

LEASE

by and between

AUTO MALL DEVELOPMENT, INC.

and

JONG Seok (Jay Bae) and wife, Suemi k

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AUTO MALL DEVELOPMENT, INC.

TABLE OF CONTENTS

PAGE	PARAGRAPH	TITLE
3	1	BASIC LEASE SCHEDULE
5	2	DEFINITIONS
5	3	REVISION OF EXHIBIT A
6	4	TERM
6	5	RENT AND OTHER CHARGES
7	6	CONSTRUCTION AND DELIVERY OF POSSESSION
9	7	RECORDS AND REPORTS
9	8	USES AND OPERATIONS, BUSINESS HOURS
10	9	USE OF COMMON AREAS
11	10	MAINTENANCE AND REPAIR
12	11	OPERATING EXPENSE CHARGE
13	12	MARKETING FUND
13	13	INSURANCE
14	14	LANDLORD'S RELEASE FROM DAMAGE
15	15	SIGNS, ADVERTISING, EXTERNAL APPEARANCE
15	16	FIRE DAMAGE
15	17	BANKRUPTCY
16	18	INDEMNIFICATION
16	19	ABANDONMENT PRIOR TO THE COMMENCEMENT DATE
17	20	DEFAULT
18	21	ASSIGNMENT AND SUBLETTING
18	22	TRANSFER OF LANDLORD'S INTEREST
19	23	ESTOPPEL CERTIFICATE AND SUBORDINATION
19	24	MECHANIC'S LIEN
19	25	EMINENT DOMAIN
20	26	HAZARDOUS MATERIALS
21	27	RELOCATION OF PREMISES
21	28	ADDITIONAL PROVISIONS
28	Exhibit A	LEGAL DESCRIPTION
29	Exhibit B	SITE PLAN
30	Exhibit B1	LEASING PLAN
31	Exhibit C	LANDLORD'S WORK
34	Exhibit C1	TYPICAL LANDLORD IMPROVEMENTS
34-A	Exhibit D	TENANT'S WORK
35	Exhibit E	RULES AND REGULATIONS
37	Exhibit F	SIGN CRITERIA
39	Addendum	ADDENDUM TO SIGN CRITERIA
41	Exhibit G	OPTION

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF DURHAM

THIS LEASE AGREEMENT, made and entered into this 1st day of September 2004, by and between Auto Mall Development, Inc., whose address is 921 Morreene Road, Durham, North Carolina, 27705 (hereinafter referred to as "Landlord") and Dng Seok (Jay Boe) and wife (hereinafter referred to as "Tenant");
Siemi Bae

WITNESSETH:

Landlord hereby lets to Tenant and Tenant hereby rents from Landlord the Premises (as defined in Paragraph 1) intending to be legally bound under this lease and in consideration of \$1.00 and other good and valuable consideration, Landlord and Tenant hereby agree with each other as follows:

1. BASIC LEASE SCHEDULE.

The following terms and definitions shall be applicable to the various provisions of this lease, which refers to them and should the provisions of this paragraph conflict with any other provision hereof, then such later provision shall control.

A. TENANT'S TRADE NAME:

B. TENANT'S ADDRESS:

9212 Sanctuary Ct.
Raleigh, NC. 27617

C. SHOPPING CENTER: The Triangle Village Auto Mall, located on that certain parcel of land more particularly described in Exhibit A.

D. PREMISES: Premises leased (as defined in Paragraph 2), hereinafter called "Premises", consists of the space highlighted on Exhibit B, containing approximately 1860 square feet of gross leaseable area, and also shown as space letter A, including any alterations, additions, or repairs thereof. The frontage of the Premises measures approximately 30' and the depth measures approximately 62'.

E. LEASE TERM: The Lease Term shall commence upon the earlier of occupancy of the Premises by Tenant, or on the Commencement Date, as defined in Paragraph 4, and shall expire at Midnight on the last day of the same month, 5 years from the commencement date.

F. PERMITTED USES: The sole and exclusive use of the Premises is for:

Korean Restaurant

G. RENT:

Tenant shall pay to Landlord in the manner prescribed in Paragraph 5(A), the Minimum Annual Rent for each year of the Lease as listed below, said rent to be payable in equal monthly installments:

Year 1: \$ <u>27,900</u> ; \$ <u>2,325</u> /mo.	Year 6: \$ _____ ; \$ _____ /mo.
Year 2: \$ <u>28,458</u> ; \$ <u>2,371.⁵⁷</u> /mo.	Year 7: \$ _____ ; \$ _____ /mo.
Year 3: \$ <u>29,027.⁴⁶</u> ; \$ <u>2,418.⁹³</u> /mo.	Year 8: \$ _____ ; \$ _____ /mo.
Year 4: \$ <u>29,607.²⁰</u> ; \$ <u>2,467.³¹</u> /mo.	Year 9: \$ _____ ; \$ _____ /mo.
Year 5: \$ <u>30,199.⁹⁴</u> ; \$ <u>2,516.⁶⁵</u> /mo.	Year 10: \$ _____ ; \$ _____ /mo.

(For years beyond the lease term indicate "N/A".)

~~plus Percentage Rent (if applicable) for each year in the manner prescribed in paragraph 5(B) based upon the following Percentage of Gross Sales:~~

~~Percentage of Gross Sales: _____ Percent (_____ %)
Percentage Rent Sales Threshold: _____~~

H. OPERATING EXPENSE CHARGES:

Common Area Maintenance, including taxes and insurance, shall be estimated at \$ 2.50 /S.F., payable in equal monthly installments of \$ 387.⁵⁰, and shall be subject to adjustment as specified in Paragraph 11.

Other: _____

I. SECURITY DEPOSIT:

\$ 2,712.⁵⁰

J. ADVANCE RENTAL:

\$ 2,712.⁵⁰

K. MINIMUM HOURS OF OPERATION:

Mon-Fri. - 11:00^{AM} - 7:00^{P.M.}

~~L. MARKETING FUND:~~

~~ANNUAL INCREASES:~~

~~M. MULTI TENANT ROAD SIGN: See Exhibit F~~

N. GUARANTOR:

O. ADDRESSES FOR NOTICES:

TO LANDLORD:

Louis Coetz
Auto Mall Developments
921 Morrisville Rd
Durham, NC 27705
919 383 8842

TO TENANT:

TO GUARANTOR:

TO MORTGAGEE:

2. DEFINITIONS.

A. "Building" and "Shopping Center." Building and/or Shopping Center shall mean and refer to that Shopping Center development in which Premises are situated, described in Exhibit A.

B. "Premises" shall mean the property let to Tenant as described in Paragraph 1. The Premises shall be measured from the exterior faces of all exterior walls and from the center line of demising walls. The Landlord reserves to itself the use of the exterior walls and roof, and the right to install, maintain, use and repair pipes, ducts, conduits, vents and wires leading in, through, over, or under the Premises.

C. "Lease Year" as used herein is defined to mean a period of twelve (12) consecutive full calendar months. If the Lease Term shall commence on a day other than the first day of a calendar month, it shall be considered a partial month. At Landlord's election, the "Lease Year" shall mean any twelve (12) month period selected by Landlord. If by such election the period prior to the first "Lease Year" is longer than a month, then this period shall be deemed a "Partial Lease Year". Minimum Rent, Percentage Rent and Additional rent shall be prorated for the partial months or partial lease years.

D. "Common Areas" means the entire Shopping Center except the portions of the Shopping Center upon which buildings, structures or other improvements have been erected for lease and except areas designated for other uses by Landlord.

E. "Gross Sales" shall mean and refer to the dollar amount of all sales of merchandise and services, all revenues of every kind, less sales tax, derived from the business conducted at or from Premises by Tenant. The dollar value of bona fide refunds or credit, granted for return of merchandise, shall be charged as a credit in reduction of the Gross Sales, for the period within which such refunds shall have been made. For the purpose of the foregoing, all credit sales shall be included in Gross Sales for the month of sale.

F. "Pro Rata Share" means the portion that the floor area of the Premises bears to the floor area of all the rentable space of the buildings (excluding common areas) situated in the Shopping Center.

G. "Gross Leasable Area" shall mean all building areas normally rented to Tenants and shall exclude the common areas.

3. REVISION OF EXHIBIT B: It is understood and agreed that the Site Plan attached hereto as Exhibit B is preliminary and that prior to the Commencement Date Landlord may revise said Site Plan and change the site of Tenant's Premises so long as such change does not unreasonably affect the Tenant's Premises. It is further understood that after the Commencement Date, Landlord may modify that Site Plan without Tenant's consent, so long as such modification does not unreasonably affect the use of Tenant's Premises. Tenant does not rely on the fact, nor does Landlord represent, that any specific Tenant, user occupant or number of Tenants shall, during the term of this Lease, occupy any space in the Shopping Center.

ninetieth. 4. TERM. The term of this Lease shall commence on the earlier to occur of (a) the ~~thirtieth~~ day next following ^{execution of Lease} Delivery of Possession, or (b) the date Tenant opens its store in he Premises for business. The term shall expire on the date designated in Paragraph 1. The date upon which the term herein commences is referred to as the "Commencement Date."

(90th)
JK

5. RENT AND OTHER CHARGES.

A. Minimum Annual Rent. Throughout the term of this Lease, Tenant shall pay Minimum Annual Rent in monthly installments to Landlord in the rate and amount specified in Paragraph 1. Each installment shall be due the first day of each month in advance without notice or demand. The first installment of rent shall be due on the Commencement Date. If Commencement Date is not the first day of any month, Minimum Rent for that month shall be one-thirtieth of a normal monthly rent payment for each day from Commencement Date to the end of the month.

~~B. Percentage Rent. Tenant shall pay Percentage Rent to the landlord. Percentage Rent shall be payable without notice or demand in addition to Minimum Annual Rent and all other charges payable under this Lease. Percentage Rent shall be equal to the extent to which the dollar amount of Percentage of Gross Sales (designated in Paragraph 1) for any Lease Year exceeds Minimum Annual Rent payable with respect to that Lease Year. Percentage Rent shall be paid within thirty days after the end of each Lease Year.~~

JK

However, if the Percentage of Gross sales for the first six months of any Lease Year exceeds the Minimum Annual Rent paid during the six-month period, Tenant shall pay Landlord an interim payment equal to the excess. The interim payment shall be paid within thirty days after the expiration of each such six-month period. The interim payment shall be credited against Tenant's obligation under this Section. If the amount of the annual Percentage Rent is less than an interim payment, Landlord shall refund the difference to Tenant within ten days after receipt of Tenant's annual statement of Gross Sales.

~~Percentage Rent shall be computed separately with respect to each Lease Year. There shall be no carry-backs or carry-forwards with respect to any Lease Year.~~

D. Other Charges. Tenant shall also pay monthly in advance such other charges as specified in Paragraph 1 for Common Area Maintenance, and any other matter. These charges are all additional rent and shall be paid without notice or demand.

E. Additional Rent. As provided in this Lease, when Tenant is required to make any payment to Landlord, such payment shall be deemed to be additional rent and all remedies applicable to the nonpayment of rent shall be applicable thereto. Such additional rent shall not be deemed to be Minimum Annual Rent, nor deducted from Percentage Rent, nor considered in connection with the computation of Percentage Rent. All rent and/or additional rent shall be paid without counterclaim, set-off, deduction or defense.

F. Security Deposit. Tenant has concurrently with the execution of this Lease deposited with Landlord a Security Deposit in the amount specified in Paragraph 1 as security for the full performance of every provision of this Lease by Tenant. Landlord may apply all or any part of the Security Deposit to cure any default by Tenant hereunder and Tenant shall promptly restore to the Security Deposit all amounts so applied upon

invoice. If Tenant shall fully perform each provision of this lease, any portion of the Security Deposit which has not been appropriated by Landlord in accordance with the provisions hereof shall be returned to Tenant without interest within thirty (30) days after the expiration of the full stated term of this Lease.

G. Advance Rental. Before delivery of Premises to the Tenant, Tenant shall deliver to the Landlord the "Advance Rental" in the amount specified in Paragraph 1, the same to be held as security for the performance by Tenant of all obligations imposed under this Lease which Tenant is required to perform prior to the commencement of this term. If Tenant shall fail to perform such obligations, Landlord shall be entitled to apply this Advance Rental without interest, pro tanto, against any damages which it may sustain by reason of Tenant's failure to perform such obligations, but such application shall not preclude Landlord from recovering greater damages if the same can be established. Otherwise, if Tenant shall faithfully perform all such obligations, then the Advance Rental shall be applied without interest, pro tanto, by Landlord against the Minimum Rental first becoming due hereunder. No right or remedy available to Landlord as provided in this paragraph shall preclude or extinguish any other right or remedy which Landlord may be entitled to pursue under any other terms of this Lease.

H. Payment of Rent. Tenant shall pay all rent when due and payable, without any setoff, deduction or prior demand therefor whatsoever. If Tenant shall fail to pay any rent within seven (7) days after the same is due, Tenant shall be obligated to pay a late payment charge equal to the greater of One Hundred Dollars (\$100.00) or ten percent (10%) of any rent payment not paid when due to reimburse Landlord for its additional administrative costs. In addition, any rent that is not paid within seven (7) days after the same is due shall bear interest at the default rate of 12% from the first day due until paid. Any payment by Tenant or acceptance by Landlord of a lesser amount than shall be due from Tenant to Landlord shall be treated as a payment on account. The acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant.

6. CONSTRUCTION AND DELIVERY OF POSSESSION.

A. Landlord's Work. ~~Landlord shall, at its own expense, construct or cause to be constructed the building of which the Premises is a part and shall perform the work to the Premises described as Landlord's Work (sometimes referred to as "Landlord's Construction") in Exhibit C attached hereto and made a part hereof. It is expressly understood and agreed that Landlord's obligation with respect to construction of the Premises shall be limited solely to the scope of work described as Landlord's Work in Exhibit C and shall in no event include the performance, procurement and/or installation of those items of work, fixtures or equipment which are to be performed, procured or installed by Tenant.~~ *Handwritten: Landlord shall deliver space in "As-Is" condition, and shall provide a one (1) year warranty on the HVAC system.* JS

B. Delivery of Possession. ~~Landlord shall notify Tenant at least ten (10) days prior to completion of Landlord's Work, stating the date upon which the Premises shall be ready for occupancy by Tenant, and such notice shall constitute delivery of possession on the date specified therein. The Premises shall be deemed "ready for occupancy" under the terms of this Lease if Landlord has substantially completed its work in accordance with Exhibit C attached hereto which can be accomplished prior to and~~ JS

Tenant premises are ready for occupancy upon full execution of the lease. JS

~~independently of any construction or installation required to be performed by Tenant.~~
The certification of Landlord's architect that Landlord's Work has been substantially completed in accordance with Exhibit C shall be deemed conclusive and binding upon the parties hereto. Under no circumstances shall Landlord be liable to Tenant for any damages which may be caused by any delay in commencing or completing its construction of the Premises or for a total failure to complete same. Following delivery of possession of the Premises to Tenant and Tenant's completion of any construction or installation necessary to permit Landlord to complete Landlord's Construction of the Premises, Landlord will carry forward its construction to completion. The failure by Tenant to give notice within thirty (30) days of the delivery of possession of the Premises specifying in detail those items of Landlord's Work which are not then substantially completed shall be deemed conclusive that Tenant has accepted the Premises with all items of Landlord's Work substantially completed. Before a key is turned over to the Tenant, the Tenant shall have converted the utilities services into Tenants' name. If such conversion is not possible at this time, due to the utility company's inability, then the ~~Tenant shall reimburse the Landlord for these costs following Delivery of Possession.~~

25

C. Tenant's Work. Upon delivery of possession of the Premises by Landlord, Tenant will proceed with due diligence, at its own expense, to perform all work and supply all installations described as Tenant's work (the "Tenant's Work,") in Exhibit D attached hereto and made a part hereof, and to fully equip the Premises with all trade fixtures, lighting fixtures, furniture, furnishings, floor and wall coverings, exterior signs, any special equipment and other items of construction and personal property necessary for the completion of the Premises and the proper operation of Tenant's business therein. Tenant's Work shall be performed with materials of good quality and in a proper workmanlike manner, and all items installed by Tenant in the Premises shall be new unless with the prior written consent of Landlord, Tenant shall not do any construction work or alterations, nor shall Tenant install any equipment other than trade fixtures and personal property without first obtaining Landlord's written approval of the plans and specifications therefore in accordance with Exhibits C and D. The approval by Landlord of such plans and specifications shall not constitute the assumption of any liability on the part of the Landlord for their accuracy or their conformity with requirements of any building code, or other municipal or governmental regulation or ordinance, and Tenant shall be solely responsible for such plans and specifications. Prior to commencement of any work upon the Premises by Tenant, Tenant shall deliver to Landlord a certificate of Public liability and property damage insurance of a type and with the limits as shall be reasonably acceptable to Landlord, naming Landlord as additional insured, and evidence of Workman's Compensation and Builder's Risk coverage in such amounts as are required by law and are acceptable to Landlord.

D. Rights of Entry. Tenant may enter the Premises before Landlord's Work is completed for the purpose of inspecting the Premises and making measurements. When Landlord's Work has progressed sufficiently to permit Tenant to perform Tenant's Work without interfering with Landlord's Work (but prior to Delivery of Possession), Tenant may install its store fixtures and perform other work that may be required in order to ready its store for opening. During this period, Tenant shall not interfere with any work being performed or to be performed by Landlord. If any work or other action done by or on behalf of Tenant result in a stoppage of Landlord's Work, Tenant shall immediately cease such work or other action so that Landlord's Work may be resumed.

Upon Delivery of Possession, Tenant shall begin to perform Tenant's Work and any other work necessary to prepare the Premises for the opening of Tenant's store to the public; and Tenant's Work shall be prosecuted diligently. During the period between Delivery of Possession and the Commencement Date, Tenant shall also install its fixtures and equipment, and stock the Premises with suitable merchandise. All entry on the Premises by Tenant, and all work done by Tenant, shall be done at Tenant's sole risk. All work performed by Tenant shall be performed in accordance with good construction practices, applicable legal requirements and insurance requirements. Tenant agrees to comply with all of Landlord's construction and labor regulations.

From and after Delivery of Possession Landlord may re-enter the Premises to complete any portion of Landlord's work that has not yet been completed. During the period of such re-entry, Landlord shall not unreasonably interfere with any work being performed or to be performed by Tenant.

7. RECORDS AND REPORTS.

~~A. Tenant, during the term of this Lease, shall maintain and keep at Tenant's home office a full, complete and accurate permanent record and account of all sales of merchandise and services and all sums of money paid or payable for or on account of or arising out of the business and all business transactions conducted at or from Premises by or for the account of Tenant, for each day of the Term hereof. Records are to be maintained in accordance with generally accepted accounting principles. Landlord shall have the right, at any reasonable time to examine such books and records (including all tax returns) or have them audited, at the Landlord's expense, except that if any such examination or audit discloses a deficiency of more than two percent (2%), in any annual statement of gross sales theretofore furnished by Tenant to Landlord, then Tenant shall pay the actual cost of such examination or audit. Tenant shall immediately pay any deficiency in Percentage Rent disclosed by such audit. Landlord shall also have the right, at its option, to terminate this lease in the event that Tenant's Gross Sales show a 2% or more deficient for more than one lease year.~~

B. Within ten (10) days after the end of each calendar month, during the term of this Lease, the Tenant shall submit to the Landlord an accurate written statement, signed by Tenant, showing the full amount of Gross Sales of the Tenant during the immediately preceding month. Within thirty (30) days after the end of each Lease Year or Partial Lease Year, Tenant shall furnish to the Landlord a statement duly certified by Tenant showing the gross sales made during the immediately preceding Lease Year or Partial Lease Year. Tenant shall at the same time pay the full balance of the Percentage Rental due, for said Lease Year. Any excess of Percentage Rental, that tenant may have paid monthly during such Lease Year shall be refunded. Each Lease Year shall be construed as an independent accounting period for the purpose of computing the amount of ~~Percentage Rental.~~

8. USES AND OPERATION: BUSINESS HOURS.

Tenant shall use the Premises for the uses designated as permitted uses and under the trade name specified in Paragraph 1 and for no other purpose without Landlord's written consent. Any variation or deviation from the specific use expressly set forth herein shall be deemed a default of this Lease. Tenant shall conduct its business in the Premises continuously to achieve maximum sales volume within the Premises and on all days and at all hours in which the Shopping Center is open and at all other times as are customary for like businesses in the local

market. The Landlord does not warrant or make any representation that the Tenant will have the exclusive right to sell any items or services in this Shopping Center.

Tenant shall cause its business to be conducted and operated in good faith and in such manner as shall assure the transaction of a maximum volume of business in and at the Premises. Tenant covenants and agrees to remain open for business at least during the store hours and such additional hours as shall be determined by Landlord. If Tenant shall fail to operate during all hours determined by Landlord, in addition to constituting an Event of Default hereunder, Tenant shall be required to pay for each hour that Tenant shall fail to be open liquidated damages of \$50.00. If Tenant shall request Landlord's approval of the opening of the Premises for business for periods exceeding those specified in Paragraph 1, and Landlord shall approve such request, Tenant shall pay for any additional costs incurred by Landlord in connection with Tenant's opening the Premises for business during such additional hours, including but not limited to, any additional amounts of Landlord's Operating Costs, additional costs of heating and ventilating and air conditioning the Common Areas and the Premises, and additional utilities furnished to the Premises by Landlord.

Tenant acknowledges that it is Landlord's intent that the Shopping Center be operated in a manner that is consistent with the highest standards of decency and morals prevailing in the community which it serves. Toward that end, Tenant agrees that it will not sell, distribute, display or offer for sale any items which, in Landlord's good faith judgment, is inconsistent with the quality of operation of the Shopping Center or may tend to injure or detract from the moral character or image of the Shopping Center within such community. Without limiting the generality of the foregoing, Tenant will not sell, distribute, display or offer for sale (i) any roach clip, water pipe, bong, toke, coke spoon, cigarette papers, hypodermic syringe or other paraphernalia commonly used in the use or ingestion of illicit drugs, or (ii) any pornographic, lewd, suggestive, or "adult" newspaper, book, magazine, film, picture, representation or merchandise of any kind.

9. USE OF COMMON AREAS.

A. Subject to Landlord's regulations, Tenant in common with other tenants of Landlord and any designee of Landlord, shall have the nonexclusive right of use of the Common Areas of the Shopping Center. Tenant, its subtenants, successors and assigns shall not solicit business or display merchandise in any of the common areas or distribute handbills or any other advertising matter therein. Landlord shall have at all times right to control and manage the Common Areas and without limitation of Landlord's rights, Landlord may close all or any portion of the Common Areas, including the parking areas to such an extent as may be necessary in the opinion of the Landlord. Landlord may prohibit parking, passage of motor vehicles in areas previously designated for parking or passage and may erect additional buildings or common areas or change the location of the buildings, structures and other areas.

B. Tenant's employees shall park only in the areas designated, from time to time, by Landlord as employee parking and Tenant shall furnish Landlord with the license numbers of any vehicle of Tenant and Tenant's employees. Should Tenant or Tenant's employees not park in the areas designated by Landlord, Landlord reserves the right to remove those cars of Tenant's and/or Tenant's employees at Tenant's expense. It shall be the responsibility of Tenant to notify its

employees of designated Parking areas. Nothing herein shall be construed to require that Landlord furnish parking for Tenant or tenant's employees.

C. Landlord may, at its sole discretion and without the consent of Tenant, amend the Plot Plan attached hereto as Exhibit B and construct additional buildings and change, alter, remodel or remove any of the improvements in Shopping Center, or alter, change or add to building, close off, modify the size or change the location of the windows or doors in or about the Premises, Shopping Center or building, alter, remodel or change the storefront of Premises. In addition, Landlord may at any time, temporarily close any common area to make repairs or changes therein, or to effect construction, repairs or changes within the Shopping Center, and may do such other acts in and to the common areas, as in its judgment may be desirable to improve the convenience or safety thereof. Landlord agrees that any changes allowed by this paragraph will not severely impede access to or visibility of Tenant's business. Landlord also may convey portions of the Shopping Center to others for the purpose of constructing thereon other buildings or improvements, including additions thereto and alterations thereof.

10. MAINTENANCE AND REPAIR.

A. Landlord, at its sole cost and expense, shall maintain and keep in reasonable repair the roof, exterior and supporting walls of the Shopping Center. Provided, however, that the cost of any such repairs, as a result of negligence or willful act of Tenant, its customers, licensees, agents or employees, shall be borne by Tenant. Tenant, at its sole cost and expense, shall promptly repair, and at all times maintain in good condition, the storefront, signage, and interior of said Premises, including store fixtures, store equipment, electrical fixtures and equipment, electrical installation, plumbing equipment and fixtures, machinery, hardware, interior painting or decorations, doors, door hardware, window or plate glass, and heating, ventilating, and air conditioning equipment. Tenant, at its sole cost and expense, agrees to employ during the term of this Lease a suitable contractor approved by Landlord to perform Tenant's obligations for maintenance of the heating, cooling and ventilating units of the Premises, including at least semiannual inspections and cleaning of the system together with such servicing as each such inspection discloses or as shall be reasonable required by Landlord.

B. Landlord shall not be liable for any damages resulting from its failure to make repairs, unless such failure continues beyond a reasonable time after receipt of written notice of the necessity of such repairs. Tenant exonerates Landlord from any liability for damage Tenant may suffer as a result of bursting or leaking pipes or leaking roofs.

C. If any repairs, required to be made by Tenant hereunder, are not made immediately and completed within ten (10) days, or in case of emergency, if said repairs are not made immediately, Landlord, without limiting any other right or remedy, may at its option make such repairs, without liability to Tenant for any loss or damage which may result to its stock or business by reason of such repairs; and Tenant shall pay to Landlord, upon demand, the cost of such repairs.

D. Tenant will surrender the Premises, at the expiration or earlier terminations of this Lease, in "broom clean" condition and as good condition as when initially completed, except only ordinary wear and tear, and except as the contrary is provided in this Lease. All replacement and modifications

shall become the property of the Landlord at the end of the Lease Term, subject to the other provisions of this Lease. Landlord shall have the right to require Tenant, or charge Tenant, to restore the Premises to its original condition, including repairing structural changes.

E. Tenant shall keep the Premises clean, orderly, sanitary, and free from objectionable odors and from termites, insects, vermin, and other pests. Live animals of any kind may not be kept upon or about the Premises except for the business purposes of Tenant, for which Landlord shall have given express written permission. Any program of extermination, and the company or person performing the same, shall be subject to Landlord's approval.

F. Tenant shall perform all loading and unloading of goods only at such times, in the areas, and through such entrances as may be designated for such purposes by Landlord. Trailers and/or trucks servicing the Premises shall follow such routes in the Shopping Center, as are designated by Landlord, and shall remain parked in designated areas of the Shopping Center, as required by Landlord.

G. Tenant shall comply with the Rules and Regulations of Landlord as set forth in Exhibit E and as amended by Landlord from time to time.

H. All trade fixtures in Premises supplied by Tenant shall remain the property of Tenant and Tenant shall have the right to remove same from Premises during the Term or within five (5) days next following the date of termination of this Lease (except those permanently attached, including lighting, carpet), provided Tenant is not in default of any of the terms of this Lease, further that Tenant, at its sole cost and expense, shall repair or reimburse Landlord for the cost of repairing any and all damage to the Premises, resulting from the removal of such trade fixtures. Anything left after five (5) days shall become property of Landlord, at Landlord's option.

11. OPERATING EXPENSE CHARGE.

In addition to and separate from the Minimum Rent, Percentage Rent, and any other charges, the Tenant shall pay to the landlord as additional rent, Tenant's pro rata share (as herein set forth) of the Operating Expense Charge. Further, that amount in Paragraph 1 consisting in the aggregate of all Common Area Maintenance costs and Taxes shall be adjusted annually at the end of the Landlord's fiscal year as provided for below. For purposes of this Lease, the following will describe and define the Operating Expense Charge:

A. Common Area Maintenance - The Landlord will operate and maintain or will cause to be operated and maintained, the Common Area. Landlord's operating costs shall mean all costs and expenses of operating and maintaining the common facilities in a manner deemed by Landlord to be reasonable and appropriate for the best interest of the Shopping Center. Also, Landlord's operating costs shall include costs for any services, furnished by Landlord for the non-exclusive use of all Tenants, all salaries, all insurance costs, structural repairs and replacements for common areas, maintenance and repair of any electrical lines, water lines, sewer lines and pump station, and any other charges deemed appropriate by the Landlord for the maintenance and operation of the common areas that will be in the best interest of both Landlord and Tenant, plus administrative costs equal to 15% of the total cost of operating and maintaining the common facilities.

B. Taxes. The word Taxes, as used herein, shall mean all taxes, assessments, impositions, levies, charges, excises, fees, licenses, and other sums levied, assessed, charged, or imposed by any governmental authority or other taxing authority, or which accrue on the Shopping Center for each of the Landlord's fiscal years (or portion thereof) during the term of this Lease, including, without limitation, all costs and expenses incurred by the Landlord in contesting or seeking to reduce the amount of the taxes, all penalties, interest and other charges.

C. Pro Rata Share. The Tenant will initially pay the amounts as shown in Paragraph 1. At the end of each of Landlord's fiscal years, the Landlord will give Tenant notice of the total amount(s) paid by Tenant for the relevant fiscal year together with the actual amount of Tenant's pro rata share of the Operating Expenses Charge for each fiscal year. If Tenant's share exceeds the aggregate amount previously paid by Tenant for such period, then Tenant shall pay to the Landlord the deficiency within ten (10) days following notice from the Landlord; any overpayment will be refunded to the Tenant within ten (10) days. The Landlord may adjust the amounts shown in Paragraph 1 at the beginning of Landlord's fiscal year based on budgeted expenses and the Tenant's estimated pro rata share for such fiscal year.

~~D. Marketing Fund. Landlord will establish a Marketing Fund for the Shopping Center to conduct sales promotions, center-wide advertising and related activities intended to promote the Shopping Center. Tenant agrees to pay that amount in Paragraph 1 to the Marketing Fund and this charge will be increased as shown in Paragraph 1 each lease year. Tenant also agrees to pay Landlord a non-recurring initial contribution, within ten (10) days of demand thereof, that amount as specified in Paragraph 1, regardless of whether Tenant opens on the grand opening date of the Shopping Center or on a subsequent date. All monies received by Landlord under Paragraph 1 shall be used solely for the purpose of advertising, promotions, and related expenses. The Landlord hereby agrees to pay 25% of that amount paid by Tenant to the Marketing Fund in any lease year and Landlord agrees to provide management personnel to direct all advertising and promotions, sufficient secretarial services, utilities, supplies, telephone and all equipment necessary for the efficient operation of the Marketing Fund, however, said costs are considered administrative expenses and therefore will be deducted from Landlord's contribution. All personnel and all advertising and promotion expenditures and decisions shall be under the exclusive control of the Landlord.~~

12. INSURANCE.

A. At all times after the execution of this Lease, Tenant will carry and maintain, at its expense, a non-deductible:

(i) public liability insurance policy, including, but not limited to, insurance against assumed or contractual liability under this Lease, with respect to the Premises, to afford protection with limits on a combined single limit basis of not less than \$1,000,000 with respect to personal injury, death, and/or property damage;

(ii) all-risks property and casualty insurance, written at replacement cost value and with replacement cost endorsement, covering all of Tenant's personal property in the Premises (including, without limitation, inventory, trade fixtures, floor coverings, furniture and other property removable by Tenant under the provisions of this Lease) and all leasehold improvements installed in the Premises by or on behalf of Tenant;

and:

(iii) if and to the extent required by law workmen's compensation or similar insurance in form and amounts required by law.

B. Tenant shall require any contractor per work on the Premises to carry and maintain, at no expense to Landlord, a non-deductible comprehensive general liability insurance, including, but not limited to, contractor's liability coverage, contractual liability coverage, completed operations coverage, broad form property damage endorsement and contractor's protective liability coverage, of not less than Three Million Dollars (\$3,000,000) with respect to personal injury or death, and One Million Dollars (\$1,000,000) with respect to property damage; and workmen's compensation or similar insurance in form and amounts as required by law.

C. Tenant agrees to give Landlord prompt notice of any accidents or occurrences subject to coverage by its insurance, or the Landlord's insurance. Tenant agrees to be responsible for property damage or liability arising out of its operation, whether covered by its insurance or not.

D. Tenant agrees not to do anything that will void the Landlord's insurance or cause the premiums to increase. In the event that the Landlord's insurance premiums are increased as a result of the Tenant's occupancy, then the Tenant agrees to pay, in full, that increase in premium caused by its occupancy.

E. Tenant agrees to carry such other forms and types of insurance, as may be required by the Landlord. Tenant further agrees to provide evidence of all insurance required under this paragraph, in such form or forms as may be required by the Landlord. Tenant agrees to have its insurance policies endorsed to provide thirty (30) days advance notice of cancellation or material change be provided to the Landlord prior to termination of its coverage.

F. The company or companies writing any insurance which Tenant is required to carry and maintain or cause to be carried or maintained pursuant to this Paragraph as well as the form of such insurance shall at all times be subject to Landlord's approval and any such company or companies shall be licensed to do business in the State in which the Premises are located. Public liability and all-risks property and casualty insurance policies evidencing such insurance shall name Landlord or its designee as additional insured and shall also contain a provision by which the insurer agrees that such policy shall not be canceled except after thirty (30) days written notice to Landlord or its designee. Tenant shall deposit each such policy, or a certificate thereof, with Landlord promptly upon commencement of Tenant's obligation to procure the same. If Tenant shall fail to perform any of its obligations under this paragraph, Landlord may perform the same and the cost of same shall be deemed Additional Rent and shall be payable upon Landlord's demand.

13. LANDLORD'S RELEASE FROM DAMAGE.

A. Tenant covenants and agrees not to hold Landlord responsible or liable for any damages sustained by Tenant or any other person, due to the interruption or lack of utilities or utility services to the building or any part thereof or any appurtenances thereof becoming out of repair, or due to the happening of any accident or damage, especially, but not exclusively, for any damage caused by water, snow, windstorm, tornado, gas, steam, electric wiring, sprinkler system,

plumbing, or heating apparatus. Tenant agrees not to hold Landlord liable for any acts or omissions of co-tenants or other occupants of the building, or for losses by theft.

B. Tenant agrees not to overload the floor slab, electric wiring, or utilities serving the Premises and to install at its own expense, but only after obtaining Landlord's written approval, any electric wiring which may be required in connection with Tenant's apparatus.

C. Tenant agrees that in any event, Landlord's maximum possible liability to Tenant shall be limited to Landlord's interest in the Shopping Center.

14. SIGNS, ADVERTISING, EXTERNAL APPEARANCE. As provided for in Exhibit D, Tenant shall, at its own cost and expense, provide a suitable identification sign to be installed not later than 30 days after the Commencement Date; such sign shall be constructed in accordance with approved sign criteria as shown on Exhibit F. Other than such permitted signs, Tenant shall not place, install, or maintain any sign, banner, flag, aerial, antenna, or other display outside the Premises unless consented to by Landlord; nor shall Tenant place or maintain on the glass of any window or door of the Premises, or within one (1) foot of any such glass, any sign, decoration, lettering, advertising matter, shade, blind, or other thing. All signs used by Tenant shall be printed; no handwritten signs are allowed.

15. FIRE DAMAGE. If the Premises shall be damaged by fire, the elements, unavoidable accident, or other casualty and the cost of repairing such damage shall not equal sixty percent (60%) of the fair replacement value of the Premises, Landlord shall cause such damage to be repaired with due diligence and this Lease shall continue. If, however, in the event of damage from any such cause the cost of restoring the Premises to its condition immediately proper to such damage shall equal or exceed sixty percent (60%) of its fair replacement value or if the Premises are damaged by any casualty not insured against by Landlord, Landlord shall have the right to terminate this Lease by giving Tenant written notice of its election to do so within sixty (60) days after the date on which the damage occurs. Except in the event of termination of this Lease, as aforesaid, the minimum rent shall be abated to the extent of the fair rental value of such portion, if any, of the Premises as shall be rendered unfit for occupancy for the usual conduct of Tenant's business in consequence of the damage aforesaid for the period of such unfitness for occupancy, and for each lease year during which a reduction in Minimum Rent thereby results, the amount at which payment of Percentage Rent shall begin shall be reduced in the same proportion that the Minimum Rent for that year is reduced. In no event shall Landlord be liable for replacement or repair of trade fixtures, floor coverings, furniture, equipment, or anything owned by Tenant.

16. BANKRUPTCY. If Landlord shall not be permitted to terminate this Lease as hereinabove provided because of the provisions of Title 11 of the United States Code relating to Bankruptcy, as amended (the "Bankruptcy Code") or other such laws or regulations as may then be applicable, then Tenant as a debtor in possession or any trustee for Tenant agrees promptly, within no more than fifteen (15) days following request by Landlord to the Bankruptcy Court, to

assume or reject this Lease and Tenant on behalf of itself, and any trustee agrees not to seek or request any extension or adjournment of any application to assume or reject this Lease by Landlord with such Bankruptcy Court. In such event, Tenant or any trustee for Tenant may only assume this Lease if it (a) cures or provides adequate assurance that the Trustees will promptly cure any default hereunder; (b) compensates or provides adequate assurance that Tenant will promptly compensate Landlord for any actual pecuniary loss to Landlord resulting from Tenant's defaults; and (c) provides adequate assurance of performance during the fully stated term hereof of all of the terms, covenants, and provisions of this Lease to be performed by Tenant. In no event after the assumption of this Lease shall any then-existing default remain uncured for a period in excess of the earlier of ten (10) days or the time period set forth herein. Adequate assurance of performance of this Lease as set forth hereinabove shall include, without limitation, adequate assurance (i) of the source of rent reserved hereunder; (ii) that any Percentage Rent due hereunder will not decline from the levels anticipated; and (iii) that the assumption of this Lease will not breach any provision hereunder. In the event of a filing of a petition under the Bankruptcy Code, Landlord shall have no obligation to provide Tenant with any services or utilities as herein required unless Tenant shall have paid and be current in all payments of operating Costs, utilities or other charges therefor.

17. INDEMNIFICATION. Tenant hereby agrees to indemnify and hold Landlord harmless from any and all claims, damages, liabilities or expenses arising out of (a) Tenant's use of the Premises or the Shopping Center; (b) any and all claims arising from any breach or default in the performance of any obligation of Tenant; and (c) any act, omission or negligence of Tenant, its agents, contractors, licensees, invitees or employees. Tenant further releases Landlord from liability for any damages sustained by Tenant or any other person claiming by, through or under Tenant due to the Premises, the Shopping Center, or any part thereof or any appurtenances thereto becoming out of repair, or due to the happening of any accident, including but not limited to any damage caused by water, snow, windstorm, tornado, gas, steam, electrical wiring, sprinkler system, plumbing, heating and air conditioning apparatus and from any acts or omissions of co-tenants or other occupants of the Shopping Center. To the maximum extent permitted by law, Tenant agrees to use and occupy the Premises and to use such other portions of the Shopping Center as Tenant is herein given the right to use, at Tenant's own risk.

18. ABANDONMENT PRIOR TO THE COMMENCEMENT DATE. Tenant shall not abandon the Premises at any time after the execution of this Lease and throughout the term of this Lease. Prior to the Commencement Date, the Premises shall be deemed abandoned by Tenant and the Lease shall terminate if:

- (1) Landlord gives written notice of its belief of abandonment; and
- (2) Tenant fails within ten (10) days of receipt of Landlord's notice above to give Landlord written notice of his intent not to abandon the Premises and to cure any default of Tenant existing at the time.

19. DEFAULT.

A. Default by Tenant. In the event of (a) any failure of Tenant to pay any rent reserved hereunder within ten (10) days after the same shall be due, without notice or demand therefore, or (b) if Tenant fails to perform any other of the terms, conditions, or covenants contained in this Lease, to be observed or performed by Tenant and such default shall continue for more than ten (10) days, after written notice thereof shall have been mailed to Tenant, or (c) if Tenant shall become bankrupt or insolvent, or file any debtor proceedings, or take or have taken against Tenant, in any court pursuant to any statute either of the United States or of any State, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Tenant's property, or (d) if Tenant makes an assignment for the benefit of creditors, or petitions for or enters into an arrangement, or (e) if, after the Commencement Date, Tenant shall abandon the Premises or suffer the Lease to be taken under any writ of execution, the Landlord, without excluding any other right or remedies that it may have, shall have the immediate right of re-entry and may remove all persons and property from the Premises and such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant, all without resort to legal process and without being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby. If Landlord should elect to re-enter as herein provided, or should it take possession pursuant to legal proceedings, it may either terminate this Lease or it may from time to time without terminating this Lease, make such alterations and repairs as may be necessary in order to re-let the Premises, and re-let said Premises for such term, at such rentals, and upon such other terms and conditions, as Landlord may deem advisable. In the event of such re-letting, all rentals received by Landlord shall be applied first to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord; second, to the payment of any cost and expenses of such re-letting, including the expense of alterations and repairs; third, to the payment of rent due and unpaid hereunder, and the residue, if any, shall be held by Landlord and applied in payment of future rent due and unpaid hereunder. If such re-letting shall yield rentals insufficient for any month to pay the rent due by Tenant hereunder, for that month, Tenant shall be liable to Landlord for the deficiency and same shall be paid monthly, or Landlord at its sole discretion, may elect to discount to present value the entire amount of the total projected deficiency, and upon such election by Landlord and notice to Tenant, Tenant shall become liable for such projected deficiency discounted to present value and immediately pay the same to Landlord. No such re-entry or taking possession of Premises by Landlord shall be construed as an election to terminate this Lease, unless a written notice of such intention be given by Landlord to Tenant at the time of such re-entry. Tenant shall be liable for all costs, including attorney fees, incurred by Landlord as a result of Tenant's default.

B. Default by Landlord. If Landlord shall breach any warranty or fail to perform any covenant required to be performed by Landlord under the terms of this Lease and such breach or failure shall continue for a period of thirty (30) days after receipt by Landlord of written notice thereof from Tenant or if Landlord shall fail to pay any sums due to Tenant under this Lease on the date the same shall become due and payable hereunder, and such failure shall continue for a period of thirty (30) days after receipt by Landlord of written notice thereof from Tenant [unless such default is of such a nature that it cannot be cured within said thirty (30) day period, in which

event Landlord shall not be in default hereunder if it shall have commenced to cure said default within said thirty (30) day period and diligently prosecute said cure to completion], then Tenant may, as its sole remedy under this Lease, (a) cure any default or breach of warranty of Landlord hereunder, and perform any covenants which Landlord has failed to perform, and any sums expended by Tenant in curing such default or breach of warranty and performing such covenants shall be paid by Landlord to Tenant immediately upon demand, and shall bear interest at the rate of twelve percent (12%) per annum from the date of demand; (b) bring suit to recover from Landlord all sums due Tenant from Landlord together with interest at the rate of twelve percent (12%) per annum thereon; or (c) declare this Lease to be terminated, in which event Tenant shall have no further liability. Notwithstanding the foregoing, Tenant shall give notice of Landlord's breach of any warranty or Landlord's failure to perform any covenant required to be performed by Landlord under the terms of this Lease to any mortgagee or beneficiary under a mortgage or deed of trust or other security agreement encumbering the Shopping Center ("Mortgagee") at the same time such notice is given to Landlord. Any such Mortgagee shall have the opportunity to cure any default not cured by Landlord on the same terms and conditions allowed to Landlord. Such Mortgagee's right to cure shall commence upon expiration of the period allowed to Landlord to cure such default.

20. ASSIGNMENT AND SUBLETTING.

A. Tenant shall not assign, or in any manner transfer, this Lease or any estate, interest or benefit therein, or sublet said Premises or any part thereof, by anyone other than Tenant, without prior written consent of Landlord. Consent by Landlord to any one assignment, transfer of interest, or subletting, shall be limited to the instance stated, in such written consent, and shall not constitute a release, waiver, or consent to any other assignment, transfer of interest, or subletting. In the event of any assignment or transfer approved by Landlord, Tenant shall remain liable for performance of all the terms and conditions of the Lease, and Tenant shall pay to Landlord, as Additional Rent, the sum of Five Hundred Dollars (\$500.00) to cover Landlord's administrative costs, overhead and counsel fees plus all out-of-pocket expenses, in connection with such assignment or subletting consented to by Landlord and any and all additional costs and expenses incurred hereunder.

B. In the event Tenant is a corporation and subsidiary of another corporation, it may assign this Lease to or merge with, its parent corporation. Any other merger, or any dissolution, consolidation, or other reorganization, or the sale or other transfer (except as the result of death) of more than fifty percent (50%) of its voting stock, shall constitute an assignment of this Lease, for all purposes of this Paragraph, and is prohibited without the written consent of the Landlord.

Landlord agrees not to unreasonably withhold its consent to any assignment, resulting from a merger or consolidation or sale or other transfer of assets having like effect, which is otherwise prohibited; provided that Landlord promptly receives all information reasonable requested by Landlord relating thereto; and provided further that neither the reputation, experience, net worth, nor financial condition of any such assignee, be less than that of Assignor.

21. TRANSFER OF LANDLORD'S INTEREST.

In the event of the sale, assignment or transfer by Landlord of its interest in the Shopping Center or in this Lease (other than a collateral assignment to secure a debt of Landlord) to a successor in interest who expressly assumes the obligation of Landlord hereunder, Landlord shall thereupon be released or discharged from all of its covenants and obligations hereunder, except such obligations as shall have accrued prior to any such sale, assignment or transfer; and Tenant agrees to look solely to such successor in interest of Landlord for performance of such obligations. Tenant shall release Landlord of any obligations relating to any securities given to Landlord by Tenant, upon acknowledgment by such successors, or receipt of such securities. Landlord shall thereby be discharged of any further obligations relating thereto. Landlord's assignment of the Lease, or of any or all of its rights herein, shall in no matter affect Tenant's obligations hereunder. Tenant shall thereafter attorn and look to such assignee, as Landlord, provided Tenant has first received written notice of such assignment of Landlord's interest.

22. ESTOPPEL CERTIFICATE AND SUBORDINATION.

A. Within the ten (10) days after written request therefor by Landlord or any other mortgagee or trustee under a mortgage or deed of trust covering the Premises, or if, upon any sale, assignment, or other transfer of the Premises by Landlord, an estoppel certificate shall be required from Tenant, Tenant shall deliver, in recordable form, a statement to any proposed mortgagee or other transferee, or to Landlord, certifying any facts that are then true with respect to this Lease Agreement, including without limitation (if such be the case), that this Lease Agreement is in full force and effect, the term of the lease that Tenant is in possession, that Tenant has commenced the payment of rent, and that there are no defenses or offsets to the Lease Agreement claimed by Tenant. In the event that Tenant fails to provide such certificate within the ten (10) days after request therefor by Landlord, Tenant shall be deemed to have approved the contents of any such certificate submitted to Tenant by Landlord and Landlord is hereby authorized to so certify.

B. Tenant agrees that this Lease shall, at all times, be subject and subordinate to the lien of any mortgagee (which terms shall include all security instruments) that may be placed on Premises by Landlord, and Tenant agrees, upon demand, without cost, to execute any instrument that may be required to effectuate such subordination.

23. MECHANIC'S LIEN. Tenant shall not allow any Mechanic's Lien to be filed against the Premises or the Shopping Center by reason of any work, labor, services, or materials performed at or furnished to the Premises through or under Tenant. If any such Mechanic's Lien, at any time, is filed, Tenant shall forthwith cause this lien to be discharged. If Tenant shall fail to cause such lien to be discharged within thirty (30) days after being notified of the filing thereof, Tenant shall be in default and Landlord, in addition to all rights provided herein, shall have the right to immediately terminate this lease. Any amounts paid by Landlord, including attorney fees, to discharge the lien shall be additional rent.

24. EMINENT DOMAIN. If the whole of the Premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, then the term of the lease shall cease and terminate as of the date of title vesting in such proceeding and all rentals shall be paid

have no claim against Landlord nor the condemning authority for the value of any unexpired term of this Lease. In the event of a partial taking or condemnation which is not extensive enough to render the Premises unsuitable for the business of the Tenant, then Landlord shall promptly restore the Premises to a condition comparable to its condition at the time of such condemnation less the portion lost in the taking, and this Lease shall continue in full force and effect without any reduction or abatement of rent.

If the whole, or a substantial part as determined by Landlord in its sole discretion, of the common parking areas in the Shopping Center shall be acquired or condemned as aforesaid, then the term of this Lease shall cease and terminate as of the date of title vesting in such proceeding unless Landlord shall take immediate steps to provide other parking facilities substantially equivalent to existing parking. In the event that Landlord shall provide such other parking facilities, then this Lease shall continue in full force and effect without any reduction or abatement of rent.

In the event of any condemnation or taking as aforesaid, whether whole or partial, the Tenant shall not be entitled to any part of the award paid for such condemnation and Landlord is to receive the full amount of such award, the Tenant hereby expressly waiving any right to claim to any part thereof. Although all damages in the event of any condemnation are to belong to the Landlord whether such damages are awarded as compensation for diminution in value of the leasehold or to the fee of the Premises, Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of any and all damage to Tenant's business by reason of the condemnation and for or on account of any cost or loss to which Tenant might be put in removing Tenant's merchandise, furniture, fixtures, leasehold improvements and equipment.

25. HAZARDOUS MATERIALS. Tenant, at its sole cost and expense, shall comply with all laws relating to the storage, use and disposal of hazardous, toxic or radioactive matter or materials identified in North Carolina State Codes and Regulations as amended from time to time (collectively "Hazardous Materials".) In the event Tenant does store, use or dispose of any Hazardous Materials, Tenant shall notify Landlord in writing at least ten (10) days prior to their first appearance on the demised premises, and shall deliver to Landlord all copies of permits for such use. Such permits shall be kept current, and delivered each time to Landlord when updated. Tenant's failure to do so shall constitute a default under this Lease. Landlord may, at any time or from time to time, require Tenant to conduct monitoring activities with respect to Hazardous Materials on the demised premises, at Tenant's sole cost and expense. Any program related to the monitoring of Hazardous Materials on the demised premises shall be satisfactory to Landlord in Landlord's sole discretion. Tenant shall be solely responsible for and shall defend, indemnify and hold Landlord and Landlord's agents and employees free and harmless from and against all claims, costs and liabilities, including attorneys' fees and costs, arising out of or connected with its storage, use or disposal of Hazardous Materials on the demised premises. Tenant shall further be solely responsible for and shall defend, indemnify and hold Landlord, Landlord's agents and employees and the demised premises, free and harmless from and against all claims, costs and liabilities, including attorney's fees and costs, arising out of or connected with the removal, clean-up, and/or restoration work and materials necessary to return the demised premises and any

Tenant must have a ^{professional} service contract that requires Tenant's grease to be treated, prior to any disposal into Shopping Center's sewer lines, so that grease remains liquefied. This contract must be to satisfaction of Landlord, and Landlord should have a copy of such contract.

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other property of whatever nature to their condition existing prior to the appearance of the Hazardous Materials on the demised premises. Tenant's obligations hereunder shall survive the termination of this Lease. All necessary insurance associated with the use and storage of such Hazardous Materials shall be obtained by the Tenant and shall be at his sole expense. Any violations in this paragraph, or Tenant's violation of any governing authority regulations can result in immediate termination of this Lease by Landlord. Tenant agrees that the terms, conditions, and indemnities contained in this Paragraph 25 shall extend to any Mortgagee, and any Mortgagee is entitled to the benefits of the indemnity contained in this Paragraph 25.

26. RELOCATION OF PREMISES. Landlord shall have the right at any time after 60 (sixty) days written notice (the "Notice of Relocation") to relocate Tenant to other premises in the Building (the "Relocated Premises") which term shall mean the Premises after the relocation and the following terms and conditions shall be applicable:

A. The Relocated Premises shall the same as, or greater rentable area than, the Premises.

B. Landlord shall provide at its expense leasehold improvements in the Relocated Premises equal or greater to the standards of the leasehold improvements in the Premises that have been completed for which Landlord is obliged in this Lease to provide in the Premises.

C. Landlord shall pay for the reasonable moving costs (if any) of moving Tenant's trade fixtures and furnishings from the Premises to the Relocated Premises.

D. Minimum Annual Rent for the Relocated Premises shall be no greater than the Rent prior to this relocation.

E. All other items and conditions of the Lease shall apply to the Relocated Premises except those that are inconsistent with the terms and conditions of this subsection.

27. ADDITIONAL PROVISIONS.

A. Utilities and Services: Tenant shall procure for its own account, upon Delivery of Possession, (Paragraph 6B), and shall pay the cost of all utilities consumed or used in or at said Premises. Landlord shall not be liable to Tenant in damages or otherwise for any interruptions, curtailment, or suspensions of utility service.

B. Quiet Enjoyment: Landlord covenants that Tenant, upon paying rent and performing all of its other obligations under this Lease, shall peacefully and quietly have and enjoy the Premises, throughout the Lease Term, or until this Lease is terminated, as herein provided.

C. Remedies Cumulative – Nonwaiver: No remedy herein or otherwise conferred upon or reserved to Landlord or Tenant, shall be considered exclusive of any other remedy, but the same shall be distinct, separate and cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law, or in equity, or by statute; and every power and remedy given by this Lease to Landlord or Tenant may be exercised, from time to time, as often as occasion may arise, or as may be deemed expedient. No delay or omission of Landlord or Tenant to exercise any right or power arising from any default on the part of the other shall impair any such right or power, or shall be construed to be a waiver of any such default or any acquiescence thereto.

D. Right of Entry: Landlord, its agents and representatives, shall have the right to enter the Premises, at all reasonable time, for the purpose of (a) inspection of Premises, (b) inspection and examination of Tenant's records pursuant to the provisions of Paragraph 6 hereof, (c) making repairs, replacements, alterations or additions to Premises or building, (d) exhibiting Premises to prospective tenants during the last ninety (90) days of the Term, and any such entry, herein authorized, shall not be or constituted an eviction or deprivation of any right, conferred hereunder upon Tenant.

E. Short Form Lease: The parties agree that this Lease Agreement shall not be recorded, however, if either party so desires, the parties agree that they shall execute a memorandum, or short form Lease Agreement, in recordable form, specifying the commencement and termination dates of the term hereof and including any such other provisions hereof as either party may desire to incorporate therein. Any cost associated with such recording will be at the Tenant's expense.

F. Nature and Effect of Agreement: This instrument contains the completed agreement of the parties and there are no oral or written conditions, terms, understandings or other agreements pertaining thereto, as to the Premises; and nothing herein shall in any way be construed to impose upon either party hereto, any obligations or restrictions not herein expressly set forth. The laws of the State where the shopping center is located shall govern the validity, interpretation, performance, and enforcement of this Lease Agreement.

G. Delays: Whenever a period of time is provided in this Lease for Landlord or Tenant to do or perform any act or thing, Landlord or Tenant shall not be liable or responsible for any delays due to strikes, lockouts, casualties, acts of God, war, governmental regulation or control or other causes beyond the reasonable control of the Landlord, and the time for performance specified herein shall be executed for the amount of time Landlord is so delayed.

H. Amendment: This Lease Agreement may be amended or changed only by written instrument duly executed by an authorized representative of each party, and any alleged amendment or change which is not so documented shall not be effective as to either party. No act or omission of any employee or agent of Landlord or of Landlord's broker, if any, shall alter, change or modify any of the provisions hereof.

I. Binding Effect of Lease: The covenants, agreements, and obligations herein contained, except as herein otherwise specifically provided, shall extend to, bind and inure to the benefit of the parties hereto, and their respective personal representatives, heirs, successors and assigns. Landlord, at any time and from time to time, may make an assignment of its interest in this Lease and, in the event of such assignment and the assumption by the assignee of the covenants and agreements, to be performed by Landlord herein, Landlord and its successors and assigns (other than the assignee of this Lease) shall be released from any and all liability hereunder.

J. Brokerage: Tenant warrants that it has had no dealings with any broker or agent in connection with this Lease, other than Landlord's broker, if any, and covenants to pay, hold harmless and indemnify Landlord from and against, any and all cost, expense or liability for any compensation, -commissions and charges claimed by any other broker or agent with respect to this Lease or the negotiation thereof.

K. Waiver Of Right Of Recovery: Neither Landlord nor Tenant shall be liable to the other party or to any insurance company (by way of subrogation or otherwise) insuring the other party for loss or damage to any building, structure, or other tangible property or liability for personal injury or losses under workmen's compensation laws and benefits, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees.

L. Attorney's Fees: The nonprevailing party shall pay reasonable attorney's fees incurred by the prevailing party in the enforcement of any of the terms, covenants or provisions hereof.

M. Holding Over: Should Tenant, with Landlord's written consent, hold over at the end of the term, Tenant shall become a tenant at will and any such holding over shall not constitute an extension of this Lease. During such holding over, Tenant shall pay rent and other charges at the highest monthly rate provided for herein. Should Tenant hold over at the end of the term without Landlord's written consent (a) Tenant shall become a tenant at will, (b) such holding over shall not constitute an extension of this Lease; and (c) during such holding over Tenant shall pay rent and other charges at twice the highest monthly rate provided for herein. In either case, all of the other conditions of this lease are in effect.

N. Severability: In the event any provision of this Lease to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and the Lease and its provisions shall be valid and enforceable to the full extent permitted by law.

O. Landlord and Tenant Relationship: Nothing herein contained shall be deemed or construed by the parties hereto, nor by any other party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto. The provisions of this Lease in regard to the payment by Tenant and the acceptance by Landlord of a percentage of Gross Sales of Tenant and others is a reservation for rent for the use of the premises.

P. Notices:

(a) Any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery, by U.S. certified or registered mail, postage prepaid, return receipt requested, addressed to the parties and at the addresses specified in Paragraph 1. Notices and demands shall be deemed to have been given (i) upon the date of the executed return receipt if sent by certified or registered mail, provided that if delivery cannot be made or if any party shall refuse delivery, notices shall be deemed given when mailed, (ii) upon delivery if personally delivered; and (iii) upon posting if posted to the Premises.

(b) GMAC Commercial Mortgage is the holder of a Mortgage affecting the Premises; no notice, request or demand thereafter sent by Tenant to Landlord shall be effective until a copy of the same shall also be sent to such Mortgagee in the manner prescribed herein, and to such address as such Mortgagee shall designate.

Q. Rules and Regulations: Tenant shall observe faithfully and comply strictly with the Rules and Regulations attached hereto as Exhibit E and made a part hereof by this reference, and with all other Rules and Regulations (and amendments and modifications to same) that Landlord may from time to time reasonably adopt for the safety, operation, care and cleanliness of the Shopping Center or the preservation of good order therein. Landlord shall not be liable to Tenant for any violation of the Rules and Regulations, or for the breach of any covenant or condition in any lease, by any other tenant in the Shopping Center.

R. Retail Restriction Limit: Tenant acknowledges that Landlord would not have leased the Premises to Tenant absent Tenant's agreement to pay Percentage Rent and in furtherance thereof to continuously operate in a manner that will maximize Tenant's Gross Sales. Accordingly, during the term of this Lease, Tenant shall not, either directly or indirectly, own, operate or be financially interested in, either by itself or with others, a business like or similar to the business permitted to be conducted hereunder within a radius of three (3) miles of the perimeter of the Shopping Center except for those which Tenant has in operation as of the date hereof, which Tenant has previously informed Landlord and Landlord has approved of in writing. Without limiting Landlord's remedies, in the event Tenant should violate this covenant, Landlord may, at its option, include the gross sales of such other business (as such gross sales are defined herein) in the Gross Sales made from the Premises for the purpose of computing the Percentage Rent due hereunder.

S. Roof and Walls: Landlord shall have the exclusive right to use all or any part of the roof of the Premises for any purpose; to erect other structures over all or any part of the Premises; and to erect in connection with the construction thereof temporary scaffolds and other aids to construction on the exterior of the premises, provided that access to the Premises shall not be denied. Tenant further agrees that Landlord may make any use it desires of the side or rear walls of the Premises, provided that there shall be no encroachment upon the interior of the Premises.

T. Alterations by Tenant: Tenant shall not make any alterations to the Premises (including but not limited to alterations to the exterior, the storefront, signs and/or utility lines or systems within or serving the Premises) nor secure any fixture or apparatus to the Premises without Landlord's prior written approval and Tenant shall promptly remove upon order from Landlord any decoration or alteration made or installed upon the Premises without Landlord's Prior written consent. All alterations, fixtures, betterments and improvements made to or installed upon the Premises shall remain upon the Premises, and shall become Landlord's property upon the expiration or earlier termination of this Lease unless Landlord shall require Tenant to restore the Premises to its original condition.

U. Sidewalks: Tenant agrees that it shall keep sidewalks and areas immediately abutting the Premises free obstructions of all nature, properly swept, and snow and snow and ice removed therefrom.

V. Mortgagee's Approval: If any mortgagee or beneficiary under a deed of trust or security agreement ("Mortgagee") of the Shopping Center requires any modification of the terms and provisions of this Lease as a condition to such financing as Landlord may desire, then Landlord shall have the right to cancel this Lease if Tenant fails or refuses to approve and execute such modification(s) within twenty (20) days after Landlord's request therefor,

provided said request is made at least twenty (20) days prior to delivery of possession. Upon such cancellation by Landlord, this Lease shall be null and void and neither party shall have any liability either for damages or otherwise to the other by reason of such cancellation. In no event, however, shall Tenant be required to agree, and Landlord shall not have any right of cancellation for Tenant's refusal to agree, and to any modification of the provisions of this Lease relating to: (a) the amount of rent or other charges reserved herein; (b) the size of the Premises; (c) the duration and/or Commencement Date of the term; or (d) the reduction of the improvements to be made by Landlord to the Premises prior to delivery of possession.

W. Representations: Tenant acknowledges that neither Landlord nor Landlord's agents, employees or contractors have made any representations or promises with respect to the Premises, the Shopping Center or this Lease except as expressly set forth herein.

X. Joint and Several Liability: If two or more individuals, corporations, partnerships or other business associations (or any combination of two or more thereof) shall sign this Lease as Tenant, the liability of each such individual, corporation, partnership or other business association to pay rent and perform all other obligations hereunder shall be deemed to be joint and several, and all notices, payments and agreements given or made by, with or to any one of such individuals, corporations, partnerships or other business associations shall be deemed to have been given or made by, with or to all of them. In like manner, if Tenant shall be a partnership or other business association, the members of which are, by virtue of statute or federal law, subject to personal liability, the liability of each such member shall be joint and several.

Y. No Discrimination: It is intended that the Shopping Center shall be developed so that all prospective tenants thereof, and all customers, employees, licensees and invitees of all tenants, shall have the opportunity to obtain all the goods, services, accommodations, advantages, facilities and privileges of the Shopping Center without discrimination because of race, creed, color, sex, age, national origin or ancestry. To that end, Tenant shall not discriminate in the conduct and operation of its business in the Premises against any person or group of persons because of the race, creed, color, sex, age, national origin or ancestry of such person or group of persons.

Z. Corporate Tenants - In the event Tenant is a corporation, the persons executing this Lease on behalf of Tenant hereby covenant and warrant that: (a) Tenant is a duly constituted corporation qualified to do business in the state in which the Shopping Center is located; (b) all Tenant's franchise and corporate taxes have been paid to date; (c) all future forms, reports, fees and other documents necessary for Tenant to comply with applicable laws will be filed by Tenant when due; and (d) such persons are duly authorized by the board of directors of such corporation to execute and deliver this Lease on behalf of the corporation.

AA. Other Leases: Tenant acknowledges that Landlord has informed Tenant that Landlord has leased or intends to Lease other portions of the Shopping Center, and that Landlord will be attempting to obtain acceptable financing for construction of the Shopping Center. In the event that a sufficient number of leases or satisfactory financing, in Landlord's sole determination, are not obtained, Landlord may terminate this Lease by serving written notice to Tenant, and neither party shall have any further liability to the other.

BB. Force Majeure: In the event either Landlord or Tenant shall be delayed, hindered or prevented from the performance of any act required hereunder, by reason of war, governmental restrictions, civil commotion, shortage of labor or materials, strikes, fire, or any other reason beyond their control, the performance of such act shall be excused for the period of delay, and the period for performance of any such act shall be extended as necessary to complete performance after the delayed period. However, Tenant's obligation to pay Minimum Rent as set forth and in this paragraph shall not begin until commencement of Tenant's business in the Premises.

IN WITNESS WHEREOF, the parties hereto have executed this Lease this day and year first above written.

LANDLORD: AUTO MALL DEVELOPMENT, INC.

BY: [Signature]
_____, President

ATTEST: [Signature], Secretary

[SEAL]



~~TENANT:
BY: _____, President
ATTEST: _____, Secretary~~

[SEAL]

Or if Individual or Partnership

X [Signature]
X [Signature]

Signature and Notary Provisions

Individual:

(signed on p.26) (SEAL)

STATE OF NORTH CAROLINA
COUNTY OF DURHAM Orange

I, Lisa F Drake, a Notary Public of Orange County,
State of North Carolina do hereby certify that Jay Bae personally
appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 15th day of September, 2004.

[Signature]

Notary Public

My Commission Expires: 5-18-07 (2007)



STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____, _____ of Auto Mall Development, Inc. , personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the partnership.

Witness my hand and notarial seal, this _____ day _____, 20____.

Notary Public

[Notarial Seal]

My commission expires: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

~~This _____ day of _____, 20____, personally came before me _____ who, being by me duly sworn, says that (s)he is _____, that the seal affixed to the foregoing instrument is the corporate seal of the Corporation, and said writing was signed and sealed by him/her, on behalf of said Corporation, by its authority duly given. And the said _____ President acknowledged the said writing to be the act and deed of said Corporation.~~

~~_____
Notary Public~~

[Notarial Seal]

~~My commission expires: _____~~

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the partnership.

Witness my hand and notarial seal, this _____ day _____, 20____.

Notary Public

[Notarial Seal]

My commission expires: _____

Exhibit "A"

Property Description

BEING all of that certain 4.42 acre tract, as shown on survey entitled "Title Information Survey, Auto Mall, Triangle Township, Durham County, North Carolina", prepared by Philip Post & Associates, Engineers, Planners and Surveyors, and dated 8/21/97, said property being more completely and accurately described as follows:

BEGINNING at an existing right of way monument control corner located in the eastern right of way line of N.C. Highway 55, said control corner being located South $14^{\circ} 14' 51''$ W, 4,281.09 feet from North Carolina Grid System monument "Elton", said North Carolina Grid System Monument "Elton" having grid coordinates of North = 788,017.42 and East = 2,032,094.22, and from said existing right of way monument control corner leaving the eastern right of way line of N.C. Highway 55 N $79^{\circ} 14' 49''$ E, 487.21 feet along the southern property line of the North Carolina Office Company property as shown on Plat Book 107, Page 169 of the Durham County Registry to an iron pipe set in the western right of way line of the Durham and Southern Railroad property; thence along and with the western right of way line of the Durham and Southern Railroad property S $04^{\circ} 02' 54''$ W, 532.20 feet to an iron pipe;

Thence leaving said western right of way line of Durham and Southern Railroad and running with the lines of Outparcel 4, N $85^{\circ} 57' 05''$ W, 174.00 feet to a point; thence S $04^{\circ} 02' 55''$ W, 10.00 feet to a point; thence with a curve to the left having a radius of 219.56 feet, an arc length of 107.78 feet and a chord length of 106.70 feet bearing S $10^{\circ} 00' 54''$ E to a point; thence S $24^{\circ} 04' 42''$ E, 61.37 feet to a point; thence with a curve to the right having a radius of 145.91 feet, an arc length of 31.69 feet and a chord length of 31.63 feet bearing S $17^{\circ} 51' 23''$ E to a point; thence S $69^{\circ} 03' 11''$ E, 13.45 feet to a point; thence with a curve to the right having a radius of 157.41 feet, an arc length of 27.61 feet and a chord length of 27.57 feet bearing S $03^{\circ} 58' 27''$ E to a point on the northern right of way of N.C. Highway 54;

Thence with said northern right of way line of N.C. Highway 54, N $69^{\circ} 03' 11''$ W, 71.88 feet to a point;

Thence leaving said northern right of way line of N.C. Highway 54 and running with the lines of Outparcel 3, N $24^{\circ} 04' 42''$ W, 35.37 feet to a point; thence N $65^{\circ} 55' 18''$ E, 11.20 feet to a point; thence N $24^{\circ} 04' 42''$ W, 42.00 feet to a point; thence with a curve to the right having a radius of 160.94 feet, an arc length of 79.01 feet and a chord length of 78.22 feet bearing N $10^{\circ} 00' 54''$ W to a point; thence N $04^{\circ} 02' 55''$ E 57.90 feet to a point; thence N $85^{\circ} 57' 05''$ W, 78.50 feet to a point, a corner with Outparcel 2;

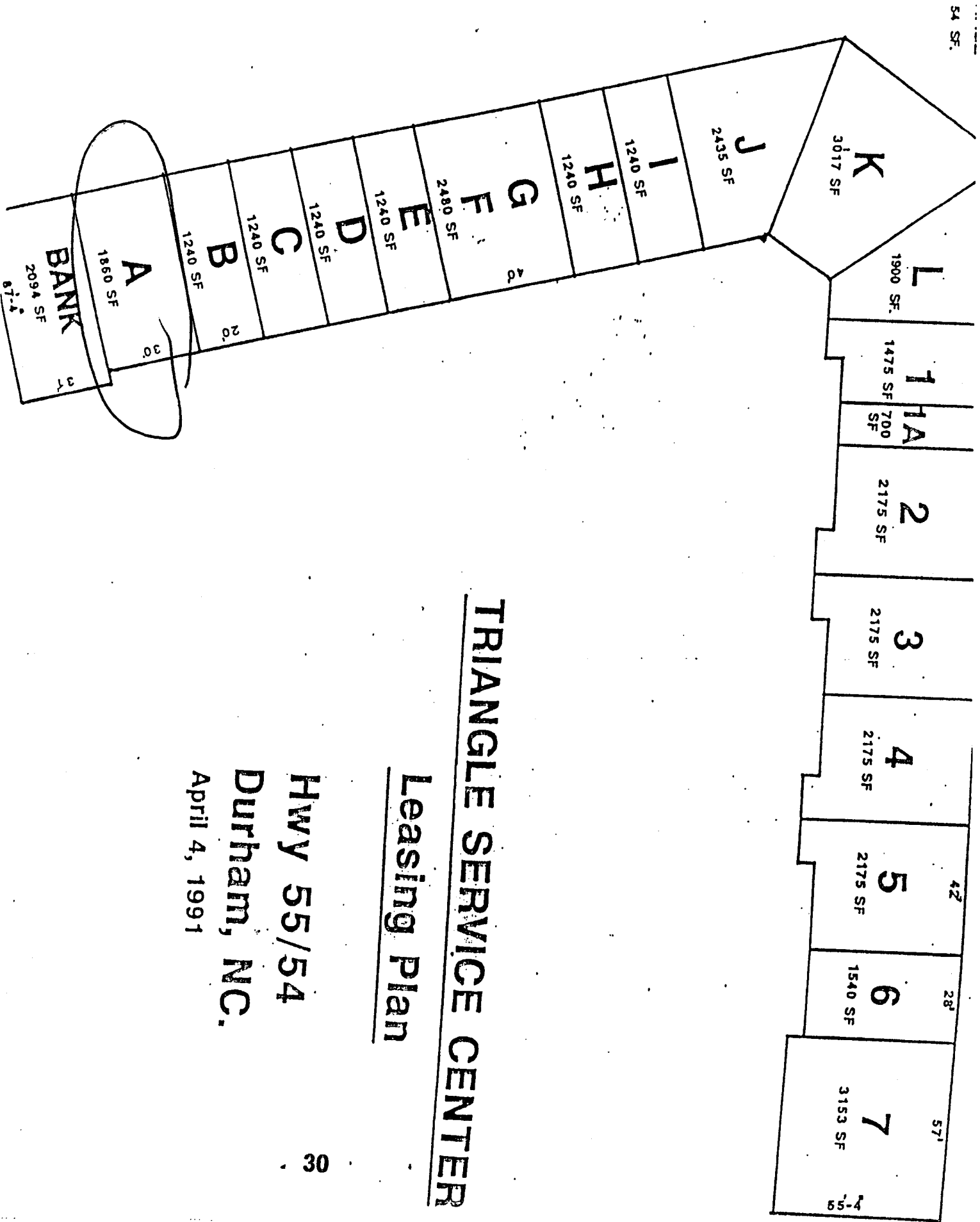
Thence with the lines of Outparcel 2, N $04^{\circ} 02' 55''$ E, 75.63 feet to a point; thence N $85^{\circ} 57' 05''$ W, 196.53 feet to a point; thence S $09^{\circ} 54' 53''$ W, 8.04 feet to a point; thence N $85^{\circ} 57' 05''$ W, 25.13 feet to a point located on the eastern right of way line of N.C. Highway 55;

Thence with the eastern right of way line of N.C. Highway 55, N $09^{\circ} 54' 51''$ E, 47.25 feet to a point;

Thence leaving said eastern right of way line of N.C. Highway 55 and running with the lines of Outparcel 1, S $85^{\circ} 57' 05''$ E, 25.13 feet to a point; thence S $09^{\circ} 54' 53''$ W, 8.04 feet to a point; thence S $85^{\circ} 57' 05''$ E, 193.35 feet to a point; thence N $04^{\circ} 02' 55''$ E, 132.00 feet to a point; thence N $85^{\circ} 57' 05''$ W, 80.48 feet to a point; thence N $55^{\circ} 41' 43''$ W, 55.57 feet to a point; thence N $85^{\circ} 57' 05''$ W, 48.43 feet to a point; thence S $09^{\circ} 54' 53''$ W, 8.04 feet to a point; thence N $85^{\circ} 57' 05''$ W, 25.13 feet to a point on the eastern right of way line of N.C. Highway 55;

Thence with said eastern right of way line of N.C. Highway 55, N $09^{\circ} 54' 51''$ E, 149.98 feet to the point and place of beginning and containing 4.42 acres more or less.

**EXHIBIT B-1
LEASING PLAN**



**TRIANGLE SERVICE CENTER
Leasing Plan**

**Hwy 55/54
Durham, NC.
April 4, 1991**

EXHIBIT D

TENANT'S WORK

1. The Work to be performed by Landlord in satisfying its obligation to construction of Tenant's store on the premises shall be limited to that which is described in Exhibit C. All items of work not set forth in Exhibit C shall be provided by Tenant at Tenant's expense, and are called "Tenant's Construction." Tenant's Construction shall include, but not be limited to, the purchase and/or installation and/or performance of any and all of the following items, including applicable architectural and engineering fees therefor:

- a. All interior partitions and curtain walls within the Premises, except as provided in Exhibit C.
- b. All electrical work except as provided in Exhibit C (provided by Landlord at Tenant's expense).
- c. Light coves and special hung or furred ceilings.
- d. Internal communication systems and alarm systems.
- e. Store fixtures, furnishings and wall and floor coverings.
- f. Plumbing and plumbing fixtures, except as provided in Exhibit C.
- g. Show window display platforms, window backs, etc.
- h. Special heating, cooling, or ventilation that is required due to the specific use of fixturation by the Tenant or due to irregularities of Tenant's partitioning.
- i. Special lighting fixtures.
- j. Tenant's signs, both interior and exterior.
- k. The finish of all walls, except as provided in Exhibit C.
- l. Any sprinkler heads which are required due to irregularities of Tenant's partitioning, ceiling design, store front, wall displays, or Tenant's use.
- m. All work which is designated in the Approved Final Tenant's Construction Plans (whether in the notes, specifications, or drawings) by appropriate language, legend, or notes as being furnished and installed by Tenant or as not included in Landlord's Construction, shall be furnished and installed by Tenant, or furnished by Tenant, as the case may be.
- n. Any systems needed for the control and disposal of any Hazardous Materials as described in Paragraph 25.
- o. Any and all other items required by Tenant.
- p. Tenant must contract and pay Landlord's roofing contractor to perform any roof perforations and to repair and/or restore the roof.

LANDLORD

TENANT

