

FUNDAMENTAL LEASE PROVISIONS

- 1. (a) Landlord: The Phoenix Limited Partnership, a Wyoming limited partnership
- (b) Address of Landlord: c/o Basham & Associates, LLC
1499 Blake Street, Suite 1-D
Denver, Colorado 80202
- 2. (a) Tenant: The City of Commerce City
- (b) Address of Tenant: _____
- 3. Notice Address for Tenant (if different from No. 2 above):

- 4. Premises (see Exhibit "A"): 12253 E. 104TH Place, Unit 100
Commerce City, CO 80222
- 5. Gross Floor Area (see Exhibit "A"): 3000 Square Feet
- 6. Tenant's Pro-Rata Share: 50.753%
- 7. Permitted Exclusive Use: Police substation and associated uses.
- 8. Rent Commencement Date: Date of Delivery of Premises.
- 9. Lease Term: Five (5) Years
- 10. Minimum Rent as follows:

Year	Rate PSF	Monthly	Per Annum
1	\$22.50	\$5,625.00	\$67,500.00
2	\$23.18	\$5,793.75	\$69,525.00
3	\$23.87	\$5,967.56	\$71,610.75
4	\$24.59	\$6,146.59	\$73,759.07
5	\$25.32	\$6,330.99	\$75,971.84

- 11. Additional Rent: Tenant shall pay Tenant's Pro Rata Share of all CAM Costs, Insurance and Taxes during the Lease Term. The Tenant's annual share of Additional Rent shall be capped at \$10 per SF per year for the first three (3) years of the Lease Term.
- 12. Options to Extend Initial Term: Tenant shall have one (1) additional five (5) year option(s). The base rental starting rate per rentable

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Tenant's Initials: _____

square foot for the option periods shall be equal to the previous year rental rate plus 3% and shall continue with 3% annual escalations thereafter.

- 13. Security Deposit: Waived
- 14. Tenant Improvements: Landlord shall, using building standard materials at its sole cost, complete Landlord's Work per a mutually agreed upon plan similar to shown in Exhibit B (herein after called the "Landlord's Work"). Landlord shall cause preliminary plans to be prepared by Landlord's architect (hereinafter the "Architect") for permanent improvements to the Premises and will be attached hereto as Exhibit B-2 and by this reference incorporated herein (hereafter called the "Preliminary Plans"). The Preliminary Plans shall be approved by Landlord and Tenant. The parties acknowledge that the Preliminary Plans are to modify the Premises to accommodate Tenant's intended use.
- 15. Secure Access: Landlord shall provide Tenant with a gated emergency access directly from the site parking lot to Hwy 2. Cost for planning and construction of this access shall be a Tenant expense.
- 16. Assignment and Subletting: Tenant shall have the right to assign or sublease all or a portion of its space with the approval of the Landlord which shall not be unreasonably withheld.
- 17. Hazardous Materials: Landlord represents and warrants to Tenant that Landlord, at Landlord's sole cost and expense, will cause the lease premises, the building and parking facilities to be in full compliance with any and all current or future governmental laws, ordinances, regulations or orders relating to environmental conditions on, under, or about the lease premises, the building or the parking facilities. This includes, but is not limited to asbestos, soil and ground water conditions and hazardous materials.
- 18. Code Compliances: Landlord represents and warrants that the building and lease premises are in full compliance with all current ADA provisions and fire, life, safety codes and ordinances. Landlord further warrants they will make any future modifications/improvements needed to stay in compliance with any changes in all applicable laws, and any costs associated with

code compliance will be Landlord's sole cost and expense.

19. Brokerage Relationships: Basham & Associates, LLC is acting as a Landlord Agent.

20. Attachments/Exhibits:
____ Exhibit A, Site Plan
____ Exhibit B, Landlord's Work
____ Exhibit B-2, Preliminary Plans
____ Exhibit C, Tenant's Work
____ Exhibit D, Certificate of Commencement

Landlord's Initials: _____

Tenant's Initials: _____

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SHOPPING CENTER LEASE

THIS SHOPPING CENTER LEASE ("Lease") dated the _____ day of _____, 2024, is by and between **The Phoenix Limited Partnership** ("Landlord") and **The City of Commerce City** ("Tenant").

1. DEFINITIONS. Unless otherwise indicated, capitalized terms used in this Lease shall have the meanings set forth below.

(a) "Additional Rent" shall mean all charges payable by Tenant under this Lease other than Minimum Rent (including but not limited to Tenant's share of CAM Costs, Taxes and Insurance Costs).

(b) "Building" shall mean the buildings located on the Property.

(c) "Common Areas" shall mean all areas of the Property and of the Shopping Center which are presently available (or made available in the future by Landlord) for the common use of Tenant and other tenants of the Property and which are not leased or held for the exclusive use of Tenant or other tenants, including but not limited to parking areas, driveways, sidewalks, loading areas, access roads, landscaping and planted areas, and signs. Tenant acknowledges and agrees from time to time the size, location, nature and use of any of the Common Areas may be changed, the Common Areas may be converted to leasable areas, buildings maybe relocated or additional buildings maybe constructed in the Common Areas, additional parking facilities (including parking structures) may be constructed in the Common Areas, and the Common Areas land and/or facilities may be increased, decreased or modified, so long as such activities and changes do not materially impair Tenant's use of the Premises.

(d) "CAM Costs" shall mean all direct and indirect costs incurred to, operate, maintain, repair and replace any and/or all elements of the Property (including but not limited to fees for supervision and administration paid to a third party, which may be Landlord, an affiliate of Landlord, or other entity related to Landlord). CAM Costs may also include, without limitation, costs and expenses for the following: gardening and landscaping, utilities, water and storm sewer charges; maintenance of signs (other than tenant signs); fire alarm monitoring service; premiums for liability, property damage and other insurance covering the Shopping Center and Common Area; rental or lease payments paid for rented or leased personal property used in the operation or maintenance of the Common Areas; fees for required licenses and permits; repairing resurfacing, painting, lighting, cleaning, refuse removal, security and similar items. CAM Costs shall also include any parking charges, and utilities surcharges.

(e) "Effective Date" shall mean the date set forth in the initial paragraph of this Lease.

(f) "Hazardous Material" shall mean any hazardous, radioactive or toxic substance, material or waste, including, but not limited to, those substances, materials and wastes (whether or not mixed, commingled or otherwise combined with other substances, materials or wastes) listed in the United States Department of Transportation Hazardous Material Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes which are or become regulated under any applicable local, state or federal law including but not limited to any material, waste or substance which is (i) a petroleum product, crude oil or any fraction thereof, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251, et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317), (v) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. Section 6903) or (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq. (42 U.S.C. Section 9601).

(g) "Landlord's Work" shall mean those items which are the responsibility of Landlord as set forth in Exhibit "B" attached hereto.

(h) "Lease Term" or "Term" shall mean a period of time set forth under Fundamental Lease Provisions beginning on the Rent Commencement Date, plus any extended term granted by Landlord and timely and properly elected by Tenant pursuant to subparagraph 4(b) below (if applicable).

(i) "Lease Year" shall mean a period of twelve consecutive months during the Lease Term which begins on the Rent Commencement Date or any anniversary thereof.

(j) "Minimum Rent" shall mean the base rental for the Premises set forth in subparagraph 5(a) below.

(k) "Permitted Use" shall mean the use stated in the Fundamental Lease Provisions and no other.

(l) "Premises" shall mean that certain retail space described in the Fundamental Lease Provisions. The location and dimensions of the Premises are delineated on the Site Plan (Exhibit "A").

(m) "Property" shall mean Lot 1, Block 1, Turnberry Marketplace Filing No. 1, City of Commerce City, County of Adams, State of Colorado, and all improvements thereon including, but not limited to, the Building.

(n) "Rent" shall mean Minimum Rent and Additional Rent.

(o) "Rent Commencement Date" shall mean the date that Landlord delivers the Premises to Tenant upon Substantial Completion of Landlord's Work.

(p) "Rentable Area" shall be calculated by utilizing the center or middle of a subject constructed interior wall, the furthest exterior point of an outside wall and the center or middle of any total or partial glass store front, as applicable.

(q) "Shopping Center" shall mean all land, buildings, parking areas and other improvements which are integrated by geography, design and function into the retail shopping center of which the Property is a part. Notwithstanding anything to the contrary contained in this Lease or otherwise, during the Term, Tenant acknowledges and agrees Landlord may not own the entire Shopping Center, and therefore Landlord shall not be responsible or liable for any term or provision of this Lease which purports to bind or restrict any portion of the Shopping Center which it does not own. If Landlord owns the entire Shopping Center, the terms "Property" and "Shopping Center" as used herein are Synonymous.

(r) "Site Plan" shall mean the site plan for the Property attached hereto as Exhibit "A." The Site Plan may also show areas of the Shopping Center which are not owned by Landlord, and Landlord disclaims any obligation, responsibility or liability with regard to the existence, construction or configuration of any improvements shown on the Site Plan that relate to any portion of the Shopping Center which Landlord does not own.

(s) "Substantial Completion" shall mean the date on which Landlord or its architect or other agent notifies Tenant in writing that the Premises are substantially complete to the extent of Landlord's Work, with the exception of any such work which Landlord cannot complete until Tenant performs necessary portions of Tenant's work.

(t) "Taxes" shall include all taxes and charges charged in connection with the Property including, but not limited to: (i) any fee, license fee, license tax, business license fee, commercial rental tax, levy, charge, assessment, penalty or tax imposed by any taxing authority against the land and buildings comprising the Property, (ii) any tax on Landlord's right to receive, or the receipt of, rent or income from the Property or against Landlord's business of leasing the Property, (iii) any tax, impact fee or charge for fire protection, streets, sidewalks, road maintenance, refuse or other services provided to the Property by any governmental agency, (iv) any tax imposed upon this transaction or based upon a reassessment of the Property due to a change of ownership, as defined by applicable law, or other transfer of all or part of Landlord's interest in the Property, (v) any charge or fee replacing any tax previously included within the definition of Taxes, (vi) interest paid on installment payments of Taxes, (vii) any retroactive charge for underestimated payments of Taxes, and (viii) charges for

compliance, review or appeals of any tax charges. "Taxes" shall not, however, include Landlord's federal or state income, franchise, inheritance or estate taxes.

(u) "Tenant's Pro Rata Share" shall mean that portion set forth under Fundamental Lease Provisions of CAM Costs, Taxes, Insurance, and other expenses as may be provided herein. Tenant's Pro Rata Share was calculated by dividing the Rentable Area of the Premises by the Rentable Area of the Building as determined by Landlord. By way of example but not limitation, if any tenant by agreement pays Taxes separately to any taxing authority, carries its own insurance or maintains its own separate property, such tenant's or owner's Rentable Area shall not be included in calculating Tenant's Pro Rata Share for that item of expense.

(v) "Tenant's Work" shall mean those items which are the responsibility of Tenant as set forth under Exhibit "C" attached hereto.

2. LEASE OF PREMISES. In consideration of the premises and the mutual covenants herein contained, Landlord hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Landlord, subject to the terms, covenants and conditions herein set forth, and Tenant covenants as a material part of the consideration for this Lease to keep and perform each and all of such terms, covenants and conditions by Tenant to be kept and performed. Notwithstanding anything to the contrary contained herein or otherwise, Tenant acknowledges that the Premises and Tenant's leasehold interest therein is subject to the easements, covenants, conditions, restrictions and other encumbrances of record and any reciprocal easement agreement or like document in existence as of the Effective Date (collectively hereafter referred to as "restrictions of record"). Tenant shall timely and completely comply with all covenants and obligations required pursuant to the restrictions of record to the extent they have to do with the Premises or Tenant's operation therein; provided, however, that any provision of this Lease which provides for a higher or more strict standard of performance by Tenant than that which may be required in the restrictions of record shall control over the less strict provision(s) of the restrictions of record.

3. CONSTRUCTION OBLIGATIONS.

(a) Landlord agrees that it will, at its sole cost and expense, commence and pursue to completion Landlord's Work. Landlord shall in no event be liable to Tenant for any damages sustained by Tenant on account of any delay in Substantial Completion (not caused by Tenant) or on account of such termination of this Lease.

(b) Landlord shall provide notice of Substantial Completion to Tenant. Within ten (10) days after receiving notice of Substantial Completion, Tenant shall provide a final punch list of any items to be completed or repaired. Subject to Landlord's review and approval of the punch list not to be unreasonably withheld, Landlord's contractor shall complete or repair the items denoted on the punch list within thirty (30) days of Landlord's receipt of the punch list.

(c) Tenant shall commence Tenant's Work (if applicable) promptly after Substantial Completion, shall diligently prosecute such installation to completion, and shall open the Premises for business not later than the Rent Commencement Date.

4. LEASE TERM.

(a) The Lease Term shall begin at twelve o'clock noon on the Rent Commencement Date and shall end at twelve o'clock noon on the last day of the Lease Term. Promptly after the Rent Commencement Date, Landlord and Tenant shall execute a Certificate of Commencement setting forth the Rent Commencement Date and the expiration date of the Lease Term, substantially in the same form as Exhibit "D" attached hereto. Notwithstanding the preceding, any lack of execution of the Certificate of Commencement shall not affect the parties' rights or obligations under the Lease except for Landlord's right to claim a default on Tenant's part if Tenant refuses to sign the same. The parties hereto acknowledge that certain provisions of this Lease (including but not limited to those relating to construction, hold harmless, and liability insurance) apply prior to the Lease Term, and the parties agree to be bound by those provisions immediately upon execution of this Lease.

(b) In addition to the initial Lease Term set forth in subparagraph (a) above, if so stated in the Fundamental Lease Provisions, Landlord hereby grants to Tenant an option ("Option") to extend the Term of this Lease for additional term(s) as set forth in the Fundamental Lease Provisions (the "Option Term"). The Option shall be personal to Tenant and shall be terminated in the event of any assignment of this Lease or sublease of the Premises or a portion thereof. The Option may only be exercised by Tenant or a Landlord approved Sub-Tenant, in the event that Tenant has not been in default under any of the provisions of this Lease at any time during the initial Lease Term. In order to exercise the Option, Tenant must provide written notice of its unconditional exercise of the Option to Landlord (the "Extension Notice") at least 180 days prior to the expiration of the initial Lease Term. If Tenant so exercised the Option, all terms and conditions of this Lease shall remain in full force and effect during the Option Term except that (i) Minimum Rent during the Option Term shall increase each Lease Year of the Option Term by three percent (3%) over the Minimum Rent for the prior Lease Year, and (ii) after exercise of the Option Tenant shall have no further right to extend the Term of this Lease. In the event that Tenant fails to timely provide the Extension Notice, then Tenant's right to exercise the Option shall automatically terminate.

5. RENT.

(a) Tenant agrees to pay to Landlord Minimum Rent in the amounts set forth in the Fundamental Lease Provisions. Minimum Rent shall be payable in advance, on or before the first day of each and every calendar month during the Lease Term, except that Minimum Rent for the first month of the Lease Term shall be paid on the

execution hereof. This Lease shall be construed as though the covenants herein between Landlord and Tenant are independent, and not dependent. Every installment of Rent shall be payable without setoff or deduction, without notice or demand, in lawful money of the United States of America at Landlord's address or at such address or addresses as Landlord may from time to time designate in writing. Minimum Rent for any period which is less than one (1) month shall be a prorated portion of the monthly installment herein based upon the actual days in the month.

(b) Unless this Lease provides otherwise, Tenant shall pay all Additional Rent in advance concurrently with the monthly installments of Minimum Rent.

6. SECURITY DEPOSIT. Concurrently with execution of this Lease, Tenant shall deposit with Landlord the sum set forth in the Fundamental Lease Provisions, which shall be held by Landlord as security for the faithful performance by Tenant of all terms, covenants and conditions of this Lease to be kept and performed by Tenant during the Term hereof. If Tenant defaults with respect to any provision of this Lease, including but not limited to the provisions relating to the payment of Rent, Landlord may (but shall not be required to) use, apply or retain all or any part of this security deposit for the payment of any Rent or any other sum due, or for the payment of any amount which Landlord may spend or become obligated to spend by reason of Tenant's default, or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of such deposit is so used or applied Tenant shall, within five (5) days after written demand therefore, deposit cash with Landlord in an amount sufficient to restore the security deposit to its original amount and Tenant's failure to do so shall be a default under this Lease. The preceding is not intended to in any manner limit Landlord's available remedies in the event of default. Landlord shall not be required to keep this security deposit separate from its general funds, and Tenant shall not be entitled to interest on such deposit. If Tenant shall fully and faithfully perform every provision of this Lease to be performed by it, the security deposit or any balance thereof shall be returned to Tenant (or, at Landlord's option, to the last assignee or subtenant of Tenant's interest hereunder) within three (3) months following expiration of the Lease Term. In the event of termination of Landlord's interest in this Lease, Landlord shall transfer the security deposit to Landlord's successor in interest and Landlord will have no further liability to Tenant with respect thereto.

7. COMMON AREAS AND COSTS.

(a) Subject to the terms of this Lease, Tenant, its agents, employees, customers, licensees and subtenants shall have a non-exclusive license to reasonably use the Common Areas for the entire Lease Term for ingress or egress, automobile parking and any other purpose for which the Common Areas were designed. Tenant, in the use of the Common Areas, agrees to comply with such reasonable rules, regulations for the orderly and proper operation of the Common Areas. Such rules may include but shall not be limited to the following: (i) restricting of employee parking to a

limited, designated area or areas; and (ii) regulation of the removal, storage and disposal of Tenant's refuse and other rubbish at the sole cost and expense of Tenant.

(b) Tenant shall pay Tenant's Pro Rata Share of all CAM Costs during the Lease Term. On or before the Rent Commencement Date, Landlord shall submit to Tenant a statement of the anticipated monthly CAM Costs for the period between such Commencement Date and the following January, and Tenant shall pay its Pro Rata Share of these CAM Costs on a monthly basis concurrently with the payment of Minimum Rent. Tenant shall continue to make such monthly payments until notified by Landlord of a change thereof. Landlord shall have the right to periodically review and revise the statement of anticipated monthly CAM Costs, if deemed necessary by Landlord. Upon any such revision, Landlord will submit a revised statement of the anticipated monthly CAM Costs to Tenant. Tenant agrees to pay any deficiency to date based on the revised statement with its next due payment of Minimum Rent and thereafter pay the revised anticipated monthly CAM Costs until further notified by Landlord. By March 31st of each year Landlord shall endeavor to give Tenant a statement showing the total actual CAM Costs for the prior calendar year and Tenant's allocable share thereof, prorated from the Rent Commencement Date. However, any failure by Landlord to provide such CAM Cost statement by the date provided above shall in no way excuse Tenant from its obligation to pay its pro rata share of CAM Costs or constitute a waiver of Landlord's right to bill and collect such pro rata share of CAM Costs from Tenant in accordance herewith. In the event the total of the monthly payments which Tenant has made for the prior calendar year is less than Tenant's Pro Rata Share of such actual CAM Costs, then Tenant shall pay the difference in a lump sum within thirty (30) days after receipt of such statement from Landlord. In addition, until Tenant receives a statement indicating otherwise, Tenant's monthly reimbursement of CAM Costs for the current calendar year shall thereafter be revised based on the new statement beginning on the first day of the month following the month in which Tenant receives such statement. If the statement reflects a change in the monthly reimbursement amount such difference shall be adjusted by increasing or decreasing the first monthly reimbursement payment after the statement is given in order to bring the reimbursement amount for the existing year current as of such date. To the extent that the actual Tenant's Pro Rata Share of such CAM Costs is less than the estimated amount which Tenant previously paid. Landlord shall credit the excess against any sums then owing or next coming due from Tenant to Landlord. The actual CAM Costs for the prior year shall be used as the basis for calculating the current year's budget, from which the monthly CAM Costs for the then current year are derived. Actual determination of such CAM Costs shall be made after each calendar year as above provided; excepting that in any year in which resurfacing is contemplated Landlord shall be permitted to include the anticipated cost of same as part of the estimated monthly CAM Costs. Even when the Term has expired and Tenant has vacated the Premises, when the final determination is made of Tenant's share of CAM Costs for the year in which this Lease terminates, Tenant shall immediately pay upon demand any increase due over the estimated CAM Costs previously paid and, conversely, any overpayment

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Tenant's Initials: _____

made shall be immediately refunded or applied to any amounts due or owing by Tenant to Landlord.

(c) Tenant or its agent shall have the right, at any time within ninety (90) days after a statement of actual CAM Costs for a particular calendar year has been rendered by Landlord as provided herein, at its sole cost and expense, to examine Landlord's books and records relating to the determination of CAM Costs; provided, however, that Tenant shall give Landlord prior written notice of its intent to exercise such right, the inspection may not take place outside normal business hours, Tenant shall not interfere with Landlord's normal business activities. Unless Tenant objects to the reconciliation statement or adjustment within said ninety (90) day period, Tenant shall be deemed to have waived any objection to such items, and such statement and adjustment shall be binding and conclusive upon Tenant.

8. TAXES

(a) Tenant shall pay Tenant's Pro Rata Share of all Taxes on the land, buildings and other improvements constituting the Property (including any fees, taxes or assessments against, or as a result of, any tenant improvements installed in the Premises by or for the benefit of Tenant) attributable to the Lease Term. Tenant shall pay Landlord a sum equal to Landlord's estimate of one-twelfth (1/12) of the annual Taxes payable by Tenant under this Lease, together with each payment of Minimum Rent. Landlord shall have the right to periodically review and revise its estimate of anticipated Taxes, if deemed necessary by Landlord. Upon any such revision, Landlord will submit a revised statement of the anticipated Taxes to Tenant. Tenant agrees to pay any deficiency to date based on the revised statement with its next due payment of Minimum Rent and thereafter pay the revised monthly amount of anticipated Taxes until further notified by Landlord, Landlord shall not be required to keep such payments separate from its general funds. If unknown, Landlord shall reasonably estimate the amount of Taxes when installments are due. Tenant shall pay any deficiency of funds to Landlord upon written request. If Tenant defaults under this Lease, Landlord may apply any such funds to any obligation then due under this Lease. Landlord shall furnish Tenant with written evidence of annual payment of Taxes to the taxing authority promptly after receipts are available, if requested by Tenant.

(b) Tenant shall pay before delinquency all taxes charged against trade fixtures, furnishings, equipment or any other personal property belonging to Tenant which become payable during the Lease Term. In the event any or all of Tenant's leasehold improvements, equipment, furniture, fixtures and other personal property shall be assessed and taxed with the Property, Tenant shall in addition to its other obligations set forth in this paragraph 8, pay to Landlord its share of such taxes within ten (10) days after delivery to Tenant by Landlord of a statement in writing setting forth the amount of such taxes applicable to Tenant's property.

9. USE OF PREMISES.

(a) Tenant shall use the Premises only for the Permitted Use set forth in the Fundamental Lease Provisions, and not for any other purpose without the prior written consent of Landlord.

(b) Tenant shall not do or permit anything to be done in or about the Premises nor bring or keep anything therein which is not within the Permitted Use of the Premises or which will in any way increase the existing rate of or affect any fire or other insurance upon the Building or any of its contents, or cause a cancellation of any insurance policy covering the Building or any part thereof or any of its contents. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants or occupants of the Shopping Center or injure or annoy them, or use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose; nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit any waste or permit any nuisance upon the Premises or overload the floors thereof.

(c) Tenant shall not cause or permit any Hazardous Material (as herein after defined) to be brought upon, transported through, stored, kept, used, discharged or disposed in or about the Shopping Center by Tenant, its agents, employees or contractors. Any such Hazardous Material to be brought upon, transported, used, kept or stored in or about the Shopping Center which is necessary for Tenant to operate its business for the Permitted Use will be brought upon transported, used, kept and sorted only upon prior written approval of Landlord in its sole discretion and only in such quantities as are necessary for the usual and customary operation of Tenant's business and in a manner that complies with (i) all laws, rules, regulations, ordinances, codes or any other governmental restrictions or requirements of all federal, state and local government authorities having jurisdiction thereof regulating such Hazardous Material, (ii) any permits issued for any such Hazardous Material (copies of which must be delivered to Landlord before any Hazardous Material is brought on or about the Property) and (iii) all products and manufacturers' instructions and recommendations, to the extent they are stricter than laws, rules, regulations, ordinances, codes or permits. If Tenant, its agents, employees or contractors, in any way breaches the obligations stated in this paragraph, or if the presence of Hazardous Materials on the Property caused or permitted by Tenant results in release or threatened release of such Hazardous Material on, from or under the Property, or if the presence on the Property of Hazardous Materials otherwise arises out of the operation of Tenant's business, then without limitation of any other rights or remedies available to Landlord hereunder or at law or in equity, Tenant shall indemnify, defend, protect and hold harmless Landlord (and Landlord's directors, officers, members, managers, employees, partners, agents, mortgagees, successors or assigns, to Landlord's interest in the Premises) from any and all claims, sums paid in settlement of claims, judgments, damages, clean-up costs,

Landlord's Initials: _____

Tenant's Initials: _____

penalties, fines, liabilities, losses or expenses (including but not limited to attorney, consultant and expert fees and any fees incurred by Landlord to enforce the Indemnity) which arise during or after the Term of this Lease as a result of Tenant's breach of such obligations or such release or such contamination of the Property including, but not limited to, diminution in value of the Shopping Center, damages for the loss of, or the restriction on the use of, rentable or usable space or any amenity of the Property or Shopping Center, damages arising from any adverse impact on the sale or lease of the Property, and damage and diminution in value to the Property or other properties, whether owned by Landlord or by third parties (collectively, herein "Indemnity"). The Indemnity of Landlord by Tenant contained in this paragraph includes, but is not limited to, costs incurred in connection with any investigation of site conditions or any clean-up, 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 groundwater on, under or originating from the Property or as a result of Tenant's actions or omissions elsewhere in the Shopping Center. Without limiting the foregoing, if the presence of any Hazardous Material on the Property or elsewhere in the Shopping Center caused or permitted by Tenant results in any contamination, release or threatened release of Hazardous Material on, from or under the Property or other properties, Tenant shall promptly take all actions at its sole cost and expense which are necessary to return the Property and any other affected property(s) to the condition existing prior to the introduction of such Hazardous Material; provided that Landlord's approval of such actions shall first be obtained (which approval shall not be unreasonably withheld) and so long as such actions do not have or would not potentially have any material adverse long-term or short-term effect on Landlord, on the Property or on other property(s). The Indemnity contained in this paragraph shall survive the expiration or earlier termination of this Lease and shall survive any transfer of Landlord's interest in the Property.

10. COMPLIANCE WITH LAW. Tenant shall not use the Premises, or permit anything to be done in or about the Premises, which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force and with the requirements of any board of fire underwriters or other similar bodies now or hereafter constituted relating to or affecting the condition, use or occupancy of the Premises. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between Landlord and Tenant.

11. ALTERATIONS AND ADDITIONS.

(a) Tenant shall not make or allow to be made any alterations, additions or improvements to or of the Premises or any part thereof without first

obtaining the written consent of Landlord which may be withheld in Landlord's sole discretion and any alterations, additions or improvements to or of the Premises, including, but not limited to, wall covering, paneling and built in cabinet work, but excepting movable furniture, shall without notice and upon election of Landlord become part of the Premises and belong to Landlord and shall be surrendered with the Premises.

(b) Landlord may condition its consent to any alterations, additions or improvements upon such reasonable requirements as Landlord may deem necessary in its sole discretion, including but not limited to the manner in which the work is done, the right to approve the contractor by whom the work is to be performed, and the times during which the work is to be accomplished. If Landlord authorizes persons requested by Tenant to perform any alterations, repairs, modifications or additions to the Premises, then, prior to the commencement of any such work, Tenant shall upon request deliver to Landlord such payment and performance bonds or other security as Landlord may require, and certificates issued by insurance companies qualified to do business in the State of Colorado, evidencing that Workmen's Compensation, public liability insurance and property damage insurance, all in amounts, with companies and on forms satisfactory to Landlord, are in force and effect and maintained by all contractors and subcontractors engaged by Tenant to perform such work. All such policies shall name Landlord as an additional insured. Each such certificate shall provide that the insurance policy may not be canceled or modified without thirty (30) days' prior written notice to Landlord. Further, Tenant shall permit Landlord to post notices in the Premises in locations which will be visible by persons performing any work on the Premises stating that Landlord is not responsible for the payment for such work and setting forth such other information as Landlord may deem necessary. Any Tenant alterations, repair and maintenance work shall be performed in such a manner as not to interfere with, delay, or impose any additional expense upon Landlord in the maintenance or operation of the Building or upon other tenants' use of their premises.

(c) In the event Landlord consents to the making of any alterations, additions or improvements to the Premises by Tenant, the same shall be made by Tenant at Tenant's sole cost and expense. Upon the expiration or sooner termination of the Term hereof, Tenant shall, upon written demand by Landlord, given at least thirty (30) days after the end of the Term, at Tenant's sole cost and expense, forthwith and with all due diligence, remove any alterations, additions or improvements made by Tenant which are designated by Landlord to be removed, and Tenant shall, forthwith and with all due diligence, at its sole cost and expense, repair any damage to the Premises or Property caused by such removal such that by the end of the Term (or Option Term if the Option has been properly exercised by Tenant), the Premises are restored to their condition which existed on the first day that Tenant opened the Premises for business.

(d) Landlord may at any time immediately require, at Landlord's sole option, that Tenant shall provide to Landlord, at Tenant's sole cost and expense, a lien

and completion bond in an amount equal to one and one-half (1-1/2) times the estimated cost of any improvements, additions or alterations in the Premises which Tenant desires to make, to insure Landlord against any liability for mechanics and material men's liens and to insure completion of the work.

12. MAINTENANCE AND REPAIR.

(a) By entry hereunder, Tenant shall be deemed to have accepted the Premises as being in good, sanitary order, condition and repair (subject to completion of the punch list items referred to in subparagraph 3(b) above) and to Landlord's obligation to repair any latent defects in Landlord's Work. Tenant shall, at Tenant's sole cost and expense, keep the Premises and every part thereof in good condition and repair (except as hereinafter provided with respect to Landlord's obligations) including but not limited to the maintenance, replacement and repair of any storefront, doors, and window casements and glazing. Within thirty (30) days of the Rent Commencement Date, Tenant shall obtain a service contract for repairs and maintenance of the HVAC system which conforms to the requirements under the warranty, if any, on such system and provide a copy of such contract to Landlord. Tenant shall, upon the expiration or sooner termination of this Lease, surrender the Premises to Landlord in good condition, broom clean, ordinary wear and tear excepted. Any damage to adjacent premises caused by Tenant or Tenant's use of the Premises shall be repaired at the sole cost and expense of Tenant.

(b) Notwithstanding the provisions of subparagraph (a) above, Landlord shall repair and maintain the structural portions of the Building, including the exterior walls and roof, unless such maintenance and repairs are caused directly or indirectly in part or in whole by the act neglect, fault or omission of any duty by Tenant, its agents, servants, employees, invitees, or any damage caused by breaking and entering, in which case Tenant shall pay to Landlord the actual cost of such maintenance and repairs. Landlord shall not be liable for any failure to make such repairs or to perform any maintenance unless such failure shall persist for fifteen days after written notice of the need of such repairs or maintenance is given to Landlord by Tenant. Except as provided in paragraph 26 below, there shall be no abatement of Rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of any repairs, alterations or improvements in or to any portion of the Property including the Premises or the Common Areas or in or to fixtures, appurtenances and equipment therein. Tenant waives the right to make repairs at Landlord's expense under any law, statute or ordinance now or hereafter in effect unless caused by Landlord or Landlord's agents negligence.

13. LIENS.

(a) Tenant shall keep the Property free and clear of any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Tenant.

(b) Should any such liens be filed or recorded against the Property, or should any action affecting the title thereto be commenced, Tenant shall cause such liens to be removed of record within five (5) days. If Tenant desires to contest any claim of lien, Tenant may do so only if within such five (5) day period Tenant posts adequate security with a court of competent jurisdiction and obtains an order discharging the lien of record, as then provided by the Colorado mechanics' lien statute. If a final judgment is entered establishing the validity or existence of any lien for any amount which lien has not been discharged or bonded off as hereinabove required, Tenant shall pay and satisfy the same at once. If Tenant shall be in default in paying any charge for which a mechanics' lien or suit to foreclose the lien has been recorded or filed, and shall not have caused the same to be released of record, Landlord may (but without being required to do so) pay such lien or claim and any costs, and the amount so paid, together with reasonable attorney's fees incurred in connection therewith, shall be immediately due from Tenant to Landlord as Additional Rent.

14. ASSIGNMENT AND SUBLETTING.

(a) Tenant shall not (voluntarily, by operation of law or otherwise) assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or allow any other person (the employees, agents, servants and invitees of Tenant excepted) to occupy or use the Premises, or any portion thereof, without first obtaining the written consent of Landlord, which consent may not be unreasonably withheld. The transfer of a majority of the issued and capital stock of any corporate tenant or subtenant of this Lease or a majority of the total interest in any partnership, limited liability company or trust tenant or subtenant, however accomplished, and whether in a single transaction or in a series of related or unrelated transactions, will be deemed an assignment of this Lease or such sublease requiring the Landlord's consent in each instance. Any assignment or subletting without such consent shall be void, and shall, at the option of Landlord, constitute a default under the terms of this Lease. A consent to one assignment, subletting, occupation or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. Subletting or assignment by subtenants or assignees shall not be permitted without Landlord's consent which may be withheld in its sole discretion.

(b) Tenant shall provide Landlord with a copy of any proposed sublease or assignment that contains the name and address of the proposed subtenant or assignee, the anticipated effective date of the proposed sublease or assignment, the duration of the term of any proposed sublease, and the amount of space any proposed subtenant will occupy. In addition, Tenant shall provide reasonably detailed information regarding the proposed subtenant's or assignee's financial condition and credit history, relevant business history and experience, together with any other pertinent information which Landlord reasonably requires. Landlord may require an opportunity to meet and

interview the proposed subtenant or assignee as well. For purposes of Landlord's consent to a proposed sublease or assignment, it shall be considered reasonable for Landlord to consider among other factors: (i) the relative financial strength, business reputation and operational/management experience of Tenant and the proposed subtenant or assignee, and (ii) whether the use of the Premises after such sublease or assignment would violate any exclusive use right granted to another tenant or adversely affect the tenant mix in the Shopping Center, create any nuisance or violate any federal, state or local laws or agreement affecting the Property or the Shopping Center or involve Hazardous Material. In no event shall Landlord be required to consent to any sublease or assignment to any current tenant of the Shopping Center or to any person or entity with whom Landlord or its agent had contacted, negotiated or given or received any written or oral proposal regarding a lease of space in the Building within the six-month period preceding Tenant's request. Tenant agrees that Landlord, as a condition to giving its consent to any assignment or subletting, may require that the amount of the Rent payable under this Lease be adjusted to what is then the market value for property similar to the Premises as then constituted. In any event, Tenant shall pay to Landlord all of the excess Rent or other consideration received by Tenant from the subtenant or assignee over the Rent then being charged by Landlord to Tenant.

(c) If Landlord consents to a proposed assignment or sublease, the form of such assignment or sublease shall be satisfactory to Landlord and shall (i) incorporate this Lease in its entirety and be subject to its terms, (ii) provide that Tenant shall remain liable under this Lease, (iii) provide that subtenant will comply with all terms and conditions of this Lease, (iv) provide for assumption by an assignee of all the terms, covenants and conditions which this Lease requires Tenant to perform, and (v) include a requirement that any subtenant attorn to the Landlord. Landlord's consent will not be effective unless and until Tenant delivers to Landlord an original, duly executed assignment or sublease, as the case may be, in a form satisfactory to Landlord, as set forth herein. Tenant shall pay Landlord's reasonable attorneys' and other fees incurred for review of such assignment or sublease and all other materials submitted by Tenant in connection with the request for Landlord's consent.

(d) Any transfer for which consent is required of any party having a mortgage, deed, or trust or other encumbrance or of the developer or any other party under restrictive covenants or other agreement affecting the Property shall not be effective unless and until such consent is given.

(e) Notwithstanding anything to the contrary contained in this Lease or otherwise, if a trustee in bankruptcy is entitled to assume control over Tenant's rights under this Lease, and assign such rights to any third party, the Minimum Rent to be paid hereunder by such party shall be increased to the then current Minimum Rent (if greater than then being paid for the Premises) which Landlord would charge for comparable space in the Building as of the date of such third party's occupancy of the Premises.

(f) Notwithstanding anything to the contrary contained in this Lease or otherwise, Tenant shall have no right to assign this Lease or sublet any portion of the Premises during any period that all or any portion of the Minimum Rent is abated.

15. [deleted]

16. WAIVER OF SUBROGATION. Tenant hereby waives any and all rights of recovery against Landlord (and against the tenants of other space in the buildings located on the Property), or against the officers, directors, managers, members, partners, employees, agents or representatives of Landlord or such other tenants, for loss of or damage to property, if such loss or damage is covered by any insurance policy in force (whether or not described in this Lease) at the time of such loss or damage or was required to be covered pursuant to the terms of this Lease. Landlord hereby waives any and all rights of recovery against Tenant, or against the officers, employees, agents or representatives of Tenant, for loss of or damage to property, if such loss or damage is covered by any insurance policy in force (whether or not described in this Lease) at the time of such loss or damage or was required to be covered pursuant to the terms of this Lease. Landlord and Tenant shall give notice to their respective insurance carriers of this mutual waiver of subrogation.

17. INSURANCE.

(a) Landlord shall carry and maintain the following insurance ("Landlord's Insurance"): such property, liability and other coverages as Landlord reasonably determines is appropriate or that Landlord's mortgagee requires to be kept in force.

(b) Tenant shall, from and after Substantial Completion or at such earlier date that Tenant takes possession of the Premises and at all times during the Lease Term, at its sole cost and expense, carry and maintain the following insurance ("Tenant's Insurance") with respect to the Premises: (a) fire and extended coverage insurance insuring all additions, alterations and improvements made by the Tenant to the Premises and all of its fixtures, inventory, furniture and equipment for the full replacement value thereof with the broadest possible coverage ("all risk" form) on a minimum of 80% co-insurance form insuring against all risks of direct physical loss and excluding only such unusual perils as nuclear attack, earth movement, flood, and war; (b) public liability, bodily injury and damage comprehensive insurance coverage insuring against claims of any and all personal injury, death or damage occurring in or about the Premises or the sidewalks adjacent thereto, with a combined single limit coverage of not less than \$1,000,000 (subject only to a commercially reasonable deductible), on an "occurrence" form and including contractual liability coverage for the performance by Tenant of the indemnity agreements set forth in paragraph 15 above; (c) workmen's compensation insurance insuring against and satisfying the workmen's compensation laws of the State of Colorado; (d) plate glass insurance sufficient to discharge Tenant's

obligations as provided above; and (e) in the event liquor, beer, or wine is sold on the Premises in any form, liquor liability insurance. Landlord or Landlord's mortgagee may reasonably require increases in the above-described coverage from time to time, in which Tenant shall obtain the same and pay the costs thereof. Tenant's Insurance shall be issued by an insurance company of recognized standing, authorized to do business in the State of Colorado and having a Best's Insurance Guide rating of at least A:XV and satisfactory to Landlord. Tenant's Insurance (other than any policy of workmen's compensation insurance) will name Landlord and such other persons or firms as Landlord specifies from time to time as additional insureds. Original or copies of original policies (together with copies of the endorsements naming Landlord, and any others specified by Landlord as additional insureds) and evidence of the payment of all premiums of such policies will be delivered to Landlord prior to the Rent Commencement Date, on each anniversary thereof, and at least thirty (30) days prior to any date a prior policy expires. All public liability and property and damage liabilities maintained by Tenant will contain a provision that Landlord and any other additional insured will be entitled to recover under such policies for any loss sustained by them, their agents and employees as a result of the acts or omissions of the Tenant. Tenant's Insurance will provide that it may not be terminated or amended except after thirty (30) days prior written notice to Landlord. All public liability property damage, liability and casualty policies maintained by Tenant shall be written as primary policies, not contributing with and not supplemental to coverage that Landlord may carry.

(c) Tenant shall pay Tenant's Pro Rata Share of the premiums for Landlord's Insurance ("Insurance Costs") which are attributable to the Lease Term. Tenant shall pay Landlord a sum equal to Landlord's estimate of one-twelfth (1/12) of the annual Insurance Costs payable by Tenant under this Lease, together with each payment of Minimum Rent Landlord shall have the right to periodically review and revise its estimate of anticipated Insurance Costs, if deemed necessary by Landlord. Upon any such revision, Landlord will submit a revised statement of the anticipated Insurance Costs to Tenant. Tenant agrees to pay any deficiency to date based on the revised statement with its next due payment of Minimum Rent and thereafter pay the revised monthly amount of anticipated Insurance Costs until further notified by Landlord. Landlord shall not be required to keep such payments separate from its general funds. If unknown, Landlord shall reasonably estimate the amount of Insurance Costs when installments are due. Tenant shall pay any deficiency of funds to Landlord upon written request. If Tenant defaults under this Lease, Landlord may apply any such funds to any obligation then due under this Lease. Landlord shall furnish Tenant with written evidence of the existence of Landlord's Insurance, and the payment of the premiums therefor, if requested by Tenant.

18. UTILITIES.

(a) Tenant shall pay upon demand for all water, gas, heat, light, power, sewer charges, telephone service and all other services and utilities supplied to the Premises, together with any taxes thereon. If any such services are not separately

metered to Tenant, Tenant shall pay upon demand a reasonable proportion, to be determined by Landlord, of all charges jointly metered with other premises.

(b) Landlord has advised Tenant that presently Xcel Energy (“Electric & Gas Service Provider”) is the utility company selected by Landlord to provide electricity for the Property. Notwithstanding the foregoing, if permitted by Law, Landlord shall have the right at any time and from time to time during the Lease Term to either contract for service from a different company or companies providing electricity service (each such company shall hereinafter be referred to as an “Alternative Service Supplier”) or continue to contract for service from the Electric Service Provider. Tenant shall cooperate with Landlord, the Electric Service Provider, and any Alternative Service Provider at all times and, as reasonably necessary, shall allow Landlord, Electric Service Provider, and any Alternate Service Provider reasonable access to the electric lines, feeders, risers, wiring, and any other machinery within the Premises which may serve the Property.

(c) Landlord does not warrant or guarantee the continued availability of any or all of the utility services necessary or desirable for the use of the Premises by Tenant. In no event shall the interruption, diminution or cessation of such services be construed as an actual or constructive eviction of Tenant, nor shall Tenant be entitled to any abatement of its Rent obligations under this Lease or on account thereof. Landlord shall in no way be liable or responsible for any loss, damage, or expense that Tenant may sustain or incur by reason of any change, failure, interference, disruption or defect in the supply or character of the utilities furnished to the Premises, and no such change, failure, unavailability or unsuitability shall constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement, reduction, setoff or diminution of rent, or relieve Tenant from any of its obligations under the Lease.

(d) Without incurring any liability for damages and without entitling Tenant to any abatement of its Rent obligations under this Lease, Landlord reserves the right to suspend any and all utilities service to the Premises when, in Landlord’s reasonable discretion, such suspension is necessitated including, but not limited to, by reason of accident, unavailability of employees or materials at reasonable cost, repairs, strikes, lockouts, riots, acts of God, acts of war or terrorism, application of applicable laws, statutes, rules and regulations, inspections, alterations or improvements, until any of the same have been completed. In such event, Landlord shall not be deemed guilty of a breach or default of this Lease, nor shall such suspension constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement, reduction, setoff or diminution of rent, or relieve Tenant from any of its obligations under the Lease. If feasible, Landlord shall give Tenant prior notice of any interruption of utility services.

19. QUIET ENJOYMENT. So long as Tenant is not in default under any provisions of this Lease and observes and performs all of the covenants, conditions and provisions on Tenant’s part to be observed and performed hereunder, Tenant is entitled

Landlord’s Initials: _____

Tenant’s Initials: _____

to the quiet enjoyment and peaceful possession of the Premises subject to the provisions of this Lease, Landlord shall under no circumstances be held responsible for restriction or disruption of access to the Shopping Center (including the Building or Premises) from public streets caused by construction work or other actions taken by or on behalf of governmental authorities, or for actions taken by other tenants (their employees, agents, visitors, contractors or invitees), or any other cause not entirely within Landlord's direct control, and same shall not constitute a constructive eviction of Tenant nor give rise to any right or remedy of Tenant against Landlord of any nature or kind. This covenant of quiet enjoyment is in lieu of any covenant of quiet enjoyment provided or implied by law, and Tenant expressly waives any such other covenant of quiet enjoyment to the extent broader than the covenant contained in this paragraph.

20. PERSONAL PROPERTY.

(a) Any property of Tenant remaining in the Premises at any time when Landlord recovers possession of the Premises or upon the termination of this Lease for any cause whatsoever shall conclusively be deemed to have been abandoned and may be appropriated, sold, stored, destroyed or otherwise disposed of by Landlord without notice to Tenant or any other person and without obligation to account therefore, and Tenant shall pay Landlord for all expenses incurred in connection with the disposition of such property.

(b) Tenant hereby grants to Landlord a lien upon and a security interest in all property now owned or hereafter acquired by Tenant, except leased equipment, which shall be brought into or placed upon the Premises, to secure the payment of Rent and the performance of each and every other obligation hereunder to be performed by Tenant. Following any event of default Landlord, without notice or demand, may take possession of and sell such property without legal process of any kind, at public and private sale upon giving such notices, if any, as may be required by law. The proceeds of any such sale shall be applied first to the payment of any and all expenses and fees incurred in connection therewith, and then to any amounts due or payable under this Lease from Tenant to Landlord, and the surplus, if any, to Tenant. Tenant agrees to execute and record any financing statements and other documents deemed necessary by Landlord to perfect or record the lien herein granted.

21. RULES AND REGULATIONS. Tenant shall faithfully observe and comply with the rules and regulations that Landlord shall from time to time promulgate and/or modify for the safety, care and cleanliness of the Property and the preservation of good order therein. Landlord shall not be responsible to Tenant for the nonperformance of any such rules and regulations by any other tenants or occupants. The violation of any of such rules and regulations by Tenant shall be deemed an event of default of this Lease by Tenant, affording Landlord all those remedies set out herein.

22. FAILURE TO SURRENDER POSSESSION.

(a) The parties recognize and agree that the damage to Landlord resulting from any failure by Tenant to timely surrender possession of the Premises will be substantial, will exceed the amount of the monthly installments of the Rent payable hereunder, and will be impossible to measure accurately.

(b) Tenant therefore agrees that if possession of the Premises is not surrendered to Landlord upon the expiration or sooner termination of this Lease, in addition to any other rights or remedies Landlord may have hereunder or at law, Tenant shall pay to Landlord, as liquidated damages, for each month and for each portion of any month during which Tenant holds over in the Premises after the expiration or sooner termination of this Lease, a sum equal to one and one-half (1-1/2) times the aggregate of that portion of the monthly Minimum Rent and Additional Rent that was payable under this Lease during the last month of the Term hereof. Tenant agrees that such liquidated damages are a reasonable estimate of damages; enforceable in accordance with the terms of this subparagraph, and that such does not constitute a penalty. The provisions of this subparagraph shall survive the expiration or sooner termination of this Lease.

(c) No provision of this paragraph 22 or any other provision of this Lease shall be deemed to permit Tenant to retain possession of the Premises after the expiration or sooner termination of the Lease Term, or to have extended or renewed the Lease Term beyond its expiration or termination, except by timely and proper exercise by Tenant of the Option as provided in subparagraph 4(b) above (if applicable).

23. ENTRY BY LANDLORD WITH NOTICE EXCEPT IN EMERGENCIES.

Landlord shall at any and all times have the right to enter the Premises to inspect the same, to show the Premises to prospective purchasers or tenants, or to existing or prospective mortgagees, and to post notices of non-responsibility. Tenant also agrees that Landlord may at any time and from time to time place on the Property or the Premises a sign advertising the Property or the Premises for sale or for lease. Landlord shall also have the right to conduct such maintenance and repair of the Premises (or the Building) as Landlord may deem necessary, without abatement of Rent, and for that purpose may erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, always providing that the entrance to the Premises shall not be unreasonably blocked thereby, and further provided that the business of Tenant shall not be interfered with unreasonably. Tenant hereby waives any claim for damages or for any injury or inconvenience to or interference with Tenant's business, loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises, excluding Tenant's vaults, safes and files. Landlord shall have the right to use any and all means, which Landlord may deem proper to open said doors in an emergency in order to obtain entry to the Premises, without liability to

Tenant. Any entry to the Premises obtained by Landlord by any of such means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of the Premises, or an eviction of Tenant from the Premises or any portion thereof.

24. TENANT'S DEFAULT. The occurrence of any one or more of the following shall constitute an event of default and breach of this Lease by Tenant:

(a) the vacating or abandonment of the Premises by Tenant or failure by Tenant to continually operate its business in the Premises during Ordinary Business Hours (as defined below) and such cessation or curtailment occurs for more than fifteen (15) days;

(b) failure by Tenant to pay any Rent when required hereunder and such failure is not cured within five days written notice from Landlord.

(c) failure by Tenant to take possession of the Premises within thirty (30) days of the Rent Commencement Date;

(d) failure by Tenant to observe or perform any of the other covenants, conditions or provisions of this Lease to be observed or performed by Tenant where such failure shall continue for a period of thirty (30) days after written notice thereof by Landlord to Tenant, unless Landlord in its sole discretion decides to provide an additional cure period to Tenant which in any event will always be conditioned upon 1) the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, and 2) Tenant commencing such cure within said 30-day period and thereafter diligently prosecuting such cure to completion;

(e) the taking of this Lease or the Premises or any part thereof upon execution or by other process of law directed against Tenant, or the taking upon or subject to any attachment at the instance of any creditor or claimant against Tenant, and said attachment shall not be discharged or disposed of within thirty (30) days after the levy thereof; or

(f) the making by Tenant of any general assignment or general arrangement for the benefit of creditors; or the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt, or a petition or a reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); or the appointment of a trustee or a receiver to take possession of substantially all of the assets of Tenant or any guarantor of this Lease; or the attachment, execution or other judicial seizure of substantially all of the assets of Tenant or any guarantor of this Lease where such seizure is not discharged within thirty (30) days.

Notwithstanding the cure period allowed by subparagraph (d) above, it shall be an immediate default under this Lease if Tenant fails to surrender the Premises to Landlord upon the expiration or sooner termination of the Lease, or if any failure of Tenant to comply with any provision of this Lease jeopardizes any insurance coverage or causes or results in a dangerous condition on the Premises or the remainder of the Property, and such failure to comply is not immediately cured after notice thereof by Landlord to Tenant. In no event shall financial inability be considered a reasonable ground for failure of Tenant to cure any breach of, or failure to comply with, the provisions of this Lease.

25. LANDLORD'S REMEDIES. In the event of any such default or breach by Tenant, Landlord may take any of the following actions at any time thereafter, in its sole discretion, with or without notice or demand and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of such default or breach specified herein and/or under the laws and/or judicial decisions of the State of Colorado.

(a) Landlord may terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate, Tenant shall immediately surrender possession of the Premises to Landlord, and Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including, but not limited to, the cost of recovering possession of the Premises; expenses of re-letting, including repairs, renovation and alteration of the Premises; reasonable attorneys' fees; the worth at the time of award by the court having jurisdiction thereof of the amount by which the unpaid Rent called for herein for the balance of the Term after the time of such award exceeds the amount of such loss for the same period that Tenant proves could be reasonably avoided; and that portion of any leasing commissions paid by Landlord and applicable to the unexpired Term of this Lease.

(b) Landlord may reenter and take possession of the Premises or any part thereof, without demand or notice, and repossess the same and expel Tenant and any party claiming by, under or through Tenant, and remove the effects of both using such force for such purposes as may be necessary, without being liable for prosecution on account thereof or being deemed guilty of any manner of trespass, and without prejudice to any remedies for arrears of Rent or right to bring any proceeding for breach of covenants or conditions. No such reentry or taking possession of the Premises by Landlord shall be construed as an election by Landlord to terminate this Lease unless a written notice of such intention is given to Tenant. No notice from Landlord hereunder or under a forcible entry and detainer statute or similar law shall constitute an election by Landlord to terminate this Lease unless such notice specifically so states. Landlord reserves the right following any reentry or re-letting, to exercise its right to terminate this Lease by giving Tenant such written notice, in which event this Lease will terminate as specified in such notice. After recovering possession of the Premises, Landlord may, from time to time, but shall not be obligated to, re-let the Premises, or any part thereof, for the account of Tenant, for such term or terms and on such conditions and upon such

other terms as Landlord, in its discretion, may determine. Landlord may make such repairs, alterations or improvements as Landlord may consider reasonably appropriate to accomplish such re-letting, and Tenant shall reimburse Landlord upon demand for all reasonable costs and expenses (including but not limited to the costs of such repairs, alterations or improvements, leasing commissions and attorneys' fees) which Landlord may incur in connection with such re-letting. Landlord may collect and receive the rents for such re-letting but Landlord shall in no way be responsible or liable for any failure to re-let the Premises, or any part thereof, or for any failure to collect any rent due upon such re-letting. Notwithstanding Landlord's recovery of possession of the Premises, Tenant shall continue to pay on the dates herein specified, the Minimum Rent and all Additional Rent which would be payable hereunder if such repossession had not occurred, less a credit for the net amounts, if any, actually received by Landlord through any re-letting of the Premises.

(c) Landlord may maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the Rent as it becomes due hereunder.

(d) Except as provided in paragraph 25(e) below, Landlord shall be entitled to recover interest on any unpaid Rent at the highest rate provided by law.

(e) Suit or suits for the recovery of the amounts and damages set forth herein may be brought by Landlord, from time to time, at Landlord's election; and nothing herein shall be deemed to require Landlord to await the date that this Lease or the Term hereof would have expired had there been no such default by Tenant, or no such termination, as the case may be. Each right and remedy provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, including, but not limited to, suits for injunctive relief and specific performance. The exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise. All costs incurred by Landlord in connection with collecting any amounts and damages owed by Tenant pursuant to the provisions of this Lease or to enforce any provision of this Lease, including reasonable attorneys' fees from the date any such matter is turned over to an attorney, shall also be recoverable by Landlord from Tenant. LANDLORD AND TENANT AGREE THAT ANY ACTION OR PROCEEDING ARISING OUT OF THIS LEASE SHALL BE HEARD BY THE COURT SITTING WITHOUT A JURY, AND THEY HEREBY WAIVE ALL RIGHTS TO TRIAL BY JURY. In the event of default, in addition to all other remedies therefor, Landlord shall be entitled to receive from Tenant all sums the payment of which may previously have been waived by Landlord, or which may have been paid by Landlord,

pursuant to any agreement by Landlord to grant Tenant a rental abatement or other monetary inducement or concession, including any tenant finish allowance and all other payments made by Landlord to or on behalf of Tenant, together with interest on such amounts at the rate of twenty-one percent (21%) per annum, from the date or dates such amounts were paid by Landlord or would have been due from Tenant but for the abatement, until finally paid or repaid.

26. **DEFAULT BY LANDLORD.** Landlord shall not be in default under this Lease unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Premises, specifying wherein Landlord has failed to perform such obligation; provided, however, that if the nature of Landlord's obligations is such that more than thirty (30) days are required for performance then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter reasonably prosecutes the same to completion. Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in the Lease, then the holder of a first mortgage or deed of trust have an additional thirty (30) days after its receipt of notice within which to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary to cure such default shall be granted if within such thirty (30) days such holder has commenced and is diligently pursuing the remedies necessary to cure such default (including, but not limited to, commencement of foreclosure proceedings necessary to effect such cure), in which event the Lease shall not be terminated while such remedies are being so diligently pursued. In no event shall Tenant have the right to terminate this Lease as a result of Landlord's default, and Tenant's remedies shall be limited to damages (if permitted by the provisions of this Lease) not to exceed the amount of Tenant's remaining Rent obligation throughout the initial Lease Term (or Option Term if the Option has been properly exercised at the time of the alleged default by Landlord). The parties agree that nothing in this paragraph is intended to expand Landlord's liability beyond that provided for in the remaining provisions of this Lease.

27. **RECONSTRUCTION.**

(a) Subject to the provisions of subparagraphs (b) and (c) below, in the event the Premises or any other portion of the Building is damaged by fire or other perils covered by Landlord's Insurance, and such damage does not require structural demolition and reconstruction of all or part of the Building, Landlord agrees to forthwith repair such damage and this Lease shall remain in full force and effect, except that Tenant shall be entitled to a proportionate reduction of Minimum Rent from the date of damage until completion of such repairs, based on the extent to which the damage and making of such repairs shall reasonably interfere with the business carried on by Tenant in the Premises.

(b) In the event that any casualty requires structural demolition and reconstruction of all or part of the Building (whether or not such reconstruction involves any portion of the Premises), Landlord may, at its election, give notice to Tenant at any time within sixty (60) days after such damage, terminating this Lease as of a date specified in such notice not more than thirty (30) days after the giving of such notice. In the event of giving such notice, this Lease and all interest of Tenant in the Premises shall terminate on the date so specified in such notice, and the Minimum Rent, reduced by a proportionate reduction, based upon the extent, if any, to which such damage interfered with the business carried on by Tenant in the Premises, shall be paid up to date of such termination. In the alternative, Landlord may, by written notice to Tenant within such 60-day period, elect to repair or restore such damage, in which case the Minimum Rent shall be proportionately reduced as provided in subparagraph (a) above and this Lease shall continue in full force and effect; PROVIDED, HOWEVER, that Landlord shall have the right to alter the size and configuration of the Building in the course of such reconstruction, so long as the Building as reconstructed is an integrated architectural unit and the dimensions of the Premises are substantially the same as prior to such casualty.

(c) Notwithstanding anything to the contrary contained in this paragraph 27, Landlord shall not have any obligation whatsoever to repair any injury or damage by other cause to any leasehold improvements, fixtures or other personal property of Tenant or to repair, reconstruct or restore the Premises or any other part of the Building when the damage resulting from any casualty occurs during the last twenty-four months of the Term of this Lease or any extension thereof.

28. EMINENT DOMAIN. If more than twenty-five (25%) percent of the Premises shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain, either party hereto shall have the right, at its option, within sixty (60) days after said taking, to terminate this Lease upon thirty (30) days written notice. If less than twenty-five (25%) percent of the Premises is taken (or if more than 25% is taken but neither party elects to terminate as herein provided), the Minimum Rent thereafter to be paid shall be equitably reduced. If any part of the Property other than the Premises shall be so taken or appropriated, Landlord shall within sixty (60) days of said taking have the right at its option to terminate this Lease upon written notice to Tenant. In the event of any taking appropriation whatsoever, Landlord shall be entitled to any and all awards and/or settlements which maybe given (Tenant hereby assigning to Landlord any rights to the same), and Tenant shall have no claim against Landlord for the value of any unexpired Term of this Lease.

29. SIGNS. Tenant may affix and maintain upon the glass panes and supports of the show windows and within twelve (12) inches of any window and upon the exterior walls of the Premises only such signs, advertising placards, names, insignia, trademarks and descriptive material as shall have first received the written approval of Landlord as to type, size, color, location, copy nature and display qualities. Notwithstanding anything to the contrary contained in this Lease or otherwise, Tenant

shall not affix any sign to the roof. Tenant shall, however, erect one sign on the front of the Premises not later than the date Tenant opens for business, in accordance with a design conforming to Landlord's and the Shopping Center's sign criteria. Upon expiration or earlier termination of this Lease, Tenant shall remove such signage and repair any damage to the Building fascia resulting from the installation and removal of Tenant's sign(s).

30. **DISPLAYS.** Tenant may not display or sell merchandise or allow grocery carts or other similar devices to be stored or to remain outside the defined exterior walls and permanent doorways of the Premises. Tenant further agrees not to install any exterior lighting, amplifiers or similar devices or use in or about the Premises any advertising medium which may be heard or seen outside the Premises, such as flashing lights, searchlights, loudspeakers, phonographs or radio broadcasts.

31. **AUCTIONS.** Tenant shall not conduct or permit to be conducted any sale by auction in, upon or from the Premises whether said auction be voluntary, involuntary, pursuant to any assignment for the payment of creditors or pursuant to any bankruptcy or other insolvency proceeding.

32. **HOURS OF BUSINESS.** Tenant shall continuously during the entire Term hereof conduct and carry on Tenant's business in the Premises during the usual business hours of each and every business day as is customary for businesses of like character in the area in which the Property is located; provided, however, that this provision shall not apply if the Premises should be closed and the business of Tenant temporarily discontinued therein on account of strikes, lockouts or similar causes beyond the control of Tenant ("Ordinary Business Hours"). Tenant shall keep the Premises adequately stocked with products and/or merchandise, and with sufficient personnel to care for the patronage, and to conduct said business in accordance with sound business practice. In the event of default or breach by Tenant of any of the conditions contained in this paragraph, Landlord shall have, in addition to any and all remedies herein provided, the right at its option to collect not only the Rent herein provided, but supplemental rent at the rate of one-thirtieth (1/30th) of the Minimum Rent herein provided for each and every day that Tenant shall fail to conduct its business as herein provided; such supplemental rent shall be deemed to be liquidated damages for Tenant's failure to conduct its business as herein provided. Tenant agrees that such liquidated damages are a reasonable estimate of damages, enforceable in accordance with the terms of this paragraph, and that such does not constitute a penalty.

33. **ACCORD AND SATISFACTION.** No payment by Tenant, nor receipt by Landlord, of a lesser amount than the Rent herein stipulated shall be deemed to be other than on account of the earliest stipulated Rent nor shall any endorsement or statement on any check or any letter accompanying any check, or payment as Rent, be deemed an accord and satisfaction, and Landlord shall accept such check for payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy available to Landlord. Tenant expressly waives any right it may have to

claim that any payment due from Tenant to Landlord hereunder, which payment is less than the full amount due to the Landlord or claimed by Landlord, shall be deemed an accord and satisfaction. This waiver of Tenant's right to claim an accord and satisfaction shall be without regard to whether or not a dispute exists with regard to the amount claimed by Landlord. No payment by Tenant, nor receipt by Landlord, of a lesser amount than the full amount due pursuant to this Lease shall be deemed to be other than on account of Tenant toward the amount claimed by Landlord, nor shall any letter or statement accompanying any such payment be deemed an accord and satisfaction, and Tenant hereby waives its right to so claim. Tenant agrees Landlord under all circumstances retains all of its rights under this Lease unless and until it signs a written agreement expressly waiving or relinquishing any such rights.

34. SUPPLEMENTAL CONSTRUCTION. Landlord reserves the right from time to time to construct other buildings on portions of the Property with or without any new Common Area, and by including within the existing Shopping Center other properties now or hereafter owned, leased or controlled by Landlord adjacent to or near the Property, and constructing on such additional property buildings and Common Areas. In this event, such new buildings, properties and Common Areas shall, at the election of Landlord, be treated as though they were originally a part of the Property; provided, however, that in such event Tenant's Pro Rata Share of CAM Costs, Taxes and Insurance Costs shall be appropriately adjusted to include any additional square footage contained in such new buildings or comprising additional properties added to the Property. Until Landlord makes such election, CAM Costs, Taxes and Insurance Costs shall continue to be allocated as though such supplemental construction had not occurred.

35. [reserved]

36. [reserved]

37. GENERAL PROVISIONS.

(a) Submission of Lease. Submission of this Lease to Tenant for signature does not constitute a reservation of space or an option to lease. This Lease shall not be effective or binding on any party until fully executed by all parties hereto and any required guarantors as long as both Tenant and Landlord are in on-going negotiations and both parties are acting in good faith, Landlord shall not enter into negotiation with other parties for this space.

(b) Inurement. Upon full execution, the terms of this Lease shall be binding upon and inure to the benefit of, and shall be enforceable by, all parties hereto, their personal and legal representatives, guardians, successors and assigns to the extent, but only to the extent that assignment is provided for in accordance with, and permitted by, the provisions of this Lease.

(c) Plats and Riders. Exhibits, clauses, plats, riders and addenda, if any, affixed to or referred to in this Lease are hereby made a part hereof.

(d) Waiver. The waiver by Landlord of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding default by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding default at the time of the acceptance of such Rent.

(e) Joint Obligation. If there be more than one Tenant, the obligations hereunder imposed shall be joint and several.

(f) Gender and Headings. Throughout this Lease, where such meanings would be appropriate, the masculine gender shall be deemed to include the feminine and the neuter and vice versa, and the singular shall be deemed to include the plural, and vice versa. The headings herein are inserted only as a matter of convenience and reference, and in no way define or describe the scope of the Lease, or the intent of any provisions hereof.

(g) Time. Time is of the essence with respect to Tenant's obligations under this Lease.

(h) Successors and Assigns. The covenants and conditions herein contained, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of the parties hereto.

(i) Recordation. Tenant shall not record this Lease but Landlord may do so or Landlord may record a short form memorandum thereof.

(j) Late Charges. Tenant hereby acknowledges that late payment by Tenant to Landlord of Minimum Rent and scheduled Additional Rent due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Landlord by terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of Rent due from Tenant shall not be received by Landlord or Landlord's designee within ten (10) days after the due date, then Tenant shall pay to Landlord (in addition to the subject Rent owed) a late charge equal to five percent (5%) per month on the outstanding balance or \$500, whichever is greater. Tenant agrees that such late charges represent a fair and reasonable estimate of the additional cost that Landlord will incur by reason of the late payment of Tenant, enforceable in accordance with the terms of this paragraph, and that such does not constitute a penalty. Acceptance of

such late charges by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder or otherwise available at law or in equity.

(k) Entire Agreement. This Lease contains all of the agreements of the parties hereto, and no prior agreement or understanding pertaining to any such matters shall be effective for any purpose and none of the parties shall have any responsibilities, liabilities, or other affirmative duties, except as stated herein. Without limiting the generality of the foregoing, Tenant acknowledges and agrees that it has not relied on any promises, inducements, representations, warranties or agreements by Landlord or its agents (including but not limited to any real estate agents or brokers) not expressly set forth in this Lease (collectively, the "Representations"), including but not limited to any Representations as to the desirability or suitability of the Premises for the Permitted Use, to procure its agreement hereto. LANDLORD AND TENANT EXPRESSLY AGREE THAT THERE ARE AND SHALL BE NO IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHER WARRANTIES OF ANY OTHER KIND ARISING OUT OF THIS LEASE. No provision of this Lease may be amended or modified except by an agreement in writing signed by the parties hereto. The parties further acknowledge that this Agreement is contractual and not merely recital and that they have read, understand and fully agree to the terms of this Agreement.

(l) Inability to Perform. This Lease and the obligations of Tenant hereunder shall not be affected or impaired because Landlord is unable to or is delayed in fulfilling any of its obligations hereunder or is delayed in doing so, if such inability or delay is caused by reason of strike, labor troubles, failure to obtain labor or materials at a reasonable cost, acts of God, war, terrorism, riot, weather, or any other cause beyond the reasonable control of Landlord.

(m) Partial Invalidity. If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the Term of this Lease, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby, and it is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there shall be added as a part of this Lease a legal, valid and enforceable clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible.

(n) Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies at law or in equity.

(o) Governing Law. This Lease and all provisions contained herein shall be construed pursuant to the laws of the State of Colorado, and any questions

regarding the validity of any section and/or paragraph contained herein shall be determined pursuant to the laws of the State of Colorado.

(p) Transfer by Landlord. The term "Landlord" as used in this Lease, so far as covenants or obligations on the part of Landlord are concerned, shall be limited to mean and include only the owner or owners of the Property at the time in question. In the event of any transfer or transfers of the title to the Property, the Landlord herein named (and in the case of any subsequent transfers or conveyances, the then-grantor) shall be automatically released, from and after the date of such transfer or conveyance, from all liability with respect to the performance of any covenants or obligations on the part of Landlord contained in this Lease thereafter to be performed; provided that the grantee assumes the duty to Perform Landlord's covenants and obligations hereunder, and provided that any funds in which Tenant has an interest in the hands of Landlord or the then-grantor at the time of such transfer shall be turned over to the grantee.

(q) Subordination, Attornment. This Lease, at Landlord's option or at the option of any holder of a mortgage or deed of trust, shall be subject and subordinate to any mortgage, deed of trust, ground lease or declaration of covenants regarding maintenance and use of any areas contained in any portion of the Property (regardless of whether they now exist or are hereafter placed upon the Property), and to any and all advances made under such mortgage or deed of trust and to all renewals, modifications, consolidations, replacements and extensions thereof. Tenant agrees, with respect to any of the foregoing documents, that no documentation other than this Lease shall be required to evidence such subordination. If any holder of a mortgage or deed of trust shall elect for this Lease to be superior to the lien of its mortgage or deed of trust, and shall give written notice thereof to Tenant, then this Lease shall automatically be deemed prior to such mortgage or deed of trust, whether this Lease is dated earlier or later than the date of said mortgage or deed of trust or the date of recording thereof. Tenant agrees to execute such documents as may be further required to evidence such subordination or to make this Lease prior to the lien of any mortgage or deed of trust, as the case maybe, and by failing to do so within ten (10) days after written demand, in addition to all of Landlord's available remedies, Tenant does hereby make, constitute and irrevocably appoint Landlord as Tenant's attorney-in-fact and in Tenant's name, place and stead, to do so. This power of attorney is coupled with an interest. Tenant hereby attorns to all successor owners of the Property, whether or not such ownership is acquired as a result of a sale through foreclosure of a deed of trust or mortgage, or otherwise. Landlord shall use commercially reasonable efforts to obtain from the holder of such mortgage or deed of trust or the landlord under such ground lease or the declarant under such declaration of covenants a non-disturbance agreement, using the form of document then being employed by such holder, landlord or declarant for such purposes, which will provide that Tenant, notwithstanding any default of Landlord hereunder, shall have the right to remain in possession of the Premises described herein in accordance with the terms and provisions of this Lease for so long as Tenant shall not be in default under this Lease.

Landlord's Initials: _____

Tenant's Initials: _____

(r) Merger. The termination or mutual cancellation of this Lease shall not work a merger, and such termination or mutual cancellation shall, at the option of Landlord, either terminate all subleases and subtenancies or operate as an assignment to Landlord of any or all of such subleases or subtenancies.

(s) Bankruptcy. Landlord and Tenant understand that notwithstanding certain provisions to the contrary contained herein, a trustee or debtor in possession under the Bankruptcy Code of the United States may have certain rights to assume or assign this Lease. Landlord and Tenant further understand that, in any event, Landlord is entitled under the Bankruptcy Code to Adequate Assurance of future performance of the terms and provisions of this Lease. For purposes of any such assumption or assignment, "Adequate Assurance" shall include at least the following: (i) In order to assure Landlord that the proposed assignee will have the resources with which to pay the Rent called for herein, any proposed assignee must have, as demonstrated to Landlord's satisfaction, a net worth (as defined in accordance with generally accepted accounting principles consistently applied) at least as great as the net worth of Tenant on the date this Lease became effective, for each year from the Rent Commencement Date through the date of the proposed assignment. The financial condition and resources of Tenant were a material inducement to Landlord in entering into this Lease; and (ii) Any proposed assignee of this Lease must assume and agree to be personally bound by the terms, provisions, and covenants of this Lease.

(t) Landlord's Assignment. The Tenant does specifically allow and permit the Landlord to execute a general assignment of leases, including an assignment of leases and rents as collateral for a loan, and to assign this particular Lease.

(u) Notices. Except as set forth below, all notices to be given hereunder by either of the parties shall be in writing. Any notice may be served by Landlord upon Tenant personally by delivering the same to an employee of Tenant, or to Tenant directly. Any notice shall be deemed duly served by either party if addressed to the address for the party in the Fundamental Lease Provisions and (i) deposited with the United States Postal Service as certified mail, return receipt requested, with proper postage prepaid, or (ii) deposited with FedEx or other reliable overnight courier for expedited delivery. Either party may change the address to which the notices may be sent by delivering a copy thereof to the other party in the manner aforesaid. If service shall be made by certified mail, such service shall be deemed completed as of the third day following the mailing of such notice in the manner aforesaid. Tenant shall provide a copy of any notice to Landlord to the holder of a first mortgage or deed of trust of record at the record address, or to such other address as may have been provided to Tenant, for such holder.

(v) Tenant's Statement. Tenant shall at any time and from time to time, upon not less than three (3) business days prior written notice from Landlord, execute, acknowledge and deliver to Landlord a statement in writing containing such statements as Landlord or any prospective purchaser or mortgagee of the Property may require,

including, but not limited to: (a) certification that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and reciting that this Lease as so modified is in full force and effect), and the date to which the rental and other charges are paid in advance, if any, (b) Tenant's acknowledgment that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed, and (c) confirmation of the Rent Commencement Date and the expiration date of the Lease Term. Any such statement may be relied upon by the prospective purchaser or encumbrance of all or any portion of the Property. Tenant agrees to execute such statements and if it fails to do so within said three-day period, in addition to all of Landlord's available remedies, Tenant does hereby make, constitute and irrevocably appoint Landlord as Tenant's attorney-in-fact and in Tenant's name, place and stead, to do so. This power of attorney is coupled with an interest.

(w) Landlord's Interest in Property. Notwithstanding anything to the contrary contained herein, Landlord's liability under this Lease shall be limited to its interest in the Property and no other real, personal or other property of Landlord or of the owners of Landlord, or of any agents including employees, officers, directors, members, managers, partners, principals, affiliates, or related companies or other organizations of Landlord shall be subject to levy, attachment, or execution, or otherwise sued to satisfy any judgment. Tenant hereby waives any right to satisfy a judgment against Landlord except from Landlord's interest in the Property of which the Premises are a part.

(x) Time Period. For any approval, consent or other action required of Tenant herein for which no time period is specified, Tenant shall have no greater than fifteen (15) days to so approve, consent or take such action or such shall constitute an event of default and breach of this Lease.

(y) Authority. If Tenant is a corporation, partnership, trust or limited liability company, each individual executing this Lease on behalf of Tenant represents and warrants that Tenant is a duly authorized and existing entity, that Tenant is qualified to do business in the State of Colorado, that the entity has full right and authority to enter into this Lease, that he or she is duly authorized to execute and deliver this Lease on behalf of Tenant in accordance with the bylaws, partnership, operating, or trust agreement (as the case may be) of Tenant, and that this Lease is binding upon Tenant. In the event any such representation or warranty is false, all persons who execute this Lease shall be liable, individually, for all of Tenant's obligations under the Lease.

(z) Facsimile Signature. The parties hereto agree that a facsimile signature may substitute for and have the same legal effect as the original signature.

(aa) Rule of Construction. The Rule of Construction which provides that ambiguities in a contract are most strictly construed against the drafter shall not apply to this Lease.

(bb) Survivability. Notwithstanding anything to the contrary contained in this Lease or otherwise, where the context of provisions of this Lease reasonably requires such an interpretation, or when provisions hereof require observance or performance by Landlord or Tenant subsequent to termination, those provisions of the Lease shall survive the termination of this Lease.

(cc) Further Assurances. Tenant agrees to take whatever action or actions are deemed by Landlord reasonably necessary or desirable from time to time to effectuate the provisions or intent of this Lease, and to that end, Tenant agrees that it will execute, acknowledge, seal, and deliver any further instruments or documents which may be necessary to give force and effect to this Lease or any of the provisions hereof, or to carry out the intent of this Lease.

(dd) Tenant Liability. The liability of Tenant pursuant to this Lease shall also include liability for any actions and/or omissions of Tenant's employees, other agents, invitees and/or its contractors.

(ee) Counterparts. This Lease may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Lease.

38. BROKERS. Carr Healthcare Realty, LLC shall be a Tenant Broker and Basham & Associates, LLC shall be a Landlord Broker. Both Brokers shall be paid by the Landlord per a separate agreement.

39. ADDITIONAL PROVISIONS. None

40. FUNDAMENTAL LEASE PROVISIONS. The parties agree that the Fundamental Lease Provisions set forth above are an integral part of this Lease agreement between them.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the Effective Date.

TENANT:
The City of Commerce City

By: _____

Its: _____

Date: _____

LANDLORD:
The Phoenix Limited Partnership, a Wyoming limited partnership

By: _____

Its: _____

Date: _____

Landlord's Initials: _____

Tenant's Initials: _____

EXHIBIT A
12253 E. 104th Pl. Commerce City Suite 100
Premises location plan

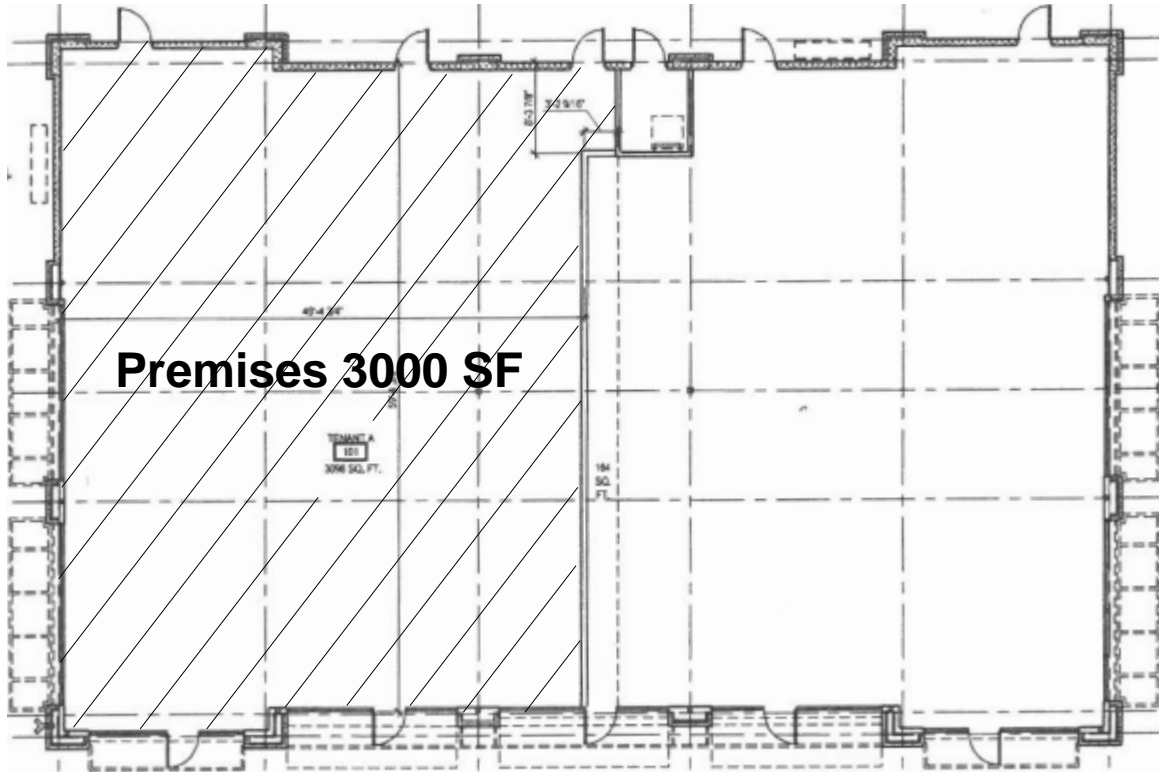
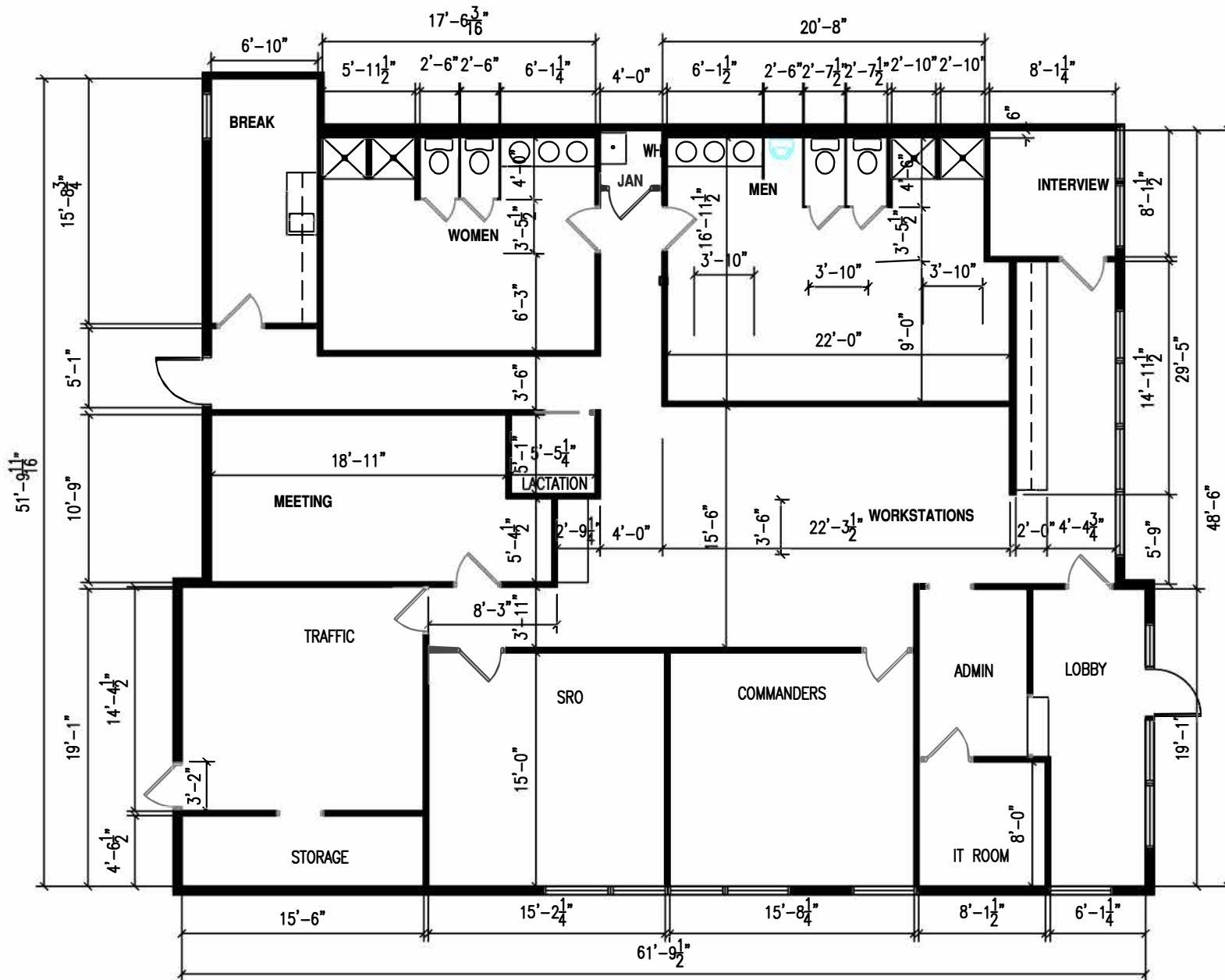


EXHIBIT B
Landlord Work

Landlord shall, using building standard materials at its sole cost, shall complete Landlord Work per the mutually agreed upon plan as depicted below in this Exhibit B (the "Landlord's Work"). All work shall be completed by licensed and bonded contractors. All work shall be permitted and inspected by the City.

1. Landlord shall construct the improvements to the Premises including but not limited to all walls, ceiling, flooring, HVAC, electrical and plumbing as depicted in the below floor plan and as further described in Exhibit D - Construction Plans.
2. Landlord shall provide and install all cabinetry, lighting, electrical and plumbing fixtures in the Premises as further described in Exhibit D – Construction Plans.
3. All utilities to the Premises shall be installed, connected and working.
4. Landlord shall provide and install all appliances and window coverings.
5. Landlord shall install all lockers that are to be provided by the Tenant.
6. Landlord shall allow access to the Premises to enable the Tenant to conduct the Tenant Work.

EXHIBIT B-2
Preliminary Plans



FLOOR PLAN 6-12-24
12252 E. 104th PL

EXHIBIT C
Tenant's Work

Tenant shall:

1. Provide and install all IT cabling and equipment.
2. Provide lockers to then be installed by Landlord as part of the Landlord Work
3. Provide and install all Tenant furniture, Tenant fixtures and Tenant equipment (Tenant FF&E's).

**EXHIBIT D
COMMENCEMENT DATE CERTIFICATE**

This Commencement Date Certificate is entered into by Landlord and Tenant pursuant to the Turnberry Marketplace Lease.

1. Definitions. In this Certificate, the following terms have the meanings given to them:

- A. **LANDLORD:** The Phoenix Limited Partnership, a Wyoming limited partnership
- B. **TENANT:** City of Commerce City
- C. **LEASE:** Turnberry Marketplace Lease dated the ____ day of _____ 2024, between Landlord and Tenant.
- D. **PREMISES:** 12253 E. 104TH Place, Unit 100, Commerce City, CO 80222

2. Confirmation of Lease Commencement. Landlord and Tenant confirm that the Commencement Date of the Lease is the ____ day of _____, 20____, and the Expiration Date is the ____ day of _____, 20____, and that the Lease is accordingly amended.

Landlord and Tenant have executed this Commencement Date Certificate as of the dates set forth below:

LANDLORD: The Phoenix Limited Partnership, a Wyoming limited partnership

By: _____

Title: _____

TENANT: City of Commerce City

By: _____

Title: _____