

DATE: *October 3, 2019*
TO: Mayor and City Council
FROM: *[Signature]* Assistant City Manager
SUBJECT: Lease – Broadstone at Sugar Hill
Art Gallery/History Museum



RECOMMENDED ACTION

Approve and authorize the Mayor to sign the lease for the Art Gallery and History Museum spaces in the Broadstone at Sugar Hill project, totaling approximately 1,484 square feet of floor area, at a cost of \$0 in base rent per year plus common area maintenance charges for a term of 10 years.

During the planning and design of the Broadstone Mixed-Use project on the former site of the Buice Center, we were able to reserve two spaces on along West Broad to serve as new Art Gallery and History Museum rooms in the downtown. The relocations of the two uses will allow our community groups to promote the arts in the form of exhibits as well as tell the city's story in the form of intriguing historic pieces in our collection.

The lease has been negotiated over the last nine months and given birth to the attached document and associated terms for two spaces totaling some 1,484 square feet. The final area will be measured and confirmed as a part of the buildout process. The lease rate was set at a negligible \$1 per year but will require common area maintenance charges to be funded by the lessee in this case. The estimated annual expense for these charges is just under \$9,000 or \$6 per square foot.

A security deposit will also be required as well along with the anticipated buildout expense to fit out the space for its intended uses. The project to buildout the spaces will be included in the 2020 capital improvement program and cost of which will likely be in the range of \$100 to \$125 per square foot since the space is currently planned to be unfinished and not conditioned.

With the terms outlined and a review by legal counsel having been completed, staff recommends approval and authorization for the Mayor to execute the lease.

Attachments
Lease and Exhibit A-2

RETAIL LEASE

CRP/AR SUGAR HILL OWNER, L.L.C., as Landlord

City of Sugar Hill, as Tenant

Broadstone at Sugar Hill, Sugar Hill, Georgia

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SCHEDULE OF EXHIBITS

Exhibit A Site Plan
Exhibit B Work Letter
Exhibit C Sign Criteria
Exhibit D Renewal Option
Exhibit E Rules and Regulations
Exhibit F Legal Description
Exhibit G Guaranty
Exhibit H Commencement Date Agreement
Exhibit I Project Criteria/Prohibited Uses

RETAIL LEASE
(Broadstone at Sugar Hill, Sugar Hill, Georgia)

This RETAIL LEASE (this "Lease") is made and entered into effective as of this _____ day of _____, 2019, by and between Landlord and Tenant.

ARTICLE I. DEFINITIONS AND CERTAIN BASIC PROVISIONS

1.1 The following list sets out certain defined terms and other information pertaining to the parties to this Lease:

- (a) "Landlord": CRP/AR Sugar Hill Owner, L.L.C., a Delaware limited liability company.
- (b) Landlord's address: c/o 3715 Northside Parkway, Suite 1-102, Atlanta, Georgia, 30327.
- (c) "Tenant": City of Sugar Hill, Georgia
- (d) Tenant's address: 5039 W. Broad Street, Sugar Hill, GA 30518
- (e) Tenant's trade name(s): City of Sugar Hill, Sugar Hill Downtown Development Authority, Sugar Hill Historic Preservation Society, Sugar Hill Arts Commission

1.2 The following list sets out certain defined terms and certain financial and other information pertaining to this Lease:

- (a) "Building": The structure which contains the "Demised Premises" as shown on the site plan set forth on Exhibit A (the "Site Plan") attached to this Lease and made a part of this Lease for all purposes.
- (b) "CAM Charges": The costs, expenses and fees, of whatever nature, incurred by Landlord in connection with the Common Area (hereinafter defined) and management and administrative fees, but expressly excluding all "real estate charges" and "insurance expenses" (as such terms are hereinafter defined). Tenant shall pay to Landlord, as Additional Rental, a fixed, stipulated amount for Tenant's share of CAM Charges pursuant to Section 7.3 hereof.
- (c) "Commencement Date": The date which is the first to occur of (i) the date on which Tenant first opens for business within the Demised Premises, or (ii) the date which is one hundred twenty (120) days after the date Landlord has delivered the Demised Premises to Tenant with Landlord's Work as specified in Section 1.1 of **Exhibit B** substantially completed, except as may be set forth therein and for minor items which do not materially interfere with the conduct of Tenant's Work as specified in Section 1.2 of **Exhibit B** (the "Delivery Date"). Landlord shall provide Tenant written notice of its intent to deliver the Demised Premises within thirty (30) days of the anticipated Delivery Date. The delivery and/or acceptance of the keys to the Demised Premises shall not be a factor in determining the date on which Landlord has delivered the Demised Premises to Tenant as detailed in item (ii) above.
- (d) "Demised Premises": Approximately One Thousand Four Hundred Eighty-Four (1,484) square feet of Rentable Area, known in Landlord's internal records as Suite 100 and located at 5010 W. Broad Street, Sugar Hill, Georgia 30518, as shown on Exhibit A. The parties agree that **Exhibit A** is attached solely for the purpose of locating the Demised Premises within the Building and that no representation, warranty, or covenant is to be implied by any other information shown on the exhibit (*i.e.*, any information as to buildings, tenants or prospective tenants, etc. is subject to change at any time). While **Exhibit A** sets forth the general layout of the Building, Landlord specifically reserves the right to construct or demolish buildings or improvements or to relocate or add or delete any buildings, improvements, parking areas, common areas and

other areas in the Building, provided that the size and location of the Demised Premises shall not be materially altered.

(e) "Landlord's Sign Criteria": Landlord's criteria and requirements with respect to Tenant's signs to be installed in and about the Demised Premises as more fully set forth on Exhibit C attached to this Lease and made a part of this Lease for all purposes.

(f) "Lease Term": Commencing on the Commencement Date and ending on the last day of the fifth (5th) Lease Year (defined below). The Lease Term may be extended, if at all, in accordance with Exhibit D - Renewal Option attached to this Lease (if such exhibit is completed to allow for any extension). The Lease Term, without giving effect to any extensions thereof pursuant to Exhibit D attached to this Lease, if any, is referred to in this Lease from time to time as the "Initial Lease Term." Each period for which the Lease Term is extended pursuant to Exhibit D attached hereto, if any, is referred to in this Lease from time to time as a "Renewal Term." The Lease Term, giving effect to any Renewal Term, is referred to in this Lease from time to time as "the term of this Lease."

(g) "Lease Year": Each consecutive period of twelve (12) calendar months, commencing on the first day of the calendar month immediately following the month in which the Commencement Date occurs and each anniversary of such day, except that the first Lease Year shall also include the period from the Commencement Date until the first day of the following month (the "Stub Month") unless such Commencement Date is the first day of the month in which case the first Lease Year shall terminate on the date twelve (12) months after such Commencement Date.

(h) "Maximum Rate": The greatest of the rates of interest from time to time permitted under applicable federal and state law. Wherever it is provided in this Lease that a monetary sum shall be due to Landlord together with interest at the Maximum Rate and at such time there is no Maximum Rate, interest shall be due at the rate of eighteen percent (18%) per annum.

(i) "Minimum Guaranteed Rental": Zero and 00/100 Dollars (\$0.00) per month (or One and 00/100 Dollar (\$1.00) per year), during each of Lease Years one (1) through five (5); subject, however, to adjustments and increases, as detailed in Section 4.1 hereof.

The CAM Charges, Tenant's obligations for taxes, other real estate charges and insurance, together with any other charges which may become due to Landlord under this Lease are sometimes collectively referred to in this Lease as "Additional Rental". The Minimum Guaranteed Rental and Additional Rental are sometimes collectively referred to in this Lease as "Rent".

(j) "Permitted Use": The Demised Premises shall be advertised and operated only under Tenant's Trade Name(s). Tenant shall use the Demised Premises solely for the operation of a history museum, art gallery, and welcome center. The Demised Premises shall not be used for any purpose not specifically set forth herein and no merchandises not specifically set forth herein will be displayed, sold or offered for sale. In no event shall Tenant conduct any business in the Demised Premises or use the Demised Premises for any of the exclusive or prohibited uses described in Exhibit I attached hereto and made a part hereof. In no event shall Tenant conduct any business in the Demised Premises which would violate any exclusive granted by Landlord to a tenant of the Project of which Tenant receives written notice from Landlord and which does not preclude Tenant's Permitted Use hereunder.

(k) "Project". The mixed use project known as Broadstone at Sugar Hill.

(l) "Rentable Area": The Rentable Area for the Demised Premises shall be the entire area included within the Demised Premises, being the area bounded by the exterior of all walls or plate glass separating the Demised Premises from any public areas or the retail service corridor behind the Demised Premises, and the centerline of all walls

separating the Demised Premises from other areas leased or to be leased to other tenants, without deduction for any area covered by corridors, stairways, restrooms, mechanical rooms, electrical rooms, telephone closets, vertical penetrations of the floors, columns, projections, or any other structural portions situated in the Demised Premises.

(m) "Rules and Regulations": Those rules and regulations from time to time established, amended, reduced or added to by Landlord in the exercise of its reasonable discretion for the operation and occupancy of the Building. The Rules and Regulations presently in effect are attached to this Lease as **Exhibit E** and made a part of this Lease for all purposes.

(n) "Security Deposit". A total of Seven Thousand (\$7,000) payable by Tenant at the execution of this Lease.

(o) "Work Letter": The agreement between Landlord and Tenant with regard to the construction of certain improvements within the Demised Premises as more fully set forth in **Exhibit B** attached to this Lease.

1.3 The following chart is provided as an estimate of Tenant's initial payment broken down into its components. This chart, however, does not supersede the specific provisions contained elsewhere in this Lease:

Initial Minimum Guaranteed Rental	\$0.00
Initial CAM Charges (management expense, taxes, insurance)	\$6.00 PSF (estimate of 1% of CAM,
Escrow Payment for Taxes, Insurance and Other Real Estate Charges	\$8,904
Total Initial Payment	<u>\$8,905</u>

Simultaneously with the execution of this Lease by Tenant, Tenant shall deposit with Landlord the amount of Total Initial Payment shown above as a deposit towards payment of Rent for the first (1st) full calendar year of the Lease Term (hereinafter referred to as the "Rental Deposit"). Such Rental Deposit, prior to its being applied to the applicable payment of Rent, shall be security for the payment and performance by Tenant of all Tenant's obligations, covenants, conditions and agreements under this Lease, and Landlord shall have the right, but shall not be obligated, to apply all or any portion of the Rental Deposit to cure any default by Tenant, in which event, following written notice from Landlord, Tenant shall be obligated to promptly deposit with Landlord the amount necessary to restore the Rental Deposit to its original amount. In the event Tenant fails to perform its obligations and to take possession of the Demised Premises on the Commencement Date provided herein, said Rental Deposit shall not be deemed liquidated damages and Landlord may apply the Rental Deposit to reduce Landlord's damages, and such application of the Rental Deposit shall not preclude Landlord from recovering from Tenant all additional damages incurred by Landlord.

ARTICLE II. GRANTING CLAUSE

2.1 Landlord, in consideration of the covenants, agreements and undertakings of Tenant as set forth in this Lease, does hereby lease, let and demise unto Tenant, and Tenant does hereby lease from Landlord, the Demised Premises to have and to hold for the Lease Term, all upon and subject to the terms and conditions set forth in this Lease.

ARTICLE III. DELIVERY OF PREMISES

3.1 Landlord makes no warranty of any kind, express or implied, with respect to the Demised Premises (without limitation, Landlord makes no warranty as to the habitability or fitness for any particular purpose of the Demised Premises). By occupying the Demised Premises after the Commencement Date, Tenant shall be deemed to have accepted delivery of same.

3.2 If this Lease is executed before the Demised Premises become vacant, or if any present tenant or occupant of all or any portion of the Demised Premises holds over and Landlord cannot acquire possession of the Demised Premises prior to the Commencement Date of this Lease, Landlord shall not be deemed to be in default under this Lease; and in such event, Tenant agrees to accept possession of the Demised Premises at such time as Landlord is able to tender the same.

ARTICLE IV. RENT

4.1 The Minimum Guaranteed Rental shall be as set forth in Section 1.2(i). The final determination of Rentable Area made by Landlord's architect shall cause a proportionate adjustment in any Additional Rental.

4.2 Rent shall accrue from the Commencement Date, and shall be payable to Landlord without previous notice or demand therefor and without any setoff or deduction whatsoever at Landlord's address set forth in Section 1.1(b) above, or (at Landlord's option) at such other address as may be specified by Landlord in writing.

4.3 Tenant shall pay to Landlord Rent in monthly installments in the amounts specified in Section 1.2(i) and Section 4.1 of this Lease. The first such monthly installment shall be due and payable on the Commencement Date, and subsequent installments shall be due and payable on or before the first day of each succeeding calendar month thereafter. In the event the first Lease Year includes a Stub Month in which the Commencement Date occurs pursuant to Section 1.2(c) hereof, then Tenant shall pay the annual Rent set forth in Section 1.2(i) hereof that is payable in the first (1st) full calendar month of the Lease Term plus the prorated Rent for such Stub Month no later than the Commencement Date.

4.4 It is understood that the Rent is payable on or before the first day of each calendar month (in accordance with Section 4.3 above) without notice, demand, offset or deduction of any nature. In the event any Rent is not received within five (5) days after its due date for any reason whatsoever, then in addition to the past due amount, Tenant shall pay to Landlord both of the following (unless one of the following is improper under applicable law, in which event such improper sum will not be required to be paid under this Lease): (a) a late charge in an amount equal to ten percent (10%) of the Rent then due, in order to compensate Landlord for its administrative and other overhead expenses (the "Late Charge"); and (b) interest on the Rent then due at the Maximum Rate (but in no event to exceed one and one-half percent (1½%) per month), such interest to accrue continuously on any unpaid balance due to Landlord by Tenant during the period commencing with the Rent due date and terminating with the date on which Tenant makes full payment of all amounts owing to Landlord at the time of said payment. Any such Late Charge or interest payment shall be payable as Additional Rental under this Lease, shall not be considered as a deduction from Rent or any other amount payable by Tenant under this Lease, and shall be payable immediately on demand. Notwithstanding anything contained in this Section 4.4 or in this Lease to the contrary, no sum received by Landlord under this Lease as interest shall ever exceed the Maximum Rate, and Landlord shall immediately refund or credit Tenant any amount received under this Lease in excess of the Maximum Rate. Notwithstanding the foregoing provisions of Section 4.4, during each Lease Year of the Term, for the first two (2) payments which are not received on the due date, the Late Charge and default interest shall not accrue or be incurred if the required payment is received by Landlord within ten (10) days following receipt by Tenant of notice of such late payment from Landlord. After two (2) payments are delinquent during a given Lease Year, Late Charges and default interest shall accrue and/or be incurred as set forth above in this Section 4.4.

4.5 If Tenant fails in two (2) consecutive months to make Rent payments within ten (10) days after such Rent payments are due, Landlord, in order to reduce its administrative costs, may require, by giving written notice to Tenant (and in addition to any Late Charge or interest accruing pursuant to Section 4.4 above, as well as any other rights and remedies accruing pursuant to Article XXII or Article XXIII below, or any other provision of this Lease or at law), that all future Rent payments are to be made on or before the due date by cash, cashier's check, or money order and that the delivery of Tenant's personal or corporate check will no longer constitute a payment of Rent as provided in this Lease. Any acceptance of a monthly Rent payment or of a personal or corporate check thereafter by Landlord shall not be construed as a subsequent waiver of said rights.

ARTICLE V. INTENTIONALLY OMITTED.

ARTICLE VI. TENANT'S RESPONSIBILITY FOR TAXES, OTHER REAL ESTATE CHARGES AND INSURANCE EXPENSES

6.1 Tenant shall be liable for all taxes levied against personal property and trade fixtures placed by Tenant in the Demised Premises. If any such taxes are levied against Landlord or Landlord's property and if Landlord elects to pay the same or if the assessed value of Landlord's property is increased by inclusion of personal property and trade fixtures placed by Tenant in the Demised Premises and Landlord elects to pay the taxes based on such increase, Tenant shall pay to Landlord upon demand that part of such taxes for which Tenant is primarily liable under this Lease.

6.2 Commencing on the Commencement Date and continuing during the Lease Term, Tenant shall also be liable for "Tenant's proportionate share" (as defined below) of all "real estate charges" (as defined below) and "insurance expenses" (as defined below) related to the Retail Space or Landlord's ownership of the Building. Tenant's obligations under this Section 6.2 shall be prorated during any partial year (*i.e.*, the first year and the last year of the term of this Lease). "Tenant's proportionate share" shall be a fraction the numerator of which is the total Rentable Area in the Demised Premises and the denominator of which is the total Rentable Area of the Building at the time when the respective charge was incurred (excluding, however, areas for which any such real estate charges or insurance expenses, or both, are wholly paid by a party or parties other than Landlord and with respect to which Landlord has no reimbursement obligations). "Real estate charges" shall include, but not be limited to, ad valorem taxes, special assessments for prior periods due to change in land use, general and special assessments, impact fees, parking surcharges, any tax or excise on rents (including Rent payable under this Lease), any franchise, "taxable margin", gross receipts or similar taxes, any tax or charge for governmental services (such as street maintenance or police and fire protection) and any other tax or assessment of every kind or nature which are now or may hereafter be imposed or assessed upon the Demised Premises or the Project and any tax or charge which replaces any of such above-described "real estate charges"; provided, however, that "real estate charges" shall exclude any estate, inheritance or general income tax. In addition "real estate charges" shall include the cost to Landlord for professional tax consulting services and the cost and charges in a tax appeal, protest or review. "Insurance expenses" shall include all premiums and other expenses incurred by Landlord for insurance, including property and liability insurance and rental value insurance (plus whatever endorsements or special coverages which Landlord, in Landlord's sole discretion, may consider appropriate).

6.3 During each month of the Lease Term, at the same time as monthly installments of Minimum Guaranteed Rental are due, Tenant shall make a monthly escrow deposit with Landlord equal to one-twelfth (1/12) of Tenant's proportionate share of the "real estate charges" and "insurance expenses" related to the Building, which Landlord reasonably estimates will be due and payable for that particular year. In the event Landlord does not otherwise notify Tenant of the monthly amounts to be deposited under this Article VI, then Tenant shall continue to pay such monthly deposits in an amount equal to one-twelfth (1/12) of Tenant's proportionate share of the "real estate charges" and "insurance expenses" for the immediately preceding twelve (12) month period (provided, however, that in no event shall monthly deposits under this Article VI ever be less than the amount set forth in Section 1.3 of this Lease). Tenant authorizes Landlord to use the funds deposited by Tenant with Landlord under this Article VI to pay the "real estate charges" and "insurance expenses" incurred by Landlord. Each real estate charge escrow payment and insurance expense escrow payment shall be due and payable at the same time and the same manner as the time and manner of the payment of Minimum Guaranteed Rental as provided in this Lease. The amount of the initial monthly real estate charge escrow payment and insurance expense escrow payment will be that amount set out in Section 1.3 above. The initial monthly real estate charge escrow payment and insurance expense escrow payment are based upon Tenant's proportionate share of the estimated "real estate charges" and "insurance expenses" on the Building for the year in question, and the monthly real estate charge escrow payment and insurance expense escrow payment are subject to increase at any time during the term of this Lease as determined by Landlord to reflect an accurate escrow of Tenant's estimated proportionate share of the "real estate charges" and "insurance expenses". The real estate charge

escrow payment and insurance expense escrow payment accounts of Tenant shall be reconciled annually. If Tenant's total real estate charge escrow payments and insurance expense escrow payments are less than Tenant's actual proportionate share of the "real estate charges" and "insurance expenses" related to the Building, Tenant shall pay to Landlord within thirty (30) days of Landlord's written demand the difference; if the total real estate charge escrow payments and insurance expense escrow payments of Tenant are more than Tenant's actual proportionate share of the "real estate charges" and "insurance expenses" related to the Building, Landlord shall retain such excess and such excess sum shall either (a) be credited against the next maturing installments due from Tenant to Landlord for Tenant's proportionate share of actual "real estate charges" and "insurance expenses" or (unless otherwise provided herein), or (b) be refunded by Landlord to Tenant upon termination of this Lease.

ARTICLE VII. COMMON AREAS

7.1 The term "Common Area" is defined for all purposes of this Lease to include all alleyways, sidewalks, entrances, passages, lobbies, plazas, elevators, escalators, stairways, vestibules, corridors, halls and other public portions of or adjacent to the Building. Landlord reserves the right to change from time to time the dimensions and location of the Common Area, as well as the dimensions, identity and type of any buildings in the Project and to perform any other act in or to the Common Area as shall be consistent with good business practices as determined by Landlord in its sole discretion. For example, and without limiting the generality of the immediately preceding sentence, Landlord may from time to time substitute for any existing parking area any other areas reasonably accessible to the tenants of the Project, which area may be elevated, surface or underground.

7.2 Except as may be otherwise set forth herein, Tenant, and its employees agents, customers and invitees, shall have the nonexclusive right to use those portions of the Common Area (excluding, without limitation, roofs, structures and building skin of buildings in the Project) as constituted from time to time and made available by Landlord for the common use of all tenants in the Project and other persons permitted by Landlord to use the same, and subject to such reasonable rules and regulations governing use as Landlord may from time to time prescribe. For example, and without limiting the generality of Landlord's ability to establish rules and regulations governing all aspects of the Common Area, Tenant agrees as follows: (a) Landlord may from time to time designate specific areas within the Project or in reasonable proximity thereto in which automobiles owned by Tenant, its employees, subtenants, licensees and concessionaires shall be parked; (b) Tenant shall not solicit business within the Common Area or take any action which would interfere with the rights of other persons to use the Common Area; (c) Landlord may temporarily close any part of the Common Area for such periods of time as may be necessary to make repairs or alterations or to prevent the public from obtaining prescriptive rights; and (d) with regard to the roof(s) of the building(s) in the Project, use of the roof(s) is reserved to Landlord or, with regard to any tenant demonstrating to Landlord's satisfaction a need to same, to such tenant after receiving express prior written consent from Landlord.

7.3 Commencing on the Commencement Date and continuing on each anniversary of the Commencement Date thereafter during the Lease Term, in addition to the rentals and other charges prescribed in this Lease, Tenant shall pay to Landlord, as Additional Rental, a fixed, stipulated annual amount for Tenant's share of the CAM Charges equal to Six and 00/100 Dollars (\$6.00) per square foot times the number of square feet of Rentable Area of the Demised Premises during the first (1st) Lease Year. The fixed CAM Charges shall be payable irrespective of the actual amount of Tenant's share of CAM Charges and shall not be subject to audit, reconciliation or adjustment. If the first (1st) Lease Year shall include a partial month in addition to twelve (12) full calendar months, Tenant shall be obligated to pay the fixed CAM Charges for such partial month on a pro rata basis based upon the pro rata charge of one-twelfth (1/12) of the annual CAM Charges for the first (1st) Lease Year. The fixed CAM Charges shall be due and payable by Tenant on a monthly basis during the term of this Lease. Each month during the term of this Lease, Tenant shall pay to Landlord one-twelfth (1/12) of the amount of fixed CAM Charges applicable to the then current Lease Year. Each such monthly payment of CAM Charges shall be due and payable at the same time and the same manner as the time and manner of the payment of Minimum Guaranteed Rental provided in this Lease.

ARTICLE VIII. INTENTIONALLY OMITTED

ARTICLE IX. USE AND CARE OF PREMISES

9.1 Tenant shall open and commence business operations in the Demised Premises on or immediately after the Commencement Date and shall continuously operate its business in an efficient, high class and reputable manner maintaining in the Demised Premises a full staff of employees and a full complement of displays, merchandise, and exhibits. Occupancy of the Demised Premises by Tenant prior to the Commencement Date shall be subject to all of the terms and provisions of this Lease excepting only those requiring the payment of Rent. Tenant shall not at any time leave the Demised Premises vacant, but shall in good faith continually throughout the term of this Lease conduct and carry on in the entire Demised Premises the Permitted Use. Tenant may keep the Demised Premises open to the public for business with adequate personnel in attendance as follows (but not to exceed such times): 8:00 a.m. – 9:00 p.m. Mondays through Saturdays and from 12:00 p.m. – 9:00 p.m. on Sundays. Tenant shall not use or permit the Demised Premises to be used in violation of any exclusives or prohibited uses granted by Landlord from time to time.

9.2 The Demised Premises may be used only for the Permitted Use specified in Section 1.2(j) above, and only under the trade name(s) specified in Section 1.1(e) above and for no other purpose and under no other trade name(s) without the prior written consent of Landlord. Tenant shall only advertise for the Permitted Use, and shall not advertise, sell or offer any items or services that are in violation of the existing Exclusive and Prohibited Uses (set forth in Exhibit I attached hereto) as of the Effective Date. In no event shall Tenant violate an exclusive use that has been granted to an occupant of the Project of which Tenant has been notified in writing.

9.3 Tenant shall not, without Landlord's prior written consent, keep anything within the Demised Premises or use the Demised Premises for any purpose which increases the insurance premium cost or which invalidates any insurance policy carried on the Demised Premises or other parts of the Project. All property kept, stored or maintained within the Demised Premises by Tenant shall be at Tenant's sole risk.

9.4 Tenant shall not conduct, advertise or suffer, within the Demised Premises or at the Project any fire, auction, bankruptcy, "going-out-of-business", "lost-our-lease" or similar sale; nor shall Tenant operate within the Demised Premises a "wholesale" or "factory outlet" store, a cooperative store, a "second-hand" store, a "surplus" store or a store commonly referred to as a "discount house".

9.5 Tenant shall not permit any objectionable noises or odors to emanate from the Demised Premises; nor place or permit any radio, television, loudspeaker or amplifier on the roof or outside the Demised Premises or where the same can be seen or heard from outside the Demised Premises; nor place any antenna, equipment, awning or other projection on the exterior of the Demised Premises; nor take any other action which would constitute a nuisance or would disturb or endanger other tenants of the Project or unreasonably interfere with their use of the respective premises; nor permit any unlawful or immoral practice to be carried on or committed in the Demised Premises; nor do anything which would tend to injure the reputation of the Project. Tenant shall not permit any odors to emanate from the Demised Premises into any adjacent premises to the Demised Premises.

9.6 Tenant shall take good care of the Demised Premises and keep the same free from waste at all times. Tenant shall not overload the floors in the Demised Premises, nor deface or injure the Demised Premises. Tenant shall keep the Demised Premises and sidewalks, service-ways and loading areas adjacent to the Demised Premises neat, clean and free from dirt, rubbish, ice or snow at all times. Tenant shall store all trash and garbage within the Demised Premises, or in a trash dumpster or similar container approved by Landlord as to type, location and screening. Receiving and delivery of goods and merchandise and removal of garbage and trash shall be made only in the manner and areas prescribed by Landlord. Tenant shall not operate an incinerator or burn trash or garbage within the Project area. Tenant shall comply with the Rules and Regulations detailed in Exhibit E, as same may be amended from time to time.

9.7 Tenant shall maintain all display windows in a neat, attractive condition, and shall keep all display windows, exterior electric signs and exterior lighting under any canopy in front of the Demised Premises lighted from dusk until 11:00 p.m., every day, including Sundays and holidays (or any other hours established by Landlord for the Project).

9.8 Tenant shall include the address and identity of its business activities in the Demised Premises in all advertisements made by Tenant in which the address and identity of any similar local business activity of Tenant is mentioned.

9.9 Tenant shall procure at its sole expense any permits and licenses required for the transaction of business in the Demised Premises and otherwise comply with all applicable laws, ordinances and governmental regulations.

9.10 Tenant shall keep the Demised Premises clean, orderly, sanitary and free from objectionable odors. Tenant shall at its sole cost and expense keep the Demised Premises free of insects, rodents, vermin and other pests. Alternatively, if Landlord provides pest control service for the Project, Tenant shall reimburse Landlord for the costs of providing such pest control service. Tenant shall furnish, at its sole cost and expense, janitorial service to the Demised Premises consistent with space in a first-class shopping center. Any food or beverages sold or distributed for off-site consumption shall be wrapped in properly sealed, leak-proof containers.

9.11 Tenant shall require and provide for the orderly control of all customers and invitees of the Demised Premises, including directing the queuing of customers and invitees through a roped off area or through another method of segregating the queuing area from the remainder of the Project, provided that any such method of controlling customers shall be subject to the prior written approval of Landlord and shall in no event interfere with or impede the use of the Project by Landlord, other tenants or their respective employees, customers and invitees. In no event shall Tenant encourage or allow any loitering or other congregating of customers or invitees outside of the Demised Premises and within the Project. Tenant shall not display merchandise, solicit business or distribute any flyers or other advertising matter on or about the Building or Project outside of the Demised Premises.

9.12 Tenant shall not permit any operation which emits any odor or matter which intrudes into other portions of the Project, or take any action which makes undue noise or causes vibration in any portion of the Project or otherwise interferes with, annoys or disturbs any other tenant in its normal business operations in the Project or Landlord in its management of the Project. Tenant shall have the right to play low volume level "background" music or audio from television; provided, however, that Landlord shall reserve the right, in its sole discretion, to require Tenant to lower the volume to any such music or television audio to the extent noises or sounds emanating therefrom are in violation of the terms of this Lease. No flashing lights or searchlights which may be experienced outside the Demised Premises shall be permitted.

ARTICLE X. MAINTENANCE AND REPAIR OF PREMISES

10.1 Landlord shall maintain or cause to be maintained the foundation, the exterior walls (except plate glass; windows, doors, door closure devices and other exterior openings; window and door frames, molding, locks and hardware, special store fronts; signs, placards, decorations or other advertising media of any type; and interior painting or other treatment of interior walls) and roof of the Building in good repair. Landlord, however, shall not be required to make any repairs occasioned by the act or negligence of Tenant, its agents, employees, subtenants, assignees, licensees and concessionaires (including, but not limited to, roof leaks resulting from Tenant's installation of air conditioning equipment or any other roof penetration or placement, which may only be made with the prior written consent of Landlord); and the provisions of the previous sentence are expressly recognized to be subject to the provisions of Article XVII and Article XVIII of this Lease. In the event that the Demised Premises should become in need of repairs required to be made by Landlord under this Lease, Tenant shall give prompt written notice thereof to Landlord; and Landlord shall not be responsible in any way for failure to make any such repairs until a reasonable time shall have elapsed after receipt by Landlord of such written notice (and provided that if Landlord has commenced any such repair within a reasonable time after Landlord's receipt of any such notice and is diligently pursuing such repair then the time for completion for such repair shall be reasonably extended).

10.2 Tenant shall keep the Demised Premises in good, clean and habitable condition and shall at its sole cost and expense keep the Demised Premises free of insects, rodents, vermin and other pests and make all repairs and replacements of every kind, including replacements of cracked or broken glass, except for repairs and replacements required to be made by Landlord under the provisions of Section 10.1, Article XVII and Article XVIII. Without limiting the coverage of the previous sentence, it is understood that Tenant's obligations with respect to the maintenance and repair of the Demised Premises include the repair and replacement of all lighting, heating, air conditioning, plumbing and other electrical and mechanical equipment and fixtures and also include all utility repairs in ducts, conduits, pipes and wiring, and any sewer stoppage located in, under and above the Demised Premises and serving the Demised Premises. Tenant shall maintain a service contract for the regular seasonal maintenance of the air conditioning and heating equipment with a reputable contractor at all times during the Lease Term. If any repairs required to be made by Tenant under this Lease are not made within ten (10) days after written notice delivered to Tenant by Landlord (or such shorter period as indicated in such notice if the repairs are of an emergency nature, in Landlord's reasonable discretion), Landlord may at its option make such repairs without liability to Tenant for any loss or damage which may result to Tenant's stock or business by reason of such repairs; and Tenant shall pay to Landlord upon demand, as Additional Rental under this Lease. At the expiration of this Lease, Tenant shall surrender the Demised Premises in good, broom clean condition, excepting reasonable wear and tear and losses required to be restored by Landlord in Section 10.1, Article XVII and Article XVIII of this Lease.

ARTICLE XI. ALTERATIONS

11.1 After completion of Tenant's Work, Tenant shall not make any alterations, additions or improvements to the Demised Premises without the prior written consent of Landlord, except for the installation of unattached, movable trade fixtures which may be installed without drilling, cutting or otherwise defacing the Demised Premises. Without limiting the generality of the immediately preceding sentence, any installation or replacement of Tenant's heating or air conditioning equipment must be effected strictly in accordance with Landlord's instructions. All alterations, additions, improvements and fixtures (including, without limitation, all floor coverings and all heating and air conditioning equipment and other mechanical systems, but excluding Tenant's unattached, readily movable furniture and office equipment) which may be made or installed by either party upon the Demised Premises shall remain upon and be surrendered with the Demised Premises in good condition and repair and become the property of Landlord at the termination of this Lease without any payment therefor, unless Landlord requests their removal, in which event Tenant shall remove the same and restore the Demised Premises to their original condition at Tenant's expense. Any personal property left in the Demised Premises by Tenant upon termination of this Lease may be disposed of by Landlord at Tenant's expense.

11.2 All construction work done by Tenant within the Demised Premises shall only be performed (a) lien free in accordance with Section 28.15 of this Lease, (b) with Landlord's prior express written approval, (c) in a good and workmanlike manner, (d) in compliance with all governmental requirements, (e) in such manner as to cause a minimum of interference with other construction in progress and with the transaction of business in the Project, and (f) by a contractor or contractor's approved by Landlord in writing prior to commencement of any such construction work, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant shall, if requested by Landlord, furnish a bond or other security satisfactory to Landlord against any such loss, cost, liability or damage. Upon completion of all approved improvements and alterations to the Demised Premises, Tenant, at Tenant's sole cost and expense, shall provide to Landlord complete "as-built" construction plans and specifications, including fixture plans, of the Demised Premises.

11.3 In the event that Landlord elects to remodel all or any portion of the Project, Tenant will cooperate with such remodeling, including Tenant's tolerating temporary inconveniences (including, without limitation, the temporary removal of Tenant's signs in order to facilitate such remodeling, as it may relate to the exterior of the Demised Premises).

ARTICLE XII. LANDLORD'S RIGHT OF ACCESS

12.1 Landlord shall have the right, (but shall not be obligated) to enter upon the Demised Premises at all reasonable times upon prior notice (except in cases of emergency, where

no such notice shall be required) for the purpose of inspecting the same or of making repairs to the Demised Premises, or of making repairs, alterations or additions to adjacent premises, or of showing the Demised Premises to prospective purchasers, lessees or lenders. Landlord shall not be liable to Tenant for any interruption of Tenant's business or inconvenience caused Tenant on account of Landlord's performance or any repair, maintenance or replacement in the Demised Premises or any other work therein pursuant to Landlord's rights or obligations under this Lease.

12.2 Tenant will permit Landlord to place and maintain "For Rent" or "For Lease" signs on the Demised Premises during the last ninety (90) days of the Lease Term, it being understood that such signs shall in no way affect Tenant's obligations pursuant to Section 13.1 or any other provision of this Lease.

12.3 Use of the roof above the Demised Premises is reserved to Landlord, and Landlord shall, at all times, have free and unobstructed right of access thereto.

12.4 Tenant shall permit Landlord to use, maintain and repair pipes, cables, conduits, plumbing, vents and wire in, to and through the Demised Premises as often and to the extent that Landlord may now or hereafter deem to be necessary or appropriate for the proper operation and maintenance of the Project, provided that such work shall be performed with a minimum of disruption to Tenant and the business conducted at the Demised Premises.

ARTICLE XIII. SIGNS; STORE FRONTS

13.1 Tenant shall not, without Landlord's prior written consent, (a) make any changes to the store front, (b) install any exterior lighting, decorations, paintings, awnings, canopies or the like, or (c) erect or install any signs, window or door lettering, placards, decorations or advertising media of any type which can be viewed from the exterior of the Demised Premises. Tenant shall not place any merchandise, showcases, pay telephones, ice machines, rides or other obstructions on the outside of the Demised Premises, on the sidewalks, or in any lobby or passageway adjoining the same which shall extend beyond the border line of the Demised Premises. All signs, lettering, placards, decorations and advertising media (including, without limitation, the sign required by Section 13.2 below) shall conform in all respects to all applicable laws and to the sign criteria established by Landlord for the Project from time to time in the exercise of Landlord's sole discretion, and shall be subject in all respects to Landlord's Sign Criteria, including, without limitation, all criteria as to construction, method of attachment, size, shape, height, lighting, color and general appearance as well as subject to any jurisdictional requirements with which Tenant must comply. All signs shall be kept in good condition and in proper operating order at all times. In addition, Landlord expressly reserves the right to approve all content that Tenant advertises on any applicable digital reader boards.

13.2 Subject to the restrictions of Section 13.1 above, Tenant agrees to install and maintain, at Tenant's sole cost and expense, as fully operative throughout the term of this Lease signs in and about the Demised Premises, including a blade sign, in accordance with Landlord's Sign Criteria for the Project as they may be established from time to time. Upon vacation of the Demised Premises or the removal or alteration of Tenant's signs for any reason, Tenant shall be responsible for the repair, painting and/or replacement of the building fascia surface where signs were attached.

ARTICLE XIV. UTILITIES

14.1 Landlord agrees to cause to be provided to the Project mains, conduits and other facilities necessary to supply water, gas (if deemed appropriate by Landlord), electricity, telephone service and sewerage service to the Building in which the Demised Premises is located.

14.2 Tenant shall promptly pay all charges for electricity, water, gas, telephone service, sewerage service and other utilities furnished to the Demised Premises, including application deposits and installation charges for meters or for consumption or use of utilities. Tenant shall arrange to have all utilities to the Demised Premises to be separately metered in Tenant's name. Landlord may, if Landlord so elects, furnish one or more utility services to Tenant, and in such event Tenant shall purchase the use of such services as are tendered by Landlord, and shall pay as Additional Rental Tenant's proportionate share of the charges for

such utility services. Notwithstanding the above, as to the charges for which such proportionate share, when applied uniformly, would have an inequitable result, Landlord will determine the percentage that Landlord reasonably deems to be equitable. In addition, if certain utilities are furnished to the Demised Premises in common with other premises, then Landlord may (a) estimate the amount used by each and bill each accordingly, or (b) install, at Tenant's expense, a sub-meter, in which event Landlord will bill each Tenant for the amount used according to that Tenant's sub-meter. Any amounts Landlord bills to Tenant under the terms of this Section 14.2 will be considered Additional Rental and will be due within thirty (30) days after the date upon which Landlord delivers such bill to Tenant. Landlord may at any time discontinue furnishing any such service without obligation to Tenant other than to connect the Demised Premises to the public utility, if any, furnishing such service. Tenant agrees to have all utility services transferred into its name on the date of delivery of possession of the Demised Premises by Landlord to Tenant.

14.3 Landlord shall not be liable for any interruption whatsoever in utility services not furnished by Landlord, nor for interruptions in utility services furnished by Landlord which are due to fire, accident, strike, acts of God or other causes beyond the control of Landlord, nor for any interruption occurring in order to make alterations, repairs or improvements.

ARTICLE XV. INSURANCE COVERAGES

15.1 Landlord shall procure and maintain throughout the term of this Lease a policy or policies of insurance (subject to Article VI above), causing the Project to be insured under property insurance and liability insurance (plus whatever endorsements or special coverages Landlord, in its sole discretion, or Landlord's mortgagee may consider appropriate).

15.2 Tenant, at Tenant's sole cost and expense, beginning on the Commencement Date, shall procure, pay for and keep in full force and effect the following types of insurance, in at least the amounts and in the forms specified below:

(a) Commercial general liability insurance (occurrence basis commercial general liability insurance policy including Products and Completed Operations, Personal and Advertising Injury and Premises Legal Liability) on a form that is reasonably satisfactory to Landlord with a combined single limit for bodily injury, including death, to any person or persons, and for property damages, of not less than One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) aggregate plus excess/umbrella liability insurance containing a per occurrence combined single limit of One Million Dollars (\$1,000,000.00) aggregate, for general liability, automobile liability, contractual liability, and employers' liability. Said insurance shall cover any and all liability of the insured with respect to said Demised Premises, the areas adjacent to the Demised Premises (including, but not limited to, the sidewalk and loading dock), or arising out of the maintenance, use or occupancy thereof. All such insurance shall specifically insure the performance by Tenant of the indemnity provisions as to liability for injury to or death of persons and injury or damage to property contained in this Article XV. The amount of such liability insurance required to be maintained by Tenant hereunder shall not be construed to limit Tenant's indemnity obligations in this Lease or other liability hereunder.

(b) Commercial automobile liability insurance on all vehicles that Tenant owns or leases and shall carry hired and non-owned liability insurance if there are no automobiles owned by Tenant, all of which shall be subject to a minimum limit of One Million and 00/100 Dollars (\$1,000,000.00). This paragraph shall not be construed as granting permission to Tenant to park any automobiles overnight at the Demised Premises without the consent of Landlord, which shall be in the Landlord's sole and absolute discretion.

(c) Worker's Compensation Insurance as required by law, and Employer's Liability Insurance, with a limit of not less than One Million and No/100 Dollars (\$1,000,000.00).

(d) Tenant Improvement Insurance covering all of the items specified as "Tenant's Work", Tenant's leasehold improvements, betterments, trade fixtures, furniture,

merchandise, inventory and personal property from time-to-time in, on or upon the Premises, and personal property of others in Tenant's possession, in an amount not less than the full replacement cost without deduction for depreciation from time-to-time during the Term of this Lease, providing protection against any peril included within the classification causes of loss-special form, including Flood and Earthquake coverage if available at a commercially reasonable price. Any policy proceeds shall be used for the repair or replacement of the property damaged or destroyed. Tenant shall also maintain business interruption insurance in an amount not less than the annual operating expenses including Rent for a twelve (12) month period.

(e) Plate glass insurance covering all plate glass on the Demised Premises at full replacement value. Tenant shall be responsible for the maintenance of all glass in or on the Premises and shall insure the risk.

(f) Any insurance policies designated necessary by Landlord, at no expense to Landlord, with regard to Tenant's Work, or Tenant's contractors' construction thereof, as well as with regard to the construction of alterations including, but not limited to: (a) commercial general liability insurance, including contractors liability coverage, contractual liability coverage, completed operations coverage, broad form property damage endorsement providing protection with limits for each occurrence of not less than Two Million Dollars (\$2,000,000.00); (b) workers' compensation or similar insurance in form and amounts required by any Laws and employers liability insurance in an amount not less than \$500,000; and (c) business automobile liability insurance on all vehicles owned or leased by such contractor, including coverage for hired and non-owned automobile liability all of which shall be subject to a minimum limit of One Million Dollars (\$1,000,000.00). All policies of insurance under this subsection (f) shall name Tenant, Landlord, Landlord's property manager, Landlord's mortgagee(s) or beneficiary(ies) as additional insureds or loss payees, as applicable, and shall contain an endorsement in which the insurance company waives any right of subrogation that it may require against any of the aforementioned parties by virtue of payment of any loss under such policy.

(g) Dram Shop and Liquor Liability Insurance if Tenant sells or serves alcohol at or from the Premises, Tenant shall maintain "dram shop" or "liquor legal liability" insurance, whichever is applicable to the jurisdiction in which the Premises is located, either as an endorsement to its general liability policy or as a separate policy providing protection with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) aggregate. Tenant shall provide Landlord with evidence of this insurance prior to selling or serving alcoholic beverage at or from the Premises.

(h) Tenant shall, at its sole cost and expense, keep in full force and effect during the Term such other reasonable insurance coverage against other insurable hazards as are from time to time reasonably requested by Landlord or as required by Landlord's Mortgagee so long as such insurance is carried by a majority of shopping center owners in the metropolitan area in which the Project is located. The minimum limits of coverage as set forth in this Article XV may from time to time, at Landlord's reasonable discretion, be reasonably increased in a manner consistent with industry standards in the metropolitan area in which the Project is located. Within thirty (30) days after Landlord's written notice of such additional or increased insurance requirements, Tenant shall provide Landlord with copies of certificates or policies of insurance evidencing such change(s).

15.3 Tenant shall deliver to Landlord evidence of all insurance policies as required under Section 15.2 above on the Delivery Date. Legally enforceable certificates thereof shall be delivered to Landlord prior to Tenant, its agents or employees, entering the Demised Premises for any purpose, together with satisfactory evidence of proof of payment of premiums. Thereafter, certificates thereof shall be delivered to Landlord (within thirty (30) days prior to the expiration of the term of each policy). All policies of insurance delivered to Landlord must contain a provision that the company writing the policy will give to Landlord at least thirty (30) days' notice in writing, in advance, of any cancellation or lapse or the effective date of any reduction in the amounts of insurance. All public liability, property damage and other casualty

15.5 Tenant shall not do any act in or about the Demised Premises which will tend to increase the insurance rates upon the Demised Premises, the Building or the Project of which the Demised Premises are a part. Tenant agrees to pay to Landlord, upon demand, the amount of any increase in premium for insurance resulting from Tenant's use of the Demised Premises, whether or not Landlord shall have consented to the act on the part of Tenant. If Tenant installs upon the Demised Premises any electrical equipment which constitutes an overload of the electrical lines servicing the Demised Premises, Tenant, at Tenant's own expense, shall make whatever changes are necessary to comply with the requirements of the insurance underwriters and any appropriate governmental authority.

ARTICLE XVI. INDEMNIFICATION; MUTUAL WAIVER OF SUBROGATION

16.1 To the fullest extent permitted by law, Tenant covenants with Landlord that Landlord shall not be liable for any damage or liability of any kind or for any injury to or death of persons or damage to property of Tenant or any other person occurring from and after the Commencement Date (or such earlier date if Tenant is given access to the Demised Premises) from any cause whatsoever related to the use, occupancy or enjoyment of the Demised Premises by Tenant or any person thereon or holding under Tenant including, but not limited to, damages resulting from any labor dispute. To the extent permitted by law, if any, Tenant shall indemnify, protect, defend and hold Landlord harmless from claims, actions, damages, liabilities and expenses (including reasonable attorneys' fees and court costs) in connection with loss of life, bodily or personal injury or property damage: (a) arising from the occupancy or use by Tenant of the Demised Premises; (b) caused by any grossly negligent, or intentional act or omission by Tenant, its agents, contractors, employees, licensees or concessionaries; or (c) resulting from a breach of this Lease by Tenant. For purposes of this Section 16.1, the term "Landlord" shall include its partners, members, managers, shareholders, officers, directors, and employees, as applicable, as well as any person or entity with which Landlord contracts to manage the Project.

16.2 Except as designated as Tenant's obligations in Section 16.1, Landlord shall indemnify, protect, defend, and hold Tenant harmless from claims, actions, damages, liabilities and expenses (including reasonable attorneys' fees and court costs) in connection with loss of life, bodily or personal injury or property damage: (a) arising from or out of any occurrence in, upon or at or from the Common Areas and caused by the willful acts of Landlord or its employees, agents, or contractors and when not a result of any negligent, grossly negligent, or intentional act or omission of Tenant, its agents, contractors, employees, licensees or concessionaries; or (b) resulting from a breach of this Lease by Landlord.

16.3 If either party receives notice of a claim that is subject to indemnification under this Article XVI, the indemnified party shall give notice to the indemnifying party as soon as reasonably practical. The indemnified party shall permit the indemnifying party, at its expense, to assume the defense of any such claim by counsel selected by the indemnifying party and reasonably satisfactory to the indemnified party, and to settle or otherwise dispose of the same; provided, however, that the indemnified party shall have the right to participate in such defense at its expense. Notwithstanding the foregoing, the indemnifying party shall not, without the prior written consent of the indemnified party, consent to the entry to any judgment, or enter into any settlement, unless such judgment or settlement provides only for the payment of money damages by the indemnifying party, and unless such judgment or settlement includes a release by the claimant or plaintiff of the indemnified party and its affiliates. If the indemnifying party fails to undertake a defense within thirty (30) days after notice from the indemnified party, then the indemnified party shall have the right to undertake the defense of, and compromise or settle such liability or claim on behalf of, and for the account of, the indemnifying party.

16.4 The indemnification obligations of the parties under this Article XVI shall survive the expiration and earlier termination of the Lease Term with respect to any occurrences before the effective date of such expiration or termination.

16.5 Each policy of property insurance required by this Lease shall contain an endorsement in which the insurance company waives any right of subrogation that it may acquire against Landlord or Tenant by virtue of payment of any loss under such policy. In addition, Landlord and Tenant each waives any claims it may have against the other arising out of any casualty that would be covered under the ISO Causes of Loss-Special Form Coverage (formerly known as "all-risk"), including any deductible thereunder (whether or not the party suffering the

indemnified party shall have the right to undertake the defense of, and compromise or settle such liability or claim on behalf of, and for the account of, the indemnifying party.

16.4 The indemnification obligations of the parties under this Article XVI shall survive the expiration and earlier termination of the Lease Term with respect to any occurrences before the effective date of such expiration or termination.

16.5 Each policy of property insurance required by this Lease shall contain an endorsement in which the insurance company waives any right of subrogation that it may acquire against Landlord or Tenant by virtue of payment of any loss under such policy. In addition, Landlord and Tenant each waives any claims it may have against the other arising out of any casualty that would be covered under the ISO Causes of Loss-Special Form Coverage (formerly known as "all-risk"), including any deductible thereunder (whether or not the party suffering the loss or damage actually carries such insurance, recovers under such insurance or self-insures the loss or damage) or which right of recovery arises from any loss or damage that could be insured under time element insurance, including without limitation loss of earnings or rents resulting from loss or damage caused by such a peril, without giving effect to any deductible amounts or self-insured risks.

ARTICLE XVII. DAMAGES BY CASUALTY

17.1 Tenant shall give immediate written notice to Landlord of any damage caused to the Demised Premises by fire or other casualty.

17.2 In the event that the Demised Premises shall be damaged or destroyed by fire or other casualty insurable under ISO special form property insurance or its equivalent and Landlord does not elect to terminate this Lease as hereinafter provided, Landlord may proceed with reasonable diligence upon receipt of all insurance proceeds and at its sole cost and expense to rebuild and repair the Demised Premises, provided Landlord's lender expressly consents thereto. In the event (a) the Building in which the Demised Premises is located shall be destroyed or substantially damaged by a casualty not covered by Landlord's insurance; (b) Landlord's architect certifies that the extent of such damage or destruction is twenty percent (20%) or more of the replacement value of such Building immediately prior to the occurrence of such damage or destruction; or (c) the holder of a mortgage, deed of trust or other lien on the Demised Premises at the time of the casualty elects, pursuant to such mortgage, deed of trust or other lien, to require the use of all or part of Landlord's insurance proceeds in satisfaction of all or part of the indebtedness secured by the mortgage, deed of trust or other lien, then Landlord may elect either to terminate this Lease or to proceed to rebuild and repair the Demised Premises. Landlord shall give written notice to Tenant of such election within sixty (60) days after the occurrence of such casualty and, if Landlord elects to rebuild and repair, shall proceed to do so with reasonable diligence and at no cost and expense to Tenant. If Landlord elects to terminate this Lease, then this Lease shall terminate at the end of the calendar month in which notice of termination is given and Landlord shall refund to Tenant any Rent previously paid by Tenant and pertaining to the period after the date of the casualty.

17.3 Landlord's obligation to rebuild and repair under this Article XVII shall in any event be limited to restoring one of the following (as may be applicable): (a) Landlord shall restore the Demised Premises to substantially the condition in which the same existed prior to such casualty, exclusive of any alterations, additions, improvements, fixtures and equipment installed by Tenant; or (b) Landlord's Work (if any) shall be restored, as described in the applicable exhibit attached to this Lease, to substantially the same condition in which the same existed prior to the casualty. Tenant agrees that promptly after completion of such work by Landlord, Tenant will proceed with reasonable diligence and at Tenant's sole cost and expense to restore, repair and replace all alterations, additions, improvements, fixtures, signs and equipment installed by Tenant, or, if a Work Letter describing Tenant's Work is attached hereto, all items of Tenant's Work as described in such exhibit, as the case may be. Notwithstanding anything in this Lease to the contrary, Landlord's obligations under this Lease to rebuild and repair the Demised Premises shall be limited in any events to the amount of insurance proceeds recovered by Landlord under its insurance policy or policies as a result of a casualty.

17.4 Tenant agrees that during any period of reconstruction or repair of the Demised Premises, Tenant will continue the operation of its business within the Demised Premises to the

extent practicable. During the period from the occurrence of the casualty until Landlord's repairs are completed, the Minimum Guaranteed Rental shall be reduced to such extent as may be fair and reasonable under the circumstances;

17.5 Landlord shall not have any obligation whatsoever to repair, reconstruct or restore the Demised Premises when damages resulting from any casualty covered by this Article XVII occur during the last twelve (12) months of the Term or any extension thereof, but if Landlord determines not to repair such damages, Landlord shall notify Tenant and if such damages shall render any material portion of the Demised Premises untenable Tenant shall have the right to terminate this Lease by notice to Landlord within fifteen (15) days after receipt of Landlord's notice.

ARTICLE XVIII. EMINENT DOMAIN

18.1 If more than thirty percent (30%) of the Rentable Area of the Demised Premises should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof, this Lease shall terminate and all Rent shall be abated during the unexpired portion of this Lease, effective on the date physical possession is taken by the condemning authority.

18.2 If less than thirty percent (30%) of the Rentable Area of the Demised Premises should be taken as aforesaid, and Landlord's lender consents to the restoration of the Demised Premises, this Lease shall not terminate; however, the Minimum Guaranteed Rental payable under this Lease during the unexpired portion of this Lease shall be reduced in proportion to the area taken, effective on the date physical possession is taken by the condemning authority. Following such partial taking and Landlord's receipt of any condemnation award, Landlord shall make all necessary repairs or alterations to the remaining premises or, if an exhibit describing Landlord's Work (if any) is attached to this Lease, all necessary repairs within the scope of Landlord's Work as described in such exhibit, as the case may be, required to make the remaining portions of the Demised Premises an architectural whole.

18.3 If any substantial part of the Building shall be taken as aforesaid, and regardless of whether or not the Demised Premises or any part thereof is so taken or appropriated, Landlord shall have the right in its sole discretion to terminate this Lease.

18.4 All compensation awarded for any taking (or the proceeds of private sale in lieu thereof) of the Demised Premises, the Building or Common Area shall be the property of Landlord, and Tenant hereby assigns its interest therein, if any, to Landlord.

ARTICLE XIX. ASSIGNMENT AND SUBLETTING

19.1 Tenant shall not, voluntarily or by operation of law, assign, transfer, mortgage or otherwise encumber all or any part of Tenant's interest in this Lease or in the Demised Premises, or sublease all or any part of the Demised Premises, without first obtaining the prior written consent of Landlord in each and every instance, which consent may be withheld at the uncontrolled discretion of Landlord. Receipt by Landlord of amounts payable under this Lease from any party other than Tenant shall not be deemed to operate as a consent to an assignment or sublease. Any consent by Landlord to an assignment or sublease under this Article XIX shall not be deemed or construed as a consent by Landlord to, or as permitting, any other or further assignment or sublease by Tenant or anyone claiming under, by or through Tenant (including without limitation, the approved assignee or sublessee).

19.2 If Landlord consents to any transfer of Tenant's interest in this Lease, then the term "Tenant" shall thereafter be deemed to include, without further reference, the party to whom such interest is transferred, such as any subtenant, assignee, concessionaire or licensee. Any consent by Landlord is expressly conditioned upon Tenant's delivery to Landlord of a copy of the assignment document, in which the assignee shall agree in writing to assume all outstanding obligations of Tenant at the effective date of such assignment and all obligations to be performed by Tenant under this Lease arising after the effective date of this assignment. Notwithstanding any assignment or sublease consented to by Landlord, Tenant and any guarantor of this Lease shall remain fully liable for the performance of all of the terms of this Lease, even if this Lease is amended. Notwithstanding the foregoing, in the case of any amendment without assignor-

Tenant's written consent, after assignment, assignor-Tenant's obligations shall be limited to those existing at the time of assignment.

19.3 Tenant agrees to pay Landlord the sum of Five Thousand and No/100 Dollars (\$5,000.00), as Additional Rental, the administrative expense involved with the review, processing or preparation of any documentation in connection with such assignment or sublease (the "Administrative Fee"). The Administrative Fee shall be paid by Tenant to Landlord at the time it requests Landlord's consent.

In addition to the Administrative Fee, if Landlord grants preliminary approval for Tenant's requested assignment or sublease, Landlord will provide to Tenant the estimated legal fees that Landlord will incur in connection with such assignment or sublease, and Tenant will deposit with Landlord such estimated legal fees prior to Landlord commencing the drafting of the assignment or subletting documents (the "Legal Fees Deposit"). Upon the request of Landlord and prior to Landlord's execution of the assignment or subletting document, Tenant shall pay Landlord an additional Legal Fees Deposit if the initial Legal Fees Deposit is not sufficient to pay Landlord's then estimated legal fees that will be incurred in connection with the assignment or sublease. After full execution of the assignment or subletting agreement, Landlord shall determine the actual legal fees incurred by Landlord in drafting and negotiating the assignment or subletting agreement (the "Actual Legal Fees"). If the Actual Legal Fees exceed the total Legal Fees Deposit, Landlord will notify Tenant, and Tenant shall pay Landlord the excess amount due as set forth in such notice to Tenant within thirty (30) days after Tenant's receipt of such notice. If Tenant fails to pay such excess amount within such thirty (30)-day period, Tenant shall pay Landlord the Late Charge set forth in Section 4.4 of this Lease and such amount due shall bear interest at the Maximum Rate set forth in Section 1.2(1) of this Lease. If the Actual Legal Fees are less than the total Legal Fees Deposit, Landlord will provide a credit to Tenant for such amount against the next monthly installment of Rent due under the terms of this Lease. The payment of fees under this 19.3 shall be deemed to be Additional Rental.

19.4 Any concession or license granted for any part of the sales area of the Demised Premises shall be considered a sublease for the purposes of this Article XIX.

19.5 If Tenant assigns this Lease, or subleases all or substantially all of the Demised Premises, and the Rent and other amounts payable by the assignee or subtenant exceed the Rent and other amounts payable by Tenant under this Lease, then one-half (1/2) of the excess shall be paid to Landlord monthly in arrears, on or before the first day of each calendar month, as Additional Rental. The excess payable to Landlord shall be deemed to include any monthly rent or other payment accruing to Tenant as the result of any such assignment, transfer or sublease, including any lump sum or periodic payment in any matter relating to such assignment, transfer or sublease, which is in excess of the rent then payable by Tenant under the Lease.

19.6 If at any time Tenant wants to assign, sublet or otherwise transfer all or part of the Demised Premises or this Lease, then Tenant shall give written notice to Landlord ("Sublease Proposal Notice") of the proposed assignment or the area proposed to be sublet (the "Proposed Sublet Space"), the term for which Tenant desires to sublet the Proposed Sublet Space, financial statements of the proposed assignee or sublessee, a history of the proposed assignee or sublessee showing among other things previous experience, the financial terms of the proposed assignment or sublease between Tenant and the proposed assignee or sublessee, a narrative description of the intended use of the Demised Premises and such other information as Landlord shall reasonably request. Landlord shall have the right in its sole and absolute discretion to terminate this Lease with respect to the Proposed Sublet Space. Landlord shall exercise such right by sending Tenant written notice within forty-five (45) days after Landlord's receipt of the Sublease Proposal Notice. If the Proposed Sublet Space does not constitute the entire Demised Premises and Landlord elects to terminate this Lease with respect to the Proposed Sublet Space, then (a) Tenant shall tender the Proposed Sublet Space to Landlord on a date specified in Landlord's notice (not more than sixty (60) days after the date of such notice) as if such specified date has been originally set forth in this Lease as the expiration date of the Lease Term with respect to the Proposed Sublet Space, and (b) as to all portions of the Demised Premises other than the Proposed Sublet Space, this Lease shall remain in full force and effect except that the Minimum Guaranteed Rental and Additional Rental shall be reduced pro rata. Tenant shall pay all expenses of construction required to permit the operation of the Proposed Sublet Space separate from the balance of the Demised Premises. If the Proposed Sublet Space constitutes the entire

Demised Premises and Landlord elects to terminate this Lease, then (x) Tenant shall tender the Demised Premises to Landlord on a date specified in Landlord's notice (not more than sixty (60) days after the date of such notice), and (y) the Lease Term shall terminate on such specified date.

19.7 Notwithstanding anything contained in this Lease to the contrary, Landlord shall have an absolute, unequivocal right to assign or transfer its interest in this Lease, whether as collateral or absolutely, to any party whatsoever whether or not such party is related to Landlord, and Tenant covenants and agrees that this Lease shall remain in full force and unaffected by such transfer or assignment. In the event of the transfer or assignment by Landlord of its interest in this Lease and/or in the Building containing the Demised Premises to a person expressly assuming Landlord's obligations under this Lease, Landlord shall thereby be released from any further obligations under this Lease, and Tenant agrees to look solely to such successor in interest of Landlord for performance of such obligations. Any security given by Tenant to secure performance of Tenant's obligations under this Lease may be assigned and transferred by Landlord to such successor in interest and Landlord shall thereby be discharged of any further obligation relating thereto. Landlord's assignment of this Lease or of any or all of its rights herein shall in no matter affect Tenant's obligations hereunder Tenant shall thereafter attorn and look to such assignee as Landlord, provided Tenant has received written notice of such assignment of Landlord's interest.

ARTICLE XX. SUBORDINATION; ATTORNMENT; ESTOPPELS

20.1 Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust or other lien, or any matters affecting record title to the property upon which the Project is constructed, presently existing or hereafter placed upon the Project or any portion of the Project which includes the Demised Premises, and to any renewals and extensions thereof. Tenant agrees that any mortgagee shall have the right at any time to subordinate its mortgage, deed of trust or other lien to this Lease; provided, however, notwithstanding that this Lease may be (or made to be) superior to a mortgage, deed of trust or other lien, the mortgagee shall not be liable for prepaid rentals, security deposits and claims accruing during Landlord's ownership; further provided that the provisions of a mortgage, deed of trust or other lien relative to the rights of the mortgagee with respect to proceeds arising from an eminent domain taking (including a voluntary conveyance by Landlord) and provisions relative to proceeds arising from insurance payable by reason of damage to or destruction of the Demised Premises shall be prior and superior to any contrary provisions contained in this Lease with respect to the payment or usage thereof. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien, or any matter affecting record title to the real property upon which the Project is constructed, hereafter placed upon the Demised Premises or the Project in part or as a whole, and Tenant agrees upon demand to execute further instruments subordinating this Lease as Landlord may reasonably request.

20.2 At any time when the holder of an outstanding mortgage, deed of trust or other lien covering Landlord's interest in the Demised Premises has given Tenant written notice of its interest in this Lease, Tenant may not exercise any remedies for default by Landlord under this Lease unless and until the holder of the indebtedness secured by such mortgage, deed of trust or other lien shall have received written notice of such default and a reasonable time thereafter (not less than thirty (30) days) shall have elapsed without the default having been cured.

20.3 Tenant specifically agrees that this Lease shall be expressly subject to, inferior and subordinate to all matters filed of record in Gwinnett County, Georgia as of the Effective Date hereof (collectively, the "Permitted Exceptions"). Tenant agrees that it shall at all times strictly comply with the terms of the Permitted Exceptions.

20.4 Tenant agrees that it will from time to time upon request by Landlord execute and deliver to Landlord a written statement addressed to Landlord (or to a party designated by Landlord) or a mortgagee or proposed mortgagee of Landlord, which statement shall identify Tenant and this Lease, shall certify that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), shall confirm that Landlord is not in default as to any obligations of Landlord under this Lease (or if Landlord is in default, specifying any default), shall confirm Tenant's agreements contained above in this Article XX, and shall contain such other information or confirmations as Landlord or a mortgagee or proposed mortgagee of Landlord may reasonably require. Notwithstanding

anything contained in this Lease to the contrary, in the event that any lender holding a lien which encumbers the Project requests a change to be made to this Lease which does not materially increase the obligations of Tenant under this Lease or materially and adversely reduce Tenant's rights under this Lease, Tenant covenants and agrees that it shall cooperate with Landlord in accommodating the request of such Lender by modifying the provisions of this Lease.

ARTICLE XXI. COMPETITION

21.1 Intentionally Omitted.

21.2 Intentionally Omitted.

ARTICLE XXII. DEFAULT BY TENANT AND REMEDIES

22.1 Each of the following events shall be deemed to be an event of default by Tenant under this Lease ("Events of Default"):

(a) Tenant shall fail to pay when due any installment of Minimum Guaranteed Rental, any payment of Additional Rental or any other obligation under this Lease involving the payment of money and such failure continues for a period of five (5) days after notice from Landlord, provided that Landlord need not send such notice to Tenant more than two (2) times in any twelve (12) month period, and thereafter, any failure of Tenant to pay when due any installment of Rent or any other obligation under this Lease involving the payment of money shall be an immediate Event of Default under this Lease.

(b) Tenant shall fail to comply with any term, provision or covenant of this Lease, other than as described in subsection (a) above, and shall not cure such failure within thirty (30) days after written notice thereof to Tenant; provided, however, that such thirty (30)-day period shall be extended (but in no event shall such period be extended to more than sixty (60) days) if and to the extent that such cure cannot reasonably be completed within thirty (30) days provided Tenant commences such cure within thirty (30) days after written notice thereof and thereafter diligently pursues such cure to completion.

(c) Tenant or any guarantor of Tenant's obligations under this Lease shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors.

(d) Tenant or any guarantor of Tenant's obligations under this Lease shall file a petition seeking relief, or a petition seeking an order for relief against Tenant or a guarantor of Tenant's obligations under this Lease, is filed under any Section or chapter of Title 11 of the United States Code, as amended, or under any similar law or statute of the United States or any state thereof; or Tenant or any guarantor of Tenant's obligations under this Lease shall be adjudged bankrupt or insolvent in proceedings filed against Tenant or any guarantor of Tenant's obligations under this Lease.

(e) A receiver or trustee shall be appointed for the Demised Premises or for all or substantially all of the assets of Tenant or any guarantor of Tenant's obligation under this Lease.

(f) Tenant shall desert or vacate the Demised Premises or any substantial portion of the Demised Premises or shall remove, without the prior written consent of Landlord, all or a substantial amount of Tenant's goods, wares, equipment, fixtures, furniture, or other personal property.

(g) A lien is filed against the Demised Premises, the Project or Landlord's interest therein as a result of work, labor, services or materials performed, furnished or alleged to be performed or finished to or for Tenant and Tenant fails to have such lien vacated and cancelled of record or bonded over within fifteen (15) days of the filing thereof.

(h) Tenant shall transfer Tenant's interest in this Lease in contravention of Article XIX hereof.

22.2 Upon the occurrence of any one or more of such Events of Default, Landlord shall have the option to pursue any one or more of the following remedies, in addition to, and not in limitation of any other right or remedy available to Landlord at law or in equity or elsewhere under this Lease:

(a) Without any further notice or demand whatsoever, Tenant shall be obligated to reimburse Landlord for the damages suffered by Landlord as a result of the occurrence of the Event of Default, and Landlord may pursue a monetary recovery from Tenant. In this regard, and without limiting the generality of the immediately preceding sentence, it is agreed that if Tenant fails to open for business as required in this Lease or, having opened for business, subsequently ceases to conduct business in the Demised Premises as required in this Lease, then Landlord as its option may seek monetary recovery for the loss of Tenant's anticipated contribution to commerce within the Project; moreover, Landlord and Tenant further agree that inasmuch as the exact amount of damages would be difficult to determine, liquidated damages will be due monthly in an amount equal to fifteen percent (15%) of the Rent payable for that month (*i.e.*, Tenant will pay Rent equal to one hundred fifteen percent (115%) of the amount specified in Section 1.2(i) and Section 4.1 of this Lease) if Tenant fails to open for business as required in this Lease or, having opened for business, subsequently deserts or vacates the Demised Premises or otherwise ceases to conduct business in the Demised Premises as required by this Lease.

(b) Without any further notice or demand whatsoever, Landlord may take any one or more of the actions permissible at law to insure performance by Tenant of Tenant's covenants and obligations under this Lease. In this regard, and without limiting the generality of the immediately preceding sentence, it is agreed that if Tenant fails to open for business as required in this Lease or, having opened for business, deserts or vacates the Demised Premises, Landlord may enter upon and take possession of such premises in order to protect them from deterioration and continue to demand from Tenant the monthly rentals and other charges provided in this Lease, without any obligation to relet; however, if Landlord does, at its sole discretion, elect to relet the Demised Premises, such action by Landlord shall not be deemed as an acceptance of Tenant's surrender of the Demised Premises unless Landlord expressly notifies Tenant of such acceptance in writing pursuant to this subsection (b), Tenant hereby acknowledging that Landlord shall otherwise be reletting as Tenant's agent and Tenant furthermore hereby agreeing to pay to Landlord on demand any deficiency that may arise between monthly rentals and other charges provided in this Lease and amounts actually collected by Landlord. It is further agreed in this regard that in the event of any default described in Section 22.1 of this Lease, Landlord shall have the right to enter upon the Demised Premises by force if necessary without being liable for prosecution or any claim for damages therefor, and do whatever Tenant is obligated to do under the terms of this Lease; and Tenant agrees to reimburse Landlord on demand for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease, and Tenant further agrees that Landlord shall not be liable for any damages resulting to Tenant from such action.

(c) Landlord may terminate Tenant's right of possession under this Lease by written notice to Tenant, in which event Tenant shall immediately surrender the Demised Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which Landlord may have for possession or arrearages in Rent (including any late charge or interest which may have accrued pursuant to Section 4.4 of this Lease), enter upon and take possession of the Demised Premises and expel or remove Tenant and any other person who may be occupying said premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefor. Tenant hereby waives any statutory requirement of prior written notice for filing eviction or damage suits for nonpayment of Rent. In addition, Tenant agrees to pay to Landlord on demand the amount of all loss and damage which Landlord may have suffered by reason of any termination effected pursuant to this subsection (c), said loss and damage to be determined by either of the following alternative measures of damages:

(i) Until Landlord is able, through reasonable efforts, the nature of which efforts shall be at the sole discretion of Landlord, to relet the Demised Premises, Tenant shall pay to Landlord on or before the first day of each calendar month, the monthly Rent and other charges provided in this Lease. After the Demised Premises have been relet by Landlord, Tenant shall pay to Landlord on the twentieth (20th) day of each calendar month the difference between the monthly Rent and other charges provided in this Lease for such calendar month and the amount that is actually collected by Landlord for such month. If it is necessary for Landlord to bring suit in order to collect any deficiency, Landlord shall have a right to allow such deficiencies to accumulate and to bring an action on several or all of the accrued deficiencies at one time. Any such suit shall not prejudice in any way the right of Landlord to bring a similar action for any subsequent deficiency or deficiencies. Any amount collected by Landlord from subsequent tenants for any calendar month, in excess of the monthly Rent and other charges provided in this Lease, shall be credited to Tenant in reduction of Tenant's liability for any calendar month for which the amount collected by Landlord will be less than the monthly Rent and other charges provided in this Lease; but Tenant shall have no right to such excess other than the above-described credit.

(ii) When Landlord desires, Landlord may demand a final settlement. Upon demand for a final settlement, Landlord shall have a right to, and Tenant hereby agrees to pay, the difference between the total of all monthly Rent and other charges provided in this Lease for the remainder of the Lease Term and the reasonable rental value of the Demised Premises for such period, such difference to be discounted to present value at a rate equal to four percent (4%) per annum.

(d) Landlord may terminate this Lease and recover from Tenant and Tenant hereby agrees to pay all damages Landlord may incur by reason of such default and the difference between the total of all Rent and other charges provided in this Lease for the remainder of the Lease Term and the reasonable rental value of the Demised Premises for such period, such difference to be discounted to present value at a rate equal to four percent (4%) per annum.

(e)

If Landlord elects to exercise the remedy prescribed in subsection 22.2(b) above, this election shall in no way prejudice Landlord's right at any time thereafter to cancel said election in favor of the remedy prescribed in subsection 22.2(c) or (d) above, provided that at the time of such cancellation Tenant is still in default. Similarly, if Landlord elects to compute damages in the manner prescribed by subsection 22.2(c)(i) above, this election shall in no way prejudice Landlord's right at any time thereafter to demand a final settlement in accordance with subsection 22.2(c)(ii) above. Pursuit of any of the above remedies shall not preclude pursuit of any other remedies prescribed in other Sections of this Lease and any other remedies provided by law. Forbearance by Landlord to enforce one or more of the remedies provided in this Lease upon an Event of Default shall not be deemed or construed to constitute a waiver of such default.

22.3 It is expressly agreed that in determining "the monthly Rent and other charges provided in this Lease", as that term is used throughout subsections 22.2(c)(i) and 22.2(c)(ii) above, the charges for maintenance of the Common Area (as specified in Article VII of this Lease), and the payments for taxes, charges and insurance (as specified in Article VI of this Lease) shall be added to the Minimum Guaranteed Rental.

22.4 It is further agreed that, in addition to payments required pursuant to subsections 22.2(b), 22.2(c) and 22.2(d) above, Tenant shall compensate Landlord for all expenses incurred by Landlord in repossession (including, among other expenses, any increase in insurance premiums caused by the vacancy of the Demised Premises and attorneys' fees), all expenses incurred by Landlord in reletting (including, without limitation, repairs, remodeling, replacements, advertisements and brokerage fees), all concessions granted to a new tenant upon reletting (including, among other concessions, renewal options), all losses incurred by Landlord as a direct or indirect result of Tenant's default (including, among other losses, any adverse reaction by Landlord's mortgagee or by other tenants or potential tenants of the Project) and a

reasonable allowance for Landlord's administrative efforts, salaries and overhead attributable directly or indirectly to Tenant's default and Landlord's pursuing the rights and remedies provided in this Lease and under applicable law.

22.5 Landlord may restrain or enjoin any breach or threatened breach of any covenant, duty or obligation of Tenant contained in this Lease without the necessity of proving the inadequacy of any legal remedy or irreparable harm. The remedies of Landlord under this Lease shall be deemed cumulative and not exclusive of each other.

22.6 If on account of any breach or default by Tenant in its obligations under this Lease, Landlord shall employ an attorney to prosecute, enforce or defend any of Landlord's rights or remedies under this Lease, prevailing party agrees to pay any attorneys' fees incurred by Landlord in such connection.

22.7 Intentionally Omitted.

22.8 No re-entry or taking of possession of the Demised Premises by Landlord shall be construed as an election on Landlord's part to terminate this Lease, unless a written notice of such intention is given to Tenant. Notwithstanding any such reletting or re-entry or taking of possession, Landlord may at any time thereafter elect to terminate this Lease. The pursuit of any remedy provided in this Lease or any other remedies provided by law shall not constitute a forfeiture or waiver of any Rent due to Landlord under this Lease or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions and covenants contained in this Lease. The loss or damage Landlord may suffer by reason of termination of this Lease or the deficiency from any reletting as provided for above shall include the expense of repossession and any repairs or remodeling undertaken by Landlord following possession. Should Landlord at any time terminate this Lease for any Event of Default, in addition to any other remedy Landlord may have, Landlord may recover from Tenant all damages Landlord may incur by reason of or as a result of such Event of Default, including the cost of recovering the Demised Premises and the loss of Rent for the remainder of the Lease Term.

22.9 Without waiving any other available rights and remedies, in the event Tenant fails to pay any sum due under this Lease within ten (10) days from the due date specified in this Lease, such past due amount shall accrue, and Tenant shall be liable for, interest from the original due date until paid at an annual rate equal to the Maximum Rate whether or not a particular provision in this Lease states that interest will accrue. A service charge of One Hundred and No/100 Dollars (\$100.00) will be assessed, as Additional Rental, for handling a returned check. In the event suit is brought under this Lease, the prevailing party shall be awarded attorneys' fees and costs whether incurred before trial, at trial or on appeal.

ARTICLE XXIII. RESERVED

ARTICLE XXIV. HOLDING OVER

24.1 In the event Tenant remains in possession of the Demised Premises after the expiration of this Lease with the consent of Landlord but without the execution of a new lease, Tenant shall be deemed to be occupying said premises as a tenant from month to month at a Rent equal to that being paid pursuant to the Lease plus fifty percent (50%) and subject to all the conditions, provisions and obligations of this Lease insofar as the same are applicable to a month-to-month tenancy. Either party shall have the right to terminate such tenancy upon thirty (30) days' written notice to the other. In the event Tenant remains in possession of the Demised Premises after the expiration of this Lease without the consent of Landlord, (a) such event shall be an immediate Event of Default under this Lease, (b) Tenant shall be deemed to be occupying said premises as a tenant at sufferance at a Rent equal to that being paid pursuant to the Lease plus fifty percent (50%) and Landlord shall have all rights and remedies available to Landlord under this Lease and at law.

ARTICLE XXV. NOTICES

25.1 All notices provided for in this Lease shall be in writing and shall be deemed to be given (a) upon the earlier to occur of: (i) actual receipt; (ii) refusal thereof; or (iii) three (3) days after having been sent, if notice was sent by prepaid registered or certified mail, return receipt

requested; or (b) one (1) day after having been sent, if notice was sent by an overnight courier service which requires the recipient to sign a receipt; addressed to the respective party at its respective addresses set out in Section 1.1 of this Lease. Either party may, from time to time, by giving ten (10) days prior written notice as provided above, designate a different address to which notices to it shall be sent.

ARTICLE XXVI. REGULATIONS

26.1 Landlord and Tenant acknowledge that there are in effect federal, state, county and municipal laws, orders, rules, directives and regulations (collectively referred to hereinafter as the "Regulations") and that additional Regulations may hereafter be enacted or go into effect, relating to or affecting the Demised Premises or the Project, and which may concern the impact on the environment of construction, land use, maintenance and operation of structures, and conduct of business. Subject to the express rights granted to Tenant under the terms of this Lease, Tenant will not cause, or permit to be caused, any act or practice, by negligence, omission, or otherwise, that would adversely affect the environment, or do anything to permit anything to be done that would violate any of said Regulations. Moreover, Tenant shall have no claim against Landlord by reason of any changes Landlord may make in the Project or the Demised Premises pursuant to said Regulations or any charges imposed upon Tenant, Tenant's customers or other invitees pursuant to same. If by reason of the enactment of any Regulation in the future which requires the expenditure of any sum of money to allow the continuance of Tenant's conduct of business in the Demised Premises, including, but not limited to, the enactment of any Regulation which prohibits the use of, and requires the replacement of, any portion or component of the Demised Premises (including all mechanical and electrical equipment and construction materials), Tenant, and not Landlord, shall bear the cost of compliance, and Tenant shall promptly comply, with such Regulation.

26.2 If, by reason of any Regulations, the payment to, or collection by, Landlord of any rental or other charge (collectively referred to hereinafter as "Lease Payments") payable by Tenant to Landlord pursuant to the provisions of this Lease is in excess of the amounts (the "Maximum Charge") permitted thereof by the Regulations, then Tenant, during the period (the "Freeze Period") when the Regulations shall be in force and effect shall not be required to pay, nor shall Landlord be permitted to collect, any sum in excess of the Maximum Charge. Upon the earlier of (a) the expiration of the Freeze Period, or (b) the issuance of a final order or judgment of a court of competent jurisdiction declaring the Regulations to be invalid or not applicable to the provisions of this Lease, Tenant, to the extent not then prescribed by law, and commencing with the first day of the month immediately following, shall pay to Landlord as Additional Rental, in equal monthly installments during the balance of the term of this Lease, a sum equal to the cumulative difference between the Maximum Charges and the Lease Payments during the Freeze Period. If any provisions of this section, or the application thereof, shall to any extent be declared to be invalid and unenforceable, the same shall not be deemed to affect any of the other provisions of this Section or of this Lease, all of which shall be deemed valid and enforceable to the fullest extent permitted by law.

ARTICLE XXVII. MISCELLANEOUS

28.1 Nothing in this Lease shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither the method of computation of Rent, nor any other provision contained in this Lease, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant.

28.2 Tenant shall not for any reason withhold or reduce Tenant's required payments of Rent and other charges provided in this Lease, it being agreed that the obligations of Landlord under this Lease are independent of Tenant's obligations except as may be otherwise expressly provided. The immediately preceding sentence shall not be deemed to deny Tenant the ability of pursuing all rights granted it under this Lease or at law; however, at the direction of Landlord, Tenant's claims in this regard shall be litigated in proceedings different from any litigation involving Rent claims or other claims by Landlord against Tenant (*i.e.*, each party may proceed to a separate judgment without consolidation, counterclaim or offset as to the claims asserted by the other party).

28.3 Notwithstanding anything contained in this Lease to the contrary, Tenant shall look solely to the interest of Landlord in the land and building comprising the Project and the rents therefrom for the satisfaction of any judgment or decree requiring the payment of money by Landlord, based upon any default by Landlord, and no other property or asset of Landlord, or any member, partner, officer, director, shareholder, mortgagee or agent of Landlord, shall be subject to levy, execution or other enforcement procedure for the satisfaction of such judgment or decree. This clause shall not be deemed to limit or deny any remedies which Tenant may have in the event of default by Landlord under this lease, which does not involve the payment of money by Landlord.

28.4 In all circumstances under this Lease where the prior consent of one party (the "consenting party"), whether it be Landlord or Tenant, is required before the other party (the "requesting party") is authorized to take any particular type of action, the requesting party agrees that its exclusive remedy if it believes that consent has been withheld improperly shall be to institute litigation either for a declaratory judgment or for a mandatory injunction requiring that such consent be given (with the requesting party hereby waiving any claim for damages, attorneys' fees or any other remedy unless the consenting party refuses to comply with a court order or judgment requiring it to grant its consent).

28.5 One or more waivers of any covenant, term or condition of this Lease by either party shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act. A payment by Tenant or receipt by Landlord of an amount less than the full amount of Rent or any other sum due hereunder shall not, nor shall the endorsement, statement, check, letter accompanying a check or payment of Rent or any other sum due hereunder, be an accord and satisfaction. Landlord may accept a check or payment without prejudice to its right to recover the balance of Rent or any other sum due hereunder due and pursue any other remedy.

28.6 Whenever a period of time is prescribed in this Lease for action to be taken by either party, neither Tenant nor Landlord shall be liable nor responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond such parties' reasonable control; provided, however, that in no event shall the provisions of this Section 28.6 relieve Tenant of obligations (a) to pay any Rent, Additional Rent or other sums as and when due under this Lease (it being agreed that the terms of this Section 28.6 shall not affect the Commencement Date), (b) to obtain and maintain any insurance in accordance with the provisions of this Lease, or (c) to timely vacate and surrender the Premises to Landlord in accordance with the provisions of this Lease.

28.7 If any provision of this Lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby.

28.8 The laws of the State of Georgia shall govern the interpretation, validity, performance and enforcement of this Lease. Venue for any action under this Lease shall be the county in the Demised Premises located.

28.9 The captions used in this Lease are for convenience only and do not limit or amplify the provisions hereof.

28.10 Whenever in this Lease the singular number is used, the same shall include the plural, and words of any gender shall include each other gender.

28.11 The terms, provisions and covenants contained in this Lease shall apply to, inure to the benefit of and be binding upon the parties hereto and their respective heirs, permitted successors in interest and legal representatives except as otherwise expressly provided in this Lease.

28.12 This Lease contains the entire agreement between the parties, and no brochure, rendering, information or correspondence shall be deemed to be a part of this agreement unless specifically incorporated in this Lease by reference. In addition, no agreement shall be effective to change, modify or terminate this Lease in whole or in part unless such is in writing and duly signed by the party against whom enforcement of such change, modification or termination is sought.

28.13 Intentionally Omitted.

28.14 If there is more than one person or entity executing this Lease as Tenant, the obligations under this Lease imposed upon Tenant shall be the joint and several obligations of such persons and entities. If there is a guarantor or guarantors of Tenant's obligations under this Lease, the obligations under this Lease imposed upon Tenant shall be the joint and several obligations of Tenant and such guarantor and Landlord need not first proceed against Tenant before proceeding against such guarantor, nor shall any such guarantor be released from his, her, their or its guaranty for any reason whatsoever, including, without limitation, any amendments to this Lease, waivers of the provisions hereof or failure to give such guarantor any notices under this Lease.

28.15 In no event, whether pursuant to the Work Letter or otherwise, shall Tenant have the right to create or permit there to be established any lien or encumbrance of any nature against the Demised Premises, the Building or the Project for any improvement or improvements by Tenant, and Tenant shall fully pay the cost of any improvement or improvements made or contracted for by Tenant. Landlord shall not be liable for any labor or materials furnished or to be furnished to or at the instruction of Tenant upon credit, and no mechanics', materialmen's or other lien for any such labor or materials shall attach to or affect the reversion or other estate or interest of Landlord in and to the Demised Premises, the Building or the Project. Whenever any mechanics', materialmen's or other lien shall have been filed against the Demised Premises, based upon any act or interest of Tenant or of any one claiming through Tenant, or if any security agreement shall have been filed for or attached to any materials, machinery or fixtures used in the construction, repair or operation thereof or annexed thereto by Tenant, Tenant shall immediately make payment or deposit or post bond to remove the lien or security agreement, whether or not the claim is valid. If Tenant has not removed the lien within ten (10) days after the assertion thereof, Landlord may pay the amount of such lien or security agreement or discharge the same by deposit, and the amount so paid or deposited shall be paid on demand by Tenant to Landlord with interest at the Maximum Rate from the date paid by Landlord to the date reimbursed by Tenant. Tenant shall also reimburse Landlord on demand for any and all reasonable attorneys' fees incurred by Landlord in connection therewith.

28.16 Tenant shall not record this Lease or a memorandum thereof.

28.17 Submission of this Lease for examination does not constitute an offer, right of first refusal, reservation or option on the Demised Premises or any other premises. This Lease shall become effective only upon execution and delivery by both Landlord and Tenant of this Lease and the payment to Landlord of the Security Deposit.

28.18 Landlord shall have the right at any time and from time to time to change the name or street address of the Project or Demised Premises without incurring liability to Tenant.

28.19 With respect to the subject matter of this Lease, this Lease and any contemporaneous work letter, addenda or exhibits attached to this Lease, constitute the entire, complete and final expression of the agreement of the parties hereto, and supersede all prior written agreements and all prior and contemporaneous oral agreements, understandings and negotiations. Landlord and Tenant agree that there are and were no verbal or written representations, warranties, understandings, stipulations, agreements or promises pertaining to this Lease which are not incorporated in writing into this lease. Landlord and Tenant agree that there are and shall be no implied warranties of merchantability, habitability, fitness for a particular purpose or any other kind arising out of this Lease and there are no warranties which extend beyond those expressly set forth in this Lease.

28.20 Tenant shall not use, generate, manufacture, produce, store, release, discharge or dispose of on, in, under or about the Demised Premises or the Project, or transport to or from the

Demised Premises or Project, any Hazardous Materials (as defined below), or allow any other person or entity to do so. Tenant shall comply with all applicable Environmental Laws (as defined below) with respect to its use and occupancy of the Demised Premises and Project. Should Landlord be required to remove any Hazardous Materials generated by Tenant from the Demised Premises or the Project, Tenant shall promptly pay to Landlord, upon demand, all costs of such removal.

Tenant shall promptly notify Landlord should Tenant receive notice of, or otherwise become aware of, any presence, release, or discharge, or threatened release or discharge, of any Hazardous Materials in, on, under or about the Demised Premises or the Project, or any violation of any Environmental Law with respect to the Demised Premises or the Project. Tenant agrees to indemnify, defend and hold harmless Landlord, and its respective principals, owners, agents, managers, employees, successors and assigns from and against any and all liabilities, claims, demands, damages, liens, penalties, costs and expenses of every kind and nature directly or indirectly attributable to Tenant's failure to comply with this Section 28.20, including, without limitation, reasonable attorneys' fees and expenses, court costs and costs incurred in the investigation, settlement and defense of claims. This indemnity obligation shall survive the expiration of the Lease Term or the earlier termination of this Lease.

As used in this Section 28.20, "Hazardous Materials" means any substance or material meeting any one or more of the following criteria: (a) it is or contains a substance designated as a hazardous waste, hazardous substance, hazardous material, pollutant, contaminant or toxic substance under any Environmental Law; (b) it is toxic, reactive, corrosive, ignitable, infectious or otherwise hazardous; or (c) it is or contains, without limiting the foregoing, petroleum hydrocarbons. As used herein, "Environmental Law" shall mean any federal, state or local law, statute, ordinance, rule, regulation, permit, directive, license, approval, guidance, interpretations, order, or other legal requirement relating to the protection of safety, human health or the environment.

28.22 Landlord and Tenant each covenant that they have not dealt with any real estate broker or finder with respect to this Lease. Each party shall hold the other party harmless from all damages, claims, liabilities or expenses, including reasonable and actual attorneys' fees (through all levels of proceedings), resulting from any claims that may be asserted against the other party by any real estate broker or finder with whom the indemnifying party either has or is purported to have dealt.

28.23 Within fifteen (15) days of the Commencement Date, Tenant shall execute and return to Landlord, commencement date agreement in the form attached hereto as **Exhibit H**, specifying the Commencement Date, the first Lease Year, and the term of this Lease.

28.24 Tenant, and its principals, agents, employees and attorneys, agree to keep the financial terms of this Lease strictly confidential, and shall not disclose, directly or indirectly, those terms to any other person or entity without first obtaining the prior written consent of Landlord; provided, however, that Landlord's consent shall not be required for any disclosure: (a) to Tenant's officers, directors, employees, lenders, accountants, attorneys or current or potential investors in or purchasers of Tenant's business; or (b) compelled by applicable laws, regulations or court orders.

28.25 Tenant represents and warrants to Landlord that Tenant is currently in compliance with and shall at all times during the Lease Term remain in compliance with the regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

28.26 The person executing the Lease on behalf of Tenant represents and warrants that (a) Tenant is duly organized and is validly existing in accordance with the laws of the State of Georgia, (b) such person has authority to bind Tenant and this Lease is hereby binding upon Tenant and (c) all corporate actions have been taken to authorize the person executing this Lease to do so.

28.27 TENANT AND LANDLORD EACH HEREBY WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING AT LAW, IN EQUITY OR OTHERWISE, BROUGHT ON, UNDER OR BY VIRTUE OF THIS LEASE. TENANT WAIVES ANY OBJECTION TO THE VENUE OF ANY ACTION FILED IN ANY COURT IN THE JURISDICTION IN WHICH THE DEMISED PREMISES ARE LOCATED.

28.28 In the event Tenant is an incorporated or unincorporated business entity, Tenant agrees and acknowledges that it has delivered to Landlord electronic copies of its certificate of formation and all applicable operating agreements prior to the execution of this Lease.

[THE REMAINDER OF THE PAGE IS INTENTIONALLY LEFT BLANK]

EXECUTED by Landlord and Tenant under seal effective as of the date on the first page hereof.

LANDLORD:

CRP/AR SUGAR HILL OWNER, L.L.C.,
a Delaware limited liability company

By: CRP/AR Sugar Hill Venture, L.L.C., a Delaware limited liability company, its Sole Member

By: Broadstone Sugar Hill Alliance, LLC, a Delaware limited liability company, its Administrative Member

By: _____ [SEAL]
Name: Todd Oglesby
Title: Member

TENANT:

City of Sugar Hill, a municipality incorporated in the state of Georgia.

By: _____ [SEAL]
Name: Steve Edwards
Title: Mayor

STATE OF: §

COUNTY OF _____ § ss.
§

I, _____, a notary public in and for the above jurisdiction, do certify that Todd Oglesby of Broadstone Sugar Hill Alliance, LLC, a Delaware limited liability company, the Administrative Member of CRP/AR Sugar Hill Venture, L.L.C., a Delaware limited liability company, the Sole Member of CRP/AR Sugar Hill Owner, L.L.C., a Delaware limited liability, whose name is signed to the writing above bearing the date _____, 2019, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand this ____ day of _____, 2019.

Notary Public

My Commission Expires: _____

STATE OF: §

COUNTY OF _____ § ss.
§

I, _____, a notary public in and for the above jurisdiction, do certify that _____ of _____, a _____, whose name is signed to the writing above bearing the date _____, 20__, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand this ____ day of _____, 20__.

Notary Public

My Commission Expires: _____

EXHIBIT A

SITE PLAN

This site plan is intended solely to depict the location of the Demised Premises within the Project. Nothing herein should be construed as a representation as to the quality or quantity of Landlord's title to the Project or Building and/or its surrounding areas. Except as may be otherwise expressly set forth in this Lease, Landlord does not make any representation, warranty or covenant regarding the names of proposed occupants of the Project or the proposed location and size of the buildings within the Project that may be operated by such occupants in the Project although the same are depicted on this Site Plan.

[Attached]

C.O.S.H. DEDICATED SPACE EXHIBIT
 BROADSTONE SUGAR HILL

TOTAL NET SQUARE FEET DEDICATED TO C.O.S.H. USE = 1,425 NSF

▨ AREA DEDICATED TO C.O.S.H.

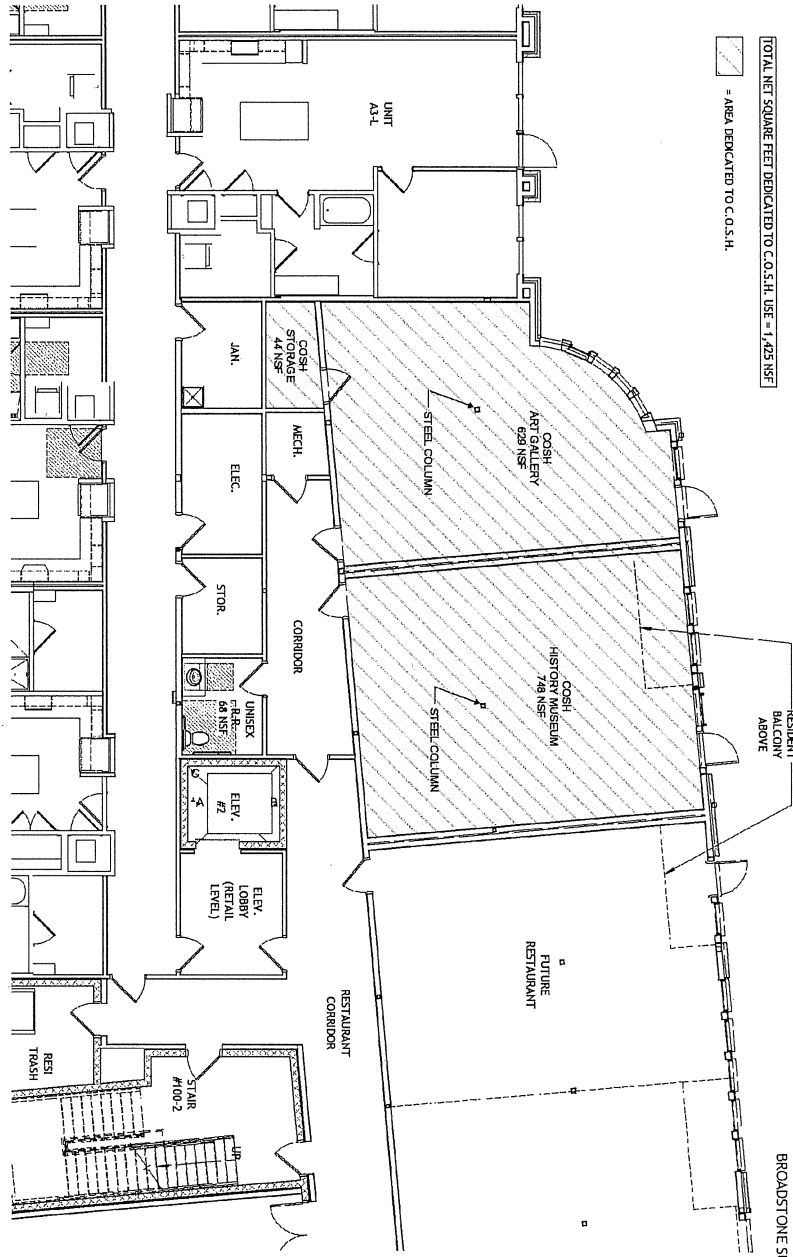


Exhibit "A"

ALLIANCE REALTY PARTNERS, LLC | 12/18/18

NILES BOLTON ASSOCIATES

A1-100