

**TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY
BOARD MEETING**

**Nathan L. Bennett Pavilion*
One Washington Street, Hempstead, NY**

AGENDA

Tuesday, April 18, 2023, 9:00 AM

***Notes:**

- Masks are no longer mandated. The Town of Hempstead IDA continues to encourage social distancing at public meetings.
- A livestream of the meeting may also be viewed at www.tohida.org . Select "Watch Meetings"

The Agenda will include but not be limited to:

AGENDA:

- Confirm the presence of a Quorum
- Public Comment with respect to Agenda items

VILLAGE BUSINESS:

Village of Freeport:

- **Emergency Ambulance Services** (Discussion only)

Village of Hempstead: None

NEW BUSINESS - Applications, Transaction Resolutions and Presentations:

- Consideration of an Authorizing Resolution for **PGD Baldwin Commons**, 785 Merrick Road, Baldwin
- Consideration of an Authorizing Resolution for **CenterPoint Inwood, LLC**, 65 Rason Road, Inwood
- 9:15 a.m. Presentation and Consideration of an Inducement Resolution **Baldwin Jaz LLC**, Grand Avenue and Sunrise Highway, Baldwin
- Consideration of a Tenant Consent for Uniqlo for **Valley Stream Green Acres**, 2034 Green Acres Mall, Valley Stream

NEW BUSINESS - Other:

- CEO's Report
- Synopsis of Annual Compliance Review 2022
- Compliance Review 2022/Employment Shortfalls

OLD BUSINESS:

READING AND APPROVAL OF MINUTES OF PREVIOUS MEETING(s):

- Consideration and Adoption of the Minutes of March 21, 2023

REPORT OF THE TREASURER:

- Financial Statements and Expenditure List: March 15, 2023 – April 11, 2023

COMMITTEE UPDATES :

EXECUTIVE SESSION:

ADJOURNMENT

Chairman Approval: 4/6/23

LONG ISLAND / NASSAU

Four responders injured in fire at Emergency Ambulance Service in Freeport




Firefighters battle a blaze Saturday in a building at 30 Commercial St. in Freeport occupied by Emergency Ambulance Service Inc. Credit: Newsday / J. Conrad Williams Jr.

By Lorena Mongelli

lorena.mongelli@newsday.com

Updated April 1, 2023 9:03 pm

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Firefighters battled a five-alarm blaze at an ambulance vehicle service building in Freeport on Saturday that forced occupants to evacuate, officials said.

Four first responders suffered minor injuries, an official said.

The fire broke out shortly after 11 a.m. at 30 Commercial St., which houses Emergency Ambulance Service Inc.,

according to Nassau County Chief Fire Marshal Michael Uttaro.

People inside the building were able to safely exit and the Freeport Fire Department was on the scene one minute after receiving the alarm at 11:07 a.m., Uttaro said.

"They encountered heavy fire inside the building along with multiple explosions from oxygen cylinders," Uttaro said.

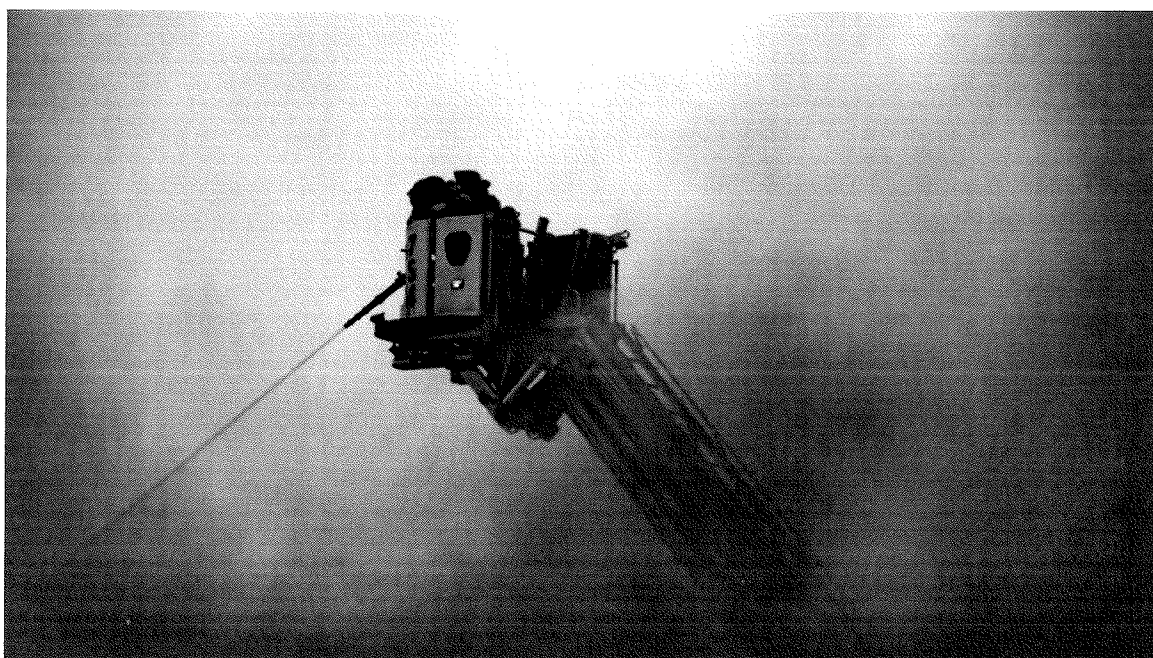
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Volunteer firefighters battle a large fire Saturday at Emergency Ambulance Service in Freeport. Credit: Newsday/J. Conrad Williams Jr.

The fire spread quickly and caused the building to collapse in several areas, including a section of the roof. As a result of "structural instability, the firefighters were backed out of the building," Uttaro said.

"Arson detectives have determined the fire to be non-suspicious," the fire marshal said, adding, "However, the source remains undetermined and seems to have started in the area of a vehicle that was being worked on when the fire broke out."

The Freeport mayor and the buildings department will determine whether the building needs to be torn down.

It took 26 fire departments and 150 firefighters to bring the fire under control by 2 p.m., according to Uttaro and police.

Four first responders suffered minor injuries, including two Freeport firefighters and a Northwell medic taken to nearby hospitals with smoke inhalation, Uttaro said. A third firefighter was treated at the scene for a minor facial injury.

All three first responders have since been released from the hospital, said Ray Maguire, executive director at the Freeport Fire Department.

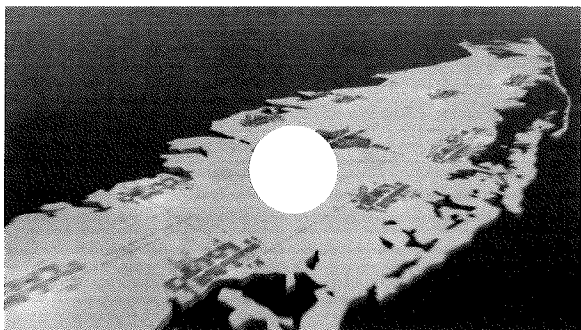
The department was still "knocking out hot spots" Saturday evening, which is common after a major fire, he said.

The Emergency Ambulance Service provides medical transportation to Long Island and Queens. It did not immediately respond to requests for comment. *With Brianne Ledda*

By Lorena Mongelli

lorena.mongelli@newsday.com

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PROJECT ABSTRACT
TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY

PGD Baldwin Commons, LLC
Project: 2802-21-12A

Application Date: 8/24/21 Contact: Allen Handleman

Applicant Name and Address: PGD Baldwin Commons, LLC
46 Prince Street
Rochester, NY 14607

Project Address: 785 Merrick Road
Baldwin, New York 11510

Project:

The applicant intends to demolish a current automobile storage lot and construct a new 32,759 square foot building on approximately .5 acres. This new complex will contain 33 units for workforce housing. The building will be comprised of 4 stories including 27 one bedrooms and 6 two bedroom units. All residential units will be on floors 2-4, the ground floor will function as a leasing office, community room and fitness room. All of the units will be targeted to households earning up to 60% of the median area income. 10% of the units will be designed as fully handicap accessible and 4% will be designed for the hearing and visually impaired. The PILOT payments will be made based on shelter rents.

Project Costs:

Land and/or building acquisition	\$1,350,000.00
Building(s) demolition/construction	\$9,279,005.00
Site Work	\$825,000.00
Legal Fees	\$230,000.00
Architectural/Engineering Fees	\$513,350.00
Financial Charges	\$1,122,985.00
Other (Dev Fee, Reserves, Soft Costs, Insurance, Permits and Taxes)	\$2,648,117.00
 Total	 \$15,968,457.00

Employment:

	Full	Part
Present	0	0
1 st Year	1	1
2 nd Year	1	1

LMA : 1

Creation: of 1.5 FTE by year two

Salary Average: \$45,000.00

Salary Range: \$46,667.00

Temporary Construction Jobs: 75

Benefits Sought: 20 Year PILOT with 10 year optional extension if within Compliance, Sales Tax Exemption, MRT Exemption

Benefit Analysis:

Sales Tax Exemption Renovation, Furnishing and Fixture:

\$6,062,403 x 8.625% = \$ 522,882.25

Mortgage \$11,271,981 x .75% = \$84,539.85

Current Tax Information:

Section: 54 Block: 103 Lots: (154, 345)

Parcels: 1

SD- Baldwin 10

Total Taxes: \$28,939.24

Full Assessed Value: \$411,200.00

Total Assessment: \$4,112.00

General: \$11,096.35

School: \$17,842.89

Village: N/A

Estimated Taxes Once Built: \$ 135,365

Applicant Counsel: Dan Deegan

Transaction Counsel: Bill Weir

PGD Baldwin Commons, LLC
DRAFT PILOT

785 Merrick Road
Baldwin, New York 11510
Current Tax Information:
Section: 54 Block: 103 Lots: (154, 345)
Parcels: 1

SD- Baldwin 10

Current Total Taxes Year: \$28,939.24
Estimated Taxes Once Built: \$ 135,365

- Based upon Shelter Rent Formula used for Affordable/Workforce Housing Developments
- 10% of (Rental Income less Utility Costs)

Year	Total
1	\$28,939.00
2	\$28,939.00
3	\$28,939.00
4	\$51,189.00
5	\$52,213.00
6	\$53,257.00
7	\$54,323.00
8	\$55,409.00
9	\$56,517.00
10	\$57,648.00
11	\$58,801.00
12	\$59,977.00
13	\$61,176.00
14	\$62,400.00
15	\$63,648.00
16	\$64,921.00
17	\$66,219.00
18	\$67,543.00
19	\$68,894.00
20	\$70,272.00 – 10 Year Extension if Within Compliance
21	\$71,678.00
22	\$73,111.00
23	\$74,573.00
24	\$76,065.00
25	\$77,586.00
26	\$79,138.00
27	\$80,721.00
28	\$82,335.00
29	\$83,982.00
30	\$85,661.00

8/31/21 – DRAFT
1/18/22 – AMENDED

This Pilot has NOT been approved by the Hempstead IDA Board

PROJECT ABSTRACT
TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY

CenterPoint Inwood, LLC
(Second Application)
Project: 2802 -22-08A

Application Date: 8/2/22 Contact: Ronel Borner

Applicant Name and Address: CenterPoint Inwood, LLC
65 Rason Road
Inwood, NY 11096

Project Address: 65 Rason Road
Inwood, NY 11096

Project:

The applicant intends to develop a vacant parcel as an approximate 138,245 square foot two-story structure, which will include high-ceiling warehouse and office space, with integrated rooftop surface parking, 31 drive-up loading docks, and 2 drive-ins. Additional surface parking, storm water and landscaping improvements are also proposed. This project will be located on a 8.7 acre of land located at 65 Rason Road, Inwood. There will also be 15,000 square feet of wet land buffer upgrades. No tenant has been determined.

Project Costs:

Land and/or building acquisition	\$30,000,000
Building Demo/Construction	\$38,000,000
Site Work	\$5,000,000
Machinery and Equipment	\$1,000,000
Legal Fees	\$2,000,000
Architectural/Engineering Fees	\$3,000,000
Financial Charges	\$5,000,000
 Total	 \$84,000,000

Employment:

	Full	Part
Present	0	0
1 st Year	25	0
2 nd Year	25	0

LMA : TBD

Creation: of 25 FTE by year one

Salary Average: \$40,000

Construction Jobs: 75

Benefits Sought: 15 Year PILOT, Sales Tax Exemption

Benefit Analysis:

Sales Tax Exemption Renovation, Furnishing and Fixture:

\$26,400,000 x 8.625%= \$ 2,277,000

Mortgage \$0

Current Tax Information:

Section: 40 Block: A Lot: 1196

Parcels: 1

SD- Lawrence - 15

Total Taxes: \$ 209,957.53

Full Assessed Value: \$4,853,900

Total Assessment: \$48,539

23 General: \$123,735.63

22/23 School: \$86,221.90

Village: N/A

Estimated Taxes Once Built: \$978,018

Applicant Counsel: Dan Deegan

Transaction Counsel: Bill Weir

CenterPoint Inwood, LLC
(Second Application)
Project: 2802 -22-08A
DRAFT PILOT

Section: 40 Block: A Lots: 1196
Parcels: 1
SD- Lawrence 15
Current Tax Information: \$209,957.53
Estimated Taxes Once Built: \$978,018

Year	Total
1	\$209,957.00
2	\$209,957.00
3	\$209,957.00
4	\$450,000.00
5	\$500,000.00
6	\$550,000.00
7	\$625,000.00
8	\$700,000.00
9	\$775,000.00
10	\$880,000.00
11	\$925,000.00
12	\$1,000,000.00
13	\$1,100,000.00
14	\$1,175,000.00
15	\$1,200,000.00

8/16/22 – DRAFT

3/9/23 – Amended DRAFT

This Pilot has NOT been approved by the Hempstead IDA Board

PROJECT ABSTRACT
TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY

Baldwin Jaz, LLC
Project: 2802-22-04A

Application Date: 2/14/22 Contact: Kenneth Breslin
Amended Application Date: 7/6/22

Applicant Name and Address: c/o Breslin Realty
500 Old Country Road – Suite 200
Garden City, NY 11530

Project Address: 2253 Grand Avenue,
734, 736, 746, 752 Sunrise Highway
2292 Harrison Avenue
Baldwin, NY 11510

Project:

The applicant intends to demolish a used car lot and develop the site into a multi-family, transit oriented development. The project will be comprised of 5 stories and 215 residential units, consisting of a mix of approximately 47 studios, 132 one-bedrooms and 36 two-bedroom units on 1.8 acres. There will be 5000 square feet of ground floor restaurant/retail space, together with a public/private amenity space linking Grand Avenue with Sunrise Highway and contiguous with the proposed restaurant retail spaces. 251 on-site parking spaces will be provided. 10% of the units will be set aside as workforce housing. The building size will be approximately 59,341 square feet. The property will also include Community Space usable between the hours of 8 am and 6pm by the public, with an entrance on Harrison Avenue.

The Town of Hempstead is in support of this project, and it is within the Baldwin Overlay Zone/BMX District.

This project will need a Density Variance.

Project Costs:

Land and/or building acquisition	\$6,432,000
Building(s) demolition/construction	\$70,146,200
Site Work	\$4,390,000
Machinery and Equipment	\$5,330,400
Legal Fees	\$1,060,000
Architectural/Engineering Fees	\$2,451,900
Financial Charges	\$3,425,061

Other	\$12,901,021
Total	\$106, 136, 582

Employment:

	Full	Part
Present	0	0
1 st Year	7	3
2 nd Year	7	3

LMA : 100%

Creation: of 8.5 FTE

Average Salary of Hourly Employees: \$24-46 an hour

Full Time: \$45,000 - \$85,000 Average: \$65,000.00

Part Time \$25,000.00 Average: \$25,000.00

Approx 200 Construction Jobs

Benefits Sought: 30 Year PILOT, Sales Tax Exemption, MRT Exemption

Benefit Analysis:

Sales Tax Exemption Renovation, Furnishing and Fixture:

\$37,147,804 x 8.625% = \$ 3,203,998.09

Mortgage \$70,146,200 = \$526,096.50

Current Tax Information:

Section; 54, Block: 101, Lots: 30(129), 33, 41, 42, 35, 38,39, 26

Parcels: 8

SD- Baldwin

Total Tax: \$129,794.87

Full Assessed Value: \$ 1,658,300

Total Assessment: \$16,583

22 General: \$47,157.38

21-22 School: \$82,637.49

Village: N/A

Estimated Taxes Once Built: \$1,532,478.50

Applicant Attorney: Elisabetta Coschignano

IDA Transaction Counsel: Bill Weir/Terance Walsh

Baldwin Jaz, LLC
DRAFT PILOT

2253 Grand Avenue,
734, 736, 746, 752 Sunrise Highway
2292 Harrison Avenue
Baldwin, NY 11510

Current Tax Information:

Section: 54, Block: 101, Lots: 30(129), 33, 41, 42, 35, 38, 39, 26
Parcels: 8
SD- Baldwin

Current Total Taxes Year: \$129,794.87

Estimated Taxes Once Built: \$1,532,478.50

Year	Total
1	\$130,000.00
2	\$130,000.00
3	\$130,000.00
4	\$175,000.00
5	\$250,000.00
6	\$310,000.00
7	\$390,000.00
8	\$450,000.00
9	\$500,000.00
10	\$575,000.00
11	\$650,000.00
12	\$730,000.00
13	\$820,000.00
14	\$910,000.00
15	\$1,100,000.00
16	\$1,200,000.00
17	\$1,300,000.00
18	\$1,400,000.00
19	\$1,500,000.00
20	\$1,600,000.00
21	\$1,700,000.00
22	\$1,790,000.00
23	\$1,830,000.00
24	\$1,900,000.00
25	\$1,980,000.00
26	\$2,000,000.00
27	\$2,100,000.00
28	\$2,200,000.00
29	\$2,300,000.00
30	\$2,400,000.00

8/9/22 – DRAFT

This Pilot has NOT been approved by the Hempstead IDA Board

PREPARED FOR:

Town of Hempstead Industrial Development Agency
350 Front Street, Room 234-A
Hempstead, NY 11550

Economic and Fiscal Impact

BALDWIN JAZ, LLC

Town of Hempstead
Industrial Development Agency

SEPTEMBER 8, 2022

PREPARED BY:

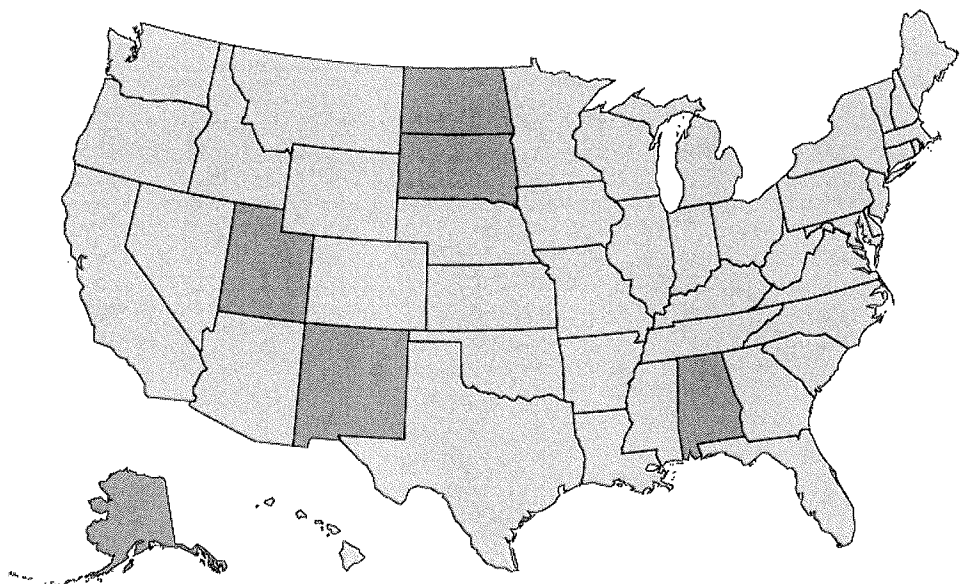


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Camoin Associates has provided economic development consulting services to municipalities, economic development agencies, and private enterprises since 1999. Through the services offered, Camoin Associates has had the opportunity to serve EDOs and local and state governments from Maine to California; corporations and organizations that include Lowes Home Improvement, FedEx, Amazon, Volvo (Nova Bus) and the New York Islanders; as well as private developers proposing projects in excess of \$6 billion. Our reputation for detailed, place-specific, and accurate analysis has led to projects in 43 states and garnered attention from national media outlets including Marketplace (NPR), Crain's New York Business, Forbes magazine, The New York Times, and The Wall Street Journal. Additionally, our marketing strategies have helped our clients gain both national and local media coverage for their projects in order to build public support and leverage additional funding. We are based in Saratoga Springs, NY, with regional offices in Portland, ME; Boston, MA; Richmond, VA and Brattleboro, VT. To learn more about our experience and projects in all of our service lines, please visit our website at www.camoinassociates.com. You can also find us on Twitter [@camoinassociate](https://twitter.com/camoinassociate) and on [Facebook](https://www.facebook.com/camoinassociate).

Rachel Selsky
Vice President

Jessica Tagliafierro
Senior Analyst



ABOUT THE STUDY

Camoin Associates was retained by the Town of Hempstead Industrial Development Agency to measure the potential economic and fiscal impacts of a project proposed by Baldwin Jaz, LLC. The proposed project involves construction of a 215-unit multifamily residential facility, with 10% of units set aside for workforce housing at 223 Grand Avenue, 734, 736, 746, 752 Sunrise Highway, and 2292 Harrison Avenue, Baldwin, New York 11510. The goal of this analysis is to provide a complete assessment of the total economic, employment and tax impact of the project on the Town of Hempstead that result from the new household spending and on-site operations.

The primary tool used in this analysis is the input-output model developed by Lightcast (formerly Emsi). Primary data used in this study was obtained from the developer's application for financial assistance to the Town of Hempstead Industrial Development Agency and included the following data points: on-site jobs, exemptions, and PILOT schedule. Secondary data was collected by Camoin Associates and used to estimate spending by new households.

The economic impacts are presented in four categories: direct impact, indirect impact, induced impact, and total impact. The indirect and induced impacts are commonly referred to as the "multiplier effect."

STUDY INFORMATION

Data Source:
Baldwin Jaz, LLC Application for
Assistance and the Town of
Hempstead Industrial
Development Agency

Geography:
Town of Hempstead

Study Period:
2022

Modeling Tool:
Lightcast

DIRECT IMPACTS

This initial round of impacts is generated as a result of spending on operations and new household spending at town businesses.

INDIRECT IMPACTS

The direct impacts have ripple effects through business to business spending. This spending results from the increase in demand for goods and services in industry sectors that supply both the facility and the businesses receiving the new household spending.

INDUCED IMPACTS

Impacts that result from spending by facility employees, employees of town businesses, and employees of suppliers. Earnings of these employees enter the economy as employees spend their paychecks in the town on food, clothing, and other goods and services.

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FISCAL IMPACT ANALYSIS	5
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Attachment C: Study Areas	12

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EXECUTIVE SUMMARY

The Town of Hempstead Industrial Development Agency (the "Agency") received an application for financial assistance from Baldwin Jaz, LLC (the "Applicant") for the construction of a 215-unit multifamily residential facility, with 10% of units set aside for workforce housing (the "Project") at 223 Grand Avenue, 734, 736, 746, 752 Sunrise Highway, and 2292 Harrison Avenue, Baldwin, New York 11510 (the "Site"). The development will consist of 132 1-bedroom units and 36 2-bedroom units, along with ground floor restaurant/retail space and other amenities. The Applicant is seeking a sales tax exemption, mortgage recording tax exemption, and a 30-year PILOT agreement from the Agency. The Agency commissioned Camoin Associates to conduct an economic and limited fiscal impact analysis of the Project on the Town of Hempstead (the "Town").

Camoin Associates conducted a market analysis of rental housing within the town and determined that 83% of the 193 market rate units (or 160 units) and 80% of the 22 workforce units (18 units) would be considered as providing "net new" households to the town as they allow households to exist in the town that would otherwise locate elsewhere. We then computed the total spending associated with these households to derive job creation resulting from the Project. The following is a summary of our findings from this study, with details below and in the following sections.

Table 1

Summary of Benefits to Town	
Total Jobs	58
Direct Jobs	42
Total Earnings	\$ 3,181,513
Direct Earnings	\$ 2,055,199
Annual Sales Tax Revenue to County	\$ 91,306
Annual Sales Tax Revenue to Town	\$ 8,056
Average Annual PILOT Payment	\$ 1,148,333
Average Annual PILOT Payment to Town	\$ 179,903
Average Annual PILOT Benefit	\$ 972,816
Average Annual PILOT Benefit to Town	\$ 152,406
Average Annual Net Benefit to Town	\$ 160,462

- ◆ The Project supports 58 net new jobs in the town, with nearly \$3.2 million in associated earnings. These figures include net new jobs resulting from both maintenance and operation of the facility as well as economic activity that results from new household spending.
- ◆ The Applicant has negotiated terms of a proposed PILOT agreement for a term of 30 years with the Agency, where the applicant would pay an average of \$1,148,333 each year, of which \$179,903 will be allocated to the Town. The PILOT represents an average annual benefit to the Town of \$152,406.
- ◆ Through negotiations with the Agency the Applicant could have access to a sales tax exemption valued at up to \$3,203,998 and a mortgage recording tax exemption valued at up to \$526,097. However, if we assume that the Project would not occur absent IDA benefits, this is not actually a "cost" to the state and county since no future revenue stream would exist without the exemptions.

Table 2

Summary of Costs to Affected Jurisdictions	
	State and County
Sales Tax Exemption	\$ 3,203,998
Mortgage Tax Exemption	\$ 526,097

Source: Applicant, Camoin Associates

CAMOIN ASSOCIATES

ECONOMIC IMPACT ANALYSIS

The estimates of direct economic activity generated by facility operation and new resident spending as provided by the Applicant were used as the direct inputs for the economic impact model. Camoin Associates uses the input-output model designed by Lightcast (formerly Emsi) to calculate total economic impacts. Lightcast allows the analyst to input the amount of new direct economic activity (spending or jobs) occurring within the town and uses the direct inputs to estimate the spillover effects that the net new spending or jobs have as these new dollars circulate through the Town of Hempstead's economy. This is captured in the indirect and induced impacts and is commonly referred to as the "multiplier effect." See Attachment A for more information on economic impact analysis.

The Project would have economic impacts upon the Town of Hempstead as a result of Project operation, new permanent jobs, and spending by new tenant households.

CONSTRUCTION PHASE IMPACTS

The Applicant estimates that private sector investment in the construction of the Project would cost approximately \$95.2 million¹, of which 70%² is assumed to be sourced from within the town. This means that there will be nearly \$66.7 million in net new spending in the town associated with the construction phase of the Project.

Table 3

Construction Phase Spending - Town

Total Construction Cost	\$ 95,219,521
Percent Sourced from Town	70%
Net New Constuction Spending	\$ 66,653,665

Source: Applicant, Camoin Associates

Based on nearly \$66.7 million worth of net new direct spending associated with the construction phase of the Project, Camoin Associates determined that there would be over \$86.0 million in total one-time construction related spending supporting 349 jobs and an associated over \$31.3 million in earnings over the construction period throughout the town. Table 4 outlines the economic impacts of construction.

Table 4

Town Economic Impact - Construction Phase

	Jobs	Earnings	Sales
Direct	256 \$	24,561,024 \$	66,653,665
Indirect	43 \$	3,208,894 \$	9,992,288
Induced	50 \$	3,579,413 \$	9,368,409
Total	349 \$	31,349,331 \$	86,014,362

Source: Lightcast (formerly Emsi), Camoin Associates

¹ Includes project costs as provided by the Applicant, excluding acquisition and financial charges.

² According to Emsi, approximately 70% of construction industry demand is met within the town.

CAMOIN ASSOCIATES

IMPACTS OF NEW HOUSEHOLD SPENDING

To determine the annual economic impact of the Project on the town, the first step is to calculate the number of households that can be considered "net new" to the town economy. In other words, the number of households that, but for the Project, would not exist in the Town of Hempstead. With respect to this Project, net new households consist of those who are able to live in the jurisdictions as a result of the Project and would otherwise choose to live elsewhere. See Attachment B for more information on this methodology.

The Applicant proposes to construct 215 multifamily residential units, 10% of which (or 22 units) will be workforce units. Camoin Associates conducted a market analysis of multifamily rental units in the Town of Hempstead and determined that 83% of the market rate units, or 160 units, and 80% of the workforce units, or 18 units, would be net new to the town (Table 5). This is based on a review of the data and an understanding of the proposed Project as detailed above.

Table 5

Net New Households

	Total Households	Percent Net New	Net New Households
Market Rate	193	83%	160
Workforce	22	80%	18
Total	215	83%	178

Source: Esri, Camoin Associates

SPENDING BY NEW TENANTS

These residents make purchases in the town, thereby adding new dollars to the Town of Hempstead's economy. For this analysis, we researched spending patterns by household income to determine the spending by tenants.

Based on median incomes for the town, we consider spending for tenant in market rate units to be in the \$100,000 to \$149,999 annual household income range and spending for tenants in the workforce units to be in the \$70,000 to \$99,999 annual household income range, per the Bureau of Labor Statistics' 2020 Consumer Expenditure Survey.

Using a spending basket for the region which details household spending in individual consumer categories by income level, we analyzed likely tenant spending. According to the 2020 Consumer Expenditure Survey, households in the market rate units will have average annual expenditures (excluding housing and utility costs) of \$44,188 and households in the workforce units will have average annual expenditures of \$33,157.

It is assumed that 60%³ of total expenditures would occur within the Town of Hempstead and, therefore, have an impact on the town's economy. The total net new spending columns show the total amount spent in the town based on the number of net new units.

³ Based on an analysis of goods and services available within the town, using Esri Business Analyst. Every category of retail exists within the Town, but some portion of the retail expenditure occurs outside the Town limits.

CAMOIN ASSOCIATES

Table 6

Tenant Spending Basket**Market Rate Units (\$100,000 to \$149,999 Annual Household Income)**

Category	Annual per Unit Spending Basket	Amount Spent in Town (60%)	Total Net New Town Spending (160 net new units)
Food	\$ 9,901	\$ 5,941	\$ 950,496
Household furnishings and equipment	\$ 2,909	\$ 1,745	\$ 279,264
Apparel and services	\$ 2,037	\$ 1,222	\$ 195,552
Transportation	\$ 14,888	\$ 8,933	\$ 1,429,248
Health care	\$ 6,508	\$ 3,905	\$ 624,768
Entertainment	\$ 4,331	\$ 2,599	\$ 415,776
Personal care products and services	\$ 934	\$ 560	\$ 89,664
Education	\$ 1,494	\$ 896	\$ 143,424
Miscellaneous	\$ 1,186	\$ 712	\$ 113,856
Total Tenant Spending	\$ 44,188	\$ 26,513	\$ 4,242,048

Workforce Units (\$70,000 to \$99,999 Annual Household Income)

Category	Annual per Unit Spending Basket	Amount Spent in Town (60%)	Total Net New Town Spending (18 net new units)
Food	\$ 7,475	\$ 4,485	\$ 80,730
Household furnishings and equipment	\$ 2,396	\$ 1,438	\$ 25,877
Apparel and services	\$ 1,145	\$ 687	\$ 12,366
Transportation	\$ 11,098	\$ 6,659	\$ 119,858
Health care	\$ 5,745	\$ 3,447	\$ 62,046
Entertainment	\$ 2,694	\$ 1,616	\$ 29,095
Personal care products and services	\$ 652	\$ 391	\$ 7,042
Education	\$ 893	\$ 536	\$ 9,644
Miscellaneous	\$ 1,059	\$ 635	\$ 11,437
Total Tenant Spending	\$ 33,157	\$ 19,894	\$ 358,096
Total Discretionary Spending			\$ 4,600,144

Source: 2020 Consumer Expenditure Survey, Bureau of Labor Statistics

The total net new spending in the town was calculated by multiplying the amount spent in the town by the number of net new units. As shown in the table above, spending in the town by all new households totals \$4.6 million per year. We used the above spending basket amounts to calculate the direct, indirect, and total impact of the Project on the town.

CAMOIN ASSOCIATES

Using \$4.6 million as the new sales input, Camoin Associates employed Lightcast (formerly Emsi) to determine the indirect, induced, and total impact of the Project on the Town of Hempstead.⁴ Table 7 outlines the findings of this analysis.

Table 7

Town Economic Impact - Household Spending

	Jobs		Earnings		Sales
Direct	34	\$	1,626,844	\$	4,600,144
Indirect	6	\$	389,949	\$	1,053,751
Induced	5	\$	414,382	\$	1,069,638
Total	45	\$	2,431,175	\$	6,723,533

Source: Emsi, Camoin Associates

IMPACTS OF ON-SITE EMPLOYMENT

The Applicant anticipates that 10 jobs will be on-site within two years following Project completion. Since 83% of all households are considered to be net new (Table 5), 83% of new jobs, or 8 jobs, are considered to be net new. The table below detail the impact that these jobs will have on the Town of Hempstead (Table 8).

Table 8

Town Economic Impact - On-Site Operations

	Jobs		Earnings		Sales
Direct	8	\$	428,355	\$	1,543,184
Indirect	4	\$	219,046	\$	614,206
Induced	1	\$	102,938	\$	267,283
Total	13	\$	750,339	\$	2,424,673

Source: Emsi, Camoin Associates

TOTAL ANNUAL ECONOMIC IMPACT

The complete economic impact of both new household spending as well as on-site operation and maintenance of the Project on the Town of Hempstead in Table 9.

Table 9

Town Total Annual Economic Impact

	Jobs		Earnings		Sales
Direct	42	\$	2,055,199	\$	6,143,328
Indirect	10	\$	608,995	\$	1,667,957
Induced	6	\$	517,319	\$	1,336,921
Total	58	\$	3,181,513	\$	9,148,206

Source: Emsi, Camoin Associates

⁴ Analysis uses the 33 zip codes that are predominantly located within the Town of Hempstead (see Attachment B).

CAMOIN ASSOCIATES

FISCAL IMPACT ANALYSIS

In addition to the economic impact of the Project on the local economies (outlined above), there would also be a fiscal impact in terms of annual property tax and sales tax generation. The following section of the analysis outlines the impact of the completion of the Project on the local taxing jurisdictions in terms of the cost and/or benefit to municipal budgets.

CAMOIN ASSOCIATES

PAYMENT IN LIEU OF TAXES (PILOT)

The Applicant has applied to the Agency for a Payment In Lieu of Taxes (PILOT) agreement. The Applicant has proposed a 30-year PILOT payment schedule based on the current tax rate, taxable value, and assessed value of the Project. Based on the terms of the PILOT as proposed, Camoin Associates calculated the potential impact on the Town of Hempstead and other applicable jurisdictions.⁵

Table 10

Tax Payments with PILOT

Year	Total		Portion of Payment by Jurisdiction			
	PILOT Payments		Town	County	School District	Special Districts
1	\$ 130,000	\$	20,366	\$ 45,466	\$ 82,768	\$ 64,168
2	\$ 130,000	\$	20,366	\$ 45,466	\$ 82,768	\$ 64,168
3	\$ 130,000	\$	20,366	\$ 45,466	\$ 82,768	\$ 64,168
4	\$ 175,000	\$	27,416	\$ 61,204	\$ 111,419	\$ 86,379
5	\$ 250,000	\$	39,166	\$ 87,435	\$ 159,169	\$ 123,399
6	\$ 310,000	\$	48,566	\$ 108,419	\$ 197,370	\$ 153,015
7	\$ 390,000	\$	61,099	\$ 136,398	\$ 248,304	\$ 192,503
8	\$ 450,000	\$	70,499	\$ 157,382	\$ 286,505	\$ 222,119
9	\$ 500,000	\$	78,332	\$ 174,869	\$ 318,339	\$ 246,798
10	\$ 575,000	\$	90,082	\$ 201,100	\$ 366,090	\$ 283,818
11	\$ 650,000	\$	101,832	\$ 227,330	\$ 413,840	\$ 320,838
12	\$ 730,000	\$	114,365	\$ 255,309	\$ 464,775	\$ 360,326
13	\$ 820,000	\$	128,465	\$ 286,786	\$ 522,076	\$ 404,749
14	\$ 910,000	\$	142,565	\$ 318,262	\$ 579,377	\$ 449,173
15	\$ 1,100,000	\$	172,331	\$ 384,712	\$ 700,345	\$ 542,956
16	\$ 1,200,000	\$	187,998	\$ 419,686	\$ 764,013	\$ 592,316
17	\$ 1,300,000	\$	203,664	\$ 454,660	\$ 827,681	\$ 641,676
18	\$ 1,400,000	\$	219,331	\$ 489,634	\$ 891,349	\$ 691,035
19	\$ 1,500,000	\$	234,997	\$ 524,608	\$ 955,016	\$ 740,395
20	\$ 1,600,000	\$	250,664	\$ 559,582	\$ 1,018,684	\$ 789,755
21	\$ 1,700,000	\$	266,330	\$ 594,555	\$ 1,082,352	\$ 839,114
22	\$ 1,790,000	\$	280,430	\$ 626,032	\$ 1,139,653	\$ 883,538
23	\$ 1,830,000	\$	286,696	\$ 640,021	\$ 1,165,120	\$ 903,282
24	\$ 1,900,000	\$	297,663	\$ 664,503	\$ 1,209,687	\$ 937,834
25	\$ 1,980,000	\$	310,196	\$ 692,482	\$ 1,260,622	\$ 977,322
26	\$ 2,000,000	\$	313,330	\$ 699,477	\$ 1,273,355	\$ 987,193
27	\$ 2,100,000	\$	328,996	\$ 734,451	\$ 1,337,023	\$ 1,036,553
28	\$ 2,200,000	\$	344,662	\$ 769,425	\$ 1,400,691	\$ 1,085,913
29	\$ 2,300,000	\$	360,329	\$ 804,399	\$ 1,464,359	\$ 1,135,272
30	\$ 2,400,000	\$	375,995	\$ 839,372	\$ 1,528,026	\$ 1,184,632
Total	\$ 34,450,000	\$	5,397,101	\$ 12,048,492	\$ 21,933,544	\$ 17,004,408
Average	\$ 1,148,333	\$	179,903	\$ 401,616	\$ 731,118	\$ 566,814

Source: Town of Hempstead IDA, Camoin Associates

⁵ It is assumed that the jurisdictions will continue to receive the same portion of the PILOT payments as they do from the property's full tax bill.

CAMOIN ASSOCIATES

TAX POLICY COMPARISON

Without financial assistance from the Agency, Camoin Associates assumes the Applicant would not undertake the Project. The following table displays the estimated property tax payments without the Project.

Table 11

Tax Payments without Project

Year	Total Property Tax Payment		Portion of Payment by Jurisdiction			
	Without Project*		Town	County	School District	Special Districts
1	\$	129,795	\$ 20,334	\$ 45,394	\$ 82,637	\$ 64,066
2	\$	132,391	\$ 20,741	\$ 46,302	\$ 84,290	\$ 65,348
3	\$	135,039	\$ 21,156	\$ 47,228	\$ 85,976	\$ 66,655
4	\$	137,739	\$ 21,579	\$ 48,173	\$ 87,696	\$ 67,988
5	\$	140,494	\$ 22,010	\$ 49,136	\$ 89,449	\$ 69,347
6	\$	143,304	\$ 22,451	\$ 50,119	\$ 91,238	\$ 70,734
7	\$	146,170	\$ 22,900	\$ 51,121	\$ 93,063	\$ 72,149
8	\$	149,094	\$ 23,358	\$ 52,144	\$ 94,925	\$ 73,592
9	\$	152,075	\$ 23,825	\$ 53,187	\$ 96,823	\$ 75,064
10	\$	155,117	\$ 24,301	\$ 54,250	\$ 98,759	\$ 76,565
11	\$	158,219	\$ 24,787	\$ 55,335	\$ 100,735	\$ 78,096
12	\$	161,384	\$ 25,283	\$ 56,442	\$ 102,749	\$ 79,658
13	\$	164,611	\$ 25,789	\$ 57,571	\$ 104,804	\$ 81,252
14	\$	167,904	\$ 26,305	\$ 58,722	\$ 106,900	\$ 82,877
15	\$	171,262	\$ 26,831	\$ 59,897	\$ 109,038	\$ 84,534
16	\$	174,687	\$ 27,367	\$ 61,095	\$ 111,219	\$ 86,225
17	\$	178,181	\$ 27,915	\$ 62,317	\$ 113,444	\$ 87,949
18	\$	181,744	\$ 28,473	\$ 63,563	\$ 115,712	\$ 89,708
19	\$	185,379	\$ 29,042	\$ 64,834	\$ 118,027	\$ 91,502
20	\$	189,087	\$ 29,623	\$ 66,131	\$ 120,387	\$ 93,333
21	\$	192,868	\$ 30,216	\$ 67,453	\$ 122,795	\$ 95,199
22	\$	196,726	\$ 30,820	\$ 68,803	\$ 125,251	\$ 97,103
23	\$	200,660	\$ 31,436	\$ 70,179	\$ 127,756	\$ 99,045
24	\$	204,673	\$ 32,065	\$ 71,582	\$ 130,311	\$ 101,026
25	\$	208,767	\$ 32,706	\$ 73,014	\$ 132,917	\$ 103,047
26	\$	212,942	\$ 33,361	\$ 74,474	\$ 135,576	\$ 105,108
27	\$	217,201	\$ 34,028	\$ 75,964	\$ 138,287	\$ 107,210
28	\$	221,545	\$ 34,708	\$ 77,483	\$ 141,053	\$ 109,354
29	\$	225,976	\$ 35,402	\$ 79,033	\$ 143,874	\$ 111,541
30	\$	230,496	\$ 36,111	\$ 80,613	\$ 146,751	\$ 113,772
Total	\$	5,265,529	\$ 824,923	\$ 1,841,558	\$ 3,352,444	\$ 2,599,048
Average	\$	175,518	\$ 27,497	\$ 61,385	\$ 111,748	\$ 86,635

Source: Town of Hempstead IDA, Camoin Associates

*Note: Assumes an average annual increase of 2.00%

CAMOIN ASSOCIATES

Table 12 calculates the benefit to the affected taxing jurisdictions as the difference between the PILOT payments associated with the Project and the property tax payments without the Project. Nearly \$973,000 more in PILOT revenue will be received annually than property taxes that would be received without the Project. The total benefit would be \$29.2 million over the 30-year period.

Table 12

Tax Policy Comparison (All Jurisdictions)

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ 129,795	\$ 130,000	\$ 205
2	\$ 132,391	\$ 130,000	\$ (2,391)
3	\$ 135,039	\$ 130,000	\$ (5,039)
4	\$ 137,739	\$ 175,000	\$ 37,261
5	\$ 140,494	\$ 250,000	\$ 109,506
6	\$ 143,304	\$ 310,000	\$ 166,696
7	\$ 146,170	\$ 390,000	\$ 243,830
8	\$ 149,094	\$ 450,000	\$ 300,906
9	\$ 152,075	\$ 500,000	\$ 347,925
10	\$ 155,117	\$ 575,000	\$ 419,883
11	\$ 158,219	\$ 650,000	\$ 491,781
12	\$ 161,384	\$ 730,000	\$ 568,616
13	\$ 164,611	\$ 820,000	\$ 655,389
14	\$ 167,904	\$ 910,000	\$ 742,096
15	\$ 171,262	\$ 1,100,000	\$ 928,738
16	\$ 174,687	\$ 1,200,000	\$ 1,025,313
17	\$ 178,181	\$ 1,300,000	\$ 1,121,819
18	\$ 181,744	\$ 1,400,000	\$ 1,218,256
19	\$ 185,379	\$ 1,500,000	\$ 1,314,621
20	\$ 189,087	\$ 1,600,000	\$ 1,410,913
21	\$ 192,868	\$ 1,700,000	\$ 1,507,132
22	\$ 196,726	\$ 1,790,000	\$ 1,593,274
23	\$ 200,660	\$ 1,830,000	\$ 1,629,340
24	\$ 204,673	\$ 1,900,000	\$ 1,695,327
25	\$ 208,767	\$ 1,980,000	\$ 1,771,233
26	\$ 212,942	\$ 2,000,000	\$ 1,787,058
27	\$ 217,201	\$ 2,100,000	\$ 1,882,799
28	\$ 221,545	\$ 2,200,000	\$ 1,978,455
29	\$ 225,976	\$ 2,300,000	\$ 2,074,024
30	\$ 230,496	\$ 2,400,000	\$ 2,169,504
Total	\$ 5,265,529	\$ 34,450,000	\$ 29,184,471
Average	\$ 175,518	\$ 1,148,333	\$ 972,816

Source: Town of Hempstead IDA, Camoin Associates

CAMOIN ASSOCIATES

TOWN

Table 13 calculates the benefit to the Town. The Town would receive approximately \$152,406 more in PILOT revenue annually than it would receive in property taxes without the Project. The total benefit to the Town would be nearly \$4.6 million over the 30-year period.

Table 13

Tax Policy Comparison for Town

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ 20,334	\$ 20,366	\$ 32
2	\$ 20,741	\$ 20,366	\$ (375)
3	\$ 21,156	\$ 20,366	\$ (789)
4	\$ 21,579	\$ 27,416	\$ 5,837
5	\$ 22,010	\$ 39,166	\$ 17,156
6	\$ 22,451	\$ 48,566	\$ 26,115
7	\$ 22,900	\$ 61,099	\$ 38,200
8	\$ 23,358	\$ 70,499	\$ 47,141
9	\$ 23,825	\$ 78,332	\$ 54,508
10	\$ 24,301	\$ 90,082	\$ 65,781
11	\$ 24,787	\$ 101,832	\$ 77,045
12	\$ 25,283	\$ 114,365	\$ 89,082
13	\$ 25,789	\$ 128,465	\$ 102,676
14	\$ 26,305	\$ 142,565	\$ 116,260
15	\$ 26,831	\$ 172,331	\$ 145,501
16	\$ 27,367	\$ 187,998	\$ 160,630
17	\$ 27,915	\$ 203,664	\$ 175,750
18	\$ 28,473	\$ 219,331	\$ 190,858
19	\$ 29,042	\$ 234,997	\$ 205,955
20	\$ 29,623	\$ 250,664	\$ 221,040
21	\$ 30,216	\$ 266,330	\$ 236,114
22	\$ 30,820	\$ 280,430	\$ 249,610
23	\$ 31,436	\$ 286,696	\$ 255,260
24	\$ 32,065	\$ 297,663	\$ 265,598
25	\$ 32,706	\$ 310,196	\$ 277,490
26	\$ 33,361	\$ 313,330	\$ 279,969
27	\$ 34,028	\$ 328,996	\$ 294,968
28	\$ 34,708	\$ 344,662	\$ 309,954
29	\$ 35,402	\$ 360,329	\$ 324,926
30	\$ 36,111	\$ 375,995	\$ 339,885
Total	\$ 824,923	\$ 5,397,101	\$ 4,572,178
Average	\$ 27,497	\$ 179,903	\$ 152,406

Source: Town of Hempstead IDA, Camoin Associates

CAMOIN ASSOCIATES

COUNTY

Table 14 calculates the benefit to the County. The County would receive approximately \$340,231 more in PILOT revenue annually than it would receive in property taxes without the Project. The total benefit to the County would be over \$10.2 million over the 30-year period.

Table 14

Tax Policy Comparison for County

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ 45,394	\$ 45,466	\$ 72
2	\$ 46,302	\$ 45,466	\$ (836)
3	\$ 47,228	\$ 45,466	\$ (1,762)
4	\$ 48,173	\$ 61,204	\$ 13,031
5	\$ 49,136	\$ 87,435	\$ 38,298
6	\$ 50,119	\$ 108,419	\$ 58,300
7	\$ 51,121	\$ 136,398	\$ 85,277
8	\$ 52,144	\$ 157,382	\$ 105,239
9	\$ 53,187	\$ 174,869	\$ 121,683
10	\$ 54,250	\$ 201,100	\$ 146,849
11	\$ 55,335	\$ 227,330	\$ 171,995
12	\$ 56,442	\$ 255,309	\$ 198,867
13	\$ 57,571	\$ 286,786	\$ 229,215
14	\$ 58,722	\$ 318,262	\$ 259,540
15	\$ 59,897	\$ 384,712	\$ 324,816
16	\$ 61,095	\$ 419,686	\$ 358,592
17	\$ 62,317	\$ 454,660	\$ 392,343
18	\$ 63,563	\$ 489,634	\$ 426,071
19	\$ 64,834	\$ 524,608	\$ 459,774
20	\$ 66,131	\$ 559,582	\$ 493,451
21	\$ 67,453	\$ 594,555	\$ 527,102
22	\$ 68,803	\$ 626,032	\$ 557,229
23	\$ 70,179	\$ 640,021	\$ 569,843
24	\$ 71,582	\$ 664,503	\$ 592,921
25	\$ 73,014	\$ 692,482	\$ 619,468
26	\$ 74,474	\$ 699,477	\$ 625,003
27	\$ 75,964	\$ 734,451	\$ 658,487
28	\$ 77,483	\$ 769,425	\$ 691,942
29	\$ 79,033	\$ 804,399	\$ 725,366
30	\$ 80,613	\$ 839,372	\$ 758,759
Total	\$ 1,841,558	\$ 12,048,492	\$ 10,206,934
Average	\$ 61,385	\$ 401,616	\$ 340,231

Source: Town of Hempstead IDA, Camoin Associates

CAMOIN ASSOCIATES

SCHOOL DISTRICT

Table 15 calculates the benefit to the school district. The school district would receive approximately \$619,370 more in PILOT revenue annually than it would receive in property taxes without the Project. The total benefit to the school district would be nearly \$18.6 million over the 30-year period.

Table 15

Tax Policy Comparison for School District

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ 82,637	\$ 82,768	\$ 131
2	\$ 84,290	\$ 82,768	\$ (1,522)
3	\$ 85,976	\$ 82,768	\$ (3,208)
4	\$ 87,696	\$ 111,419	\$ 23,723
5	\$ 89,449	\$ 159,169	\$ 69,720
6	\$ 91,238	\$ 197,370	\$ 106,132
7	\$ 93,063	\$ 248,304	\$ 155,241
8	\$ 94,925	\$ 286,505	\$ 191,580
9	\$ 96,823	\$ 318,339	\$ 221,516
10	\$ 98,759	\$ 366,090	\$ 267,330
11	\$ 100,735	\$ 413,840	\$ 313,106
12	\$ 102,749	\$ 464,775	\$ 362,025
13	\$ 104,804	\$ 522,076	\$ 417,271
14	\$ 106,900	\$ 579,377	\$ 472,476
15	\$ 109,038	\$ 700,345	\$ 591,307
16	\$ 111,219	\$ 764,013	\$ 652,794
17	\$ 113,444	\$ 827,681	\$ 714,237
18	\$ 115,712	\$ 891,349	\$ 775,636
19	\$ 118,027	\$ 955,016	\$ 836,990
20	\$ 120,387	\$ 1,018,684	\$ 898,297
21	\$ 122,795	\$ 1,082,352	\$ 959,557
22	\$ 125,251	\$ 1,139,653	\$ 1,014,402
23	\$ 127,756	\$ 1,165,120	\$ 1,037,364
24	\$ 130,311	\$ 1,209,687	\$ 1,079,376
25	\$ 132,917	\$ 1,260,622	\$ 1,127,704
26	\$ 135,576	\$ 1,273,355	\$ 1,137,780
27	\$ 138,287	\$ 1,337,023	\$ 1,198,736
28	\$ 141,053	\$ 1,400,691	\$ 1,259,638
29	\$ 143,874	\$ 1,464,359	\$ 1,320,485
30	\$ 146,751	\$ 1,528,026	\$ 1,381,275
Total	\$ 3,352,444	\$ 21,933,544	\$ 18,581,100
Average	\$ 111,748	\$ 731,118	\$ 619,370

Source: Town of Hempstead IDA, Camoin Associates

CAMOIN ASSOCIATES

SPECIAL DISTRICTS

Table 16 calculates the benefit to the special districts. The special districts would receive approximately \$480,179 more in PILOT revenue annually than it would receive in property taxes without the Project. The total benefit to the special districts would be over \$14.4 million over the 30-year period.

Table 16

Tax Policy Comparison for Special Districts

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ 64,066	\$ 64,168	\$ 101
2	\$ 65,348	\$ 64,168	\$ (1,180)
3	\$ 66,655	\$ 64,168	\$ (2,487)
4	\$ 67,988	\$ 86,379	\$ 18,392
5	\$ 69,347	\$ 123,399	\$ 54,052
6	\$ 70,734	\$ 153,015	\$ 82,281
7	\$ 72,149	\$ 192,503	\$ 120,354
8	\$ 73,592	\$ 222,119	\$ 148,526
9	\$ 75,064	\$ 246,798	\$ 171,734
10	\$ 76,565	\$ 283,818	\$ 207,253
11	\$ 78,096	\$ 320,838	\$ 242,741
12	\$ 79,658	\$ 360,326	\$ 280,667
13	\$ 81,252	\$ 404,749	\$ 323,498
14	\$ 82,877	\$ 449,173	\$ 366,296
15	\$ 84,534	\$ 542,956	\$ 458,422
16	\$ 86,225	\$ 592,316	\$ 506,091
17	\$ 87,949	\$ 641,676	\$ 553,726
18	\$ 89,708	\$ 691,035	\$ 601,327
19	\$ 91,502	\$ 740,395	\$ 648,893
20	\$ 93,333	\$ 789,755	\$ 696,422
21	\$ 95,199	\$ 839,114	\$ 743,915
22	\$ 97,103	\$ 883,538	\$ 786,435
23	\$ 99,045	\$ 903,282	\$ 804,237
24	\$ 101,026	\$ 937,834	\$ 836,808
25	\$ 103,047	\$ 977,322	\$ 874,275
26	\$ 105,108	\$ 987,193	\$ 882,086
27	\$ 107,210	\$ 1,036,553	\$ 929,343
28	\$ 109,354	\$ 1,085,913	\$ 976,559
29	\$ 111,541	\$ 1,135,272	\$ 1,023,731
30	\$ 113,772	\$ 1,184,632	\$ 1,070,860
Total	\$ 2,599,048	\$ 17,004,408	\$ 14,405,360
Average	\$ 86,635	\$ 566,814	\$ 480,179

Source: Town of Hempstead IDA, Camoin Associates

CAMOIN ASSOCIATES

OTHER EXEMPTIONS

There are additional benefits to working with the Agency including a one-time sales tax exemption on renovation materials and furniture, fixtures, and equipment as well as a mortgage recording tax exemption. Tax exemptions are for the state and county taxes and are not applicable to the town.

Table 17

Summary of Costs to Affected Jurisdictions

	State and County	
Sales Tax Exemption	\$	3,203,998
Mortgage Tax Exemption	\$	526,097

Source: Applicant, Camoin Associates

The additional incentives offered by the Agency will benefit the Applicant but will not negatively affect the taxing jurisdictions because, without the Project, the Town by definition would not be receiving any associated sales tax or mortgage tax revenue.

SALES TAX REVENUE

SALES TAX REVENUE – CONSTRUCTION PHASE

The one-time construction phase earnings described by the total economic impact of the construction work (described in the above section) would lead to additional sales tax revenue for the Town. It is assumed that 70%⁶ of the construction phase earnings would be spent within the county and that 25% of those purchases would be taxable.

Table 18

One-Time Sales Tax Revenue, Construction Phase

Total New Earnings	\$	31,349,331
Amount Spent in County (70%)	\$	21,944,532
Amount Taxable (25%)	\$	5,486,133
Nassau County Sales Tax Revenue (4.25%)	\$	233,161
New Town Sales Tax Revenue Portion*		0.375%
New Town Sales Tax Revenue	\$	20,573

Source: Town of Hempstead IDA, Camoin Associates

***Note:** Nassau County's sales tax rate is 4.25%, of which 0.75% is allocated to the towns and cities within the county. For this analysis we assume half of the 0.75% is allocated to the Town of Hempstead.

⁶ According to Emsi, 70% demand for industries in a typical household spending basket is met within Nassau County.

CAMOIN ASSOCIATES

SALES TAX REVENUE – NEW HOUSEHOLD SPENDING

As a result of the Project, the Town would receive sales tax revenue from the purchases made by the households. Table 19 displays the new sales tax revenue that the Town of Hempstead would receive annually based on in-town spending by new households.

Table 19

Annual Sales Tax Revenue, Household Spending		
Total New Spending	\$	6,723,533
Amount Taxable (30%)	\$	2,017,060
Nassau County Sales Tax Revenue (4.25%)	\$	85,725
New Town Sales Tax Revenue Portion*		0.375%
New Town Tax Revenue	\$	7,564

Source: Town of Hempstead IDA, Camoin Associates

***Note:** Nassau County's sales tax rate is 4.25%, of which 0.75% is allocated to the towns and cities within the county. For this analysis we assume half of the 0.75% is allocated to the Town of Hempstead.

Note that the household spending figure has already been adjusted to account for 60% of total spending occurring within the town (see table entitled "Tenant Spending Baskets"). It is assumed that 30% of purchases will be taxable, based on the spending baskets of tenants and the understanding that certain non-taxable items (related to housing expenses) have been removed from the total spending line, this increasing the remaining portion taxable.

SALES TAX REVENUE – EMPLOYEE EARNINGS

The earnings generated by on-site jobs that will occur as a result of building operation at the Project (described under Impacts of On-Site Employment) would lead to additional annual sales tax revenue for the town. It is assumed that 70% of the earnings would be spent within Nassau County and that 25% of those purchases will be taxable. Table 20 displays the annual tax revenue that the Town will receive.

Table 20

Annual Sales Tax Revenue, On-Site Operations		
Total New Earnings	\$	750,339
Amount Spent in County (70%)	\$	525,237
Amount Taxable (25%)	\$	131,309
Nassau County Sales Tax Revenue (4.25%)	\$	5,581
New Town Sales Tax Revenue Portion*		0.375%
New Town Tax Revenue	\$	492

Source: Town of Hempstead IDA, Camoin Associates

***Note:** Nassau County's sales tax rate is 4.25%, of which 0.75% is allocated to the towns and cities within the county. For this analysis we assume half of the 0.75% is allocated to the Town of Hempstead.

CAMOIN ASSOCIATES

TOTAL ANNUAL SALES TAX REVENUE

The total annual sales tax revenue that the Town will receive is summarized in Table 21.

Table 21

Total Annual Sales Tax Revenue		
Household Spending	\$	7,564
On-Site Operations	\$	492
New Town Tax Revenue	\$	8,056

Source: Town of Hempstead IDA, Camoin Associates

ATTACHMENT A: WHAT IS ECONOMIC IMPACT ANALYSIS?

The purpose of conducting an economic impact study is to ascertain the total cumulative changes in employment, earnings and output in a given economy due to some initial "change in final demand". To understand the meaning of "change in final demand", consider the installation of a new widget manufacturer in Anytown, USA. The widget manufacturer sells \$1 million worth of its widgets per year exclusively to consumers in Canada. Therefore, the annual change in final demand in the United States is \$1 million because dollars are flowing in from outside the United States and are therefore "new" dollars in the economy.

This change in final demand translates into the first round of buying and selling that occurs in an economy. For example, the widget manufacturer must buy its inputs of production (electricity, steel, etc.), must lease or purchase property and pay its workers. This first round is commonly referred to as the "Direct Effects" of the change in final demand and is the basis of additional rounds of buying and selling described below.

To continue this example, the widget manufacturer's vendors (the supplier of electricity and the supplier of steel) will enjoy additional output (i.e. sales) that will sustain their businesses and cause them to make additional purchases in the economy. The steel producer will need more pig iron and the electric company will purchase additional power from generation entities. In this second round, some of those additional purchases will be made in the US economy and some will "leak out". What remains will cause a third round (with leakage) and a fourth (and so on) in ever-diminishing rounds of industry-to-industry purchases. Finally, the widget manufacturer has employees who will naturally spend their wages. Again, those wages spent will either be for local goods and services or will "leak" out of the economy. The purchases of local goods and services will then stimulate other local economic activity. Together, these effects are referred to as the "Indirect Effects" of the change in final demand.

Therefore, the total economic impact resulting from the new widget manufacturer is the initial \$1 million of new money (i.e. Direct Effects) flowing in the US economy, plus the Indirect Effects. The ratio of Total Effects to Direct Effects is called the "multiplier effect" and is often reported as a dollar-of-impact per dollar-of-change. Therefore, a multiplier of 2.4 means that for every dollar (\$1) of change in final demand, an additional \$1.40 of indirect economic activity occurs for a total of \$2.40.

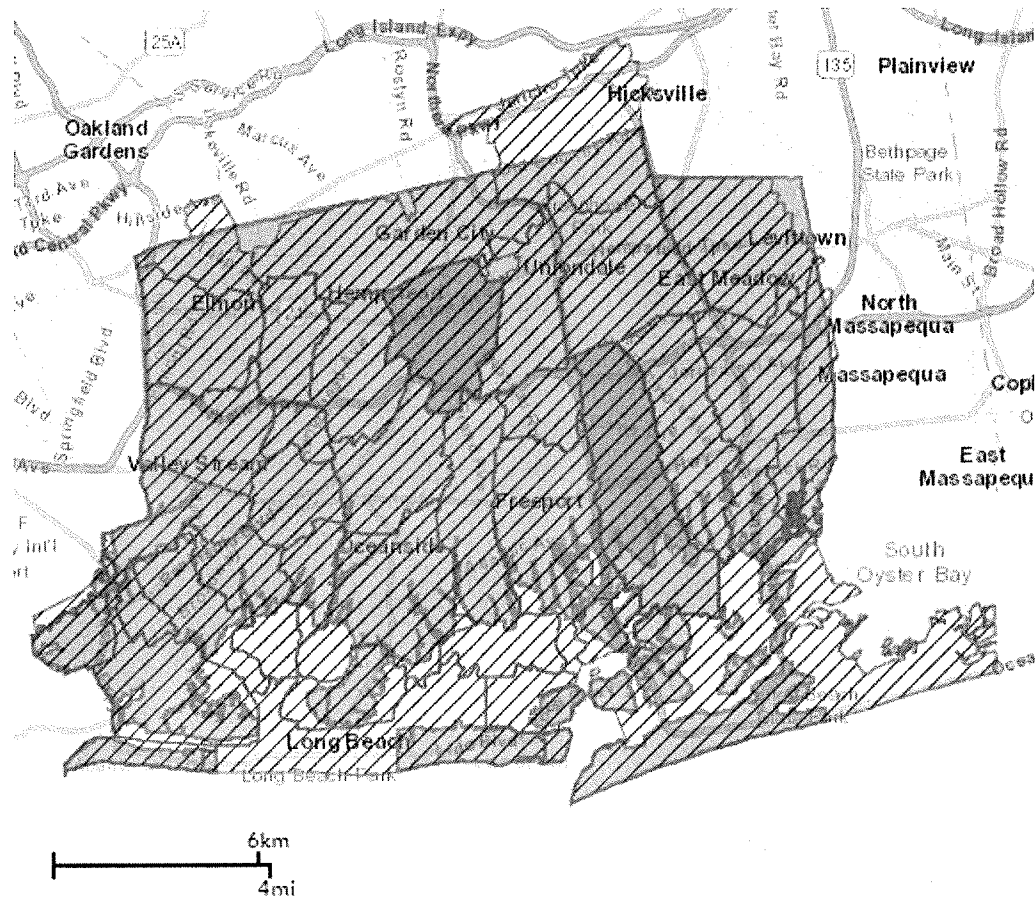
Key information for the reader to retain is that this type of analysis requires rigorous and careful consideration of the geography selected (i.e. how the "local economy" is defined) and the implications of the geography on the computation of the change in final demand. If this analysis wanted to consider the impact of the widget manufacturer on the entire North American continent, it would have to conclude that the change in final demand is zero and therefore the economic impact is zero. This is because the \$1 million of widgets being purchased by Canadians is not causing total North American demand to increase by \$1 million. Presumably, those Canadian purchasers will have \$1 million less to spend on other items and the effects of additional widget production will be cancelled out by a commensurate reduction in the purchases of other goods and services.

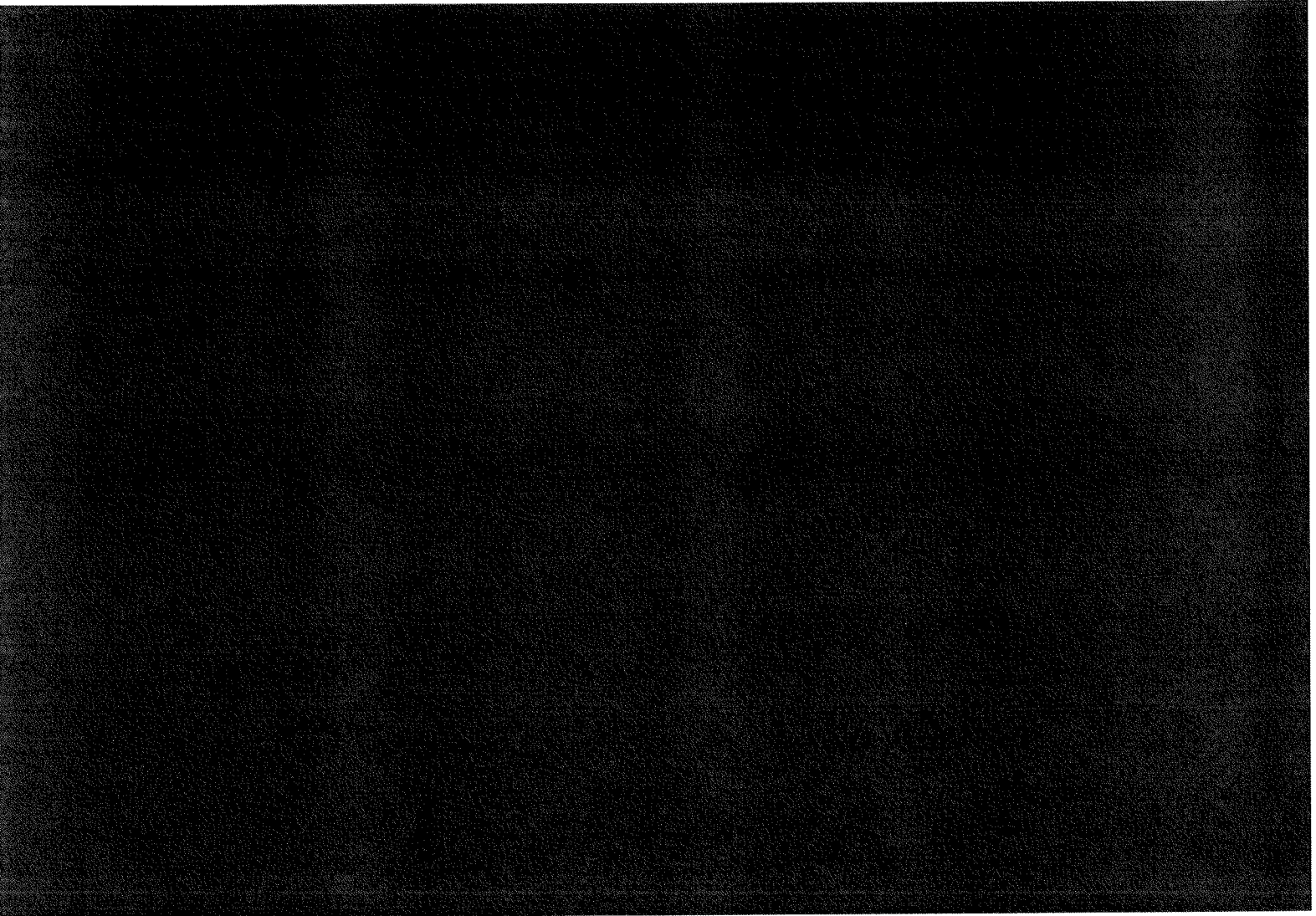
Changes in final demand, and therefore Direct Effects, can occur in a number of circumstances. The above example is easiest to understand: the effect of a manufacturer producing locally but selling globally. If, however, 100% of domestic demand for a good is being met by foreign suppliers (say, DVD players being imported into the US from Korea and Japan), locating a manufacturer of DVD players in the US will cause a change in final demand because all of those dollars currently leaving the US economy will instead remain. A situation can be envisioned whereby a producer is serving both local and foreign demand, and an impact analysis would have to be careful in calculating how many "new" dollars the producer would be causing to occur domestically.

CAMOIN ASSOCIATES

ATTACHMENT B: STUDY AREAS

Town of Hempstead (Green) and Zip Code Region (Red outline with dashes)





Leading action to grow your economy

Camoin Associates
PO Box 3547
Saratoga Springs, NY 12866
518.899.2608
www.camoinassociates.com
@camoinassociate



March 28, 2023

Via email AEames@tohmail.org

Attn: Arlyn Eames, Deputy Financial Officer
Town of Hempstead Industrial Development Agency
350 Front Street
Hempstead, New York 11550

Re: IDA Approval of Tenant Sublease
Valley Stream Green Acres LLC 2015 Facility
2034 Green Acres Road South, Valley Stream, NY 11581

Dear Ms. Eames:

In accordance with instructions from Daniel Baker of Greenberg Traurig LLP, attached please find sent directly to you a copy of the tenant sublease for your approval in accordance with Section 9.3 of the Lease Agreement dated May 1, 2015 for the above referenced location ("Valley Stream Green Acres Lease") related to the following:

- **Size of Premises:** 13,995
- **Tenant:** Uniqlo USA LLC, a Delaware limited liability company, d/b/a Uniqlo
- **Address:** Space #0012
- **Estimated employees:** 20.40
- **Estimated Company Average Wage:** \$21.00 per hour,
Estimated Annual Hours: 30,780,
Estimated Annual Wages: 835,380.00

Also enclosed is a chart regarding the corresponding tenant sublease provisions compared to the provisions listed in Exhibit G of the Valley Stream Green Acres Lease as indicated in Nancy Rendos' 7/15/15 memo to you.

Please note, there is no NDA requested in connection with this Lease.

Please confirm your approval of the lease and execution of the resolution by the TOHIDA approving the lease by a reply email to me so I may proceed with execution of the tenant sublease as soon as possible. If you have any questions in the meantime, please do not hesitate to contact me at 972-352-1058.

Sincerely,



Kathy Sherwood
SVP and Senior Leasing Counsel

cc: Daniel J. Baker, Esq., via email (dan.baker@gtlaw.com)
Edie Longo, elongo@tohmail.org (with attachments)
Terance Walsh, Nixon Peabody, via email twalsh@nixonpeabody.com (with attachments)
Beth Wood, Nixon Peabody, via email ewood@nixonpeabody.com (with attachments)
Emma Feary, Nixon Peabody, via email efeary@nixonpeabody.com (with attachments)
Nancy Rendos (via email nancy.rendos@macerich.com)
Joe Floccari (via email joe.floccari@macerich.com)

LEASE AGREEMENT

BY AND BETWEEN

VALLEY STREAM GREEN ACRES LLC

AS LANDLORD

AND

UNIQLO USA LLC

doing business as

Uniqlo

AS TENANT

FOR PREMISES LOCATED WITHIN

**Green Acres Mall
Valley Stream, New York**



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E	Center Rider
F	Tenant's Trademark
G	Monthly and Annual Sales Statement Form
H	Existing Exclusives

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made as of this _____ ("Effective Date") by and between **VALLEY STREAM GREEN ACRES LLC**, a Delaware limited liability company ("Landlord"), and **UNIQLO USA LLC**, a Delaware limited liability company ("Tenant").

W I T N E S S E T H:

In consideration of the rents to be paid and the covenants to be performed by Tenant, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the following described Premises, upon the following terms and conditions (capitalized terms used herein without definition shall have the meanings ascribed to such terms in Exhibit D):

1. FUNDAMENTAL LEASE PROVISIONS

- | | | | | | | | | |
|---|--|-----------------------------------|----------------------------------|-----------------------------------|-----------------|---------------|--------------|-------------|
| 1.1. Center: | Green Acres Mall, located in the Village of Valley Stream, County of Nassau, State of New York | Section 2.1 | | | | | | |
| 1.2. Premises: | Space #0012 | Section 2.2 | | | | | | |
| 1.3. Floor Area of the Premises: | Approximately 13,995 square feet | Section 2.2 | | | | | | |
| 1.4. Term: | From the Delivery Date until the Expiry Date, unless sooner terminated pursuant to the terms of this Lease. | Section 4.1 | | | | | | |
| 1.5. Required Opening Date: | 180 days following the later of (a) the Delivery Date, or (b) the Permit Date (as defined in Section 2.75 of Exhibit D, and subject to Force Majeure and delays caused by the negligent acts, omissions, or willful misconduct of Landlord or any of the Landlord Parties). Notwithstanding the foregoing, in the event the Required Opening Date would otherwise fall during the periods from May 1 through August 31, or from November 15 through the immediately following February 1 (each period hereinafter, the "Blackout Period"), then the Required Opening Date shall be deemed to be the first day immediately following the end of the applicable Blackout Period. | Section 3.2 | | | | | | |
| 1.6. Rent Commencement Date: | The earlier to occur of (a) the date on which Tenant first opens the Premises for business or (b) the Required Opening Date (subject to the Blackout Period set forth in Section 1.5 above). | | | | | | | |
| 1.7. Expiry Date: | August 31, 2033 | | | | | | | |
| 1.8. Fixed Minimum Rent: | <table border="0"><tr><td><u>Dates</u></td><td><u>Annual Fixed Minimum Rent</u></td><td><u>Monthly Fixed Minimum Rent</u></td></tr><tr><td>† - Expiry Date</td><td>\$ 419,850.00</td><td>\$ 34,987.50</td></tr></table> | <u>Dates</u> | <u>Annual Fixed Minimum Rent</u> | <u>Monthly Fixed Minimum Rent</u> | † - Expiry Date | \$ 419,850.00 | \$ 34,987.50 | Section 5.5 |
| <u>Dates</u> | <u>Annual Fixed Minimum Rent</u> | <u>Monthly Fixed Minimum Rent</u> | | | | | | |
| † - Expiry Date | \$ 419,850.00 | \$ 34,987.50 | | | | | | |
| | †From the Rent Commencement Date
*Subject to increases pursuant to Section 5.5.1 | | | | | | | |
| 1.9. Percentage Rent Rate: | 9% | Section 5.6 | | | | | | |

1.10. Annual Base Sales:

Section 5.6

Dates
‡- Expiry Date

Annual
Base Sales**
\$ 7,464,000.00

‡From the Rent Commencement Date

**Subject to increases pursuant to Section 5.6.1

1.11. Permitted Use:

The Premises shall be used primarily for the retail sale of men's, women's and children's apparel, and the sale of footwear. In addition, Tenant shall have the right to sell related accessories and small gift items ("Ancillary Use Items"), as long as any such Ancillary Use Items do not infringe on any of the exclusive use provisions set forth on Exhibit H, and in no event shall any such Ancillary Use Items ever become a primary use in the Premises. Tenant shall be permitted to use a portion of the Premises for office and storage purposes. In addition, Tenant shall be permitted to provide alteration services for products sold from its stores, at nominal cost. The Premises shall be used for no other use or purpose.

Section 10.1

1.12. Trade Name:

Uniqlo (subject to the provisions of Section 10.1)

Section 10.1

1.13. Security Deposit:

None

Article 6

1.14. Grand Opening Charge:

None

Section 5.7

1.15. Center Hours:

Monday through Saturday 10:00 a.m. to 9:00 p.m. and Sunday 11:00 a.m. to 7:00 p.m., or such other hours that the Center is open for business as such hours are designated from time-to-time by Landlord, subject to the provisions of Section 10.3.

1.16. Radius:

None. See Section 7.4.

1.17. Landlord's Address For Notices:

Valley Stream Green Acres LLC
2034 Green Acres Mall
Valley Stream, NY 11581-1545
Attention: Center Manager

Section 18.1

With a copy of notices to:

Valley Stream Green Acres LLC
c/o Macerich
P.O. Box 2172
401 Wilshire Boulevard, Suite 700
Santa Monica, California 90407
Attn: Correspondence Routing System/Legal Department

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

Uniqlo USA LLC
546-548 Broadway, 3rd Floor
New York, New York 10012
Attn: Chief Financial Officer

Section 18.1

With an additional copy of any notice of default only
hereunder to:

Uniqlo USA LLC
c/o Fast Retailing USA
38 Gansevoort Street, 2nd Floor
New York, New York 10014
Attn: Legal, Real Estate

**1.19. Address For
Payment of
Rent:**

Valley Stream Green Acres LLC
Dept # 880508
P.O. Box 29650
Phoenix, AZ 85038-9650

**1.20. Landlord's
Broker(s):**

None

Section 27.6

**1.21. Tenant's
Broker(s):**

None

Section 27.6

1.22. Guarantor(s):

N/A

**1.23. Rent Inquiry
Address:**

Landlord:
Phone: (866) 811-1095
Email: GreenAcresAR@macerich.com

Section 5.1

Tenant:
Uniqlo USA LLC
c/o Fast Retailing USA
165 Polito Avenue
Lyndhurst, NJ 07071-3602
Attn: Accounting

Email: dante.cheung@fastretailing.com
Phone: 201-728-5702

With copies to:

Uniqlo USA LLC
165 Polito Avenue
Lyndhurst, New Jersey 07071
Attn: Accounting

Email: lorie.woolums@fastretailing.com
Phone: 201-728-5728

1.24. **Landlord's
Sales Reporting
Address:**

Valley Stream Green Acres LLC
Macerich Shared Services
P.O. Box 2188
Santa Monica, California 90406-2188
Attention: Sales Associate

Section 5.6

Phone: (866) 811-1095
Facsimile: (602) 953-8354
Email: greenacres.salesreporting@macerich.com

1.25. **Intentionally
Omitted:**

2. **PREMISES**

2.1. **Center.** The Center, as of the Effective Date, is known by the name set forth in Section 1.1. Exhibit A is an approximate depiction of the Center; however, the depiction of the Center on Exhibit A is not a representation, warranty or covenant of any kind by Landlord that all or any part of the Center is, will be, or will continue to be configured as indicated on Exhibit A.

2.2. **Premises and Floor Area.** The approximate location of the Premises is depicted by crosshatching on Exhibit B, and as depicted on the Lease Outline Drawing set forth on Exhibit B-1. Notwithstanding the depiction of the approximate location of the Premises as set forth at Exhibit B, the Floor Area of the Premises for all purposes is stipulated to be the square feet of Floor Area specified at Section 1.3 and in no event shall the Floor Area of the Premises as set forth at Section 1.3 be remeasured or otherwise adjusted, except as expressly set forth herein. Within sixty (60) days after the Delivery Date, Tenant, at Tenant's sole cost and expense, and/or Landlord, at Landlord's sole cost and expense, may elect to cause the Floor Area of the Premises to be measured by a licensed architect. If such calculation reflects a deviation of more than one percent (1%) from the Floor Area of the Premises set forth at Section 1.3, and the other party approves the calculation, then the Fixed Minimum Rent, Tenant's Share of Real Estate Taxes, and the Construction Allowance, if any, shall be adjusted; however, in no event shall the Fixed Minimum Rent, Tenant's Share of Real Estate Taxes and the Construction Allowance increase by more than five percent (5%) as a result of a remeasurement hereunder. In the event the Floor Area of the Premises is reduced by more than five percent (5%) of the Floor Area as set forth in Section 1.3, then Tenant shall have the right to terminate this Lease by providing Landlord written notice within sixty (60) days following the Delivery Date. If either party so requests, the parties will promptly enter into an amendment setting forth the new Floor Area calculation. If the parties do not exercise their right to measure the Floor Area as provided herein, both Landlord and Tenant hereby acknowledge and agree that each party shall be deemed to have absolutely and unconditionally (a) waived such right to remeasure, (b) accepted the Floor Area calculation as set forth in Section 1.3 and (c) released and waived such rights the parties may have against one another in the event the Floor Area calculation set forth in Section 1.3 is different from the actual Floor Area of the Premises. Notwithstanding anything in this Section 2.2 to the contrary, the remeasurement and termination rights herein are not applicable for this Lease at Green Acres Mall, and the parties agree that the percentages set forth above were not negotiated and are not to be considered conforming language for future leases.

2.3. **Late Delivery.** Landlord shall use its good faith, reasonable efforts to cause the Delivery Date to occur by June 15, 2023 ("Anticipated Delivery Date"). In the event the Delivery Date does not occur by the twenty-first (21st) day following the Anticipated Delivery Date, then Tenant shall be entitled to receive (as liquidated damages attributable to such delay and not a penalty, it being agreed Tenant's actual damages attributable to such delay would be difficult or impossible to ascertain), a rent abatement equal to one (1) day of Fixed Minimum Rent for each day that the Delivery Date is delayed beyond the twenty-first (21st) day following the Anticipated Delivery Date.

2.4. **Late Delivery - Termination.** If Landlord is unable to deliver the Premises to Tenant within one hundred eighty (180) days of the Anticipated Delivery Date (the "Outside Date"), then Tenant may elect to terminate this Lease by written notice to Landlord (which notice must be given to Landlord prior to the date Landlord delivers possession of the Premises to Tenant). In the event Tenant terminates the Lease hereunder, the Lease shall terminate as of the date of such notice to terminate, and Landlord and Tenant shall each be discharged from all further obligations and liability under this Lease (other than obligations and liabilities which have theretofore accrued hereunder). In the event Tenant or Landlord terminates the Lease hereunder, then Landlord shall reimburse Tenant for the actual, reasonable, out-of-pocket costs incurred by Tenant for the preparation of the Construction Documents and obtaining permits for Tenant's construction hereunder, not to exceed \$75,000.00; provided Tenant delivers a request in writing to Landlord within sixty (60) days following the date this Lease is so terminated ("Request for Reimbursement"). The Request for Reimbursement shall be accompanied by copies of paid invoices totaling the sums contained therein, together with such other reasonable, back-up as Landlord may request from Tenant, and Landlord shall reimburse Tenant such amounts within thirty (30) days following the date Tenant provides Landlord with the information required herein. Landlord's obligations hereunder shall survive the expiration or earlier termination of this Lease.

3. CONSTRUCTION OF IMPROVEMENTS

3.1. **Condition of Premises.** The Premises shall be delivered to Tenant in the condition set forth at Exhibit C, except for the Landlord's Work as set forth in Exhibit C-1, and except for Landlord's maintenance and repair obligations set forth in Section 12.1.1. In the event Tenant discovers any latent defects in Landlord's Work, then Landlord shall correct any such latent defects, provided any such defects are brought to Landlord's attention within one (1) year from the Delivery Date. Landlord shall warrant all repairs made within the one (1) year period commencing on the Delivery Date for a period of one (1) year from the date of repair.

3.2. **Tenant's Work.** Subject to the terms and conditions of Exhibit C hereof, Tenant shall, at its sole cost and expense, commence Tenant's Work and diligently pursue the same to completion pursuant to the provisions of Exhibit C so as to open the Premises for business to the public on or before the Required Opening Date. Tenant shall have the right to use any plumbing, mechanical, life safety and/or electrical systems, to the extent such items are in good condition (however, Landlord makes no representation as to the condition or feasibility of reusing such improvements). If the applicable governmental authorities will not issue Tenant a Certificate of Occupancy solely as a result of the acts or omissions of Landlord or the Landlord Parties relating to the Center, then the Required Opening Date and Tenant's obligation to pay Rent shall not commence until the required work by Landlord is complete such that Tenant can obtain a temporary or permanent Certificate of Occupancy to open for business in the Premises.

3.3. **Timely Opening.** Tenant acknowledges the financial success of the Center depends, in part, on Tenant completing Tenant's Work and opening the Premises for business to the public on or before the Required Opening Date and Landlord's damages arising from Tenant failing to timely complete Tenant's Work and open the Premises for business to the public on or before the Required Opening Date are extremely difficult and impractical to determine. Therefore, if Tenant fails to complete Tenant's Work and open the Premises fully stocked and staffed within sixty (60) days following the Required Opening Date, then in addition to Landlord's other remedies under this Lease, Landlord shall have the right to collect from Tenant, in addition to the Rent, a sum equal to twenty five percent (25%) of the Fixed Minimum Rent (prorated on a daily basis) for each such full or partial day from the sixty first (61st) day following the Required Opening Date until the date Tenant completes Tenant's Work and opens the Premises fully stocked and staffed for business. Notwithstanding the foregoing, the time periods set forth above shall be extended to the extent Tenant experiences supply chain delays, as long as Tenant can verify the prompt ordering and diligent pursuit of materials causing such delays.

4. TERM

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

4.2. **Landlord Contingency.** The effectiveness of this Lease is expressly contingent upon Landlord obtaining approval of this Lease from the Town of Hempstead Industrial Development Agency ("IDA Contingency"), within 60 days following the Effective Date ("Contingency Expiration Date"). If the IDA Contingency is not satisfied or waived by Landlord on or before the Contingency Expiration Date, despite the diligent pursuit of satisfaction of the IDA Contingency by Landlord as required herein, then Landlord may, at its election, terminate this Lease by providing Tenant with written notice thereof within ten (10) business days following the Contingency Expiration Date, in which event this Lease shall terminate and be of no further force or effect as of the date of delivery of such notice to Landlord (except for those provisions hereof which expressly survive a termination of this Lease). If Landlord fails to provide Landlord with written notice of termination under this Section 4.2 within ten (10) business days following the Contingency Expiration Date, then Landlord shall be deemed to have affirmatively and expressly waived the IDA Contingency and this Lease shall continue in full force and effect. In the event Landlord terminates the Lease hereunder, then Landlord shall reimburse Tenant for the actual, reasonable, out-of-pocket costs incurred by Tenant for the preparation of the Construction Documents and obtaining permits for Tenant's construction hereunder, not to exceed \$75,000.00; provided Tenant delivers a request in writing to Landlord within sixty (60) days following the date this Lease is so terminated ("Request for Reimbursement"). The Request for Reimbursement shall be accompanied by copies of paid invoices totaling the sums contained therein, together with such other reasonable, back-up as Landlord may request from Tenant, and Landlord shall reimburse Tenant such amounts within thirty (30) days following the date Tenant provides Landlord with the information required herein. Landlord's obligations hereunder shall survive the expiration or earlier termination of this Lease.

5. RENT

5.1. **Payment of Rent.** Tenant shall pay all Rent to Landlord on the day(s) specified therefor, without notice, demand, deduction or offset (except as specifically set forth elsewhere in this Lease), in lawful money of the United States of America, to the Address for Payment of Rent or at such other place as Landlord may from time-to-time designate in writing to Tenant. Tenant shall be obligated to pay Fixed Minimum Rent and regular monthly installments of Utilities and Fixed Taxes when due regardless of whether Tenant receives a statement therefor (it being agreed that Landlord shall deliver statements for any and all Additional Rent and adjustment billings due hereunder). If any item of Additional Rent increases or decreases during the Term and if the amount of such increase or decrease has not been determined as of the date such Rent is to be paid, then (a) Tenant shall continue to pay such Rent in the amount payable for the immediately preceding month (or other period for which such Rent is due) and (b) within thirty (30) days after the date Landlord notifies Tenant of such adjusted Rent, Tenant shall pay to Landlord any additional amount owed due to such adjusted Rent or if Tenant has paid Rent in excess of the adjusted Rent, such excess shall be credited against the next monthly payment(s) of Rent until such excess has been exhausted; however, within thirty (30) days following the Refund Date, any such excess shall be refunded to Tenant. Landlord and Tenant may each use the other's Rent Inquiry Address to communicate to the other party any inquiries relating to the calculation of the various components constituting Rent or the payment of Rent.

5.2. **Prorations.** If the Rent Commencement Date begins on a day other than the first day of a month or if the Term expires on a day other than the last day of a month, then Fixed Minimum Rent for such month shall be an amount equal to the product obtained by multiplying the respective amounts by a fraction, the numerator of which shall be the number of days in such month and the denominator of which shall be the actual number of days in such month, unless otherwise provided. Tenant's payment of Percentage Rent for any partial Lease Year occurring at the beginning or the end of the Term (hereinafter, a "Partial Lease Year") shall be annualized as set forth herein. For any Partial Lease Year, Tenant shall submit a sales statement setting forth a full twelve (12) months of sales, which shall include the days in the Partial Lease Year, plus such additional days from the period immediately subsequent or prior to such Partial Lease Year (as appropriate) so as to make up a 365-day period (hereinafter, the "365

Day Period"). If Tenant's Gross Sales during the 365 Day Period ("365 Gross Sales") shall exceed the Annual Base Sales for the 365 Day Period, then the difference between the 365 Gross Sales and the Annual Base Sales for the 365 Day Period shall be multiplied by the Percentage Rent Rate to arrive at the "365 Day Percentage Rent". The 365 Day Percentage Rent shall be multiplied by a fraction, the numerator of which is the number of days in the Partial Lease Year, and the denominator of which is 365, and the product shall be the Percentage Rent due and payable by Tenant for such Partial Lease Year. If the Premises are closed for any full day during Center Hours, except as otherwise herein permitted, and except for closures of the Premises resulting from the negligent acts or omissions of Landlord or the Landlord Parties or as required by a governmental order, rule or mandate related to a pandemic or other widespread epidemic as recognized by the World Health Organization such as COVID-19, then Annual Base Sales shall be prorated for the Lease Year in which such closure occurs. The parties agree that Gross Sales for certain months will be counted twice, once to determine Percentage Rent, if any, for a partial Lease Year, and once to determine Percentage Rent, if any, for the succeeding or preceding full Lease Year. No such double counting shall increase Tenant's Percentage Rent obligations under this Lease.

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

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

5.5. **Fixed Minimum Rent**

5.5.1. **Fixed Minimum Rent.** From and after the Rent Commencement Date, Tenant shall pay in equal monthly installments, in advance on the first day of each month (except for the first installment, which shall be paid on the Rent Commencement Date), the Fixed Minimum Rent. Commencing on the first anniversary of the Rent Commencement Date (and if such anniversary is not on the first day of the month, then on the first day of the month following such anniversary), and on each anniversary thereafter (each such date is sometimes referred to as the "Rent Adjustment

Date") the Fixed Minimum Rent then in effect (or which would then have been in effect absent any abatement or reductions in Fixed Minimum Rent, except for permanent reductions in Fixed Minimum Rent due to a permanent Taking, or as otherwise provided herein) shall be increased by 3%.

5.5.1.1. **Abatement of Fixed Minimum Rent for Early Opening.** Provided Tenant is not in default of this Lease beyond applicable notice and cure periods, if Tenant initially opens the Premises for business to the public on or before November 1, 2023, then for each day that Tenant is open for business to the public prior to November 1, 2023 ("Abatement Period"), fifty percent (50%) of Fixed Minimum Rent shall be abated ("Abated Rent"). During the Abatement Period, Tenant shall continue to timely pay, in full, the balance of the Fixed Minimum Rent, all Percentage Rent and Additional Rent, and the Rent Commencement Date shall not be modified, altered, delayed or advanced as a result of the Abated Rent or the Abatement Period. For the purpose of computing Percentage Rent due during the Abatement Period, it shall be deemed that Fixed Minimum Rent was payable in full to Landlord during the Abatement Period as if there had not been Abated Rent.

5.5.2. **Application of Fixed Minimum Rent.** Landlord shall have the absolute right to apply and/or allocate any portion, or no portion, of Fixed Minimum Rent toward costs associated with (a) the operation, management, administration, maintenance, equipment, repair and replacement of the Common Area, (b) insurance and (c) any other so-called fringe charges; provided there is no duplication of any such charges to Tenant hereunder.

5.6. **Percentage Rent**

5.6.1. **Percentage Rent.** From and after the Rent Commencement Date, Tenant shall owe Percentage Rent to Landlord for each Lease Year commencing upon the calendar month in which Tenant's Gross Sales first exceed the Annual Base Sales for each Lease Year. Percentage Rent shall be payable to Landlord concurrently with Tenant's submittal of the Monthly Sales Statement for each calendar month thereafter in an amount equal to the product obtained by multiplying the Percentage Rent Rate by the amount of Gross Sales during the preceding calendar month that is in excess of the Annual Base Sales. If Fixed Minimum Rent during any Lease Year is reduced pursuant to a provision in this Lease, then the Annual Base Sales shall likewise be reduced by a percentage equal to the percentage decrease in the Fixed Minimum Rent payable for the period during which the change in Fixed Minimum Rent is in effect (however, the Annual Base Sales shall be prorated based on a partial Lease Year as set forth in Section 5.2). On each Rent Adjustment Date, Annual Base Sales shall be adjusted by a percentage equal to the increase, if any, in Annual Fixed Minimum Rent on such Rent Adjustment Date. Tenant makes no representation or warranty to Landlord as to the Gross Sales it expects to make at the Premises, or that Gross Sales will reach or exceed the Annual Base Sales for any Lease Year.

5.6.2. **Monthly Sales Statements.** Within twenty (20) days after the end of each calendar month, Tenant shall deliver to Landlord at Landlord's Sales Reporting Address a Monthly Sales Statement specifying the Gross Sales made for the preceding calendar month together with details of any Permitted Exclusions.

5.6.3. **Annual Sales Statements.** Within sixty (60) days after the end of each Lease Year (including, without limitation, the last Lease Year of the Term), Tenant shall deliver to Landlord at Landlord's Sales Reporting Address an Annual Sales Statement specifying the Gross Sales for each month of the preceding Lease Year together with details of any Permitted Exclusions. The aggregate amount of Percentage Rent payable by Tenant for all months of the Lease Year as set forth in the Annual Sales Statement shall be compared to the total amount of Percentage Rent paid by Tenant during each month of the Lease Year covered by such Annual Sales Statement. If Tenant shall owe any additional Percentage Rent, the Annual Sales Statement shall be accompanied by payment of such amount. If Tenant has overpaid Percentage Rent, then Tenant shall be credited the amount of such overpayment against the next monthly payment(s) of Rent until such

overpayment has been exhausted; however, within thirty (30) days following the Expiry Date, any such excess sums not previously credited shall be refunded to Tenant. Landlord's obligations hereunder shall survive the expiration or earlier termination of this Lease.

5.7. **Tenant's Share of Real Estate Taxes.** From and after the Rent Commencement Date, Tenant shall pay in equal monthly installments, in advance on the first day of each month (except for the first installment, which shall be paid on the Rent Commencement Date), Tenant's Share of Real Estate Taxes, which shall be fixed, for the first period from the Rent Commencement Date through December 31, 2023, in an amount equal to \$135,950.00 per annum (\$11,662.50 per month) based upon \$10.00 per square foot of Floor Area of the Premises (hereinafter, the Fixed Taxes). Commencing January 1, 2024, and on each January 1st thereafter during the Term (each such date is sometimes referred to as the "Fixed Tax Adjustment Date"), the Fixed Taxes then in effect shall be increased (but not decreased) based on the adjustment to Real Estate Taxes valuation between the most recent Lease Year (which in the example below would be 2023), as compared to the immediately prior Lease Year (which in the example below would be 2022), for the tax parcel 39-552-0018 ("Tax Parcel"). For example, if the Real Estate Taxes on the Tax Parcel for the Lease Year ending December 31, 2023 were 3% higher than the Real Estate Taxes for the Tax Parcel for the Lease Year ending December 31, 2022, then the Fixed Taxes commencing January 1, 2024 would be increased by 3% over the amount paid in the Lease Year ending December 31, 2023. Notwithstanding the foregoing, in no event shall the Fixed Taxes increase on any Fixed Tax Adjustment Date by more than 5%, (which amount shall not be calculated on a Cumulative Basis over the Term).

5.8. **Personal Property and Other Taxes.** Tenant shall pay directly to Landlord or to the appropriate taxing authority, before delinquency, any and all taxes (including any excise, transaction, sales or privilege tax imposed upon Landlord on account of, attributed to, or measured by Rent), assessments and public charges levied, assessed or imposed by governmental authorities upon Tenant's business, upon Tenant's sales, upon Rent, upon Tenant's leasehold interest, and upon all Personal Property and Improvements, as well as upon Tenant's right to occupy, and do business at, the Premises.

6. **INTENTIONALLY OMITTED**

7. **GROSS SALES**

7.1. **Definition of Gross Sales**

7.1.1. **Gross Sales Defined.** "Gross Sales" means the aggregate selling price of all goods, wares, merchandise, tickets, food, beverages and services sold, leased, licensed or delivered from any part of the Premises by Tenant and Tenant's Occupants and shall include, but not be limited to, (a) sales or charges for cash or credit regardless of collections, (b) sales by vending devices, including coin telephones, (c) proceeds from audio games and video games, (d) commissions and fees paid for the sale of lottery tickets, (e) rent income, (f) mail orders received or filled at the Premises, (g) electronic orders received or filled at the Premises (including, without limitation, orders made by use of the Internet, facsimile, telegraph, wire and telephone), (h) all deposits not refunded to purchasers, (i) orders taken at the Premises although filled elsewhere, (j) fees, commissions and catalogue sales, (k) sales from solicitations, regardless of where conducted, by personnel operating from, or reporting to any person at, the Premises and (l) all service, finance and interest charges on any type of account or note receivable to the extent the principal amount would constitute Gross Sales. Landlord acknowledges that if Tenant offers merchandise to the general public at a marked down or discounted price, or in a special sale format such as a "paper bag" sale, then the actual amount received by Tenant for such discounted sales shall constitute "Gross Sales" hereunder. Notwithstanding anything contained herein to the contrary, as long as Tenant continuously maintains in stock a full line of merchandise in a full range of colors, styles and sizes to meet the consumer demands at the Premises so that the Premises is not a showroom or concept where limited merchandise is kept, then any sales of merchandise order through the use of telephone, internet, mail order or catalog or such other electronic sales ("Electronic Sale") shall only be included in Gross Sales if: (i) payment for the sale occurs inside the Premises via a point of sale

or handheld device; and (ii) the order is filled from inventory at the Premises (it being understood between Landlord and Tenant that merchandise delivered to the Premises solely for pickup or shipment by or to the Tenant's customer shall not be deemed filled from the inventory at the Premises).

7.1.2. **Permitted Exclusions.** The following (collectively, "Permitted Exclusions") shall not be part of Gross Sales: (a) Returns and refunds to customers for goods previously included as Gross Sales, except for returns and refunds from other physical stores of Tenant (but in no event shall returns and refunds to customers for goods purchased from the internet be Permitted Exclusions hereunder), (b) the amount of any sales tax or other excise tax imposed upon sales and charges (but only if such sales tax, excise tax or similar tax is billed to the purchaser as a separate item), (c) returns to shippers and manufacturers, (d) exchanges of goods between Tenant's stores and warehouses when the same is for a legitimate business purpose and not for the purpose of depriving Landlord of any Percentage Rent, (e) sales of fixtures not constituting Tenant's stock-in-trade, (f) sales from vending machines located in non-sales areas and used only by employees of Tenant, (g) sums and credits received in the settlement of claims for loss of, or damage to, merchandise and (h) charges for alterations, gift-wrapping and deliveries if such services are incidental to the Permitted Use and for which Tenant reasonably demonstrates it makes no profit.

7.1.2.1. **Additional Exclusions.** In addition, Tenant shall have the right to exclude the following items: (1) bad checks and/or debts, and any penalties charged by Tenant for returned checks, provided that (a) if subsequently collected, such checks and/or debts shall be included within Gross Sales in the Lease Year in which subsequently collected, and (b) said checks and/or debts shall not exceed a total of three percent (3%) of Gross Sales in any single Lease Year; (2) the discounted amount of all sales to employees, non-profit, charitable, or religious organizations, but only up to the amount of the discount, (3) fees paid by Tenant to third-party credit card companies (specifically excluding captive credit card companies owned or operated by Tenant) and/or banking institutions in accordance with credit card purchase plans; (4) interest, service or sales carrying charges, paid by customers on Tenant's in-house credit accounts for extension of credit on sales and where not included in the merchandise sales price; (5) gift certificates or like vouchers, until such time as the same shall have been converted into a sale by redemption; (6) sales to jobbers, liquidators or the like, in bulk, of merchandise which Tenant has been unable to sell in the Premises, provided such sales are not conducted in the ordinary course of Tenant's business and such merchandise is sold at or below Tenant's cost; (7) the discounted amount of all sales to customers for damaged or defective merchandise; (8) internet or catalogue sales in either case to the extent that either payment for the items purchased does not occur at the Premises or such order is not filled from inventory at the Premises, all as more particularly set forth in Section 7.1.1 above; and (9) returns to suppliers, shippers and manufacturers.

7.1.3. **Credit Sales.** Each sale on an installment basis (such as so-called lay-away sales) or otherwise involving the extension of credit shall be treated as a sale for the full price in the period in which Tenant first considers the same a sale for accounting purposes.

7.2. **Tenant's Records.** All business upon the Premises shall be operated so that duplicate, dated sales slips, dated invoices, register receipts or similar evidence of payment serially numbered, shall be issued with each sale, transaction or other event resulting in Gross Sales or Permitted Exclusions ("Tenant's Receipts"). For the purpose of permitting verification by Landlord of any amounts due as Percentage Rent, Tenant shall keep and preserve at all times during the period required, at the Premises or at Tenant's principal business office located within the continental United States, Tenant's Receipts, a general ledger, sales receipts and disbursements journals, sales records and other supporting documentation and full, complete and accurate non-consolidated books of account (i.e., books and records reflecting Tenant's operations solely at the Premises) (collectively "Tenant's Records"). Tenant's Records shall (a) disclose in detail all information reasonably required to permit Landlord to verify Tenant's Gross Sales, (b) conform to and be in accordance with generally accepted accounting principles

consistently applied with respect to all operations of the business conducted from the Premises, (c) be maintained in the English language and (d) be kept and preserved for at least twenty-four (24) months following the end of the Lease Year for which the same pertain (or such longer period, if and while the same may need to be consulted in reference to any dispute or audit, until such dispute or audit has been finally resolved).

7.3. Failure of Tenant to Provide Statements. If Tenant should fail to timely provide any Monthly Sales Statement or any Annual Sales Statement in the manner and form required by this Lease, then, without limitation as to any and all rights and remedies available to Landlord in this Lease, at law and in equity, Landlord shall also have the right to invoice Tenant the sum of \$250.00 per incident per month to cover the additional time and expense involved to obtain each such Monthly Sales Statement or Annual Sales Statement; provided, however, that for the first violation hereof in any twelve (12) calendar month period, Tenant shall not be required to pay such additional charge until Landlord has given Tenant five (5) days prior written notice thereof.

7.4. Termination Right. Notwithstanding anything contained in this Lease to the contrary, if Tenant's Gross Sales do not equal or exceed Five Million Dollars (\$5,000,000.00) ("Sales Threshold") during the period from the first day of the thirty seventh (37th) full calendar month following the Rent Commencement Date through the last day of the forty-eighth (48th) full calendar month following the Rent Commencement Date ("Test Period"), then Tenant may terminate this Lease, by written notice given to Landlord at any time not later than ninety (90) days following the end of the Test Period (the "Termination Notice"). Such termination shall be effective on the three hundred sixty-fifth (365th) day following the date such notice is delivered ("Termination Effective Date"). Tenant's notice shall be effective only if such notice is accompanied by a written affidavit certified true and correct by an Authorized Officer of Tenant reporting Tenant's Gross Sales for each month during the Test Period and a negotiable check made payable to Landlord in an amount equal to the unamortized portion of the Cash Portion of any Construction Allowance set forth in Exhibit C, amortized on a straight-line basis from the Rent Commencement Date and continuing through the Expiry Date, calculated based on the termination date hereunder ("the Repayment Amount"). Tenant's right of termination hereunder shall be null and void in the event of any one or more of the following: (a) Tenant is not (i) the tenant entity set forth on Page 1 of this Lease, or (ii) a permitted Transferee pursuant to Section 14.13 or 14.14, (b) Tenant is then in monetary or material non-monetary default of this Lease beyond any applicable notice and cure period, (c) Tenant fails to comply with the provisions of Section 10.3.1 after ten (10) days' written notice thereof, or (d) if Tenant or an Affiliate of Tenant opens a store operating under the Trade Name within three (3) miles of the Center at any time during the Test Period.

7.4.1. Extension of Test Period Due to Covid Closure. Notwithstanding anything in this Section 7.4 to the contrary, in the event the Premises is closed during the Test Period due to a Covid Closure, then the Test Period hereunder shall be extended by the number of days during the Test Period that the Premises was closed due to the Covid Closure.

7.4.2. Tenant's Right to Elect an Early Termination. Notwithstanding anything in this Section 7.4 to the contrary, Tenant may elect to terminate the Lease on a date which is earlier than the Termination Effective Date set forth in Section 7.4 above, but no earlier than the one hundred twentieth (120th) day following the date the Termination Notice is delivered to Landlord, by providing Landlord with notice of such earlier termination date within the Termination Notice (and such earlier termination will not affect the Repayment Amount as set forth in Section 7.4 above). The date Tenant elects to terminate under this Section 7.4.2 is hereinafter the "Early Termination Date". In the event Tenant elects an early termination under this Section 7.4.2, then Tenant will pay Landlord, in addition to all Rent due and payable through the Early Termination Date, an amount equal to the Rent for the period from the day immediately following the Early Termination Date through the Termination Effective Date, which amount will be payable to Landlord on or before the Early Termination Date.

8. INDEMNITY AND INSURANCE

8.1. Indemnification

8.1.1. **Indemnification by Tenant.** Tenant hereby agrees to indemnify, defend and hold Landlord and the Landlord Parties harmless from and against any and all Claims for property damage, personal injury or any other matter of any kind or nature arising, claimed, charged or incurred against or by Landlord or any of the Landlord Parties in connection with or relating to any event, condition, matter or thing which (a) occurs in, on, under or about the Premises from any cause except to the extent due to the gross negligence or willful misconduct of Landlord or any of the Landlord Parties, (b) occurs in, on, under or about the remainder of the Center to the extent due to the gross negligence or willful misconduct of Tenant or any of the Tenant Parties or (c) is caused by or relates to any default, breach, violation or non-performance by Tenant of any provision of this Lease. Tenant's indemnity obligations hereunder shall survive the expiration or earlier termination of this Lease.

8.1.2. **Indemnification by Landlord.** Landlord hereby agrees to indemnify, defend and hold Tenant, and Tenant's, shareholders, partners, members, managers, agents, officers, directors and employees, harmless from and against any and all Claims for property damage, personal injury or any other matter of any kind or nature arising, claimed, charged or incurred against or by Tenant in connection with or relating to any event, condition, matter or thing which (a) occurs in, on, under or about the Common Area from any cause except to the extent due to the gross negligence or willful misconduct of Tenant or any of the Tenant Parties, (b) occurs in, on, under or about the Premises to the extent due to the gross negligence or willful misconduct of Landlord or any of the Landlord Parties or (c) is caused by or relates to any default, breach, violation or non-performance by Landlord of any provision of this Lease. Landlord's indemnity obligations hereunder shall survive the expiration or earlier termination of this Lease.

8.1.3. **Release and Waiver of Subrogation.** If any part of the Premises or the Center is damaged by fire or other cause for which a party is required to carry insurance pursuant to this Lease ("Insuring Party"), the other party shall not be liable to the Insuring Party (and the Insuring Party hereby waives all claims on behalf of itself and shall cause its insurance company to waive all such claims) for any loss, cost or expense arising out of or in connection with such damage. Notwithstanding anything to the contrary contained herein, in no event shall Landlord be liable to Tenant or any of the Tenant Parties for any damages or injury arising out of or in connection with (a) any act or omission of any Occupant or for losses arising out of or in connection with theft or burglary or other acts or omissions of third parties or (b) fire, steam, electricity, gas, water or rain which may leak or flow from or into any part of the Premises or the Center, or from the breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures or (c) injuries to Tenant's employees in the Center, except to the extent caused by Landlord's gross negligence or willful misconduct, and in that event only to the extent not covered, and would not have been covered, by insurance which Tenant is required to carry pursuant to this Lease, or (d) any abuse or molestation claim against Tenant or any of the Tenant Parties.. Notwithstanding anything to the contrary contained herein, in no event shall Tenant be liable to Landlord or any of the Landlord Parties for any damages or injury arising out of or in connection with injuries to Landlord's employees in the Center, except to the extent caused by Tenant's gross negligence or willful misconduct, and in that event only to the extent not covered, and would not have been covered, by insurance which Landlord is required to carry pursuant to this Lease.

8.2. **Tenant's Insurance.** At all times during the Term, Tenant shall procure and maintain, at its sole cost and expense, the following policies of insurance:

8.2.1. **Liability.** Commercial general liability insurance (including personal and advertising injury) with coverage limits of not less than Three Million Dollars (\$3,000,000.00) combined single limit, per occurrence, and Five Million Dollars (\$5,000,000.00) general aggregate per location, specifically including liability insurance covering the consumption of alcoholic beverages by customers of Tenant, if the sale of alcoholic beverages is permitted in the Premises.

Tenant's general liability insurance shall (a) intentionally omitted, (b) contain cross-liability endorsements and (c) be on an occurrence basis, not a claims-made basis. Tenant's liability insurance obligations may be satisfied by a combination of primary and umbrella policies, provided the total limits equal those required pursuant to this Section. THE LIMITS REQUIRED HEREUNDER ARE SPECIFIC TO THIS LEASE AT GREEN ACRES MALL.

8.2.2. **Workers' Compensation.** Workers' compensation insurance and employers' liability insurance on an "occurrence" basis but, in either case, with a limit of the greater of the amount required in the state in which the Center is located or One Million Dollars (\$1,000,000.00) each accident, One Million Dollars (\$1,000,000.00) each employee by disease and One Million Dollars (\$1,000,000.00) policy aggregate by disease, for the benefit of Tenant's employees.

8.2.3. **Plate Glass.** Insurance covering the full replacement cost of all plate glass on the Premises (however, Tenant shall remain responsible for the repair of plate glass in accordance with the provisions of this Lease), and shall have the right to self insure such risk without meeting the criteria set forth in Section 8.2.5.1.

8.2.4. **Equipment.** Boiler and machinery insurance on all HVAC, electrical, mechanical, plumbing, telecommunications and other equipment, systems and facilities exclusively serving the Premises.

8.2.5. **Property.** Property insurance covering any peril generally included in the classification ISO Causes of Loss - Special Form covering all (a) Personal Property, and (b) Improvements in an amount not less than one hundred percent (100%) of their full replacement cost without co-insurance or margin clauses. If the Center is located in the Federal Emergency Management Area flood zone A or V, Tenant also shall procure and maintain, at its sole cost and expense, flood insurance with a commercially reasonable deductible, including purchase of the National Flood Insurance Policy, if applicable. If the Center is located in the New Madrid seismic areas or the states of California, Oregon or Washington, Tenant also shall procure and maintain, at its sole cost and expense, earthquake insurance with a deductible not to exceed five percent (5%) of the total insured value. Any policy proceeds shall be used for the repair or replacement of the property damaged or destroyed, unless this Lease is terminated under the provisions of Article 23. The insurance required pursuant to this Section 8.2.5 shall also include business interruption or rental loss insurance sufficient to cover, for a period of not less than twelve (12) full calendar months, all Rent and other payment obligations of Tenant under this Lease which would be borne by or due from Tenant under this Lease if the Premises and Tenant's business was fully open and operating.

8.2.5.1. **Tenant's Right to Self-Insure.** Provided Tenant is the tenant entity set forth at page 1 of this Lease, or a permitted Transferee pursuant to Sections 14.13 or 14.14, and Tenant is not in default of this Lease beyond any applicable notice and cure period, Tenant may satisfy the insurance requirements referred to in this Section 8.2.5, in whole or in part, through any plan of self-insurance from time-to-time maintained by Tenant, provided Tenant or any Guarantor (as long as the Guarantee is then in effect), shall (a) have and maintain a tangible net worth of at least Fifty Million Dollars (\$50,000,000.00) and tangible net current assets of at least Thirty Million Dollars (\$30,000,000.00), (b) limit the amount of its annual aggregate self-insurance retention for all of its exposures to no more than ten percent (10%) of its tangible net current assets, (c) maintain insurance for its exposure above its maximum permitted annual aggregate self-insurance retention, (d) upon Landlord's written request (but not more than once per annum), furnish to Landlord evidence, in a form reasonably acceptable to Landlord, of such tangible net worth and tangible net current assets, and (e) agree to assume all duties, obligations and responsibilities of an insurance company with respect to any Claims made under such self-insurance program. The terms "tangible net worth" and "tangible net current assets" as used herein, shall be defined in accordance with generally accepted accounting principles. In the event Tenant elects to self-insure as set forth

herein and thereafter elects to terminate such self-insurance program, Tenant shall provide Landlord at least thirty (30) days' prior written notice of such termination, together with copies of replacement policies of insurance or certificates in accordance with the requirements set forth in Section 8.2.8.

8.2.6. **Construction Insurance.** Prior to commencing the construction or installation of any Improvements, Tenant shall provide Landlord with evidence that Tenant carries insurance for property in the course of construction (such as construction risk insurance) in an amount reasonably equal to the completed value of the project, covering the construction and installation of such Improvements. All Improvements shall be insured by Tenant under the other policies required under this Article 8.2.6 immediately upon completion of such work.

8.2.7. **Automobile Insurance.** Business automobile liability insurance covering all owned, non-owned and hired or borrowed vehicles of Tenant or any of the Tenant Parties used in connection with the operation of its business from the Premises, with limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit, insuring for bodily injury, death and property damage.

8.2.8. **Policy Requirements.** All policies of insurance provided for in this Section 8.2 shall (a) be issued by insurance companies that have a general policyholder's rating of not less than "A" and a financial rating of not less than Class VIII as rated in the most current available "Best's Insurance Reports", and that have been admitted or qualified to do business in the state where the Center is located by the insurance commission or other highest board, body or official responsible for overseeing the insurance business in such state, (b) name Landlord, Landlord's Manager, all Mortgagees and such other individuals or entities as Landlord may from time-to-time designate, as "additional insureds" in writing with their applicable addresses, and (c) Tenant shall provide to Landlord prior to the Delivery Date and thereafter ten (10) days prior to the expiration of any such policies, binders, or certificates of insurance to evidence insurance procured by Tenant as required hereunder. All commercial general liability insurance, property damage or other casualty policies shall be written as primary policies, not contributory with or secondary to coverage that Landlord may carry. If, at any time during the Term, Tenant fails to obtain and maintain any insurance which Tenant is required to obtain and maintain under this Lease or to timely provide Landlord with certificates of insurance, and Tenant fails to procure same within five (5) business days following written notice from Landlord, then Landlord shall have the right (but not the obligation) to procure such insurance and Tenant shall pay to Landlord, within thirty (30) days following written demand, the costs and expenses thereof together with interest at the Agreed Rate from the date Landlord first made any expenditures therefor. Tenant shall deliver (or cause its insurance carrier to deliver) to Landlord a certified copy of any insurance policy maintained by Tenant hereunder in connection with any applicable Claim within twenty (20) days after Landlord's written request therefor. All insurance policies required to be carried by Tenant hereunder shall insure Tenant's performance of the indemnity provisions of this Lease, but the amount of insurance shall not limit Tenant's liability or relieve Tenant of any obligation hereunder.

8.3. **Landlord's Insurance.** Landlord shall obtain and maintain throughout the Term property insurance that shall include the Premises, other premises and the Center (excluding Improvements and Personal Property from time-to-time located on the Premises and the premises of all Occupants) insuring against risks of direct physical loss or damage written by insurance companies licensed to do business in the state of California (or such other state in which Landlord's principal business office is located), together with such other insurance, and in such amounts, covering such other risks as Landlord may from time-to-time determine in its reasonable judgment, including, without limitation (if Landlord so elects), Commercial General Liability insurance and insurance against earthquake, flood and rental loss. Any insurance procured by Landlord under this Section 8.3 may be included in a policy or policies of blanket insurance covering additional items or locations or insureds, provided that the requirements of this Section 8.3 are otherwise satisfied.

9. UTILITIES

9.1. **Utilities.** Throughout the Term, Tenant shall be solely responsible for obtaining, and shall promptly pay all charges for use and consumption of, all Utilities furnished to the Premises. Landlord may (at its election) supply some or all of the Utilities to the Premises, and, so long as Landlord continues to provide such Utilities to the Premises, Tenant agrees to purchase such Utilities from Landlord and pay Landlord for such Utilities, Tenant's share thereof (based on Landlord's engineer's calculations of such share or such other reasonable measuring methodologies as Landlord may utilize from time-to-time); provided the rate shall be no more than the rate that would be charged to Tenant, from time-to-time, by the local utility company which otherwise would furnish such Utilities to the Premises if it provided such Utilities and metered the same directly to the Premises. Landlord may also charge Tenant: (a) an administrative charge of five percent (5%) on any Utilities Tenant receives from Landlord, and (b) a pro rata share of the costs and expenses of operating, maintaining, repairing, installing and servicing the Utility Facilities at the Center (including any depreciation, reserves and interest costs), but Tenant shall only be required to pay costs and expenses under this subparagraph (b) to the extent Landlord operates a central plant for the facilitation of Utilities at the Center, or provides HVAC services to Tenant. Tenant shall promptly provide Landlord, upon Landlord's written request therefor, such details as Landlord or its engineer may reasonably require to calculate amounts which are payable by Tenant pursuant to this Article 9. FOR THIS LEASE AT GREEN ACRES MALL, Tenant shall, as a part of Tenant's Work and at Tenant's sole cost, install and maintain a water submeter to measure consumption of water at the Premises. Landlord shall have the right to designate alternate third-party provider(s) to provide any of the foregoing Utilities to the Premises; provided the rate shall be no more than the rate that would be charged to Tenant, from time-to-time, by the local utility company which otherwise would furnish such Utilities to the Premises if it provided such Utilities and metered the same directly to the Premises. Landlord shall notify Tenant from time-to-time of the monthly installments payable by Tenant pursuant to this Article 9 and Tenant shall pay such monthly installments on the first day of each month (except for the first installment which shall be paid on the Rent Commencement Date).

9.2. **Interruption of Services.** Except as otherwise expressly set forth herein in this Lease and in this Section 9.2, Landlord shall not be in default and neither Landlord nor the Landlord Parties shall be liable for any damages directly or indirectly resulting from an interruption in any of the Utilities, the quality or quantity of the Utilities, the unavailability of any of the Utilities, or from cooperating with the energy conservation efforts of governmental agencies or utility suppliers and none of the preceding shall (a) constitute an eviction or disturbance of Tenant's use and possession of the Premises, (b) constitute a termination of this Lease, (c) entitle Tenant to an abatement of any Rent, except as expressly set forth herein, or (d) relieve Tenant from performing any of its obligations under this Lease. Notwithstanding the foregoing, or anything elsewhere herein to the contrary, if (i) there is an interruption in any of the Utilities due to the negligence or willful misconduct of Landlord or the Landlord Parties ("Utility Interruption") and (ii) the Utility Interruption materially, adversely interferes with Tenant's use and occupancy of all or a material portion of the Premises such that Tenant cannot reasonably conduct business upon all or a material portion of the Premises and (iii) Tenant does not use all or a material portion of the Premises during the period of the Utility Interruption and (iv) Tenant has notified Landlord in writing of the Utility Interruption ("Utility Interruption Notice"), then if the Utility Interruption continues for two (2) consecutive days following the date Landlord receives the Utility Interruption Notice, Fixed Minimum Rent shall be abated until the earlier of the date the Utility Interruption ceases or Tenant resumes conducting business upon the Premises. Landlord shall use commercially reasonable efforts and due diligence to restore any Utility Interruption as soon as is reasonably practicable.

10. USE AND OPERATION

10.1. **Permitted Use.** Tenant shall use the Premises (a) only for the Permitted Use and for no other use or purpose and (b) solely and specifically under the Trade Name and under no other trade name (except as set forth in Section 10.1.1 below) and (c) to store or stock only the merchandise which Tenant is permitted to sell at retail pursuant to this Lease and no other merchandise. Nothing herein shall be deemed to grant to Tenant an exclusive or preferential right to the Permitted Use in the Center.

10.1.1. **Change to Trade Name.** Notwithstanding anything to the contrary contained in this Section 10.1, provided (i) Tenant is the entity specified as "Tenant" at Page 1 of this Lease, (ii) Tenant is not in monetary or material non-monetary default of this Lease beyond any applicable notice and cure period, and (iii) such change does not result in more than one Occupant in the Center operating under the same trade name, Tenant shall be permitted to change the Trade Name to the trade name used by Tenant for substantially all of its stores located in the United States which are then operating under the same Trade Name as set forth in Article 1 hereof. Tenant shall notify Landlord in writing at least thirty (30) days prior to effecting any change in Tenant's Trade Name pursuant to the preceding sentence. Additionally, any modification to the Storefront Sign as a result of such change in Trade Name shall be subject to Landlord's prior written approval in accordance with the provisions set forth in the Tenant Package, which approval shall not be unreasonably withheld, conditioned or delayed.

10.2. **Prohibited and Restricted Uses.** Tenant shall do none of the following: (a) Permit anything to be done in or about the Premises nor bring or keep anything therein which will in any way increase the existing rate of, or affect any, fire or other insurance upon the Premises or the Center or cause a cancellation of any insurance policy covering the Premises or the Center or any part thereof or any of its contents; (b) permit anything to be done in or about the Premises or bring or keep anything therein that may cause any deleterious or harmful substance including, without limitation, mold or fungus, to exist in, on, under or about the Premises or elsewhere in the Center, (c) materially obstruct or materially interfere with the rights of Occupants or unreasonably injure or annoy them; (d) use any loudspeakers, phonographs, televisions or other devices of similar nature in such manner as to be heard or viewed outside of the Premises (it being agreed that Tenant shall be permitted to play music inside the Premises, and use televisions within the Premises, so long as the music and televisions are not being used so as to be heard or used outside of the Premises); (e) emit any reasonably objectionable noise, odors, fumes or smoke; (f) use the Premises for any improper, unethical, immoral, unlawful, pornographic or other similarly objectionable or offensive purpose; (g) conduct or permit in the Premises any fire, bankruptcy, auction, "closeout", "going out of business" or similar sale; (h) use any part of the Center (other than the inside of the Premises) for the sale, display or storage of any merchandise or for the solicitation of customers or for any other business, occupation or undertaking; (i) install or use upon the Premises or the Center any coin- or token-operated vending machine or other coin- or token-operated device for the sale of any goods, wares, merchandise, food, beverages and/or services (including, but not limited to, pay-telephones within the sales area of the Premises, pay-lockers, pay-toilets, scales, amusement devices, slot machines and other gambling devices and machines for the sale of beverages, foods, candy, cigarettes or other commodities), other than for use by employees in areas not accessible to the public; (j) install or use an automated teller machine or other cash or credit dispensing machines; (k) use any portion of the Premises as living quarters, sleeping quarters or for lodging purposes; (l) keep or place any Personal Property or other obstruction in any part of the Common Area; (m) install or operate any device, equipment or facility for transmitting, receiving, relaying or amplifying communications signals used or operated as a part of a telecommunications network or global positioning system, or otherwise emitting or receiving signals, frequencies, video, data or voice communications, including, without limitation, any dish, panel, antenna, satellite or cellular communications equipment, amplifiers, microcells, picocells or other similar devices or equipment which transmit or receive signals into or from the Common Area more than an eight foot (8') radius from the Premises or which otherwise interfere with the operation of any other transmission or receiving device at the Center; and (n) operate any sales reporting, credit verification or such other similar electronic devices through the use of Landlord's public wireless fidelity (Wi-Fi) network. The Premises shall be kept in a clean condition, and all health and police regulations shall, in all respects and at all times, be fully complied with by Tenant. Tenant shall not commit or allow to be committed any waste upon the Premises.

10.2.1. **Video Monitors / Signage.** Notwithstanding anything contained in this Section to the contrary, Tenant shall be permitted to install and maintain video monitors within the Premises with the locations and specifications subject to Landlord's reasonable approval. All window displays and video monitor content, including, without limitation, advertising material and signs, shall be neat

and professionally manufactured and consistent with Tenant's chain-wide operations located in first class enclosed shopping centers. Landlord may require, upon forty-eight (48) hours' notice, that Tenant remove any signs readily visible from outside the Premises or revise the video display content, if, in Landlord's reasonable discretion, such signage is objectionable; in this regard, it is specifically noted that Tenant will periodically change its video monitors and the content of same, temporary signage and window displays (including, without limitation, window signage and/or decals) and shall have the right to do so without securing Landlord's approval, subject to Landlord's aforesaid right to require removal.

10.3. Days and Hours of Operation.

10.3.1. **Days and Hours of Operation.** Tenant shall, continuously throughout the Term during Center Hours (except for Permitted Closures as set forth below, and Force Majeure), operate for business at the Premises the Permitted Use, keep in stock a reasonably adequate line of merchandise and maintain an reasonably adequate sales force so as to maximize profitable Gross Sales and keep display windows, exterior signs and exterior advertising adequately illuminated and in first-class condition. Tenant acknowledges that its failure to comply with this Section 10.3.1 will cause Landlord to suffer damages which will be difficult to ascertain and that the following sum payable by Tenant under this Section 10.3.1 represents a fair estimate of such damages. Therefore, if Tenant fails to comply with the provisions of this Section 10.3.1, then in addition to Landlord's other remedies under this Lease, Landlord shall have the right to collect from Tenant, in addition to the Rent, a sum equal to twenty five percent (25%) of the Fixed Minimum Rent (prorated on a daily basis) for each such full or partial day Tenant fails to comply with the provisions of this Section 10.3.1; provided, however, that for the first violation hereof in any twelve (12) calendar month period, Tenant shall not be required to pay such additional Fixed Minimum Rent until Landlord has given Tenant five (5) days prior written notice thereof. In no event shall Tenant be permitted to open and operate the Premises for business to the public before or after Center Hours without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary. Tenant shall not be required to participate in Midnight Madness or other similar late night Center events.

10.3.1.1. **Operating Hours.** Notwithstanding anything contained in Section 10.3 to the contrary, Tenant shall not be required to open the Premises for business to the public during Center Hours unless at least 85% of Occupants (exclusive of the Co-tenancy Exclusion Area, as defined in Section 10.3.2.1.1) are obligated to be open for business to the public. The foregoing provision shall affect only the hours during which Tenant is required to operate, and shall not be deemed to give Tenant the right to close for business for any full day (and Tenant acknowledges that Tenant is obligated to continuously operate in the Premises, except as otherwise specifically set forth in this Lease).

10.3.1.2. **Tenant's Additional Hours.** Notwithstanding anything to the contrary contained herein, Tenant may, subject to all applicable Government Regulations, remain open for business in the Premises up to two (2) hours after Center Hours (such hours which are outside the Center Hours are sometimes referred to as "Tenant's Additional Hours"); (a) provided that Tenant notifies Landlord at least five (5) days in advance of the Tenant's Additional Hours that Tenant intends to be open for business, and the hours Tenant intends to be open for business, and (b) provided further that Tenant shall pay to Landlord as Additional Rent all reasonable out-of-pocket costs ("Landlord's Incremental Costs") incurred by Landlord which would not have been incurred by Landlord provided that Landlord's Incremental Costs are solely due to Tenant's operation of the Premises, including, without limitation, the reasonable, out-of-pocket costs incurred by Landlord in furnishing security for the Common Areas, interior mall lighting, HVAC and lighting for parking and other Common Areas, including the costs of purchase, installation and operation of additional devices and timers to operate each of such items and the costs of separately switching each of the same (at the then current rates for such services), furnished by Landlord in anticipation of Tenant being open for

business during the Tenant's Additional Hours. In the event Tenant is open for business anytime other than the Center Hours, Tenant shall, at its sole cost and expense, provide barriers (the "Barriers") which shall only allow access to the Premises from the Center entrance (the "Access Entrance") shown on Exhibit B and shall prevent any employee, customer or other person to gain access to the Enclosed Mall through or by way of the Premises. The style, location(s) and method of installation of such Barriers shall be approved by Landlord in its sole discretion.

10.3.1.3. **Permitted Closures**. Notwithstanding anything contained in Section 10.3 to the contrary, Tenant shall not be required to operate for business at the Premises during the following periods:

10.3.1.3.1. **Remodeling**. For a period of not more than one hundred twenty (120) consecutive days for the purpose of remodeling the Premises (or in the event of a transfer, for a period of not more than one hundred twenty [120] days); provided, however, (a) Tenant shall notify the Center Manager at least thirty (30) days prior to the proposed date of closing; (b) such remodeling work shall be subject to the provisions of Section 12.3; (c) in no event shall Tenant be permitted to close for remodeling hereunder more than one time in any three (3) year period without the Center Manager's prior approval (which shall not be unreasonably withheld, conditioned or delayed), and (d) in no event shall Tenant be permitted to close for remodeling during the period commencing upon November 1st and continuing through the immediately following December 31st in any single calendar year, except in the event of an emergency or to perform repairs following a casualty or condemnation;

10.3.1.3.2. **Inventory**. Up to four (4) days per calendar year (on a non-cumulative basis) for the purpose of taking inventory, provided, however, that Tenant shall provide the Center Manager with not less than twenty four (24) hours' notice of its closing (which notice may be telephonic or via e-mail to the Center's management office) and in no event shall Tenant be permitted to close for inventory any time during the period commencing upon November 1st and continuing through the immediately following December 31st in any single calendar year;

10.3.1.3.3. **Extended Hours**. Tenant shall not be required to open the Premises for business to the public during hours before or after Center Hours ("Additional Hours") unless at least two (2) Major Occupant Stores and at least eighty percent (80%) of the Occupants (excluding the Co-tenancy Exclusion Area) are obligated to be open for business to the public; and

10.3.1.3.4. **Excessive Hours**. Tenant shall not be required to be open for more than sixteen (16) consecutive hours.

10.3.1.3.5. **Holidays**. Tenant shall not be required to open the Premises for business on Easter Sunday, Juneteenth, Thanksgiving Day, Christmas Day, New Year's Day and up to two (2) discretionary days in which a majority of Tenant's other stores are closed (provided, however, that Tenant shall provide the Center Manager with not less than twenty-four (24) hours' notice of its discretionary closing days).

10.3.2. **Continuing Co-tenancy**.

10.3.2.1. **Continuing Co-tenancy**. If (a) a Closure (as defined below) occurs during the applicable Closure Period (as defined below), and (b) all the Co-tenancy Conditions have been met ([a] and [b] are sometimes collectively referred to as a "Co-tenancy Event"), Tenant shall be entitled to exercise the remedies specified in Section 10.3.2.4. The Closure Period for an Anchor Closure means a continuous period of at least twelve (12) full calendar months, and the Closure Period for a Small Shop Closure means a continuous period of at least six (6) full calendar months. Any Closure Period shall specifically exclude any temporary

Closure(s) incident to Casualty, Taking, and Force Majeure; however any such exclusion from the Closure Period shall not exceed ninety [90] consecutive days). With respect to Section 10.3.2.2.1, "Co-tenancy Exclusion Area" means the areas designated as: (1) Major Occupant Stores, (2) movie theatres, (3) premises located on pads or outparcels, (4) premises having an exterior entrance (but only if the Center contains an enclosed mall, and only to the extent such premises do not also have an entrance onto the enclosed mall), (5) office space, community room space, mezzanines, storage areas, and management, marketing, and maintenance offices and buildings, and (6) the spaces cross-hatched on Exhibit B-3 as "Excluded Spaces". With respect to Section 10.3.2.2.2 below, it is expressly agreed and understood that in lieu of a single Occupant occupying and operating any non-operating Major Occupant Store, said Major Occupant Store shall be deemed to be open and operating if at least eighty percent (80%) of the ground floor area of the Major Occupant Store is occupied and operating by any single Occupant or combination of Occupants.

10.3.2.2. **Closure.** A Closure means that any one of the following conditions occur:

10.3.2.2.1. less than eighty percent (80%) of the Floor Area located within the enclosed mall portion of the Center, which is designated for occupancy by Occupants (exclusive of the Co-tenancy Exclusion Area, as defined above) is open for business to the public (a "Small Shop Closure"); or

10.3.2.2.2. less than one (1) Major Occupant Stores, with a square footage of at least 50,000 feet, is open for business to the public (an "Anchor Closure").

For purposes of this Section 10.3.2, the term "Closure" means either a Small Shop Closure or an Anchor Closure, as applicable.

10.3.2.3. **Co-tenancy Conditions.** Co-tenancy Conditions shall mean all of the following conditions have occurred: (a) Tenant has continuously operated the Premises as required in Section 10.3, exclusively for the Permitted Use; (b) Tenant is not then in monetary or material non-monetary default of this Lease beyond any applicable notice and cure periods; (c) Tenant has provided Landlord with written notice ("Co-tenancy Notice") of such Closure.

10.3.2.4. **Tenant's Remedies.** Commencing upon the first day of the calendar month next following the date Landlord receives the Co-tenancy Notice and during the continuation of the Co-tenancy Event, Tenant shall be entitled to pay, in lieu of Fixed Minimum Rent and Tenant's Share of Real Estate Taxes (and without a reduction to the Annual Base Sales), an amount equal to the lesser of (a) fifty percent (50%) of the Fixed Minimum Rent and Tenant's Share of Real Estate Taxes; or (b) five percent (5%) of Gross Sales ("Co-tenancy Modified Rent"). In no event shall the foregoing be deemed to modify, reduce or abate Tenant's obligation to pay all other Rent under this Lease, nor shall such Co-tenancy Modified Rent in any way change or modify the Rent Commencement Date. If and so long as the Co-tenancy Event is continuing, Tenant may elect to terminate this Lease upon sixty (60) days' prior written notice to Landlord, which notice must be given, if at all, not earlier than the end of the twelfth (12th) full calendar month after the date Tenant commenced the payment of Co-tenancy Modified Rent and not later than one hundred twenty (120) days following the end of twelfth (12th) full calendar month after the date Tenant commenced the payment of Co-tenancy Modified Rent. If Tenant does not make such election to terminate by such date, then notwithstanding the continuation of the Co-tenancy Event, this Lease shall thereafter continue for the remaining Term and Tenant shall immediately resume paying the full amount of Fixed Minimum Rent and Tenant's Share of Real Estate Taxes set forth in Articles 1 and 5 without regard to the provisions of this Section 10.3.1.2.4.

10.3.2.5. **Sole Remedies.** The remedies available to Tenant under Section 10.3.2 shall be Tenant's sole remedies, whether under other provisions of this Lease, at law, in equity

or otherwise, for a Co-tenancy Event and Landlord shall not be liable for any monetary or pecuniary damage, whether ordinary, special, compensatory or punitive, on account thereof.

10.3.2.6. **Rights Personal.** The provisions of Section 10.3.2 are personal to Tenant, and to any permitted Transferee pursuant to Sections 14.13 and 14.14, and if Tenant shall effect a Transfer to any other person or entity, then, upon such Transfer, the provisions of this Section 10.3.2 shall cease to be of any force or effect.

10.3.2.7. **Verification of Closures.** In the event Tenant, in good faith, suspects a Closure event has occurred, Tenant may seek from Landlord a statement of whether or not such Closure exists. Landlord shall respond to any such written request from Tenant within twenty (20) days following the date of the request, and the response will include a summary of the total Floor Area measured, the total Floor Area occupied and a percentage occupied, as required under the terms of this Lease.

10.4. **Radius.** Intentionally Omitted.

11. SIGNS

11.1. **Tenant's Signs.** Tenant shall, at its sole cost and expense, obtain all necessary licenses and permits for, and purchase, install, maintain, operate, repair and replace, as necessary, all of Tenant's signs (including the Storefront Sign). All Tenant's signs (including the Storefront Sign) shall (a) comply with all Governmental Regulations and the Rules and shall have received the prior written approval of Landlord (which approval shall not be unreasonably withheld, conditioned or delayed) and, if required, of governmental authorities and (b) comply with the provisions of this Lease (including the Tenant Package). The removal of all Tenant's signs (including the Storefront Sign) and all work associated with such removal, including without limitation the cost of restoring the storefront due to such removal prior to the Expiry Date or date of earlier termination of this Lease, shall be undertaken by, and at the sole cost and expense of, Tenant. All Tenant's signs (including the Storefront Sign) shall at all times be maintained in working, first-class condition.

11.1.1. **Permitted Signage.** Notwithstanding anything contained in this Section 11.1 to the contrary, Tenant shall be permitted to use Tenant's so-called national sign package throughout the interior of the Premises without Landlord's consent (which consent shall not be unreasonably withheld, conditioned or delayed); provided, however (i) said use shall be expressly subject to any applicable Governmental Regulations and all of the terms, covenants and conditions of this Lease, and (ii) Tenant shall promptly respond in an appropriate manner to legitimate complaints to Tenant and/or the manager of the Center from customers, patrons, employees, invitees or other Occupants regarding such signage. Tenant shall be permitted to attach Tenant's standard logo, store hours, and Internet address to the inside of the glass storefront and any storefront doors of the Premises (for purposes of clarification only, "standard" logo shall be deemed as the same logo that is placed on the interior of the glass and any doors in the majority of Tenant's other stores located within the continental United States). Upon Tenant's request, Landlord shall reasonably cooperate with Tenant (at no cost to Landlord) in obtaining Tenant's sign permits.

11.1.2. **Storefront Signage.** Tenant shall provide to Landlord either a rendering of Tenant's Storefront Sign or an example of another of Tenant's stores located in a Center which in a location reasonably convenient to the Tenant Coordinator, which has a storefront sign which is consistent with the storefront sign Tenant intends to install at the Premises. Landlord shall work together with Tenant in good faith to review such rendering or view such other store, and shall not unreasonably withhold its consent to such rendering or example of Tenant's proposed storefront sign.

12. REPAIRS, MAINTENANCE, IMPROVEMENTS AND COMPLIANCE WITH LAW

12.1. Repairs and Maintenance

12.1.1. **Landlord's Obligations.** Landlord shall maintain in good order, condition and

repair the exterior structural walls, load bearing walls, the outside face of the exterior walls, foundations, exterior roofs and all Utility Facilities serving the Premises on a non-exclusive basis (except to the extent that the applicable utility provider is responsible for the repair and maintenance of any such Utility Facilities). Landlord shall be under no obligation to maintain, repair or replace any portion of the Premises (except as otherwise expressly set forth in this Section 12.1.1), nor shall Landlord be liable for any failure to make any such repairs or to perform any maintenance required of Landlord hereunder unless Tenant has notified Landlord, in writing, of the need of such repairs or maintenance, and such failure shall then persist for an unreasonable period of time after such written notice. Notwithstanding the foregoing, if (i) there is an interruption to Tenant's business due to Landlord's failure to perform Landlord's obligations under this Section 12.1.1 or due to the performance of Landlord's obligations under this Section 12.1.1 (collectively and individually, "LL Obligation Interruption") and (ii) the LL Obligation Interruption materially, adversely interferes with Tenant's use and occupancy of all or a material portion of the Premises such that Tenant cannot reasonably conduct business in all or a material portion of the Premises (and fifty percent (50%) of the sales floor area of the Premises shall be deemed a material portion of the Premises hereunder) and (iii) Tenant does not use all or a material portion of the Premises during the period of the LL Obligation Interruption and (iv) Tenant has notified Landlord in writing of the LL Obligation Interruption ("LL Obligation Interruption Notice"), then if the LL Obligation Interruption continues for two (2) consecutive days following the date Landlord receives the LL Obligation Interruption Notice, Fixed Minimum Rent shall be proportionately abated until the earlier of the date the LL Obligation Interruption ceases or Tenant conducts any business upon the Premises. Landlord shall use commercially reasonable efforts and due diligence to resolve any LL Obligation Interruption as soon as is reasonably practicable.

12.1.1.1. **Landlord's Failure to Maintain.** Notwithstanding anything to the contrary contained in this Section 12.1, and in addition to the abatement right set forth above, if Landlord fails to make any of the repairs to the Premises required to be made by Landlord under this Lease within ten (10) days after receipt of written notice from Tenant of the necessity therefor, except in the event of an emergency in which no notice shall be required, subject to the provisions hereof (unless such repair cannot reasonably be completed within ten [10] days in which event Landlord's commencing such repair and diligently prosecuting same to completion shall satisfy the condition of this provision), Tenant shall provide Landlord a second written notice thereof, except in the event of an emergency in which no notice shall be required, subject to the provisions hereof, and if Landlord fails to make any such repairs to the Premises within five (5) days after receipt of such second written notice from Tenant (unless such repairs cannot be reasonably completed within five (5) days in which event Landlord's commencing such repairs and diligently prosecuting same to completion shall satisfy the condition of this provision) then (a) Tenant shall have the right, but not the obligation, to make said repairs on behalf of Landlord in accordance with one (1) of the estimates provided by Tenant to Landlord, provided that such repairs do not affect the structural portions of the Building or the mechanical, electrical, HVAC or other utility equipment serving portions of the Building other than the Premises and (b) Landlord shall pay to Tenant the reasonable cost of such repairs permitted hereunder within thirty (30) days following Landlord's receipt of a written invoice therefor from Tenant. Further, if, in an emergency, in Tenant's reasonable opinion, any such non-structural repairs to the Premises (including immediately associated portions of the Building of which the Premises is a part which effect the Premises) are immediately necessary, no prior written notice shall be required, but Tenant shall make all reasonable efforts to notify Landlord of the need for such emergency repairs which notification may be by oral notice to the Center manager and if such repairs are not immediately made by Landlord then Tenant may forthwith make said repairs on behalf of Landlord, and Landlord shall pay to Tenant the reasonable cost of such repairs within thirty (30) days after receipt of a written invoice from Tenant. If Landlord fails to timely reimburse Tenant for the reasonable cost of repairs made by Tenant pursuant to this Section,

then Tenant shall provide Landlord with written notice which shall state in the subject line, in all caps, "IF LANDLORD FAILS TO RESPOND TO THIS NOTICE, TENANT WILL HAVE OFFSET RIGHTS AND INCUR INTEREST PAYMENTS UNDER THE LEASE" (hereinafter, the "Tenant Repairs Notice"), and if Landlord fails to pay such amount within fifteen (15) days following the date of such notice, Tenant may set off the cost thereof, including interest at the Default Rate, against Fixed Minimum Rent next coming due at a rate not to exceed fifty percent (50%) of Fixed Minimum Rent per month until the reasonable cost of such repair has been paid in full either by Landlord and/or by means of the set-off (provided, however, that Landlord shall pay such amount in full within thirty (30) days after the end of the Term). The term "emergency" as used in this Lease means the threat of immediate injury or damage to persons or property or the immediate imposition of a civil or criminal fine or penalty.

12.1.1.2. **Re-Occurring Repairs.** In the event that the same repair issue occurs more than three (3) times in any twelve (12) month period, provided that such repairs do not affect the structural portions of the Building or the mechanical, electrical, HVAC or other utility equipment serving portions of the Building other than the Premises (hereinafter, the "Restricted Items"), then in lieu of having Landlord perform such work, Tenant may exercise self-help rights as set forth in Section 12.1.1.1 above on the fourth (4th) such occasion, as long as Tenant provides Landlord written notice on the second (2nd) and third (3rd) occasions of the same failure, which will include in the subject line, in all caps, "THIS IS THE 2ND (3RD) NOTIFICATION OF THE SAME DAMAGE CIRCUMSTANCES FOR WHICH LANDLORD IS RESPONSIBLE BUT THE REPAIR CONTINUES TO FAIL. IF THE SAME DAMAGE CIRCUMSTANCES OCCUR MORE THAN 3 TIMES IN ANY 12 MONTH PERIOD, TENANT MAY EXERCISE SELF-HELP ON THE 4TH TIME OF THE SAME DAMAGE CIRCUMSTANCES, AND LANDLORD WILL BE REQUIRED TO REIMBURSE TENANT UNDER THE LEASE". Landlord shall pay to Tenant the reasonable cost of such repairs within thirty (30) days after receipt of a written invoice from Tenant. If Landlord fails to timely reimburse Tenant for the reasonable cost of repairs made by Tenant pursuant to this Section, then Tenant shall provide Landlord with written notice which shall state in the subject line, in all caps, "IF LANDLORD FAILS TO RESPOND TO THIS NOTICE, TENANT WILL HAVE OFFSET RIGHTS AND INCUR INTEREST PAYMENTS UNDER THE LEASE" (hereinafter, the "Tenant Repairs Notice"), and if Landlord fails to pay such amount within fifteen (15) days following the date of such notice, Tenant may set off the cost thereof, including interest at the Default Rate, against Fixed Minimum Rent next coming due at a rate not to exceed fifty percent (50%) of Fixed Minimum Rent per month until the reasonable cost of such repair has been paid in full either by Landlord and/or by means of the set-off (provided, however, that Landlord shall pay such amount in full within thirty (30) days after the end of the Term).

12.1.1.3. **Re-Occurring Repairs For Restricted Items.** In the event that the same repair issue occurs more than three (3) times in any twelve (12) month period, and the repair issue is for the Restricted Items (as defined in Section 12.1.1.2 above, and continual need for repairs to such item are as a result of the negligence or intentional acts of Landlord or any of the Landlord Parties, then Tenant may declare Landlord in default of this Lease on the fourth (4th) such occasion, as long as Tenant provides Landlord written notice on the second (2nd) and third (3rd) occasions of the same failure, which will include in the subject line, in all caps, "THIS IS THE 2ND (3RD) NOTIFICATION OF THE SAME DAMAGE CIRCUMSTANCES FOR WHICH LANDLORD IS RESPONSIBLE BUT THE REPAIR CONTINUES TO FAIL. IF THE SAME DAMAGE CIRCUMSTANCES OCCUR MORE THAN 3 TIMES IN ANY 12 MONTH PERIOD, TENANT MAY DECLARE LANDLORD IN DEFAULT UNDER THE LEASE".

12.1.2. **Tenant's Obligations.** Tenant shall at all times during the Term, and at its sole cost and expense, maintain, keep and repair the Premises in good order, condition and repair, except to the extent of Landlord's obligations set forth above. Such obligations of Tenant shall

include, without limitation, the maintenance, repair and replacement of interior surfaces of exterior and demising walls, exterior doors and entrances, locks and closing devices, all plate glass, frames, moldings and trim of all doors and windows, all partitions, door surfaces, floor covering, fixtures, equipment and appurtenances thereof, lighting, plumbing fixtures exclusively serving the Premises (including any grease traps, grease lines and piping exclusively serving the Premises), toilet facilities and fixtures, windows, window sashes, showcases, storefronts, security grilles and similar enclosures, all of Tenant's signs (including the Storefront Sign) and any HVAC exclusively serving the Premises (provided that maintenance work regarding parts of the HVAC or plumbing systems which protrude outside of the Premises shall be completed by a contractor selected by Landlord, as a Reimbursed Cost). Tenant shall promptly, at its sole cost and expense, comply, and cause the Premises to comply, with all Governmental Regulations affecting the Premises and Tenant's activities in the Center. Notwithstanding anything to the contrary contained in this Lease (including Section 12.1.1), all alterations, demolitions and improvements (whether structural or non-structural, interior or exterior) required by any Governmental Regulations arising from Tenant's particular manner of use or occupancy of the Premises, Tenant's conduct of business upon the Premises, Tenant's obligations as an employer and/or the construction, installation or placement of any Improvements or Personal Property upon the Premises shall be undertaken by Tenant, at Tenant's sole cost and expense, if upon the Premises, and by Landlord as a Reimbursed Cost, if elsewhere in the Center.

12.2. **Refurbishment.** Tenant shall maintain the Premises at all times during the Term in a first- class condition.

12.3. **Improvements.** Tenant shall make no Improvements without Landlord's express, prior written consent in each instance, which consent shall not be unreasonably withheld, conditioned or delayed. All Improvements shall be performed by Tenant (at its sole cost and expense) in such a manner as to not impede access to the premises of any other Occupant or of any part of the Common Area, and in a good and workman-like manner, with diligence, using materials of at least the same specifications, grade and quality as required pursuant to the Tenant Package. All Improvements shall be (a) performed under the supervision of a licensed architect and/or licensed structural engineer retained and compensated by Tenant, as shall be appropriate for such work, (b) in strict conformance with detailed drawings which have received the prior, written approval of Landlord, and (c) in strict conformance with Exhibit C, the Tenant Package and with all Governmental Regulations. Landlord shall review and, in writing to Tenant, either approve, or disapprove with reasonable detail, said plans. Prior to commencing any Improvements, Tenant shall deliver to Landlord a copy of the building permit with respect thereto, if the same is required by any Governmental Regulations in connection with any such Improvements.

12.3.1. **Permitted Improvements.** Notwithstanding anything contained in this Section 12.3 to the contrary, provided (a) Tenant's Improvements are non-structural and do not change or otherwise affect Tenant's storefront, or the structural portion of the Building or adversely affect the Building systems (which systems shall include, without limitation, water, gas, heat, electricity, steam, chilled water, hot water, lighting, power, HVAC, telephone service, sewer service, fire/life safety and all other systems and services made available for the general use, convenience and/or benefit of more than one [1] Occupant of the Building), (b) the cost of such Improvements does not exceed a total of \$250,000.00, (c) the Improvements comply with Governmental Regulations, (d) Tenant has obtained the necessary permits and governmental approvals for the Improvements, and (e) Tenant provides Landlord written notice no less than five (5) days prior to undertaking the Improvements, then Tenant may perform such Improvements without Landlord's consent and without submitting plans for such Improvements as otherwise required by this Section 12.3 and Exhibit C; however, such Improvements shall be undertaken subject to the other provisions set forth in Section 12.3.

12.4. **Liens.** Tenant shall keep the Premises, the Building and the Center free from any liens and other claims arising out of work performed, materials furnished, or obligations incurred by or on behalf of Tenant. Landlord shall have the right at all times to keep posted on the Premises any notices

permitted or required by law, or which Landlord shall deem proper, for the protection of Landlord, the Premises, the Center and any other party having any interest therein, against mechanics' and materialmen's liens. If, as a result of any work performed or materials furnished or obligations incurred for the benefit of the Premises, any claim of lien is filed against the Premises or any part of the Center or any similar action affecting title to such property is commenced, the party receiving notice of such lien or action shall immediately give the other party written notice thereof. If Tenant fails, within thirty (30) days following Tenant's receipt of notice (or Tenant's actual knowledge) of the imposition of any lien or the filing of a lawsuit seeking foreclosure of such lien, to cause such lien to be released of record by payment or by recording of a proper statutory discharge of lien bond, Landlord shall have, in addition to all other remedies provided herein and at law, the right (but not the obligation), upon five (5) days' prior written notice to Tenant, to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums expended by Landlord and all reasonable, out-of-pocket costs and expenses incurred by Landlord in connection therewith (including reasonable attorneys' fees), shall be payable to Landlord by Tenant within thirty (30) days after Tenant's receipt of Landlord's written demand thereof.

13. SURRENDER OF PREMISES

13.1. **Surrender.** Prior to the Expiry Date or date of earlier termination of this Lease, Tenant shall perform all of the following (collectively, "Surrender Obligations") at its sole cost and expense: (a) Remove all of its Personal Property, exclusive of Attached Fixtures, from the Premises and the Center, and (b) repair all damage caused by or in connection with Tenant's performance of the Surrender Obligations (including without limitation thereto, repairing the floor and patching and painting the walls if damaged beyond ordinary wear and tear, and leaving the Premises in a good and clean condition). Upon the Expiry Date or date of earlier termination of this Lease, Tenant shall surrender to Landlord the Premises, broom-clean and in good condition, except for ordinary wear and tear and destruction to the Premises pursuant to Article 23. If Tenant's performance of the Surrender Obligations would damage or otherwise affect the Building structure, Tenant shall give Landlord prior written notice thereof and Landlord may elect to perform selected Surrender Obligations as a Reimbursed Cost.

13.1.1. **End of Term.** Tenant shall have the right, at any time at, or prior to, the expiration or earlier termination of this Lease, to remove any and all trademarked and/or other branded property of any kind or nature, whether or not affixed to the Premises, provided Tenant repairs any damage caused by such removal. Landlord and Tenant hereby agree that, upon expiration or earlier termination of this Lease, they shall coordinate an inspection of the Premises by Landlord and Tenant to confirm that the Premises is being returned to Landlord in the conditioned required under this Lease.

13.2. **Improvements and Personal Property.** Landlord may dispose of any Personal Property remaining on the Premises after the Expiry Date or date of earlier termination of this Lease in accordance with applicable statutes relating to the disposition of abandoned property. If no such statutes exist, Landlord may retain or dispose of such Personal Property and title to any such Personal Property which Landlord elects to retain shall vest in Landlord. Tenant waives all claims against Landlord for any damage or loss to Tenant arising out of Landlord's retention or disposition of any such Personal Property as provided for in this Article 13 and shall be liable to Landlord for Landlord's costs of removing, storing, and disposing of any such Personal Property which Tenant fails to remove from the Premises prior to the Expiry Date or date of earlier termination of this Lease, as well as all costs of restoring the Premises required as a result of removing such Personal Property. All Improvements (including any Attached Fixtures) shall become the property of Landlord upon the Expiry Date or date of earlier termination of this Lease.

13.2.1. **Subordination of Landlord's Lien.** Landlord hereby expressly waives any lien, right of distraint or related or similar rights now or hereafter granted to Landlord by statute or otherwise, with respect to Tenant's personal property, un-attached trade fixtures, inventory or stock-in-trade in or on the Premises (collectively, "Personal Property") for non-payment of rent, default by

Tenant, or any other reason whatsoever; to the extent a waiver of any lien is unenforceable, Landlord hereby subordinates such lien to the lien of any holder of indebtedness of Tenant that has loaned money to Tenant for the Personal Property. Other than the waiver of lien or subordination as herein provided, nothing contained in this section shall limit or otherwise impair or prevent Landlord from exercising any of its rights or remedies under the Lease if Tenant is in default thereunder, following notice and the expiration of any applicable cure period.

13.3. Holding Over. If Tenant holds over after the Expiry Date or date of earlier termination of this Lease without the express written approval by Landlord, (a) such tenancy shall be at sufferance only and not a renewal of this Lease or an extension of the Term, and (b) as and for liquidated damages for such holdover, monthly installments of Fixed Minimum Rent shall be payable in an amount equal to one hundred twenty five percent (125)% of the Fixed Minimum Rent in effect as of the last full calendar month immediately preceding such Expiry Date or date of earlier termination of this Lease for the first 14 days following such holdover, and thereafter, one hundred fifty percent (150%) of the Fixed Minimum Rent in effect as of the last full calendar month immediately preceding such Expiry Date or date of earlier termination of this Lease, and monthly installments of Percentage Rent and Additional Rent shall be payable in an amount equal to the Percentage Rent and Additional Rent in effect as of the last full calendar month immediately preceding such Expiry Date or date of earlier termination of this Lease (not taking into consideration any Rent abatement to which Tenant might have been entitled for such month), and each shall be due and payable at the times specified therefor in this Lease and (c) such tenancy shall be subject to every other term, covenant and agreement contained herein other than any provisions for rent concessions, Landlord's Work, or optional rights of Tenant requiring Tenant to exercise the same by written notice (such as any options to extend the Term). Nothing contained in this Section 13.2.1 shall be construed as consent by Landlord to any holding over by Tenant (or limit any of Landlord's rights and remedies incident to a holding over under this Lease, at law or in equity), and nothing in this Section 13.2.1 shall affect Landlord's right to require Tenant to perform all obligations under this Article 13 and surrender possession of the Premises to Landlord as provided in this Lease upon the Expiry Date or date of earlier termination of this Lease or at any time subsequent thereto as Landlord shall specify.

13.3.1. Negotiations During Hold Over. Notwithstanding anything contained in Section 13.3 to the contrary, if and so long as Tenant is in possession of the Premises and Landlord and Tenant are engaged in active, good-faith negotiations to enter into a new lease or extension agreement for the Premises which would become effective following the Expiry Date, then (a) Tenant shall be permitted to retain possession of the Premises following the Expiry Date and (b) Annual Base Sales and the Percentage Rent Rate, as well as monthly installments of Fixed Minimum Rent, Additional Rent, and all other sums due under the Lease, shall be at the rates then proposed by Landlord for the first month of such new or extended Term (or, if none is proposed by Landlord, at the rates in effect as of the last full calendar month of the Term, not taking into consideration any Rent abatement to which Tenant might have been entitled for such month) and each shall be due and payable at the times specified therefor in this Lease and (c) such tenancy shall be subject to every other term, covenant and agreement contained herein other than any provisions for rent concessions, Landlord's Work, or optional rights of Tenant requiring Tenant to exercise the same by written notice (such as any options to extend the Term). At such time as the new lease or extension agreement is executed, the terms of said new lease or extension agreement shall be applied retroactively to commence concurrently with the expiration of the Term and any difference in Fixed Minimum Rent, Additional Rent and Percentage Rent owing under the new lease or extension agreement due by Tenant to Landlord shall be paid within fifteen (15) calendar days from the date such lease or extension agreement is fully executed or, if due by Landlord to Tenant, shall be applied toward Rent next thereafter due and owing. If at any time Landlord deems, in its reasonable discretion, that Tenant is not negotiating in good faith or if Landlord and Tenant cannot mutually agree upon the terms of the new lease or extension agreement, the immediately preceding provisions shall be of no further force and effect, and upon receipt of Landlord's written notice. Tenant shall be deemed to be holding over upon the Premises and Tenant shall thereafter pay the adjusted hold over Rent set forth at the beginning of Section 13.3, as well as any outstanding Rent

pursuant to the provisions of Section 13.3 and, further, Landlord shall be entitled to exercise any and all available remedies with respect to Tenant's failure to perform any of its Surrender Obligations.

13.4. **No Merger on Surrender of Lease.** The voluntary or other surrender of this Lease by Tenant, or a mutual termination thereof, shall not work as a merger. Such surrender or termination shall, at the option of Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subleases or subtenancies. The delivery of keys to the Premises to Landlord or its agent and/or the taking of physical possession of the Premises by Landlord shall not constitute a surrender or termination of this Lease absent Landlord's written agreement that this Lease has been so surrendered or terminated.

14. **ASSIGNMENT AND SUBLETTING**

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

14.2. **Landlord's Consent Required.** Tenant shall not effect a Transfer, by operation of law or otherwise, without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld, conditioned or delayed (subject to the provisions of this Article 14). Any attempt by Tenant to effect a Transfer without such consent of Landlord, except as otherwise expressly provided herein, shall be voidable by Landlord and, at Landlord's election, shall constitute an incurable default under this Lease.

14.3. **Tenant's Application.** If Tenant desires to effect a Transfer, Tenant shall submit in writing to Landlord at least thirty (30) days prior to the proposed effective date of the Transfer a notice of intent to Transfer ("Request to Transfer"). Each Request to Transfer must contain, or be accompanied with, each of the following: (a) The name of the proposed Transferee and, if not a natural person, details of the legal and beneficial ownership structure of Transferee, (b) a statement of the nature of the Transfer (e.g., a sublease, assignment or concession agreement), (c) a detailed description of the proposed Transferee's business to be conducted upon the Premises, (d) details of the terms and provisions of the proposed Transfer and the Proposed Transfer Date (which shall be no later than one hundred eighty [180] days after Landlord's receipt of the Request to Transfer), (e) a current, certified financial statement for the proposed Transferee, (f) statements of income or profit and loss of the proposed Transferee for a period of no less than one (1) year prior to the date Landlord receives the Request to Transfer, (g) reasonable, written history and details of the proposed Transferee's previous business experience, and (h) a term sheet containing the material terms of the assignment or sublease, as applicable. If the foregoing information is not sufficient, in Landlord's commercially reasonable business judgment, for Landlord to determine which of Landlord's rights to exercise under this Article 14, Landlord shall promptly request, and Tenant shall promptly furnish to Landlord, other and/or additional pertinent and reasonable information concerning the proposed Transfer and the proposed Transferee as Landlord shall require to make such determination.

14.4. **Standards for Approval and Disapproval.** In determining whether to grant or withhold its consent to a proposed Transfer, Landlord may consider any reasonable factor. Without limiting the conditions that may be construed as a reasonable factor, it is deemed reasonable that Tenant demonstrate to Landlord's reasonable satisfaction each of the following: (a) The proposed Transferee has sufficient financial worth to fully and timely discharge all of the then remaining obligations of Tenant under this Lease (taking into account that Tenant is not being released therefrom), (b) the proposed Transferee is of sound business reputation, (c) the use of the Premises by the proposed Transferee will be the Permitted Use, or such other use as compliments the current tenant mix at the Center, as reasonably determined by Landlord, (d) the proposed Transferee has sufficient retail experience to successfully undertake its business at the Premises, (e) the proposed Transferee does not occupy premises in the Center, (f) the proposed Transferee has not delivered a letter of intent to Landlord or Landlord's agent to

lease space in the Center and (g) the proposed Transferee is not actively negotiating with Landlord or Landlord's agent to lease space in the Center. Furthermore, if Tenant is then in default of any material obligation of Tenant under this Lease beyond any applicable notice and cure period, it shall be reasonable for Landlord to elect, in its sole discretion, to deny its consent to such proposed Transfer so long as such default exists.

14.4.1. **Arbitration.** Notwithstanding anything to the contrary contained in this Lease, if Tenant or any proposed Transferee claims that Landlord has unreasonably withheld or delayed its consent under this Article 14 or otherwise has breached or acted unreasonably under this Article 14, their sole remedies shall be to submit such dispute to arbitration, as set forth herein, and Tenant hereby waives all other remedies, including, without limitation, any right at law or in equity to terminate this Lease, on its own behalf and, to the extent permitted under all applicable laws, on behalf of the proposed Transferee. Any such arbitration shall be held in the state in which the Center is located, shall be in accordance with the Commercial Arbitration Rules of the American Arbitration Association and the provisions of this Lease, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Any dispute arising under Article 14 shall be determined pursuant to the "expedited arbitration" procedures of the American Arbitration Association or its successor. Any determination under this Section 14.4.1 shall be final and binding upon the parties, whether or not a judgment shall be entered in any court. In making their determination, the arbitrators shall not subtract from, add to, or otherwise modify any of the provisions of this Lease. Landlord and Tenant may, at their own expense, be represented by counsel and employ expert witnesses in any such arbitration; provided, however, the non-prevailing party shall pay all fees in connection with any such arbitration including, but not limited to, the prevailing parties' counsel, expert witness and arbitration fees.

14.5. **Landlord's Notification to Tenant.**

14.5.1. **Notification to Tenant.** Within thirty (30) days after Landlord's receipt of the Request to Transfer and all of the information required pursuant to Section 14.3, Landlord shall notify Tenant in writing that Landlord has elected to (a) terminate this Lease pursuant to Section 14.5.2 ("Notice of Transfer Termination"), or (b) consent to such proposed Transfer (subject to the provisions hereof), or (c) withhold consent to such proposed Transfer.

14.5.2. **Termination.** If Landlord delivers the Notice of Transfer Termination to Tenant, then (a) this Lease shall terminate upon the Proposed Transfer Date and (b) upon the Proposed Transfer Date, provided Tenant has performed all Surrender Obligations, Tenant shall be released from all further obligations accruing under this Lease from and after the Proposed Transfer Date. Landlord may lease the Premises, or any portion thereof, to the prospective Transferee without liability to Tenant. Notwithstanding the foregoing, in the event Landlord deliver the Notice of Transfer Termination to Tenant, Tenant can rescind such termination by notifying Landlord in writing within ten (10) days following Tenant's receipt of such Notice of Transfer Termination of Tenant's intention to remain in the Premises and rescind Tenant's request for Landlord's consent. In such event, this Lease shall continue as if Tenant never requested Landlord's consent to transfer this Lease.

14.5.3. **Intentionally Omitted.**

14.6. **Required Subletting Instrument and Assignment Instrument Provisions.** Each and every Transfer shall be documented by an Assignment instrument or a Subletting instrument, as the case may be, and a true copy of the same executed by the parties thereto shall be delivered to Landlord prior to the Proposed Transfer Date. Each and every Assignment instrument and Subletting instrument shall contain substantially the same terms and conditions as are described in the Request to Transfer and be expressly subject and subordinate to each and every provision contained in this Lease. Each Transferee shall expressly assume in writing for the benefit of Landlord the obligations of Tenant under this Lease and shall be liable jointly and severally with Tenant for the payment of the Rent and the performance of all the terms, covenants, conditions and agreements herein contained on Tenant's part to be performed for

the Term. If Landlord approves the proposed Transfer, Landlord shall prepare and deliver to Tenant, for execution by Tenant and the proposed Transferee, counterparts of Landlord's reasonable and customary assignment instrument, in the case of an Assignment, or consent instrument, in the case of a Subletting, and Tenant shall have thirty (30) days to cause the same to be executed, with modifications reasonably acceptable to Landlord, by both Tenant and the proposed Transferee and delivered to Landlord, together with all required attachments thereto.

14.7. **Tenant's Duty to Subtenant.** Landlord shall have no obligation whatsoever to perform any duty to or respond to any request from any Subtenant; however, Landlord shall reasonably respond to any requests from a sublessee with respect to maintenance or operation issues in the Premises or at the Center. Tenant shall have the obligation of administering the terms of all Subletting instrument(s).

14.8. **Release of Tenant.** No Transfer shall relieve Tenant of any obligation to be performed by Tenant under this Lease, whether occurring before or after such consent or Transfer, including Tenant's obligation to obtain Landlord's express prior written consent to any other Transfer (which right of consent shall not negate or waive any provision contained in this Article 14). Notwithstanding the foregoing, in the event of any assignment of this Lease by the Tenant entity set forth on Page 1 of this Lease or a permitted Transferee pursuant to Sections 14.13 or 14.14, then Landlord shall release Tenant from further liability thereafter accruing under this Lease from and after the date of said assignment (the "Release Date"), provided that as of the Release Date, (a) such assignor is not then in material or monetary default of the Lease beyond any applicable notice and cure periods; and (b) Landlord has been provided proof reasonably satisfactory to Landlord that assignee has a tangible net worth of at least Fifty Million Dollars (\$50,000,000.00) in US Dollars.

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

14.10. **Additional Consideration Upon a Transfer.** In the event of an Assignment, one-half (½) of any consideration paid to Tenant by any Transferee for such Assignment shall be paid to Landlord. In the event of a Subletting, each month one-half (½) of any consideration paid to Tenant by any Transferee during such month for any portion of Tenant's interest in this Lease shall be paid to Landlord to the extent the full amount of such consideration (i.e., before being divided between Landlord and Tenant) exceeds the percentage (equal to the percentage of the Floor Area of the Premises being Sublet) of Tenant's Rent obligations hereunder during such month. The term "consideration", as used in this Section, shall exclude amounts paid to Tenant by the Transferee for business goodwill and Personal Property of Tenant (to the extent of the fair market value of each), the unamortized value of Tenant's Improvements (less any amounts paid for by Landlord), any amounts attributable to the sale of the business (as opposed to the value of the leasehold estate), any reletting expenses, buildout work, or other concessions granted, and reasonable and customary brokerage commissions and reasonable attorneys' fees paid by Tenant for such Transfer. Tenant shall provide Landlord with reasonable, written, itemized evidence of the payment for each such exclusion.

14.11. **Review Fee.** Intentionally Omitted.

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

14.13. **Affiliate Transfers.** Notwithstanding anything contained in this Article 14 to the contrary, Landlord's consent shall not be required for a Transfer to an entity that Controls, is Controlled by, or is under common Control with Tenant; provided that, in any of such events, in each instance, each and every one of the following requirements has been satisfied:

14.13.1. Any such Transfer shall be subject to all of the terms and provisions of this Lease (including, without limitation, the Permitted Use), and such Transferee shall assume, in a written document reasonably satisfactory to Landlord and delivered to Landlord prior to the effective date of such Transfer (unless restricted by law and then as soon as possible after same is so permitted), all the obligations of Tenant under this Lease.

14.13.2. Tenant shall remain fully liable for all obligations to be performed by Tenant under this Lease.

14.13.3. Tenant shall notify Landlord in writing no less than thirty (30) days after the effective date of such transaction by providing Landlord with the name of such resulting entity and such other details as Landlord may reasonably request.

14.13.4. Such Transfer is not a subterfuge by Tenant to avoid its obligations under the Lease.

In the event any Transferee under this Section 14.13, at any time after the date of such Transfer, is no longer Controlled, under common Control with or Controlling the entity of the entity making such Transfer, then such event shall constitute a Transfer requiring Landlord's consent pursuant to the provisions of this Article 14.

14.14. **Corporate Transfers.** Notwithstanding anything contained in this Article 14 to the contrary, Landlord's consent shall not be required for a Transfer to a corporation or entity (a) into or with which Tenant is merged or consolidated, (b) to which all or substantially all of Tenant's assets or stock are transferred, provided Tenant is the Tenant entity on Page 1 of this Lease or a Transferee pursuant to Section 14.13 or this Section 14.14, or (c) acquiring in one (1) contemporaneous transaction all or substantially all of the leases and assets of Tenant's other stores located in the northeastern region of the United States (but in any event, at least five (5) of Tenant's stores in the continental United States); provided that, in any of such events, in each instance, each and every one of the following requirements has been satisfied:

14.14.1. The successor of Tenant has a tangible net worth, computed in accordance with generally accepted accounting principles, at least equal to Twenty Million Dollars (\$20,000,000.00) in U.S. Dollars. Proof reasonably satisfactory to Landlord of such net worth shall be delivered to Landlord at least thirty (30) days prior to the Proposed Transfer Date.

14.14.2. Any such Transfer shall be subject to all of the terms and provisions of this Lease (including, without limitation, the Permitted Use), and such Transferee shall assume, in a written document reasonably satisfactory to Landlord and delivered to Landlord prior to the effective date of such Transfer, all the obligations of Tenant under this Lease.

14.14.3. Tenant shall remain fully liable for all obligations to be performed by Tenant under this Lease.

14.14.4. Tenant shall notify Landlord in writing within ten (10) business days prior to the effective date of such transaction (or, if prohibited by law, as soon thereafter as is legally permitted) by providing Landlord with the name of such resulting entity and such other details as Landlord may reasonably request.

14.14.5. Such Transfer is not a subterfuge by Tenant to avoid its obligations under the Lease.

14.15. **Permitted Stock Transfers.** Notwithstanding anything to the contrary contained herein, neither notice to Landlord nor Landlord's consent shall be required for Transfers involving (a) a public offering by Tenant and/or any of Tenant's stockholders, (b) the trading of shares listed on a recognized public stock exchange, (c) any transaction described as a "Rule 13e-3 transaction" in Rule 13e-3 under the Securities Exchange Act of 1934, as amended or superseded ("Securities Exchange Act"), (d) any repurchase, reverse stock split or other transaction by which the number of outstanding publicly traded shares of Tenant is reduced or (e) any transfer or issuance of stock or interests in Tenant's entity to its present stockholders or members.

14.16. **Modifications after Assignment.** If Landlord and an unaffiliated assignee of Tenant amend this Lease, and Tenant does not consent to any such amendment, then notwithstanding the provisions of Section 14.8 to the contrary, Tenant shall not be liable for the performance and observance of any increased obligations to be performed by the assignee pursuant to the provisions of the Lease, as amended; however, Tenant shall remain liable for the performance and observance of all of the original obligations to be performed by Tenant pursuant to the Lease (including, without limitation, Tenant's indemnification obligations set forth in Section 8.1).

14.17. **Permitted Licenses or Subletting.** Notwithstanding anything to the contrary contained herein, provided Tenant is not in default of this Lease beyond applicable notice and cure periods, Tenant shall be permitted to license a portion of the Premises, subject to the following restrictions: (a) there shall be no more than two licensees or sublessees with rights to operate from the Premises at any given time; (b) not more than twenty percent (20%) of the Floor Area of the Premises may be operated by licensees or sublessees; (c) the use of such licensee or sublessee must comply with the Permitted Use; (d) the use of any such licensee or sublessee must not compete with any other store within the Center; (e) the space being used by such licensee or sublessee shall not be located within 20 feet of the storefront entrance, and cannot have a separate entrance or contain separate demising walls.

15. TRANSFER OF LANDLORD'S INTEREST

15.1. **Transfer of Landlord's Interest.** Landlord shall have the right to sell or transfer its ownership of all or any part of the Center to one or more third parties. If Landlord sells or transfers its interest in the Premises (other than a transfer for security purposes), (a) Landlord shall be released from all obligations and liabilities accruing thereafter under this Lease provided Landlord's successor has assumed Landlord's obligations thereafter accruing under this Lease in writing, and (b) Tenant agrees to attorn to the purchaser or assignee provided such purchaser or assignee agrees not to disturb Tenant's occupancy hereunder.

16. COMMON AREA

16.1. **Common Area.** During the Term, Tenant and the Tenant Parties shall have the non-exclusive right in common with Landlord and all others to whom Landlord has or shall give the same or similar rights, to use the Common Area for its intended purposes subject to (a) the right of Landlord, Occupants and their respective invitees, customers, agents, employees and independent contractors to use the Common Area, (b) any Superior Agreements, and (c) each provision of this Lease. Landlord shall, or shall cause others to, operate, repair, equip and maintain the Common Area in a manner consistent with other first class shopping centers in the area in which the Center is located, and as otherwise deemed by Landlord in its business judgment to be reasonable and appropriate. The Common Area shall be subject to the exclusive control and management of Landlord. Landlord may, from time-to-time, impose parking charges at the Center. Landlord shall comply with all laws in the Common Area and

other portions of the Center for which Landlord is responsible, to the extent that failure to so comply would adversely affect Tenant's use of the Premises for the Permitted Use, visibility and access to the Premises.

17. LANDLORD'S RESERVATION OF RIGHTS

17.1. Reservation of Rights. Landlord reserves the right, at any time, and from time-to-time to: (a) expand, reduce, remove, demolish, change, renovate or construct any existing or new improvements at the Center, and (b) expand, reduce or otherwise change the size, configuration or boundaries of the Center. Landlord shall have complete and exclusive control of the design, structure, construction, materials, colors, architectural elements and aesthetics of all improvements and Common Area at the Center, as well as all activities undertaken by Landlord and other Occupants in connection therewith. This Lease does not grant any rights to light or air over or about the Center. Landlord reserves exclusively to itself the use of all of the following: (i) Roofs and exterior walls, (ii) telephone, electrical, utility, communication and janitorial closets, (iii) equipment rooms, building risers or similar areas that are used by Landlord for the provision of services, (iv) portions of the Premises for the repair, maintenance and replacement of machinery, pipes, conduits, utility lines and the like serving other Occupants and/or the Center in a manner and in locations which do not unreasonably interfere with Tenant's use of the Premises, and (v) the areas beneath, adjacent to and above the Premises (including the plenum within the Premises). Landlord shall use good faith, reasonable efforts to ensure that any wires, pipes, shafts and the like installed by Landlord at any time after the Delivery Date which are traversing or located within the Premises shall be above or below finished surfaces and in no event in or through any selling area within any non-finished ceiling, and will work with Tenant, in good faith, to minimize any disruptions to Tenant's business as a result thereof. Interruptions to Tenant's business as a result of Landlord's actions hereunder are governed by the provisions of Section 17.2.1.

17.2. Changes to the Center. Landlord shall have the right and privilege at all times of determining the nature and extent of the Common Area and the Center and of making such changes, rearrangements, additions and reductions therein from time-to-time as Landlord deems desirable, including, without limitation, the location, relocation, enlargement, reduction, addition and/or elimination of driveways, malls, entrances and exits, automobile parking spaces, employee and customer parking areas, buildings and other structures, the direction and flow of traffic, establishment of protected areas, landscaped areas and any and all other facilities of the Common Area, the right at any time to locate on the Common Area permanent and/or temporary RMUs, and/or other building(s) and/or other improvements of any type and the right at any time to enclose or un-enclose any portions of the Common Area and/or Mall. Landlord reserves the right to utilize portions of the Common Area, from time-to-time, for shows, rides, entertainments, displays, advertising, educational purposes, demonstrations, civic and charitable functions and other uses which, in Landlord's judgment, may attract the public to the Center or create goodwill, community interest or other beneficial interest with respect to the Center. Landlord shall have the right to convert Common Area to leasable space and to convert leasable space to Common Area, from time-to-time. Landlord shall have the right (a) to close, if necessary, all or any portion of the Common Area to such extent as may be reasonably necessary to prevent a dedication thereof or the accrual of any rights of any person or of the public therein, (b) to close temporarily all or any portion of the Common Area to discourage non-customer use, (c) to use portions of the Common Area while engaged in making additional improvements, repairs or alterations to the Center, (d) to transfer, in whole or in part, any of Landlord's rights and/or obligations under Article 16 to any Occupant or to any other party as Landlord may from time-to-time determine and (e) to do and perform such other acts in, to and with respect to, the Common Area as Landlord shall determine, in its business judgment, to be appropriate for the Center. Notwithstanding any contrary provision contained in this Lease, services and facilities may be discontinued, and access to the Premises and the Center restricted, in whole or in part, during such times as the Center is not open for business, and any other times as are necessary for temporary purposes such as repairs, alterations, strikes and other reasonable purposes. Landlord has no obligation to, and has made no representations that it shall, repair, alter, remodel, improve, renovate, decorate, demolish and/or add improvements to the Building or the Center, or any part thereof, and no representations

respecting the condition of the Building or the Center have been made by Landlord to Tenant. Landlord shall use good faith, reasonable efforts not to disturb Tenant's operations from the Premises during the exercise of its rights hereunder, or to unreasonably obstruct ingress and egress from the Premises, and shall use good faith, reasonable efforts to avoid making elective improvements or renovations which would impact Tenant's operations from the Premises during the period from November 1 through December 31, or during the thirty (30) day period following the date Tenant opens for business in the Premises.

17.2.1. **Interruption of Business.** Notwithstanding the foregoing, if (i) there is an interruption to Tenant's business due to Landlord's actions under either Sections 17.1, 17.2 or 17.4 ("Interruption") and (ii) the Interruption materially, adversely interferes with Tenant's use and occupancy of the Premises, or access to the Premises such that Tenant cannot reasonably conduct business upon the Premises or Tenant's customers cannot reasonably access the Premises, or the visibility of the Premises is materially impaired from the Common Areas located within the RMU Zone, and (iii) Tenant does not use all or a material portion of the Premises during the period of the Interruption (in the event of an interruption to Tenant's use and occupancy of the Premises or access to the Premises), and (iv) Tenant has notified Landlord in writing of the Interruption ("Interruption Notice"), then if the Interruption continues for two (2) consecutive days following the date Landlord receives the Interruption Notice, Fixed Minimum Rent shall be abated until the earlier of the date the Interruption ceases or Tenant conducts any business upon the Premises. Landlord shall use commercially reasonable efforts and due diligence to resolve any Interruption as soon as is reasonably practicable.

17.2.2. **RMU Restriction.** Notwithstanding anything to the contrary contained in this Section 17.2, no RMU shall be located within the RMU Zone shown on Exhibit B-1 attached hereto, except for any RMU located within the Permitted RMU Area as shown on Exhibit B-1, without Tenant's prior consent.

17.3. **Right to Lease.** Landlord reserves the absolute right to effect such other tenancies in the Center as Landlord, in the exercise of its sole business judgment, shall determine to best promote the interests of the Center. Tenant does not rely on the fact, nor does Landlord represent, that any specific occupant or type or number of occupants shall, at any time, occupy any space in the Center. Landlord shall have the full right to lease space in the Center to any person or entity and for any purpose Landlord shall deem appropriate, including retail, office, non-retail, residential, mixed use and commercial purposes.

17.4. **Entry by Landlord.** Landlord and its representatives (including contractors) shall have the right at all reasonable times upon not less than seventy two (72) hours prior written notice to Tenant and with a representative of Tenant present (and at all times in the event of an emergency, subject to prior telephonic notice to the store manager to the extent reasonably practicable), to enter the Premises (a) for any purpose permitted by law, (b) to ascertain if the Premises are in good order, condition and repair, (c) to post notices of non-responsibility or other notices which Landlord may deem necessary for its protection, (d) to show the Premises to prospective purchasers, mortgagees or ground or underlying lessors (each of which may then also enter the Premises), (e) to perform any obligation required of, or right permitted to, Landlord under this Lease, (f) to take possession of the Premises due to an event of default, beyond any applicable notice and cure period, in the manner provided for in this Lease or (g) to perform environmental assessments. During the nine (9) months prior to the Expiry Date, Landlord may show the Premises to brokers, prospective tenants and their representatives, as herein provided, as long as Landlord does not inform Tenant's employees of the purpose of such showing. Landlord shall use good faith efforts during any entry upon the Premises pursuant to this Section 17.4 not to interfere with Tenant's conduct of business. Except if caused by the negligence or willful misconduct of Landlord, or any of the Landlord Parties, or as set forth in Section 17.2.1, no exercise by Landlord of any rights in this Section 17.4 shall entitle Tenant to any damage for any injury or inconvenience occasioned thereby nor to any abatement of Rent.

17.5. **Intentionally Omitted.**

18. **NOTICES**

18.1. **Notices.** Any notice, demand or communication required or permitted to be given by one party to the other shall be in writing and addressed to Landlord's Address for Notices or Tenant's Address for Notices, as the case may be, or to such other address(es) and/or to such other parties as one party may from time-to-time reasonably designate in writing to the other party, and shall be (a) personally served by hand delivery, (b) deposited in the United States mail, duly registered or certified with postage fully prepaid thereon or (c) delivered by a nationally recognized overnight courier service that confirms delivery. Either party may, by written notice similarly given, designate a different address for notice purposes. Notice shall be effective upon receipt or refusal to receive, in the event of personal service; or upon receipt or refusal to receive, in the event of depositing notice in the United States mails; or upon receipt or refusal to receive, in the event of delivery by overnight courier service. Notwithstanding anything contained herein to the contrary, in no event shall notices to Tenant be delivered to the Premises, except as otherwise expressly set forth in the Lease, and Landlord acknowledges and agrees that any notices delivered to the Premises shall not be deemed given in accordance with the terms of this Lease.

19. **DEFAULTS BY TENANT**

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

19.1.1. **Monetary.** The failure by Tenant to make any payment of Rent or of any other sum required to be made by Tenant when due (however Tenant shall have up to five (5) business days after receipt or delivery (as applicable) of written notice from Landlord to cure such default).

19.1.2. **Failure to Timely Open.** If Tenant should fail to complete Tenant's Work and initially open the Premises for business on or before the one hundred eightieth (180th) day following the Required Opening Date fully fixtured, staffed and stocked or, thereafter, to keep the Premises open for business fully fixtured, staffed or stocked on the days and hours required by this Lease (however Tenant shall have up to five (5) business days after written notice from Landlord to cure such default).

19.1.3. **Abandonment and Vacation.** The vacation or abandonment of the Premises by Tenant. "Vacation" means any absence by Tenant from the Premises for fourteen (14) or more consecutive days, except as otherwise permitted under this Lease.

19.1.4. **Intentionally Omitted.**

19.1.5. **Bankruptcy.** The making by Tenant of any general assignment for the benefit of creditors, the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within ninety [90] days), or the appointment of a trustee or receiver to take possession of, or the attachment, execution or other judicial seizure of, substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within sixty (60) days.

19.1.6. **Other Non-Monetary Defaults.** The failure by Tenant or any of the Tenant Parties to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant not previously covered by Section 19.1.1 through Section 19.1.5 above (however Tenant shall have up to thirty (30) days after written notice from Landlord to cure such default except if the nature of Tenant's default is such that it cannot be cured solely by payment of money and more than thirty (30) days are reasonably required for its cure, then Tenant shall be obligated to commence such cure within the thirty (30)-day period and thereafter diligently prosecute such cure to completion).

19.2. **Sufficiency of Notices.** Any notice required or permitted by this Article 19 shall be in lieu of, and not in addition to, any notice required under any Governmental Regulations providing for notice and any cure period. Landlord may (at its discretion) serve a statutory notice to quit, a statutory notice to pay rent or quit, or a statutory notice of default, as the case may be, to effect the giving of any notice required by this Article 19. No notice and opportunity to cure is conferred upon Tenant with regard to any default except as expressly set forth in Section 19.1.

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

20. LANDLORD'S REMEDIES

20.1. **Landlord's Remedies.** Upon a default hereunder, should Tenant fail within the time period, if any, specified in Article 19 to fully cure such default, then without limiting Landlord in the exercise of any other right or remedy at law or in equity which Landlord may have (all remedies provided herein being non-exclusive and cumulative), Landlord may do any one or more of the following:

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

20.1.2. **Terminate Lease.** Landlord may terminate Tenant's right to possession by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including (without limitation) the following: (a) The worth at the time of award of any unpaid Rent which had been earned at the time of such termination; plus (b) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such Rent loss that Tenant proves could have been reasonably avoided; plus (c) the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such Rent loss that Tenant proves could have been reasonably avoided; plus (d) any other amount and court costs necessary to compensate Landlord for all the detriment proximately caused by Tenant's default or which in the ordinary course of things would be likely to result therefrom (including, without limiting the generality of the foregoing, the amount of any commissions, finder's fee, advertising costs, remodeling costs and reasonable attorneys' fees in connection with obtaining a replacement tenant); plus (e) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time-to-time by applicable law. As used in subparagraphs (a) and (b) of this Section 20.1.2, the "worth at the time of award" shall be computed by allowing interest at the Agreed Rate, and, as used in subparagraph (c) of this Section 20.1.2, the "worth at the time of award" is to be computed by discounting such amount at the discount rate of the U.S. Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%).

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

20.1.4. **Cure Default.** Landlord may, after notice to Tenant and expiration of any applicable cure periods, proceed to cure the default at Tenant's sole cost and expense, without waiving or releasing Tenant from any obligation hereunder. If at any time Landlord pays any sum or incurs any expense as a result of or in connection with curing any default of Tenant (including any administrative fees provided for herein and reasonable attorneys' fees), the amount thereof shall be immediately due as a Reimbursed Cost.

20.1.5. **Disposition of Property.** Subject to the provisions of Section 13.2.1, Landlord may dispose of any Personal Property remaining on the Premises in accordance with applicable statutes relating to the disposition of abandoned property. If no such statute exists, Landlord shall have the right to retain possession of all of the Personal Property left in the Premises or, at Landlord's option, to require Tenant at any time to forthwith remove same, and if not so removed within three (3) business days, to take title and possession of the same and to sell or otherwise dispose of the same, without any liability (a) to Tenant for such property or (b) to pay to Tenant the proceeds from the sale thereof.

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

21. DEFAULTS BY LANDLORD

21.1. **Defaults by Landlord.** Subject to the provisions of Section 12.1.1.1, if Landlord fails to perform or observe any of the terms, covenants or conditions contained in this Lease on its part to be performed or observed within thirty (30) days after written notice of default from Tenant or, when more than thirty (30) days shall be required because of the nature of the default, if Landlord shall fail to commence to cure such default after written notice thereof from Tenant and thereafter diligently pursue such cure to completion, said failure shall constitute a default by Landlord under this Lease. If any or all of the Premises or any interest of Landlord in this Lease or the Rent are at any time subject to any mortgage or deed of trust and if Tenant is given notice of the name and address of the Mortgagee, then Tenant shall give written notice of any default by Landlord to the Mortgagee concurrently when providing Landlord notice, specifying the default in reasonable detail. If Landlord fails to cure such default within the applicable cure period, Tenant shall give written notice of such failure to Mortgagee affording Mortgagee the same opportunity to cure as provided Landlord in this Section. If Mortgagee does perform on behalf of Landlord, such default shall be deemed cured.

21.2. **Limitations on Recovery Against Landlord.** The aggregate liability of Landlord and the Landlord Parties to Tenant for any default by Landlord under this Lease or arising in connection herewith or with the operation, management, leasing, repair, renovation, alteration of, or any other matter relating to, the Center or the Premises shall be limited solely and exclusively to an amount equal to the interest of Landlord in the Center (including the rental income generated therefrom, and any proceeds thereof until such time as any such proceeds have been disbursed from Landlord's account from the Center; and in no event shall the provisions hereof permit the tracing of any such proceeds beyond the bank account for the Center), and neither Landlord nor any of the Landlord Parties shall have any personal liability therefor, and Tenant hereby expressly waives and releases such personal liability on behalf of itself and all persons claiming by, through or under Tenant. The limitations of liability contained in this Article 21 shall inure to the benefit of Landlord and the Landlord Parties and each of their respective partners, heirs, successors and assigns. Under no circumstances shall any present or future partner of Landlord (if

Landlord is a partnership), or trustee or beneficiary (if Landlord or any partner of Landlord is a trust), have any liability for the performance of Landlord's obligations under this Lease.

21.3. **Consequential Damages.** Neither Landlord nor Tenant shall be liable to the other under any circumstances for consequential or punitive damages.

22. COSTS OF SUIT

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

23. DAMAGE AND DESTRUCTION

23.1. **Insured Casualty.** Upon the occurrence of an Insured Casualty to the Premises, Landlord shall promptly and diligently, subject to reasonable delays for insurance adjustment and payment, issuance of permits or other matters beyond Landlord's reasonable control, and subject to all other terms of this Article 23, restore the damaged Premises (except for such work with respect to the Premises which is the responsibility of Tenant pursuant to this Article 23). Tenant, at its sole cost and expense, shall be responsible for the prompt and diligent repair and restoration of all items constituting Improvements and Personal Property (which repair and restoration work shall be completed no later than one hundred eighty [180] days after the completion of Landlord's work under this Section 23.1, subject to extension due to Force Majeure and delays caused by the negligent acts of Landlord or any of the Landlord Parties). All repair and restoration activities by Landlord and Tenant shall be conducted in accordance with Exhibit C and the Tenant Package.

23.2. **Uninsured Casualty.** Upon the occurrence of an Uninsured Casualty to the Premises, Landlord shall have the right (in its sole discretion) to elect either to commence repair and restoration of the Premises (in which event this Lease shall continue in full force and effect and Landlord and Tenant shall diligently perform their respective repair and restoration obligations required pursuant to Section 23.1) or not to perform such repair and restoration, in which event this Lease shall cease and terminate sixty (60) days after Landlord's notice of its election to terminate; provided, however, in the event of a termination pursuant to this Section 23.2, Landlord agrees to exercise such right of termination in a reasonable and non-discriminatory manner against all similarly affected tenants except the Major Occupants. Landlord shall give Tenant notice of its election under this Section 23.2 within ninety (90) days following the later of (a) the date of such Uninsured Casualty, or (b) the date that Landlord's insurers determine that the Casualty is an Uninsured Casualty.

23.3. **Rent Abatement.** Landlord shall not be liable for any inconvenience or annoyance to Tenant or the Tenant Parties, or injury to Tenant's business, resulting in any way from any Casualty or repair and restoration work. If any Casualty damages the Premises, or if all or any portion of the Premises are not reasonably accessible and are not used by Tenant due to any Casualty to the Common Area, Tenant shall be entitled to an abatement of Fixed Minimum Rent during such time the Premises are unfit for occupancy for the Permitted Use and are not used by Tenant, or the Premises are not reasonably accessible and are not used by Tenant due to damage to the Common Area. However, if the Casualty is due solely to the gross negligence or willful misconduct of Tenant or any of the Tenant Parties, Tenant shall be responsible for any reasonable, applicable insurance deductible (which shall be payable to Landlord upon demand) and there shall be no Rent abatement, unless and only to the extent that Landlord receives any replacement rent from any insurance company as a result of any such Casualty.

23.4. **Major Destruction.** Notwithstanding any of the foregoing provisions of this Article 23, should there be a Major Destruction of the Center at any time during the Term, Landlord shall have the right to terminate this Lease provided Landlord exercises such right of termination in a reasonable and non-discriminatory manner against all similarly affected tenants except the Major Occupants, by written notice to Tenant, which notice shall be given within one hundred twenty (120) days following the date of

such Major Destruction (in which case such termination shall then take effect on the date specified in Landlord's termination notice).

23.5. Insurance Proceeds. In the event of termination of this Lease pursuant to this Article 23, Landlord and Tenant shall each be released from any liability or obligation under this Lease (except as otherwise provided for in this Lease) arising after the date of such termination. In the event of such termination, all proceeds from Tenant's insurance covering the Improvements (but excluding proceeds for Personal Property) shall be payable to Landlord. In no event shall Tenant be entitled to share in Landlord's insurance proceeds or to take any action which would result in a reduction of Landlord's insurance proceeds.

23.6. Tenant's Right to Terminate. If an Insured Casualty or an Uninsured Casualty damages the Premises to the extent of fifteen percent (15%) or more of the Premises or its replacement cost during the last twenty-four (24) months of the Term, Tenant shall have the right to terminate this Lease upon thirty (30) days written notice to Landlord, which notice must be given, if at all, not later than ninety (90) days following the date of any such casualty. Notwithstanding the foregoing, if Landlord fails to commence the repair of the Premises pursuant to its obligations hereunder within twelve (12) full calendar months from the date of any such Casualty, or (b) complete its obligations hereunder within eighteen (18) full calendar months from the date of any such Casualty (or if Landlord advises Tenant within sixty (60) days following the date of the Casualty that it will not be able to commence or complete its obligations within the time periods stated herein), then, in either such event, Tenant shall have the right as its sole and exclusive remedy for such failure, to terminate this Lease upon thirty (30) days written notice to Landlord, which notice must be given, if at all, within thirty (30) days after the periods set forth in subparagraphs (a) and (b), and, as to (b), prior to the date that Landlord has complete its repair of the Premises pursuant to the provisions of this Section 23.1.

24. CONDEMNATION

24.1. Total Taking. If there is a Taking of the entire Premises, this Lease shall terminate as of the date of such Taking, and Landlord and Tenant shall have no further liability or obligation (except as otherwise provided for in this Lease) arising under this Lease after such date.

24.2. Partial Taking; Right to Terminate. If more than twenty-five percent (25%) of the Floor Area of the Premises is taken, or if by reason of any Taking, regardless of the amount so taken, the remainder of the Premises is rendered unusable for the Permitted Use, Landlord and Tenant shall each have the right to terminate this Lease as of the date Tenant is required to vacate the portion of the Premises which is the subject of such Taking, upon giving notice of such election within thirty (30) days after the Taking. In addition, if there is a Taking of fifteen percent (15%) or more of the Floor Area of the Center and/or fifteen percent (15%) or more of the parking areas of the Center, Landlord shall have the right to terminate this Lease upon ninety (90) days' written notice to Tenant, provided Landlord likewise terminates the leases of all similarly situated tenants except the Major Occupants. If there is a Taking of thirty percent (30%) or more of the Floor Area of the Center, or if there is a Taking of thirty percent (30%) or more of the parking areas of the Center located within the interior ring roads of the Center (and excluding parking lots of pads or outparcels), then Tenant shall have the right to terminate this Lease upon ninety (90) days' written notice to Landlord. In the event of any termination of this Lease pursuant to this Article 24, Landlord and Tenant shall be released from any liabilities and obligations under this Lease (except as otherwise provided for in this Lease) arising after the date of termination. Landlord and Tenant shall, after learning of any Taking, promptly give notice thereof to each other. No temporary Taking of the Premises or any part of the Center (meaning a Taking of less than six [6] months) shall terminate this Lease.

24.3. Restoration and Rent Abatement. If this Lease does not terminate pursuant to Sections 24.1 or 24.2 above, then Tenant shall continue to occupy that portion of the Premises not taken and the parties shall proceed as follows: (a) Landlord shall, at its sole cost and expense, restore the Premises remaining to a complete unit of like quality and character as existed prior to such Taking (except for such work with respect to the Premises which is the responsibility of Tenant pursuant to this Section 24.3)

provided, however, that during any period of time during which Tenant is unable to operate in the Premises because of such Taking, Fixed Minimum Rent shall abate until Landlord substantially completes the restoration of the Premises hereunder, and Tenant is reasonably able to resume operating in the Premises), (b) Tenant, at its sole cost and expense, shall be responsible for the repair and restoration of the Improvements and Personal Property and (c) Fixed Minimum Rent and any Additional Rent that is calculated on the basis of Floor Area shall be calculated on the basis of the remaining Floor Area of the Premises from and after the date of the Taking.

24.4. **Award.** No award for any partial or entire Taking shall be apportioned, and Tenant hereby assigns to Landlord any and all rights of Tenant now or hereafter arising in or to the same or any part thereof. Notwithstanding the foregoing, Tenant may file a separate claim for an award at its sole cost and expense for, and nothing contained herein shall be deemed to give Landlord any interest in, or to require Tenant to assign to Landlord, any award made to Tenant for compensation for loss of business or for damage to or loss of Personal Property or relocation expenses; provided, however, that no such claim shall diminish or otherwise affect the awards otherwise payable to Landlord and each of Landlord's Designees for Leasehold Improvements under this Lease.

25. HAZARDOUS MATERIALS

25.1. **Compliance.** Tenant covenants and agrees that Tenant shall, at all times during the Term and at its sole cost and expense, comply with and assume responsibility and liability under all Environmental Laws applicable to occupancy or use of or operations at the Premises by Tenant and the Tenant Parties. In the event that Tenant proposes to undertake any Improvements, Tenant shall comply (at Tenant's sole cost) with Landlord's criteria (as established from time to time) for testing and remediation of Hazardous Materials.

25.2. **Notification.** Both parties agree that, should either party or any of the Landlord Parties or Tenant Parties know of (a) any violation of Environmental Laws relating to the Premises, or (b) the escape, release or threatened release of any Hazardous Materials in, on, under or about the Premises, such party shall promptly notify the other party in writing of such violation, escape, release or threatened release, and that it will provide all warnings of exposure to Hazardous Materials in, on, under or about the Premises in strict compliance with all applicable Environmental Laws.

25.3. **Hazardous Materials.** Tenant shall at no time use, analyze, generate, manufacture, produce, transport, store, treat, release, dispose of or permit the escape of, or otherwise deposit in, on, under or about the Premises or the Center, any Hazardous Materials, or permit or allow any of the Tenant Parties to do so, other than in limited amounts as permitted by Environmental Law in connection with cleaning supplies used in the Premises.

25.4. **Hazardous Materials Existing Prior to Delivery Date.** For this Lease at Green Acres Mall, Landlord does not believe that any Hazardous Materials exists in the Premises. Landlord shall, at Landlord's cost, be responsible for the abatement or encapsulation of any Hazardous Materials which were in the Premises prior to Tenant's possession (or which were not introduced by Tenant or any of the Tenant Parties during Tenant's possession), to the extent required by law. In the event any abatement of Hazardous Materials substantially interferes with Tenant's ability to perform Tenant's Work prior to the Rent Commencement Date, then for each day of such interference, a day shall be added to the Required Opening Date as set forth in Section 1.5. In the event the Premises become untenable as a result of such abatement of Hazardous Materials introduced into the Premises, then Tenant's obligations to pay the Rent shall be abated during the period Landlord is performing such abatement of Hazardous Materials.

26. SUBORDINATION AND ESTOPPEL

26.1. **Subordination.** Tenant covenants and agrees that (a) this Lease is and shall automatically and without further act or deed by Tenant be subject and subordinate to any mortgages, deeds of trust, security deeds or other security instruments, and any ground leases or underlying leases presently existing or hereafter placed upon all or any portion of the Center (each a "Mortgage") and to any

and all advances to be made thereunder, and to any interest accrued thereon, and to all renewals, replacements, modifications, consolidations and extensions thereof or participation thereof, (b) any mortgagee, grantee, master lessor, beneficiary or trustee (each a "Mortgagee") may elect to have this Lease made a prior lien to its Mortgage, and in the event of such election and upon notification by such Mortgagee to Tenant to that effect, this Lease shall be deemed prior in lien to said Mortgage, whether this Lease is dated prior to or subsequent to the date of any such Mortgage and (c) Tenant shall execute and deliver whatever instruments may reasonably be required by Landlord or any present or prospective Mortgagee, and reasonably acceptable to Tenant, to acknowledge such subordination or priority (as applicable) in recordable form. If any proceeding is brought for default under any Mortgage to which this Lease is subject, or in the event of foreclosure, deed in lieu of foreclosure or the exercise of the power of sale under any Mortgage covering the Premises and if requested by Landlord's successor, Tenant shall attorn to the successor and shall recognize that successor as Landlord under this Lease. Such successor shall not be (i) liable for any previous act or omission of Landlord under this Lease (unless continuing after date of attornment or transfer), (ii) subject to any offset that theretofore accrued to Tenant against Landlord or (iii) bound by any previous prepayment of Rent or Security Deposit which have not been expressly delivered by Landlord to such successor. If so requested, Tenant shall enter into a new lease with that successor on the same terms and conditions as are contained in this Lease (for the unexpired Term of this Lease then remaining).

26.1.1. **Existing Mortgage.** Notwithstanding anything to the contrary contained herein, Landlord shall use commercially reasonable efforts to obtain from the existing Mortgagee or any existing ground lessor (and, upon Tenant's written request, from any future Mortgagee or ground lessor) a non-disturbance agreement and attornment agreement to the effect that so long as Tenant is not in default beyond any applicable notice and cure period set forth in Article 19, Tenant's occupancy hereunder shall not be disturbed. In no event shall Tenant's obligation to subordinate its rights hereunder be conditioned on the receipt of such agreement. Tenant shall be responsible for payment of any costs incurred in connection with obtaining the documentation requested by Tenant hereunder.

26.2. **Estoppel Certificate.** Each Party shall, from time-to-time within thirty (30) days after prior written notice from the other party, but not more than once per calendar year (except in the case of a sale or refinance of the Center), execute, acknowledge and deliver to such requesting Party a statement in writing in such form as may be reasonably required by such requesting party and reasonably acceptable to the other Party (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the Rent and other charges are paid in advance, if any; (b) acknowledging that there are not, to the certifying Party's knowledge, any uncured defaults on the part of the requesting Party hereunder (or specifying such defaults if they are claimed); and (c) containing such other matters as are reasonably requested in such form.

27. MISCELLANEOUS

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

27.2. **Application of Payments.** Landlord shall have the right to apply payments received from Tenant pursuant to this Lease, regardless of Tenant's designation of such payments, to satisfy any obligations of Tenant hereunder, in such order and amounts as Landlord, in its sole discretion, may elect, but only to the extent Tenant is in default after applicable notice and cure periods. Notwithstanding any contrary provision in this Lease, if Landlord is obligated to credit or refund any amount owed by Landlord to Tenant and if at such time there is any outstanding Rent due Landlord, Landlord may elect to apply such credit and/or refund toward such outstanding Rent.

27.3. **Audits.** Landlord and Tenant shall each have the right to audit the other party's books and records respecting Gross Sales and Tenant's Share of Real Estate Taxes (respectively) upon not less than thirty (30) days' prior written notice to the other party. Such audits shall be conducted during

business hours by a non-contingency fee auditor who was not previously employed by the other and is not employed by a competitor of the other at such offices as the audited party shall reasonably specify. A party may not conduct an audit (a) more than once in each Lease Year or (b) while such party is in default of the Lease. If an audit should disclose that the audited party shall have understated Gross Sales or overstated Tenant's Share of Real Estate Taxes (as applicable) by more than five percent (5%), then the audited party shall pay to the other party all reasonable costs and expenses relating to such audit (including, without limitation, reasonable travel costs) in addition to paying any additional amounts due under this Lease or refunding any overpayment made under this Lease as a result of such understatement or overstatement, as applicable. The results of any such audit shall be kept confidential and not disclosed to any third parties (except to the extent required by law). Neither party shall have the right (whether at law, at equity or under this Lease) to audit Gross Sales or Tenant's Share of Real Estate Taxes (as applicable) except on the express terms and conditions provided in this Section 27.3.

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

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

27.6. **Brokers.** Landlord and Tenant shall each indemnify, defend and hold the other harmless from and against, all damages (including reasonable attorneys' fees and costs) resulting from any claims that may be asserted against Landlord or Tenant by any broker, finder, or other person with whom the indemnifying party has or purportedly has dealt.

27.7. **Captions and Form.** The names of Articles and Sections are for convenience only and shall not be used to interpret or construe the meaning of any provision in this Lease. All references to Articles, Sections and Exhibits are references to Articles and Sections contained in this Lease and Exhibits attached to this Lease unless otherwise expressly provided. Landlord and Tenant acknowledge and agree that (a) this Lease has been freely negotiated by Landlord and Tenant; and (b) in no event shall any ambiguity, controversy, dispute or disagreement over the interpretation, validity or enforceability of this Lease or any of its covenants, terms or conditions, any inference, presumption or conclusion whatsoever be drawn against Landlord by virtue of the initial draft of this Lease having been generated by Landlord.

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

27.9. **Confidentiality.** Landlord and Tenant shall each keep the content of this Lease and all related documents strictly confidential and shall not disclose such confidential information to any person or entity other than such party's partners, lenders, financial, legal and space planning consultants. Confidential information shall not include any information that is or becomes generally available to the public through a source which is not under an obligation of confidentiality to the other party. The foregoing shall not prohibit either party from complying with any court or administrative order, provided that, prior to complying with any such court or administrative order, the respective party shall provide the other party with notice thereof, to enable the party to seek a protective order.

27.10. **Press Release.** Landlord acknowledges that it shall not acquire any rights under this Lease to use, and shall not use, Tenant's (or any Tenant Affiliates') trade name or any registered trademarks or service marks or internet domain name and address in any of Landlord's advertising, publications or promotions. Notwithstanding the foregoing, Landlord shall have the right to include Tenant's trade name and registered trademark on the Center's web site, directories, store maps, list of tenants at the Center, and on any wayfinding signage at the Center, as is otherwise customary at the Center, provided that the other tenants of the Center which are similar to Tenant are also similarly listed

and provided further that any such use shall be consistent with Tenant's trademark as set forth on Exhibit E. Landlord and Tenant further agree not to issue any press release and shall not authorize or direct any broker, press agent or other party to do any of the foregoing, without the prior written consent of the other. Notwithstanding the foregoing, Landlord will (a) allow Tenant, without Landlord's prior consent, to have the privilege of publicly announcing the fact that Tenant has entered into a lease for the Premises, (b) refrain from making any public announcement until approved in writing by Tenant, or until Tenant has done so; and (c) be permitted to announce the Lease on Landlord's earnings call, but only after Tenant has announced the opening of the Premises to the public.

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

27.12. **Execution by Landlord.** The submission of this document to Tenant does not constitute an offer to lease, or a reservation of, or an option for, the Premises. This document becomes effective and binding only upon Landlord's delivery to Tenant of a counterpart executed by both Landlord and Tenant. Until this Lease is executed by both Landlord and Tenant and delivered by Landlord to Tenant, Landlord and its agents may continue to negotiate with third parties for the leasing of all or portions of the Premises. No act or omission of any employee or agent of Landlord or of Landlord's broker shall alter, change or modify any of the provisions hereof.

27.13. **Exhibits.** All exhibits affixed to this Lease are made a part of, and are incorporated into, this Lease. In particular, the Center Rider, attached as Exhibit E, reflects certain provisions particular to the Center and the state in which the Premises are located. If there are any inconsistencies between this Lease and the provisions of Exhibit E, the provisions of Exhibit E shall prevail.

27.14. **Force Majeure.** Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, acts of war or terrorism, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, fire or other Casualty, in each case if due to a cause beyond the reasonable control of the party obligated to perform, and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent payable by Tenant pursuant to this Lease (collectively, "Force Majeure") shall, notwithstanding anything to the contrary contained in this Lease, excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure. For purposes of this Section 27.14, a cause shall not be deemed beyond a party's control if it is within the control of such party's agents, employees or contractors. The parties agree that Force Majeure will include (i) inability to perform Tenant's or Landlord's construction and (ii) business closures, in each case required by federal, state or local government order, rule or mandate related to a pandemic or other widespread epidemic as recognized by the World Health Organization, such as the COVID-19, provided, for Tenant to avail itself of a delay in Tenant's Work due to Force Majeure, Tenant will notify Landlord of such Force Majeure event within 5 business days following the commencement of such Force Majeure event.

27.14.1. **Covid Closure.** Notwithstanding anything to the contrary contained in this Section, in the event Tenant is required to close the Premises for more than thirty (30) days as a result of any Governmental Regulation or a governmental order due to the Covid-19 virus or similar pandemic or epidemic (hereinafter "Covid Closure"), then Tenant shall pay, retroactive to the first day of such Covid Closure, fifty percent (50%) of the Fixed Minimum Rent and Tenant's Share of Real Estate Taxes ("Covid-19 Rent") in lieu of the Fixed Minimum Rent and Tenant's Share of Real Estate Taxes otherwise due under the provisions of Articles 1 and 5 of this Lease (and the amount of the Fixed Minimum Rent and Tenant's Share of Real Estate Taxes abated for such period is hereinafter the "Abated Rent"). Commencing on first day immediately following the date the Covid Closure is no longer in effect ("Re-opening Date"), the Fixed Minimum Rent and Tenant's Share of Real Estate Taxes will immediately resume to be the amounts set forth in Articles 1 and 5 of this

Lease without regard to the provisions of this Section. Tenant will use commercially reasonable efforts to pursue any insurance proceeds for business interruption or, in Tenant's commercially reasonable business judgment, other governmental assistance available for the Abated Rent under this Section. To the extent Tenant receives reimbursement by way of any insurance proceeds or governmental assistance which specifically reimburses Tenant for the Abated Rent, Tenant shall promptly notify Landlord of receipt of such reimbursement, and shall pay to Landlord the amounts received, but not to exceed the total amount of the Abated Rent.

27.14.1.1. In the event Tenant would otherwise be paying Co-tenancy Modified Rent on a day when Tenant is paying Covid-19 Rent, and if Tenant is not open and operating for business on such day, then for purposes of calculating the Co-tenancy Modified Rent for such day, Tenant's Gross Sales for such day shall be deemed to be equal to Tenant's Gross Sales on the same day the immediately preceding year (or a previous year if Tenant was not open for business during the immediately prior year) (for example, if such day is October 31, 2026, then Gross Sales for such day shall be deemed equal to Tenant's Gross Sales for October 31, 2025 to determine the Co-tenancy Modified Rent for such day).

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

27.16. **Labor Contracts.** Neither Tenant nor any of the Tenant Parties, or Landlord nor any of the Landlord Parties shall take any action which creates any work stoppage, picketing, labor disruption or dispute, or interferes with the business of Landlord, Tenant or any Occupant in the Center or with the rights and privileges of any customer or other person(s) lawfully in the Center, or causes any impairment or reduction of the goodwill of the Center. If there shall be any work stoppage, picketing, labor disruption or dispute as the result of the actions of Tenant, any of the Tenant Parties, Landlord or any of the Landlord Parties, then such responsible party shall immediately undertake such action as may be necessary to eliminate such dispute or potential dispute, including, but not limited to, (a) removing all disputants from the job site until such time as the labor dispute no longer exists, (b) seeking a judgment for a breach of contract between Tenant and Tenant's contractor, or Landlord and Landlord's contractor, and (c) filing appropriate unfair labor practice charges in the event of a union jurisdictional dispute.

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

27.18. **Merger.** This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreement, negotiations, brochures, arrangements or understanding pertaining to any such matter shall be effective for any purpose unless expressed herein. Tenant has not relied upon any representations, covenants, warranties, promises, agreements, conditions or undertakings, oral or written, made by Landlord or any of the Landlord Parties concerning or relating to the (a) Center, (b) Occupants, (c) Premises, (d) Lease, (e) Tenant's obligation to pay Rent or Additional Rent or (f) the Tenant's business, other than set forth within the Lease. Tenant acknowledges that it has thoroughly and independently investigated the potential for the success of its operations in the Center and has not relied upon any inducements or representations on the part of Landlord or any of the Landlord Parties other than those contained within this Lease.

27.19. **Modification of Lease.** Should any current or prospective Mortgagee require a modification of this Lease, which modification will not cause an increased cost or expense to Tenant or in any other way materially and adversely change the rights and obligations of Tenant hereunder, then, and

in such event, Tenant agrees that this Lease may be so modified and agrees to execute whatever documents are reasonably required therefor and to deliver the same to Landlord within thirty (30) days following a request therefor.

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

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

27.22. **No Violation.** Tenant hereby warrants and represents that neither its execution of nor performance under this Lease shall cause Tenant to be in violation of any agreement, instrument, contract, law, rule or regulation by which Tenant is bound. Landlord represents and warrants to Tenant to the best of its actual knowledge and belief Tenant's rights and obligations under the Lease to operate a retail business for the Permitted Use under the Trade Name in the Premises do not violate the Superior Agreements.

27.23. **No Warranty.** In executing and delivering this Lease, Tenant has not relied on any representations, including, but not limited to, any representation that Landlord is furnishing the same services to other tenants, at all, on the same level or on the same basis as to Tenant, or any warranty or any statement which is not set forth herein or in one or more of the exhibits attached hereto.

27.24. **Nondiscrimination.** Tenant covenants for itself, its heirs, executors, administrators, successors, and assigns and all persons claiming under or through it or them, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, creed, sex, marital status, sexual orientation, national origin, ancestry, age, physical handicap or medical condition, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises herein leased, and Tenant and any person claiming under or through Tenant shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, subtenants, licensees, vendees or customers in the Premises.

27.25. **Nonrecordability of Lease.** Tenant shall not record this Lease or a memorandum hereof without Landlord's express prior written consent, which consent may be withheld in Landlord's sole discretion.

27.26. **OFAC Certification**

27.26.1. **Tenant's Representation and Warranty.** Tenant represents and warrants that, to the best of its knowledge, it is not a person or entity with whom Landlord is restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, without limitation, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, as amended ["Executive Order 13224"]), or other governmental action.

27.26.2. **Landlord's Representation and Warranty.** Landlord represents and warrants that, to the best of its knowledge, it is not a person or entity with whom Tenant is restricted from doing business under regulations of the OFAC of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, without limitation, Executive Order 13224), or other governmental action.

27.26.3. **Default.** Any breach of the representation and/or warranty contained in this Section shall constitute a default of this Lease by the breaching party.

27.27. **Quiet Enjoyment.** So long as Tenant is not in default beyond any applicable cure period, and recognizes any successor to Landlord (if applicable) in accordance with the terms of this Lease, Tenant shall lawfully and quietly have, hold and enjoy the Premises during the Term without hindrance or molestation by Landlord or anyone claiming by, through or under Landlord, subject, however, to all Superior Agreements.

27.28. **REIT Qualifications.** Landlord and Tenant agree that all Rent paid to Landlord under this Lease shall qualify as "rents from real property" as defined in Internal Revenue Code Section 856(d) and as further defined in Treasury Regulation Section 1.856-4, as each is amended from time-to-time. Should the requirements of the said Internal Revenue Code Section or Treasury Regulation Section be amended so that any rent no longer qualifies as "rents from real property" for the purposes of the Internal Revenue Code or the Treasury Regulation, the Rent payable to Landlord shall be adjusted so that such Rent will qualify as "rents from real property" under the Internal Revenue Code and Treasury Regulation; provided that such adjustments required pursuant to the provisions of this Section 27.28 shall not increase the monetary obligations of Tenant. If any adjustment of Rent under this Section 27.28, or if Landlord in good faith determines that its status as a real estate investment trust under the provisions of the Internal Revenue Code or the Treasury Regulation will be jeopardized because of any provision of this Lease, Tenant shall, without charge therefor and within thirty (30) days after Landlord's written request therefor, execute and deliver to Landlord such amendments to this Lease as may be reasonably required by Landlord to avoid such jeopardy; provided such amendments do not increase the monetary obligations of Tenant or in any other manner materially increase Tenant's obligations or materially decrease Tenant's rights under this Lease.

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

27.30. **Rules.** Landlord shall have the right at any time to establish, modify, amend and enforce reasonable and non-discriminatory Rules. Tenant shall (and shall cause all of the Tenant Parties to) comply with all Rules. Tenant shall comply with any rules and regulations contained in this Lease or hereinafter enacted, provided that (i) a copy of such rules and regulations shall have been furnished to Tenant, (ii) such rules and regulations are uniformly applied to, and are uniformly enforced against all similarly situated Occupants in the Center, (iii) such rules and regulations do not impair the rights granted to Tenant hereunder or increase any of Tenant's obligations hereunder, and (iv) compliance with such rules and regulations will not interfere with Tenant's normal business operations under this Lease.

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

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

27.33. **Intentionally Omitted.**

27.34. **Superior Agreements.** This Lease and Tenant's rights hereunder are subject and subordinate in all respects to all Superior Agreements, provided such Superior Agreements do not increase any Tenant obligations or decrease any Tenant rights under this Lease, other than to a *de minimis* extent.

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

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

27.37. **Waivers**

27.37.1. **Waiver of Default.** No delay or omission in the exercise of any right or remedy of Landlord or Tenant for any default by the other shall impair such right or remedy or be construed as a waiver. Any waiver by Landlord of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Lease.

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

27.37.3. **Waiver of Right to Repair.** Except as otherwise expressly provided herein, there shall be no abatement of Rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of any repairs, alterations or improvements in or to any portion of the Premises or the Center or in or to the fixtures, appurtenances and equipment therein. Tenant hereby waives the right to make repairs at Landlord's expense under the provisions of any laws permitting repairs by a tenant at the expense of a landlord.

27.37.4. **Waivers Respecting Casualty and Taking.** The provisions of Articles 23 and 24 constitute an express agreement between Landlord and Tenant with respect to any Casualty and Taking, respectively. Therefore, any statute or regulation of the state in which the Premises are located with respect to any rights or obligations concerning damage, destruction or condemnation and any other Article of this Lease, shall have no application to this Lease as to any Casualty or Taking, respectively, as to which Articles 23 and 24 shall govern and prevail.

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

27.37.6. **Waiver of Consequential Damages.** Neither Landlord nor Tenant shall be liable to the other under any circumstances for consequential or punitive damages.

27.37.7. **Electronic Counterparts.** This document may be executed, and shall be effective upon receipt of electronic signature; provided (a) the party providing such electronic signature covenants to promptly forward the signed counterparts of this Lease by expedited delivery to such other party; and (b) no changes to this Lease shall be made without the express written consent of the other party.

///SIGNATURE PAGE TO FOLLOW///

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

LANDLORD:

VALLEY STREAM GREEN ACRES LLC,
a Delaware limited liability company

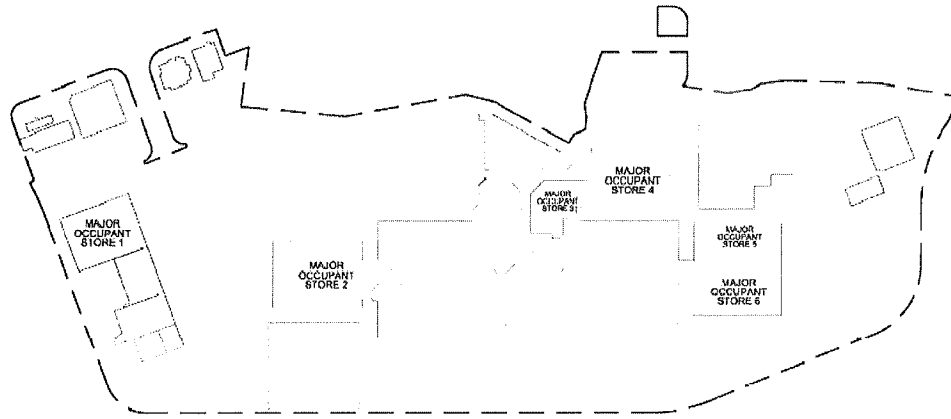
By: _____
Name: _____
Title: _____

TENANT:

UNIQLO USA LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT A DEPICTION OF CENTER



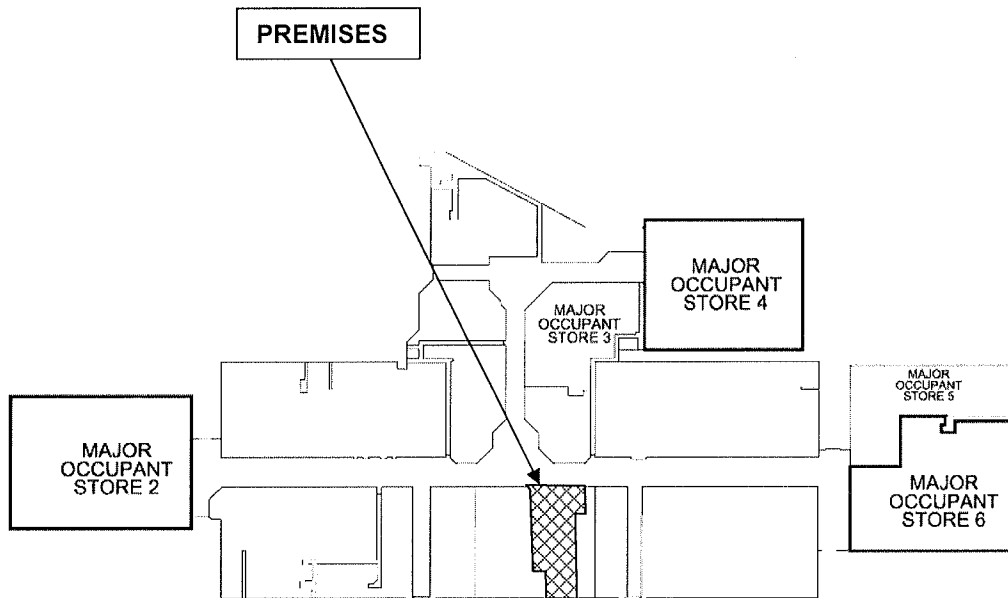
LEGEND:
— CENTER BOUNDARY LINE



GREEN ACRES

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

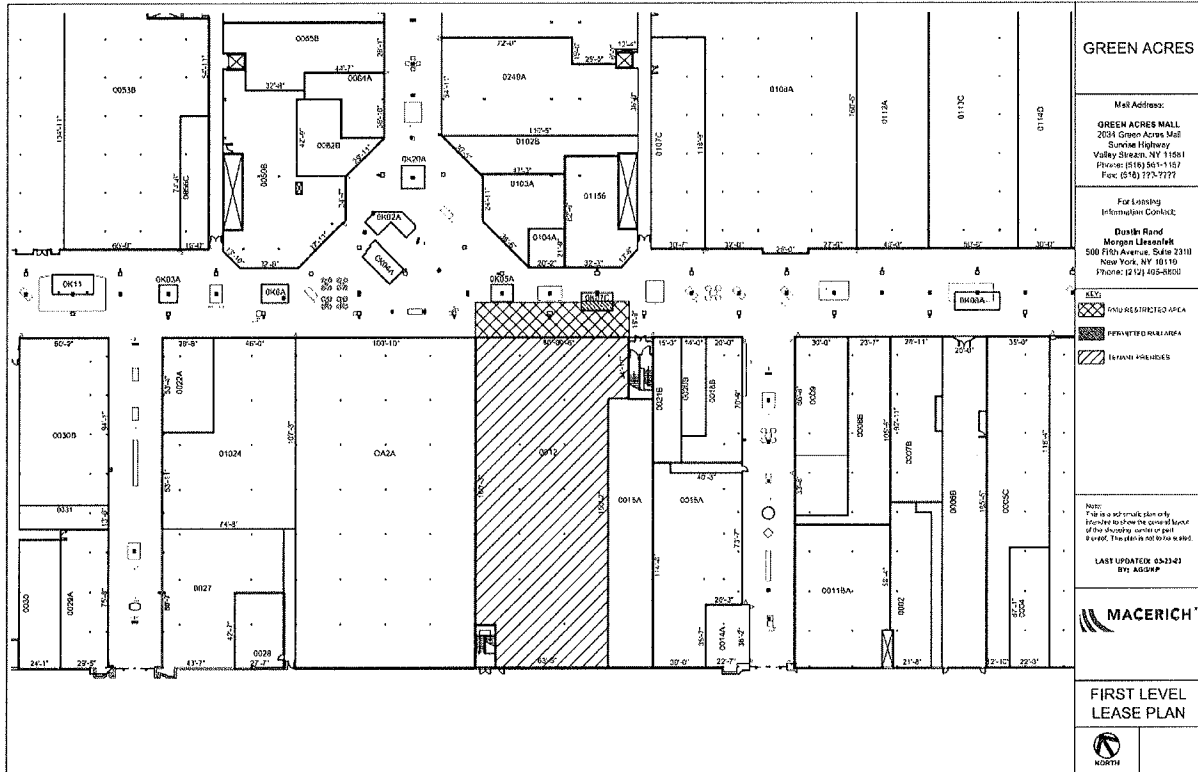
EXHIBIT B DEPICTION OF PREMISES



GREEN ACRES FIRST LEVEL

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

EXHIBIT B-1 RMU ZONE



**EXHIBIT B-2
LEASE OUTLINE DRAWING**

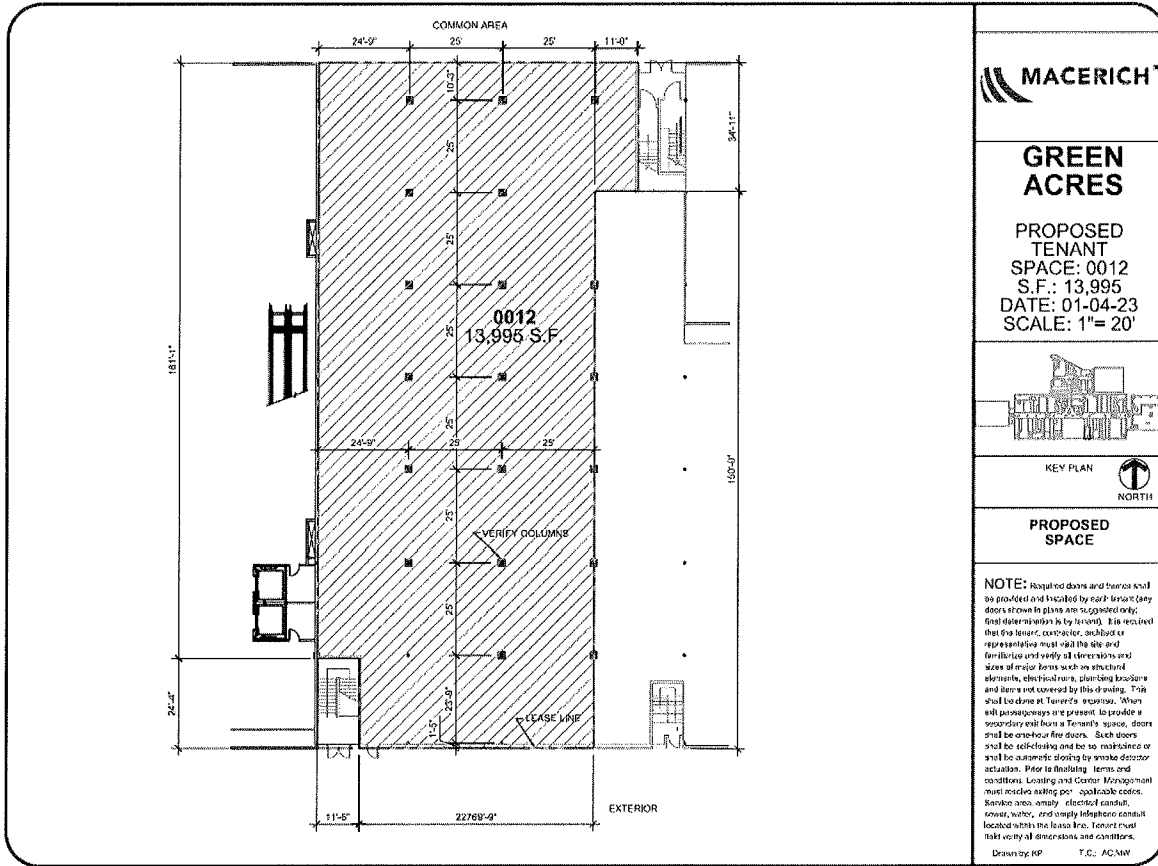


EXHIBIT B-3 EXCLUDED SPACES

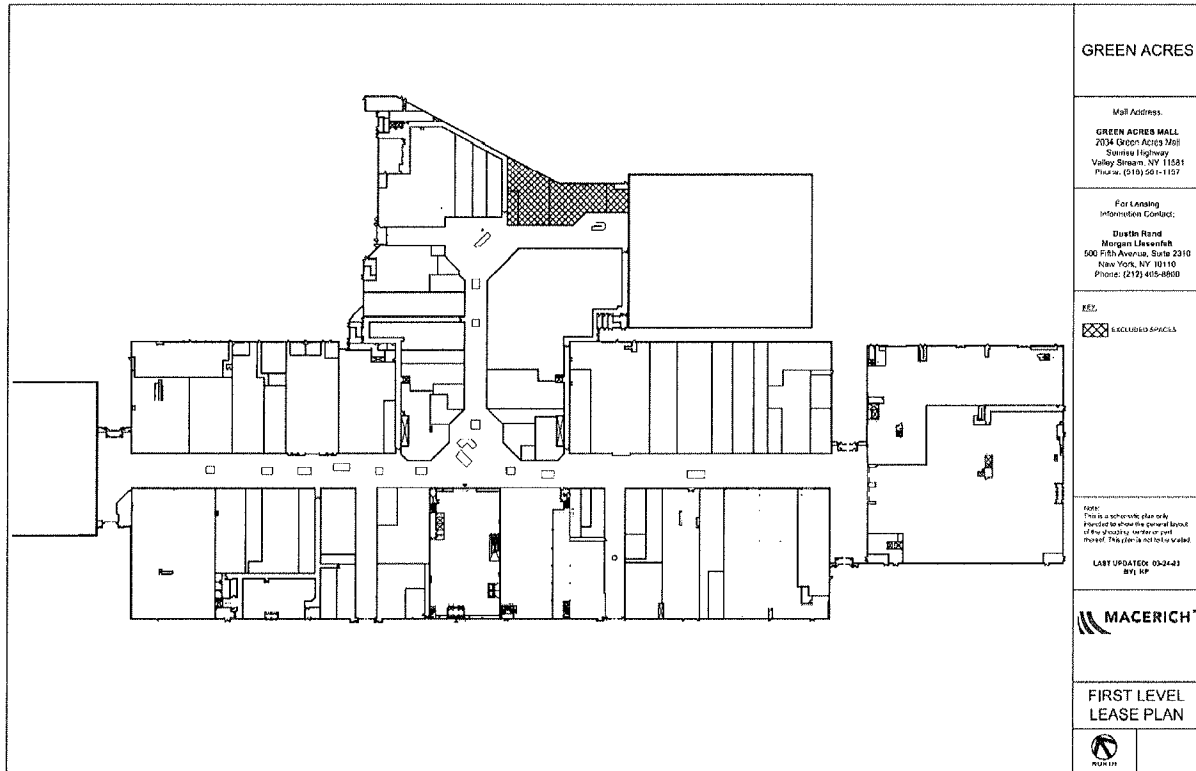


EXHIBIT B-3
EXCLUDED SPACES

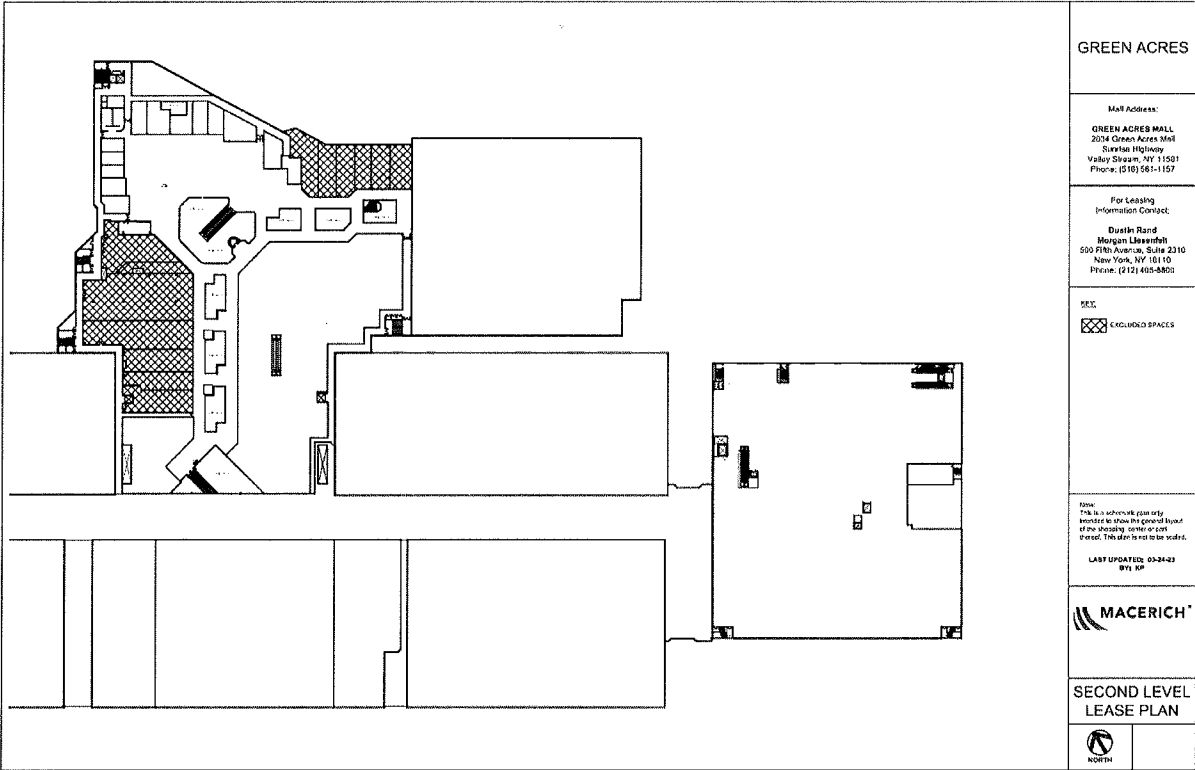


EXHIBIT C
PROVISIONS FOR THE DESIGN
AND CONSTRUCTION OF THE PREMISES

1. GENERAL PROVISIONS

1.1. **Purpose.** This Exhibit C sets forth certain provisions with respect to Landlord's Work and Tenant's Work.

1.2. **Definitions.** Capitalized terms used in this Exhibit C without definition shall have the meaning ascribed to such terms in the Tenant Package.

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

2. TENANT PACKAGE

2.1. **Tenant Package.** Tenant acknowledges that Landlord has made available to Tenant on Landlord's website (www.macerich.com) a Tenant Package which shall govern all of Tenant's Work. Tenant shall, and Tenant shall cause, Tenant's Architect, Tenant's engineer and Tenant's Contractor and subcontractors to, in all respects comply with, and Tenant's Work shall in all respects be subject to, the Tenant Package. "Tenant Package" means the package(s) containing, among other materials, the following: (a) Tenant Design and Construction Criteria, (b) Sign Criteria and Plan Submittal Guidelines, (c) Contractors' Rules and Regulations and (d) Technical Manual. The Tenant Package is hereby incorporated herein and made a part of this Exhibit C by this reference.

2.2. **Construction Chargebacks.** Notwithstanding anything contained in the Lease or in this Exhibit C to the contrary, Tenant shall not be required to pay or reimburse Landlord for any work performed by Landlord prior to the Rent Commencement Date ("Construction Chargebacks"), and Landlord hereby waives all Construction Chargebacks therefor except for costs in connection with the following:

2.2.1. Temporary Utilities used by Tenant during Tenant's Work

2.2.2. Removal of construction rubbish and debris resulting from Tenant's Work in the event Tenant fails to remove the same and Landlord removes such construction rubbish on Tenant's behalf.

2.2.3. After notice to Tenant, repairs made by Landlord resulting from damage to the Center in connection with Tenant's Work caused by Tenant, Tenant's agent or Tenant's contractor, unless Tenant undertakes to perform repairs to such damage as permitted in Lease.

2.2.4. Structural changes to the Premises or the Center necessitated solely by Tenant's Work.

2.2.5. Upgrades in the Premises from the "as-is" condition if any such upgrades are requested, in writing, by Tenant or required by Tenant's Plans, and Landlord shall advise Tenant of any such upgrades prior to performing such work.

2.2.6. Work performed by Landlord or Landlord's contractor at Tenant's request.

2.2.7. Charges for the shutdown of the fire sprinkler system not to exceed \$550.00 per shutdown.

2.2.8. Charges for the cost of erecting a barricade in accordance with the Tenant Package; however, if a barricade has not already been installed for the Premises, Tenant may install a barricade, at Tenant's sole cost and expense, and the material, appearance and color of

such barricade shall be in compliance with the Tenant Package. Tenant shall provide Landlord with five (5) days' prior written notice of the installation of such barricade and shall install such barricade during such days and hours acceptable to Landlord. Tenant shall place advertising or wrapping on the barricade in accordance with the Tenant Package.

3. DESCRIPTION OF LANDLORD'S WORK

3.1. **Landlord's Work Defined.** "Landlord's Work" means the work, if any, which Landlord is expressly obligated to undertake pursuant to this Article 3 and Exhibit C-1. Except as set forth herein, in Exhibit C-1 or in the Tenant Package, Landlord shall have no obligation to improve, remodel, alter or otherwise modify or prepare the Premises or the Center in connection with Tenant's occupancy.

3.2. **Delayed Landlord Work.** Notwithstanding the provisions of the Lease to the contrary, Landlord and Tenant agree that certain items of Landlord's Work, as specifically set forth on Exhibit C-1 attached hereto, may be performed after the Delivery Date (hereinafter, the "Delayed Landlord Work"), provided (a) Landlord reasonably expects to complete the Delayed Landlord Work within 60 days following the Delivery Date (and Landlord shall use good faith and commercially reasonable efforts to ensure that such work is completed by such date); and (b) Landlord shall coordinate the performance of the Delayed Landlord Work with Tenant's contractor so that such work does not result in unreasonable disruptions or delays in the performance of Tenant's Work.

3.3. **Center.** Landlord or its predecessor-in-interest has constructed the Center, and the Building and other improvements upon the Center (exclusive of improvements constructed by or on behalf of each present and prior Occupant). Tenant has inspected the Center, the Building, the Utilities, the types, quantities and qualities of the Utilities, and the other systems and Tenant has found the same to be suitable, sufficient and in acceptable condition for the purpose of Tenant conducting the Permitted Use upon the Premises. Landlord shall have no obligation to undertake any work or furnish any additional materials upon any part of the Center or to provide any additional Utilities or other systems for the benefit of the Premises.

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

4. DESCRIPTION OF TENANT'S WORK

4.1. **Condition of Premises.** Upon the Delivery Date, Tenant shall accept delivery of the Premises in an "As Is" condition and "With All Faults" and Landlord shall have no obligation to improve, remodel, alter or otherwise modify or prepare the Premises for Tenant's occupancy except to the extent otherwise expressly stated in Article 3 as "Landlord's Work", if any. Tenant hereby represents each of the following: (a) Tenant or its authorized representative has inspected the Premises and has made all inquiries, tests and studies that it deems necessary in connection with its leasing of the Premises, (b) Tenant is relying solely on Tenant's own inspection, inquiries, tests and studies conducted in connection with, and Tenant's own judgment with respect to, the condition of the Premises and Tenant's leasing thereof and (c) Tenant is leasing the Premises without any representations or warranties, express, implied or statutory by Landlord, or Landlord's agents, brokers, finders, consultants, counsel, employees, officers, directors, shareholders, partners, trustees or beneficiaries.

4.2. **Tenant's Work Defined.** "Tenant's Work" means the purchase, installation, construction and performance of the improvements and duties specified in the Approved Plans and as described in the Tenant Package for a full and complete remodel of the Premises and the purchase, installation and construction of all Tenant's furniture, equipment and Personal Property, all at Tenant's sole cost and expense (except to the extent otherwise expressly provided in the Tenant Package) and in compliance

with applicable Governmental Regulations. All Tenant's Work shall be performed by a licensed, bondable contractor retained by Tenant and approved in advance, in writing, by Landlord, which approval shall not be unreasonably withheld or delayed ("Tenant's Contractor"). Tenant's Contractor shall construct Tenant's Work in a good and workmanlike manner and complete Tenant's Work in accordance with the Approved Plans, the Lease and the Tenant Package, and in compliance with all Governmental Regulations.

4.2.1. Tenant has the right to a 100% open style storefront with a minimum of 50 feet wide openings.

4.2.2. Tenant has the right to use any material for façade/storefront finishing with reasonable consent by Landlord.

4.2.3. Any new single 3'-0" FPSC service door and/ or any additional code required egress door with hinges & panic hardware with removable core lockset, panorama peephole. The door frame & door to be painted on the hallway side only. Door assembly fire rating shall meet code requirement for that opening protective.

4.2.4. Tenant shall add trade dress to the exterior façade elevation of the Premises, as reasonably approved by Landlord.

4.3. **Tenant's Architect.** Tenant shall engage the services of a licensed architect ("Tenant's Architect") to prepare the Preliminary Documents, Construction Documents and As-Built Documents.

4.4. **No Mezzanines.** No mezzanines shall be permitted upon the Premises. The approval of the Preliminary Documents or Construction Documents containing any depictions of mezzanines shall not constitute either Landlord's approval of any mezzanine upon the Premises or a waiver of the prohibition against mezzanines set forth in this Section 4.4. As used herein, the term "mezzanine" shall apply to all mezzanines regardless of purpose and shall include, without limitation, mezzanines used for storage.

4.5. **On-Site Corrections.** Tenant Coordinator reserves the right to make any reasonably required on-site corrections to any of the Approved Plans, provided same do not impact Tenant's brand image.

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

4.7. **Plan Review Fee.** Intentionally Omitted.

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

4.9. **Landlord's Right to Access.** Throughout the entire course of Landlord's Work and Tenant's Work, Landlord, Landlord's authorized representatives (including Tenant Coordinator) and Landlord's contractors shall have access to the Premises and shall have the right to inspect the progress of Tenant's Work, Tenant's and Tenant's Contractor's compliance with the provisions of the Lease, this Exhibit C and the Tenant Package, and to install such portions of Landlord's Work that first requires all or some portion of Tenant's Work to be completed. If Landlord or any of Landlord's representatives or

contractors shall enter the Premises during the course of Tenant's Work, Landlord shall use commercially reasonable efforts to avoid interfering with the progress of Tenant's Work upon the Premises.

4.10. **Commencement of Tenant's Work.** Promptly following (a) the Delivery Date, (b) Landlord's approval of the Approved Plans, (c) Tenant's receipt of all permits and licenses required by governmental authorities and (d) the complete satisfaction of all requirements under the Lease, this Exhibit C and the Tenant Package which Tenant and Tenant's Contractor are obligated to perform prior to commencing construction of Tenant's Work, Tenant shall cause Tenant's Contractor to commence Tenant's Work in accordance with the Approved Plans, the Lease, this Exhibit C and the Tenant Package and to diligently pursue the same to completion and to initially open the Premises for business on or before the Required Opening Date.

5. CLOSE-OUT PACKAGE

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

5.1.1. **Compliance and Close-Out Documentation.** All compliance and close out documentation as detailed in Section U of the Contractors' Rules and Regulations in connection with the performance of Tenant's Work.

5.1.2. **Lien Waivers.** Tenant shall obtain executed, unconditional lien waivers for all work performed, and materials furnished, by Tenant's Contractor, and all Major Subcontractors, as well as an affidavit from Tenant's Contractor that no liens exist as a result of Tenant's Work, and shall provide Landlord with copies of each promptly after substantial completion of Tenant's Work. For purposes of this Section 5.1.2, the term "Major Subcontractors" shall mean any contractor (other than the general contractor), subcontractor, supplier or materialmen supplying labor, service and/or materials to the Premises whose total contract amount is more than Fifteen Thousand Dollars (\$15,000.00); provided, however, that if the contractors ("Minor Contracts") for which Tenant is not required to submit Lien Waivers pursuant to this Section 5.1.2 are for an amount that exceeds One Hundred Thousand Dollars (\$100,000.00), in the aggregate, then Tenant shall submit Lien Waivers with respect to enough of the Minor Contracts so that the Minor Contracts for which Tenant does not submit Lien Waivers are for an amount, in the aggregate, that is equal to or less than One Hundred Thousand Dollars (\$100,000.00).

5.1.3. **Affidavit of Improvements Cost.** Tenant shall deliver to Landlord, within thirty (30) days after the substantial completion of Tenant's Work an affidavit, certified as true and correct by a vice president of construction for Tenant, as long as such party is authorized to bind the Tenant, setting forth in reasonable detail the amounts paid by Tenant for the leasehold improvements made by Tenant (less any amounts paid by Landlord toward such leasehold improvements and specifically excluding all costs for Personal Property).

6. CONSTRUCTION ALLOWANCE

6.1. **Construction Allowance.** While Tenant is not in default of this Lease beyond any applicable notice and cure periods, Tenant shall be entitled to receive from Landlord a one-time contribution for the purchase of, and payment for, Qualified Items up to a maximum of One Million Two Hundred Fifty-Nine Thousand Five Hundred Fifty and 00/100 Dollars (\$1,259,550.00) ("Construction Allowance").

6.2. **Qualified Items.** "Qualified Items" means (a) the contract price for contractors and subcontractors who undertake improvements upon the Premises pursuant to this Exhibit C and (b) the materials purchased and installed or constructed as improvements upon the Premises pursuant to the provisions of this Exhibit C (excluding, however, Personal Property); and (c) Tenant's actual costs for architectural and plan preparation, and costs for expediting and permitting consultation.

6.3. **Disbursement of the Construction Allowance.** The Construction Allowance shall be paid to Tenant as follows:

6.3.1. **Rent Credit Portion.** The amount of \$314,887.50, based on \$22.50 per square foot of Floor Area of the Premises (the "Rent Credit Portion") will be recaptured by Tenant over the Term as follows: the amount of \$31,488.75 will be credited against Fixed Minimum Rent due and payable on the Rent Commencement Date and on each anniversary thereof during the Term until the Rent Credit Portion has been exhausted. Any credit against Fixed Minimum Rent pursuant to this Section 6.3.1 shall not affect Tenant's obligations to pay Percentage Rent or Additional Rent and, for purposes of calculating Percentage Rent, Fixed Minimum Rent shall not be deemed to have been reduced by the provisions of this Section 6.3.1. In the event the Lease terminates prior to exhaustion of the Rent Credit Portion, no remaining amount will be refunded to Tenant.

6.3.2. **Cash Portion.** The balance of the Construction Allowance, in the estimated amount of \$944,662.50, based on \$67.50 per square foot of Floor Area of the Premises (the "Cash Portion") shall be paid to Tenant in cash, in three (3) installments as follows:

6.3.2.1. Thirty percent (30%) of the Construction Allowance shall be disbursed to Tenant within five (5) business days following the later of: (a) the Delivery Date, (b) the date Tenant has received all of its Permits and commences physical demolition or construction in the Premises, and (c) the date Landlord receives a form W-9, Request for Taxpayer Identification Number and Certification (or any substitute form designated by the United States federal government), for Tenant, completed and signed by Tenant or an authorized agent of Tenant, as the case may be.

6.3.2.2. Fifty percent (50%) of the Construction Allowance shall be disbursed to Tenant within thirty (30) days following the later to occur of: (a) The date Landlord receives written request therefor from Tenant, (b) the date Landlord receives written certification from Tenant's Architect that at least fifty percent (50%) of Tenant's Work is substantially complete in conformance with this Exhibit C, (c) the date Landlord receives partial release and waiver of lien from the general contractor, together with an affidavit that all subcontractors have been paid for at least fifty (50%) of the total estimated cost of Qualified Items.

6.3.2.3. Provided the sums in Sections 6.3.1 and 6.3.2 have been disbursed, the remaining twenty percent (20%) of the Construction Allowance shall be disbursed to Tenant within thirty (30) days following the later to occur of: (a) The date Landlord receives written request therefor from Tenant, (b) the date Tenant opens for business in the Premises, and (c) the date Landlord receives the complete Close-Out Package.

Tenant shall deliver the information set forth in this Section 6.3.2 to tcphoenix@macerich.com or to the following address:

Tenant Coordination Administration
c/o Macerich
11411 North Tatum Boulevard
Phoenix, AZ 85028-2399

6.4. **Landlord's Right to Dispute.** Landlord's payment of any or all of the Construction Allowance shall not constitute Landlord's approval or acceptance of the work furnished or materials supplied for the Premises. Landlord may dispute in good faith any request for payment based upon material non-compliance of any of Tenant's Work with the Approved Plans or due to any materially substandard work as identified in good faith by Landlord ("Substandard Work"). If Landlord identifies any Substandard Work, Landlord shall provide Tenant with a detailed statement identifying the Substandard Work, and Landlord may withhold payment from the Cash Portion of the Construction Allowance until Landlord receives reasonable evidence that the Substandard Work has been corrected. If Tenant disputes Landlord's determination of Substandard Work, the matter shall be resolved by the Landlord's

designated architect and Tenant's Architect. Landlord's obligation to disburse the Cash Portion of the Construction Allowance shall be suspended during any period when Tenant is disputing Landlord's determination of Substandard Work.

6.5. **Timely Payment.** Provided (i) Tenant has satisfied all of the conditions set forth in Exhibit C Section 6.3 for the payment of the Construction Allowance to be made, (ii) such Construction Allowance has not been paid in accordance with the terms of this Article 6 of Exhibit C, (iii) Tenant has provided Landlord with a written notice that such payment is overdue as required herein ("Reminder Notice") and (iv) such Construction Allowance remains unpaid within ten (10) business days after Landlord's receipt of the Reminder Notice, then, Tenant shall be permitted to offset the amount of the Construction Allowance owed to Tenant remaining unpaid by Landlord (including interest at the Agreed Rate calculated from the 11th day following Landlord's receipt of the Reminder Notice) from fifty percent (50%) of each payment of Fixed Minimum Rent next payable to Landlord in accordance with Article 5 of the Lease until Tenant has recaptured any due and unpaid portion of the Construction Allowance (plus interest as referenced above) in full. Tenant's Reminder Notice must include the following in all CAPS and BOLD to constitute a valid Reminder Notice in accordance with the terms hereof: **"IN THE EVENT LANDLORD FAILS TO PAY TO TENANT THE CONSTRUCTION ALLOWANCE DUE AND PAYABLE AT THIS TIME WITHIN TEN (10) BUSINESS DAYS OF RECEIPT HEREOF, TENANT MAY OFFSET SUCH UNPAID CONSTRUCTION ALLOWANCE AMOUNTS FROM FIXED MINIMUM RENT UNTIL PAID IN FULL".**

EXHIBIT C-1
LANDLORD'S WORK

1. Demolition

- a. Landlord shall remove all previous tenant improvements throughout entire Premises including but not limited to flooring to concrete deck, ceiling systems, abandoned HVAC/RTU, remove and infill unused curbs and openings, and remove distribution ductwork; toilet rooms & fixtures (unless the parties otherwise each agree in writing to retain), cap all utilities behind finished surfaces and safe-off all unused/ abandoned electric circuits/ wiring at panel; Landlord shall remove or relocate any/ all conduit or junction boxes that do not directly supply the Premises, (unless previously identified to remain), all non-load bearing interior walls and partitions; columns down to structural steel (maintain all code required fireproofing).
- b. Premises should be free of any/ all Hazardous Materials and when applicable provide evidence of such. Landlord shall provide Tenant with a certificate certifying that the Premises are free of asbestos, lead or other hazardous materials and that the Premises is in compliance with all applicable Environmental Laws.
- c. Fire protection systems, Sprinkler main & branch lines shall remain with heads turned up per code requirements & AHJ. All work to reconfigure is to be by Tenant.
- d. Existing floors finishes shall be removed to the concrete substrate/ floor including all adhesives/ fixatives, trim, accessories etc. All holes/ voids/ scars shall be filled and repaired smooth and level. See "Flooring" section for additional requirements.
- e. Landlord shall provide interior sustainable construction barricade/ hoarding only, at Landlord's expense, with at least 3 feet further out from the lease line and neutral pier and per mall requirements or code compliance. Provide one 6-foot-wide double door for construction access with locking hardware. Tenant shall have the right to install full vinyl graphics wrap on the barricade. Landlord's Work will not include exterior construction barricade, which shall be installed by Tenant.
- f. Interior Storefront / Soffit – Landlord to demolish dropped ceiling in area directly adjacent to the Premises in the Common Area of the Center. Landlord to provide new soffit from 16'-0" to 22'-0". Landlord will leave openings between columns for Tenant's storefront and any existing structural steel. This item of work will be completed after the Delivery Date, as an item of Delayed Landlord Work (as set forth in Exhibit C, Section 3.2). Tenant is responsible for any modifications to the storefront after the completion of the Delayed Landlord work hereunder.

2. Demising Walls

- a. Landlord shall provide new demising wall to separate Premises from Common Area and other Occupant's spaces. These shall extend from finished floor to the underside of the overhead structure/deck with all required fire sealant and fire blocking.
- b. Walls shall be taped to 13' above finished floor, or to the deck at minimum on Tenant side of partitions (with sheetrock and taping with insulation and blocking on the new demising wall only).
- c. Landlord to install/ restore code required fire proofing on all base building structural elements as a result of Landlord 's Work.
- d. Landlord shall provide batt acoustic insulation in all new demising walls to 12 ft AFF.

- e. Landlord shall provide thermal insulation with vapor barrier where required for Energy Code compliance.
- f. Landlord shall provide solid blocking (3/4" FRTRD Plywd or 18GA. metal grounds) within new demising walls that Tenant designates as "Sales Area" walls to 12 ft AFF.

3. MEP

a. *Electrical:*

- i. Landlord shall provide 480 volt (277/480), 3-phase, 4 wire or 208 volt (120/208), 3 phase, 4 wire service in a location designated by Tenant within the Premises. Service size shall be based on providing a minimum of 17VA/sf of leased area for projects without electric heating or vertical transportation.
- ii. On 120/208 volt systems, Landlord shall furnish and install all metering, main disconnecting means, feeder and conduit to the Premises.
- iii. Landlord to furnish and install all electrical meters and utility meters required at Landlord's expense. Tenant shall assume/ take-over the service upon delivery of the Premises.
- iv. In the event the permanent electric service is not fully available for Tenant's use, Landlord shall provide temporary power of sufficient capacity to meet Tenant's requirements for as long as necessary at Landlord's expense.

b. *Plumbing:*

- i. Landlord to furnish one 1" domestic water branch line to a point no greater than 10 feet from location designated by Uniqlo and stubbed with 1" valve for connection within the tenant leased space
- ii. Landlord to furnish one 4" min. sanitary sewer line and one 2" sanitary vent pipe stubbed and capped in a location no greater than 10 feet from the location designated by Tenant within the Premises.
- iii. gas service is available at the manifold for Tenant's connection.
- iv. Landlord to provide and install a water meter in a mutually agreeable location, when required, at Landlord's expense. Tenant shall assume/ take-over the service upon delivery of the Premises.
- v. In elevated slab locations, Landlord shall provide unimpeded access in the space/ floor below for plumbing/ wiring needs during regular hours (non-overtime or weekends).

c. *Mechanical:*

- i. Landlord shall provide a fresh air supply duct, sufficient to meet code requirements, stubbed within the Premises, unless fresh air is provided by the Roof Top Units dedicated to the Premises.

4. Fire Alarm – By Tenant

5. Sprinkler

- a. Landlord to provide sprinkler mains and distribute full fire sprinkler coverage throughout the Premises with heads turned up and set below deck. Number of sprinklers shall be according to code or any overarching regulation (approximately 1 head per 130 sq ft maximum coverage area).
- b. Landlord to provide all required valves- flow and tamper switches.

6. Telephone and Data Systems:

- a. At Landlord's expense, Landlord to provide two 2" communication EMT empty conduits with pull strings from the central Telco demark/ distribution location to Tenant's designated location within the Premises.

7. Vertical Transportation – N/A

8. Storefront Opening. See Exhibit C, Section 4.2.

9. Signage

a. **Blade Sign:**

- i. Tenant has right to install one internally illuminated blade sign on the facade of the store.

b. **Facade Sign** (in mall sign):

- i. Tenant has the right to install two 2' (Uniqlo standard sign-pair) illuminated signs for every 30 linear feet of frontage. For definition purposes each Uniqlo standard sign-pair shall be considered a single sign.

c. **External** (wall mounted, etc.) sign

- i. If external signage applicable, then Tenant will provide existing structure and power supply via timeclock, Tenant to supply and install. All approvals for exterior signage is to be by the Tenant. All signage shall be approved by Landlord and in compliance with the Tenant Package.

d. **Pylon Sign:** Intentionally Omitted.

10. Flooring

Floors shall be delivered level by Landlord with concrete surface finishing.—Floor slabs shall be smooth and level, with a surface irregularity no greater than 1/4" under a 10' straight edge, which is the equivalent of American Concrete Institute (ACI 117) FF25. Landlord shall provide independent level survey in vector format. Landlord shall provide all necessary concrete or self-levelling and/ or grinding necessary to achieve the required floor leveling.

EXHIBIT D
CERTAIN DEFINED TERMS

1. INTENT

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

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

2. CERTAIN DEFINED TERMS

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

2.2. **Address for Payment of Rent** means the address specified at Section 1.19.

2.3. **Administrative Charge.** Intentionally Omitted.

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

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

2.6. **Annual Base Sales** means the annual figure specified at Section 1.10, as the same may be adjusted from time-to-time pursuant to this Lease.

2.7. **Annual Fixed Minimum Rent** means the annual rent sum specified at Section 1.8, as the same may be adjusted from time-to-time pursuant to this Lease.

2.8. **Annual Sales Statement** means a written statement in the form attached as Exhibit G to the Lease certified to be true and correct by an Authorized Officer of Tenant. Notwithstanding the foregoing, provided the Tenant is the Tenant Entity set forth on Page 1 or an Affiliate thereof, then such statement shall not be required to be certified hereunder, as long as such statement is prepared diligently and in good faith, in accordance with the requirements of Section 5.6 of this Lease.

2.9. **Approved Plans** means the final set of plans for Landlord's Work and/or Tenant's Work (as the case may be) which have received the final written approval of both Landlord and Tenant to the extent required by any applicable provisions of this Lease and the Tenant Package.

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

2.11. **Attached Fixtures** means such trade fixtures, equipment and other Personal Property which is attached or affixed to the Premises (including, without limitation, carpeting, flooring, lighting, light fixtures, electrical systems, communications wiring and cabling, built-in shelving, built-in furniture and the cash wrap).

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

2.13. **Bankruptcy Code** means the Bankruptcy Code 11 U.S.C. 101 et seq., as amended from time-to-time.

- 2.14. **Building** means the building, if any, of which the Premises are a part.
- 2.15. **Casualty** means fire or any other casualty.
- 2.16. **Center** means that certain commercial project, the name and approximate location of which is specified at Section 1.1.
- 2.17. **Center Hours** is defined at Section 1.15.
- 2.18. **Claims** means, collectively, claims, charges, liabilities, obligations, penalties, causes of action, liens, damages, costs and expenses, including reasonable attorneys' and other expert and third party fees and costs.
- 2.19. **Close-Out Package** is defined at Exhibit C.
- 2.20. **Common Area** means all improvements, facilities, equipment, signs, land and areas (as each may be enlarged, reduced, dedicated to retail use, replaced, increased, removed, demolished or otherwise altered in any way by Landlord) within the exterior boundaries of the Center which are now or hereafter made available for general use, convenience or benefit of more than one (1) Occupant, which may include, but shall not be limited to, parking areas, access and perimeter roads, driveways, loading docks, pedestrian malls and courts (whether enclosed or unenclosed), corridors, stairs, ramps, elevators, escalators, first-aid stations, security stations, drinking fountains, toilets, public washrooms, community halls, auditoriums, and other public facilities, parcel pick-up stations and landscaped areas. Common Area shall include any other land which Landlord, by means of purchase, lease or otherwise, acquires, and which land is not presently part of the Center, to the extent Landlord designates all or any portion of such land available as Common Area.
- 2.21. **Competing Interest** is defined at Section 10.3.1.
- 2.22. **Completion Date**. Intentionally Omitted
- 2.23. **Control, Controlled and Controls** mean the authority to control the management and policies of an entity.
- 2.24. **Cumulative Basis** means that the stated cap shall be applied on a cumulative and compounding basis and if an increase in the Index for any given year is greater than the stated cap, then the difference between such increase and the stated cap may be carried over and applied by Landlord to a subsequent year, provided in no event shall the increases for such subsequent year exceed the stated cap. For example, with regard to the computation of the stated cap, if the stated cap is three percent (3%), the maximum capped amount for the first year to which the cap applies shall be one hundred three percent (103%) of the amount for the immediately preceding period (annualized if such amount is not for a full year), which shall constitute the "Cap Amount" for such year; for the second year, the "Cap Amount" shall be equal to one hundred six and 9/100ths percent (106.09%) of the amount in effect for the first year to which the cap applied; and for each year after such second year, the Cap Amount shall be an amount equal to one hundred three percent (103%) of the Cap Amount applicable to the immediately preceding year.
- 2.25. **Delivery Date** means the date Landlord delivers possession of the Premises to Tenant in substantially the condition required pursuant to Section 3.1 of Exhibit C. Landlord will provide Tenant with not less than thirty (30) days' prior written notice of the actual Delivery Date ("Delivery Date Notice").
- 2.26. **Effective Date** is defined in the preamble to this Lease.
- 2.27. **Intentionally Omitted (Form)**.
- 2.28. **Environmental Laws** means any and all federal, state and local laws, regulations, ordinances, codes and policies, and any and all judicial or administrative interpretations thereof by governmental authorities, as now in effect or hereinafter amended or enacted, relating to:

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

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

2.29. **Excluded Floor Area.** Intentionally Omitted.

2.30. **Executive Order 13224** is defined at Section 27.26.

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

2.32. **Intentionally Omitted.**

2.33. **Intentionally Omitted (Form).**

2.34. **Intentionally Omitted (Form).**

2.35. **Fixed Minimum Rent** means Annual Fixed Minimum Rent and/or Monthly Fixed Minimum Rent (as the case may be).

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

2.37. **Floor Area of the Premises** means the number of square feet of Floor Area specified at Section 1.3.

2.38. **Force Majeure** is defined at Section 27.14.

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

2.40. **Intentionally Omitted (Form).**

2.41. **Intentionally Omitted.**

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

2.43. **Guarantor(s)** means those person(s) and/or entities whose name(s) appear at Section 1.22.

2.44. **Hazardous Materials** means any and all substances, chemicals, wastes, sewage or other materials that are now or hereafter regulated, controlled or prohibited by any Environmental Laws, including, without limitation, any (a) substance defined as a 'hazardous substance', 'extremely hazardous substance', 'hazardous material', 'hazardous chemical', 'hazardous waste', 'toxic substance' or 'air pollutant' by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, et seq.; the Clean Air Act, 42 U.S.C. Section 7401, et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Section 11001, et seq.; the Toxic

Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; or the Occupational Safety and Health Standards, 25 C.F.R. 1910-1000 et seq., or regulations promulgated thereunder, all as amended to date and as amended hereafter; (b) hazardous substance, hazardous waste, toxic substance, toxic waste or hazardous material, waste, chemical or compound described in any other Environmental Laws; and (c) asbestos, polychlorinated biphenyls, urea formaldehyde insulation, flammable or explosive or radioactive materials, gasoline, oil, motor oil, waste oil, petroleum (including, without limitation, crude oil or any component thereof), petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonium compounds, and other regulated chemical products.

2.45. **HVAC** means heating, ventilating and air conditioning system(s).

2.46. **Intentionally Omitted (Form).**

2.47. **Improvements** means all existing and future fixtures, installations, alterations, replacements, additions, changes and improvements to the Premises.

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

2.49. **Insured Casualty** means damage or destruction the repair of which is fully covered by insurance proceeds made available to Landlord for repair and restoration pursuant to any insurance policy required to be carried by Landlord under the terms of this Lease.

2.50. **Insuring Party** is defined in Section 8.1.3.

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

2.52. **Landlord** is defined in the preamble to this Lease.

2.53. **Landlord Parties** means, collectively, the Manager, Landlord's Designees and the respective past, present and future partners, officers, directors, shareholders, beneficiaries, trustees, employees, agents and independent contractors of both Landlord and Manager.

2.54. **Landlord's Address for Notices** means the address specified at Section 1.17.

2.55. **Landlord's Broker(s)** means the broker(s), if any, specified at Section 1.20.

2.56. **Landlord's Designees** means, collectively, the Manager, the Mortgagee, any lessors under any ground or underlying leases liening the Premises and such person(s) designated by Landlord as having an insurable interest in the Premises.

2.57. **Landlord's Sales Reporting Address** means the address for Landlord set forth at Section 1.24.

2.58. **Landlord's Work** is defined at Exhibit C.

2.59. **Lease** is defined in the preamble to this Lease.

2.60. **Lease Year** means, as to the first Lease Year, the period from the Rent Commencement Date through the immediately following December 31, and as to each subsequent Lease Year, the period of January 1 of a given year through the immediately following December 31 of the same year; however, the last Lease Year shall end upon the Expiry Date.

2.61. **Major Destruction** means any destruction (whether or not an Insured Casualty) (a) to the extent of more than twenty five percent (25%) of the full replacement cost of any of the Premises, the Building, the parking structures located at the Center or the Center, as the case may be, as of the date of destruction, (b) that will take in excess of one (1) year to complete repair and restoration, or (c) that occurs at any time during the last twenty four (24) months of the Term.

2.62. **Major Occupant** means each Occupant (if any) occupying premises containing at least 40,000 square feet of contiguous Floor Area, and shall include such Occupants who have (if any) contiguous stores with different trade names but with direct access between or among such stores.

2.63. **Major Occupant Stores** means (a) each of the premises (if any) identified on Exhibit A as a "Major Occupant Store" and (b) the premises occupied, or designated for occupancy, by Major Occupants.

2.64. **Mall** means (a) that portion of the Common Area which is contained in the enclosed mall, if the Center contains an enclosed mall, or (b) the Common Area of the Center, if the Center does not contain an enclosed mall.

2.65. **Manager** means such entity with whom Landlord then has an agreement to manage the Center.

2.66. **mezzanine** is defined at Exhibit C.

2.67. **Monthly Fixed Minimum Rent** means the monthly rent sum specified at Section 1.8, as the same may be adjusted from time-to-time pursuant to this Lease.

2.68. **Monthly Sales Statement** means a written statement in the form attached as Exhibit G to the Lease.

2.69. **Mortgage and Mortgagee** are each defined in Section 26.1.

2.70. **Notice of Transfer Termination** is defined at Section 14.5.1.

2.71. **Occupant** means any entity, inclusive of Tenant and exclusive of Landlord (except to the extent Landlord operates any retail business open to the public in the Center), entitled by any form of instrument to occupy Floor Area in the Center.

2.72. **OFAC** is defined at Section 27.26.

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

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

2.75. **Permit Date** means Tenant's receipt of a building permit for Tenant's Work (or such earlier date that such building permit has been approved and is available for pickup), provided, however, that in order for the Permit Date to be considered for determining the Required Opening Date of Term, Tenant must submit (and resubmit if necessary) its Construction Drawings for Tenant's Work to Landlord

by the dates and in the form required under the Lease (including the Tenant Package), and submit its application for its building permit within five (5) business days following Landlord's approval of Tenant's Construction Documents and diligently pursue same.

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

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

2.78. **Personal Property** means all of the following which do not otherwise constitute Attached Fixtures: Tenant's trade fixtures, equipment, appliances, furniture, displays, Storefront Sign, other signs, inventory, merchandise and other personal property.

2.79. **Intentionally Omitted.**

2.80. **Plan Revisions** is defined at Exhibit C.

2.81. **Premises** means that certain space identified at Section 1.2.

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

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

2.84. **Real Estate Taxes** means, without limitation, all taxes (except for franchise, gift, estate, inheritance or net income taxes [unless and then only to the extent that net income taxes are a substitute for real estate taxes]), assessments and reassessments (whether resulting from any new construction, renovation or replacement of existing improvements or a transfer of all or any portion of the Center or otherwise), whether special or general, bonds, permit fees, license fees, license taxes, levies and penalties imposed, assessed or levied against the Center or any portion thereof by any authority having the direct or indirect power to impose, assess or levy the same, including, without limitation, any city, county, state or federal government or agency thereof, or any school, agricultural, lighting, drainage, fire, street, sanitary, community facilities or other improvement district thereof; all taxes, fees and/or charges on the operation and use of the Center or Common Area imposed by any federal, state or local governmental entity; taxes on Landlord's personal property used in connection with the maintenance or operation of the Center or made available for general use, convenience or benefit of more than one (1) Occupant; all impositions (whether or not such impositions constitute tax receipts to governmental agencies) in substitution, partially or totally, of any impositions now or previously included within the definition of real estate taxes, including, without limitation, those imposed or required by governmental agencies to increase tax increments to governmental agencies and for such services as fire protection, street, sidewalk and road maintenance, refuse removal and/or for other governmental services formerly provided without charge to property owners or occupants (it being the intention of Landlord and Tenant that all such new and/or increased impositions and all similar impositions be included within the definition of Real Estate Taxes for purposes of this Lease); interest on the foregoing to the extent any of the same are paid in installments; and the costs of professionals and counsel to analyze tax bills and/or prosecute any challenges, protests, refunds and appeals.

2.85. **Refund Date** means the date which is the later of (a) the Expiry Date or date of earlier termination of this Lease, or (b) the date Tenant has fully performed all of its Surrender Obligations under Section 13.1.

2.86. **Intentionally Omitted.**

2.87. **Intentionally Omitted.**

2.88. **Reimbursed Cost(s)** means Landlord's cost for performing specific work or services, or providing materials on behalf of Tenant, together with interest at the Agreed Rate, calculated from the date Landlord performs such work or services, or provides such materials, until the date that any such cost(s) are paid by Tenant. Tenant shall pay any Reimbursed Costs within thirty (30) days after Landlord's written demand therefor.

- 2.89. **Intentionally Omitted.**
- 2.90. **Rent** means Fixed Minimum Rent, Percentage Rent and Additional Rent.
- 2.91. **Rent Commencement Date** means the date specified at Section 1.6.
- 2.92. **Rent Inquiry Address** means the addresses for Landlord and Tenant, respectively, set forth at Section 1.23.
- 2.93. **Request to Transfer** is defined at Section 14.3.
- 2.94. **Required Opening Date** means the date specified at Section 1.5.
- 2.95. **Review Fee** is defined at Section 14.11.
- 2.96. **RMUs** means sales areas, display areas, carts, kiosks and other retail merchandising units of Occupants located from time-to-time in the Common Area.
- 2.97. **Rules** means such rules and regulations established from time-to-time by Landlord with respect to the Center.
- 2.98. **Intentionally Omitted.**
- 2.99. **Storefront Sign** means the sign for the Premises facing onto the Mall which shall contain no name other than the Trade Name.
- 2.100. **Subletting** and **Sublet** mean a subletting of all or any portion of the Premises or any concession, franchise or license with respect to the Premises.
- 2.101. **Substitute Lease** is defined at Section 17.5.
- 2.102. **Superior Agreements** means all mortgages, deeds of trust, ground leases, reciprocal easement agreements, declarations, covenants, conditions, restrictions, easements, rights-of-way and other matters of record (whether placed of record on, prior to, or after the Effective Date) affecting all or any portion of the Center, as the same may be modified, amended and supplemented from time-to-time.
- 2.103. **Surrender Obligations** is defined at Section 13.1.
- 2.104. **Taking** means any taking or appropriation for public or quasi-public use by the right of eminent domain or otherwise by a taking in the nature of inverse condemnation, with or without litigation, or a transfer by agreement in lieu thereof.
- 2.105. **Temporary Tenants** means all Occupants under leases, licenses or other agreements each with an original stated term of twelve (12) months or less.
- 2.106. **Tenant** is defined in the preamble to this Lease.
- 2.107. **Tenant Coordinator** is defined at Exhibit C.
- 2.108. **Tenant Package** is defined at Exhibit C.
- 2.109. **Tenant Parties** means, collectively, Tenant's Occupants and the respective past and present officers, directors, shareholders, invitees, customers, agents, employees and independent contractors of both Tenant and Tenant's Occupants.
- 2.110. **Tenant's Address for Notices** means the address specified at Section 1.18.
- 2.111. **Tenant's Architect** is defined at Exhibit C.
- 2.112. **Tenant's Broker(s)** means the broker(s), if any, specified at Section 1.21.
- 2.113. **Tenant's Contractor** is defined at Exhibit C.
- 2.114. **Tenant's Occupants** means all concessionaires, licensees, subtenants, assignees and others holding any rights to, or interest in, any part of the Premises under Tenant.

- 2.115. **Tenant's Receipts** is defined at Section 7.2.
- 2.116. **Tenant's Records** is defined at Section 7.2.
- 2.117. **Tenant's Representative** is defined at Exhibit C.
- 2.118. **Tenant's Share**. Intentionally Omitted.
- 2.119. **Tenant's Work** is defined at Exhibit C.
- 2.120. **Term** means the period of time specified at Section 1.4.
- 2.121. **Trade Name** means the name(s) specified at Section 1.12.
- 2.122. **Transfer** and **Transferring** mean either an Assignment or a Subletting or both, as the case may be.
- 2.123. **Transferee** means all of the following: Concessionaire(s), franchisee(s), licensee(s), assignee(s) and subtenant(s), as the case may be.
- 2.124. **Unamortized Amount** shall mean an amount equal to the remaining unamortized net cost paid by Tenant for initial Improvements (less all amounts either [a] paid by Landlord toward such Improvements, or [b] spent by Tenant on Personal Property) amortized as of the effective date of any termination on a straight-line basis over the initial term of the Lease commencing on the Rent Commencement Date.
- 2.125. **Uninsured Casualty** means damage or destruction resulting from any flood, earthquake, act of war, act of terrorism, nuclear reaction, nuclear radiation or radioactive contamination, or any other casualty of any kind or nature whatsoever which is not an Insured Casualty.
- 2.126. **Utilities** means all water, gas, sewer, heat, electricity, steam, chilled water, conditioned water, hot water, sprinklers, fire-life safety systems, lighting, power, HVAC, telephone service and other telecommunications services, sewer service, refuse removal service and all other utilities and related services.
- 2.127. **Utility Facilities** means any and all systems, machinery, facilities, installations, supply lines, transformers, pipes, conduits, ducts, penetrations, components, appurtenances and equipment, located on or at the Center, for the generation or supply of any Utilities (including, without limitation, any central plants and individual HVAC units owned or maintained by Landlord).
- 2.128. **Vacation** is defined at Section 19.1.3.
- 2.129. **Variable Costs**. Intentionally Omitted.

EXHIBIT E
CENTER RIDER
GREEN ACRES MALL

1. GENERAL PROVISIONS

- 1.1. **Purpose.** This Exhibit E sets forth certain provisions particular to the Center and the state in which the Premises are located.
- 1.2. **Prevailing Provisions.** If there are any inconsistencies between the Lease and the provisions of this Exhibit E, the provisions of this Exhibit E shall prevail.
- 1.3. **Definitions.** Unless otherwise expressly defined in this Exhibit E, all capitalized words shall have the meanings specified in the Lease.

2. AMENDMENT AND SUPPLEMENTS

1.1. The following Articles and Sections of the Lease are amended and supplemented as follows:

- 2.1. **Article 2 (Premises)** is amended by adding the following new Section(s) to the end thereof:

New York Real Property Law. If a Section of this Article provides that the Premises are occupied upon the Effective Date by another Occupant, then the provisions thereof are intended to constitute 'an express provision to the contrary' within the meaning of Section 223-a of the New York Real Property Law, as the same may be amended from time-to-time, or under any similar statute now or hereafter in force, or under any present or future laws or case decisions to the same effect.

- 2.2. **Article 5 (Rent)** is amended by adding the following new Section(s) to the end thereof:

Terrorism Insurance. From and after the Rent Commencement Date, Tenant shall pay in equal monthly installments, in advance on the first day of each month (except for the first installment, which shall be paid on the Rent Commencement Date), an amount equal to \$0.25 per square foot of the Floor Area of the Premises per annum ("Terrorism Insurance").

- 2.3. **Section 8.2.4 (Policy Requirements)** is amended by adding the following to the end thereof:

2. Tenant shall include The Town of Hempstead Industrial Development Agency as an additional insured as well as the parties provided for under the Lease and as designated by Landlord pursuant to the terms of the Lease.

- 2.4. **Section 13.3 (Holding Over)** is amended by adding the following to the end thereof:

In addition to the other provisions of this Section, Tenant hereby expressly agrees that the acceptance by Landlord of any payments from Tenant after the expiration or earlier termination of this Lease shall not preclude Landlord from commencing and prosecuting a holdover or summary eviction proceeding (the foregoing being an 'agreement expressly providing otherwise' within the meaning of Section 232-c of the Real Property Law of the State of New York) nor shall any such acceptance be deemed anything other than an acceptance of payment on account of the amounts to be paid by Tenant in accordance with the provisions of this Section. Tenant expressly waives, for itself and for any person claiming through or under Tenant, any rights which Tenant or any such person may have under the provisions of Section 2201 of the New York Civil Practice Law and Rules and of any successor law of like import then in force in connection with any holdover summary proceedings which Landlord may institute to enforce the provisions this Section.

- 2.5. **Section 19.1.2 (Terminate Lease)** is amended by adding the following to the end thereof:

In addition to the other provisions of this Section 16.1.2, Landlord reserves the right to terminate this

Lease at any time after an event of material or monetary default by Tenant which is not cured by Tenant within the applicable notice and/or cure period, if any, by giving written notice to Tenant specifying a date (not less than ten [10] business days from the date on which such notice is given) on which this Lease shall terminate provided such default has not been cured, and, on such date, the Term shall end, and all rights of Tenant under this Lease shall cease, but the foregoing provisions of this Section shall not relieve Landlord from first complying with all applicable provisions and proceedings required by law as conditions precedent for any such termination.

2.6. **Article 23 (Casualty and Taking)** is amended by adding the following new Section to the end thereof:

Waiver. Except as otherwise specifically provided herein, Tenant hereby expressly waives all rights to terminate this Lease under Section 227 of the New York Real Property Law, as the same may be amended from time-to-time, or under any similar statute now or hereafter in force as the result of such Casualty, or under any present or future laws or case decisions to the same effect.

2.7. **Article 27 (Miscellaneous)** is amended by adding the following new Section(s) to the end thereof:

3. **AGENCY PROVISIONS:** The following items 1-7 shall be collectively referred to as the Agency Provisions:

1. **Payment in Lieu of Taxes**

(a) **PILOT Program Defined.** The financial incentive program offered by the Town of Hempstead Industrial Development Agency (the "Agency"), for eligible proposals that involve the creation, expansion, improvement or retention of property and facilities within The Town of Hempstead by companies moving to or remaining in the Town, including all benefits and requirements contained therein (collectively, the "PILOT Program").

(b) **Reporting Requirements.** Tenant covenants on behalf of itself, its successors and assigns to timely complete and return to Landlord, the Agency, or its successors and assigns upon written request, not more often than twice per calendar year, a copy of Tenant's NYS-45 reports submitted to the New York State Department Of Labor for the most recent calendar year (or, if Tenant has multiple retail business locations operating within the state of New York, copies of form BLS 3020 completed to show the employee information for the Premises for the most recent calendar year or the form attached hereto as Schedule 1 of Exhibit E), concerning, in substance, the total payroll, its operations, the number of part time and full time employees Tenant employs at the Center, and such other matters as may be necessary for Landlord to comply with the terms of the PILOT Program and the Agency to make and submit its annual reports. Such information shall be provided within thirty (30) days following written request from the Agency or Landlord. Tenant shall furnish to the Agency within thirty (30) days of their filing, copies of all reports, if any, filed with the Securities and Exchange Commission, pursuant to the Securities Exchange Act of 1934, as amended, relative to Tenant.

2. **Qualification as Project.** Tenant shall not take any action, or fail to take any action, which action or failure to act would cause the Center not to constitute a "project" as such quoted term is defined in Title 1 of Article 18A of the General Municipal Law of the State of New York, as amended (collectively, the "Act"). In accordance with Section 862(1) of the Act, the occupancy of the Premises by Tenant will not result in the removal of a facility or plant of the Tenant from one area of the State of New York to another area of the State or in the abandonment of one or more plants or facilities of Tenant located within the State of New York; provided, however that neither restriction shall apply if the Agency shall determine:

- (i) that such occupation of the Premises by Tenant is reasonably necessary to discourage the Tenant from removing such other plant or facility to a location outside the State of New York, or

- (i) that such occupation of the Premises by Tenant is reasonably necessary to preserve the competitive position of Tenant in Tenant's business.
3. **No Warranty of Condition or Suitability by Agency.** THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF, OR TITLE TO, THE CENTER OR THAT IT IS OR WILL BE SUITABLE FOR TENANT'S PURPOSES OR NEEDS.
4. **Employment Opportunities; Notice of Jobs.** Tenant covenants and agrees that, in consideration of the participation of the Agency in the PILOT, Tenant will, except as otherwise provided by collective bargaining contracts or agreements to which it is a party, cause any new employment opportunities created in connection with the Premises to be listed with the New York State Department of Labor, Community Services Division and with the administrative entity of the service delivery area created pursuant to the Job Training Partnership Act (PL 97-300) in which the Center is located (collectively, the "**Referral Agencies**"). Tenant also agrees that it will, except as otherwise provided by collective bargaining contracts or agreements to which it is a party, first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the Referral Agencies.
5. **Agency as Third Party Beneficiary.** The Agency is a third party beneficiary of these Agency Provisions with the full right to enforce all provisions hereof in an action at law or in equity.
6. **Confidential Information.** The Agency shall hold as confidential all non-public information provided by Tenant pursuant to the terms of this Lease except to the extent that the Agency is required by applicable law to disclose such information.
7. **Successors and Assigns.** The rights and obligations hereunder of the Agency under these Agency Provisions shall bind and inure to the benefit of the successors and assigns of the Agency.
- 2.8. **Exhibit C, Section 2.1, Tenant Package.** Add the following sentence to the end of Section 2.1 of Exhibit C: Tenant acknowledges per the Tenant Package, Tenant is required to use local building trades to complete all Tenant Work.
- 2.9. **Exhibit D, Section 2.53, Landlord Parties.** Landlord Parties shall also include the Town of Hempstead Industrial Development Agency of the Town of Hempstead, New York.

EXHIBIT F
TENANT'S TRADEMARK

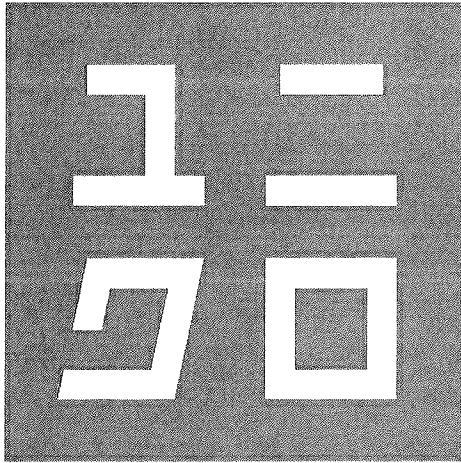


EXHIBIT G
MONTHLY AND ANNUAL SALES STATEMENT FORM

Center: _____

Store Name/Number: _____

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

Details have been attached explaining Permitted Exclusions as required by the applicable provisions of the Lease.

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

Name: _____

Title: _____

Authorized Signatory

EXHIBIT H

EXISTING EXCLUSIVES

24 Hour Fitness. From and after the Execution Date Landlord shall not lease or permit the occupancy of any space in Green Acres Mall ("Restricted Area" as shown on Exhibit B-1) to be used as a Competing Use Health and Fitness Club of over 10,000 square feet of floor area (the "Restricted Area Exclusive Use"). The term "Competing Use Health and Fitness Club" is defined, for purposes of this Section as a full-service fitness facility offering an assortment of fitness activities, such as aerobics classes, yoga, Pilates, fitness/movement classes, indoor cycling, personal training, weight training, basketball, volleyball, swimming, racquetball, sports and rehabilitation therapy and cardiovascular and/or resistance machine operation (but shall not include the sale, at retail, of exercise equipment).

BJ's Wholesale Club. Provided (i) this Lease is in full force and effect, (ii) Tenant is in possession of the Demised Premises and, from and after the Commencement Date, is open and operating same as a wholesale club (except for remodeling, damage and destruction or eminent domain), and (iii) Tenant is not in default under this Lease, then and in such event Landlord agrees that, from and after the execution of this Lease, it will not enter into a lease of other space within the Shopping Center which expressly authorizes or permits as its principal use the operation of a wholesale club (the "Exclusive Covenant").

Dick's Sporting Goods. Landlord or any Landlord's affiliates shall not, nor will any entity under common control with Landlord, enter into any lease, license agreement or other similar agreement with, nor (to the extent Landlord or Landlord's affiliates have any rights to restrict, control or deny consent to any such transfers or possessory rights) transfer or allow a possessory interest in the shopping center commonly known as "Green Acres Mall" to an Occupant occupying twenty thousand (20,000) or more square feet of LFA whose primary use is the sale and/or distribution of sporting goods and/or sporting equipment, including, without limitation, hunting and fishing equipment, golf apparel and/or golf equipment.

Green Acres Dental. Landlord agrees that, from and after the execution of this Lease, it will not enter into a lease of other space within the Shopping Center which expressly authorizes or permits as its use the provision of Dental Services (the "Exclusive Covenant"); provided that Tenant agrees that such Exclusive Covenant shall not apply to any uses existing as of the date hereof. For the purposes hereof, Dental Services shall include, a dental office, dental laboratory, dental spa, oral surgical center, ambulatory dental facility and tooth whitening services.

JP Morgan Chase Bank. Landlord agrees that, from and after the execution of this Lease, it will not enter into a lease or permit any occupant to use the portion of the premises in the Shopping Center leased to Tenant by Landlord pursuant to the 1960 Lease and to be surrendered by Tenant to Landlord pursuant to a certain Surrender Agreement dated of even date herewith, which expressly authorizes or permits, as its primary use, for retail or commercial banking, a mortgage broker or related financial services (the "Exclusive Covenant"). Tenant and Landlord acknowledge and agree that the foregoing Exclusive Covenant shall not prohibit other tenants in the Shopping Center from installing, maintaining or operating an automated teller machine ("ATM") within the Shopping Center.

Michael's. Landlord hereby covenants that neither Landlord nor any entity controlled by Landlord will knowingly or directly enter into a direct lease or occupancy agreement, for any portion of the Landlord's Parcels (other than the leasing of the Premises to Tenant) ("Restricted Area"), to any store that operates in a manner which is substantially similar to or substantially the same as a Michaels' arts and crafts store business operations, including by way of example, but not limited to, Garden Ridge, A.C. Moore, Ben Franklin, Joanne Fabrics, Joanne Etc, Hobby Lobby, Old America, Waccamaw/Home Place, Pat Catans, and MJDesigns. In addition, Landlord hereby covenants that neither Landlord nor any entity controlled by Landlord will knowingly or directly enter into a direct lease or occupancy agreement, for any portion of the Restricted Area (other than the leasing of the Premises to Tenant), to (i) any store rendering custom framing services, or (ii) any temporary or seasonal stores, which sell holiday (including without limitation, Christmas and/or Halloween) themed décor, decorations, costumes, artificial Christmas trees, Christmas lights, Christmas ornaments, and/or holiday themed party goods including without limitation, the following stores: Spirit Halloween stores, Always Christmas stores, and similar operations.

Olive Garden. A Competitor means an Italian Dining Use. The Italian Dining Use Exclusive Covenant shall not apply to (i) any leases in the Shopping Center existing as of the Effective Date (each, an "Existing Lease") below, (ii) any restaurant operation which occupies less than three thousand two hundred (3,200) square feet and does not provide waiter service or provides waiter service but does not serve alcoholic beverages, (iii) any restaurant operation at which seventy percent (70%) or more of the gross food sales revenues thereat are (or are reasonably expected to be) from the sale of pizzas, sandwiches and calzones and (iv) any American-Themed Dining Use (as hereinafter defined). For purposes of this Lease and subject to the exceptions contained in the preceding sentence, (A) the term "Italian Dining Use" shall mean a restaurant at which more than twenty-five percent (25%) of its menu offerings consist of Italian dishes and (B) the term "American-Themed Dining Use" shall mean a full service, sit-down restaurant at which a broad menu of American cuisine is served. Examples of restaurants operating as an American-Themed Dining Use as of the Effective Date include, but are not limited to, Chili's, Cheddar's, T.G.I. Friday's, Houlihan's, Applebee's and Ruby Tuesday's.

Panera Bread. If at any time during the Initial Term Landlord leases any premises located in any portion of the Center which is owned by Landlord to any Competitor, Tenant shall be entitled to exercise the remedies specified in the Lease. The term "Competitor" means any Occupant whose primary use is the operation of a bakery cafe similar to Corner Bakery and Atlanta Bread Company.

PetSmart. Provided (i) this Lease is in full force and effect, (ii) Tenant is in possession of the Demised Premises and, from and after the Commencement Date, is open and operating same as a PETSMA RT store and (iii) Tenant is not in Default under this Lease, then and in such event Landlord agrees that, from and after the execution of this Lease, it will not enter into a lease of other space within the group of buildings designated on Exhibit A (the "Contiguous Buildings") for the principle use of a (i) cinema, (ii) health club or spa, (iii) sit down restaurant in excess of 2,500 square feet of Gross Floor Area, (iv) game arcade or (v) or children's recreational, educational or day care facility (the "Contiguous Building Covenant").

Popeye's. Provided (i) this Lease is in full force and effect, (ii) Tenant is in possession of the Demised Premises and, from and after the Rent Commencement Date, is open and operating same as a fast food chicken restaurant principally for the sale of fried chicken, and (iii) Tenant is not in Default under this Lease, then and in such event Landlord agrees that, from and after the execution of this Lease, it will not enter into a lease of other space within the interior of the Shopping Center which authorizes or permits as its principal use the sale of fried chicken (the "Exclusive Covenant"). This Exclusive Covenant does not prevent other fast food restaurants in the Shopping Center that are not primarily a chicken restaurant similar to Popeye's from selling chicken based items, including menu items similar to the ones served by the Tenant.

T.G.I. Friday's. Provided (i) this Lease is in full force and effect, (ii) Tenant is in possession of the Demised Premises and, from and after the Commencement Date, is open and operating same principally for the operation of a T.G.I. Fridays restaurant, and (iii) Tenant is not in Default under this Lease, then and in such event Landlord agrees that, from and after the execution of this Lease, it will not enter into a lease of other space within the portions of the Shopping Center owned by Landlord which authorizes or permits as its principal use the operation of any full-service restaurant that serves a varied American cuisine (excluding any restaurants operating in the Shopping Center as of the date of this Lease, i.e. Applebee's). Examples of such excluded restaurants include, but are not limited to: Chili's, Houlihan's, Champ's, Red Robin, Ruby Tuesday's, Max & Erma's, 99, O'Charley's, Ground Round, Bennigan's, Chicago Grill or Uno's, and Cheeseburger in Paradise (the "Exclusive Covenant").

Walmart at The Plaza. Provided (i) this Lease is in full force and effect, (ii) Lessee is in possession of the Premises and, from and after the Rent Commencement Date, is open and operating same as a discount department store, and (iii) Lessee is not in Default under this Lease, then and in such event Lessor agrees that, from and after the execution of this Lease, it will not enter into a lease of other space within the Shopping Center which authorizes or permits as its principal use the operation of a discount department store similar to Lessee's operation in the Premises (the "Exclusive Covenant").

Green Acres and Green Acres Commons – Parallel Provisions Check Sheet - <Uniqlo>

PILOT Agreement Exhibit G Provision	Parallel Approved Macerich Lease Provision [Perm lease form]	Parallel Approved Macerich Lease Provision [Short Lease Form]	Check if Provision Substantially Conforms	Explanation of Substantial Deviation
2.1 and 2.2	Section 8.2, including 8.2.1 – 8.2.8 (w/includes self-insurance)	Section 7; Exhibit C, Section 2(b) & 2(g)	X	
2.3	Section 23.5 and Exhibit D, definition of Insured Casualty (alphabetically)	Section 16	X	
2.4	Lines 15 – 19 of Section 8.2.8, Policy Requirements (and Exhibit E provision modifying 8.2.8 including the TOHIDA as an additional insured)	Section 7; Exhibit C, Section 2(b) & 2(g)	X	
3.1	Exhibit C, Section 3.2 and 4.1, and Exhibit E provision labeled “No Warranty of Condition or Suitability by Agency.”	Section O; Exhibit C, Section 2(f)	X	
3.2	Sections 8.1.1 and 8.1.3, and Exhibit E, change to Exhibit D definition of Landlord Parties (final provision in Exhibit E unless something else is negotiated into Exhibit E.)	Section 7; Exhibit C, Section 2(b) & 2(g)	X	
3.3	17.4	Section 20(e)	X	
3.4 and 3.5	12.1.2 and 27.4	Sections 1 & 5; Exhibit C, Section 2(h)	X	
3.6	Exhibit E, Agency Provision 1(a) and 2	Exhibit C, Section 2(f)	X	
3.7(a)	12.1.2 (w/includes Tenant alteration language from formbook)	Section 1	X	
3.7(b)	Art. 25	Section 20(g)	X	
3.8	Exhibit E, Agency Provision 1.(b) labeled “Reporting Requirements”	Exhibit C, Section 2(f)	X	
3.9	Exhibit E, Agency Provision 4. Labeled “Employment Opportunities; Notice of Jobs.”	Exhibit C, Section 2(f)	X	
3.10	Article 14 (w/includes Corporate, Affiliate & Franchise transfer language from our formbook)	Section 15	X	
3.11, 1 st sentence	Section 7.2	Section 3; Exhibit C, Section 2(i)	X	
3.11, 2 nd sentence	Exhibit E, Agency Provision 1(b), labeled “Reporting Requirements.”	Exhibit C, Section 2(f)	X	
3.12	Exhibit E, labeled Agency Provision 5, “Agency as Third Party Beneficiary”.	Exhibit C, Section 2(f)	X	

3.13	Exhibit E, labeled Agency Provision 6, "Confidential Information"	Exhibit C, Section 2(f)	X	
3.14	Exhibit E, Agency Provision 7, "Successors and Assigns"	Exhibit C, Section 2(f)	X	
NDA	Form provided		NO	No NDA requested

CEO's REPORT

April 18, 2023

**Indicates new proposal not included in prior reports*

ACTIVE PROJECTS:

MRCT Investments - This proposed \$50 million Mill Creek Residential project in West Hempstead will have 150 units. The company received a 20-year PILOT and was induced at our January 2022 meeting. Contacts: Russell Tepper, Managing Director © 908 770-2144, Nick Halstead © 917 846-3594, Elisabetta Coschignano, Esq. (228-1300), Nicholas Cappadore (Sahn, Ward, Coschignano) 228-1300.

Parabit Systems- an existing beneficiary of IDA benefits has purchased additional property abutting its situs in Roosevelt, 33-35 Debevoise Avenue. The new project will include a 10,000 square foot expansion of the existing facility (structure) and will be a 6,000 square foot net increase as 4,000 square feet of the existing building will have to be demolished. Parabit purchased property for \$145,000. Land use authorization (variances, etc.) as well as Town Board Approval must be completed prior to closing with IDA. The company currently employs eighty-five (85) workers and expects to add ten (10) in the first year. Parabit manufactures ATM devices and Kiosks. They seek a Pilot (15 years), sales tax exemption and mortgage recording tax exemption. This project was induced at the January 2022 meeting for an additional 11-year PILOT. An Authorizing Resolution was approved at our February 2022 meeting. The company is awaiting permits from the building department. Contacts: Richard Kick, VP Operations cell (516-519-1085) Dan Baker, Esq. of Certilman Balin.

Aloft-Red Roof Inn, Westbury- This situs and building therein is a former project that received IDA benefits when it was developed three decades ago as a hotel. The property is located at 699 Dibblee Drive, Westbury. In recent decades some of the building houses tenants through section 8 vouchers. The 163 units are 80% occupied. Beachwood Homes recently purchased the property and seeks to convert the existing use to either upper and short-term occupants or college housing. The extensive renovations to the project would be \$5 to \$10 million. Contacts: Steve Dubb or Edward Pleber (935-5555) Anthony Guadino, Esq. of Farrell Fritz, P.C. (631-367-0716).

The Meadowwood Properties – Developer seeks to construct twenty (20) units of residential rental housing on property located on Newbridge Road in East Meadow which had been owned by St. Raphael's Church. The two buildings will be for fifty-five (55) and older. The current taxes on the undeveloped land are \$20,000. Project costs are approximately \$5.8 million. Contact: James Neisloss (917 -838-4664), Negus, Esq. of McLaughlin & Stern, LLP (516-467-5431). Dan Deegan, Esq.

283-287 Fulton Avenue, LLC – The property is located on the intersection of Fulton Avenue & Front Street, Hempstead. The building has three floors. The first floor has 4,200 square feet, the second & third 3,100 square feet each. The developer seeks to round off the second & third floors to 4,200 square feet to match the first floor. Project costs are projected to be ten million dollars. The renovation would convert the current office space to ten units of two-bedroom apartments. The retail space on the ground floor would remain as the situs of the property abuts the Terrace Avenue Poverty Census Tract and, therefore, qualifies for the exemption for retail. The developers are awaiting final approval from the village which has been delayed due to the Covid-19 and the death of one of the developers. The project is moving forward. Taxes are currently \$65,000. Contacts: Michael Mitchell (816-8994). Attorney: Dan Baker, Esq.

MCRT – The developer seeks to build 250 units of mixed fifty-five and over middle-income apartments on 4.57-acre site on Atlantic Avenue in Oceanside. Project remains in early stages. Contacts: Elisabetta Coschignano, Esq., 47 Broadway, Wilbur Breslin, Pres.

111 Hempstead Turnpike LLC (Heatherwood) - The proposed project located at 111 Hempstead Turnpike in West Hempstead seeks to demolish an existing 300,000 square foot abandoned building and construct a 488,819 square foot structure on the 9.43-acre site located at 111 Hempstead Turnpike. The proposal will include 5,143 square feet of retail space and the construction of 428 apartment units in two three story buildings and one four story structure. There will be (7) full-time employees. The company has met with all the civic groups in the area and local officials. Heatherwood has obtained a change of zone from the town board. Total project costs are approximately \$180 million. Contacts: Dan Deegan, Esq. & Chris Capece. A Public Hearing was held on 9/28/21. This project received an Authorizing Resolution at our September 22nd 2021 Board Meeting. A new Authorization Resolution will need to be adopted prior to closing. We are still awaiting a site plan and closing date.

PGD Baldwin Commons, LLC - Park Grove Realty working with the CDC of Long Island and (Community Development Corporation of Long Island) seeks to construct thirty-three (33) units of work force housing on the specially zoned site at the northwest corner of Grand Avenue & Merrick Road in Baldwin. The \$3 million project would have twenty-seven (27) one-unit dwellings and six (6) two-bedroom units. The project would add one full-time employee. This project was induced at the IDA October 2022 Board Meeting with 20-year PILOT Agreement with a 10-year optional extension if in compliance, Sales Tax Exemption, and MRT Exemption. Approval by NYS HCR has delayed the project, but recent discussions between the developer and the HCR are positive. The project was re-induced at our February 2022 meeting. Contact: Gwen O'Shea, CEO, CDA of LI (631) 471-1215 x 175.

Ocean Avenue Marina, Inc. - The developer intends to demolish the existing catering hall and construct two buildings at 50 & 80 Waterfront Blvd., Island Park. The new apartment complex will be four stories, 135,406 square feet, housing 117 units (74 one-bedroom units and 43 two-bedroom units). The first floor will provide 196 parking spaces with the remaining three floors providing the aforementioned rental units. Project costs are \$41.143 million. The developer seeks a 20-year PILOT, Sales Tax Exemption and Mortgage Recording Tax Exemption. Contact: Peter Curry, Esq., Dylan Vitale, owner. This project vote failed on a Due Diligence Resolution at our September Board Meeting and revoted in October 2021 received a Due Diligence Resolution.

Estella Housing, LLC: The developer seeks to construct ninety-six units of affordable housing (42 studios, 34 one bedroom, 19 two bedroom and a Superintendent's unit) at 176 Main Street, Hempstead. and a main commercial parking lot. The \$50 Million project is to be built on the Village's Downtown overlay zone. This project was induced at our January 31, 2022, meeting with benefits that include Sales Tax Exemption and Mortgage Recording Tax Exemption with a 30-year PILOT. A closing is scheduled for the 30th of March.

Inwood Property Development: The applicant seeks to build a forty-unit, 52582 square foot building of 20 one bedroom, 15 two bedroom and 12 three bedroom and one studio. The \$22 million dollar project will include 25% affordable units. This project was induced on January 31, 2022, with benefits that included Sales Tax Exemption, Mortgage Recording Tax Exemption and a 20-year PILOT. A Public Hearing was held on February 15, 2022. An authorizing Resolution was held on February 24, 2022. The company is currently trying to obtain financing.

Carman Place Apartments, LLC (Commercial Portion) - The applicant seeks to demolish an existing 15,573 square foot building and construct two-residential buildings with a total of 228 rental units plus 22,6000 square feet of commercial space on Main Street and Bedell Street in the Village of Hempstead. This project will be constructed on a total of 2.54 acres. The project will also include a total of 296 parking spaces, 228 for residential and 68 spaces for retail of which 42 will be metered on-street parking. This project may seek to use Tax Exempt Bonds for a portion of this transaction. An Authorizing Resolution was passed on March 24, 2022, for Sales Tax Exemption, Mortgage Recording Tax Exemption and a 20-year PILOT. A closing is set for the 30th of March. Contact: Dan Deegan, Esq. (516) 248-1700.

Carman Place Apartments LLC (Residential Portion) - The applicant seeks to demolish an existing 15,573 square foot building and construct two resident buildings with a total of 228 rental units on Main Street and Bedell Street in the Village of Hempstead. The residential building will consist of 30 studio

apartments, 140 on-bedroom, and 57 two-bedroom apartments. These apartments will be 100% workforce housing, income restricted. This project will also include 228 parking spaces for residential and 68 spaces for retail of which 42 will be metered on-street parking. This project may also seek to use Tax Exempt Bonds for a portion of this transaction. An Authorizing Resolution was passed on March 24, 2022, for Sales Tax Exemption, Mortgage Recording Tax Exemption and a 30-year PILOT. The Supervisor is not opposed to this project. A closing date is set for the 30th of March. Contact: Dan Deegan, Esq. (516) 248-1700

Sunrise of Oceanside NY Propco, LLC – The developers seek to transform the vacant property of 374 Atlantic Avenue, Oceanside into an 84 unit assisted living facility. The site will be 77,433 square feet of living space with 34 one-bedroom units and 50 two-bedroom units. There will be 52 on-site parking spaces. The project will include assisted living, memory care, and hospice care as well. Amenities include a spa, beauty salon, exercise room, entertainment area with bistro and dining room. Total costs are approximately \$48.395 million. Fifty-five full time jobs are expected to be added by the beginning of year. The developer seeks a fifteen (15) year PILOT, sales tax exemption and mortgage recording tax exemption. The Public Hearing has been held on September 28, 2022. The project has been approved by the BZA and an authorizing resolution was adopted 10/25/22. Contact: Andrew Coello & Elizabetta Coschignano.

Rock 50, LLC – The applicant seeks to convert the former Rockville Center Roman Catholic Diocese officer at the subject site of 50 North Park Avenue, Rockville Centre to a class A commercial Office Building. The 60,000 square foot building will be upgraded with the existing exterior extensively renovated. Total costs are approximately \$19.1 million. Two hundred twenty-three (223) new full-time positions are expected to be added by the second year. The applicant seeks a twenty-year PILOT, Sales tax exemption and mortgage recording tax exemption. This property was induced at the January 22, 2022, Board Meeting, A subsequent hearing was held on February 22, 2022. An authorizing resolution was adopted 11/16/2022. We are awaiting a closing date. Contacts: Dan Baker Esq., Joshua Levine.

Baldwin Jaz, LLC - The proposed project seeks to redevelop the properties located at 2253 Grand Avenue & 2292 Harrison Avenue in Baldwin The property was previously used as a car lot will and will be developed into a multiple family transit-oriented site. The project would include 215 residential units (47 studios, 132 one-bedrooms and 36 two-bedroom units) on a 74, 488 square foot site. Project will include a ground floor restaurant and retail space (5000 square feet) with 251 on-site parking spaces. Project costs are estimated to be \$106.1 million with 8.5 full time job equivalents added. The developer seeks a 30-year PILOT, sales tax exemption and mortgage recording tax waiver. This project was induced 9/20/22, Contacts: Elizabetta Coschignano & Kenneth Breslin.

159 Hanse Development – The applicant seeks to purchase and rehabilitate an existing 67,307 square foot industrial building located on a 2.3-acre plot in Freeport. The structure will be renovated with energy efficient equipment for the business that distributes high quality organic and natural dairy products. Project costs are \$10 million. It is expected that there will be 100 full-time employees by the end of the second year. The project was induced and granted a 15-year PILOT, sales tax exemption and mortgage recording tax exemption. An authorizing resolution was adopted on 11/16/2022. This project should close in the new year Contacts: Dan Deegan, Esq. & John Gordon, Esq, Owner/Developer Oscar Molatti.

2 Endo Boulevard: The Board approved an additional seven-year PILOT extension following a history of a ten (15) year PILOT. The company will expend \$655,000 on building improvements, machinery, and equipment. There are more than 100 jobs associated with this enterprise which is the last publishing house of its kind on Long Island. Contact Dan Deegan (516-248-1700) Stuart Richner, Pres (569-4000 ext. 230)

875 Merrick, LLC - The developer seeks to renovate an existing 43,679 square foot building for retail and residential housing. The \$3 million project will provide 110 full time jobs by the third year and 50 construction jobs. The applicant seeks a 15-year PILOT and sales tax exemption. A closing is set for March 22nd. Contact: Dan Deegan, Esq., Charles Piluso, CEO

***CenterPoint Inwood, LLC** - The developer seeks to erect a high-ceiling warehouse and office space in this now vacant parcel of approximately 138,245 square feet. There will be integrated rooftop surface parking, thirty-one drive-up loading docks and two drive-ins. The property located on Rason Road, Inwood consists of 87 acres. Additional surface parking, storm water and landscaping improvements will be included. The project will cost \$84 million with a minimum of twenty-five full time jobs added by the second year and seventy-five construction positions. Contact: Ronel Borner, Dan Deegan, Esq.

INACTIVE PROJECTS:

Empire Offshore Wind, LLC – The Company seeks to construct a renewable wind project including a five-acre substation in Oceanside consisting of 6.65 acres (existing buildings to be removed). This environmentally positive project will reduce fossil fuel reliance and upgrade the local power grid. Project costs are \$221.8 million. Developer seeks a 31-year PILOT, sales tax exemption and mortgage tax exemption. It's very preliminary. No action will take place without the input and approval of local districts, schools, villages, town is secured. Contact: Jonathan Forte (713) 897-9980.

SYNOPSIS OF 2022 ANNUAL COMPLIANCE DATA

TOTAL NUMBER OF PROJECTS REVIEWED: 73

TOTAL PROJECTS CLOSED IN 2020: 6

TOTAL DOLLAR AMOUNT OF PROJECTS CLOSED IN 2020: \$228,817,911.00

TOTAL CONSTRUCTION JOBS REPORTED FOR ALL PROJECTS IN 2020: 824

TOTAL CURRENT JOBS (Created and Retained)
FOR ALL REVIEWED PROJECTS IN 2022: 9,525

PROJECTS UNDER CONSTRUCTION: 206 Smith LLC/Regan Development, BSREP III 107 Charles Lindbergh Blvd., Fad Henry Street Food Corp., JFK Logistics Center, S & S Atlantic Realty and North Shore Linen

The following companies have not fully complied with the IDA's request for Annual Compliance: Fad Henry Street Food Corp. has not submitted proof of General Liability Insurance and Alphamore LLC has not submitted back up information for their reported employment figures.

The following companies did not meet their employment threshold: 110 Graham Realty, 2 Endo Boulevard LLC, Dover Gourmet, Gabrielli Inwood LLC, Garden City 505 Amended, Green Acres Adjacent, JFK Logistics, North Shore Linen, Novapark LLC, OLSL Lynbrook LLC, and The Promenade at Central

2022 COMPLIANCE REVIEW

April 11, 2023

<u>COMPANY</u>	<u>OUTSTANDING ITEMS</u>	<u>NOTES*</u>
1Serv Realty	Full Compliance	
110 Graham Realty	Full Compliance	Employment Shortfall - letter received
2 Endo Blvd. LLC	Compliance fee if ext. appr.	Employment shortfall - letter received
206 Smith LLC/Regan Development	Full Compliance	
225 Merrick Road	Full Compliance	
25 Wanser LLC(Heatherwood)	Full Compliance	Construction has not yet begun
3235 Hempstead Mid Rockland Levittown	Full Compliance	
333 Pearsall LLC	Full Compliance	
43-47 Broadway LLC	Full Compliance	Construction has not yet begun
444 Merrick Road LLC	Full Compliance	
900 Stewart Ave. Holdings	Full Compliance	
990 Stewart Ave. Holdings	Full Compliance	
Alphamore LLC	Employment back-up – in process, requested additional time to provide 3/8	
Arrow Linen	Full Compliance	
Avalon Bay Communities	Full Compliance	

2022 COMPLIANCE REVIEW

April 11, 2023

Avalon Bay Rockville Centre II	Full Compliance	
AVB Harbor Isle	Full Compliance	
Beechwood Merrick	Full Compliance	
Beechwood Portofino	Full Compliance	Litigation – letter received
Brooke Pointe	Full Compliance	
BSREP III 107 Charles Lindbergh	Full Compliance	Under construction
CHSGN LI Hotel	Full Compliance	
City Autoplex	Full Compliance	
CLLI 1-6 LP/303 Main Street	Full Compliance	
CLLI 7-12 LP/130 Hempstead Ave	Full Compliance	
Columbia Equipment	Full Compliance	
Covanta Energy Hempstead	Full Compliance	Yearly employment shortfall due to 4 th boiler not being built
CPK Transportation	Full Compliance	
CS 750 W Merrick Road	Full Compliance	Litigation – letter received
Dover Gourmet	Full Compliance	Employment shortfall - letter received

2022 COMPLIANCE REVIEW

April 11, 2023

Emergency Ambulance Services	Full Compliance	
Engel Burman of Garden City	Full Compliance	
Equity One/Regency Centers	Full Compliance	Litigation-letter received
Fad Henry Street Food Corp	Insurance – sending 3/8/23	
Fairfield East Rockaway	Full Compliance	
FDR Services Corp.	Full Compliance	
Flushing Bank	Full Compliance	
Gabrielli Inwood - Phase II	Full Compliance	Employment shortfall - letter received
Garden City 505 Amended	Full Compliance	Employment shortfall - letter received
Gateway Universal	Full Compliance	Litigation - letter received
Green Acres Adjacent LLC	Full compliance	Employment shortfall - letter received
Hawthorne Owner LLC	Full Compliance	
Hempstead 209	Full Compliance	Litigation letter received
Hempstead Lincoln Mercury	Full Compliance	Last Year to report
Hempstead Village Housing	Full Compliance	
HSRE-EB East Meadow	Full Compliance	

2022 COMPLIANCE REVIEW

April 11, 2023

HSRE-EB Lynbrook	Full Compliance	
HSRE-EB North Woodmere	Full Compliance	
J & C Autoworld	Full Compliance	Litigation - letter received Last Year to report
JFK Logistics Center LLC	Full Compliance	Employment shortfall - letter received Litigation – letter received
Jonathan Arnold/1951 Realty	Full compliance	Litigation - letter received Last Year to report
Lakeview Auto Sales	Full Compliance	Last Year to report
Lawrence Johnson Road LLC	Full Compliance	
Main Street Apartments	Full Compliance	
Maxima Real Estate/Barclay LLC	Full Compliance	
Millennium Realty	Full Compliance	Employment shortfall - letter received Last Year to report
N and D Restaurants/Seasons 52	Full Compliance	
NBD Holding LLC	Full Compliance	
North Shore Linen	Full Compliance	Employment Shortfall - letter received
Novapark LLC/Angion Biomedica 2020	Full compliance	Litigation – letter received

2022 COMPLIANCE REVIEW

April 11, 2023

OLSL Lynbrook	Full Compliance	Employment Shortfall - letter received
Parabit Realty	Full Compliance	
Park Lake Hempstead	Full Compliance	
Parkside Garden Villas	Full Compliance	
Prosperity Ave Holdings/Paul's Auto Collision	Full Compliance	
S & S Atlantic Realty	Full Compliance	
SLZM Realty	Full compliance	
Terrace 100	Full Compliance	
The Promenade at Central	Full Compliance	Employment Shortfall – letter received
The Vantage on Roosevelt	Full Compliance	
Valley Stream Green Acres	Full Compliance	
Village Lofts	Full Compliance	
Waterview Land Development	Full Compliance	

ADDITIONAL NOTES:

- *Companies with missing documents were notified in writing.
- *All litigation letters were reviewed by agency counsel.
- *Employment shortfalls will be reviewed in April.

Service & Parts Facility
110 W. Graham Avenue
Hempstead, NY 11550
Service: 516/766/2585
Parts: 516/766/7870

Sales & Leasing Showroom
650 Sunrise Highway
Rockville Centre, NY 11570
P: 516/766/6900



Mercedes-Benz of Rockville Centre

Luxury at Every Turn

02/10/2023

96 FTE

Hempstead !DA,

This letter is in reference to the 110 Graham Realty LLC Project.

To clarify our jobs submittal. Lakeview Auto's requirement was based on total employment of the dealership as there was only 17 Employees at the 650 Location currently there are 36 employees with 34 FTE at this location before this expansion took place with a total employee count around 80 between the 2 facilities. There are currently a total of 149 Employees that work for Lakeview Auto Sales and Service Inc. This expansion has helped our business to be able to grow which also in turn increases our support of many other local business that supply services to our operation in towing, logistics, facility maintenance. landscape. technology, food. including 2 car wash companies and 2 auto body repair shops etc. At 110 Graham Specifically there are ~~x~~ currently 113 employees which has an FTE of 96 which is ahead of the anticipated growth in jobs which was 53.. The 110 Project went first and was looked at as a standalone and has grown from about 43 Employees working in this aspect of our business.

As to any shortfall in jobs creation the auto sales and service industry has not grown as expected and also due to the Covid-19 pandemic it is a struggle to get our company to the required number for fulfillment. However we hope to meet this soon. As stated above many jobs have been created with outside vendors such as (2) auto collision centers and (2) car wash and detail centers that we contract with. We would have to estimate that at least 30 to 40 jobs were created by these contracted vendors.

We are unable to report construction jobs because we have no way of documenting those numbers, but as you are aware of the large scope of our projects. the building of these facilities employed a tremendous amount of people locally over many different trades to complete these facilities. People in Electrical, Plumbing, Flooring, Material Supply, Job Site Management. Cleanup, Waste Management, Architecture, Concrete Foundations, Steel Workers, Welders etc. If you would like hard numbers, please provide guidance for us to properly substantiate these numbers correctly.

We are also continually updating these facilities using local companies to complete work as necessary due to manufacturer changes in appearance of the buildings.

Best Regards,

Russell Bliss

Controller

PROUD MEMBER OF THE
LAKEVIEW Auto Sales And Service Inc.
FAMILY SINCE 1932

www.mbrvc.com

2 Endo Shortfall

Arlyn Eames

From: Arlyn Eames
Sent: Tuesday, February 21, 2023 10:55 AM
To: Michael Romero
Cc: Stuart Richner
Subject: RE: Compliance 2022 Employment Shortfall 2Endo Boulevard

Thank you.

Arlyn Eames
Deputy Financial Officer
Town of Hempstead IDA
350 Front Street, Room 234-A
Hempstead, NY 11550
Phone: (516) 812-3077

From: Michael Romero <mromero@liherald.com>
Sent: Friday, February 17, 2023 4:11 PM
To: Arlyn Eames <arlyeam@hempsteadny.gov>
Cc: Stuart Richner <srichner@liherald.com>
Subject: Re: Compliance 2022 Employment Shortfall 2Endo Boulevard

Hi Arlyn,

The shortfall of employees is due to the continued affect of the pandemic and the current state of the labor market on Long Island. During the pandemic a number of our employees retired early or moved out of New York State. We currently have 8 open positions that we are actively recruiting for. Recruiting in the extremely tight labor market that exists today on Long Island has been challenging. It is our goal to hire and fill these open positions during the course of the coming year.

Thank you.
Michael Romero

Michael Romero
Executive Assistant
Richner Communications, Inc.
2 Endo Blvd.
Garden City, NY 11530
Tel: 516-569-4000 x235
Fax: 516-766-4283
mromero@liherald.com

On Feb 13, 2023, at 1:12 PM, Arlyn Eames <arlyeam@hempsteadny.gov> wrote:

Please be reminded that the deadline for Compliance submissions is February 20, 2023. Thank you.

Arlyn Eames
Deputy Financial Officer

DOVER GOURMET CORPORATION

27 Saint John's Place
Freeport, New York 11520
516-933-4444
Facsimile 516-933-0117
dovergroupny.com

January 10, 2023

Mr. Frederick E. Parola,
Executive Director/CEO
Town of Hempstead
Industrial Development Agency
350 Front Street
Hempstead, New York 11550-4037

Dear Mr. Parola:

Please find enclosed the following:

1. Compliance Certificate;
2. Certificate of Insurance;
3. NYS-45 for first three (3) quarters of 2022; and
4. Letter regarding litigation.

Please be advised that Dover Gourmet Corporation did not receive or use a Sales Tax exemption during the year 2022.

We have not yet received the 4th quarter NYS-45 from our accountants, but our average employment number for 2022, as reflected on the attached NYS-45 is somewhat less than prior years, as a result of the decreased business volumes and activity which followed the pandemic. Once this situation improves and ultimately resolves, we hope to resume our previous employment levels.

If there are any questions, please call me at any time.

Sincerely,



BUTCH YAMALI
President

Enclosures
Certified Mail-Return Receipt Requested



DAVIDOFF HUTCHER & CITRON LLP

ATTORNEYS AT LAW

605 THIRD AVENUE
NEW YORK, NEW YORK 10158

TEL: (212) 557-7200

FAX: (212) 286-1884

WWW.DHCLLEGAL.COM

FIRM OFFICES

WHITE PLAINS
ATTORNEYS AT LAW
120 BLOOMINGDALE ROAD
WHITE PLAINS, NY 10605
(914) 381-7400

PALM BEACH
ATTORNEYS AT LAW
250 ROYAL PALM WAY
SUITE 202
PALM BEACH, FL 33480
(561) 567-8488

FIRM OFFICES

ALBANY
ATTORNEYS AT LAW
150 STATE STREET
ALBANY, NY 12207
(518) 465-8230

WASHINGTON, D.C.
ATTORNEYS AT LAW
201 MASSACHUSETTS AVENUE N.E.
WASHINGTON, D.C. 20002
(202) 347-1117

February 27, 2023

By Email

Hon. Fred Parola
Executive Director
Town of Hempstead Industrial Development Agency
350 Front Street, Room 234-A
Hempstead, NY 11550

Re: Gabrielli Inwood LLC/ Gabrielli Truck Sales Ltd. 2020 Facility:
2022 Job Covenant

Dear Fred:

Our Firm represents Gabrielli Inwood LLC and Gabrielli Truck Sales Ltd. (collectively, "Gabrielli") in connection with that certain Amended and Restated Lease and Project Agreement with the Town of Hempstead Industrial Development Agency ("TOHIDA") dated as of October 1, 2020 (the "Project Agreement") for that certain property located at 31 Alemeda Street, Inwood, New York (the "Project Facility").

According to Section 8.11 of the Project Agreement, Gabrielli is obligated to create and maintain at the Project Facility fifty (50) full-time equivalent employees as of December 31, 2022.

Significant construction delays, a tight labor market, and ongoing supply chain issues, as further discussed herein, resulted in Gabrielli being unable to comply with this provision of the Project Agreement in 2022.

As you are aware, in August 2021, we requested and TOHIDA granted, an extension of the sales-tax authorization deadline in connection with the Project Agreement to June 30, 2022, due to construction development delays due to the COVID-19 pandemic, supply chain issues, and the Town of Hempstead Building Department.

Gabrielli finished construction of the building in June 2022 and was subsequently granted a certificate of occupancy by the Town of Hempstead. Immediately thereafter, Gabrielli began staffing the Project Facility with full time equivalent employees working two shifts per day. From July 2022 through December 31, 2022, Gabrielli employed twenty (20) full time equivalent

Hon. Fred Parola
February 27, 2023
Page 2

employees at the Project Facility. These employees include mechanics, drivers, and office personnel. Additionally, Gabrielli contractors and subcontractors employed approximately twenty-five (25) full-time equivalent employees at the Project Facility from June 2022 – December 31, 2022, a full list of these entities can be found at Appendix A.

Gabrielli is focused on hiring additional full-time equivalent employees for the Project Facility, however, the labor market has not yet recovered from COVID-19. Finding and training qualified employees who want to work full time requires more time and effort than ever before. To address this problem, and to demonstrate Gabrielli's good faith attempt to fully comply with the Project Agreement, Gabrielli hired a dedicated human resources manager to find, hire, and train employees at the Project Facility.

Additionally, global supply chain delays have had a direct impact on the sale and delivery of the trucks Gabrielli services. We expect this issue to resolve over the next 12-18 months. As new truck deliveries increase in 2023 and 2024, Gabrielli's team at the Project Facility can perform the associated warranty mechanical work.

Therefore, we request that TOHIDA grant forbearance for our 2022 employment shortfall and modify Section 8.11 of the Project Agreement so that Gabrielli has until December 31, 2025, to create and maintain fifty (50) full-time equivalent employees. Providing this relief will allow Gabrielli to overcome the market conditions discussed herein and find, hire, and train the remaining highly paid full-time equivalent employees required under the Project Agreement.

Thank you for your consideration.

Very truly yours,

Nicholas T. Terzulli
Nicholas T.. Terzulli

CC: Michael Lodato – mlodato@tohmail.org
Arlyn Eames – aeames@tohmail.org

January 20, 2022

Town of Hempstead IDA
350 Front Street
Hempstead, NY 11550

Re: Garden City 505, LLC 2016 Facility

Sirs and Mesdames:

As you are aware, Garden City 505 LLC is the owner of 1000 Stewart Avenue and 500 Endo Boulevard, Garden City, New York. Attached please find the Compliance Certificate required under the provisions of our lease agreement with the Hempstead IDA. The Certificate confirms that 242 personnel are currently employed by our tenants at the subject premises.

As we stated in our 2022 filing, the coronavirus epidemic has had a catastrophic effect on in-office employee attendance in the Metropolitan region. Each reduction in the number of cases is followed by an increase resulting from a new variant. Companies are hesitant to mandate that employees return to fulltime office occupancy. Employees are reluctant to work alongside significant numbers of coworkers.

As a consequence, the 1000 Stewart Avenue project continues to lag in the number of personnel required under the IDA documents. Each tenant has fewer onsite employees. Except for certain independent contractors, both Nassau Community College and the Westbury School District are not currently active at the premises. In light of the foregoing, and considering (I) the long-time excess in the number of employees at these premises over the amount required under the IDA documents, and (II) the 242 employees and independent contractors that did occupy the project in 2022, we ask that the Agency waive the minimum employment requirement for the calendar year 2022.

Please feel free to contact us with any questions that you may have regarding the Compliance Certificate or this letter.

Very truly yours,

GARDEN CITY 505, LLC

By:  _____

Daniel J. Baker
Tel 516.629.9610
Fax 516.706.8666
Dan.Baker@gtlaw.com

February 3, 2023

Frederick E. Parola
Executive Director/CEO
Town of Hempstead Industrial Development Agency
350 Front Street
Hempstead, NY 11550

Re: *Green Acres Adjacent LLC 2015 Facility / 2022 Compliance*

Dear Mr. Parola:

I am writing this letter on behalf of Green Acres Adjacent LLC (“the Company”) in support of the Company’s response to the Town of Hempstead IDA (“the IDA”) with regard to its’ annual compliance reporting under the Lease Agreement dated as of May 1, 2015, for among other things, reporting full-time equivalent (“FTE”) job counts at the facility in 2022.

In its annual compliance report for 2022, the Company reported the total number of FTE jobs in 2022 as 476, a number which is less than the 570 FTE’s required under the Lease Agreement but greater than the 2020 count of 442. As the IDA is aware, delays in completing full construction and operation of the project in 2019 and dramatic job loss due to the Covid pandemic led to tremendous FTE shortfalls in 2020. In addition, we remind the IDA that the original plan for the Aldi pad site was decreased in half from the original plans. The original plans called for a two-story, approximately 56,000 square foot building, which is now occupied by Aldi in a one-story, approximately 26,000 square foot building.

While 2021 showed improvements in FTE counts, the ongoing Covid pandemic effects still provide a threat to all tenants at the facility. Despite an anticipated promising outlook for 2022, the general economic environment has been turbulent and has seen a continued decline in some retail operations, increasing interest rates and costs of construction and lingering effects of Covid...all of which have led to slower new tenant improvements and a reduction in FTE staffing by existing tenants who remain open. Two stores that shut down in 2020 due to the pandemic (9,247 sq. ft. Kirkland store and 12,889 sq. ft. Jennifer Convertibles store) now have new leases in place and the tenants, including a new Chuck E. Cheese, will open in 2023 which will represent 100% occupancy as expected by year’s end. In turn, the Company anticipates reaching a close to full FTE count despite having 26,000 less square feet as originally contemplated.

February 3, 2023
Page 2

If you wish to discuss this in further detail or have any questions or comments, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Daniel J. Baker". The signature is fluid and cursive, with the first name "Daniel" being more prominent.

DANIEL J. BAKER
Shareholder

DJB:rdl

cc: Green Acres Adjacent LLC
John E. Ryan, Esq.
Cory Scott – Macerich
Joe Floccari – Macerich

HARRIS BEACH PLC
ATTORNEYS AT LAW

LARKIN AT EXCHANGE
726 EXCHANGE STREET, SUITE 1000
BUFFALO, NEW YORK 14210
716.200.5050

ROBERT G. MURRAY
MEMBER
DIRECT: 716.200.5180
FAX: 716.200.5201
BMURRAY@HARRISBEACH.COM

December 2, 2022

Ryan, Brenna & Donnelly LLP
131 Tulip Avenue
Floral Park, New York 11001
Attention: John E. Ryan, Esq.

RE: Town of Hempstead Industrial Development Agency
JFK Logistics Center LLC 2020 Facility

Dear Mr. Ryan:

As you and I discussed on our recent call, I am writing you, as outside counsel to Amazon.com Services LLC ("Sublessee") in connection with that certain Straight Lease Transaction between the Town of Hempstead Industrial Development Agency (the "Agency") and JFK Logistics Center LLC (the "Company") and Sublessee.

Due to various macroeconomic issues such as industry-wide supply chain challenges and inflationary pressures that have impacted not only this site but Sublessee's entire network of facilities, the launch of the above-referenced facility in Nassau County has been delayed. While Sublessee is positioned well to emerge from the current economic environment in strong condition and remains committed to Nassau County, as a result of the delay, the Company and Sublessee will be unable to meet the required number of full time equivalent jobs required under the transaction documents for calendar year 2022. Specifically, the Company (through the Sublessee) was required to create 52 full time equivalent jobs at the Project Facility by December 31, 2022.

Accordingly, the Sublessee and the Company respectfully request that the Agency forbear from taking any action under the transaction documents for the shortfall in jobs for calendar year 2022 and waive any resulting defaults or recapture events which may be caused by such shortfall. As the economy recovers from the pandemic and the resulting economic disruption, Sublessee is confident that it will complete the fit-out of the Project Facility with the goal of meeting the required number of jobs.

Ryan, Brenna & Donnelly LLP
December 2, 2022
Page 2

HARRIS BEACH ^{PLLC}
ATTORNEYS AT LAW

Please advise if you need any additional information or explanation regarding the 2022 FTE job shortfall. The Sublessee and Company are available to discuss, and of course, you can contact me should you have any questions or concerns. I can be reached at 716-208-8382.

Very truly yours,

HARRIS BEACH PLLC



Robert G. Murray

RGM:kad

cc: JFK Logistics Center LLC
c/o Wildflower Ltd. LLC
80 8th Avenue, Suite 1602
New York, NY 10011
Attn: Adam I Gordon, Matthew A. Dicker

Greenberg Traurig, LLP
Attn: Daniel Baker
900 Stewart Avenue, 5th Floor
Garden City, NY 11530

JFK LOGISTICS CENTER LLC

c/o Wildflower Ltd. LLC
80 EIGHTH AVENUE, SUITE 1602
NEW YORK, NY 10011
www.wildflowerltd.com

December 31, 2022

Town of Hempstead Industrial Development Agency
350 Front Street, 2nd Floor
Hempstead, NY 11550-4037
Attention: Executive Director and Chief Executive Officer

CERTIFICATION REGARDING FTEs

On October 11, 2022, JFK Logistics Center LLC (the “Company”) and Amazon.com Services LLC (the “Sublessee”) spoke to Edie Longo and the Board of the Town of Hempstead Industrial Development Agency staff (the “Agency” or “TOHIDA”) in connection with that certain Straight Lease Transaction between the Agency and Company. Subsequently to that discussion, Sublessee sent TOHIDA a letter regarding the expected shortfall in Full Time Employees for the calendar year 2022, attached as Attachment 1.

Per the above-referenced letter, Sublessee stated that “[d]ue to various macroeconomic issues such as industry-wide supply chain challenges and inflationary pressure that have impacted not only this site but Sublessee’s entire network of facilities, the launch of the above-referenced facility in Nassau County has been delayed. While Sublessee is positioned well to emerge from the current economic environment in strong condition and remains committed to Nassau County, as a result of the delay, the Company and Sublessee will be unable to meet the required number of full-time equivalent jobs required under the transaction documents for calendar year 2022.”

The Sublessee has informed the Company that it will provide an update on when the facility is anticipated to operate at the capacity described in the Lease Agreement in the first quarter of 2023.

Although there are no full-time employees working at the facility currently, the Sublessee did meet the FTE requirement based on the number of construction employees employed in the 2022 calendar year.

FTE Information: Amazon’s General Contractor

- Employee Count
 - 145 full-time employees
 - 53 part-time employees
- Wage Earner Average Salary and Fringe Benefits

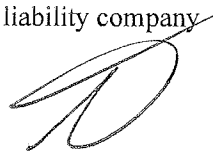
Wage Earner Type	Average Salary or Range	Fringe Benefits Average Cost or Range
Salary	\$81,000 - \$152,714	15% to 25%
Hourly	\$16.00 - \$39.61	\$11.68
1099 / Contract	\$31,420 - \$97,730	N/A

JFK LOGISTICS CENTER LLC

c/o Wildflower Ltd. LLC
80 EIGHTH AVENUE, SUITE 1602
NEW YORK, NY 10011
www.wildflowerltd.com

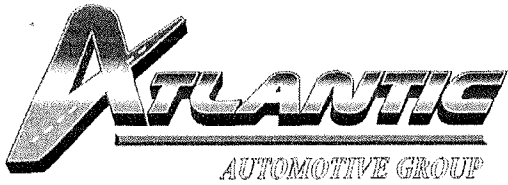
If you have any questions or require additional information, please email matt@wildflowerltd.com and accounting@wildflowerltd.com.

JFK LOGISTICS CENTER LLC, a Delaware
limited liability company

By: 
Name: Matthew A. Dicker
Title: Authorized Signatory

Attachments

Attachment 1: December 2, 2022 Letter from Harris Beach PLLC



John G. Gentile
General Counsel

January 10, 2023

Sent Via E-Mail
& Overnight Mail

Arlyn Eames, Deputy Financial Officer
Town of Hempstead IDA
350 Front Street, Room 234 A
Hempstead, NY 11550

Re: Millennium Realty, LLC (Employee Shortfall)
286 North Franklin Street, Hempstead, NY

Dear Ms. Eames:

Please note that due to the novel coronavirus global pandemic, the above-referenced entity has suffered an employee shortfall. It is fully anticipated that when we reach the late Spring, the employment levels will increase to above **147.5** and remain that way through the fall, as has been the case in prior years.

Should you have any questions or concerns please do not hesitate to contact the undersigned at any time.

Very truly yours,

A handwritten signature in black ink, appearing to be 'JG Gentile', is written over the typed name 'John G. Gentile'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John G. Gentile

JGG:dl

Corporate Headquarters

193-205 Sunrise Highway • West Islip, NY 11795
Showroom: (631) 587-0700 • Direct: (631) 587-0746 • Fax: (631) 587-3401
eMail: jgentile@aagny.net • Web: www.atlanticautomotivegroup.com

NORTH SHORE LINEN, INC
20 Rider Place
FREEPORT, NY 11520
TEL 516-442-7274 FAX 516-442-7278

Arlyn Eames
Deputy Financial Officer
Town of Hempstead IDA
350 Front Street, Room 234-A
Hempstead, NY 11550

To whom this may concern:

There are two problems with the number of full-time employees and or equivalents.

- 1) Since covid many of the restaurants in the city are slowly recovering but at such a slow pace that is not worth operating the plant 5 days a week.
- 2) The hotels that we used to service prior to covid are very, very slow to return to capacity. We are in discussions with some hotels and hospitals to do their washing. Again, they are not at capacity and we cannot afford to open the plant on a full time basis to service a limited quantity of service.

Sincerely,



Lawrence Gentile
Owner
800 Chettic LLC



Kacie A. Wilkinson
direct 502.779.7679
Kacie.Wilkinson@atriaseniorliving.com

February 24, 2023

Via Electronic Mail ONLY

Ms. Arlyn Eames
Town of Hempstead
Industrial Development Agency
350 Front Street, Room 240
Hempstead, NY 11550

**RE: Town of Hempstead Industrial Development Agency; Industrial Development
Revenue Bonds, Series 2001A (FDC Lynbrook LLC Facility)**

Dear Ms. Eames:

This letter is in response to your email regarding the employment shortfall at the Atria Tanglewood community (the "**Community**"). I recently started at Atria and will be your point of contact going forward on matters such as these.

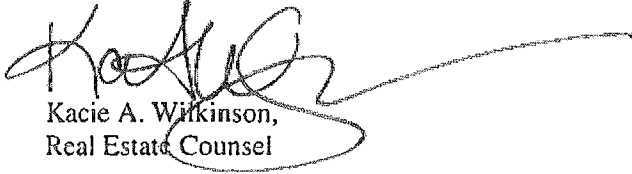
As an initial matter, the Town of Hempstead Annual Certification that was submitted as of December 31, 2022 (the "**Annual Certification**") includes an incorrect reference in the first paragraph. The reference to 70 full-time equivalent employees at the project in the Annual Certification should in fact be a reference to 55.5 full-time equivalent employees, comprised of 41 employees working 30 hours or more each week and 29 part-time employees working less than 30 hours each week, excluding on-call employees. Apologies for any confusion that that may have caused.

With respect to your question regarding the employment shortfall, the Community is staffed to provide the services to the resident population. As of December 30, 2022, there were three (3) vacancies (1 full-time and 2 part-time), in addition to one "on-call" employee who works less than thirty hours per week. However, there are a number of regional employees that support the Community (in addition to other facilities within the Long Island—and NYC metropolitan—area) who do not count as full-time equivalents for reporting purposes. Among those employed regionally supporting the Community include a Senior Vice President, Northeast Operations; Regional Vice President for Long Island; Business Office Specialist; Vice President, Sales; Regional Director for Care; Regional Director of Culinary Services; Human Resources Director; Divisional Engage Life Innovation Director; Quality Enhancement Director; Divisional Maintenance Director; and a Staff Accountant. In addition to the regional employees supporting the Community, the Community also utilizes temporary staffing from time to time (which are also not counted toward the Community's full-time equivalent count) due to the impacts of the national labor shortage and the ongoing impacts of the COVID-19 national emergency.

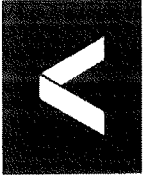
We respectfully submit that the Community has met the requirement for 65.5 FTEs. Please reach out to me if you have any further questions.

Respectfully,

ATRIA MANAGEMENT COMPANY, LLC

A handwritten signature in black ink, appearing to read 'Kacie A. Wilkinson', with a long horizontal flourish extending to the right.

Kacie A. Wilkinson,
Real Estate Counsel



March 11, 2023

Arlyn Eames
Town Of Hempstead IDA
350 Front Street
Hempstead, NY 11550-4037

Re: "EMPLOYEES - The Promenade at Central LLC - 49 N. Central Avenue, Valley Stream"

Dear Mrs. Eames,

Regarding the employment shortfall of one employee, please note as follows:

I have been an employee of the company the prior years.

Last year, I chose not to receive compensation, to assist the business overcome the Covid 19 financial impact.

The situation is being rectified for 2023.

Sincerely,

Vassilios Kefalas
Member

THE PROMENADE
AT CENTRAL LLC
49 N. CENTRAL AVE
VALLEY STREAM
NEW YORK, 11580,
T: +1 516 996 5818



Board Members
Florestano Girardi
Eric C. Mallette
Jack Majkut
Robert Bedford
Thomas Grech
Jerry Kornbluth PhD
Jill Mollitor

Frederick E. Parola
Chief Executive Officer

350 FRONT STREET, HEMPSTEAD, NY 11550-4037
(516) 489-5000 Ext. 4200 • Fax: (516) 489-3179

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY
BOARD MEETING

March 21, 2023, 9:00 a.m.

Town Hall Pavilion, One Washington Street, Hempstead

Agenda: Village Business: Village of Freeport: No New Business, **Village of Hempstead:** No New Business, **New Business:** Consideration of an Authorizing Resolution for a 7-year PILOT Extension for 2 Endo Boulevard LLC/Richner Communications, 2 Endo Boulevard, Garden City, Presentation and Consideration of an Inducement Resolution for CenterPoint Inwood, LLC, 65 Rason Road, Inwood, Consideration of a Tenant Consent for Real Fruit Bubble Tea for Valley Stream Green Acres, 2034 Green Acres Mall, Valley Stream, Consideration of a Tenant Consent for GNC Live Well for Green Acres Adjacent, 750 West Sunrise Highway, Valley Stream, CEO Report, Summary of Board Member Self-Evaluations (tabled from February meeting), Appointment of Compliance/Contracting Officer, Consideration and Adoption of the 2022 Annual Financial Report, Consideration and Adoption of the 2022 Audited Financial Statements, Consideration and Adoption of the Mission Statement 2023, Consideration and Adoption of the Property Disposition Policy, Consideration and Adoption of the Operations and Accomplishments 2022, Consideration and Adoption of the Purchasing Guidelines, Consideration and Adoption of the Board Self Evaluation Policy and Procedures, Consideration and Adoption of the Code of Ethics, Consideration and Adoption of the Investment Policy and Guidelines, Consideration and Adoption of Assessment of Effectiveness of Internal Controls, Consideration and Adoption of the Minutes of February 28, 2023, Consideration and Adoption of the Minutes of March 7, 2023, **Report of the Treasurer:** Financial Statements and Expenditure List, February 22, 2023 – March 14, 2023, Committee Updates, Executive Session, Adjournment

Those in attendance:

Thomas Grech, Vice Chairman
Eric C. Mallette, Treasurer
Robert Bedford, Board Member
Jerry Kornbluth
Jill Mollitor

Also in attendance:

Frederick E. Parola, CEO
Edie Longo, CFO
Arlyn Eames, Deputy Financial Officer
Michael Lodato, Deputy Executive Director
Lorraine Rhoads, Agency Administrator
Laura Tomeo, Deputy Agency Administrator
Paul O'Brien, Phillips Lytle LLP
Barry Carrigan, Nixon Peabody
John E. Ryan, Agency Counsel
Alan Wax, Todd Shapiro Associates, Inc. (electronically)

Excused:

Florestano Girardi, Chairman
Jack Majkut, Secretary

The meeting was called to order at 9:06 a.m. The Chairman declared a quorum was present.

Public Comment: The Chairman opened the floor to comments by the public. There was no public comment.

Village of Freeport: No new business

Village of Hempstead: No new business

New Business:

Consideration of an Authorizing Resolution for a 7-year PILOT Extension for 2 Endo Boulevard LLC/Richner Communications, 2 Endo Boulevard, Garden City:

Dan Deegan the Attorney representing 2 Endo Boulevard LLC/Richner Communications made a presentation to the board. The applicant intends to renovate an existing 77,000 square foot building located on 1.85 acres at 2 Endo Blvd, Garden City (this is inclusive of indoor parking). Approximately 15,000 square feet of the building is used as a public self-storage facility. This project had previously received a 5-year extension on its IDA benefits. The operations at the location consist of printing and publishing the Long Island Herald. The renovations shall include but not be limited to HVAC, Computer Hardware and Software, Manufacturing equipment and fire safety and security. They currently employ 93 employees. Tom Grech made a motion to extend the PILOT for an additional 7 years for 2 Endo Boulevard LLC/Richner Communications. This motion was seconded by Eric Mallette. All were in favor. Motion carried.

Presentation and Consideration of an Inducement Resolution for CenterPoint Inwood, LLC, 65 Ranson Road,

Inwood: Dan Deegan the Attorney representing CenterPoint Inwood, LLC, 65 Ranson Road, Inwood. addressed the board. The applicant intends to develop a vacant 8.7-acre parcel with an approximate 138,245 square foot two-story structure, which will include a high-ceiling warehouse and office space, with integrated rooftop surface parking, 31 drive-up loading docks, and 2 drive-ins. Additional surface parking storm water drainage and landscaping improvements are also proposed. There will also be 15,000 square feet of wet land buffer upgrades. No tenant has been determined. Robert Bedford made a motion to adopt an Inducement Resolution for CenterPoint. Inclusive of a 15-year PILOT and Sales Tax Exemption. This motion was seconded by Eric Mallette. All were in favor. Motion carried.

Consideration of a Tenant Consent for Valley Stream Green Acres, 2034 Green Acres Mall Road, Valley Stream – Real Fruit Bubble Tea for Valley Stream Green Acres:

Eric Mallette made a motion to approve a Tenant Consent for Valley Stream Green Acres, 2034 Green Acres Mall Road, Valley Stream – Real Fruit Bubble Tea. The tenant will occupy approximately 670 square feet of space and will create approximately (5-10) jobs. This motion was seconded by Robert Bedford. All were in favor. Motion carried.

Consideration of a Tenant Consent for GNC Live Well for Green Acres Adjacent, 750 West Sunrise Highway, Valley

Stream: Robert Bedford made a motion to approve a Tenant Consent for GNC Live Well for Green Acres Adjacent, 750 West Sunrise Highway, Valley Stream. The tenant will occupy approximately 1,490 square feet of space and will create approximately (1) full time position and (1) part time position. This motion was seconded by Eric Mallette. All were in favor. Motion carried.

CEO Report: Fred Parola provided the Board with a copy of the CEO Report.

Compliance Review 2022: - Arlyn addressed the Board on the outcome of the 2022 Compliance Review. No vote needed.

Summary of Board Member Self-Evaluations (Tabled from February meeting) – Arlyn addressed the board with her findings. The response was positive, but the board would like to see the agency increase its level of networking. No vote needed.

Appointment of Compliance/Contracting Officer: Eric Mallette made a motion to reappoint Edie M. Longo, CFO as the Contracting/Compliance Officer for the Town of Hempstead Industrial Development Agency. This motion was seconded by Robert Bedford. All were in favor. Motion carried.

Consideration and Adoption of the 2022 Annual Financial Report: Tom Grech made a motion to adopt the 2022 Annual Financial Report, as presented by the Audit Committee. This motion was seconded by Eric Mallette. All were in favor. Motion carried.

Consideration and Adoption of the 2022 Audited Financial Statements: Robert Bedford made a motion to adopt the 2022 Annual Financial Statement, as adopted by the Audit Committee. This motion was seconded by Jerry Kornbluth. All were in favor. Motion carried.

Consideration and Adoption of Mission Statement 2023 and Measurement Report 2022: Eric Mallette made a motion to adopt the Agency's Mission Statement and Measurement Report, as adopted by the Governance Committee. This motion was seconded by Robert Bedford. All were in favor. Motion carried.

Consideration and Adoption of the Property Disposition Policy: Robert Bedford made a motion to adopt the Agency's Property Disposition Policy, as approved by the Governance Committee. This motion was seconded by Jerry Kornbluth. All were in favor. Motion carried.

Consideration and Adoption of the Operation and Accomplishments: Eric Mallette made a motion to adopt the Agency's Operation and Accomplishments, as adopted by the Governance Committee. This motion was by seconded Jerry Kornbluth. All were in favor. Motion carried.

Consideration and Adoption of the Purchasing Guidelines: Eric Mallette made a motion to adopt the Agency's Purchasing Guidelines Policy, as adopted by the Governance Committee. This motion was seconded by Jerry Kornbluth. All were in favor. Motion carried.

Consideration and Adoption of Assessment of Effectiveness of Internal Controls: Jerry Kornbluth made a motion to adopt the Agency's Assessment of Effectiveness of Internal Controls, as adopted by the Audit Committee. This motion was second by Jill Mollitor. All were in favor. Motion carried.

Old Business:

Reading and Approval of Minutes of Previous Meeting(s):

Minutes of the February 28, 2023, Board Meeting: Jill Mollitor made a motion to adopt the minutes of February 28, 2023. This motion was seconded by Jerry Kornbluth. All were in favor. Motion carried.

Minutes of the March 7, 2023, Board Meeting: Jerry Kornbluth made a motion to adopt the minutes of March 7, 2023. This motion was seconded by Jill Mollitor. All were in favor. Motion carried.

Report of the Treasurer: The Board was furnished with copies of the Financial Statements and Expenditure list for February 22, 2023 – March 14, 2023.

Committee Updates: There were no updates.

Executive Session: None

Adjournment: With all business concluded. Tom Grech made a motion to adjourn the meeting at 9:33 a.m. This motion was seconded by Bob Bedford. All were in favor. Motion carried.

9:32 AM

04/11/23

Accrual Basis

Town of Hempstead I. D. A.
Balance Sheet
As of April 11, 2023

	Apr 11, 23
ASSETS	
Current Assets	
Other Current Assets	
490-00 · Interest due from PILOT account	-124,801.49
380-01 · Accounts Recievable	8,933.96
Total Other Current Assets	-115,867.53
Checking/Savings	
200-22 · Checking (FNBLI)187009667	165,000.00
200-21 · Oper Invest MM(FNBLI) 186702577	235,035.78
200-20 · Severance (FNBLI) 186702585	237,990.44
200-19 · HlthRetirement (FNBLI)186702593	990,159.69
200 · Cash	
200-02 · Petty Cash	63.71
200-13 · Bank of America - 9419794381-Ck	36,001.60
200-14 · BankofAmerica MMS - 9419794402	3,455,065.23
Total 200 · Cash	3,491,130.54
Total Checking/Savings	5,119,316.45
Total Current Assets	5,003,448.92
Fixed Assets	
400-00 · Furniture & Fixtures	
400-02 · Accumulated Depreciation	-26,702.70
400-01 · Furniture and Fixtures	26,702.70
Total 400-00 · Furniture & Fixtures	0.00
400-051 · Computer equip.	
400-04 · Accumulated Dep. - Computer	-3,929.02
400-05 · Computer Equipment	3,929.02
Total 400-051 · Computer equip.	0.00
400-100 · Machinery & equip.	
400-102 · A/D - Equipment	-15,878.00
400-101 · Equipment	15,878.00
Total 400-100 · Machinery & equip.	0.00
450-00 · Leasehold improvement	
450-02 · Accumulated Amort.	-90,950.40
450-01 · Leasehold Improvements	14,140.00
450-03 · 2009 Leasehold improvements	84,273.98
Total 450-00 · Leasehold improvement	7,463.58
Total Fixed Assets	7,463.58
Other Assets	
Deferred outflows of resources	
700-1 · Changes in Agency cont GASB68	-52,127.00
700-3 · Diff - expect/actual exp GASB68	7,735.00
700-6 · Change in assumptions OPEB	242,567.00
700-5 · Diff expected & actual OPEB	255,424.00
700-4 · Change in assumptions	258,066.00
Total Deferred outflows of resources	711,665.00
Total Other Assets	711,665.00
TOTAL ASSETS	5,722,577.50
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
550-00 · Accrued Expenses	-11,521.22

9:32 AM

04/11/23

Accrual Basis

Town of Hempstead I. D. A.
Balance Sheet
As of April 11, 2023

	Apr 11, 23
602-00 · Payroll Liabilities	
602-09 · NY Unemployment	-1,314.75
602-07 · Disability W/H	50.40
602-05 · FICA Tax W/H Medicare	52.65
602-01 · Retirement W/H	101.89
602-03 · State Income Tax W/H	154.54
602-04 · FICA Tax W/H Social Sec.	225.04
602-11 · AFLAC WITHHOLDING	345.87
602-06 · Retirement Loan	604.00
602-02 · Fed'L Income Tax W/H	617.48
Total 602-00 · Payroll Liabilities	837.12
Total Other Current Liabilities	-10,684.10
Total Current Liabilities	-10,684.10
Long Term Liabilities	
605 · Net pension liability - pro. sh	-102,539.00
602 · -10 Compensated absences	103,824.24
Deferred inflows of resources	
500-4 · Change in assumptions	2,876.00
500-2 · Change in pro - employer & prop	23,857.00
500-5 · Changes in assumption OPEB	32,975.00
500-1 · Difference between expect/act	334,468.00
Total Deferred inflows of resources	394,176.00
603-00 · Postretirement health benefits	1,450,586.00
Total Long Term Liabilities	1,846,047.24
Total Liabilities	1,835,363.14
Equity	
Net Income	430,142.82
3000 · Opening Bal Equity	498,858.39
909-00 · Fund Balance	2,958,213.15
Total Equity	3,887,214.36
TOTAL LIABILITIES & EQUITY	5,722,577.50

9:33 AM

04/11/23

Accrual Basis

Town of Hempstead I. D. A.

Account QuickReport

As of April 11, 2023

Type	Date	Num	Name	Memo	Split	Amount	Balance
200 · Cash							15,714.03
200-13 · Bank of America - 9419794381-Ck							15,714.03
Check	03/15/2023	31232	Todd Shapiro	Invoice #8943 ...	522-15 · Profes...	-2,500.00	13,214.03
Transfer	03/17/2023			Funds Transfe...	200-14 · Bankof...	50,000.00	63,214.03
Check	03/17/2023	31233	K-LOG, Inc.	File Cabinets ...	522-07 · Office ...	-6,839.85	56,374.18
Check	03/21/2023	31234	The New York Times	Subscription A...	522-05 · Dues ...	-70.80	56,303.38
Check	03/22/2023	31235	Newsday Media Group	Acct. 088764...	522-22 · Public ...	-704.00	55,599.38
Check	03/23/2023	31236	Camoin Associates	Inv. #19811 C...	2901-00 · Cost ...	-2,500.00	53,099.38
Check	03/23/2023	31237	DGS - Reproduction ...		522-21 · Printing	-13.20	53,086.18
Check	03/24/2023	52242	PAROLA, FREDERI...	522-52 Pay Pe...	-SPLIT-	-1,807.58	51,278.60
Check	03/24/2023	52243	LONGO, EDITH M.	522-52 Pay Pe...	-SPLIT-	-565.67	50,712.93
Check	03/24/2023	52244	RHOADS, LORRAINE	522-52 Pay Pe...	-SPLIT-	-1,255.12	49,457.81
Check	03/24/2023	52245	Arlyn C. Eames	522-52 Pay Pe...	-SPLIT-	-3,132.82	46,324.99
Check	03/24/2023	52246	Lodato, Michael	522-52 Pay Pe...	-SPLIT-	-2,873.44	43,451.55
Check	03/24/2023	52247	Laura N. Tomeo	522-52 Pay Pe...	-SPLIT-	-2,343.31	41,108.24
General Journal	03/24/2023	S&Co ...	Bank of America	522-52 Pay Pe...	602-04 · FICA ...	-5,521.33	35,586.91
Check	03/27/2023	31238	Optimum	07858-547683...	522-07 · Office ...	-192.06	35,394.85
Check	03/28/2023	electro...	N.Y.S & LOCAL EMP...	Code 51313 - ...	-SPLIT-	-505.78	34,889.07
Check	03/30/2023	31239	FREDERICK PAROLA	Reimburseme...	522-07 · Office ...	-200.62	34,688.45
Transfer	03/31/2023			Funds Transfe...	200-14 · Bankof...	60,000.00	94,688.45
Check	03/31/2023	31240	Sheehan & Company	Invoice Audite...	522-04 · Accou...	-28,500.00	66,188.45
Check	04/03/2023	31241	TOH Department of ...	Health Ins. - I...	522-70 · Health...	-9,799.61	56,388.84
Check	04/04/2023	31242	Newsday Media Group	Acct. 088764...	522-22 · Public ...	-464.00	55,924.84
Check	04/04/2023	31243	Newsday Media Group	Acct. 088764...	-SPLIT-	-520.00	55,404.84
Check	04/05/2023	31244	READY REFRESH b...	Acct# 042347...	522-07 · Office ...	-42.98	55,361.86
Check	04/05/2023	31245	Town of Hemsptead -...	Postage Marc...	522-19 · Postag...	-275.68	55,086.18
Check	04/07/2023	52250	PAROLA, FREDERI...	522-52 Pay Pe...	-SPLIT-	-1,731.28	53,354.90
Check	04/07/2023	52251	LONGO, EDITH M.	522-52 Pay Pe...	-SPLIT-	-506.27	52,848.63
Check	04/07/2023	52252	RHOADS, LORRAINE	522-52 Pay Pe...	-SPLIT-	-1,184.37	51,664.26
Check	04/07/2023	52253	Arlyn C. Eames	522-52 Pay Pe...	-SPLIT-	-3,132.83	48,531.43
Check	04/07/2023	52254	Lodato, Michael	522-52 Pay Pe...	-SPLIT-	-2,873.43	45,658.00
Check	04/07/2023	52255	Laura N. Tomeo	522-52 Pay Pe...	-SPLIT-	-2,343.30	43,314.70
General Journal	04/07/2023	S&Co ...	Bank of America	522-52 Pay Pe...	602-04 · FICA ...	-4,139.96	39,174.74
Check	04/10/2023	31246	Fevola Reporting & T...	Invoice # 5886...	522-22 · Public ...	-367.50	38,807.24
Check	04/10/2023	Electr...	PAYCHEX	Payroll Servic...	2100-01 · PAY...	-167.64	38,639.60
Check	04/10/2023	31247	FedEx	Account #207...	522-19 · Postag...	-41.52	38,598.08
Check	04/11/2023	31248	Todd Shapiro	Invoice #8977 ...	522-15 · Profes...	-2,500.00	36,098.08
Check	04/11/2023	31249	Town of Hemsptead-...	Printing - Inv. ...	522-21 · Printing	-96.48	36,001.60
Total 200-13 · Bank of America - 9419794381-Ck						20,287.57	36,001.60
Total 200 · Cash						20,287.57	36,001.60
TOTAL						20,287.57	36,001.60