

21-0022-006-001
Village Mart

THIRD AMENDMENT TO LEASE AGREEMENT LEASE AMENDMENT
Date: 10/13/03

RECEIVED SEP 30 2003

The undersigned Topvalco, Inc. an Ohio corporation (hereinafter called Landlord) and Mahmod S. Ibrahim (hereinafter called Tenant), in consideration of One Dollar (\$1.00) and other considerations, hereby agree between themselves as follows:

A. That certain Lease from Landlord to Tenant dated February 11, 1991, together with amendments dated, March 20, 1996 and August 7, 2001 (the "Lease") for the rental of the following described property ("leased premises"):

4055 American Way Boulevard, Suite 556, Memphis, Tennessee, located in American Way Village Shopping Center, consisting of 8,625 square feet of leasable floor space

is hereby modified as follows:

1. Landlord and Tenant hereby confirm and ratify, except as modified below, all of the terms, conditions and covenants in the Lease Agreement:
2. Tenant warrants that Tenant has accepted and is now in possession of the Leased Premises and that the Lease is valid and presently in full force and effect.

Existing Lease – 4055 American Way Boulevard, Suite 556:

3. The address of the Leased Premises is hereby corrected from 4045-4095 American Way Boulevard, to 4055 American Way Boulevard, Suite 556 (the "Existing Space").
4. Landlord and Tenant agree the term of this Lease Agreement shall be extended for eighty-nine (89) months so that the expiration date shall be changed from July 31, 2006 to December 31, 2013.
5. Landlord and Tenant agree that the base rent set out in this Lease shall be changed as shown on the rental schedule in Item # 9 below.

Expansion Space – 4045 American Way Boulevard, Suite 14:

6. Effective on the Expansion Space Commencement Date (as defined in paragraph 8 hereinbelow) and continuing through December 31, 2013, the square footage shall increase by 2,210 square feet from 8,625 square feet to 10,835 square feet, as shown on the site plan attached hereto as Exhibit "A".
7. The address of the expansion space shall be 4045 American Way Boulevard, Suite 14, Memphis, Tennessee, located within American Way Village Shopping Center, (hereinafter referred to as Expansion Space).
8. Landlord and Tenant agree that the Expansion Space Commencement Date shall be ninety (90) days following Landlord's delivery of the Expansion Space.
9. The monthly base rental for the Existing Space and Expansion Space shall be as follows:

	<u>Existing Space</u> <u>Base Monthly Rental</u>	<u>Expansion Space</u> <u>Base Monthly Rental</u>	<u>Total</u> <u>Base Monthly Rental</u>
10/1/03 – 12/31/03*	\$0.00*	\$0.00*	\$0.00*
1/1/04 – 12/31/05	\$6,109.38	\$1,565.42	\$7,674.80
1/1/06 – 12/31/07	\$6,253.13	\$1,602.25	\$7,855.38
1/1/08 – 12/31/09	\$6,396.88	\$1,639.08	\$8,035.96
1/1/10 – 12/31/11	\$6,540.63	\$1,675.92	\$8,216.55
1/1/12 – 12/31/13	\$6,684.38	\$1,712.75	\$8,397.13

*Tenant shall remain responsible for monthly operating expenses, including, but not limited to real estate taxes, liability insurance and common area maintenance during the free rental period of 10/1/03 through 12/31/03 for the Existing Space.

10. **Expansion Space Operating Expenses:** Tenant shall be responsible for monthly operating expenses, including, but not limited to real estate taxes, liability insurance and common area maintenance upon Landlord's delivery of the Leased Premises to Tenant. Tenant's initial monthly installment of operating expenses for the Expansion Space shall be \$548.82, for a total of \$2,690.70 per month for the Existing Space and the Expansion Space.
11. **Security Deposit:** Tenant agrees to deposit an additional \$4,230.46 to bring the Security Deposit to \$8,397.13.
12. **Construction by Tenant:** It is agreed and understood Landlord will furnish to Tenant a finish allowance of \$ 22,000.00 for the completion of the construction of the improvements as shown on the floor plan, which upon final design will be attached hereto as Exhibit "B". To the extent that the actual cost of such construction is less than such allowance of \$22,000.00, Tenant shall have no right or claim to any difference between such actual cost and such finish allowance. Any amount in excess of the said finish allowance shall be paid by Tenant in cash upon completion of the improvements and prior to occupancy of the premises.
 - a. Tenant's plans and specifications must be approved by Landlord in writing prior to the commencement of construction. All work shall be performed in conformance with such approved plans and specifications in a good and workmanlike manner and in compliance with all applicable laws, rules, codes, ordinances and regulations. Tenant, at Tenant's sole cost and expense, shall obtain all permits required prior to commencement of construction.
 - b. Tenant shall provide Landlord with a complete list of contractors and subcontractors who will be performing work in or on the leased premises. Landlord, in its sole discretion, shall have the right to reject any contractor or subcontractor.
 - c. Tenant shall furnish Landlord a Certificate of Insurance naming Landlord as an additional insured on Tenant's liability insurance.
 - d. If work is performed by Tenant on parts of the building that are presently under warranty from other contractors or subcontractors, including but not limited to the roof, heating, ventilating and air conditioning systems, electrical and sprinkler systems, such work shall be done by Landlord's contractor or subcontractor who is responsible under the Warranty.
 - e. Upon completion of the work, Landlord's architect/representative shall inspect the leased premises to insure that the work has been performed in accordance with the approved plans and specifications. Upon acceptance of the work by Landlord's architect/representative, receipt of lien waivers from all contractors and subcontractors who performed work on the leased premises, paid receipts or other evidence substantiating the actual cost of the work done and the issuance of a certificate of occupancy, Landlord will pay Tenant the amount of the finish-out allowance set forth above, or the actual cost of the work done, whichever is less.
 - f. Tenant shall hold Landlord harmless from and indemnify Landlord against any and all liability, costs, expenses, including attorney's fees, claims, demands, or causes of action for damage to persons or property arising out of or in connection with the work performed by Tenant, its employees, agents, contractors or subcontractors.

13. **HVAC System:** Landlord shall warrant that the HVAC system for the Expansion Space shall be in good working order as of the Expansion Space Commencement Date.
14. **Exclusivity:** During the period January 1, 2004 through December 31, 2013, Landlord agrees not to lease space in American Way Village Shopping Center to any other tenant whose primary business is the retail sale of school uniforms and athletic shoes.
15. Paragraph 5 – Half Rent, of the Second Amendment to Lease Agreement dated August 7, 2001, shall become null and void with the signing of this Third Amendment to Lease Agreement.
16. **Guaranty:** Attached hereto has Exhibit "C".

Except as modified herein, all other provisions of said Lease are hereby ratified.

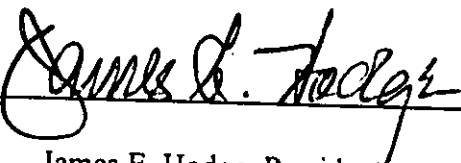
Signed at Cincinnati this 13 day of October, 2003.

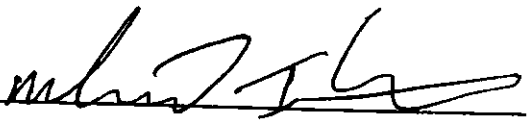
LANDLORD

TENANT

Topvalco, Inc., an Ohio corporation

Mahmod S. Ibrahim

BY: 
James E. Hodge, President

BY: 
Mahmod S. Ibrahim

ACKNOWLEDGMENTS FOR LANDLORD AND TENANT

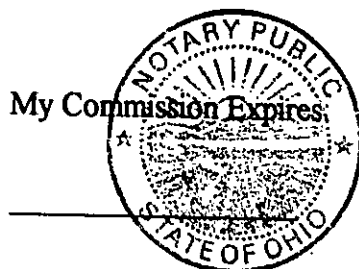
LANDLORD

STATE OF OHIO)
) ss.
COUNTY OF HAMILTON)

RECEIVED SEP 30 2003

BEFORE ME, the undersigned Notary Public in and for the State and County aforesaid, personally appeared James E. Hodge with whom I am personally acquainted (or proved to me on the basis of satisfactory evident) and who, upon oath, acknowledged himself to be the President of Topvalco, Inc. the within named bargainor, a corporation, and that he as such President executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such President.

WITNESS my hand and Official Seal at office this 13th day of October, 2003.



BETTY R. LANE
Notary Public, State of Ohio
My Commission Expires
April 11, 2006

Betty Lane
Notary Public

TENANT

STATE OF TENNESSEE)
) ss.
COUNTY OF SHELBY)

BEFORE ME, the undersigned Notary Public in and for the State and County aforesaid, personally appeared Mahmod S. Ibrahim with whom I am personally acquainted (or proved to me on the basis of satisfactory evident) to be the person described herein and who, upon oath, executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

WITNESS my hand and Official Seal at office this ____ day of _____, 2003.

Notary Public

My Commission Expires:

ACKNOWLEDGMENTS FOR LANDLORD AND TENANT

LANDLORD

STATE OF OHIO)
) ss.
COUNTY OF HAMILTON)

BEFORE ME, the undersigned Notary Public in and for the State and County aforesaid, personally appeared James E. Hodge with whom I am personally acquainted (or proved to me on the basis of satisfactory evident) and who, upon oath, acknowledged himself to be the President of Topvalco, Inc. the within named bargainor, a corporation, and that he as such President executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such President.

WITNESS my hand and Official Seal at office this 25th day of September, 2003.

[Signature]
Notary Public

My Commission Expires:

April 10, 2007

TENANT

STATE OF TENNESSEE)
) ss.
COUNTY OF SHELBY)

BEFORE ME, the undersigned Notary Public in and for the State and County aforesaid, personally appeared Mahmod S. Ibrahim with whom I am personally acquainted (or proved to me on the basis of satisfactory evident) to be the person described herein and who, upon oath, executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

WITNESS my hand and Official Seal at office this 25th day of September, 2003.

[Signature]
Notary Public

My Commission Expires:

April 10, 2007

EXHIBIT "C"

GUARANTY

1. The undersigned Guarantor, in consideration of the direct and material benefits that will accrue to Guarantor, and for the purpose of inducing Landlord to execute the foregoing Lease, absolutely and unconditionally guarantees the payment and performance of, and agrees to pay and perform as primary obligor, all liabilities, obligations and duties (including but not limited to payment of rent) imposed upon the Tenant under the terms of the foregoing Lease as if Guarantor had executed the Lease as Tenant.
2. Guarantor recognizes that the obligations under this Guaranty are absolute and unconditional, and that Landlord and its successors and assigns shall have the right to demand performance from and proceed against Guarantor or Guarantors collateral for enforcement of the obligations under this Guaranty without the necessity of first proceeding against or demanding performance by Tenant of or with respect to any obligation, duty or liability under the Lease.
3. Without notice to or consent of Guarantor, Landlord and Tenant may at any time, modify, extend, amend or make other covenants respecting the Lease as may be appropriate, including subleasing and assigning the Lease to third parties. Guarantor shall not be released but shall continue to be fully liable for payment and performance of all liabilities, obligations and duties of Tenant under the Lease as modified, extended or amended and notwithstanding any such sublease or assignment.
4. Guarantor expressly waives notice of acceptance of this Guaranty, demand, notice of dishonor, protest or notice of protest of every kind, notice of any and all proceedings in connection with the Lease (including notice of Tenant's default under the Lease), diligence in collecting any sums due under the Lease or enforcing any of the obligations under the Lease, bringing of suit and diligence in taking any action with reference thereto or in handling or pursuing any of Landlord's rights under the Lease. Guarantor's obligations hereunder shall not be altered nor shall Landlord be liable to Guarantor because of any action or inaction of Landlord in regard to a matter waived or notice of which is waived by Guarantor.
5. Landlord need not notify Guarantor that Landlord has sued Tenant; but if Landlord gives written notice to Guarantor that it has sued Tenant, Guarantor shall be bound by any judgment or decree therein.
6. Guarantor's liability shall not be affected by any change of status of Tenant through merger, consolidation, or otherwise, and this Guaranty shall continue and shall cover all liabilities, obligations and duties under the Lease.
7. Landlord may sue any Guarantor without impairing Landlord's rights against the other Guarantors, with or without making Tenant a party. Guarantor's liability shall not be affected by any indulgence, release, compromise or settlement agreed upon by Tenant and Landlord, bankruptcy or similar proceeding instituted by or against Tenant, or any Lease termination to the extent Tenant continues to be liable.
8. This Guaranty shall be irrevocable, and, in the event of the death of any Guarantor who is a natural person, shall continue in full force and effect against such Guarantor's estate.
9. Landlord's action or inaction with respect to any of its right under the law or any agreement shall not alter the obligation of Guarantor hereunder. Landlord may pursue any remedy against Tenant or under any other Guaranty without altering the obligations of Guarantor hereunder, and without liability to Guarantor even though Landlord's pursuit of such remedy may result in Guarantor's loss of rights or subrogation, or to proceed against others for reimbursement or contribution, or any other right. No payment by a Guarantor shall entitle him, by subrogation or otherwise, to any rights against Tenant prior to the payment of all obligations under the Lease.
10. If Guarantor becomes liable for any indebtedness owing by Tenant to Landlord, by endorsement or otherwise, other than under the Guaranty, such liability shall not be in any manner impaired or affected hereby, and the rights of Landlord hereunder shall be cumulative of any and all other rights that Landlord may ever have against Guarantor. The exercise by Landlord of any rights or remedy hereunder or under any other instrument, or at law or in equity, shall not preclude the concurrent or subsequent exercise of any other rights or remedy.
11. Guarantor agrees to pay reasonable attorney's fees and other collection costs if this Guaranty is placed in the hands of an attorney for collection.
12. All payments by Guarantor will be made to Landlord at the address of Landlord set forth in the Lease.
13. In the event any condition of this Guaranty shall be found illegal or invalid for any reason, the remaining provisions shall be interpreted and construed as if the illegal or invalid provision was not a part of the Guaranty. The unenforceability or invalidity, as determined by a court of competent jurisdiction, of any provision of this Guaranty as to any Guarantor shall not render unenforceable or invalid any other provision as to any other Guarantor.
14. This Guaranty shall be binding upon Guarantor, Guarantor's successors, heirs and assigns, and shall inure to the benefit of Landlord, its successors and assigns. Each gender shall include all genders, and the singular shall include the plural and the plural the singular, as the context shall require. This Guaranty is made under and shall be governed by and construed in accordance with the laws of the state in which the leased premises is situated.
15. Anything contained herein to the contrary notwithstanding, the liability of each undersigned Guarantor to this instrument shall be joint and several.

EXECUTED this 25 day of sep, 2003.

GUARANTOR:

Mahmod S. Ibrahim and Waudlupe Ibrahim,
jointly and severally

Mahmod S. Ibrahim

(Type Name of Guarantor)

[Signature]

(Signature)

Waudlupe Ibrahim

(Type Name of Guarantor)

[Signature]

(Signature)

1898 Mewfiled Road

(Home Street Address)

Germantown, TN 38139