

Tenant's Work

- I) **COMPLETION:** The Tenant shall be responsible for the completion, at its sole cost and expense, of the Leased Premises based on plans and specifications approved by the Landlord's architects and engineers, which approval shall not be unreasonably withheld, and further shall be in compliance with all government regulations.

- II) **TENANT'S UPGRADING OF LANDLORD'S WORK:** The Landlord and Tenant shall meet to determine which areas of the Landlord's Work the Tenant wishes to upgrade. The Tenant shall be solely responsible for all increases in costs attributed to its upgrading of the Landlord's standard specifications as provided herein and as further detailed on the Landlord's plans and specifications.

- III) **SIGNAGE:** The Tenant agrees to comply with the Landlord's designated fascia sign construction standards. All costs with respect to the fascia sign, including all frames, shall be the responsibility of the Tenant. Should the Landlord contract the construction and installation of any part of said fascia sign, the Tenant shall reimburse the Landlord for all such costs within Thirty (30) days receipt of the Landlord's invoice for same.

iv

LEASE

PROPERTY : OAKVILLE TOWN CENTRE II
200-240 North Service Road
Oakville, Ontario

LANDLORD : SUN LIFE ASSURANCE COMPANY OF CANADA

TENANT : S.H.S. OPTICAL LTD.
(/a "GREAT GLASSES")

TENANT'S ADDRESS : 1550 Upper James
Unit 10
Hamilton, Ontario
L9B 2L6

INDEMNIFIER : BRUCE BERGEZ

STORE NO. : P5025

AREA : 1,595 square feet approximately

TERM OF LEASE : ten (10) years

FROM : January 1, 2005

TO : December 31, 2014

RENTAL/SQ.FT.RATE : \$30.00

% RATE : n/a

OPTION : 2 x 5 R.T.B.A. (SEE SEC. 3.03A)

OAKVILLE TOWN CENTRE II

RETAIL LEASE

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THIS LEASE is dated October 28, 2004, and is made

B E T W E E N

SUN LIFE ASSURANCE COMPANY OF CANADA

(the "Landlord")

OF THE FIRST PART

- and -

S.H.S. OPTICAL LTD.

(the "Tenant")

OF THE SECOND PART

- and -

BRUCE BERGEZ

(the "Indemnifier")

OF THE SECOND PART

ARTICLE I DEFINITIONS

Section 1.01 Definitions

The following definitions apply in this Lease.

"Additional Rent": money payable by the Tenant under this Lease (except Minimum Rent and Percentage Rent) whether or not it is designated "Additional Rent".

"Affiliate": an affiliate within the meaning of the *Canada Business Corporations Act*, R.S.C. 1985, c.C-44 as it exists on the date of this Lease.

"Applicable Laws": a statute, regulation, order, code, rule and any other requirement of a governmental or quasi-governmental authority with jurisdiction over any matter.

"Architect": an accredited architect, or land surveyor, chosen by the Landlord from time to time.

"Commencement Date": the date specified in Section 3.03.

"Common Elements": (a) the areas, facilities, utilities, improvements, equipment and installations (collectively, "elements") in the Shopping Centre that, from time to time, are not intended to be leased to tenants of the Shopping Centre, or are designated from time to time as Common Elements by the Landlord, (b) the elements outside the Shopping Centre that serve the Shopping Centre (or any part of it) and are designated by the Landlord from time to time as part of the Common Elements, and (c) the elements in or on Rentable Premises that are provided for the benefit of one (1) or more of the tenants of the Shopping Centre and their employees, customers and other invitees in common with others entitled to use them. The Common Elements include, but are not limited to, the roof, exterior wall assemblies including weather walls, exterior and interior structural components and bearing walls in the buildings and improvements in the Shopping Centre; equipment, furniture, furnishings and fixtures; music, fire prevention, security and communication systems; columns; pipes; electrical, plumbing, drainage, mechanical and other installations, equipment or services in the Shopping Centre or related to it, as well as the structures housing them; access roads; driveways; delivery passages; pedestrian sidewalks; landscaped and planted areas; and parking facilities.

"C.P.I.": (a) the Consumer Price Index (All Items for Regional Cities, base year 1997=100) for the city in which the Shopping Centre is located, or if there is no Consumer Price Index for that city, for the city in Canada nearest the Shopping Centre for which there is a Consumer Price Index published by Statistics Canada (or by a successor or other governmental agency), or (b) if the Consumer Price Index is no longer published, an index published in substitution for the Consumer Price Index or any replacement index designated by the Landlord.

"Fixturing Period": the period determined under Section 3.05.

"GLA": the area measured from, (a) the exterior face of exterior walls, doors and windows; (b) the exterior face of interior walls, doors and windows separating Rentable Premises from Common Elements; (c) the

exterior face of interior walls that are not party walls, separating Rentable Premises from adjoining Rentable Premises; and (d) the centre line of interior party walls separating Rentable Premises from adjoining Rentable Premises. GLA includes interior space even if it is occupied by projections, structures or columns, structural or non-structural, and if a store front is recessed from the lease line the area of the recess is included within the GLA of the Premises. The dimensions of Rentable Premises that are a kiosk will be determined by the Landlord.

"GLA of a Rentable Premises": the total GLA of all levels of a Rentable Premises.

"GLA of the Shopping Centre": the total of the GLA of all Rentable Premises excluding, at the option of the Landlord, the following categories of space: (a) kiosks; (b) Storage Areas; (c) free-standing buildings or structures; (d) Rentable Premises with a GLA of more than 10,000 square feet; (e) theatres or cinemas; (f) any second storey premises or any premises above ground level; (g) space used by governmental or public offices, agencies or services or charitable organizations; and (h) mezzanine areas inside Rentable Premises. However, the area of the Premises and the area of other Rentable Premises that are of the same category of space as the Premises shall be included in the GLA of all Rentable Premises.

"Gross Revenue": the total of the selling or rental prices of goods sold or leased and services performed in or from the Premises whether the sales or rentals are made or services performed on the Premises or elsewhere.

Gross Revenue includes but is not limited to:

- (a) orders taken or received at the Premises, whether the orders are filled from the Premises or elsewhere;
- (b) deposits not refunded to purchasers;
- (c) all other receipts and receivables (including interest, instalment and finance charges) from business conducted in or from the Premises; and
- (d) orders filled from the Premises, whether the orders are taken or received at the Premises (such as by way of example, but without limitation, computer or internet generated sales),

whether the sales, rentals or other receipts or receivables are made by cheque, cash, credit, charge account, exchange or otherwise and whether the sales or rentals are made by means of mechanical or other vending devices in the Premises. Bank charges or uncollectible credit accounts or charges made by collection agencies will not be deducted and no allowances will be made for bad debts. Each charge, sale or rental made on instalment or credit will be treated as a sale or rental for the full selling or rental price in the month for which the charge, sale or rental is made, regardless of the time when the Tenant receives payment (whether full or partial).

Gross Revenue does not include, or there will be deducted from Gross Revenue:

- (i) sales or rentals of merchandise for which cash has been refunded or credit made to a charge card account, but only to the extent of the refund or credit;
- (ii) the selling or rental price of merchandise returned by customers for exchange, but the selling or rental price of merchandise delivered to the customer in exchange will be included in Gross Revenue;
- (iii) retail tax imposed by federal, provincial, municipal or any other governmental authorities directly on sales and rentals and collected from customers at the point of sale or rental by the Tenant acting as agent for the authority, but only if the amount is added separately to the selling or rental price and does not form part of the quoted price for the article or the service and is actually paid by the Tenant to the authority; and
- (iv) transfers of merchandise between the Tenant's stores and merchandise returned to the Tenant's suppliers, but only if the transfers or returns are for convenience and not for reducing Gross Revenue.

"Hazardous Substances": any substance or thing or mixture of them which alone or in combination with others, or in certain concentrations, exhibits characteristics of flammability, corrosivity, reactivity or toxicity or which could cause an adverse effect or which is or may be dangerous or detrimental to living things or to the environment, including, but not limited to, any pollutant, contaminant, toxic or hazardous chemicals or waste, dangerous noxious or toxic substances, flammable, explosive or radioactive materials, urea formaldehyde foam insulation, asbestos, polychlorinated biphenyl, pesticides, or any other substance, the removal, manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is subject to Applicable Laws.

"Indemnifier": a Person, if any, who has executed or agreed to execute the Indemnity Agreement that is attached to this Lease as Appendix "A", or any other indemnity agreement in favour of the Landlord.

"Landlord": the party of the First Part and Persons for whom the Landlord is responsible in law. In sections that contain a release or other exculpatory provision or indemnity in favour of the Landlord, "Landlord" includes the directors, officers, employees and agents of the Landlord.

"Landlord's Work": the work to be performed by the Landlord pursuant to Schedule "C".

"Lease": this agreement, all Schedules and Appendices (if any) thereto and the Rules and Regulations adopted or revised from time to time under Section 17.01.

"Management Company": a company or other entity, if any, retained by the Landlord from time to time to operate or manage the Shopping Centre.

"Minimum Rent": the annual rent payable pursuant to Section 4.02.

"Mortgagee": a mortgage or hypothecary creditor (including a trustee for bondholders) of the Shopping Centre or part of it and a chargee or other secured creditor that holds the Shopping Centre or a part of it as security from time to time, but a Mortgagee is not a creditor, chargee or security holder of a tenant of Rentable Premises.

"Owners": the owner or owners from time to time (other than the Landlord) of the freehold or leasehold title of the Shopping Centre.

~~"Percentage Rent"~~: ~~the rent payable pursuant to Section 4.03.~~

"Person": if the context allows, a person, firm, partnership or corporation, group of persons, firms, partnerships or corporations, or any combination of them.

"Premises": the Rentable Premises described in Section 3.01.

"Prime Rate": the rate of interest, per annum, from time to time publicly quoted by a chartered bank designated by the Landlord as the reference rate of interest (commonly known as its "prime rate") used by it to determine rates of interest chargeable in Canada on Canadian dollar demand loans to its commercial customers.

"Proportionate Share": a fraction which has as its numerator the GLA of the Premises, and as its denominator the GLA of the Shopping Centre, or such portion of the GLA of the Shopping Centre to which the Landlord, acting reasonably, but in its sole discretion, may allocate such cost items of which the Tenant is required to pay its Proportionate Share. By way of example only, and without limitation, for the purpose of the Operating Expense allocated or attributed by the Landlord to (i) the building of which the Premises form a part, the Tenant's Proportionate Share shall be a fraction which has as its numerator the GLA of the Premises and as its denominator the GLA of the Rentable Premises (including the Premises) in that building; and (ii) the Common Elements that are designated for the benefit of all tenants in the Shopping Centre, the Tenant's Proportionate Share shall be a fraction which has as its numerator the GLA of the Premises, and as its denominator the GLA of the Shopping Centre. The Landlord may recalculate or adjust the denominator of the Proportionate Share fraction from time to time due to changes, additions or improvements to the building of which the Premises form a part or to the Shopping Centre.

"Province": the province in which the Shopping Centre is located.

"Released Persons": collectively and individually includes the Landlord, the Management Company, the Owners and the Mortgagee. In any Section of this Lease which contains a release or other exculpatory provision, or an indemnity in favour of any or all of the Released Persons, such Released Persons shall include the officers, directors, employees and agents of each such Released Person, and the Landlord acts as agent for, or as trustee for, the benefit of such Released Person so that each such release, indemnity and/or other exculpatory provision is fully enforceable by the Released Persons.

"Rent": Minimum Rent (described in Section 4.02), ~~Percentage Rent (described in Section 4.03)~~ and Additional Rent.

"Rentable Premises": those premises (including the Premises), in or on the Shopping Centre that are, or are intended from time to time to be occupied by businesses that sell or lease goods or services to the public.

"Rental Year": the period of time that, in the case of the first Rental Year of the Term, starts on the Commencement Date and:

- (a) for Article IV ends on the last day of that month which is the same month as the month immediately preceding the date on which Minimum Rent will escalate in accordance with Section

4.02(a) of this Lease, or if there is no Minimum Rent escalation under Section 4.02(a), ends on the last day of that month which is the same month as the month in which the Term of this Lease will expire;

(b) for Articles V, VI, VII, VIII and ends on the last day of the month of the following December; and

in the case of Rental Years after the first Rental Year, is a period of twelve (12) consecutive calendar months starting the first day after the Rental Year that immediately precedes it, but the last Rental Year whether it is twelve (12) calendar months or not, terminates on the expiration or earlier termination of this Lease, and the Landlord may, from time to time, by written notice to the Tenant, specify a date (which may precede the notice) on which the then current Rental Year will terminate and the anniversary of the specified date will be the expiry date of the subsequent Rental Years. The Landlord will not change the Rental Year, however, for the purposes of Minimum Rent ~~or Percentage Rent~~, except as set out in Section 13.02(g).

"Rules and Regulations": the rules and regulations set out in Schedule "D" adopted, promulgated, revised or amended by the Landlord from time to time under Section 17.01.

"Sales Taxes": goods and services taxes, sales taxes, value-added taxes, multi-stage taxes, business transfer taxes and any other taxes imposed in respect of the Rent payable by the Tenant under this Lease or in respect of the rental of space under this Lease.

"Shopping Centre": the lands described in Schedule "A" as they are altered, reduced or expanded from time to time and the buildings, improvements, equipment and facilities, including, without limitation, the Common Elements, serving them or located on or in them from time to time.

"Stipulated Rate": the rate of interest per annum that is the lesser of (a) five percentage points more than the Prime Rate, and (b) the maximum rate permitted by law.

"Storage Areas": those areas designated by the Landlord from time to time as Storage Areas.

"Tenant": the Party of the Second Part and Persons for whom the Tenant is responsible in law.

"Tenant's Work": any work, renovation, repair, alteration, replacement, decoration or improvement conducted by or on behalf of the Tenant under this Lease, including the work specified under Schedule "C".

"Term": the period described in Section 3.03.

ARTICLE II INTENT AND INTERPRETATION

Section 2.01 Net Lease

(a) This Lease is a completely net and carefree lease to the Landlord. Except as stated in this Lease, the Landlord is not responsible for costs, charges, or expenses relating to the Premises, their use and occupancy, their contents, or the business carried on in them, and the Tenant will pay the charges, impositions, costs and expenses relating to the Premises except as stated in this Lease. This Section will not be interpreted to make the Tenant responsible for ground rentals that may be payable by the Landlord or the Owners, payments to Mortgagees or, subject to Article V, the Landlord's income taxes. Capital Tax as defined in Section 6.03(c) is not considered as Income tax.

(b) The Tenant will pay to the Landlord or directly to the taxing authority (if required by the applicable legislation) the full amount of all Sales Taxes imposed on the Tenant in respect of the Rent payable by the Tenant under this Lease. Sales Taxes so payable by the Tenant (i) will be calculated and paid in accordance with the applicable legislation; (ii) will be paid to the Landlord at the same time as the amounts to which the Sales Taxes are payable to the Landlord under this Lease (or at such other times as the Landlord from time to time determines) and (iii) despite anything to the contrary, will be considered not to be Rent but the Landlord will have all of the same remedies for such amounts as it has for non-payment of Rent under this Lease or by law. To avoid duplication, the Tenant will not reimburse the Landlord, in whole or in part, for any Sales Taxes paid or payable by the Landlord in respect of goods and services supplied to the Landlord or the Management Company in connection with the maintenance, operation, repair, insurance or administration of the Shopping Centre to the extent the Landlord receives an input tax credit in respect thereof.

Section 2.02 Landlord and Representatives to Act Reasonably and in Good Faith

The Landlord, and each Person acting for the Landlord, in making a determination, designation, calculation, estimate, conversion, or allocation under this Lease, will act reasonably and in good faith and each accountant, architect, engineer or surveyor, or other professional Person employed or retained by

the Landlord will act in accordance with the applicable principles and standards of the Person's profession.

Section 2.03 Rent Disputes

The Tenant may dispute an invoice, billing or statement in respect of Rent only by giving written notice to the Landlord specifying the basis of the dispute within six (6) months after delivery of the invoice, billing or statement, as the case may be. The Tenant will, in any event, continue to pay Rent in accordance with the Landlord's invoice, billing or statement until the dispute is resolved.

Section 2.04 Compliance with Applicable Laws

The Tenant will comply with all Applicable Laws relating to its ability to enter into and comply with this Lease and relating to the operation, condition, maintenance and use or occupation of the Premises, the conduct of business in the Premises, and the making of any repairs or alterations on or in the Premises. The Tenant will provide the Landlord with prompt written notice of any work order, deficiency notice, compliance order or of any spill or illegal discharge of a contaminant relating to the Premises or the Tenant's use thereof.

Section 2.05 Entire Agreement

Whether or not the Tenant is permitted to take possession of the Premises, and whether or not it pays a deposit or any instalment of Minimum Rent or other Rent which is accepted by the Landlord, no change which the Tenant makes to the form of this Lease will be binding on the Landlord even if it is brought to the Landlord's attention, until the Landlord executes this Lease and initials the change or a page of this Lease containing the change and the Lease is delivered to the Tenant. The Lease includes the Schedules attached to it and the Rules and Regulations adopted under Section 17.01. There are no covenants, promises, agreements, conditions or understandings, either oral or written, between the parties concerning this Lease, the Premises, the Shopping Centre or any matter related to all or any of them, except those that are set out in this Lease. No alteration, amendment, change or addition to this Lease is binding upon the Landlord unless it is in writing and signed by the Tenant and the Landlord. No electronic communications between the parties will have the effect of creating or altering any legal rights or obligations of the parties.

Section 2.06 General Matters of Intent and Interpretation

- (a) Each obligation under this Lease is a covenant.
- (b) The captions, section numbers, article numbers and Table of Contents do not define, limit, construe or describe the scope or intent of the sections or articles.
- (c) The use of the neuter singular pronoun to refer to the Landlord or the Tenant is a proper reference even though the Landlord or the Tenant is an individual, a partnership, a corporation or a group of two or more individuals, partnerships or corporations. The grammatical changes needed to make the provisions of this Lease apply in the plural sense when there is more than one Landlord or Tenant and to corporations, associations, partnerships or individuals, males or females, are implied.
- (d) If a part of this Lease or the application of it to a Person or circumstance, is to any extent held or rendered invalid, unenforceable or illegal, that part:
 - (i) is independent of the remainder of the Lease and is severable from it, and its invalidity, unenforceability or illegality does not affect, impair or invalidate the remainder of this Lease; and
 - (ii) continues to be applicable to and enforceable to the fullest extent permitted by law against any Person and circumstance except those as to which it has been held or rendered invalid, unenforceable or illegal.

No part of this Lease will be enforced against a Person, if, or to the extent that by doing so, the Person is made to breach a law, rule, regulation or enactment.

- (e) This Lease will be construed in accordance with the laws of Canada and the Province. The parties agree that the exclusive venue for any application or court action brought in respect of this Lease shall lie with the courts of the Province and the parties hereto exclusively attorn to the jurisdiction of such courts.
- (f) Time is of the essence of this Lease.
- (g) To the extent necessary to ensure that all releases, exculpatory provisions and indemnities included in their favour in this Lease are enforceable against the Tenant by them, the Landlord acts as agent for, or as trustee for, the Released Persons.

ARTICLE III GRANT AND TERM

Section 3.01 The Premises

The Landlord leases to the Tenant, and the Tenant leases from the Landlord, the Premises in the Shopping Centre that are designated as No. P5025, and have a GLA of 1,595 square feet approximately. The approximate location of the Premises is outlined in red on Schedule "B".

If the Premises are entirely self-enclosed, their boundaries extend (a) to the limits from which the GLA of the Premises is measured, and (b) from the top surface of the structural subfloor to the bottom surface of the structural ceiling. If the Premises have no structural ceiling abutting the demising walls and are open to the ceiling or the bottom surface of the structural ceiling of the Shopping Centre, the boundaries of the Premises extend from the top surface of the structural subfloor to the height of the demising walls. Common Elements (including, but not limited to, columns and walls that form part of the Common Elements) that are within the space enclosed by the boundaries of the Premises, do not form part of the Premises, although any floor space occupied by them is included in the GLA of the Premises.

Section 3.02 Use of Common Elements

The Tenant has the non-exclusive and non-transferable right (except in accordance with Article XIII) to use the Common Elements in common with others entitled to do so, for the purposes for which they are intended and during those hours that the Shopping Centre is open for business, subject however, to this Lease. Despite the foregoing, the Landlord, acting reasonably, may permit portions of the Common Elements to be used exclusively by specified tenants, licensees or other Persons.

Section 3.03 The Term

The Tenant will have and hold the Premises for the term (the "Term") which, unless sooner terminated, is the period of approximately ten (10) years (i) commencing on the date (the "Commencement Date") which is the earliest of (1) the date the Tenant opens its business to the public in any part of the Premises, or (2) the day following the expiry of the "Fixturing Period" (being the period described in Section 3.05), or (3) January 1, 2005; and (ii) ending December 31, 2014. Within a reasonable time after the Commencement Date occurs, the Landlord will confirm the Commencement Date by notice to the Tenant and such confirmed Commencement Date will apply for this Lease.

Section 3.03A Options to Extend Term

If the Tenant (a) in occupation of and carrying on business in the whole of the Premises is S.H.S. OPTICAL LTD., (b) pays the Rent and all other sums payable as and when due, (c) punctually observes and performs the terms, covenants and conditions to be observed and performed by it in accordance with the terms of the Lease, (d) is not then in default and has not been in material or chronic default under the Lease, (e) gives the Landlord not less than twelve (12) months and not more than eighteen (18) months written notice prior to the expiration of the preceding Term of the Lease of the Tenant's intention to extend the Term of the Lease, and (f) the Lease is executed by both parties, then the Landlord will grant to the Tenant two (2) consecutive rights to extend the Term of the Lease upon the expiry of the Term for a period of five (5) years each (the "First Extension of Term" and "Second Extension of Term", respectively) upon the same terms and conditions as set out in the Lease except that the Tenant will accept the Premises on an "as is" basis with no Landlord's Work to be performed, no rent free period, and no inducements or allowances shall be payable by the Landlord and except also that:

- (i) there shall be no further right to extend the Term following the exercise, if any, of the foregoing right(s) to extend;
- (ii) the Landlord may, at its option, require that the Tenant enter into an extension agreement, as prepared by the Landlord to give effect to the foregoing right(s) to extend; and
- (iii) the Minimum Rent payable during each consecutive twelve (12) month period of the First Extension of Term and Second Extension of Term, as the case may be, shall be an amount which is mutually agreed upon between the Landlord and the Tenant within forty-five (45) days following the giving of the aforesaid notice(s) by the Tenant based upon the annual market rental rate for minimum rent for leases of similar premises in similar shopping centres as at ninety (90) days immediately prior to the expiry of the Term or the First Extension of Term, as the case may be, and failing agreement by the parties within such forty-five (45) day period, this right shall be null and void and of no further force and effect.

If the Tenant fails to give the appropriate notice(s) within the time limit set out herein for extending the Term, then this right(s) shall be null and void and of no further force and effect. If the Tenant gives such appropriate notice(s) within the time limit set out herein for extending the Term, it will

forthwith execute the documentation submitted by the Landlord pursuant to subsection (ii) of this Section.

Section 3.04 Certified GLA

If the GLA of the Premises is certified by the Architect or by an accredited land surveyor designated by the Landlord, then such GLA will apply instead of the area indicated in Section 3.01 and Rent will be adjusted as calculated by the Landlord, which adjustment will be retroactive if the certification does not occur until after the Commencement Date.

Section 3.05 Fixturing Period

The Tenant shall have a maximum period of thirty (30) days to complete the Tenant's Work (the "Fixturing Period") which shall commence on the date that Landlord delivers possession of the Premises to the Tenant with the Landlord's Work completed to the extent that the Tenant can commence the Tenant's Work, which date is estimated to be December 1, 2004, and shall expire on the day immediately preceding the Commencement Date. During the Fixturing Period, the Tenant shall not be obligated to pay Minimum Rent, ~~Percentage Rent~~ or Additional Rent, but the Tenant shall be subject to all of the other terms and conditions of this Lease insofar as they are applicable including, without limitation, the obligations to pay Business Taxes if applicable, Charges for Utilities, any garbage removal costs, the obligation to maintain insurance pursuant to the Lease, and the provisions relating to the liability of the Tenant for its acts and omissions, and the acts and omissions of its servants, employees, agents, contractors, invitees, concessionaires and licensees and the indemnification of the Released Persons.

ARTICLE IV RENT

Section 4.01 Covenant to Pay

The Tenant covenants to pay Minimum Rent, ~~Percentage Rent~~, and Additional Rent.

Section 4.02 Minimum Rent

- (a) The Tenant will, throughout the Term, pay to the Landlord or to the Management Company as the Landlord directs, at its head office, or at any other place designated by the Landlord or the Management Company, as the case may be, in Canadian funds, without demand and without deduction, abatement, set-off or compensation, as Minimum Rent, the annual sum of **forty-seven thousand eight hundred and fifty dollars (\$47,850.00)** payable in equal consecutive monthly instalments of **three thousand nine hundred and eighty-seven dollars and fifty cents (\$3,987.50)** each in advance on the first day of each calendar month. The Minimum Rent is based on an annual rate of **thirty dollars (\$30.00)** per square foot of the GLA of the Premises.
- (b) If the Commencement Date is not the first day of a calendar month, the Tenant will pay, on the Commencement Date, Minimum Rent calculated on a per diem basis (based on three hundred and sixty-five (365) days) from the Commencement Date to the end of the month in which it occurs.
- (c) The Tenant will deliver to the Landlord at the beginning of each Rental Year, a series of monthly post-dated cheques for the Rental Year for the total of the monthly payments of Minimum Rent and any Additional Rent that is estimated by the Landlord in advance.

Section 4.03 Percentage Rent - INTENTIONALLY DELETED

Section 4.04 Gross Revenue Reports

- (a) Before the eleventh (11th) day of each calendar month, except for the first month of the Term, the Tenant will deliver to the Landlord, at the place then fixed for the payment of Rent, ~~together with its payment of monthly Percentage Rent,~~ a statement (the "Monthly Statement") signed by the Tenant which, (i) states that Gross Revenue as reported in the Monthly Statement is in accordance with the definition of Gross Revenue in Section 1.01; (ii) contains a certification by the Tenant that the Monthly Statement is correct; (iii) is in the detail and form that the Landlord reasonably requires; and (iv) without limiting the requirements stated above, shows (1) the amount of Gross Revenue for the preceding month, (and fractional months, if any, at the commencement or end of the Term); and (2) the amount of Gross Revenue for all preceding months of the Rental Year, (and fractional months, if any, at the commencement or end of the Term); ~~and (3) the monthly payments made on account of Minimum Rent and Percentage Rent for the Rental Year.~~
- (b) ~~Before the sixty first (61st) day after the end of each Rental Year (including the last Rental Year of the Term), the Tenant will deliver to the Landlord at the place then fixed for the payment of~~

~~Rent, a statement (the "Annual Statement") signed by the Tenant which Annual Statement will (i) state that Gross Revenue as shown in the Annual Statement is in accordance with the definition of Gross Revenue in Section 4.04; (ii) contain a certification that the Annual Statement is true and correct; and (iii) without limiting the requirements stated above, show month by month, the amount of Gross Revenue during the preceding Rental Year.~~

- (c) ~~Before the one hundred and eighty first (181st) day after each fiscal year end of the Tenant, the Tenant will deliver to the Landlord an opinion by an independent public accountant of recognized standing (an "Accountant") signed by the Accountant and stating that, (i) he has examined, in accordance with generally accepted auditing standards, the Gross Revenue (as defined in Section 4.04) of the Tenant for the fiscal year then ended; and (ii) Gross Revenue is fairly presented for the fiscal year then ended in accordance with Section 4.04 and on a basis consistent with that of the preceding fiscal year.~~

Section 4.05 Occasional Statements - INTENTIONALLY DELETED

Section 4.06 Tenant's Records - INTENTIONALLY DELETED

Section 4.07 Right to Examine - INTENTIONALLY DELETED

Section 4.08 Audit - INTENTIONALLY DELETED

Section 4.09 Landlord's Right to Terminate - INTENTIONALLY DELETED

Section 4.10 Additional Rent

Additional Rent, (a) is payable in Canadian funds without deduction, abatement, set-off or compensation; (b) is payable (except when this Lease states that it is payable on demand) with the first monthly instalment of Minimum Rent after the Additional Rent begins to accrue; and (c) accrues daily.

Section 4.11 Overdue Rent

If the Tenant defaults in the payment of Rent, the unpaid Rent bears interest from the due date to the date of payment in full at the Stipulated Rate. Notwithstanding anything else in this Lease, such interest will not be considered to be Rent but the Landlord will have all of the same remedies for, and rights of recovery with respect to such amounts, as it has for non-payment of Rent.

Notwithstanding anything to the contrary contained in this Lease, in order to cover the extra expense involved in handling delinquent payments, the Tenant, at the Landlord's sole option, shall pay a late charge fee of \$200.00 when any instalment of Rent is received more than five (5) days after the due date thereof. This late charge fee is charged as Additional Rent, and not as penalty or interest, for the purpose of defraying the Landlord's expenses incident to the processing of such overdue payments.

Section 4.12 Pre-authorized Payment Plan

At the Landlord's request, the Tenant will participate in a pre-authorized payment plan whereby the Landlord will be authorized to debit the Tenant's bank account each month or from time to time during each Rental Year in an amount equal to the Minimum Rent and Additional Rent payable on a monthly basis, and if applicable, generally any amount payable provisionally pursuant to the provisions of this Lease on an estimated basis. The Tenant hereby undertakes to sign a form of application which is the same as or similar to Schedule "E" to give full force and effect to the foregoing within five (5) days of presentation.

**ARTICLE V
TAXES**

Section 5.01 Taxes - Definition

"Taxes" means (a) real property taxes, rates, duties and assessments (including local improvement taxes), impost charges or levies (referred to collectively as "real property taxes"), that are levied, rated, charged or assessed against the Shopping Centre or any part of it from time to time (including, but not limited to, the Common Elements) by a taxing authority, whether federal, provincial, municipal, school or otherwise, and any taxes or other amounts that are imposed instead of, or in addition to, real property taxes whether similar or not, and whether in existence at the Commencement Date or not, and any real property taxes levied, or assessed against the Landlord or the Owners on account of its or their ownership of or interest in the Shopping Centre, (b) the costs and expenses incurred for consultation, appraisal, legal and other fees and expenses to the extent they are incurred in an attempt to minimize or reduce amounts mentioned in Section 5.01(a), and (c) amounts imposed against or allocated by the Landlord to the Shopping Centre in respect of office expenses, salaries, benefits, and other personnel costs related to the administration and management of amounts such as those included in Sections 5.01(a) and (b). Taxes shall in every instance be calculated on the basis of the Shopping Centre being

fully assessed and taxed at prevailing commercial/shopping centre rates for occupied space for the period for which Taxes are being calculated.

Section 5.02 Taxes Payable by the Landlord

The Landlord will, subject to Sections 5.03, 5.04 and 6.03, pay the Taxes that are imposed against the Shopping Centre or any part of it. However, the Landlord may defer payment of Taxes, or defer compliance with statutes, laws or by-laws, regulations or ordinances in connection with the levying of Taxes, to the extent permitted by law, if it diligently pursues or causes to be pursued the contest or appeal of the Taxes.

Section 5.03 Taxes Payable by the Tenant

- (a) Whether or not there are separate real property tax bills or separate real property assessment notices issued by a taxing authority, the Tenant will pay to the Landlord, in each Rental Year, those Taxes that are imposed against the Shopping Centre including the Common Elements (except for the Taxes that are allocated by the Landlord to the Rentable Premises not included in the GLA of the Shopping Centre), which shall be paid on the basis of the Tenant's Proportionate Share of such Taxes or on such other reasonable and equitable basis as the Landlord determines. The Tenant's Proportionate Share or share (determined as aforesaid) of Taxes shall remain payable regardless of any deferral of payment or contestation or appeal of Taxes by the Landlord or the Owners. The Landlord and the Owners will, notwithstanding the preceding sentence, have no obligation to contest, object to or litigate the levying or imposition of Taxes.
- (b) The Tenant will pay the amounts payable under Section 5.03(a) according to estimates or revised estimates made by the Landlord from time to time in respect of each Rental Year, in monthly instalments, in advance, as determined by the Landlord. Within a reasonable time after the date (the "Final Payment Date") in each calendar year when the final instalment of Taxes is due, the Landlord will deliver a statement (a "Tax Statement") to the Tenant that (i) specifies the Tenant's Proportionate Share or share (allocated or determined in accordance with Section 5.03(a)) of Taxes for the Rental Year, and (ii) sets out the total (the "Prepayment Total"), of amounts payable under this Section 5.03(b) that have been paid by the Tenant between the Final Payment Date in the previous calendar year and the Final Payment Date of the current calendar year. If the Prepayment Total, less any amounts that were previously credited to the Tenant, and any amounts paid for arrears in respect of previous Rental Years, (the "Net Prepayment Total") is less than the Tenant's Proportionate Share or share (allocated or determined in accordance with Section 5.03(a)) of Taxes specified in the Tax Statement, the Tenant will pay the deficiency with the next monthly payment of Minimum Rent. If the Net Prepayment Total exceeds the Tenant's Proportionate Share or share (allocated or determined in accordance with Section 5.03(a)) of Taxes specified in the Tax Statement, the Landlord will refund the excess within a reasonable time after delivery of the Tax Statement (unless the Tenant is then in default under any term or condition of this Lease). The Landlord may estimate Taxes for the Rental Year following the then current Rental Year, and the Tenant will continue after the Final Payment Date, to make monthly payments in advance, in amounts determined by the Landlord, for periods determined by the Landlord. The monthly payments paid by the Tenant after the Final Payment Date will be credited against the Tenant's Proportionate Share or share (allocated or determined in accordance with Section 5.03(a)) of Taxes for the subsequent Rental Year.
- (c) If the Term commences after the Final Payment Date in a calendar year, the Landlord will deliver to the Tenant a Tax Statement for the first Rental Year and the Tenant will pay to the Landlord the Tenant's Proportionate Share or share (allocated or determined in accordance with Section 5.03(a)) as specified in the Tax Statement. In addition, the Tenant will make payments, in monthly amounts determined by the Landlord, in advance, to be credited against the Tenant's Proportionate Share or share (allocated or determined in accordance with Section 5.03(a)) of Taxes for the subsequent Rental Year.
- (d) If the last Rental Year expires or is terminated before the Final Payment Date in a calendar year, the Landlord will deliver to the Tenant a Tax Statement within a reasonable time after the expiry or termination of the last Rental Year. If the Final Payment Date has not occurred, the Tenant's Proportionate Share or share (allocated or determined in accordance with Section 5.03(a)) of Taxes will be based on the Landlord's estimate of Taxes, which will be considered as the final actual amount of Taxes for the last Rental Year. The Tenant will pay to the Landlord any deficiency within ten (10) days after the Landlord delivers the Tax Statement, or the Landlord will pay to the Tenant any excess the Tenant is entitled to within a reasonable time after the Landlord delivers the Tax Statement (unless the Tenant is then in default under any term or condition of this Lease or it owes money to the Landlord in respect of its obligations under this Lease).
- (e) If a Rental Year is not twelve (12) calendar months, the Taxes payable by the Tenant under Section 5.03 will be prorated on a per diem basis, based on three hundred and sixty-five (365) days.

Section 5.04 Business Taxes and Other Taxes of the Tenant

The Tenant will pay to the taxing authorities, or to the Landlord, as it directs, before delinquency, all "Business Taxes" if applicable. "Business Taxes" means, (a) the taxes, rates, duties, assessments and other charges that are imposed against or in respect of the improvements, equipment and facilities of the Tenant on or in the Premises or the Shopping Centre or any part of either of them or the Landlord on account of its ownership of or interest in either of them; and (b) every tax and license fee that is imposed against or in respect of business carried on in the Premises or in respect of the use or occupancy of the Premises or any part of the Shopping Centre by the Tenant or its sub-tenants or licensees, or against the Landlord or the Owners on account of its or their ownership of the Premises or the Shopping Centre or any part of it. If there is not a separate bill issued by the relevant authority for Business Taxes, the Tenant will pay its Proportionate Share of the Business Taxes with respect to the entire Shopping Centre. The Landlord will remit amounts that it collects for Business Taxes to the relevant authority.

Section 5.05 Tenant's Responsibility

The Tenant will, (a) on the Landlord's request, promptly deliver to the Landlord, (i) receipts for payment of all Business Taxes payable by the Tenant; (ii) notices of any assessments for Taxes or Business Taxes or other assessments received by the Tenant that relate to the Premises or the Shopping Centre; and (iii) whatever other information relating to Taxes and Business Taxes the Landlord reasonably requests from time to time; and (b) deliver to the Landlord, at least ten (10) days before the last date for filing appeals, notice of any appeal or contest that the Tenant intends to institute with respect to Taxes or Business Taxes payable by the Tenant in respect of the Premises and obtain the prior written consent of the Landlord for the appeal or contest which consent will not be unreasonably withheld. If the Tenant obtains the Landlord's consent and does not pay the Taxes or Business Taxes before the appeal or contest, the Tenant will deliver to the Landlord whatever security for the payment of the Taxes or Business Taxes the Landlord reasonably requires and will promptly and diligently pursue the appeal or contest and keep the Landlord informed on all aspects of it.

The Tenant will indemnify and save the Landlord harmless from all losses, costs, charges and expenses arising from Taxes or Business Taxes as well as any taxes that are imposed in place of Business Taxes or Taxes or which are assessed against rentals payable under this Lease in place of Taxes or Business Taxes, whether against the Landlord or the Tenant including, but not limited to, increases in Taxes or Business Taxes arising directly or indirectly out of an appeal or contest by the Tenant. The Tenant will deliver to the Landlord any security for such an increase in Taxes or Business Taxes that the Landlord reasonably requires.

ARTICLE VI

SHOPPING CENTRE AND COMMON ELEMENTS - CONTROL AND PAYMENT

Section 6.01 Control of the Shopping Centre by the Landlord

The Landlord will operate the Shopping Centre in a reputable manner having regard to size, age and location. The Common Elements and those portions of the Shopping Centre which are not leased to tenants are under the exclusive control of the Landlord.

Without limitation, the Landlord may, in its operation of the Shopping Centre:

- (a) (i) close parts of the Common Elements to prevent their dedication or the accrual of rights in them in favour of Persons or the public; grant, modify and terminate easements and other agreements pertaining to the use and operation of the Shopping Centre or any part of it, and temporarily obstruct or close off or shut down parts of the Shopping Centre for inspection, maintenance, repair, construction or safety reasons;
- (ii) employ personnel, including supervising personnel and managers, for the operation, maintenance and control of the Shopping Centre. The Shopping Centre or parts of it, may be managed by Bentall Retail Services LP or by another Person or Persons that the Landlord designates in writing from time to time;
- (iii) use parts of the Common Elements for merchandising, display, decorations, entertainment and structures, permanent or otherwise, designed for retail selling or special features or promotional activities;
- (iv) regulate, acting reasonably, all aspects of loading and unloading, delivery and shipping of fixtures, equipment and merchandise, and all aspects of garbage collection and disposal. The Tenant is responsible for pick-up and disposal of its garbage at its cost. If the Landlord provides facilities or designates a commercial service for the pick-up and disposal of garbage instead of, or in addition to the service provided by the local municipality, the Tenant will use such facilities and commercial service at its cost;
- (v) prohibit the Tenant and its employees from parking in the Shopping Centre; and

- (vi) impose or permit to be imposed reasonable charges upon any Person (including the general public) for the use of parking facilities that may at any time be part of the Common Elements;
- (b) (i) change the area, level, location, arrangement or use of the Shopping Centre or any part of it;
- (ii) construct other buildings, structures, or improvements in the Shopping Centre and make alterations of, additions to, subtractions from, or rearrangements of the Shopping Centre, build additional stores in any part of the Shopping Centre, and construct additional storeys, buildings or facilities in, adjoining or near the Shopping Centre;
- (iii) install kiosks and other installations, permanent or otherwise, in or on the Common Elements;
- (iv) diminish, expand, alter, relocate or rearrange the buildings, parking facilities and other parts of the Shopping Centre;
- (v) construct multiple deck, elevated or underground parking facilities, and expand, reduce or alter them; and
- (vi) do and perform such other acts in and to the Shopping Centre as, in the use of good business judgment, the Landlord determines to be advisable for the proper operation of the Shopping Centre.

Despite anything else in this Lease, the Landlord has no liability for diminution or alteration of the Common Elements that occurs as the result of the Landlord's exercise of its rights under this Section 6.01 or elsewhere under this Lease and the Tenant will not be entitled to compensation or a reduction or abatement of Rent, and no such diminution or alteration of the Common Elements shall be deemed to be a constructive or actual eviction of the Tenant or a default by the Landlord of any obligation for quiet enjoyment contained in this Lease or provided at law.

Section 6.02 Landlord's Relocation Right

The purpose of the site plan attached hereto as Schedule "B" is to show the approximate location of the Premises only, subject to the last sentence of Section 3.01. The Landlord reserves the right upon ninety (90) days' prior written notice to (a) rearrange the boundaries and dimensions of the Premises and (b) relocate the Premises within the Shopping Centre to premises of substantially the same GLA as the Premises if in the Landlord's opinion such a rearrangement or relocation would be for the betterment of the Shopping Centre having regard to the establishment of new tenancies in the Shopping Centre or having regard to the expansion or renovation of the Shopping Centre. In the event that the Landlord elects to relocate the Premises for any reason, then the Landlord shall pay the Tenant's reasonable moving costs and shall reimburse the Tenant for its leasehold improvements (excluding the Tenant's trade fixtures) in the Premises on the basis of their undepreciated capital cost (calculated on a straight-line basis over the Term and any renewals or extensions thereof) at the time of relocation provided that there shall not be any payment required on account of goodwill, loss of profits or loss of business. Minimum Rent and Additional Rent with respect to the rearranged or relocated Premises shall be increased or reduced proportionately to any increase or reduction in the area of the Premises as rearranged or relocated. The Tenant shall be responsible for the cost of its new leasehold improvements in the relocated Premises.

The exercise by the Landlord of any of its rights under this Section 6.02 shall not constitute a breach by the Landlord of any of its obligations under this Lease nor shall the exercise of any such rights be deemed to be constructive or actual eviction, or a breach of the covenant for quiet enjoyment. The Tenant shall not have the right to object to any decisions made or actions taken by the Landlord pursuant to Section 6.02, and the Tenant shall not have any claim or rights against the Landlord, nor shall it be entitled to any payment (except as stated above in this Section 6.02) compensation or damages from the Landlord as a result of any decisions or actions.

Section 6.03 Operating Expenses

- (a) The costs and expenses of maintaining, operating, repairing, replacing and administering the Shopping Centre (the "Operating Expenses") include, but are not limited to those listed below, none of which is to be a duplication of another cost or expense:
 - (i) the cost and expense of obtaining and maintaining insurance in respect of the Shopping Centre (after deducting recoveries from tenants under clauses similar to Section 10.02) including all insurance premiums, all amounts falling below the level of the Landlord's insurance deductibles which are paid by the Landlord in connection with claims made against it, and costs and expenses for defending and payment of claims below deductibles;

- (ii) cleaning, snow removal, garbage, recycling and waste collection and disposal, and landscaping;
- (iii) all utilities supplied to the Shopping Centre (excluding the cost of utilities charged directly to tenants in the Shopping Centre) including without limitation lighting, electricity, fuel, steam, water and public utilities; life safety, public address and musical broadcasting systems, energy conservation equipment and systems, and telecommunication and information systems used in or serving the Common Elements, and electricity for signs that are part of the Common Elements;
- (iv) policing, security, supervision and traffic control;
- (v) management office expenses of operation and occupancy costs of any offices occupied by the Shopping Centre manager and manager's staff, and salaries of personnel, including management and other supervisory personnel, employed to carry out the operation and the cleaning, maintenance, and repair of the Shopping Centre, including fringe benefits and contributions and premiums for unemployment insurance and workers compensation insurance, pension plan contributions and similar premiums and contributions, and severance pay or indemnity, or, where the management office and personnel serve more than one shopping centre, an allocated share of those expenses, salaries and contributions;
- (vi) rental of equipment and signs, and the cost of building supplies used by the Landlord in the maintenance, cleaning, repair and operation of the Shopping Centre;
- (vii) auditing (including audit fees for the statements referred to in Section 6.04), accounting, legal and other professional and consulting fees and disbursements;
- (viii) repairs (including major repairs) and replacements to and maintenance and operation of the Shopping Centre and the systems, facilities and equipment serving the Shopping Centre, (except for repairs or replacements due to inherent structural defects or weaknesses);
- (ix) depreciation or amortization of the costs of repairs and replacements mentioned in Section 6.03(a)(viii), and of the costs, including repair and replacement; of the maintenance, cleaning and operating equipment, master utility meters and all other fixtures, equipment and facilities that are part of the Common Elements unless they are charged fully in the Rental Year in which they are incurred, all in accordance with rates and for periods determined by the Landlord from time to time in accordance with reputable shopping centre management and operating practices, but the Landlord shall be entitled to charge the remaining undepreciated or unamortized balance of any of the foregoing costs of repairs and replacements over one or more Rental Years as determined by the Landlord;
- (x) any costs attributable to fire sprinkler maintenance and monitoring if any, excluding the cost of such services charged directly to tenants in the Shopping Centre;
- (xi) interest calculated upon the undepreciated or unamortized part of the costs referred to in Section 6.03(a)(viii) and (ix), at a rate per annum that is two percentage points above the average daily Prime Rate of Interest for the period during which the present interest is calculated;
- (xii) the Business Taxes and Taxes, if any, payable by the Landlord or the Owners with respect to the Common Elements, and Capital Tax as defined in Section 6.03(c);
- (xiii) an administration fee of five percent (5%) of gross amounts received or receivable by the Landlord in respect of the Shopping Centre for all items, including all such items as are included in this Lease as Rent, assuming full occupancy and disregarding any reduction, limitation, deferral or abatement of any amounts in the nature of Rent. This administration fee is in addition to and is not a duplication of the expenses, salaries and benefits referred to in Section 6.03(a)(v) above.

(b) From the total of the Operating Expenses set out in Subsection (a) there is deducted:

- (i) net recoveries that reduce the expenses incurred by the Landlord in operating and maintaining the Shopping Centre and the Common Elements, which are received by the Landlord from tenants as a result of any act, omission, default or negligence of tenants or as the result of breaches by tenants of the provisions in their leases (but not recoveries from tenants under clauses similar to this Section 6.03);
- (ii) net proceeds from insurance policies taken out by the Landlord, to the extent that the proceeds relate to the costs and expenses incurred in the maintenance and operation of

the Shopping Centre and the Common Elements; (if the Landlord defaults under Section 10.05, it will deduct an amount equal to the net proceeds that the Landlord would have been entitled to had it not defaulted under that Section);

- (iii) net recoveries from charges, if any, for the use of the parking facilities of the Shopping Centre, but only to the extent of the total costs of maintaining and operating the parking facilities; and
 - (iv) contributions, if any, to the total cost of maintaining and operating the Shopping Centre and the Common Elements made by tenants or occupants of space that are excluded from the GLA of the Shopping Centre.
- (c) Capital Tax is an amount determined by multiplying each of the "Applicable Rates" by the "Shopping Centre Capital" and totalling the products. "Shopping Centre Capital" is the amount of capital which the Landlord determines, without duplication, is invested from time to time by the Landlord, the Owners, or all of them, in doing all or any of the following: acquiring, developing, expanding, redeveloping and improving the Shopping Centre. Shopping Centre Capital will not be increased by any financing or refinancing except to the extent that the proceeds are invested directly as Shopping Centre Capital. An "Applicable Rate" is the capital tax rate specified from time to time under any Applicable Laws which impose a tax in respect of the capital of corporations. Any tax-exempt portion of capital will be reasonably allocated amongst the relevant properties by the Landlord when calculating Capital Tax. Each Applicable Rate will be considered to be the rate that would apply if none of the Landlord or the Owners employed capital outside of the Province.
- (d) Notwithstanding anything in this Lease to the contrary, Operating Expenses may, at the Landlord's option, be allocated or attributed by the Landlord to the various buildings that comprise the Shopping Centre (including the Common Elements that are a part of each building) and to the Common Elements of the Shopping Centre that are designated for the benefit of all tenants in the Shopping Centre (such by way of example but without limitation, the parking areas, walk-ways, drive-ways and bus areas) on a reasonable basis in the Landlord's opinion and in accordance with the benefits derived by the tenants of each component of the Shopping Centre and having regard to the nature of the particular cost and expense being allocated.

Section 6.04 Tenant's Proportionate Share of Operating Expenses

- (a) In each Rental Year, the Tenant will pay to the Landlord its Proportionate Share of the Operating Expenses in monthly instalments, in advance.
- (b) The Tenant will pay the amounts payable under Section 6.03 according to estimates or revised estimates made by the Landlord from time to time in respect of periods determined by the Landlord. The Tenant's payments will be made in monthly instalments in advance for the periods in respect of which the estimates are made. Within a reasonable time after the end of each Rental Year the Landlord will deliver to the Tenant a report certified by the Landlord of the amounts referred to in Section 6.03 together with a statement (a "Statement") of the Tenant's Proportionate Share of those amounts. If the Tenant has paid more than a Statement specifies, the excess will be refunded within a reasonable time after delivery of the Statement (unless the Tenant is then in default under any term or condition of this Lease or it owes money to the Landlord in respect of its obligations under this Lease). If the Tenant has paid less than a Statement specifies, the Tenant will pay the deficiency with the next monthly payment of Minimum Rent.
- (c) For the last Rental Year the Landlord shall deliver to the Tenant, within a reasonable time after the last Rental Year, or within a reasonable time after the date when the last Rental Year would have ended if the Term had not expired or this Lease had not terminated a report of the amounts referred to in Section 6.03 (which report, although it may involve estimates and may be unaudited, will be considered final), together with a Statement. The Tenant will pay any deficiency to the Landlord within ten (10) days after the Landlord delivers the Statement, or the Landlord will pay to the Tenant any excess that the Tenant is entitled to, which payment will be made within a reasonable time after the Landlord delivers the Statement, (unless the Tenant is then in default under any term or condition of this Lease, or the Tenant owes money to the Landlord in respect of its obligations under this Lease).
- (d) If a Rental Year is less than twelve (12) months, the Tenant's Proportionate Share under Section 6.04 will be prorated on a per diem basis based on three hundred and sixty-five (365) days.

ARTICLE VII
UTILITIES AND HEATING, VENTILATING AND AIR-CONDITIONING

Section 7.01 Charges for Utilities

- (a) The Tenant will pay to the Landlord an amount (the "Charge") which is the total, without duplication, of: (i) the costs incurred by the Landlord for water, electricity, fuel, power, telephone and other utilities (the "Utilities") used in or for the Premises or allocated to them by the Landlord including any Utilities consumed as a result of the installation of any re-heat coil or additional heating system in the Premises; (ii) charges imposed in place of or in addition to Utilities as determined by the Landlord; (iii) the Landlord's costs of determining the Charge as well as the Landlord's costs of procuring the utility supply contract including, but not limited to, professional, engineering and consulting fees and the cost of providing any security for payment to the supplier as set out in the utility supply contract, including but not limited to the amount of any security deposits, interest thereon at the Stipulated Rate, costs of providing letters of credit and any other similar costs; and (iv) an administration fee of fifteen percent (15%) of the total referred to above. No administration fee is payable for amounts billed directly to the Tenant by a supplier of a Utility and paid by the Tenant directly to the supplier.
- (b) If the Landlord supplies Utilities, (i) the Tenant will pay the Landlord for such Utilities on demand, at reasonable rates; (ii) the Tenant will pay the Charge to the Landlord based on estimates of the Landlord but subject to adjustment within a reasonable time after the period for which the estimate has been made; (iii) the Tenant will, if requested by the Landlord, install at its own expense, at a location designated by the Landlord, a separate check meter indicating demand and consumption for Utilities in the Premises; and (iv) the Landlord is not liable for interruption or cessation of, or failure in the supply of Utilities, services or systems in, to or serving the Shopping Centre or the Premises, whether they are supplied by the Landlord or others, and whether or not the interruption or cessation is caused by the Landlord's negligence.
- (c) The Landlord will determine the Charge by allocating the Utilities for the Shopping Centre among the Shopping Centre's components including the Common Elements, Rentable Premises and Storage Areas, acting on the advice of a qualified engineer using as a basis, but not limited to (i) check meters, (ii) the relevant rates of demand and consumption of Utilities in the Common Elements, Rentable Premises and Storage Areas, and (iii) the connected loads of the areas that make up the Common Elements, Rentable Premises and Storage Areas for which there are no check meters.
- (d) The Tenant will keep current on all of its obligations to any independent utility supplier with which it contracts directly for its own supply of any Utilities. The Landlord will have the right to approve such arrangements, acting reasonably, and the Tenant will provide to the Landlord a copy of all utility supply contracts entered into by the Tenant. The Landlord has no liability or responsibility for providing a means of access to any utility supplier but shall be free to exercise its own discretion in that regard in the best interests of the Shopping Centre.

Section 7.02 Heating, Ventilating and Air-Conditioning

- (a) The parties acknowledge that notwithstanding that the Landlord owns the heating, ventilating and air-conditioning system servicing the Premises, and unless otherwise required or permitted by the Landlord as set out in this Section 7.02, the Tenant shall be solely responsible for all costs and expenses of operating, maintaining and repairing the heating, ventilating and air-conditioning system serving the Premises including entering into such maintenance and service contracts as are necessary for such operation, maintenance and repair. The Tenant shall provide the Manager of the Shopping Centre with a copy of such maintenance and service contract. If the heating, ventilating and air-conditioning system serving the Premises ceases to function properly, then the Tenant, using good business judgment, shall repair or replace such heating, ventilating and air-conditioning system serving the Premises at its sole cost and expense with a new system of a type as determined by the Landlord, acting reasonably, which shall become the Landlord's property immediately upon affixation but which the Tenant agrees to operate, maintain and repair as set out above at its sole cost and expense.
- (b) The Tenant shall regulate the heating, ventilating and air-conditioning facilities serving the Premises (including the distribution system for the Premises) so as to maintain reasonable conditions of temperature and humidity within the Premises.
- (c) The Landlord may, at its option assume the responsibility of operating, maintaining and repairing the heating, ventilating and air-conditioning system serving the Premises including entering into such maintenance service contract or contracts as are necessary for operation, maintenance and repair of the heating, ventilating and air-conditioning systems of the Premises and the Tenant shall pay the costs and expenses of such service contract or contracts.
- (d) If the heating, ventilating and air-conditioning equipment, facilities and system serving the Premises is shared with other Rentable Premises in the Shopping Centre (the "Shared HVAC

System"), the Landlord may, at its option, assume the responsibility of operating, maintaining and repairing the Shared HVAC System, including entering into such maintenance and service contracts as are necessary for operation, maintenance and repair, and the cost and expenses thereof will be equitably allocated by the Landlord amongst the tenants being served by the Shared HVAC System and the Tenant shall pay its share of the Landlord's costs and expenses of all repairs and replacements to, and maintenance and operating of, the Shared HVAC System. Such costs and expenses shall, without limitation, include depreciation or amortization on repair or replacement of such Shared HVAC System, the cost of which is not charged in full in the year in which the cost is incurred, interest at two (2) percentage points above the average daily Prime Rate of interest for the period during which the present interest is calculated on the undepreciated or unamortized portion of the costs of such equipment, repairs and replacement and an administration fee of fifteen percent (15%) of all of the foregoing costs (excluding interest charges). The Tenant's share of such costs and expenses shall be equitably determined by the Landlord and such costs and expenses shall be allocated amongst the tenants served by the Shared HVAC System for which the Landlord assumes responsibility. The foregoing costs and expenses shall exclude the cost of fuel and electricity consumed by the use of such Shared HVAC System, to the extent that such costs and expenses are charged separately under the provisions of Section 7.01 hereof.

ARTICLE VIII MERCHANTS' ASSOCIATION AND SEASONAL DECORATIONS

Section 8.01 Merchants' Association

If an association or a corporation of merchants or tenants of the Shopping Centre (an "Association") has been formed or is formed, the Tenant will (i) be a member throughout the Term; (ii) abide by those rules, regulations, by-laws, decisions, and directions of the Association that do not conflict with this Lease; and (iii) if the Landlord requires it, join with other tenants in an application for Letters Patent or Articles of Incorporation Incorporating an Association.

Section 8.02 Seasonal Decorations

The Tenant will pay to the Landlord, for the creation and maintenance of a fund for seasonal decorations, an annual payment for each Rental Year equal to Fifty Cents (\$0.50) per square foot of the GLA of the Premises, subject to annual C.P.I. increases. The payment for seasonal decorations will be made in monthly installments, in advance, on the first day of each calendar month.

ARTICLE IX USE OF THE PREMISES

Section 9.01 Use of the Premises and Trade Name

- (a) The Tenant will not use or permit any part of the Premises to be used for any purpose other than the following: **the principal business of the sale at retail of prescription and non-prescription glasses and, ancillary to such principal use, other related optical services.**
- (b) The Tenant will use only the advertised name "**GREAT GLASSES**" for its business in the Premises and will not change or permit the change of that advertised name without the prior written consent of the Landlord, which consent will not be unreasonably withheld.
- (c) The Tenant acknowledges that it is aware of the nature of the exclusive use rights granted to certain other tenants of the Shopping Centre, more particularly described in Schedule "F" attached hereto, and agrees that it shall not be permitted at any time during the Term and all extensions or renewals thereof to carry out any business in the Premises in such a manner as to infringe upon any such exclusive use provisions. The Tenant also agrees that it shall not be permitted at any time during the Term and all extensions or renewals thereof to carry on business in the Premises in such a manner as to infringe upon any future exclusive uses of which the Landlord notifies the Tenant by amendments from time to time to Schedule "F" or of which the Tenant becomes aware, or with reasonable efforts, should have become aware. The Tenant shall indemnify and save the Landlord harmless from any and all liability, losses, damages and expenses incurred or suffered by the Landlord in connection with the infringement or alleged infringement by the Tenant of any of such exclusive use provisions listed or in remedying or attempting to remedy such infringement or alleged infringement including, without limitation, the Landlord's legal fees and expenses on a solicitor and client basis.
- (d) The Tenant acknowledges and agrees that in no event will an exclusive use or restrictive covenant be inferred or implied in its favour by reason of any restrictions on the Tenant's business set out in the foregoing provisions of this Section 9.01(a).

Section 9.02 Prohibited Activities

The Tenant will not use or permit to be used any part of the Premises for, nor shall it engage in any media advertising with respect to the Premises of, the sale of goods not in keeping with a reputable and first class shopping centre, second hand goods or armed services surplus articles, insurance salvage stock, fire sale stock or bankruptcy stock; the sale of firecrackers or fireworks; an auction, bulk sale (other than a bulk sale made to an assignee or sub tenant under a permitted assignment or subletting), liquidation sale, "going out of business" or bankruptcy sale, or warehouse sale; a sale of fixtures; a sale or business conduct which, because of the merchandising methods or quality of operation likely to be used, would tend to lower the character of the Shopping Centre; any practice of unethical or deceptive advertising or selling procedures; or catalogue sales, except of merchandise that the Tenant is permitted to sell under Section 9.01. In addition, the Tenant will not use or permit to be used any part of the Premises for any of the following uses: (a) for any non-retail purposes (repairs, alterations and offices incidental to retailing, and banks and small loan offices, not being deemed non-retail), or (b) for any entertainment purposes such as a bowling alley, skating rink, cinema, bar, nightclub, discotheque, amusement gallery, poolroom, health club, massage parlor, sporting event, sports or game facility, off-track betting club, or (c) for any establishment for the sale or display of pornographic materials, or (d) for any establishment which sells or displays used merchandise or second hand goods; or (e) a sale or business conduct which, because of the merchandising methods or quality of operation likely to be used, would tend to lower the character of the Shopping Centre; or (f) any practice of unethical or deceptive advertising or selling procedures; or (g) catalogue sales.

Section 9.03 Conduct of Business

The Tenant will open the whole of the Premises for business on the Commencement Date, fully fixtured, stocked and staffed and will, throughout the Term, conduct continuously, diligently and actively, in a reputable and first-class manner, the business set out in Section 9.01 in the whole of the Premises in accordance with this Lease. In the conduct of the Tenant's business, the Tenant will:

- (a) conduct its business in the Premises during the hours and on the days that the Landlord requires or permits from time to time and at no other time but the Tenant is not required to carry on business when prohibited by a governmental law or by-law regulating the hours of business;
- (b) ensure that all furniture, fixtures and equipment on or installed in the Premises are of first-class quality and kept in good condition; maintain an adequate staff and stocks of sufficient size, character and quality to produce the maximum volume of sales from the Premises consistent with good business practices; stock in the Premises only the merchandise that the Tenant intends to offer for retail sale from the Premises; not use any part of the Premises for office, clerical or other non-selling purposes except minor parts reasonably required for the Tenant's business in the Premises, and, at all times, keep displays of merchandise in the display windows and keep the display windows and signs in the Premises well lighted during the hours that the Landlord designates from time to time;
- (c) participate in a ticket validation system, if one is established by the Landlord for the parking facilities of the Shopping Centre, and pay on demand, the parking charges attributable to it under that system;
- (d) use the name and insignia that the Landlord requires in connection with the Shopping Centre in the advertising of the Tenant's business in the Premises; claim no rights in those names, marks or insignia; promptly abandon or assign to the Landlord any such rights that it acquires by operation of law, and promptly execute the documents that the Landlord requests to give effect to this provision.
- (e) indemnify the Landlord in respect of any loss, cost or expense which the Landlord or any Released Person incurs in respect of any claim, action, or liability enforced or sought to be enforced against the Landlord or any Released Person arising in connection with any strike, lock-out, or labour disruption or in connection with any union organizational or certification related proceedings involving the employees of the Tenant, any sub-tenant, or any licensee or occupant of the Premises. The Tenant will, in addition, within ten (10) days of its receipt of an invoice particularizing the Landlord's costs and expenses for extra cleaning, security, maintenance, or legal costs associated with activities of the type described above, pay to the Landlord the full amount of that invoice together with an administration fee of fifteen percent (15%) of the amount invoiced.
- (f) comply with reasonable requests of the Landlord for conservation of energy.

Section 9.04 Waste Management

The Tenant will comply with all Applicable Laws pertaining to waste management and reduction in connection with the Premises and the Tenant's conduct of business. The Tenant will also co-operate with the Landlord by providing any documents and other information and doing whatever else is reasonably requested by the Landlord in order to reduce and manage waste. If responsibility for any waste related

matters is imposed by Applicable Laws, on both parties to the Lease and/or third parties, the Landlord may give notice to the Tenant particularizing the responsibilities which the Tenant will assume.

Section 9.05 Radius Clause

The Tenant will not engage in nor will it permit any Person under its control or affiliated with it, whether as partner, shareholder, lender, employee or otherwise, to engage, directly or indirectly, in a business operating under the same name as the Tenant's business in the Premises, or under a similar name, within any building or building complex, any part of which is within a radius of three (3) kilometres from any point on the perimeter of the Shopping Centre. This restriction does not apply, however, to any business or store of the Tenant that is in operation under the same name as the Tenant's business in the Premises, or under a similar name, within that radius at the Commencement Date so long as the size of that business or store is not increased. ~~If the Tenant breaches this covenant, the Landlord may require that gross revenue (calculated in the same manner as Gross Revenue under this Lease) from the business, the conduct of which breached this covenant, be included in Gross Revenue under this Lease, and the Landlord will have the same right of inspection and audit with respect to the gross revenue of that other business as it has with respect to Gross Revenue under Article IV.~~

Section 9.06 Pest Control

In order to maintain satisfactory and uniform pest control throughout the Shopping Centre, the Tenant shall engage for the Premises at its sole cost and expense such pest extermination contractor as may be acceptable to the Landlord, acting reasonably, and at such intervals as the Landlord requires. The Tenant shall ensure that its pest extermination contractor applies with all Applicable Laws governing the use of pesticides or other substances. If the Landlord, acting reasonably, determines that the Tenant's pest extermination contractor is not performing its duties effectively and in compliance with all Applicable Laws, then the Landlord may, without notice, engage its own pest extermination contractor on the Tenant's behalf without incurring any liability in respect thereof and the Tenant will pay to the Landlord the cost of the Landlord's pest extermination contractor together with an administration fee of fifteen percent (15%) of the total cost.

Section 9.07 Environmental

- (a) If the Landlord provides garbage disposal facilities or collection services then the Tenant will use them only for the disposal of solid waste that is not a Hazardous Substance and can lawfully be transported to, and dumped at, the closest landfill site without surcharges or penalties. The Tenant will use the sewers only to dispose of liquid waste that is not a Hazardous Substance and may be lawfully discharged into the municipal sewer.
- (b) Unless any Applicable Law provides to the contrary, all wastes (including waste which is a Hazardous Substance) will be disposed of by the Tenant at its expense at least once every three (3) months (or more often if the Landlord requires it) using the Landlord's designated hauler or remover, or if there is none, using a properly licensed service. If Applicable Laws require the Tenant to keep waste at the Shopping Centre for more than three (3) months or the period required by the Landlord, then the Tenant shall store it at its sole expense in a manner and in a location specified by the Landlord and which complies with all Applicable Laws.
- (c) The Tenant will comply with all Applicable Laws pertaining to waste reduction in connection with the Premises and the Tenant's conduct of business. Without limiting this requirement, the Tenant will:
 - (i) perform all waste audits and waste reduction work plans;
 - (ii) implement all waste reduction work plans; and
 - (iii) provide to the Landlord, within ten (10) days of the Landlord's request in each case, copies of all evidence that the Landlord requires concerning compliance. The Tenant will also do whatever else is reasonably requested by the Landlord in connection with any waste audits, waste reports, and waste reduction work plans that the Landlord prepares. To the extent responsibility in connection with any waste related matters is imposed by Applicable Laws so as to appear to overlap or duplicate responsibilities among the Landlord, the Management Company, the Tenant, or any other party, the Landlord may allocate responsibility to the Tenant in whole or in part by notice to the Tenant particularizing the responsibilities which the Tenant will assume.
- (d) The Tenant will not, authorize, cause or permit to be brought on or into the Premises, or the Shopping Centre, any Hazardous Substance.
- (e) The Tenant will not authorize, cause, or permit to be discharged any Hazardous Substance. The Landlord may perform an audit of all discharges (whether they are permitted or not). Where a prohibited discharge occurs, the Tenant will immediately notify the Landlord and all authorities having jurisdiction (the "Authorities") and the Tenant will immediately clean up the discharge and

restore the environment affected by the discharge to the satisfaction of the Authorities and the Landlord. The Tenant will further provide the Landlord with a certificate from the Tenant's duly qualified consulting engineer and the Authorities indicated that the clean-up and restoration has occurred in accordance with all Applicable Laws. For the purpose of liability the Tenant and not the Landlord is the owner of all Hazardous Substances that the Tenant authorizes, causes, or permits to be discharged.

- (f) If the Tenant fails to promptly clean up the discharge and to restore the environment or if, in the Landlord's reasonable opinion, the Tenant is not competent to do so, the Landlord may, upon notice to the Tenant, carry out the whole or any part of the clean-up and restoration and the Tenant will pay to the Landlord all costs incurred by the Landlord in so doing together with an administration fee of fifteen percent (15%) of such costs.
- (g) The Tenant will fully comply with the orders of all Authorities concerning pollution control and environmental clean-ups of the Premises or the Shopping Centre and if the Landlord is required by the Authorities to do anything in relation to an environmental problem caused by the Tenant, the Tenant will, upon receipt of notice from the Landlord, carry out the order at the Tenant's expense. If the Tenant fails or refuses to promptly and fully carry out an order or if, in the Landlord's reasonable opinion, the Tenant is not competent to carry out the order, the Landlord may, upon notice to the Tenant, carry out the whole or any part of the order and the Tenant will pay to the Landlord all costs incurred by the Landlord in so doing, together with an administration fee of fifteen percent (15%) of such costs.
- (h) The Tenant will perform or cause to be performed at its cost, in accordance with the Landlord's directions, any tests, and inspections that any environmental audit recommends or that any Authority requests or requires in connection with the Premises or the Tenant's conduct of business in the Shopping Centre and will provide whatever reports the Landlord reasonably requires. The Landlord may, however, on written notice to the Tenant require that the tests, inspections and reports be performed by the Landlord's consultant at the Tenant's expense.
- (i) The Tenant will take all proactive and preventative steps that may be imposed or recommended under any of the Applicable Laws or that a tenant would take in order to minimize risk pertaining to Hazardous Substances or any of the other matters referred to in Sections 9.06 and 9.07.
- (j) The Tenant agrees to complete the environmental questionnaire attached to this Lease as Schedule "G" and to forthwith advise the Landlord, in writing, of any changes in its activities that may alter the information provided in the questionnaire.

Section 9.08 Special Indemnity

Without limiting the Landlord's other rights and remedies under this Lease or at law, including but not limited to all or any of Section 10.06, 14.01, Article XVI (including but not limited to Sections 16.06 and 16.09), if the Tenant fails promptly and expeditiously to complete all or any of the obligations provided for in any of Sections 9.06 or 9.07, the Landlord will be entitled, upon five (5) days' written notice (or, in the case of emergencies, on such a shorter notice as is reasonable) to enter upon the Premises and do whatever was required to be done by the Tenant and its costs of doing so will be paid by the Tenant, together with an administration fee of fifteen percent (15%) of those costs. The Tenant will also indemnify the Released Persons and save them harmless from every loss, cost, claim, expense, penalty, fine and liability whether imposed by an Applicable Law, or otherwise arising from or in any way related to Hazardous Substances, Applicable Laws (including but not limited to environmental legislation, and waste reduction legislation and workplace health and safety legislation, whether Provincial or otherwise) that relate to or affect the Premises, the Tenant's use of the Premises or the Tenant's conduct of business in the Shopping Centre. In particular, without limiting what is set out above, the Tenant will indemnify the Released Persons and save them harmless in respect of any breach, of any Applicable Law or of any of the obligations set out in the Sections mentioned above.

ARTICLE X INSURANCE AND INDEMNITY

Section 10.01 Tenant's Insurance

- (a) The Tenant will maintain the insurance described below throughout the Term and any period when it is in possession of the Premises, and each policy of that insurance will name, as insureds, the Tenant, the Landlord, the Owners and the Mortgagee as their respective interests may appear. The insurance which the Tenant is required to maintain is as follows:
 - (i) all risks (including flood and earthquake) property insurance in an amount equal to the full replacement cost, insuring (1) all property owned by the Tenant, or for which the Tenant is legally liable, or installed by or on behalf of the Tenant, and located within the Shopping Centre including, but not limited to, fittings, installations, alterations, additions, partitions, and all other leasehold improvements, and (2) the Tenant's inventory, furniture and movable equipment;

- (ii) broad form boiler and machinery insurance on a blanket repair and replacement basis with limits for each accident in an amount of at least the replacement cost of all leasehold improvements and of all boilers, pressure vessels, air-conditioning equipment and miscellaneous electrical apparatus owned or operated by the Tenant or by others (except for the Landlord) on behalf of the Tenant in the Premises, or relating to, or serving the Premises;
 - (iii) business interruption insurance in an amount that will reimburse the Tenant for loss of earnings attributable to all perils insured against under Sections 10.01(a)(i) and 10.01(a)(ii), and other perils commonly insured against by prudent tenants, or attributable to prevention of access to the Premises or the Shopping Centre as a result of those perils;
 - (iv) public liability and property damage insurance including personal injury liability, contractual liability, non-owned automobile liability, employers liability, and owners' and contractors' protective insurance coverage, with respect to the Premises and the Tenant's use of the Common Elements, with coverage including the activities and operations conducted by the Tenant and any other Person on the Premises and by the Tenant and any other Person performing work on behalf of the Tenant and those for whom the Tenant is in law responsible, in any other part of the Shopping Centre. These policies will (1) be written on a comprehensive basis with inclusive limits of at least Five Million Dollars (\$5,000,000.00) per occurrence for bodily injury for any one or more Persons, or property damage, (but the Landlord, acting reasonably, or the Mortgagee, may require higher limits from time to time), and (2) contain a severability of interests clause and cross liability clauses;
 - (v) tenant's legal liability insurance for the full replacement cost of the Premises;
 - (vi) standard owners' form automobile insurance providing third party liability insurance with One Million Dollars (\$1,000,000.00) inclusive limits, and accident benefits insurance, covering all licensed vehicles owned or operated by or on behalf of the Tenant; and
 - (vii) any other form of insurance and with whatever higher limits the Tenant, the Landlord, acting reasonably, or the Mortgagee requires from time to time, in form, in amounts and for risks against which a prudent tenant would insure.
- (b) The policies specified under Sections 10.01(a)(i), 10.01(a)(ii) and 10.01(a)(iii) will contain the Mortgagee's standard mortgage clause and a waiver of subrogation rights which the Tenant's insurers may have against the Landlord, the Owners, the Mortgagee, the Management Company and those for whom all of them are in law responsible, or a permitted prior release clause achieving the same effect, in either case whether or not the damage is caused by their act, omission or negligence.
- (c) All policies will (i) be taken out with insurers acceptable to the Landlord; (ii) be in a form satisfactory to the Landlord; (iii) contain reasonable deductibles; (iv) be non-contributing with, and will apply only as primary and not excess to any other insurance available to all and any of the Landlord, the Owners, and the Mortgagee; (v) not be invalidated with respect to the interests of all and any of the Landlord, the Owners, and the Mortgagee by reason of any breach or violation of warranties, representations, declarations or conditions contained in the policies; and (vi) contain an undertaking by the insurers to notify the Landlord, the Owners and the Mortgagee in writing not less than thirty (30) days before any material change, cancellation, or termination.
- (d) The Tenant will deliver certificates of insurance (or other proof as reasonably required by the Landlord) on the Commencement Date and thereafter each year on the anniversary of the Commencement Date, on the Landlord's standard form, or other reasonably comparable form acceptable to the Landlord, duly executed by the Tenant's insurers evidencing that the required insurance is in force. No acceptance or approval of any insurance certificate by the Landlord derogates from or diminishes the Landlord's rights under this Lease.

Section 10.02 Increase in Insurance Premiums

The Tenant will comply promptly with the loss prevention recommendations of the Landlord's insurer pertaining to the Premises or the Shopping Centre. If the occupancy of the Premises, the conduct of business in the Premises, or anything done or omitted by the Tenant results in an increase in premiums for the insurance carried by the Landlord with respect to the Shopping Centre, the Tenant will pay the increase to the Landlord immediately on demand. In determining whether the Tenant is responsible for increased premiums and the amount for which the Tenant is responsible, a schedule issued by the organization that computes the insurance rate on the Shopping Centre showing the components of the rate will be conclusive evidence of the items that make up the rate.

Section 10.03 Cancellation of Insurance

The Tenant will not do or permit anything to be done that results in the cancellation or threatened cancellation or the reduction or threatened reduction of coverage under any insurance policy on the Shopping Centre or any part of it.

Section 10.04 Loss or Damage

None of the Released Persons is liable for death or injury arising from any occurrence in, upon, at, or relating to the Shopping Centre or damage to property of the Tenant or of others located on the Premises or elsewhere, nor will they be responsible for loss of or damage to, or loss of use of property of the Tenant or others from any cause, whether or not it results from the negligence or misconduct of a Released Person. Without limiting the general intent of the previous sentence, no Released Person is liable for injury or damage to Persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain, flood, snow or leaks from or onto any part of the Premises or the Shopping Centre or from pipes, appliances, plumbing works, roof or subsurface of any floor or ceiling, or from the street or any other place, or by dampness, the existence of any Hazardous Substances in any part of the Shopping Centre or resulting by any other cause and no Released Person is liable for damage caused by other tenants or Persons in the Shopping Centre or by occupants of property adjacent to the Shopping Centre, or the public, or caused by construction or by any private, public, or quasi-public work.

Section 10.05 Landlord's Insurance

The Landlord will maintain, throughout the Term, in those reasonable amounts, and with those reasonable deductibles that a prudent owner of a shopping centre similar to the Shopping Centre would maintain, having regard to size, age and location, (a) all risks insurance on the Shopping Centre (excluding the foundations and excavations) and the machinery, boilers and equipment contained in it and owned by the Landlord or the Owners (except property that the Tenant and other tenants are required to insure); (b) public liability and property damage insurance with respect to the Landlord's operations in the Shopping Centre; and (c) whatever other forms of insurance the Landlord, the Owners, or the Mortgagee reasonably consider advisable. This Section does not relieve the Tenant from liability arising from or contributed to by its negligence or its misconduct; no insurable interest is conferred on the Tenant under any policies of insurance carried by the Landlord; and the Tenant has no right to receive proceeds of any of those policies.

Section 10.06 Indemnification of the Landlord

Despite anything else in this Lease, the Tenant will indemnify the Released Persons and save them harmless from all loss (including loss of Rent payable by the Tenant under this Lease), claims, actions, damages, liability and expenses in connection with loss of life, personal injury, damage to property or any other loss or injury arising from this Lease, or any occurrence in, on, or at the Premises, or from the occupancy or use by the Tenant of the Premises, or any part of them, or occasioned wholly or in part by an act or omission of the Tenant or by anyone permitted to be on the Premises by the Tenant. However, the Tenant is not required to indemnify the Released Persons or save them harmless from loss, claims, actions, damages, liability or expenses when they arise directly from the negligence of the Released Person.

ARTICLE XI MAINTENANCE, REPAIRS AND ALTERATIONS

Section 11.01 Maintenance and Repairs by the Tenant

Subject to Article XII, the Tenant will keep the Premises and all improvements in or on them in first class condition. This obligation includes, but is not limited to, repainting and redecorating at reasonable intervals, making repairs and replacements to plate glass, store fronts, signs (interior and exterior), mouldings, doors, hardware, partitions, walls, fixtures, lighting and plumbing fixtures, wiring, piping, ceilings and floors in the Premises and maintaining, repairing and replacing all operating equipment in the Premises unless it forms part of the Common Elements. The Tenant will, at its expense, as and when required by the Landlord, or the Landlord will, at the Landlord's option and at the expense of the Tenant, remove from the Premises any Hazardous Substances which may be in, or incorporated by the Tenant into any part of the Premises all without limitation to the Tenant's obligations set out in Section 9.07. At the expiry or termination of this Lease, the Tenant will, (a) leave the Premises in the same condition as it was required to keep them in during the Term, (b) deliver all keys for the Premises to the Landlord at the place then fixed for the payment of Rent, (c) give to the Landlord the combinations of any locks, safes, and vaults in the Premises, and (d) comply with Sections 11.06(b) and 11.08. The Tenant's covenants set out in this Section 11.01 shall not be in lieu of, but shall be in addition to, and shall not release or act as a waiver of the obligations and covenants of the Tenant contained elsewhere in this Lease.

Section 11.02 Approval of the Tenant's Alterations

- (a) The Tenant will not undertake or permit any Tenant's Work without the Landlord's prior written approval, which approval will not be unreasonably withheld, if the Tenant's Work will equal or

exceed the then current standard for the Shopping Centre, the Tenant obtains the consents, permits and other governmental approvals that are required, and the Tenant provides to the Landlord reasonable assurances that it will comply with Section 11.02(b).

- (b) All Tenant's Work will be performed, by competent workmen whose labour union affiliations are compatible with others employed by the Landlord and its contractors, in a good and workmanlike manner, in accordance with the plans and specifications approved by the Landlord, and in accordance with the Landlord's reasonable requirements.
- (c) The Landlord may require that any Tenant's Work be performed by the Landlord at the Tenant's cost if it affects the structure of the Premises, the Common Elements, or any part of the Shopping Centre outside the Premises. On completion of the Tenant's Work, the Tenant will pay to the Landlord, on demand, the Landlord's costs including, without limitation, architectural and engineering consultants' fees plus an administration fee of fifteen percent (15%) of the total costs.

Section 11.03 Maintenance and Repairs by the Landlord

Subject to Article XII, the Landlord will maintain and repair or cause to be maintained and repaired the Common Elements as would a prudent owner of a similar shopping centre, having regard to size, age and location: but the cost (except for the cost of repairing or replacing inherent structural defects or weaknesses) will be included in Operating Expenses under Section 6.03. The obligations of the Landlord under this Section 11.03 do not include (a) any occurrence which is not covered by insurance which the Landlord is required to maintain under this Lease or the cost of repair or restoration which exceeds the proceeds of such insurance actually received by the Landlord; (b) damage or destruction or expropriation as set out in Article XII, in circumstances where the Lease will terminate; and (c) damage or injury caused by or resulting from any negligence, fault, omission, want of skill, act or misconduct of the Tenant, its officers, agents, servants, employees, contractors, invitees or licensees or Persons for whom the Tenant is responsible in law or over whom the Tenant may reasonably be expected to exercise control.

Section 11.04 Repair Where the Tenant is at Fault

If the Shopping Centre or any part of it requires repair, replacement or alteration, (a) because of the negligence, fault, omission, act or misconduct of the Tenant or its directors, officers, agents, employees, contractors, licensees or invitees, (b) due to the requirements of any Applicable Laws relating to the Tenant's conduct of business, or (c) as a result of the Tenant damaging the heating apparatus, water pipes, drainage pipes or other equipment or facilities or parts of the Shopping Centre, the cost of the repairs, replacements or alterations plus a sum equal to fifteen percent (15%) of the cost for the Landlord's overhead will be paid by the Tenant to the Landlord on demand.

Section 11.05 Tenant Not to Overload

The Tenant will not install equipment that overloads the capacity of a utility, electrical, or mechanical facility in the Premises and will not, (a) bring into the Premises any utility, electrical, or mechanical facility or service of which the Landlord does not approve, or (b) bring upon the Premises anything that might damage them or overload the floors.

Section 11.06 Removal and Restoration by the Tenant

All leasehold improvements or fixtures of any kind (other than trade fixtures) installed by or on behalf of the Tenant are the property of the Landlord on affixation or installation, without compensation to the Tenant. The Tenant will not remove any leasehold improvements or fixtures of any kind (including trade fixtures) from the Premises at any time except that:

- (a) the Tenant may during the Term in the normal course of its business and on obtaining the prior written consent of the Landlord, remove its trade fixtures if they have become excess for the Tenant's purposes, or if the Tenant substitutes new and similar trade fixtures; and
- (b) the Tenant will, at the expiry or earlier termination of this Lease, remove at its own expense its trade fixtures and those of its leasehold improvements that the Landlord requires be removed. The Tenant will at its own expense repair any damage caused to the Premises or the Shopping Centre by such removal. If the Tenant does not remove its trade fixtures on the expiry or earlier termination of this Lease, they will, at the Landlord's option, become the property of the Landlord. The Tenant's trade fixtures do not include, (i) heating, ventilating and air-conditioning systems, facilities, and equipment in or serving the Premises; (ii) floor covering that is affixed; (iii) light fixtures; (iv) the storefront or doors; (v) internal stairways, escalators or elevators; or (vi) anything that would not normally be considered a trade fixture, all of which are considered as leasehold improvements.

Section 11.07 Tenant to Discharge all Liens

The Tenant will ensure that no construction or other lien, and no charge, mortgage, security interest, floating charge, debenture, or other encumbrance (each, an "Encumbrance") is registered or filed against

(a) the Shopping Centre or any part of it, or (b) the Landlord's interest in the Shopping Centre or any part of it, or (c) the Tenant's interest in the Premises, by any Person claiming by, through, under, or against the Tenant or its contractors or subcontractors. If the Tenant defaults under this Section the Landlord may, in addition to its remedies contained in Article XVI of this Lease, discharge the Encumbrance by paying the amount claimed to be due into court, and the amount paid, as well as the costs and expenses (including solicitor's fees on a solicitor and client basis) incurred as the result of the registration or filing of the Encumbrance, including the discharge of the Encumbrance, will be paid by the Tenant to the Landlord on demand.

Section 11.08 Signs and Advertising

The Tenant will not display any sign, picture, notice, lettering, decoration, awning or canopy (the "Sign") on the exterior of the Premises without the prior written approval of the Landlord. If the Landlord, acting reasonably, objects to a Sign in the Interior of the Premises that is visible from the exterior, the Tenant will immediately remove it, failing which the Landlord may enter upon the Premises, without notice, and remove it on the Tenant's behalf, at the Tenant's expense, without incurring any liability in respect thereof. The Tenant will erect and maintain one or more identification Signs (which the Tenant will own) of a type or types in a location or locations specified in writing by the Landlord and in accordance with the Landlord's requirements for the Shopping Centre. The Landlord may require that any such Sign be illuminated. Any such Sign will remain the property of the Tenant, will be maintained by the Tenant at the Tenant's expense and the Tenant will pay for the electricity consumed by such Sign. At the expiration of the Term or earlier termination of this Lease, the Tenant will remove any such Sign at the Tenant's expense and will immediately repair all damage caused by any such removal.

ARTICLE XII DAMAGE AND DESTRUCTION AND EXPROPRIATION

Section 12.01 Interpretation of Article XII

In this Article:

- (a) "Damage" means damage (including but not limited to, smoke and water damage and damage that amounts to destruction) that (i) for the purpose of Section 12.02 results from a peril against which the Landlord is required to insure under Section 10.05 or against which the Landlord otherwise insures, and (ii) for the purpose of Section 12.03 results from any cause, and "Damaged" has a corresponding meaning;
- (b) "Expropriated" means expropriated by a governmental authority, or transferred, conveyed, or dedicated in contemplation of a threatened expropriation, and "Expropriation" has a corresponding meaning; and
- (c) "Usable" means usable by the Tenant for the purpose contemplated by this Lease.

Section 12.02 Damage to the Premises

Subject to Section 12.03, if the Premises are Damaged, the Landlord will promptly repair or reconstruct the Premises to the extent of the Landlord's Work. If part or all of the Premises is not Usable because of the Damage, Minimum Rent (but not Additional Rent or ~~Percentage Rent~~) will abate in the proportion that the GLA of that part of the Premises which is not Usable as certified by the Architect is to the GLA of the whole of the Premises, from the date of the Damage until the earlier of, (a) the date when the whole of the Premises is Usable again or, (b) thirty (30) days after substantial completion of the Landlord's Work. When the Landlord notifies the Tenant that it has completed enough of the Landlord's Work to enable the Tenant to start the Tenant's Work, the Tenant will complete the Tenant's Work and reopen the whole of the Premises for business as soon as possible but in any case within thirty (30) days after the Landlord's notice. No capital allowance, inducement to lease, or other payment that was made to the Tenant at the time of, or in connection with the original construction of the Premises or the Tenant's improvements thereto will be payable by the Landlord to the Tenant. ~~The computation of Percentage Rent will be based on the abated or reduced Minimum Rent for the period of the abatement set out above.~~ Notwithstanding the foregoing, the Tenant will not be entitled to any abatement of Minimum Rent if the Damage resulted from or was occasioned by any act, fault, misconduct, negligence, omission or want of skill of the Tenant, its officers, servants, employees, contractors, invitees or licensees, or by Person for whom the Tenant is responsible at law or over whom the Tenant may be reasonably considered to exercise control.

Section 12.03 Damage to or Expropriation of the Shopping Centre

- (a) Despite anything else in this Lease, if:
 - (i) more than thirty-five percent (35%) of the GLA of the Shopping Centre is Damaged or Expropriated, whether or not the Premises are Damaged or Expropriated;

- (ii) more than thirty-five percent (35%) of the floor area of the Common Elements (excluding the area of parking facilities) or more than fifteen percent (15%) of the area of the parking facilities is Damaged or Expropriated, whether or not the Premises are Damaged or Expropriated, or
- (iii) a Rentable Premises with a GLA of more than thirty thousand (30,000) square feet is Damaged or Expropriated and is not Usable for more than one hundred and eighty (180) days for the purpose contemplated by its lease,

the Landlord may, by written notice to the Tenant within ninety (90) days after the Damage or Expropriation, terminate this Lease, effective thirty (30) days after the notice, and all Rent will abate as of the effective date of the termination. The Tenant will have no claim, action, right of action or any other demand against the Landlord as a result of or arising from any such early termination of this Lease. In exercising its termination right as set out above, the Landlord agrees to act in a *bona fide* manner and not in a manner discriminating solely as against the Tenant.

- (b) If there is Damage or Expropriation to the extent described in Section 12.03(a) and the Landlord does not terminate this Lease, the Landlord will promptly rebuild or repair or cause to be rebuilt or repaired the Shopping Centre to the extent of the Landlord's obligations under the leases for Rentable Premises that are in force at the time but the Landlord may use plans and specifications and working drawings that are different in content from those used in the original construction of the Shopping Centre or any part of it and the rebuilt or repaired Shopping Centre may be different in configuration, size or design from the Shopping Centre before the Damage or Expropriation.
- (c) The Landlord and the Tenant will co-operate with each other if there is an Expropriation of all or part of the Premises or the Shopping Centre so that each may receive the maximum award that it is entitled to at law. To the extent, however, that a part of the Shopping Centre, other than the Premises, is Expropriated, the full proceeds that are paid or awarded as a result will belong solely to the Landlord, and the Tenant will assign to the Landlord any rights that it may have or acquire in respect of the proceeds or awards and will execute the documents that the Landlord reasonably requires in order to give effect to this intention. Whether or not the Lease is terminated, the Tenant will have no claim, action, right of action or any other demand against the Landlord as a result or arising from the Expropriation of all or any part of the Shopping Centre.
- (d) A certificate issued by the Architect will bind the parties concerning any of the matters that need to be determined under this Article.

Section 12.04 Uninsured Damage or Damage in the Last Two Years

If: there is damage to or destruction of the Premises and (i) such damage or destruction is uninsured damage, or (ii) such damage or destruction occurs within the last two years of the Term and either the Tenant has no remaining rights to renew this Lease or, having the right to renew this Lease fails to do so within fifteen (15) days after receipt of the said notice, then the Landlord, at its option to be exercised by written notice given to the Tenant within thirty (30) days after the later of the date of such damage or destruction and the date upon which the Landlord is notified by the Tenant of such damage or destruction, may terminate this Lease whereupon the Tenant shall immediately surrender possession of the Premises and Minimum Rent and all other payments for which the Tenant is liable under this Lease shall be apportioned to the effective date of such termination. If this Lease is not terminated as aforesaid, the parties shall repair as provided in Section 12.02 and there shall be no abatement of any Rent unless the damage or destruction is Damage and then only to the extent expressly provided in Section 12.02 above.

ARTICLE XIII ASSIGNMENT

Section 13.01 Consent Required

- (a) In this Article "Transfer" means, (i) an assignment, sale, conveyance, sublease, disposition, or licensing of this Lease or the Premises, or any part of them, or any interest in this Lease (whether or not by operation of law) or in a partnership that is a Tenant under this Lease, (ii) a mortgage, charge, lien or debenture (floating or otherwise) or other encumbrance of this Lease or the Premises or any part of them or of any interest in this Lease or of a partnership or partnership interest where the partnership is a Tenant under this Lease, (iii) a parting with or sharing of possession of all or part of the Premises, and (iv) a transfer or issue by sale, assignment, bequest, inheritance, operation of law or other disposition, or by subscription of all or part of the corporate shares of the Tenant or an "Affiliate" of the Tenant which results in a change in the effective voting control of the Tenant. "Transferor" and "Transferee" have meanings corresponding to the definition of "Transfer" set out above, (it being understood that for a Transfer described in Section 13.01(a)(iv) the Transferor is the Person that has effective voting control before the Transfer and the Transferee is the Person that has effective voting control after the Transfer).

- (b) The Tenant will not effect or permit a Transfer without the consent of the Landlord which consent will not be unreasonably withheld, except that despite anything in the *Commercial Tenancies Act* and despite any other statute or law:
- (i) the Landlord may unreasonably withhold its consent to a Transfer within twenty-four (24) months of the Commencement Date, and
 - (ii) without limiting the grounds upon which a Transfer may be refused, in deciding whether to give its consent to a Transfer after that twenty-four (24) month period the Landlord may refuse to give its consent if:
 - (1) the Tenant is in default under this Lease;
 - (2) covenants, restrictions, or commitments given by the Landlord to other tenants in the Shopping Centre or to Mortgagees, the Owners or other parties, prevent or inhibit the Landlord from giving its consent to the Transfer;
 - (3) the Transferee, (A) does not have a good credit rating and a net worth sufficient, in the Landlord's reasonable opinion, to finance the business to be operated in the Premises, or (B) has a history of defaults under commercial leases either by the Transferee or by companies or partnerships in which the Transferee was a principal shareholder or partner at the time of the defaults or (C) is not suitable to the Landlord on the basis of the proposed Tenant's business and characteristics in accordance with its financial capability, its business history, experience and ability to operate the business required to be operated under this Lease;
 - (4) the Transferee is in default under any lease with the Landlord or with the landlord of any other property managed by the Management Company;
 - (5) the length of time remaining in the Term of this Lease is less than eighteen (18) months;
 - (6) the Transferee pays or gives to the Transferor money or other value that is reasonably attributable to the desirability of the location of the Premises or to leasehold improvements that are owned by the Landlord or for which the Landlord has paid in whole or in part;
 - (7) the Transfer is a mortgage, charge, debenture (floating or otherwise) of, or in respect of, this Lease or the Premises or any part of them;
 - (8) the Landlord does not receive sufficient information from the Tenant or the Transferee to enable it to make a determination concerning the matters set out above or does not receive its fees under Section 13.02(i); and
 - (iii) the Landlord shall not be liable for any claims or actions by or any damages, liabilities, losses or expenses of the Tenant or any proposed Transferee arising out of the Landlord unreasonably withholding its consent to any Transfer and the Tenant's only recourse shall be to bring an application for a declaration that the Landlord shall grant its consent to such Transfer.
- (c) Section 13.01(b) does not apply to (i) a Transfer that occurs on the death of the Transferor, (ii) a Transfer described in Section 13.01(a)(iv) which occurs when the sole Tenant in occupation of the Premises is a corporation (a "Public Corporation") whose shares are traded and listed on a stock exchange in Canada or the United States, or (iii) a Transfer that occurs when (1) the sole Tenant in occupation of the Premises is a "subsidiary body corporate" (as that term is defined on the date of this Lease under the *Canada Business Corporations Act*, R.S.C. 1985, c.C-44) of a Public Corporation and (2) it is the shares of the Public Corporation and not of the Tenant that are transferred or issued.
- (d) The Landlord will have a period of thirty (30) days following receipt of sufficient information to make a determination concerning the matters set forth in Section 13.01(b) to notify the Tenant in writing that the Landlord either (i) gives or refuses to give its consent to the proposed Transfer, or (ii) elects to terminate this Lease, but the Landlord's failure to respond within that thirty (30) day period will not be construed as a consent by the Landlord nor will it entitle the Tenant to damages. If the Landlord elects to terminate this Lease, it shall stipulate in its notice the termination date of this Lease, which date shall be not less than ninety (90) days following delivery of such notice. If the Landlord elects to terminate this Lease, the Tenant shall notify the Landlord within ten (10) days thereafter of the Tenant's intention either to refrain from such Transfer or to accept the termination of this Lease. If the Tenant fails to deliver such notice within such ten (10) days or notifies the Landlord that it accepts the Landlord's termination, this Lease will be terminated on the date of termination stipulated by the Landlord in its notice of election to

terminate. If the Tenant notifies the Landlord within ten (10) days that it intends to refrain from such Transfer, then the Landlord's election to terminate this Lease shall become void.

Section 13.02 Terms and Conditions Relating to Transfers

The following terms and conditions apply in respect of a Transfer:

- (a) the consent by the Landlord is not a waiver of the requirement for consent to subsequent Transfers;
 - (b) no acceptance by the Landlord of Rent or other payments by a Transferee is, (i) a waiver of the requirement for the Landlord to consent to the Transfer, (ii) the acceptance of the Transferee as Tenant, or (iii) a release of the Tenant from its obligations under this Lease;
 - (c) the Landlord may apply amounts collected from the Transferee to any unpaid Rent;
 - (d) the Transferor, unless the Transferee is a sub-tenant of the Tenant, will retain no rights under this Lease in respect of obligations to be performed by the Landlord or in respect of the use or occupation of the Premises after the Transfer;
 - (e) the Transferee will execute an agreement directly with the Landlord agreeing to be bound by this Lease as if the Transferee had originally executed this Lease as Tenant, but the Transferor will remain jointly and severally responsible with the Transferee for the fulfilment of all obligations to be performed after the Transfer by the Transferee including the punctual payment of Rent under this Lease (as may be modified by the application of Section 13.02(g)) during the remainder of the Term and any renewal or extension thereof and, if required by the Landlord, the Transferor will execute an indemnity agreement on the Landlord's standard form, to give full force and effect to the foregoing. This obligation of the Transferor will survive any termination, repudiation, disaffirmation, disclaimer or surrender (except with the consent of the Landlord) of this Lease by any trustee in bankruptcy or by a court representative;
 - (f) in the case of a sublease, the Transferee shall waive any rights it may have under any legal or equitable rule of law or under the *Commercial Tenancies Act* (Ontario), as amended from time to time, or any other applicable legislation, to apply to a court or to otherwise elect to (i) retain the unexpired Term of this Lease or the unexpired sublease term, (ii) obtain any right to enter into any lease or other agreement directly with the Landlord for the Premises or the subleased premises, or (iii) otherwise remain in possession of any portion of the subleased premises or the Premises, in any case where this Lease is terminated, surrendered or otherwise cancelled, including a disclaimer of this Lease by a trustee in bankruptcy of the Tenant. The Tenant and the Transferee shall promptly execute any agreement required by the Landlord to give effect to the foregoing terms;
 - (g) at the Landlord's option, the Minimum Rent will be increased as of the date of the Transfer by an amount (the "Excess Amount") equal to the greater of:
 - (i) ~~the amount by which the annual Minimum Rent that pertains on the day before the Transfer (the "Current Minimum Rent") is exceeded by the average annual total of Minimum Rent and Percentage Rent paid or payable by the Tenant for the last three twelve (12) month Rental Years that precede the Transfer or (if less than three such Rental Years precede the Transfer), the highest annual total of Minimum Rent and Percentage Rent since the Commencement Date; or~~
 - (ii) the Current Minimum Rent multiplied by the percentage increase in the C.P.I. from the month in which the Commencement Date occurs to the month in which the Transfer occurs.
- If it is stated in Section 4.02 or an addendum to that Section that the annual Minimum Rent is to increase at specified times, the Excess Amount will be added to the increased Minimum Rent;
- (h) for the purpose of calculating ~~Percentage Rent or~~ Additional Rent, at the Landlord's option the Rental Year current on the day before the Transfer will end on that day, and a new Rental Year will start on the day of the Transfer, and end on the day on which that current Rental Year would have ended if it had not been shortened;
 - (i) any documents relating to a Transfer or the Landlord's consent will be prepared by the Landlord or its solicitors and all of the legal costs and processing fees of the Landlord will be paid to the Landlord by the Tenant on demand;
 - (j) in the event of any Transfer which is a subletting of the Premises by the Tenant by virtue of which the Tenant receives a rent in the form of cash, goods or services from the Transferee which is greater than the Rent payable hereunder to the Landlord, the Tenant will pay any such excess to

the Landlord in addition to all Rent payable under this Lease, and such excess rent shall be deemed to be further Additional Rent; and

- (k) if the Transferee pays or gives to the Transferor money or other value that is reasonably attributable to the desirability of the location of the Premises or to leasehold improvements that are owned by the Landlord or for which the Landlord has paid in whole or in part, then at the Landlord's option, the Transferor will pay to the Landlord such money or other value in addition to all Rent payable under this Lease and such amounts shall be deemed to be further Additional Rent.

Section 13.03 No Advertising of the Premises

The Tenant will not offer or advertise the whole or any part of the Premises or this Lease for the purpose of a Transfer and will not permit a broker or other Persons to do so unless the complete text and format of any such advertisement or offer is first approved in writing by the Landlord. Without in any way limiting the Landlord's right to refuse any text or format on other grounds, any text or format proposed by the Tenant shall not contain any reference to the rental rate payable under this Lease.

Section 13.04 Sales and Other Dispositions by the Landlord

If the Landlord sells, or otherwise transfers or disposes of the Shopping Centre or any part of it, or if the Landlord assigns this Lease or any interest of the Landlord under it, then to the extent that the purchaser, transferee agrees with the Landlord to assume the Landlord's obligations under this Lease, the Landlord will be released from those obligations.

ARTICLE XIV ACCESS AND ALTERATIONS

Section 14.01 Right of Entry

- (a) The Landlord and its representatives shall have the right to enter the Premises at reasonable times after twenty-four (24) hours notice (but if the Landlord determines there is an emergency, no notice is required) (i) to examine them, (ii) to make repairs, alterations, improvements or additions to the Premises or the Shopping Centre or adjacent property, (iii) to conduct an environmental audit of the Premises or any part of the Shopping Centre, or (iv) carry out any of its rights or obligations under this Lease. This right extends to (and is not limited to) the pipes, conduits, wiring, ducts, columns and other installations in the Premises. Rent will not abate or be reduced while the repairs, alterations, improvements or additions are being made and the Landlord is not liable for any damage, injury or death caused to any Person or to the property of the Tenant or others located on the Premises as a result of the entry, regardless of how the damage, injury or death is caused. The Landlord will take reasonable steps to minimize any interruption of the Tenant's business in exercising its right under this Section.
- (b) The Landlord may enter the Premises at reasonable times to show them to prospective purchasers, tenants or Mortgagees. During the twelve (12) months before the expiry of the Term, the Landlord may display on the Premises "For Rent" or "For Sale" notices of reasonable size and number and in reasonable locations.
- (c) The exercise of the Landlord's rights under this Section 14.01 shall not constitute a breach of the covenant for quiet enjoyment.

ARTICLE XV STATUS STATEMENT, SUBORDINATION AND ATTORNMENT

Section 15.01 Status Statement

Within ten (10) days after each request by the Landlord, the Tenant will deliver to the Landlord, on a form supplied by the Landlord, a status statement or certificate to any proposed Mortgagee, purchaser or transferee of the Shopping Centre and to the Landlord, stating:

- (a) that this Lease is in full force and effect, except only for any modifications that are set out in the statement or certificate;
- (b) the commencement and expiry dates of the Lease;
- (c) the date to which Rent has been paid under this Lease and the amount of any prepaid Rent or any deposits held by the Landlord;

- (d) that the Minimum Rent, ~~the Percentage Rent~~ and the Additional Rent are then accruing under this Lease or the dates on which each of these will start accruing;
- (e) that the Premises are free from any construction deficiencies, or if there are such deficiencies, the certificate will state the particulars;
- (f) that there is not any uncured default on the part of the Landlord or if there is a default, the certificate will state the particulars;
- (g) whether there are any set-offs, defences or counter-claims against enforcement of the obligations to be performed by the Tenant under this Lease;
- (h) with reasonable particularity, details concerning the Tenant's and any Indemnifier's financial standing and corporate organization; and
- (i) any other information or statement that a proposed Mortgagee, purchaser, or disposee may reasonably require.

Section 15.02 Subordination and Attornment

- (a) This Lease is and will remain subordinate to every mortgage, charge, trust deed, financing, refinancing or collateral financing, present or future and any renewals or extensions of them from time to time (each, a "Charge") against the Premises or the Shopping Centre and the Tenant will, on request, sign any document requested by the Landlord to confirm the subordination of this Lease to any Charge and to all advances made or to be made on the security of the Charge. The Tenant will also, if the Landlord requests it to do so, attorn to the holder of any Charge, to the Owners or to any purchaser or transferee of the Shopping Centre or of an ownership or equity interest in the Shopping Centre and the Tenant will, on request, sign any document requested by the Landlord to confirm such attornment.
- (b) If possession is taken under, or any proceedings are brought for the foreclosure of, or if a power of sale is exercised resulting from a Charge, the Tenant will attorn to the Person that so takes possession if that Person requests it and will recognize that Person as the Landlord under this Lease.
- (c) The form and content of any document confirming or effecting the subordination and attornments provided for in this Section 15.02 will be that required by the Landlord or the holder of the Charge in each case, and each such document will be delivered by the Tenant to the Landlord within ten (10) days after the Landlord requests it, failing which the Landlord shall be entitled to deem an Event of Default to have occurred and the Landlord shall be entitled to avail itself of all remedies under Article XVI hereof.

ARTICLE XVI DEFAULT

Section 16.01 Right to Re-enter

- (a) An "Event of Default" occurs when:
 - (i) the Tenant defaults in the payment of Rent or Sales Taxes and fails to remedy the default within five (5) days after written notice;
 - (ii) the Tenant commits a breach that is capable of remedy other than a default in the payment of Rent or Sales Taxes, and fails to remedy the breach within ten (10) days after written notice to the Tenant specifying particulars of the breach, and requiring the Tenant to remedy the breach (or if the breach would reasonably take more than ten (10) days to remedy, the Tenant fails to start remedying the breach within the ten (10) day period, or fails to continue diligently and expeditiously to complete the remedy);
 - (iii) the Tenant commits a breach of this Lease that is not capable of remedy and receives written notice specifying particulars of the breach;
 - (iv) a report or statement required from the Tenant under this Lease is false or misleading except for a misstatement that is the result of an inadvertent clerical error;
 - (v) the Tenant, or a Person carrying on business in a part of the Premises, or an Indemnifier becomes bankrupt or insolvent or makes application for relief from creditors under the provisions of any statute for bankrupt or insolvent debtors, or makes any proposal, assignment or arrangement with its creditors;

- (vi) a receiver or a receiver and manager is appointed for all or a part of the property of the Tenant, or of another Person carrying on business in the Premises, or of an Indemnifier;
 - (vii) steps are taken or proceedings are instituted for the dissolution, winding up or other termination of the Tenant's or the Indemnifier's existence or for the liquidation of their respective assets;
 - (viii) the Tenant makes or attempts to make a bulk sale of any of its assets regardless of where they are situated (except for a bulk sale made to a Transferee when the Transfer has been consented to by the Landlord);
 - (ix) the Premises are vacant or unoccupied for five (5) consecutive days or the Tenant abandons or attempts to abandon the Premises, or sells or disposes of property of the Tenant or removes it from the Premises so that there does not remain sufficient property of the Tenant on the Premises free and clear of any lien, charge or other encumbrance to satisfy the Rent due or accruing for at least twelve (12) months;
 - (x) the Tenant effects or attempts to effect a Transfer that is not permitted by this Lease;
 - (xi) a writ of execution is issued against the Tenant and remains outstanding for more than ten (10) days, or this Lease or any of the Tenant's assets on the Premises are taken or seized under a writ of execution, assignment, pledge, charge, debenture, or other security instrument; or
 - (xii) the Indemnity Agreement is terminated for any reason whatsoever, whether by the Indemnifier or by any other Person or by effect of law, or, alternatively, if the obligations of the Indemnifier under the Indemnity Agreement are reduced, modified or otherwise limited except by way of an agreement made in writing by the Landlord.
- (b) Notwithstanding any Applicable Laws, upon the occurrence of any Event of Default the full amount of the current month's and the next three (3) months' instalments of Minimum Rent, ~~Percentage Rent (calculated on the basis of the average monthly Percentage Rent payable during the previous Rental Year)~~, Sales Taxes and Additional Rent will become due and payable and, at the option of the Landlord, this Lease shall be terminated and the full amount of the Rent for that part of the Term that would have remained but for the termination of this Lease will become due and payable. If this Lease is so terminated, the Landlord, to the extent permitted by law, may immediately repossess the Premises and expel all Persons from the Premises and may remove all property from the Premises, sell or dispose of it as the Landlord considers appropriate, or store it at the cost of the Tenant, all without notice, without legal proceedings, and without liability for loss or damage and wholly without prejudice to the rights of the Landlord to recover (i) arrears of Rent or damages for any antecedent default by the Tenant of its obligations under this Lease, and (ii) damages for loss of Rent suffered by reason of this Lease having been prematurely terminated.

Section 16.02 Right to Terminate or Relet

If the Landlord does not exercise its right under Section 16.01 to terminate this Lease, it may nevertheless relet the Premises or a part of them for whatever term or terms (which may extend beyond the Term) and at whatever rent and upon whatever other terms, covenants and conditions the Landlord considers advisable. On each such reletting, the rent received by the Landlord from the reletting will be applied as follows: first to the payment of amounts owed to the Landlord that are not Rent or Sales Taxes; second to the payment of any costs and expenses of the reletting including brokerage fees and solicitors fees on a solicitor and client basis, and the costs of any alterations or repairs needed to facilitate the reletting; third to the payment of Rent; and the residue, if any, will be held by the Landlord and applied in payment of Rent and Sales Taxes as it becomes due and payable. If the Rent and Sales Taxes received from reletting during a month is less than that to be paid during that month by the Tenant, the Tenant will pay the deficiency, which will be calculated and paid monthly in advance on or before the first day of every month. No repossession of the Premises by the Landlord will be construed as an election on its part to terminate this Lease unless a written notice of termination is given to the Tenant. If the Landlord relets without terminating, it may afterwards elect to terminate this Lease for the previous default. If the Landlord terminates this Lease for a default, it may recover from the Tenant damages it incurs by reason of the default, including, without limitation, the cost of recovering the Premises, legal fees on a solicitor and client basis, and the worth at the time of the termination, of the excess, if any, of the amount of Rent and Sales Taxes required to be paid under this Lease for the remainder of the Term over the rental value, at the time, of the Premises for the remainder of the Term, all of which amounts will be due immediately and payable by the Tenant to the Landlord.

Section 16.03 Expenses

The Tenant shall be responsible for all of the legal costs of the Landlord associated with the Landlord preparing and issuing its notice to the Tenant under Section 16.01(a) above. If legal proceedings are brought for recovery of possession of the Premises, for the recovery of Rent or Sales Taxes, or because

of a default by the Tenant, the Tenant will pay to the Landlord its expenses, including its legal fees on a solicitor and client basis.

Section 16.04 Waiver of Exemption from Distress

Despite the *Commercial Tenancies Act*, or any other Applicable Laws or any rule of law or equity, none of the inventory, furniture, equipment or other property that is, or was at any time, owned by the Tenant is exempt from levy by distress for Rent.

Section 16.05 Fraudulent Removal of Goods

Removal by the Tenant of its goods outside the ordinary course of its business shall be deemed to be a fraudulent act thereby enabling the Landlord to avail itself of all remedies at law including, but not limited to, the Landlord's rights to follow the Tenant's goods and to recover more than the value of the goods so removed.

Section 16.06 Landlord May Cure the Tenant's Default

If the Tenant defaults in the payment of money that it is required under this Lease to pay to a third party, the Landlord, after giving five (5) days notice in writing to the Tenant, may pay all or part of the amount payable. If the Tenant defaults under this Lease (except for a default in the payment of Rent or Sales Taxes), the Landlord may, after giving reasonable notice (it being agreed that forty-eight (48) hours is reasonable notice of a default of Section 10.01) or, without notice in the case of an emergency, perform or cause to be performed all or part of what the Tenant failed to perform and may enter upon the Premises and do those things that it considers necessary for that purpose. The Tenant will pay to the Landlord on demand, the Landlord's expenses incurred under this Article XVI plus an amount equal to fifteen percent (15%) of those expenses for the Landlord's overhead. The Landlord will have no liability to the Tenant for loss or damages resulting from its action or entry upon the Premises.

Section 16.07 Application of Money

The Landlord may impute any payment made by or on behalf of the Tenant towards the payment of any amount due and owing by the Tenant at the date of such payment regardless of any designation or imputation by the Tenant.

Section 16.08 Failure of the Tenant to Carry on Business

If the Tenant fails to open or reopen the Premises for business or to carry on business at all times in accordance with this Lease, the Landlord may (a) use its remedies for the Tenant's default, including obtaining an injunction or an order for specific performance in a court of competent jurisdiction to restrain the Tenant from defaulting under Section 9.03 and this Section 16.08 and a mandatory injunction to compel the Tenant to open or reopen the Premises for business to the public in accordance with this Lease, and (b) collect (in addition to Minimum Rent, ~~Percentage Rent~~ and Additional Rent) from the Tenant an additional amount calculated at a daily rate of the greater of twenty-five cents (\$0.25) per square foot of the GLA of the Premises and Two Hundred and Fifty Dollars (\$250.00) for each day that the Tenant is not open as required under this Lease, which such sum is a liquidated amount representing the minimum damages that the Landlord is considered to have suffered as a result of ~~the Landlord's failure to receive Percentage Rent~~ and the lack of participation by the Tenant in the general synergy and interdependence of the Rentable Premises of the Shopping Centre and is without prejudice to the Landlord's right to recover other damages.

Section 16.09 Non-Acceptance of Surrender

No acceptance of keys for the Premises by the Landlord and no other act of the Landlord will be considered as an acceptance by the Landlord of a surrender of this Lease by the Tenant. Only a written acknowledgement or surrender agreement executed by an authorized representative of the Landlord will be effective as an acceptance by the Landlord of a surrender of this Lease.

Section 16.10 Remedies Generally

The remedies under this Lease are cumulative. No remedy is exclusive or dependent upon any other remedy. Any one or more remedies may be exercised generally or in combination. The specifying or use of a remedy under this Lease does not limit the right to use other remedies available at law generally. Except as otherwise expressly contained herein, any breach by the Landlord under this Lease can be adequately compensated in damages and the Tenant agrees that its only remedy to enforce its rights under this Lease is an action for damages.

ARTICLE XVII MISCELLANEOUS

Section 17.01 Rules and Regulations

The Landlord, acting reasonably, may adopt rules and regulations which may differentiate between different types of businesses. Each rule and regulation, as revised from time to time, forms part of this Lease as soon as the rule, regulation or revision is made known to the Tenant. The Tenant will comply with each rule and regulation and each revision thereof. No rule or regulation, however, will contradict the terms, covenants and conditions of this Lease. The Landlord is not responsible to the Tenant for the non-observance of a rule or regulation by any other tenant of Rentable Premises or occupant of the Shopping Centre or of the terms, covenants or conditions of any other lease of Rentable Premises.

Section 17.02 Overholding - No Tacit Renewal

If the Tenant remains in possession of the Premises after the end of the Term with or without the consent of the Landlord but has not executed and delivered a new lease, there shall be no tacit renewal of this Lease or the Term, notwithstanding any statutory provisions or legal presumption to the contrary. The Tenant will occupy the Premises as a Tenant from month-to-month at a monthly Minimum Rent equal to the total of: (a) the monthly amount of Minimum Rent for the last month of the Term; and (b) one twelfth (1/12th) of the Additional Rent that was payable for the last Rental Year of the Term; ~~and (c) one twelfth of the highest amount of Percentage Rent that was payable for the last Rental Year;~~ and the Tenant will comply with the same terms, covenants and conditions as are in this Lease as far as they apply to a monthly tenancy including the payment of Rent.

Section 17.03 Successors

The rights and obligations under this Lease extend to and bind the successors and assigns of the Landlord and, if Section 13.01 is complied with, the heirs, executors, administrators and permitted successors and permitted assigns of the Tenant. If there is more than one tenant, or more than one Person comprising the Tenant, each is bound jointly and severally by this Lease.

Section 17.04 Tenant Partnership

If the Tenant is a partnership each Person who is a member of the partnership, and each Person who becomes a member of a successor of the partnership, is liable jointly and severally as Tenant under this Lease and will continue to be liable after that Person ceases to be a member of the partnership or a successor of the partnership and after the partnership ceases to exist.

Section 17.05 Waiver

The waiver by the Landlord or the Tenant of a default under this Lease is not a waiver of any subsequent default. The Landlord's acceptance of Rent after a default is not a waiver of any preceding default under this Lease even if the Landlord knows of the preceding default at the time of acceptance of the Rent. No term, covenant or condition of this Lease will be considered to have been waived by the Landlord or the Tenant unless the waiver is in writing. The Tenant waives any statutory or other rights in respect of abatement, set-off or compensation in its favour that may exist or come to exist in connection with Rent.

Section 17.06 Accord and Satisfaction

Payment by the Tenant or receipt by the Landlord of less than the required monthly payment of Minimum Rent is on account of the earliest stipulated Minimum Rent. An endorsement or statement on a cheque or letter accompanying a cheque or payment as Rent is not an acknowledgment of full payment or an accord and satisfaction, and the Landlord may accept and cash the cheque or payment without prejudice to its right to recover the balance of the Rent or pursue its other remedies.

Section 17.07 Brokerage Commission

Since the Landlord has not employed or retained a broker for this Lease or anything related to it, the Tenant will indemnify and hold the Landlord harmless from claims for commission with respect to this Lease or any matter related to it.

Section 17.08 Force Majeure

Despite anything contained in this Lease to the contrary, if the Landlord or the Tenant is, in good faith, delayed or prevented from doing anything required by this Lease because of a strike, labour trouble, inability to get materials or services, power failure, restrictive governmental laws or regulations, riots, insurrection, sabotage, rebellion, war, act of God, or any other similar reason, that is not the fault of the party delayed, the doing of the thing is excused for the period of the delay and the party delayed will do what was delayed or prevented within the appropriate period after the delay. The preceding sentence does not excuse the Tenant from payment of Rent or the Landlord from payment of amounts that it is required to pay, in the amounts and at the times specified in this Lease.

Section 17.09 Notices

Notices, demands, requests or other instruments under this Lease will be delivered or sent by registered mail postage prepaid and addressed (a) if to the Landlord, at c/o Bentall Retail Services LP, 330 Front Street West, 12th Floor, Toronto, Ontario, M5V 3B7, Attention: Vice President Operations, Eastern Region with a copy to the Shopping Centre Manager, or to such other Person at any other address that the Landlord designates by written notice, and (b) if to the Tenant, at the Premises, or, at the Landlord's option, to the Tenant's head office at 1550 Upper James, Unit 10, Hamilton, Ontario, L9B 2L6. A notice, demand, request or consent will be considered to have been given or made on the day that it is delivered or, received by registered mail. Either party may notify the other in writing of a change of address and the address specified in the notice will be considered the address of the party for the giving of notices under this Lease. If the postal service is interrupted or substantially delayed, any notice, demand, request or other instrument will only be delivered in person. A notice given by or to one Tenant is a notice by or to all of the Persons who are the Tenant under this Lease. Notwithstanding any law to the contrary, no electronic communications of notices, demands, requests or other instruments under this Lease will be considered as legally effective.

Section 17.10 Registration

The Tenant will not register or permit the registration of this Lease or any assignment or sublease or other document evidencing an interest of the Tenant or anyone claiming through or under the Tenant in this Lease or the Premises except that, subject to the Tenant paying the Landlord's costs and expenses, the Tenant may register a notice of lease which describes the parties, the Term, and contains the other minimum information required under the applicable legislation, but the notice of lease or caveat must be in form satisfactory to the Landlord, acting reasonably. The Landlord may, at the Landlord's expense, require the Tenant to execute promptly whatever document the Landlord requires for registration on the title to the Shopping Centre or any part of it in connection with this Lease.

Section 17.11 No Partnership

Nothing contained in this Lease or as a result of any acts of the parties hereto will be deemed to create any relationship between the parties other than that of Landlord, Tenant and, if applicable, Indemnifier.

Section 17.12 Quiet Enjoyment

If the Tenant performs its obligations under this Lease, it may hold and use the Premises without interference by the Landlord or any other Person claiming by, through or under the Landlord, subject however to the covenants, terms and conditions of this Lease.

Section 17.13 Retail Sales Tax

The Tenant consents to the Ontario Ministry of Finance releasing to the Landlord, at the Landlord's request from time to time, any information on its file relating to the Tenant's retail sales tax status, liabilities and assessments including the issuance of a certificate pursuant to Section 22 of the *Retail Sales Tax Act* (Ontario).

Section 17.14 Non-Liability

Under this Lease, Sun Life Assurance Company of Canada is the sole party that has obligations to the Tenant hereunder and no recourse shall be had to any shareholder, partner, director, officer, employee, agent or representative of Sun Life Assurance Company of Canada or to any of their assignees or to any such person's personal property and none of such persons shall have any personal liability hereunder.

Section 17.15 Deposit

- (a) **Accompanying this Lease is a cheque in the sum of eight thousand five hundred and thirty-three dollars and twenty-five cents (\$8,533.25), receipt of which is hereby acknowledged by the Landlord, and which amount shall be applied by the Landlord towards the payment of the first and last months' Minimum Rent due and payable by the Tenant under this Lease and to be returned to the Tenant without interest or deduction in the event that this Lease is not accepted by the Landlord. Until applied as aforesaid, the deposit shall be held by the Landlord without liability or interest as security for the faithful performance by the Tenant of all of the terms, covenants and conditions of this Lease by the Tenant to be kept, observed and performed.**

- (b) If at any time during the Term the Rent or other sums payable by the Tenant to the Landlord hereunder are overdue and unpaid or if the Tenant fails to keep and perform any of the terms, covenants and conditions of this Lease to be kept, observed and performed by the Tenant, then, the Landlord, at its option, may, in addition to any and all other rights and remedies provided for in this Lease or by law, appropriate and apply the entire amount of the deposit retained for application towards the last month's Minimum Rent or so much thereof as is necessary to compensate the Landlord for loss or damage sustained or suffered by the Landlord due to such breach on the part of the Tenant. If the entire amount of the deposit retained for application towards the last month's Minimum Rent, as provided above, or any portion thereof, is appropriated and applied by the Landlord for payment of overdue Rent or other sums due and payable to the Landlord by the Tenant hereunder, then the Tenant shall, upon written demand, forthwith remit to the Landlord the amount required to reimburse it for the amounts so applied, and the Tenant's failure to do so within five (5) days after receipt of such demand constitutes a breach of this Lease.
- (c) The Landlord will not be required to pay interest to the Tenant on any of the amounts paid to the Landlord or retained by it under this Section. The Landlord may deliver the aforesaid deposit to any purchaser of the Landlord's interest in the Shopping Centre or any part thereof, whereupon the Landlord will immediately be discharged from any further liability with respect to the deposit. The Tenant will not assign or encumber its interest in the deposit except in connection with a permitted Transfer, in which case the Tenant's interest in the deposit will be deemed to have been assigned to the permitted Transferee as of the date of the Transfer.

Section 17.16 Planning Act

This Lease is entered into subject to the provisions of and compliance with the provisions of all applicable legislation dealing with planning restrictions. If the Term, including any extensions or renewals thereof, shall be expressed to extend for a period of excess of the maximum period for which a lease may be granted without the consent of the body having jurisdiction pursuant to such legislation ("Maximum Period"), then until any necessary consent to this Lease is obtained pursuant to the provisions of the applicable legislation, the Term together with any rights of extension or renewal pursuant to this Lease shall be conclusively deemed to extend for the Maximum Period less one (1) day from the Commencement Date; any application required to obtain any necessary consent pursuant to the applicable legislation shall be prosecuted by Tenant and Tenant shall be solely responsible for all costs of such application and all costs, levies and charges of any kind whatever which shall be charged or imposed as a result of the application for consent pursuant to the applicable legislation and to obtain such documents in respect of any application for consent pursuant to the applicable legislation and to obtain such consent. Tenant shall provide to Landlord copies of all applications, correspondence and other documents in respect of any application for consent pursuant to such legislation and shall keep Landlord informed of all matters relating to the prosecution of such application. Notwithstanding the foregoing, the Landlord shall have the right, at its option, to apply for any such consent and if Landlord does so, the Tenant shall bear the full cost thereof and shall be responsible for all costs, levies and other charges charged or imposed as a result of such application or in order to obtain such consent.

Section 17.17 Indemnifier

The Indemnifier agrees to execute an Indemnity Agreement in the form attached to this Lease as Appendix "A".

IN WITNESS WHEREOF, the Landlord and the Tenant have signed and sealed this Lease.


BENTALL RETAIL SERVICES LIMITED PARTNERSHIP
(by its General Partner, BENTALL RETAIL SERVICES
G.P. LTD.) as Authorized Agent for
SUN LIFE ASSURANCE COMPANY OF CANADA
(Landlord)

Per: 
Authorized Signature

Per: 
Authorized Signature

I/We have authority to bind the corporation.

S.H.S. OPTICAL LTD. (Tenant)

Per: 
Authorized Signature

Per: _____
Authorized Signature

I/We have authority to bind the corporation.

 (Indemnifier)
BRUCE BERGEZ

SCHEDULE "A" - LEGAL DESCRIPTION

Part of Lots 17 and 18, Concession #2, Oakville, Regional Municipality of Halton, being designated as Parts 3 and 4, Plan 20R-5959, except Part 5, Plan 20R-8249 and Part 4, Plan 20R-8740.

AN



SCHEDULE "C" - CONSTRUCTION OF THE PREMISES - LANDLORD'S & TENANT'S WORK

I. LANDLORD'S WORK

Section 1.01 Landlord's Work Prior to Commencement Date

Only those items enumerated below as Landlord's Work will be provided by and at the expense of the Landlord. All other work required for the Premises including those items enumerated below as Tenant's Work will be provided by and installed by the Tenant, or at the option of the Landlord, by the Landlord, but, in either case, at the sole cost and expense of the Tenant.

The Landlord is not required to provide any material or to do any work to or in respect of the Premises, except the work and materials listed in this Schedule "C" (the "Landlord's Work") and the Landlord's Work will be performed in accordance with the Landlord's choice of materials.

Landlord and Tenant shall approve plans and obtain estimates and approve the cost of the Landlord's Work prior to the commencement of the Landlord's Work. The cost of Landlord's Work shall not exceed \$81,000.00, plus goods and services tax, (the "Cap"). Any amounts over the Cap as a result of Tenant modifications to the agreed-to scope of work shall be at the expense of the Tenant.

(a) Building

A building shell enclosed with an exterior of generally masonry and/or one hour fire-rated demising walls, finished roof and a steel rear exit door, if applicable, to the minimum requirements of the applicable building codes. The rear door location shall be designated and located by the Landlord.

(b) Interior Finishes

Floors shall be a single plane suitable to take the Tenant's floor covering and with a live load capacity of 100 pounds per square foot.

Party walls shall be of drywall on metal studs (except where structural conditions dictate, the Landlord may, at its option, erect block walls). Rear walls may be exposed unpainted masonry. Premises may contain plumbing and heating and ventilating ducts.

(c) Plumbing

Rough-in plumbing for one water line and one under floor slab waste line to base building location. Landlord shall provide roof or wall opening for toilet exhaust fan at location to be determined by Landlord.

(d) Sprinkler

If required by any applicable building codes, the Landlord will install the sprinkler main and branchlines, drops and heads sized to suit the standard layout in accordance with the size and/or configuration of the Premises at the expense of the Landlord. ~~Any modifications required to suit the Tenant's interior store layout to the sprinkler system will be performed by the Landlord's sprinkler contractor at the expense of the Tenant.~~

(e) Heating and Air Conditioning

A roof-mounted gas-fired heating/electric cooling packaged unit(s) will be installed in a location as determined by the Landlord. The cooling capacity of the unit will be sized at approximately 400 sq.ft./ton. The associated air distribution ductwork to be provided by Landlord. Any increase in the size/capacity of the heating, ventilating and air-conditioning ("HVAC") unit necessary to suit the Tenant's requirements will be performed by the Landlord's forces at the Landlord's expense. Thermostat will be provided by the Landlord ready for the Tenant's installation. Where design and/or space considerations warrant, the unit may be shared with adjacent rentable premises in which case operating costs will be pro-rated accordingly. A through-roof duct connection will be provided for Tenant's washroom exhaust fan above the roughed-in washroom location noted in subparagraph (c) above.

(f) Electrical

A 600 volt, 3 phase, 3 wire electrical service to a disconnect switch with an electrical splitter trough shall be supplied and installed on or near the rear wall of the Premises with the size of service to accommodate a connected load including heating and air conditioning equipment of eleven (11) watts per square-foot of the floor area of the Premises, except as mentioned in subparagraph (e) above. Branch wiring only to the heating and air conditioning equipment. Metering by the local utility at Tenant's expense.

(g) Store Front

Landlord shall provide standard double glazed store front with single entrance door, the location of which shall be subject to agreement between the Landlord and the Tenant, both parties acting reasonably, and subject to structure limitations.

(h) Telephone

A 1" empty conduit will be terminated on the rear wall of the Premises.

(i) Fire Alarm

Where applicable by building codes for base building construction a pull station will be wall mounted to the rear service door.

- (j) demising walls (excluding storefront), unfinished, in materials to be chosen by the Landlord;
- (k) service door, if required by law, in a location designated by the Landlord;
- (l) subfloor;
- (m) one main electrical service, terminating at a point at the perimeter of the Premises determined by the Landlord;
- (n) point of connection to the sprinkler main of the Shopping Centre;
- (o) water and sewage connection and fixtures for a single two-piece washroom; sink and furring machine and
- (p) natural gas connection, if applicable, at the Landlord's designated point within the Premises.

Section 1.02 Landlord's Work In Case of Damage to the Premises

~~Except in the case of Damage (as this term is defined in the Lease) to the Premises, the Landlord is not required to perform any work or supply any materials to or in respect of the Premises.~~ In the event of Damage to the Premises, the Landlord's Work shall consist only of those items listed below that may have been provided and installed by the Landlord at the Landlord's expense prior to the Commencement Date of the Lease:

- (a) demising walls (excluding storefront), unfinished, in materials to be chosen by the Landlord;
- (b) service door, if required by law, in a location designated by the Landlord;
- (c) subfloor;
- (d) one main electrical service, terminating at a point at the perimeter of the Premises determined by the Landlord;
- (e) point of connection to the sprinkler main of the Shopping Centre;
- (f) water and sewage connection for a single two-piece washroom; and
- (g) natural gas connection, if applicable, at the Landlord's designated point within the Premises.

II. TENANT'S WORK

Section 2.01 Tenant's Work

The Tenant shall provide at its sole expense the items enumerated below and will also provide all other work required for the finishing of the Premises for their intended use (all in accordance with the Tenant's drawings and specifications as approved by the Landlord), and as required by the Landlord's design criteria for the Shopping Centre which shall also form part of this Schedule "C".

(a) Store Front & Signs

- (i) Store Front - Any changes to standard store front shall be subject to Landlord's design approval.
- (ii) Signs - All signs shall conform to Landlord's sign criteria and be subject to Landlord's approval, which approval may be arbitrarily withheld. The Tenant acknowledges that all sides of the Premises will be subject to the Landlord's signage criteria for the Shopping Centre.

Section 2.02 Equipment Supplied or Work Performed by Landlord

The Landlord may, at its option, but after giving notice to the Tenant (except in case of real or apprehended emergency) supply any equipment and perform any work forming part of the Tenant's Work, at the Tenant's expense. Any equipment or work other than that stipulated as the Landlord's Work which is supplied or performed by the Landlord for or at the request of the Tenant, or any excess or additional cost in the Landlord's Work occasioned by the Tenant's requirements or revisions to such requirements, will be paid for by the

Tenant. The cost of the equipment or work will include (in addition to direct labour, material and applicable taxes) architectural, engineering and contractors' fees, any costs to the Landlord which are attributable to changes requested by the Tenant after approval of the Tenant's plans, drawings and specifications by the Landlord, and an overhead charge for the Landlord's supervision equal to fifteen percent (15%) of the aggregate cost of the equipment and work.

Section 2.03 Restrictions

- (a) **FLOOR LOADS** - The Tenant will not impose upon any floor area a greater load than the designed live load capacity for the Shopping Centre of one hundred (100) pounds per square foot uniformly distributed.
- (b) **SUSPENDED LOADS** - No suspended loads are permitted other than the normal ceiling and lighting loads from the underside of any floor, roof or ceiling structures or assemblies of the Shopping Centre. No suspended loads will be permitted from the roof, steel deck, ducts, pipes or conduits.
- (c) **SHOPPING CENTRE STRUCTURE, ROOF AND SYSTEMS** - The Tenant, its contractors, and their employees and agents will not (i) enter onto the roof of the Shopping Centre or make any opening in the roof; (ii) drill or cut openings for conduit or pipe sleeves, or chases for ducts or equipment in the floors, columns, walls, ceilings, roof or structure of the Shopping Centre; (iii) vary or alter in any manner whatsoever any plumbing, electrical or mechanical systems of the Shopping Centre or any of their components, whether or not located within the Premises. Any such work required by the Tenant, if approved by the Landlord, will be performed by the Landlord at the Tenant's expense, or if the Landlord permits it, by the Tenant under the supervision of the Landlord's representatives.

Section 2.04 Removal of Equipment and Improvements

Any requirement for the Tenant to provide equipment, carry out work or complete improvements also requires the Tenant to remove any existing corresponding equipment and improvements, unless the Landlord directs otherwise.

III. LANDLORD'S REQUIREMENTS FOR TENANT'S WORK

Section 3.01 Requirements Prior to Commencement of Tenant's Work

- ~~(a) **Submission of Plans, Drawings and Specifications to Landlord** - Prior to the commencement of the Tenant's Work, the Tenant will submit to the Landlord for its approval: (i) one set of copies and three white prints of each of its plans and drawings (including the plans and drawings for its sign(s)) together with the specifications for the finishing of the Premises, which plans, drawings and specifications must (1) be prepared by qualified architects, designers and engineers, and (2) include floor plans, a reflected ceiling plan, wall elevations, store front elevation, sections, details including details of any special facilities or installations which affect the Landlord's facilities, and sign design drawings and details; and (ii) complete mechanical and electrical drawings, which must include all under floor requirements, special equipment connections and installations, water and sewage, HVAC distribution systems, sprinkler mains and runs, electrical diagrams and panel schedules. The Tenant shall pay all reasonable Landlord's fees for the review of the Tenant's plans, drawings and specifications, including outside consultants' fees for the review of mechanical and electrical plans and drawings, together with an administration fee equal to fifteen percent (15%) of those outside consultants' fees.~~
- ~~(b) **Landlord's Approval of Tenant's Plans, Drawings and Specifications** - If the Landlord notifies the Tenant that it does not approve the Tenant's plans, drawings and specifications, the Tenant must submit revised plans, drawings and specifications as required by the Landlord.~~
- (c) **Tenant's Insurance** - Before entering on the Premises for any purpose, the Tenant will provide the Landlord with a certificate of insurance on the Landlord's standard form, duly executed by the Tenant's insurers, evidencing that the insurance required to be placed by the Tenant pursuant to the Lease is in force.
- (d) **Tenant's Contractors** - The Tenant will employ a general contractor who will be responsible for all construction within the Premises, including the contracting and co-ordination of all trades. All work on or in respect of the Premises will be performed by competent workers whose labour union affiliations are compatible with others employed by the Landlord and its contractors, and in a good and workmanlike manner.
- (e) **Workers' Compensation Clearances** - The Tenant will provide to the Landlord, prior to commencing any work on or in respect of the Premises, a current clearance certificate issued pursuant to the workers' compensation act or similar legislation of the Province of Ontario in respect of the contractor and every sub-contractor which the Tenant proposes to employ or to permit to do work in respect of the Premises, and the Tenant will not permit any contractor or sub-contractor to do work in respect of the Premises except for those for which the clearance certificate has been provided.
- (f) **Tenant's Permits** - ~~The Tenant will provide evidence satisfactory to the Landlord, prior to commencing any work on or in respect of the Premises, that the Tenant has obtained at its expense, all necessary consents, permits, licences, inspections and certificates from all authorities having jurisdiction, and the Tenant will post permits when required by a statute, regulation, order, code, rule and any other requirement of a~~

governmental or quasi-governmental authority with jurisdiction over any matter ("Applicable Laws"). Should the Tenant fail to obtain any required consent, permit, license, inspection or certificate, the Landlord may but will not be obligated to obtain it on behalf of the Tenant, except for signage permits and drawings which will be the responsibility of the Tenant at its own expense.

Section 3.02 Requirements With Respect to Performance of Tenant's Work

- (a) Compliance with Laws, Insurers' and Landlord's Requirements - All Tenant's Work must comply with all Applicable Laws, building codes, permits and approvals for the work and with the requirements of the Landlord's insurers and the Landlord. If the Tenant is in default of this obligation and does not cure the default within the time period required by the authority, the Landlord's insurers or the Landlord, the Landlord may, but will not be obligated to, cure the default, and all charges and costs incurred by the Landlord will be paid to the Landlord by the Tenant, together with an administrative fee equal to fifteen percent (15%) of those charges and costs.
- (b) Compliance with Tenant's Plans, Drawings and Specifications - The Tenant will, after satisfying all the requirements of Section 3.01, complete the Tenant's Work in a good and workmanlike manner, using new materials, to the Landlord's satisfaction and in conformity with the plans, drawings and specifications approved by the Landlord. Mediocre or inferior materials or workmanship will be replaced by the Tenant at its expense by materials or workmanship of high quality, to the Landlord's satisfaction. One set of the plans, drawings and specifications with the Landlord's consent endorsed on them will remain on the Premises at all times during completion of the Tenant's Work.
- (c) Compliance with Landlord's Requirements - The Tenant, its contractors, and their employees and agents will: (i) abide by all safety regulations; (ii) provide adequate fire protection including, without limitation, fire extinguishers; (iii) deliver and store materials and tools as directed by the Landlord; (iv) stop immediately, if requested by the Landlord, any work which, in the opinion of the Landlord, by reason of public hazard, noise or otherwise, is likely to affect the normal operation of the Shopping Centre or any part of it; (v) be responsible for pick-up and disposal of its garbage at its expense, unless the Landlord provides facilities or designates a commercial service for the pick-up of garbage instead of, or in addition, to the service provided by the local municipality, in which case the Tenant will use such facilities or commercial service at its expense; and (vi) abide by all other reasonable requirements of the Landlord.
- (d) Occupational Health and Safety - The Tenant will ensure that a comprehensive and rigorous health and safety program to protect workers is implemented for the performance of the Tenant's Work. The Tenant will indemnify each of the Landlord, Mortgagees and Owners of the Shopping Centre (the "Released Person") in respect of all claims, infractions, prosecutions, alleged infractions, losses, costs and expenses and any fines or proceedings relating to fines or other offenses under all occupational health and safety and similar legislation that might be brought, imposed against, or suffered by Released Persons or any of them in connection with the performance of the Tenant's Work. In addition, the Tenant will do, at least the following: (i) ensure that all legal obligations imposed on constructors or on other persons supervising, completing or co-ordinating the Tenant's Work are properly performed, that all directions given by any governmental or other regulatory inspector are properly performed and that necessary access is provided to those inspectors; (ii) where the Applicable Laws provide for designations of separate projects, co-operate with the Landlord in having the Tenant's Work designated as a separate project so that the Landlord does not incur obligations as a constructor or similar obligations in connection with the performance of the Tenant's Work; (iii) comply with any recommendations of the Landlord with respect to health and safety requirements; (iv) employ only contractors and require contractors to employ only sub-contractors that have good health and safety records, and provide evidence satisfactory to the Landlord concerning their health and safety records; and (v) provide to the Landlord whatever rights of access, inspection, and whatever information and documents the Landlord requires in order to ensure that the Tenant's obligations under this Section are complied with.
- (e) Hoarding - The Landlord may install storefront hoarding suitable for the Shopping Centre, at the Tenant's cost. If permitted by the Landlord, the Tenant may install such storefront hoarding at its expense and in accordance with the Landlord's criteria.
- (f) Testing of Tenant's Systems - The Tenant will test all plumbing, gas, fire protection and electrical systems within five days of their installation and give two days prior written notice to the Landlord that such test will be performed. The Landlord may be present in the Premises when such test is performed. The Tenant will be responsible for any damage caused as a result of the performance of such test. The Tenant will provide the Landlord with a copy of the test results and final certificate(s) of approval.

Section 3.03 Requirements After Performance of Tenant's Work

- (a) Tenant's Declaration - The Tenant will provide to the Landlord, within sixty (60) days of completion of the Tenant's Work, a statutory declaration (the "Declaration"): (i) stating that the Tenant's Work has been performed in accordance with all of the provisions of this Schedule and that all deficiencies (if any) which the Landlord has brought to the Tenant's attention have been corrected; (ii) stating that there are no construction, builders, mechanics', workers, workers' compensation or other liens and/or encumbrances affecting the Premises or the Shopping Centre with respect to work, services or materials relating to the Tenant's Work and that all accounts for such work, services and materials have been paid in full; (iii) listing each contractor and sub-contractor who performed work or supplied services or materials in connection with the Tenant's Work; (iv) confirming the date upon which the last such work was performed and services

and materials were supplied; and (v) confirming as correct an itemized list showing the actual cost of all improvements including, without limitation, sprinklers, washrooms, or any other special facilities.

- (b) Final Workers' Compensation Clearances - The Tenant will also provide to the Landlord, within sixty (60) days of completion of the Tenant's Work, a clearance certificate issued under the workers' compensation act or similar legislation of the Province of Ontario in respect of each contractor and sub-contractor listed on the Declaration.
- (c) Occupancy Permit - The Tenant will obtain and provide to the Landlord a copy of all occupancy and other permits required by any authority having jurisdiction, to permit the Tenant to open for business.
- (c) As-Built Drawings - The Tenant will deliver to the Landlord one set of as-built drawings within sixty (60) days following the Commencement Date.

IV. TENANT'S EXPENSES

All amounts payable by the Tenant pursuant to this Schedule will be paid to the Landlord as Additional Rent forthwith on demand, and failure by the Tenant to pay any amount payable pursuant to this Schedule shall entitle the Landlord, in addition to its other rights and remedies at law and under the Lease, to retain any amounts paid by the Tenant to the Landlord and to retain for its use, without payment for it, any work forming part of the Tenant's Work which has been commenced within the Premises, without prejudice to the Landlord's rights to claim and prove additional damages from the Tenant.

SCHEDULE "D" - RULES AND REGULATIONS

1. The Tenant will:
 - (a) keep the inside and outside of all glass in the doors and windows of the Premises clean;
 - (b) keep all exterior storefront surfaces of the Premises clean;
 - (c) replace promptly, at its expense, any cracked or broken window glass of the Premises;
 - (d) maintain the Premises at its expense, in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests;
 - (e) keep any garbage, trash, rubbish or refuse in ratproof containers within the interior of the Premises until removed;
 - (f) remove garbage, trash, rubbish and refuse at its expense on a regular basis as prescribed by the Landlord and if the Tenant uses perishable articles or generates wet garbage, the Tenant shall provide refrigerated storage facilities suitable to the Landlord;
 - (g) keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the Premises, and
 - (h) cause its employees, agents, and contractors to park only in the parts of the Common Elements, if any, designated by the Landlord as employee parking.
2. The Tenant will not:
 - (a) commit or permit waste upon or damage to the Premises or any nuisance or other act that disturbs the quiet enjoyment of other tenants or occupants of the Shopping Centre;
 - (b) do anything that may damage the Shopping Centre or permit odours, vapours, steam, water, vibrations, noises or other undesirable effects to come from the Premises;
 - (c) place or maintain any merchandise or other articles in any vestibule or entry of the Premises, on the adjacent footwalks or elsewhere on the exterior of the Premises or the Common Elements;
 - (d) permit accumulations of garbage, trash, rubbish or other refuse within or outside the Premises;
 - (e) distribute handbills or other advertising matter to Persons in the Shopping Centre other than in the Premises;
 - (f) permit the parking of delivery vehicles so as to interfere with the use of any driveway, walkway, parking facilities, mall or other area of the Shopping Centre;
 - (g) receive, ship, load or unload articles of any kind including merchandise supplies, materials, debris, garbage, trash, refuse and other chattels except through service access facilities designated from time to time by the Landlord;
 - (h) use the plumbing facilities for any other purposes than those for which they are constructed;
 - (i) use any part of the Premises for lodging, sleeping or any illegal purposes;
 - (j) cause or permit any machines selling merchandise, rendering services or providing, however operated, entertainment to be present on the Premises unless consented to in advance in writing by the Landlord;
 - (k) solicit business and display merchandise except in the Premises, nor do or permit anything to be done in or on the Common Elements or the Shopping Centre that hinders or interrupts the flow of traffic to, in and from the Shopping Centre or obstructs the free movement of Persons in, to or from the Shopping Centre;
 - (l) permit on the Premises any transmitting device or erect an aerial on any exterior walls of the Premises or any of the Common Elements, or use travelling or flashing lights, signs or television or other audio-visual or mechanical devices that can be seen outside of the Premises, or loudspeakers, television, phonographs, radios or other audio-visual or mechanical devices that can be heard outside of the Premises; or

- (m) allow or cause to be done any act in or about the Common Elements or the Shopping Centre which in the Landlord's opinion hinders or interrupts the Shopping Centre's flow of traffic or in any way obstructs the free movement of parties doing business in the Shopping Centre.

SCHEDULE "E" - PRE-AUTHORIZED PAYMENT PLAN AUTHORIZATION

NAME OF OWNER OR OF HEAD OFFICE		ACCOUNT RECEIVABLE NUMBER
NAME AND NUMBER OF STORE	DATE OF LEASE	MONTHLY CHARGES
ADDRESS OF STORE		DATE OF LAST PAYMENT
HEAD OFFICE ADDRESS		BANK ACCOUNT NUMBER
TRANSITORY NUMBER		BANK & BRANCH
NAME SHOWN IN BANK RECORDS		
SIGNATURE OF TREASURER		

REQUEST FOR PARTICIPATION IN THE PRE-AUTHORIZED PAYMENT PLAN

I hereby authorize _____ (hereinafter called the "Company") and/or [insert name of Landlord's Bank] to debit my account at the financial institution designated hereunder, in accordance with the AUTHORIZATION TO PAY shown below, for the purpose of paying the sums due in virtue of _____.

Please enclose a specimen cheque from your bank, your "Caisse Populaire" or a trust company.

AUTHORIZATION TO PAY

NAME OF BANK

BRANCH AND ADDRESS

I hereby request you and give you authorization to pay and debit my account at your branch or at any other branch of your institution where my account may be transferred, all cheques drawn on your institution in my name and payable to the order of _____ that will be presented to you for payment or any sums specified on any magnetic tape or any other computer tape for remittance to _____ or [insert name of Landlord's Bank].

In consideration of your services for the purposes hereof, it is agreed that your handling of each cheque and/or computer tape and your rights with regard to these cheques shall be the same as if they had been signed personally by me, requesting you and giving you authorization to pay sums and to credit such sums to the said beneficiary by debiting them to my account and any default in payment shall not give rise to any responsibility on your part regardless of the loss or damage incurred.

If the financial institution mentioned above is not a bank to which the banking Laws of Canada apply, the word "cheque" as it is used in the present authorization shall include any "order" which would be defined as a cheque in Article 165 of the Law on letters of exchange (Canada).

Any delivery to you of the present authorization shall constitute delivery by the undersigned.

Made at _____, this _____ day of _____ 200.....

(The signature must conform to that which appears on the signature records of the financial institution concerned).

Authorized Signature

SCHEDULE "F" - EXCLUSIVE USES OF OTHER TENANTS

TOWN SHOES LIMITED UNIT P2060

Section 13 - The Landlord agrees that other than for the Tenant and either (but not both) a shoe operation called "Shoe Terminal" or a shoe store not selling products similar to those offered by the Tenant in price, or by brand name or shoes as offered by the Tenant prior to signing, **the Landlord will not lease, offer to lease, consent to assignment or subletting, or otherwise allow anyone to occupy, any premises in the Shopping Centre who may sell footwear.**

Despite anything contained in the Lease, including but not limited to the clause set out under the heading "Exclusive":

- (a) The Landlord is not prohibited subject to what is stated below, in Section 13(b), from allowing Winners Apparel Ltd. or any assignee or sub-tenant of the expanded Winners store (the "Winners Store"), to sell footwear where selling footwear is ancillary to the principal business operated in the premises.
- (b) Should the Winners Store be occupied by an occupant or tenant other than:
 - (i) Winners Apparel Ltd.;
 - (ii) any business affiliated with Winners Apparel Ltd.;
 - (iii) any business organization resulting from the consolidation or merger of Winners Apparel Ltd. with any other business organizations;
 - (iv) any business organization which, alone or together with an affiliated business organization of Winner Apparel Ltd. shall acquire all or substantially all of the store operations of Winners Apparel Ltd.,

which, in each of the cases set out clauses (i), (ii), (iii) and (iv) above operates the Winners Store as an apparel store, then, not more than ten percent (10%) of the floor area of the Winners Store may be used for the sale of footwear. For the purpose of this section, occupation by the sub-tenant, licensee or concessionaire that, in the normal course of the operation of an apparel store occupies space within the store, will be considered as an occupation by Winners Apparel Ltd. or by one of the business organizations described above in clauses (ii), (iii), or (iv).

A business organizations shall be deemed to be affiliated with any corporation (1) if such business organizations controls such corporation either directly by ownership of a majority of its voting stock or, if publicly held, of such minority thereof as to give it substantial control of such corporation, or indirectly by ownership of a majority of the voting stock of another business corporation so controlling such corporation, or (2) if such business organization is so controlled by another business organization controlling such corporation or (3) if such business organization and such corporation are substantially controlled by the same stockholder(s) and/or their families.

- (c) The Landlord is not prohibited from allowing occupants of the Shopping Centre to sell "Athletic Footwear" where the sale of "Athletic Footwear" is ancillary to the principal business (which principal business would be other than the sale of Athletic Footwear) operated in such occupant's premises. Athletic Footwear means footwear designed for use in sports, such as, by way of example (and not limited to), soccer shoes, tennis shoes, walking and running shoes. Skates, ski boots, skis and snowshoes are not considered footwear.

MAILBOXES ETC. (HAWKINS MAILBOXES MBEC COMMUNICATIONS) UNIT P3010

Provided the Tenant has performed and observed all the covenants on its part to be performed and observed in the Lease in a material matter, and is not in default thereunder the Landlord covenants and agrees that throughout the Term of the Lease and any renewal, thereof it will not occupy or use or suffer or permit to be occupied or used, any premises or other space (other than the Leased Premises) in the Shopping Centre, as presently existing or extended, expanded or altered from time to time, **for the primary use of mailbox rentals, parcel shipping, packaging supplies and services, key duplicating, western union, printing, copy services, passport photos and film processing fax for profit, electronic filing or fax returns and related services.**

Notwithstanding anything contained in this Lease to the contrary, in the event that the Landlord has granted the Tenant an exclusive covenant in this Lease, then in such event, the exclusive covenant granted to the Tenant shall only apply to the premises in the building (s) existing in the Shopping Centre as of the Lease Commencement date. The intent of the foregoing being that any exclusive covenant granted to the Tenant herein shall not apply to any future expansions or additions to the building(s) existing in the Shopping Centre as of the Lease Commencement Date.

**JENNY CRAIG WEIGHT LOSS CENTRES (CANADA)
UNIT P3030**

So long as the Tenant has duly and regularly performed the covenants on its part to be performed under the Lease, has remained in possession of the Leased Premises, and is carrying on the primary business of a Weight Loss Centre, the Landlord shall not lease space in the Shopping Centre to any other weight loss centre. Provided, however, that the foregoing covenant shall not apply to prevent the leasing of premises in the Shopping Centre by the Landlord to a physician who, as an ancillary part of his or her practice, provides nutrition counselling and/or diet supervision.

**FIRST CHOICE HAIRCUTTERS LTD.
UNIT P4080**

The Landlord shall not occupy or use, nor suffer to permit to be occupied or used, any premises (other than the Leased Premises) in the Shopping Centre, as it exists at the present time and from time to time, in whole or in part for the purpose of the operations of a haircutting store with the exception of the premises presently occupied by Hy & Zels.

**MICHAEL'S OF CANADA INC.
UNIT P2030**

Neither Landlord nor any entity controlled by Landlord shall use or lease or permit the use, leasing or subleasing of or sell any space in or portion of the Centre during the Lease Term, to any "craft store"; "frame store"; a store devoting more than five percent (5%) floor space to selling artificial flowers, artificial floral arrangements, wedding or party goods; or any store similar to Tenant in operation or merchandising.

**HAMILTON AUTOMOBILE CLUB INC.
UNIT P4030**

Provided the Tenant has performed and observed all the covenants on its part to be performed and observed in the Lease in a material manner, and is not in default thereunder the Landlord covenants and agrees that throughout the Term of the Lease and any renewal, thereof it will not occupy or use or suffer or permit to be occupied or used, any premises or other space (other than the Leased Premises) in the Shopping Centre, as presently existing or extended, expanded or altered from time to time, for the primary use of an automobile club and the sale of automobile insurance, homeowners' and tenants' insurance and primarily for the business of a licence bureau.

The Tenant acknowledges and agrees that the aforementioned exclusivity shall not apply to financial institutions or real estate offices or any other tenant that occupies space other than the ground floor area.

**H.M.V. CANADA
UNIT P1040**

Provided the Tenant is not in default hereunder, the Landlord covenants and agrees that throughout the Term of the Lease and any renewal, it will not occupy or use or suffer or permit to be occupied or used, any premises or other space (other than the Leased Premises) in the Shopping Centre, excluding Hy & Zels (so long as same continues to be occupied by Hy & Zels) to sell records, compact discs and pre-recorded audio cassettes.

Notwithstanding the foregoing, should Hy & Zels decide to sell records, compact discs or pre-recorded audio cassettes, the Landlord shall use commercially reasonable efforts to limit Hy & Zels floor area of the above mentioned products to a maximum of one thousand (1,000) square feet and shall diligently enforce the restrictions on the use permitted by Hy & Zels as contained in section 8.01 of its Lease.

**HY & ZELS (WAREHOUSE DRUGSTORE LTD.)
UNIT P2020**

During the term hereof, the Landlord shall not lease any other premises for use as a pharmaceutical dispensary in the Shopping Centre. The Landlord covenants that it shall not lease any premises to any drug store in any shopping centre owned or controlled directly or indirectly by the Landlord within a radius of one (1) mile from the outside boundary of the Shopping Centre provided, however, that this restrictive covenants shall not apply to prevent any premises leased to a department store, junior department store, or food supermarket in the Shopping Centre from being used to sell health and beauty aids.

BURLINGTON DRYCLEANERS (DUCK YONG MOON & JOONG KYUNG MOON)
P4040

Provided the Tenant has duly performed and observed all the covenants on its part to be performed and observed in the Lease, and is not in default thereunder the Landlord covenants and agrees that throughout the Term of the Lease and any renewal, it will not occupy or use or suffer or permit to be occupied or used, any premises or other space (other than the Leased Premises) in the Shopping Centre, as it is constituted at the Lease Commencement Date, **for the use of a dry cleaning depot, laundry depot.**

BANK OF MONTREAL
UNIT P3050

The Lessee shall have exclusive representation to the exclusion of all other **banking, deposit gathering and lending institutions** in this development or any other enlargement thereof now, or in the future, under the control of the Lessor except for one other Bank and one trust company.

NATIONAL GYM CLOTHING LTD.
UNIT P1080

The Landlord covenants and agrees that it not has entered into and will not enter into any other Agreement to Lease in respect of any other leasable space in the Shopping Centre with any Tenant, other than the Tenant herein, which would permit such tenant to carry on a business similar to or in competition with the Tenant herein, it being the intention and expectancy of the Tenant herein that during the lease term herein, or any renewal of term thereof, the Tenant will be the only Tenant of the Shopping Centre entitled to carry on the business of a retailer merchandiser **of general sporting goods**, with the exception of a retail merchandiser specialized in the sale of sail boards and related equipment.

MR. SUB (1263834 ONTARIO INC.)
UNIT P5050

Provided the Tenant has duly performed and observed all the covenants on its part to be performed and observed in the Lease, and is not in default thereunder, the Landlord covenants and agrees that throughout the Term of the Lease and any renewal, it will not occupy or use or suffer or permit to be occupied or used, any premises or other space (other than the Leased Premises) in the Shopping Centre, as it is constituted at the Lease Commencement Date, primarily (primarily defined as: not to exceed ten (10%) percent of sales), for the use of a restaurant or eating establishment that **prepares and sells submarine sandwiches.**

THE KEG RESTAURANTS LTD.
UNIT P5010

The Landlord shall not lease space to any restaurant in the Shopping Centre as now constructed or subsequently changed or expanded that carries on a business similar in concept and price category to that carried on by the Tenant at the Commencement Date of the Lease.

ROYAL BANK OF CANADA
UNIT P5040

Provided the Tenant has duly and regularly performed all of the covenants on its part to be performed under the Lease, and remains in possession of the Leased Premises, and carries on a business therein as a chartered bank branch as provided for in Section 7.01 of the Lease, the Landlord and the Tenant acknowledge and agree that during the Term of this Lease, or any renewal thereof, the Landlord shall not lease space larger in square foot area than the Lessee's Leased Premises in the Shopping Centre or any future expansion thereof to any other banks, or trust companies, finance companies, credit unions or deposit gathering institutions.

MCDONALD'S RESTAURANTS OF CANADA
UNIT F1010

The Landlord agrees that during the Term hereof, it shall not, except with the written consent of the Tenant first had and obtained, directly or indirectly engage in, or acquire any financial or beneficial interest in, or grant any lease or licence to any persons, firms or corporations who engage in **restaurant food service business, whose primary business is the sale of hamburgers and/or cheeseburgers or any variation thereof, and/or chicken nuggets and/or chicken fingers or any variation thereof, including without limitation, a drive-in restaurant, a restaurant operating a takeout food business,**

or a catering business. This restriction shall apply to the Landlord's Lands. The Landlord further agrees that it will not suffer or permit any such business referred to in herein to be carried on the Landlord's Lands. The foregoing restrictions and limitations shall apply to all activities of officers, directors, subsidiaries, affiliated and shareholders of the Landlord.

Notwithstanding the foregoing the Tenant acknowledges and consents to the operation of a St. Hubert B.B.Q. Restaurant on the Landlord's Lands, provided such restaurant is operated in a similar manner to the majority of other restaurants under the same name in the Province of Ontario.

**THE MASTER MECHANIC
UNIT F1100**

Provided the Tenant has duly and regularly performed and observed all the covenants on its part to be performed and observed in the Lease, and is not in default thereunder the Landlord covenants and agrees that throughout the Term of the Lease and any renewal, thereof it will not occupy or use or suffer or permit to be occupied or used, any premises or other space (other than the Leased Premises) in the Shopping Centre, primarily for the use of **general automotive repair excluding bodywork**.

The Landlord covenants and agrees that it will not suffer or permit any other automotive uses in the development during the term of the Lease and renewal periods save and except for a car wash facility to the intent that the Tenant will have exclusive rights to do all automotive repairs except for the carwash.

**IMPERIAL OIL LTD.
UNIT 62200**

The Landlord covenants and agrees that throughout the Term of the Lease and any renewal thereof it will not occupy or use, nor suffer or permit to be occupied or used, any other space in the Shopping Centre as is described in Schedule "B" or as extended or expanded from time to time, or other than the demised premises, **for the purpose in whole or in part of conducting the business or operation of a gas bar.**

**DENTISTRY IN THE ABBY
UNIT P2080**

Provided Tenant is not in default under the terms and conditions of the Lease arising therefrom and provided the Leased Premises are being continuously used for the purpose described in Section 6 of the Lease, the Landlord shall not lease any other space in the Shopping Centre building as such building presently exists to a tenant whose **primary line of business is the operation of a family dentist office**. Should the Landlord decide to renovate the Shopping Centre and add 5,000 thousand square feet or greater to the leasable area, the Landlord will have the option of entering into a lease agreement with another dental office. This restrictive covenant shall not apply in connection with any previously executed leases for the Centre nor in respect of any other anchor tenants spaces. The Tenant acknowledges and agrees that the Landlord shall be permitted to lease related dental care specialists (orthodontists, periodontist, etc.) The Landlord shall also be permitted to lease to other medical uses such as a medical doctor, podiatrist, chiropractor, physiotherapist etc.

**MADE IN JAPAN REALTY HOLDINGS INC.
UNIT P3020**

Provided that the Required Conditions are then in effect and subject to the existing rights of other tenants in the Centre and their permitted transferees, throughout the term and any extensions thereof, the Landlord shall not lease any other premise in the Centre, other than the Premises, to any other tenant whose **primary business is the sale of Japanese Food.**

**HENRY'S (CRANBROOK GLEN ENTERPRISES LTD.)
UNIT P4050**

Provided that the Required Conditions are then in effect and subject to the existing right of other tenants in the Centre and their permitted transferees, throughout the term and any extensions thereof, the Landlord shall not lease any premises in the Centre, other than the Premises, to any other tenant whose **primary business is the sale of cameras**. This provision is not transferable, and the Tenant must be in occupation of the premises and carrying on a business in the whole of the Premises.

**REITMANS (CANADA LIMITED)
UNIT P1070**

The Landlord agrees not to lease any space or permit the operation of any space in the Development for the purposes of a billiard or pool hall, massage parlour, video game arcade, bowling alley, skating rink,

adult book or adult video store. This restrictive covenant shall not apply to any such business existing in the Development at the date of this Lease or to their permitted transferees.

**WINNERS APPAREL LTD.
UNIT P2070**

The Landlord covenants and agrees that it will not operate nor permit any tenant, assignee of a tenant, a subtenant or occupant of premises within the Shopping Centre to **operate a business similar to that of a Kmart, Zellers, Willy Wonderful or Family Warehouse** within the Shopping Centre without the prior written consent of the Tenant which consent may be unreasonably and arbitrarily withheld. It is agreed however that a Bi-way and Marks Work Warehouse are acceptable tenants and not excluded by the above prohibitions.

**TOPPER'S PIZZA (MTPL HOLDINGS LIMITED)
UNIT P4060**

Provided the Required Conditions are in effect as outlined in the Lease, the Landlord covenants during the term of the Lease or any renewal thereof that it will not lease or permit to be used any premises in the Shopping Centre to or for the **business of a restaurant or takeout food facility whose main or basic menu item is pizza or pizza slices except existing tenants or their lawful transferees**. It is agreed that the foregoing covenant has been granted at the insistence of the Tenant as a legitimate business concern arising out of its investment in the Premises. The Tenant shall indemnify and hold harmless the landlord from any loss or damage suffered by the Landlord as a result of claims or proceedings pursuant to any law prohibiting the restriction of competition if a claim should be made that such clauses is contrary to the law and if after such notice of the claim the Tenant insists that the Landlord honours the same. Such indemnity will include any and all costs or expenses sustained by the Landlord in connection with any such claim of violation including legal fees on a solicitor and client basis.

**SLEEP COUNTRY CORPORATION
UNIT P1050**

Provided Tenant is not in default or has not been in default under the terms and conditions of the Lease arising there from and provided the Leased Premises is are being continuously used for the purpose described in section 9.01 (a) above, the Landlord shall not lease any other space in the Shopping Centre building as such building presently exists to a tenant **whose primary line of business is the sale of mattresses and box springs**. This restrictive covenant shall not apply in connection with any previously executed lease for the Centre nor in respect of any other anchor tenants who intends on selling waterbeds.

**ELECTRONICS BOUTIQUE CANADA INC.
UNIT P1060**

Provided that the Required Conditions are then in effect and subject to the existing rights of other tenants in the Shopping Centre and their permitted transferees, the Landlord shall not lease or rent any premises in the Shopping Centre (including any expansion thereof), throughout the Term and any extensions thereof, other than the Premises, to any other tenant **whose primary business is the sale, resale, trading in or renting of a any one or more of the following items; (a) video games, (b) hand held and phone entertainment software, (c) hardware, accessories and other products related to categories (a) and (b), and (d) any substitutes, new formats or technological evolutions thereof (collectively, the "Exclusive Items")** unless not more than four hundred (400) square feet of surface display area of such other tenant's space is devoted to the retail display of such Exclusive Items.

Notwithstanding the above, this exclusivity shall not prohibit the sale by existing tenants and their permitted transferees in the Shopping Centre which has, pursuant to the current terms and provisions of the said tenant's leases, the right to handle and sell certain of the Exclusive items as ancillary to a tenant's principal use, if the display of Exclusive Items is not more than twenty percent (20%) of the tenant's gross floor area.

The Tenant and the Landlord agree that this right is personal to the Tenant and applies only as long as Electronics Boutique Canada Inc. is itself in occupancy of conducting its business in the whole of the premises in accordance with the Terms of the Lease.

The Landlord and the Tenant expressly agree that a retail tenant whose primary business is the sale or rental of cell phones or wireless handheld email devices such as a Blackberry, or technologies evolutions thereof do not contravene this exclusivity clause.

**INTERTAN CANADA LTD. (RADIOSHACK)
P5020**

Provided that the Required Conditions are then in effect, the Landlord will not lease any premises in the Shopping Centre to, or suffer to permit by way of lease, sublease or assignment of lease, any premises in the Shopping Centre, subject to the rights of existing tenants and their permitted transferees, to be operated as a Future Shop, Best Buy or any other tenant whose principal use is the sale at retail of desktop or notebook computers or televisions, radios, stereo systems, and their components parts ("the Exclusivity Conditions") and that has a gross leasable area in excess of Six Hundred (600) square feet, provided that at any time the Exclusivity Conditions are not in effect, the Landlord may enter into leases or approve subleases, assignments or changes of use affecting the Shopping Centre without regard to the above restrictions and any rights thereby granted shall prevail over the above restrictions even if the Exclusivity Conditions thereafter begin to exist again.

The Tenant recognizes that the Landlord has given exclusivity to the existing tenant, EB Games and the Tenant agrees that it will not contravene such exclusivity.

**PIER 1 (U.S.) IMPORTS
UNIT P2010**

The Landlord shall not lease or permit to be leased or operated any other store located within the Shopping Centre for the principal purpose of selling a general selection of mostly hand-crafted merchandise in any of the following categories:

(a) furniture that is intended to be used in sunrooms, living, dining and kitchen areas and on patios; is made of materials such as metal and hand crafted natural materials such as by way of example, rattan, burl, willow, pine, beach, rubber and selected hardwoods with natural or painted finishes and which, in addition, is mainly imported from eastern countries ("the Far East") such as by way of example, Taiwan, Hong Kong, China, the Philippines and Indonesia; (b) decorative home furnishings imported from a wide variety of countries and including brass, marble, and wood items as well as lamps, vases, dried silk flowers, baskets wall decorations and numerous other decorative items most of which are hand-crafted from natural materials; and (c) dining and kitchen goods primarily imported from the Far East and Europe including items such as ceramics, dinnerware and other functional and decorative items.

**PHILTHY MCNASTY'S RESTAURANT INC.
UNIT P4010**

The Tenant shall have the exclusive right to maintain and operate at its sole cost and expense throughout the Term an outdoor patio/café in conjunction with its business on the sidewalk abutting the Leased Premises, as outlined in blue on Schedule "B" attached to the Lease.

**THE KEG RESTAURANT
P5010**

Provided that the Landlord shall not lease any space to any restaurant in the Shopping Centre as now constructed or subsequently changed or expanded that carries a business similar in concept and price category to that carried on by the Tenant at the commencement date of Lease.

SCHEDULE "G" - ENVIRONMENTAL QUESTIONNAIRE

Tenant's Name:		Premises:	
Address:			
Telephone:	(416)	Fax:	(416)
Person Responsible:			

The term "Contaminants" or "Hazardous Substances" is more particularly defined in the Lease and refers to any substance or thing or mixture of them which alone, or in combination, or in concentrations, are flammable, corrosive, reactive or toxic or which might cause adverse effects or be deemed detrimental to living things or to the environment, including, but not limited to, any pollutant, contaminant, toxic or hazardous substance, such as by way of example, urea formaldehyde, asbestos, polychlorinated biphenyl, pesticides, or any other substance the removal, manufacture, preparation, generation, use, maintenance, storage, transfer, handling or ownership of which is subject to applicable laws.

- (a) Describe the business activities carried on in the Premises and specify raw materials used, goods manufactured and any resulting waste materials or by-products that are generated;

- (b) Will the business activities to be carried on in the Premises entail the use, generating or storing of any Contaminants or Hazardous Substances in any quantity? (including but not limited to chemical products, degreasers, corrosives, flammable or combustibles, fuels, solvents, paints, medication, oil, gas, batteries, extinguisher, etc.)

NO	<input type="checkbox"/>	YES	<input type="checkbox"/>	(If so, describe...)

- (c) Indicate the approximate amounts of Contaminants and Hazardous Substances which will be used or generated, monthly or annually, in the Premises.

- (d) How do you intend to store the Contaminants and Hazardous Substances described in c)?

- (e) How will you dispose of the Contaminants and Hazardous Substances generated in the Premises by your business and who will be the carrier?

- (f) Will the business activities to be carried on in the Premises require that you obtain any certificate of authorization, permit, environmental approvals, or provide environmental data (ie NPRI or Ontario Reg. 127) to government agencies?

NO	<input type="checkbox"/>	YES	<input type="checkbox"/>	(If so, give details and attach your certificate)

- (g) Will the business activities to be carried on in the Premises entail the discharge of Contaminants and Hazardous Material in to the sewer system, water system or in to the air?

- (h) Will pollution control equipment be required in the Premises to ensure that the discharge of Contaminants or Hazardous Substances in to the sewer system, water system or in the air will comply with the Environmental Legislation and Municipal or Regional By-Laws?

NO	<input type="checkbox"/>	YES	<input type="checkbox"/>	(If so, give details and list standards to be met)

- (i) Will the business activities to be carried on in the Premises necessitate the installation of an underground or surface storage tank in the Premises or on the Common Facilities?

NO	<input type="checkbox"/>	YES	<input type="checkbox"/>	(If so, describe in detail the tank to be installed and material to be stored)

- (j) Do you intend to have a prevention training or emergency plan in place to prevent an environmental incident or to deal with one if it occurs?

NO	<input type="checkbox"/>	YES	<input type="checkbox"/>	(If so, give details and attach a copy of the plan and training procedure)

- (k) Does your firm have an Environmental Management Program in place?

NO	<input type="checkbox"/>	YES	<input type="checkbox"/>	(If so, give details and attach a copy of the program)

(l) Do you have appropriate Insurance to handle Contaminants or Hazardous Substances?

NO	<input type="checkbox"/>	YES	<input type="checkbox"/>	(If so, give details and attach a copy of the policy)

DATE:		TENANT'S SIGNATURE:	
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APPENDIX "A" - INDEMNITY AGREEMENT

THIS AGREEMENT is dated October 28, 2004.

B E T W E E N :

SUN LIFE ASSURANCE COMPANY OF CANADA

(the "Landlord")

OF THE FIRST PART

- and -

BRUCE BERGEZ

(the "Indemnifier")

OF THE SECOND PART

In order to induce the Landlord to enter into the Lease, (the "Lease") dated October 28, 2004, and made between the Landlord and S.H.S. OPTICAL LTD. as Tenant and for other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, the Indemnifier hereby makes the following indemnity and agreement (the "Indemnity") with and in favour of the Landlord:

2. (a) The Indemnifier hereby agrees with the Landlord that at all times during the Term of the Lease and any extensions or renewals thereof or overholding by the Tenant under the Lease, it will (i) make the due and punctual payment of all Rent, monies, charges and other amounts of any kind whatsoever payable under the Lease by the Tenant whether to the Landlord or otherwise; (ii) effect prompt and complete performance and observance of all and singular the terms, covenants and conditions contained in the Lease on the part of the Tenant to be kept, observed and performed; and (iii) indemnify and save harmless the Landlord from any loss, costs or damages arising out of any failure by the Tenant and the Indemnifier to pay the aforesaid Rent, monies, charges and other amounts of any kind whatsoever payable under the Lease or resulting from any failure by the Tenant and the Indemnifier to observe or perform any of the terms, covenants and conditions contained in the Lease.
- (b) The Indemnifier's covenants and obligations set out in paragraph (a) above will not be affected by any disaffirmance, disclaimer, repudiation, rejection, termination or unenforceability of the Lease or by any other event or occurrence which would have the effect at law of terminating any obligations of the Tenant prior to the termination of the Lease whether pursuant to court proceedings or otherwise and no surrender of the Lease to which the Landlord has not provided its written consent (all of which are referred to collectively and individually in this Agreement as an "Unexpected Termination"), and the occurrence of any such Unexpected Termination shall not reduce the period of time in which the Indemnifier's covenants and obligations hereunder apply, which period of time includes, for greater certainty, that part of the Term of the Lease and any extensions or renewals thereof which would have followed had the Unexpected Termination not occurred.
3. This Indemnity is absolute and unconditional and the obligations of the Indemnifier and the rights of the Landlord under this Indemnity shall not be prejudiced, waived, released, discharged, mitigated, impaired or affected by (a) any extension of time, indulgences or modifications which the Landlord extends to or makes with the Tenant in respect of the performance of any of the obligations of the Tenant (or any other obligated Person) under the Lease; (b) any waiver by or failure of the Landlord to enforce any of the terms, covenants and conditions contained in the Lease; (c) any Transfer of the Lease (as that term is defined in Article XIII of the Lease) by the Tenant or by any trustee, receiver, liquidator or any other Person; (d) any consent which the Landlord gives to any such Transfer; (e) any amendment to the Lease or any waiver by the Tenant of any of its rights under the Lease; (f) the expiration of the Term or (g) any Unexpected Termination (as that term is defined in Section 1(b) above), (h) any renewal or extension of the Term of the Lease, Indemnifier hereby agreeing that its obligations under this Indemnity shall extend throughout the Term, as renewed or extended. The obligations of the Indemnifier are as primary obligor and not as a guarantor of the Tenant's obligations.
4. The Indemnifier hereby expressly waives notice of the acceptance of this Indemnity Agreement and all notice of non-performance, non-payment or non-observance on the part of the Tenant of the terms, covenants and conditions in the Lease. Notwithstanding the foregoing but without prejudicing the foregoing, any notice which the Landlord desires to give to the Indemnifier shall be

sufficiently given if delivered to the Indemnifier, or, if mailed, by prepaid registered mail addressed to the Indemnifier at the Premises, or, at the Landlord's option, at 1550 Upper James, Unit #10, Hamilton, Ontario, L9B 2L6, and every such notice is deemed to have been given upon the day it was delivered, or if mailed, seventy-two (72) hours after the date it was mailed. Notwithstanding any law to the contrary, no electronic communications of notices, demands or requests under this Agreement will be considered as legally effective. Despite what is stated above, the Indemnifier acknowledges that if its address is stipulated as a post office box or rural route number, then notice will be considered to have been sufficiently given to the Indemnifier if delivered or sent by registered mail to the Premises or, where notice cannot be given in person upon the Premises, by posting the notice upon the Premises. The Indemnifier may designate by notice in writing a substitute address for that set forth above and thereafter notice shall be directed to such substitute address. If two or more Persons are named as Indemnifier, such notice given hereunder or under the Lease shall be deemed sufficiently given to all such Persons if delivered or mailed in the foregoing manner to any one of such Persons.

5. If an Event of Default has occurred under the Lease or a default under this Indemnity, the Indemnifier waives any right to require the Landlord to (a) proceed against the Tenant or pursue any rights or remedies against the Tenant with respect to the Lease; (b) proceed against or exhaust any security of the Tenant held by the Landlord; or (c) pursue any other remedy whatsoever in the Landlord's power. The Landlord has the right to enforce this Indemnity regardless of the acceptance of additional security from the Tenant and regardless of any release or discharge of the Tenant by the Landlord or by others or by operation of any law.
6. Without limiting the generality of the foregoing, the liability of the Indemnifier under this Indemnity is not and is not deemed to have been waived, released, discharged, impaired or affected by reason of the release or discharge of the Tenant in any receivership, bankruptcy, winding-up or other creditors' proceedings or any Unexpected Termination (as that term is defined in Section 1(b) above) and shall continue with respect to the periods prior thereto and thereafter, for and with respect to the Term as if an Unexpected Termination or any receivership, bankruptcy, wind-up or other creditors' proceedings had not occurred, and in furtherance hereof, the Indemnifier agrees, upon any such Unexpected Termination or any receivership, bankruptcy, wind-up or other creditors' proceedings, that the Indemnifier shall, at the option of the Landlord, exercisable at any time after such Unexpected Termination or any receivership, bankruptcy, wind-up or other creditors' proceedings, become the Tenant of the Landlord upon the same terms and conditions as are contained in the Lease, applied *mutatis mutandis*. The liability of the Indemnifier shall not be affected by any failure of the Landlord to exercise this option, nor by any repossession of the Premises by the Landlord provided, however, that the net payments received by the Landlord after deducting all costs and expenses of repossessing and reletting the Premises shall be credited from time to time by the Landlord against the indebtedness of the Indemnifier hereunder and the Indemnifier shall pay any balance owing to the Landlord from time to time immediately upon demand.
7. No action or proceedings brought or instituted under this Indemnity and no recovery in pursuance thereof shall be a bar or defence to any further action or proceeding which may be brought under this Indemnity by reason of any further default or default hereunder or in the performance and observance of the terms, covenants and conditions contained in the Lease.
8. No modification of this Indemnity shall be effective unless it is in writing and is executed by both the Indemnifier and the Landlord.
9. The Indemnifier shall, without limiting the generality of the foregoing, be bound by this Indemnity in the same manner as though the indemnifier were the Tenant named in the Lease. Notwithstanding the foregoing, or any performance in whole or in part by the Indemnifier of its obligations hereunder or of the Tenant under the Lease, the Indemnifier shall not have any entitlement to occupy the Premises or otherwise enjoy any of the benefits to which the Tenant is entitled under the Lease, and the Indemnifier shall not be entitled to be subrogated to any rights of the Landlord whatsoever.
10. If two or more individuals, corporations, partnerships or other business associations (or any combination of two or more thereof) execute this Indemnity as Indemnifier, the liability of each such individual, corporation, partnership or other business association hereunder is joint and several. In like manner, if the Indemnifier named in this Indemnity is a partnership or other business association, the members of which are by virtue of statutory or general law, subject to personal liability, the liability of each such member is joint and several.
11. All of the terms, covenants and conditions of this Indemnity extend to and are binding upon the Indemnifier, his, her or its heirs, executors, administrators, successors and assigns, as the case may be, and enure to the benefit of and may be enforced by the Landlord, the Owners and any Mortgagees.

12. The expressions "Event of Default", "Landlord", "Tenant", "Rent", "Term", and "Premises" and other terms or expressions where used in this Indemnity, respectively, have the same meaning as in the Lease.
13. The use of words in the singular or plural, or with a particular gender, shall not limit the scope or exclude the application of any provision of this Agreement to such person or persons or circumstances as the context otherwise permits.
14. The undersigned, as Indemnifier, hereby represents and warrants to and covenants and agrees with the Landlord that:
 - (a) notwithstanding the foregoing or any performance in whole or in part by the Indemnifier of the covenants of this Indemnity, the Indemnifier shall not, except at the option of the Landlord, have any entitlement to occupy the Premises or otherwise enjoy the benefits of the Tenant under this Lease;
 - (b) the Indemnifier has full power and authority to enter into this Agreement and to perform the Indemnifier's obligations contained herein;
 - (c) this Agreement is valid and binding upon the Indemnifier and enforceable against the Indemnifier in accordance with its terms; and
 - (d) in entering into this Agreement, the Indemnifier, if a corporation, is not contravening Section 44 of the *Canada Business Corporations Act*, R.S.C. 1985, c.C-44 or the corresponding Section in the *Business Corporations Act* of the Province, as the case may be, as these Acts may be amended from time to time, or any statute that replaces or supersedes those Acts.
15. If a part of this Agreement or the application of it to any Person hereunder or circumstance is to any extent held or rendered invalid, unenforceable or illegal, that part:
 - (a) is independent of the remainder of this Agreement and is severable from it, and its invalidity, unenforceability or illegality does not affect, impair or invalidate the remainder of this Agreement; and
 - (b) continues to be applicable to and enforceable to the fullest extent permitted by law against any Person hereunder and circumstance, except those as to which it has been held or rendered invalid, unenforceable or illegal.
16. The Indemnifier agrees to execute such further assurances in connection with this Agreement as the Landlord may reasonably require.
17. This Agreement shall be construed in accordance with the laws of the Province in which the Shopping Centre is located.
18. This Agreement is the sole agreement between the Landlord and the Indemnifier relating to the indemnity and there are no other written or verbal agreements or representations relating thereto. This Agreement may not be amended except in writing and signed by the Indemnifier and two authorized representatives of the Landlord. No electronic communications between the parties will create or alter any legal rights or obligations of the parties.

19. Wherever in this Indemnity reference is made to either the Landlord or the Tenant, the reference is deemed to apply also to the heirs, executors, administrators, successors and assigns of the Landlord and the heirs, executors, administrators, permitted successors, and permitted assigns of the Tenant. Any assignment by the Landlord of any of its interests in the Lease operates automatically as an assignment to such assignee of the benefit of this Indemnity.

IN WITNESS WHEREOF the Landlord and the Indemnifier have signed and sealed this Agreement.

SIGNED, SEALED AND DELIVERED
in the presence of:

) **BENTALL RETAIL SERVICES LIMITED**
) **PARTNERSHIP (by its General Partner,**
) **BENTALL RETAIL SERVICES G.P. LTD.) as**
) **Authorized Agent for**
) **SUN LIFE ASSURANCE COMPANY OF CANADA**
) **(Landlord)**

) Per: _____
) **Authorized Signature**

) Per: _____
) **Authorized Signature**

) **I/We have authority to bind the corporation.**

) **(Indemnifier)**

) _____
) **BRUCE BERGEZ**

INDEMNITY AGREEMENT

THIS AGREEMENT is dated October 28, 2004.

B E T W E E N :

SUN LIFE ASSURANCE COMPANY OF CANADA

(the "Landlord")

OF THE FIRST PART

- and -

BRUCE BERGEZ

(the "Indemnifier")

OF THE SECOND PART

In order to induce the Landlord to enter into the Lease, (the "Lease") dated October 28, 2004, and made between the Landlord and S.H.S. OPTICAL LTD. as Tenant and for other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, the Indemnifier hereby makes the following indemnity and agreement (the "Indemnity") with and in favour of the Landlord:

1. (a) The Indemnifier hereby agrees with the Landlord that at all times during the Term of the Lease and any extensions or renewals thereof or overholding by the Tenant under the Lease, it will (i) make the due and punctual payment of all Rent, monies, charges and other amounts of any kind whatsoever payable under the Lease by the Tenant whether to the Landlord or otherwise; (ii) effect prompt and complete performance and observance of all and singular the terms, covenants and conditions contained in the Lease on the part of the Tenant to be kept, observed and performed; and (iii) indemnify and save harmless the Landlord from any loss, costs or damages arising out of any failure by the Tenant and the Indemnifier to pay the aforesaid Rent, monies, charges and other amounts of any kind whatsoever payable under the Lease or resulting from any failure by the Tenant and the Indemnifier to observe or perform any of the terms, covenants and conditions contained in the Lease.

(b) The Indemnifier's covenants and obligations set out in paragraph (a) above will not be affected by any disaffirmance, disclaimer, repudiation, rejection, termination or unenforceability of the Lease or by any other event or occurrence which would have the effect at law of terminating any obligations of the Tenant prior to the termination of the Lease whether pursuant to court proceedings or otherwise and no surrender of the Lease to which the Landlord has not provided its written consent (all of which are referred to collectively and individually in this Agreement as an "Unexpected Termination"), and the occurrence of any such Unexpected Termination shall not reduce the period of time in which the Indemnifier's covenants and obligations hereunder apply, which period of time includes, for greater certainty, that part of the Term of the Lease and any extensions or renewals thereof which would have followed had the Unexpected Termination not occurred.
2. This Indemnity is absolute and unconditional and the obligations of the Indemnifier and the rights of the Landlord under this Indemnity shall not be prejudiced, waived, released, discharged, mitigated, impaired or affected by (a) any extension of time, indulgences or modifications which the Landlord extends to or makes with the Tenant in respect of the performance of any of the obligations of the Tenant (or any other obligated Person) under the Lease; (b) any waiver by or failure of the Landlord to enforce any of the terms, covenants and conditions contained in the Lease; (c) any Transfer of the Lease (as that term is defined in Article XIII of the Lease) by the Tenant or by any trustee, receiver, liquidator or any other Person; (d) any consent which the Landlord gives to any such Transfer; (e) any amendment to the Lease or any waiver by the Tenant of any of its rights under the Lease; (f) the expiration of the Term or (g) any Unexpected Termination (as that term is defined in Section 1(b) above), (h) any renewal or extension of the Term of the Lease, Indemnifier hereby agreeing that its obligations under this Indemnity shall extend throughout the Term, as renewed or extended. The obligations of the Indemnifier are as primary obligor and not as a guarantor of the Tenant's obligations.
3. The Indemnifier hereby expressly waives notice of the acceptance of this Indemnity Agreement and all notice of non-performance, non-payment or non-observance on the part of the Tenant of the terms, covenants and conditions in the Lease. Notwithstanding the foregoing but without prejudicing the foregoing, any notice which the Landlord desires to give to the Indemnifier shall be sufficiently given if delivered to the Indemnifier, or, if mailed, by prepaid registered mail addressed

to the Indemnifier at the Premises, or, at the Landlord's option, at 1550 Upper James, Unit #10, Hamilton, Ontario, L9B 2L6, and every such notice is deemed to have been given upon the day it was delivered, or if mailed, seventy-two (72) hours after the date it was mailed. Notwithstanding any law to the contrary, no electronic communications of notices, demands or requests under this Agreement will be considered as legally effective. Despite what is stated above, the Indemnifier acknowledges that if its address is stipulated as a post office box or rural route number, then notice will be considered to have been sufficiently given to the Indemnifier if delivered or sent by registered mail to the Premises or, where notice cannot be given in person upon the Premises, by posting the notice upon the Premises. The Indemnifier may designate by notice in writing a substitute address for that set forth above and thereafter notice shall be directed to such substitute address. If two or more Persons are named as Indemnifier, such notice given hereunder or under the Lease shall be deemed sufficiently given to all such Persons if delivered or mailed in the foregoing manner to any one of such Persons.

4. If an Event of Default has occurred under the Lease or a default under this Indemnity, the Indemnifier waives any right to require the Landlord to (a) proceed against the Tenant or pursue any rights or remedies against the Tenant with respect to the Lease; (b) proceed against or exhaust any security of the Tenant held by the Landlord; or (c) pursue any other remedy whatsoever in the Landlord's power. The Landlord has the right to enforce this Indemnity regardless of the acceptance of additional security from the Tenant and regardless of any release or discharge of the Tenant by the Landlord or by others or by operation of any law.
5. Without limiting the generality of the foregoing, the liability of the Indemnifier under this Indemnity is not and is not deemed to have been waived, released, discharged, impaired or affected by reason of the release or discharge of the Tenant in any receivership, bankruptcy, winding-up or other creditors' proceedings or any Unexpected Termination (as that term is defined in Section 1(b) above) and shall continue with respect to the periods prior thereto and thereafter, for and with respect to the Term as if an Unexpected Termination or any receivership, bankruptcy, wind-up or other creditors' proceedings had not occurred, and in furtherance hereof, the Indemnifier agrees, upon any such Unexpected Termination or any receivership, bankruptcy, wind-up or other creditors' proceedings, that the Indemnifier shall, at the option of the Landlord, exercisable at any time after such Unexpected Termination or any receivership, bankruptcy, wind-up or other creditors' proceedings, become the Tenant of the Landlord upon the same terms and conditions as are contained in the Lease, applied *mutatis mutandis*. The liability of the Indemnifier shall not be affected by any failure of the Landlord to exercise this option, nor by any repossession of the Premises by the Landlord provided, however, that the net payments received by the Landlord after deducting all costs and expenses of repossessing and reletting the Premises shall be credited from time to time by the Landlord against the indebtedness of the Indemnifier hereunder and the Indemnifier shall pay any balance owing to the Landlord from time to time immediately upon demand.
6. No action or proceedings brought or instituted under this Indemnity and no recovery in pursuance thereof shall be a bar or defence to any further action or proceeding which may be brought under this Indemnity by reason of any further default or default hereunder or in the performance and observance of the terms, covenants and conditions contained in the Lease.
7. No modification of this Indemnity shall be effective unless it is in writing and is executed by both the Indemnifier and the Landlord.
8. The Indemnifier shall, without limiting the generality of the foregoing, be bound by this Indemnity in the same manner as though the Indemnifier were the Tenant named in the Lease. Notwithstanding the foregoing, or any performance in whole or in part by the Indemnifier of its obligations hereunder or of the Tenant under the Lease, the Indemnifier shall not have any entitlement to occupy the Premises or otherwise enjoy any of the benefits to which the Tenant is entitled under the Lease, and the Indemnifier shall not be entitled to be subrogated to any rights of the Landlord whatsoever.
9. If two or more individuals, corporations, partnerships or other business associations (or any combination of two or more thereof) execute this Indemnity as Indemnifier, the liability of each such individual, corporation, partnership or other business association hereunder is joint and several. In like manner, if the Indemnifier named in this Indemnity is a partnership or other business association, the members of which are by virtue of statutory or general law, subject to personal liability, the liability of each such member is joint and several.
10. All of the terms, covenants and conditions of this Indemnity extend to and are binding upon the Indemnifier, his, her or its heirs, executors, administrators, successors and assigns, as the case may be, and enure to the benefit of and may be enforced by the Landlord, the Owners and any Mortgagee.
11. The expressions "Event of Default", "Landlord", "Tenant", "Rent", "Term", and "Premises" and other terms or expressions where used in this Indemnity, respectively, have the same meaning as in the Lease.

12. The use of words in the singular or plural, or with a particular gender, shall not limit the scope or exclude the application of any provision of this Agreement to such person or persons or circumstances as the context otherwise permits.
13. The undersigned, as Indemnifier, hereby represents and warrants to and covenants and agrees with the Landlord that:
 - (a) notwithstanding the foregoing or any performance in whole or in part by the Indemnifier of the covenants of this Indemnity, the Indemnifier shall not, except at the option of the Landlord, have any entitlement to occupy the Premises or otherwise enjoy the benefits of the Tenant under this Lease;
 - (b) the Indemnifier has full power and authority to enter into this Agreement and to perform the Indemnifier's obligations contained herein;
 - (c) this Agreement is valid and binding upon the Indemnifier and enforceable against the Indemnifier in accordance with its terms; and
 - (d) in entering into this Agreement, the Indemnifier, if a corporation, is not contravening Section 44 of the *Canada Business Corporations Act*, R.S.C. 1985, c.C-44 or the corresponding Section in the *Business Corporations Act* of the Province, as the case may be, as these Acts may be amended from time to time, or any statute that replaces or supersedes those Acts.
14. If a part of this Agreement or the application of it to any Person hereunder or circumstance is to any extent held or rendered invalid, unenforceable or illegal, that part:
 - (a) is independent of the remainder of this Agreement and is severable from it, and its invalidity, unenforceability or illegality does not affect, impair or invalidate the remainder of this Agreement; and
 - (b) continues to be applicable to and enforceable to the fullest extent permitted by law against any Person hereunder and circumstance, except those as to which it has been held or rendered invalid, unenforceable or illegal.
15. The Indemnifier agrees to execute such further assurances in connection with this Agreement as the Landlord may reasonably require.
16. This Agreement shall be construed in accordance with the laws of the Province in which the Shopping Centre is located.
17. This Agreement is the sole agreement between the Landlord and the Indemnifier relating to the indemnity and there are no other written or verbal agreements or representations relating thereto. This Agreement may not be amended except in writing and signed by the Indemnifier and two authorized representatives of the Landlord. No electronic communications between the parties will create or alter any legal rights or obligations of the parties.

18. Wherever in this Indemnity reference is made to either the Landlord or the Tenant, the reference is deemed to apply also to the heirs, executors, administrators, successors and assigns of the Landlord and the heirs, executors, administrators, permitted successors, and permitted assigns of the Tenant. Any assignment by the Landlord of any of its interests in the Lease operates automatically as an assignment to such assignee of the benefit of this Indemnity.

IN WITNESS WHEREOF the Landlord and the Indemnifier have signed and sealed this Agreement.

SIGNED, SEALED AND DELIVERED
in the presence of:

) **BENTALL RETAIL SERVICES LIMITED**
) **PARTNERSHIP (by its General Partner,**
) **BENTALL RETAIL SERVICES G.P. LTD.) as**
) **Authorized Agent for**
) **SUN LIFE ASSURANCE COMPANY OF CANADA**
) **(Landlord)**

) Per: _____

) *[Signature]*
) **Authorized Signature**

) Per: _____

) *[Signature]*
) **Authorized Signature**

) **I/We have authority to bind the corporation.**

) *[Signature]*
) _____

) **(Indemnifier)**

) **BRUCE BERGEZ**

V

RIOCAN

MIRACLE PLAZA

LEASE

BETWEEN:

RIOCAN HOLDINGS INC.

(LANDLORD)

- and -

SHS OPTICAL LTD.

(TENANT)

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THIS INDENTURE made this 18th day of April, 2005.

BETWEEN:

RIOCAN HOLDINGS INC.

(herein called the "Landlord")

OF THE FIRST PART

- and -

SHS OPTICAL LTD.

(herein called the "Tenant")

OF THE SECOND PART

SPECIAL PROVISIONS

The following are certain special provisions, which are part of, and are referred to in subsequent provisions of this Lease. Any conflict or inconsistency between these special provisions and the provisions contained elsewhere in this Lease will be resolved in favour of the provisions contained elsewhere in this Lease.

(a) Shopping Centre

Miracle Plaza, in the Town of Dundas, in the Province of Ontario, described legally in Schedule "A" attached hereto (the "Shopping Centre") and outlined in black on the plan attached hereto as Schedule "B".

(b) Leased Premises (Section 2.01)

Those premises in the Shopping Centre containing a Rentable Area of approximately one thousand, four hundred and ten (1,410) square feet, as shown cross-hatched in black on the plan attached as Schedule "B" hereto (the "Leased Premises"), and designated as Unit No. 7.

(c) Fixturing Period (Section 2.03)

The Fixturing Period shall be the maximum period of thirty (30) days, commencing on April 4, 2005 and expiring on the earlier of: (i) May 4, 2005; or (ii) the day prior to the date the Tenant opens for business to the public in any part of the Leased Premises.

In the event that Fixturing Period has not occurred by December 14, 2006, then this Lease shall be null and void and any deposits paid by the Tenant shall be returned to the Tenant, without interest or bonus.

(d) Term (Section 2.03)

The term of this Lease shall be the period of ten (10) years (the "Term"), commencing on the date (the "Commencement Date"), which is the earlier of: (i) the day immediately following the expiry of the Fixturing Period; or (ii) the day the Tenant opens for business to the public in any part of the Leased Premises.

(e) Use of the Leased Premises (Section 7.01)

The Tenant will use the Leased Premises solely for the purpose of conducting the principal business of the sale, at retail, of eyeglasses, contact lenses and associated items under the advertised name "Great Glasses".

(f) **Minimum Rent (Section 3.01)**

Annual rates payable during the Term shall be based upon the following annual rates per square foot of the Rentable Area of the Leased Premises and are payable in accordance with the terms of this Lease:

Years	Annual Rate per square foot	Annual Minimum Rent	Monthly Instalments
1 - 5	\$25.00	\$35,250.00	\$2,937.50
6 - 10	\$26.00	\$36,660.00	\$3,055.00

(g) **Percentage Rent (Section 3.02) - Intentionally Deleted**

(h) **Tax and Operating Cost Estimates (Sections 4.02 and 5.01 respectively)**

The Landlord estimates that Taxes for the 2005 Lease Year will be **Eight Dollars (\$8.00)** per square foot of the Rentable Area of the Leased Premises, and that Operating Costs for the 2005 Lease Year will be **Four Dollars and Fifty Cents (\$4.50)** per square foot of the Rentable Area of the Leased Premises.

Notwithstanding the foregoing, the Tenant releases the Landlord and its representatives from and against any damages or liabilities caused or contributed to by the fact that the actual Taxes or the actual Operating Costs payable in respect of the 2005 Lease Year and any subsequent Lease Year may be higher than the estimates set out herein.

(i) **Advance Rent and Security Deposit (Section 3.08)**

The sum of **Five Thousand, Nine Hundred and Ninety-Two Dollars and Fifty Cents (\$5,992.50)**, plus GST, of which the sum of **Two Thousand, Nine Hundred and Thirty-Seven Dollars and Fifty Cents (\$2,937.50)**, plus GST, is to be held by the Landlord, without interest, for application on account of **one (1)** month's instalment of Minimum Rent **first becoming payable under this Lease**, with the balance, in the amount of **Three Thousand and Fifty-Five Dollars (\$3,055.00)**, plus GST, to be held by the Landlord, without interest, as a security deposit (the "Security Deposit") pursuant to the terms of this Lease.

(j) **Tenant's Address (Section 14.08)**

286 York Road
Dundas, Ontario L9H 6L8

(k) **Landlord's Address (Section 14.08)**

c/o Riocan Real Estate Investment Trust
The Exchange Tower
130 King Street West, Suite 700
Toronto, Ontario M5X 1E2

with a copy to:

RioCan Property Services
Lawrence Square
700 Lawrence Avenue West, Suite 315
Toronto, Ontario M6A 3B4

(l) **Indemnifier**

Bruce Bergez

(m) **Indemnifier's Address**

286 York Road
Dundas, Ontario L9H 6L8

(n) **Additional Provisions (Schedule "G")**

1. **Options to Extend Term**
2. **Minimum Rent Free Period**
3. **Exclusive Covenant**

**ARTICLE I
DEFINITIONS**

1.01 Definitions

In this Lease:

(i) "Additional Rent" means all and any monies required to be paid by the Tenant to the Landlord under or pursuant to the terms of this Lease, save only for Minimum Rent.

(ii) "Architect" shall mean the architect from time to time named by the Landlord or at the option of the Landlord, the Landlord's general contractor. Any certificate provided by the Architect and called for by the terms of this Lease shall be final and binding on the parties hereto.

(iii) "Commencement Date" means a date determined in accordance with the provisions of paragraph (d) of the Special Provisions.

(iv) "Common Areas" means those areas, facilities, utilities, improvements, equipment and installations in the Shopping Centre which from time to time are not designated or intended by the Landlord to be leased to tenants of the Shopping Centre, and those areas, facilities, utilities, improvements, equipment and installations which serve or are for the benefit of the Shopping Centre whether or not located in, adjacent to or near the Shopping Centre and which are designated from time to time by the Landlord as part of the Common Areas. Without limiting the generality of the foregoing, Common Areas includes all parking areas and parking garages, all entrances and exits thereto and all structural elements thereof, employee parking areas, access roads, truck courts, driveways, truckways, delivery passages, the roof, exterior weather walls, exterior and interior structural elements and bearing walls in the building and improvements comprising the Shopping Centre, package pick-up stations, loading and related areas, pedestrian sidewalks, landscaped and planted areas, bus kiosks, if any, roadways and stops, signs, equipment and fixtures, stairways, ramps, electrical, telephone, meter, valve, mechanical, mail storage service and janitor rooms and galleries, fire prevention, security and communication systems, columns, pipes, electrical, plumbing, drainage, any central system for the provision of heating, ventilating or air conditioning to leasable premises or any enclosed Common Areas and all other installations, equipment or services located therein or related thereto as well as the structures housing the same. Common Areas further include any such interior areas, facilities, utilities, improvements, equipment and installations, including but not limited to all open and enclosed malls, courts and arcades, public seating and service areas, corridors, furniture, first aid and/or information stations, auditoria, conference rooms, nurseries, childcare play areas and related kitchen and storage facilities, escalators, elevators, public washrooms, music systems and any Food Court.

(v) "C.P.I." means the Consumer Price Index (All Items) for Canada (or any index published in substitution for the Consumer Price Index or any other replacement index reasonably designated by the Landlord, if it is no longer published) published by Statistics Canada (or by any successor thereof or any other governmental agency, including a provincial agency).

(vi) "Food Court" means those portions of the Common Areas designated by the Landlord from time to time for use in support of the operations of any group of premises providing quick food service to customers of the Shopping Centre and includes, without limiting the generality of the foregoing, public table and seating areas, waste collection facilities and other areas, facilities and equipment intended for such use.

(vii) "Gross Receipts" - **Intentionally deleted.**

(viii) "GST" means goods and services taxes, value-added taxes, multi-stage taxes, business transfer taxes or other similar taxes however they are characterized.

(ix) "Hazardous Substances" means any contaminant, pollutant, dangerous substance, potentially dangerous substance, noxious substance, toxic substance, hazardous waste, flammable, explosive or radioactive material, urea formaldehyde foam insulation, asbestos, PCB's or any other substances or materials that are declared or defined to be hazardous, toxic, contaminants or pollutants in or pursuant to any applicable federal, provincial or municipal statute, by-law or regulation.

(x) "Indemnifier" means a person, if any, referred to in paragraph (l) of the Special Provisions, who has executed or agreed to execute the Indemnity Agreement that is attached to this Lease as Appendix "A".

(xi) "Landlord" includes the Landlord and its successors and assigns.

(xii) "Lease" means this indenture of lease and includes any riders and schedules hereto and shall also include any agreements entered into which have the effect of amending this indenture from time to time.

(xiii) "Leased Premises" means the premises leased to the Tenant as referred to and described in paragraph (b) of the Special Provisions. Save as mentioned below, the boundaries of the Leased Premises shall be determined by the Landlord's architect and measured from: (a) the exterior face of all exterior walls, doors and windows; (b) the exterior face of all interior walls, doors and windows separating the Leased Premises from the Common Areas and facilities of the Shopping Centre, if any; and (c) the centre line of all interior walls separating the Leased Premises from adjoining leasable premises. Such exact area shall be used for all calculations of Minimum Rent and Additional Rent. The Leased Premises extend from the top surface of the structural subfloor to the bottom surface of the structural ceiling. If the Leased Premises have no ceiling abutting the demising walls, but rather are open to the ceiling of the Shopping Centre building, the boundaries of the Leased Premises extend from the top surface of the structural subfloor to the height of the demising walls.

(xiv) "Lease Year" shall mean a period of time, the first Lease Year commencing on the Commencement Date and ending on the 31st day of December in the calendar year of the Commencement Date. Thereafter Lease Years shall consist of consecutive periods of twelve calendar months ending in each case on December 31st, save for the last Lease Year of the Term which shall terminate upon the expiration or earlier termination of this Lease, as the case may be.

(xv) "Minimum Rent" means the annual minimum rent as set out in paragraph (f) of the Special Provisions, payable by the Tenant pursuant to Section 3.01.

(xvi) "Mortgagee" means any mortgagee, chargee or hypothecary creditor (including any trustee for bondholders) of the Shopping Centre or any part thereof.

(xvii) "Operating Costs" means the total cost and expense incurred in owning, operating, maintaining, managing and administering the Shopping Centre and the Common Areas, excluding only the original acquisition costs and financing and mortgage charges, but specifically including without limiting the generality of the foregoing, all Taxes not recovered from tenants of the Shopping Centre; any capital or place of ownership taxes levied against the Landlord or any owners of the Shopping Centre on account of their interest in the Shopping Centre, in an amount equitably allocated to the Shopping Centre by the Landlord; gardening and landscaping charges; the cost and expenses of taking out the insurance described in Section 9.03; cleaning, snow removal, garbage and waste collection and disposal; a rental charge imposed by the Landlord, in its sole discretion, for the non-leasable service areas serving the Shopping Centre, including any enclosed garbage, utility, transformer, electrical, telephone or storage room or rooms; lighting, electricity, public utilities, loud speakers, public address and musical broadcasting systems and any telephone answering service used in or serving the Shopping Centre, and the cost of electricity and maintenance for any signs designated by the Landlord as part of the Common Areas; policing, security, supervision and traffic control; salaries and benefits of all supervisory and other personnel employed in connection with the Shopping Centre and management office rent imputed to the Shopping Centre by the Landlord; the cost of providing additional parking or other Common Areas for the benefit of the Shopping Centre, whether such costs be land rent, Taxes or other type of costs; the costs and expenses of environmental site reviews and investigations, removal and/or clean-up of Hazardous Substances from the Common Areas; the cost of the rental of any equipment and signs and the cost of supplies used in the maintenance and operation of the Shopping Centre and the Common Areas; accounting and audit fees incurred in the preparation of the statements required to be prepared and supplied by the Landlord under the terms of this Lease; heating, ventilating and air conditioning of the Common Areas; all repairs and replacements to and maintenance and operation of the Shopping Centre and the Common Areas; depreciation or amortization of the costs, including repair and replacement, of all maintenance and cleaning equipment, master utility meters, and all other fixtures, equipment, and facilities serving or comprising the Shopping Centre or the Common Areas, which are not charged fully in the Lease Year in which they are incurred, from the earlier of the date when the cost was incurred or the Commencement Date, at rates on the various items determined from time to time by the Landlord in accordance with sound accounting principles; interest calculated at two (2) percentage points above the Prime Rate upon the undepreciated or unamortized portion of the costs referred to above; and an administration fee of fifteen percent (15%) of the total of all of the above costs, excluding only Taxes, insurance and the management fee referred to in Section 5.02 hereof. Provided however if the Shopping Centre is a multi-use commercial development, the Landlord may adjust the costs set out above and/or the Tenant's proportionate share fraction in accordance with practices relevant to multi-use commercial developments on a basis consistent with the benefits derived by the tenants of each component of the Shopping Centre and having regard to the nature of the particular costs and expenses being allocated.

(xviii) "Percentage Rent" - ~~Intentionally deleted.~~

(xix) "Prime Rate" means the annual rate of interest from time to time publicly quoted by any Canadian chartered bank designated by the Landlord as its reference rate of interest for determining rates of interest chargeable in Toronto on Canadian dollar demand loans to commercial customers.

(xx) "Proportionate Share" means a fraction, the numerator of which is the Rentable Area of the Leased Premises and the denominator of which is the Rentable Area of the Shopping Centre.

(xxi) "Rent" means all Minimum Rent and Additional Rent payable pursuant to the terms of this Lease.

(xxii) "Rentable Area of the Leased Premises" means the area expressed in square feet of all floors of the Leased Premises measured from:

- (i) the exterior face of all exterior walls, doors and windows;
- (ii) the exterior face of all interior walls, doors and windows separating the Leased Premises from Common Areas, if any; and
- (iii) the centre line of all interior walls separating the Leased Premises from adjoining leasable premises.

The Rentable Area of the Leased Premises includes all interior space whether or not occupied by projections, structures or columns, structural or non-structural, and if the store front of the Leased Premises is recessed from the lease line, the area of such recess for all purposes (including, without limitation, the calculation of Rent) shall be deemed to lie within the Rentable Area of the Leased Premises. If the Leased Premises have the benefit of the use of any common loading areas, utility rooms, hallways or other Common Areas (in common with other tenants in the Shopping Centre), the area of the Leased Premises shall be grossed-up to include a reasonable portion of such Common Areas. Provided, however, that:

- (1) if the Leased Premises are a kiosk, then for the purposes of determining the fraction that is the Tenant's Proportionate Share, the Rentable Area of the Leased Premises shall be multiplied by a factor of 2; and
- (2) if the Leased Premises are storage premises, then for the purposes of determining the fraction that is the Tenant's Proportionate Share, the Rentable Area of the Leased Premises shall be multiplied by a factor of 1/2.

(xxiii) "Rentable Area of the Shopping Centre" means the area in square feet of all rentable premises in the Shopping Centre set aside for leasing by the Landlord from time to time, except for any store occupying an area in excess of 15,000 square feet, any theatre, kiosks, gas bar, library, post office or other governmental agency or office, any premises located on a floor generally designated by the Landlord for use or occupancy by office tenants or for office purposes (whether or not such premises are in fact used by an office tenant or for office purposes), any premises not fronting on or having access to the enclosed mall (if any), and any basements or mezzanines, storage areas or free-standing buildings. Provided however that the Landlord shall credit to Operating Costs any contributions received in respect of such Operating Costs from the occupants of any of the areas excluded from the Rentable Area of the Shopping Centre in accordance with this definition. Provided further that in determining the fraction that is the Tenant's Proportionate Share, if the Leased Premises consists of any of the foregoing excluded categories, the Rentable Area of that category will be included in the Rentable Area of the Shopping Centre.

(xxiv) "Rules and Regulations" means the rules and regulations adopted and promulgated by the Landlord from time to time acting reasonably and in such manner as would a prudent landlord of a reasonably similar shopping centre, including those listed on Schedule "D".

(xxv) "Shopping Centre" means the lands and premises referred to in paragraph (a) of the Special Provisions, as such lands and premises may be altered, expanded or reduced from time to time and the buildings, improvements, equipment and facilities erected thereon or situate from time to time therein.

(xxvi) "Taxes" means all duties, real property taxes, charges, assessments and payments, from time to time levied, assessed or imposed upon the Shopping Centre or any part thereof or upon the Landlord by reason of its ownership of the Shopping Centre, by any taxing authority. Taxes shall also include any penalties, late payment or interest charges imposed by any municipality or other taxing authority as a result of the Tenant's late payments of any taxes or instalments thereof.

(xxvii) "Tenant" means the party named as Tenant in this Lease.

(xxviii) "Term" means the period referred to in paragraph (d) of the Special Provisions.

ARTICLE II GRANT, TERM AND INTENT

The Tenant hereby agrees to and with the Landlord to lease the Leased Premises in the Shopping Centre on the following terms, covenants and conditions:

2.01 Leased Premises

In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord demises and leases to the Tenant and the Tenant leases from the Landlord, the Leased Premises. The Leased Premises are presently designated, and contain a Rentable Area, as described in paragraph (b) of the Special Provisions.

2.02 Use of Common Areas

The use and occupation by the Tenant of the Leased Premises shall entitle the Tenant to the use in common with all others entitled thereto of the Common Areas, subject however, to the terms and conditions of this Lease and to reasonable rules and regulations for the use thereof as prescribed from time to time by the Landlord.

2.03 Fixturing Period and Term - See Schedule "G" - Options to Extend Term

The Term of this Lease shall be the period referred to in paragraph (d) of the Special Provisions.

During the Fixturing Period referred to in paragraph (c) of the Special Provisions, the Tenant shall work diligently to complete all of the Tenant's Work and to install its fixtures and inventory and to open for business within the Leased Premises. Prior to commencing any work within the Leased Premises, the Tenant must deliver to the Landlord a certificate confirming that its contractor has obtained general liability insurance in the form acceptable to the Landlord and in accordance with the Landlord's general requirements, naming both the Landlord and its property manager as additional named insureds. During the Fixturing Period, the Tenant shall be bound by all terms, covenants and conditions contained in this Lease, save and except for those requiring the payment of Minimum Rent and Additional Rent payable herein (save for any Additional Rent arising by virtue of the default of the Tenant under this Lease and save for the obligation of the Tenant to pay for all utility charges used by the Tenant or consumed in the Leased Premises during the Fixturing Period).

In the event the Tenant fails to take possession and to open the Leased Premises for business fully fixtured, stocked and staffed on the Commencement Date, then the Landlord shall, in addition to any and all remedies herein provided, have the option to terminate this Lease upon notice to the Tenant and to recover from the Tenant the cost of all work done by the Landlord pursuant to Schedule "C" hereof and/or on the Tenant's behalf, without prejudice to any of the Landlord's rights or remedies hereunder or at law.

Forthwith upon the Commencement Date being determined in accordance with the foregoing, the Tenant shall execute an acknowledgement of same on Landlord's usual form.

2.04 Net Lease Intent

The Tenant acknowledges and agrees that it is intended that this Lease is a completely carefree net lease to the Landlord, except as expressly herein set out, that the Landlord is not responsible during the Term for any costs, charges, expenses and outlays of any nature whatsoever arising from or relating to the Leased Premises, or the use and occupancy thereof, or the contents thereof, or the business carried on therein, and the Tenant shall pay all charges, impositions, costs and expenses of every nature and kind relating to the Leased Premises except as expressly herein set out.

2.05 Construction of the Leased Premises

The Landlord and the Tenant hereby agree to observe and comply with the general provisions set forth in Schedule "C" attached hereto which sets out any Landlord's Work and Tenant's Work.

The Landlord is not obligated to proceed with or complete the construction of the Shopping Centre or any part thereof for any reason whatsoever as determined in its sole discretion. If the Landlord decides not to proceed with or complete the construction of that portion of the Shopping Centre which contains the Leased Premises, the Landlord shall so notify the Tenant in writing and thereupon this Lease shall terminate and each of the parties hereto shall be relieved and discharged from any and all liability and responsibility hereunder and any deposit being held by the Landlord shall be returned to the Tenant without interest or deduction, so long as the Tenant is not then in default.

**ARTICLE III
RENT AND DEPOSIT**

3.01 Minimum Rent - See Schedule "G" - Minimum Rent Free Period

The Tenant covenants and agrees to pay unto the Landlord from and after the Commencement Date a Minimum Rent for the Leased Premises payable in equal consecutive monthly instalments in advance on or before the first day of each month, without any prior demand therefor and without any deduction, abatement or set-off whatsoever, as set out in paragraph (f) of the Special Provisions hereof.

The said Minimum Rent is calculated on the basis of the Leased Premises having a Rentable Area as described in paragraph (b) of the Special Provisions hereof at an annual charge per square foot of the Rentable Area of the Leased Premises as described in paragraph (f) of the Special Provisions hereof. Upon the delivery of an Architect's certificate establishing the Rentable Area of the Leased Premises, the Minimum Rent shall be adjusted to give effect thereto.

The Tenant shall pay all Rent calculated on a per diem basis, from the Commencement Date to the last day of the month in which the Commencement Date occurs, and thereafter all Rent payments shall be made on the first day of each month throughout the Term unless otherwise specified herein.

3.02 Percentage Rent - Intentionally Deleted

3.03 Reports by Tenant - Intentionally Deleted

3.04 Tenant's Records - Intentionally Deleted

3.05 Right to Examine Books - Intentionally Deleted

3.06 Audit - Intentionally Deleted

3.07 Rent Past Due

If the Tenant fails to pay, when the same is due and payable, any Minimum Rent, Additional Rent or other amount payable by the Tenant under this Lease, such unpaid amounts shall bear interest from the due date thereof to the date of payment, compounded monthly at the rate equal to four (4) percentage points in excess of the Prime Rate, or at the Landlord's option, at the maximum annual rate permitted by law.

3.08 Security Deposit

The Security Deposit referred to in paragraph (i) of the Special Provisions shall be held by the Landlord throughout the Term as security for the Tenant's due performance of all its obligations hereunder, including, without limitation, its obligation to take possession, open for business, and execute any acknowledgements required by any mortgagee(s) of the Shopping Centre, all in accordance with the terms of this Lease. In the event the Tenant becomes in default under the terms hereof, the Landlord shall be entitled to retain the Security Deposit paid hereunder on account of the Landlord's liquidated damages and not as a penalty, provided that such retention shall be without prejudice to the Landlord's right to seek further and other remedies as it may be entitled to in law. This right will not be construed to limit the Landlord's other rights under this Lease or at law or to limit the amount recoverable by the Landlord for damages in respect of breaches by the Tenant of this Lease. If the Landlord uses all or part of the Security Deposit as provided above, the Tenant will, upon notification by the Landlord, pay to the Landlord the amount required to reimburse it for the amounts so applied. The Landlord will not be required to pay interest to the Tenant on any of the amounts paid to the Landlord or retained by it under this Section. The Landlord may deliver the aforesaid Security Deposit to any purchaser of the Landlord's interest in the Shopping Centre or any part thereof, whereupon the Landlord will immediately be discharged from any further liability with respect to the Security Deposit.

The Tenant will not assign or encumber its interest in the Security Deposit except in connection with a permitted Transfer, in which case the Tenant's interest in the Security Deposit will be deemed to have been assigned to the permitted Transferee as of the date of the Transfer.

3.09 Pre-Authorized Payments/Postdated Cheques

The Tenant shall participate in a pre-authorized payment plan whereby the Landlord will be authorized to debit the Tenant's bank account each month or from time to time during each Lease Year in an amount equal to the Minimum Rent and Additional Rent payable on a monthly basis, and, if applicable, generally any amount payable provisionally pursuant to the provisions of this Lease on an estimated

basis. The Tenant shall sign a form of application which is the same or similar to Schedule "E" to give full force and effect to the foregoing within five (5) days of presentation.

In lieu of the pre-authorized payment plan referred to above, the Landlord shall be entitled to require the Tenant to present at the beginning of each Lease Year a series of monthly post-dated cheques for each such Lease Year for the aggregate of the monthly payments of Minimum Rent and Additional Rent payable on a monthly basis, and, if applicable, generally any amount payable provisionally pursuant to the provisions of this Lease on an estimated basis.

ARTICLE IV TAXES

4.01 Taxes Payable by Landlord

The Landlord shall pay all Taxes which are levied, rated, charged or assessed against the Shopping Centre or any part thereof subject always to the provisions of this Lease regarding payment of Taxes by the Tenant. However, the Landlord may defer payment of any such Taxes or defer compliance with any statute, law, by-law, regulation or ordinance in connection with the levying of any such Taxes in each case to the fullest extent permitted by law, so long as it diligently prosecutes any contest or appeal of any such Taxes.

4.02 Taxes Payable by Tenant

(i) The Tenant shall during the Term pay, as Additional Rent, all Taxes levied, laid or assessed on or against the Leased Premises. In addition to and without any duplication of the Taxes levied or assessed against the Leased Premises, the Tenant shall also pay a share of all Taxes levied, rated, charged or assessed from time to time against the Common Areas.

(ii) In the event that a separate tax bill is issued by any lawful taxing authority, then the Taxes payable by the Tenant in respect of the Leased Premises (and, if set out in such separate tax bill, the Common Areas) will be determined on the basis of such separate tax bill. If there is no such separate tax bill, then at the Landlord's option (i) the Taxes payable by the Tenant in respect of the Leased Premises shall be calculated on the basis of the assessed value of the Leased Premises, and the Taxes payable by the Tenant in respect of the Common Areas shall be the Tenant's Proportionate Share of all Taxes in respect of the Common Areas, or (ii) if the Landlord elects or is not able to charge on the basis of assessed value, then the Tenant shall pay in lieu thereof its Proportionate Share of all Taxes levied, rated, charged or assessed from time to time against the Shopping Centre, including the Common Areas.

(iii) All Taxes shall be paid by the Tenant to the Landlord upon receipt of an invoice for the Taxes from the Landlord or the taxing authority having jurisdiction.

(iv) In the case of assessments for local improvements or betterments which are assessed or imposed during the Term and which may by law be payable in instalments, the Tenant shall only be obligated to pay such instalments as same fall due during the Term, together with interest on deferred payments, on condition that the Tenant shall take such steps as may be prescribed by law to convert the payment of the assessment into instalment payments. Such payments of instalments and any interest thereon shall be made before any fine, penalty, interest or cost may be added thereto for non-payment of any instalment or interest thereon.

(v) In any suit or proceeding of any kind or nature arising or growing out of the failure of the Tenant to keep any covenant contained in this Article, the certificate or receipt of the department, officer or bureau charged with collection of the Taxes, showing that the tax, assessment or other charge affecting the Leased Premises is due and payable or has been paid, shall be prima facie evidence that such tax, assessment or other charge was due and payable as a lien or charge against the Leased Premises or that it has been paid as such by the Landlord.

(vi) The Tenant shall have the right to contest or review by legal proceedings or in such manner as the Tenant in its opinion shall deem advisable (which proceedings or other steps taken by the Tenant shall be conducted diligently at its own expense and free of expense to the Landlord) any and all Taxes levied, assessed or imposed upon or against the Leased Premises or Taxes in lieu thereof required to be paid by the Tenant hereunder. No such contest shall defer or suspend the Tenant's obligations to pay the Taxes as herein provided pending the contest, but if by law it is necessary that such payment be suspended to preserve or perfect the Tenant's contest, then the contest shall not be undertaken without there being first deposited with the Landlord a sum of money equal to twice the amount of the Taxes that are the subject of the contest, to be held by the Landlord as an indemnity to pay such Taxes upon conclusion of the contest and all costs thereof that may be imposed upon the Landlord or the Leased Premises.

(vii) The Tenant upon request of the Landlord will promptly exhibit to the Landlord all paid bills for Taxes, which bills after inspection by the Landlord shall be returned to the Tenant.

(viii) Any Taxes relating to a fiscal period of the taxing authority, a part of which is within the Term and a part of which is prior to the commencement of the Term or subsequent to the expiration or

earlier termination of the Term, shall, whether or not such Taxes shall be assessed, levied, imposed or become a lien upon the Leased Premises, or shall become payable during the Term, be apportioned and adjusted between the Landlord and the Tenant as of the date of commencement, expiration or termination of the Term, as the case may be.

(ix) If the Tenant designates that Taxes go to support separate schools, the Tenant shall pay the difference, if any, between the rate for separate and public schools to the Landlord, together with any other payment pursuant to this Section 4.02.

(x) Notwithstanding any other provisions of this Section 4.02, the Landlord may, at its option, estimate the amount of Taxes payable by the Tenant during a particular Lease Year and the Tenant shall, at the request of the Landlord, pay one-twelfth of such estimate to the Landlord together with the monthly payment of Minimum Rent, with appropriate adjustments to be made between the Landlord and the Tenant within one hundred and twenty (120) days after the end of each Lease Year.

4.03 GST Payable by Tenant

The Tenant shall pay to the Landlord all GST on Rent and any other GST imposed by the applicable legislation on the Landlord or Tenant with respect to this Lease, in the manner and at the times required by the applicable legislation. Such amounts are not consideration for the rental of space or the provision by the Landlord of any service under this Lease, but shall be deemed to be Rent and the Landlord shall have all of the same remedies for and rights of recovery of such amounts as it has for recovery of Rent under this Lease. If a deposit is forfeited to the Landlord, or an amount becomes payable to the Landlord due to a default or as consideration for a modification of this Lease, and the applicable legislation deems a part of the deposit or amount to include GST, the deposit or amount will be increased and the increase paid by the Tenant so that the Landlord will receive the full amount of the forfeited deposit or other amount payable without encroachment by any deemed GST portion.

4.04 Business Taxes and Other Taxes of Tenant

The Tenant shall pay as Additional Rent to the lawful taxing authorities or to the Landlord, as it may direct, and shall discharge in each Lease Year, when the same becomes due and payable:

(a) all taxes, rates, duties, assessments and other charges that are levied, rated, charged or assessed against or in respect of: (i) all improvements, equipment and facilities of the Tenant on or in the Leased Premises or the Shopping Centre or any part or parts thereof or (ii) the Landlord on account of its ownership of or interest in the items referred to in subparagraph (i); and

(b) every tax and license fee which is levied, rated, charged or assessed against or in respect of: (i) any business carried on in the Leased Premises or in respect of the use or occupancy thereof or any other part of the Shopping Centre by the Tenant and any subtenant, licensee, or other occupant of the Leased Premises, or (ii) the Landlord on account of its ownership thereof or interest therein, in respect of any business referred to in subparagraph (i);

whether in any case any such taxes, rates, duties, assessments or license fees are rated, charged or assessed by any federal, provincial, municipal or other body. If there are not separate tax bills provided for such taxes, the Landlord is entitled to allocate them to the Tenant using the methods referred to in subsection 4.02(ii).

ARTICLE V OPERATING COSTS, MANAGEMENT FEE, HVAC AND UTILITIES

5.01 Operating Costs Payable by Tenant

(i) In each Lease Year, the Tenant shall pay to the Landlord, as Additional Rent, its Proportionate Share of the Operating Costs incurred by the Landlord during such Lease Year. The Tenant acknowledges that Operating Costs may be allocated or attributed by the Landlord directly to or between the various components of the Shopping Centre including the retail, office and storage areas, as well as to the enclosed mall and the other buildings, if any, comprising part of the Shopping Centre and that the Landlord may adjust Operating Costs and/or the Tenant's Proportionate Share fraction in accordance with practices relevant to multi-use commercial developments on a basis consistent with the benefits derived by the tenants of each component of the Shopping Centre and having regard to the nature of the particular costs and expenses being allocated.

(ii) The Additional Rent to be paid under this Section 5.01 shall be paid by monthly instalments in advance on the first day of each and every month throughout the Term in an amount to be reasonably fixed from time to time by the Landlord as an estimate of actual expenses. The Landlord shall within one hundred and twenty (120) days of the end of each Lease Year submit to the Tenant a statement setting out the Operating Costs and the Tenant's Proportionate Share thereof. To the extent that the Tenant's Proportionate Share is greater than the amount actually paid by it, the Tenant shall forthwith upon receipt of the said statement pay such difference to the Landlord. In the event that the Tenant's Proportionate Share is less than the amount actually paid, such excess payment shall at the

option of the Landlord, be retained by the Landlord to be applied to the next succeeding instalment or instalments of Additional Rent due or may be refunded by the Landlord to the Tenant.

5.02 Management Fee

The Tenant shall pay to the Landlord, as Additional Rent, an annual property management fee in the amount of five percent (5%) of the total annual Minimum Rent payable by the Tenant to the Landlord under this Lease, at the times and in the manner described in Section 5.01(ii), mutatis mutandis.

5.03 Heating, Ventilating and Air Conditioning

In the event that the Landlord elects to maintain, repair and replace the heating, ventilating and/or air conditioning system and equipment serving the Leased Premises (which election the Landlord shall be entitled to make at any time throughout the Term, notwithstanding the Tenant's obligation to do so) then the Tenant shall pay monthly in advance, as Additional Rent, the Landlord's costs and expenses of all repairs, replacements to and maintenance and operation of the heating, ventilating and air conditioning equipment and systems which serve the Leased Premises. Such costs and expenses shall, without limitation, include depreciation or amortization on such equipment and facilities and all repairs and replacements thereto, the cost of which is not charged in full in the year in which the cost is incurred, interest or carrying charges calculated at two (2) percentage points above the Prime Rate on the undepreciated or unamortized portion of the costs of such equipment and facilities, repairs and replacements and an administration fee of fifteen percent (15%) of all of the foregoing costs. If the Leased Premises are served by a heating, ventilating and air-conditioning system which serves more than one premises in the Shopping Centre, then the Tenant shall be obligated to pay a share only of the foregoing costs and expenses. The Tenant's share of all such costs and expenses shall be equitably determined by the Landlord upon the advice of a qualified engineer and such costs or expenses shall be allocated amongst the tenants served by the said heating, ventilating and air conditioning equipment and facilities. The foregoing costs and expenses shall exclude the cost of fuel and electricity consumed by the use of such equipment to the extent only that such costs and expenses are charged separately to and paid by the Tenant pursuant to other provisions of this Lease.

5.04 Utilities

The Tenant shall be solely responsible for and promptly pay all charges for heat, water, gas, electricity or any other utility used or consumed in the Leased Premises on the basis of separate meters, if available. If there are no separate meters, the Tenant shall pay: (a) all charges for heat, water, gas, electricity or any other utility used or consumed in the Leased Premises on the basis of an equitable allocation as determined by the Landlord; (b) the Landlord's costs of determining the Tenant's share of the costs of all utilities including, but not limited to, professional, engineering and consulting fees; and (c) an administration fee of fifteen percent (15%) of the total of (a) and (b). If so required by the Landlord or by the utility company, separate meters shall be installed in the Leased Premises at the Tenant's expense.

ARTICLE VI PROMOTION FUND AND ADVERTISING

- Intentionally Deleted

ARTICLE VII CONDUCT OF BUSINESS BY TENANT

7.01 Use of Leased Premises - See Schedule "G" - Exclusive Covenant

The Tenant shall occupy the Leased Premises throughout the Term and the Leased Premises shall be continuously, actively and diligently operated, fully fixtured, stocked and staffed on such days and during such hours as the Landlord determines from time to time, solely for the purpose of conducting the business described in paragraph (e) of the Special Provisions, and for no other purpose. The Tenant shall satisfy itself that the zoning of the lands comprising the Shopping Centre permit the use as set out above.

The Tenant will not use or permit or suffer the use of the Leased Premises or any part thereof for any other business or purpose. In connection with the business to be conducted by the Tenant on the Leased Premises, the Tenant shall only use the advertised name set out in paragraph (e) of the Special Provisions and will not change the advertised name of the business to be operated in the Leased Premises without the prior written consent of the Landlord.

The Tenant acknowledges that the Landlord has granted exclusive covenants to other tenants of the Shopping Centre, and accordingly the Tenant shall not introduce new product lines, or offer new services to its customers without first obtaining the written consent of the Landlord. The Tenant acknowledges that it would be reasonable for the Landlord to withhold its consent if the introduction by the Tenant of such product line or service would compete with the business of other tenants in the Shopping Centre or infringe on exclusive covenants already granted by the Landlord.

Unless otherwise specifically set out in this Lease to the contrary, nothing contained in this Lease shall; (i) confer upon the Tenant the exclusive right to sell or provide in the Shopping Centre any of the products or services permitted to be sold or provided from the Leased Premises pursuant to this Lease; nor (ii) prevent the Landlord from leasing any other premises in the Shopping Centre to any other tenant(s) carrying on a business which is similar in whole or in part to the business permitted to be carried on from the Leased Premises pursuant to this Lease.

7.02 Conduct and Operation of Business

The Tenant shall occupy the Leased Premises from and after the Commencement Date and thereafter shall conduct continuously and actively the business set out in paragraph (e) of the Special Provisions, in the whole of the Leased Premises. In the conduct of the Tenant's business pursuant to this Lease the Tenant shall:

- (a) operate its business with due diligence and efficiency and maintain an adequate staff to properly serve all customers; own, install and keep in good order and condition free from liens or rights of third parties, fixtures and equipment of first class quality; and carry at all times such stock of goods and merchandise of such size, character and quality as will produce the maximum volume of sales from the Leased Premises consistent with good business practices;
- (b) conduct its business in the Leased Premises during such hours and on such days as the Landlord from time to time requires or permits and at no other time. However the Tenant is not required or permitted to carry on its business during any period prohibited by any law regulating the hours of business. If the Tenant fails to open on the Commencement Date or remain open during the days and/or hours required by the Landlord, then in addition to all other amounts of Rent payable under this Lease the Tenant shall pay as Additional Rent to the Landlord upon demand as liquidated damages and not as a penalty, an amount equal to two hundred dollars (\$200.00) per day for each and every day that the Tenant is in default;
- (c) keep displays of merchandise in the display windows (if any) of the Leased Premises, and keep the display windows and signs (if any) in the Leased Premises well-lit during the hours the Landlord designates from time to time;
- (d) stock in the Leased Premises only merchandise the Tenant intends to offer for retail sale from the Leased Premises, and not use any portion of the Leased Premises for office, clerical or other non-selling purposes except minor parts reasonably required for the Tenant's business in the Leased Premises;
- (e) abide by all rules and regulations and general policies formulated by the Landlord from time to time relating to the delivery of goods to the Leased Premises;
- (f) not allow or cause to be committed any waste upon or damage to the Leased Premises or any nuisance or other act or thing which disturbs the quiet enjoyment of any other tenant in the Shopping Centre or which unreasonably disturbs or interferes with or annoys any third party, or which may damage the Shopping Centre;
- (g) not allow or cause to be done any act in or about the Common Areas or the Shopping Centre which in the Landlord's opinion hinders or interrupts the Shopping Centre's flow of traffic in any way obstructs the free movement of parties doing business in the Shopping Centre;
- (h) not allow or cause business to be solicited in any part of the Shopping Centre other than the Leased Premises, nor display any merchandise outside the Leased Premises at any time without the prior written consent of the Landlord;
- (i) use the name designated for the Shopping Centre by the Landlord from time to time and all insignia or other identifying names and marks designated by the Landlord in connection with the advertising of the business conducted in the Leased Premises. Notwithstanding the foregoing the Tenant will not acquire any rights in such names, marks or insignia and upon the Landlord's request the Tenant will abandon or assign to the Landlord any such rights which the Tenant may acquire by operation of law and will promptly execute any documents required by the Landlord to give effect to this subparagraph (i);
- (j) not install or allow in the Leased Premises any transmitting device nor erect any aerial on the roof of any building forming part of the Shopping Centre or on any exterior walls of the Leased Premises or in any of the Common Areas. Any such installation shall be subject to removal by the Landlord without notice at any time and such removal shall be done and all damage as a result thereof shall be made good, in each case, at the cost of the Tenant, payable as Additional Rent on demand;
- (k) not use any travelling or flashing lights or signs or any loudspeakers, television, phonograph, radio or other audiovisual or mechanical devices in a manner so that they can be heard or seen outside of the Leased Premises, without the prior written consent of the Landlord. If the Tenant uses any such equipment without receiving the prior written consent of the Landlord, the Landlord shall be entitled to remove such equipment without notice at any time and such removal shall be done and all

damage as a result thereof shall be made good, in each case, at the cost of the Tenant, payable as Additional Rent on demand;

(l) not install or allow in the Leased Premises any equipment which will exceed or overload the capacity of any utility, electrical or mechanical facilities in the Leased Premises or of which the Landlord has not approved. If the Tenant requires additional utility, electrical or mechanical facilities, the Landlord may in its sole discretion if they are available elect to install them at the Tenant's expense and in accordance with plans and specifications to be approved in advance in writing by the Landlord;

(m) not bring upon the Leased Premises any machinery, equipment, article or thing that by reason of its weight, size or use, might in the opinion of the Landlord damage the Leased Premises or overload the floors of the Leased Premises. Any such machinery, equipment, article or thing shall be subject to removal by the Landlord without notice at any time and such removal shall be done and all damage as a result thereof shall be made good, in each case, at the cost of the Tenant, payable as Additional Rent on demand;

(n) observe and comply with all federal, provincial or municipal laws pertaining to or affecting the Leased Premises, the Tenant's use of the Leased Premises or the conduct of any business in the Leased Premises, or the making of any repairs, replacements, alterations, additions, changes, substitutions or improvements of or to the Leased Premises, and the regulations of any insurance underwriters in respect of the insurance maintained by the Landlord in respect of the Shopping Centre, and carry out all modifications to the Leased Premises and the Tenant's conduct of business in or use of the Leased Premises which may be required by any such authorities.

7.03 Prohibited Activities

(a) The Tenant acknowledges that it is only one of many tenants in the Shopping Centre and that therefore the Tenant shall conduct its business in the Leased Premises in a manner consistent with the best interests of the Shopping Centre as a whole.

(b) No part of the Leased Premises will be used for the following: (i) the sale of any of the goods or services referred to in Schedule "F" hereof; (ii) a sale or business conduct which would violate any restrictive or exclusive covenant granted to a tenant or occupant of the Shopping Centre or which would, in the Landlord's opinion, interfere with or otherwise harm the business of any other tenant of the Shopping Centre; (iii) a sale or business conduct which, because of the merchandising methods or quality of operation likely to be used, would tend to lower the character of the Shopping Centre or any part thereof; (iv) any practice of unethical or deceptive advertising or selling procedures; or, (v) catalogue sales except of merchandise that the Tenant is permitted to sell "over the counter" in or at the Leased Premises under this Article VII or paragraph (e) of the Special Provisions.

The Landlord shall have the right to cause the Tenant to discontinue and the Tenant shall thereupon forthwith discontinue the sale of any item, merchandise, commodity or the supply of any service or the carrying on of any business, any of which is either prohibited by this Section 7.03, or by Schedule "F" attached hereto, or which the Landlord determines is not directly related to the business set out in paragraph (e) of the Special Provisions.

7.04 Radius Clause

The Tenant shall not itself or through any third party under its control or in any way connected or affiliated with it, whether as partner, shareholder, lender, employee or otherwise, directly or indirectly allow or cause any business which is the same as or similar to or in competition with the Tenant's business in the Leased Premises to be engaged in within any building or building complex, any portion of which is located within a radius of three (3) kilometres from any point on the Shopping Centre, except for any such business which is in operation and disclosed to the Landlord as at the Commencement Date. If the Tenant breaches this covenant, the Landlord may require that gross receipts (calculated in the same manner as Gross Receipts) from the other business be included in Gross Receipts, and the Landlord will have the same rights of inspection and audit with respect to the gross receipts of the other business as it has under this Lease with respect to Gross Receipts.

7.05 Hazardous Substances

The Tenant covenants and agrees to utilize the Leased Premises and operate its business in a manner so that no part of the Leased Premises or surrounding lands are used to generate, manufacture, refine, treat, transport, store, handle, dispose of, transfer, produce or process any Hazardous Substances, except in strict compliance with all applicable federal, provincial and municipal statutes, by-laws and regulations, including, without limitation, environmental, land use and occupational and health and safety laws, regulations, requirements, permits, statutes, by-laws and regulations. Further the Tenant hereby covenants and agrees to indemnify and save harmless the Landlord and those for whom the Landlord is in law responsible from any and all losses, costs, claims, damages, liabilities, expenses or injuries caused or contributed to by any Hazardous Substances which are at any time located, stored or incorporated in any part of the Leased Premises. The Tenant hereby agrees that the Landlord or its authorized representatives shall have the right at the Tenant's expense, payable as Additional Rent within fifteen (15) days of receipt of an invoice therefore, to conduct such environmental site reviews and

investigations as it may deem necessary for the purposes of ensuring compliance with this Section 7.05. The Tenant's obligations pursuant to this Section 7.05 shall survive the expiration or earlier termination of the Term.

**ARTICLE VIII
FIXTURES, ALTERATIONS AND REPAIRS
AND LANDLORD'S CONTROL OF SHOPPING CENTRE**

8.01 Installations by the Tenant

All equipment, fixtures and improvements installed by the Tenant in the Leased Premises shall be new or completely reconditioned. The Tenant shall not make any alterations, additions or improvements or install or cause to be installed any trade fixtures, exterior signs, floor covering, interior or exterior lighting, plumbing fixtures, shades or awnings or make any changes to the store front without first obtaining the Landlord's written approval and consent. The Tenant shall present to the Landlord plans and specifications in form, content and such detail as the Landlord may reasonably require for such work at the time approval is sought. The Tenant covenants that any work that may be done in respect of the Leased Premises by or on behalf of the Tenant shall be done in such a manner as not to conflict or interfere with any work being done or about to be done by the Landlord in or about the Shopping Centre, whether such conflict or interference shall arise in relation to labour unions or otherwise and the Tenant shall obtain all requisite permits, licences and inspections in respect of any such work done by or on the Tenant's behalf. Notwithstanding anything herein contained, the Tenant shall make no alterations, additions or improvements that are of a structural nature or that would lessen the value or Rentable Area of the Leased Premises or the Shopping Centre, or would interfere with the usage of the Common Areas.

All alterations, decorations, additions and improvements made by the Tenant or made by the Landlord on the Tenant's behalf by agreement under this Lease shall remain the property of the Tenant throughout the Term. Such alterations, decorations, additions and improvements shall not be removed from the Leased Premises without prior consent in writing from the Landlord. Upon expiration or earlier termination of this Lease, the Tenant shall, at its sole cost, remove all trade fixtures, and, at the option of the Landlord, remove all such alterations, decorations, additions and improvements that have been installed or constructed within the Leased Premises and restore the Leased Premises as provided in Section 8.04. The Tenant shall, at its sole cost, repair any damage that results from the removal of such trade fixtures and alterations, decorations, additions and improvements. If the Tenant fails or is not required by the Landlord to remove such alterations, decorations, additions and improvements and to restore the Leased Premises, then upon the expiration of this Lease, all such alterations, decorations, additions and improvements shall at the option of the Landlord become the property of the Landlord or shall be removed by the Landlord at the expense of the Tenant.

8.02 Maintenance and Repair by the Tenant

The Tenant will at all times keep the Leased Premises (including exterior entrances and all glass and show windows) and all partitions, doors, and appurtenances thereof, and all fixtures and equipment serving the Leased Premises (including, without limitation, lighting, heating, ventilating, and air-conditioning equipment, plumbing fixtures, and the electrical and mechanical systems and equipment) in good order, first class condition and repair (including periodic painting or redecorating and preventative maintenance as determined by the Landlord and including such repairs or replacements as are required to keep the Leased Premises in good repair and condition), reasonable wear and tear, and damage by fire, lightning and tempest only excepted. All aforesaid maintenance, repairs, restorations and replacements shall be in quality and class equal to the original work or installations.

The Tenant shall, subject to Section 5.03, throughout the Term, operate, maintain, repair, replace when necessary and regulate the heating, ventilating and air conditioning equipment within or installed by or on behalf of the Tenant for the Leased Premises in such a manner as to maintain such reasonable conditions of temperature and humidity within the Leased Premises as are determined by the Landlord or its Architect so that no direct or indirect appropriation of the heating, ventilating or air conditioning from the Common Areas shall occur. The Tenant shall comply with such stipulations and with all rules and regulations of the Landlord pertaining to the maintenance and operation of such equipment.

8.03 Signs, Awnings, Canopies

The Tenant will not place or suffer to be placed or maintained on any exterior door, wall or window of the Leased Premises any sign, awning or canopy or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door of the Leased Premises without first obtaining the Landlord's written approval and consent. The Tenant further agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter or other thing as may be approved in good condition and repair at all times; and in addition to the foregoing, the Tenant shall maintain any displays of its goods or wares which may be seen from the exterior of the Leased Premises in a manner which is in keeping with the character of the Shopping Centre of which the Leased Premises form a part and which is designed to enhance the business of the Tenant.

8.04 Surrender of Leased Premises

Subject to Article XI, the Tenant will leave the Leased Premises in good repair, reasonable wear and tear only excepted. Without limiting the generality of the foregoing, at the expiration or earlier termination of the Term the Tenant shall surrender the Leased Premises in the same condition as the Leased Premises were in upon delivery of possession thereto under this Lease, reasonable wear and tear only excepted, and shall surrender all keys for the Leased Premises to the Landlord at the place then fixed for the payment of Rent and shall inform the Landlord of all combinations on locks, safes and vaults, if any, in the Leased Premises. The Tenant's obligations to observe or perform this covenant shall survive the expiration or earlier termination of the Term of this Lease.

8.05 Tenant to Discharge all Liens

The Tenant will ensure that no construction or other lien or charge, or notice thereof, is registered or filed against:

- (a) the Shopping Centre or any part of it;
- (b) any interest in all or part of the Shopping Centre of the Landlord, the Mortgagee or any owner of the Shopping Centre; or
- (c) the Tenant's interest in the Leased Premises or any of the leasehold improvements in the Leased Premises;

by any person claiming by, through, under or against the Tenant or its contractors or subcontractors. If such a lien or charge or notice thereof is registered or filed and the Tenant fails to discharge it within five (5) days after written notice from the Landlord, the Landlord may discharge it by paying the amount claimed to be due into court or directly to the claimant and the Tenant will pay to the Landlord as Additional Rent on demand all costs (including legal fees) incurred by the Landlord in connection therewith, together with an administrative overhead charge of fifteen percent (15%) thereon.

8.06 Rules and Regulations

The Tenant will comply with the Rules and Regulations. Landlord reserves the right from time to time to amend or supplement the Rules and Regulations. Notice of such amendments and supplements, if any, shall be given to the Tenant, and the Tenant agrees thereupon to comply with and observe all such amendments and supplements, provided that no Rule or Regulation shall contradict any provision of this Lease. The Landlord shall not be responsible to the Tenant for non-observance or violation of any of the provisions of such Rules and Regulations by any other tenant of the Shopping Centre or of the terms of any other lease of premises in the Shopping Centre and the Landlord shall be under no obligation to enforce any such provisions. All Rules and Regulations shall be enforced against the Tenant in a nondiscriminatory manner.

8.07 Maintenance and Repair by the Landlord

The Landlord shall, subject to the other provisions of this Lease, maintain and repair or cause to be maintained and repaired, the structure of the Leased Premises and the Shopping Centre, including without limitation, the foundations, exterior weather walls, subfloor, roof, bearing walls and structural columns and beams of the Shopping Centre. If, however, the Landlord is required to maintain or repair any structural portions or any other portion of the Leased Premises or the Shopping Centre by reason of the negligent acts or omissions of the Tenant, its employees, agents, invitees, suppliers, agents and servants of suppliers, licensees, concessionaires or subtenants, the Tenant shall pay on demand as Additional Rent, the Landlord's costs for making such maintenance or repairs, together with an administrative fee of fifteen percent (15%) of such costs.

The Landlord shall also be entitled, at its option, to do the maintenance, repair and replacement, or cause to be maintained, repaired and replaced, the heating, ventilating and air conditioning systems and equipment serving the Leased Premises, in which case and only in which case, the Tenant shall pay to the Landlord, as Additional Rent, the costs so incurred by the Landlord, all in accordance with the provisions of Section 5.03.

8.08 Operation and Control of Shopping Centre by Landlord

The Landlord shall operate the Shopping Centre in such manner as the Landlord determines from time to time, and in a first class and reputable manner as would a prudent landlord of a similar shopping centre having regard to size, age and location.

The Shopping Centre and the Common Areas are at all times subject to the exclusive control and management of the Landlord. Without limiting the generality of the foregoing, the Landlord has the right in its control, management and operation of the Shopping Centre and by the establishment of rules and regulations and general policies with respect to the operation of the Shopping Centre or any part thereof at all times throughout the Term to construct, maintain and operate lighting facilities and heating, ventilating and air conditioning systems; provide supervision and policing services for the Shopping Centre; close all or any portion of the Shopping Centre to such extent as may in the opinion of the Landlord's counsel be legally sufficient to prevent a dedication thereof or the accrual of any rights to any

third party or the public; grant, modify and terminate easements or other agreements pertaining to the use and maintenance of all or any part of the Shopping Centre; obstruct or close off all or any part of the Shopping Centre for the purpose of maintenance, repair or construction; employ all personnel, including supervisory personnel and managers necessary for the operation, maintenance and control of the Shopping Centre; use any part of the Common Areas from time to time for merchandising, display, decorations, entertainment and structures designed for retail selling or special features or promotional activities; designate the areas and entrances and the times in, through and at which loading and unloading of goods shall be carried out; control, supervise and generally regulate the delivery or shipping of merchandise, supplies and fixtures to and from the Leased Premises and other portions of the Shopping Centre; designate and specify the kind of container to be used for garbage and refuse in the manner and the times and places at which same is to be placed for collection (if the Landlord for the more efficient and proper operation of the Shopping Centre provides or designates a commercial service for the pickup and disposal of refuse and garbage instead of or in addition to the service provided by the municipality, the Tenant shall use same at the Tenant's cost); designate areas where the Tenant and its employees may park in the Shopping Centre and impose reasonable rules and regulations to enforce such limits on parking; from time to time change the area, level, location, arrangement or use of the Shopping Centre or any part thereof; construct other buildings or improvements in the Shopping Centre and make changes to any part of the Shopping Centre; and do and perform such other acts in and to the Shopping Centre as in the use of good business judgment the Landlord determines to be advisable for the more efficient and proper operation of the Shopping Centre.

Notwithstanding anything to the contrary, if as a result of the exercise by the Landlord of any of its rights as set out in this Section 8.08, the Common Areas are diminished or altered in any manner whatsoever, the Landlord is not subject to any liability nor is the Tenant entitled to any compensation or diminution or abatement of Rent nor is any alteration or diminution of the Common Areas deemed constructive or actual eviction, or a breach of any covenant for quiet enjoyment contained in this Lease.

8.09 Right to Relocate

The purpose of the site plan attached hereto as Schedule "B" is to show the approximate location of the Leased Premises only. The Landlord reserves the right to relocate the Leased Premises in the Shopping Centre if in the Landlord's opinion such a relocation would be for the betterment of the Shopping Centre having regard to the establishment of new tenancies in the Shopping Centre or having regard to the expansion or renovation of the Shopping Centre. In the event that the Landlord elects to relocate the Leased Premises for any reason, then the Landlord shall pay the reasonable costs of such relocation, including reimbursing the Tenant for its fixtures and improvements in the Leased Premises on the basis of their undepreciated capital cost at the time of relocation provided that there shall not be any payment required on account of goodwill, loss of profits or loss of business.

8.10 Landlord's Right to Enter Leased Premises

(a) It is not a re-entry or a breach of quiet enjoyment if the Landlord or its authorized representatives enter the Leased Premises at reasonable times to:

- (i) examine them;
- (ii) make permitted or required repairs, alterations, improvements or additions to the Leased Premises (including the pipes, conduits, wiring, ducts, columns and other installations in the Leased Premises) or the Shopping Centre or adjacent property; or
- (iii) excavate land adjacent or subjacent to the Leased Premises;

In each case (to the extent reasonably possible in the circumstances) without unreasonably interfering with the Tenant's business operations in the Leased Premises, and the Landlord may take material into and on the Leased Premises for those purposes. Rent will not abate or be reduced while the repairs, alterations, improvements or additions are being made. The Landlord will take reasonable steps to minimize any interruption of business resulting from any entry.

(b) During the six (6) months prior to the expiration of the Term of this Lease, the Landlord may exhibit the Leased Premises to prospective tenants or purchasers and place upon the Leased Premises the usual notices "To Let" or "For Sale" which notices the Tenant shall permit to remain where placed without molestation.

(c) If the Tenant shall not be personally present to open and permit an entry into the Leased Premises, at any time, when for any reason an entry therein shall be necessary or permissible, the Landlord or the Landlord's agents may enter the same by a master key, or may forcibly enter the same, without rendering the Landlord or such agents liable therefor, and without in any manner affecting the obligations and covenants of this Lease.

(d) Nothing in this Section contained, however, shall be deemed or construed to impose upon the Landlord any obligation, responsibility or liability whatsoever for the care, maintenance or repair of the Shopping Centre or any part thereof, except as otherwise in this Lease specifically provided.

**ARTICLE IX
INSURANCE AND INDEMNITY**

9.01 Tenant's Insurance

(a) The Tenant shall throughout the Term, at its own cost and expense, take out and keep in full force and effect and in the names of the Tenant, the Landlord and the Mortgagee as their respective interests may appear, the following insurance:

- (i) All-risks (including flood and earthquake) insurance upon property of every description and kind owned by the Tenant or for which the Tenant is legally liable (including, without limitation, signs and plate glass) and which is located within the Shopping Centre in an amount of not less than ninety percent (90%) of the full replacement cost thereof;
- (ii) broad form boiler and machinery insurance on a blanket repair and replacement basis with limits for each accident in the amount of not less than the replacement cost of all leasehold improvements and of all boilers, pressure vessels, air conditioning equipment and miscellaneous electrical apparatus owned or operated by the Tenant or by others (other than the Landlord) on behalf of the Tenant in the Leased Premises;
- (iii) business interruption insurance in such amounts as will reimburse the Tenant for direct or indirect loss of earnings attributable to all perils insured against by the Tenant hereunder;
- (iv) public liability and property damage insurance including personal injury liability, tenant legal liability, contractual liability and owners' protective insurance coverage with respect to the Leased Premises and the Tenant's use of the Common Areas. Such policies shall be written on a comprehensive basis within inclusive limits of not less than Five Million Dollars (\$5,000,000) or such higher limits as the Landlord or the Mortgagee may reasonably require from time to time;
- (v) any other form of insurance as the Tenant or the Landlord or the Mortgagee may reasonably require from time to time in form, in amounts and for insurance risks against which a prudent tenant would insure.

(b) All policies required to be written on behalf of the Tenant pursuant to this Section 9.01 shall contain the Mortgagee's standard mortgage clause, if required by the Mortgagee, and shall contain a waiver of any subrogation rights which the Tenant's insurers may have against the Landlord and against those for whom the Landlord is in law responsible, whether any such damage is caused by the act, omission or negligence of the Landlord or those for whom the Landlord is in law responsible.

(c) All policies shall be taken out with insurers acceptable to the Landlord and shall be in a form satisfactory from time to time to the Landlord. The Tenant agrees that certificates of insurance on the Landlord's standard form or if required by the Landlord or the Mortgagee certified copies of each such insurance policy will be delivered to the Landlord prior to the Tenant taking possession of the Leased Premises and every year thereafter without notice. All policies shall contain an undertaking by the insurers to notify the Landlord and the Mortgagee in writing not less than thirty (30) days prior to any material change, cancellation or termination thereof.

(d) The Tenant agrees that if the Tenant fails to take out or keep in force any such insurance referred to in this Section 9.01, or should any such insurance not be approved by either the Landlord or the Mortgagee and should the Tenant not rectify the situation immediately after written notice by the Landlord to the Tenant, the Landlord has the right without assuming any obligation in connection therewith to effect such insurance at the sole cost of the Tenant and all outlays by the Landlord shall be immediately paid by the Tenant to the Landlord as Additional Rent without prejudice to any other rights and remedies of the Landlord under this Lease.

9.02 Increase in Insurance Premium

The Tenant will not allow or cause anything to occur in the Leased Premises which shall cause any increase of premium for any insurance on the Leased Premises or the Shopping Centre or any part thereof above the rate for the least hazardous type of occupancy legally permitted in the Leased Premises. If the Tenant is in default under this Section 9.02 the Tenant shall pay any resulting additional premium on any insurance policies taken out or maintained by the Landlord, including any additional premium on any rental income insurance policy that may be carried by the Landlord. If notice of cancellation shall be given respecting any insurance policy or if any insurance policy upon the Leased Premises or the Shopping Centre or any part thereof shall be cancelled or refused to be renewed by an insurer by reason of the use or occupation of the Leased Premises or any part thereof or the acts or omissions of the Tenant, the Tenant shall forthwith remedy or rectify such use or occupation upon request to do so in writing by the Landlord, and if the Tenant shall fail to do so within twenty-four (24) hours of such written request, the Landlord shall have the right to enter the Leased Premises and rectify the situation, without liability to the Tenant for any loss or damage occasioned by such entry and rectification, or shall be entitled to hold the Tenant liable for any damage or loss resulting from such cancellation or refusal, or the Landlord may at its option determine this Lease forthwith by leaving upon the Leased Premises notice in writing of its intention to do so, and thereupon Rent and any other payments for which the Tenant is liable under this Lease shall be apportioned and paid in full to the date of such determination of this Lease, and together with an amount equal to the Minimum Rent payable for a period of one (1) year as liquidated damages, and the Tenant shall immediately deliver up possession of the

Leased Premises to the Landlord. In determining whether increased premiums are the result of the Tenant's use of the Leased Premises, a schedule issued by the organization making the insurance rate on the Leased Premises, showing the various components of such rate, shall be conclusive evidence of the several items and charges which make the fire insurance rate of the Leased Premises. Bills for such additional premiums shall be rendered by the Landlord to the Tenant at such times as the Landlord may elect, and shall be due from and payable by the Tenant when rendered, and the amount thereof shall be deemed to be and be paid as Additional Rent.

9.03 Landlord's Insurance

The Landlord shall at all times throughout the Term carry: (a) insurance on the Shopping Centre (including the footings, foundations and equipment used for the maintenance and operation of the Shopping Centre) and the machinery, boilers and equipment contained therein and owned by the Landlord or for which the Landlord has assumed responsibility; and (b) public liability and property damage insurance with respect to the Landlord's operations in the Shopping Centre; against such perils, in such reasonable amounts and with such reasonable deductibles as would be carried by a prudent owner of a reasonably similar shopping centre, having regard to size, age and location, as determined by the Landlord from time to time, and shall also carry such other form or forms of insurance as the Landlord or the Mortgagee reasonably considers advisable including but not limited to rental income insurance.

Notwithstanding the Landlord's covenant herein and the Tenant's contribution to the cost of the Landlord's insurance premiums; (i) the Tenant is not relieved of any liability arising from or contributed to by its negligence or its wilful acts or omissions; (ii) no insurable interest or other benefit (including an implied waiver of subrogation from the Landlord's insurers) is conferred upon the Tenant under the Landlord's insurance policies; and (iii) the Tenant has no right to receive proceeds from the Landlord's insurance policies.

9.04 Loss or Damage

The Landlord shall not be liable for any death or injury arising from or out of any occurrence in, upon, at or relating to the Shopping Centre, or damage to property of the Tenant or of others located on the Leased Premises, nor shall it be responsible for any loss of or damage to any property of the Tenant or others from any cause whatsoever, whether or not any such death, injury, loss or damage results from the negligence of the Landlord, its agents, servants or employees or other persons for whom the Landlord is in law responsible. Without limiting the generality of the foregoing, the Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain, flood, snow or leaks from any part of the Leased Premises or from the pipes, appliances, plumbing works, roof or subsurface of any floor or ceiling or from the street or any other place or by dampness or by any other cause whatsoever. The Landlord shall not be liable for any such damage caused by other tenants or persons in the Shopping Centre or by occupants of adjacent property thereto, or the public, or caused by construction or by any private, public or quasi-public work. All property of the Tenant kept or stored on the Leased Premises shall be so kept or stored at the risk of the Tenant only and the Tenant shall indemnify the Landlord and save it harmless from any claims arising out of any damages to the same, including, without limitation, any subrogation claims by the Tenant's insurers. In no event shall the Landlord be liable for any injury to the Tenant, its servants, agents, employees, customers and invitees or for any injury or damage to the Leased Premises or to any property of the Tenant, or to any property of any other person, firm or corporation on or about the Leased Premises caused by an interruption, suspension or failure in the supply of any utilities to the Leased Premises, or by any exhaust or odour emanating from any other premises or any other part of the Shopping Centre.

9.05 Indemnification of the Landlord

The Tenant will indemnify the Landlord and save it harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon or at the Leased Premises, the occupancy or use by the Tenant of the Leased Premises or any part thereof, or occasioned wholly or in part by any act or omission of the Tenant, its agents, contractors, employees, servants, licensees, or concessionaires or invitees. In case the Landlord shall, without fault on its part, be made a party to any litigation commenced by or against the Tenant, then the Tenant shall protect and hold the Landlord harmless and shall pay all costs, expenses and solicitors' and counsel fees on a solicitor and client basis incurred or paid by the Landlord in connection with such litigation.

ARTICLE X DAMAGE, DESTRUCTION AND EXPROPRIATION

10.01 Total or Partial Destruction of Leased Premises

If, during the Term, the Leased Premises are expropriated or totally or partially destroyed or damaged by any cause in respect of which the Landlord is insured, the following provisions shall have effect:

(a) If the Leased Premises are rendered partially unfit for occupancy by the Tenant, Minimum Rent only shall abate in part only, in the proportion that the part of the Leased Premises rendered unfit for

occupancy by the Tenant bears to the whole of the Leased Premises or if the Leased Premises are rendered wholly unfit for occupancy by the Tenant the Rent hereby reserved shall be suspended in each case until the Leased Premises have been rebuilt and/or repaired or restored;

(b) notwithstanding the provisions of subparagraph (a), if the Leased Premises in the opinion of the Architect shall be incapable of being rebuilt and/or repaired or restored with reasonable diligence within 365 days of the happening of such destruction or damage, then either the Landlord or the Tenant may at its option terminate this Lease by notice in writing to the other given within thirty (30) days of the date of such destruction or damage and in the event of such notice being so given this Lease shall cease and become null and void from the date of such destruction or damage and the Tenant shall immediately surrender the Leased Premises and all interest therein to the Landlord and the Rent shall be apportioned and shall be payable by the Tenant only to the date of such destruction or damage and the Landlord may re-enter and repossess the Leased Premises discharged of this Lease but if within the said period of thirty (30) days neither the Tenant nor the Landlord shall give notice terminating this Lease as aforesaid or if within the said period the Landlord and the Tenant shall agree not to give such notice then upon the expiration of the said period of thirty (30) days or upon the Landlord and the Tenant having agreed as aforesaid, whichever shall be the sooner, the Landlord shall with reasonable promptitude proceed to rebuild and/or repair or restore the Leased Premises; and

(c) if the Leased Premises shall be capable with reasonable diligence of being rebuilt and/or repaired or restored within 365 days of the happening of such destruction or damage then the Landlord shall rebuild and/or repair or restore the Leased Premises with all speed within the aforesaid 365 days.

The certificate of the Architect shall bind the parties as to the (i) extent to which the Leased Premises are unfit for occupancy; (ii) time required to rebuild and/or repair or restore the Leased Premises; and (iii) due completion of repairs.

10.02 Total or Partial Destruction of Shopping Centre

In the event that fifty percent (50%) or more of the gross floor area of the Shopping Centre shall be expropriated or damaged or destroyed by fire or other cause, notwithstanding that the Leased Premises may be unaffected, the Landlord shall have the right, to be exercised by notice in writing delivered to the Tenant within sixty (60) days from and after said occurrence, to elect to cancel and terminate this Lease. Upon the giving of such notice to the Tenant, the Term of this Lease shall expire upon the third (3rd) day after such notice is given, and the Tenant shall vacate the Leased Premises and surrender the same to the Landlord.

10.03 Abatement of Rent

Notwithstanding anything hereinbefore contained, all abatements of Rent set out in this Article X shall be limited to an amount equal to the amount which the Landlord collects under any rental income insurance.

10.04 Expropriation Awards

The Landlord and the Tenant will co-operate with each other if there is an expropriation of all or part of the Leased Premises or the Shopping Centre, so that each may receive the maximum award that it is entitled to at law. To the extent, however, that a part of the Shopping Centre, other than the Leased Premises, is expropriated, the full proceeds that are paid or awarded as a result, will belong solely to the Landlord, and the Tenant will assign to the Landlord any rights that it may have or acquire in respect of the proceeds or awards and will execute the documents that the Landlord reasonably requires in order to give effect to this intention.

ARTICLE XI STATUS STATEMENT, SUBORDINATION AND ATTORNMENT

11.01 Status Statement

Within five (5) days after request, the Tenant will sign and deliver to the Landlord or anyone with or proposing to take an interest in all or part of the Shopping Centre, a status statement or certificate, stating that this Lease is in full force and effect, any modifications to this Lease, the commencement and expiry dates of this Lease, the date to which Rent has been paid, the amount of any prepaid Rent or deposits held by the Landlord, whether there is any existing default and the particulars, and any other information reasonably required by the party requesting it.

11.02 Subordination and Attornment

This Lease is subordinate to every existing and future ground lease, mortgage, charge, trust deed, financing, refinancing or collateral financing against the Leased Premises or the Shopping Centre and to the instruments of, as well as the charge or lien resulting from any of them and any renewals or extensions of or advances under them (collectively, "encumbrances"). The Tenant will, on request, attorn to and recognize as landlord the holder of any such encumbrance or any transferee or disposses of the Shopping Centre or of an ownership or equity interest in the Shopping Centre. The Tenant will, within five

(5) days after request, sign and deliver any reasonably requested document confirming the subordination or the attornment. The form and content of the document will be determined by the party requesting it.

11.03 Power of Attorney

The Tenant hereby irrevocably appoints the Landlord as the attorney for the Tenant with full power and authority to execute and deliver in the name of the Tenant any instruments or certificates required to carry out the intent of Sections 11.01 and 11.02 which the Tenant shall have failed to sign and deliver within five (5) days after the date of a written request by the Landlord to execute such instruments.

11.04 Sale by Landlord

If the Landlord transfers or disposes of all or any part of the Shopping Centre or the Landlord's interest under this Lease, then to the extent that the transferee or disposee agrees with the Landlord to assume its obligations under this Lease, the Landlord will be released from them, except for existing defaults as of the date of the transfer or disposition.

11.05 Financial Information

The Tenant shall, upon request, provide the Landlord with such information as to the Tenant's or any Indemnifier's financial standing and corporate organization as the Landlord or Mortgagee may require from time to time and the Tenant further authorizes the Landlord or the Mortgagee to make such credit checks as the Landlord or Mortgagee may require.

ARTICLE XII TRANSFERS BY TENANT

12.01 Transfer Defined

"Transfer" means, (i) an assignment, sale, conveyance, sublease, or other disposition of this Lease or the Leased Premises, or any part of them or any interest in this Lease (whether by operation of law or otherwise), or in a partnership that is a Tenant under this Lease, (ii) a mortgage, charge or debenture (floating or otherwise) or other encumbrance of this Lease or the Leased Premises or any part of them, or of any interest in this Lease or of a partnership, or partnership interest, where the partnership is a Tenant under this Lease, (iii) a parting with or sharing of possession of all or part of the Leased Premises, and (iv) a transfer or issue by sale, assignment, bequest, inheritance, operation of law or other disposition, or by subscription of all or part of the corporate shares of the Tenant or an "affiliate" (as that term is defined on the date of this Lease under the Canada Business Corporations Act) of the Tenant which results in a change in the effective voting control of the Tenant. "Transferor" and "Transferee" have meanings corresponding to the definition of "Transfer" set out above, (it being understood that for a Transfer described in clause (iv) the Transferor is the person that has effective voting control before the Transfer and the Transferee is the person that has effective voting control after the Transfer).

12.02 Consent Required

The Tenant will not allow or cause a Transfer, without the prior written consent of the Landlord in each instance which consent may be unreasonably withheld, notwithstanding any statutory provision to the contrary, in the event of any request for consent to a Transfer within twenty-four (24) months of the Commencement Date or if the length of time since the previous Transfer is less than twenty-four (24) months, and in all other instances may not be unreasonably withheld, subject however to the provisions of Section 12.04. Without limiting the generality of the foregoing, no Transfer shall be effective and no consent shall be given unless the following provisions have been complied with:

- (i) there is no default of the obligations of the Tenant under this Lease;
- (ii) the Tenant shall have given at least thirty (30) days' prior written notice of the proposed Transfer and the effective date thereof to the Landlord;
- (iii) a duplicate original of the documents affecting the Transfer shall be given to the Landlord within thirty (30) days after the execution and delivery thereof;
- (iv) the Transferee, except in the case of a Transfer described in Section 12.01(iv), shall have assumed in writing with the Landlord the due and punctual performance and observance of all the agreements, provisions, covenants and conditions hereof on the Tenant's part to be performed or observed from and after the effective date of the Transfer.

The Tenant acknowledges that the factors governing the granting of the Landlord's consent to any Transfer may include, without limitation, the restrictive clauses entered into with other tenants by the Landlord, the financial background, business history and the capability of the proposed Transferee in the Tenant's line of business, and the nature of the business practices of the proposed Transferee. In particular, consideration shall be given as to whether the proposed Transferee will operate as a "cut-rate" bargain or discount store, or a business of an obnoxious nature which may tend to lessen traffic or lower the reputation or merchandising image of the Shopping Centre or its tenants. The consent by the Landlord to any Transfer shall not constitute a waiver of the necessity for such consent to any subsequent Transfer. If a Transfer takes place, the Landlord may collect rent from the Transferee, and apply the net amount collected to the Rent herein reserved, but no such action shall be deemed a waiver of the

requirement to obtain consent or the acceptance of the Transferee as tenant, or a release of the Tenant or any Indemnifier from the further performance by the Tenant of covenants on the part of the Tenant herein contained. Notwithstanding any Transfer, the Tenant shall remain fully liable under this Lease and shall not be released from performing any of the obligations of the Tenant under this Lease.

Any Transfer, if consented to by the Landlord, may at the Landlord's option be documented by the Landlord or its solicitors, and any and all legal costs and the Landlord's then-standard fee with respect thereto or to any documents reflecting the Landlord's consent to the Transfer shall be payable by the Tenant on demand as Additional Rent.

12.03 Conditions of Consent

If the Tenant receives consent under Section 12.02, it shall be subject to the following conditions:

(a) at the Landlord's option, the annual Minimum Rent will be increased as of the effective date of the Transfer by an amount (the "Excess Amount") equal to: the greater of:

(i) ~~the amount by which the annual Minimum Rent that pertains on the day before the effective date of the Transfer (the "Current Minimum Rent") is exceeded by the average annual total of Minimum Rent and Percentage Rent payable by the Tenant for the last two (2) Lease Years that precede the effective date of the Transfer or (if less than two (2) such Lease Years precede the effective date of the Transfer), the highest annual total of Minimum Rent and Percentage Rent payable by the Tenant since the Commencement Date; or~~

(ii) the Current Minimum Rent multiplied by the percentage increase in the C.P.I. between the month in which the Commencement Date occurs and the month immediately preceding the month in which the effective date of the Transfer occurs.

If it is stated in paragraph (f) of the Special Provisions of this Lease that the annual Minimum Rent is to increase at specified times, the Excess Amount will be added to such increased annual Minimum Rent. Further, the Tenant and the Transferee shall promptly execute an agreement prepared by the Landlord or its solicitors amending paragraph (f) of the Special Provisions in order to provide for the payment of the revised annual Minimum Rent during the remainder of the Term and all costs with respect thereto shall be paid by the Tenant to the Landlord as Additional Rent on demand. All of the other terms, covenants and conditions of this Lease shall remain as herein specified;

(b) if the Tenant shall receive from any Transferee of this Lease, either directly or indirectly, any consideration for the Transfer of this Lease, either in the form of cash, goods or services, the Tenant shall forthwith pay an amount equal to such consideration to the Landlord as Additional Rent forthwith upon receipt of same; and

(c) in the event of any Transfer by virtue of which the Tenant receives a rent in the form of cash, goods or services which is higher than the Rent payable hereunder to the Landlord for the portion of the Leased Premises so Transferred, the Tenant shall pay any such excess rent to the Landlord as Additional Rent forthwith upon receipt of same.

If this Lease is disaffirmed, disclaimed, repudiated, rejected or terminated as a result of court proceedings or otherwise, in connection with the insolvency or bankruptcy of any Transferee, then at the Landlord's option the original Tenant named in this Lease will enter into a lease (the "Remainder Period Lease") with the Landlord, containing the same terms and conditions as this Lease modified, however, by increasing the Minimum Rent based on the formula in this Section 12.03 and by changing the Term of the Remainder Period Lease so that it commences on the date of the disaffirmation, disclaimer, repudiation, rejection or termination, and expires on the date on which this Lease would have expired had the disaffirmation, disclaimer, repudiation, rejection or termination not occurred.

12.04 Landlord's Option

If the Tenant requests that Landlord's consent to a Transfer, then notwithstanding anything in this Lease or any statute or law to the contrary, the Landlord shall always have the option to cancel this Lease by written notice given to the Tenant within sixty (60) days following receipt by it of the Tenant's request for the Landlord's consent to the Transfer. The Landlord's notice of termination shall specify the date of termination which shall be not earlier than thirty (30) days after the date the Landlord's notice is given, and the Tenant shall deliver up possession of the Leased Premises to the Landlord on such date leaving same in the state of repair required pursuant to this Lease.

12.05 No Advertising of Leased Premises

The Tenant shall not print, publish, post, display or broadcast any notice or advertisement to the effect that the Leased Premises are for lease or for sale or otherwise advertise the proposed sale or lease of the whole or any part of the Leased Premises and shall not permit any broker or other party to do any of the foregoing, unless the complete text and format of any such notice, advertisement or offer is first approved in writing by the Landlord. Without in any way restricting or limiting the Landlord's right to

refuse any text or format on other grounds, any text or format proposed by the Tenant shall not contain any reference to the rental rate of the Leased Premises.

ARTICLE XIII DEFAULT OF TENANT

13.01 Right to Re-Enter

When:

(a) the Tenant shall be in default in the payment of any Rent whether lawfully demanded or not and such default shall continue for a period of five (5) consecutive days; or

(b) the Tenant shall be in default of any of its covenants, obligations or agreements under this Lease or of any term or condition of this Lease (other than its covenant to pay Rent) and such default shall continue for a period of fifteen (15) consecutive days after written notice by the Landlord to the Tenant specifying with reasonable particularity the nature of such default and requiring the same to be remedied;

then and in any of such cases the then current month's Rent, together with the Rent for the three (3) months next ensuing shall immediately become due and payable, and at the option of the Landlord, the Term shall become forfeited and void, and the Landlord may without notice or any form of legal process whatsoever forthwith re-enter upon the Leased Premises or any part thereof in the name of the whole and repossess and enjoy the same as of its former estate, anything contained in any statute or law to the contrary notwithstanding, provided, however, that such forfeiture shall be wholly without prejudice to the right of the Landlord to recover arrears of rent or damages for any antecedent default by the Tenant of its covenants, obligations or agreements under this Lease or any term or condition of this Lease and provided further that notwithstanding any such forfeiture the Landlord may subsequently recover from the Tenant damages for loss of Rent suffered by reason of this Lease having been prematurely determined.

13.02 Right to Relet

Should the Landlord elect to re-enter, as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, it may either terminate this Lease or it may from time to time without terminating this Lease, make such alterations and repairs as may be necessary in order to relet the Leased Premises; and relet the Leased Premises or any part thereof as agent for the Tenant for such term or terms (which may be for a term extending beyond the Term of this Lease) and at such rental or rentals and upon such other terms and conditions as the Landlord in its sole discretion may deem advisable; upon each reletting all rentals received by the Landlord from such reletting shall be applied; first, to the payment of any indebtedness other than rent due hereunder from the Tenant to the Landlord; second, to the repayment of any costs and expenses of such reletting, including brokerage fees and solicitors' fees and of costs of such alterations and repairs; third, to the payment of Rent due and unpaid hereunder, and the residue, if any, shall be held by the Landlord and applied in payment of future Rent as the same may become due and payable hereunder. If such Rent received from such reletting during any month be less than that to be paid during that month by the Tenant hereunder, the Tenant shall pay any such deficiency to the Landlord. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of the Leased Premises by the Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to the Tenant or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, the Landlord may at any time thereafter elect to terminate this Lease for such previous breach. Should the Landlord at any time terminate this Lease for any breach, in addition to any other remedies it may have, it may recover from the Tenant all damages it may incur by reason of such breach, including the cost of recovering the Leased Premises, and including the worth at the time of such termination of the excess, if any, of the amount of Rent and charges equivalent to Rent reserved in this Lease for the remainder of the Term hereof over the then reasonable rental value of the Leased Premises for the remainder of the Term hereof, all of which amounts shall be immediately due and payable from the Tenant to the Landlord. In determining the Rent which would be payable by the Tenant hereunder, subsequent to default, the annual Rent for each year of the unexpired Term shall be equal to the average annual Minimum Rent payable by the Tenant from the Commencement Date to the time of default or during the preceding three (3) full calendar years, whichever period is shorter, together with all Additional Rent which would have been payable during the calendar year in which this Lease was terminated, pro-rated over a full calendar year, if required.

13.03 Legal Expenses

In case suit shall be brought for recovery of possession of the Leased Premises, for the recovery of Rent or any other amount due under the provisions of this Lease, or because of the breach of any other covenant herein contained on the part of the Tenant to be kept or performed and a breach shall be established, the Tenant shall pay to the Landlord all expenses incurred therefor, including reasonable solicitors' and counsel fees on a solicitor and his client basis.

13.04 Bankruptcy

The Tenant covenants and agrees that if the Term or any of the goods and chattels of the Tenant on the Leased Premises shall be at any time during the Term seized or taken in execution or attachment by any creditor of the Tenant or if a receiver, interim receiver or receiver and manager is appointed for the assets or business of the Tenant or if the Tenant shall make any assignment for the benefit of creditors or any bulk sale or, becoming bankrupt or insolvent, shall take the benefit of any Act now or hereafter in force for bankrupt or insolvent debtors or if any order shall be made for the winding up of the Tenant, or if the Leased Premises shall without the written consent of the Landlord become and remain vacant for a period of fifteen (15) days, or be used by any other persons than such as are entitled to use them under the terms of this Lease, or if the Tenant shall without the written consent of the Landlord abandon or attempt to abandon the Leased Premises or to sell or dispose of goods or chattels of the Tenant or to remove them or any of them from the Leased Premises so that there would not in the event of such abandonment, sale or disposal be sufficient goods on the Leased Premises subject to distress to satisfy the Rent above due or accruing due, then and in every such case the then current month's Rent and the next ensuing three (3) months' Rent shall immediately become due and be paid and the Landlord may re-enter and take possession of the Leased Premises as though the Tenant or the servants of the Tenant or any other occupant of the Leased Premises were holding over after the expiration of the Term and the Term shall, at the option of the Landlord, immediately without any notice or opportunity for cure provided to the Tenant, become forfeited and determined, and in every one of the cases above such accelerated Rent shall be recoverable by the Landlord in the same manner as the Rent hereby reserved and as if Rent were in arrears and the said option shall be deemed to have been exercised if the Landlord or its agents given notice to the Tenant as provided for herein.

13.05 Landlord May Perform Tenant's Covenants

If the Tenant shall fail to perform any of its covenants or obligations under or in respect of this Lease, the Landlord may from time to time at its discretion, perform or cause to be performed any of such covenants or obligations, or any part thereof, and for such purpose may do such things upon or in respect of the Leased Premises or any part thereof as the Landlord may consider requisite or necessary.

All expenses incurred and expenditures made by or on behalf of the Landlord under this Section, together with an administrative fee equal to fifteen (15%) percent thereon, shall be forthwith paid by the Tenant to the Landlord on demand as Additional Rent.

13.06 Waiver of Exemptions from Distress

Despite the Landlord and Tenant Act, as amended, or any other applicable Act, legislation, or any legal or equitable rule of law: (a) none of the inventory, furniture, equipment or other property at any time owned by the Tenant is exempt from distress; and (b) no lack of compliance with any requirement concerning the day of the week, time of day or night, method of entry, giving of notice, appraising of goods, or anything else, will render any distress unlawful where the Tenant owes arrears of Rent at the time of the distress.

13.07 General Security Agreement

The Tenant hereby grants to the Landlord a security interest (the "Security Interest") in all inventory, fixtures, equipment, furniture and chattels of the Tenant situate on or about the Leased Premises from time to time (the "Collateral") to secure the payment of all Rent payable pursuant to this Lease and the fulfilment of the other obligations of the Tenant under this Lease. The Tenant confirms and agrees that the Security Interest is complete and valid without the necessity of any other or further documentation in respect thereof and is intended to constitute a security agreement as defined in the *Personal Property Security Act*, R.S.O. 1990 c.P. 10, as amended from time to time (the "Act"). This security agreement is separate from and shall survive the termination, expiry, repudiation, disaffirmance or disclaimer of this Lease. Upon default by the Tenant of its obligations pursuant to this Lease, the Landlord shall be entitled at its sole option (and without any obligation so to do), to exercise any remedies available to it as a secured party under the Act in respect of the Collateral. The Security Interest is given in addition to, and not as an alternative to, and the rights and remedies afforded to the Landlord thereunder may be exercised by the Landlord without prejudice to any of the Landlord's other rights and remedies under this Lease and at law including, without limitation, the Landlord's right of distress. The Tenant covenants and agrees that all Collateral located on the Leased Premises from time to time shall be owned by the Tenant and except in the ordinary course of the Tenant's business, the Tenant shall not at any time without the prior written consent of the Landlord, such consent not to be unreasonably withheld, dispose of all or any part of the Collateral.

ARTICLE XIV MISCELLANEOUS

14.01 Overholding

If the Tenant remains in possession of the Leased Premises after the end of the Term and without the execution and delivery of a new lease, there shall be no tacit renewal of this Lease and the Term hereby granted, and the Tenant shall be deemed to be occupying the Leased Premises as a Tenant

from month to month at monthly rent payable in advance on the first day of each month equal to the sum of:

- (i) one and one half (1 ½) times the Minimum Rent payable during the last month of the Term; and
- (ii) ~~one-twelfth of the highest amount of Percentage Rent paid for any Lease Year of the Term; and~~
- (ii) one-twelfth of the Additional Rent payable by the Tenant for the Lease Year immediately preceding the last Lease Year of the Term;

and otherwise upon the same terms and conditions as are set forth in this Lease, except as to duration of Term; mutatis mutandis.

14.02 Successors

This Lease applies to the successors and assigns of the Landlord and, if Article XII is complied with, the heirs, executors, administrators and permitted successors and permitted assigns of the Tenant. If there is more than one party named as Tenant, they are jointly and severally liable under this Lease.

14.03 Waiver

Failure by the Landlord to require performance of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or of any other term, covenant or condition herein contained. The subsequent acceptance of Rent hereunder by the Landlord shall not be deemed to be a waiver of any preceding breach by the Tenant of any term, covenant or condition of this Lease, other than the failure of the Tenant to pay the particular rent so accepted, regardless of the Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No covenant, term or condition of this Lease shall be deemed to have been waived by the Landlord, unless such waiver be in writing by the Landlord.

14.04 Accord and Satisfaction

No payment by the Tenant or receipt by the Landlord of a lesser amount than the monthly Rent herein stipulated shall be deemed to be other than on account of the earliest stipulated Rent, nor shall any endorsement or statement or any cheque or any letter accompanying any cheque or payment as Rent be deemed an accord and satisfaction, and the Landlord may accept such cheque or payment without prejudice to the Landlord's right to recover the balance of such Rent or pursue any other remedy in this Lease provided.

14.05 Entire Agreement

This Lease sets forth all the covenants, promises, agreements, conditions and understandings between the Landlord and the Tenant concerning the Leased Premises and there are no covenants, promises, agreements, conditions or representations, either oral or written, between them other than are herein and in the said schedules and rider, if any, set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon the Landlord or the Tenant unless reduced to writing and signed by them.

14.06 No Partnership

The Landlord does not, in any way or for any purpose, become a partner of the Tenant in the conduct of its business, or otherwise, or joint venturer or a member of a joint enterprise with the Tenant. ~~The provisions of this Lease relating to the Percentage Rent payable hereunder are included solely for the purpose of providing a method whereby the Rent is to be measured and ascertained.~~

14.07 Force Majeure

In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labour troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Notwithstanding anything herein contained, the provisions of this Section 14.07 shall not operate to excuse the Tenant from the prompt payment of Minimum Rent, Additional Rent or any other payments required by the terms of this Lease, nor entitle the Tenant to compensation for any inconvenience, nuisance or discomfort thereby occasioned. Provided however that in the foregoing circumstances, the Rent reserved and covenanted to be paid herein shall not commence until the possession of the Leased Premises is given or the Leased Premises are available for occupancy by the Tenant, and no such failure to give possession as aforesaid shall in any way affect the validity of this Lease or the obligations of the Tenant hereunder, nor shall the same be construed in any way to extend the Term of this Lease. If the building in which the Leased Premises are located is not in course of construction, and the Landlord is unable to give possession of the Leased Premises on or prior to the

Commencement Date by reason of the holding over or retention of possession of any tenants or occupants or for any other reason, or if repairs, improvements or alterations of the Leased Premises or of the building of which the Leased Premises forms a part are not completed, no abatement or diminution of the Rent to be paid hereunder shall be allowed to the Tenant nor shall the validity of this Lease be impaired under such circumstances. Provided, however, that the Tenant shall not be liable to make any payments of Rent until the Landlord is able to give possession of the Leased Premises to the Tenant.

14.08 Notices

Any notice herein provided or permitted to be given by the Tenant to the Landlord shall be sufficiently given if mailed in Canada, registered and postage prepaid, addressed to the Landlord at the address set out in paragraph (k) of the Special Provisions, and any notice herein provided or permitted to be given by the Landlord to the Tenant shall be sufficiently given if mailed in Canada, registered and postage prepaid, addressed to the Tenant at the Leased Premises or at the address set out in paragraph (j) of the Special Provisions. Any such notice given as aforesaid shall be conclusively deemed to have been given on the day on which such notice is delivered or on the third day that there is postal delivery following the day on which such notice is mailed, as the case may be. In the event of a postal disruption, notice must be delivered personally or by courier to be effective. Either party may at any time give notice in writing to the other of any change of address of the party giving such notice and from and after the giving of such notice the address therein specified shall be deemed to be the address of such party for the giving of notices hereunder. The word "notice" in this paragraph shall be deemed to include any request, statement or other writing in this Lease provided or permitted to be given by the Landlord to the Tenant or by the Tenant to the Landlord. If there is more than one party named as Tenant, notice to one shall be deemed sufficient as notice to all.

14.09 Place for Payment of Rent

The Tenant shall pay the Rent, including all Additional Rent, at the office of the Landlord specified in paragraph (k) of the Special Provisions, or at such place or places as the Landlord may designate from time to time by notice in writing.

14.10 Approval in Writing

Wherever the Landlord's consent is required to be given hereunder or wherever the Landlord must approve any act or performance by the Tenant, such consent or approval, as the case may be, shall be given in writing by the Landlord before same shall be deemed to be effective.

14.11 Registration

The Tenant shall not register this Lease without the written consent of the Landlord. However, upon the request of either party hereto the other party shall join in the execution of a memorandum or so called "short form" of this Lease for the purpose of registration. Said memorandum or short form of this Lease shall describe the parties, the Leased Premises and the Term and shall be prepared and registered at the expense of the Tenant.

14.12 Governing Law

This Lease is to be governed by and construed according to the laws of the Province where the Leased Premises are located.

14.13 Captions and Section Numbers

The captions, section numbers and article numbers appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles or of this Lease, nor in any way affect this Lease.

14.14 Brokerage Commissions

Any brokerage commission with respect to this lease transaction shall be borne exclusively by the Tenant and the Tenant shall indemnify and hold harmless the Landlord from any and all claims with respect thereto save only where the Landlord has specifically retained a broker or agent to represent it in respect of this transaction.

14.15 Partial Invalidity

If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease and/or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be separately valid and enforceable to the fullest extent permitted by law.

14.16 No Option

The submission of this Lease for examination does not constitute a reservation of or option for the Leased Premises and this Lease becomes effective as a Lease only upon execution and delivery thereof by the Landlord and the Tenant.

14.17 Time To Be of the Essence

Time shall be of the essence of this Lease.

14.18 Quiet Enjoyment

The Landlord covenants with the Tenant for quiet enjoyment.

14.19 Non-Liability

The Tenant acknowledges, covenants and agrees:

(a) that the Landlord named in this Lease is the nominee on behalf of RioCan Real Estate Investment Trust (the "Trust"); and

(b) the obligations being created by this Lease and any liabilities arising in any manner whatsoever out of or in connection with this Lease are not personally binding upon, and that resort shall not be had to, nor shall recourse or satisfaction be sought from, the private property of any of:

- (i) the unitholders of the Trust;
- (ii) annuitants under a plan of which a unitholder of the Trust acts as trustee or carrier; and
- (iii) the officers, trustees, employees or agents of the Trust.

14.20 Internet Shopping Program

Upon request by the Landlord, the Tenant hereby agrees to participate in an internet shopping program that may, at the option of the Landlord, be developed by the Landlord during the Term of this Lease.

14.21 Press Release

The Tenant shall not print, publish, post, display or broadcast any notice or advertisement (including any press release) to the effect that the Leased Premises are under offer to lease, or have been leased to the Tenant, or otherwise advertise the existence of this Lease or any part thereof and shall not permit any broker or press agent or other party to do any of the foregoing, unless the complete text and format of any such notice, advertisement or offer is first approved in writing by the Landlord. Without in any way restricting or limiting the Landlord's right to refuse any text or format on other grounds, any text or format proposed by the Tenant shall not contain any reference to the rental rate of the Leased Premises, nor to any other financial term of this Lease (including without limitation, inducements or allowances, or the scope of Landlord's Work).

14.22 Schedules

Schedules "A", "B", "C", "D", "E", "F" and "G" attached hereto form part of this Lease.

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

RIOCAN HOLDINGS INC.

(Landlord)


Per:  _____
Authorized Signature

Per: _____
Authorized Signature

I/We have authority to bind the corporation.

SHS OPTICAL LTD.

(Tenant)

Per:  _____
Authorized Signature

Per: _____
Authorized Signature

I/We have authority to bind the corporation.

SCHEDULE "A"

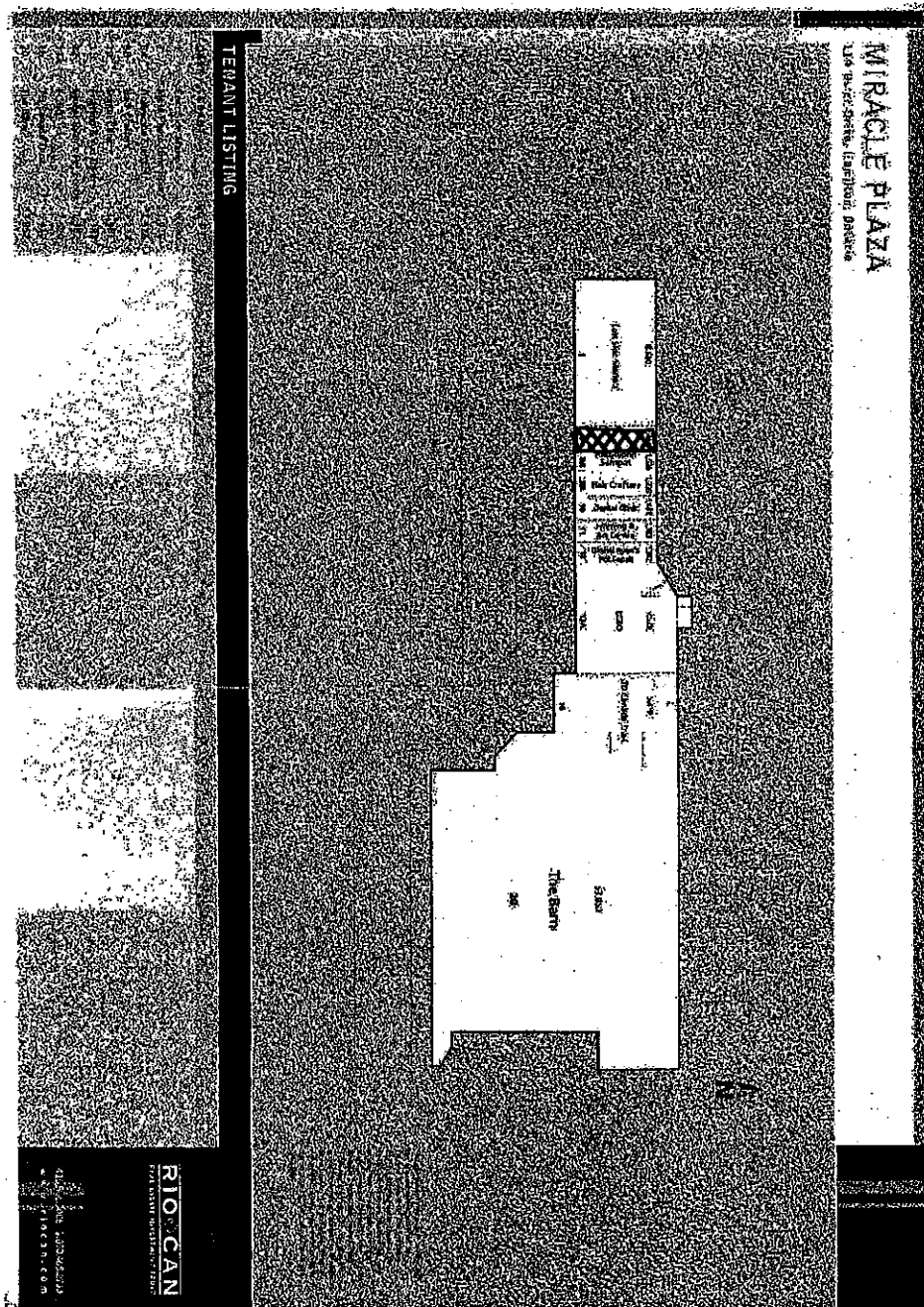
LEGAL DESCRIPTION

Part of Lot 54, Concession 1 Ancaster, designated as Parts 9, 10 and 11 on Plan 62R-11982, Town of Dundas, Regional Municipality of Hamilton-Wentworth, save and except Part of Lot 54, Concession 1 Ancaster, designated as Part 1 on Plan 62R-10885, Town of Dundas, Regional Municipality of Hamilton-Wentworth, Land Registry Division of Hamilton-Wentworth (No. 62).

A-1

SCHEDULE "B"

PLAN OF THE SHOPPING CENTRE



The purpose of this plan is to identify the approximate location of the Leased Premises in the Shopping Centre. The Landlord reserves the right at any time to relocate, rearrange, alter or expand any part of the Leased Premises from that shown on this plan. Any references on this plan to specific tenants are subject to change from time to time and shall not be deemed to be any representation as to the tenants that are within the Shopping Centre as of the date of execution of this Lease or at any time thereafter.

B-1

SCHEDULE "C"

LANDLORD'S AND TENANT'S WORK

CONSTRUCTION OF LEASED PREMISES

Landlord's Obligation

The Landlord shall at its cost and expense construct the Leased Premises for the Tenant's use and occupancy in accordance with plans and specifications prepared by the Landlord or the Architect, incorporating in such construction all items of work described as Landlord's Work herein. Any work in addition to any of the items specifically enumerated as Landlord's Work shall be performed by the Tenant at its own cost and expense. Any equipment or work other than those items specifically enumerated as Landlord's Work which the Landlord installs or constructs in the Leased Premises on the Tenant's behalf shall be paid for by the Tenant as Additional Rent within fifteen (15) days after receipt of a bill therefor, at cost plus fifteen percent (15%) for overhead and supervision.

Tenant's Obligation

The Tenant shall at its cost and expense complete or cause the completion of all items of work described as Tenant's Work herein prior to the Commencement Date in accordance with the plans and specifications which have been submitted to and approved by the Landlord. All work performed by the Tenant with respect to the Leased Premises shall:

- (a) be done in accordance with the design criteria set down by the Landlord or its authorized representatives with respect to the external and internal appearance of the Leased Premises;
- (b) be done as expeditiously as reasonably possible;
- (c) be done in such manner as will not interfere unreasonably with work being done by the Landlord upon the Leased Premises or any other portion of the Shopping Centre;
- (d) be done in compliance with such reasonable rules and regulations as the Landlord or its agents or contractors may make;
- (e) be carried out by competent workers under the supervision of one or more professional contractor(s) and designer(s), who shall be subject to prior written approval of the Landlord (such approval not to be unreasonably withheld or delayed), and be subject to the reasonable supervision of the Landlord or its agents or contractors;
- (f) be done only by persons whose labour union affiliations are acceptable to the unions of which the employees of the Landlord, its contractors or subcontractors are members;
- (g) be commenced only after the Tenant has delivered to the Landlord a certificate of general liability insurance from its general contractor (or from the Tenant if it is acting as its own contractor) as contemplated in Paragraph A below; and
- (h) be done at the risk of the Tenant.

Landlord's Work

The Tenant acknowledges that it has examined the Leased Premises and accepts them in their present state and condition, subject to the removal of any existing fixtures or chattels from the Leased Premises.

Tenant's Work

The Tenant shall perform all construction required to ready the Leased Premises for the conduct of the Tenant's business therein, at its sole cost and expense, and in accordance with the provisions of this Schedule "C".

OTHER PROVISIONS

Performance of Tenant's Work

The following provisions are in addition to, and do not waive the provisions of any general covenants between the Tenant and the Landlord as may be contained in this Lease:

- A. Before doing any item of Tenant's Work, (i) Tenant shall secure and demonstrate to the Landlord on demand, all necessary permits; (ii) Tenant shall deliver to Landlord a certificate evidencing that it has obtained contractors' general liability insurance in accordance with the Landlord's requirements, naming both the Landlord and its property manager as additional named insureds; and (iii) Tenant shall deliver at least one (1) contractor's quotation outlining the scope of Tenant's Work and estimated cost of the Tenant's Work which the Tenant intends to undertake and complete in accordance with the terms hereof. Upon completion, Tenant shall secure all applicable certificates of completion and occupancy.
- B. All work by the Tenant within the Leased Premises shall be completed in new materials. Materials and workmanship shall be of a uniformly high quality and used and/or performed in accordance with the very best standards of practice and shall not be in contravention of any governing codes or regulations and shall be subject to the approval of the Landlord and/or its Architect. Any damage to the Leased Premises or the Shopping Centre caused by the Tenant or any of its employees, contractors of workmen shall be repaired forthwith by the Landlord at the expense of the Tenant.
- C. Under no circumstances will the Tenant, its employees, its contractors or its contractors' employees enter onto any roof of the Shopping Centre or make any opening in the roof.
- D. The Tenant and his contractor(s) shall not impose a greater load on any concrete floor than the design live load of 100 pounds per square foot uniformly distributed. No unusual loads may be suspended from the underside of roof structure.
- E. Tenant shall maintain the Leased Premises in a reasonably clean and orderly manner and shall be responsible for the cost of removing from the Shopping Centre all excess materials, trash and cartons resulting from Tenant's Work and stocking of the Leased Premises. Should the Tenant fail to regularly clean up construction material, trash and cartons, the Landlord may remove such materials and charge the costs to the Tenant.
- F. The Tenant shall not allow any liens or notices thereof to be placed against the Leased Premises or the Shopping Centre. Failure to discharge any liens or notices thereof within five (5) days of notice by the Landlord to do so, shall constitute a default under this Lease.

Exhaust and Odours

- (a) Objectionable odours from the Leased Premises shall, at the Tenant's expense, be exhausted in such a manner as precludes their escaping into the Mall or other rental areas, or short-circuiting into any fresh-air vents. The Tenant specifically acknowledges and agrees that it shall be responsible for any costs, expenses or damages suffered or incurred by the Landlord as a result of claims by other tenants of the Shopping Centre relating to objectionable odours or exhaust emanating from the Leased Premises during the completion of the Tenant's Work or otherwise during the Term of this Lease. The Landlord shall be entitled to require the Tenant to suspend the Tenant's Work on twenty-four (24) hours prior written notice in the event that the Tenant fails to comply with its obligations contained herein.
- (b) Where Tenant requests a total exhaust rate greater than 200 CFM/bay, the Tenant shall provide a make-up air system in accordance with Landlord's specifications, sized in the amount of the excess and shall waive any right to demand of the Landlord the ambient design conditions specified in the design package provided to the Tenant by the Landlord, if any.
- (c) Tenant's air-handling equipment may not under any circumstances draw air from any enclosed mall or exhaust into it.
- (d) Garbage refrigeration equipment must be installed in the Leased Premises by the Tenant if perishable items are handled.

Complete Drawings by Tenant (as applicable)

The Tenant shall submit to the Landlord complete drawings and specifications for the Leased Premises, to be prepared by qualified designers and conforming to each of good engineering practice, the outline drawings provided to the Tenant by the Landlord, if any, and the provisions of this Schedule "C".