

MODIFIED NET LEASE

THIS MODIFIED NET LEASE ("**Lease**") is entered into as of the _____ day of March, 2021, by and between the landlord specified in the Basic Lease Provisions ("**Landlord**"), and the tenant specified in the Basic Lease Provisions ("**Tenant**"), upon the following terms and conditions:

ARTICLE 1 – BASIC LEASE PROVISIONS

- 1.1 Landlord:** Graziadio Family Development, a California general partnership
- 1.2 Tenant:** TEACH Inc., a California corporation
- 1.3 Tenant's Trade Name:** TEACH Public Schools (Section 11.1)
- 1.4 Retail Center:** That certain Retail center commonly known as Athens Westmont Shopping Center (the "**Retail Center**"), and located at 1834-1852 W. Imperial Highway, Los Angeles, CA 90047 (Article 2)
- 1.5 Premises:** Suites 1846 & 1848 of the Retail Center, the approximate location of which is shown on **Exhibit A** attached hereto. (Section 3.1)
- 1.6 Floor Area:** Approximately 2,580 square feet. (Section 3.3)
- 1.7 Term:** Six (6) months (Article 4)
- 1.8 Rental Commencement Date:** The Rental Commencement Date shall commence on May 1, 2021. (Section 7.1)
- 1.9 Use of Premises:** The Premises shall be used as general office space and for student services. (Section 11.1)
- 1.10 Minimum Operating Hours:** None.
- 1.11 Radius Restriction Area:** None.
- 1.12 Initial Minimum Annual Rental:** (Section 7.1)

<u>Months of Term**</u>	<u>Dollars Per Annum</u>	<u>Dollars Per Month</u>	<u>Approximate Dollars Per Month Per Square Foot</u>
1 – 6*	\$60,000.00	\$5,000.00	\$1.94

*Plus any partial month at the beginning of the Term if the Rental Commencement Date is not the first of the month
 **Minimum Annual Rental for the remainder of the Term shall be increased in accordance with the terms set forth in Section 7.1 below.

- 1.13 Percentage Rental Rate:** Not applicable.
- 1.14 Annual Promotional Charge:** None.
- 1.15 Security Deposit:** \$5,000.00 (Article 22)
- 1.16 Brokers:**
 - Landlord's Broker: Commerce Realty (Section 25.)
 - Tenant's Broker: None
- 1.17 Guarantor:** None. (Section 25.2)
- 1.18 Addresses:** (Article 24)

<p><u>Landlord:</u></p> <p>For Payments:</p> <p>Graziadio Family Development c/o Commerce Realty 149 Palos Verdes Blvd., #E Redondo Beach, CA 90277 Attention: Property Manager</p>	<p><u>Tenant:</u></p> <p>For Notices:</p> <p>TEACH Inc. Attn: Raul Carranza 1846-1848 W. Imperial Highway Los Angeles, CA 90047</p>
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For Notices:

Graziadio Family Development
c/o Commerce Realty
149 Palos Verdes Blvd., #E
Redondo Beach, CA 90277
Fax: (310) 373-4719
Attention: Property Manager

This Article 1 is intended to supplement and/or summarize the provisions set forth below. In the event of any conflict between the provisions of this Article 1 and the other provisions of this Lease, the latter shall control.

ARTICLE 2 – EXHIBITS

The following Exhibits are attached to this Lease and, by this reference, made a part of this Lease:

Exhibit A – Site Plan
Exhibit B – Work Letter
Exhibit C -- Landlord's Work

Exhibit A is a site plan depicting the Retail Center **Exhibit A** shows, among other things, the principal improvements which currently comprise the Retail Center. Landlord, at any time, may change the shape, size, location, number and extent of the improvements shown on **Exhibit A** and eliminate, add or relocate any improvements to any portion of the Retail Center including, without limitation, buildings, parking areas, roadways, curb cuts, temporary or permanent kiosks, displays or stands and may add land to and/or withdraw land from the Retail Center. The parties hereto hereby acknowledge that the purpose of **Exhibit A** is to show the approximate location of the Retail Center and depiction of the improvements that comprise the Retail Center, and that such **Exhibit A** is not meant to constitute an agreement, representation or warranty as to the construction, location or the precise area thereof.

ARTICLE 3 – PREMISES

3.1 **Premises.** Landlord leases to Tenant and Tenant leases from Landlord for the Term, and upon the covenants and conditions set forth in this Lease, the premises described in Section 1.5 under "Premises" (the "**Premises**"). Except as specifically set forth in this Lease in the Work Letter attached hereto as **Exhibit B** (the "**Work Letter**"), and the Landlord's Work described in **Exhibit C**, Landlord shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Premises. Tenant also acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty regarding the condition of the Premises, the Building or the Retail Center or with respect to the suitability of any of the foregoing for the conduct of Tenant's business, except as specifically set forth in this Lease and the Work Letter. The taking of possession of the Premises by Tenant shall conclusively establish that the Premises and the Building were at such time in good and sanitary order, condition and repair; provided that Landlord shall provide Tenant with an opportunity to inspect the Premises prior to delivery.

3.2 **Reservation.** Landlord reserves the right to use the exterior walls, floor, roof and plenum in, above and below the Premises for the installation, maintenance, use and replacement of pipes, ducts, conduits, wires, alarm lines, heating, ventilating and air conditioning lines, fire protection lines and systems, electric power, telephone and communication lines and systems, sanitary sewer lines and systems, gas lines and systems, water lines and systems, and structural elements serving the Building and for such other purposes as Landlord deems necessary; provided that Tenant shall have the continued and uninterrupted right to access and use the Premises for the agreed upon and intended use as described in Section 1.9 under "use of Premises."

3.3 **Floor Area.** The term "**Floor Area**" shall mean all areas designated by Landlord for the exclusive use of a tenant, measured from the exterior surface of exterior walls (and extensions, in the case of openings) and from the center of interior demising walls, and shall include, but not be limited to, restrooms, mezzanines, patios, warehouse or storage areas, clerical or office areas and employee areas. The Premises contain approximately the number of square feet of Floor Area specified as "Floor Area" in Section 1.6. Landlord shall have the right during the Term to remeasure the Floor Area of the Premises and/or the Building for accuracy. If an error is found, Landlord shall so certify to Tenant and this Lease shall be amended so as to reflect the actual Floor Area and corresponding Minimum Annual Rental that is based on Floor Area.

ARTICLE 4 – TERM

4.1 **In General.** The term of this Lease (the "**Term**") shall commence on the Rental Commencement Date and shall continue, unless sooner terminated in accordance with the provisions of this Lease, for the number of months specified in Section 1.7 as "Term," (however, if the Rental Commencement Date is not the first day of the month, then the number of months specified in Section 1.7 will be calculated from the first day of the month following the Rental Commencement Date). Within ten (10) days after Landlord's written request, Tenant shall execute a written confirmation of the Rental Commencement Date and expiration date of the Term. Such confirmation shall be binding upon Tenant unless Tenant objects thereto in writing within such ten (10) day period.

4.2 **Option Terms.** -Intentionally deleted.

4.2.1 **Option Rights – Intentionally deleted.**

4.2.2 **Option Rent.** -Intentionally deleted.

4.2.3 **Exercise of Option.** -Intentionally deleted.

ARTICLE 5– DELIVERY OF POSSESSION

Subject to the completion of Landlord's Work, Tenant shall accept possession of the Premises from Landlord with the plumbing, electrical, heating, ventilation and air conditioning systems in good working order and otherwise in its currently-existing "as-is" condition; provided,

however, Landlord shall not be obligated to deliver possession of the Premises to Tenant until Landlord has received from Tenant all of the following: (a) the Security Deposit and the first monthly installment of Minimum Annual Rental; and (b) executed copies of policies of insurance or certificates thereof as required under Article 16. If Landlord chooses not to deliver possession of the Premises to Tenant because one (1) or more of the above items are not received by Landlord, then for purposes of establishing the Rental Commencement Date, the time period in Section 1.8(ii) shall commence to run on the date Landlord was otherwise prepared to deliver possession of the Premises to Tenant with the plumbing, electrical, heating, ventilation and air conditioning systems in good working order. Tenant's entry prior to the commencement of the Term shall be subject to all of the provisions of this Lease other than the payment of Minimum Annual Rental and Tenant's share of Common Area Expenses, except that Tenant shall be responsible for the cost of any utilities consumed at the Premises. At all times after such entry, Tenant shall maintain, or cause to be maintained, insurance complying with the provisions of this Lease, notwithstanding the fact that the Term shall not then have commenced.

ARTICLE 6 – CONSTRUCTION AND OPENING DATE

6.1 Construction. – Intentionally deleted.

6.2 Opening Date. Tenant initially shall open for business to the public in the Premises for the "Use of Premises" and under "Tenant's Trade Name", as set forth in Sections 1.9 and 1.3.

ARTICLE 7 – RENTAL

7.1 Minimum Annual Rental. Tenant shall pay the initial sums specified in Section 1.12 and Section 4.2.2 (regarding the initial Minimum Annual Rental " (the "**Minimum Annual Rental**") in the monthly installments so specified, in advance, on or before the first day of each month, without prior demand, offset or deduction, commencing on the "Rental Commencement Date" set forth in Section 1.8 (the "**Rental Commencement Date**"). Notwithstanding the foregoing, the monthly installment of Minimum Annual Rental for the first full month of the Term (i.e., a total of Five Thousand and 00/100 (\$5,000.00)) shall be paid at the time of Tenant's execution of this Lease. Should the Rental Commencement Date be a day other than the first day of a calendar month, then the monthly installment of Minimum Annual Rental for the first fractional month shall be equal to one-thirtieth (1/30th) of the monthly installment of Minimum Annual Rental for each day from the Rental Commencement Date to the end of the partial month. All other payments or adjustments required to be made under this Lease that require proration on a time basis shall be prorated on the same basis.

7.1.1 Increases in Minimum Annual Rental. -Intentionally deleted.

7.2 Percentage Rental. None.

7.3 Additional Rental. Tenant shall pay, as "Additional Rental", all sums required to be paid by Tenant to Landlord pursuant to this Lease in addition to Minimum Annual Rental, whether or not the same be designated "Additional Rental" (the "**Additional Rental**"), in the same manner and at the same time as Minimum Annual Rental, unless otherwise stated, or, if billed, within twenty (20) days of said billing. Without limitation on other obligations of Tenant which survive the expiration of the Term, the obligations of Tenant to pay the Additional Rent provided for in this Article 7 shall survive the expiration of the Term.

7.4 Place and Method of Payment. Tenant shall pay Minimum Annual Rental and Additional Rental to Landlord at the address specified in Section 1.18 or to such other address and/or person as Landlord may from time to time designate in writing to Tenant; provided, however, upon Landlord's notification, Tenant shall make such payments electronically (i.e., via wire transfer) pursuant to Landlord's instructions set forth in such notification.

7.5 Late Payments. If Tenant fails to pay when the same is due and payable any Minimum Annual Rental or Additional Rental, the unpaid amounts shall bear interest, from the date due to the date of payment, at the lesser of: (a) the rate announced from time to time by Wells Fargo Bank or, if Wells Fargo Bank ceases to exist or ceases to publish such rate, then the rate announced from time to time by the largest (as measured by deposits) chartered bank operating in California, as its "prime rate" or "reference rate", plus five percent (5%); or (b) the maximum rate permitted by law (the "**Interest Rate**"). In addition, if any installment of Minimum Annual Rental or Additional Rental is not received by Landlord from Tenant on or before the date the installment is due, Tenant shall immediately pay to Landlord a late charge equal to five (5%) percent of the delinquent amount; provided, however, with regard to the first such failure in any twelve (12) month period, Landlord will waive such late charge to the extent Tenant cures such failure within five (5) business days following Tenant's receipt of written notice from Landlord that the same was not received when due. Landlord and Tenant agree that this late charge represents a reasonable estimate of Landlord's costs and expenses and is fair compensation to the Landlord for its loss suffered by the nonpayment by Tenant. Any such late charge shall be deemed Additional Rent and the right to require it shall be in addition to all of Landlord's other rights and remedies hereunder or at law and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner.

7.6 Chronic Delinquency. "Chronic Delinquency" by Tenant in the payment of Minimum Annual Rental or Additional Rental shall constitute a material breach of this Lease. For purposes of this Lease, "**Chronic Delinquency**") shall mean the failure by Tenant to pay or submit within five (5) days of the due date its Minimum Annual Rental or Additional Rental on more than two (2) occasions (consecutive or nonconsecutive) during any twelve (12) month period. This Section 7.6 shall not limit in any way, nor be construed as a waiver of, the rights and remedies of Landlord provided hereunder or by law in the event of even one instance of delinquency. In the event of Chronic Delinquency, at Landlord's option, Landlord shall have the right, in addition to all other rights under this Lease and the law, to require that all Minimum Annual Rental and Additional Rental be paid by Tenant quarterly, in advance.

ARTICLE 8 –INTENTIONALLY OMITTED

ARTICLE 9 – TAXES

9.1 Real Property Taxes. The term "Taxes" shall include any form of tax or assessment, license fee, license tax, tax or excise on rent, or any other levy, charge, expense or imposition (including any fees or amounts paid in lieu thereof) imposed by any Federal, State, County or City authority having jurisdiction, or any political subdivision thereof, or any school, agricultural, lighting, drainage or other improvement or special assessment district, on any interest of Landlord or Tenant (including any legal or equitable interest of Landlord or its mortgagee, if any) in the Premises, the remainder of the Building and Retail Center or the underlying realty. The term "Taxes" shall also include any costs incurred by Landlord to contest any Taxes.

9.2 Personal Property Taxes. Tenant shall pay, prior to delinquency, all taxes, assessments, license fees and public charges levied, assessed or imposed upon its business operation, trade fixtures, leasehold improvements, merchandise and other personal property in, on or upon the Premises. If any such items of property are assessed with property of Landlord, then the assessment shall be proportionately divided between Landlord and Tenant. Landlord shall reasonably determine the basis of prorating and dividing any of these assessments and its determination shall be binding provided that Landlord provides its statement for such prorated assessment reasonably documenting the basis of its determination. If Landlord's property or if the assessed value of Landlord's property is increased by the inclusion therein of a value placed upon such property of Tenant and if Landlord pays the taxes based upon such increased assessment, which Landlord shall have the right to do regardless of the validity thereof but only under proper protest if requested by Tenant, Tenant shall repay to Landlord the taxes so levied against Landlord or the proportion of such taxes resulting from such increase in the assessment, as the case may be, within thirty (30) days following receipt of an invoice therefor.

ARTICLE 10 – UTILITIES

10.1 Utility Charges. Tenant agrees, at its own expense, to pay directly to the appropriate utility company all charges (including, without limitation, all sales, use, hook-up fees, impact fees and other costs imposed thereon by any governmental authority) for utility services supplied to the Premises from and after Landlord's delivery of the Premises to Tenant, for which there is a separate meter to the Premises. Tenant agrees to pay to Landlord its share of all such charges for utility services supplied to the Premises from and after Landlord's delivery of the Premises to Tenant, for which there is no separate meter upon billing by Landlord of Tenant's share of such charges as reasonably estimated by Landlord based on actual usage; provided, however, that Tenant shall have the right but not the obligation, to separately meter any utility servicing the Premises which is not separately metered at Tenant's sole cost.

10.2 Waiver of Liability. Landlord shall not be liable in damages for any failure or interruption of any utility or service. No failure or interruption of any utility or service shall entitle Tenant to terminate this Lease or discontinue making payments of Minimum Annual Rental or Additional Rental or otherwise fail to fulfill its obligations hereunder.

ARTICLE 11 – TENANT'S CONDUCT OF BUSINESS

11.1 Permitted Use and Trade Name. Tenant shall use the Premises solely for the use and under the trade name specified in Sections 1.9 and 1.3, respectively, as "Use of Premises" and "Tenant's Trade Name". Without limiting in any way the restriction in this Lease that the Premises be used only as set forth in Section 1.9, in no event shall the Premises be used for any exclusive use granted by Landlord to other tenants of the Retail Center prior to or subsequent to the date of this Lease.

11.2 Covenant to Operate- Intentionally Omitted.

11.3 Reserved.

11.4 Rules and Regulations. Tenant shall keep the Premises in a neat and clean condition, free from any objectionable noises, odors or nuisances and shall comply with all health and police regulations. Tenant shall not conduct an auction or going-out-of-business sale or sell merchandise from vending machines or allow any coin or token operated vending machine or telephone on the Premises, except those exclusively used by employees. Tenant shall deposit trash and rubbish only within receptacles approved by Landlord. Landlord shall cause trash receptacles to be emptied at Tenant's cost and expense; provided, however, at Landlord's option, Landlord may provide trash removal services, the cost of which shall be paid for by Tenant, at Landlord's option, either (a) as a Common Area Expense, or (b) pursuant to an equitable proration of said costs by Landlord. Tenant shall not display or sell merchandise or allow carts, signs, or any other objects to be stored or to remain outside the Premises. Tenant shall not erect any aerial or antenna or other device on the roof or exterior walls of the Premises. Landlord, from time to time, may establish further rules and regulations as Landlord, in its sole business judgment, deems desirable, and Tenant shall abide by same. The delivery or shipping of merchandise, supplies and fixtures to and from the Premises shall be done only at such times, in the areas, and through the entrances designated for such purposes, and shall be subject to such rules and regulations as are necessary, in the judgment of Landlord, for the proper operation of the Building and the Retail Center.

11.5 Advertising Media; Signage.

11.5.1 Tenant shall not affix upon the Premises any sign, advertising placard, name, insignia, trademark, descriptive material or other like item unless approved by Landlord in advance and the same complies with the Retail Center's sign criteria and all applicable laws. No advertising medium shall be utilized by Tenant which can be heard or seen outside the Premises, including without limitation, flashing lights, searchlights, loudspeakers, phonographs, radios or televisions. Tenant shall not display, paint or place any handbill, bumper sticker or other advertising devices on any vehicle parked in the Common Area. Tenant shall not distribute any handbills or other advertising matter in the Retail Center

11.5.2 Tenant, at Tenant's sole cost and expense, shall have the right to install (i) a storefront sign on the Premises identifying Tenant's Trade Name). Tenant's Signage shall be subject to Landlord's approval (not to be unreasonably withheld, conditioned or delayed) as to size, design, location, graphics, materials, colors and similar specifications and shall be consistent with the exterior design, materials and appearance of the Retail Center and the Retail Center's sign criteria and shall be further subject to all applicable local governmental laws, rules, regulations, codes and other governmental approvals and any applicable covenants, conditions and restrictions. In connection with the foregoing, Landlord shall cooperate with Tenant to enable Tenant to obtain such governmental approvals for Tenant's Signage proportionate vis-à-vis the other tenants of the Building. Landlord has the right, but not the obligation, to oversee the installation of Tenant's Signage. The cost to maintain and operate Tenant's Signage shall be paid for by Tenant, and Tenant shall be separately metered for such operating expense, if applicable (the cost of separately metering any utility usage shall also be paid for by Tenant). Upon the expiration of the Term, or other earlier termination of this Lease, Tenant shall be responsible for any and all costs associated with the removal of Tenant's Signage and any other advertising items approved by Landlord pursuant to Section 11.5.1, including the cost to repair and restore the locations upon which Tenant's Signage and the other advertising items were affixed.

11.6 Compliance with Laws. Tenant shall not use the Premises or permit anything to be done in or about the Premises which shall in any way conflict with any law, statute, ordinance, governmental rule or regulation, or any recorded covenants, conditions and restrictions affecting the Retail Center now in force or which may hereafter be in force including, without limitation, any covenants, conditions and restrictions now or hereafter encumbering the Retail Center ("CC&R's"). Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations and requirements now in force or which may hereafter be in force relating to or affecting the condition, use or occupancy of the Premises, including all applicable requirements of the Americans with Disabilities Act of 1990. For purposes of Section 1938(a) of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant

hereby acknowledges, that the Premises have undergone inspection by a Certified Access Specialist (CASp). As required by Section 1938(e) of the California Civil Code, Landlord hereby states as follows: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises." In furtherance of the foregoing, Landlord and Tenant hereby agree as follows: (i) any CASp inspection requested by Tenant shall be conducted, at Tenant's sole cost and expense, by a CASp designated by Landlord, subject to Landlord's reasonable rules and requirements; (ii) Tenant, at its sole cost and expense, shall be responsible for making any improvements or repairs within the Premises to correct violations of construction-related accessibility standards; and (iii) if anything done by or for Tenant in its use or occupancy of the Premises shall require any improvements or repairs to the Building or Retail Center (outside the Premises) to correct violations of construction-related accessibility standards, then Tenant shall reimburse Landlord upon demand, as Additional Rent, for the cost to Landlord of performing such improvements or repairs.

ARTICLE 12 – MAINTENANCE, REPAIRS AND ALTERATIONS

12.1 **Landlord's Maintenance Obligations.** Landlord shall maintain in good condition and repair the foundations, roofs, and exterior surfaces of the exterior walls of the Building (exclusive of doors, windows and storefronts); provided, however, if any repairs or replacements to the Building are necessitated by (i) the acts or omissions of Tenant or Tenant's employees, agents, customers, licensees, contractors or subtenants, (ii) Tenant's failure to observe or perform any conditions or agreements contained in this Lease, or (iii) alterations, additions or improvements made by Tenant, or anyone claiming under Tenant, then the cost of the same shall be reimbursed by Tenant within ten (10) days following receipt of an invoice therefor, and the provisions of Section 16.5 with respect to Landlord's insurance deductible shall not apply to Tenant's responsibility with respect to the costs therefor. Notwithstanding anything to the contrary contained in this Lease, Landlord shall not be liable for failure to make repairs required to be made by Landlord under the provisions of this Lease unless Tenant has previously notified Landlord in writing of the need for such repairs and Landlord has failed to commence and complete the repairs within a reasonable period of time which in no event shall exceed thirty (30) days following receipt of Tenant's written notification; it being agreed that in no event shall Tenant's failure to notify Landlord relieve or waive Landlord's obligations to make the necessary repairs hereunder. Tenant waives the provisions of Sections 1932(1) and 1942 of the Civil Code of the State of California, or any superseding statute, and of any other law permitting Tenant to make repairs at Landlord's expense and/or terminate this Lease or vacate the Premises.

12.2 **Landlord's Right of Entry.** Landlord, its agents, contractors, servants and employees may enter the Premises at all reasonable times to (a) examine the Premises; (b) perform any obligation of, or exercise any right or remedy of, Landlord under this Lease; (c) make repairs, alterations, improvements or additions to the Premises or to other portions of the Building as Landlord deems necessary or desirable; (d) perform work necessary to comply with laws, ordinances, rules or regulations of any public authority or of any insurance underwriter; and (e) perform work that Landlord deems necessary to prevent waste or deterioration in connection with the Premises; provided expressly that Tenant is given at least twenty-four (24) hours prior written notice (except for emergencies) and such entry does not prevent or materially interfere with Tenant's business operations.

12.3 **Tenant's Maintenance Obligations.** Tenant, at its expense, shall maintain and keep the Premises (including all utility lines, systems and equipment exclusively serving the Premises, Tenant's signs and all doors, windows and storefronts for the Premises, but excluding those items for which Landlord is responsible pursuant to Section 12.1) in first class order, condition and repair and shall make replacements necessary to keep the same in this condition. At the option of Landlord (i) Tenant shall contract with a service company designated by Landlord, no more than quarterly, for the maintenance of the heating, ventilating and air conditioning equipment serving the Premises and shall provide Landlord with a copy of the service contract within ten (10) days following its execution, or (ii) Landlord may contract with a service company of its own choosing, or provide such service itself, for the maintenance of the heating, ventilating and air conditioning equipment, and bill Tenant for the cost of same, which shall be payable within ten (10) days of receipt as Additional Rent. Tenant hereby waives any and all rights under and benefits of subsection 1 of Section 1932 and Sections 1941 and 1942 of the California Civil Code or under any similar law, statute, or ordinance now or hereafter in effect.

12.4 **Alterations.** Tenant shall not make or cause to be made to the Premises any addition, renovation, alteration, reconstruction or change (collectively "**Alterations**") without first obtaining the written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed, and such work shall be subject to the conditions as Landlord may require following written notice to Tenant. The construction of the initial improvements to the Premises shall be governed by the terms of the Work Letter and not the terms of this Section 12.4. Landlord may impose, as a condition of its consent to any and all Alterations, such requirements as Landlord in its reasonable discretion may deem desirable, including, but not limited to, the requirement that Tenant utilize for such purposes only contractors reasonably approved by Landlord. Tenant shall construct such Alterations and perform such repairs in a good and workmanlike manner, in conformance with any and all applicable federal, state, county or municipal laws, rules and regulations and pursuant to a valid building permit, issued by the city within which the Retail Center is located, all in conformance with Landlord's construction rules and regulations; provided, however, that prior to commencing to construct any Alteration, Tenant shall meet with Landlord to discuss Landlord's design parameters and code compliance issues.

ARTICLE 13 – COMMON AREA

13.1 **Definition of Common Area.** The term "**Common Area**" as used in this Lease shall mean all areas within the exterior boundaries of the Retail Center now or later made available by Landlord for the general use or benefit of Tenant and other persons entitled to occupy Floor Area in the Retail Center

13.2 **Maintenance and Use of Common Area.** The manner in which the Retail Center is maintained shall be determined by Landlord in its sole discretion. The use and occupancy by Tenant of the Premises shall include the use of the Common Area (except those portions of the Common Area on which have been constructed or placed permanent or temporary kiosks, displays, carts and stands and except areas used in the maintenance or operation of the Retail Center) in common with Landlord and other tenants of the Retail Center and their customers and invitees, subject to rules and regulations concerning the use of the Common Area established by Landlord from time to time.

13.3 **Control of and Changes to Common Area.** Landlord shall have the sole and exclusive control of the Common Area, as well as the right to make changes to the Common Area. Landlord's rights shall include, but not be limited to, the right to (a) restrain the use of the Common Area by unauthorized persons; (b) cause Tenant to remove or restrain persons from any unauthorized use of the Common Area if they are using the Common Area by reason of Tenant's presence in the Retail Center; (c) utilize from time to time any portion of the Common Area for promotional, entertainment and related matters; (d) place permanent or temporary kiosks, displays, carts and

stands in the Common Area and to lease same to tenants; (e) temporarily close any portion of the Common Area for repairs, improvements or alterations, to discourage noncustomer use, to prevent dedication or an easement by prescription, or for any other reason deemed sufficient in Landlord's judgment; and (f) change the shape and size of the Common Area, add, eliminate or change the location of improvements to the Common Area, including, without limitation, buildings, parking areas, roadways and curb cuts, and construct buildings on the Common Area. Landlord may determine the nature, size and extent of the Common Area and whether portions of the same shall be surface, underground or multiple-deck, as well as make changes to the Common Area from time to time which in its opinion are deemed desirable for the Retail Center. Notwithstanding any language to the contrary and without limiting the generality of the foregoing (or the specificity of items (b) and (e), above)), no such right to control and/or change the Common Area shall have the effect of substantially and/or materially interfering with or compromising Tenant's right to access and use the Premises for the agreed use as described in Section 1.9 hereof during the entire term of this Lease and any extensions hereof.

13.4 Parking. Tenant and its employees shall park their vehicles only in the parking areas from time to time designated for that purpose by Landlord. Tenant agrees to assume responsibility for compliance by its employees with these parking provisions. Tenant's continued right to use the parking passes is conditioned upon Tenant abiding by all reasonable rules and regulations which are prescribed from time to time for the orderly operation and use of the parking facility where the parking passes are located. If Landlord implements any program related to parking, parking facilities, or transportation facilities including, but not limited to, any program of parking validation, employee shuttle transportation or other program to limit, control, enhance, regulate or assist parking by customers of the Retail Center, Tenant agrees to participate in the program and pay its proportionate share of the costs of the program under reasonable rules and regulations established by Landlord.

13.5 Common Area Expenses – Intentionally Omitted.

13.6 Payment of Common Area Expenses- Intentionally Omitted.

ARTICLE 14– ASSIGNMENT AND SUBLETTING

14.1 No Assignment. Tenant agrees that it shall not transfer, assign, sublet, enter into franchise, license or concession agreements, pledge or hypothecate this Lease, the Premises or Tenant's business (collectively "**Assignment**" or "**Assign**") without first procuring the written consent of Landlord which shall not be unreasonably withheld, conditioned or delayed.

14.2 Procedures. Should Tenant desire to enter into an Assignment, Tenant shall request in writing Landlord's consent to the Assignment at least thirty (30) days before the effective date of the Assignment. Tenant's request shall provide to Landlord the following information: (a) the terms and conditions of such Assignment and copies of the draft agreements to be executed by Tenant and the proposed transferee in connection with the proposed Assignment; (b) a description of the identity, net worth and previous business experience of the proposed transferee including, without limitation, copies of the proposed transferee's latest income, balance sheet and changes in position statements (with accompanying notes and disclosures of all material changes thereto) certified as accurate by the proposed transferee; (c) a detailed description of the proposed use of the Premises together with the proposed trade name of the transferee; and (d) any further information relevant to the proposed Assignment which Landlord shall have requested within fifteen (15) days after receipt of Tenant's request for consent. Within thirty (30) days after receipt of Tenant's request for consent containing the information above, Landlord shall have the option to respond as follows: (i) consent to the proposed Assignment, subject to Section 14.3 below; (ii) refuse to consent to the proposed Assignment; or (iii) elect to terminate this Lease, which termination shall be effective as of the effective date of the proposed Assignment.

14.3 Landlord Consent. If Tenant requests Landlord's consent to an Assignment, Landlord and Tenant agree (by way of example and without limitation) that it shall be reasonable for Landlord to withhold its consent if any of the following situations exist or may exist: (a) The proposed transferee's use of the Premises differs from the "Use of Premises" as set forth in Section 1.9 or the "Trade Name" as set forth in Section 1.3; (b) in Landlord's business judgment, the proposed transferee lacks sufficient business reputation or experience to operate a successful business of the type and quality permitted under this Lease and/or proposed by such transferee; (c) Tenant is in default under this Lease; (d) in Landlord's business judgment, the present net worth of the proposed transferee is less than the greater of Tenant's and Guarantor's (if applicable) net worth as of the date of this Lease or Tenant's and Guarantor's (if applicable) net worth at the date of Tenant's request for consent; or (e) the Assignment would breach any covenant binding upon Landlord respecting radius, location, use or exclusivity in any other lease, financing agreement or other agreement relating to the Building or Retail Center. Any attempted or purported Assignment without Landlord's prior written consent shall be void and of no force or effect, and shall not confer any estate or benefit on anyone. A consent to an Assignment by Landlord shall not be deemed to be a consent to any subsequent Assignment to any other party. Notwithstanding any contrary provision of this Lease, if Tenant or any proposed transferee claims that Landlord has unreasonably withheld or delayed its consent to a proposed Assignment or otherwise has breached its obligations under this Article 14, Tenant's and such transferee's only remedy shall be to seek a declaratory judgment and/or injunctive relief, and Tenant, on behalf of itself and, to the extent permitted by law, such proposed transferee waives all other remedies against Landlord, including without limitation, the right to seek monetary damages or to terminate this Lease.

14.4 Transfer Premium. If Landlord consents to a proposed Assignment, as a condition thereto which the parties hereby agree is reasonable, Tenant shall pay to Landlord fifty percent (50%) of any "Transfer Premium," as that term is defined in this Section 14.4, received by Tenant from such Transferee. "**Transfer Premium**" shall mean all rental (including, Minimum Annual Rental, Percentage Rental (if any) and Additional Rental), and other consideration payable by such transferee in connection with the transfer in excess of the Minimum Annual Rental, Percentage Rental (if any) and Additional Rental payable by Tenant under this Lease during the term of the Assignment (on a per square foot basis if less than all of the Premises is transferred); provided, however, such Transfer Premium shall also include, but not be limited to, key money, bonus money or other cash consideration paid by transferee to Tenant in connection with such Assignment, and any payment in excess of fair market value for services rendered by Tenant to transferee or for assets, fixtures, inventory, equipment, or furniture transferred by Tenant to transferee in connection with such Assignment.

14.5 Landlord's Option as to Subject Space. Notwithstanding anything to the contrary contained in this Article 14, Landlord shall have the option, by giving written notice to Tenant within thirty (30) days after receipt of Tenant's written request for consent to so transfer, to recapture the corresponding portion of the Premises. Such recapture notice shall cancel and terminate this Lease with respect to such portion of the Premises as of the effective date of the proposed transfer. In the event of a recapture by Landlord, if this Lease shall be canceled with respect to less than the entire Premises, the rental reserved herein shall be prorated on the basis of the number of square feet retained by Tenant in proportion to the number of square feet contained in the Premises, and this Lease as so amended shall continue thereafter in full force and effect, and upon request of either party, the parties shall execute written confirmation of the same. If Landlord declines, or fails to elect in a timely manner to recapture the subject space under this Section 14.5, then, provided Landlord has consented to the proposed transfer, Tenant shall be entitled to proceed to transfer the subject space to the proposed transferee, subject to provisions of this Article 14.

14.6 No Release. No Assignment, whether with or without Landlord's consent, shall relieve Tenant or any Guarantor from its covenants and obligations under this Lease.

14.7 Form. Any Assignment shall be evidenced by an instrument in writing in a form satisfactory to Landlord and shall be executed by the transferor and the transferee.

14.8 Additional Transfers. The term "**Assignment**" shall also include (i) if Tenant is a partnership or limited liability company, the withdrawal or change, voluntary, involuntary or by operation of law, of fifty percent (50%) or more of the partners or members (as applicable), or transfer of fifty percent (50%) or more of partnership or membership interests (as applicable), within a twelve (12)-month period, or the dissolution of the partnership or limited liability company (as applicable) without immediate reconstitution thereof, and (ii) if Tenant is a closely held corporation (i.e., whose stock is not publicly held and not traded through an exchange or over the counter), the dissolution, merger, consolidation or other reorganization of Tenant or the sale or other transfer of an aggregate of fifty percent (50%) or more of the voting shares of Tenant, within a twelve (12)-month period.

14.9 Fees. Tenant agrees to reimburse Landlord for Landlord's reasonable attorneys' fees incurred in conjunction with the processing and documentation of any requested Assignment. In addition, Tenant shall pay to Landlord concurrently with the request for consent referred to in Section 14.2 the sum of Two Hundred Fifty Dollars (\$250.00) as reimbursement to Landlord for its review and processing of the application.

ARTICLE 15 – INTENTIONALLY OMITTED

ARTICLE 16 – INSURANCE

16.1 Tenant's Insurance. Tenant, at its sole cost and expense, commencing on the date Tenant is given access to the Premises, and continuing thereafter during the Term of this Lease, shall procure, pay for and keep in full force and effect the following types of insurance in, at a minimum, the amounts and in the form specified below:

16.1.1 Commercial general liability insurance with coverage limits of not less than Two Million Dollars (\$2,000,000.00) combined single limit bodily injury, personal injury, death and property damage liability per occurrence, or a current limit carried by Tenant, whichever is greater, insuring against any and all liability of the insureds with respect to the Premises or arising out of the maintenance, use or occupancy of the Premises or related to the exercise of any rights of Tenant pursuant to this Lease, subject to increases in amounts as Landlord may reasonably require from time to time. All such liability insurance shall specifically insure the performance by Tenant of the indemnity agreement as to liability for injury to or death of persons and injury or damage to property in Section 16.4 below. Further, all liability insurance shall include, but not be limited to, personal injury, blanket contractual, cross liability and severability of interest clauses, products/completed operations, broad form property damage, independent contractors, owned, non-owned and hired vehicles and, if alcoholic beverages are served, sold, consumed or obtained in the Premises, liquor liability.

16.1.2 Worker's compensation coverage as required by law, together with employer's liability coverage and a waiver by Tenant's insurer of any right of subrogation against Landlord by reason of any payment pursuant to such coverage.

16.1.3 Business interruption or loss of income insurance in amounts and minimum durations satisfactory to Landlord.

16.1.4 Plate glass insurance covering all plate glass on the Premises at full replacement value.

16.1.5 Insurance covering all leasehold improvements, all Alterations permitted under Article 12, and all trade fixtures, merchandise and personal property which are, from time to time, in, on or about the Premises, in an amount not less than their full replacement value including replacement cost, endorsement cost providing protection against any peril included within the classification "Special Form" (formerly known as "all risk"), including sprinkler damage, vandalism, and malicious mischief. Any policy proceeds shall be used for the repair or replacement of the property damaged or destroyed unless this Lease shall cease and terminate under the provisions of Article 17.

16.1.6 Any insurance policies designated necessary by Landlord with regard to Tenant's or Tenant's contractors' construction of Tenant's Work pursuant to **Exhibit B**, as well as with regard to the construction of Alterations pursuant to Section 12.4 of this Lease including, without limitation, contingent liability and "all risks" builders' insurance, in amounts acceptable to Landlord.

16.2 Policy Form. All policies of insurance provided for herein shall be issued by insurance companies with general policy holder's rating of not less than A- and a financial rating of not less than Class VII, as rated in the most current available "Best's Key Rating Guide", and which are qualified to do business in California. All such policies shall name Landlord, Landlord's mortgagee(s) or beneficiary(ies) and others identified by Landlord from time to time as additional insureds and shall be for the mutual and joint benefit and protection of all such parties. Executed copies of the policies of insurance or certificates thereof shall be delivered to Landlord prior to Tenant or its agents or employees entering the Premises for any purpose. Thereafter, executed copies of renewal policies or 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 thirty (30) days written notice in advance of any cancellation, lapse or reduction in the amounts of said insurance. All public liability, property damage and other casualty policies shall be written as primary policies and any insurance carried by Landlord shall not be contributing with such policies.

16.3 Increased Premiums Due to Use of Premises. Tenant shall not do any act in or about the Premises which will increase the insurance rates upon the Building. Tenant agrees to pay to Landlord upon demand the amount of any increase in premiums for insurance resulting from Tenant's use of the Premises, whether or not Landlord shall have consented to the act on the part of Tenant. If Tenant makes any alteration or improvement to the Premises, Tenant, at its own expense, shall make whatever changes are necessary to comply with the requirement of the insurance underwriters and any appropriate governmental authority.

16.4 Indemnity. Tenant covenants to 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 date Tenant is given access to the Premises, from any cause whatsoever, related to the use, occupancy or enjoyment of the Premises by Tenant or any person thereon or holding under Tenant. Tenant shall defend, indemnify and hold Landlord and its agents, servants, employees, contractors and lenders harmless from all liability whatsoever on account of any real or alleged damage or injury and from liens, claims and demands related to (i) any occurrence in the Premises, or any repairs, alterations or improvements which Tenant may make or cause to be made upon the Premises, (ii) the omission, negligence or willful misconduct of Tenant, its agents, employees, invitees or contractors, (iii) any default by Tenant with respect to its obligations hereunder. However Tenant shall not be liable for damage or injury ultimately determined to be occasioned by the sole active negligence and/or intentional misconduct of Landlord or its designated agents, employees, and/or

contractors. Tenant's obligation to indemnify shall include reasonable attorneys' fees and investigation costs and all other reasonable costs, expenses and liabilities incurred by Landlord or its counsel from the first notice that any claim or demand is to be made or may be made against Landlord. The provisions of this Section 16.4 shall survive the expiration or earlier termination of this Lease.

16.5 Waiver of Subrogation. Notwithstanding anything to the contrary contained in this Lease, Landlord and Tenant each waive any rights each may have against the other on account of any loss or damage occasioned to Landlord or Tenant, as the case may be, their respective property or business, the Premises or its contents, the Building or to other portions of the Retail Center, arising from any risk insurable under a "special form" policy of property insurance (except as otherwise provided herein, this waiver extends to deductibles under such insurance); and each of the parties, on behalf of their respective insurance companies, waives any right of subrogation that it may have against the other. Landlord and Tenant hereby represent and warrant that their respective "special form" property insurance policies required by this Article 16 shall include a waiver of (i) subrogation by the insurers, and (ii) all rights based upon an assignment from its insured, against Landlord and/or any of its partners, subpartners and their respective officers, agents, servants, employees, and independent contractors, or Tenant and/or any of its contractors, agents, employees, invitees, or visitors of Tenant or any such person (as the case may be) in connection with any property loss risk thereby insured against. Tenant will cause all other occupants of the Premises claiming by, under, or through Tenant to execute and deliver to Landlord a waiver of claims similar to the waiver in this Section 16.5 and to obtain such waiver of subrogation rights endorsements. If either party hereto fails to maintain the waivers set forth in items (i) and (ii) above, the party not maintaining the requisite waivers shall indemnify, defend, protect, and hold harmless the other party for, from and against any and all claims, losses, costs, damages, expenses and liabilities (including, without limitation, court costs and reasonable attorneys' fees) arising out of, resulting from, or relating to, such failure.

ARTICLE 17 – DAMAGE

17.1 Insured Casualty. If the Premises are damaged by fire or other perils covered by Landlord's insurance and Landlord's lender permits the application of the insurance proceeds to restoration, then Landlord shall repair, reconstruct and restore the base, shell and core of the Premises. Tenant, at its sole cost and expense, shall repair, reconstruct and restore all leasehold improvements to the Premises in existence prior to such casualty and replace its stock in trade, trade fixtures, furniture, furnishings and equipment. Tenant shall commence this work promptly upon delivery of possession of the Premises to Tenant and diligently prosecute such work to completion. Tenant shall, prior to the commencement of construction, submit to Landlord, for Landlord's review and approval, all plans, specifications and working drawings relating thereto, and Landlord shall have the right to approve the contractors selected by Tenant to perform such improvement work. Notwithstanding the foregoing, in the event of a partial or total destruction of the Premises during the last year of the Term, Landlord and Tenant shall each have the option to terminate this Lease upon giving written notice to the other of exercise of this termination right within thirty (30) days after the destruction. For purposes of this subparagraph (b), "partial destruction" shall be deemed destruction to an extent of at least thirty-three and one-third percent (33 1/3%) of the then full replacement cost of the Premises as of the date of destruction.

17.2 Uninsured Casualty. If the Premises and/or Building are damaged as a result of any casualty not covered by Landlord's insurance (or if covered by insurance but Landlord's lender does not permit the application of the insurance proceeds to restoration), Landlord, within ninety (90) days following the date of such damage, at its option, may (i) commence repair, reconstruction or restoration of the base, shell and core of the Premises, or (ii) elect to terminate this Lease by serving Tenant written notice thereof. In the event Landlord elects to restore the Premises, Tenant shall be responsible for Tenant's obligations outlined in Section 17.1 above.

17.3 Abatement. In the event of repair, reconstruction and restoration as provided in this Article 17, the Minimum Annual Rental and Tenant's share of Common Area Expenses shall be abated proportionately with the degree to which Tenant's use of the Premises is impaired commencing from the date of destruction and continuing until the earlier of (i) the day Tenant recommences business operations in the entire Premises or (ii) ninety (90) days after Landlord's completion of its restoration obligations under this Article 17. Tenant shall continue the operation of its business on the Premises during any such period to the extent reasonably practicable. Tenant shall not be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Premises, or the Building, or Tenant's personal property, or any inconvenience or annoyance occasioned by such damage, repair, reconstruction or restoration.

17.4 Major Destruction. Notwithstanding any of the foregoing provisions of this Article 17, should there be a major destruction of the Building (regardless of whether the Premises is damaged), Landlord shall have the right to terminate this Lease on notice to Tenant within ninety (90) days after such destruction. Major destruction of the Building shall be deemed destruction to an extent of at least twenty percent (20%) of the full replacement value of the Building as of the date of destruction.

17.5 Distribution of Proceeds. In the event of the termination of this Lease pursuant to this Article 17, all proceeds from Tenant's insurance under Article 16 and covering the leasehold improvements and any Alterations, but excluding proceeds for trade fixtures, merchandise, signs and other personal property, shall be disbursed and paid to Landlord.

17.6 Waiver of Termination. Tenant waives any statutory rights of termination which may arise by reason of any partial or total destruction of the Premises, Building or Retail Center, including without limitation, Sections 1932(2) and 1933(4) of the California Civil Code.

ARTICLE 18 – EMINENT DOMAIN

18.1 Taking. The term "**Taking**" as used in this Article 18 shall mean an appropriation or taking under the power of eminent domain by any public or quasi-public authority or a voluntary sale or conveyance in lieu of condemnation but under threat of condemnation.

18.2 Total Taking. In the event of a Taking of the entire Premises, this Lease shall terminate and expire as of the effective date of the Taking.

18.3 Partial Taking. If there is a Taking of more than ten percent (10%) of the Floor Area of the Premises or, regardless of the amount taken, the remainder of the Premises is not suitable for the conduct of Tenant's business, as reasonably determined by Landlord and Tenant, either Landlord or Tenant may terminate this Lease as of the effective date of such Taking, upon giving written notice of such election within thirty (30) days after Landlord or Tenant, as applicable, learns of the Taking.

18.4 Substantial Taking of Building. In the event of a Taking of more than twenty percent (20%) of the Floor Area of the Building, or if by reason of any Taking, regardless of the amount so taken and whether or not the Premises thereof are also taken, the operation of the Building is rendered impracticable or uneconomical in Landlord's reasonable determination, Landlord shall have the right to terminate this Lease on thirty (30) days' written notice to the other.

18.5 Termination of Lease. If this Lease is terminated as provided above, (i) Landlord shall be entitled to the entire award or compensation in such condemnation proceedings, or settlement in lieu thereof, and (ii) the Minimum Annual Rental and Additional Rental for the last month of Tenant's occupancy shall be prorated and Landlord shall refund to Tenant any Minimum Annual Rental and Additional Rental paid in advance.

18.6 Continuation of Lease. In the event of a Taking, if Landlord and Tenant elect not to so terminate this Lease as provided above (or if no right to terminate exists), Landlord shall restore the Premises (to the extent of the condemnation proceeds) to an architectural whole of like quality and character as existed prior to the Taking; thereafter, the Minimum Annual Rental shall be reduced on an proportionate basis, based on the proportion that the Floor Area of the Premises after the Taking bears to the Floor Area of the Premises prior to the Taking.

18.7 Waiver of Statutory Provisions. Tenant hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of the California Code of Civil Procedure, or any other California law, statute or ordinance now or hereafter in effect, to seek termination of this Lease in the event of a taking, it being the intent of the parties that the provisions of Article 18 of this Lease shall govern the rights of the parties in such event.

ARTICLE 19 – DEFAULTS BY TENANT

19.1 Events of Default. Should Tenant at any time be in default with respect to any payment of Minimum Annual Rental, Additional Rental, or any other charge payable by Tenant pursuant to this Lease for a period of three (3) business days after written notice from Landlord to Tenant; or should Tenant be in default in the prompt and full performance of any other of its promises, covenants or agreements herein contained for more than twenty (20) days after written notice thereof from Landlord to Tenant specifying the particulars of the default (however, if the nature of the default is such that more than twenty (20) days are reasonably required for its cure, then Tenant shall have such time as is reasonably necessary to cure the default, not to exceed sixty (60) days, provided Tenant commences the cure in such twenty (20) day period and diligently prosecutes the cure to completion); or should Tenant abandon the Premises; then Landlord may treat the occurrence of any one (1) or more of the foregoing events as a breach of this Lease and, in addition to any or all other rights or remedies provided to Landlord by law or in equity (all of which remedies shall be distinct, separate and cumulative), Landlord shall have the option, without further notice or demand of any kind to Tenant or any other person: (a) to declare this Lease terminated and to re-enter and take possession of the Premises and remove all persons therefrom; or (b) to exercise the remedy described in California Civil Code Section 1951.4 (Landlord may continue the Lease in effect after Tenant's breach and abandonment and recover rent as it becomes due, if Tenant has the right to sublet or assign, subject only to reasonable limitations). Even though Landlord may have exercised its rights pursuant to (b) above, Landlord may thereafter elect to terminate this Lease and all of the rights of Tenant in or to the Premises. Any notice required above in this Section 19.1 shall be in lieu of, and not in addition to, any notice required under Section 1161 of the Code of Civil Procedure of California, or any similar or superseding statute. Landlord shall not be deemed to have terminated this Lease, or the liability of Tenant to pay any Minimum Annual Rental, Additional Rental, or other charges later accruing by any action in unlawful detainer or otherwise to obtain possession of the Premises, unless Landlord shall have notified Tenant in writing that it has so elected to terminate this Lease.

19.2 Termination of Lease. Should Landlord elect to terminate this Lease pursuant to the provisions of Section 19.1 above, Landlord may recover from Tenant, as damages, the following: (a) the worth at the time of award of any unpaid rental which had been earned at the time of the termination; plus (b) the worth at the time of award of the amount by which the unpaid rental which would have been earned after termination until the time of award exceeds the amount of rental loss Tenant proves could have been reasonably avoided; plus (c) the worth at the time of award of the amount by which the unpaid rental for the balance of the Term of this Lease after the time of award exceeds the amount of rental loss that Tenant proves could be reasonably avoided; plus (d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which is, in the ordinary course of things, likely to result therefrom; plus (e) at Landlord's election, any other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by the laws of the State of California. As used in subparagraphs (a) and (b) above, the "worth at the time of award" is computed by allowing interest at the Interest Rate. As used in subparagraph (c) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank situated nearest to the location of the Retail Center at the time of award, plus one percent (1%).

19.3 Definition of Rental. For purposes of this Article 19 only, the term "rental" shall be deemed to be the Minimum Annual Rental and all other sums required to be paid by Tenant pursuant to the terms of this Lease. All sums other than the Minimum Annual Rental shall, for the purpose of calculating any amount due under the provisions of Section 19.2 (c) above, be computed on the basis of the average monthly amount accruing during the immediately preceding sixty (60) month period, except that if it becomes necessary to compute these sums before the sixty (60) month period has occurred, then these sums shall be computed on the basis of the average monthly amount accruing during the shorter period.

19.4 Landlord's Right to Perform. If Tenant shall fail to pay any sum of money or perform any other act on its part to be paid or performed hereunder and such failure shall continue for ten (10) days with respect to Tenant's obligations after Tenant's receipt of written notice thereof from Landlord, Landlord may, without waiving or releasing Tenant from any of Tenant's obligations, make such payment or perform such other act on behalf of Tenant. All sums so paid by Landlord and all necessary incidental costs incurred by Landlord in performing such other acts shall be payable by Tenant to Landlord within ten (10) days after demand therefor as Additional Rent.

ARTICLE 20 – DEFAULTS BY LANDLORD

If Landlord fails to perform any of the covenants, provisions or conditions contained in this Lease on its part to be performed within thirty (30) days after written notice of default from Tenant (or if more than thirty (30) days shall be required because of the nature of the default, if Landlord shall fail to proceed diligently to cure the default after written notice), then Landlord shall be liable to Tenant for all damages sustained by Tenant as a direct result of Landlord's breach; provided, however, Tenant shall not be entitled to terminate this Lease as a result thereof, or offset or abate Minimum Annual Rental or Additional Rental as a result thereof, and in no event shall Landlord be liable to Tenant for consequential damages, including damages for loss of business or profits. If any part of the Premises is at any time subject to a mortgage or a deed of trust and this Lease or the rentals due from Tenant hereunder are assigned to a mortgagee, trustee or beneficiary (called "**Assignee**" for purposes of this Article 20 only) and Tenant is given written notice of the assignment, including the address of Assignee, then Tenant shall give written notice to Assignee, specifying Landlord's default in reasonable detail, and affording Assignee a reasonable opportunity to cure such default for and on behalf of Landlord. Assignee's cure of such default on behalf of Landlord shall be deemed to be Landlord's cure of the same.

ARTICLE 21 – SUBORDINATION, ATTORNMENT AND TENANT'S STATEMENT

21.1 **Subordination and Attornment.** This Lease is subject and subordinate to all present and future ground or underlying leases of the Building and to the lien of any mortgages or trust deeds, now or hereafter in force against the Building, if any, and to all renewals, extensions, modifications, consolidations and replacements thereof, and to all advances made or hereafter to be made upon the security of such mortgages or trust deeds, unless the holders of such mortgages or trust deeds, or the lessors under such ground lease or underlying leases, require in writing that this Lease be superior thereto. Tenant covenants and agrees in the event any proceedings are brought for the foreclosure of any such mortgage, or if any ground or underlying lease is terminated, to attorn, without any deductions or set-offs whatsoever, to the purchaser upon any such foreclosure sale, or to the lessor of such ground or underlying lease, as the case may be, if so requested to do so by such purchaser or lessor, and to recognize such purchaser or lessor as the lessor under this Lease to the extent that such purchaser or lessor assumes the obligations of Landlord under this Lease. Tenant shall, within ten (10) days of request by Landlord, execute such further instruments or assurances as Landlord may reasonably deem necessary to evidence or confirm such attornment and/or the subordination or superiority of this Lease to any such mortgages, trust deeds, ground leases or underlying leases.

21.2 **Estoppel Certificate.** Within ten (10) days following a request in writing by Landlord, Tenant shall execute and deliver to Landlord an estoppel certificate in form and substance required by Landlord, indicating therein any exceptions thereto that may exist at that time, and shall also contain any other information reasonably requested by Landlord or Landlord's mortgagee or prospective mortgagee. Failure of Tenant to timely execute and deliver such estoppel certificate or other instruments shall constitute an acceptance of the Premises and an acknowledgment by Tenant that statements included in the estoppel certificate are true and correct, without exception.

ARTICLE 22 – SECURITY DEPOSIT

22.1 **Security Deposit.** Upon execution of this Lease, Tenant shall deposit with Landlord the sum specified in Section 1.15 as "Security Deposit" (the "**Security Deposit**"). The Security Deposit shall be held by Landlord without obligation or liability for payment of interest thereon as security for the faithful performance by Tenant of all of the terms of this Lease to be observed and performed by Tenant. The Security Deposit shall not be mortgaged, assigned, transferred or encumbered by Tenant without the prior written consent of Landlord. Landlord shall not be required to keep the Security Deposit separate from its general funds.

22.2 **Application of Security Deposit.** Should Tenant at any time during the Term of this Lease be in default or breach of any provision of this Lease, Landlord may, at its option, and without prejudice to any other remedy which Landlord may have at law or in equity, appropriate the Security Deposit, or a portion thereof as Landlord may deem necessary, and apply same toward payment of Minimum Annual Rental, Additional Rental, or to any loss or damage sustained by Landlord due to the default or breach on the part of Tenant. Within five (5) days after written demand by Landlord, Tenant shall deposit with Landlord cash in an amount sufficient to restore the Security Deposit to the original sum deposited. Tenant hereby waives the provisions of Section 1950.7 of the California Civil Code and all other provisions of law, now or hereafter in force, which provide that Landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by Tenant or to clean the Premises, it being agreed that Landlord may, in addition, claim those sums reasonably necessary to compensate Landlord for any other loss or damage, foreseeable or unforeseeable, caused by the acts or omissions of Tenant or any officer, employee, agent, contractor or invitee of Tenant.

22.3 **Refund.** Should Tenant perform all of its obligations under this Lease, the Security Deposit, or any balance thereof then remaining, shall be returned to Tenant, within thirty (30) days of the expiration of the term of this Lease or the earlier termination of this Lease, or as otherwise prescribed by law. Tenant acknowledges and agrees that any statutory time frames for the return of a security deposit are superseded by the express period identified in this Section 22.3.

ARTICLE 23– QUIET ENJOYMENT

Upon Tenant's payment of Minimum Annual Rental and Additional Rental, and its observation and performance of all the covenants, terms and conditions of this Lease to be observed and performed by Tenant, Tenant shall peaceably and quietly hold and enjoy the Premises from and after delivery thereof to Tenant free from disturbance by Landlord; subject, however, to the provisions of this Lease.

ARTICLE 24– NOTICES

Any notice, demand or other communication given under the provisions of this Lease (collectively, "**Notices**") by either party to the other party shall be effective only if in writing and (a) personally served, (b) mailed by United States registered or certified mail, return receipt requested, postage prepaid, or (c) sent by a nationally recognized courier service (e.g., Federal Express) for next-day delivery. Notices shall be directed to the parties at their respective addresses set forth in the Summary. In the event that a different address is furnished by either party to the other party in accordance with the procedures set forth in this Article 24, Notices shall thereafter be sent or delivered to the new address. Notices given in the foregoing manner shall be deemed given (a) (b) when actually received or refused by the party to whom sent if delivered by carrier or personally served or (b) if mailed, on the day of actual delivery or refusal as shown by the addressee's registered or certified mail receipt. For purposes of this Article 24, a "business day" is Monday through Friday, excluding holidays observed by the United States Postal Service.

ARTICLE 25 – MISCELLANEOUS

25.1 **Waiver.** Any waiver by Landlord of a breach of a covenant of this Lease by Tenant shall not be construed as a waiver of a subsequent breach of the same covenant. The consent or approval by Landlord to anything requiring Landlord's consent or approval shall not be deemed a waiver of Landlord's right to withhold consent or approval of any subsequent similar act by Tenant. No breach by Tenant of a covenant of this Lease shall be deemed to have been waived by Landlord unless the waiver is in writing signed by Landlord.

25.2 **Rights Cumulative.** Except as provided herein to the contrary, the rights and remedies of Landlord specified in this Lease shall be cumulative and in addition to any rights and remedies not specified in this Lease.

25.3 **Entire Agreement.** It is understood that there are no oral or written agreements or representations between the parties hereto affecting this Lease, and that this Lease supersedes and cancels any and all previous negotiations, arrangements, representations, brochures, agreements and understandings, if any, between Landlord and Tenant or displayed by Landlord to Tenant. The parties hereto acknowledge and agree that each has participated in the negotiation and drafting of this Lease; therefore, in the event of an ambiguity in, or dispute regarding the interpretation of, this Lease, the interpretation of this Lease shall not be resolved by any rule of interpretation

providing for interpretation against the party who caused the uncertainty to exist or against the draftsman. Any deletion of language from this Lease prior to its execution by Landlord and Tenant shall not be construed to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse of the deleted language.

25.4 No Representation. Landlord reserves the absolute right to effect such other tenancies in the Retail Center as Landlord, in its sole discretion, shall determine to best promote the interests of the Retail Center Tenant does not rely on the fact, nor is it Landlord's representation, that any specific tenant or number of tenants shall, during the Term of this Lease, occupy any space in the Retail Center

25.5 Amendments in Writing. No provision of this Lease may be amended except by an agreement in writing signed by Landlord and Tenant.

25.6 No Principal Agent Relationship. Nothing contained in this Lease shall be construed as creating the relationship of principal and agent, partnership or joint venture between Landlord and Tenant.

25.7 Laws of California to Govern; WAIVER OF TRIAL BY JURY. This Lease shall be governed by and construed in accordance with the laws of the State of California. IN ANY ACTION OR PROCEEDING ARISING HEREFROM, LANDLORD AND TENANT HEREBY CONSENT TO (I) THE JURISDICTION OF ANY COMPETENT COURT WITHIN THE STATE OF CALIFORNIA, (II) SERVICE OF PROCESS BY ANY MEANS AUTHORIZED BY CALIFORNIA LAW, AND (III) IN THE INTEREST OF SAVING TIME AND EXPENSE, TRIAL WITHOUT A JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR THEIR SUCCESSORS IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY. IN THE EVENT LANDLORD COMMENCES ANY SUMMARY PROCEEDINGS OR ACTION FOR NONPAYMENT OF BASE RENT, PERCENTAGE RENT OR ADDITIONAL RENT, TENANT SHALL NOT INTERPOSE ANY COUNTERCLAIM OF ANY NATURE OR DESCRIPTION (UNLESS SUCH COUNTERCLAIM SHALL BE MANDATORY) IN ANY SUCH PROCEEDING OR ACTION, BUT SHALL BE RELEGATED TO AN INDEPENDENT ACTION AT LAW.

25.8 Severability. If any provision of this Lease or the application of such provision to any person, entity or circumstances, is found invalid or unenforceable by a court of competent jurisdiction, the determination shall not affect the other provisions of this Lease and all other provisions of this Lease shall be deemed valid and enforceable.

25.9 Successors; Joint and Several. All rights and obligations of Landlord and Tenant under this Lease shall extend to and bind the respective heirs, executors, administrators, and the permitted concessionaires, successors, subtenants and assignees of the parties. If more than one person or entity executes this Lease as Tenant: (a) each of them is and shall be jointly and severally liable for the covenants, conditions, provisions and agreements of this Lease to be kept, observed and performed by Tenant; and (b) the act or signature of, or notice from or to, any one or more of them with respect to this Lease shall be binding upon each and all of the persons and entities executing this Lease as Tenant with the same force and effect as if each and all of them had so acted or signed, or given or received such notice.

25.10 Time of Essence. Except where the delivery of possession of the Premises to Tenant is concerned, time is of the essence.

25.11 Warranty of Authority. If Tenant is an entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of such entity and that this Lease is binding upon such entity. If Tenant is an entity, the persons executing this Lease on behalf of Tenant hereby covenant and warrant that (i) Tenant is duly formed and validly existing in the State of its organization and is qualified to do business in the State where the Retail Center is situated, (ii) all franchise and applicable taxes have been paid to date, and (iii) all future forms, reports, fees and other documents necessary to comply with applicable laws will be filed when due. Concurrently with Tenant's execution and delivery of this Lease to Landlord and/or at any time during the Term within ten (10) days of Landlord's request, Tenant shall provide to Landlord a copy of any documents reasonably requested by Landlord evidencing such formation, qualification, existence and authorization.

25.12 Mortgage Changes. Tenant shall not withhold its consent to changes or amendments to this Lease requested by the holder of a mortgage or deed of trust, or such similar financing instrument, covering Landlord's interest in the Premises so long as such changes do not materially alter the economic terms of this Lease or otherwise materially diminish the rights, or materially increase the obligations of Tenant.

25.13 Waiver of Rights of Redemption. Tenant waives any and all rights of redemption granted under any present and future laws in the event Landlord obtains possession of the Premises by reason of the violation by Tenant of any of the covenants and conditions of this Lease or otherwise including, without limitation, those afforded to tenants claiming hardship under California Code of Civil Procedure 1179.

25.14 No Implication of Exclusive Use. Notwithstanding any provision to the contrary contained in this Lease, in no event shall any provision of this Lease be deemed to afford Tenant, or otherwise bestow upon Tenant, an exclusive use right with respect to its operation at the Retail Center, and Landlord shall, in Landlord's sole and absolute discretion, be permitted to enter into any leases it desires in the Retail Center at any time it desires (in its sole and absolute discretion).

25.15 Brokers. Landlord has entered into an agreement with the real estate broker specified in Section 1.16 as Landlord's Broker, and Landlord shall pay any commissions or fees that are payable to Landlord's Broker with respect to this Lease in accordance with the provisions of a separate commission contract. Landlord shall have no further or separate obligation for payment of commissions or fees to any other real estate broker, finder or intermediary. Tenant represents that it has not had any dealings with any real estate broker, finder or intermediary with respect to this Lease, other than Landlord's Broker and the broker specified in Section 1.16 as Tenant's Broker. Any commissions or fees payable to Tenant's Broker with respect to this Lease shall be paid exclusively by Landlord's Broker, and Landlord shall have no obligation to ensure such payment by Landlord's Broker to Tenant's Broker. Subject to the foregoing, each party hereto shall indemnify and hold harmless the other party hereto from and against any and all losses, damages, liabilities, losses, costs and expenses (including, but not limited to, reasonable attorneys' fees and related costs) resulting from any claims that may be asserted against such other party by any real estate broker, finder or intermediary arising from any act of the indemnifying party in connection with this Lease.

25.16 Recording; Confidentiality. Tenant shall not record this Lease or any short form of this Lease. Tenant acknowledges that the content of this Lease and any related documents are confidential information. Tenant shall keep such confidential information strictly confidential and shall not disclose such confidential information to any person or entity other than Tenant's financial, legal, and space planning consultants.

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

25.18 Transfer of Landlord's Interest. Should Landlord sell, exchange or assign this Lease (other than a conditional assignment as security for a loan), then Landlord, as transferor, shall be relieved of any and all obligations on the part of Landlord accruing under this Lease from and after the date of the transfer.

25.19 Right to Show Premises. Landlord shall have the right to enter upon the Premises to show same to prospective tenants during the last six (6) months of the Term or to purchasers at any time during the Term and to post appropriate signs; provided, however, Tenant shall be provided a minimum of twenty four (24) hours prior written notice.

25.20 Mechanics' Lien. Tenant shall pay all costs for work performed by or on account of it and keep the Premises, the Building and the Retail Center free and clear of mechanics' liens or other liens. Tenant shall give Landlord immediate notice (upon Tenant's actual knowledge thereof) of any lien filed against the Premises or against the Building or Retail Center if related to work performed by or for Tenant. Upon Landlord's request, Tenant shall promptly remove of record liens by payment or the recording of an appropriate bond. If a final judgment is entered establishing the validity of any lien which has not been removed of record, Tenant immediately shall pay the judgment. If Tenant fails to pay the judgment within ten (10) days of its entry, Landlord may pay the judgment for Tenant's account. If Tenant fails to remove of record any lien by recording an appropriate bond, Landlord, at its option and without waiving any of its other legal remedies at law or in equity, may pay the lien. In either event, the amount so paid by Landlord, together with costs and reasonable attorneys' fees, shall be immediately due and owing from Tenant to Landlord.

25.21 Trade Fixtures, Personal Property and Alterations. Upon the expiration or earlier termination of the Term, and unless otherwise agreed to by the parties, Landlord shall have the option to (a) take exclusive possession of and title of any cabling installed by or at the request of Tenant, improvements (including the initial Tenant's Work), additions and alterations, to the extent any of these items are affixed to the Premises, or (b) require Tenant to remove all or some of such items, and to immediately repair any damage occasioned to the Premises by reason of such removal so the Premises are left in a neat and clean condition. Tenant must remove its signs upon the expiration or earlier termination of this Lease, and shall repair any damage to the Premises, Building and/or Retail Center caused by such removal.

25.22 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by that party for a period equal to the prevention, delay or stoppage, except for the obligations imposed with regard to Minimum Annual Rental and Additional Rental to be paid by Tenant pursuant to this Lease.

25.23 Holding Over. This Lease shall terminate without further notice upon the expiration of the Term of this Lease and, should Tenant hold over in the Premises beyond this date, the holding over shall not constitute a renewal or extension of this Lease or give Tenant any rights under this Lease. In such event, Landlord may, in its sole discretion, treat Tenant as a tenant at sufferance, subject to all of the terms and conditions of this Lease, except that the Minimum Annual Rental shall be an amount equal to the greater of (a) one and one-half (1½) times the sum of the Minimum Annual Rental and Percentage Rental which was payable for the twelve (12) month period immediately preceding the expiration of the Lease, or (b) the then currently scheduled rent for comparable space in the Building as the same is determined in Landlord's sole discretion. In the event Tenant fails to surrender the Premises upon the expiration of this Lease, Tenant shall indemnify and hold Landlord harmless from all loss or liability which may accrue therefrom including, without limitation, any claims made by any succeeding tenant based on or resulting from Tenant's failure to surrender the Premises. Acceptance by Landlord of any Minimum Annual Rental or Additional Rental after the expiration or earlier termination of this Lease shall not constitute a consent to a Tenant holding over hereunder; nor shall it constitute acceptance of the Tenant as a tenant at will or result in a renewal of this Lease.

25.24 Attorneys' Fees. In the event that at any time after the date of this Lease either Landlord or Tenant shall institute any action or proceeding against the other relating to the provisions of this Lease, or any default hereunder, the party not prevailing in the action or proceeding shall reimburse the prevailing party for the reasonable attorneys' fees and all other costs or disbursements incurred by the prevailing party including, without limitation, any fees, costs or disbursements incurred on any appeal from the action or proceeding.

25.25 Hazardous Materials. Tenant shall not cause or permit any Hazardous Material (as defined below) to be brought upon, kept or used in or about the Premises or the Retail Center by Tenant, its agents, employees, contractors, or invitees, without the prior written consent of Landlord. Landlord shall not unreasonably withhold consent as long as Tenant demonstrates to Landlord's reasonable satisfaction that such Hazardous Material is necessary or useful to Tenant's business and will be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Material. If Tenant breaches the obligations stated in the preceding sentence, or if the presence of Hazardous Material on the Premises caused or permitted by Tenant results in contamination of the Premises, or if contamination of the Premises by Hazardous Material otherwise occurs for which Tenant is legally liable to Landlord for damage resulting therefrom, then Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Premises or the Property, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Property, damages arising from any adverse impact on marketing of space on the Property, and sums paid in settlement of claims, attorney's fees, consultant fees and expert fees) which arise during or after the term of the Lease as a result of such contamination; it being understood that such obligation to indemnify shall not exceed or apply to the extent of any acts or omissions caused by Landlord, its agents or representatives. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Retail Center. Without limiting the foregoing, if the presence of any Hazardous Material at the Retail Center is caused by or is permitted by Tenant to remain and thereafter results in any contamination of the Retail Center, Tenant shall promptly take all actions at its sole expense as are necessary to return the Retail Center to the condition existing prior to the introduction of any such Hazardous Material; provided, that Landlord's approval of such actions shall first be obtained. The provisions of this Section 25.25 shall survive the expiration or earlier termination of this Lease. As used herein the term "**Hazardous Material**" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local government authority, the State of California or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is (a) defined as a "hazardous waste", "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code (Carpenter-Presley Tanner hazardous Substance Account Act), (b) defined as a "hazardous material", "hazardous substance" or "Hazardous waste" under Section 25501 of the California Health and Safety Code (Hazardous Materials Release Response Plans and Inventory), (c) defined as a "Hazardous substance" under Section 25281 of the California Health and Safety Code (Underground Storage of Hazardous Substances), (d) known to the state to cause cancer or reproductive toxicity under Section 25249.5 or listed pursuant to Section 25249.8 of the California Health and Safety Code (Safe Drinking Water and Toxic Enforcement Act of 1986), (e) petroleum, (f) asbestos, (g) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 11 of Title 22 of the California Administrative Code, (h) designated as a "hazardous

substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 317), (i) defined as the "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act 42, U.S.C. 9601 et seq. Furthermore, Landlord represents and warrants to Tenant that as of the date of this Lease, Landlord has no actual knowledge (without any independent duty of investigation or inquiry on behalf of Landlord) the presence of any Hazardous Substances in violation of law on, or under or within the Entire Premises.

25.26 Substitution of Premises- Intentionally Omitted

25.27 Landlord Exculpation. It is expressly understood and agreed that notwithstanding anything in this Lease to the contrary, and notwithstanding any applicable law to the contrary, the liability of Landlord hereunder (including any successor landlord) and any recourse by Tenant against Landlord shall be limited solely and exclusively to an amount which is equal to the lesser of (a) the interest of Landlord in the Building or (b) the equity interest Landlord would have in the Building if the Building were encumbered by third-party debt in an amount equal to eighty percent (80%) of the value of the Building (as such value is determined by Landlord), and neither Landlord, nor any of Landlord's partners, officers, directors, employees, agents, successors and assigns shall have any personal liability therefor, and Tenant hereby expressly waives and releases such personal liability on behalf of itself and all persons claiming by, through or under Tenant.

25.28 Guarantor- Intentionally Omitted

[Signatures follow on next page]

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

"Landlord"

Graziadio Family Development,
a California general partnership

By: GIC Enterprises Inc.
a California corporation
Its general partner

By: _____
William R Lang,
President

"Tenant"

TEACH, Inc.,
a California corporation

By: _____
Name: Mildred S. Cunningham
Title: _____

By: _____
Name: Raul Carranza
Title: _____

*** NOTE:**

If Tenant is a California corporation, then one of the following alternative requirements must be satisfied:

(A) This Lease must be signed by two (2) officers of such corporation: one being the chairman of the board, the president or a vice president, and the other being the secretary, an assistant secretary, the chief financial officer or an assistant treasurer. If one (1) individual is signing in two (2) of the foregoing capacities, that individual must identify the two (2) capacities.

(B) If the requirements of (A) above are not satisfied, then Tenant shall deliver to Landlord evidence in a form reasonably acceptable to Landlord that the signatory(ies) is (are) authorized to execute this Lease.

EXHIBIT A

SITE PLAN

[to be attached]

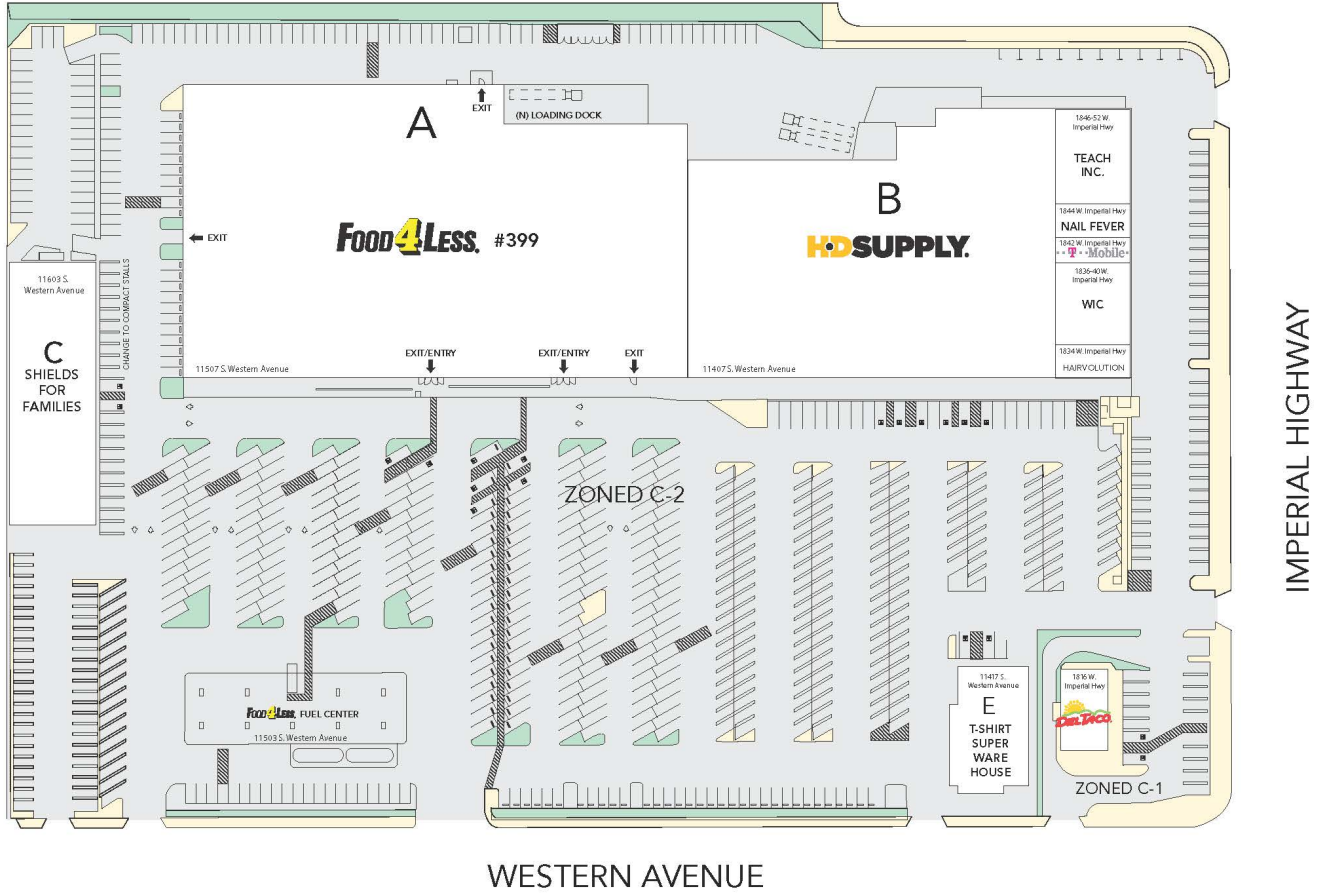


EXHIBIT B

WORK LETTER

1. **Plans and Specifications.** Landlord shall supply Tenant with one of the following in connection with the Tenant's Work: (i) CADD drawings of the Premises, a hard copy of such drawings of the Premises, or (iii) a floor plan and dimensions of the Premises. Within ten (10) days after the date of this Lease, Tenant shall submit to Landlord construction plans and specifications for the improvements to be constructed or installed in the Premises ("**Tenant's Work**"). Tenant shall employ a licensed architect approved by Landlord, to prepare plans which are professional, complete and in compliance with governing laws, codes and ordinances and the Declaration. Within ten (10) days thereafter, Landlord will either approve or disapprove the plans and specifications. The plans and specifications as approved by Landlord shall be defined as the "**Approved Construction Plans**". Approved Construction Plans are not a representation by Landlord that they are in compliance with the requirements of the CC&Rs or governing authorities, and it shall be Tenant's responsibility to meet and comply with the CC&Rs and all Federal, State, and local law and code requirements.

2. **Payment for Changes in Work, and Delays in Landlord's Work.** No changes to the Approved Construction Plans shall be made without the written consent of Landlord. Any additional charges, expenses or costs including, without limitation, increased fees which Landlord may be required to pay for architectural, engineering, construction and other similar services arising by reason of any subsequent change in the Approved Construction Plans made at the request of Tenant shall be the sole cost and expense of Tenant and shall be paid by Tenant to Landlord prior to the performance of the work.

3. **Requirements Relating to Tenant's Work.**

3.1 All of Tenant's Work in the Premises shall be strictly in accordance with the Approved Construction Plans, the CC&Rs and all governing laws, codes and ordinances. Tenant shall obtain, at its sole cost and expense, permits and approval from all authorities for Tenant's Work and shall furnish Landlord with a copy of said permits prior to commencement of construction.

3.2 Tenant will competitively bid the construction with the general contractor approved by Landlord. Tenant shall then enter into a construction contract approved by Landlord (which approval shall not be unreasonably withheld or delayed) with the selected contractor to construct Tenant's Work, which contract will name Landlord as a third party beneficiary and permit an assignment to Landlord, at Landlord's election, upon a default by Tenant under the Lease. Tenant shall be responsible for all aspects of coordinating the construction management, including obtaining and paying for utilities consumed during construction.

3.3 Tenant agrees to cooperate and comply with all reasonable rules and regulations which Landlord, its architect or contractor make in connection with Landlord's construction of the Retail Center and Tenant's construction of Tenant's Work. Additionally, Tenant agrees to cause its contractor to agree, in writing, to comply with the Retail Center's rules and regulations, including Landlord's rules and regulations with respect to construction activities in the Retail Center

3.4 Prior to commencement of construction of Tenant's Work, Tenant shall furnish Landlord with (i) evidence that Tenant has satisfied the insurance requirements of Article 16 of this Lease, (ii) a certificate of its general contractor's, subcontractors' and vendors' workers' compensation, and liability insurance, with policy limits as set forth in Article 16 of this Lease and all of which shall name Landlord and any other party that Landlord requests as an additional insured, and (iii) a certificate of insurance evidencing its architect's and engineers' professional liability insurance or errors and omissions insurance (as appropriate).

3.5 Within the earlier of ten (10) days after completion of construction of Tenant's Work, or ten (10) days after Tenant's opening for business, Tenant shall deliver to Landlord the following items: (a) the original of the Certificate of Occupancy for the Premises issued by the appropriate governmental agency; (b) copies of all mechanics' lien releases or other lien releases relating to Tenant's Work, notarized and unconditional, in such form as Landlord shall have pre-approved (provided that standard forms of unconditional waiver and releases provided by the California Contractors State License Board shall be deemed pre-approved); (c) if required by Landlord, a copy of Tenant's recorded valid Notice of Completion; (d) if required by Landlord, copies of all building permits indicating inspection and approval by the issuer of said permits; (e) if required by Landlord, an architect's certification that the Premises have been constructed in accordance with Approved Construction Plans and are one hundred percent (100%) complete; (f) if required by Landlord, copies of all guaranties, warranties and operations manuals issued by the contractors and suppliers of Tenant's Work, which guaranties and warranties shall inure to the benefit of both Landlord and Tenant; and (g) if required by Landlord, an as-built plan for Tenant's Work. Notwithstanding 3.5(b) above, in the event of a dispute between Tenant and its general contractor or subcontractor, in lieu of the lien releases, Tenant may furnish a lien release bond to protect against any mechanic liens asserted by the general contractor or its subcontractors for any unpaid amounts if any lien has been filed (or if no lien has been filed, the applicable time period for the general contractor or subcontractor to properly record a mechanic's lien has expired).

4. **Construction Allowance.** Notwithstanding anything to the contrary contained in this Exhibit B, Landlord agrees to contribute the sum ("**Construction Allowance**") of up to 00/100 Dollars (\$0.00) toward the cost of Tenant's Work, except that said sum shall not in any event be applied toward Tenant's personal property, trade fixtures, inventory, signs or architect fees. Within thirty (30) days after written request and following the date Tenant has opened for business in the Premises, and provided that Tenant is not then in default under the Lease (beyond any applicable notice and cure period set forth in this Lease), Landlord shall pay to Tenant the Construction Allowance upon: (x) Tenant's substantial completion of Tenant's Work, as certified in writing by Tenant's architect and receipt of a certificate of occupancy, temporary certificate of occupancy, or its legal equivalent allowing legal occupancy of the Premises by Tenant, and (y) Landlord's receipt of all items specified in Section 1 and Section 3.5 above.

The cost of any work performed by Landlord for the benefit of Tenant, any amounts owed by Tenant under Section 2 of this Exhibit B and any rent owing under this Lease shall be deducted from the Construction Allowance before said Construction Allowance is paid to Tenant.

EXHIBIT C

LANDLORD'S WORK:

Landlord shall deliver the Premises in its present "as-is" condition.

MODIFIED NET LEASE

BETWEEN

GRAZIADIO FAMILY DEVELOPMENT,

a California general partnership,

AS LANDLORD,

AND

TEACH, INC.

a California corporation,

AS TENANT

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Retail Center	1
Retail Center and Building	1
Taking	10
Taxes	4
Tenant	1
Tenant's Signage	5
Tenant's Trade Name	1
Term	1
Transfer Premium	8
Use of Premises	1