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LEASE

This Lease made this 11th day of February, 1991, between TOPVALCO, INC., AN OHIO CORPORATION, ("Landlord") and Mahmod Ibrahim, a(n) \_\_\_\_\_ ("Tenant").

Witnesseth

In consideration of the rents contained and reserved herein, and the covenants and agreements to be observed and performed by Tenant, Landlord hereby leases to Tenant, upon the following terms and conditions, Tenant hereby rents from Landlord, those certain premises having measurements of approximately 115 feet in width and 75 feet in depth, and being approximately 8,625 square feet and outlined in red and denoted as Space Number A-6 on Exhibit "A" attached hereto and, by this reference, made a part hereof ("Demised Premises") in the American Way Village Shopping Center described in Exhibit "B" ("Shopping Center") in the City of Memphis, County of Shelby, State of Tenn., for the term of 5 years and 0 months commencing on the 1st day of March, 1991, and ending on the 29th day of February, 1996, at midnight unless sooner terminated as provided herein:

ARTICLE I

SECTION 1.1 TENANCY FROM MONTH TO MONTH. Should Tenant remain in possession of the Demised Premises after expiration of this Lease, or of any renewal term of which Tenant shall have availed itself or after any earlier termination provided or permitted herein, it shall be a tenant from month to month at 120% of the rental required by the terms hereof to be paid Landlord in the month prior to Tenant becoming a month to month Tenant and on the same conditions, except as to rent, term, and renewals, as provided herein.

SECTION 1.2 COMPLETE TERM. This Lease shall commence on March 1, 1991, and terminate on February 29, 1996, for a full term of 5 years and 0 months.

ARTICLE II

SECTION 2.1 READY FOR OCCUPANCY AND COMMENCEMENT OF TERM. Subject to the terms and conditions hereunder, Landlord has constructed the Shopping Center substantially as shown on Exhibit "A", with the Demised Premises in approximately the location shown outlined in red on Exhibit "A" according to specifications for the Demised Premises attached hereto as Exhibit "C".

ARTICLE III

SECTION 3.1 RENT. For and in consideration of the Demised Premises, the covenants and conditions herein contained, Tenant shall pay rental to Landlord in monthly installments due in advance on the first day of each calendar month as follows:

\$4,866.66 per month for the first (1st) through thirty-sixth (36th) month and \$5,333.33 per month for the thirty-seventh (37th) through sixtieth (60th) month of the Lease term.

Rental shall commence on March 1, 1991. Rent for a partial month shall be prorated and if rent commences prior to the first of the month, the partial payment shall be made with the first monthly payment.

The Tenant shall pay said rent to Landlord, c/o Midland Group, 12655 Olive Boulevard, Suite 200, St. Louis, Missouri 63141 or to such other address as Landlord may designate from time to time by written notice to Tenant, without demand and without deduction, set-off or counterclaim. Time is of the essence of Tenant obligation to pay rent as herein set out. Should any rental installment not be paid promptly as required by the terms of this Agreement, and, if such installment remains unpaid and delinquent beyond the fifth (5th) day upon which it was due and owing, then there shall be imposed a late penalty equal to six percent (6%) of the amount of said delinquent rental installment. Any penalty amount so imposed shall be due and payable with the delinquent rent installment

which occasioned its imposition. If Landlord shall at any time or times accept said rent after it shall become due and payable, such acceptance shall not excuse delay upon subsequent occasions, or constitute, or be construed as, a waiver of any or all of the lessor's rights hereunder.

**SECTION 3.2 SECURITY DEPOSIT.** To secure Tenant's full and faithful compliance of all the terms, covenant and conditions setforth herein, Tenant shall deposit with Landlord the sum of \$4,166.67 dollars as a security deposit therefore. Such security deposit shall be returned to Tenant upon the termination of this Lease provided that the Tenant is not then in default hereunder and the Tenant has removed all of its personal property from the demised premises and has repaired any damage caused to the demised premises during the term of the Lease.

~~**SECTION 3.3 ADVANCE RENTAL.** Tenant shall, concurrently with the execution of this Lease, pay to the Landlord the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) Dollars which represents the rental for the first month under this lease.~~

~~**SECTION 3.4 PERCENTAGE RENT.** Tenant agrees to pay to Landlord, a sum of money equal to ( \_\_\_\_\_ %) percent of its Gross Sales in excess of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), ("Minimum Sales Base") made from the Demised Premises during each Calendar Year. The term "Gross Sales" as used herein shall be construed to include the entire amount of sales price, whether for cash or otherwise, of all merchandise, (including gift and merchandise certificates), services and other receipts whatsoever all business conducted in or from the Demised Premises, including, but not limited to, deposits not refunded to purchasers, all orders filled or taken at the Demised Premises (even though filled elsewhere), sales to customers through vending machines or other devices, and sales by any sublessee, concessionaire, or licensee permitted by Landlord to use the Demised Premises. Each installment sale or credit shall be treated as a sale for the full price in the month during which such sale is made, regardless of when Tenant actually received payment from its customer. Gross Sales shall not include, however, any sums collected and paid out for any sales or retail excise taxes imposed by any duly constituted governmental authority, if the amount of such tax is separately charged to the customer and paid by Tenant, nor shall it include the exchange of merchandise between the stores of Tenant, if any, where such exchanges of goods or merchandise are made solely for the convenient operation of the business of Tenant and not to defeat the payment of any amounts due pursuant to this Article III, nor the amount of returns to shippers or manufacturers, nor the amount of any refund made upon sales when the merchandise sold or some part thereof, is thereafter returned by the purchaser and accepted by Tenant, nor sales of Tenant's fixtures which are not part of Tenant's stock and trade.~~

~~A written sworn certificate of the Tenant's Gross Sales for each month and percentage rent due thereof shall be furnished by Tenant to Landlord, along with such sums as such statement indicates are due Landlord for percentage rent, within fifteen (15) days after last day of each month (or partial month if there is a partial month) during the term of this lease. The amount of the percentage rent shall be equal to the amount, if any, by which \_\_\_\_\_ (%) percent of the Gross Sales for the month (or partial month if there is a partial month) exceeds one-twelfth of the annual rent (any partial month's percentage rent shall be prorated on a thirty day month.) Within thirty (30) days after the end of each Calendar Year, Tenant shall furnish to Landlord a statement in writing, certified by a Certified Public Accountant to be correct, showing the total Gross Sales by month during the preceding calendar year. At that time any adjustment necessary shall be made between Landlord and Tenant to cover gross sales over or under the Minimum Sales Base. Any overpayment by Tenant shall be credited by Landlord to the monthly installments of the annual rental becoming due thereafter. Any under payment by Tenant shall be paid to Landlord at the time the annual certified statement specified in this Section is submitted to Landlord.~~

~~**SECTION 3.5 PARTIAL YEAR PERCENTAGE PAYMENTS.** In the event the premises are ever occupied under a month-to-month tenancy or for a partial Calendar Year, the amounts due pursuant to Section 3.4 shall either be calculated annually, if the Demised Premises are occupied for~~

~~a full Calendar Year, or, if not occupied for a full Calendar Year,~~ shall be calculated as a portion of the Minimum Sales Base corresponding to the proportionate part of the year during which rent is paid for the Demised Premises by Tenant. Payment in the event of a month to month tenancy shall be made within thirty (30) days after the end of such tenancy as required in Section 3.4.

~~SECTION 3.6 TENANT'S RECORDS. During the term of this Lease or any renewals thereof or any hold over tenancy, Tenant shall maintain, keep and preserve, at the Demised Premises, full, complete and accurate records including cash register tapes and charge vouchers which shall disclose separately for each business day all information required to determine Gross Sales. Such records shall be open to inspection and audit at the Demised Premises by Landlord or its duly authorized agent or representative. Tenant covenants that no later than thirty (30) days after the close of each Calendar Year and no later than thirty (30) days after the termination of this Lease or end of any exercised renewal or hold over tenancy, it will deliver to Landlord the certificate of a certified public accountant, certifying to the Gross Sales, as defined herein, for the preceding Calendar Year or portion thereof. Such certified statement shall be accompanied by any amounts due pursuant to Section 3.4. Should Landlord audit Tenant's records and such audit indicates Tenant's actual Gross Sales exceed Tenant's Gross Sales as certified by Tenant's certified public account, then Tenant shall immediately pay over to Landlord any additional percentage payment due. If Tenant's audited Gross Sales exceed Tenant's certified Gross Sales by more than two (2%) percent, then Tenant shall pay any and all costs and expenses of Landlord's audit.~~

#### ARTICLE IV

Section 4.1 NO ESTATE IN LAND/NO PARTNERSHIP. Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between Landlord and Tenant, or to create any other relationship between the parties hereto other than that of Landlord and Tenant.

#### ARTICLE V

Section 5.1 NO REPRESENTATIONS BY LESSOR. Neither Landlord nor any agent or employee of Landlord have made any representations or promises with respect to the Demised Premises except as herein expressly set forth, and no rights, privileges, easements or licenses are acquired by lessee except as herein expressly set forth. The Tenant, by taking possession of the Demised Premises, shall accept the same "as is", and such taking of possession shall be conclusive evidence that the Demised Premises are in good and satisfactory condition at the time of such taking of possession.

#### ARTICLE VI

SECTION 6.1 LANDLORD'S COMMON AREA MAINTENANCE OBLIGATION. Landlord agrees to maintain the Common Area of the Shopping Center. "Common Area" shall be defined as all those portions of the Shopping Center not from time to time improved with buildings. Truck wells or delivery docks shall be considered, but not by way of limitation, as building area. Any building area or future building area shown on Exhibit "A" shall be considered Common Area until such time as construction of buildings commences in such areas. Commencement of construction shall be deemed to be commencement of site work. Landlord's maintenance obligation includes, without limitation, repair, replacement, maintenance, and the restriping of the paved areas, pedestrian walkways and sidewalks, landscaping, and parking lot lighting. Landlord's obligation also includes, but not by way of limitation, keeping the Common Area reasonably free of snow, trash and debris, providing all Common Area electrical service, and if deemed necessary by Landlord in Landlord's sole reasonable judgment, security, and, if deemed necessary by Landlord in Landlord's sole judgment, advertising to promote the Shopping Center to the general public. See Paragraph 8.2 hereof.

SECTION 6.2 LANDLORD'S OBLIGATION TO PAY AD VALOREEM TAXES ON REAL ESTATE. Landlord shall pay, when due, any and all taxes, public charges and assessments of whatsoever nature, directly or indirectly assessed or

imposed upon the land, buildings and improvements constituting the Shopping Center. See Paragraph 8.3 hereof.

**SECTION 6.3 OTHER TAXES.** Ad valorem taxes on Tenant's personal property and leasehold improvements installed by Tenant shall be Tenant's obligation and declared and paid by the Tenant. All other taxes measured by, assessed on or relating to the separate business of Tenant are the responsibility of Tenant.

**SECTION 6.4 LANDLORD'S OBLIGATION TO INSURE.** Landlord shall insure the Shopping Center against property damage and personal injury in the minimum amount of Two Million (\$2,000,000.00) Dollars per occurrence for bodily injury and property damage combined or such other amounts as Landlord deems necessary provided Landlord maintains the minimum amount set forth above. Landlord agrees to keep the Shopping Center insured for fire and extended coverage for the replacement value thereof with responsible insurance companies authorized to do fire and extended coverage in the state where the Shopping Center is located. Landlord may self-insure all or any part of its obligations hereunder or may insure the Shopping Center under a master or umbrella policy of insurance any may attribute a premium therefor based on the reasonable premium of acquiring a single policy of insurance covering the Shopping Center, in Landlord's judgement. See Paragraph 8.2 hereof.

**SECTION 6.5 LANDLORD'S DUTY TO REPAIR DEMISED PREMISES.** Except for damages caused by the acts or negligence of Tenant, its agents, employees, invitee, contractors licensees or tenants, for which tenant shall be liable, Landlord agrees to keep the roof and exterior structural walls (exclusive of glass) of the Demised Premises in good repair. Tenant shall at once report in writing to Landlord any defective condition known to Tenant which Landlord is required to repair and failure to report such defects will release Landlord from any liability to Tenant for damages to Tenant's property arising from such defect. Tenant further agrees to indemnify and hold Landlord harmless from any claim for bodily injury or property damage arising out of such a defective condition known to Tenant which Tenant failed to report to Landlord. Landlord shall have a reasonable time after receipt of notice from Tenant to commence and complete repairs required of Landlord hereunder.

**SECTION 6.6 QUIET ENJOYMENT.** Landlord covenants to Tenant full, peaceable, and quiet enjoyment of the Demised Premises so long as Tenant is in full compliance with the terms and conditions of this Lease, provided that the covenants contained herein are expressly made subject to all matters of record, unpaid real estate taxes and assessments which are not due and payable but form a lien on the premises, all public and private utilities and rights of way, and all matters affecting title and disclosed by an inspection of the Demised Premises. Landlord may, at Landlord's sole discretion, alter the configuration of the Common Area or the Shopping Center, including without limitation addition or deletion of paved and building areas, and any such alteration shall not constitute a violation of this Lease or a disturbance of Tenant's peaceable possession.

**SECTION 6.7 RULES AND REGULATIONS.** Landlord shall be permitted to promulgate such rules and regulations as reasonably necessary to manage the Shopping Center provided, however, that such rules and regulations may not conflict with the terms of this Lease. Tenant hereby agrees to operate in the Demised Premises in accordance with such rules and regulations.

#### ARTICLE VII

**SECTION 7.1 DEMISED PREMISES CONDEMNATION.** If all or any part of the Demised Premises shall be taken under power of eminent domain or transferred in lieu of such taking, this Lease shall automatically terminate. Any portion of any award given Landlord or Tenant as compensation for such taking specifically designated for Tenant's trade fixtures or equipment shall be Tenant's. All other awards for such taking shall be Landlord's.

**SECTION 7.2 COMMON AREA CONDEMNATION.** If a portion of the Common Area is taken under power of eminent domain or transferred in lieu of such

taking and the result of such taking is to totally block Tenant's access to the Demised Premises for a continuous period of at least 30 days or to reduce the number of parking spaces in the Common Area by an amount exceeding 25% of the original parking spaces, then Tenant shall be permitted to cancel this Lease upon thirty (30) days written notice to Landlord; provided, however, Tenant must exercise its right to cancel hereunder within thirty (30) days after such taking.

**SECTION 7.3 CASUALTY.** If the Demised Premises are damaged by fire or casualty or Acts of God such that the Demised Premises are not suitable for occupancy and the damage cannot be repaired in ninety (90) days (said time period to be extended for delays for labor disputes, material shortages, Acts of God or other reasons beyond Landlord's control), this Lease shall terminate. If the Demised Premises are damaged but can be repaired within said ninety (90) days or extended as set forth herein, rent shall abate in proportion to the square footage of the Demised Premises which cannot be occupied and Landlord shall restore the damaged portion of the Demised Premises. Notwithstanding the foregoing, Landlord, in the event of damage or destruction to the Demised premises or Shopping Center, shall have the option of terminating this Lease if repairing or restoring the Demised Premises and/or the Shopping Center, in Landlord's sole judgement, is not economically desirable.

**SECTION 7.4 UTILITY SERVICE INTERRUPTION.** Interruptions of utility services shall not be considered a default under this Lease and Landlord shall bear no liability for such interruptions unless caused solely by Landlord's intentional or grossly negligent acts or omissions.

#### ARTICLE VIII

**SECTION 8.1 EXCLUSIVE USE.** Tenant shall not use, occupy or operate in the whole or in any part of the Demised Premises for any other purpose than retail sales of men's, women's and children's clothing and related items only

or permit the Demised Premises to be used for any other purpose. Tenant agrees, at a minimum, to be open for business 40 hours per week. Tenant shall not use or occupy the Demised Premises in violation of any law, ordinance, regulation or any other governmental directives having jurisdiction thereof. Should Tenant cease operation of the business required herein to be conducted on the Demised Premises for more than thirty (30) days for any reason except for Acts of God, force majeure, strikes, or casualty, then Landlord shall have the right to cancel this Lease, which remedy is in addition to any other remedy Landlord may have under this Lease.

**SECTION 8.2 COMMON AREA MAINTENANCE AND INSURANCE REIMBURSEMENT.** Tenant shall pay to Landlord, Tenant's proportionate share of all costs and expenses incurred by Landlord pursuant to Sections 6.1 and 6.4. Tenant's proportionate share of these costs and expenses shall be computed by multiplying such costs and expenses by a fraction, the numerator of which shall be the total square feet of floor area in the Demised Premises at the time such calculation is made and the denominator of which shall be the gross leasable area of the Shopping Center at the time such calculation is made. Landlord shall calculate and invoice Tenant for amounts paid by Landlord for costs and expenses incurred pursuant to Sections 6.1 and 6.4 no more than once every one hundred twenty (120) days. Tenant shall reimburse Landlord within thirty (30) days of receipt of Landlord's invoice. The invoice shall be accompanied by a statement detailing Sections 6.1's and 6.4's cost and expenses and Landlord's calculation of Tenant's obligations hereunder. For purpose of calculating changes for insurance, Landlord shall be entitled to impute premiums as set forth in Section 6.4.

**SECTION 8.3 AD VALOREEM REAL ESTATE TAX REIMBURSEMENT.** Tenant shall pay to Landlord, Tenant's proportionate share of amounts paid by Landlord pursuant to Section 6.2, including all expenses and fees incurred by Landlord in contesting such amounts. Tenant's proportionate share shall be computed by multiplying the total of all such amounts paid pursuant to Section 6.2 in any single Calendar Year by a fraction, the numerator of which shall be the total square feet of floor area in the Demised Premises and the denominator of which shall be the gross

leasable area of the Shopping Center at the beginning of the Calendar Year in which such calculation is made. Landlord shall invoice Tenant for Tenant's share of amounts paid pursuant to Section 6.2, which invoice should be accompanied by Landlord's calculation of Tenant's obligation. Tenant shall reimburse Landlord within thirty (30) days of receipt of Landlord's invoice.

**SECTION 8.4 ADMINISTRATIVE EXPENSE REIMBURSEMENT.** In the event Landlord retains a shopping center management company ("Management Company") to perform Landlord's obligations under this Lease, Tenant agrees to reimburse Landlord, Tenant's proportionate share of such Management Company's fees ("Management Fees"). Tenant's proportionate share of Management Fees shall be computed by multiplying Management Fees by a fraction, the numerator of which shall be the total square feet of floor area in the Demised Premises at the time such calculation is made and the denominator of which shall be the gross leased area of the Shopping Center at the time such calculation is made. Landlord shall calculate and invoice Tenant for Tenant's share of Management Fees no more than once every one hundred twenty (120) days. Tenant shall reimburse Landlord within thirty (30) days of receipt of Landlord's invoice. Should Landlord not retain a Management Company, Tenant shall include an amount in any reimbursements due pursuant to Sections 8.2 and 8.3 equal to nine percent (9 %) of such reimbursement as Tenant's proportionate share of Landlord's reasonable administrative costs and expenses.

**SECTION 8.5 MONTHLY ESTIMATED PAYMENTS.** The reimbursements required in Sections 8.2, 8.3 and 8.4 shall be paid by Tenant in advance by monthly installments in such amounts as are estimated and billed by Landlord at the beginning of each calendar year, each installment being due on the first day of each month during the calendar year. No such estimate shall in any way reduce Tenant's obligation to reimburse Landlord for Tenant's prorate share of actual expenses when those expenses are determined. Within sixty (60) days of the end of the calendar year or such reasonable time thereafter, Landlord shall deliver to Tenant a statement of Landlord's Sections 8.2, 8.3, and 8.4 expenses and charges for the preceding calendar year. If Tenant's share of the actual costs for the calendar year are less than the estimated payments made by Tenant, Tenant shall pay the additional amount within thirty (30) days. If Tenant's share of the actual costs for such calendar year are less than the estimated payments made by Tenant, Landlord shall credit such amounts against next due monthly installments of annual rental. Failure of Landlord to provide the referenced statement of costs called for hereunder within the time prescribed shall not relieve Tenant from its obligations hereunder. All payments made by Tenant hereunder are deemed additional rental.

**SECTION 8.6 NO STRUCTURAL ALTERATIONS.** Tenant shall not alter the exterior or structure of the Demised Premises and shall not make any non-structural alterations to the Demised Premises or any part thereof without Landlord's prior written approval of such alteration. Upon termination of this Lease, Landlord shall have the option of retaining alterations or requiring Tenant to restore the Demised Premises to its condition prior to the alterations. Tenant hereby indemnifies Landlord against and shall keep the Demised Premises free from any claims, damages, expenses, including without limitation, attorney's fees, and all mechanics' and materialmen's liens arising from work performed by Tenant on the Demised Premises. Landlord shall not be liable for any labor, services or materials furnished or to be furnished to Tenant or to anyone holding the Demised Premises, or any part thereof, through or under Tenant and no mechanic's or materialmen's lien shall attach to or affect Landlord's interest in the Demised Premises or the Shopping Center. In the event a mechanics' or materialmen's lien is filed against the Demised Premises or the Shopping Center related to or arising out of any work performed or ordered to be performed by Tenant, Tenant's agents, employees, or contractors, or materials supplied to them, Tenant shall be considered to be immediately in default of this Lease notwithstanding the notice provisions of Section 9.1. Tenant shall, within thirty (30) days of such default, (1) pay any and all amounts due such lien holder and obtain a recordable release of such lien, (2) release such lien from the record, or (3) obtain a bond from a reputable bonding company guaranteeing payment of the lien and removal of the lien from record. Should Tenant fail to cure the default

specified in this Section 8.6, as specified in this Section 8.6, then Landlord may exercise any or all Landlord's rights and remedies set forth in Section 9.1.

**SECTION 8.7 TENANT'S DUTY TO REPAIR AND MAINTAIN.** Tenant shall, at Tenant's own expense, keep and maintain the Demised Premises and appurtenances thereto in good order and repair except portions of the Demised Premises to be repaired by Landlord pursuant to Section 6.5 hereof. Tenant shall keep the Demised Premises clean and rubbish free, inside and out, at its own expense and will deposit rubbish and trash from the Demised Premises at locations established in the Shopping Center by Landlord.

**SECTION 8.8 NO OBSTRUCTION.** Tenant shall neither encumber nor obstruct any portion of the Common Area in any manner whatsoever, including sales of merchandise, without Landlord's prior written approval permitting such obstruction.

**SECTION 8.9 HAZARDOUS SUBSTANCES.** Tenant shall not cause or permit any Hazardous Substance to be used, stored, generated, or disposed of on or in the Premises by Tenant, Tenant's Agents, Employees, Contractors or Invitees without first obtaining Landlord's written consent. If Hazardous Substances are used, stored, generated, or disposed of on or in the Premises except as permitted above, or if the Premises become contaminated in any manner which Tenant is legally liable, Tenant shall indemnify and hold harmless the Landlord from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, the decrease in value of the Premises, damages caused by loss or restriction of rentable or usable space, or any damages caused by adverse impact on marketing of the space, and any and all sums paid for settlement of claims, attorney's fees, consultant, and expert fees) arising during or after the Lease Term and arising as a result of that contamination by Tenant. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal, or restoration mandated by a federal, state, or local agency or political subdivision. Without limitation of the foregoing, if Tenant causes or permits the presence of any Hazardous Substance on the Premises and that results in contamination, Tenant shall promptly, at its sole expense, take any and all necessary actions to return the Premises to the condition existing prior to the presence of any such Hazardous Substance on the Premises. Tenant shall first obtain Landlord's approval for any such remedial action. As used herein, "Hazardous Substance" means any substance that is toxic, ignitable, reactive, or corrosive and that is regulated by any local government, any state, or the United States Government. "Hazardous Substance" includes any and all material or substances that are defined as "hazardous waste," "extremely hazardous waste," or a "hazardous substance" pursuant to state, federal or local governmental law. "Hazardous Substance" includes, but is not restricted to, "asbestos, polychlorobiphenyls ("PCB's"), and petroleum."

**SECTION 8.10 SIGNS.** Tenant shall not place or suffer to be placed on the exterior of the Demised premises any sign or advertisement not first approved in writing by Landlord, including, but not limited to, any placed on the Demised Premises' plate glass regardless whether such sign is placed on the interior or exterior of said plate glass.

**SECTION 8.11 PLATE GLASS.** Tenant shall replace, at its sole cost and expense, any and all plate glass and any other glass damaged or broken by any cause whatsoever in, on, or about the Demised Premises.

**SECTION 8.12 TENANT'S INSURANCE OBLIGATION.** Tenant agrees to carry at its own expense throughout the term of this Lease and any renewals thereof (1) public liability insurance covering the Demised Premises and Tenant's use thereof, together with contractual liability endorsements covering Tenant's obligations set forth in Section 8.15 hereof, in companies and in a form satisfactory to Landlord with a combined single limited for property damage and bodily injury of not less than \$2,000,000, per occurrence, and (2), if Tenant sells, in any manner, any alcoholic beverages, Tenant shall carry "dram shop" insurance in the minimum amount of ONE MILLION (\$1,000,000) dollars per occurrence. Landlord shall be entitled to increase the amount of coverage and change the type of insurance provided in this section. Tenant agrees to

deposit said policy or policies (or certificates thereof) with Landlord prior to the date of any use or occupancy of the Demised Premises by Tenant; said policy or policies shall name Landlord (and any mortgage of Landlord of which Tenant is notified) and Tenant as insureds and shall bear endorsements to the effect that the insurer agrees to notify Landlord not less than twenty (20) days in advance of any modifications or cancellations thereof. Should Tenant fail to carry such public liability insurance, or "dram shop" insurance, Landlord may at Landlord's option cause public liability insurance, or "dram shop" insurance, to be issued on Tenant's behalf in conformance with the requirements herein set forth, and in such event Tenant agrees to pay the premium for such insurance as additional rent hereunder promptly upon Landlord's demand.

**SECTION 8.13 SURORDINATION AND ATTORNMENT.** This lease at all times shall be subject and subordinate to any liens, mortgages, deeds of trust or other financing instruments now or hereafter affecting the Shopping Center. Within five (5) days following request of Landlord, Tenant shall evidence in writing its subordination and attornment to the lien of any mortgage or deed of trust from any method of financing or refinancing now or hereafter in force against land and/or any Shopping Center buildings of which the Demised Premises is now or hereafter a part, and attorn to any such mortgage or deed of trust holder, provided such mortgage or deed of trust holder agrees in writing not to disturb Tenant's occupancy of the Demised Premises so long as Tenant is not in default. In the event Landlord sells, leases or hypothecates all or any portion of the Shopping Center and as part of such transfer, assigns Landlord's interest in the Lease to a third party, then Tenant shall attorn to any such third party as if such third party were Landlord, provided such third party assumes all Landlord obligations occurring under the Lease subsequent to the assignment. In conjunction with such transfer, Tenant shall provide Landlord an estoppel certificate, in form satisfactory to Landlord, setting forth the lease term, renewals thereof, and rental. Such certificate shall also state: (1) that no rent has been paid more than one month in advance (other than Advance Rentals specified herein); (2) that no defaults exist on the part of Landlord under the Lease as of the date of such certificate, but if there is a claimed default, a description of such default; and, (3) that the Lease is in full force and effect. Tenant shall deliver such certificate to Landlord fully and correctly executed, within ten (10) days of Landlord's initial written request. If tenant shall fail to do so, Tenant shall be deemed to have certified affirmatively to the matters set forth therein and shall be deemed in default of this Lease and Landlord may pursue all remedies as provided in Section 7.1.

**SECTION 8.14 LANDLORD'S RIGHT OF ENTRY.** Tenant shall permit Landlord and its agents to enter the Demised Premises at all reasonable times for the purpose of examining or inspecting the Demised Premises or records permitted by this Lease to be examined by Landlord, or its agents; showing the Demised Premises to prospective purchasers or tenants of the Demised Premises or Shopping Center; and to perform such repairs or alterations to the Demised Premises or Shopping Center as Landlord is required or permitted hereunder to perform. Landlord shall also be permitted to place "For Sale" and "For Rent" signs in, on, or about the Demised Premises within the last sixty (60) days of the Lease.

**SECTION 8.15 BROKERS.** Tenant warrants that it has had no dealing with any real estate broker or agent in connection with the negotiation of this Lease and that it knows of no other real estate broker or agent who is or might be entitled to a commission with this Lease. Tenant agrees to indemnify, protect, and hold Landlord harmless from and against any and all claims and expenses, including without limitation reasonable attorney's fees, for any commissions of any real estate brokers or agents.

**SECTION 8.16 LANDLORD HELD HARMLESS.** Tenant hereby agrees to indemnify, protect, and hold Landlord harmless from and against any and all claims and expenses, including without limitation reasonable attorney's fees, for property damages or personal injury arising out of or with respect to Tenant's use of the Tenant's business on the Demised Premise regardless of whether such use or business conduct is permitted by the terms of this Lease or suffered by Landlord.

SECTION 8.17 ASSIGNMENT OR SUBLETTING. Tenant shall not sell, assign, hypothecate or otherwise transfer this Lease, or sublet or license the Demised Premises or any part thereof without the prior written consent of Landlord. The consent by Landlord shall not relieve Tenant from primary liability for performance of Tenant's obligations under the terms and conditions of this Lease nor relieve Tenant, its subtenant, assignee, or licensee from obtaining the express written consent of Landlord for any further selling, hypothecating, or other transfer including without limitation assigning, subleasing, or licensing. Tenant understands that this clause creates an absolute prohibition against a transfer without Landlord's explicit prior written approval and Landlord has absolute discretion to withhold its consent. For purpose of this Section, transfer of 50% or more of the assets of Tenant, or if Tenant is a corporation, transfer of 50% or more of the capital stock of Tenant or the issuance of additional stock, or if Tenant is a partnership the transfer of any partnership interest, shall be deemed to be an assignment.

~~SECTION 8.18 MERCHANTS ASSOCIATION. Tenant shall pay, in advance, on the first day of each calendar month during the term of this lease the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) toward the expense of advertising and promotional activities with respect to the Shopping Center of which the Demised Premises are a part. Funds so paid by Tenant shall be expended for said activities by or under the direction of Landlord, or by such person, firm or corporation to whom or to which Landlord may delegate such authority. Whenever, during the term of this lease, or any renewal or extension thereof, there shall be in existence a Merchants Association approved by Landlord for such purpose, Landlord shall deliver all of such funds to said Merchants Association for the aforesaid purposes, and Landlord shall have no liability to account (except to said Merchants Association) for any such funds delivered by Landlord to such Merchants Association. Tenant agrees to join, maintain membership in, and cooperate with such Merchants Association. If the Merchants Association shall adopt by-laws or rules approved by not less than seventy-five percent (75%) of the tenants in the Shopping Center which would require Tenant to pay a greater amount than required in this Section 8.17 to support the activities of the Merchants Association, Tenant shall pay such larger amount. Nothing in the by-laws or regulations of the Merchants Association shall be in conflict with the provisions of this lease or with any reasonable rules or regulations from time to time adopted by Landlord as permitted hereunder. The promotion director of the Merchants Association shall be under the exclusive control and supervision of the Landlord who shall have the sole authority to employ, discharge and determine the annual compensation of the promotion director.~~

#### ARTICLE IX

SECTION 9.1 TENANT'S DEFAULT. In the event of Tenant's failure to timely and diligently perform any of its lease obligations, within five (5) days notice from Landlord, Tenant shall be in default hereunder and Landlord may: (1) proceed to cure such default, in which case Tenant shall reimburse Landlord for any expense plus interest at the rate of 15 % per annum, incurred by Landlord in curing Tenant's default, including without limitation attorney's fees, and Tenant grants to Landlord reasonable entry for purposes of curing such default; or (2) Landlord may evict Tenant and rent the Demised Premises and relet same and apply such rentals against all sums due under the Lease, including without limitation the costs of readying the Demised Premises for re-letting; or, (3) Landlord may declare the Lease to be terminated, but such declaration should not affect Landlord's right to collect damages for failure of Tenant's obligations, including without limitation attorney's fees and damages based on loss of rent; or, (4) Landlord may proceed with any other remedies at law available to landlord in this Lease or in equity. Landlord's election to use one remedy shall not preclude Landlord's subsequent election to use any other remedy. Notwithstanding anything to the contrary in the Section 9.1, if Tenant's failure to perform its lease obligations threatens injury to person or damage to property then such failure shall immediately become a default without regard to notice from Landlord.

**SECTION 9.2 TENANT'S BANKRUPTCY.** Should Tenant become bankrupt or insolvent or file any debtor proceedings or if Tenant shall take or have taken against Tenant any petition of bankruptcy or if Tenant shall have an action or have action taken against Tenant for the appointment of a receiver for all or a portion of Tenant's assets, or if Tenant shall file a petition for corporate reorganization or shall make an assignment for benefit of creditors, or if in any other manner Tenant's interest hereunder shall pass to another by operation of law, then any or all of these occurrences in this Section shall be deemed a Tenant default under Section 9.1 and such default shall apply to and include any guarantor of this Lease and permit termination of this Lease.

#### ARTICLE X

**SECTION 10.1 SURRENDER OF THE DEMISED PREMISES.** At the expiration of the term of this Lease, Tenant shall surrender the Demised Premises to Landlord broom clean and in good condition, normal wear and tear excepted. Tenant shall have the right to remove its trade fixtures and equipment provided Tenant removes same prior to the end of the term of the Lease or expiration of any renewals exercised by Tenant and further provided said removal shall not damage the Demised Premises. In the event that said removal should damage the Demised Premises, Tenant shall be required to restore the Demised Premises to the condition prior to such removal.

#### ARTICLE XI

**SECTION 11.1 NOTICES.** Any notices required or permitted to be given hereunder shall be in writing and either be given personally, or by certified mail, postage prepaid, return receipt requested, addressed to Tenant at Mahmod S. Ibrahim, 4055 American Way, Suite 6, Memphis, TN 38118, and to Landlord at Topvalco, Inc., c/o Midland Group, 12655 Olive Boulevard, St. Louis, MO 63141, except that, upon Tenant's taking possession of the Demised Premises, delivery of notice required to be given by Landlord to Tenant hereunder shall be deemed adequate and sufficient notice if delivered to the Demised Premises. In emergency situations threatening personal injury or property damage, notices required hereunder may be given orally or by phone, but such oral notice shall be followed as soon as reasonably possible by written notice delivered pursuant to the Lease.

**SECTION 11.2 ENTIRE AGREEMENT.** This instrument contains the entire agreement between the parties and any and all other agreements, written or oral, are merged herewith.

**SECTION 11.3 CAPTIONS.** Section captions contained in this Lease are for convenience only and do not in any way limit or amplify any term or provision hereof.

**SECTION 11.4 CONSTRUCTION.** This Lease shall be governed by and construed in accordance with the laws of the State of Tennessee, and contains the entire agreement of the parties hereto, and is intended to be a full, final and complete integration of all prior and contemporaneous agreements of the parties with relation to the Demand Premises.

#### ARTICLE XII

**SECTION 12.1 LANDLORD'S LIABILITY LIMITED.** Landlord, as used in this Lease, means the present owner of the Shopping Center and in the event of a sale or transfer by such owner of its entire interest in the Shopping Center such owner shall thereupon be released and discharged from all Lease covenants and obligations thereafter occurring. In the event of any liability of the Landlord to Tenant under this Lease, Tenant shall look only to Landlord's interest in the Shopping Center to satisfy such liability and there shall be no personal liability of Landlord or its employees.

#### ARTICLE XIII

**SECTION 13.1 WAIVER.** If under the provisions hereof, Landlord shall institute proceedings and a compromise or settlement thereof shall be made, the same shall not constitute a waiver of any covenant herein

contained nor of any of Landlord's rights hereunder. No waiver by lessor of any breach of any covenant, condition or agreement herein contained shall operate as a waiver of such breach thereof. No payment by Tenant or receipt by lessor of a lesser amount than the monthly installments of rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent; nor shall any endorsement or statement of any check or letter accompanying a check for payment of rent be deemed an accord and satisfaction, and lessor may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or to pursue any other remedy provided in the Lease. No re-entry by Landlord, and no acceptance by Landlord of keys from lessee, shall be considered an acceptance of a surrender of the Lease.

See Addendum to Lease attached hereto and incorporated herein by this

In Witness Whereof, this Lease has been duly executed in reference. triplicate, each copy of which shall constitute an original as of the day and date first above written.

WITNESSETH:

\_\_\_\_\_  
\_\_\_\_\_

WITNESSETH:

\_\_\_\_\_  
\_\_\_\_\_

LANDLORD:  
TOPVALCO INC.

BY: James S. Hodges  
ITS:

TENANT:  
MAHMUD S. IBRAHIM, INDIVIDUALLY

Mahmud S. Ibrahim

STATE OF OHIO ) (Landlord Acknowledgement  
 ) SS: corporation)  
COUNTY OF HAMILTON )

This day, before me, a Notary Public in the State and County  
aforesaid, personally appeared James C. Dodge of  
Topvalco, Inc. with whom I am personally acquainted and who  
upon oath acknowledged himself to be Vice President of Topvalco Inc., an  
Ohio corporation, Landlord in the foregoing Lease, and that he as such  
officer, being authorized so to do, executed the instrument for the  
purposes therein contained by signing in the name of the corporation.

Witness my hand and official seal this 28<sup>th</sup> day of March,  
1991.

My commission expires

CHARLES B. THOMAS  
Notary Public  
State of Ohio  
My Commission Expires Mar. 12, 1994

[Signature]  
Notary Public

STATE OF ) (Tenant Acknowledgement-Individual)  
 ) SS:  
COUNTY OF )

This day, before me, a Notary Public of the State and County  
aforesaid, personally appeared Matthew J. Russell,  
with whom I am personally acquainted and who upon oath acknowledged  
himself to be the Tenant in the foregoing Lease and acknowledge the  
signing to be his voluntary act.

Witness my hand and official seal this 4 day of April,  
1991.

My commission expires:

8-29-92

Matthew J. Russell  
Notary Public

STATE OF ) (Tenant Acknowledgement  
 ) SS: corporation)  
COUNTY OF )

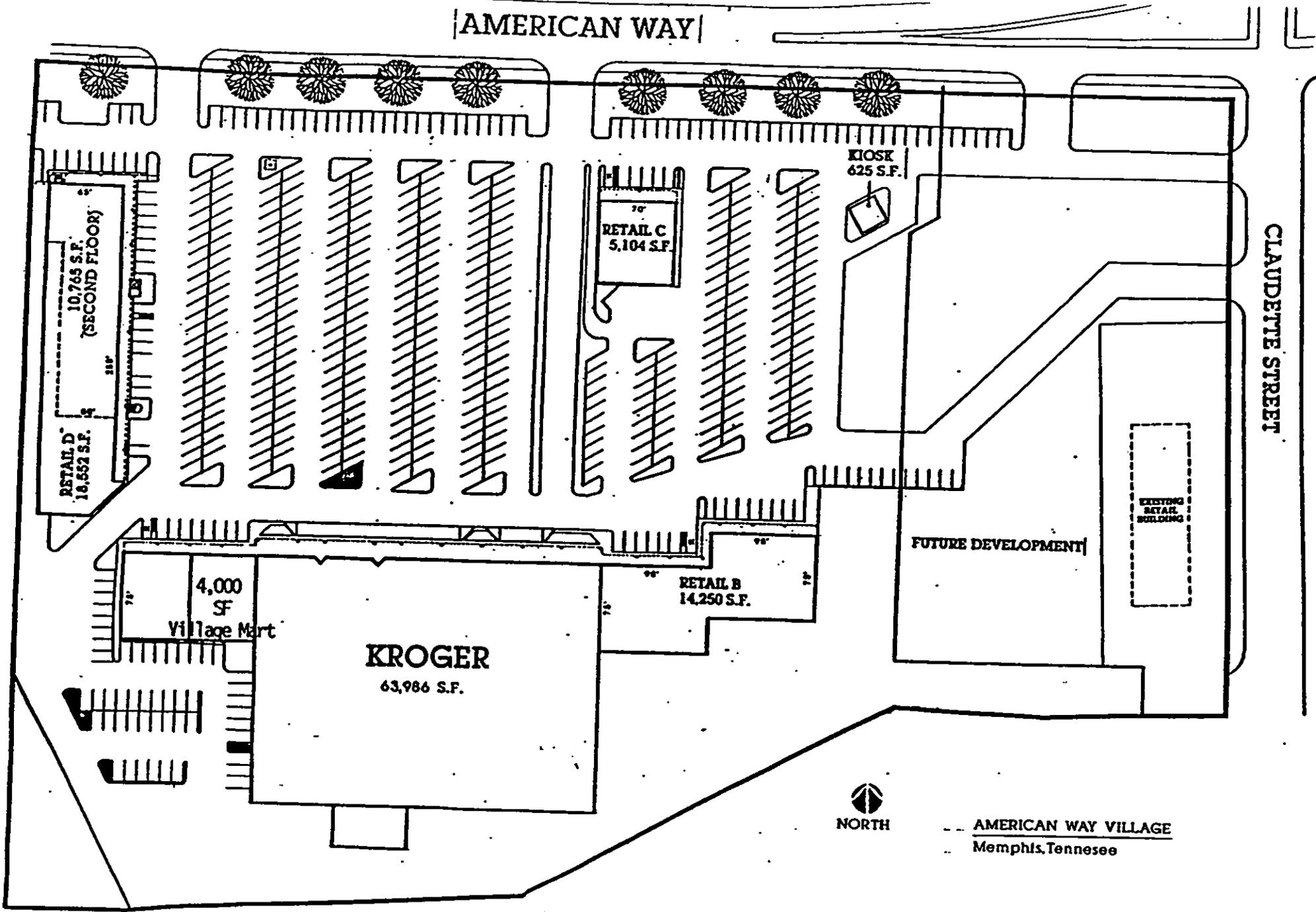
This day, before me, a Notary Public in the State and County  
aforesaid, personally appeared \_\_\_\_\_,  
of \_\_\_\_\_, with whom I am personally acquainted and who  
upon oath acknowledge himself to be such officer of \_\_\_\_\_,  
being authorized so to do, executed the  
instrument for the purposes therein contained by signing in the name of  
the corporation as such officer.

Witness my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_.

My commission expires

\_\_\_\_\_

\_\_\_\_\_  
Notary Public



AMERICAN WAY

CLAUDETTE STREET

RETAIL A  
10,765 S.F.  
(SECOND FLOOR)

RETAIL C  
5,104 S.F.

KIOSK  
625 S.F.

4,000 S.F.  
Village Mart

KROGER  
63,986 S.F.

RETAIL B  
14,250 S.F.

FUTURE DEVELOPMENT

EXISTING RETAIL BUILDING



AMERICAN WAY VILLAGE  
Memphis, Tennessee

SHOPPING CENTER SITE PLAN

EXHIBIT "A"

EXHIBIT "B"

LEGAL DESCRIPTION

A certain parcel of land, situated in Memphis, Shelby County, Tennessee and being that property acquired by Trezevant Properties, as described in Instrument Number W5 4971, Shelby County Register's Office, said parcel being the northerly portion of the Doyle Pearson 112 acre tract and being more particularly described as follows:

Commencing at a point at the intersection of the east line of Getwell Road (106' R.O.W.) and the south line of American Way (90' R.O.W.); thence S 89° 55' 54" E, along said south line, a distance of 647.21 feet to a point; thence N 88° 42' 27" E a distance of 119.71 feet to a found iron pipe at the northeast corner of Lot 2 of Holman Subdivision; thence S 00° 03' 19" E, along the east line of said Lot 2, a distance of 2.84 feet to a point, said point being herein described as THE POINT OF BEGINNING; thence S 89° 55' 54" E, along the south line of American Way, a distance of 1075.45 feet to the centerline of Claudette Street; thence S 02° 02' 57" E, along said centerline, a distance of 539.75 feet; thence S 88° 30' 18" W, a distance of 202.71 feet; thence N 87° 01' 10" W, a distance of 125.30 feet; thence S 62° 05' 18" W, a distance of 369.00 feet; thence S 86° 49' 58" W, a distance of 341.57 feet; thence South 89° 03' 58" W, a distance of 99.16 feet; thence N 00° 03' 19" W, a distance of 737.68 feet to THE POINT OF BEGINNING.

Containing 15.957 Acres (695,091 square feet).

The above described property is subject to an easement for vehicular and pedestrian ingress and egress to and from the Cheshire Apartments over and across Claudette Street south of American Way.

Said easement area is more particularly described as follows:

Beginning at a point in the centerline of Claudette Street, said point being the southeast corner of the above described property; thence northwardly, along said centerline and 25 feet west of said centerline, a distance of 539.75 feet to the south Right-of-Way line of American Way.

Together with the right to install, maintain, and relocate within the above described easement above ground and underground utilities including gas, water, electric, sanitary and storm sewers.

ADDENDUM

THIS ADDENDUM TO LEASE is attached to and forms an integral part of the Lease between TOPVALCO, INC. ("Landlord") and MAHMUD IBRAHIM ("Tenant").

- Landlord and Tenant hereby acknowledge that as of February 28, 1991, Tenant owes Landlord the sum of Twenty Thousand Two Hundred Sixty-One Dollars and Five Cents (\$20,261.05), which amount represents arrearages for rent, including common area maintenance charges, taxes and insurance. In partial satisfaction of such debt, Tenant shall install: (i) a checkpoint security system acceptable to Landlord, designed for the purpose of precluding shoplifting from the Demised Premises (which the parties anticipate shall cost approximately \$14,000.00) and shall install slide walls to the interior of the Demised Premises (which the parties estimate shall cost approximately \$10,000.00). Landlord hereby agrees that upon completion of the installation of the checkpoint security system and the slide walls, and proof of payment therefore (including final lien waivers), Landlord shall forgive the \$20,261.05 indebtedness caused by Tenant's failure to pay rent and its share of common area maintenance, taxes and insurance; provided, however that, if at any time during the Lease term, Tenant is in default of any of its obligations provided in the Lease, such debt forgiveness shall be deemed null and void and such amount shall become immediately due and payable. Notwithstanding the foregoing, in the event the amount expended by Tenant for the checkpoint security system and the interior slide walls is less than \$20,261.05, then the difference between such amount and the amount actually spent by Tenant for the checkpoint security system and the slide walls shall be immediately due and payable by Tenant to Landlord.
- Tenant shall replace the storefront glass with clear and reinforced glass which will withstand the impact of a sledgehammer. The parties hereto anticipate that the cost thereof shall be approximately Nine Thousand Dollars (\$9,000.00), half of which shall be paid by Landlord and the balance by Tenant.

UPON COMPLETION

OWNERSHIP OF THE SLIDE WALLS AND CHECKPOINT SECURITY SYSTEM BECOMES THAT OF THE LANDLORD.

ACCEPTABLE TO LANDLORD

L \_\_\_\_\_ T CM