

BELDEN VILLAGE MALL

**City of Canton
State of Ohio**

TENANCY AGREEMENT

THIS TENANCY AGREEMENT (hereinafter the "Agreement") is made and entered into this _____ day of _____, 20____, by and between **BELDEN MALL LLC**, a Delaware limited liability company, whose address is: 100 N. Pacific Coast Highway, Suite 1925, El Segundo, California 90245 ("Landlord"), and _____, a _____, whose address is: _____ ("Tenant").

WITNESSETH: That Landlord does hereby lease to Tenant and Tenant does hereby lease from Landlord, upon the terms and subject to the conditions hereinafter set forth, the premises located in **BELDEN VILLAGE MALL**, in Canton, Ohio, a general site plan of which development is shown on Exhibit A-1 attached hereto and made a part hereof (the "Shopping Center"), designated as **Space No. _____**, consisting of approximately _____ **square feet** of space shown hatched on Exhibit A-2 attached hereto and by this reference made a part hereof (the "Premises").

1. TERM.

The "Term" of this Agreement shall commence on the date of the execution of this Agreement by Landlord and Tenant (the "Commencement Date"). Tenant's obligation for payment of "Rental" (as defined in Section 3 below) shall commence upon _____ (the "Rental Commencement Date"). The Term of this Agreement shall end on _____ (the "Expiration Date"). For the purposes of this Agreement, the first lease year shall be the period commencing on the Rental Commencement Date and ending on January 31 next following; after the first lease year, the term "lease year" as used herein shall mean a fiscal year of twelve (12) consecutive calendar months ending on January 31 of each calendar year.

2. MINIMUM ANNUAL RENTAL AND PERCENTAGE RENTAL.

(a) **MINIMUM ANNUAL RENTAL.** From and after the Rental Commencement Date Tenant shall pay to Landlord as "Minimum Annual Rental" the following sum(s) for each lease year during the Term in equal consecutive monthly installments:

Base Rent: From the Rental Commencement Date and continuing through the Expiration Date of the Term, Tenant's payment of "Base Rent" shall be as follows:

(i) Rental Commencement Date and continuing through the Expiration Date: \$ _____.

"B" Rent: Beginning on the Rental Commencement Date through the lease year ending December 31, 20____, Tenant's payment of "B Rent" shall be _____ Dollars (\$____) per square foot of the Floor Area in the Premises per annum. Commencing on January 1, 20____, and on each January 1st thereafter during the remainder of the Term, B Rent shall be increased by _____ (%) over the amount payable by Tenant for B Rent in the prior lease year [i.e., "B" Rent for 2020 shall be _____ (\$____) per square foot of Floor Area in the Premises, "B" Rent for 20____ shall be _____/100 Dollars (\$____) per square foot of Floor Area in the Premises, etc.].

Base Rent and "B" Rent shall collectively constitute "Minimum Annual Rental" under this Lease.

Minimum Annual Rental is payable monthly, in advance, on or before the first day of each calendar month during the Term without prior demand or notice. In the event Tenant is obligated to pay Minimum Annual Rental for a period which is less than a calendar month, Minimum Annual Rental for that period shall be prorated on the basis the number of days in such period bears to the total number of days in the month in which such period occurs.

(b) **PERCENTAGE RENTAL.** In addition to the payment of Minimum Annual Rental and other sums set forth in this Agreement, from and after the Rental Commencement Date through the end of the Term, Tenant shall pay to Landlord, for each lease year during the Term "Percentage Rental" equal to the product of _____ percent (____%) multiplied by the amount over which Tenant's Gross Sales (as defined below) resulting from business conducted from the Premises during such lease year exceed the following "Annual Breakpoint(s)":

(i) Rental Commencement Date through the Expiration Date: \$ _____.

In the case of any lease year containing less than twelve (12) calendar months, the foregoing breakpoint shall be prorated by multiplying the Annual Breakpoint by a fraction, the numerator of which is the number of days in such partial lease year and the denominator of which is three hundred sixty five (365). Percentage Rental shall be first paid for the calendar month in which the aggregate of Gross Sales for such lease year shall first have exceeded the Annual Breakpoint. Thereafter, Percentage Rental shall be paid monthly on all additional Gross Sales made during the remainder of such lease year, which payments shall be made in arrears within thirty (30) days of the end of each month.

In the event that the Percentage Rental payable for such lease year should, for any reason, exceed the aggregate of the amounts actually paid by Tenant for such lease year on account of Percentage Rental, Tenant shall pay to Landlord the amount of such excess concurrently with the delivery of the Annual Gross Sales Statement as required by this Agreement; and in the event that the Percentage Rental payable for such lease year shall be less than the aggregate of the amounts actually paid by Tenant for such lease year on account of Percentage Rental, then the amount of such difference shall be credited towards the next monthly payments due from Tenant under this Agreement.

(c) **GROSS SALES.** The term "Gross Sales" as used herein shall be construed to include the entire amount of the actual sales price (including all finance charges by Tenant or anyone on Tenant's behalf) whether for cash, credit or otherwise, of all sales, rentals, leases, licenses or other transfer of merchandise or services and other receipts whatsoever of all business conducted in or from the Premises, by Tenant, all subtenants, assignees, licensees, concessionaires or otherwise, including, without limitation: mail, catalogue, closed circuit television, computer, other electronic or telephone orders received or filled at the Premises; all deposits not refunded to purchasers; orders taken, although said orders may be filled elsewhere; gross receipts from vending machines, electronic games or similar devices, whether coin-operated or otherwise; and the entire amount of the actual sales price and all other receipts for sales and services by Tenant, any subtenants, assignees, licensees, concessionaires or otherwise in or from the Premises. A "sale" shall be deemed to have been consummated for the purposes of this Agreement, and the entire amount of the sales price shall be included in Gross Sales, at such time as (i) the transaction is initially reflected in the books or records of Tenant or any subtenant, assignee, licensee or concessionaire (if a concessionaire makes the sale), or (ii) Tenant or any subtenant, assignee, licensee or concessionaire receives all or any portion of the sales price, or (iii) the applicable goods or services are delivered to the customer, whichever first occurs, irrespective of whether payment is made in installments, the sale is for cash or for credit, or all or any portion of the sales price has actually been paid at the time of inclusion in Gross Sales or at any other time. Except as set forth below, no deduction shall be allowed for direct or indirect discounts, rebates, credits or other reductions to employees or others, unless such discounts, rebates, credits or other reductions are generally offered to the public on a uniform basis. The term "Gross Sales" shall not include (or if included, there shall be deducted to the extent of such inclusion) only the following:

1. The portion of the sales price of all merchandise returned or exchanged by customers and accepted for credit to the extent of the credit;
2. Goods returned to sources, including shippers or manufacturers, or transferred to another store or warehouse owned by or affiliated with Tenant (where such exchange of goods or merchandise is made solely for the convenient operation of the business of Tenant and not for purposes of consummating a sale which has theretofore been made in or from the Premises and/or for the purpose of depriving Landlord of the benefit of a sale which otherwise would be made in or from the Premises);
3. Alteration workroom, delivery charges and delivery charges at Tenant's cost of sales;
4. Receipts from public telephones, stamp machines, public toilet locks, or vending machines installed solely for use by Tenant's employees;
5. Sales taxes, so-called luxury taxes; consumers' excise taxes, gross receipts taxes and other similar taxes now or hereafter imposed upon the sale of merchandise or services, but only if collected separately from the selling price of goods, merchandise or services and collected from customers; and
6. Sales of trade fixtures, equipment or property which are not stock in trade.

(d) TENANT'S RECORDS; AUDIT.

(i) Tenant shall prepare and keep full, complete and proper books and source documents, in accordance with Generally Accepted Accounting Principles, of the Gross Sales, whether for cash, credit or otherwise, of each separate department at any time operated within the Premises and of the operations of each subtenant, concessionaire, licensee and/or assignee, and shall require and cause all such parties to prepare and keep books, source documents, records and accounts sufficient to substantiate those kept by Tenant ("Records"). The Records to be kept by Tenant shall include, without limitation, true copies of all state and local sales and use tax returns and reports, records of inventories and receipts of merchandise, records of bank deposits of the entire receipts from transactions at the Premises, daily receipts from all sales (including those from mail or telephone orders), and other pertinent original sales records and records of any other transactions conducted in or from the Premises by Tenant and any other persons conducting business from the Premises. Pertinent original sales records shall include, without limitation, a point of sale system of record keeping and such other reasonable documentation which would normally be examined by an independent accountant pursuant to Generally Accepted Auditing Standards in performing an audit of Tenant's sales sufficient to provide determination and verification of Gross Sales and the exclusions and deductions therefrom. Tenant's Records shall be preserved by Tenant at the Premises for at least twelve (12) months after expiration of each lease year or partial lease year. All books, source documents and Records maintained pursuant hereto shall, at all reasonable times, be open to the inspection of, and may be copied or extracted from, in whole or in part, by Landlord or Landlord's authorized representative or agent for a period of at least twelve (12) months after the expiration of each lease year.

(ii) Notwithstanding the acceptance by Landlord of payments of Minimum Annual Rental or Percentage Rental or installments thereof, Landlord shall have the right to audit all Rental and other charges actually due hereunder. Within ten (10) days following Landlord's request, Tenant shall make available to Landlord at the Premises or at Tenant's principal business office in the United States for examination, extracting and/or copying all books, source documents, accounts, sales tax reports and Records of Tenant and any subtenants, concessionaires, licensees and/or assignees, including Tenant's state and federal income tax returns, in order to verify the amount of Gross Sales made in and from the Premises. Any and all charges occasioned by reason of such audit shall be the sole obligation of Tenant and payable on demand.

(e) REPORTS BY TENANT. On or before the tenth (10th) day of each month, Tenant shall submit to Landlord, at the address specified in this Agreement, a written statement certified by Tenant showing Tenant's Gross Sales for the preceding calendar month (the "Monthly Gross Sales Statement"). Within thirty (30) days after the end of each lease year, Tenant shall deliver to Landlord a written statement signed by a certified public accountant, or an officer of Tenant, setting forth the amount of Tenant's Gross Sales for such lease year (the "Annual Gross Sales Statement"). In the event that Tenant fails to furnish to Landlord any Monthly or Annual Gross Sales Statement when due, Landlord, in addition to any other rights and remedies that Landlord may have under this Agreement, or at law or in equity, shall be entitled to assess an administrative charge of \$250.00 for each such delinquent Gross Sales Statement to help defray additional expenses.

(f) RADIUS. Tenant acknowledges that sales from a store owned by it or a related entity as described herein within a ten (10) mile radius of the Premises (the "Radius Area") may reduce the Gross Sales that might otherwise be made from the Premises. If such a business is operated, the specific effect on Gross Sales may be difficult or impossible to establish with certainty. Therefore, in order to provide Landlord with a fair and adequate rental for the Premises, in the event that during the Term hereof Tenant or any person, firm, corporation or other entity who or which controls or is controlled by Tenant, or by any person, firm, corporation or other entity who or which controls Tenant, shall directly, either individually or as a partner or stockholder or otherwise, own, operate or become financially interested in any business similar to or in competition with the business of Tenant described in this Agreement within the Radius Area, then the Gross Sales of any such business or businesses within said Radius Area shall be included in the Gross Sales made from the Premises and the Percentage Rental hereunder shall be computed upon the aggregate of the Gross Sales made from the Premises and by any such other business or businesses then conducted within the Radius Area. Tenant shall be obligated to provide Landlord with a statement of Tenant's Gross Sales for all such other businesses operated within the Radius Area, in accordance with the reporting requirements for Gross Sales as provided in this Agreement and Landlord shall have a right to examine the books and to audit such other businesses in a manner as set forth in this Agreement.

This subsection shall not apply to any such business or businesses open and in operation within the Radius Area as of the date of execution of this Agreement. Landlord or Landlord's authorized representative or agent shall have the right at all reasonable times during the Term hereof and for a period of at least two (2) years after the expiration of the Term, to inspect, audit, copy and make extracts of the books, source documents, records and accounts pertaining to such other business or businesses for the purpose of

determining or verifying the Additional Rent (as defined in Section 3 below) due to Landlord pursuant to this Agreement.

3. ADDITIONAL RENT.

In addition to Minimum Annual Rental and Percentage Rental hereunder, Tenant shall pay, as “Additional Rent” (whether or not so designated herein), in a manner and at the place provided in this Agreement, all sums of money required to be paid by Tenant under this Agreement. If such amounts or charges are not paid at the time and in the manner as provided in this Agreement, they shall nevertheless be collectible as Additional Rent with the next installment of Minimum Annual Rental thereafter falling due, but nothing herein contained shall be deemed to suspend or delay the payment of any amount of money or charge at the time the same becomes due and payable hereunder or to limit any other remedy of Landlord. All amounts of Minimum Annual Rental, Percentage Rental and Additional Rent (also collectively referred to in this Agreement as “Rental”) payable in a given month shall be deemed to comprise a single rental obligation of Tenant to Landlord. All Rental shall be paid to Landlord in currency of the United States or other customary commercial manner at the address set forth in this Agreement or such other place as Landlord may designate, without any deductions or offsets whatsoever.

As of the Rental Commencement Date, Tenant shall initially pay, as Additional Rent, the following charges for Common Area Operating Costs and Expenses (including Landlord's insurance on the Shopping Center), Taxes, the Promotional Charge, and the Tenant HVAC charge (as those terms are defined below):

Common Area Operating Costs and Expenses: \$ ___/sf/year, subject to annual increases of ___ percent (___%) beginning on January 1, 20___;

Taxes: \$ ___/sf/year, subject to annual adjustment pursuant to Landlord's actual costs for Taxes; and

Tenant HVAC Charge: \$ ___/sf/year, subject to annual increases of ___ percent (___%) beginning on January 1, 20___.

Promotional Charge: \$ ___/sf/year; subject to annual increases of ___ percent (___%) beginning on January 1, 20___.

(a) COMMON AREA OPERATING COSTS AND EXPENSES. The term “Common Area Operating Costs and Expenses” shall mean, without limitation, all costs and expenses of every kind and nature paid or incurred by Landlord in managing, operating, equipping, policing and protecting, lighting, signing, cleaning, painting, heating, ventilating, air conditioning, providing sanitation and sewer and other services, insuring, defending or prosecuting lawsuits (or other legal proceedings), repairing, replacing and maintaining (i) the common areas of the Shopping Center (including the parking facilities), (ii) all buildings and roofs within the Shopping Center, and (iii) all other areas, facilities, work and storage areas, leased or owned property, and buildings whether located within or outside of, the Shopping Center (the “project areas”).

(b) TAXES. The term “Taxes” shall mean any and all taxes, surcharges, assessments, levies, fees and other governmental charges and impositions of every kind or nature, regular or special, direct or indirect, presently foreseen or unforeseen or known or unknown, levied or assessed by municipal, county, state, federal or other governmental taxing or assessing authority (i) upon, against or with respect to the real estate upon which the Shopping Center or any part of it is located, and to any improvements located in the Shopping Center, and (ii) any other taxes which Landlord becomes obligated to pay with respect to the Shopping Center, irrespective of whether the same are assessed as real or personal property.

In addition to the amount payable for Taxes as stated herein, if applicable, Tenant shall pay any rent tax, sales tax, service tax, transfer tax, value added tax, or any other applicable tax on the Rental, utilities or services herein or otherwise respecting this Agreement or any other document entered in connection herewith.

(c) TENANT HVAC CHARGE. Tenant shall pay to Landlord an initial heating, ventilating and air conditioning charge for both Premises and Shopping Center heating and cooling (the Premises HVAC Charge and the Mall HVAC Charge, hereinafter collectively as the “HVAC Charge” for all costs paid or incurred by Landlord for heating, ventilating and air conditioning the common area of the Shopping Center.

(d) PROMOTIONAL PROGRAM. Landlord shall provide or cause to be provided a program of advertising and promotional events and services (the “Promotional Program”) which, in

Landlord's sole judgment, will serve to promote the Shopping Center. Landlord shall not be obligated to spend more than is actually collected from tenants in providing the Promotional Program. Any promotional services and personnel provided shall be under the exclusive control and supervision of Landlord, who shall have the sole authority to employ and discharge personnel and to establish a budget for the Promotional Program. Tenant shall pay Landlord an annual promotional charge (the "Promotional Charge") as Tenant's share of the cost of the Promotional Program.

Landlord may, at its option and in its sole discretion, apply any payments received from Tenant to any Rental, or other charges which are then due and payable. If Landlord shall not make any specific application of a payment received from Tenant, then any payment received from Tenant shall be applied first to the other charge, then to Rental which has been overdue for the longest period of time. No designation of any payment by Tenant for application to a specific portion of Tenant's financial obligations hereunder shall be binding upon Landlord. Any sums received by Landlord after termination of this Agreement shall not constitute rent but shall be received only as reimbursement for use and occupancy of the Premises.

Tenant covenants to pay all Rental due under this Agreement independent of any obligation of Landlord. No breach of this Agreement by Landlord shall relieve Tenant of its obligation and duty to pay all Rental when due under the terms of this Agreement.

4. LATE CHARGE.

Unless specifically stated otherwise in this Agreement, all Rental required to be paid by Tenant pursuant to this Agreement shall be due and payable ten (10) days after demand, without any notice from Landlord and without any deductions or offsets whatsoever. The parties hereby agree that late payment by Tenant of any Rental owing under this Agreement will cause Landlord to incur certain costs and expenses not contemplated under this Agreement, the exact amount of which costs are extremely difficult and impracticable to fix. Therefore, in the event Tenant fails to pay any monthly installment of Rental on the date said payment is due, then Tenant shall pay a late charge of ten percent (10%) of such amount as Additional Rent. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs and expenses Landlord will incur by reason of late payment by Tenant. Landlord's acceptance of this late charge payment shall not prevent Landlord from exercising all other rights and remedies available to Landlord under this Agreement, at law or in equity.

5. CONDITION AND CONSTRUCTION OF PREMISES.

Landlord shall construct the Premises in accordance with Exhibit B attached hereto and incorporated herein by reference. At its sole cost and expense, Tenant shall perform all other work necessary or desirable to prepare the Premises for its occupancy including, without limitation, the installation of dressing rooms and all other furniture, fixtures and equipment together with any interior or exterior signage. Any improvements to be made to the Premises shall be substantially as set forth in Exhibit B and Landlord's design criteria. Tenant's failure to furnish the plans and specifications required pursuant to Exhibit B (the "Plans and Specifications") within the time periods and in the form required by Exhibit B, or failure to perform any other obligation under Exhibit B shall constitute a default under this Agreement which shall entitle Landlord to all remedies set forth in this Agreement or by law. No material deviation from the final Plans and Specifications, once approved by Landlord, shall be made by Tenant without Landlord's prior written consent. Approval of the final Plans and Specifications by Landlord shall not constitute the assumption of any responsibility by Landlord for their accuracy, efficacy or sufficiency, and Tenant shall be solely responsible for such items. Wherever the term "Lease" is used in Exhibit B, it shall mean and refer to this Agreement.

Landlord agrees that, except for any item in place as of the Commencement Date, there shall be no permanent retail kiosk or other material obstruction within ten feet (10') directly in front of the storefront of the Premises.

6. PERMITTED USE; TRADE NAME.

(a) PERMITTED USE. During the Term, Tenant shall use the Premises solely for the purpose of conducting therein the business of the operation of restaurant offering.... as shown on Tenant's menu attached hereto and incorporated herein by reference as Exhibit E. Tenant may modify the items on the menu without first seeking Landlord approval provided the menu offerings are consistent with and complementary to the items set forth on Exhibit E and are offered at all or substantially all of Tenant's other locations and do not violate any exclusives granted to other occupants of the Shopping Center. The Premises shall be used solely for the use stated above and for no other use or purpose.

8. SERVICES AND EQUIPMENT.

(a) Tenant shall furnish, at its expense, all trade fixtures, furniture, equipment and personal property (collectively, "Property") to be used at the Premises. Landlord shall not be responsible for the Property of Tenant, and any insurance coverage thereon shall be provided by Tenant as set forth in this Agreement. Tenant agrees to pay all charges for utilities, including heating and air conditioning, services for electrical, water and sewer, telephone and other communication services, fire detection services (if applicable), and trash removal services for the Premises, whether paid to Landlord or a third party provider of such utilities. Tenant shall indemnify Landlord and save it harmless against any liability or damages on such account.

(b) As of the Rental Commencement Date, Tenant shall pay for its electric service for the Premises directly to a third party provider of such electric service. Landlord, at its option, may elect to provide electric service to the Premises, at a cost to be determined by Landlord, which amount shall be paid monthly by Tenant as Additional Rent pursuant to this Agreement. Thereafter, Landlord may elect to discontinue furnishing electric service to the Premises upon thirty (30) days' prior written notice to Tenant without affecting this Agreement or otherwise incurring any liability to Tenant. If Landlord shall give Tenant such notice, Tenant may contract for and receive such electric service directly from the public utility company serving the Shopping Center, and if Tenant does so, Landlord shall permit Tenant to use Landlord's service to the Premises, at Tenant's cost.

(c) Tenant, at Tenant's expense, shall at all times keep the Premises (including, without limitation, the service areas adjacent to the Premises, display windows and signs) orderly, neat, safe, clean and free from rubbish and dirt. Tenant shall dispose of all trash (wet or dry) on a daily basis in such receptacles as may be designated by Landlord for such disposal, and until Tenant disposes of such trash, Tenant shall store the trash and other solid waste within the Premises or in such areas as may be designated by Landlord for such storage. Tenant shall not burn any trash or garbage, at any time, in or about the Shopping Center.

(d) As of the Rental Commencement Date, Tenant shall pay for its trash removal service for the Premises directly to a third party provider of such trash removal service. At any time after Landlord makes such election, Landlord may, upon thirty (30) days' prior written notice to Tenant, furnish trash removal services to the Premises at a cost to be determined by Landlord, which amount shall be paid monthly by Tenant as Additional Rent pursuant to this Agreement. Thereafter, Landlord may elect to discontinue furnishing trash removal services to the Premises upon thirty (30) days' prior written notice to Tenant without thereby affecting this Agreement in any manner or otherwise incurring any liability to Tenant, except that Landlord will no longer be required to furnish trash removal services to the Premises. If Landlord does not provide such services and if Landlord has elected not to retain a third party to provide such services, Tenant shall arrange for the regular pickup of all trash, garbage and other solid waste with a contractor and upon terms approved in writing by Landlord, in its sole discretion.

(e) As of the Rental Commencement Date, Tenant shall pay for its water and sewer service for the Premises directly to a third party provider of such water and sewer service. Landlord, at its option, may elect to provide water and sewer service to the Premises, at a cost to be determined by Landlord, which amount shall be paid monthly by Tenant as Additional Rent pursuant to this Agreement. Thereafter, Landlord may elect to discontinue furnishing water and sewer service to the Premises upon thirty (30) days' prior written notice to Tenant without affecting this Agreement or otherwise incurring any liability to Tenant. If Landlord shall give Tenant such notice, Tenant may contract for and receive such water and sewer service directly from the public utility company serving the Shopping Center, and if Tenant does so, Landlord shall permit Tenant to use Landlord's service to the Premises, at Tenant's cost.

9. SIGNS.

All signs installed at the Premises shall comply with and be subject to Landlord's sign criteria for the Shopping Center and the prior written approval of Landlord.

10. MAINTENANCE OF PREMISES.

(a) Tenant, at Tenant's expense, shall keep and maintain the Premises and every part thereof in a first-class, clean, sanitary and safe condition throughout the Term, in accordance with applicable law and all directions, rules and regulations of the health officer, fire marshal, building inspector or other proper officials of the governmental agencies having jurisdiction. Tenant shall keep the Premises and all other parts of the Shopping Center free from any and all liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Tenant. Within ten (10) days after written request therefor by Landlord, Tenant shall (i) bond against or discharge any mechanics' or materialmen's lien, or (ii) furnish Landlord with a copy of the recorded waiver of lien, recorded release of lien, or of the recorded bond discharging such lien. Tenant shall reimburse Landlord as Additional Rent for any and all costs and

expenses including, without limitation, attorneys' fees, which may be incurred by Landlord by reason of the filing of any such liens and/or removal of same, such reimbursement to be made within ten (10) days after receipt by Tenant from Landlord of a statement setting forth the amount of such costs and expenses such reimbursement to be paid to Landlord in the manner and at the place provided in this Agreement. Tenant shall give Landlord at least fifteen (15) days' written notice prior to commencing or causing to be commenced any work on the Premises (whether prior or subsequent to the Commencement Date), so that Landlord shall have reasonable opportunity to file and post a notice of non-responsibility for Tenant's work.

(b) In the event Tenant fails, refuses or neglects to maintain the Premises as required hereunder or to commence and complete repairs promptly and adequately, to remove or bond against any lien, to pay any cost or expense, to reimburse Landlord, or otherwise to perform any act or fulfill any obligation required of Tenant pursuant to this Section, Landlord may, but shall not be required to, perform such maintenance or to make or complete any such repairs, remove or bond against such lien, pay such cost or perform such act or the like without prior notice to, but at the sole cost and expense of Tenant. Tenant shall reimburse Landlord, as Additional Rent, for all costs and expenses of Landlord thereby incurred within ten (10) days of Tenant's receipt of Landlord's statement setting forth the amount of such cost and expense.

11. INSURANCE.

(a) Tenant, at its sole cost and expense, shall, during the entire Term hereof, procure and keep in force: (i) Commercial General Liability Insurance with respect to the Premises and the operations of Tenant in, on or about the Premises, in which the limits shall be not less than Five Million Dollars (\$5,000,000.00) per occurrence combined single limit, Five Million Dollars (\$5,000,000.00) in the aggregate, broad form/extended bodily injury, death and property damage, and business automobile liability insurance covering all owned, non-owned and hired or borrowed vehicles of Tenant used in connection with the operation of its business from the Premises, in which the limits shall be not less than One Million Dollars (\$1,000,000.00) per occurrence combined single limit, insuring for bodily injury, death and property damage; (ii) plate glass insurance, at full replacement value; (iii) insurance against fire, extended coverage, vandalism, malicious mischief, water damage which does not exclude backup from sewers or drains and/or sprinkler leakage, and such other additional perils including earthquake and flood as now are or hereafter may be included in a standard extended coverage endorsement from time to time in general use in the county in which the Development is located, insuring all improvements in, on or to the Premises above building shell (including any alterations, additions, improvements or utility installations as may be made by Tenant with the proceeds of Tenant's Allowance, if any), Tenant's merchandise, trade fixtures, furnishings, equipment and all other items of personal property of Tenant located on or in the Premises, including steam boiler insurance, if applicable, in an amount equal to the full replacement cost thereof; (iv) workers' compensation coverage as required by law and including Employer's Liability Insurance in the amount of Five Hundred Thousand Dollars (\$500,000.00) each accident, Five Hundred Thousand Dollars (\$500,000.00) each employee, by disease, Five Hundred Thousand Dollars (\$500,000.00) policy aggregate by disease; (v) with respect to alterations, improvements and the like required or permitted to be made by Tenant under this Lease, contingent liability and builders' risk insurance, in an amount satisfactory to Landlord; (vi) the insurance required under Exhibit B, and (vii) product liability coverage (including, without limitation, if this Lease covers Premises in which food and/or beverages are sold and/or consumed, separate liquor liability coverage for acts arising out of the serving and/or consumption of food and/or alcoholic beverages on or obtained at the Premises, to the extent obtainable) and coverage for Food Tampering, each for not less than One Million Dollars (\$1,000,000.00) combined single limit, bodily injury, death and property damage. In addition, if Landlord deems it necessary to increase the amounts or limits of insurance required to be carried by Tenant hereunder, Landlord may reasonably increase said amounts or limits, and Tenant shall so increase the amounts or limits of the insurance required to be carried by Tenant hereunder and shall provide Landlord with policies or certificates indicating the increased amounts or limits as provided in this Section 11.01.

The policy requirements of Section 11 (a)(i) and (vii) above will be supplemented by Tenant's umbrella policy with a limit of Three Million Dollars (\$3,000,000.00), increasing such coverages by Three Million Dollars (\$3,000,000.00), each.

(b) All policies of insurance required to be carried by Tenant pursuant to this Section 11.01 shall be written by insurance companies of adequate financial capacity satisfactory to Landlord with a Best's rating and Financial Size Category of not less than A-/VII and authorized to do business in the state in which the Development is located. Any such insurance required of Tenant hereunder may be furnished by Tenant under any blanket policy carried by it or under a separate policy therefor. An insurance certificate (and endorsements where same become necessary) together with a copy of the policy declaration page from Tenant's insurer, certifying that such policy has been issued, provides the

coverage required by this Section 11.01 and contains all of the provisions specified in this Section 11.01 (including, without limitation, naming of additional insured entities as required by Section 11.01(c) below and a statement that no deductible or self-insured retention applies to such policy), shall be delivered to Landlord, at the address set forth on the Data Sheet prior to the commencement of the Term of this Lease, and such insurance information shall also be provided in connection with all renewals, not less than thirty (30) days prior to the expiration of the term of each such policy. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Tenant in like manner and to like extent. Landlord may, at any time, and from time to time, inspect and copy any and all insurance policies required to be procured by Tenant hereunder.

(c) Each policy evidencing insurance required to be carried by Tenant pursuant to this Section 11.01 shall contain the following clauses and provisions: (i) a provision that such policy and the coverage evidenced thereby shall be primary and non-contributing with respect to any policies carried by Landlord and that any coverage carried by Landlord be excess insurance; (ii) a provision including Landlord and any other parties designated by Landlord from time to time as additional insured entities; (iii) a waiver by the insurer of any right to subrogation against Landlord and all other additional insured entities, its agents, employees and representatives which arises or might arise by reason of any payment under such policy or by reason of any act or omission of Landlord, its agents, employees or representatives; (iv) a severability of interest clause or endorsement; (v) a provision that the insurer will not cancel or change the coverage provided by such policy without giving Landlord thirty (30) days' prior written notice; and (vi) such policy shall be an "occurrence form" policy. Any policy of insurance required to be carried by Tenant that names the parties set forth in this Section 11.01(c) (ii) as additional insured entities shall not be subject to a deductible or self-insured retention, it being the intent of the parties that such insurance shall fully and completely insure such additional insured entities for all loss or expense. The additional insureds and their successor or assignees as set forth on Exhibit C shall be named on all of Tenant's insurance policies, as their interests appear.

(d) In the event that Tenant fails to procure or to maintain, at the times and for the duration specified in this Section 11.01, any insurance required by this Section 11.01, or fails to carry insurance required by law or governmental regulation, Landlord may (but shall not be required to) at any time or from time to time, and without notice to Tenant, procure such insurance and pay the premiums therefor, and the cost of same, plus a fifteen percent (15%) administrative fee shall be deemed Additional Rent and shall be payable upon Landlord's demand.

(e) Tenant will not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will violate Landlord's policies of hazard or liability insurance or which will prevent Landlord from procuring such policies in companies acceptable to Landlord. If anything done, omitted to be done or suffered by Tenant to be kept in, upon or about the Premises shall cause the rate of fire or other insurance on the Premises or on other property of Landlord or of others within the Shopping Center to be increased beyond the minimum rate from time to time applicable to the Premises or to any property for the use or uses made thereof, Tenant will pay, as Additional Rent, the amount of any such increase upon Landlord's demand.

(f) In the event Tenant retains any security guard contractor to service the Premises, Tenant shall cause Landlord to receive a customary waiver of subrogation under the worker's compensation insurance policy covering such security guard. Tenant shall provide Landlord with written notice if any such security guard is to carry a firearm upon the Premises or Development, and in such event, Landlord shall have the right to impose additional reasonable insurance requirements upon Tenant and/or such security guard, which shall be complied with by Tenant and Tenant shall provide Landlord with evidence of such compliance prior to the posting of such security guard at the Premises. Notwithstanding the foregoing, Landlord shall have the sole and absolute right to prohibit any person (including any security guard) from carrying a firearm upon the Premises, Shopping Center and/or Development.

(g) These insurance provisions set forth the minimum amounts and scopes of coverage to be maintained by Tenant and are not to be construed in any way as a limitation or release of Tenant's liability under this Lease or as a representation that coverage and limits will necessarily be adequate to protect Tenant. Tenant may not self-insure any of its obligations under this Lease without first obtaining Landlord's consent, which consent may be granted or denied in Landlord's sole discretion. Any and all deductibles specified in the above-referenced insurance policies will be assumed by, for the account of, and at the sole risk of Tenant. All policies of insurance procured by Tenant will be written as primary policies, not contributing with nor in excess of coverage maintained by Landlord.

(h) Except as otherwise provided in this Agreement, neither Landlord nor Tenant shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other

party for any loss or damage to any building, structure or other tangible property, or any resulting loss of income, or losses under worker's compensation laws and benefits, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees. The provisions of this subsection shall not limit the indemnification for liability to third parties as provided below.

12. INDEMNIFICATION.

Tenant covenants to defend and indemnify Landlord, its partners, shareholders, representatives, management company, agents and employees, and save them harmless (except to the extent of loss or damage resulting from the intentional or willful acts or omissions or the gross negligence of Landlord not required to be insured against by Tenant pursuant to this Agreement) from and against any and all claims, actions, demands, judgments, awards, fines, mechanics' liens or other liens, losses, damages, liability and expense, including attorneys' fees and court costs, in connection with all losses, including loss of life, personal injury and/or damage to property, arising from or out of any occurrence (or arising from or out of Tenant's failure to comply with any provision of this Agreement) wholly or in part by any act or omission of Tenant, its concessionaires, agents, contractors, suppliers, employees, servants, customers or licensees and including any product liability claim or any labor dispute involving Tenant or its contractors and agents. In case Landlord or any other party so indemnified shall be made a party to any litigation commenced by or against Tenant, then Tenant shall defend, indemnify, protect and save them harmless and shall pay, as the same becomes due and payable, all costs, expenses and reasonable attorneys' fees and court costs incurred or paid by them in connection with such litigation.

13. ESTOPPEL STATEMENT, ATTORNMENT AND SUBORDINATION.

(a) ESTOPPEL STATEMENT. Within ten (10) days after request therefor by Landlord, Tenant shall execute, in recordable form, and deliver to Landlord a statement, in writing, certifying (i) that this Agreement is in full force and effect, (ii) the Commencement Date, the Rental Commencement Date and the expiration date of this Agreement, (iii) that Rental and all other charges hereunder are paid currently without any offset or defense thereto, (iv) the amount of Rental and all other charges hereunder, if any, paid in advance, (v) whether this Agreement has been modified and, if so, identifying the modifications, (vi) that there are no uncured defaults by Landlord or stating in reasonable detail those claimed by Tenant (provided that, in fact, such details are accurate and ascertainable), and (vii) such other matters as may be reasonably requested by Landlord.

(b) ATTORNMENT. In the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage and/or deed of trust made by Landlord covering the Premises, or in the event Landlord sells, conveys or otherwise transfers its interest in the Shopping Center or any portion thereof containing the Premises, this Agreement shall remain in full force and effect and Tenant hereby attorns to and covenants and agrees to execute an instrument in writing reasonably satisfactory to the new owner whereby Tenant attorns to such successor in interest and recognizes such successor as the landlord under this Agreement.

(c) SUBORDINATION. Tenant further agrees this Agreement shall be subordinate to any mortgages, deeds of trust or any ground lease that may now exist or be placed upon the Premises or the Shopping Center and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, modifications, replacement and extensions thereof. It is the intention of the parties that this provision be self-operative and that no further instruments be required to effect such subordination of this Agreement. Tenant agrees that upon the demand of Landlord, or any mortgagee, beneficiary or ground lessor, Tenant shall, within ten (10) days of the receipt of said demand, execute whatever instruments may be required to carry out the intent of this subsection in the form requested by Landlord or such mortgagee, beneficiary or ground lessor, including, without limitation, an appropriate recordable subordination agreement.

(d) REMEDIES. Failure of Tenant to execute any statements or instruments necessary or desirable to effectuate the foregoing provisions of this Section within ten (10) days after written demand to do so by Landlord shall constitute a material default of this Agreement.

14. ASSIGNMENT AND SUBLETTING.

Tenant shall not assign or sublet the whole or any part of the Premises without the prior written consent of Landlord, which may be granted or withheld in Landlord's sole discretion.

15. DAMAGE AND DESTRUCTION; CONDEMNATION.

(a) DAMAGE AND DESTRUCTION. If all or any part of the Premises is damaged or destroyed by fire or other casualty at any time during the Term, then Landlord may terminate this Agreement by giving written notice to Tenant, and in such event this Agreement shall be terminated and the

parties released from their obligations under this Agreement from and after the effective date of such termination.

(b) **CONDEMNATION.** If all or any part of the Premises is taken under power of eminent domain, or sold to public authority under threat or in lieu of such taking, Landlord may, by written notice to Tenant delivered on or before the tenth (10th) day following the date of surrender of possession to the public authority, terminate this Agreement as of the date possession is taken by public authority. All Rental shall be paid up to the day possession is taken by public authority, with an appropriate refund by Landlord of such Rental payments as may have been paid in advance for a period subsequent to that date.

16. DEFAULT; REMEDIES.

(a) Notwithstanding any provision herein to the contrary and irrespective of whether all or any rights conferred upon Landlord by this Section are expressly or by implication conferred upon Landlord elsewhere in this Agreement, in the event of (i) any failure of Tenant to pay any Rental or any other charges or sums whatsoever due hereunder (including without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure so to perform) for more than ten (10) days after written notice from Landlord to Tenant that such Rental or any other charges or sums whatsoever due hereunder were not received on the date required for payment pursuant to this Agreement, provided that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws, or (ii) any default or failure by Tenant to perform any other of the terms, conditions, or covenants of this Agreement to be observed or performed by Tenant for more than thirty (30) days after written notice from Landlord to Tenant of such default, provided that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws, or (iii) any failure by Tenant to move into the Premises and to initially open for business on or before the Rental Commencement Date, or (iv) any failure by Tenant to operate continuously in the manner and during the hours established by Landlord or for the Permitted Use, or (v) Tenant's abandonment of the Premises, or permitting this Agreement to be taken under any writ of execution or similar writ or order, then Landlord, in addition to or in lieu of other rights or remedies it may have under this Agreement or by law, shall have the following rights: Landlord may at its sole discretion: (A) immediately terminate this Agreement and Tenant's right to possession of the Premises by giving Tenant written notice that this Agreement is terminated, in which event, upon such termination, Landlord shall have the right to recover from Tenant the sum of (1) the worth at the time of award of the unpaid rental which had been earned at the time of termination; (2) the worth at the time of award of the amount by which the unpaid rental which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant affirmatively proves could have been reasonably avoided; (3) the worth at the time of award of the amount by which the unpaid rental for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant affirmatively proves could be reasonably avoided; (4) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom; and (5) all such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time under applicable law; or (B) have this Agreement continue in effect for so long as Landlord does not terminate this Agreement and Tenant's right to possession of the Premises, in which event Landlord shall have the right to enforce all of Landlord's rights and remedies under this Agreement including the right to recover all Rental payable by Tenant under this Agreement as it becomes due under this Agreement; or (C) without terminating this Agreement, Landlord may pay or discharge any breach or violation hereof which amount so expended shall be added to the next monthly incremental payment of Rental due and treated in the same manner as Rental hereunder; or (D) without terminating this Agreement, make such alterations and repairs as may be necessary in order to relet the Premises, and relet the Premises or any part thereof for such term or terms (which may be for a term extending beyond the Term) at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable.

(b) If Landlord proceeds under subsection 16(a)(D) above, upon such reletting all Rental and other sums received by Landlord from such reletting shall be applied, first, to the payment of any indebtedness other than Rental due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including reasonable brokerage fees and attorney fees and of costs of such alterations and repairs; third, to the payment of Rental due and unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of future Minimum Annual Rental and Additional Rent payable by Tenant hereunder, as the same may become due and payable hereunder. If such Minimum Annual Rental, Additional Rent and other sums received from such reletting during any month are less than that to be paid during that month by Tenant hereunder, Tenant shall pay such deficiency to Landlord; if such rentals and sums shall be more, Tenant shall have no right to the excess. Such deficiency shall be calculated and paid monthly. No reentry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Agreement unless a written notice of such intention is given to Tenant or

unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Agreement for such previous breach and shall have the remedies provided herein. Should Landlord at any time terminate this Agreement for any breach, in addition to any other remedies it may have, it may recover from Tenant all damages it may incur by reason of such breach, including the cost of recovering the Premises, all of which amount shall be immediately due and payable from Tenant to Landlord. Landlord shall use its reasonable efforts to mitigate its damages hereunder; however, the failure or refusal of Landlord to relet the Premises shall not affect Tenant's liability. The terms "entry" and "reentry" are not limited to their technical meanings. If Tenant shall default hereunder prior to the date fixed as the commencement of any renewal or extension of this Agreement, Landlord may cancel and terminate such renewal or extension agreement by written notice. In the event of reentry by Landlord, Landlord may remove all persons and property from the Premises and such property may be stored in a public warehouse or elsewhere at the cost of, and for the account of Tenant, without notice or resort to legal process and without Landlord being deemed guilty of trespass, conversion or becoming liable for any loss or damage which may be occasioned thereby. If Tenant fails to remove its property from the Premises within ten (10) days after Tenant has vacated the Premises, then such property shall be deemed abandoned by Tenant and Landlord may dispose of the same without Landlord having any liability to Tenant. If Landlord removes such property from the Premises and stores it at Tenant's risk and expense, and if Tenant fails to pay the cost of such removal and storage after written demand therefor and/or to pay any Rental then due, then after the property has been stored for a period of thirty (30) days or more Landlord may sell such property at public or private sale, in the manner and at such times and places as Landlord deems commercially reasonable following reasonable notice to Tenant of the time and place of such sale. The proceeds of any such sale shall be applied first to the payment of the expenses for removal and storage of the property, the preparation for the conducting of such sale, and for attorneys' fees and other legal expenses incurred by Landlord in connection therewith, and the balance shall be applied as provided in this subsection 16(b).

(c) For purposes of subclauses (1) and (2) of subsection 16(a), "worth at the time of award" shall be computed by allowing interest at the maximum rate permitted by law (see Section titled "Interest on Past Due Obligations") and for purposes of subclause (3) of subsection 16(a), "worth at the time of award" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank whose jurisdiction includes the Shopping Center at the time of award, plus one percent (1%); the Rental reserved in this Agreement shall be deemed to be a monthly rental arrived at (i) by adding to the monthly installment of Minimum Annual Rental payable under this Agreement an amount equal to the monthly average of all the Percentage Rental based on Gross Sales received by or payable to Landlord hereunder during the period that Tenant was conducting Tenant's business in the Premises in the manner and to the extent required pursuant to this Agreement, plus (ii) one twelfth (1/12th) of the annual average of all Additional Rent payable by Tenant hereunder.

17. NOTICES.

(a) LEGAL NOTICES. Any notice or demand which either party hereto is required or desires to give to or make upon the other shall be in writing and shall be given or made by (i) certified mail of the United States Postal Service, return receipt requested, or (ii) air courier (such as Federal Express), addressed as follows:

Landlord: Belden Mall LLC
100 N. Pacific Coast Highway
Suite 1925
El Segundo, CA 90245
Attn: Managing Principal

with a copy to:
Belden Mall LLC
4230 Belden Village Mall
Canton, Ohio 44718
Attn: Mall Management Office

Tenant: _____

Notices are subject to the right of either party to designate a different address by written notice similarly given; provided, however, that any notice address must be a street address and in no event shall either party use a post office box for a notice address. Any notice or demand shall be deemed to have

been given or made on the date the same was deposited with the United States Postal Service as certified mail with postage thereon fully prepaid or the date delivered to the air courier service.

(b) PAYMENT AND OTHER NOTICES. All payments required to be made by Tenant and Gross Sales statements, if any, required by this Agreement shall be provided to Landlord at the following addresses:

Rental:

Payee: Belden Mall LLC

By Wire: Lockbox 5147
P.O. Box 8500
Philadelphia, PA 19178-5147

Overnight Address:

Belden Mall, LLC
Lockbox #5147
Wells Fargo Bank
MAC Y1372-045
401 Market Street
Philadelphia, PA 19106

ACH Instructions:

Bank: Wells Fargo Bank
Bank Address: P. O. Box 8500
Philadelphia, PA 19178-5147
Account Name: Belden Mall LLC
DBA Starwood Retail Partners, LC
Attention: Treasury Department
Account Address: 1 E. Wacker Drive, Suite 3600
Chicago, IL 60601-2003
Routing Number: 121-000-248
Account Number: 412-983-5120

Gross Sales Statements:

Address: Belden Mall LLC
4230 Belden Village Mall
Canton, Ohio 44718
Attn: General Manager

or at such other place as Landlord may from time to time designate by notice to Tenant.

18. TENANT'S PROPERTY.

Tenant acknowledges that Tenant shall be solely responsible for instituting adequate security measures to protect the Property of Tenant and its employees, including but not limited to, fixtures, inventory and all other personal property in, on or about the Premises. Any security devices to be installed at the Premises require the prior written consent of Landlord and shall be in conformance with Landlord's design criteria for the Shopping Center. Tenant agrees to save Landlord, its agents and employees harmless from any and all liability due to the loss, damage or theft of such Property.

19. RIGHTS OF LANDLORD.

(a) RELOCATION. Landlord hereby reserves the right at any time following the Commencement Date to change the location of the Premises in the Shopping Center, such right to be exercised upon ten (10) days' prior written notice to Tenant. Tenant agrees that Landlord may effect such relocation, at Landlord's cost and expense, to a site within the Shopping Center which is mutually acceptable to the parties. Such new site shall become the Premises. In connection therewith, Tenant agrees to execute, upon request by Landlord, whatever amendment or other instrument as may be required to document the relocation. The following events may trigger the exercise of Landlord's right hereunder: (i) determination by Landlord that the location of the Premises adversely affects the leasing of any space in the Shopping Center; (ii) determination by Landlord that the location of the Premises impedes pedestrian traffic through the Shopping Center; (iii) the expansion, reduction, removal, alteration, modification or the construction of improvements in the Shopping Center; (iv) restrictive requirements by

local codes or Landlord's insurance carrier; or (v) violation of any exclusive or other agreement between Landlord and any large user or other occupant of the Shopping Center.

(b) **TERMINATION.** If Landlord, in its sole judgment, determines that it is necessary for Landlord to obtain possession of the Premises, Landlord, upon one hundred eighty (180) days' prior notice in writing to Tenant, may terminate this Agreement.

20. SURRENDER OF PREMISES; HOLDING OVER.

(a) If Landlord so directs upon the expiration or earlier termination of this Agreement, Tenant shall remove the kiosk structure and all other fixtures and improvements from the Premises, cap off all utilities serving the Premises, and restore the flooring to match the surrounding common areas in the Shopping Center. Further, Tenant shall remove its trade fixtures; equipment and other Property installed by Tenant, and surrender the Premises to Landlord in substantially as good condition as when received, ordinary wear and tear excepted. If Tenant shall fail to remove any of its Property, Landlord may, at Landlord's option, retain either any or all of the Property, and title thereto shall thereupon vest in Landlord without compensation to Tenant, or remove all or any portion of the Property from the Premises and dispose of the Property in any manner, without compensation to Tenant. In such event, Tenant shall, upon demand, pay to Landlord for the repair of any damage to the Shopping Center common areas resulting from or caused by such removal. The obligations contained herein shall survive the expiration or earlier termination of this Agreement.

(b) Tenant shall not be permitted to hold over after the expiration or earlier termination of the Term without the prior written consent of Landlord, in Landlord's sole discretion. Any such holding over with Landlord's consent shall be considered a month-to-month tenancy, pursuant to the terms of this Agreement at one-twelfth (1/12th) of an amount equal to twice the Minimum Annual Rental payable for the last lease year of the Term, together with all Additional Rent payable under this Agreement. Any such holding over without Landlord's consent shall be considered a material default which shall entitle Landlord to all remedies set forth in this Agreement or by law. Tenant shall indemnify, defend and hold Landlord harmless from and against any and all loss, claims, demands, liabilities, damages (including, without limitation, consequential damages), costs and/or expenses (including, without limitation, attorneys' fees and expenses) resulting from any failure by Tenant to surrender the Premises in the manner and condition required by this Agreement upon the expiration of the Term or earlier termination of this Agreement, including, without limitation, any claims made by any proposed new tenant founded upon such failure.

21. RULES AND REGULATIONS.

Tenant agrees to comply with and observe all rules and regulations established by Landlord from time to time, provided the same shall apply uniformly to all tenants of the Shopping Center's common areas. Tenant's failure to keep and observe said rules and regulations shall constitute a breach of the terms of this Agreement in the same manner as if the rules and regulations were contained herein as covenants. In the case of any conflict between said rules and regulations and this Agreement, this Agreement shall be controlling.

22. INTEREST ON PAST DUE OBLIGATIONS.

Any amount due from Tenant to Landlord hereunder which is not paid when due (including, without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure to so perform) shall bear interest at the lesser of (a) the "Prime Rate" as published in Wall Street Journal plus three percent (3%); or (b) the highest rate then allowed under the usury laws of the state where the Shopping Center is located from the date due until paid, unless otherwise specifically provided herein, but the payment of such interest shall not excuse or cure any default by Tenant under this Agreement.

23. ATTORNEY FEES.

If at any time after the date that this Lease has been executed by Landlord and Tenant, either Landlord or Tenant institutes any action or proceeding against the other relating to the provisions of this Lease or any default hereunder, the nonprevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorneys' fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs or disbursements incurred on any appeal from such action or proceeding. Subject to the provisions of local law, the prevailing party shall recover all such fees, costs or disbursements as costs taxable by the court or arbiter in the action or proceeding itself without the necessity for a crossaction by the prevailing party.

If Tenant shall have disputed any payment obligation or other obligation of Tenant under this Lease in good faith, and Tenant shall subsequently prevail in such dispute as determined by a court of competent jurisdiction or settlement of the parties, then, in such event, no attorneys' fees shall be payable to Landlord under this Section 23.

24. SECURITY DEPOSIT.

Concurrent with Tenant's execution and delivery of this Agreement, Tenant shall pay a Security Deposit to Landlord in the amount of \$ _____ to secure Tenant's performance of each and every term, covenant, and/or condition to be performed by Tenant under this Agreement. Landlord shall have the right, at its option, to apply all or part of the Security Deposit toward the payment of the amounts required to remedy any default of Tenant in the payment of Rental or in the performance of any other term, covenant or condition contained herein. Tenant shall, within ten (10) days after notice from Landlord, deposit additional money with Landlord sufficient to restore the Security Deposit to the full amount originally paid. Any failure by Tenant to restore any such deficiency shall constitute a material default of this Agreement. The existence of the Security Deposit shall not affect the right of Landlord in the event of any such nonpayment or failure to perform, nor shall the same in any way limit Tenant's responsibility therefor, and shall not preclude or extinguish any other right or remedy to which Landlord may be entitled. If Tenant fully and faithfully complies with all the terms, provisions, covenants and conditions of this Agreement, the Security Deposit (or any balance thereof) shall be returned to Tenant, without interest, after the termination of this Agreement and after the removal of Tenant and surrender of possession of the Premises to Landlord in the condition required by this Agreement.

If Landlord transfers its interest under this Agreement, Landlord may assign the Security Deposit to the new landlord and thereafter Landlord shall have no further liability for the return of the Security Deposit, and Tenant agrees to look solely to the new landlord for the return of the Security Deposit. The provisions of the preceding sentence shall apply to every transfer or assignment of Landlord's interest under this Agreement. Tenant agrees that it will not assign or encumber or attempt to assign or encumber the monies deposited as security and that Landlord, its successors and assigns, may return the Security Deposit to the original Tenant and shall be relieved of any liability thereto, regardless of one or more assignments of the Agreement or any such actual or attempted assignment or encumbrances of the monies held as the Security Deposit.

25. MISCELLANEOUS.

(a) WAIVER; ELECTION OF REMEDIES. One or more waivers of any covenant or condition by Landlord shall not be construed as a waiver of a subsequent breach of the same covenant or condition, and the consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed to render unnecessary Landlord's consent or approval to or of any subsequent similar act by Tenant. No breach by Tenant of a covenant or condition of this Agreement shall be deemed to have been waived by Landlord unless such waiver is in writing signed by Landlord. The rights and remedies of Landlord under this Agreement or under any specific Section, subsection or clause hereof shall be cumulative and in addition to any and all other rights and remedies which Landlord has or may have elsewhere under this Agreement or at law or equity, whether or not such Section, subsection or clause expressly so states.

(b) LANDLORD'S RIGHT TO PERFORM. Landlord reserves the right, at any time and in its sole discretion, to add or remove buildings, structures or common areas; change the number and location of buildings and structures; change the name of the Shopping Center; change the address or designation of the Premises or the building of which the Premises are a part; provide subterranean or multiple level parking decks; convert common areas into leasable areas or construct temporary or permanent buildings or improvements in the common areas; change the location or character of or make alterations in or additions to the common areas and otherwise alter, repair or reconstruct the common areas or change the use thereof; and/or expand the size of the Shopping Center; provided, however, that no such changes shall deny reasonable ingress to or egress from the Premises.

(c) BROKER'S COMMISSION. Tenant represents and warrants to Landlord that there are and shall be no claims for brokerage commissions or finder's fees in connection with this Agreement, and each party agrees to indemnify the other and hold it harmless from all liabilities arising from any claim for brokerage commissions and finder's fees in connection with this Agreement. Such agreement shall survive the termination of this Agreement.

(d) RECORDING. Tenant shall not record this Agreement or any short form or memorandum of this Agreement. Tenant, upon the request of Landlord's ground lessor(s), mortgagee(s)

or beneficiary(ies) under deed(s) of trust, shall execute and acknowledge a short form or memorandum of this Agreement for recording purposes.

(e) LIABILITY OF LANDLORD. If Landlord shall fail to perform any covenant, term or condition of this Agreement upon Landlord's part to be performed, and if as a consequence of such default Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the proceeds of sale received upon execution of such judgment and levied thereon against the right, title and interest of Landlord in the Shopping Center and out of rents or other income from such property receivable by Landlord, or out of the consideration received by Landlord from the sale or other disposition of all or any part of Landlord's right, title and interest in the Shopping Center subject, nevertheless to the rights of Landlord's mortgagee, and neither Landlord nor any of the partners comprising the partnership which may be the Landlord herein shall be liable for any deficiency.

(f) ACCORD AND SATISFACTION. Payment by Tenant or receipt by Landlord of a lesser amount than the Rental or other charges herein stipulated shall be deemed to be on account of the earliest Rental or other charges due from Tenant to Landlord. No endorsements or statement on any check or any letter accompanying any check or payment as Rental or other charges shall be deemed an accord and satisfaction, and Landlord shall accept such check or payment without prejudice to Landlord's right to recover the balance of any and all Rental or other charges due from Tenant to Landlord or to pursue any other remedy provided in this Agreement or by law.

(g) GOVERNING LAW. This Agreement shall be governed by and construed in accordance with laws of the state where the Premises is situated.

(h) CERTAIN RULES OF CONSTRUCTION. Time is of the essence in Tenant's performance of this Agreement. Notwithstanding the fact that certain references elsewhere in this Agreement to acts required to be performed by Tenant hereunder, or to breaches or defaults of this Agreement by Tenant, omit to state that such acts shall be performed at Tenant's sole cost and expense, or omit to state that such breaches or defaults by Tenant are material, unless the context clearly implies to the contrary, each and every act to be performed or obligation to be fulfilled by Tenant pursuant to this Agreement shall be performed or fulfilled at Tenant's sole cost and expense, and all breaches or defaults by Tenant hereunder shall be deemed material.

(i) CONFIDENTIALITY. Any and all information contained in this Agreement or provided to or by Tenant and/or Landlord by reason of the covenants and conditions of this Agreement shall remain confidential between Landlord and Tenant and shall not be divulged to third parties; provided, however Landlord shall be permitted to divulge the contents of statements and reports derived and received in connection with the provisions of this Agreement in connection with any contemplated sales, transfers, assignments, encumbrances or financing arrangements of Landlord's interest in the Shopping Center or in connection with any administrative or judicial proceedings in which Landlord is involved where Landlord may be required to divulge such information.

(j) WAIVER OF TRIAL BY JURY. Intentionally deleted.

(k) REAL ESTATE INVESTMENT TRUST. If the ownership of the Shopping Center is in a Real Estate Investment Trust, then Landlord and Tenant agree that Minimum Annual Rental, Percentage Rental and all Additional Rent paid to Landlord under this Agreement (collectively referred to in this Section as "Rent") shall qualify as "rents from real property" within the meaning of Section 856(d) of the Internal Revenue Code of 1986, as amended (the "Code") and the U.S. Department of Treasury Regulations promulgated thereunder (the "Regulations"). Should the Code or the Regulations, or interpretations thereof by the Internal Revenue Service contained in Revenue Rulings, be changed so that any Rent no longer qualifies as "rent from real property" for the purposes of Section 856(d) of the Code and the Regulations promulgated thereunder, other than by reason of the application of Section 856(d)(2) (B) or 856(d)(5) of the Code or the Regulations relating thereto, such Rent shall be adjusted so that it will so qualify; provided, however, that any adjustments required pursuant to this Section shall be made so as to produce the equivalent (in economic terms) Rent as payable prior to such adjustment.

26. ENTIRE AGREEMENT.

All exhibits attached to this Agreement are hereby made a part of this Agreement, with full force and effect as if set forth herein. This Agreement supersedes all prior agreements between the parties and sets forth all the covenants, promises, agreements and conditions, and understandings between Landlord and Tenant concerning the Premises and there are no actual or implied covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are set forth herein and none thereof shall be used to interpret, construe, supplement or contradict this Agreement. Landlord has made no representations or warranties regarding the profitability of the Premises or the Shopping Center, and Tenant

has not entered into this Agreement in reliance on any such representations, warranties or financial projections prepared or furnished to Tenant by Landlord. Although the printed provisions of this Agreement were drawn by Landlord, the parties hereto agree that this circumstance alone shall not create any presumption, canon of construction or implication favoring the position of either Landlord or Tenant. The parties agree that any deletion of language from this Agreement prior to its mutual execution by Landlord and Tenant shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse, obverse or opposite of the deleted language. No alteration, amendment, change or addition to this Agreement shall be binding upon Landlord or Tenant unless reduced to writing and signed by each party.

[SIGNATURES ON FOLLOWING PAGE]

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

BELDEN MALL LLC

By: _____
Printed Name: _____
Title: _____

State of _____ :

County of _____ :

I, the undersigned Notary Public in and for said County in said State, hereby certify that _____, the _____ of BELDEN MALL LLC, a Delaware limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, (s)he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company. No oath or affirmation was given.

Given under my hand this the _____ day of _____ 20__.

Notary Public _____
My Commission Expires: _____

TENANT:

By: _____
Printed Name: _____
Title: _____

State of Ohio _____ :

County of _____ :

I, the undersigned Notary Public in and for said County in said State, hereby certify that _____, the _____ of _____, a _____, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, (s)he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company. No oath or affirmation was given.

Given under my hand this the _____ day of _____ 20__.

Notary Public _____
My Commission Expires: _____

EXHIBIT A-1 [Site Plan]

EXHIBIT A-2 [LOD]

To be attached to final lease; sent as separate .pdf files with this lease

EXHIBIT B
DESIGN AND CONSTRUCTION OF THE
BUILDING AND THE PREMISES

This Exhibit B is part of the lease (the "Lease") between Landlord and Tenant.

I. DEFINITIONS

- A. The term "Landlord's Work" shall mean Landlord's total responsibilities (or any portion thereof) for the construction and improvement of the Shopping Center building ("building") and the Premises. The cost of Landlord's Work shall be borne as set forth under Article III and Article IV of this Exhibit B. Landlord's Work shall be of a design, type, size, location, elevation and quantity as may be selected by Landlord. Any item of work required to complete the Premises which is not hereinafter specifically made the responsibility of Landlord, shall be considered to be a part of Tenant's Work.
- B. The term "Tenant's Work" shall mean Tenant's total responsibilities (or any portion thereof) for the construction and improvement of the Premises. Tenant's Work shall be performed at Tenant's sole cost and expense, subject to Landlord's prior written approval. Tenant's Work shall include, but not be limited to, all work necessary and/or required to complete the Premises, except those items of work specifically set forth as Landlord's Work.
- C. The term "leasehold improvements" shall mean all of Tenant's work described and performed pursuant to this Exhibit B for the purpose of the Lease (except for removable trade fixtures, merchandise, and items of personal property).

II. GENERAL REQUIREMENTS AND PROVISIONS

- A. Tenant's Work shall be subject to Landlord's prior approval and shall be designed and constructed to comply with the requirements set forth in the most current edition of Landlord's criteria for the Shopping Center (the "Tenant Criteria Manual"). All details and information contained in the Tenant Criteria Manual, whether appearing on Tenant's plans or not, shall be considered a part of Tenant's plans and construction requirements. By this reference, the Tenant Criteria Manual is incorporated herein and made a part of this Lease. This Exhibit B and the Tenant Criteria Manual are hereinafter collectively referred to as "Tenant's Construction Requirements".
- B. The design and construction of Tenant's Work must comply with the following requirements:
 - 1. This Exhibit B;
 - 2. The Tenant Criteria Manual;
 - 3. Tenant's Final Working Drawings, as approved by Landlord;
 - 4. All applicable laws, ordinances, codes, regulations and the requirements of all jurisdictional authorities; and
 - 5. All applicable standards of the American Insurance Association, the National Electrical Code (latest edition), the American Society of Heating, Refrigeration and Air Conditioning Engineer's Guide (latest edition), Landlord's insurance carrier, the local building regulations and all local authorities having jurisdiction.

In the event of a conflict between any of the above-referenced items, the most stringent requirement shall govern each increment of Tenant's Work.

- C. Tenant's Work shall be performed in a first-class and workmanlike manner, and shall be in good and usable condition on the date of completion thereof. All materials used in Tenant's construction of the Premises and installations made by Tenant as a part of Tenant's Work shall be of new, commercial grade and first-class quality.
- D. After Tenant's initial construction of the Premises, any and all elective remodeling

proposed by Tenant or any and all remodeling required of Tenant by Landlord under the applicable provisions of this Lease shall be performed in accordance with all requirements set forth in this Exhibit B and the most current edition of the Tenant Criteria Manual.

III. LANDLORD'S WORK AT LANDLORD'S EXPENSE

A. Landlord's Work to be performed or provided at Landlord's sole cost and expense shall be limited to the following:

1. A basic building structure, with finished Common Areas, to Landlord specifications.
2. Any building frontage above the storefront lines, and, where required in Landlord's sole determination, building frontage vertical neutral strips centered upon the lease lines of the Premises.
3. Common use service corridors, located as required by code or as selected by Landlord, with such corridor walls finished on the corridor side only.
4. All building finishes outside of the Premises which are not specifically made the responsibility of Tenant or another occupant of the Shopping Center.
5. A main electrical service distribution system of a type and capacity set forth in the Tenant Criteria Manual and consisting of the following facilities:
 - a. A remote electrical service area outside the Premises;
 - b. Main electrical service distribution equipment within the remote electrical service area, from which Tenant's main electrical service will be available.
 - c. Electrical service conduit stubbed to the Premises from the applicable remote electrical service area, from which Tenant's main electrical service will be available
6. A main telephone service terminal board located outside the Premises, from which Tenant's main telephone service shall be available.
7. A domestic water service main for the Premises, from which Tenant's domestic water service shall be available.
8. A sanitary sewer service main for the Premises, from which Tenant's sanitary sewer service shall be available.
9. A fire sprinkler service main, or branch line, for the Premises, from which Tenant's fire sprinkler service shall be available.
10. For Food Court Tenants a grease waste sewer service main for the Premises, from which Tenant's grease waste sewer service shall be available.
11. For Food Court Tenants, gas service shall be available at a remote manifold location outside of the Premises.
12. A central fire alarm system for Tenant's individual interface connection. Any tenant whose premises are greater than 20,000 square feet of Floor Area must install a dedicated alarm system for those premises or as required by local jurisdictional authorities.
13. The installation of metal studs to separate the Premises from the adjoining stores and/or Common Areas. Such studs shall extend from the mall finished floor elevation to elevations as required by local jurisdictional authorities.

B. Landlord may provide additional items of construction or utility services for the Premises

as a part of Landlord's Work. If applicable, such additional items of construction or utility services shall be provided in accordance with the provisions of the Tenant Criteria Manual.

IV. LANDLORD'S WORK AT TENANT'S EXPENSE

- A. The following items of Landlord's Work, if performed and/or provided, will be at Tenant's sole cost and expense and shall include but not necessarily be limited to the following:
1. Temporary electrical power for Tenant's use during all or part of the construction of the Premises.
 2. The installation of a temporary construction barricade (including Landlord's graphics program) along the storefront lease line of the Premises.
 3. Trash containers for use by Tenant or Tenant's General Contractor during all or part of Tenant's construction of Premises.
 4. Temporary Toilet facilities for use by Tenant's General Contractor and construction personnel during construction of the Premises.

Tenant shall reimburse Landlord for the cost of the above items of work and/or services. Tenant shall be billed at a rate equal to the actual cost of said construction plus a 15% administration fee. Such amount shall be due and payable by Tenant to Landlord upon receipt of Landlord's invoice therefor.

- B. Landlord may provide items of construction, work or services for the Premises as a part of Landlord's Work at Tenant's Expense. If applicable, such additional items of Landlord's Work at Tenant's Expense shall be provided in accordance with the provisions of the Tenant Criteria Manual.
- C. Tenant's plans and specifications must be designed to accommodate and provide access to any ducts, pipes, or conduits installed within the Premises that serve the Shopping Center or any part thereof, including, but not limited to, the premises of any occupant. If there is a conflict and relocation of any mechanical or electrical component is necessary, Tenant must submit to Landlord for approval, all plans, details and specifications required by Landlord for such relocation. If approved, the complete relocation shall be performed as directed by Landlord, and at Tenant's sole cost and expense.

V. TENANT'S WORK

- A. Tenant's Work shall include, but not necessarily be limited to, the following:
1. Tenant shall perform any and all demolition work required to return the Premises to a shell condition. Such work shall include, but not be limited to, the removal of existing ceiling structures, finish materials, storefront, light fixtures, partitions (excluding demising partitions) and any plumbing, mechanical or electrical installations that will not be reused to serve the Premises. No existing plumbing, mechanical or electrical systems or system components shall be abandoned in place without Landlord's prior written approval. Tenant will be required to submit demolition plans for Landlord's review and approval. All items of existing construction which Tenant may wish to reuse, modify or abandon shall be subject to Landlord's prior written approval.
 2. Tenant shall be responsible to provide, finish and level any concrete floor slab(s) within the Premises, as may be required to accept Tenant's finished floor material and eliminate any tripping hazards. Where floor slab elevations within the Premises are above or below Common Area floor elevations, Tenant shall provide the necessary transitions at storefront areas and rear service door areas to make the floor of the Premises even with any adjoining floor elevation.
 3. Installation of a finished floor in all sales areas and all storage areas within the Premises visible to the public. Exposed finished concrete slab floors, vinyl tile or similar materials shall not be deemed to be a "finished floor" in any of the areas referenced above and therefore are not acceptable. As may be required by Landlord, in the area between Tenant's storefront lease line to the store's closure line, Tenant shall match the Shopping Center finished floor material.

4. Installation of a finished ceiling throughout the Premises (or as may otherwise be approved by Landlord and all jurisdictional authorities).
 5. Installation of fire rated partitioning and/or enclosures throughout the Premises as may be required by Landlord, all governing codes and all jurisdictional authorities.
 6. Installation of interior partitioning throughout the Premises, as may be required to complete the Premises.
 7. Installation of all construction and finish materials throughout the Premises and the storefront of the Premises which are not specifically made the responsibility of Landlord. Such material installations shall include, but not be limited to, all wall coverings, floor coverings, ceiling materials and Tenant's storefront construction.
 8. Where required by any applicable codes, ordinances or jurisdictional authorities, Tenant shall provide a trash storage room of adequate capacity and fire rating; or, if such a room is not required, Tenant shall provide a designated area within the Premises which is adequate, in Landlord's judgment, to store Tenant's trash.
 9. Tenant shall construct, where applicable, a recessed doorway to provide access from the Premises to a service area or egress corridor.
 10. Installation of all interior doors and associated hardware as may be required to complete the Premises. Such doors and hardware shall comply with all required fire ratings, where applicable.
 11. Installation of all furniture, fixtures, cabinetwork, shelving, personal property and equipment as may be required to complete the Premises.
 12. Tenant shall ensure that all roof and slab penetrations made as a part of Tenant's Work are properly sealed and remain watertight to prevent possible damage. Failure to do so shall be at the sole risk and expense of Tenant in the event damage occurs.
 13. Tenant must install a waterproof membrane to waterproof all floor/slab and slab penetrations in all lavatories, kitchens and similar water prone areas where water is used for food preparation or cleaning. Perimeter walls of such areas must be waterproofed to a point of no less than four inches (4") above the slab. In addition, Tenant must slope floor surfaces to prevent the passage of water, waste and other liquids out of such areas.
 14. Installation of thermal and acoustical insulation within the Premises as required to comply with the following provisions:
 - a. Installation of thermal insulation shall meet with the requirements of all governing codes and jurisdictional authorities, as may be required to complete the Premises for Tenant's occupancy.
 - b. Installation of acoustical insulation or sound dampening material shall meet with the requirements of all governing codes and Landlord's criteria. At a minimum, Tenant shall install sufficient acoustical insulation to prevent the transmission of any sound or noise in excess of 40 decibels (db) from the Premises. Tenant agrees that the 40 db sound level may be verified by Landlord through the use of a portable sound level meter, and in the event Landlord determines that Tenant is transmitting sound or noise outside the Premises in excess of the 40 db level, Tenant will immediately resolve this condition in a manner approved by Landlord.
 15. Mezzanines will not be permitted within Tenant's Premises without Landlord's prior written approval. Where permitted, mezzanines shall be designed and installed to be independent of the building structure and shall comply with the requirements of all governing codes.
- B. Design, fabrication and installation of Tenant's sign(s) shall be performed by Tenant as a part of Tenant's Work and shall comply with the following provisions:

1. Tenant's sign(s) shall be subject to the prior approval of Landlord, and where applicable, the prior approval of all jurisdictional authorities, Department Stores, and any other party that Landlord may deem appropriate.
 2. Tenant shall submit all required plans, details and specifications necessary to obtain Landlord's approval for Tenant's sign(s), prior to fabrication and installation of the sign(s).
 3. Tenant's sign(s) shall be designed and constructed to comply with the standard tenant sign criteria established by Landlord for the Shopping Center.
- C. Installation and completion of utility services for the Premises and connection to the utility facilities provided by Landlord shall be performed by Tenant as a part of Tenant's Work in accordance with the requirements set forth in the Tenant Criteria Manual and the following provisions:
1. Tenant's main electrical service shall be of a type and capacity set forth in the Tenant Criteria Manual. If Tenant requires electrical service capacity in excess of that provided by Landlord, all costs of providing such increased service shall be paid by Tenant. Tenant shall:
 - a. Make application, where applicable, for metered electrical service to the Premises from the serving utility authority and comply with all utility authority requirements for such metered service, including the procurement and installation of all required meters, meter bases and current transformers, if applicable.
 - b. As may be required, provide all required electrical system installations within the remote electrical service area provided by Landlord in accordance with all applicable codes, ordinances and as specified in the Tenant Criteria Manual.
 - c. As may be required, provide all required conduit and conductor installations to complete Tenant's main electrical service to and within the Premises.
 - d. Provide all required electrical system installations within the Premises in accordance with all applicable codes, ordinances and as specified in the Tenant Criteria Manual.
 2. Tenant's telephone service will be available from the main terminal board located outside the Premises and provided by the serving telephone company. Tenant shall apply for telephone service and system wiring to and within the Premises as required by the serving telephone company and comply with all their requirements and regulations.
 3. Tenant shall install a fire/smoke detection system within the Premises. Such detection system shall include all required wiring, conduit, devices, equipment and controls, and shall comply with all system requirements set forth by Landlord and all jurisdictional authorities. Where applicable, Tenant shall use Fire-Life Safety contractor as specified by Landlord for certain portions of Tenant's Work.
 4. Tenant shall make all required plumbing system installations to serve the Premises. Where provided, Tenant shall connect to, and extend from, the sanitary sewer and domestic water service mains provided by Landlord for the Premises. All such installations shall comply with the following provisions:
 - a. Tenant shall make application for metered water service as required.
 - b. Tenant shall procure and install a water meter and pressure regulating valve as required.
 - c. Tenant shall provide and install toilet facilities within the Premises in accordance with governing codes and Landlord's standard criteria. At a minimum, Tenant shall provide and install one (1) toilet room facility for the use of Tenant's employees.

- d. Tenant shall install grease and hair traps as required to comply with all governing codes, and the requirements of the Landlord and all jurisdictional authorities. Wherever possible, such traps are to be located within the Premises.
5. Tenant shall install a branch piped fire sprinkler system within the Premises. Tenant shall connect to Landlord's fire sprinkler supply main, or branch, and extend piping for branches, drops and heads as required to complete the fire sprinkler system within the Premises in accordance with Landlord's insurance carrier requirements, the requirements of the local fire marshal, all governing building codes, applicable NFPA standards and the Tenant Criteria Manual. Tenant sprinkler system shop drawings must be submitted for review and approval by Landlord's insurance carrier and all local authorities having jurisdiction prior to installation of the sprinkler system. Tenant shall provide Landlord with two (2) sets of approved sprinkler shop drawings bearing the seals of the local authorities having jurisdiction prior to installation of the sprinkler system. Final connection to Landlord's fire sprinkler supply main shall not be made until the entire system within the Premises is completed, pressure tested and ready for service.
6. Tenant shall provide a heating, ventilating and air conditioning (HVAC) system to serve the Premises. The location of any equipment outside the Premises shall be approved in writing by Landlord. The design and installation of the HVAC system shall be in accordance with the provisions of the Tenant Criteria Manual
7. Tenant shall provide, as required, all exhaust air systems to serve the Premises. Said systems shall comply with the provisions of the Tenant Criteria Manual.
8. As determined by Landlord at Landlord's sole discretion, tenants having odor producing operations must maintain a negative pressure within their Premises and shall install a forced draft ventilation system discharging to the atmosphere via the roof area. Tenant shall be responsible for proper diffusion of the exhaust in such a manner as to prevent these odors from entering adjacent air intakes. The total exhaust from the Premises must exceed maximum make up air provided for the Premises by an amount exceeding the minimum outside air requirements of the heated/air conditioned area for the Premises. Tenant shall provide said system, at Tenant's sole cost and expense, including, but not limited to, all necessary components, such as exhaust hood(s), make up and exhaust ducts, fire dampers and fire rated duct chases/shafts where required (construction as required by code and located in areas approved by Landlord), exhaust and make up fans, controls and grease drip pans, which shall be installed in a manner acceptable to Landlord.
- D. Tenant's Work shall include the procurement of all necessary permits, licenses, variances and utility services required to facilitate Tenant's construction and occupancy of the Premises, and the payment of any fees and taxes associated with such permits, licenses, variances and utility services, as may be required by public authorities and serving utility companies. Tenant shall make all necessary applications, provide all necessary information, pay all required monies and take all necessary actions to obtain such items from the applicable jurisdictional authorities and serving utility companies.
- E. Tenant shall not use any materials in connection with Tenant's Work which contain asbestos or other materials or substances that are hazardous or toxic. In the event that Tenant introduces or allows to be introduced in the Premises any asbestos containing material or other material or substance that is now or may hereafter be defined as hazardous or toxic or is otherwise regulated as a material or substance posing a potential health threat to persons, then prior to the expiration or earlier termination of this Lease or as required by applicable federal, state or local laws, rules or regulations, Tenant shall, at Tenant's sole cost and expense, remove any such materials or substances in accordance with all applicable federal, state or local laws, rules or regulations and in the manner that Landlord may direct which may include the use of contractors and/or consultants specified by Landlord.
- F. All roof penetrations made as a part of Tenant's Work must conform to Landlord's standard criteria and shall be subject to Landlord's approval as to location and

construction details. Roofing and weatherproofing of any installation or penetration by Tenant must be performed by Landlord's authorized roofing contractor, and Tenant shall pay all costs therefor directly to such roofing contractor.

- G. Tenant may be required to provide additional items of work or services as a part of Tenant's Work. If applicable, such work or services shall be provided in accordance with the provisions of the Tenant Criteria Manual.

VI. PLANS

- A. Landlord shall furnish to Tenant or, at Tenant's direction, to Tenant's agent, certain design and construction information pertinent to the Premises, including, but not limited to, one (1) copy of the Tenant Criteria Manual.
- B. Within fifteen (15) calendar days after the date of this Lease, or such other date as may be required by Landlord for Tenant to achieve its Rental Commencement Date, Tenant shall, at Tenant's sole cost and expense:
 - 1. Engage the services of a licensed architect and licensed mechanical, electrical and sprinkler system engineers ("Tenant's Architect and Engineers"), for the purpose of preparing plans and specifications for Tenant's Work.
 - 2. Notify Landlord of the identity of Tenant's Architect and Engineers.
- C. Tenant agrees that Tenant's Architect and Engineers may act as Tenant's agents for all Tenant design and plan development purposes and obligations of this Exhibit B. Tenant shall pay all fees of its Architect. In addition, Tenant shall pay to Landlord Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) for its review of Tenant's plans within thirty (30) days of receipt of invoice.
- D. Within thirty (30) calendar days, after the date of this Lease, or such other date as may be required by Landlord for Tenant to achieve its Rental Commencement Date, Tenant shall, at Tenant's sole cost and expense, cause Tenant's Architect and Engineers to coordinate, prepare and deliver to Landlord for Landlord's approval, the following:
 - 1. One (1) sample board of Tenant's final storefront and interior materials and colors;
 - 2. One (1) colored rendering or 8" x 10" colored photograph of Tenant's final storefront design; and
 - 3. One (1) complete sepia set and one (1) blue line print of preliminary drawings for Tenant's Work, containing all applicable architectural, structural, electrical, mechanical (HVAC and plumbing) and sprinkler system details and specifications, in accordance with the Tenant Criteria Manual. To evidence Tenant's approval, such preliminary drawings shall have been initialed by Tenant.
- E. Tenant covenants and agrees that the preliminary drawings have been prepared in strict accordance with Tenant's Construction Requirements. Landlord shall promptly review the preliminary drawings and notify Tenant's Architect of the matters, if any, in which the preliminary drawings fail to meet with Landlord's approval. Within ten (10) calendar days after receipt of any such notice from Landlord, Tenant or Tenant's Architect shall cause the preliminary drawings to be revised in such manner as is required to obtain Landlord's approval and shall submit the revised preliminary drawings for Landlord's approval. Upon Landlord's approval of the preliminary drawings, Landlord shall cause one (1) set to be initialed on Landlord's behalf, thereby evidencing Landlord's approval. Landlord shall return such set to Tenant or Tenant's Architect. The preliminary drawings bearing Landlord's approval shall become and are hereinafter referred to as the "Preliminary Plans".
- F. Within fifteen (15) calendar days after the date of Landlord's approval of the Preliminary Plans, or such other date as may be required by Landlord for Tenant to achieve its Rental Commencement Date, Tenant shall, at Tenant's sole cost and expense, cause Tenant's Architect and Engineers to coordinate, prepare and deliver to Landlord, in one package, one (1) complete sepia set and one (1) set of blue line prints of all applicable final architectural, structural, mechanical (HVAC and plumbing), electrical and sprinkler system working drawings and specifications. To evidence Tenant's approval, such working drawings and specifications shall have been initialed by Tenant.

- G. Tenant covenants and agrees that the final working drawings set forth in Paragraph F above have been prepared in conformity to the Preliminary Plans and in strict accordance with Tenant's Construction Requirements. Landlord shall promptly review the final working drawings and notify Tenant's Architect of the matters, if any, in which such final working drawings and specifications fail to conform to the Preliminary Plans and Tenant's Construction Requirements. Within ten (10) calendar days after receipt of any such notice from Landlord, Tenant or Tenant's Architect shall cause the final working drawings and specifications to be revised in such manner as is required to obtain Landlord's approval and shall submit one (1) complete sepia set and one (1) set of blue line prints of the revised final working drawings and specifications for Landlord's approval. Upon Landlord's determination that the final working drawings and specifications conform to the Preliminary Plans and Tenant's Construction Requirements, Landlord shall cause one (1) set of the final working drawings and specifications, or the revised final working drawings and specifications, as the case may be, to be initialed on Landlord's behalf, thereby evidencing Landlord's approval thereof. Landlord shall return such set to Tenant or Tenant's Architect. The final working drawings and specifications bearing Landlord's final approval shall become and are hereinafter referred to as the "Final Working Drawings". Tenant shall commence Tenant's Work promptly after Landlord's approval of the Final Working Drawings, but not prior to the date that the Premises are in the condition for delivery by Landlord.
- H. After Landlord's approval of the Final Working Drawings, no changes shall be made in the Final Working Drawings except with the prior written approval of Landlord. However, in the course of construction Landlord may make such changes in, on or about the building or the Premises as may be required as a result of "as built" conditions. During all phases of plan development and prior to bidding plans or commencing construction, Tenant or Tenant's Architect and Engineers shall make a physical on-site inspection of the Premises to verify the "as built" location, conditions and physical dimensions of the Premises and conformance of the Final Working Drawings. Failure to do so shall be at the sole risk and expense of Tenant. Landlord's review and approval of Tenant's plans, working drawings and specifications is for compliance with Landlord's criteria only, and this approval does not relieve Tenant of responsibility for compliance with the Lease, field verification of dimensions and existing conditions, discrepancies between Final Working Drawings and "as built" conditions of the Premises, coordination with other trades, job conditions and compliance with all governing codes and regulations applicable to Tenant's Work. No responsibility for proper engineering, safety, design of facilities or compliance with all applicable governing codes and regulations is implied or inferred on the part of Landlord by any such approval.

VII. GENERAL BUILDING SPECIFICATIONS

- A. Tenant shall engage the services of a licensed general contractor ("Tenant's General Contractor") for the purpose of constructing the Premises and performing related services as required to complete Tenant's Work. Tenant's General Contractor shall be bonded and insured as required under the provisions of this Lease. By this reference, Tenant agrees not to act as its own general contractor and further agrees that Tenant's General Contractor can act as Tenant's agent for all Tenant construction purposes and obligations of this Exhibit B.
- B. Each contractor and subcontractor participating in the construction of Tenant's Work shall be duly licensed, and each contract and subcontract shall contain the guaranty of the contractor or subcontractor that the portion of Tenant's Work covered thereby will be free from any and all defects in workmanship and materials for the period of time which customarily applies in good contracting practices, but in no event less than one (1) year after the completion of Tenant's Work. The aforesaid guaranty shall include the obligations to repair or replace in a first-class and workmanlike manner, and without any additional charge, any and all of Tenant's Work done or furnished by said contractor or subcontractor, or by any of his subcontractors, employees or agents, which shall be or become defective because of faulty materials or workmanship within the period covered by such guaranty (and of which notice is given to such contractor or subcontractor within such period); and the correction, as aforesaid, of any such matter shall include, without any additional charge therefor, all expenses and damages in connection with the removal, replacement or repair in a first-class manner of any other part of Tenant's Work which may be damaged or disturbed thereby. All warranties or guarantees as to materials or

workmanship on or with respect to Tenant's Work shall be written so that they shall inure to the benefit of Landlord and Tenant as their respective interests may appear and can be directly enforced by either, and Tenant shall give to Landlord any assignments or other assurance necessary to effectuate the same.

- C. Tenant shall submit to Landlord at least five (5) days prior to the commencement of construction the following information:
1. The name and address of the General Contractor Tenant intends to engage for the construction of the Premises, including names and telephone numbers of on-site and off-site representatives.
 2. The names and addresses of Tenant's mechanical, electrical and plumbing subcontractors, including names and telephone numbers of on-site and off-site representatives.
 3. A schedule setting forth key dates relating to Tenant's construction.
 4. Copies of insurance certificates required by Article IX below.
 5. A copy of Tenant's written contract with its General Contractor(s) and an itemized statement of estimated construction costs, including architectural, engineering and contractor's fees.
- D. The following provisions with respect to construction procedures and materials shall apply to Tenant's Work at Tenant's expense:
1. Tenant and Tenant's General Contractor participating in Tenant's Work shall:
 - a. Prior to the commencement of Tenant's construction, submit one (1) full set of Final Working Drawings, endorsed with the approval stamp and permit number of the local municipality's building department, local fire marshal or other governmental entity having jurisdiction over Tenant's construction or other evidence that the Tenant has received building department approval, to Landlord's tenant construction coordinator.
 - b. Provide a full-time supervisor or representative, representing either Tenant's General Contractor or Tenant, who will be present at all times when work is being performed in the Premises.
 - c. Make appropriate arrangements as directed by Landlord for temporary utility connections if available within the Shopping Center. Landlord does not represent that any temporary utility services will be available for Tenant's use. Tenant must verify the availability of such services with Landlord prior to the commencement of Tenant's Work. If temporary services are not available, Tenant must install permanent utility services for the Premises immediately upon the commencement of Tenant's Work. If temporary services are available, Tenant shall pay the cost of all connections, proper maintenance and the removal of such temporary services. Tenant shall pay all utility charges incurred by Tenant's General Contractor and any subcontractor.
 - d. Store all building materials; tools and equipment within the Premises or such other locations as may be specifically designated by Landlord's tenant construction coordinator. In no event shall any material be stored in the Common Areas or service corridors.
 - e. During Tenant's construction of the Premises, Tenant shall store all trash, debris and rubbish as directed by Landlord and upon completion of Tenant's Work, shall remove all temporary structures, surplus materials, debris and rubbish of whatever kind remaining in the Premises, the building or the Shopping Center. No debris shall be deposited in the Common Areas except as directed by Landlord.
 - f. Properly protect Tenant's Work with lights, guard rails and barricades and secure all parts of Tenant's Work against accident, storm and any other hazard. Tenant's Work must be performed within the Premises, behind a temporary construction barricade. The design and construction of any

temporary construction barricade shall comply with the Landlord's standard criteria for such installations and shall be subject to Landlord's approval prior to installation.

2. Tenant's Work shall be coordinated with all work being performed or to be performed by Landlord and other occupants of the Shopping Center to the extent that Tenant's Work will not interfere with or delay the completion of any other work. No contractor or subcontractors participating in Tenant's Work shall at any time damage, injure, interfere with or delay the completion of the building or any other construction within the Shopping Center, and each of them shall comply with all procedures and regulations prescribed by Landlord for the integration of Tenant's Work with the work to be performed in connection with the building and all other construction within the Shopping Center.

Recognizing that Landlord shall be employing such contractors, Tenant agrees to engage the services of contractors whose employees employed at the job site are members of, or represented by, organizations for the purpose of collective bargaining, to the end that there shall be no labor dispute which would interfere with the operation, construction and completion of the Shopping Center or any other work, and Tenant further agrees to enforce the same condition upon all contractors engaged by Tenant with respect to their subcontractors which may be engaged by any such contractors.

Tenant will comply with the instructions of Landlord or Landlord's General Contractor for the purpose of avoiding, ending and/or minimizing labor disputes. Upon notice from Landlord or Landlord's General Contractor, Tenant will take such action, including the prosecution of legal proceedings in court or with agencies such as the National Labor Relations Board, as Landlord or Landlord's General Contractor shall deem appropriate.

- E. If required by Landlord, prior to Tenant's commencement of construction, Tenant shall obtain or cause Tenant's General Contractor to obtain payment and performance bonds covering the faithful performance of the contract for the construction of Tenant's Work and the payment of all obligations arising thereunder. Such bonds shall be for the mutual benefit of both Landlord and Tenant, and shall be issued in the names of both Landlord and Tenant as beneficiaries and obligees. Tenant shall submit a copy of all such bonds, or other evidence satisfactory to Landlord that such bonds have been issued, to:

Belden Village Mall
4230 Belden Village Mall
Canton, Ohio 44718
Attention: General Manager

- F. During construction Tenant's General Contractor shall be required to comply with the following:
 1. The work of Tenant's General Contractor and subcontractors shall be subject to inspection by Landlord and its supervisory personnel. Any defects and/or deviations from the Final Working Drawings shall be rectified by Tenant's General Contractor and/or subcontractors at no expense to Landlord.
 2. Unless otherwise approved by Landlord, Tenant shall cause its General Contractor and/or subcontractors to limit their access to the Premises via the rear entrances and no access will be allowed from or to the Shopping Center Common Areas.
 3. Repair of damage caused to Landlord's Work by Tenant's General Contractor or subcontractors shall be at Tenant's expense. Landlord will carry out necessary repairs without notice and Tenant shall pay for the cost of such repairs upon demand.
 4. Tenant's General Contractor will be required to abide by certain Construction Rules and Regulations, copies of which will be provided prior to the commencement of Tenant's Work, and to make certain deposits with and/or payments to Landlord. Notwithstanding such requirements, Tenant shall indemnify and protect Landlord with respect to any breach of such Construction

Rules and Regulations by Tenant's General Contractor or the failure of Tenant's General Contractor to make such deposits or payments.

- G. Landlord shall have the right to perform, on behalf of and for the account of Tenant, which shall be subject to reimbursement of the cost thereof by Tenant, any and all of Tenant's Work which Landlord determines in its sole discretion should be performed immediately and on an emergency basis for the best interest of the project, or to achieve the Rental Commencement Date, including without limitation work which pertains to structural components, mechanical, sprinkler and general utility systems, roofing and removal of unduly accumulated construction material and debris. The cost of such Tenant's Work carried out by Landlord on behalf of Tenant shall be the cost paid by Landlord and based on the cost of similar work and to include any loading for overtime or any other loading as a result of carrying out emergency work.

Whenever Landlord shall have elected to perform any or all of Tenant's Work, whether pursuant to this Paragraph G or any other provision of the Lease, Landlord may revoke such election by written notice to Tenant. In such event, full responsibility for such work shall revert to Tenant.

VIII. COMPLETION OF CONSTRUCTION

- A. Tenant shall not be permitted to, and shall not, open for business in the Premises until the "Opening Requirements" set forth below are met. In order that Landlord shall have assurance that the Premises shall be in a good and safe condition, in compliance with all laws, that adequate insurance has been obtained, that the Premises has been constructed in accordance with the Final Working Drawings and that Tenant's obligations under the Lease have been performed, the following requirements (the "Opening Requirements") shall be satisfied:
1. At least five (5) days prior to the opening of the Premises for business, Tenant shall deliver to Landlord (a) insurance certificates; (b) mechanics' or construction lien waivers as the case may be, as required by the Lease including this Exhibit B; (c) a permanent certificate of occupancy or its equivalent; (d) certificate by Tenant's Architect certifying that the construction of the Premises has been completed in accordance with all plans and specifications approved by Landlord; and (e) all evidence typically required in the jurisdiction where the Shopping Center is located to provide evidence of compliance with all applicable building and fire codes and all other government requirements.
 2. Tenant shall give Landlord at least five (5) days' notice of the date of completion of Tenant's Work in the Premises, and Landlord shall have inspected the Premises to determine whether Tenant's Work is complete in accordance with the requirements of the Lease and Landlord shall have approved all such work;
 3. Tenant shall pay Landlord all Minimum Annual Rental and Additional Rent which has then accrued under the Lease.

No approval by Landlord shall make Landlord responsible for the condition of the Premises or constitute a representation by Landlord of compliance with any applicable requirements or constitute a waiver of any rights and remedies that Landlord may have under this Lease or at law or in equity. If Tenant shall open the Premises in violation of the requirements of this Article VIII, such action by Tenant shall constitute a material default under this Lease. On the date Tenant opens for business in the Premises, Tenant shall be deemed to have accepted the Premises and agrees that it is in the condition, with respect to any of Landlord's obligations, which is required under this Lease. The Opening Requirements shall apply not only to Tenant's initial construction, but to any subsequent opening after any temporary closure, casualty, damage or permitted alterations.

- B. Upon completion of Tenant's Work, Tenant shall deliver to Landlord the following:
1. Tenant's final notarized original affidavit that Tenant's Work has been completed to Tenant's satisfaction and in strict accordance with the Final Working Drawings and Tenant's Construction Requirements, which affidavit may be relied on by Landlord. Any deliberate or negligent misstatement, or any false statement made by Tenant therein, shall constitute a breach of this Lease.
 2. The final notarized original affidavit of Tenant's General Contractor performing

Tenant's Work stating that Tenant's Work has been completed in accordance with the Final Working Drawings and that all subcontractors, laborers and material suppliers engaged in furnishing materials or rendering services for Tenant's Work have been paid in full.

3. A final notarized original, unconditional waiver of lien with respect to the Premises executed by Tenant's General Contractor and, if requested by Landlord, final notarized original, unconditional waiver of liens executed by each subcontractor, laborer and material supplier engaged in or supplying materials or services for Tenant's Work. All waivers of lien documents must, in every circumstance, be totally unconditional releases.

IX. INSURANCE

- A. Tenant shall secure, pay for and maintain, or cause Tenant's General Contractor to secure, pay for and maintain, for all periods of construction and fixturing work within the Premises, all of the insurance policies required in the amounts as set forth herein below. Tenant shall not permit its General Contractor to commence any work until all required insurance has been obtained and certificates evidencing such insurance have been delivered to Landlord.
- B. Tenant's General Contractor's and Subcontractor's Required Minimum Coverages and Limits to Liability.
 1. Worker's Compensation, as required by State law, and including Employer's Liability Insurance with a limit of not less than Two Million Dollars (\$2,000,000.00) each accident, Two Million Dollars (\$2,000,000.00) each employee by disease, Two Million Dollars (\$2,000,000.00) policy aggregate by disease, and any insurance required by any Employee Benefit Acts or other statutes applicable where the work is to be performed as will protect Tenant's General Contractor and subcontractors from any and all liability under the aforementioned acts.
 2. Commercial General Liability Insurance (including Contractor's Protective Liability) in which the limits shall be not less than Three Million Dollars (\$3,000,000.00) per occurrence combined single limit, bodily injury and property damage. Such insurance will provide for explosion, collapse and underground coverage. Such insurance shall insure Tenant's General Contractor against any and all claims for bodily injury, including death resulting therefrom and damage to or destruction of property of any kind whatsoever and to whomever belonging and arising from its operations under the contract whether such operations are performed by Tenant's General Contractor, subcontractors, or any of their subcontractors, or by anyone directly or indirectly employed by any of them.
 3. Comprehensive Automobile Liability Insurance, including the ownership, maintenance and operation of any automotive equipment, owned, hired and non-owned, in the minimum amount of Three Million Dollars (\$3,000,000.00) combined single limit, bodily injury and property damage. Such insurance shall insure Tenant's General Contractor and all subcontractors against any and all claims for bodily injury, including death resulting therefrom and damage to the property of others caused by accident and arising from its operations under the Contract and whether such operations are performed by the General Contractor, subcontractors or by anyone directly or indirectly employed by any of them.
- C. Tenant's Protective Liability Insurance - Tenant shall provide Owner's Protective Liability Insurance insuring Tenant against any and all liability to third parties for damages because of bodily injury (or death resulting therefrom) and property damage liability of others or a combination thereof which may arise from work in connection with the Premises, and any other liability for damages which Tenant's General Contractor and/or subcontractors are required to insure against under any provisions herein. Said insurance shall provide policy limits which shall provide, at a minimum, coverage of Three Million Dollars (\$3,000,000.00) combined single limit, bodily injury and property damage.
- D. Tenant's Builder's Risk Insurance - Completed Value Builders' Risk Material Damage Insurance policy covering the work to be performed for Tenant in the Premises as it

relates to the building within which the Premises is located. The policy shall include as insureds Tenant, its General Contractor, all subcontractors and Landlord, as their interests may appear. The amount of insurance to be provided shall be at one hundred percent (100%) of the replacement cost.

- E. All such insurance policies required under this Exhibit, except as noted above, shall include Landlord, its Architect, its Consultant, its General Contractor, subcontractors, and parties set forth in the Lease and any other parties designated by Landlord from time to time as additional insured entities, except the Worker's Compensation Insurance; further provided, said Worker's Compensation Insurance shall contain an endorsement waiving all rights of subrogation against Landlord, its Architect, its Consultant, its General Contractor and subcontractors.
- F. Certificates of insurance shall provide that no reduction in the amounts or limits of liability or cancellation of such insurance coverage shall be undertaken without thirty (30) days prior written notice to Landlord.
- G. The insurance required under this Exhibit shall be in addition to the insurance required to be procured by Tenant pursuant to the Lease.
- H. The insurance required under this Exhibit sets forth minimum amounts and scopes of coverage to be maintained by Tenant's General Contractor and Subcontractors and are not to be construed in any way as a limitation or release of General Contractor's or any Subcontractor's liability under this Lease or as a representation that coverage and limits will necessarily be adequate to protect General Contractor or Subcontractors. Such parties may not self-insure any of their obligations under this Lease without first obtaining Landlord's prior consent, which consent may be granted or withheld in Landlord's sole discretion. Any and all deductibles specified in the above-referenced insurance policies will be assumed by, for the account of, and at the sole risk of the General Contractor and Subcontractors. All policies of insurance procured by General Contractor and Subcontractors will be written as primary policies, not contributing with, nor in excess of, coverage maintained by Landlord.

ADDENDUM TO EXHIBIT B

REIMBURSEMENT FOR COST OF CONSTRUCTION

This Addendum to Exhibit B is annexed to and made a part of that certain Lease by and between **BELDEN MALL LLC** (as "Landlord"), and _____, (as "Tenant").

In the event a conflict arises between the provisions of this Addendum and any other part of this Lease, this Addendum shall modify and supersede such other part of the Lease to the extent necessary to eliminate any such conflict but no further. All terms which are defined in the Lease shall have the same meaning when used herein.

Section 1. CONSTRUCTION REIMBURSEMENT AND PAYMENT.

Subject to the provisions of this Addendum, and provided Tenant is not in default under this Lease beyond any applicable notice and cure period, Landlord shall reimburse to Tenant an amount up to _____ for Tenant's construction costs and start-up costs for purchase of equipment, materials and inventory for Tenant's operation in the Premises (hereinafter called the "Allowance"). The Allowance shall be due only during the original Term of this Lease. The Allowance shall be payable within sixty (60) days of written application for such payment by Tenant after all of the following conditions are satisfied:

- (i) Completion of the improvements in or to the Premises required by the Lease to be made by Tenant including all punch list items and receipt of an air balance testing report;
- (ii) Acquisition by Tenant of a Certificate of Occupancy for the Premises properly issued by the governmental body having jurisdiction there over (or other equivalent authority to open);
- (iii) The opening by Tenant of Tenant's business in the Premises;
- (iv) The lien period for the work performed by Tenant shall have expired and no liens in connection with the same shall have been filed, or if said lien period shall not have expired, Tenant has furnished Landlord with original unconditional waivers of lien and sworn statements from Tenant's general contractor and any subcontractor or any person performing labor and/or supplying materials in connection with such work showing that all of said persons have been paid in full;
- (v) Submission by Tenant to Landlord of copies of warranties received by Tenant, which warranties shall be for not less than one year against defects in workmanship, materials and equipment;
- (vi) Full payment by Tenant of all sums due Landlord for items of work performed by Landlord on behalf of Tenant as outlined in Exhibit B;
- (vii) Submission by Tenant to Landlord of a breakdown of Tenant's final and total construction costs, along with all supporting invoices, agreements and related documents covering the amount of the Allowance; and
- (viii) Receipt by Landlord of Internal Revenue Service Form W-9, Request For Taxpayer Identification Number and Certification.

Application for all payments should be sent to:

Belden Village Mall
4230 Belden Village Mall
Canton, Ohio 44718
Attention: General Manager

Further, if Tenant has not made application for the Allowance or satisfied all conditions to Landlord's satisfaction within one (1) year after the Rental Commencement Date of this Lease, then Landlord's obligation to pay the Allowance shall automatically terminate without any notice required by Landlord. The rights given Landlord in this paragraph shall be in addition to all other rights and remedies under the Lease, at law or in equity arising from Tenant's failure to open for business in the Premises.

Section 2. RIGHT OF DEDUCTION.

Any improvement or work done or authorized by Tenant or performed to Tenant's account, the cost of which remains unpaid at the time the Allowance is otherwise payable, and any accrued Rental which remains unpaid at the time the Allowance is payable, will be deducted from any Allowance payment by

Landlord to Tenant, and Landlord may hold the same as security against any liens arising therefrom if Tenant has not posted a bond or other security, or Landlord may pay such unpaid cost for and on behalf of Tenant

Section 3. LATE OPENING.

If Tenant fails to open its store in the Premises for business to the public on or before the Rental Commencement Date set forth in the Lease, the parties agree that it is and will be impracticable and extremely difficult to determine the actual damages suffered by Landlord. Therefore, the parties have agreed that in order to compensate Landlord for its loss, Landlord shall be entitled to reduce the Allowance by Five Hundred Dollars (\$500.00) per day for each day that Tenant fails to open for business as required. This remedy shall be in addition to any and all other remedies provided in this Lease or by law to Landlord in the event of default by Tenant. The amount has been determined based upon numerous considerations including the fact that Landlord will have expended considerable sums of money in reliance upon and based upon Tenant opening for business on the Rental Commencement Date.

EXHIBIT C

ADDITIONAL INSUREDS

Belden Mall LLC (Certificate Holder)

Belden Village Management PR, LLC

GEI Star-West, LLC

Pacific Retail Capital Partners, LLC

Pacific Retail Holdings, LLC

EXHIBIT D
FOOD COURT

Landlord and Tenant acknowledge that the Premises are situated in that part of the Shopping Center known as the "Food Court". The Food Court shall provide the effect and appearance of a single unified food service facility. Each term used in this Exhibit which is defined in the main body of the Lease shall have the same meaning when used herein.

A. FOOD COURT AREAS

1. The Food Court consists of all areas of the Development comprising or contributing to the operation of the Food Court, and shall be divided into (a) the Floor Area of the Food Court intended to be occupied by fast food service operators (the "Food Court Tenant Space"); and (b) the area used to provide common seating facilities for customers of all occupants of the Food Court (the "Food Court Seating Area").

2. Landlord shall furnish all facilities for the Food Court Seating Area. Landlord reserves the right to make changes from time to time in the size, shape or location of the Food Court Seating Area, and in the number, type and style of any furnishings, equipment, fixtures, accessories or other property located in, or used to provide services to, the Food Court Seating Area. In exercising the foregoing rights, Landlord shall not materially affect the access to or visibility of the Premises nor shall the access between the Food Court and the other Common Areas be permanently materially affected. Landlord shall not install or permit to be installed any kiosk or other construction within twenty (20) feet of the storefront of the Premises. If Landlord, in exercising any of the foregoing rights, materially interferes with the access to or visibility of the Premises and, if as a result of such interference, Tenant is unable to operate its business in the Premises for a period of five (5) days, then commencing with the sixth day that Tenant is unable to operate its business Tenant's obligation for Minimum Annual Rental shall abate and such abatement shall continue until such time as Tenant can operate from the Premises.

3. Landlord shall operate, maintain and repair all portions of the Food Court Seating Area. If Landlord at any time determines, in Landlord's sole judgment, that the best interests of the Food Court will be served by having the Food Court Seating Area or any part thereof operated and maintained by a person, firm or corporation other than Landlord, Landlord may select a person, firm or corporation to operate and maintain all or any such part of the Food Court Seating Area and may negotiate and enter into a contract therefor with such person, firm or corporation on such terms and conditions and for such time as Landlord, in its sole judgment, shall deem reasonable and proper, both as to service and cost.

B. FOOD COURT OPERATIONS

1. Except as may otherwise be determined by Landlord from time to time or required by applicable law, Tenant shall use only disposable goods and utensils, including, but not limited to, cups, wrap materials, plates, bowls, straws, bags, napkins, spoons, forks, knives and stir sticks for the purpose of dispensing foods and beverages to the public.

2. In addition to any other provision of this Lease applicable to the storage or removal of trash, Tenant shall comply with any special requirements of Landlord with regard to trash removal for the Food Court that are, as practical, uniformly applied to all Food Court tenants. Such requirements may include participation in any recycling program designated by Landlord or those authorities having jurisdiction over the Shopping Center.

3. Landlord may from time to time promulgate, alter or amend the rules and regulations covering the operation of and merchandising for the Food Court, which rules and regulations may differ from those applicable to other occupants of the Development but shall, as practical, be uniformly applied and enforced as to all other Food Court tenants and occupants. Tenant, its agents and employees, shall strictly comply with all such rules and regulations.

C. FOOD COURT EXPENSE

1. The "Food Court Expense" shall include, but not be limited to, all costs and expenses related to operating, cleaning, managing, maintaining, repairing, enhancing and replacing the Food Court Seating Area, plus all costs and expenses of (i) maintaining trays and other Food Court utensils (if Landlord elects to provide such trays or utensils); (ii) personnel used in the operation of the Food Court, including but not limited to, payroll, payroll taxes, workers' compensation insurance and employee benefits; (iii) license and permit fees levied thereon or allocable thereto; and (iv) repair and/or replacement of furniture and fixtures used in operating the Food Court Seating Area (including rent paid for the leasing of such furniture or fixtures).

2. Tenant shall pay to Landlord as Additional Rent for each lease year during the Term a portion of the Food Court Expense ("B Rent") in equal monthly installments due on or before the first (1st) day of each month of the Term as stated in the Data Sheet, subject to the annual increases beginning January 1, 20__ as described therein.

EXHIBIT E
TENANT'S MENU

To be attached

GUARANTY

THIS GUARANTY (the "Guaranty") is made this _____ day of _____, 20___, by the undersigned _____ ("Guarantor") to and for the benefit of BELDEN MALL LLC ("Landlord").

WHEREAS, Landlord and, _____ ("Tenant") have entered into that certain Lease dated the _____ of _____, 20___ (the "Lease") for Premises located in Canton, Ohio, as more fully described in the Lease; and

WHEREAS, it is a condition precedent to all the obligations of Landlord pursuant to the Lease that Guarantor shall have executed and delivered this Guaranty.

NOW, THEREFORE in consideration of and an inducement to the execution of this Lease by Landlord, the Guarantor hereby covenants and agrees as follows:

A. The Guarantor hereby guarantees the full, faithful and timely payment and performance by Tenant of all the payments, covenants and other obligations of Tenant under or pursuant to the Lease. If Tenant shall default at any time in the payment of any Minimum Annual Rental, Additional Rent or any other sums, costs or charges whatsoever, or in the performance of any of the other covenants and obligations of Tenant, under or pursuant to the Lease, then the Guarantor, at its expense, shall on demand of Landlord fully and promptly pay all Minimum Annual Rental, Additional Rent, sums, costs and charges to be paid by Tenant, under or pursuant to the Lease, and in addition shall, upon Landlord's demand therefor, pay to Landlord any and all sums due to Landlord, including (without limitation) all interest on past due obligations of Tenant, costs advanced by Landlord, and any and all damages and expenses, which may arise as a consequence of Tenant's default. The Guarantor hereby waives all requirements of notice of the acceptance of this Guaranty and all requirements of notice of breach or nonperformance by Tenant.

B. The obligations of the Guarantor hereunder are independent of, and may exceed, the obligations of Tenant. A separate action or actions may, at Landlord's option, be brought and prosecuted against the Guarantor, whether or not any action is first or subsequently brought against Tenant, or whether or not Tenant is joined in any such action, and the Guarantor may be joined in any action or proceeding commenced by Landlord against Tenant arising out of, in connection with or based upon the Lease. The Guarantor waives any right to require Landlord to proceed against Tenant or pursue any other remedy in Landlord's power whatsoever, any right to complain of delay in the enforcement of Landlord's rights under the Lease, and any demand by Landlord and/or prior action by Landlord of any nature whatsoever against Tenant, or otherwise.

C. This Guaranty shall remain and continue in full force and effect and shall not be discharged in whole or in part notwithstanding (whether prior to or subsequent to the execution hereof) any alteration, renewal, extension, modification, amendment or assignment of, or subletting, concession, franchising, licensing or permitting under, the Lease. The Guarantor hereby waives all requirements of notice of all of the foregoing, and agrees that the liability of the Guarantor hereunder shall be based upon the obligations of Tenant set forth in the Lease as the same may be altered, renewed, extended, modified, amended or assigned. For the purpose of this Guaranty and the obligations and liabilities of the Guarantor hereunder, "Tenant" shall be deemed to include any and all concessionaires, licensees, franchisees, department operators, assignees, subtenants, permittees or others directly or indirectly operating or conducting a business in or from the Premises, as fully as if any of the same were the named Tenant under the Lease.

D. The Guarantor's obligations hereunder shall remain fully binding although Landlord may have waived one or more defaults by Tenant, extended the time of performance by Tenant, released, returned or misapplied other collateral at any time given as security for Tenant's obligations (including other guaranties) and/or released Tenant from the performance of its obligations under the Lease.

E. This Guaranty shall remain in full force and effect notwithstanding the institution by or against Tenant of bankruptcy, reorganization, readjustment, receivership or insolvency proceedings of any nature, or the disaffirmance of the Lease in any such proceedings or otherwise.

F. If this Guaranty is signed by more than one party, their obligations shall be joint and several, and the release of one of such guarantors shall not release any other of such guarantors. If this Guaranty is signed on behalf of a corporation, partnership or other entity, the signer is duly authorized to execute this obligation on behalf of such corporation, partnership or other entity.

G. This Guaranty shall be applicable to and binding upon the heirs, executors, administrators, representatives, successors and assigns of Landlord, Tenant and the Guarantor. Landlord may, without notice, assign this Guaranty in whole or in part.

H. The execution of this Guaranty prior to execution of the Lease shall not invalidate this Guaranty or lessen the obligations of the Guarantor(s) hereunder.

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty this _____ day of _____, 20__.

State of :

County of :

I, the undersigned Notary Public in and for said County in said State, hereby certify that _____, signed the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, (s)he executed the same voluntarily. No oath or affirmation was given.

Given under my hand this the _____ day of _____ 20__.

Notary Public _____
My Commission Expires: _____