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U.S. BANKRUPTCY & DISTRICT COURTS
FILED
CLERK

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF IDAHO

In Re: SAWTOOTH ENTERPRISES, INC., dba The Buckin' Bagel, Debtor.	Case No. 96-03050 ACH Chapter 11 **MOTION TO ACCEPT OR REJECT LEASE PURSUANT TO TITLE 11 U.S.C. § 365 AND FOR STAY RELIEF**

COMES NOW the Margaret Mead Trust ("Lessor"), by and through its attorneys of record, Eberle, Berlin, Kading, Turnbow, & McKlveen, Chartered, and respectfully represents:

1. Lessor's predecessor-in-interest entered into an agreement for the lease of retail space to the Debtor on or about February 9, 1995. A copy of the lease agreement is attached hereto as **Exhibit A**.

2. Pursuant to the terms of that lease, Debtor was to pay monthly rental installments in the amount of $2,362.50, as well as additional rent in the form of

15-1
15-2

common area expenses, administrative fees, insurance, property taxes, and overhead. Debtor has failed to make the monthly payments due for October, November and December, 1996. As of December 12, 1996, there was approximately $10,042.94 due to Lessor from Debtor.

3. Debtor filed for relief under the Bankruptcy Code on or about November 27, 1996. Debtor, as Trustee, has not made any lease payments since filing for bankruptcy relief, as required under 11 U.S.C. § 365(d)(3). Debtor's total post-petition default as of December 12, 1996, was approximately $3,602.69.

4. The Debtor as Trustee has not accepted or rejected the lease under Bankruptcy Code § 365 and Debtor is currently in default under the terms of that lease. Lessor has not received any assurance of adequate performance and has not been offered adequate protection for its interests.

5. The premises is not currently being used and requests by the Lessor to access the premises to ensure its security have been denied. Lessor believes immediate access is necessary to secure the premises and mitigate any further damage.

6. If the Trustee does not cure the default and assume the lease, or reject the same immediately and surrender the property, Lessor will suffer irreparable injury, loss, and damage.

WHEREFORE, Lessor prays that, upon hearing of this Motion, Lessor be granted immediate access to the leased premises. Further, that the Trustee be compelled to cure the default and accept the lease or immediately reject the same to allow Lessor

the opportunity to re-lease the property and avoid further injury, loss, and damage. In the alternative, Lessor prays that the stay imposed by 11 U.S.C. § 362 be modified for violation of § 365(d)(3) to allow Lessor to commence eviction proceedings and pursue relief pursuant to the terms of the lease.

DATED this 19th day of December, 1996.

EBERLE, BERLIN, KADING, TURNBOW
& McKLVEEN, CHARTERED

By _____
Derrick J. O'Neill

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of December, 1996, a true and correct copy of the foregoing document was served upon the following by the method and at the addresses indicated, which are the last addresses of said parties known to me:

Sawtooth Enterprises, Inc. dba The Buckin' Bagel Post Office Box 829 Boise, ID 83701	[✓] U. S. Mail [ ] Messenger Delivery [ ] Overnight Delivery [ ] Facsimile
Kelly Greene McConnell, Esq. Moffatt Thomas Barrett Rock & Fields 911 West Idaho, Suite 300 Post Office Box 829 Boise, ID 83701	[✓] U. S. Mail [ ] Messenger Delivery [ ] Overnight Delivery [ ] Facsimile
Office of the U. S. Trustee Post Office Box 110 Boise, ID 83701-0110	[✓] U. S. Mail [ ] Messenger Delivery [ ] Overnight Delivery [ ] Facsimile

Derrick J. O'Neill

RETAIL SPACE LEASE

THIS LEASE AGREEMENT made this 9th day of February, 1995, between SHILO DEVELOPMENT ("Owner"), and SAWTOOTH ENTERPRISES, INC. dba BUCKIN BAGEL ("Tenant");

LEASE OF PREMISES

The Owner hereby leases to the Tenant and the Tenant hereby rents from the Owner, subject to the terms and provisions of this Lease, including the General Provisions hereafter set forth and the Exhibits hereafter identified and attached hereto, those certain premises (hereafter "Premises") shown and described on "Exhibit A" attached hereto and made a part hereof, which Premises are located in that certain building described in Section 1 of the Basic Lease Provisions below. As used in this Lease, reference to the "Retail Building" shall mean the whole of the building structure, parking areas, landscaping and other improvements, together with the underlying land.

BASIC LEASE PROVISIONS

1. Retail Building Name: To be determined
2. Premises Address: P-100 8647 Fairview Ave. Boise, Idaho 83704
3. Use of Premises: A retail Bagel Bakery and the Sale of Related Items
4. Retail Building Gross Leasable Area: 7,500 square feet.
5. Area of Premises: 2,100 square feet.
6. Premises Percentage: 28 %.
7. Base Annual Rent: $ 28,350 ($ 13.50 per sq. ft.) Percentage Rent Rate N/A %.
8. Monthly Rental Installments: $ 2,362.50.
9. Rent Adjustment: As described on Exhibit C.
10. Term: Seven years.
11. Target Commencement Date: July 1, 1995 2/1/96.
12. Option(s) to Renew: One Five (5) Year Option At Fair Market Value.
13. Security Deposit: $ 2,362.50.
14. Tenant's Address for Delivery of Notices:

    Sawtooth Enterprises, Inc. dba Buckin Bagel

    P.O. Box 2759

    Ketchum, Idaho 83340

15. Owner's Address for Payment of Rent and Delivery of Notices:

Shilo Development
P.O. Box 45852
Boise, ID 83711

16. Lease Guarantor(s): Austin Stewart and Lee Pesky for a period of one year from occupancy

17. Exhibits Attached: A,B,[redacted] & F Schedule-1; Schedule 1-A

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IN WITNESS WHEREOF, the parties have executed this Lease, consisting of the foregoing provisions and the General Provisions and Exhibits attached, as of the date first above written.

OWNER:

SHILO DEVELOPMENT

By _____

Authorized Signature

TENANT:

AUSTIN STEWART
FOR: SAWTOOTH ENTERPRISES, INC.
2-9-95

(9/94)

2/13/95
THE OWNERS OBLIGATIONS UNDER THIS LEASE ARE SUBJECT TO OWNER ACQUIRING TITLE TO THE SUBJECT PROPERTY. AES

GENERAL PROVISIONS

I. PREMISES AND COMMON AREAS

1.01. Premises. The Premises subject to this Lease shall be that portion of the Retail Building as shown on Exhibit A extending from the top surface of the subfloor to the bottom surface of the ceiling above, but excluding any common stairways, stairwells, hallways, access ways, pipes, ducts, conduits, wires and appurtenant fixtures serving exclusively or in common with other parts of the Retail Building. The Tenant accepts the Premises "as is" and, except as described on "Exhibit B" attached hereto and made a part hereof, the Owner shall have no responsibility to construct or pay for any tenant improvements in the Premises.

1.02. Common Areas. Subject to reasonable rules from time to time made by the Owner and delivered to the Tenant, the Tenant shall have the right to use in common with the Owner and other tenants the following (hereafter "Common Areas"):

(a) Retail Building Common Area. The common access ways and passage ways and the common pipes, ducts, conduits, wires and appurtenant equipment serving the Premises.

(b) Floor Common Area. If the Premises include less than the entire gross leasable area of a floor, the common lobbies, hallways, lavatories and other common facilities.

(c) Land Common Area. Common walkways, interior and exterior window surfaces, sidewalks and driveways necessary for access to the Retail Building, landscaping and the parking lot appurtenant to the Retail Building.

The Tenant shall neither temporarily or permanently place or store any materials, supplies, equipment or other property in the Common Areas.

1.03. Owner's Reserved Rights in Common Areas. The Owner reserves the right, from time to time, without unreasonable interference with the Tenant's occupancy, to install, use, maintain, repair, replace and relocate pipes, ducts, conduits, wires and appurtenant meters and equipment for service to other parts of the Retail Building above the ceiling, surfaces, below the floor surfaces, within the walls and in the central core areas and to expand the Retail Building.

1.04. Parking. The Tenant shall be entitled to park in common with other tenants of the Retail Building in the parking facilities provided for all tenants of the Retail Building. The Tenant agrees not to overburden the parking facilities and agrees to cooperate with the Owner and other tenants in the use of the parking facilities. The Owner reserves the right, in the Owner's discretion, to determine whether the parking facilities are becoming crowded and, in such event, to allocate parking spaces among the Tenant and other tenants based on the Tenant's and other tenants' Premises Percentages.

II. TERM

2.01. Initial Term. The term of this Lease (hereafter "Initial Term") as shown in the Basic Lease Provisions shall commence on the target commencement date or such later date as the Owner substantially completes the tenant improvements described on Exhibit B (hereafter "Commencement Date"). In the event the Commencement Date is later than the target commitment date, the Commencement Date shall be confirmed in writing by the parties.

2.02. Option to Renew. If an option(s) to renew the term of this Lease is indicated in the Basic Lease Provisions, the Tenant shall have the option(s) to renew the term of this Lease for the renewal period(s) so indicated, each renewal period to commence immediately following the expiration of the current term and to be upon the terms, conditions, covenants and provisions contained in this Lease. The failure of the Tenant to exercise the option for any renewal period in the manner and within the time herein provided shall terminate the rights of the Tenant with respect to that renewal period and all subsequent renewal periods, if any. The Tenant's right to exercise an option to renew the term of this Lease shall be subject to the following conditions:

(a) This Lease shall be in force and effect at the time the notice of the Tenant's election to renew the term is delivered to the Owner and on the last day of the then current term.

(b) The Tenant shall not be in default under any provision of this Lease at the time the Tenant delivers to the Owner a notice of the Tenant's election to renew the term or on the last day of the then current term.

(c) The Tenant shall deliver to the Owner a written notice irrevocably exercising the option to renew the term at least ninety (90) days before the last day of the then current term.

III. RENT

3.01. Security Deposit. The security deposit paid by the Tenant to the Owner shall be held by the Owner as security for the faithful performance by the Tenant of the terms and conditions of this Lease. In the event of the Tenant's default hereunder including, but not limited to, the obligation to pay rent, the Owner may, but shall not be required to, use or retain all or any portion of the security deposit for the payment of rent or any other sum in default or for the payment of any amount which the Owner may spend by reason of the Tenant's default, or to compensate the Owner for other loss or damage suffered by the Owner by reason of the Tenant's default. If any portion of the security deposit is so used or applied, the Tenant shall within ten (10) days after written demand therefor deposit cash with the Owner in an amount sufficient to restore the security deposit to its original amount. The Owner shall not be required to maintain the security deposit separate from the Owner's general funds and the Tenant shall not be entitled to interest on such deposit. If the Tenant fully performs the obligations under this Lease, the security deposit (or balance thereof) shall be returned to the Tenant within thirty (30) days after the Tenant vacates the Premises following the expiration of this Lease, less any sums required to reimburse the Owner

for sums expended to place the Premises in the condition required under Article XVIII, below. In the event the Owner sells the Retail Building, the Owner shall transfer the security deposit to the Owner's successor in interest and the Owner shall thereupon be released by the Tenant from all liability for the return of the security deposit and the Tenant agrees to look solely to the successor to the Owner for the return thereof.

3.02. Rent. The Tenant shall pay to the Owner, without deduction or off-set, the annual rent (hereafter "Base Rent") for the Premises specified in the Basic Lease Provisions, in equal monthly installments on the first (1st) day of each calendar month, in advance. Base Rent for any period less than a full calendar month shall be pro-rated on a per diem basis. The Base Rent shall be escalated as provided in "Exhibit C" attached hereto and made a part hereof. ~~In addition, if so specified on "Exhibit B" attached hereto and made a part hereof, the Tenant shall pay to the Owner the Percentage Rent specified in the Basic Lease Provisions.~~ All Base Rent and other amounts payable by the Tenant to the Owner under this Lease shall be in lawful money of the United States of America. All amounts which, pursuant to this Lease, are to be paid by the Tenant to or on behalf of the Owner, in addition to the Base Rent ~~(and the Percentage Rent, if any)~~ shall be considered "additional rent" for all purposes under this Lease and included in the reference to "rent".

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3.03. Additional Rent - Common Area Expenses. The Tenant agrees to pay to the Owner, as additional rent, common area expenses (hereafter "Common Area Expenses") in accordance with the following:

(a) The Owner shall keep or cause to be kept the Common Areas in a neat, clean, orderly and safe condition, properly lighted and landscaped, and shall repair any damages to the facilities thereof, but all expenses in connection with said Common Areas shall be charged and prorated in the manner hereafter set forth. It is understood and agreed that the phrase "expenses in connection with said Common Areas" as used herein shall be construed to include, but not be limited to, all sums expended for and in connection with real and personal property taxes (not included in the reimbursement under Section 6.01, below) and the Owner's expenses in contesting any such taxes by appropriate legal proceedings; water and sewer charges; insurance premiums; electricity, gas and other utility services used for the Common Areas; lighting; janitorial, maintenance and repair with respect to the exterior of the Retail Building, including signage not installed by a tenant; trash removal; general maintenance, repair and replacement of the components, facilities and improvements in the Common Areas; security services for the Retail Building and the Common Areas; landscaping maintenance and replacement; parking lot maintenance, upkeep, repair, seal-coating, resurfacing, policing, sweeping and cleaning, painting, restriping, snow removal and ice treatment; Owners Association assessments; alterations required by applicable law or codes or to protect the health and safety of the tenants and other persons using the Common Areas; and an administrative and overhead charge equal to six percent (6.0%) of the Basic Annual Rent, including rent adjustments as described on

Exhibit C and a fee for administering the "Common Area Expenses" of fifteen percent (15%) of the above referenced expenses..

Should the Owner acquire or make available additional land not defined or shown as part of the Retail Building on Exhibit A and make the same available for parking or other Common Area purposes, then said expenses in connection with said Common Areas shall also include all of the aforementioned expenses incurred and paid in connection with said additional land.

(c) The Tenant's pro rata share of the total Common Area Expenses for the Retail Building shall be determined by multiplying the total of the Common Area Expenses by the Tenant's Premises Percentage set forth in the Basic Lease Provisions, provided that any expenses relating to Common Areas which are used solely by one (1) or more but less than all of the tenants of the Retail Building may be allocated by the Owner only to the tenant(s) who uses the same.
All amounts payable by the Tenant under this Article as Common Area Expenses may be estimated and shall be paid in equal monthly installments in advance at the same time and place as provided herein for the payment of the Base Rent. Such payment shall initially be equal to one-twelfth (1/12th) of the total of the Owner's reasonable estimate of the Common Area Expenses for a calendar year based on the total of the Common Area Expenses for the previous twelve (12) month period, adjusted to reflect the Owner's reasonable estimate of anticipated increases or decreases in the Common Area Expenses. Within one hundred twenty (120) days of the end of each calendar year, the Owner shall determine the actual amount of the Common Area Expenses for the immediately preceding year and furnish the Tenant with a copy of such computation, including a computation of the Tenant's proportionate share. If the amount paid by the Tenant for that year exceeds the Tenant's proportionate share, the Tenant shall be given a credit towards the next Common Area Expenses payment(s) due from the Tenant or a refund, if the term of the Lease has expired. If the amount paid by the Tenant for that year is less than the Tenant's proportionate share of the Common Area Expenses, the Tenant shall pay to the Owner the deficit within thirty (30) days of receipt of any computation. Appropriate adjustment shall be made for any period of less than one (1) full year.

(d) The Tenant shall have a non-exclusive right during the term of this Lease to use the Common Areas for itself, its employees, agents, customers, invitees and licensees. However, all Common Areas shall be subject to the exclusive control and management of the Owner and the Owner shall have the right to establish, modify, amend and enforce reasonable rules and regulations with respect to the Common Areas. The Tenant agrees to abide by and

conform with such rules and regulations, to cause its concessionaires and its and their employees and agents so to abide and conform and to use its best efforts to cause its customers, invitees and licensees to so abide and conform. It shall be the duty of the Tenant to keep all of the Common Areas free and clear of any obstructions created or permitted by the Tenant or resulting from the Tenant's operation and in no event shall the Tenant have the right to store any item or sell or solicit in any manner in any of the Common Areas without the prior written consent of the Owner.

(e) The Owner shall have the right to close, if necessary, all or any portion of the Common Areas to such extent as may in the opinion of the Owner's counsel be legally necessary to prevent a dedication thereof or the accrual of any rights of any person or of the public therein; to close temporarily all or any portion of the Common Areas to discourage non-customer use; to use portions of the Common Areas while engaged in making additional improvements or repairs or alterations to the Retail Building and to do and perform such other acts in, to and with respect to the Common Areas as in the use of good business judgment the Owner shall determine to be appropriate for the Retail Building.

(f) The Owner shall have the right to increase or reduce the Common Areas, to rearrange the parking spaces and improvements on the Common Areas and to make such changes therein and thereto from time-to-time which in its opinion are deemed to be desirable and for the best interests of all persons using said Common Area, provided that such shall not permanently substantially reduce the on-site parking available adjacent to the Premises.

(g) Failure of the Tenant to pay the Tenant's Premises Percentage of the Common Area Expenses within the time provided in this Lease shall constitute a default under the terms hereof in like manner as failure to pay Base Rent when due.

3.04. Place of Payment. Until otherwise directed by the Owner in writing, the Tenant shall deliver all notices and pay all Base Rent and other amounts due under this Lease to the Owner at the address for the Owner set forth in the Basic Lease Provisions.

3.05. Late Charges. The Tenant acknowledges that the late payment of rent to the Owner will cause the Owner to incur costs not contemplated by this Lease, the exact amount of which the Owner is not capable of determining. Accordingly, if any monthly installment of the rent shall not be received by the Owner within fifteen (15) days after its due date, the Tenant shall pay to the Owner a late charge equal to ten percent (10%) of such overdue rent. Further, and in addition to any late charges, any sums (including rent) payable by the Tenant to the Owner under the terms of this Lease which shall be past due for a period of thirty (30) or more days, shall bear interest from the due date at the rate of eighteen percent (18%) per annum.

Acceptance of a late charge by the Owner or interest on overdue amounts shall not constitute a waiver of the Tenant's default with respect to such overdue amount nor prevent the Owner from exercising any other rights or remedies granted hereunder. No payment by the Tenant of an amount less than that then due shall be deemed or construed other than a part payment on account of the most recent rent due nor shall any endorsement or statement on any check or letter accompanying any payment be deemed to create an accord and satisfaction.

IV. USE OF PREMISES

4.01. Use. During the full term of this Lease the Tenant shall continuously and uninterruptedly from and after its initial opening for business, and during time and times as other retail tenants in the Retail Building are open for business, use the Premises only for the retail business specified in No. 2 of the Basic Lease Provisions and for no other uses except only those reasonably related and necessary thereto. Any different use by the Tenant shall first require the prior written consent of the Owner, which consent shall be within the sole and exclusive discretion of the Owner. [redacted] At all times the Tenant shall operate and manage the business with adequate personnel and shall employ the Tenant's best judgment, efforts and ability to the end that the gross sales shall be maximized, it being understood that the Owner's right to be paid Percentage Rent is a material consideration for this Lease. The Tenant's use of the Premises shall be in full compliance with all statutes, ordinances, laws, rules, regulations and restrictive covenants applicable to the Premises and in a manner which shall not result in a nuisance to or unnecessary disturbance of other tenants of Retail Building. In its use of the Premises, the Tenant shall not use, store or dispose of any substance which is classified or defined as "hazardous" or "toxic" under any federal, state or local law, statute, ordinance or regulation and agrees to fully indemnify the Owner from any loss, liability, claim, suit, cost or expense, of whatever kind, resulting from the Tenant's breach of this covenant, which indemnification obligation shall survive the expiration or earlier termination of this Lease. The Tenant shall comply with all rules and relations of the National Fire Protection Association, the applicable Fire Rating Bureau and any similar body. The Tenant shall not maintain any item or do anything in or about the Premises which would cause the increase of insurance rates or make such insurance unobtainable. If the Tenant installs on the Premises any electrical equipment which causes an overload on the electrical service to the Premises, the Tenant shall pay for all necessary changes to comply with the requirements of insurers, the providing utility company and any governmental authorities having jurisdiction thereof. The Tenant shall not use the Premises in any manner which would constitute waste.

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4.02. Waste - Nuisance. The Tenant shall not use the Premises in any manner that will constitute waste, nuisance or unreasonable annoyance to occupants of other portions of the Retail Building including, without limitation, the use of loud speakers or sound or light apparatus that can be heard or seen outside the Premises.

4.03. Electrical Requirements. If the Tenant installs upon the Premises any electrical equipment which causes an overload on the electrical service to the Premises of the Retail Building the Tenant shall, at the Tenant's own cost and expense, make

whatever changes necessary to comply with the requirements of insurers, the utility company supplying said electrical service and any governmental authorities have jurisdiction thereof, but nothing herein contained shall be deemed to constitute the Owner's consent to such overload.

4.04. Disposal of Refuse. The Tenant shall not dump, dispose, reduce or incinerate or cause other burning of any trash, papers, refuse or garbage of any kind in or about the Premises. The Tenant shall store all trash and garbage within the Premises or in an area designated as appropriate therefor by the Owner in covered metal containers.

4.05. Signage. All exterior signage installed by the Tenant shall be located, designed and installed in accordance with the provisions of "Schedule 1" attached hereto and made a part hereof.

4.06. Employee Parking. If the Owner elects to establish employee parking areas within the Common Areas, the Tenant and its employees will park their vehicles only in the areas so designated by the Owner from time-to-time for that purpose. If the Tenant or its employees fail to park their vehicles in designated parking areas, then the Owner may either (i) charge the Tenant Twenty and No/100ths Dollars ($20.00) per day for each day, or partial day, per car parked in areas other than those designated, as and for liquidated damages, or (ii) tow such vehicles from the Common Area at the Tenant's and/or employee's expense. If the Owner does not establish employee parking areas, the Tenant shall nevertheless require its employees to park in those areas which shall minimize the interference with the use of the parking most convenient to the Retail Building by customers and patrons of the businesses located therein.

4.07. Suitability. The Tenant acknowledges that the Owner (including any agent of the Owner) has not made any representation or warranty with respect to the Premises or concerning their suitability for the uses intended by the Tenant. The Tenant agrees that the Owner has not agreed to undertake any modification, alteration or improvement of the Premises except as provided on Exhibit B. The taking of possession of the Premises by the Tenant shall conclusively establish that the same were at that time in a satisfactory condition unless within thirty (30) days after the date of possession the Tenant gives to the Owner a written notice specifying in reasonable detail items which re defective or in an unsatisfactory condition.

4.08. Improvements. Unless otherwise expressly provided in this Lease, all improvements to the Premises required to make the Premises suitable for the Tenant's use thereof shall be made by the Tenant at the Tenant's cost and expense. Tenant Improvements Performed By Owner. In addition to the "Vanilla Shell" provided by the Owner (which shall include finished walls, one handicapped-accessible restroom, finished ceilings, lighting, basic electrical service, heat and HVAC, sprinklers and any other components of the basic space commonly provided by Owners), Owner agrees to construct certain of Tenant's Improvements during the initial construction of the building, to be paid for by Tenant as further provided in this section. Tenant plans to install the following Tenant Improvement items (the "T.I's"), including but not limited to; floor sinks (two or three), 1 "water service, interior walls, additional restroom, 1,000,000 BTU gas service, 220 or 240 volt and ceiling vents for exhaust flues. Tenant is responsible for contacting Owner's architect and contractor and incorporating the T.I's

into the plan for initial construction in a timely fashion. Owner is responsible for providing a firm price for those T.I's incorporated into the plan and both Owner and Tenant shall agree to that price in writing prior to beginning construction on the TI's. Tenant shall pay for the T.I's over the course of the seven year lease term, with the T.I's to be financed at __% interest and amortized over the life of the lease. Those additional payments for T.I's shall be due and payable each month, subject to section 3.02, and shall commence at the same time the first regular rent payment is due. These additional improvements proformed by the Owner shall be provided by Owner only if Owner is able to obtain financing concurrent with the construction loan, for these additional T.I's.

4.09. Radius. If the Tenant has agreed to pay Percentage Rent under this Lease, the Tenant agrees that it shall not during the term of this Lease, directly or indirectly, operate or own any similar type business within a radius of three (3) miles from the Premises. If the Tenant breaches this covenant, in addition to the other remedies of the Owner, the Owner shall have the right to include the "gross sales" of such other business in the "gross sales" transacted on the Premises and the Tenant agreed to pay to the Owner Percentage Rent based thereon.

V. UTILITIES AND SERVICES

5.01. Tenant's Obligations. The Tenant shall pay the cost for all utilities furnished to the Premises as may be required by the Tenant for the use and occupation of the Premises. In the event that any utility or similar service used or consumed by the Tenant on the Premises is not separately metered and/or billed to the Tenant, the Tenant shall pay a portion thereof determined by prorating the cost thereof to all tenants who use or consume the utility or service based on the square footage within the tenants' premises served thereby. The Owner shall not be liable for any failure to furnish or the limitation on furnishing any of such utilities when such is the result of accidents, strikes, lockouts, government action, shortages or conditions beyond the Owner's reasonable control and the Tenant shall not be entitled to any damages nor shall any such failure relieve the Tenant of the obligation to pay the full rent reserved herein or constitute a constructive or other eviction of the Tenant.

5.02. Owner's Obligations. The Owner shall provide all utilities services with respect to the Common Areas, the landscaping and the parking areas and sidewalks, and the removal of trash deposited in the area designated by the Owner; provided that the costs and expenses incurred by the Owner in connection therefor shall be billed to the Tenant and the other tenants of the Retail Building as provided in Section 3.03, above.

VI. TAXES AND OTHER ASSESSMENTS

6.01. Obligation to Pay Taxes. During the term of this Lease, the Tenant shall pay to the Owner an amount equal to the Tenant's Premises Percentage of all ad valorem real property taxes and special assessments ("Taxes") levied and assessed against the Retail Building (including the land and Common Areas), pro-rated during the first (1st) and last years of this Lease. The Tenant's obligation to pay its Premises Percentage of the Taxes hereunder shall commence the Commencement Date of the Initial Term of this Lease. The Tenant shall pay all personal property taxes levied and

assessed against the Tenant's fixtures, equipment and other property on the Premises. At the option of the Owner, the Tenant shall pay its Premises Percentage of the Taxes in periodic installments, in advance, based on the prior year's Taxes, or, if such is not available, based on a reasonable estimate of the Taxes for the current year.

6.02. Right to Contest. The Tenant, at the Tenant's expense, shall have the right to contest the amount or validity of all or any part of the real property taxes and assessments with it is required to reimburse the Owner pursuant hereto, and for that purpose, the Tenant shall have the right to file in the name of the Owner, all such protests or other instruments and institute and prosecute proceedings it may deem necessary for the purpose of such contest, the Tenant hereby agreeing that it shall indemnify the Owner against any loss or liability by reason of such contest. Any refund of any real estate tax or assessment for which the Tenant has reimbursed the Owner shall belong to the Tenant and the Owner agrees to pay the same to the Tenant promptly in the event payment thereof is initially made to the Owner.

6.03. New Taxes. The Tenant shall reimburse the Owner promptly upon demand any and all taxes and other charges payable by the Owner to any government entity (other than net income, estate and inheritance taxes) whether or not now customarily paid or within the contemplation of the parties hereto, by reason of or measured by the Base Rent or other amounts payable by the Tenant under this Lease or allocable to or measured by the area or value of the Premises or upon the use and occupancy of the Premises by the Tenant, or levied for services rendered by or on behalf of any public, quasi-public or governmental entity.

VII. INSURANCE

7.01. Tenant's Obligations. During the term of this Lease, the Tenant shall carry and maintain, at the Tenant's sole cost and expense, the following types of insurance, in the amounts specified and in the form hereafter provided:

(a) Public Liability and Property Damage. Bodily injury liability insurance with limits of not less than $1,000,000.00 per person and $1,000,000.00 per occurrence insuring against any and all liability of the insured(s) with respect to the Premises and the other portions of the Retail Building used or useable by the Tenant, its employees, agents, contractors, customers, invitees and licensees, or arising out of or relating to the maintenance, use and occupancy thereof, and property damage liability insurance with a limit of not less than $500,000.00 per accident or occurrence. All such bodily injury liability insurance and property damage liability insurance shall specifically insure the performance by the Tenant of the indemnity agreement(s) contained in this Lease as to liability for injury to or death of person and injury or damage to property and shall name the Owner and those other persons and entities named on "Exhibit D" attached hereto and made a part hereof as additional insureds thereunder.

(b) Plate Glass. The Tenant shall be responsible for the maintenance, repair or replacement of any plate glass on the Premises but shall have the option to either insure the risk or to self-insure the same.

(c) Premises Facilities Furnished and Installed by Tenant and Personal Property. Insurance covering all of the items comprising the Tenant's leasehold improvements, trade fixtures, equipment and personal property from time to time in, on or upon the Premises in an amount not less than ninety percent (90%) of their full replacement cost from time to time during the term of this Lease, providing protection against any peril included within the classification "fire and extended coverage," together with insurance against sprinkler damage, vandalism and malicious mischief. Any policy proceeds shall be used for the repair or replacement of the property damaged or destroyed unless this Lease shall cease and terminate under the provisions of Article IX, below.

In addition to providing the foregoing insurance, the Tenant shall reimburse the Owner the Tenant's Premises Percentage of the Owner's cost of providing the insurance described in Section 7.02, below, as a part of the Common Area Expenses.

7.02. Owner's Obligation. The Owner shall at all times during the term hereof maintain in effect a policy or policies of insurance covering the Retail Building, in an amount not less than ninety percent (90%) of the full replacement cost (exclusive of the cost of excavations, foundations and footings), providing protection against any peril generally included within the classification "fire and extended coverage," or, at the Owner's election, "all-risk coverage," including earthquake coverage, if elected by the

Owner. In addition, the Owner shall have the right to purchase and keep in force rent loss insurance to protect the Owner against loss of rent during the period of repair or replacement of all or any portion of the Retail Building in the event of loss or damage. The insurance provided for in this Section may be brought within the coverage of a blanket policy(s) of insurance carried and maintained by the Owner.

7.03. Policy Form. All policies of insurance provided for herein shall be issued by insurance companies with a general policyholder's rating of not less than A and a financial rating of AAA (or equivalent ratings if such are changed) as rated in the most current available "Best's Insurance Reports" and qualified to do business in the State of Idaho. Executed copies of the policies of insurance to be provided by the Tenant, or certificates thereof, shall be delivered to the Owner within ten (10) days after the Commencement Date of the Initial Term of this Lease and thereafter within thirty (30) days prior to the expiration of the term of each policy. All public liability and property damage policies shall contain a provision that the Owner, although named as an additional insured, shall nevertheless be entitled to recover under such policies for any loss occasioned by it, or its partners, employees and agents. When any such policy shall expire or terminate, a like renewal or additional policy shall be purchased and maintained by the Tenant. All policies of insurance delivered to the Owner shall contain a provision that the insurer shall give to the Owner twenty (20) days prior notice in writing of any cancellation or lapse or of any reduction in the amounts of insurance. All public liability, property damage and other casualty policies required of the Tenant, shall be written as primary policies, not contributing with and not in excess of coverage which the Owner may carry.

7.04. Adjustment of Coverage. Not more frequently than every three (3) years during the term of this Lease if, in the opinion of the Owner based on industry and local standards, the amount of public liability and property damage insurance required to be carried and maintained by the Tenant is at the time not adequate, the Tenant shall increase insurance coverage as reasonably determined by the Owner to be adequate.

7.05. Dram Shop Liability. In the event the Tenant engages in the sale of alcoholic beverages on, in or from the Premises, the Tenant's indemnification obligations as provided in this Lease shall extend to damage resulting from risks insurable by so-called dram shop liability insurance. In such event, the public liability insurance required in this Article shall include dram shop liability insurance. Nothing herein shall be construed as the consent of, or a representation by, the Owner that alcoholic beverages may be sold on or from the Premises.

7.06. Failure of Tenant to Insure. In the event the Tenant shall fail to purchase and keep in force any of the insurance required of the Tenant in this Article, the Owner may, but shall not be required to, purchase and keep in force the same, in which event the Tenant shall reimburse the Owner the full amount of the Owner's expense with respect thereto, said reimbursement to be made within ten (10) days after demand for such reimbursement by the Owner. The election by the Owner to purchase said insurance on behalf of the Tenant shall not constitute a curing of the default occasioned by the Tenant's failure nor be an election of remedies otherwise available to the Owner.

7.07. Waiver of Subrogation. Any insurance carried by either party as required by this Lease shall include a clause or endorsement denying to the insurer a right of subrogation against the other party to the extent rights have been waived by the insured prior to occurrence of an injury or loss. Each party, notwithstanding any provisions of this Lease to the contrary, hereby waives any rights of recovery against the other for injury or loss due to hazards covered by insurance containing such a clause or endorsement to the extent of the insurance proceeds paid or payable by reason of the injury or loss covered thereby.

VIII. MAINTENANCE AND REPAIR OF PREMISES

8.01. Tenant's Obligation. The Tenant shall at all times keep the Premises in good order, condition and repair, including periodic painting of the interior of the Premises. The Tenant's duty to maintain includes, but is not limited to, the maintaining, repairing and/or replacement, if required, of all portions of the Premises not to be maintained by the Owner as provided hereafter, maintaining the exterior and interior of the store front, entrances, doors and windows; interior walls including the demising walls, utility meters, all fixtures, equipment, lighting and electrical and plumbing facilities and fixtures; all heating and air conditioning equipment which serve only the Premises and to maintain the same in accordance with the recommendation of the manufacturer and/or the Owner; floor covering, ceilings and all other interior portions of the Premises; and signs and displays on the exterior of the Premises. Any replacements made by the Tenant hereunder shall be of like or better quality than existed at the Commencement Date of the Initial Term of this Lease.

8.02. Owner's Obligation. The Owner shall be responsible for any structural repairs to the Premises, the exterior walls of the building in which the Premises are located and the roof. As used in this Article, "exterior walls" shall not be deemed to include store front(s), plate glass, gates, window cases or window frames, doors or door frames and appurtenances. The Owner shall be under no obligation to make any repairs, alterations, renewals, replacements or improvements to and upon the Premises or the mechanical equipment exclusively serving the Premises at any time except as provided in this Lease. It is further understood and agreed that the Owner shall not be required to make repairs necessitated by reason of the negligence of the Tenant or anyone claiming under the Tenant, or by reason of the failure of the Tenant to perform or observe any conditions or agreements contained in this Lease, or caused by alterations, additions or improvements made by the Tenant or anyone claiming under the Tenant, and the Tenant shall, at its sole cost and expense, repair any and all damage to the roof or exterior walls of the building in which the Premises are located resulting from the acts or omissions of the Tenant, the Tenant's agents or the Tenant's employees. The Owner retains the option of having the Owner's contractor repair and maintain the sprinkler system in the Premises at the Tenant's expense. The Owner shall not in any way be liable to the Tenant for failure to make repairs as herein specifically required of it unless the Tenant has previously notified the Owner, in writing, of the need for such repairs and the Owner has failed to commence and complete said repairs within a reasonable period of time following receipt of the Tenant's written notification.

The Owner represents and warrants that at the Commencement Date of the Initial Term of this Lease, the HVAC plumbing and the electrical systems serving the Premises are in good operating condition.

8.03. Failure to Repair. If the Tenant refuses or neglects to make repairs and/or maintain the Premises, or any part thereof, in a manner reasonably satisfactory to the Owner, the Owner shall have the right, upon giving the Tenant reasonable written notice of its election to do so, to make such repairs or perform such maintenance on behalf of and for the account of the Tenant. In such event, such work shall be paid for by the Tenant as additional rent and shall be due promptly upon receipt of a bill therefor. No exercise by the Owner of any rights herein reserved shall entitle the Tenant to any damage for any injury or inconvenience occasioned thereby nor to any abatement of Base Rent or other amounts payable by the Tenant under this Lease.

8.04. Warranties. If the Owner has obtained any manufacturer's or contractor's warranties covering any portion of the Premises or any equipment therein which, by the terms hereof are to be repaired or replaced by the Tenant, and a needed repair or replacement falls within the coverage of the warranty, the Owner shall either (i) use all reasonable efforts to cause such repairs or replacements to be made by the warranting party, or (ii) assign the warranty rights to the Tenant.

IX. DESTRUCTION OF PREMISES

9.01. Fully Tenantable. If the Premises are damaged by fire or other casualty (occurrence), but are not thereby rendered untenantable, in whole or in part, the Owner shall, at its own expense, cause such damage to be repaired and neither the Base Rent or other amounts payable by the Tenant under this Lease shall not be abated.

9.02. Partially Untenantable. If the Premises shall be rendered partially untenantable by reason of such occurrence, the Owner shall, at its own expense, cause the damage to be repaired and the Base Rent for the part of the Premises rendered untenantable shall be abated proportionately on a square footage basis as long as said part remains untenantable. As used herein, "partially untenantable" shall mean that the Tenant is unable to use the Premises for the purposes leased for a period of ten (10) or more consecutive days.

9.03. Totally Untenantable. If the Premises shall be rendered wholly untenantable by reason of such occurrence, the Owner shall, at its own expense, cause such damage to be repaired and the Base Rent meanwhile shall be abated. In such event either the Owner or the Tenant shall have the right, which may be exercised by written notice delivered to the other party within thirty (30) days after such occurrence, to elect to terminate this Lease in which event all rights and obligations of the parties shall terminate and end as of the date of such occurrence, except for the obligation of the Tenant to pay Base Rent or other sums which were due and payable prior to the date of the occurrence.

9.04. Uninsured Casualty. If the damage to the Premises or to the Retail Building is caused by a casualty for which coverage is excluded under the insurance maintained by the Owner and the cost of repairing such damage exceeds Fifty

Thousand Dollars ($50,000.00), the Owner shall have the right, which may be exercised by written notice delivered to the Tenant within thirty (30) days after such occurrence, to elect to terminate this Lease in which event all rights and obligations of the parties shall terminate and end as of the date of such occurrence, except for the obligation of the Tenant to pay any Base Rent or other sums which were due and payable prior to the date of the occurrence.

The Owner shall have no obligation to repair the Premises and shall have the right to cancel and terminate this Lease if the term (exclusive of any options to renew the term unexercised by the Tenant as of the date of the occurrence) shall not have at least one (1) year remaining from the date of occurrence to the date of expiration.

9.05. Destruction of Retail Building. In the event that fifty percent (50%) or more of the Retail Building shall be damaged or destroyed by fire or other cause, either the Owner or the Tenant shall have the right, which may be exercised by written notice delivered to the other party within thirty (30) days after such occurrence, to elect to terminate this Lease in which event all rights and obligations of the parties shall terminate and end as of the date of such occurrence, except for the obligation of the Tenant to pay any Base Rent or other sums which were due and payable prior to the date of the occurrence.

X. EMINENT DOMAIN

10.01. Definition of Taking. If the Premises are acquired or damaged by the exercise of the right of eminent domain or by the change of grade of adjacent street(s) or other activity by a public authority, whether or not such damage involves a physical taking of any portion of the Premises, this shall be considered a taking. If the extent of the taking is such that the Premises are no longer suitable for the purpose of the tenancy, this shall be considered a total taking. Any other taking shall be considered a partial taking. A taking of any portion of the Common Areas shall not constitute a taking for the purposes of this Article, unless such results in the Premises being no longer suitable for the purpose of the Tenant's tenancy.

10.02. Total Taking. In the case of a total taking, this Lease shall terminate at the date the Premises are rendered unsuitable for the purposes of the tenancy and all compensation therefor, whether fixed by agreement or judicial award, shall belong to the Owner except those portions of the award that are specifically allocated as compensation for actual expenses incurred by the Tenant for moving the Tenant's fixtures, stock in take and inventory and as compensation for the taking of the Tenant's fixtures and leasehold improvements which shall belong to the Tenant and which Tenant has a right to remove at the expiration of the term of this Lease.

10.03. Partial Taking. In case of a partial taking and if this Lease is not terminated, the Owner shall repair the Premises at its own expense in accordance with plans and specifications approved by the Tenant, but the Owner shall not be obligated to expend for such repairs any amount greater than the compensation received from the condemning authority. In case of any partial taking, all compensation paid by the condemning authority in connection with the taking, whether fixed by agreement or

judicial award, shall be paid to the Owner and the Tenant as provided in Section 10.02, and if this Lease is not terminated as above provided, the Base Rent (not including any percentage rent) shall be reduced proportionately on the basis which the square footage of that portion of the Premises taken bears to the total square footage of the Premises before the taking.

XI. INDEMNITY

11.01. By Tenant. The Tenant agrees to indemnify and hold the Owner harmless against all actions, claims, demands, costs, damages or expense of any kind on account thereof, including attorneys' fees and costs of defense, which may be brought or made against the Owner, or which the Owner may pay or incur, by reason of the Tenant's use and occupancy of the Premises or the Tenant's failure to perform this Lease.

11.02. By Owner. The Owner agrees to indemnify and hold the Tenant harmless against all actions, claims, demands, costs, damages or expense of any kind on account thereof, including attorneys' fees and costs of defense, which may be brought or may against the Tenant, or which the Tenant may pay or incur, by reason of the Owner's failure to perform this Lease.

11.03. Non-Liability of Owner. Notwithstanding any provision in this Lease to the contrary, the Owner shall not be liable for any damage to or loss, by theft or otherwise, of property of the Tenant or of others located on the Premises. The Owner shall not be liable for injuries or damage to property resulting from fire, explosion, sprinklers, falling plaster, steam, gas, electricity, water, rain, snow or leaks from the pipes, appliances, plumbing, street or subsurface, or from any other place or from dampness. The Tenant assumes the risk of all property kept or stored on the Premises and shall hold the Owner harmless from any claims arising out of damage to the same. The Tenant shall give immediate notice to the Owner in case of fire or accidents on or in the Premises or the Retail Building.

11.04. Damage to Other Tenants. The Tenant shall be directly responsible to other tenants of the Retail Building for any damage caused to them by reason of the Tenant's use of the Premises or the Common Areas or by any acts or negligence of the Tenant, and the employees, licensees or invitees of the Tenant. As to any damage to the Tenant caused by other tenants, the Tenant shall look only to such other tenants and not to the Owner for compensation.

XII. ALTERATIONS

12.01. Consent Required. The Tenant shall make no alterations, improvements or additions ("improvements") in or about the Premises without the prior approval of the Owner in writing. All approved improvements shall be performed at the sole cost of the Tenant in compliance with all applicable statutes, ordinances, codes and regulations. Upon expiration of the term of this Lease, they shall be considered a part of the Retail Building and remain therein unless the Owner shall request their removal, in which event they shall be promptly removed by the Tenant and the Premises restored to substantially the condition existing prior to such improvements. The granting of the consent by the Owner as provided herein shall not constitute the appointment of the

Tenant as the agent of the Owner with respect to the approved improvements. The Tenant shall timely perform, at the Tenant's sole cost, in a good workmanlike manner, all alterations and/or repairs to the Premises required by any federal, state or local building, fire, life-safety or similar law, ordinance, code or regulation adopted or amended after the Commencement Date of this Lease and applicable to the Premises, or required by reason of any alteration to the Premises performed by the Tenant or a change in the Tenant's use of the Premises, even though such alteration(s) and/or change in use may be consented to by the Owner.

12.02. Trade Fixtures. Trade fixtures, equipment and other personal property which are installed in the Premises by the Tenant and are not affixed to the walls, ceilings, floors or other part thereof shall remain the property of the Tenant and, providing the Tenant is not in default under this Lease, they may be removed by the Tenant at any time during the term of this Lease.

12.03. Liens Prohibited. The Tenant shall pay all costs for the work done by or for it on the Premises and the Tenant shall keep the Premises and the Retail Building free and clear of all liens of whatever kind or nature. The Tenant shall indemnify, save and hold the Owner and the Retail Building harmless against any liability, loss, damage, cost, attorneys' fees and all other expenses on account of any prohibited lien.

XIII. SIGNS

No exterior signs shall be erected or installed by the Tenant without the prior written consent of the Owner and any signs so permitted shall be of such design, size and type as shall be specifically approved by the Owner, it being understood and agreed that the type, size, design, color and location of exterior signs are important considerations in the overall appearance of the Retail Building. Prior to the installation of any exterior sign, the Tenant shall submit to the Owner such plans, specifications and other information concerning the proposed sign as required by the Owner. After installation of any approved exterior sign(s), the Tenant shall maintain the same in good condition and repair at all times and upon expiration or earlier termination of this Lease, the Tenant shall repair all damage caused by such erection, installation, maintenance or removal and if the Tenant fails to do so, the Owner shall have the right to perform such maintenance, repairs or replacement and the Tenant shall reimburse the Owner all costs thereof within ten (10) days after written demand therefor delivered to the Tenant.

XIV. ASSIGNMENT, SUBLETTING AND MORTGAGING

14.01. Restriction. The Tenant shall not transfer, assign, sublet, enter into license or concession agreements, change ownership or hypothecate this Lease or the Tenant's interest in and to the Premises without first obtaining the written consent of the Owner, which consent shall not be unreasonably withheld provided that the proposed assignee has a net worth equal to or greater than the Tenant at the date of the proposed assignment, and the matters set forth in (i), (ii), (iii), (iv), (v) and (vi), below, upon which the Owner may refuse consent, are determined by the Owner not to be grounds upon which consent may be refused. Any transfer, assignment, sublease, mortgage, pledge, hypothecation or encumbrance of this Lease, the leasehold estate

created hereby, or the Premises or any portion thereof, either voluntarily or involuntarily, whether by operation of law or otherwise, without the prior written consent of the Owner first obtained therefor, shall be null and void and shall, at the option of the Owner, constitute a material default under this Lease. It shall not be unreasonable for the Owner to refuse to give such consent unless the Tenant remains fully liable during the unexpired term of this Lease. Further, it shall not be unreasonable for the Owner to refuse to give such consent if, in the Owner's sole discretion and opinion, (i) the assignment will cause a breach of any provision (such as a radius, location, use or exclusivity provision) in any other lease, financing agreement or other agreement relating to the Retail Building or other real property owned by the Owner in the vicinity of the Retail Building, (ii) the nature or quality of the business to be conducted on the Premises would be a detrimental influence with respect to the other businesses conducted in the Retail Building and/or the Retail Building, (iii) if the financial worth or business experience and capability of the proposed new tenant is less than that of the Tenant executing this Lease, (iv) the assignment of the Lease and/or the use of the Premises by the assignee or the business to be conducted by the assignee on the Premises may require the Owner to perform any alterations to the Premises or the Retail Building by reason of any applicable law, code or regulation, (v) the use of the Premises by the assignee and/or the business to be conducted by the assignee on the Premises involves the storage, use or disposal of any material or substance which is then classified as "hazardous" or "toxic" by any law or regulation, or (vi) if Percentage Rent is payable under this Lease, the gross sales of the assignee will be less that the gross sales of the Tenant. As a condition of the Owner's consent required hereunder, the Base Rent payable hereunder may, at the election of the Owner be increased to an amount(s) approximating the then fair market rent for the Premises and/or the Percentage Rent may be increased to a percentage commonly charged for businesses of the type to be conducted by such assignee or subtenant, such rent increase(s) to become effective the date of the assignment or subletting. The Tenant agrees to reimburse the Owner the Owner's reasonable attorneys' fees and other necessary costs incurred in connection with the processing and documentation of any such requested transfer, assignment, subletting, licensing or concession agreement, change of ownership or hypothecation of this Lease or the Tenant's interest in and to the Premises. The consent by the Owner to any assignment or subletting by the Tenant shall not, unless expressly agreed by the Owner in writing to the contrary, relieve the Tenant of any obligations under this Lease, whether accruing before or after such assignment or subletting. The consent by the Owner to any assignment or subletting shall not constitute a waiver of the requirement to obtain the Owner's consent to subsequent assignments or sublettings. Each assignee or subtenant shall expressly assume in writing all obligations of the Tenant under this Lease and shall remain jointly and severally liable with the Tenant for the full and timely performance of this Lease.

14.02. **Subsequent Modifications.** The assignment of this Lease by the Tenant with the consent of the Owner shall, without being specifically so stated or agreed, constitute the express agreement by the Tenant that subsequent modifications of this Lease by the Owner and the assignee shall not (i) require the prior consent or approval of the Tenant (assignor), or (ii) release or relieve the Tenant (assignor) from liability hereunder, provided that if such modifications increase the Base Rent or other obligations of the Tenant hereunder, the Tenant's (assignor's) liability shall be limited to the terms of this Lease as the same existed on the date of assignment.

14.03. Sublease Rent. If the Tenant subleases the Premises at a rent in excess of the Base Rent reserved by the Owner hereunder, the Owner shall have the right to refuse consent thereto unless all such excess rent to be paid by the sub-tenant is agreed to be, and is, paid to the Owner and such condition is expressly agreed to be a reasonable limitation upon the Tenant's right to sublease the Premises.

XV. SUBORDINATION AND FINANCING

The Tenant agrees that at all times this Lease and the Tenant's leasehold estate created hereby shall be subordinate to the lien of any mortgage, deed of trust or other encumbrance, together with any renewals, extensions or replacements thereof, now or hereafter placed, charged or enforced against the Owner's interest in the Retail Building and the Premises. Upon the request of the Owner, the Tenant agrees to execute and deliver (but without cost to the Tenant) such documents as may be required to effectuate such subordination. In the event the Tenant shall fail, neglect or refuse to execute and deliver any such document within ten (10) days after receipt by the Tenant of the document(s) to be executed by it, to effect such subordination, the Tenant hereby irrevocably appoints the Owner, and the owner's successors and assigns, the true and lawful attorney-in-fact of the Tenant to execute and deliver in the Tenant's own name any and all such documents for and on behalf of the Tenant in connection with such subordination.

XVI. QUIET ENJOYMENT

The Owner agrees that the Tenant, upon paying the Base Rent and other amounts payable by the Tenant under this Lease, and performing the covenants, terms and conditions of this Lease required of the Tenant to be kept and performed, may quietly have, hold and enjoy the Premises during the term hereof.

XVII. DEFAULT

17.01. Events of Default. Time is of the essence of this Lease. The occurrence of any of the following events shall constitute a material default and breach of this Lease by the Tenant:

(a) Failure of the Tenant to occupy the Premises, or once occupied, if the Tenant vacates or abandons the Premises;

(b) Failure of the Tenant to pay any installment of rent within fifteen (15) days following its due date without the requirement of written notice of demand;

(c) Failure of the Tenant to pay any other sum payable under this Lease within thirty (30) days after written demand therefor is delivered to the Tenant;

(d) Default by the Tenant in the performance of any of the Tenant's covenants, agreements or obligations hereunder (excluding a default in the payment of rent or other monies due) which continues for

thirty (30) days after written notice thereof is delivered to the Tenant by the Owner; or

(e) Filing by or against the Tenant in any court, pursuant to any statute, either in the United States or of any other state, a petition in bankruptcy or insolvency, or for reorganization or for appointment of a receiver or trustee of all or a substantial portion of the property owned by the Tenant or if the Tenant makes an assignment for the benefit of creditors, or any execution or attachment shall be issued against the Tenant or all or a substantial portion of the Tenant's property, whereby all or any portion of the Premises covered by this Lease or any improvements thereon shall be taken or occupied or attempted to be taken or occupied by someone other than the Tenant, except as may herein be otherwise expressly permitted, and such adjudication, appointment, assignment, petition, execution or attachment shall not be set aside, vacated, discharged or bonded within thirty (30) days after the determination, issuance or filing of the same;

17.02. Owner's Remedies. In the event of a default by the Tenant under this Lease, the Owner shall have all rights and remedies allowed by law or equity including, but not limited to, the following:

(a) Termination - Damages. In addition to any other remedy available to the Owner at law or in equity, all of which other remedies are reserved unto the Owner, the Owner shall have the right to immediately terminate the Tenant's right to possession of the Premises and/or this Lease and all rights of the Tenant hereunder by delivering a written notice of termination to the Tenant. In the event that the Owner elects to so terminate such possession and/or this Lease, such election shall constitute the election by the Owner to accelerate all future rents payable under this Lease to be immediately due and payable and the Owner shall have the right to recover from the Tenant the following:

(i) The worth at the time of award of any unpaid rent which has been earned at the time of such termination; plus

(ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss the Tenant proves could have reasonably been avoided; plus

(iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Tenant proves could have reasonably been avoided; plus

(iv) Any other amount necessary to compensate the Owner for all detriment proximately caused by the Tenant's failure to perform the obligations under this Lease or which in the ordinary course of things would likely to result therefrom; plus

(v) Reasonable attorneys' fees incurred by the Owner as the result of such material default and breach and costs in the event suit is filed by the Owner to enforce any remedy; plus

(vi) At Owner's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

The term "rent" as used herein shall be deemed to be the Base Rent, Percentage Rent (to be determined in accordance with historical amounts of Percentage Rent paid or payable prior to the date of the default), additional rent and all other sums required to be paid by the Tenant pursuant to the terms of this Lease.

As used in subparagraphs (i), (ii) and (iii), above, the "worth at the time of award" shall be determined by allowing interest or discounting, as the case may be, at the rate equal to the discount rate of the Federal Reserve Bank of San Francisco at the time of the award.

A termination of this Lease under this Section shall not release or discharge the Tenant from any obligation under this Lease but shall constitute only a termination of the right of the Tenant to possess and occupy the Premises, unless otherwise specifically stated by the Owner in writing at the time of such termination.

(b) Enforcement. In the event of a default by the Tenant under this Lease, the Owner may, from time to time, without terminating this Lease, either recover all rent as it becomes due or re-let the Premises or any part thereof for such term or terms and at such rent and upon such other terms and conditions as the Owner, in the Owner's sole discretion, may deem advisable with the right to make alterations and repairs to the Premises, the cost of which shall be chargeable to the Tenant.

If the Owner shall elect to so re-let the Premises, rents received by the Owner therefrom shall be applied as follows: first, to reasonable attorneys' fees incurred by the Owner as a result of the Tenant's default; second, to the cost of suit if an action is filed by the Owner to enforce the Owner's remedies; third, to the payment of any indebtedness other than rent due under this Lease from the Tenant; fourth, to the payment of any cost of such re-

letting; fifth, to the payment of the cost of any alterations and repairs to the Premises; and sixth, to the payment of rent due and unpaid hereunder and the residue, if any, shall be held by the Owner and applied in payment of future rent as the same may become due and payable hereunder. Should that portion of such rent received from any re-letting during any month which is applied to the payment of rent hereunder be less than the rent payable during the month by the Tenant hereunder, the Tenant shall pay such deficiency to the Owner. The Tenant shall also pay to the Owner as soon as ascertained any costs and expenses incurred by the Owner in re-letting or in making the alterations and repairs to the Premises, the cost of which is not covered by the rents received from such re-letting.

(c) Non-Termination - Re-Entry. In addition to the other rights of the Owner herein provided, the Owner shall have the right, without terminating this Lease, at its option, to re-enter and re-take possession of the Premises and all improvements thereon and collect rents from any subtenants and/or sublet the whole or any part of the Premises for the account of the Tenant, upon any terms or conditions determined by the Owner. In such event of subleasing, the Owner shall have the right to collect any rent which may become payable under any sublease and apply the same first to the payment of expenses incurred by the Owner in dispossessing the Tenant and in subletting the Premises and, thereafter, to the payment of the Base Rent and other amounts payable by the Tenant under this Lease required to be paid by the Tenant in fulfillment of the Tenant's covenants hereunder; and the Tenant shall be liable to the Owner for the payment of the Base Rent and other amounts required to be paid by the Tenant under this Lease, less any amounts actually received by the Owner from a sublease and after payment of expenses incurred, applied on account of the Base Rent and other amounts due hereunder. In the event of such election, the Owner shall not be deemed to have terminated this Lease by taking possession of the Premises unless written notice of termination has been given by the Owner to the Tenant.

(d) No Termination. No re-entry or taking possession of the Premises by the Owner pursuant to the provisions of this Lease shall be construed as an election to terminate this Lease unless a written notice of such intention is delivered by the Owner to the Tenant. Notwithstanding a re-letting without termination by the Owner due to the default by the Tenant, the Owner may at any time after such re-letting elect to terminate this Lease for such default.

(e) Landlord's Lien. In addition to any other rights of the Owner as provided in this Article, upon the default of the Tenant, the Owner shall have the right to enter the Premises, change the locks on doors to the Premises and exclude the Tenant therefrom and, in

addition, take and retain possession of any property on the Premises owned by or in the possession of the Tenant as and for security for the Tenant's performance. The Tenant hereby grants to the Owner a lien under Section 45-108, Idaho Code, on all of said property, which lien shall secure the future performance by the Tenant of this Lease. No property subject to said lien shall be removed by the Tenant from the Premises so long as the Tenant is in default of any monetary obligations under this Lease. No action taken by the Owner in connection with the enforcement of the rights as provided in this Article shall constitute a trespass or conversion and the Tenant shall indemnify, save and hold the Owner harmless from and against any such claim or demand on account thereof.

17.03. Remedies Cumulative. The rights, privileges, elections and remedies of the Owner set forth in this Lease or allowed by law or equity are cumulative and the enforcement by the Owner of a specific remedy shall not constitute an election of remedies and/or a waiver of other available remedies.

XVIII. SURRENDER OF PREMISES

Upon the expiration or earlier termination of this Lease, the Tenant shall surrender the Premises to the Owner in as good order and condition as the same are at the Commencement Date of this Lease or hereafter improved by the Owner or the Tenant, reasonable wear and tear excepted. The Tenant shall, without expense to the Owner, remove from the Premises all debris, rubbish and property which the Tenant has the right to remove from the Premises under the terms of this Lease. The Tenant agrees that any property of the Tenant not removed by the Tenant upon the expiration of the term of this Lease (or within seventy-two (72) hours after termination by reason of the Tenant's default) shall be deemed abandoned by the Tenant and the Owner may either (i) retain the same on the Premises in which case the ownership thereof shall be conclusively deemed to be transferred to the Owner, or (ii) dispose of the same in any manner elected by the Owner and the Tenant hereby waives any claim against the Owner in connection therewith.

XIX. MISCELLANEOUS

19.01. Owner's Right of Entry. The Owner and the Owner's authorized representatives shall have the right to enter the Premises at all reasonable times for the purpose of determining whether the Premises are in good condition, to make necessary repairs or perform any maintenance, to serve any notice required or allowed under this Lease or to show the Premises to prospective brokers, agents, buyers or tenants.

19.02. No Waiver. The failure of the Owner or the Tenant to seek redress for violations or to insist upon the strict performance of any covenant or condition of this Lease shall not be deemed a waiver of such violation or of any future similar violation and the waiver by the Owner or the Tenant of any breach shall not be deemed a waiver of any past, present or future breach of the same or any other term, covenant or condition of this Lease.

19.03. Notices. Whenever any notice, approval, consent, request or election is given or made pursuant to this Lease, it shall be deemed delivered when it is in writing and personally delivered or deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested and addressed to the party at the address set forth in the Basic Lease Provisions.

19.04. Limitation of Owner's Liability. The obligations of the Owner under this Lease do not constitute personal obligations of the Owner or the successors or assigns of the Owner and the Tenant shall look solely to the real estate that is the subject of this Lease and to no other assets of the Owner or the successors or assigns of the Owner for satisfaction of any liability under this Lease.

19.05. Transfer of Owner's Interest. In the event of a sale or conveyance by the Owner of the Premises and/or the Retail Building, other than a transfer for security purposes only, the Owner shall be relieved from all obligations and liabilities accruing thereafter on the part of the Owner, provided that any funds in the hands of the Owner at the time of transfer in which the Tenant has an interest, shall be delivered to the successor of the Owner. This Lease shall not be affected by any such sale and the Tenant agrees to attorn to the purchaser or assignee provided all the Owner's obligations hereunder are assumed in writing by the transferee.

19.06. Holding Over. Should the Tenant continue to occupy the Premises or any part thereof after the expiration or earlier termination of this Lease, whether with or against the consent of the Owner, such tenancy shall be month-to-month at a rent equal to 125% of the rent in force and effect for the last month of the term expired or terminated.

19.07. Attorneys' Fees and Costs. If either party shall default under this Lease and said default is cured with the assistance of an attorney for the other party, as a part of curing said default, the reasonable attorneys' fees incurred by the other party shall be added to the balance due and payable or, in the case of a non-monetary default, shall be reimbursed to the other party upon demand. In the event suit or action is filed by either party against the other to interpret or enforce this Lease, the unsuccessful party to such litigation agrees to pay to the prevailing party all costs and expenses, including attorneys' fees incurred therein, including the same with respect to an appeal.

19.08. Notice of ADA Violations. Within ten (10) days after receipt, the Owner and the Tenant shall advise the other party in writing, and provide the other party with copies of any notices claiming or alleging violation of the Americans with Disabilities Act of 1990 (hereafter "ADA") relating to the Premises or the Retail Building, or any claim made or threatened in writing regarding noncompliance with the ADA and relating to the Premises or the Retail Building, or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to the Premises or the Retail Building.

19.09. Construction. All parties hereto have either (i) been represented by separate legal counsel, or (ii) have had the opportunity to be so represented. Thus, in all cases, the language herein shall be construed simply and in accordance with its

fair meaning and not strictly for or against a party, regardless of which party prepared or caused the preparation of this Lease.

19.10. Succession. This Lease shall be binding upon and shall inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties.

19.11. Estoppel Certificate. The Tenant shall, at any time upon not less than ten (10) days' prior written notice from the Owner, execute, acknowledge and deliver to the Owner a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, (ii) acknowledging that there are not, to the Tenant's knowledge, any uncured defaults on the part of the Owner hereunder, or specifying such defaults if they are claimed, and (iii) containing any other certifications, acknowledgments and representations as may be reasonably requested by the Owner or the party for whose benefit such estoppel certificate is requested. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises or the Real Property. The Tenant's failure to deliver such statement within said time shall be conclusive upon the Tenant (i) that this Lease is in full force and effect, without modification except as may be represented by the Owner, (ii) that there are no uncured defaults in the Owner's performance, (iii) that not more than an amount equal to one (1) month's rent has been paid in advance, and (iv) that such additional certifications, acknowledgments and representations as are requested under subsection (a)(iii), hereof, are valid, true and correct as shall be represented by the Owner. If the Owner desires to finance or refinance the Premises, the Tenant hereby agrees to deliver to any lender designated by the Owner such financial statements of the Tenant as may be reasonably required by such lender. All such financial statements shall be received by the Owner in confidence and shall be used only for the purpose herein set forth.

19.12. Warranty Re: Financial Statements. The Tenant and the officer(s) signing this Lease for a corporate Tenant and each guarantor of this Lease, if any, represent, warrant and certify to the Owner that any financial statement or other financial information given to the Owner is true, accurate and correct and truly and accurately represents the financial condition of the Tenant or the guarantor(s), as the case may be, as of the date of this Lease. The Tenant and the guarantor(s) acknowledge that said financial statement(s) and information was given to the Owner to induce the Owner to execute this Lease and was relied upon by the Owner in so doing.

19.13. Severability. If any term or provision of this Lease shall be determined by a Court to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law. It is the intention of the parties that if any provision in this Lease is capable of two constructions, then the provision shall be interpreted to have the meaning which renders it valid.

19.14. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, court orders, acts of God, inability to obtain labor or materials

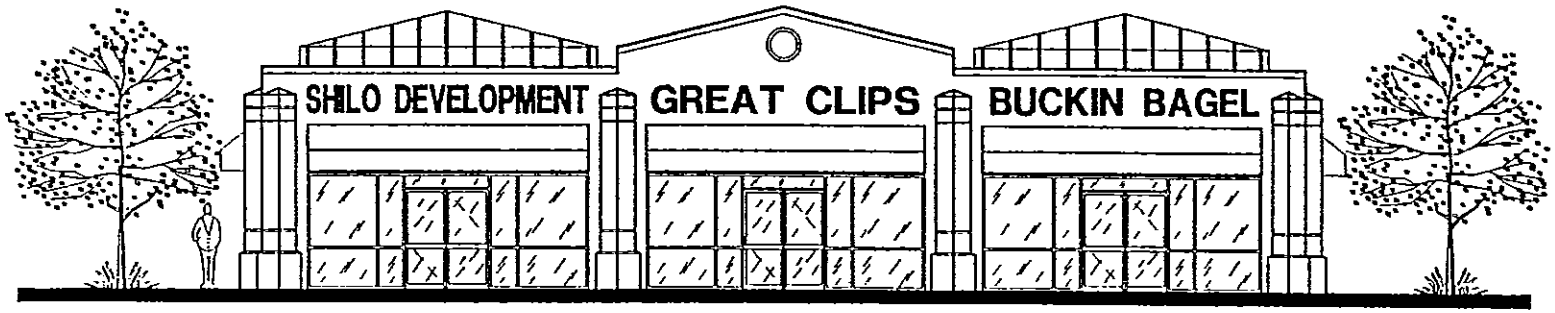
or reasonable substitutes thereof, government restrictions, regulations or controls, hostile government action, civil commotion, fire or other casualty and other causes beyond the reasonable control of the party obligated to perform shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage except the obligations imposed with regard to rent and other charges to be paid by the Tenant pursuant to this Lease, which obligation shall not be affected thereby.

19.15. No Recording. Neither party shall record this Lease or any memorandum hereof, it being agreed that the Tenant's possession of the Premiss shall be adequate notice of the Tenant's leasehold interest.

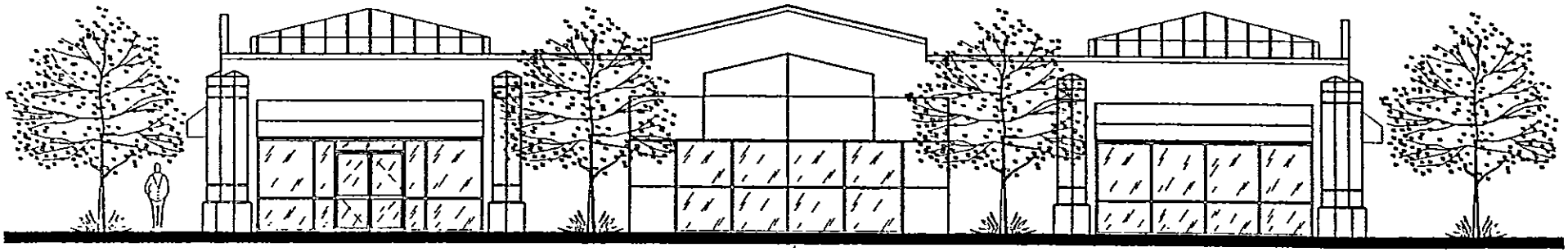
19.16. Article Headings. The article headings, title and captions used in this Lease are for convenience only and are not part of this Lease.

19.17. Entire Agreement. This Lease, including the exhibits attached hereto, contains the entire agreement between the parties as of the date of this Lease and the execution hereof has not been induced by either party or any agent of either party, by representations, promises, undertakings not expressed herein. There are no collateral agreements, stipulations, covenants, promises, inducements or undertakings whatsoever between the parties concerning the subject matter of this Lease which are not expressly contained herein.

19.18. Special Provisions. The special provisions, if any, on "Exhibit D" attached hereto and made a part hereof are a part of this Lease. In the event of a conflict between the General Provisions and the special provisions, if any, on Exhibit D, the latter shall control.



1 **SOUTH ELEVATION**
SCALE: 1/8" = 1'-0"



2 **WEST ELEVATION**
SCALE: 1/8" = 1'-0"

EXHIBIT A - PAGE 7 of 7

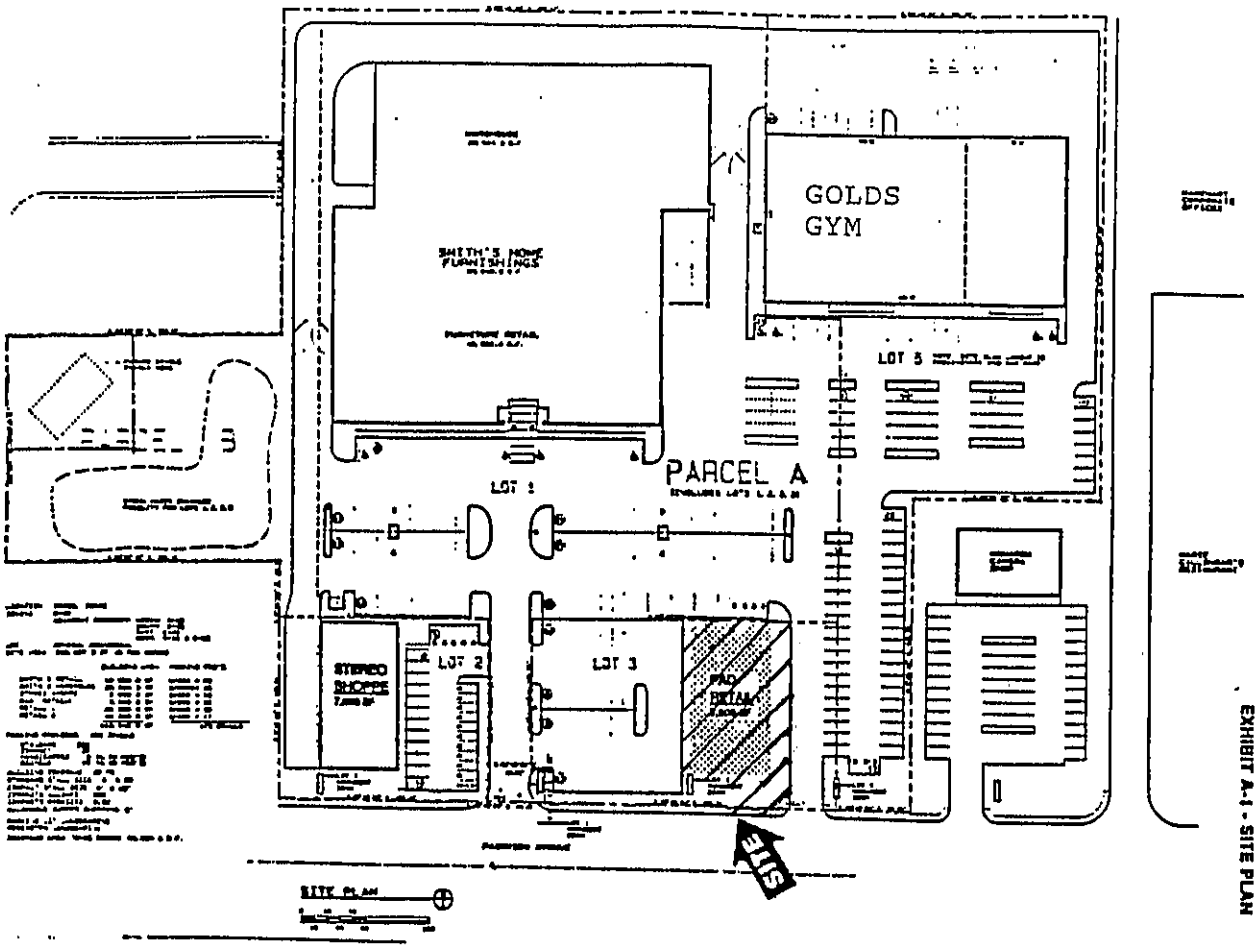


EXHIBIT A-1 - SITE PLAN

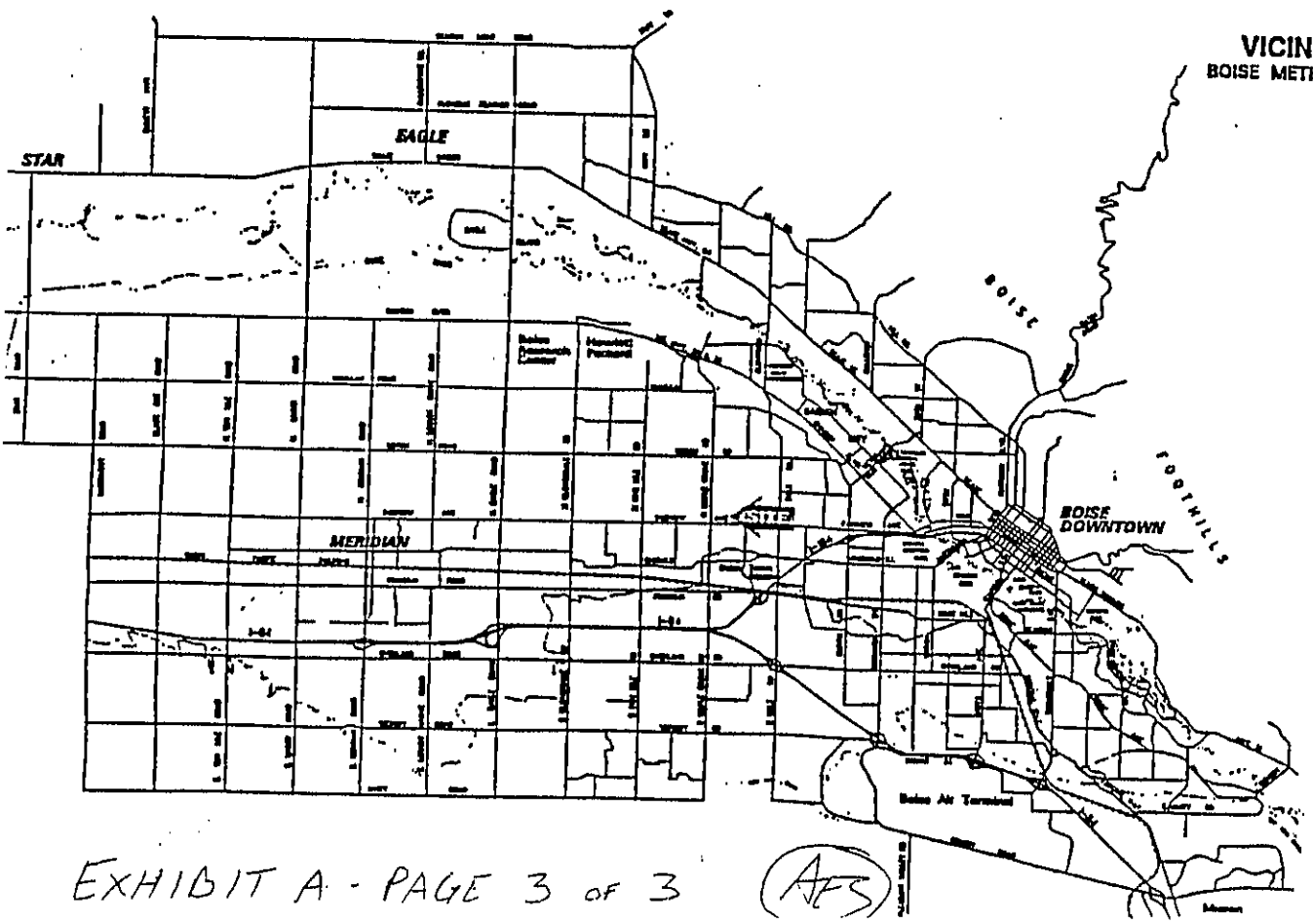


EXHIBIT A - PAGE 3 OF 3 (AFS)

EXHIBIT B

CONSTRUCTION

Owner shall, at its cost and expense, perform the items of work set forth in the "Description of Owner's Work." The Tenant shall have the option to (i) retain the Owner's architect, at Tenant's expense, for the preparation of final plans and specifications ("Plans") for the interior of the Premises, or (ii) employ an architect of Tenant's selection to prepare the Plans. The Tenant agrees to cooperate to the end that the Plans for the interior of the Premises shall be provided within a reasonable time to allow for the completion of bidding and construction of the Premises by the date of the desired occupancy of the Premises. The Plans provided by Tenant shall indicate the specific requirements of Tenant's space, including types of materials and color, interior partitions, reflective ceiling plan, plumbing fixtures and electrical plans prepared by a licensed engineer setting forth all electrical requirements of Tenant, all in conformity with the "Description of Owner's Work" and "Description of Tenant's Work." Tenant shall pay for the cost of obtaining any certification and/or approval of the Plans by a licensed architect and/or engineer required to obtain any governmental permits necessary to construct the Premises. If the Plans provided by the Tenant are, in the sole judgment of Owner, incomplete, inadequate or inconsistent with the terms of this Lease, Owner may elect to have them revised, corrected and/or completed by the Owner's architect at Tenant's expense. Upon final approval by Owner, the Plans shall be by this reference incorporated herein as part of the Lease. Any changes, modifications or alterations to the approved Plans requested by Tenant shall be processed by the Owner's architect, and any additional charges, expenses or costs, including the Owner's architect's fees, shall be paid by Tenant and Owner shall have the right to require payment for such changes, modifications or alterations prior to performance of any work thereon. No such changes, modifications or alterations in the approved Plans shall be made without the prior written consent of Owner.

A. DESCRIPTION OF OWNER'S WORK

The following is a description of the construction work which shall be provided by Owner. The material specifications and layout shall be at Owner's option.

I. STRUCTURE

1. FLOOR - Owner shall provide a concrete slab floor trowelled smooth to receive Tenant's floor covering.

2. ROOF - Roof penetrations will be held to the absolute minimum. All required penetrations of the roofing system must be clearly shown on Tenant's plans and specifications and approved by Owner and will be made at Tenant's sole cost and expense by Owner's contractor and/or under Owner's supervision in order to maintain warranty.

3. WALLS - Interior demising walls will consist of gypsum board with joints taped, sanded and primed, and insulated as per Owner's plans and specifications.

4. CEILING - Owner shall provide a suspended T-bar acoustical ceiling as part of the tenant improvement allowance.

5. STORE FRONT - Owner shall provide a basic straight line store front, glass and extruded aluminum framing on the first (1st) level of subject building as per Owner's plans and specifications.

II. ELECTRICAL AND TELEPHONE

1. Owner shall provide a meter base for Tenant's meter and a service line to an individual panel board in each space. Tenant shall be required to submit all the necessary information as to its electrical power needs to Owner.

2. Electrical power will be provided to each tenant space to be utilized by tenant for his specific needs.

3. Owner shall provide telephone service to the building.

III. MECHANICAL

1. The basic premises will be served by an HVAC unit equipped with its own thermostat. All additional duct work and/or equipment required as the result of interior partitioning, fixturing or other work by Tenant will be the responsibility of and at the expense of the Tenant. It shall be the Tenant's responsibility to operate and maintain this system in accordance with Owner's instructions and manufacturer's requirements.

IV. PLUMBING AND SANITARY FACILITIES

1. Owner shall provide one (1) handicapped restroom located at the rear of the Premises.

B. DESCRIPTION OF TENANT'S WORK

Tenant shall be responsible for completing and doing all other work not specifically described under the "Description of Owner's Work" to the Premises including, but not limited to, the items listed below:

1. Tenant shall provide and install floor covering as required by Tenant.

2. Tenant shall provide and install partition walls other than those provided for under Owner's work.

3. Tenant shall furnish and install all painting and wall covering.

4. Tenant shall provide and install all additional plumbing, electrical, water heater(s) (not provided by Owner) and appurtenances, wall finish, fixtures, ventilation, sanitary facilities and restroom(s) required by code (not provided by Owner). Such facilities shall be located as Owner desires and shall

be in conformance with all applicable building codes and shall require Owner's approval.

5. Tenant shall complete its electrical system including, but not limited to, all additional wiring, conduits, convenience outlets, controls and connections panel. Breaker's not included.

6. Tenant shall furnish and install telephones, music systems and security devices, if required.

7. Tenant shall furnish and install all fixtures and equipment necessary to open for business.

8. Tenant shall provide covered metal trash containers within the Premises, maintenance facilities and all fire protection equipment required by rating bureaus, codes or ordinances in addition to any fire sprinkler system furnished by Owner.

If Tenant requests Owner's contractor to supply any materials or provide any work on items to be paid for by Tenant, such materials and labor shall be set forth on a separate sheet and identified as Schedule 1-A and attached hereto. Said Schedule 1-A shall set forth all charges to be made by Owner's contractor to Tenant and shall total the same, and when approved by Tenant and attached hereto shall become Tenant's binding agreement to pay the same at the rate of ~~50% of the total prior to the time that Owner's contractor commences to perform the work and the balance within thirty (30) days after the date Owner's contractor completes the work.~~ Upon receipt of Schedule 1-A signed by Tenant, Owner shall secure its contractor's approval and commitment to complete the work and shall notify Tenant of the same.

See Article 4.08 For Payment Schedule For Above Standard T.I.'s

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EXHIBIT C

ADDITIONAL ANNUAL RENT

The rent for the Subject Space shall increase at a fixed rate of four percent (4%) per year beginning year two (2) and continue thereafter on a yearlt basis throughout the lease term.

INITIALS
AES
DA

EXHIBIT "F"

PERSONAL LEASE GUARANTEE

AUSTIN STEWART and LEE PESKY Owner(s) of issued and outstanding capital stock of SAWTOOTH ENTERPRISES, INC. a Corporation, said Corporation being the Tenant of certain demised Premises as described in that certain Lease to which this Guarantee is attached, the same being dated: 2-9-95 wherein: SHILOH DEVELOPMENT is Landlord, in consideration of said Landlord's execution and delivery of said Lease and is inducement therefore, do hereby:

1) Guarantee the prompt and complete performance by said Tenant of all the covenants and conditions contained in the aforementioned Lease and payments by said Tenant of all sums required to be paid thereunder, and do hereby: For a period of one year, beginning on the target commencement date or such other commencement date as provided by Owner pursuant to § 2.01.

AES

2) Waived notice of acceptance hereof and notice of non-performance of non-payment by said Tenant of any of its obligations of liability under the foregoing Lease; and do hereby:

3) Agree that the failure of Landlord to require strict performance of said Lease shall not

SCHEDULE 1

SIGNS

A. GENERAL REQUIREMENTS

1. No exterior sign shall be permitted without the prior written consent of Owner.

2. Tenant shall submit to the Owner for approval before fabrication a copy of detailed drawings indicating the location, size, layout, design and color of the Tenant's proposed sign(s), including all lettering and/or graphics.

3. All governmental permits for Tenant's sign(s) shall be obtained by the Tenant.

4. Installation of the Tenant's sign(s) shall be in strict compliance with all building and electrical codes.

5. All signs shall be constructed and installed at Tenant's expense.

B. LOCATION OF SIGNS

1. Tenant shall provide on one facade of the Premises a suitable exterior signboard, sign or signs of such size, design and character and in such location only as Owner shall approve in writing. Size specifications shall be provided by Owner.

2. No sign perpendicular to the face of the building or storefront will be permitted.

C. DESIGN REQUIREMENTS

1. Tenant's storefront entrance/store name identification designs shall be subject to the approval of Owner. Wording of signs shall not include the product(s) sold except as part of the Tenant's trade name or insignia.

2. The design of all signs, including style, placement and height of letterings, size, color and materials, method and amount of illumination shall be subject to the approval of Owner.

3. No exposed lamps, tubing, animated, flashing, audible signs, exposed raceways, crossovers, conduit or brackets will be permitted. All cabinets, conductors, transformers and other equipment shall be concealed.

D. CONSTRUCTION REQUIREMENTS

1. Exterior facade signs exposed to the weather shall be mounted to permit proper dirt and water drainage away from the building unless otherwise directed by Owner.

2. Location of all openings for conduit in sign panels on building walls shall be indicated by the sign contractor on drawings submitted to Owner. All penetrations of the building structure required for sign installation shall be neatly sealed in a water-tight condition. No labels will be permitted on the exposed surface of signs except those required by local ordinances which shall be applied in an inconspicuous location.

E. MISCELLANEOUS REQUIREMENTS

1. Tenant will be permitted to place upon each entrance of its Premises not more than 144 square inches of gold leaf or decal application lettering not to exceed two inches (2") in height, indicating hours of business, emergency telephone number, etc. Tenant may install on the store front, if required by the U. S. Post Office, the numbers only for the street address in the location approved by Owner. Size, type and color of numbers shall be as approved by Owner.

2. In the event Tenant has a non-customer door for receiving merchandise only, Tenant's name may be uniformly applied on said door in a location, as directed by the Owner, in a plaque design. Where more than one tenant uses the same door, each name may be applied.

3. Tenant shall be fully responsible for the operations of Tenant's sign contractors and Tenant shall indemnify and hold Owner harmless from any acts or omissions of Tenant's sign contractors.

4. Tenant shall, at the termination of this Lease, remove Tenant's sign and repair any damage area and restore the building to its original condition when Tenant's sign was erected.

5. The exterior facade sign shall be operated by a central time clock and shall be illuminated during such hours as prescribed by Owner.

6. Tenant's cost for service and the maintenance, repair and replacement of such facilities, including time clocks for Tenant's sign, may be on a pro rata basis which shall be the proportion of such cost which Tenant's sign bears to the total number of signs contributing towards said service bill with necessary and equitable modification where special or comparatively excessive use of such facilities occurs and will be billed by the Owner to the Tenant on a regular basis and shall be due and payable upon demand. Tenant shall pay to Owner Tenant's share of said cost within ten (10) days after receipt of billing from Owner. Tenant's share may be estimated monthly and included with common area billing which shall be due the first of each month and periodically adjusted with the common area expenses.

SCHEDULE 1-A

Tenant requests the following items be supplied by Owner's contractor in the course of Owner's construction, to be paid by tenant pursuant to Exhibit B. Specific locations for these items will be provided with Tenant's Plans and subject to Owner's approval.

1) Three (3) floor sinks to be supplied and installed by Owner's contractor in the slab floor of Tenant's space.

2) Three (3) additional roof penetrations, with venting for one passive oven flu, one powered flu for oven and steam hood, and one powered flu for steam hood. Owner's contractor shall provide the penetrations, exhaust fans (per Tenant's specifications) and venting pipe to connect to Tenant's bakery equipment.

3) 240 Volt, single phase electricity to Tenant's panel board, per Tenant's equipment specifications.

4) One additional restroom (NOT handicapped accessible) in the rear of Tenant's space, per Tenant's specifications. Owner's contractor shall provide bathroom fixtures and framing for the additional restroom.

5) Interior framing and finished walls (in addition to those provided by Owner in Exhibit B, sec. A. I .3.) to be provided by Owner's contractor per Tenant's specifications.

Owner agrees to notify Tenant in writing upon execution of this lease of the deadlines associated with Owner's plans, building permit and construction in order that Tenant may adequately prepare to have Tenant's plans and specifications ready for Owner's approval in a timely fashion.