notice, to the extent it purports to require CEC to surrender the premises without recognizing the 10-day cure period, was sent in violation of sections 19.2 and 19.2.1 of the Lease;
 - (4) Midtown's attempt to terminate the Lease was in violation of the express terms of the Lease and, therefore, the Lease remains a valid and enforceable agreement; and
 - (5) declaring that Defendant is in material breach of its obligations under the Lease as it has attempted to improperly terminate the lease;
- c. awarding Plaintiff its reasonable and necessary attorneys' fees, including fees incurred in the prosecution of this action;
- d. awarding Plaintiff its costs of suit; and
- e. awarding all other relief, at law or in equity, as the Court deems just and appropriate.

Dated: May 5, 2020

Respectfully submitted,

/s/ Paul R. Genender

Paul R. Genender

State Bar No. 00790758

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ATTORNEYS FOR PLAINTIFF

CEC ENTERTAINMENT, INC. d/b/a

CHUCK E. CHEESE

EXHIBIT A

GROUND LEASE AGREEMENT

BY AND BETWEEN

MACERICH VALLEY VIEW ADJACENT LIMITED PARTNERSHIP
AS LANDLORD

AND

CEC ENTERTAINMENT, INC.
AS TENANT

FOR PREMISES LOCATED WITHIN

VALLEY VIEW ADJACENT LAND
DALLAS, TEXAS

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Exhibits

- A Depiction of Center
- B Depiction of Premises
- C Provisions for the Design and Construction of Initial Improvements Upon the Premises
- D Certain Defined Terms
- E Intentionally Omitted
- F Intentionally Omitted
- G Affidavit of Initial Improvements Cost Form
- H Monthly Sales Statement Form
- I Annual Sales Statement Form
- J Restricted Area
- K Signage

GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT ("Lease") is made as of this 28 day of February, 2001 ("Effective Date") by and between MACERICH VALLEY VIEW ADJACENT LIMITED PARTNERSHIP, a California limited partnership ("Landlord") and CEC ENTERTAINMENT, INC., a Kansas corporation ("Tenant").

W I T N E S S E T H:

In consideration of the rents to be paid and the covenants to be performed by Tenant, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the following described Premises, upon the following terms and conditions:

1. FUNDAMENTAL LEASE PROVISIONS

- 1.1. **Center:** VALLEY VIEW ADJACENT LAND, located in the City of Dallas, State of Texas (Section 2.1)
- 1.2. **Premises:** Pad "A", as generally depicted on Exhibit B (Section 2.2)
- 1.3. **Building Floor Area:** 11,300 square feet (Section 2.2)
- 1.4. **Term:** Approximately fifteen (15) years, plus two (2) Option Terms of five (5) years each. (Section 4.1)
- 1.5. **Required Opening Date:** Two Hundred Ten (210) days after the Permit Approval Date (as defined in Section 27.37). (Section 3.2)
- 1.6. **Rent Commencement Date:** The earlier of (a) the date on which Tenant first opens for business any portion of the Improvements or (b) the Required Opening Date.
- 1.7. **Expiry Date:** The last day of the 15th Lease Year at 11:59 p.m. local time, or such other date on which the Lease actually expires if Tenant exercises its option(s) to extend the Term as set forth in Article 4 hereof.
- 1.8. **Fixed Minimum Rent:**

<u>Dates</u>	<u>Annual Fixed Minimum Rent</u>	<u>Monthly Installments of Fixed Rent</u>
~ Expiry Date	\$120,000.00*	\$10,000.00*

~ From the Rent Commencement Date
*Subject to periodic increases as set forth in Section 5.5.1 below

(Section 5.5)
- 1.9. **Percentage Rent Rate:** Four Percent (4%) Section 5.6)
- 1.10. **Base Sales:**

<u>Dates</u>	<u>Annual Base Sales</u>	<u>Monthly Base Sales</u>
~ Expiry Date	\$3,000,000.00*	\$250,000.00*

~ From the Rent Commencement Date
*Subject to periodic increases as set forth in Section 5.6.1 below

(Section 5.6)

- 1.11. **Permitted Use:** The Building shall be used only for the operation of a prototypical Chuck E. Cheese's restaurant as is currently operated by Tenant in a majority of Tenant's other Chuck E. Cheese's restaurants (but in any event, no less than ten (10) restaurants) in the Dallas - Fort Worth area (collectively, "Core Stores"), including the (i) the serving of such menu items and such beverages (including beer and wine if Tenant has obtained all permits therefor) as are served by Tenant in its Core Stores and (ii) the operation of mechanical and electrical rides, games and other amusement devices as are operated by Tenant at its Core Stores. (Section 10.1)
- 1.12. **Trade Name:** Chuck E. Cheese's (Section 10.1)
- 1.13. **Security Deposit:** None. (Article 6)
- 1.14. **Promotion Fund Charge:** None. (Section 5.8)
- 1.15. **Hours:** See Section 10.3 below.
- 1.16. **Radius:** Three (3) miles, measured from the outside boundaries of the Center. (Section 10.5)
- 1.17. **Landlord's Address For Notices:** The Center Manager at the address specified at Section 1.19. (Section 18.1)
 With a copy of notices to:
 c/o The Macerich Company
 P.O. Box 2172
 401 Wilshire Boulevard, Suite 700
 Santa Monica, California 90407
 Attention: Legal Department
- 1.18. **Tenant's Address For Notices:** CEC Entertainment, Inc.
 4441 West Airport Freeway
 Irving, Texas 75062
 Attention: Real Estate Department (Section 18.1)
- 1.19. **Address For Payment of Rent:** 13331 Preston Road
 Suite 2040
 Dallas, Texas 75240
- 1.20. **Landlord's Broker(s):** Macerich Property Management Company (Section 27.5)
- 1.21. **Tenant's Broker(s):** Foremark (Doug Alcott)
 8222 Douglas Avenue, Suite 509
 Dallas, Texas 75225 (Section 27.5)
- 1.22. **Guarantor(s):** None.
- 1.23. **Ring Road Contribution:** \$2,500.00 per annum, subject to increase pursuant to Section 5.8. (Section 5.8)

2. PREMISES

2.1. Center. The Center is currently known by the name set forth in Section 1.1. Exhibit A is an approximate depiction of the Center; however, the depiction of the Center on Exhibit A is not a representation, warranty or covenant of any kind by Landlord except as otherwise set forth herein. Landlord makes no representation, warranty or covenant with respect to the occupancy of the Center by any tenant (whether a Major Occupant or Occupant of any pad, lot or premises within the Center), the date on which any Occupant accepted or will accept occupancy of space or that any Occupant will continue to remain an occupant in any specific location in the Center.

2.2. Premises and Floor Area. The Premises is that certain lot of land within the Center, consisting of approximately 1.6 acres of land area, and the approximate location of which is depicted by crosshatching on Exhibit B, together with all Improvements (hereinafter defined) and Premises Common Area (hereinafter defined). Landlord desires to lease to Tenant the Premises in order to enable Tenant to construct on a portion of the Premises (such portion being depicted on Exhibit B and referred to herein as the "Building Envelope") a one story restaurant and entertainment center building not to exceed 11,300 square feet of Floor Area (the "Building"), and related facilities to be included within the Building Envelope including, but not limited to, a loading dock and ramp, perimeter sidewalks, landscaping and trash enclosure (collectively referred to as the "Facilities"). The Building and Facilities shall be collectively referred to herein as the "Improvements". All portions of the Premises not included within the Building Envelope are herein referred to as the "Premises Common Area". Tenant's right in and to the Premises Common Area shall be no greater than its right in and to the Common Area of the Center as provided in the Lease, nor less than any entity other than Landlord which is permitted to enter the Premises Common Area. The Floor Area of the Building shall be determined by mutual agreement of Landlord and Tenant within sixty (60) days of completion of Tenant's construction thereof, provided, however, the Fixed Minimum Rent as specifically set forth in Section 1.8 above shall not be adjusted as a result of any such measurement, but only the Additional Rent which is calculated based upon the Floor Area of the Building shall be adjusted based upon such measurement of the actual Floor Area. The Floor Area shall be measured as set forth in Section 2.42 of Exhibit D. If the parties do not exercise their right to measure the Floor Area as provided herein, both Landlord and Tenant hereby acknowledge and agree that each party shall automatically be deemed to have absolutely and unconditionally (a) waived such right, (b) accepted the Floor Area calculation as set forth in Section 1.3 and (c) released and waived any rights the parties may have against one another in the event the Floor Area calculation set forth in Section 1.3 is different from the actual Floor Area of the Premises.

2.3. Lease of Premises. Landlord hereby leases to Tenant and Tenant hereby hires from Landlord the Premises, together with all easements, rights and appurtenances relating thereto, but reserving unto Landlord an exclusive easement over the Premises Common Area for development, use, maintenance and repair as Common Area for use by the employees and invitees of Tenant and all other occupants of the Center. Tenant's leasehold interest in the Premises is subject to all covenants, conditions, restrictions, easements, rights-of-way and other matters of record, including, without limitation, any reciprocal easement agreement, operating or easement agreement, or any other similar covenants, conditions and restrictions or easements affecting the Center or the Premises ("Superior Agreements").

3. CONSTRUCTION OF INITIAL IMPROVEMENTS

3.1. Condition of Premises. The Premises shall be delivered to Tenant in the condition set forth at Exhibit C.

3.2. Tenant's Work. Tenant shall, at Tenant's sole cost and expense, cause to be constructed upon the Premises and within the Building Envelope, the Improvements, in the time and manner, and in accordance with the terms and conditions set forth in Exhibit C. The Improvements and the Premises Common Area shall be maintained at the sole cost and expense of Tenant in accordance with the requirements of this Lease. All such Improvements shall be owned by Tenant during the Term and shall be surrendered to Landlord at the expiration or earlier termination of this Lease, at which time the same shall become the property of Landlord, subject to Tenant's right to remove Tenant's Improvements as provided in Article 13 below.

3.3. Timely Opening. Tenant acknowledges the financial success of the Center depends, in part, on Tenant opening the Building for business on the Required Opening Date and Landlord's damages arising from Tenant failing to open the Building on the Required Opening Date are extremely difficult and impractical to determine. Therefore, if Tenant fails to complete Tenant's Work and open the Building fully stocked and staffed within sixty (60) days after the Required Opening Date, subject to Force Majeure, Tenant shall pay to Landlord as Fixed Minimum Rent (prorated on a daily basis) for the period from the Required Opening Date until the date Tenant completes Tenant's Work and opens the Building fully stocked and staffed for business one hundred fifty percent (150%) of the amount specified at Section 1.8 as Fixed Minimum Rent. The foregoing shall not be deemed to extend the Rent Commencement Date, and in any event the Fixed Minimum Rent and all Additional Rent shall

commence on the Rent Commencement Date notwithstanding that Tenant has not actually opened for business in the Building on or prior to the Required Opening Date.

3.4. Affidavit of Initial Improvements Cost. Within thirty (30) days after Landlord's request therefor, Tenant shall deliver to Landlord the Affidavit of Initial Improvements Cost (in the form of Exhibit G attached or such other similar form as shall be mutually acceptable to Landlord and Tenant). Tenant shall maintain throughout the Term copies of all paid invoices for Tenant's Work and shall deliver the same (exclusive of invoices for Moveable Trade Fixtures, unattached equipment, furniture, Tenant's Signs and other personal property) to Landlord if required pursuant to the terms of this Lease.

4. TERM

4.1. Term. This Lease shall be for the Term, unless sooner terminated pursuant to the terms of this Lease.

4.2. Options to Extend Term

4.2.1. Grant of Options to Extend Term. Landlord hereby grants Tenant two (2) successive options ("First Option to Extend Term" and "Second Option to Extend Term", respectively) to extend the initial Term ("Initial Term"), in accordance with the provisions of this Section 4.2. The Second Option to Extend Term may be exercised by Tenant only if Tenant has exercised the First Option to Extend Term. The term "Option to Extend Term" shall mean, collectively, the First Option to Extend Term and the Second Option to Extend Term. The First Option to Extend Term shall extend the term of the Lease for an additional sixty (60) months ("First Extended Term") commencing upon the expiration of the Initial Term. The Second Option to Extend Term shall extend the Term for an additional sixty (60) months ("Second Extended Term") commencing upon the expiration of the First Extended Term. As used herein, the phrase "Extended Term" shall mean the First Extended Term or Second Extended Term, as applicable. This Lease shall be extended for the First Extended Term and Second Extended Term upon all the same terms, covenants and conditions contained in this Lease, except for the following:

4.2.1.1. Fixed Minimum Rent. Fixed Minimum Rent for the First Extended Term and the Second Extended Term shall be adjusted pursuant to Section 5.5.1.

4.2.1.1. No Further Extensions. Tenant shall have no further right to extend the term of this Lease beyond the Second Extended Term.

4.2.2. Notice to Extend Term. The First Option to Extend Term and Second Option to Extend Term shall each be exercised, if at all, only by written notice ("Notice to Extend Term") delivered by Tenant to Landlord at least two hundred seventy (270) days, but not more than four hundred fifty (450) days, prior to the Expiry Date, in the case of the First Option to Extend Term, and the expiration of the First Extended Term, in the case of the Second Option to Extend Term. If Tenant does not timely deliver the Notice to Extend Term, the First Option to Extend Term or Second Option to Extend Term, as the case may be, and any remaining Option to Extend Term shall lapse and Tenant shall have no right to extend the Term.

4.2.3. Documentation. Within thirty (30) days following Landlord's receipt of the Notice to Extend Term, Landlord shall prepare an amendment to this Lease setting forth the First Extended Term or Second Extended Term, as the case may be, and Fixed Minimum Rent for the First Extended Term or Second Extended Term, as the case may be, pursuant to this Section 4.2 ("Extended Term Amendment"). The Extended Term Amendment shall be submitted to Tenant for execution and Tenant shall have thirty (30) days following receipt thereof in which to execute and deliver the Extended Term Amendment to Landlord and Landlord shall have thirty (30) days after receipt of the same in which to execute the Extended Term Amendment and to deliver one fully-executed copy to Tenant. The failure of either or both Landlord or Tenant to execute the Extended Term Amendment shall not have the effect of nullifying Tenant's Notice to Extend Term, and the Lease shall nevertheless be extended for the Extended Term as herein provided.

4.2.4. Additional Conditions. Tenant shall not have the right to exercise any Option to Extend Term at any time while Tenant is delinquent in the payment of any Rent or otherwise in default of this Lease beyond any applicable notice and cure period.

5. RENT

5.1. Payment of Rent. Tenant shall pay all Rent to Landlord on the day(s) specified therefor, without notice, demand, deduction or offset, in lawful money of the United States of America, at the address specified at Section 1.19 or at such other place as Landlord may from time-to-time designate in writing to Tenant. Tenant shall be obligated to pay Rent when due regardless of whether Tenant receives a statement therefor. If Fixed Minimum Rent or any item of Additional Rent increases or decreases during the Term and if the amount of such increase or decrease has not been determined as of the date such Rent is to be paid, then (a) Tenant shall continue to pay such Rent in the amount payable for the immediately preceding month (or other period for which such Rent is due) and (b) within thirty (30) days after the date Landlord notifies Tenant of such adjusted Rent, Tenant shall pay to Landlord any additional amount owed due to such adjusted Rent or if Tenant has paid Rent in excess of the adjusted Rent, such excess shall be credited against the next monthly payment(s) of Rent until such excess has been exhausted; however, within thirty (30) days following the Expiry Date, any such excess shall be refunded to Tenant. If Fixed Minimum Rent during any Lease Year is reduced or increased pursuant to a provision in this Lease or by express written agreement between Landlord and Tenant, then the Base Sales and Monthly Base Sales shall each likewise be reduced or increased by a percentage equal to the percentage increase or decrease, as the case may be, in the Fixed Minimum Rent payable for the period during which the change in Fixed Minimum Rent is in effect.

5.2. Prorations. If the Rent Commencement Date begins on a day other than the first day of a month or if the Term expires on a day other than the last day of a month, then Fixed Minimum Rent and Monthly Base Sales for such month shall be prorated. Unless otherwise provided, all prorations of Rent for fractional periods shall be based on the actual number of days in such month and the actual number of days in such year. If the Lease Year is less than twelve (12) full calendar months, then Base Sales for such Lease Year shall be an amount equal to the product obtained by multiplying the Base Sales by a fraction, the numerator of which shall be the number of days in such Lease Year and the denominator of which shall be three hundred sixty-five (365). If the Premises are closed for any full or partial day during Business Hours, then monthly Base Sales shall be prorated for the month, and Base Sales shall be prorated for the year, in which such closure occurs.

5.3. Late Payments. If Tenant fails to pay any Rent to Landlord when due, Landlord shall be entitled to (a) interest on the unpaid Rent at the Agreed Rate from the date payment is due until the date payment is made and (b) a service charge equal to five percent (5%) of the overdue amount up to a maximum of \$500.00 per instance. If payment is made by a check which is dishonored by the drawing bank, Tenant shall pay to Landlord a service charge equal to Fifty Dollars (\$50.00) and, upon the second such occurrence in any calendar year Landlord may require that all future payments of Rent shall be made by cashier's check. Tenant acknowledges the late payment of Rent or the use of a dishonored check by Tenant will cause Landlord to incur costs and expenses not contemplated by this Lease, the exact amounts of which will be extremely difficult to ascertain, and that the service charges represent fair estimates of the costs and expenses which Landlord would incur by reason of Tenant's late payment of Rent or use of a dishonored check. The imposition of such interest and service charges shall neither constitute a waiver of Tenant's default with respect to such overdue amount nor prevent Landlord from exercising any other right or remedy available to Landlord. Notwithstanding the foregoing to the contrary, for the first two (2) times in any calendar year that Tenant has failed to pay any Rent when due, the foregoing service charge shall not apply unless Tenant has failed to make such payment within ten (10) days of receipt of Landlord's written notice of such delinquency. Landlord shall not be required to give Tenant such notice more than two (2) times in any calendar year prior to assessing the service charge.

5.4. Acceptance. The acceptance by Landlord of partial payment of any sum due from Tenant shall not be deemed a waiver by Landlord of any of its rights to the full amount due or an admission by Landlord of the accuracy of any Monthly Sales Statement or any Annual Sales Statement submitted by Tenant. Any endorsement or statement on any check or accompanying letter from Tenant shall not be deemed an accord and satisfaction. Any Rent payments received from Tenant or any other person shall be conclusively presumed to have been paid on Tenant's behalf, unless Landlord has been given prior written notice to the contrary by Tenant; however, in no event shall the foregoing be construed as requiring Landlord to accept any Rent from any person other than Tenant, except for any permitted sublessee, assignee or successor of Tenant pursuant to the terms of Article 14 hereof. The acceptance by Landlord of payment from any person other than Tenant shall not be deemed to be a waiver by Landlord of any provision of this Lease or to be a consent to any Transfer or to be a release of Tenant from any obligation under this Lease. The acceptance by Landlord of delinquent payment shall not constitute a waiver of any default and shall not constitute a waiver of timely payment of the particular

payment involved. The acceptance by Landlord of any Rent shall not constitute a consent by Landlord or a waiver of any of Landlord's rights under this Lease.

5.5. Fixed Minimum Rent.

5.5.1. Fixed Minimum Rent. From and after the Rent Commencement Date, Tenant shall pay in equal monthly installments, in advance on the first day of each month (except for the first installment, which shall be paid on the Rent Commencement Date), the Fixed Minimum Rent. Commencing on each of January 1, 2006, January 1, 2011 and, in the event the first Option to Extend Term is executed, January 1, 2016 and, in the event the Second Option to Extend Term is exercised, January 1, 2021 (each such date is sometimes referred to as the "Rent Adjustment Date"), the Fixed Minimum Rent then in effect (or which would then have been in effect absent any abatement or reductions in Fixed Minimum Rent, except for permanent reductions in Fixed Minimum Rent due to a permanent Taking) shall be increased (but not decreased) by a percentage equal to the percentage increase in the Index published for the month which is four (4) months prior to the Rent Adjustment Date compared to the Index published for the month which is sixty-four (64) months prior to such Rent Adjustment Date; however, in no event shall Fixed Minimum Rent be increased on any Rent Adjustment Date by more than 10% (when compared with Fixed Minimum Rent in effect immediately prior to such Rent Adjustment Date).

5.5.2. Intentionally Omitted.

5.6. Percentage Rent

5.6.1. Percentage Rent. From and after the Rent Commencement Date, in addition to Fixed Minimum Rent to be paid by Tenant, Tenant shall pay Percentage Rent to Landlord for each Lease Year during the Term. Percentage Rent shall be payable monthly in arrears and adjustments for any overpayment or underpayment shall be made each year, all as more particularly described in this Section 5.6. On each Rent Adjustment Date, (a) Annual Base Sales shall be adjusted to the sum determined by dividing the Annual Fixed Minimum Rent (as adjusted pursuant to Section 5.5.1 on such Rent Adjustment Date) by the Percentage Rent Rate, and (b) Monthly Base Sales shall be adjusted to the sum determined by dividing the Annual Base Sales, as hereinabove adjusted, by twelve (12).

5.6.2. Monthly Sales Statements. Within twenty (20) days after the end of each calendar month, Tenant shall deliver to Landlord a Monthly Sales Statement specifying the total Gross Sales made for the preceding calendar month for information purposes only. Commencing with the first calendar month in which Tenant's Gross Sales first exceed the Annual Base Sales amount for such full or partial Lease Year, each Monthly Sales Statement shall be accompanied with a payment to Landlord equal to the product obtained by multiplying the Percentage Rent Rate by the amount of Gross Sales during the preceding month, except that the calculation of the first month in which the Annual Base Sales amount is exceeded shall be equal to the product obtained by multiplying the Percentage Rent Rate by the amount of Gross Sales that is in excess of the Annual Base Sales amount.

5.6.3. Annual Sales Statements. Within forty-five (45) days after the end of each Lease Year (including, without limitation, the last Lease Year of the Term), Tenant shall deliver to Landlord an Annual Sales Statement specifying the total Gross Sales for each month of the preceding Lease Year together with details of Permitted Exclusions, if any. The aggregate amount of Percentage Rent payable by Tenant for all months of the Lease Year as set forth in the Annual Sales Statement shall be compared to the total amount of Percentage Rent paid by Tenant during each month of the Lease Year covered by such Annual Sales Statement. If Tenant shall owe any additional Percentage Rent, the Annual Sales Statement shall be accompanied by payment of such amount. If Tenant has overpaid Percentage Rent, then Tenant shall be credited the amount of such overpayment against the next monthly payment(s) of Percentage Rent until such overpayment has been exhausted; however, within thirty (30) days following the Expiry Date, any such excess sums not previously credited shall be refunded to Tenant.

5.7. Real Estate Taxes Assessed Against the Premises. Tenant shall, at the option of Landlord, either (a) pay to Landlord or (b) pay to the taxing authority, for each fiscal year ending or commencing within the Lease Term, the amount of all Real Estate Taxes assessed or levied on the Premises (including all Real Estate Taxes assessed or levied on the land and improvements constituting the Premises). In the event Landlord elects to have Tenant pay the Real Estate Taxes to Landlord, Tenant shall pay such Real Estate Taxes within fourteen (14) days after receipt of an invoice from Landlord (provided Tenant shall not be responsible for any interest, penalties and other amounts resulting from Landlord's failure to timely deliver any such tax statement or timely forward such payments from

Landlord's failure to timely deliver any such tax statement or timely forward such payments from Tenant to the taxing authority). In the event Landlord elects to have Tenant pay the Real Estate Taxes directly to the taxing authority, Tenant shall pay such Real Estate Taxes at least fifteen (15) days prior to delinquency and shall contemporaneously therewith provide evidence to Landlord of such payments. Landlord shall furnish Tenant with copies of any appropriate tax bills and statements promptly following Landlord's receipt thereof. Tenant may pay such Real Estate Taxes in installments in any case where payment in installments is permitted by the taxing authority and shall be liable only for Real Estate Taxes payable for periods included within the Lease Term. Tenant may contest with the appropriate taxing authority the amount of Real Estate Taxes or the increases in Real Estate Taxes applicable to the Premises which Tenant is obligated to pay; provided, however, Tenant shall (i) give Landlord written notice of any such intention to contest such Real Estate Taxes, (ii) indemnify and protect Landlord from all liability on account of said contest (including, without limitation, any increase in tax liability to Landlord because of such contest, and, to the extent Landlord shall be required to be involved in any such contest by the appropriate taxing authority, all expenses incurred by Landlord as a consequence of such involvement), (iii) pay the contested amount "under protest" when due as required by the Lease, and (iv) in the event of a final determination adverse to Tenant, prior to enforcement, foreclosure or sale, pay to Landlord the amount involved together with all penalties, fines, interest, costs and expenses which may have accrued.

If the Premises is not assessed separately, then to determine the amount of Real Estate Taxes levied and assessed against the property comprising the Premises: (i) with respect to the land comprising the Premises, there shall be prorated a portion of such taxes equal to the fractional portion of the Real Estate Taxes levied and assessed on the property comprising the tax parcel, the numerator of which shall be the number of square feet of land in the Premises and the denominator of which shall be the total number of square feet of land in the tax parcel, and (ii) with respect to the Improvements constructed on the Premises, there shall be prorated a portion of such taxes equal to the fractional portion of the real estate taxes levied and assessed on the improvements constructed on the tax parcel, the numerator of which shall be the number of square feet of floor area of all Improvements constructed on the Premises and the denominator of which shall be the number of square feet of floor area of all improvements constructed on the tax parcel. After the Effective Date, the parties shall use good faith diligent efforts to obtain from the taxing authorities a separate tax bill for, or a segregation of, the Real Estate Taxes applicable to the Premises to enable the Premises to be separately assessed. Until the Premises is separately assessed, the parties shall continue to make payments of Real Estate Taxes in accordance with the foregoing provision.

5.8. Ring Road Contribution Amount.

5.8.1. Ring Road Contribution Amount. From and after the Rent Commencement Date, Tenant shall pay to Landlord the Ring Road Contribution Amount in equal monthly installments on the first day of each month, in advance. Effective upon January 1, 2002 and each January 1 thereafter during the Term (each such date is hereinafter referred to as an "Adjustment Date"), the Ring Road Contribution Amount shall be increased by 5% over the Ring Road Contribution Amount for the prior year (or partial year, with respect to the initial increase).

6. INTENTIONALLY OMITTED

7. GROSS SALES

7.1. Definition of Gross Sales

7.1.1. Gross Sales Defined. Gross Sales means the aggregate selling price (including finance charges which are not separately stated from the merchandise price), whether for cash or on credit, for all sales by Tenant, its subtenants, licensees, concessionaires and any other person or entity for merchandise, food, beverages, services, gift or merchandise certificates, and all other receipts of business conducted at, in, on, about or from the Premises, including, but not limited to, all mail or telephone orders received or filled at or from the Premises, and including all deposits not refunded to purchasers, all orders taken in and from the Premises, whether or not said orders are filled elsewhere, receipts of sales through any vending machines or other coin or token-operated device, or otherwise at, in, on, about or from the Premises, including any proceeds from audio games and video games and all other games, rides and amusement devices conducted at the Premises.

7.1.2. Permitted Exclusions. The following (collectively, "Permitted Exclusions") shall not be part of Gross Sales: (a) Returns and refunds to customers for goods and services previously included as Gross Sales, (b) the amount of any sales tax or other excise tax imposed upon sales and charges (but only if such sales tax, excise tax or similar tax is billed to the purchaser as a separate item), (c) returns to shippers and manufacturers, (d) exchanges of goods between

Tenant's stores and warehouses when the same is for a legitimate business purpose and not for the purpose of depriving Landlord of Percentage Rent, (e) sales of fixtures and equipment not constituting Tenant's stock-in-trade, (f) sales from vending machines located in non-sales areas and used only by employees of Tenant, (g) sums and credits received in the settlement of claims (h) charges for alterations, gift-wrapping and deliveries if such services are incidental to the Permitted Use and for which Tenant reasonably demonstrates it makes no profit, (g) meals provided to employees of Tenant who work at the Leased Premises, during or immediately before or after their normal working hours, provided that the amount of such meals is registered and included in Gross Sales, and provided that in no event shall such amount exceed two percent (2%) of Tenant's Gross Sales during any Lease Year, (h) proceeds from Tenant's insurance policies (except to the extent received by Tenant as compensation for lost sales or profits), (i) amounts received by Tenant from its patrons as a service charge or gratuity if passed on to Tenant's employees without deduction, and (j) amounts received by Tenant's employees from Tenant's patrons as gratuities or tips for service.

7.1.3. Credit Sales. Each sale on an installment basis (such as so-called lay-away sales) or otherwise involving the extension of credit shall be treated as a sale for the full price in the period in which occurs the earliest of the following: (a) Tenant first considers the same a sale for accounting purposes, or (b) delivery or performance is first commenced.

7.2. Tenant's Records. All business upon the Premises shall be operated so that duplicate, dated sales slips, dated invoices, register receipts or similar evidence of payment serially numbered, shall be issued with each sale, transaction or other event resulting in Gross Sales or Permitted Exclusions ("Tenant's Receipts"). For the purpose of permitting verification by Landlord of any amounts due as Percentage Rent, Tenant shall keep and preserve at all times during the period required, at Tenant's corporate headquarters located in the United States, full, complete and accurate non-consolidated books of account of all items constituting Gross Sales and shall obligate all other persons and entities generating Gross Sales from the Premises to keep similar records (collectively "Tenant's Records"). Tenant's Records shall (a) disclose in detail all information reasonably required to permit Landlord to verify Tenant's Gross Sales, (b) conform to and be in accordance with generally accepted accounting principles consistently applied with respect to all operations of the business conducted from the Premises, (c) be maintained in the English language and (d) be kept and preserved for at least thirty-six (36) months following the end of the Lease Year for which the same pertain (or such longer period, if commencing during such 36-month period the same may need to be consulted in reference to any dispute or audit, until such dispute or audit has been finally resolved).

7.3. Audits. All Tenant's Records shall be maintained at Tenant's corporate headquarters located in the United States. Landlord shall have full and free access to examine Tenant's Records upon not less than twenty (20) days' prior written notice from Landlord to Tenant for the purpose of verifying Tenant's compliance with the provisions of Article 5 and this Article 7. Further, thereafter, Landlord and its agents shall have the right at any time during normal business hours, after no less than twenty (20) days' prior written notice to Tenant, to cause a complete examination or audit to be made of Tenant's Records for the purpose of verifying Tenant's compliance with the provisions of Article 5 and this Article 7. If an audit or examination shall disclose that any Annual Sales Statement understates Gross Sales for the reporting period, then (a) within ten (10) days after written demand Tenant shall pay to Landlord the resulting deficiency in Percentage Rent, if any, together with interest thereon at the Agreed Rate calculated from the date such amount first became due and (b) if Gross Sales is understated by four percent (4%) or more, Tenant shall pay to Landlord all reasonable costs and expenses relating to such examination or audit (including, without limitation, reasonable travel costs, but not including the cost of lodging or meals). The results of any such audit shall be confidential and Landlord shall not supply any such information to any third party, except Landlord's legal counsel, Landlord's accountants, the Manager and its representatives and any court of competent jurisdiction.

7.4. Failure of Tenant to Provide Statements. If Tenant should fail to timely provide any Monthly Sales Statement or any Annual Sales Statement in the manner and form required by this Lease, then, without limitation as to any and all rights and remedies available to Landlord in this Lease, at law and in equity, Landlord shall also have the right (a) to audit Tenant's Records for the period in question, at Tenant's sole cost and expense, and the result of such audit shall be binding upon both Landlord and Tenant in determining the Percentage Rent due for such period, and/or (b) to invoice Tenant the sum of \$100.00 per incident to cover the additional time and expense involved to obtain each such Monthly Sales Statement or Annual Sales Statement; provided however that for the first time in any calendar year that Tenant has failed to provide any Monthly Sales Statement as herein required, the foregoing sum shall not be payable by Tenant and the special binding audit right set forth in Section 7.4(a) hereof shall not be applicable unless Tenant has failed to provide such Monthly Sales

Statement within ten (10) days of receipt of Landlord's written notice of such failure. Landlord shall not be required to give Tenant such notice more than one (1) time in any calendar year prior to assessing the foregoing sum and/or invoking its right under Section 7.4(a). Landlord's right to audit shall be limited to once every Lease Year, provided that in the event any audit (i) reveals an understatement of more than four percent (4%), said limit shall thereafter be inapplicable and (ii) results in a dispute between Landlord and Tenant, and such dispute may be resolved by another audit, Landlord shall be entitled to a second audit.

8. INDEMNITY AND INSURANCE

8.1. Indemnification

8.1.1. Indemnification by Tenant. Tenant hereby indemnifies, and holds Landlord and the Landlord Parties harmless from and against, and shall defend Landlord and the Landlord Parties (with counsel approved by Landlord in its reasonable judgment) against, any and all Claims arising, claimed, charged or incurred against or by Landlord or any of the Landlord Parties from any matter or thing arising from (a) damage to property, or injury to or death of persons, which occurs (i) in, on or about the Premises, Premises Common Area and/or the Improvements from any cause ("Premises Claim"), or (ii) in, on or about the remainder of the Center resulting directly or indirectly out of or in connection with the possession, use, occupation, management, maintenance, repair, control and enjoyment of the Premises and/or the Improvements, or any act or omission or active negligence of Tenant or any of the Tenant Parties ("Exterior Claim"), or (b) any broker, finder or other person claiming commission or other compensation in connection with a proposed Transfer; however, Tenant shall not be liable for any Premises Claim to the extent resulting from the active negligence or willful misconduct of any of Landlord or the Landlord Parties or for any Exterior Claim to the extent resulting from the active negligence or willful misconduct of any of Landlord or the Landlord Parties, unless, in either event, such Claims are covered or would have been covered by insurance that Tenant is required to provide under the terms of this Lease or are otherwise covered by insurance carried by Tenant.

8.1.2. Indemnification by Landlord. Landlord hereby indemnifies, and holds Tenant and the Tenant Parties harmless from and against, and shall defend Tenant and the Tenant Parties against any and all Claims arising, claimed, charged or incurred against or by Tenant or any of the Tenant Parties from any matter or thing arising from damage to property, or injury to or death of persons, which occurs (a) in, on or about the Premises from any cause to the extent due to the active negligence or willful misconduct of Landlord or the Landlord Parties, or (b) in, on or about the remainder of the Center, including, but not limited to, the Common Area (but expressly excluding the Premises Common Area), to the extent due to the active negligence or willful misconduct of Landlord or the Landlord Parties.

8.1.3. Release and Waiver. If any part of the Premises, the Improvements or the Center is damaged by fire or other cause for which Tenant is required to carry insurance pursuant to this Lease or for which Tenant otherwise carries insurance, Landlord shall not be liable to Tenant or any of the Tenant Parties for any loss, cost or expense arising out of or in connection with such damage. Tenant hereby releases Landlord and the Landlord Parties from any liability, claim or action arising out of or in connection with such damage. Furthermore, Tenant's All Risk insurance required pursuant to Section 8.2.3(a) shall include coverage against loss, injury, or damage which may be sustained by the person, goods, wares, merchandise or property of Tenant, the Tenant Parties, and/or any other person in or about the Premises and the Improvements, caused by or resulting from fire, steam, electricity, gas, water, or rain, which may leak or flow from or into any part of the Premises, the Improvements or the Center, or from the breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures of the same, whether such loss, damage or injury results from conditions arising within the Premises, the Improvements or other portions of the Center, or from other sources, and Landlord shall not be liable therefor, except to the extent caused by Landlord's active negligence or willful misconduct, and in that event only to the extent not covered, and would not have been covered, by insurance which Tenant is required to carry pursuant to this Lease. Landlord shall not be liable to Tenant for any damages arising out of or in connection with any act or omission of any Occupant or for losses due to theft or burglary or other wrongful or negligent acts of third parties.

8.2. Tenant's Insurance

8.2.1. Liability Insurance. From the Delivery Date until the end of the Term, Tenant shall, at its sole cost and expense, obtain and maintain in full force and effect, (a) commercial general liability insurance written on an "occurrence" form, with limits of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 annual aggregate covering bodily injury, property damage, personal injury and advertising injury and (b) umbrella liability insurance providing coverage at least as broad as the commercial general liability insurance required by this Section 8.2.1, but with limits of not less than \$5,000,000.00 per occurrence and annual aggregate in excess of the limits provided by commercial general liability insurance maintained by Tenant. In addition to satisfying the foregoing requirements, Tenant's commercial general liability insurance and umbrella liability insurance shall also (i) provide that Landlord and Landlord's Designees (if Landlord has provided to Tenant written notice of such Designees) are named as additional insureds, as their interest may appear, and (ii) provide contractual liability coverage for personal injury, advertising injury, bodily injury and property damage that it is not limited to the tort liability of another. The insurance required to be procured pursuant to this Section 8.2.1 shall contain an aggregate limit per location endorsement. In no event shall the minimum limits of, or any other requirements relating to, the insurance required by this Section 8.2.1 be considered as limiting the liability of Tenant under this Lease.

8.2.2. Workers' Compensation Insurance. From the Delivery Date until the end of the Term, Tenant shall, at its sole cost and expense, obtain and maintain in full force and effect workers' compensation and employer's liability insurance covering all employees of Tenant engaged on or with respect to the Premises and/or the Improvements, affording applicable statutory limits for workers' compensation coverage and at least \$1,000,000.00 in limits for employer's liability coverage.

8.2.3. Property Insurance. From the Delivery Date until the end of the Term, Tenant shall, at its sole cost and expense, obtain and maintain in full force and effect (a) "All-Risk" property insurance insuring against all risks of direct physical loss or damage included within the broadest available policy form written by insurance companies authorized to do business in the state in which the Center is located, together with insurance against earthquake and flood (if reasonably required by Landlord) covering Tenant's Improvements, leasehold improvements, trade fixtures, equipment, furniture, merchandise, signs and other personal property from time-to-time located on the Improvements, which property insurance shall (i) be in an amount not less than one hundred percent (100%) of the full replacement value thereof, less the cost of excavations, foundations, footings, conduits, pipes, pilings and other underground items, such other reasonable coverages and/or endorsements as Landlord may from time-to-time request upon written notice to Tenant, (b) boiler and machinery insurance on all boilers and other pressure vessels, the HVAC serving the Improvements, and electrical and mechanical equipment and systems serving the Improvements, which insurance to be in an amount not less than \$1,000,000.00 and (c) insurance covering all plate glass on the Improvements. The proceeds of such insurance under (a), (b) and (c) above, so long as this Lease remains in effect, shall be retained or dispersed by Tenant in accordance with the terms and conditions of this Lease. The insurance required to be maintained by Tenant under this Section 8.2.3 may be provided under blanket policies of insurance covering both the Improvements and other properties and locations of Tenant, provided such policies comply with all of the requirements of this Section 8.2.3 and Section 8.2.5 and the coverages afforded to Landlord and Landlord's Designees are in no way impaired, diminished or reduced by reason of the use of such blanket policies and further provided that such blanket policies contain, permit or otherwise unconditionally authorize the waiver of subrogation set forth in Section 8.4.

8.2.4. Construction Insurance. Prior to commencing any Tenant's Improvements and upon written request by Landlord, Tenant shall provide Landlord with evidence that Tenant carries builder's risk insurance covering the construction of such Tenant's Improvements. All improvements constituting Tenant's Improvements shall be insured by Tenant under the other policies required under this Article 8 immediately upon completion of such work.

8.2.5. General Provisions. All insurance policies maintained by Tenant under this Lease shall (a) be issued by insurance companies authorized to do business in the state in which the Center is located, with a "Best's" rating of not less than A and a financial size category of not less than Class XI as rated in the most current available "Best's" Insurance Reports, and (b) contain a provision that the insurance companies writing such policies shall give to Landlord thirty (30) days' notice in writing in advance of any cancellation, lapse, reduction or other adverse change respecting such insurance.

8.2.6 Certificates of Insurance; Failure to Provide Insurance. Tenant shall deliver to Landlord, prior to the Delivery Date, upon Landlord's written request, and thereafter at least thirty (30) days prior to the expiration of any such policy, a certificate of insurance of all policies of insurance required to be obtained and maintained by Tenant under this Lease (including blanket policies). If, at any time during the Term, Tenant fails to obtain and maintain any insurance which Tenant is required to obtain and maintain under this Lease or to timely provide Landlord with certification of insurance, Landlord shall have the right (but not the obligation) after Tenant fails to obtain such insurance within five (5) business days of Landlord's notice to Tenant that such insurance has not been obtained by Tenant as required herein, to procure such insurance and Tenant shall pay to Landlord, promptly on demand, the costs and expenses thereof together with interest at the Agreed Rate from the date Landlord first made any expenditures therefor. If Tenant obtains and maintains blanket insurance in conformity with the provisions of this Section 8.2, then the requirement that Tenant furnish Landlord with originals or certificates shall be satisfied by Tenant's delivery to Landlord of an underlying certificate(s) of such blanket insurance in form reasonably satisfactory to Landlord for the appropriate insurance.

8.3. Landlord shall carry, or shall cause other Occupants to carry, Commercial General Liability Insurance covering the Common Area of the Center (expressly excluding the Premises Common Area) in such amounts as Landlord may from time to time determine in its reasonable business judgment. Any insurance procured under this Section 8.3 may be included in a policy or policies of blanket insurance.

8.4. Waiver of Subrogation. Landlord and Tenant each hereby waives any and all rights of recovery against the other or against the Tenant Parties and Landlord Parties, respectively, and Tenant hereby waives any and all rights of recovery against the Major Occupants, on account of loss or damage of such waiving party or its property, or the property of others under its control, to the extent that such loss or damage is insured against under any property insurance policy which either may have in force at the time of such loss or damage. In as much as the above mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation (or otherwise) to any insurance company (or any other person or entity), Landlord and Tenant severally agrees immediately to give each insurance company which has issued to it policies of insurance, written notice of the terms of said mutual waivers, and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of said insurance coverages by reason of said waivers.

9. UTILITIES

9.1. Utilities. From the Delivery Date until the end of the Term, Tenant shall, at Tenant's sole cost and expense, pay all charges incurred for the use of utility services at the Premises, including, without limitation: all heat, ventilation, air conditioning, water, natural gas, electricity and other utilities. Tenant shall make payment directly to the entities providing such utilities and services.

9.2. Interruption of Services. Landlord shall not be in default and neither Landlord nor the Landlord Parties shall be liable for any damages directly or indirectly resulting from an interruption in any of the Utilities, the quality or quantity of the Utilities, the unavailability of any of the Utilities, or from cooperating with the energy conservation requirements of governmental agencies or utility suppliers and none of the preceding shall (a) constitute an eviction or disturbance of Tenant's use and possession of the Premises, (b) constitute a termination of this Lease, (c) entitle Tenant to an abatement of any Rent (except as expressly provided in this Section) or (d) relieve Tenant from performing any of its obligations under this Lease. If (i) there is an interruption in any of the Utilities due to the active negligence or willful misconduct of Landlord or the Landlord Parties ("Utility Interruption") and (ii) the Utility Interruption materially, adversely interferes with Tenant's use and occupancy of the Premises such that Tenant cannot reasonably conduct business upon the Premises or any portion thereof and (iii) Tenant does not use the Premises or any portion thereof during the period of the Utility Interruption and (iv) Tenant has notified Landlord in writing of the Utility Interruption ("Utility Interruption Notice"), then if the Utility Interruption continues for three (3) consecutive days following the date Landlord receives the Utility Interruption Notice (or otherwise becomes aware of the Utility Interruption), Fixed Minimum Rent and Additional Rent shall be abated from the first date of the Utility Interruption until the earlier of the date the Utility Interruption ceases or Tenant conducts any business upon the Premises.

9.3. Intentionally Omitted.

10. USE AND OPERATION

10.1. Use.

10.1.1. Permitted Use.

10.1.1.1. **Required Operating Period.** Throughout the Required Operating Period (as that term is defined in Section 10.3.1), Tenant shall use the Premises (a) only for the Permitted Use and for no other use or purpose, except with the written consent of Landlord, which consent shall not be unreasonably withheld if such proposed alternative use is another food service use, provided that if the proposed alternative use is other than a full-service, sit-down restaurant operation, then Landlord may withhold its consent in its sole and absolute discretion, and (b) solely and specifically under the Trade Name and under no other trade name. Tenant may, however, without Landlord's consent, change its Trade Name to the trade name used by Tenant for substantially all of its restaurants located in Texas with a similar business operation as permitted under this Lease, provided that such trade name does not conflict with the trade name of any other tenant of the Center. Tenant shall notify Landlord in writing at least thirty (30) days prior to effecting any change in its trade name. Any modification to Tenant's store front signs in connection with such a change in the Trade Name shall be subject to Landlord's prior written approval, which approval shall not be unreasonably withheld.

10.1.1.2. **After the Required Operating Period.** After the expiration of the Required Operating Period, in the event Tenant proposes to change the Permitted Use of the Premises to another use, other than a "Prohibited Use" (as defined in Section 10.1.1.3), Tenant shall give Landlord written notice of the proposed change of use (a "Change of Use Notice"), and Landlord may, at its option, terminate this Lease by giving Tenant written notice of Landlord's election to so terminate, which notice to terminate must be given, if at all, to Tenant within sixty (60) days after Landlord's receipt of the Change of Use Notice. If Landlord notifies Tenant that Landlord elects to terminate this Lease as provided in this Section 10.1.1.2, this Lease shall terminate on the thirtieth (30th) day after Tenant's receipt of Landlord's notice of Landlord's election to terminate this Lease. Upon a termination of the Lease pursuant to this Section 10.1.1.2, (i) Tenant shall, at Tenant's sole cost and expense, on or before the termination date specified in Landlord's notice, return the Premises to Landlord in the manner and condition set forth in Section 13.1 below, and (ii) Landlord shall pay to Tenant on or before the effective date of such termination, a termination payment equal to the unamortized book value of the Initial Leasehold Improvements Cost with a straight-line amortization schedule and an amortization period equal to twenty (20) years. As used herein, the term "Initial Leasehold Improvements Cost" shall mean the actual amount spent by Tenant on Tenant's Work in connection with the initial construction of the Premises less the Construction Allowance (as that term is defined in Exhibit C). In the event Landlord fails to terminate this Lease pursuant to the provisions of this Section 10.1.1.2, then the use of the Premises may be changed from the Permitted Use to the proposed use as set forth in Tenant's Change of Use Notice, subject, however, to the provisions of Section 10.1.1.3.

10.1.1.3. Notwithstanding anything to the contrary contained herein, the Premises shall not at any time during the Term be used for any of the following uses or purposes (singularly a "Prohibited Use" and collectively the "Prohibited Uses"):

10.1.1.3.1. a business devoting more than 10% of its total floor space for the sale of food and groceries for off premises consumption;

10.1.1.3.2. a business devoting more than 10% of its total floor space for the sale of building supplies and home improvement items;

10.1.1.3.3. except for the Permitted Use, a business

wherein Tenant would charge customers to view movies or live theatrical performances;

10.1.1.3.4. a business devoting more than 10% of its total floor space for the sale of printed books and/or periodicals;

10.1.1.3.5. offices (except as incidental to a permitted retail or commercial business);

10.1.1.3.6. a funeral home;

10.1.1.3.7. any production, manufacturing, industrial, or storage use of any kind or nature, except for storage and/or production of products incidental to the retail sale thereof from the Shopping Center;

10.1.1.3.8. except for the Permitted Use, entertainment or recreational facilities ("entertainment or recreational facilities" includes, but is not limited to, a bowling alley, billiard room or pool hall, skating rink, electronic or mechanical games arcade [except as incidental to a retail or commercial business, in which case such use shall be restricted to less than five percent (5%) of the floor area occupied by such business], massage parlor, discotheque, dance hall, nightclub, bar or tavern, banquet hall, pornographic or "adult" store, racquetball court, gymnasium, health spa or health club or health studio or fitness center, or other place of public amusement);

10.1.1.3.9. training or educational facilities ("training or educational facilities" includes, but is not limited to, a beauty school, child care facility, barber college, library, reading room, church, school, place of instruction, or an other operation catering primarily to students or trainees rather than to customers);

10.1.1.3.10. car washes, or the displaying, repairing, renting, leasing, or sale of any motor vehicle, boat or trailer;

10.1.1.3.11. dry cleaner with on-premises cleaning;

10.1.1.3.12. any use which creates a nuisance or materially increases or the emission of dust, odor, smoke, gases, or materially increases fire, explosion or radioactive hazards in the Center;

10.1.1.3.13. second-hand or thrift stores, or flea markets;

10.1.1.3.14. any use involving Hazardous Materials in violation of applicable Environmental Law;

10.1.1.3.15. any use in violation of any of the provisions of Section 10.2 hereof;

10.1.1.3.16. any use that would be in violation of any Superior Agreements affecting the Center; and

10.1.1.2.17. any use that would be in violation of any exclusive use right now or hereafter granted to any Occupant of the Center or the adjacent property currently known as Valley View Mall provided that Tenant is provided notice of such exclusive.

10.1.2. Use Preference. Provided (a) the Premises are used continuously and exclusively for the Permitted Use provided at Section 1.11, (b) Tenant continuously operates (excluding periods of non-operation due to casualty, condemnation or a reasonable period of time [not to exceed 180 days in the aggregate in any three (3) consecutive calendar year period] for Tenant repairs or remodeling) the Premises solely for the Permitted Use set forth in Section 1.11, and (c) Tenant is not in default of this Lease beyond any applicable notice and cure period, then Landlord shall not, at any time after the Effective Date through the remaining Term, enter into a lease with, or sell a portion of the Center to, an Occupant occupying any portion of the Center delineated on Exhibit J as the "Restricted Area" that would provide that the premises of any such Occupant may be used as: (i) a restaurant or other business primarily serving pizza; (ii) a business primarily operating as an arcade or gameroom; (iii) a business primarily providing physical play activities for children; or (iv) a business primarily entailing the use of kiddie rides or kiddie games. If the use preference granted Tenant in this Section ("Use Preference") shall be declared invalid or shall subject Landlord to a fine or other monetary damages or other penalties as a result of any applicable federal, state or local law or judicial proceedings, the Use Preference shall immediately be null and void and have no further force or effect. Landlord agrees to notify Tenant in writing within fifteen (15) days of any claim which may be asserted against Landlord in connection with the provisions of this Section 10.1.2. Notwithstanding the foregoing, Tenant acknowledges and agrees that the provisions of this Section 10.1.2 shall not be applicable to any of the following (hereinafter collectively referred to as "Excepted Occupants"): (i) any existing Occupant (including successors and assigns of such Occupants), (ii) any new lease or other occupancy agreement with such Occupant, any extension of any existing lease or other occupancy agreement with such Occupant and/or any relocation of any such Occupant who, as of the Effective Date of this Lease, operates or is permitted to operate its business in the Restricted Area for the Use Preference, (iii) any Occupant occupying less than 2,000 square feet or in excess of 20,000 square feet, (iv) any Occupant of the Premises, (v) any portion of the property currently known as Valley View Mall, and (vi) Occupants occupying any portion of the Center or any other land other than the Restricted Area.

10.1.2.2. Tenant Remedy for Breach. In the event Landlord breaches this Section 10.1.2, Tenant's sole and exclusive remedy incident to such breach shall be to seek injunctive relief and/or monetary damages. Tenant hereby expressly waives the right to pursue any other rights or remedies incident to such breach (including, without limitation, the right to terminate this Lease).

10.1.2.3. Governmental Action. If any third party or a federal, state or local governmental body or agency commences an investigation, inquiry, proceeding or action against Landlord and/or Tenant arising out of, from, or on account of, directly or indirectly, the terms and conditions of this Section 10.1.2, then Tenant, at its sole cost and expense, shall indemnify, defend and save Landlord free and harmless from and against all loss, damages, claims, actions or proceedings, including all costs, expenses and attorneys' fees resulting therefrom.

10.1.2.4. Rights Personal. The provisions of this Section 10.1.2 are personal to Tenant and Tenant Affiliates, and if Tenant shall effect a Transfer to any other person or entity, then, upon such Transfer, the provisions of this Section 10.1.2 shall cease to be of any force or effect.

10.2. Prohibited and Restricted Uses. Tenant shall do none of the following: (a) Permit anything to be done in or about the Improvements or the Premises nor bring or keep anything therein which will in any way increase the existing rate of, or affect any, fire or other insurance upon the Premises, the Improvements or the Center or cause a cancellation of any insurance policy covering the Premises, the Improvements or the Center or any part thereof or any of its contents; (b) knowingly and willfully obstruct or interfere with the rights of Occupants or injure them; (c) use any loudspeakers, phonographs, televisions or other devices of similar nature in such manner as to be heard or viewed outside of the Improvements; (d) emit any offensive noise, odors, fumes or smoke (except in connection with reasonable and customary restaurant operations, and in any event in compliance with all legal requirements and any other covenants, conditions and restrictions affecting the Premises or the Center); (e) use the Premises and/or the Improvements for any improper, unethical, immoral, unlawful, pornographic or other similarly objectionable or offensive purpose; (f) conduct or permit in the Premises and/or the Improvements any fire, bankruptcy, auction, "closeout", "going out of business" or similar sale; (g) use any part of the Center (other than the inside of the Improvements) for the sale, display or storage of any merchandise or for the solicitation of customers or for any other

business, occupation or undertaking; (h) use any portion of the Premises and/or the Improvements as living quarters, sleeping quarters or for lodging purposes; (i) keep or place any merchandise or other personal property or other obstruction in any part of the Common Area; or (j) permit any prohibited signs or media specified at Section 11.3. The Improvements shall be kept in a clean condition (in accordance with good commercial practices), and all health and police regulations shall, in all respects and at all times, be fully complied with by Tenant. Tenant shall not knowingly commit or allow to be committed any waste upon the Premises and/or the Improvements.

10.3. Days and Hours of Operation.

10.3.1. Required Operating Period. Tenant covenants and agrees that Tenant shall, for a period of five (5) years commencing on the Required Opening Date (the "Required Operating Period"), conduct the Permitted Use in substantially all of the Building and continuously and uninterruptedly keep the Improvements open for business for the Permitted Use and under the required Trade Name during at least the minimum hours of operation of Tenant at the majority of Tenant's other Chuck E. Cheese's restaurants located in Texas and operated by Tenant in a manner similar to the Permitted Use (but in any event no less than the typical hours of operation for similar restaurants in the geographical area where the Center is located), subject to interruption of business actually caused by casualty or condemnation or a reasonable period of time (not to exceed one hundred eighty (180) days in the aggregate in any three (3) consecutive calendar year period for Tenant repairs or remodeling. Tenant shall have its exterior signs and exterior advertising displays adequately illuminated continuously during Tenant's hours of operation. If Tenant fails to comply with the provisions of this Section 10.3.1 the same shall be deemed a breach of this Lease, and in addition to Landlord's other remedies under this Lease, Landlord shall have the right to collect from Tenant, in addition to the other Rent, a sum equal to one hundred fifty percent (150%) the Fixed Minimum Rent (prorated on a daily basis) for each such full or partial day Tenant fails to comply with the provisions of this Section 10.3.1 Tenant acknowledges that its failure to comply with this Section 10.3.1 will cause Landlord to suffer damages which will be difficult to ascertain and that the sum payable by Tenant under this Section 10.3.1 represents a fair estimate of such damages.

10.3.2. After the Required Operating Period. If at any time after the Required Operating Period Tenant has ceased to operate its business in substantially all of the Premises as provided in Section 10.3.1 for reasons other than necessary reconstruction after damage or destruction of the Premises or a reasonable period of time not to exceed 180 days in the aggregate in any three (3) consecutive calendar year period for Tenant repairs or remodeling (the "Shutdown Period"), Landlord may elect to terminate this Lease at any time thereafter upon written notice to Tenant. If Landlord exercises Landlord's option to terminate as provided in this Section 10.3.2, this Lease shall be deemed terminated on the date specified in such termination notice. Upon a termination of the Lease pursuant to this Section 10.3.2, (i) Tenant shall, at Tenant's sole cost and expense, on or before the termination date specified in Landlord's notice, return the Premises to Landlord in the manner and condition set forth in Section 13.1 below, and (ii) Landlord shall pay to Tenant on or before the effective date of such termination, a termination payment equal to the unamortized book value of the Initial Leasehold Improvements Cost with a straight-line amortization schedule and an amortization period equal to twenty (20) years.

10.4. Deliveries. To the extent possible Tenant shall use reasonable efforts to ensure that all deliveries, loading, unloading and services to the Improvements shall be completed prior to 10:00 a.m., and Tenant shall use commercially reasonable efforts to prevent delivery trucks and other vehicles servicing the Improvements from parking or standing in the Center.

10.5. Retail Restriction Limit. Neither Tenant nor any person, partnership, corporation or other entity in which Tenant has a financial interest or who or which has a financial interest in Tenant (other than stock of Tenant if such stock is publicly traded) shall, at any time after the Effective Date, directly or indirectly, either individually, as a partner, stockholder (other than stock held in a public company) or otherwise, own, operate or otherwise become financially interested in any business (including departments and concessions in other stores) substantially similar to or directly competing with the business operating in the Improvements, and under the same or a substantially similar trade name as Tenant's Trade Name ("Competing Interest") within the Radius ("Retail Restriction Limit"). This Section 10.5 shall not apply to any Competing Interest in a business it is operating within the Retail Restriction Limit on the Effective Date so long as it continually operates (except for temporary closings for remodeling, a casualty or condemnation) and continues to operate in the same manner. If Tenant violates the provisions of this Section 10.5, then Landlord, in its sole discretion and without limiting Landlord's remedies under this Lease, at law or in equity, may (a) declare such violation to be a non-curable default under this Lease and terminate this Lease and/or (b) include the gross sales made from any such business(es) within the Retail Restriction Limit in the Gross Sales under this Lease for

so long as there continues to be a violation of this Section 10.5. If Landlord elects to include the gross sales from such other business in the Gross Sales pursuant to (b) preceding, then all gross sales and Tenant's records from such business shall be subject to the provisions of Section 5.6 and Article 7.

10.6. Compliance with Laws. Tenant (a) shall promptly at its sole cost and expense comply with all Governmental Regulations affecting the Premises and the Improvements and (b) shall not knowingly cause anything in the Center to conflict, or permit anything in the Premises and/or the Improvements which conflicts, in any way with any Governmental Regulations. Without limiting the generality of the foregoing, Tenant, at its sole cost and expense, shall comply at all times with all Governmental Regulations relating to the installation, construction, maintenance, repair and/or replacement of the Improvements and the Premises. The judgment of any court of competent jurisdiction or the admission of Tenant in any judicial action, regardless of whether Landlord is a party thereto, that Tenant has violated any Governmental Regulations shall be conclusive of that fact as between Landlord and Tenant.

10.7. Fire/Life Safety. Tenant shall purchase, install, maintain, repair and replace upon the Improvements fire/life safety systems and equipment required by governmental authorities. All fire/life safety systems shall at all times be maintained in good working order and condition and in accordance with the manufacturers instructions.

10.8. Personal Property and Other Taxes. Tenant shall be responsible for the payment of, any and all taxes, assessments and public charges levied, assessed or imposed during the Term by governmental authorities upon Tenant's business, upon Tenant's sales, upon Rent, upon Tenant's leasehold interest, and upon all fixtures, furniture, appliances and personal property installed or located in the Premises and/or the Improvements, or that constitute a lien upon any of the foregoing, as well as upon Tenant's right to occupy, or do business at, the Improvements.

10.9 Intentionally Omitted.

10.10. Refuse and Pest Extermination. All refuse of Tenant shall be deposited within trash receptacles located inside the Improvements and in a location outside the Improvements approved by Landlord (as shown on the final approved Plans). All wet refuse and food refuse shall be tightly sealed in bags. Tenant shall use the refuse service provided by the sanitation contractor designated by Landlord; provided, however, such refuse service provided by Landlord's designated sanitation contractor shall be at reasonable and/or competitive costs based on comparable refuse service with commercial sanitation contractors in the service area of the Center. Tenant shall, at Landlord's discretion, pay to Landlord within thirty (30) days following receipt of each invoice therefor, or directly to the sanitation contractor when billed, the charges for such refuse removal from the Premises and the Improvements. If Landlord or any governmental authorities shall institute any recycling program, Tenant shall comply with such program, to the extent reasonably possible. Tenant shall, at its sole cost and expense, use a pest extermination contractor reasonably acceptable to Landlord, at such intervals as shall be reasonably necessary to keep the Premises free from insects and vermin.

11. SIGNS

11.1. Tenant's Signs. Tenant shall, at its sole cost and expense, submit for licenses and permits for, and purchase, install, maintain, operate, repair and replace, as necessary, Tenant's Signs. Tenant's Signs shall (a) comply with all Governmental Regulations and have received the prior approval, if required, of governmental authorities, (b) comply with the provisions of this Lease (c) comply with the Tenant Package, and (d) receive the prior written reasonable approval of Landlord as to size, location, dimensions and appearance. The removal of Tenant's Signs and all work associated with such removal, including without limitation the cost of restoring the storefront due to such removal prior to the Expiry Date or earlier date of termination of this Lease, shall be undertaken by, and at the sole cost and expense of, Tenant. Tenant's Signs shall at all times be maintained in good working order and condition. Notwithstanding the foregoing, Tenant may, at Tenant's sole cost and expense, and in compliance with all governmental regulations and requirements, all the terms and provisions of this Lease and any covenants, conditions, restrictions or easements affecting the Center, erect, install, maintain and operate Tenant's Sign to be placed on the exterior of the Building, of such size, location dimension and appearance as is shown on Exhibit K attached hereto. Tenant shall pay all costs and expenses of design, construction, installation and ongoing maintenance, and all other costs, in connection with all Tenant's Signs.

11.2. Intentionally Omitted.

11.3. Prohibited Signs and Media. Except for any signs and media approved by Landlord in writing (including the signage approved by Landlord and shown on Exhibit K) and except for a "for hire" or "hiring now" banner, Tenant shall not place on the roof, doors, glass panes and supports of the show windows, or within twelve inches (12") of any window or the exterior walls of the Building any sign, symbol, advertisement, shades, or neon, flashing, blacklight, strobe or other similarly distracting lights, or any other object or thing visible to public view outside of the Building, except for Tenant's professionally-displayed merchandise. Tenant shall not cause to be displayed, painted or placed, any handbills, bumper stickers or other advertising devices on any vehicle parked in the automobile parking areas of the Center, whether belonging to Tenant, or its officers, employees or agents, or to any other person, nor shall Tenant solicit or distribute, or cause to be solicited or distributed, any handbills or other advertising devices in the Center.

12. REPAIRS, MAINTENANCE AND ALTERATIONS

12.1. Repairs and Maintenance

12.1.1. Landlord's Repair Obligations. Landlord shall repair and maintain the Ring Road (as depicted on Exhibit K), including any lighting located from time to time on such Ring Road. Notwithstanding anything to the contrary contained herein, Tenant shall repair and maintain, or cause to be repaired or maintained, the Premises Common Area (including all utility lines and facilities located within the Premises Common Area and serving only the Premises). Except as otherwise specifically provided in this Section 12.1.1, and except for the performance by Landlord of Landlord's Work (as set forth in Section 3 of Exhibit C), Landlord shall have no obligation to make any repairs, alterations or improvements to the Premises or the Improvements.

12.1.2. Tenant's Repair Obligations. Tenant shall, at its sole cost and expense, maintain the Improvements, and all other portions of the Premises (including the Premises Common Area and all Improvements located on the Premises), in working order and condition (commensurate with the remainder of the Center), including, but not limited to: (i) making any and all necessary repairs and replacements to the Premises, structural and nonstructural, ordinary and nonordinary; (ii) at reasonable intervals, as needed, repaving, resurfacing and restriping the Premises Common Area; and (iii) keeping the Premises and the Premises Common Area in such condition as to comply with the requirements of any governmental or quasi-governmental authority having jurisdiction and the Superior Agreements. Landlord shall have no obligation whatsoever to repair or maintain any of the Premises, the Improvements or the Premises Common Area. If Tenant fails to timely keep and preserve the Premises as set forth in this Section 12.1.2, Landlord may, at its option and after thirty (30) days' written notice to Tenant (or notice for a shorter period of time if there is imminent danger to persons or property and provided Tenant does not commence such repairs within said thirty (30) day period and diligently pursue the same to completion), cause the same to be maintained in the condition and state of repair required hereunder and Tenant shall be obligated to promptly reimburse Landlord, as Additional Rent, for the cost of such work performed by Landlord. Notwithstanding the foregoing, during the last three (3) years of the Initial Term or the last three (3) years of any Option Term, Tenant shall not be required to make any repairs and/or replacements to the Building and/or the Premises Common Area which exceed One Hundred Thousand Dollars (\$100,000.00) [in 2000 Dollars] with respect to any one item of capital repair and/or replacement.

12.2. Alterations and Refurbishment

12.2.1. Alterations. Tenant shall make no Alterations without Landlord's express, prior written consent in each instance; provided, however, that Tenant shall be permitted to make certain Alterations to the Improvements, without Landlord's approval, provided such Alterations (i) are consistent with the store design initially approved by Landlord, (ii) are not structural or mechanical in nature, and (iii) do not materially affect the exterior or storefront of the Improvements. Tenant shall provide Landlord with at least fifteen (15) days notice prior to commencing any Alterations that require Landlord's approval hereunder, and shall, within thirty (30) days after completion of any Alterations, and only if reasonably available, provide Landlord with As-Built Documents (as that term is defined in Exhibit C) of such Alterations. Tenant may, without Landlord's consent but subject to any Governmental Regulations, and at Tenant's sole cost and expense, repaint the Building consistent with the style and color of the paint originally approved by Landlord under this Lease.

12.2.2. Refurbishment. Tenant shall, at Tenant's sole cost and expense, periodically

refurbish the Premises and Improvements as necessary to maintain the Premises and Improvements in a working order and condition, commensurate with the remainder of the Center ("Refurbishment"). All Refurbishment shall be performed by Tenant in accordance with the provisions of Section 12.3.

12.3. Repairs and Improvements. All Tenant's Improvements and Tenant's Repair Obligations shall be performed in a good and workman-like manner using materials of at least the same specifications as originally installed in the Improvements pursuant to Exhibit C. All Tenant's Repair Obligations and Tenant's Improvements (a) shall be performed under the supervision of a licensed architect and/or licensed structural engineer, as shall be appropriate to such work, (b) shall be in strict conformance with detailed drawings which have received the prior, written approval of Landlord (if Landlord's approval is required hereunder), (c) shall be in strict conformance with the Tenant Package and with all Governmental Regulations and (d) once commenced, shall be diligently prosecuted to completion to the end that the Improvements shall at all times be a complete architectural unit, except during the period of such work. Upon Landlord's receipt of Tenant's proposed plans (if Landlord's approval is required hereunder), Landlord shall review and, in writing to Tenant, either approve, or reasonably disapprove with reasonable detail, the said plans. In the event Landlord fails to approve or reasonably disapprove Tenant's proposed plans within thirty (30) days after receipt of same, said plans shall be deemed approved. Tenant's Repair Obligations and Tenant's Improvements shall be performed in such a manner as not to impede access to the premises of any other occupant of the Center or of any part of the Common Area (except any such Common Area Landlord shall otherwise expressly designate in writing to Tenant for the placement of temporary storefront barricades). With respect to Tenant's Work, to the extent the provisions of this Section 12.3 are in conflict or in any way inconsistent with Exhibit C, Exhibit C shall prevail.

12.4. Liens.

12.4.1. Liens. Tenant shall keep the Premises, the Improvements and the Center free from any liens arising out of work performed, materials furnished, or obligations incurred by or on behalf of Tenant. Landlord shall have the right at all times to keep posted on the Premises and/or the Improvements any notices permitted or required by law, or which Landlord shall deem proper, for the protection of Landlord, the Premises, the Improvements, the Center and any other party having any interest therein, against mechanics' and materialmen's liens, provided Landlord shall cause such notices to be posted in a manner calculated to minimize any interference with Tenant's work on, or use of, the Premises. If, as a result of any work performed or materials furnished or obligations incurred for the benefit of the Premises and/or the Improvements, any claim of lien is filed against the Premises and/or the Improvements or any part of the Center or any similar action affecting title to such property is commenced, the party receiving notice of such lien or action shall immediately give the other party written notice thereof.

12.4.2. Failure to Release Lien. If Tenant fails, within thirty (30) days following the imposition of any lien filed as a result of any action by Tenant or any of the Tenant Parties, to cause such lien to be released of record by payment or by recording of a proper bond, Landlord shall have, in addition to all other remedies provided herein and at law, the right (but not the obligation) to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums expended by Landlord and all reasonable costs and expenses incurred by Landlord in connection therewith (including reasonable attorneys' fees), with interest at the Agreed Rate from the first date expenditure is first made by Landlord, shall be payable to Landlord by Tenant within ten (10) days after Landlord's written demand to Tenant.

13. SURRENDER OF PREMISES

13.1. Surrender. Tenant shall do each of the following (collectively, "Surrender Obligations") at its sole cost and expense: (a) on or prior to the Expiry Date or earlier date of termination of this Lease (i) remove all of its personal property, signs, Tenant's Signs, displays, Moveable Trade Fixtures and unattached equipment from the Improvements and the Center, (ii) remove all telephone and data cabling installed by or on behalf of Tenant or anyone holding under Tenant, (iii) restore the Improvements to the condition in which the Improvements existed prior to installing such personal property, signs, Tenant's Signs, displays, Moveable Trade Fixtures and unattached equipment, to the extent the Improvements were altered or in any manner modified to accommodate the same, (iv) repair all damage caused by or in connection with Tenant's compliance with the Surrender Obligations (including without limitation thereto, repairing the floor and patching and painting the walls if damaged beyond ordinary wear and tear) and (v) pay all Rent and other sums due and payable or outstanding; and (b) upon the Expiry Date or date of earlier termination of this Lease, surrender to Landlord the Improvements, broom-clean and in good working condition, except for (i) ordinary wear and tear and

(ii) destruction to the Improvements pursuant to Article 23, to the extent Tenant is not required to restore the same pursuant to Article 23.

13.2. Disposition of Property. Landlord may dispose of any personal property and trade fixtures of Tenant remaining on the Premises after the Expiry Date or earlier date of termination of this Lease in accordance with applicable statutes relating to the disposition of abandoned property. If no such statutes exist, Landlord may retain or dispose of such trade fixtures and title to any such personal property and/or trade fixtures which Landlord elects to retain shall vest in Landlord. Tenant waives all claims against Landlord for any damage or loss to Tenant arising out of Landlord's retention or disposition of any such improvements and personal property as provided for in this Article 13.

13.3. Title to Improvements. All Tenant's Improvements (exclusive of Moveable Trade Fixtures and personal property of Tenant) shall become the property of Landlord upon the Expiry Date or date of earlier termination of this Lease.

13.4. Holding Over.

13.4.1. If Tenant holds over after the expiration of the Term without the express written approval by Landlord, (a) such tenancy shall be at sufferance only, and not a renewal of this Lease or an extension of the Term, (b) monthly installments of Fixed Minimum Rent, Percentage Rent and Additional Rent shall each be payable in amounts equal to one hundred fifty percent (150%) of the Fixed Minimum Rent and Percentage Rent Rate and one hundred percent (100%) of the Additional Rent in effect as of the last full calendar month of the Term, and each shall be due and payable at the times specified therefor in this Lease and (c) such tenancy shall be subject to every other term, covenant and agreement contained herein other than any provisions for rent concessions, Landlord's Work, or optional rights of Tenant requiring Tenant to exercise the same by written notice (such as any options to extend the Term). Nothing contained in this Section 13.4 shall be construed as consent by Landlord to any holding over by Tenant, and nothing in the Section 13.4 shall affect Landlord's right to require Tenant to perform all Surrender Obligations and surrender possession of the Premises and Improvements to Landlord as provided in this Lease upon the Expiry Date or any earlier date of termination of this Lease and at any time subsequent thereto. The provisions of this Section 13.4 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law or equity. If Tenant fails to perform all of the Surrender Obligations and surrender the Premises and Improvements upon the Expiry Date or any earlier date of termination of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any prospective occupant which are in any way related to such failure to surrender and any lost profits to Landlord resulting therefrom.

13.4.2. Notwithstanding anything contained in Section 13.4.1 To the contrary, in the event Landlord and Tenant are engaged in active, good-faith negotiations to enter into a new lease for the Premises after the Expiry Date for the Premises after the Expiry Date and the Fixed Minimum Rent, Percentage Rent and Additional Rent which will be payable under the new lease has been agreed upon in writing by Landlord and Tenant, Tenant shall be permitted to retain possession of the Premises after the Expiry Date and Tenant shall pay to Landlord, in lieu of the adjusted rent set forth hereinabove, the monthly installments of Fixed Minimum Rent, Percentage Rent and Additional Rent that agreed upon in writing by the parties for the new lease. At such time as the new lease is executed, the terms of said new lease (including the negotiated and agreed-upon fixed minimum rent, percentage rent and additional rent which will be payable under the new lease) shall be applied retroactively to commence concurrently with the expiration of the Term. In the event Landlord deems, in its reasonable discretion, that Tenant is not negotiating in good faith or in the event Landlord and Tenant cannot mutually agree upon the terms of the new lease, the immediately preceding provision shall be of no further force and effect, and Tenant shall thereafter pay the adjusted Rent set forth in Section 13.4.1, as well as any outstanding Rent pursuant to the provisions of this paragraph; and, further, Landlord shall be entitled to exercise any and all available remedies with respect to Tenant's failure to perform any of its Surrender Obligations.

13.5. No Merger on Surrender of Lease. The voluntary or other surrender of this Lease by Tenant, or a mutual termination thereof, shall not work as a merger. Such surrender or termination shall, at the option of Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subleases or subtenancies. The delivery of keys to the Improvements to Landlord or its agent and/or the taking of physical possession

of the Improvements by Landlord shall not constitute a surrender or termination of this Lease absent Landlord's written agreement that this Lease has been so surrendered or terminated.

14. ASSIGNMENT AND SUBLETTING

14.1. Prohibited Transactions. Tenant is prohibited from (a) Assigning this Lease or Subletting the Premises and/or the Improvements to a governmental agency or instrumentality thereof and/or (b) except as otherwise permitted under Section 14.14 below, mortgaging, pledging or encumbering this Lease or Tenant's interest in the Premises and/or the Improvements to any entity and/or (c) making any Involuntary Assignment.

14.2. Landlord's Consent Required. Tenant shall not effect a Transfer, by operation of law or otherwise, without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld (subject to the provisions of this Article 14). Any attempt by Tenant to effect a Transfer without such consent of Landlord shall be voidable by Landlord and, at Landlord's election, shall constitute a non-curable default under this Lease.

14.3. Tenant's Application. If Tenant desires to effect a Transfer, Tenant shall submit in writing to Landlord at least forty-five (45) days prior to the proposed effective date of the Transfer a notice of intent to Transfer (""). Each Request to Transfer must contain, or be accompanied with, each of the following: (a) The name of the proposed Transferee and, if not a natural person, details of the legal and beneficial ownership structure of Transferee, (b) a statement of the nature of the Transfer (e.g., a sublease, assignment or concession agreement) and of any related transactions (e.g., reasonable details of any sale of the business, reasonable details of a merger and copies of operative documents involved in the related transactions), (c) a description of the proposed Transferee's business to be conducted upon the Improvements, (d) reasonable details of the terms and provisions of the proposed Transfer and the Proposed Transfer Date (which shall be no later than ninety [90] days after Landlord's receipt of the Request to Transfer), (e) a current, audited financial statement for the proposed Transferee, (f) statements of income or profit and loss of the proposed Transferee for a period of no less than three (3) years prior to the date Landlord receives the Request to Transfer, (g) reasonable, written history and details of the proposed Transferee's previous business experience, (h) a conformed copy of the final, proposed Sublease Instrument(s), together with a statement by Tenant and Transferee that the same Instrument(s) is/are true copies of instrument(s) which the parties intend to execute and (i) the Review Fee. If the foregoing information is not sufficient, in Landlord's reasonable judgment, for Landlord to determine which of Landlord's rights to exercise under this Article 14, Landlord shall promptly request, and Tenant shall promptly furnish to Landlord, other and/or additional pertinent and reasonable information concerning the proposed Transfer and the proposed Transferee as Landlord shall require to make such determination.

14.4. Standards for Approval and Disapproval. In determining whether to grant or withhold its consent to a proposed Transfer, Landlord may consider any reasonable factor. Without limiting the conditions that may be construed as a reasonable factor, it is deemed reasonable that Tenant demonstrate to Landlord's reasonable satisfaction each of the following: (a) The proposed Transferee has sufficient financial worth to fully and timely discharge all of the then remaining obligations of Tenant under this Lease, (b) the proposed Transferee is of sound business reputation, (c) the use of the Premises and/or the Improvements by the proposed Transferee will be the Permitted Use, or such other restaurant use as Landlord may have approved in its reasonable discretion, (d) the proposed Transferee is likely to maintain the same levels and increases in Percentage Rent as Tenant is anticipated to generate during the remaining Term of this Lease, (e) the proposed Transferee has sufficient retail experience to successfully undertake its business at the Premises, (f) the proposed Transferee does not occupy premises in the Center, (g) the proposed Transferee has not delivered a letter of intent to Landlord or Landlord's agent to lease space in the Center and (h) the proposed Transferee is not actively negotiating with Landlord or Landlord's agent to lease space in the Center. Furthermore, if Tenant is then in default of any obligation of Tenant under this Lease (beyond the expiration of any applicable notice and cure periods), it shall be reasonable for Landlord to elect, in its sole discretion, to deny its consent so long as such default exists.

14.5. Landlord's Notification to Tenant.

Within sixty (60) days after Landlord's receipt of the Request to Transfer and all of the information required pursuant to Section 14.3 (collectively, "Transfer Information"), Landlord shall notify Tenant in writing that Landlord has elected to (a) consent to such proposed Transfer (subject to the provisions hereof), or (b) terminate this Lease, or (c) if the Request to Transfer is made during the Required Operating Period, withhold consent to such proposed Transfer. Within sixty (60) days after Landlord's receipt of the Transfer Information, Landlord shall give Tenant written notice of Landlord's election to either consent to such proposed Transfer, withhold consent to such proposed

Transfer or to terminate this Lease, as the case may be. If Landlord fails to notify Tenant of Landlord's election within sixty (60) days after Landlord's receipt of the Transfer Information, then such failure on the part of Landlord shall be deemed to constitute a consent to the proposed Transfer.

14.5.1. Consent to any one Transfer shall not constitute a waiver of Landlord's right of consent to any future Transfer. Tenant shall not have the right or power to request or enter into a Transfer: (a) to any other Occupant of the Center or to any prospective tenant with whom Landlord is contemporaneously negotiating for any premises within the Center or to any governmental agency or instrumentality thereof, or (b) when there exists any default by Tenant beyond any applicable cure period in the performance or observance of any of the terms, covenants and conditions of this Lease.

14.5.2. If Landlord notifies Tenant that Landlord elects to terminate this Lease as provided in this Section 14.5, this Lease shall terminate on the thirtieth (30th) day after Tenant's receipt of Landlord's notice of Landlord's election to terminate this Lease. If Landlord terminates this Lease pursuant to this Section 14.5 and such termination right is exercised by Landlord during the Required Operating Period, in no event shall Tenant be entitled to any compensation from Landlord incident to such termination. Upon a termination of the Lease pursuant to this Section 14.5.2: (i) Tenant shall, at Tenant's sole cost and expense, on or before the termination date specified in Landlord's notice, return the Premises to Landlord in the manner and condition set forth in Section 13.1 above, and (ii) if, and only if, such termination right is exercised by Landlord after the Required Operating Period, Landlord shall pay to Tenant on or before the effective date of such termination, a termination payment equal to the unamortized book value of the Initial Leasehold Improvements Cost with a straight-line amortization schedule and an amortization period equal to twenty (20) years. As used herein, "Initial Leasehold Improvements Cost" shall mean the actual amount spent by Tenant on Tenant's Work in connection with the initial construction of the Premises less the Construction Allowance (as that term is defined in Exhibit C).

14.6. Required Sublease Instrument and Assignment Instrument Provisions. Each and every Assignment Instrument and Sublease Instrument shall contain such terms and conditions as are described in the Request to Transfer and be expressly subject and subordinate to each and every provision contained in this Lease. Each Assignee shall expressly assume in writing for the benefit of Landlord the obligations of Tenant under this Lease and shall be liable jointly and severally with Tenant for the payment of the Rent and the performance of all the terms, covenants, conditions and agreements herein contained on Tenant's part to be performed for the Term. If Landlord approves the proposed Transfer, Landlord shall prepare and deliver to Tenant, for execution by Tenant and the proposed Transferee, counterparts of Landlord's reasonable and customary consent instrument, and Tenant shall have thirty (30) days to cause the same to be executed, without modification, by both Tenant and the proposed Transferee and delivered to Landlord, together with all required attachments thereto.

14.7. Tenant's Duty to Subtenant. Landlord shall have no obligation whatsoever to perform any duty to or respond to any request from any Subtenant. Tenant shall have the obligation of administering the terms of all Sublease Instrument(s).

14.8. No Release of Tenant. No consent by Landlord to any Transfer by Tenant shall relieve Tenant of any obligation to be performed by Tenant under this Lease, whether occurring before or after such consent or Transfer, including Tenant's obligation to obtain Landlord's express prior written consent to any other Transfer (which right of consent shall not negate or waive any provision contained at Section 14.1).

14.9. Assignment of Rents and Attornment. Tenant immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all rent from any Subletting of all or any part of the Premises and/or Improvements, and Landlord, as assignee for Tenant for purposes hereof or a receiver for Tenant appointed on Landlord's application, may collect such rents and apply the same toward Tenant's obligations under this Lease; except that, until the occurrence of an act of default by Tenant (beyond the expiration of any applicable notice and cure periods), Tenant shall have the right and license to collect such rents. In the event of termination, re-entry, or dispossession of Tenant by Landlord under this Lease, Landlord may, at its sole discretion by express written notice to Tenant and the Transferee, take over all of the right, title and interest of Tenant as sublessor under any Sublease, and such Transferee shall, at Landlord's sole discretion, attorn to Landlord, except that Landlord shall not be (a) liable for any previous act or omission of Tenant under the Sublease, (b) subject to any offset that theretofore accrued to the Transferee against Tenant, (c) bound by any previous modification of the Sublease not expressly consented to in writing by Landlord and (d) bound by any

previous prepayment of Rent or Security Deposit which have not been expressly delivered by Tenant to Landlord.

14.10. Additional Consideration Upon a Transfer. In the event of an Assignment (other than a Transfer made pursuant to Section 14.13 below), each month one-half (½) of any consideration (after deducting expenses reasonably incurred by Tenant in connection with transacting such Assignment) paid to Tenant by any Transferee during such month for such Assignment shall be paid to Landlord. In the event of a Sublease, each month one-half (½) of any consideration (after deducting expenses reasonably incurred by Tenant in connection with transacting such Sublease) paid to Tenant by any Transferee during such month for any portion of Tenant's interest in this Lease shall be paid to Landlord to the extent the full amount of such consideration (i.e., before being divided between Landlord and Tenant) exceeds the percentage (equal to the percentage of the Floor Area of the Building being Sublet) of Tenant's Rent obligations hereunder during such month.

14.11. Review Fee. Simultaneously with the delivery to Landlord of the Request to Transfer Tenant shall pay to Landlord a fee in the amount of \$750.00 ("Review Fee") for Landlord's review of each such transaction.

14.12. Corporate and Partnership Transfers. If Tenant is a privately-held corporation, or is an unincorporated association, limited liability company or partnership, the cumulative or aggregate transfer, assignment or hypothecation of forty-nine percent (49%) or more of the total stock, or the legal or beneficial interest, in such corporation, association, company or partnership, whether in a single transaction or a series of related or unrelated transactions, and whether on a direct or indirect basis, shall be deemed a Transfer.

14.13 Permitted Transfers. Notwithstanding anything to the contrary contained in this Article 14, but provided that Tenant is not in default under this Lease beyond any applicable cure period, Tenant shall have the right, without Landlord's prior consent, to assign this Lease or sublet the entire Premises to an entity that (i) shall have a certified net worth immediately following any such Transfer at least equal to the net worth of Tenant as of the Effective Date of this Lease, or (ii) is Tenant's parent organization or an organization of which Tenant's parent is a wholly-owned subsidiary; or (iii) is a wholly-owned subsidiary or a wholly-owned affiliate of Tenant, Tenant's parent organization or an organization which Tenant's parent is a wholly-owned subsidiary; or (iv) is a corporation in which Tenant or Tenant's parent organization owns in excess of fifty percent (50%) of the outstanding capital stock; or (v) as a result of a consolidation or merger with Tenant and/or Tenant's parent organization shall own all the capital stock of Tenant or Tenant's parent organization; provided that any such Transferee shall continue to operate the Premises as a Chuck E. Cheese's or such other restaurant use approved by Landlord. In consideration of Landlord's agreement to permit Tenant to Transfer this Lease without Landlord's consent as herein contained in this Section 14.13, Tenant agrees to furnish Landlord, within ten (10) business days following Landlord's request therefor, written evidence reasonably satisfactory to Landlord that any such Transfer pursuant to the provisions of this Section 14.13 is in compliance with the conditions precedent set forth herein that make Landlord's consent unnecessary with respect to any such Transfer pursuant to this Section 14.13. If Tenant desires to enter into a Transfer pursuant to the provisions of subsection (i) of this Section 14.13, then Tenant shall give Landlord reasonable prior written notice thereof (in no event less than fifteen (15) days) which notice shall include a description of the identity and net worth of the proposed Transferee, including a balance sheet of the proposed Transferee as of the date within ninety (90) days prior to the effective date of the proposed Transfer and statements of income or profit and loss of the proposed Transferee for the preceding three (3) year period in audited form (if available) and certified as accurate by a financial officer of the proposed Transferee, and any further information which Landlord may reasonably request to evidence the conditions set forth in this Section 14.13 with respect to Tenant's right to enter into a Transfer without Landlord's consent. Any Transfer pursuant to this Section 14.13 shall be subject to the following conditions: (1) Tenant shall remain fully liable during the unexpired Term, including during any Option Terms or other extensions or renewals, unless the Transferee has at the time of such Transfer a certified net worth computed in accordance with generally accepted accounting principles of not less than Ten Million Dollars (\$10,000,000.00), in which event Tenant shall be released from all obligations accruing under this Lease from and after the effective date of such Transfer; (2) any such Transfer shall be subject to all of the terms, covenants and conditions of this Lease and any such transferee shall expressly assume for the benefit of Landlord the obligations of Tenant under this Lease by a document prepared by Landlord; and (3) Tenant shall pay to Landlord the Review Fee. Transfers of stock between or among the present stock holders of Tenant, or partnership interests between the current partners of Tenant, the issuance of additional capital stock of Tenant, a transfer or series of transfers of less than a majority of Tenant's capital stock to a transferee having a net worth and net current assets at least equal to the net worth and net current assets of Tenant as of the date of this Lease for the purpose of raising capital, or a public

offering of stock on a recognized national securities exchange, shall not be deemed a Transfer for purposes of this Article 14, but all such transactions shall be subject to this Section 14.13.

14.14 Leasehold Mortgage. Notwithstanding anything to the contrary contained in the Lease, Tenant may at any time and from time to time without Landlord's consent, encumber, hypothecate, mortgage, pledge or alienate Tenant's leasehold estate and rights hereunder as security for payment of any indebtedness of Tenant to an institutional lender made for the purpose of financing or refinancing the construction costs of the Improvements; provided, however, such encumbrance, hypothecation, mortgage, pledge or alienation shall not encumber Landlord's fee title or reversionary interest in or to the Premises and Landlord's right to receive Rent hereunder shall have priority over the rights of any Leasehold Mortgagee (as defined below). Any such encumbrance, hypothecation, mortgage, pledge or alienation shall be referred to herein as a "Leasehold Mortgage," and the holder of the Leasehold Mortgage shall be referred to herein as "Leasehold Mortgagee." A Leasehold Mortgagee may enforce its Leasehold Mortgage and acquire title to the leasehold estate in any lawful way and, pending foreclosure of such Leasehold Mortgage, such Leasehold Mortgagee may take possession of and operate the Premises, performing all obligations of Tenant under this Lease capable of being performed by such Leasehold Mortgagee, and upon foreclosure of such Leasehold Mortgage by power of sale, judicial foreclosure, or upon acquisition of the leasehold estate by deed in lieu of foreclosure, the Leasehold Mortgagee may, upon notice to Landlord, sell and assign the leasehold estate hereby created, subject to all the requirements of this Lease (including this Article 14). Notwithstanding any such Leasehold Mortgage, in no event shall Tenant be released from any of its obligations under this Lease (even in the event any Leasehold Mortgagee or any successor acquires title to such leasehold estate).

14.14.1 Landlord's Forbearance. Landlord, concurrently with the delivery to Tenant of any notice of a default or breach under this Lease, shall provide a copy of such notice to the Leasehold Mortgagee, so long as Landlord has previously been informed of the name and address of such Leasehold Mortgagee in the manner and by the means provided for in this Lease and Tenant has previously delivered a copy of such Leasehold Mortgage to Landlord. Notwithstanding anything to the contrary herein, there shall be only one such Leasehold Mortgage at a given time. Landlord may not terminate this Lease because of Tenant's default or breach if, within ten (10) days after such written notice, the Leasehold Mortgagee shall have: (i) cured all defaults or breaches described in said notice which can be cured by the payment of money; or (ii) if any such defaults or breaches are not curable by the payment of money, commenced to cure such defaults or breaches and continue diligently to prosecute the same towards completion (including foreclosure if necessary to gain possession of the Premises); provided, however, that in no event shall the time period for such cure exceed the period of time that Tenant has to cure such defaults under this Lease. If the Leasehold Mortgagee ceases its effort to cure any such default, fails to keep all Rent current, or discontinues the foreclosure proceedings without effecting the cure of such default, then Landlord shall have no further obligation hereunder to forebear the termination of this Lease.

14.14.2 New Lease. Upon the Leasehold Mortgagee's request to Landlord within thirty (30) days after the Leasehold Mortgagee's acquisition of such leasehold, Landlord shall enter into a new lease with the Leasehold Mortgagee covering the Premises if such Leasehold Mortgagee (i) gives notice of request prior to or concurrently with such foreclosure, (ii) pays all costs associated with such new lease (including Landlord's attorneys' fees and costs), and (iii) remedies all defaults (including, but not limited to, the payment of all Rent and other charges due under this Lease up to and including the commencement of the term of such new lease). The new lease shall be for the remainder of the Term of this Lease, effective at the date of foreclosure, and in the form of this Lease, including, but not limited to, at the Rent and on all of the covenants, agreements, conditions, provisions, restrictions and limitations contained in this Lease (including the restrictions on use contained in Article 10).

14.14.3 Assignment. No Leasehold Mortgagee or purchaser at foreclosure shall be entitled to become the owner of Tenant's interest in this Lease unless such Leasehold Mortgagee or purchaser shall first have delivered to Landlord an assumption agreement reasonably acceptable to Landlord, executed in recordable form, wherein and whereby such Leasehold Mortgagee or purchaser (i) assumes the performance of all of the terms, covenants and conditions of this Lease, and expressly confirms that the same are in full force and effect,

(ii) agrees to use and operate the Premises in accordance with all of the requirements of this Lease and
(iii) otherwise satisfies the requirements of this Article 14 concerning an assignment of this Lease.

15. TRANSFER OF LANDLORD'S INTEREST

15.1. Transfer of Landlord's Interest. Landlord shall have the right to sell or transfer its ownership of all or any part of the Center to one or more third parties. If Landlord sells or transfers its interest in the Premises (other than a transfer for security purposes), (a) Landlord shall be released from all obligations and liabilities accruing thereafter under this Lease if Landlord's successor has assumed in writing Landlord's obligations thereafter accruing under this Lease and (b) Tenant agrees to attorn to the purchaser or assignee.

16. COMMON AREA

16.1. Use of Common Area. During the Term, Tenant, its employees and customers shall have the non-exclusive right in common with Landlord and all others to whom Landlord has or shall give the same or similar rights, to use or receive the benefit of the Common Area in connection with the conduct of business upon the Improvements, subject to (a) the right of Landlord, Occupants and their respective officers, employees and agents to use or receive the benefit of the Common Area, (b) any cross-easements and reciprocal construction, operating and easement agreements and similar agreements and all other recorded instruments underlying the Center, provided such do not violate any provision of this Lease, (c) each provision of this Lease and (d) the purpose for which such Common Area is intended. Tenant acknowledges that portions of the Common Area are located on the Premises and to the extent located thereof, Tenant's use of such portion of the Premises shall be nonexclusive. During the period of construction of Tenant's Improvements pursuant to Exhibit C, Tenant may use a portion of the Common Area, the area, size and location of which shall be subject to Landlord's reasonable discretion, for the placement of a construction trailer, building materials and personnel, as well as an employee-hiring and training trailer (the "Staging Area"). To the extent reasonably possible, the Staging Area shall be located solely within the Premises Common Area. Landlord shall have the right to require Tenant, at Tenant's sole cost and expense, to take all reasonable precautions to protect the Premises Common Area and the Common Area from any damage resulting from Tenant's use of the Staging Area, and Tenant's use of the Staging Area shall at all times be in strict compliance with all legal requirements and all requirements of any covenants, conditions, restrictions and easements affecting the Center. Tenant's use of the Staging Area shall be subject to all the terms and conditions of this Lease including, but not limited to, the insurance and indemnification provisions hereof, and Landlord shall have no liability whatsoever with respect to the Staging Area or Tenant's use thereof. Immediately upon substantial completion of Tenant's Improvements, Tenant shall remove all of Tenant's personal property from the Staging Area, repair any and all damage to the Premises Common Area and the Common Area, and restore such areas to the same condition which existed prior to Tenant's initial use of the Staging Area.

16.2. Control and Management of Common Area. Landlord or its agents shall operate, repair, equip and maintain the Common Area in a manner deemed by Landlord in its business judgment to be reasonable and appropriate and Landlord shall have the sole right and authority to employ and discharge personnel for such purposes. The Common Area shall be subject to the exclusive control and management of Landlord, except as otherwise set forth herein. Landlord may at any time exclude and restrain any person from use of the Common Area excepting, however, Tenant and other Occupants of the Center and their respective employees, agents, customers and invitees who make use of the Common Area for the intended purposes of the Common Area in accordance with the Rules. If, in the reasonable opinion of Landlord, persons are not abiding by the Rules and are using the Common Area by reason of the presence of Tenant, Tenant shall, upon notice from Landlord, use reasonable efforts to enforce Landlord's right to exclude and restrain such persons by undertaking appropriate proceedings.

16.3. Parking. Tenant, Tenant's Occupants and their respective officers, employees and agents shall park their respective motor vehicles only within the Premises Common Area.

17. LANDLORD'S RESERVATION OF RIGHTS

17.1. General Reservation of Rights. Landlord reserves the right from time-to-time to change the size, layout and dimensions of the Center and any part thereof, locate, relocate, alter and/or modify the number and location of buildings, building dimensions, the number of floors in any of the buildings, the parking areas, store dimensions, the nature of the businesses, activities and uses to be conducted and the Common Area located from time-to-time in the Center or any part thereof. By way of example only and without limiting Landlord's rights under the preceding sentence, Landlord may (a) enlarge, add stores to, reinforce, reduce, reconfigure, redesign, realign, modify and/or alter other buildings in the

Center, as well as portions thereof (such as entrances), as well as other structures, facilities, malls, walkways, landscaped areas and/or other areas of the Center, (b) remove and/or demolish all or part of other buildings in the Center, structure(s), facility(ies) and/or improvements in the Center, (c) construct new building(s), structure(s), facility(ies) and/or improvements in the Center, (d) enlarge the Center, make alterations therein, additions thereto and construct improvements adjoining thereto (including, without limitation, parking decks, elevated parking facilities, roofs, walls and other improvements over all or any part of the Common Area to enclose the same and (e) relocate, add and remove escalators, elevators and stairs. The preceding may include, but shall not be limited to, new buildings, facades, storefronts, entrances, flooring, ceilings, roofing, structural columns, bearing walls, demising partitions, additional mechanical and electrical systems and equipment and supplementary structural elements. Landlord shall have complete and exclusive control of the design, structure, construction, materials, colors, architectural elements and aesthetics of all such work, as well as all activities undertaken by Landlord in connection therewith. Landlord reserves the right to install, use, maintain, repair and replace equipment, machinery, pipes, conduits and wiring serving other parts of the Center through the Premises in a manner and in locations which do not unreasonably interfere with Tenant's use of the Improvements.

17.2. Common Area.

17.2.1. Landlord shall have the right and privilege at all times of determining the nature and extent of the Common Area and of making such changes, rearrangements, additions and reductions therein from time-to-time as Landlord deems desirable, including, without limitation, the location, relocation, enlargement, reduction or addition of driveways, malls, entrances and exits, automobile parking spaces, utility lines, sewer lines and the like, employee and customer parking areas, the direction and flow of traffic, establishment of protected areas, landscaped areas and any and all other facilities of the Common Area, and the right at any time to locate on the Common Area permanent and/or temporary Kiosks, displays, carts, stands and/or other building(s) and/or other improvements of any type, provided any such changes do not violate the terms of this Lease, or materially affect Tenant rights and obligations under this Lease. Landlord reserves the right at any time to construct Renovations. Landlord reserves the right to utilize portions of the Common Area, from time-to-time, for carnival-type shows, product shows, rides, entertainments, displays, advertising and educational purposes, demonstrations, civic and charitable functions and other uses which, in Landlord's judgment, may attract the public to the Center or create goodwill, community interest or other beneficial interest with respect to the Center; provided that such use by Landlord does not materially interfere with access to the Premises. Landlord shall have the right to convert Common Area to Kiosk or other retail use and to convert Kiosk and other retail space to Common Area, from time-to-time. Landlord shall have the right (a) to close, if necessary, all or any portion of the Common Area to such extent as may be reasonably necessary to prevent a dedication thereof or the accrual of any rights of any person or of the public therein, (b) to close temporarily all or any portion of the Common Area to discourage non-customer use, (c) to use portions of the Common Area while engaged in making additional improvements, repairs or alterations to the Center, (d) to transfer, in whole or in part, any of Landlord's rights and/or obligations under Article 16 to any Occupant or to any other party as Landlord may from time-to-time determine and (e) to do and perform such other acts in, to and with respect to, the Common Area as Landlord shall determine, in its business judgment, to be appropriate for the Center. Notwithstanding any contrary provision contained in this Lease, services and facilities may be discontinued, and access to the Premises and the Center restricted, in whole or in part, during (i) such times as the Center is not open for business and (ii) any other times as are reasonably necessary for temporary purposes such as repairs, alterations, strikes or other purposes, in Landlord's reasonable judgment; provided, however, Landlord shall in any event use commercially reasonable efforts to minimize the impact of the foregoing on Tenant's business operation in the Premises.

17.2.2. Landlord hereby reserves unto itself for its use and the use of other Occupants and its and their respective permittees, customers, employees and invitees, irrevocable easements over the Premises Common Area.

17.2.2.1. The non-exclusive use of the Common Area (or any enlargement of said Premises Common Area), including the right to use the parking areas located on such Premises Common Area as shall from time to time exist pursuant to the provisions of this Lease, and for use for ingress to and egress from said parking area and for the parking or motor vehicles of the Landlord and other Occupants and its and their respective permittees, customers, employees and invitees and for such other incidental uses as are necessary and appropriate in connection therewith;

17.2.2.2. The non-exclusive use, installation, maintenance, repair and replacement of sewers, water and gas pipes and systems, drainage lines and systems, electrical power and conduit lines and wiring, telephone conduit, lines and wires, and other utilities, public or private, beneath the ground surface and existing above-ground, if any (except vaults, vents, access structures and other facilities required to be above ground surface by good engineering and shopping center practice), of the Premises Common Area at such location or locations in the Premises Common Area as shall be necessary for the purpose of providing such utility service to other Occupants of the Center provided the foregoing does not materially and adversely affect Tenant's use of the Improvements or the Premises Common Area; and

17.2.2.3. The non-exclusive use of emergency exit corridors and/or stairs which may be required by building codes, leading from the Building to the Common Area or to the public sidewalks.

17.3. Renovations. Landlord has no obligation and has made no promises to repair, alter, remodel, improve, renovate, decorate, demolish and/or add improvements to the Center, or any part thereof, and no representations respecting the condition of the Center have been made by Landlord to Tenant except as specifically set forth in this Lease. However, at any time, Landlord may alter, remodel, improve, renovate, modify, decorate, demolish and/or add improvements to all or portions of the Center, including without limitation, the construction of new or additional enclosed malls and/or mall stores, the construction or expansion of enclosed malls and the construction of additional levels on existing mall stores and enclosed malls (collectively, "Renovations"), provided any such Renovations do not violate the terms of this Lease or materially affect the rights and obligations of the Tenant under this Lease.

17.4. Right to Lease. Except as expressly provided in Section 10 hereof, Landlord reserves the absolute right to effect such other tenancies in the Center as Landlord in the exercise of its reasonable business judgment shall determine to best promote the interests of the Center. Tenant does not rely on the fact, nor does Landlord represent, that any specific tenant or type or number of tenants shall, at any time, occupy any space in the Center.

17.5. Entry by Landlord. Landlord and its representatives shall have the right at all reasonable times during Tenant's normal hours of operation upon reasonable prior notice to Tenant (and at all times without notice in the event of an emergency), to enter the Premises (a) for any purpose permitted by law, (b) to inspect the Premises, (c) to post notices of nonresponsibility, (d) to show the Premises and Improvements to prospective purchasers, mortgagees or ground or underlying lessors (each of which may then also enter the Improvements), (e) to perform any obligation required of, or right permitted to, Landlord under this Lease, (f) to take possession of the Premises and Improvements due to an event of default in the manner provided for in this Lease or (g) to perform environmental assessments. During the six (6) months prior to the Expiry Date, Landlord may show the Premises and Improvements to brokers, prospective tenants and their representatives. In any event, Landlord shall use good faith efforts during any entry upon the Improvements pursuant to this Section 17.5 not to unreasonably interfere with Tenant's conduct of business.

17.6. Premises. Notwithstanding anything to the contrary contained in this Article 17, in no event may Landlord make any change, alteration, renovation or the like to any of the Premises, the Premises Common Area or the Improvements without Tenant's prior written consent thereto (which consent shall not be unreasonably withheld, conditioned or delayed).

17.7. Unauthorized Communications Devices. Tenant shall not install or operate, or permit the installation or operation, at the Center (including without limitation, the Premises) of any device, equipment or facility for transmitting, receiving, relaying or amplifying communications signals used or operated as a part of a telecommunications network or global positioning system, or otherwise emitting or receiving signals, frequencies, video, data or voice communications, including, without limitation, any dish, panel, antenna, satellite or cellular communications equipment, amplifiers, microcells, picocells or other similar devices or equipment (collectively, "Communications Devices"). If Tenant fails to comply with the provisions of this Section 17.7, then in addition to Landlord's other remedies under this Lease, Landlord shall have the right to collect from Tenant, in addition to other Rent, a sum equal to twice the Fixed Minimum Rent (prorated on a daily basis) for each full or partial day Tenant fails to comply with the provisions of this Section 17.7. Tenant acknowledges that its failure to comply with this Section 17.7 will cause Landlord to suffer damages which will be difficult to ascertain and that the sum payable by Tenant under this Section 17.7 represents a fair estimate of such damages. The preceding prohibition shall not preclude Tenant from the use of any of the

Communication Devices if, in each such case, such Communication Devices are used only by Tenant and used only in the ordinary course of Tenant's business at the Premises for the Permitted Use.

18. NOTICES

18.1. Notices. Any notice, demand or communication required or permitted to be given by one party to the other shall be in writing and addressed to the other party at the addresses set forth in Section 1.17 or Section 1.18, as the case may be, or to such other address(es) and/or to such other parties as one party may from time-to-time reasonably designate in writing to the other party, and shall be (a) personally served, (b) deposited in the United States mails, duly registered or certified with postage fully prepaid thereon or (c) delivered by an overnight courier service that confirms delivery. Either party may, by written notice similarly given, designate a different address for notice purposes. Notice shall be effective upon receipt or refusal to receive, in the event of personal service; or upon receipt or refusal to receive (but in no event more than three [3] days after the date first mailed in the manner herein required), in the event of depositing notice in the United States mails; or upon receipt or refusal to receive, in the event of delivery by overnight courier service.

19. DEFAULTS BY TENANT

19.1. Defaults. The occurrence of any one or more of the following events shall constitute a default by Tenant under this Lease:

19.1.1. Monetary. The failure by Tenant to make any payment of Rent required to be made by Tenant to Landlord pursuant to the terms of this Lease or of any other sum required to be made by Tenant when due.

19.1.2. Failure to Timely Open. Subject to Force Majeure, if Tenant should fail to complete Tenant's Work and initially open the Improvements for business within ninety (90) days after the Required Opening Date fully fixtured, staffed and stocked or, thereafter, during the Required Operating Period to keep the Improvements open for business fully fixtured, staffed or stocked on the days and hours required by this Lease.

19.1.3. Abandonment and Vacation. The vacation or abandonment of the Improvements by Tenant. The phrase "vacation or abandonment" means any absence by Tenant from the Improvements for fourteen (14) or more consecutive days while Tenant is in default (beyond the expiration of any applicable notice and cure periods) of any other provision of this Lease.

19.1.4. [Intentionally Omitted]

19.1.5. Bankruptcy. The making by Tenant of any general assignment for the benefit of creditors, the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty [60] days), or the appointment of a trustee or receiver to take possession of, or the attachment, execution or other judicial seizure of, substantially all of Tenant's assets located at the Improvements or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

19.1.6. Timely Performance. The failure by Tenant or Tenant's Occupants to observe or timely perform according to the provisions of Article 10, Article 14, Section 26.1 or Section 26.3, or Exhibit C to this Lease.

19.1.7. Other Non-Monetary Defaults. The failure by Tenant or Tenant's Occupants to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant not previously covered by Section 19.1.1 through Section 19.1.6 above.

19.2. Notices. Following the occurrence of a default specified in Sections 19.1.1, 19.1.2, 19.1.3, 19.1.4, 19.1.6 or 19.1.7, prior to exercising any remedy described in Section 20.1, Landlord shall give Tenant written notice thereof specifying the nature of such default and demanding that Tenant quit the Premises and Improvements and surrender the Premises and Improvements to Landlord or, except as otherwise provided, fully cure the default, within the time period specified below:

19.2.1. Monetary Notice. For a monetary default specified under Section 19.1.1, within ten (10) days after written notice from Landlord.

19.2.2. [Intentionally Omitted]

19.2.3. Timely Performance Notice. In the case of a failure to timely perform under Sections 19.1.2, 19.1.3 and 19.1.6, within ten (10) business days after written notice from Landlord.

19.2.4. Other Non-Monetary Default Notice. In the case of any other non-monetary default under Section 19.1.7, within thirty (30) days after written notice thereof from Landlord to Tenant; however, if the nature of Tenant's default is such that it cannot be cured solely by payment of money and more than thirty (30) days are reasonably required for its cure, then Tenant shall be deemed to have cured such default if Tenant or Tenant's Occupants commences such cure within the thirty (30)-day period and thereafter diligently prosecutes such cure to completion.

19.3. Sufficiency of Notices. Any notice required or permitted by this Article 19 shall be in lieu of, and not in addition to, any notice required under any Governmental Regulations providing for notice and any cure period. Landlord may serve a statutory notice to quit, a statutory notice to pay rent or quit, or a statutory notice of default, as the case may be, to effect the giving of any notice required by this Article 19.

19.4. Involuntary Assignment. An Involuntary Assignment shall constitute a default by Tenant and Landlord shall have the right to elect to terminate this Lease if permitted under applicable laws. All sums payable by Tenant under this Lease shall apply to any such Involuntary Assignment. Such sums, if any, payable pursuant to the referenced Sections shall be and remain the exclusive property of Landlord and shall not constitute property of Tenant or of the estate of Tenant within the meaning of the Bankruptcy Code. Such sums which are not paid or delivered to Landlord shall be held in trust for the benefit of Landlord, and shall be promptly paid or turned over to Landlord upon demand. Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations of Tenant arising under this Lease on and after the date of such assignment, and all of the terms and provisions of this Lease shall be binding upon such assignee. Any such assignee shall upon demand execute and deliver such instruments and documents reasonably requested by Landlord confirming such assumption.

20. LANDLORD'S REMEDIES

20.1. Landlord's Remedies. Upon a default hereunder, should Tenant fail within the time period, if any, specified in Section 19.2 to either (a) cure any default specified in Section 19.1 or (b) quit the Premises and Improvements, then without limiting Landlord in the exercise of any other right or remedy at law or in equity which Landlord may have (all remedies provided herein being non-exclusive and cumulative), Landlord may do any one or more of the following, subject to Section 27.34.5 hereof:

20.1.1. Continue Lease. Landlord shall have the remedy to continue this Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due. Accordingly, if Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may, from time-to-time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all Rent and other monetary charges as they become due.

20.1.2. Terminate Lease. Terminate Tenant's right to possession by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises and Improvements to Landlord. In such event Landlord shall be entitled to recover from Tenant all reasonable damages incurred by Landlord by reason of Tenant's default including (without limitation) the following: (a) The worth at the time of award of any unpaid Rent which had been earned at the time of such termination; plus (b) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such Rent loss that Tenant proves could have been reasonably avoided; plus (c) the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such Rent loss that Tenant proves could have been reasonably avoided; plus (d) any other reasonable amount and court costs necessary to compensate Landlord for all the detriment proximately caused by Tenant's default or which in the ordinary course of things would be likely to result therefrom (including, without limiting the generality of the foregoing, the commercially reasonable amount of any commissions, finder's fee, advertising costs, remodeling costs and attorneys' fees in connection with obtaining a replacement tenant); plus (e) at Landlord's election, such other amounts in addition to or in lieu

of the foregoing as may be permitted from time-to-time by applicable law. As used in subparagraphs (a) and (b) of this Section 20.1.2, the "worth at the time of award" shall be computed by allowing interest at the rate of ten percent (10%) per annum, and, as used in subparagraph (c) of this Section 20.1.2, the "worth at the time of award" is to be computed by discounting such amount at the discount rate of eight percent (8%) per annum.

20.1.3. Collect Sublease Rents. Collect sublease rents (or appoint a receiver to collect such rent) and otherwise perform Tenant's obligations at the Improvements, it being agreed, however, that neither the filing of a petition for the appointment of a receiver for Tenant nor the appointment itself shall constitute an election by Landlord to terminate this Lease.

20.1.4. Cure Default. Proceed to cure the default (after expiration of any applicable notice and cure period) at Tenant's sole cost and expense, without waiving or releasing Tenant from any obligation hereunder. If at any time Landlord pays any sum or incurs any expense as a result of or in connection with curing any default of Tenant (including any administrative fees provided for herein and reasonable attorneys' fees), the amount thereof shall be immediately due as of the date of such expenditure, together with interest at the Agreed Rate from the date of such expenditures, and shall be paid by Tenant to Landlord within ten (10) days after Landlord's written demand therefor.

20.1.5. Disposition of Property. Landlord may dispose of any personal property and trade fixtures of Tenant remaining on the Improvements in accordance with applicable statutes relating to the disposition of abandoned property. If no such statute exists, Landlord shall have the right to retain possession of all of Tenant's trade fixtures, furniture, equipment, improvements, additions and other personal property left in the Improvements or, at Landlord's option, to require Tenant at any time to forthwith remove same, and if not so removed within three (3) business days, to take title and possession of the same and to sell or otherwise dispose of the same, without any liability (a) to Tenant for such property or (b) to pay to Tenant the proceeds from the sale thereof.

20.1.6. Mitigation. Notwithstanding anything to the contrary contained herein, Landlord shall use good faith efforts to mitigate its damages incident to Tenant's default.

20.2. No Offsets. All covenants and agreements to be performed by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any offset to or abatement of Rent, except as otherwise expressly provided in this Lease. Tenant hereby waives any right to plead all non-compulsory counterclaims or offsets in any action or proceeding brought by Landlord against Tenant for any default. This waiver shall not be construed, however, as a waiver of any right of Tenant to assert any compulsory counterclaims or offsets in any separate action brought by Tenant.

21. DEFAULTS BY LANDLORD

21.1. Defaults by Landlord. If Landlord fails to perform or observe any of the terms, covenants or conditions contained in this Lease on its part to be performed or observed within thirty (30) days after written notice of default from Tenant or, when more than thirty (30) days shall be reasonably required because of the nature of the default, if Landlord shall fail to commence to cure such default within such thirty (30) day period and thereafter proceed diligently to cure the same to completion, said failure shall constitute a default by Landlord under this Lease. If any or all of the Premises or any interest of Landlord in this Lease or the Rent are at any time subject to any mortgage or deed of trust and if Tenant is given notice of the name and address of the Mortgagee, then Tenant shall give written notice of any default by Landlord to the Mortgagee concurrently when providing Landlord notice, specifying the default in reasonable detail affording Mortgagee the same opportunity to cure as provided Landlord in this Section. If Mortgagee does perform on behalf of Landlord, such default shall be deemed cured.

21.2. Limitations on Recovery Against Landlord. The aggregate liability of Landlord and the Landlord Parties to Tenant for any default by Landlord under this Lease or arising in connection herewith or with the operation, management, leasing, repair, renovation, alteration of, or any other matter relating to, the Center or the Premises shall be limited solely and exclusively to an amount which is equal to the interest of Landlord in the Center, and neither Landlord nor any of the Landlord Parties shall have any personal liability therefor, and Tenant hereby expressly waives and releases such personal liability on behalf of itself and all persons claiming by, through or under Tenant. The limitations of liability contained in this Article 21 shall inure to the benefit of Landlord and the Landlord Parties and their respective partners, heirs, successors and assigns. Under no circumstances shall any present or future partner of Landlord (if Landlord is a partnership), or trustee or beneficiary (if Landlord or any

partner of Landlord is a trust), have any liability for the performance of Landlord's obligations under this Lease.

22. COSTS OF SUIT

22.1. Costs of Suit. If either party brings action for relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of Rent or possession of the Premises and Improvements, the losing party shall pay the successful party its costs incurred in connection with and in preparation for said action, including its reasonable attorneys' fees.

22.2. Third-Party Actions. If Landlord, without fault on Landlord's part, is made a party to any action instituted by Tenant against a third party or by a third party against Tenant or by or against any person holding under or using the Premises and/or the Improvements by license or otherwise of Tenant ("Other Person"), or for the foreclosure of any lien for labor or material furnished to or for Tenant or any such Other Person, or otherwise arising solely out of or resulting solely from any act or omission of Tenant or of any such Other Person, Tenant shall at its cost and at Landlord's option defend Landlord therefrom and further, except to the extent Landlord is found separately liable for its own active negligence or wrongful acts, indemnify and hold Landlord harmless from any judgment rendered in connection therewith and all reasonable costs and expenses (including reasonable attorneys' fees) incurred by Landlord in connection with such action.

23. DAMAGE AND DESTRUCTION

23.1. Repair of Damage. Tenant shall promptly notify Landlord of any damage to the Improvements or Premises Common Area resulting from fire or any other casualty. Whether or not the event of the damage or destruction of the Improvements or Premises Common Area is caused by a casualty covered by any insurance maintained, or required to be maintained, by Tenant, Tenant shall, at Tenant's sole cost and expense, promptly and forthwith proceed to repair, restore, replace or rebuild the Improvements and Premises Common Area to not less than a substantially equivalent condition in which they existed immediately prior to such damage or destruction. Tenant shall be responsible for the amount of any deductible under such insurance policies and shall also pay the difference, if any, between the insurance proceeds and the cost of such repair and restoration work. Tenant shall diligently prosecute said work to completion without delay or interruption, except for events beyond the reasonable control of Tenant ("Restoration"). Except for modifications required by zoning and building codes and Governmental Regulations, the Restoration shall be to not less than a substantially equivalent condition as they existed prior to the Casualty. Tenant, at its sole cost and expense, shall be responsible for the repair and restoration of all items in this Lease constituting Tenant's Improvements and the replacement of Tenant's stock-in-trade, trade fixtures, furniture, furnishings and equipment. If during the last three (3) Lease Years of the Term (provided that Tenant has not given its Option Notice pursuant to Section 4.2 above), or of the Option Term, as the case may be, the Improvements are damaged such that the cost to repair would exceed \$500,000.00, Tenant may, at Tenant's option, terminate this Lease, provided that prior to the effective date of such termination, Tenant shall, at Tenant's sole cost and expense and at Landlord's option, either raze the remainder of the Improvements and restore the Premises (exclusive of the Premises Common Area) to the condition the Premises was in upon the date that Landlord initially delivered the Premises to Tenant under this Lease, or not restore the Premises.

23.2. Insurance Proceeds. If this Lease is terminated pursuant to this Article 23, all proceeds from Tenant's insurance under Section 8.2.3 covering Tenant's Improvements shall be paid to Landlord; provided, however, all proceeds attributable to the unamortized book value of Tenant's Improvements (less any unamortized amount paid by Landlord for Tenant's Improvements) with a straight-line amortization schedule and an amortization period equal to twenty (20) years, together with all proceeds for Moveable Trade Fixtures, merchandise, Tenant's Sign and other personal property of Tenant, shall be paid to Tenant. If Tenant has failed to maintain the insurance coverage required under this Lease, then Tenant shall pay to Landlord the amount which is equivalent to the amount of insurance proceeds Tenant would reasonably have received if Tenant had maintained the insurance coverage required under this Lease.

23.3. Waiver by Tenant. The provisions of this Article 23 constitute an express agreement between Landlord and Tenant with respect to any Casualty. Therefore, any statute or regulation of the state in which the Premises are located with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between the parties, and any other statute or regulation now or hereafter in effect, shall have no application to this Lease or to any Casualty.

24. CONDEMNATION

24.1 Definitions. Whenever used in this Section, the following words shall have the following respective meanings:

24.1.1 "Condemnation" or "condemnation proceedings" shall mean any action or proceeding brought by competent authority for the purpose of any taking of the Premises, and/or the Key Ring Road Area (as such area is shown on Exhibit B) or any part thereof as a result of the exercise of the power of eminent domain, including a voluntary sale to such authority either under threat of or in lieu of condemnation or while such action or proceeding is pending.

24.1.2 "Taking" shall mean the event of vesting of title to the Premises, and/or the Key Ring Road Area (as such area is shown on Exhibit B) or any part thereof in such competent authority pursuant to condemnation.

24.1.3 "Vesting Date" shall mean the date of the Taking.

24.2 Total Taking. In case of a Taking of all or substantially all of the Premises, and/or the Key Ring Road Area (as such area is shown on Exhibit B), this Lease shall terminate as of the Vesting Date and the Rental under this Lease shall abate as of, and be apportioned to the date of termination.

24.3 Partial Taking. In case of a Taking of less than all of the Premises and/or the Key Ring Road Area (other than for a temporary use), Landlord and Tenant shall mutually determine, within sixty (60) days after the Vesting Date, whether the remaining portion of the Improvements after Restoration can economically and feasibly be used by Tenant for the Permitted Use.

If it is determined and mutually agreed that the remaining portion of the Improvements cannot be economically and feasibly used by Tenant for the Permitted Use, either Landlord or Tenant may, at its option, terminate this Lease by delivery of written notice to the other within thirty (30) days after such determination. Upon any such termination, the Rent shall be apportioned to the date of termination, which date, for purposes of apportioning rent, shall be determined by mutual agreement of the parties.

If neither party elects to terminate this Lease within the period aforementioned, this Lease shall continue in full force and effect as to the remaining portion of the Premises subject to a reduction in the Rent proportionately with the degree to which Tenant's use of the Improvements is impaired.

24.4 Allocation of Award; Total Taking. If this Lease shall terminate pursuant to the provisions of Section 24.2 or 24.3, the total award in the condemnation proceedings shall be apportioned and paid, to the extent available, in the following order of priority:

24.4.1 Landlord and Tenant shall be entitled to their expenses and charges, including, without limitation, reasonable attorneys' fees incurred in connection with the Taking.

24.4.2 Landlord shall next be entitled to that portion of the award which represents the sum of: (i) the value of the Premises, and (ii) the then unamortized book value of all surface or subsurface utilities installed by Landlord.

24.4.3 Tenant shall next be entitled to the then unamortized book value of the Improvements.

24.4.4 Landlord shall next be entitled to the value of Landlord's reversionary interest in the Premises.

24.4.5 The balance of the award, including any portion of the award attributable to Tenant's personal property and moving expenses and Tenant's leasehold interest, shall be paid to Tenant.

24.5 Allocation of Award; Partial Taking. If this Lease shall not terminate as provided in Section 24.3, Tenant, at its expense, shall commence and proceed with reasonable diligence to repair or reconstruct the remaining Improvements and Premises Common Area. All such repair, reconstruction and work shall hereinafter in this Section be referred to as "Condemnation Restoration."

The total award in the condemnation proceedings, in the event of such partial taking, shall be apportioned and paid, to the extent available, in the following order of priority:

24.5.1 Tenant shall first be entitled to an amount equal to the cost of Condemnation Restoration.

24.5.2 Landlord and Tenant shall next be entitled to their expenses and charges, including, without limitation, reasonable attorneys' fees incurred in connection with the Taking.

24.5.3 The balance of the award shall be paid to Landlord, excluding any portion of the award attributable to Tenant's personal property, which shall be paid to Tenant.

24.6 Temporary Taking. In the event of a Taking of all or any portion of the Premises for a period of less than six (6) months, the foregoing provisions of this Article shall be inapplicable thereto, this Lease shall continue in full force and effect without reduction or abatement of Rent and Tenant, alone, shall be entitled to make claim for, recover and retain any award recoverable in respect of such temporary use whether in the form of Rent or otherwise. If the award is made in a lump sum covering a period beyond the expiration of the Lease Term, Landlord also shall be entitled to make claim for and participate in the award proportionately.

If any portion of the award for such temporary use is intended to cover the cost of Condemnation Restoration of the Improvements and Premises Common Area located on the Premises to the condition they were in prior to such temporary use or to make repairs occasioned by or resulting from such temporary use, such portion shall be used by Tenant to cover the cost of such Condemnation Restoration and repair, and any balance remaining shall belong to and be paid to Tenant.

24.7 Settlement. Landlord shall not make any settlement with the condemning authority or convey any portion of the Improvements to such authority in lieu of condemnation or consent to any Taking, which settlement, conveyance or consent provides for an allocation of any Award that is inconsistent with the terms of this Article 25, without the reasonable consent of Tenant.

24.8 Waiver. Except as otherwise expressly set forth herein, Tenant waives any rights now or hereafter conferred upon it by statute or otherwise to quit or surrender this Lease or the Premises and Improvements or any suspension, diminution, abatement or reduction of Rent on account of any Taking.

25. HAZARDOUS MATERIALS

25.1. Environmental Laws. Tenant covenants and agrees that Tenant shall at all times from and after the Delivery Date comply with and assume responsibility and liability under all Environmental Laws applicable to occupancy or use of or operations at the Improvements by Tenant, Tenant's Occupants and the Tenant Parties.

25.2. Notification. Tenant agrees (a) that should it or Tenant's Occupants or the Tenant Parties know of the release or escape or threatened release or escape of any Hazardous Materials in, on, under or about the Premises and/or the Improvements, including, without limitation, the release or escape or threatened release or escape of any Hazardous Materials in connection with Tenant's Improvements or Tenant's Repair Obligations made by Tenant to the Premises and/or the Improvements or any part thereof, that they will promptly notify Landlord in writing of such release or escape or threatened release or escape and (b) that it will provide all warnings of exposure to Hazardous Materials in, on, under or about the Premises and/or the Improvements in strict compliance with all applicable Environmental Laws. As of the Effective Date of this Lease, Landlord has no actual knowledge of any Hazardous Materials on the Premises which are not in compliance with Environmental Laws, except as may otherwise be set forth in the following ~~two reports (collectively,~~ the "Reports"): (i) Site Assessment dated December 17, 1997 prepared by Harding Lawson Associates, and (ii) ~~Environmental Site Assessment dated April 2, 1990 prepared by Maxim Engineering.~~ NSM
M.S.

25.3. Compliance with Environmental Laws. Tenant covenants and agrees that Tenant shall at no time use or permit the Premises and/or the Improvements to be used in violation of any Environmental Laws. Tenant shall assume sole and full responsibility for, and shall promptly remedy at its sole cost and expense, all such violations caused by Tenant or any of the Tenant Parties, provided that Landlord's written approval of any such remedial actions shall first be obtained, which approval shall not be unreasonably withheld. Further, Tenant shall not enter into any settlement agreement, consent decree or other compromise relating to violation or alleged violation of Environmental Laws in any way connected with the Premises and/or the Improvements, without first notifying Landlord of Tenant's intention to do so and affording Landlord ample opportunity to appear, intervene or otherwise appropriately assert Landlord's interest with respect thereto. Tenant shall at no time use, generate, manufacture, produce, transport, store, treat, release, dispose of or permit the escape of, or otherwise deposit in, on, under or about the Premises and/or the Improvements, any Hazardous Materials, or permit or allow Tenant's Occupants or the Tenant Parties to do so, without Landlord's prior written consent. Tenant's compliance with the terms of this Section 25.3 shall be at Tenant's sole cost and expense. If Tenant, Tenant's Occupants or the Tenant Parties have violated any

Governmental Regulations relating to Hazardous Materials, Tenant shall pay to Landlord, promptly upon demand, all reasonable costs and expenses incurred by Landlord with interest thereon at the Agreed Rate (including Landlord's actual attorneys', engineers', consultants' and other experts' fees and disbursements incurred or payable by Landlord) to determine Tenant's compliance with Environmental Laws, or to investigate environmental conditions at the Premises and Improvements, including, without limitation, above- and below-ground testing. If Tenant fails to comply with the provisions of this Section 25.3, Landlord shall have the right, but not the obligation, without in any way limiting Landlord's other rights and remedies, to enter upon the Premises and the Improvements and/or to take such other actions as Landlord deems reasonably necessary or advisable to clean up, remove, resolve, or minimize the impact of, or otherwise deal with, any Hazardous Materials on or affecting the Premises and/or the Premises. Upon the Expiry Date or date of earlier termination of this Lease, Tenant shall, in addition to the Surrender Obligations, deliver the Premises and the Improvements to Landlord free of any and all Tenant Installed Hazardous Materials so that the condition of the Premises and Improvements shall conform to and be in strict compliance with all Environmental Laws. Notwithstanding anything in this Article 25 to the contrary, Tenant shall not be responsible for abating any Hazardous Materials pre-existing in the Premises, or otherwise for indemnifying Landlord against any such pre-existing Hazardous Materials ("pre-existing" for purposes of the foregoing means existing prior to Tenant, or its respective agent, contractor, employee or licensee initially taking possession of the Premises).

25.4. Environmental Survey. In the event Landlord has reasonable, articulable grounds, supported by facts and related documentation, for a belief in the existence of Tenant Installed Hazardous Materials in the Premises, Landlord shall have the right, upon written notice to Tenant ("Environmental Survey Notice"), at any time and from time-to-time during the Term, including, without limitation, (a) prior to the Expiry Date or date of earlier termination of this Lease and/or (b) in conjunction with a proposed Transfer requested by Tenant (in which event, Tenant's satisfaction of its obligation under this Section 25.4 shall be a condition precedent to Landlord's consent to any such proposed Transfer), to require Tenant, at Tenant's sole cost and expense, not later than thirty (30) days following Environmental Survey Notice, to cause an Environmental Survey by the Environmental Consultant. Tenant shall, upon completion of the Environmental Survey, promptly furnish to Landlord a copy of Environmental Survey prepared by the Environmental Consultant. If the Environmental Survey shall disclose any Tenant Installed Hazardous Materials, (i) Tenant shall, within thirty (30) days after completion of the Environmental Survey, at its sole cost and expense, cause all of said Tenant Installed Hazardous Materials to be abated and removed from in, on, under or about the Premises and transported from the Center for use, storage or disposal in compliance with all Environmental Laws and Landlord's hazardous materials abatement criteria by the Environmental Contractor; provided, however, in the event such abatement, removal and disposal of the Tenant Installed Hazardous Materials is performed by Tenant after the Expiry Date or date of earlier termination of this Lease, Tenant shall be deemed to be occupying the Premises at a monthly Rent in an amount equal to the Fixed Minimum Rent, Percentage Rent and Additional Rent specified at Section 13.4 for a holding over on the Premises from the Expiry Date or date of earlier termination of this Lease until the date Landlord receives certification from the Environmental Contractor that all Tenant Installed Hazardous Materials have been abated and removed from in, on, under or about the Premises, and transported from the Center for use, storage or disposal in compliance with all applicable Environmental Laws or (ii) Landlord may, at its sole option, upon written notice to Tenant, cause all of the said Tenant Installed Hazardous Materials to be abated and removed from in, on, under or about the Premises and transported from the Center for use, storage or disposal in compliance with all Environmental Laws by a hazardous materials abatement contractor selected by Landlord, in which event, the costs and expenses of such abatement, removal and disposal shall be a Prepaid Cost. If Tenant fails to timely perform its obligations under this Section 25.4, Landlord shall have the right (but shall not be obligated) to perform Tenant's obligations under this Section 25.4, in which event Tenant shall pay to Landlord promptly, upon demand, the costs and expenses thereof, with interest thereon at the Agreed Rate; provided, however, if Landlord performs Tenant's obligations under this Section 25.4 after the Expiry Date or date of earlier termination of this Lease, Tenant shall pay to Landlord, in addition to the foregoing costs and expenses, a monthly Rent in an amount equal to the Fixed Minimum Rent, Percentage Rent and Additional Rent specified at Section 13.4 for a holding over on the Premises from the Expiry Date or date of earlier termination of this Lease until the date Landlord has completed Tenant's obligations under this Section 25.4. Landlord and Tenant agree that the foregoing monthly Rent represents a reasonable estimate of the financial losses suffered by Landlord due to Tenant's failure to timely perform its obligations under this Section 25.4. Notwithstanding anything contained in this Section 25.4 to the contrary, provided the Environmental Survey does not disclose any Tenant Installed Hazardous Materials, then within fifteen (15) days thereafter, the cost incurred by Tenant for the Environmental Survey shall be reimbursed by Landlord.

26. SUBORDINATION, ATTORNMEN AND ESTOPPEL

26.1. Subordination. Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, this Lease shall be subject and subordinate at all times to: (a) All ground or underlying leases which may now exist or hereafter be executed affecting the Premises and (b) the lien of any mortgage or deed of trust which may now exist or hereafter be executed in any amount for which the Premises, such ground or underlying leases, or Landlord's interest or estate in any of them, is specified as security. Notwithstanding the foregoing, Landlord shall have the right to subordinate or cause to be subordinated any such ground or underlying leases or any such liens to this Lease. If any ground or underlying lease terminates for any reason, Tenant shall, notwithstanding any subordination of such ground or underlying lease to this Lease, attorn to and become tenant of the successor-in-interest to Landlord at the option of such successor-in-interest provided that Tenant receives a Non-Disturbance Agreement (hereinafter defined). Tenant shall execute and deliver, upon demand by Landlord from time-to-time within twenty (20) days after written request to do so and in a commercially reasonable form requested by Landlord, any documents evidencing the priority or subordination of this Lease with respect to any such ground or underlying leases or the lien of any such mortgage, or deed of trust provided that Tenant receives a Non-Disturbance Agreement (hereinafter defined). If Tenant fails to comply with the foregoing, Tenant waives the provisions of any current or future statute, rule or law which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease and the obligations of Tenant hereunder in the event of any foreclosure proceeding or sale. Notwithstanding the foregoing, the subordination of this Lease to future ground or underlying leases and future mortgages or trust deeds shall be conditioned upon delivery to Tenant of a Non-Disturbance Agreement (as defined below). Tenant covenants and agrees in the event any proceedings are brought for the foreclosure of any such mortgage or deed in lieu thereof, to attorn, without any deductions or set-offs whatsoever, except as expressly set forth herein, to the purchaser or any successors thereto upon any such foreclosure sale or deed in lieu thereof if so requested to do so by such purchaser, and to recognize such purchaser as the lessor under this Lease, subject to Tenant's obtaining from such mortgagee or beneficiary a commercially reasonable non-disturbance agreement, and reasonably satisfactory to Tenant, executed by such mortgagee or beneficiary providing that, as long as Tenant is not in default hereunder (beyond the expiration of any applicable notice and cure periods), this Lease shall remain in effect for the Term (a "Non-Disturbance Agreement").

26.2. Attornment. If any proceeding is brought for default under any ground or underlying lease to which this Lease is subject, or in the event of foreclosure or the exercise of the power of sale under any mortgage or deed of trust made by Landlord covering the Premises, Tenant shall attorn to the successor upon any such foreclosure or sale and shall recognize that successor as Landlord under this Lease, provided such successor expressly agrees in writing to be bound to all future obligations by the terms of this Lease, except that such successor shall not be (a) liable for any previous act or omission of Landlord under this Lease (unless and to the extent such act or omission is ongoing), or (b) bound by any previous prepayment of Rent or Security Deposit which have not been expressly delivered by Landlord to such successor. If so requested, Tenant shall enter into a new lease with that successor on the same terms and conditions as are contained in this Lease (for the unexpired Term of this Lease then remaining).

26.3. Estoppel Certificate. Each party ("Certifying Party") shall, from time-to-time within fifteen (15) days after prior written notice from the other party ("Requesting Party"), execute, acknowledge and deliver to the Requesting Party a statement in writing in such form as may be reasonably required by the Requesting Party: (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the Rent and other charges are paid in advance, if any; (b) acknowledging that there are not, to the Certifying Party's knowledge, any uncured defaults on the part of the Requesting Party hereunder (or specifying such defaults if they are claimed); and (c) containing such other matters pertaining to the terms of the Lease as may be reasonably requested. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Requesting Party's interest in the Lease.

27. MISCELLANEOUS

27.1. Amendments. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors-in-interest.

27.2. Application of Payments. Except as expressly provided herein to the contrary, Landlord shall have the right to apply payments received from Tenant pursuant to this Lease, regardless of Tenant's designation of such payments, to satisfy any obligations of Tenant hereunder, in such order and amounts as Landlord, in its sole discretion, may elect. Notwithstanding any contrary provision in this Lease, if Landlord is obligated to credit or refund any amount owed by Landlord to Tenant and if at such time there is any outstanding Rent due Landlord, Landlord may elect to apply such credit and/or

refund toward such outstanding Rent.

27.3. Authority of Signatories. Each Authorized Officer executing this Lease on behalf of a party represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of such party, and that such party is qualified to do business in the state where the Center is located, and shall deliver appropriate certification to that effect if requested.

27.4. Binding Effect. Except as otherwise expressly provided in this Lease, all of the provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

27.5. Brokers. Except with respect to Landlord's Broker and Tenant's Broker (identified at Sections 1.20 and 1.21 hereof) who shall be compensated by Landlord in accordance with the terms and conditions of a separate written agreement between Landlord and each such broker, Landlord and Tenant shall each hold the other harmless from, and indemnify the other against, all damages (including reasonable attorneys' fees and costs) resulting from any claims that may be asserted against Landlord or Tenant by any broker, finder, or other person with whom the other has or purportedly has dealt.

27.6. Captions. The names of Articles and Sections are for convenience only and shall not be used to interpret or construe the meaning of any provision in this Lease. All references to Articles, Sections and Exhibits are references to Articles and Sections contained in this Lease and Exhibits attached to this Lease unless otherwise expressly provided.

27.7. Choice of Law. This Lease shall be governed by the laws of the state where the Center is located.

27.8. Confidentiality. Each party shall keep the content of this Lease and all related documents strictly confidential and shall not disclose such confidential information to any person or entity other than such party's financial, legal and space planning consultants, or if compelled to disclose by a court of competent jurisdiction.

27.9. Counterparts. This Lease may be executed in counterparts with the same effect as if both parties hereto had executed the same document. All counterparts shall be construed together and shall constitute a single Lease.

27.10. Execution by Landlord. The submission of this document to Tenant and Tenant's representatives for examination and negotiation does not constitute an offer to lease, or a reservation of, or an option for, the Premises. This document becomes effective and binding only upon Landlord's delivery of a counterpart executed by both Tenant and by Landlord to Tenant. Until this Lease is executed by both Tenant and Landlord and delivered by Landlord to Tenant, Landlord and its agents may continue to negotiate with third parties for the leasing of all or portions of the Premises. No act or omission of any employee or agent of Landlord or of Landlord's broker shall alter, change or modify any of the provisions hereof. If Landlord has not accepted Tenant's offer herein contained by signing and returning to Tenant two (2) duplicate originals of this Lease prior to the date which is sixty (60) days after the date this Lease is executed by Tenant, then the offer herein contained shall be, if Tenant so elects, withdrawn, void and of no further force or effect.

27.11. Exhibits. All exhibits affixed to this Lease are made a part of, and are incorporated into, this Lease.

27.12. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, fire or other Casualty, in each case if due to a cause beyond the reasonable control of the party obligated to perform, and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent payable by Tenant pursuant to this Lease and with respect to the terms of Section 10.6 of this Lease (collectively, "Force Majeure"), notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to any such prevention, delay or

stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure.

27.13. Independent Covenants. This Lease shall be construed as though the covenants herein between Landlord and Tenant are independent and not dependent and Tenant hereby expressly waives the benefit of any statute to the contrary.

27.14. Labor Contracts. Tenant shall take no action which creates any work stoppage, picketing, labor disruption or dispute, or interferes with the business of Landlord or any Occupant in the Center or with the rights and privileges of any customer or other person(s) lawfully in the Center, or causes any impairment or reduction of the goodwill of the Center. If there shall be any work stoppage, picketing, labor disruption or dispute as the result of the actions of Tenant, Tenant shall immediately undertake such action as may be necessary to eliminate such dispute or potential dispute, including, but not limited to, (a) removing all disputants from the job site until such time as the labor dispute no longer exists, (b) seeking a judgment for a breach of contract between Tenant and Tenant's contractor and (c) filing appropriate unfair labor practice charges in the event of a union jurisdictional dispute.

27.15. Landlord and Tenant. The words "Landlord" and "Tenant" include the plural as well as the singular. Words used in the neuter gender include the masculine and feminine and words in the masculine or feminine gender include the neuter. If there is more than one person or entity constituting Landlord or Tenant, the obligations imposed hereunder upon Landlord or Tenant are joint and several. If Tenant consists of a husband and wife, the obligations of Tenant hereunder extend individually to the sole and separate property of each of them as well as to their community property. The obligations contained in this Lease to be performed by Landlord shall be binding on Landlord's successors and assigns only during their respective periods of ownership of the Premises.

27.16. Matters of Record. This Lease and Tenant's rights hereunder are subject and subordinate in all respects to matters affecting Landlord's title recorded prior or subsequent to the date of execution of this Lease in the official records of the county recorder's office for the county in which the Center is located, to the extent and as set forth herein.

27.17. Merger. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreement, negotiations, brochures, arrangements, or understanding pertaining to any such matter shall be effective for any purpose unless expressed herein.

27.18. Intentionally Omitted.

27.19. Name of Center. Landlord expressly reserves the right at any time, after no less than sixty (60) days' notice to Tenant, to change the name of the Center without any liability to Tenant.

27.20. No Consent or Approval. Landlord's or Tenant's consent to or approval of any act by the other requiring its consent or approval shall not constitute a consent or approval of any subsequent act by the other.

27.21. No Violation. Each party hereby warrants and represents that neither its execution of nor performance under this Lease shall cause each party to be in violation of any agreement, instrument, contract, law, rule or regulation by which each party is bound.

27.22. No Warranty. In executing and delivering this Lease, Tenant has not relied on any representations, warranties or statements which are not expressly set forth herein or in one or more of the exhibits attached hereto.

27.23. Intentionally Omitted.

27.24. Intentionally Omitted.

27.25. Quiet Enjoyment. So long as Tenant timely pays all Rent, timely performs its covenants and obligations under this Lease and recognizes any successor to Landlord in accordance with the terms of this Lease, Tenant shall lawfully and quietly have, hold and enjoy the Premises and the Improvements during the Term without hindrance or molestation by Landlord or anyone claiming by, through or under Landlord, subject, however, to all mortgages, encumbrances, easements, underlying leases, and instruments of record to which this Lease may become subject from time-to-time, and the provisions of this Lease.

27.26. REIT Qualifications. Landlord and Tenant agree that all Rent paid to Landlord under this Lease shall qualify as "rents from real property" as defined in Code Section 856(d) and as further defined in Regulation Section 1.856-4. Should the requirements of the said Code Section or Regulation Section be amended so that any rent no longer qualifies as "rents from real property" for the purposes of the Code or the Regulation, the Rent payable to Landlord shall be adjusted so that such Rent will qualify as "rents from real property" under the Code and Regulation; provided that such adjustments required pursuant to the provisions of this Section 27.26 shall not increase the monetary obligations of Tenant. If any adjustment of Rent under this Section 27.26, or if Landlord in good faith determines that its status as a real estate investment trust under the provisions of the Code or the Regulation will be jeopardized because of any provision of this Lease, Tenant shall, without charge therefor and within thirty (30) days after Landlord's written request therefor, execute and deliver to Landlord such amendments to this Lease as may be reasonably required by Landlord to avoid such jeopardy; provided such amendments do not increase the monetary obligations of Tenant or in any other manner materially increase Tenant's obligations or materially decrease Tenant's rights under this Lease.

27.27. Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturer or any association between Landlord and Tenant.

27.28. Rules. Landlord shall have the right at any time to establish, modify, amend and enforce reasonable and non-discriminatory Rules provided such Rules do not materially conflict with the terms of this Lease and provided further such Rules are uniformly applied to all tenants and Occupants of the Center. Tenant shall (and shall cause Tenant's invitees to) comply with all Rules. Except in an emergency, Landlord shall give Tenant at least fifteen (15) days' prior notice of the establishment, modification and amendment of Rules.

27.29. Security. Landlord may from time-to-time elect to obtain or cease to provide security services and/or devices for the protection of the Common Area. Such security services and devices are not intended to provide protection for the Premises or the persons thereon or the contents thereof and, therefore, Tenant shall obtain any and all security services and/or devices as Tenant shall reasonably require for the protection of the Premises, the Tenant Parties, Tenant's invitees and customers, and the goods and personal property of Tenant. No firearms or other devices that could cause grievous bodily harm shall be used by any of Tenant's security services, or any of Tenant or the Tenant Parties, unless Landlord shall have agreed to the same in writing (which consent Landlord may withhold in its sole discretion) and Tenant shall have provided Landlord with such instruments as Landlord shall require to protect Landlord and the Landlord Parties from any and all liability in connection with the use of such firearms or devices.

27.30. Severability. If any provision of this Lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and every other term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

27.31. Submittal of Financial Statement. At any time and from time-to-time during the Term, but not more often than once in any calendar year, within thirty (30) days after request therefor by Landlord, Tenant shall supply to Landlord and/or any of Landlord's Designees a current financial statement. Such information shall be confidential and Landlord shall not divulge such information, except to any actual or prospective purchaser of Landlord's interest in the Premises or to any actual or prospective lender or as may otherwise be required for Landlord to undertake its obligations and rights under this Lease. Notwithstanding anything contained in this Section 27.31 to the contrary, in the event Tenant (or any Tenant Affiliate which Controls Tenant, as the case may be) is a publicly-held corporation, in lieu of said financial information, Tenant shall be permitted to furnish Landlord with a copy of Tenant's (or any Tenant Affiliate's which Controls Tenant, as the case may be) most current annual stockholders' report.

27.32. Survival. Every obligation to pay Rent, every indemnification of one party by the other and every provision relating to Hazardous Materials shall survive the expiration or earlier termination of this Lease, unless and to the extent otherwise expressly provided in this Lease.

27.33. Time. Time is of the essence of this Lease and each and every provision hereof, except as may be expressly provided otherwise.

27.34. Waivers.

27.34.1. Waiver of Default. No delay or omission in the exercise of any right or remedy

of Landlord or Tenant for any default by the other shall impair such right or remedy or be construed as a waiver. Any waiver by Landlord of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Lease.

27.34.2. Waiver of Redemption by Tenant. Tenant hereby waives for Tenant and for all those claiming under Tenant all right now or hereafter existing to redeem by order or judgment of any court or by any legal process or writ, Tenant's right of occupancy of the Premises after any termination of this Lease.

27.34.3. Waiver of Right to Repair. Except as otherwise expressly provided herein, 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 Premises or the Center or in or to the fixtures, appurtenances and equipment therein. Tenant hereby waives the right to make repairs at Landlord's expense under the provisions of any laws permitting repairs by a tenant at the expense of landlord.

27.34.4. Waiver of Trial by Jury. LANDLORD AND TENANT EACH HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE OR TENANT'S USE OR OCCUPANCY OF THE PREMISES, INCLUDING ANY CLAIM OF INJURY OR DAMAGE, AND ANY EMERGENCY AND OTHER STATUTORY REMEDY WITH RESPECT THERETO. LANDLORD AND TENANT ALSO AGREE THAT THE VENUE OF ANY SUCH ACTION, PROCEEDING OR COUNTERCLAIM SHALL BE IN THE CITY, COUNTY AND STATE IN WHICH THE CENTER IS LOCATED.

27.34.5. Waiver of Landlord's Lien. Landlord hereby waives all of Landlord's rights to assert a contractual, statutory, constitutional or other lien or security interest in any of Tenant's personal property or the personal property of any assignee or subtenant of Tenant that may now or at anytime hereafter be situated on the Premises.

27.35. Ring Road Condition. The following shall be a condition precedent to Tenant's obligations hereunder ("Ring Road Condition") which must be satisfied or waived by Tenant on or before May 1, 2001 ("Ring Road Contingency Expiration Date"):

27.35.1. Landlord shall have received all necessary approvals to enable Landlord to create a curb cut in the ring road in the approximate location shown on Exhibit B. Landlord shall use its diligent, good faith efforts to cause the Ring Road Condition to be satisfied on or before the Ring Road Contingency Expiration Date.

On or before the Ring Road Contingency Expiration Date, Tenant may at its election, terminate this Lease if the Ring Road Condition has not been satisfied (as determined by Tenant in its reasonable business judgment), by providing the Landlord written notice thereof on or before the Ring Road Contingency Expiration Date, in which event this Lease shall be deemed canceled and of no further force or effect as of the date of delivery of such notice (except those provisions hereof which are stated to survive a termination). In the event that Tenant shall fail to provide Landlord with written notice of termination on or before the Ring Road Contingency Expiration Date, then Tenant shall be deemed to have affirmatively and expressly approved the Ring Road Condition. As used in this Lease, the term "Curb Cut Approval Date" shall mean the earlier of (i) the date Landlord notifies Tenant in writing that it has satisfied the Ring Road Condition, or (ii) the Ring Road Contingency Expiration Date.

27.36. Tenant's Due Diligence Conditions. The following shall be conditions precedent to Tenant's obligations hereunder (collectively, "Tenant's Due Diligence Conditions") all of which must be satisfied or waived by Tenant on or before the date which is sixty (60) days after the Curb Cut Approval Date ("Tenant's Due Diligence Contingency Expiration Date"):

27.36.1. Tenant shall have received evidence satisfactory to it that the Premises is zoned for the Permitted Use, including any conditional or special use permits required under applicable zoning ordinances;

27.36.2. Tenant shall have obtained, at Tenant's sole cost, a phase I environmental site assessment (the "Environmental Report") establishing that Tenant would not be subject to potential liabilities resulting from any Hazardous Materials at the Center or the Premises. Landlord has heretofore furnished to Tenant a copy of the Reports referenced in Section 25.2 hereof;

27.36.3. Tenant shall have received evidence satisfactory to it that all utility service

connections, including, without limitation, water, electricity, natural gas, sanitary sewer, storm sewer, telephone service and cable television, are available for hook-up at locations designated by Tenant in Tenant's reasonable business judgment with capacities sufficient for the Permitted Use;

27.36.4. Tenant shall be satisfied that it will have access to and from all necessary driveways and curb cuts to adjacent streets and the Ring Road from the Premises in numbers and at locations reasonably acceptable to Tenant and as shown on Exhibit B hereto; and

27.36.5. Tenant shall have obtained at Tenant's sole cost, a commitment for title insurance for the Premises (the "Commitment"), and such Commitment (including the property taxes and assessments affecting the Premises which are described therein) shall be satisfactory to Tenant (in Tenant's reasonable business judgment).

On or before the Tenant's Due Diligence Contingency Expiration Date, Tenant may at its election, terminate this Lease if any of the Tenant's Due Diligence Conditions have not been satisfied (as determined by Tenant in its reasonable business judgment), by providing Landlord written notice thereof on or before the Tenant's Due Diligence Contingency Expiration Date, in which event this Lease shall be deemed canceled and of no further force or effect as of the date of delivery of such notice (except those provisions hereof which are stated to survive a termination). In the event that Tenant shall fail to provide Landlord with written notice of termination on or before the Tenant's Due Diligence Contingency Expiration Date, then Tenant shall be deemed to have affirmatively and expressly approved all of Tenant's Due Diligence Conditions.

27.37. Tenant's Permit Conditions. The following shall additionally be a condition precedent to Tenant's obligations hereunder ("Tenant's Permit Condition") which must be satisfied or waived by Tenant on or before the date which is one hundred fifty (150) days after the Curb Cut Approval Date ("Tenant's Permit Contingency Expiration Date"):

27.37.1. Tenant shall have obtained, or received evidence satisfactory to it that it will be able to obtain, from all required private parties (if any) and the appropriate governmental authorities, all approvals, permits and licenses necessary for the construction and operation of the Premises for the Permitted Use, including acceptable standard building signage, for a prototypical Chuck E. Cheese's. Tenant shall apply for all such permits as soon as reasonably possible after the Curb Cut Approval Date, and thereafter use commercially reasonable efforts to diligently obtain such permits.

On or before the Tenant's Permit Contingency Expiration Date, Tenant may at its election, terminate this Lease if the Tenant's Permit Condition has not been satisfied (as determined by Tenant in its reasonable business judgment), by providing Landlord written notice thereof on or before the Tenant's Permit Contingency Expiration Date, in which event this Lease shall be deemed canceled and of no further force or effect as of the date of delivery of such notice (except those provisions hereof which are stated to survive a termination). In the event that Tenant shall fail to provide Landlord with written notice of termination on or before the Tenant's Permit Contingency Expiration Date, then Tenant shall be deemed to have affirmatively and expressly approved Tenant's Permit Condition. As used in this Lease, the term "Permit Approval Date" shall mean the earlier of (i) the date Tenant obtains a building permit to construct the Building from the City of Dallas, or (ii) the Permit Contingency Expiration Date.

27.38. Memorandum of Lease. The parties hereby agree that this Lease shall not be recorded. However, upon the request of either party, the parties shall execute, acknowledge, deliver and record a short form of memorandum of this Lease (the "Lease Memorandum"). Recording, filing and like charges and any stamp, charge for recording, transfer or other tax shall be borne by the party requesting recordation. In the event of termination of this Lease, within ten (10) days after written request, each party agrees to execute, acknowledge and deliver to the other party an appropriate instrument removing such Lease Memorandum from record. This provision shall survive any expiration or termination of this Lease.

[Signature page follows.]

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

LANDLORD:

MACERICH VALLEY VIEW ADJACENT
LIMITED PARTNERSHIP,
a California limited partnership

By: Macerich Valley View Adjacent GP Corp.,
a Delaware corporation, its general partner

By: 

Name: MACE SIEGEL

Its: Chairman of the Board

TENANT:

CEC ENTERTAINMENT, INC.
a Kansas corporation

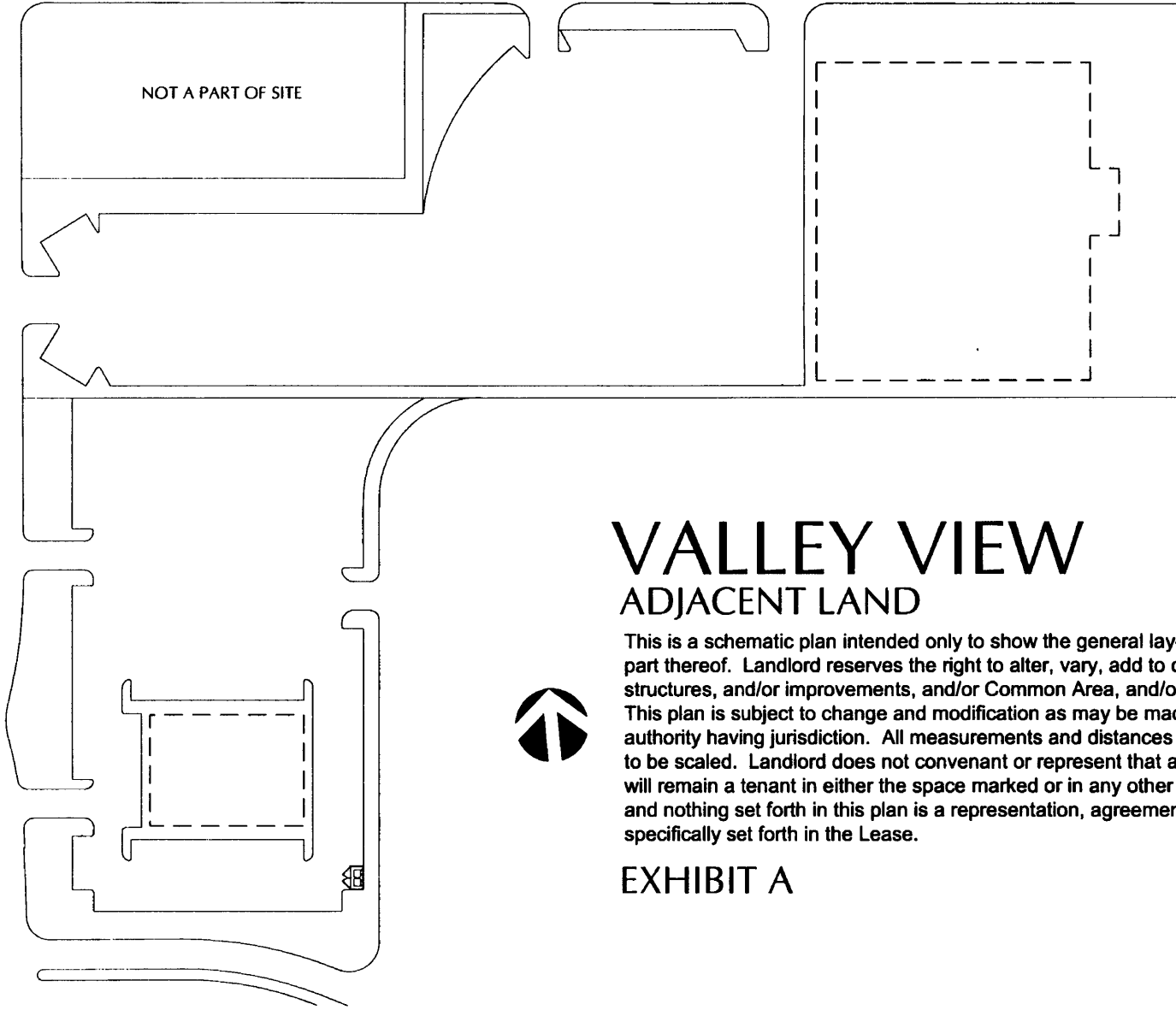
By: 

Roger Cardinale

Executive Vice President

EXHIBIT A

DEPICTION OF CENTER



VALLEY VIEW ADJACENT LAND

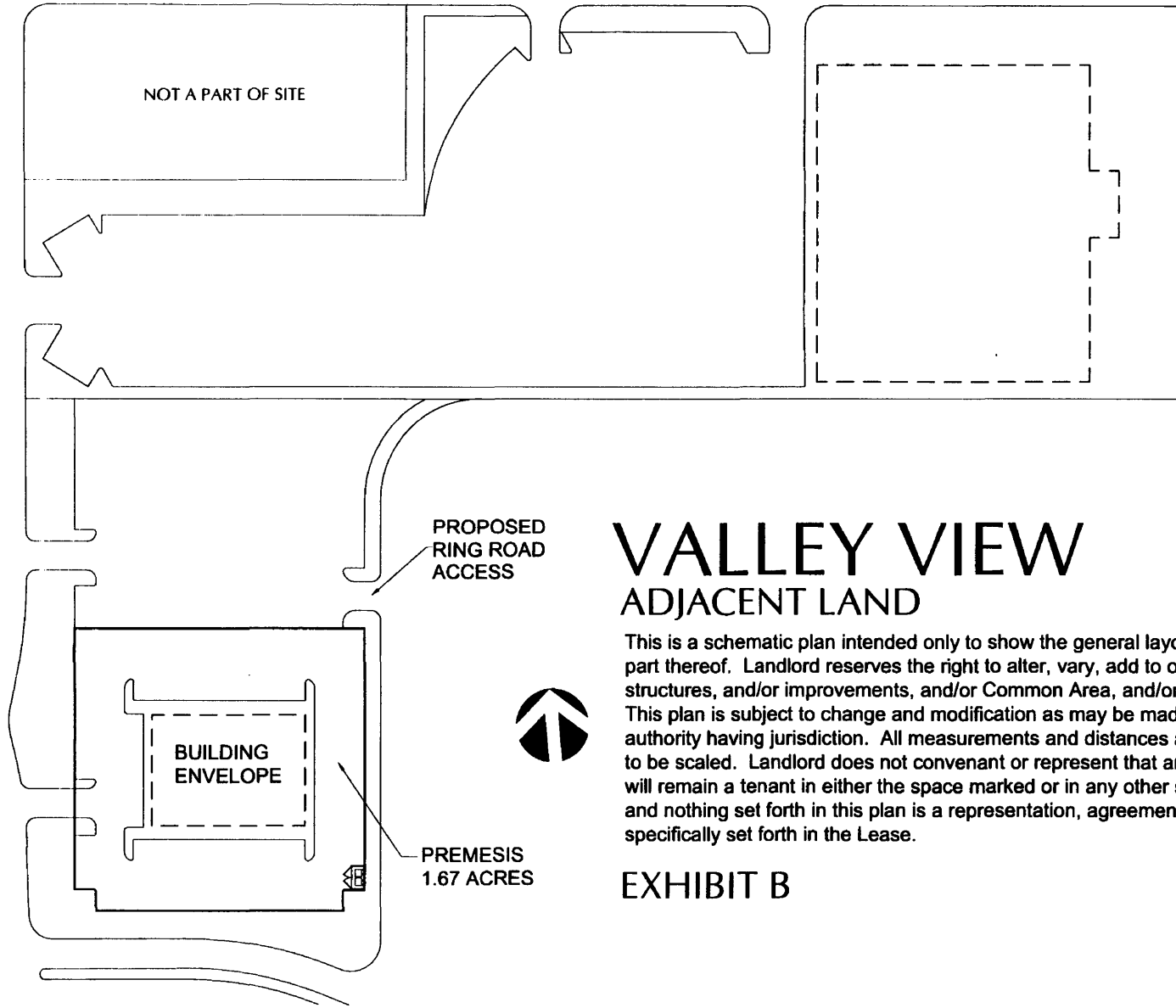
This is a schematic plan intended only to show the general layout of the Center or a part thereof. Landlord reserves the right to alter, vary, add to or omit in whole or in part any structures, and/or improvements, and/or Common Area, and/or land area shown on this plan. This plan is subject to change and modification as may be made by Landlord or required by any authority having jurisdiction. All measurements and distances are approximate. This plan is not to be scaled. Landlord does not covenant or represent that any Occupant indicated herein is or will remain a tenant in either the space marked or in any other space in the Center and nothing set forth in this plan is a representation, agreement or easement right except as specifically set forth in the Lease.

EXHIBIT A

EXHIBIT A

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02.15.01.1128

EXHIBIT B



VALLEY VIEW ADJACENT LAND

This is a schematic plan intended only to show the general layout of the Center or a part thereof. Landlord reserves the right to alter, vary, add to or omit in whole or in part any structures, and/or improvements, and/or Common Area, and/or land area shown on this plan. This plan is subject to change and modification as may be made by Landlord or required by any authority having jurisdiction. All measurements and distances are approximate. This plan is not to be scaled. Landlord does not covenant or represent that any Occupant indicated herein is or will remain a tenant in either the space marked or in any other space in the Center and nothing set forth in this plan is a representation, agreement or easement right except as specifically set forth in the Lease.

EXHIBIT B

EXHIBIT B

#136318v6<i>Manage> -Chuck E. Cheese - Valley
View Lease.wpd
02.15.01.1129

EXHIBIT C

PROVISIONS FOR THE DESIGN AND CONSTRUCTION OF INITIAL IMPROVEMENTS UPON THE PREMISES

1. GENERAL PROVISIONS

1.1 Purpose. This Exhibit C sets forth the description of Landlord's Work and Tenant's Work.

1.2 Definitions. Unless otherwise expressly defined in this Exhibit C, all capitalized words shall have the meanings specified in the Lease or the Tenant Package, as the case may be.

1.3 References. Unless otherwise expressly provided in this Exhibit C, references to Articles, Sections and captions are references to Articles, Sections and captions contained in this Exhibit C.

2. TENANT PACKAGE

2.1 Tenant Package. Within three (3) days following Landlord's execution of the Lease and delivery of the Lease to Tenant, Landlord shall deliver to Tenant a Tenant Package which shall govern all of Tenant's Work. Tenant shall, and Tenant shall cause, Tenant's Architect, Tenant's engineer and Tenant's Contractor and subcontractors to, in all respects comply with, and Tenant's Work shall in all respects be subject to, the Tenant Package. The Tenant Package may contain, among other materials, the following: (a) Tenant Design and Construction Criteria, (b) Sign Criteria and Plan Submittal Guidelines, (c) Contractors' Rules and Regulations and (d) Technical Manual. The Tenant Package is incorporated by this reference into this Exhibit C and the Lease. In the event of any conflict between the final, approved Plans (approved by Landlord and Tenant) and the Tenant Package, the final approved Plans shall govern and prevail.

3. DESCRIPTION OF LANDLORD'S WORK

3.1 Landlord's Work Defined. "Landlord's Work" means the work, if any, which Landlord is expressly obligated to undertake pursuant to this Article 3. Landlord shall have no obligation whatsoever to improve, remodel, alter or otherwise modify or prepare the Premises for Tenant's occupancy.

3.2 Center. Tenant has inspected the Center and Tenant has found the same to be suitable, sufficient and in acceptable condition for the purpose of Tenant conducting the Permitted Use upon the Improvements. Landlord shall have no obligation to undertake any work or furnish any additional materials upon any part of the Center or provide any additional utilities or other systems for the benefit of the Improvements, unless otherwise set forth in this Article 3.

3.3 Tenant Coordinator. Landlord shall designate such person or persons identified in the Tenant Package as Tenant Coordinator ("Tenant Coordinator") who alone shall have authority on behalf of Landlord to oversee and manage the review and approval of Preliminary Documents, Construction Documents, As-Built Documents, Plan Revisions and other matters specified in this Exhibit C and the Tenant Package. No matter shall be deemed approved by Landlord under this Exhibit C unless approved in writing by the Tenant Coordinator. Landlord may, from time-to-time and upon written notice to Tenant's Representative, name another person or persons as Tenant Coordinator.

3.4 Delivery of the Premises to Tenant. Landlord shall deliver the Premises to Tenant in its existing AS IS condition, except that Landlord shall cause the following utilities to be brought to the boundary of the Premises as described below:

3.4.1 Sewer. Six inch (6") sanitary sewer.

3.4.2 Storm Sewer. Pursuant to City requirements.

EXHIBIT C

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3.4.3 Water and Fire. Pursuant to City Code and adequate to supply two inch (2") domestic service at 80 psi residual and 100 gallons per minute and irrigation water.

3.4.4 Gas. Three inch (3") with 1500 cfm minimum at seven inch (7") water column.

3.4.5 Electrical. 120/208V capable of 1200 amp service.

3.4.6 Telephone. Landlord to bring empty conduits for phone lines to the boundary of the Premises.

4. DESCRIPTION OF TENANT'S WORK

4.1 Condition of Premises. Upon the Delivery Date, Tenant shall accept delivery of the Premises and Building Envelope and Landlord shall have no obligation to improve, remodel, alter or otherwise modify or prepare the Premises for Tenant's occupancy except as otherwise set forth in the Lease. Tenant hereby represents each of the following: (a) Tenant or its authorized representative has inspected the Premises and has made all inquiries, tests and studies that it deems necessary in connection with its leasing of the Premises, (b) Tenant is relying solely on Tenant's own inspection, inquiries, tests and studies conducted in connection with, and Tenant's own judgment with respect to, the condition of the Premises and Tenant's leasing thereof and (c) Tenant is leasing the Premises without any representations or warranties, express, implied or statutory by Landlord, or Landlord's agents, brokers, finders, consultants, counsel, employees, officers, directors, shareholders, partners, trustees or beneficiaries.

4.2 Tenant's Work Defined. "Tenant's Work" means all work of improvement to be undertaken upon the Premises (excluding Landlord's Work, if any), including, without limitation, the Building, the Facilities, the Premises Common Area and all related documents, permits, licenses, fees and costs, all of which shall be at the sole cost and expense of Tenant. Tenant agrees, at Tenant's sole cost and expense, to construct or cause to be constructed upon the Premises: (a) all site work necessary to develop the Premises and the Premises Common Area (including, without limitation, any required on-site storm drainage system, paving all parking areas, creating all vehicular and pedestrian access areas and curb cut access to the Ring Road, site fire protection devises, lighting, landscaping, curbs, gutters, sidewalks, irrigation, sufficient parking spaces for regular and disabled parking) (as required by the final approved Plans, Governmental Regulations and the Superior Agreements in order to provide adequate parking for all Improvements located on the Premises) and any and all soils preparation necessary to construct proper support for the Improvements (collectively, all of the work referred to in this Section 4.2(a) is referred to as "Site Work"), and (b) all improvements necessary and desirable for the operation upon the Improvements of the business and use contemplated by this Lease, which Improvements shall include, but not be limited to, a foundation, building pad, building shell, and all other on-site improvements. In no event shall the Floor Area of the Improvements exceed 11,300 square feet of Floor Area. All Improvements shall be located within the Building Envelope. Tenant shall also install, at its own cost, such furniture, fixtures and equipment which are necessary for its operations. Tenant's Work shall be in compliance with applicable Governmental Regulations in effect as of the date Tenant's Work is commenced and shall include, without limitation, the purchase, installation and performance of the following, all in strict accordance with the Tenant Package:

4.2.1 Engaging the services of a licensed architect ("Tenant's Architect") to prepare the Preliminary Documents and Construction Documents.

4.2.2. Preparation of originals and copies of the Preliminary Documents and Construction Documents.

4.2.3 Obtaining permits and licenses from governmental authorities.

4.2.4. Engaging engineering and construction management.

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4.2.5 Costs of purchasing, manufacturing, constructing and installing all of the materials which are necessary to construct and complete construction of the Improvements as contemplated by this Lease.

4.2.6 Grease Traps located within the Improvements will be required for all food preparation areas having pot sinks or any grease-producing appliances that discharge into the waste system. Tenant shall be responsible for the proper care, cleaning and maintenance of the grease traps and any piping required therefor in accordance with all applicable laws and regulations. Said grease traps shall be cleaned at least once a quarter and maintained so as to prevent the discharge of any grease into the waste system. Tenant shall contract with a qualified service company for the cleaning and maintenance of the grease traps and provide Landlord with a copy of the service contract within ten (10) days after Tenant's opening for business.

4.2.7 If Tenant's Permitted Use as set forth in this Lease is a restaurant or other food related use which requires the disposal of perishable food products, in the event odors are emitted into the premises of other tenants in the Center or the Common Area, including the Premises Common Area, as a result of the storage of trash on the Premises, Tenant shall immediately remedy the situation and shall indemnify Landlord from any Claims arising therefrom in accordance with Section 8.1 of this Lease.

4.3 Architectural Concept. Landlord acknowledges that it has reviewed Tenant's general building design concept which is consistent with and incorporates features standard to, Tenant's other similar restaurants in the Dallas/Ft. Worth area, and to that extent, Landlord approves such general concept.

4.4 Documents for Construction

4.4.1 Preliminary Documents Defined. "Preliminary Documents" means all plans and documents required (a) to permit Landlord to inform Tenant of any corrections Tenant must make to resolve any conflicts between Tenant's proposed design and the Tenant Package prior to Tenant's preparation of Construction Documents and (b) to provide Landlord with sufficient information and detail of the proposed design of the Improvements to permit Landlord to approve or disapprove the design or particular elements of the design.

4.4.2 Construction Documents Defined. "Construction Documents" means all plans and documents required (a) to obtain all required permits from governmental authorities, (b) to provide Landlord with sufficient information and detail of the proposed construction of Improvements upon the Premises to permit Landlord to approve or disapprove the Improvements and (c) to construct and install Tenant's Work.

4.4.3 Drawing Requirements. Each sheet of each drawing constituting the Preliminary Documents and the Construction Documents shall have affixed the stamp of the appropriate design professional. The drawings shall depict all design characteristics and all specific requirements for Tenant's Work and shall include all notes and provisions required by the Lease.

4.4.4 Engineered Documents. Tenant shall retain, at its sole cost and expense, independent, licensed engineering consultants approved in advance by Landlord to prepare both the Preliminary Documents and the Construction Documents relating to the structural, mechanical, HVAC, electrical, plumbing, fire/life-safety and sprinkler work constituting Tenant's Work.

4.4.5 Content. The content and level of detail of both the Preliminary Documents and the Construction Documents shall be subject to the reasonable approval of Landlord. All drawings which are part of the Preliminary Documents shall consist of four (4) sets of blue line drawings and one (1) set of reproducible sepia drawings and all drawings which are part of the Construction Documents shall consist of six (6) sets of blue line drawings and one (1) set of reproducible sepia drawings.

4.5 As-Built Documents.

4.5.1 As-Built Documents Defined. "As-Built Documents" means all as-built drawings for all of Tenant's Work in form of hand-marked blue lines except that all sitework, site utility and building exterior as-built drawings shall be submitted in Autocad 2000 format.

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4.5.2 Content. The content and level of detail of the As-Built Documents shall be subject to the reasonable approval of Landlord.

4.6 Procedure for Reviewing Preliminary Documents. The following procedure shall be used for reviewing the Preliminary Documents:

4.6.1 Submission. Within twenty (20) days following Tenant's receipt of a fully-executed counterpart of the Lease and a copy of the Tenant Package ("Preliminary Document Submission Date"), Tenant shall submit the Preliminary Documents to Tenant Coordinator for review.

4.6.2 Review by Tenant Coordinator. Within fifteen (15) days after Tenant Coordinator has received the Preliminary Documents, Tenant Coordinator shall either (a) approve the Preliminary Documents or (b) approve the Preliminary Documents with conditions or (c) disapprove the Preliminary Documents. If Tenant Coordinator approves the Preliminary Documents, Tenant Coordinator shall notify Tenant in writing and/or by endorsing and returning one set of Preliminary Documents to Tenant. If Tenant Coordinator approves the Preliminary Documents with conditions, Tenant Coordinator shall notify Tenant both of the approval and the conditions for such approval and/or by endorsing and returning to Tenant one (1) set of Preliminary Documents containing Tenant Coordinator's conditions for approval. If Tenant Coordinator disapproves the Preliminary Documents, Tenant Coordinator shall notify Tenant giving Tenant a written explanation, in reasonable detail, for Tenant Coordinator's disapproval.

4.6.3 Disapproval. If Tenant Coordinator disapproves the Preliminary Documents pursuant to Section 4.6, then Tenant shall make such adjustments, corrections and modifications as shall be required to overcome Tenant Coordinator's objections and resubmit the revised Preliminary Documents to Tenant Coordinator for Landlord's approval. Within fifteen (15) days after Tenant Coordinator's receipt of the revised Preliminary Documents from Tenant, Tenant Coordinator shall (a) approve the Preliminary Documents, (b) approve the Preliminary Documents with conditions or (c) disapprove the Preliminary Documents, in the manner specified at Section 4.6.2. The preceding process shall be continued until (i) the Preliminary Documents are either approved or conditionally approved by Tenant Coordinator, or (ii) this Lease is terminated pursuant to Section 4.7.

4.6.4 Conditional Approval. If Tenant Coordinator shall approve the Preliminary Documents with conditions, then Tenant shall be obligated to incorporate and otherwise comply with each and every condition. If Tenant reasonably objects to any condition(s), Tenant shall notify Tenant Coordinator in writing within ten (10) days after Tenant Coordinator delivers such conditional approval to Tenant specifying (a) all of Tenant's reasonable objection(s) to Tenant Coordinator's condition(s) and (b) proposed alternative resolution(s) that Tenant reasonably believes will remove all of Tenant Coordinators objections. Promptly following Tenant Coordinator's receipt of Tenant's proposed resolution(s), Tenant Coordinator shall notify Tenant in writing that Landlord has either agreed to Tenant's proposed resolution(s) or reaffirms Tenant Coordinator's conditions. Such determination by Tenant Coordinator shall be conclusive and binding on both Landlord and Tenant.

4.7 Period for Approval. If Tenant Coordinator does not approve the Preliminary Documents within forty-five (45) days following the Effective Date, Landlord may elect to terminate this Lease by providing Tenant written notice of such election within twenty (20) days following the expiration of the said forty-five (45)-day period; however, the said forty-five (45)-day period shall be extended one (1) day for each day Tenant Coordinator fails to respond to Tenant within the time frame required of Tenant Coordinator pursuant to Section 4.6.

4.8 Procedure for Reviewing Construction Documents. The following procedure shall be used for reviewing the Construction Documents:

4.8.1 Submission. Within sixty (60) days following Landlord's approval (with or without conditions) of the Preliminary Documents ("Construction Document Submission Date"), Tenant shall submit the Construction Documents to Tenant Coordinator for review.

4.8.2 Review by Tenant Coordinator. Within fifteen (15) days after Tenant Coordinator has received the Construction Documents, Tenant Coordinator shall either (a) approve

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the Construction Documents or (b) approve the Construction Documents with conditions or (c) disapprove the Construction Documents. If Tenant Coordinator approves the Construction Documents, Tenant Coordinator shall notify Tenant in writing and/or by endorsing and returning one set of Construction Documents to Tenant. If Tenant Coordinator approves the Construction Documents with conditions, Tenant Coordinator shall notify Tenant both of the approval and the conditions for such approval and/or by endorsing and returning to Tenant one (1) set of Construction Documents containing Tenant Coordinator's conditions for approval. If Tenant Coordinator disapproves the Construction Documents, Tenant Coordinator shall notify Tenant giving Tenant a written explanation, in reasonable detail, for Tenant Coordinator's disapproval.

4.8.3 Disapproval. If Tenant Coordinator disapproves the Construction Documents pursuant to Section 4.8, then Tenant shall make such adjustments, corrections and modifications as shall be required to overcome Tenant Coordinator's objections and resubmit the revised Construction Documents to Tenant Coordinator for Landlord's approval. Within fifteen (15) days after Tenant Coordinator's receipt of the revised Construction Documents from Tenant, Tenant Coordinator shall (a) approve the Construction Documents, (b) approve the Construction Documents with conditions or (c) disapprove the Construction Documents, in the manner specified at Section 4.8.2. The preceding process shall be continued until (i) the Construction Documents are either approved or conditionally approved by Tenant Coordinator, or (ii) this Lease is terminated pursuant to Section 4.9.

4.8.4 Conditional Approval. If Tenant Coordinator shall approve the Construction Documents with conditions, then Tenant shall be obligated to incorporate and otherwise comply with each and every condition. If Tenant reasonably objects to any condition(s), Tenant shall notify Tenant Coordinator in writing within ten (10) days after Tenant Coordinator delivers such conditional approval to Tenant specifying (a) all of Tenant's reasonable objection(s) to Tenant Coordinator's condition(s) and (b) proposed alternative resolution(s) that Tenant reasonably believes will remove all of Tenant Coordinator's objections. Promptly following Tenant Coordinator's receipt of Tenant's proposed resolution(s), Tenant Coordinator shall notify Tenant in writing that Landlord has either agreed to Tenant's proposed resolution(s) or reaffirms Tenant Coordinator's conditions. Such determination by Tenant Coordinator shall be conclusive and binding on both Landlord and Tenant.

4.8.5 Government Approval. Upon Landlord's approval of the Construction Documents, Tenant shall promptly submit the same to the appropriate governmental authority for plan checking and the issuance of a building permit. If the governmental authority requires any changes to the Construction Documents which affect the Site Work or the exterior of the Building, Tenant shall, at its sole cost and expense, promptly make such required change to the Construction Documents and submit the changed Construction Documents to Landlord for Landlord's approval. Landlord shall have ten (10) business days within which to approve, approve with conditions or disapprove such changed plans. Tenant Coordinator's approval or approval with conditions, as the case may be, shall be conclusive and binding on Landlord and Tenant. If Landlord shall disapprove the changed Construction Documents, Landlord shall provide Tenant with written objections and Tenant shall have ten (10) business days within which to amend the Construction Documents and incorporate Landlord's required changes. Upon Landlord's approval of the changed Construction Documents, Tenant shall promptly submit such plans to the appropriate governmental authority for plan checking and the issuance of a building permit as previously set forth in this Section 4.8.5.

4.8.6 Plans. The Construction Documents as finally approved or conditionally approved by Tenant Coordinator pursuant to this Article 4 are sometimes referred to as the "Plans".

4.9 Period for Approval. If Tenant Coordinator does not approve the Construction Documents within ninety (90) days following the Effective Date, Landlord may elect to terminate this Lease by providing Tenant written notice of such election within twenty (20) days following the expiration of the said ninety (90)-day period; however, the said ninety (90)-day period shall be extended one (1) day for each day Tenant Coordinator fails to respond to Tenant within the time frame required of Tenant Coordinator pursuant to Section 4.8.

4.10 [Intentionally Omitted]

4.11 Approval. Landlord's approval of the Preliminary Documents and/or the Construction

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Documents and/or the Plans shall not constitute any representation or warranty by Landlord that the same are complete or sufficient for (a) purposes of Tenant's design, (b) purposes of constructing the Improvements or any part of the Improvements or (c) complying with any Governmental Regulations. Landlord shall not be liable to Tenant if the Preliminary Documents and/or Construction Documents and/or Plans fail to satisfy any of the provisions specified in (a), (b) and/or (c) preceding and Tenant shall not be relieved of any of its obligations under this Exhibit C, the Lease or Governmental Regulations on account of any such approval by Landlord.

4.12 [Intentionally Omitted].

4.13 Plan Revisions. If Tenant requires any changes, additions, deletions or other modifications to the Plans, Tenant shall submit revised Construction Documents clearly identifying all changes, additions, deletions and other modifications ("Plan Revisions") to Tenant Coordinator for approval on behalf of Landlord. Tenant Coordinator shall promptly review the Plan Revisions and approve, conditionally approve or disapprove the Plan Revisions in the manner provided in Section 4.8. Plan Revisions shall be at the sole cost and expense of Tenant.

5. TENANT'S CONTRACTOR

5.1 Tenant's Contractor. Subject to the Lease and this Exhibit C, all Tenant's Work in the Premises and Improvements shall be performed by a contractor ("Tenant's Contractor") retained and compensated by Tenant and approved by Landlord.

5.2 Approval of Tenant's Contractor.

5.2.1 Approval of Tenant's Contractor. Tenant shall select a qualified contractor who is bondable, licensed, maintains the required types and levels of insurance as set forth at Section 5.3.4 and who will work in harmony with Landlord, Tenant Coordinator and other contractors and trades that are at the Center during the period of construction of Tenant's Work. Prior to engaging any qualified contractor as the Tenant Contractor, Tenant shall obtain Landlord's written approval of such contractor (which approval shall not be unreasonably withheld or delayed). Landlord hereby preapproves Parkway Construction as Tenant's Contractor.

5.2.2 *Intentionally Omitted.*

5.2.3 *Intentionally Omitted.*

5.3 Tenant's Contractor Obligations. Tenant's Contractor shall construct Tenant's Work, at the sole cost and expense of Tenant, in a good and workmanlike manner and complete Tenant's Work in accordance with the Plans, the Lease and the Tenant Package, and in compliance with all Governmental Regulations. The following shall be incorporated as "Special Conditions" by Tenant into the contract with Tenant's Contractor:

5.3.1 Pre-Construction Meeting. Prior to commencing Tenant's Work, Tenant's Contractor shall convene a pre-construction meeting at the Center, or in reasonable proximity to the Center at a location acceptable to the Tenant Coordinator, with Tenant Coordinator and any other representatives of Landlord as Landlord may require. Tenant shall give Tenant Coordinator at least ten (10) days' prior written notice of the time and location for such meeting.

5.3.2 Tenant Contacts. Prior to commencing Tenant's Work, Tenant's Contractor shall provide Tenant Coordinator and Manager with a list of the names, addresses, phone numbers and contacts for Tenant's Contractor and any of Tenant's subcontractors who perform any work outside the Building, a construction schedule in bar graph form indicating commencement and completion dates of each phase of Tenant's Work, a copy of the building permit and a copy of the electrical permit.

5.3.3 Affidavit. Prior to commencing Tenant's Work, Tenant's Contractor shall provide Tenant Coordinator with an executed instrument in form reasonably acceptable to Landlord ("Tenant's Affidavit of Inspection and Acceptance") which states that Tenant has inspected the Premises, is familiar with all existing conditions of, or otherwise affecting, the Premises and has field verified the dimensions, and further notifying Landlord of any discrepancies.

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5.3.4 Insurance. Prior to commencing Tenant's Work, Tenant's Contractor shall provide Tenant Coordinator with duplicate originals of insurance policies, certificates of insurance or other reasonable evidence, in Landlord's reasonable judgment, of the existence of the following insurance in the minimum amounts specified for each (which insurance shall be retained during the entire course of constructing Tenant's Work):

5.3.4.1 Comprehensive General Liability (including Premises-Operations; independent Contractor's Protective; Products and Completed Operations; Broad Form Property Damage:

Combined Single Limits for Bodily Injury and Property
Damage: \$2,000,000.00 Each Occurrence

Products and Completed Operations to be maintained.

Property Damage Liability Insurance shall provide X, C, or U coverage.

5.3.4.2 Contractual Liability:

Combined Single Limits for Bodily Injury and Property
Damage: \$2,000,000.00 Each Occurrence

5.3.4.3 Personal Injury, with Employment Exclusion deleted:
\$2,000,000.00 Annual Aggregate

5.3.4.4 Comprehensive Automobile Liability:

Combined Single Limits for Bodily Injury and Property
Damage: \$2,000,000.00 Each Occurrence

5.3.4.5 Worker's Compensation:

State Statutory Requirements
Applicable Federal Statutory Requirements
Employer's Liability \$3,000,000.00

5.3.4.6 Umbrella Excess Liability: \$5,000,000.00

5.3.5 On-Site Plans. Prior to commencing Tenant's Work, Tenant's Contractor shall provide Tenant Coordinator one (1) set of Plans and one (1) set of approved sign shop drawings, which shall remain at the Premises at all times during the course of construction of Tenant's Work.

5.3.6 [Intentionally Omitted]

5.3.7 [Intentionally Omitted.]

5.3.8 Compliance. Tenant's Contractor shall comply with all Governmental Regulations in the construction of Tenant's Work.

5.3.9 Rules. Tenant's Contractor shall comply with the rules and regulations established for construction undertaken upon the Center, including, without limitation, the tenant criteria established by Landlord. Without limiting the foregoing, Tenant's Contractor and all subcontractors shall park all vehicles in areas at or reasonably near the Center as directed by the Manager of the Center. Landlord will designate a construction staging area located within the Common Area for purposes of the storage of building materials and equipment used in connection with the performance of Tenant's Work. Landlord may, from time to time, relocate the construction staging area. Landlord may require Tenant to erect construction barricades, fences or other devices around the construction staging area and/or active construction areas. All materials for Tenant's Work shall be stored only within the Premises and in such other areas as Manager of the Center, in its sole discretion, shall inform Tenant.

EXHIBIT C

5.3.10 Receipt of Tenant Package. Tenant shall deliver a copy of the Tenant Package to Tenant's Contractor, who shall acknowledge in writing the receipt of the same, and Tenant's Contractor and all subcontractors shall comply with the Tenant Package.

6. CONSTRUCTION

6.1 Commencement of Tenant's Work. Promptly following (a) the Delivery Date, (b) Landlord's approval of the Plans, (c) Tenant's receipt of all permits and licenses required by Governmental Authorities and (d) the complete satisfaction of all requirements under the Lease and this Exhibit C which Tenant and Tenant's Contractor are obligated to perform prior to commencing construction of Tenant's Work, Tenant shall cause Tenant's Work to be commenced and thereafter diligently pursued to completion by Tenant's Contractor and the Improvements initially opened for business on or before the Required Opening Date.

6.2 Close-Out Package. Tenant shall perform and provide Landlord with each of the following within the time frame specified therefor all at Tenant's sole cost and expense (collectively, "Close-Out Package").

6.2.1 [Intentionally Omitted.]

6.2.2 Certificate of Occupancy. Tenant shall obtain a Certificate of Occupancy (or other appropriate documentation permitting the Improvements to be occupied) within thirty (30) days following substantial completion of Tenant's Work or such additional period of time as is reasonably necessary to receive such Certificate of Occupancy.

6.2.3 Permits. Tenant shall obtain and provide Landlord, with a copy of all building permits with sign-offs executed by appropriate governmental agencies within thirty (30) days following substantial completion of Tenant's Work or such additional period of time as is reasonably necessary to obtain same.

6.2.4 Lien Waivers. Tenant shall obtain executed, unconditional lien waivers for all work performed, and materials furnished, by Tenant's Contractor as well as an affidavit from Tenant's Contractor that no liens exist as a result of Tenant's Work, and shall provide Landlord with originals of each within thirty (30) days after substantial completion of Tenant's Work. Tenant shall also furnish to Landlord such other evidence from Tenant's Contractor as Landlord may reasonably require to evidence lien-free completion of Tenant's Work.

6.2.5 Certification. Tenant shall obtain an architect's certification that the Improvements were constructed in accordance with the Plans and deliver the same to Landlord upon substantial completion of Tenant's Work.

6.2.6 [Intentionally Omitted].

6.2.7 As-Built Documents. Tenant shall submit the As-Built Documents to Landlord, to the extent the same are required under Section 4.5.1 of this Exhibit C, within thirty (30) days following substantial completion of Tenant's Work.

7. CONSTRUCTION ALLOWANCE

7.1 Construction Allowance. So long as Tenant is not in default of this Lease, Tenant shall be entitled to receive from Landlord a one-time contribution for the purchase of, and payment for, Qualified Items up to a maximum of \$350,000.00 ("Construction Allowance").

7.2 Qualified Items. "Qualified Items" means (a) the contract price for contractors and subcontractors who undertake the Site Work pursuant to this Exhibit C (which may include a profit margin for such ~~contractors and subcontractors~~ not to exceed ten percent (10%) of the actual ~~hard costs of the materials purchased and installed or constructed~~ for the Site Work), and (b) the materials purchased and installed or constructed for the Site Work pursuant to the provisions of this Exhibit C.

7.3 Disbursement of the Construction Allowance. The Construction Allowance shall be

EXHIBIT C

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paid to Tenant within thirty (30) days after the later to occur of (a) the Opening Date, (b) the date Landlord receives the Close-Out Package and (c) the date the Tenant Coordinator receives from Tenant copies of all paid invoices from Tenant's Contractor with such back-up as Landlord shall reasonably require, certified as correct by an Authorized Officer, for the Qualified Items.

7.4 Landlord's Right to Dispute. Landlord's payment of any or all of the Construction Allowance shall not constitute Landlord's approval or acceptance of the work furnished or materials supplied for the Premises. Landlord may dispute in good faith any request for payment based upon material non-compliance of any of Tenant's Work with the Plans (in connection with defects in construction but not in design) or due to any materially substandard work as identified in good faith by Landlord ("Substandard Work"). If Landlord identifies any Substandard Work, Landlord shall provide Tenant with a detailed statement identifying the Substandard Work, and Landlord may withhold payment from the Construction Allowance until Landlord receives reasonable evidence that the Substandard Work has been corrected. If Tenant disputes Landlord's determination of Substandard Work, the matter shall be resolved by the Project Architect and Tenant's Architect. Landlord's obligation to disburse the Construction Allowance shall be suspended during any period when Tenant is disputing Landlord's determination of Substandard Work.

EXHIBIT C

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EXHIBIT D
CERTAIN DEFINED TERMS

1. INTENT

1.1. **Intent.** The purpose of this Exhibit D is to set forth certain defined terms which are used in the Lease. Terms which are not defined in this Exhibit D are defined in the Lease or the Exhibits attached to the Lease.

1.2. **References.** All references to Articles, Sections and captions contained in this Exhibit D are Articles, Sections and captions contained in the Lease unless otherwise provided.

2. CERTAIN DEFINED TERMS

2.1. **Additional Rent** means all amounts payable by Tenant under this Lease, other than Fixed Minimum Rent and Percentage Rent.

2.2. **Administrative Charge** means ten percent (10%) of the subject sum. The Administrative Charge is intended to reimburse Landlord for additional administrative costs incurred by Landlord for providing work, materials or services.

2.3. **Affidavit of Initial Improvements Cost** means a form, substantially in the form attached to this Lease as Exhibit G, certified true and correct by an Authorized Officer of Tenant, setting forth in reasonable detail the amounts paid by Tenant, at Tenant's sole cost and expense, for the Initial Leasehold Improvements Costs – i.e., the amount actually spent by Tenant on the initial leasehold improvements to the Premises (specifically excluding, however, all costs for Tenant's Moveable Trade Fixtures, unattached equipment, furniture, Tenant's Signs, and other personal property and any amounts paid by Landlord as part of the Construction Allowance).

2.4. **Affiliate** means any entity that Controls, is Controlled by or is under common Control with another specified entity.

2.5. **Agreed Rate** means the prime commercial rate of interest charged from time-to-time by Wells Fargo Bank, National Association (or, if the same does not exist, such other comparable bank selected by Landlord), plus two percent (2%) per annum, but not to exceed the maximum rate of interest allowable under law.

2.6. **Alterations** means any modification, alteration, removal, addition or improvement to the Improvements.

2.7. **Intentionally Omitted.**

2.8. **Annual Sales Statement** means a written statement in the form attached as Exhibit I to the Lease certified to be true and correct by an Authorized Officer of Tenant.

2.9. **Assignment.** "Assign", "Assignment" and "Assigning" mean any assignment of Tenant's interest in the Lease and "Assignment Instrument" means the instrument by which an Assignment is made.

2.10. **Intentionally Omitted.**

2.11. **Authorized Officer** means (a) each natural person who executed the Lease (or the most recent amendment of the Lease), if Tenant is one or more natural persons, (b) an authorized officer, certified public accountant or duly authorized representative, if Tenant is a corporation, (c) an authorized or managing partner, if Tenant is a partnership or a limited liability partnership or (d) an authorized member, if Tenant is a limited liability company.

2.12. **Bankruptcy Code** means the Bankruptcy Code 11 U.S.C. 101 et seq.

2.13. **Base Sales** means the annual figure specified at Section 1.10, as adjusted pursuant to Section 5.6.1.

EXHIBIT D

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- 2.14. **Building** is defined at Section 2.2.
- 2.15. **Building Envelope** is defined at Section 2.2
- 2.16. **Casualty** means fire or any other casualty.
- 2.17. **Center** means that certain commercial project, the name and approximate location of which is specified at Section 1.1.
- 2.18. **Center Hours** means the Hours or such other hours that the Center is open for business as such hours are designated from time-to-time by Landlord.
- 2.19. **Claims** means, collectively, claims, charges, liabilities, obligations, penalties, causes of action, liens, damages, costs and expenses, including reasonable attorneys' fees and costs.
- 2.20. **Code** means the Internal Revenue Code, as amended from time-to-time.
- 2.21. **Common Area** means all improvements, facilities, equipment, signs, land and areas (as each may be enlarged, reduced, dedicated to retail use, replaced, increased, removed, demolished or otherwise altered in any way by Landlord) within the exterior boundaries of the Center including the Premises Common Area which are now or hereafter made available for general use, convenience or benefit of more than one (1) Occupant, which may include, but shall not be limited to, parking areas, access and perimeter roads, driveways, service ways, loading docks, tunnels, pedestrian malls, corridors, the roof of any building (whether or not located over any Occupant's premises) stairs, ramps, elevators, escalators, comfort stations, first-aid stations, security stations, drinking fountains, toilets, public washrooms, community halls, auditoriums, and other public facilities, parcel pick-up stations, underground storm and sanitary sewers, utility lines and conduits, open courts, open malls, enclosed courts, enclosed malls, and landscaped areas. Common Area shall include any other land which Landlord, by means of purchase, lease or otherwise, acquires, and which land is not presently part of the Center, to the extent Landlord designates all or any portion of such land available for Common Area.
- 2.22. **Competing Interest** is defined at Section 10.5.
- 2.23. **Condemnation** is defined at Section 24.1.1.
- 2.24. **Condemnation Restoration** is defined at Section 24.5.
- 2.25. **Control**. "Control", "Controlled" and "Controls" mean the ownership, directly or indirectly, of at least fifty-one percent (51%) of the voting securities of, or possession of the right to vote, in the ordinary direction of its affairs, of at least fifty-one percent (51%) of the voting interest in, any person or entity.
- 2.26. **Intentionally Omitted**.
- 2.27. **Cumulative Basis** means (a) if the percentage increase in the Index as of a date specified for the adjustment of Rent or other sums (for purposes of this paragraph only) exceeds the stated cap for such Rent Adjustment Date, then such excess in percentage points may be used by Landlord to add to future percentage increases in the Index to the extent that any such increases in the Index are, as of any future Rent Adjustment date, less than the stated cap for such future Adjustment Date; and (b) if, as of any Rent Adjustment Date, the percentage increase in the Index is less than any applicable stated cap for such Rent Adjustment Date, then such deficiency in percentage points may be used by Landlord to add to the stated cap applicable to any future Rent Adjustment Date if, as of each such Rent Adjustment Date, the percentage increase in the Index would exceed the stated cap.
- 2.28. **Delivery Date** means the date Landlord delivers possession of the Premises to Tenant.
- 2.29. **Effective Date** is defined in the first paragraph at the top of page 1.
- 2.30. **Intentionally Omitted**.

EXHIBIT D

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2.31. **Enclosed Mall** means the Common Area, if any, that from time to time may be designated by Landlord as the Enclosed Mall.

2.32. **Environmental Consultant** means an environmental consulting firm reasonably approved and/or designated in writing by Landlord.

2.33. **Environmental Contractor** means a hazardous materials abatement contractor licensed in the state in which the Center is located and reasonably approved in advance, in writing, by Landlord.

2.34. **Environmental Laws** means any and all federal, state and local laws, regulations, ordinances, codes and policies, and any and all judicial or administrative interpretations thereof by governmental authorities, as now in effect or hereinafter amended or enacted, relating to:

2.34.1. Pollution or protection of the environment, natural resources or health and safety; including, without limitation, those regulating, relating to, or imposing liability for emissions, discharges, releases or threatened releases of Hazardous Materials into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, release, transport or handling of Hazardous Materials; and

2.34.2. The use of chemical, electrical, radiological or nuclear processes, radiation, sophisticated electrical and/or mechanical equipment, sonar and sound equipment, lasers, and laboratory analysis and materials.

2.35. **Environmental Survey** means an environmental audit and survey made of the Premises and Improvements to determine whether the Premises and/or Improvements contain any Hazardous Materials or fail to comply with any Environmental Laws.

2.36. **Environmental Survey Notice** is defined at Section 25.4.

2.37. **Intentionally Omitted.**

2.38. **Intentionally Omitted.**

2.39. **Intentionally Omitted.**

2.40. **Expiry Date** means the date specified at Section 1.7.

2.41. **Fixed Minimum Rent** means the annual rent sum specified at Section 1.8.

2.42. **Floor Area** means (a) with respect to the Improvements and such other areas in the Center that are available from time-to-time for the exclusive use and occupancy by an Occupant, Landlord's calculation of the number of square feet of floor area of all floors in such subject space measured from the exterior faces of all exterior walls (and from the extensions thereof in the case of openings) and from the center line of interior demising walls inclusive of the floor area of mezzanines and basements (unless otherwise excluded) and (b) with respect to Kiosks, Landlord's calculation of the floor area of the footprint of each of the Kiosks. Landlord and Tenant stipulate to all Floor Area calculations made from time-to-time by Landlord.

2.43. **Floor Area of Building** means the number of square feet of Floor Area specified at Section 1.3.

2.44. **[Intentionally Omitted]**

2.45. **[Intentionally Omitted]**

2.46. **Force Majeure** is defined at Section 27.12.

EXHIBIT D

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2.47. **Governmental Regulations** means all laws, statutes, ordinances, rules, regulations, standards and requirements now or hereafter in force of all governmental authorities, and of all board of fire insurance underwriters, having jurisdiction of the Premises, the Improvements or the Center.

2.48. **Intentionally Omitted.**

2.49. **Intentionally Omitted.**

2.50. **Gross Sales** is defined at Section 7.1.1.

2.51. **Hazardous Materials** means any and all substances, chemicals, wastes, sewage or other materials that are now or hereafter regulated, controlled or prohibited by any Environmental Laws, including, without limitation, any (a) substance defined as a "hazardous substance", "extremely hazardous substance", "hazardous material", "hazardous chemical", "hazardous waste", "toxic substance" or "air pollutant" by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, et seq.; the Clean Air Act, 42 U.S.C. Section 7401, et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Section 11001, et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; or the Occupational Safety and Health Standards, 25 C.F.R. 1910-1000 et seq., or regulations promulgated thereunder, all as amended to date and as amended hereafter; (b) hazardous substance, hazardous waste, toxic substance, toxic waste or hazardous material, waste, chemical or compound described in any other Environmental Laws; and (c) asbestos, polychlorinated biphenyls, urea formaldehyde insulation, flammable or explosive or radioactive materials, gasoline, oil, motor oil, waste oil, petroleum (including, without limitation, crude oil or any component thereof), petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonium compounds, and other regulated chemical products.

2.52. **Hours** means the hours specified at Section 1.15.

2.53. **HVAC** means a heating, ventilating and air conditioning system.

2.54. **Improvements** is defined at Section 2.2.

2.55. **Index** means the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers, U.S. City Average, Subgroup "All Items" (1982-84=100). If the foregoing Index is not available, then the successor or substitute index published by the Bureau of Labor Statistics shall be used by Landlord as the Index. If the Bureau of Labor Statistics does not publish such successor or substitute Index, a reliable governmental or other non-partisan publication evaluating substantially the same consumer information shall be used by Landlord for the Index. If Landlord uses any substitute or successor index or other publication, the same shall be converted to a basis of 100 if the basis used for such other index or publication is less than 100.

2.56. **Involuntary Assignment** means any transfer of interest of Tenant in the Lease by operation of law (including, without limitation, the transfer of this Lease by testacy or intestacy, or in any bankruptcy or insolvency proceeding) and each of the following acts shall be considered an Involuntary Assignment: (a) If Tenant is or becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or institutes a proceeding under any bankruptcy law in which Tenant is the bankrupt; or, if Tenant is a partnership or consists of more than one (1) person or entity, if any partner of the partnership or other such person or entity is or becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors; (b) if a writ of attachment or execution is levied on this Lease; (c) if, in any proceeding or action to which Tenant is a party, a receiver is appointed with authority to take possession of the Premises and/or the Improvements; or (d) there is any assumption, assignment, sublease or other transfer under or pursuant to the Bankruptcy Code.

2.57. **Kiosks** means sales areas, display areas, carts and other retail merchandising units of Occupants located from time-to-time in the Common Area.

EXHIBIT D

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- 2.58. **Landlord** is defined in the first paragraph at the top of page 1.
- 2.59. **Landlord Parties** means, collectively, the Manager, Landlord's Designees and the respective past, present and future partners, officers, directors, shareholders, beneficiaries, trustees, employees, agents, servants and independent contractors of both Landlord and Manager.
- 2.60. **Landlord's Address for Notices** means the address specified at Section 1.17.
- 2.61. **Landlord's Broker(s)** means the broker(s), if any, specified at Section 1.20.
- 2.62. **Landlord's Designees** means, collectively, the Manager, the Mortgagee, any lessors under any ground or underlying leases liening the Premises and such person(s) designated by Landlord as having an insurable interest in the Premises.
- 2.63. **Landlord's Insurance** means the insurance maintained by Landlord pursuant to Section 8.3 of the Lease.
- 2.64. **Lease** is defined in the first paragraph at the top of page 1.
- 2.65. **Lease Year** means, as to the first Lease Year, the period from the Rent Commencement Date through the immediately following December 31, and as to each subsequent Lease Year, the period of January 1 of a given year through the immediately following December 31 of the same year; however, the last Lease Year shall end upon the Expiry Date.
- 2.66. **Major Occupant** means each Occupant occupying 20,000 or more square feet of contiguous Floor Area in the Center and shall include such Occupants who have contiguous stores with different trade names but with direct access between or among such stores.
- 2.67. **Major Occupant Store** means the premises, if any occupied by Major Occupants.
- 2.68. **Manager** means such entity with whom Landlord then has an agreement to manage the Center.
- 2.69. **Mezzanines** means basements and mezzanines that are used solely for storage and/or office purposes and are not made generally accessible to customers of an Occupant.
- 2.70. **Monthly Base Sales** means the monthly figure specified at Section 1.10.
- 2.71. **Monthly Fixed Minimum Rent** means the monthly rent sum specified at Section 1.8.
- 2.72. **Monthly Sales Statement** means a written statement in the form attached as Exhibit H to the Lease certified to be true and correct by an Authorized Officer of Tenant.
- 2.73. **Mortgagee** means any mortgagee, beneficiary or trustee under any mortgage or deed of trust encumbering all or any part of the Center.
- 2.74. **Moveable Trade Fixtures** means trade fixtures that can be moved without damage to the Improvements.
- 2.75. **Intentionally Omitted.**
- 2.76. **Occupant** means any entity, inclusive of Tenant and exclusive of Landlord (except to the extent Landlord operates any retail business open to the public in the Center), entitled by any form of instrument to occupy Floor Area in the Center.
- 2.77. **Opening Date** is the date Tenant initially opens the Improvements for business.
- 2.78. **Intentionally Omitted.**
- 2.79. **Intentionally Omitted.**

EXHIBIT D

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2.80. **Percentage Rent** means the amount, if any, equal to the product obtained by multiplying the Percentage Rent Rate by the amount of Gross Sales for each Lease year during the Term that is in excess of the Base Sales for each such Lease Year.

2.81. **Percentage Rent Rate** means the rate specified at Section 1.9.

2.82. **Permitted Exclusions** is defined at Section 7.1.2.

2.83. **Intentionally Omitted.**

2.84. **Permitted Use** means the use specified at Section 1.11.

2.85. **Plan Review Fee** means, subject to increase as provided herein the sum of \$1,000.00. The Plan Review Fee shall be subject to annual increase (but never a decrease) on each anniversary of the Effective Date as follows: The Index published three (3) months prior to the Effective Date "Base Year" for purposes of this Section only) shall be compared to the Index published three (3) months prior to each anniversary of the Effective Date anniversary "Comparison Year" for purposes of this Section only), and the Plan Review Fee shall be increased by the percentage increase, if any, in the Index published for the Comparison year over the Index published for the Base Year. Notwithstanding the foregoing, in no event shall Tenant be required to pay a Plan Review Fee in connection with the initial Tenant Improvements made pursuant to Exhibit C.

2.86. **Premises** is defined at Section 2.2.

2.87. **Premises Common Area** is defined at Section 2.2.

2.88. **Intentionally Omitted.**

2.89. **Promotion Fund Charge** means the sum specified at Section 1.14.

2.90. **Promotion Service** means the promotion and media service directed by Landlord, the purpose of which shall be to promote the Center in a manner deemed appropriate in Landlord's reasonable judgment and may include, without limitation, marketing sales promotions, specified events, community relations, and advertising and promotions through television, radio, print, electronic and other media.

2.91. **Proposed Transfer Date** means the effective date of such Transfer, as specified by Tenant in writing to Landlord.

2.92. **Radius** is defined at Section 1.16.

2.93. **Real Estate Taxes** means, without limitation, all taxes (except for franchise, gift, estate, inheritance or net income taxes [unless and then only to the extent that net income taxes are a substitute for real estate taxes]), assessments and reassessments (whether resulting from any new construction, renovation or replacement of existing improvements or a transfer of all or any portion of the Center or otherwise), whether special or general, bonds, permit fees, license fees, license taxes, levies and penalties imposed, assessed or levied against the Center or any portion thereof by any authority having the direct or indirect power to impose, assess or levy the same, including, without limitation, any city, county, state or federal government or agency thereof, or any school, agricultural, lighting, drainage, fire, street, sanitary, community facilities or other improvement district thereof; all taxes, fees and/or charges on the operation and use of the Center or Common Area imposed by any federal, state or local governmental entity; all impositions (whether or not such impositions constitute tax receipts to governmental agencies) in substitution, partially or totally, of any impositions now or previously included within the definition of real estate taxes, including, without limitation, those imposed or required by governmental agencies to increase tax increments to governmental agencies and for such services as fire protection, street, sidewalk and road maintenance, refuse removal and/or for other governmental services formerly provided without charge to property owners or occupants (it being the intention of Landlord and Tenant that all such new and/or increased impositions and all similar impositions be included within the definition of Real Estate Taxes for purposes of this Lease); and the costs of professional consultants and/or counsel to analyze tax bills and prosecute any protests, refunds and appeals; interest on the foregoing to the extent any of the same are paid in installments.

EXHIBIT D

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- 2.94. **Refurbishment** is defined at Section 12.2.2.
- 2.95. **Intentionally Omitted.**
- 2.96. **Regulation** means the Treasury Regulation, as amended from time-to-time.
- 2.97. **Renovations** is defined at Section 17.3.
- 2.98. **Rent** means Fixed Minimum Rent, Percentage Rent and Additional Rent.
- 2.99. **Rent Adjustment Date** is defined at Section 5.5.1.
- 2.100. **Rent Commencement Date** means the date specified at Section 1.6.
- 2.101. **Request to Transfer** is defined at Section 14.3.
- 2.102. **Required Opening Date** means the date specified at Section 1.5.
- 2.103. **Restoration** is defined at Section 23.1.
- 2.104. **Retail Restriction Limit** is defined in Section 10.5.
- 2.105. **Review Fee** is defined at Section 14.11.
- 2.106. **Rules** means such rules and regulations established from time-to-time by Landlord with respect to (a) the Center (including without limitation, the Common Area, Employee Parking Area and other parking areas), (b) the use of refuse containers and methods of refuse disposal, (c) refuse recycling programs and (d) any other activities at the Center.
- 2.107. **Subletting.** "Sublet" and "Subletting" mean a subletting of all or any portion of the Premises or any concession, franchise or license with respect to the Premises, and "Sublease Instrument" means the instrument by which such Subletting is made.
- 2.108. **Surrender Obligations** is defined at Section 13.1.
- 2.109. **Taking** is defined at Section 24.1.
- 2.110. **Tenant** is defined in the first paragraph at the top of page 1.
- 2.111. **Tenant Package** is defined at Exhibit C.
- 2.112. **Tenant Installed Hazardous Materials** means the presence of Hazardous Materials in, on, under or about the Premises and/or the Improvements, in violation of Environmental Laws which Landlord determines, based upon the original Plans or As-Built Documents for Tenant's Work or on the basis of any subsequent drawings submitted to Landlord pursuant to the terms of this Lease or on the basis of other information and data available to Landlord, arose out of or is in any way connected with the use, analysis, generation, manufacture, production, purchase, transportation, storage, treatment, release, removal and disposal or escape of Hazardous Materials or products containing Hazardous Materials by Tenant, Tenant's Occupants or the Tenant Parties during the period of Tenant's occupancy of the Premises and Improvements-
- 2.113. **Tenant Parties** means, collectively, the Tenant's Occupants and the respective past and present officers, directors, shareholders, invitees, customers, agents, servants, employees and independent contractors of both Tenant and Tenant's Occupants.
- 2.114. **Tenant's Address for Notices** means the address specified at Section 1.18.
- 2.115. [Intentionally Omitted]
- 2.116. **Tenant's Broker(s)** means the broker(s), if any, specified at Section 1.21.
- 2.117. **Tenant's Improvements** means, collectively, the Building and the Facilities and any Alterations and refurbishments thereto.

EXHIBIT D

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2.118. **Tenant's Occupants** means all concessionaires, licensees, subtenants and others holding any rights to, or interest in, any part of the Premises and/or the Improvements under Tenant.

2.119. **Tenant's Receipts** is defined at Section 7.2.

2.120. **Tenant's Records** is defined at Section 7.2.

2.121. **Intentionally Omitted.**

2.122. **Intentionally Omitted.**

2.123. **Tenant's Signs** means the signs on the Improvements.

2.124. **Tenant's Work** is defined at Exhibit C.

2.125. **Term** means the period of time specified at Section 1.4.

2.126. **Trade Name** means the name(s) specified at Section 1.12.

2.127. **Transfer.** "Transfer" and "Transferring" mean either an Assignment or a Subletting or both, as the case may be.

2.128. **Transferee** means a concessionaire, franchisee or licensee, or the assignee under an Assignment Instrument or the subtenant under a Sublease Instrument or all, as the case may be.

2.129. **Utilities** means all water, gas, heat, electricity, steam, chilled water, hot water, lighting, power, HVAC, telephone service, sewer service and all other utilities and services provided to the Improvements from and after the Delivery Date.

2.130. **Vesting Date** is defined at Section 24.1.

2.131. **Vacation** is defined at Section 19.1.3.

EXHIBIT D

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EXHIBIT E

CENTER RIDER - INTENTIONALLY OMITTED

EXHIBIT E

1

#136318v6<iManage> -Chuck E. Cheese - Valley View Lease.wpd
02.15.01.1131

EXHIBIT F

[INTENTIONALLY OMITTED]

EXHIBIT F

#136318v6<iManage> -Chuck E. Cheese - Valley View Lease.wpd
02.15.01.1132

EXHIBIT G

AFFIDAVIT OF INITIAL IMPROVEMENTS COST FORM

<u>Description of Materials and Supplier</u>	<u>Quantity</u>	<u>Cost Per Unit</u>	<u>Total Cost</u>
		\$	\$

TOTAL COST
\$ _____

EXHIBIT G

#136318v6<iManage> -Chuck E. Cheese - Valley View Lease.wpd
02.15.01.1133

EXHIBIT H
MONTHLY SALES STATEMENT FORM
MACERICH COMPANY

Center: _____

Store Name/Number: _____

	CERTIFIED GROSS SALES	CERTIFIED PERMITTED EXCLUSIONS
January	_____	_____
February	_____	_____
March	_____	_____
April	_____	_____
May	_____	_____
June	_____	_____
July	_____	_____
August	_____	_____
September	_____	_____
October	_____	_____
November	_____	_____
December	_____	_____

I certify that the sales indicated above are true and correct.

Name: _____

Title: _____

Authorized Signatory

EXHIBIT H

EXHIBIT I
ANNUAL SALES STATEMENT FORM
MACERICH COMPANY

Center: _____

Store Name/Number: _____

Center: _____

Store Name/Number: _____

	CERTIFIED GROSS SALES	CERTIFIED PERMITTED EXCLUSIONS
January	_____	_____
February	_____	_____
March	_____	_____
April	_____	_____
May	_____	_____
June	_____	_____
July	_____	_____
August	_____	_____
September	_____	_____
October	_____	_____
November	_____	_____
December	_____	_____
TOTAL	_____	_____

I certify that the sales indicated above are true and correct.

Name: _____

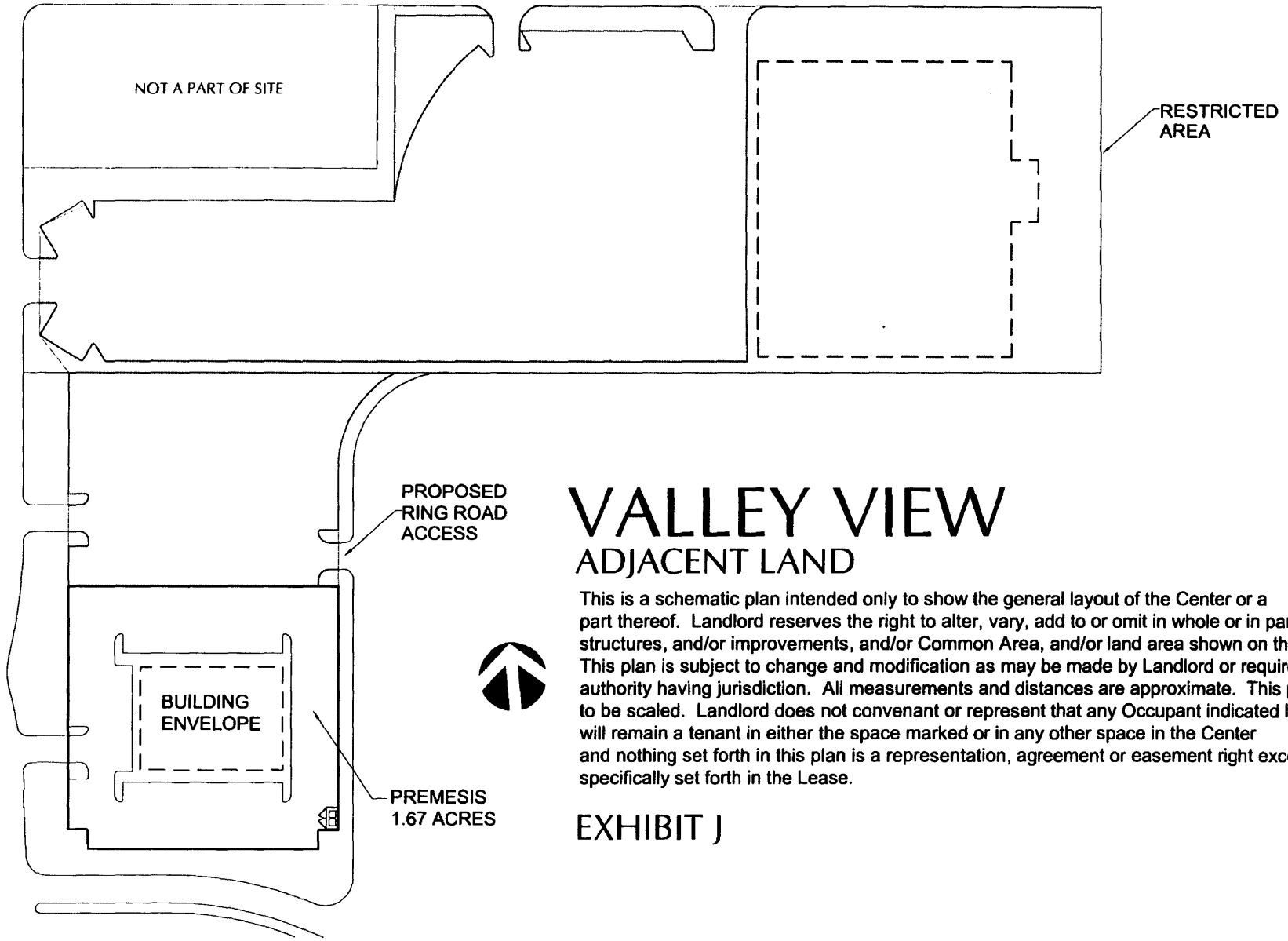
Title: _____

Authorized Signatory

EXHIBIT I

EXHIBIT J

RESTRICTED AREA



VALLEY VIEW ADJACENT LAND

This is a schematic plan intended only to show the general layout of the Center or a part thereof. Landlord reserves the right to alter, vary, add to or omit in whole or in part any structures, and/or improvements, and/or Common Area, and/or land area shown on this plan. This plan is subject to change and modification as may be made by Landlord or required by any authority having jurisdiction. All measurements and distances are approximate. This plan is not to be scaled. Landlord does not covenant or represent that any Occupant indicated herein is or will remain a tenant in either the space marked or in any other space in the Center and nothing set forth in this plan is a representation, agreement or easement right except as specifically set forth in the Lease.

EXHIBIT J

#136318Y6<iManage> -Chuck E. Cheese - Valley View Lease.wpd
02.15.01.1134

EXHIBIT K

SIGNAGE

EXHIBIT K

#136318v6<iManage> -Chuck E. Cheese - Valley View Lease.wpd
02.15.01.1134

EXHIBIT B

From: [Grant Gold](#)
To: [celegal](#); [Mark Hullinger](#)
Subject: [EXTERNAL] CEC - Valley View
Date: Monday, April 6, 2020 9:56:53 PM
Attachments: [image.png](#)
[ccc-cc-2019.pdf](#)
[ccc-cc-2019.pdf](#)

This email originated from [outside] of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please see attached.

Thank you.

Grant Gold

Executive Managing Director



13101 Preston Rd. Suite 510
Dallas, Texas 75240
469.533.5024 direct
214.415.8080 mobile

THIRD AMENDMENT TO GROUND LEASE AGREEMENT

This Third Amendment to Ground Lease Agreement (this "Amendment") is entered into as of March __, 2020 (the "Effective Date") by and between **TX DALLAS MIDTOWN, L.P.**, a Texas limited partnership ("Landlord"), and **CEC ENTERTAINMENT, INC.**, a Kansas corporation ("Tenant").

A. Landlord and Tenant are the current parties to that certain Ground Lease Agreement dated February 28, 2001, as amended by that certain First Amendment of Ground Lease Agreement dated March 20, 2001, as further amended by that certain Second Amendment of Ground Lease Agreement for Expansion Premises and First Extension dated August 1, 2010 (collectively, the "Lease"), concerning certain premises as more particularly described in the Lease (the "Premises"), located in Dallas, Texas.

B. Landlord and Tenant desire to amend the Lease, as more particularly set forth in this Amendment.

C. Capitalized terms used in this Amendment shall have the same meanings as set forth in the Lease unless otherwise defined in this Amendment.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Fixed Minimum Rent. Tenant's obligation to pay Fixed Minimum Rent under the Lease for the period between April 1, 2020 – June 30, 2020 (but not otherwise) shall be abated (the "Abated Rent Period"); provided, however, Tenant shall still be obligated during such period to pay to Landlord all other components of Rent as and when due and payable under the Lease (including Percentage Rent and Additional Rent) and otherwise perform all other obligations under the Lease.

2. Percentage Rent. In calculating the amount of any Percentage Rent owed by Tenant for the current Lease Year (if any), the Fixed Minimum Rent that would otherwise have been payable to Landlord during the Abated Rent Period shall be excluded such that the natural breakpoint for Percentage Rent calculations for such Lease Year shall be reduced accordingly.

3. Early Termination. Notwithstanding anything to the contrary in the Lease, at any time during the Term (including any Extended Terms), Landlord may deliver written notice to Tenant terminating the Lease (the "Notice to Terminate") for any reason or no reason whatsoever. In such event, the Lease shall terminate on the date that is three hundred sixty-five (365) days after Landlord's delivery to Tenant of the Notice to Terminate (the "Termination Date"), and Tenant shall vacate the Premises and surrender possession thereof on or before the Termination Date in accordance with the Lease (including Section 13.1 thereof). Tenant shall continue to pay all Rent (including Fixed Minimum Rent, Percentage Rent, and Additional Rent) to Landlord as and when due and payable under the Lease and perform all other obligations under the Lease through and including the Termination Date. As of the Termination Date, Tenant shall have no further right to use or occupy the Premises.

4. Conflict. In the event of any conflict between this Amendment and the Lease, this Amendment shall control. Except as amended by this Amendment, all of the terms and provisions of the Lease remain in full force and effect.

5. Counterparts. This Amendment may be executed in one or more counterparts (including facsimile and electronic transmissions of originals).

Landlord and Tenant have executed this Amendment as of the Effective Date.

LANDLORD:

TX DALLAS MIDTOWN, L.P.,
a Texas limited partnership

By: TX Dallas Midtown GP LLC,
a Texas limited liability company
its General Partner

By: Beck Management, Inc.,
a Texas corporation,
its Managing Member

By: _____
Name: _____
Title: _____

TENANT:

CEC ENTERTAINMENT, INC.,
a Kansas corporation

By: _____
Name: _____
Title: _____

TX Dallas Midtown
13101 Preston Road, Suite 510
Dallas, Texas 75240

March 27, 2020

Mark Hullinger
C/O CEC Legal
CEC Entertainment
1707 Market Place Blvd, Suite 200
Dallas, Texas 75063

*Sent via email to: ceclegal@cecentertainment.com
mhullinger@cecentertainment.com*

Dear Mr. Hullinger:

We have received your rent abatement request.

I have tried to contact you, personally, on the phone and via email, but have not had success.

We understand we are in uncharted territory, and we want to help CEC weather through this storm. We, too, are optimistic that this is temporary and that we can all resume normal business operations in the very near future.

Attached is our proposed response to your request. If you are in agreement, please sign and send back via email and send the original back in the mail.

Sincerely,

Grant Gold
Executive Managing Director
TX Dallas Midtown

Attachment: CEC – Third Amendment to Lease (Valley View)

TX Dallas Midtown
13101 Preston Road, Suite 510
Dallas, Texas 75240

April 6, 2020

Mark Hullinger
C/O CEC Legal
CEC Entertainment
1707 Market Place Blvd, Suite 200
Dallas, Texas 75063

*Sent via email to: ceclegal@cecentertainment.com
mhullinger@cecentertainment.com*

NOTICE OF DEFAULT

RE: The certain Lease Agreement dated February 28, 2001, 1st Amendment dated March 20, 2001, 2nd Amendment dated August 1, 2010, (“**Lease**”) by and between TX Dallas Midtown (“**Landlord**”) CEC Entertainment, INC., (“**Tenant**”) for the Premises located at Valley View Adjacent Land, Dallas, Texas.

Dear Mr. Hullinger:

We have made several attempts to discuss your request for rent abatement, but have not heard back from you, or a representative of your Company.

Tenant has failed to make certain payments of rent and other charges due and owing under the terms of the Lease as follows:

Unpaid Charges Total: \$15,321.45

5.3. Late Payments. If Tenant fails to pay any Rent to Landlord when due, Landlord shall be entitled to (a) interest on the unpaid Rent at the Agreed Rate from the date payment is due until the date payment is made and (b) a service charge equal to five percent (5%) of the overdue amount up to a maximum of \$500.00 per instance. If payment is made by a check which is dishonored by the drawing bank, Tenant shall pay to Landlord a service charge equal to Fifty Dollars (\$50.00) and, upon the second such occurrence in any calendar year Landlord may require that all future payments of Rent shall be made by cashier's check. Tenant acknowledges the late payment of Rent or the use of a dishonored check by Tenant will cause Landlord to incur costs and expenses not contemplated by this Lease, the exact amounts of which will be extremely difficult to ascertain, and that the service charges represent fair estimates of the costs and expenses which Landlord would incur by reason of Tenant's late payment of Rent or use of a dishonored check. The imposition of such interest and service charges shall neither constitute a waiver of Tenant's

default with respect to such overdue amount nor prevent Landlord from exercising any other right or remedy available to Landlord. Notwithstanding the foregoing to the contrary, for the first two (2) times in any calendar year that Tenant has failed to pay any Rent when due, the foregoing service charge shall not apply unless Tenant has failed to make such payment within ten (10) days of receipt of Landlord's written notice of such delinquency. Landlord shall not be required to give Tenant such notice more than two (2) times in any calendar year prior to assessing the service charge

Please be advised that Tenant's failure to make payments of rent and other charges due and owing under the terms of the Lease constitutes an Event of Default under the Lease. Landlord hereby specifically demands that each and all of the above specified defaults be cured immediately, and please take notice that if each and all said defaults are not cured within ten (10) days from the date of this Notice, Landlord shall proceed to enforce its rights provided by the Lease, by law or in equity, all of which are expressly reserved and none of which are waived or elected by this Demand be deemed a waiver of any previous uncured default, breach of the Lease, or any subsequent default or breach of the same or any other term, condition or covenant of the Lease.

Per your lease, all rental payments are due on the 1st of the month and must be sent to:

TX Dallas Midtown
13101 Preston Road, Suite 510
Dallas, Texas 75240

Also attached is our counter offer we previously sent. Please either sign and return or tender the delinquent rent within 10 days of this letter. If neither of those options are exercised within 10 days, the Landlord will withdraw its offer and pursue its remedies under the lease.

Your immediate attention to this matter is appreciated. Should you have any questions, I can be reached at (214) 415-8080 or ggold@beckventures.com.

Sincerely,



Grant Gold
Executive Managing Director
TX Dallas Midtown

Attachment: CEC – Third Amendment to Lease (Valley View)

EXHIBIT C

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X <i>Stran</i></p>	
1. Article Addressed to:	B. Received by <small>(Printed Name)</small>	C. Date of Delivery
<p>CEC ENTERTAINMETN MARK HOLLINGER C/O CEC LEGAL 1707 MARKET PL. STE 200 IRVING, TX 75063</p>  <p>9590 9402 5307 9154 0915 78</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
2. 9414711899562838108226	<p>3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Registered Mail Restrict</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail Restrict</p> <p><input type="checkbox"/> Certified Mail® <input type="checkbox"/> Delivery</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Merchandise</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> Signature Confirmation</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery <input type="checkbox"/> Restricted Delivery</p> <p>(over \$500)</p>	
PS Form 3811, July 2015 PSN 7530-02-000-9053		Domestic Return Receipt

USPS TRACKING#



9590 9402 5307 9154 0915 78



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

**United States
Postal Service**

• Sender: Please print your name, address, and ZIP+4® in this box•

BECK PROPERTIES
GRANT GOLD
13101 PRESTON RD. STE 510
DALLAS, TX 75240

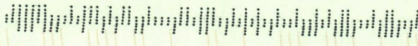


EXHIBIT D

From: CEC-Scanner@cecentertainment.com
To: [Mark Hullinger](#)
Subject: Message from "RNP002673A2A22E"
Date: Monday, April 20, 2020 4:50:15 PM
Attachments: [20200420-165957-001.pdf](#)

This E-mail was sent from "RNP002673A2A22E" (MP C6502).

Scan Date: 04.20.2020 16:59:57 (-0500)

Queries to: CEC-Scanner@cecentertainment.com

TX Dallas Midtown, LP
13101 Preston Road, Suite 510
Dallas, Texas 75240

April 17, 2020

CEC Entertainment, Inc.
Real Estate Department
1707 Market Place Blvd, Suite 200
Irving, Texas 75063

Attn: Mark Hullinger, CEC Legal

*Sent via email to: ceclegal@cecentertainment.com
mhullinger@cecentertainment.com*

NOTICE OF DEFAULT, TERMINATION OF LEASE AND DEMAND FOR POSSESSION

RE: The certain Lease Agreement dated February 28, 2001, as amended by 1st Amendment dated March 20, 2001, and as amended by 2nd Amendment dated August 1, 2010, (“**Lease**”) by and between TX Dallas Midtown, LP, as successor (“**Landlord**”), and CEC Entertainment, Inc. (“**Tenant**”) for the lease of the premises on the Valley View Adjacent Land located at 13364 Montfort Drive, Dallas, TX 75240 and being referred to as “Chuck E. Cheese Store #580-Dallas-Valley View – Texas”

Dear Mr. Hullinger:

We have made several attempts to discuss Tenant’s request for rent abatement, but have not heard back from you, or a representative of your Company. Because of such failure to cure or contact us further, Landlord withdraws its offer to abate rent.

Tenant has failed to make certain payments of rent and other charges due and owing under the terms of the Lease to cure its default as follows:

Base is \$14,795.00

Ring Road \$ 526.45

Unpaid Charges as of Cure Notice Total: \$15,321.45

Added charge post cure period:

CEC Entertainment, Inc.
Attn: Mark Hullinger
April 17, 2020
Page 2

Late Fee: \$ 500.00

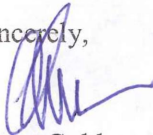
Unpaid Charges as of this Notice Total: \$15,821.45

Tenant's failure to make payments of rent and other charges due and owing under the terms of the Lease constitutes an Event of Default under the Lease. Landlord in accordance with its remedies under the Lease hereby terminates the Lease, and demands that Tenant quit the premises and improvements and surrender possession of premises to Landlord on or before April 30, 2020, a date more than three (3) days from the date of this letter.

Landlord shall proceed to enforce its rights provided by the Lease, by law or in equity, all of which are expressly reserved and none of which are waived or elected by this Demand be deemed a waiver of any previous uncured default, breach of the Lease, or any subsequent default or breach of the same or any other term, condition or covenant of the Lease.

Your immediate attention to this matter is appreciated. Should you have any questions, I can be reached at (214) 415-8080 or ggold@beckventures.com.

Sincerely,



Grant Gold
Executive Managing Director,
Beck Properties, Inc.,
Property Manager for the Landlord TX Dallas Midtown, LP

EXHIBIT E



CEC Entertainment, Inc.
 1707 Market Place Boulevard, Suite 200 :: Irving, Texas 75063
 phone 972.258.5459
 tommy.tsang@cecentertainment.com

April 22, 2020

TENANT'S CURE NOTICE
(CHUCK E CHEESE # 580- 13364 MONTFORD, DALLAS, TX 75240)

VIA OVERNIGHT MAIL/HAND DELIVERY

Fedex 7702 9678 8196
 TX Dallas Midtown, LP
 13101 Preston Road, #510
 Dallas, TX 75240
 ATTN: Grant Gold

VIA EMAIL

ggold@beckventures.com

RE: that certain Lease Agreement, dated February 28, 2001 (as modified and amended, the "**Lease**") by and between TX Dallas Midtown, LP, successor-in-interest to Macerich Valley View Adjacent Limited Partnership (the "**Landlord**"), and CEC Entertainment, Inc. (the "**Tenant**"), with respect to that certain Chuck E. Cheese #580 family restaurant and entertainment center property located at 13364 Montford Drive, in the City of Dallas, County of Dallas, State of Texas (the "**Premises**"), as more particularly described in the Lease

Dear Mr. Gold:

Tenant is in receipt of Landlord's mailed written default notice dated April 17, 2020, received by Tenant on April 20, 2020 (the "Landlord's Article 19 Notice") being the effective date of such notice per the Lease, Article 18. Pursuant to the cure period provided in the Lease, Tenant hereby timely cures the default referenced in Landlord's Article 19 Notice by tendering the enclosed payment in full satisfaction of its rental obligations per the Lease.

Please contact me should Landlord have any concerns.

Very truly yours,

Thomas "Tommy" Tsang
 Counsel for Tenant

ENCLOSURE



CEC Entertainment, Inc
1707 Market Place Blvd., Suite 200
Irving, TX 75063

JP Morgan Chase Bank N.A.
P.O. Box 659754
Dallas, TX 75201
88-88/1113

502830

DATE 04/22/2020

Fifteen Thousand Three Hundred Twenty One and 45*****

\$ ***15,321.45

Void After 180 Days

PAY TO THE
ORDER OF

TX Dallas Midtown, LP
13101 Preston Rd Ste510
Dallas, TX 75240



AUTHORIZED SIGNATURE

MEMO

⑈ 50 28 30 ⑈ ⑆ 1 1 1 3 0 0 8 8 0 ⑆ 9 3 2 0 0 0 4 9 2 3 ⑈

TX Dallas Midtown, LP

Check: 502830 04/22/2020

Invoice Date	Reference	Invoice Amount	Discount	Payment Amount
04-21-2020	TAN-580-1-SUP-007378-04212020 BSE: \$14,795.00, SUP-007378 RINGROAD: \$526.45, SUP-007378	15,321.45	0.00	15,321.45
			TOTAL	15,321.45

ORIGIN ID: DALA (972) 258-4521
TOMMY TSANG
CEC ENTERTAINMENT
1707 MARKET PLACE BLVD.
SUITE 200
IRVING, TX 75063
UNITED STATES US

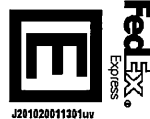
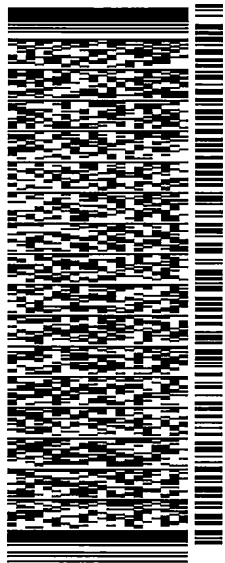
SHIP DATE: 22APR20
ACTWGT: 1.00 LB
CAD: 106979737/NET4220
BILL SENDER

TO TX DALLAS MIDTOWN, LP
ATTN: GRANT GOLD
13101 PRESTON ROAD #510

DALLAS TX 75240
(972) 661-2939
RV:
PO:

REF: 67615

DEPT:



J201020011201uv

TRK# 7702 9678 8196
0201

THU - 23 APR 10:30A
PRIORITY OVERNIGHT

ADADSA

75240
TX-US DFW



56BJ4783AFE4A

After printing this label:

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

Warning: Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

EXHIBIT F

TX Dallas Midtown
13101 Preston Road, Suite 510
Dallas, Texas 75240

May 1, 2020

3-DAY NOTICE TO VACATE

CEC Entertainment, Inc.
Chuck E. Cheese Store # 580- Dallas-Valley View – Texas
13364 Montfort Drive
Dallas, TX 75240

CEC Entertainment, Inc.
Real Estate Department
1707 Market Place Blvd, Suite 200
Irving, Texas 75063

Attn: Mark Hullinger, CEC Legal

Re: Building: 13439 Preston Road, Dallas, TX
Lease: Office Lease Agreement for Chuck E. Cheese Store #580 (the “Lease”)
Tenant: CEC Entertainment, Inc. dba Chuck E. Cheese (the “Tenant”)
Landlord: TX Dallas Midtown, L.P., (the “Landlord”)

Dear Tenant:

As outlined in Article 24.005, Texas Property Code, you are hereby notified that you are required to vacate three (3) days after delivery of this notice. Landlord, demands possession of said property listed above, now occupied by you in accordance with our Termination Notice of April 17, 2020 and Articles 13.1 and 20.1.2 of the Lease. Your tenancy terminated effective April 17, 2020. You were given until April 30, 2020 to vacate the premises, remove all personal property, leave the premises in “broom clean” condition, and return your keys to Landlord. You have failed to do so.

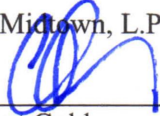
If you fail to vacate the premises within three (3) days of the date of delivery of this letter, Landlord shall proceed to repossess said property through a Forcible Detainer and Eviction lawsuit.

I HEREBY DEMAND that turn over possession of the premises and/or vacate the property at once or I shall proceed against you as the law and Lease directs.

CEC Entertainment, Inc.
May 1, 2020
Page 2

SIGNED this 1st day of May, 2020.

TX Dallas Midtown, L.P., Landlord

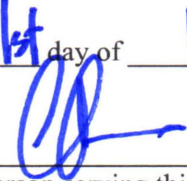


By: Grant Gold,
Executive Managing Director,
Beck Properties, Inc., Property Manager
For the Landlord TX Dallas Midtown, LP

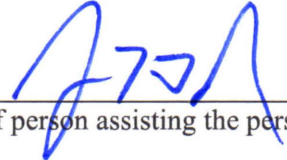
This notice was executed at the above address on the 1st day of May, 2020, at five o'clock 7 .m. by:

- Delivering a true copy of this notice to Tenant in person.
- Leaving a true copy of this notice with Larry Cunningham, a person over the age of 16 years, at the address listed above.
- Posting a true copy of this notice to the premises according to the law.
- Sending a true copy of the foregoing notice by Certified Mail, Return Receipt Requested to Tenant's Notice Address under the Lease as noted above.

SIGNED this 1st day of May, 2020.



Signature of person serving this notice



Signature of person assisting the person serving this notice