

## WEST AURORA PLAZA

### Standard Lease Agreement

This Lease Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, is by and between WEST AURORA PLAZA LLC, an Illinois corporation with its principal office and place of business at c/o Cloverleaf, 666 Dundee Road, Suite 901, Northbrook, IL 60062 hereinafter referred to as "LANDLORD", and the City of Aurora, an Illinois municipal corporation, hereinafter referred to as "TENANT."

### W I T N E S S E T H

That LANDLORD, in consideration of the mutual covenants and agreements herein contained, does hereby lease and let to Tenant and Tenant does hereby take, accept, and rent from Landlord, the premises hereinafter described for the period, and upon the terms and conditions hereinafter set forth.

#### 1. PREMISES

The Leased premises shall be a part of the commercial development known as West Aurora Plaza, situated within the City of Aurora, Kane County, State of Illinois (hereinafter called the Shopping Center) being more particularly depicted on Exhibit "A" attached hereto and by this reference made a part hereof and hereinafter referred to as the "Demised Premises", or "Premises", and as follows:

That portion of West Aurora Plaza, which is agreed to contain  
1,769 square feet, commonly known as 1921 W. Galena Blvd.,  
Aurora, Illinois 60506.

together with all rights, privileges, easements and appurtenances belonging to or in any way pertaining to the said Demised Premises.

#### 2. TERM

**2.1 TERM OF LEASE** - The term of this Lease ("Lease Term") shall begin on the date (Commencement Date) upon which the Demised Premises is delivered to Tenant and shall end on the last day of the third (3<sup>rd</sup>) Lease year, subject to the terms, conditions and covenants contained in this Lease. For purposes of this Lease, a "Lease Year" shall be defined as the twelve (12) month period commencing on the "Commencement Date" or the anniversary thereof, as may be applicable; provided, however, that if the Commencement Date is a day other than the first day of a calendar month, then the first Lease Year shall include that period of time from the Commencement Date up to the first day of the next calendar month and any subsequent Lease Year shall be the twelve month period beginning on the first day of such month.

**2.2 Intentionally Omitted.**

**2.3 COMMENCEMENT DATE** - The Commencement Date of this Lease shall be May 1, 2017.

**3. RENTAL**

The tenant hereby agrees to pay rent in the form of "Fixed Minimum Rent" at the office of the Landlord located in the City of Aurora, Illinois, or at such other place as the Landlord may designate in writing.

**3.1 FIXED MINIMUM RENT** - Tenant shall pay to Landlord, as ("Fixed Minimum Rent") for the Demised Premises, in advance on the first day of each calendar month, the sum of One Dollar and no/100 DOLLARS (\$1.00), beginning on the Commencement Date hereof and thereafter continuing for the balance of the Lease Term.

**3.2 SECURITY DEPOSIT** - Landlord hereby acknowledges the receipt of the sum of \_\_\_\_\_-0-\_\_\_\_\_ \$ & 00/100 DOLLARS (\$\_\_\_\_-0-\_\_\_\_\_) as Security for the payment of rent or any other sum of money which Tenant was obligated to pay but did not pay, or of any sum expended by Landlord on Tenant's behalf in accordance with the provisions of this Lease or any sum which Landlord may expend as a result of Tenant's default. The use, application or retention by Landlord of all or any portion of the Security shall not prevent Landlord from exercising any other right or remedy provided for under the Lease or at law and shall not limit any recovery to which Landlord may be entitled otherwise.

The Security shall bear no interest and, if legally permissible, Landlord shall be entitled to co-mingle the Security with Landlord's other funds.

If Tenant shall fully and faithfully comply with all of the provisions of this Lease, the Security or any balance thereof shall be returned to Tenant after the expiration date of the Lease or upon any later date upon which Tenant has vacated the Demised Premises.

**4. USE OF PREMISES**

**4.1 PERMITTED USES** - Tenant acknowledges the certain restrictions on its use of the premises that are listed on Exhibit B\_\_ (Private Restrictions), attached hereto and made a part hereof, and shall use and occupy the Demised Premises for the operation of a Community Center operated by the City of Aurora and for no other purpose. Tenant shall conduct its customary business activity during the term of the Lease throughout all normal business days and hours, unless prevented from doing so by fire, casualty or some other comparable cause and excepting also during reasonable periods of repairing, cleaning and decorating the Premises.

**4.2     OPERATION OF BUSINESS** - Tenant covenants and agrees that:

(a) Tenant shall not conduct any auction, fire sale, or bankruptcy sale in the Demised Premises without the prior written consent of Landlord;

(b) Tenant shall not display merchandise outside the Demised Premises, permit public telephones or vending machines of any kind on the building or sidewalk surrounding the Demised Premises, nor in any manner obstruct the sidewalks or other areas adjacent to the Demised Premises (except during such periods of organized “sidewalk” sales or other such promotional activities) nor burn or place outside the Demised Premises garbage, trash, merchandise containers or other materials incidental to Tenant’s business;

(c) Tenant shall store all refuse in proper containers outside the Demised Premises in areas designated by Landlord;

(d) Tenant shall not use, nor permit the use of, loud speakers, radios, or other devices in a manner so as to be heard or seen outside the Demised Premises without the prior written consent of Landlord;

(e) Tenant shall comply with all other reasonable rules and regulations established by Landlord from time to time for the benefit of the Shopping Center which are consistently applied to all tenants of the Center;

(f) Tenant shall neither solicit business in the Common Areas (as hereinafter defined) nor distribute any handbills or other advertising matter in the Common Areas;

(g) If requested by Landlord, Tenant shall keep the display windows in the Demised Premises well-lighted during such reasonable evening hours as shall from time to time be required by Landlord, unless prevented by causes beyond the control of Tenant.

**5.     COMPLIANCE WITH LAW**

Tenant shall comply with all governmental laws, ordinances and regulations applicable to the use of the Demised Premises and shall promptly comply with all governmental orders and directives for the correction, prevention, and abatement of any nuisance in, upon or connected with Tenant’s operation at the Demised Premises all at Tenant’s sole cost and expense. However, in no event shall the foregoing apply to changes required in the structural aspects of the Demised Premises, except for those which are constructed by Tenant or those, the structural soundness thereof, adversely affected as a proximate result of Tenant’s work on or at the Demised Premises. Landlord shall exercise reasonable efforts to promptly comply with any and all governmental regulations if not made by reason of Tenant’s occupancy of or use in the Demised Premises.

## **6. PERSONAL PROPERTY TAXES**

The Parties acknowledge Tenant is exempt from the payment of personal property taxes.

## **7. COVENANT OF QUIET ENJOYMENT**

Landlord covenants that Tenant, on payment of the rent and performing Tenant's obligations under the terms of this Lease, shall peacefully and quietly have, hold and enjoy the Demised Premises throughout the Lease Term without hindrance, ejection or molestation from the Landlord or from any other person or entity claiming through the Landlord, subject to the other terms and conditions of this Lease. Landlord agrees, upon request of Tenant, to request from any mortgagee written assurance that Tenant will be permitted to remain in possession of the Demised Premises in the event of default by Landlord either under the terms of this Lease or its mortgage agreement as long as Tenant shall faithfully comply with the provisions of this Lease.

## **8. MAINTENANCE OF PREMISES**

**8.1 MAINTENANCE BY LANDLORD** - Landlord shall at its expense maintain all structural components of the Demised Premises including the roof, foundation, underground electrical and/or plumbing lines, exterior walls (excluding all windows, window glass and casements, plate glass and all doors) of the Demised Premises (or the building of which the Demised Premises comprises a part, as the case may be) in good repair and condition. Landlord agrees to provide well lighted parking areas, approaches, exits, entrances, and roadways in good condition and repair, reasonably clear of snow and other obstructions. Tenant shall give immediate written notice to Landlord of the need for repairs or corrections for which the Landlord is responsible under the terms hereof and Landlord shall proceed promptly to make such repairs and corrections. Landlord represents that, upon delivery of the Demised Premises to Tenant, the existing plumbing and any fire protection sprinkler system and heating and air conditioning equipment serving the Demised Premises are in good operating condition.

**8.2 MAINTENANCE BY TENANT** - Tenant shall, at its expense, repair and maintain in good condition all other parts of the interior of, and other improvements on, the Demised Premises, including but not limited to repairs (or replacements, if necessary) to the interior plumbing, window glass and casements, plate glass, doors, heating, and air conditioning system installed by Tenant and/or exclusively servicing the Demised Premises, signage on the exterior facade of the Demised Premises installed by or at the direction of Tenant and the interior of the Demised Premises in general. Tenant shall keep the Demised Premises free from waste or nuisance, and, should Tenant fail or neglect to reasonably maintain the Demised Premises as provided for herein after appropriate notice from Landlord of the need for same, Landlord shall have the right (but not the obligation) to cause repairs or corrections to be made and any reasonable costs incurred thereby shall be payable by Tenant to Landlord within thirty (30) days of billing.

Notwithstanding the foregoing, Landlord shall replace the heating and air conditioning system that serves the Demised Premises.

**8.3 MAINTENANCE OF PLUMBING FACILITIES** - The plumbing facilities shall not be used for any other purpose than that for which they are constructed; and, no foreign substance of any kind shall be thrown therein. The expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Tenant, whose employees, agents, or invitees shall have caused it.

## **9. ALTERATIONS, ADDITIONS, AND IMPROVEMENTS**

**9.1 TENANT ALTERATIONS** - Tenant may from time to time make non-structural alterations or additions to the improvements on the Demised Premises without the prior written consent of Landlord, provided same are performed in a workmanlike manner and in compliance with any governing codes, ordinances of the like promulgated by any local, county or state authority and the cost for same in each instance does not exceed \$5,000.00. Tenant shall have the right at all times to erect or install shelves, bins, trade fixtures, machinery, air conditioning or heating equipment, carpeting or wall coverings provided that Tenant complies with all applicable governmental laws, ordinances and regulations. Tenant shall, prior to the expiration of the Lease Term, remove its trade fixtures, signs, or other personal property installed or placed in the Demised Premises. In the event Landlord shall be required to either repair any damage caused to the Demised Premises by such removal or to affect such removal, Tenant shall pay the cost of same promptly upon the receipt of a billing therefor from the Landlord. Any fixtures, signs, and other furnishings or equipment left in the Demised Premises by the Tenant after the Termination Date hereof shall be deemed abandoned by Tenant and shall be the property of the Landlord.

**9.2 LANDLORD'S DELIVERY OF PREMISES** - Landlord shall, at its own cost and expense, and in compliance with all governmental regulations, deliver the Demised Premises in accordance with Exhibit \_\_C\_ (Landlord's Work).

**9.3 PROTECTION AGAINST LIENS** - Tenant shall promptly pay all contractors and materialmen so as to minimize the possibility of a lien attaching to the Demised Premises or to the land under the Demised Premises; and, should any such lien be made or filed, Tenant shall bond against or discharge the same within ten (10) days after written request by Landlord.

**9.4 REMOVAL OF IMPROVEMENTS** - All alterations, additions, or improvements made by Tenant that are permanently attached to the real estate shall become the property of the Landlord at the termination of this Lease.

## **10. SIGNS**

Tenant shall have the right, subject to Landlord's prior written consent which shall not be unreasonably withheld or delayed, to erect signs on the front of the Premises and at its

rear door, same to be securely attached to said walls, capable of being illuminated, advertising its business or products sold from the Demised Premises. Tenant shall undertake the attainment of the necessary permits from the required governmental authorities for the erection and maintenance of said signs. Tenant agrees to maintain such signs in good condition and repair and shall remove all such signs at the termination of this Lease and repair any damage to the exterior of the building resulting from such removal.

## **11. INDEMNIFICATION**

**11.1 NON-LIABILITY OF LANDLORD** - Except as elsewhere herein provided, Landlord shall not be liable to Tenant for any damage occasioned by electricity, plumbing, gas, water, sprinkler or other pipes and sewage system or by the bursting, leaking, overflowing or running of any tank, washstand, closet or other pipes in or about the Demised Premises and the Shopping Center of which they are a part, nor for any damage occasioned by water coming into the Demised Premises from any acts or neglect of Tenant's co-tenants or other occupants of the Center or the public. All property of Tenant kept or stored at the Demised Premises shall be so kept or stored at the risk of Tenant and Tenant shall hold Landlord harmless from any claims arising out of damage to same unless such damage shall be caused by the negligent act or omission of Landlord or anyone acting by, through or on behalf of Landlord.

**11.2 LANDLORD'S INDEMNITY** - Landlord shall defend, indemnify, and save harmless the Tenant, its officers, agents, employees, contractors and invitees, against liability or claim thereof whether for injury to persons, including death, or damage to property (a) if caused by an act or omission to act by Landlord, its officers, agents, employees, contractors or licensees; (b) arising out of any default by Landlord hereunder; or (c) occurring on the Common Areas unless caused by any act or omission to act by Tenant, its officers, agents, employees, contractors, or invitees.

**11.3 TENANT'S INDEMNITY** - Tenant shall defend, indemnify, and save harmless the Landlord, its officers, agents, employees, contractors, and invitees, against any liability or claim thereof whether for injury to persons, including death, or damage to property (a) occurring on or arising out of Tenant's use and/or occupancy of the Demised Premises during the Lease Term; (b) arising out of default by Tenant hereunder; (c) arising out of any negligent act or omission to act by Tenant, its officers, agents, employees, contractors or invitees.

## **12. INSURANCE**

### **12.1 LANDLORD'S INSURANCE**

**a. LANDLORD'S LIABILITY INSURANCE** - Landlord shall carry at Landlord's own expense public liability insurance on the property of which the Demised Premises constitute a part providing coverage of not less than \$500,000 against liability for injury to or death of any one person and \$1,000,000 for any one occurrence and

\$100,000 property damage insurance, combined single limit insurance in the amount of \$1,000,000.

**b. LANDLORD'S PROPERTY INSURANCE** - Landlord shall also carry, during the term hereof, all risk property insurance (hereinafter "Landlord's Property Insurance") covering fire and extended coverage, vandalism and malicious mischief, sprinkler leakage, and all other perils of direct physical loss or damage insuring the Shopping Center, including the Demised Premises and all appurtenances thereto (excluding Tenant's property) for the full replacement value thereof.

**12.2 TENANT'S INSURANCE** - Tenant shall keep and maintain at Tenant's own expense throughout the Lease Term, including Tenant's period of construction, a policy of public liability and property damage insurance, including business interruption coverage, with respect to the Demised Premises and the business operated by Tenant and/or any subtenants, concessionaires or assignees of Tenant in the Demised Premises, with Landlord and its mortgagee(s), if any, named as additional insureds, as their respective interests appear, which insurance shall be with a combined single limit of no less than \$1,000,000 per occurrence. Tenant shall also carry insurance against fire and such other risks customarily afforded under a fire and extended coverage endorsement for at least 80% of the replacement value covering all of the Tenant's inventory, trade fixtures, equipment, personal property and such improvements and betterments as may be installed by Tenant or may be located within or on the Demised Premises from time to time and for which Tenant is responsible to maintain pursuant to the terms of this Lease. Tenant shall provide Landlord with a certificate of insurance evidencing that such coverage required under this section 13.2 is in full force and effect. Such certificate shall contain a provision to the effect that the Landlord shall be given a minimum of thirty (30) days notice prior to the cancellation or diminution in limits of such coverages.

**12.3 SOLE BENEFIT** - Any insurance which may be carried by Landlord or Tenant against loss or damage to the Demised Premises or the building of which the Demised Premises are a part and/or other improvements situated on the Demised Premises shall be for the sole benefit of the party carrying such insurance under its control.

### **13. DAMAGE OR DESTRUCTION**

**13.1 PROMPT NOTICE** - If the Demised Premises, or any part thereof, should be damaged or destroyed by fire or other casualty, Tenant shall give prompt written notice thereof to Landlord.

**13.2 REPAIRS BY LANDLORD** - If the Demised Premises or any portion of the building in which the Demised Premises are located should be damaged or destroyed during the Lease Term by any casualty insurable under a standard fire and extended coverage insurance policy, or should such building be damaged to an extent less than twenty-five percent (25%) of the then tax assessed value thereof by any other casualty, Landlord, subject to any delay or inability from causes beyond Landlord's

reasonable control, shall repair and/or rebuild the same to substantially the condition in which the same were immediately prior to such damage or destruction.

**13.3 NON-INSURED CASUALTY** - If said building in which the Demised Premises are located should be damaged or destroyed by a casualty not insurable under a standard fire and extended coverage policy to the extent of twenty-five percent (25%) or more of the then tax assessed value thereof, then the Landlord may either terminate this Lease or elect to repair or restore said damage or destruction, in which latter event Landlord shall repair and/or rebuild the same as provided in Section 14.2 of this Article 14. Landlord shall advise Tenant in writing whether it intends to rebuild or repair within thirty (30) days after the casualty. If Landlord elects not to repair or rebuild, this Lease shall terminate without further notice, in which event all further obligations of either party shall cease, effective as of the date Tenant shall cease business in the Demised Premises. If such damage or destruction occurs and this Lease is not so terminated by Landlord, this Lease shall remain in full force and effect and the parties waive the provisions of any law to the contrary. The Landlord's obligation under this paragraph shall in no event exceed the scope of the work to be done by the Landlord in the original construction of said building and the Demised Premises.

**13.4 CONTINUATION OF BUSINESS** - Tenant agrees during any period of reconstruction or repair of the Demised Premises and/or of said building to continue the operation of its business in the Demised Premises to the extent reasonably practicable from the standpoint of prudent business.

**13.5 REPAIRS BY TENANT** - Tenant shall, in the event of any damage or destruction affecting the Demised Premises, unless this Lease shall be terminated as in Section 14.3 provided, forthwith replace or fully repair all plate glass, exterior signs, trade fixtures, equipment, display cases, and other installations originally installed by Tenant. Landlord shall have no interest in the proceeds of any insurance carried by Tenant in Tenant's interest in this Lease and Tenant shall have no interest in the proceeds of any insurance carried by Landlord.

**13.6 ABATEMENT OF MINIMUM RENT AND ADDITIONAL CHARGES** - To the extent Tenant must discontinue its business operation at the Demised Premises by virtue of the damage or destruction, Rent shall be abated proportionately. Such abatement shall continue for the period commencing with such destruction or damage and ending upon the earlier of the following to occur: (a) Sixty (60) days following the completion by the Landlord of such work of repair and/or reconstruction as Landlord is obligated to do or, (b) the date Tenant is able to recommence normal business operations at the Demised Premises. Nothing in this paragraph shall be construed to abate or diminish Percentage Rent as the same may be abated pursuant to this Section 14.6.

## **14. LANDLORD'S RIGHT OF ENTRY**



**14.1 ACCESS TO PREMISES** - Landlord and its authorized agents shall have the right to enter the Demised Premises during normal working hours for the purpose of inspecting the general condition and state of repair of the Demised Premises or for the making or repairs required of the Landlord or alterations or additions to any other portion of the Center, including the erection and maintenance of such scaffolding, canopies, fences, and props as may be required. All such work shall be done in a workmanlike manner and in a manner so as to minimize disruption to the Tenant. During the final one hundred eighty (180) day period of the Term, Landlord and its authorized agents shall have the right to enter the Demised Premises for the showing of the Premises to prospective tenants or purchasers.

**14.2 UTILITY MAINS, ETC.** - Landlord shall have the right to locate within the Demised Premises utility mains and other facilities serving other premises when such location is dictated by necessities of engineering design, good practice and/or code requirements. Such mains and other facilities shall be located so as to cause a minimum of interference with the Tenant and to be unobtrusive in appearance. These facilities shall include but are not necessarily limited to drains, water supply, sewage lines, sewage vents, electric power circuits, telephone circuits, pump stations, electric panelboards, sanitary vents, fresh air supply ducts and exhaust ducts.

## **15. UTILITY SERVICES**

Landlord shall provide at its own expense at the time the Demised Premises are delivered to Tenant the normal and customary utility service connections, including separate meters to measure tenant's actual consumptions, for gas, water, electricity, and sewage in the Demised Premises. Tenant shall pay all charges for such utilities consumed on the Demised Premises and for all electric light lamps or tubes. Landlord will provide and maintain the necessary mains and electrical conduits bringing water, gas, and electricity to the Demised Premises and remove sewage therefrom.

## **16. ASSIGNMENT AND SUBLETTING**

This Lease shall not be assigned, or the Premises covered herein sublet, without Landlord's prior written consent, which consent shall not be unreasonably nor arbitrarily withheld. Consent by Landlord to any assignment or subletting shall not waive the necessity for consent to any subsequent assignment or subletting as required hereunder.

## **17. HAZARDOUS SUBSTANCES**

To the best of Landlord's knowledge, the Demised Premises does not contain any "hazardous substances" as defined under any laws, rules, regulations or ordinances of the Federal Government or any state, county or city government and Tenant represents and warrants that it will not, on or about the Premises, make, store, use, treat or dispose of any such "hazardous substance". Tenant represents and warrants that it will, at all times, comply with all federal, state or local laws, rules or regulations governing "hazardous substances". Tenant shall and does hereby indemnify and hold Landlord harmless from

and against any and all loss, damage, expenses, fees, claims, costs and liabilities arising out of the “release” or “threatened release” of “hazardous substances” from the Premises arising out of Tenant’s occupancy thereof.

## **18. CONDEMNATION - EMINENT DOMAIN**

**18.1 SUBSTANTIAL TAKING** - If, during the term of this Lease or any extension thereof, twenty percent (20%) or more of the Demised Premises should be taken for public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain, or should be sold to the condemning authority under threat of such condemnation, this Lease shall, at Tenant’s option, terminate and the rent shall be abated during the unexpired portion of this Lease, effective as of the date of taking of said Demised Premises by the condemning authority or the date Tenant surrenders possession of Demised Premises by virtue of such impending taking, whichever occurs first. Tenant’s election to terminate must be exercised within thirty (30) days of Tenant’s initial receipt of notice of such impending action.

**18.2 PARTIAL TAKING** - If less than twenty percent (20%) of the land comprising the Demised Premises shall be taken for public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, and Tenant determines, in its sole opinion, that the remaining portion of the Demised Premises is unsuitable for its use hereunder, Tenant shall have the option, to be exercised within thirty (30) days after Tenant’s initial notice of the filing of any such action, of cancelling this Lease effective as of the date the condemning authority shall take possession. Should Tenant elect not to cancel this Lease, it shall not terminate and Landlord shall, if necessary, forthwith at its sole cost and expense restore and reconstruct the Demised Premises into an architectural whole and to the condition which existed at the time the Demised Premises were originally delivered to Tenant for Tenant’s Work. However, if more than fifty percent (50%) of the gross leaseable area of the Demised Premises shall be taken under the power of eminent domain, either party, by written notice to the other delivered within thirty (30) days of such party’s receipt of initial notice of the impending taking, may terminate this Lease, effective as of the date of surrender of possession. Minimum Rent and additional charges shall abate during such period of restoration and reconstruction and shall recommence when Tenant reopens the Demised Premises for business or forty-five (45) days following completion of Landlord’s restoration work, whichever occurs first. Minimum Rent shall be proportionately reduced in ratio to the reduced square footage of the Demised Premises.

**18.3 SEPARATE AWARDS** - Landlord and Tenant shall be entitled to receive and retain such separate awards and portions of lump-sum awards as may be allocated to their respective interest in any condemnation or similar proceeding except that Tenant shall not be entitled to any award granted for the land or building structure taken. The termination of this Lease shall not affect the rights of the respective parties to such awards.

## **19. SURRENDER OF PREMISES AND HOLDING OVER**

**19.1 HOLDING OVER** - If Tenant holds over after the expiration of this Lease and Landlord permits such continued occupancy, unless otherwise agreed in writing by the parties, such holding over shall constitute and be construed as a tenancy from month to month only upon each of such terms and conditions of this Lease as is applicable to a month to month tenancy and such holding over shall not otherwise constitute an extension of this Lease.

**19.2 SURRENDER OF PREMISES UPON TERMINATION** - At the termination of the tenancy hereby created, Tenant shall surrender the Premises in the same condition of cleanliness, repair, and sightliness as the Premises were in upon the Commencement Date, reasonable wear and tear and damage by unavoidable casualty excepted. Tenant shall surrender all keys for the Demised Premises to Landlord at the place then fixed for the payment of rent and shall inform Landlord of all combinations in locks, safes, and vaults, if any, remaining in the Demised Premises following termination. On such day all alterations, additions, improvements, all hard surface bonded or adhesively affixed flooring, and all fixtures on the Demised Premises other than Tenant's trade fixtures, operating equipment and carpeting, shall become the property of Landlord and shall remain upon and be surrendered with the Demised Premises as a part thereof, without credit to Tenant, its sublessees, concessionaires or licensees. On or before the last day of the Lease Term or the sooner termination thereof, Tenant shall remove all trade fixtures, operating equipment and other personal property of Tenant from the Demised Premises and repair any damage occasioned by any such removal. Property not so removed shall be deemed abandoned by Tenant. If the Demised Premises are not surrendered at such time, Tenant shall indemnify Landlord against loss or liability resulting from delay. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of this Lease Term then in effect.

## **20. DEFAULT**

**20.1 RIGHT TO RE-ENTER** - In the event of the failure of Tenant to pay when due any rental due hereunder and such delinquency continues for a period of ten (10) days following Tenant's receipt of Landlord's written notice of such delinquency, or should Tenant breach any of the other terms or conditions of this Lease and fail to cure such breach within thirty (30) days following Tenant's receipt of Landlord's written notice of such breach (or, if said breach is such that it cannot be reasonably cured within such thirty day period and Tenant is not then diligently prosecuting the cure thereof), or should Tenant file for bankruptcy or insolvency, or should Tenant abandon the Demised Premises, then Landlord, in addition to any other rights or remedies it may have, shall have the immediate right, with or without termination of this Lease, of re-entry and may remove all persons and property from the Premises and such property may be removed and stored in a public warehouse or elsewhere at the cost and for the account of Tenant, all without additional service of notice or resort to legal process and without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby.

**20.2 RIGHT TO RE-LET** - Should Landlord elect to re-enter for Tenant's default, as provided in Section 21.1 hereof, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, it may either terminate this Lease or it may, from time to time without terminating this Lease, make such alterations and repairs as may be necessary in order to re-let the Premises and re-let said Premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable. Upon each such re-letting all rentals received by the Landlord from such re-letting shall be applied, first, to the payment of any indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such re-letting and of such alterations and repairs; third, to the payment of rent due and unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of future rent as the same may become due and payable hereunder. If such rentals received from such re-letting during any month are less than to be paid during that month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. Termination may, but need not necessarily, be made effective by the giving of written notice to the Tenant of intention to end the Lease Term, specifying a day not earlier than five days thereafter, and upon the giving of such notice, the Lease Term and all right, title and interest of the Tenant hereunder shall expire as fully and completely on the day so specified as if that day were the date herein specifically fixed for the expiration of the Lease Term. No re-entry or taking possession of said Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such re-letting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous default. Should Landlord at any time terminate this Lease for Tenant's default, in addition to any other remedies it may have, it may recover from Tenant all damages it may incur by reason of such default, including the cost of recovering the Premises, and the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the Lease Term over the then reasonable rental value of the Premises for the remainder of the Lease Term, all of which amounts shall become due and payable from Tenant to Landlord as such obligations accrue. In determining the rental which would be payable by Tenant hereunder, subsequent to default, the rental for the unexpired term shall be computed pro rata upon the basis of the average aggregate rentals paid for the expired portions of this Lease Term, or the thirty-six (36) months next preceding such default, whichever period is the shorter.

**20.3 NON-WAIVER** - The waiver by Landlord of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular

rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent.

**20.4 NO ACCORD AND SATISFACTION** - No payment by Tenant or receipt by Landlord of a lesser amount than the monthly rent herein stipulated shall be deemed to be other than on account of the earlier stipulated rent nor shall any endorsement or statement on any check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy in this Lease provided.

## **22. FORCE MAJUERE**

Landlord or Tenant shall not be required to perform any term, covenant or condition in this Lease so long as such performance is delayed or prevented by force majeure, which shall contemplate acts of God, strikes, lockouts, materials or labor shortages, restrictions by any governmental authority, civil riot, floods, war and any other cause not reasonably within the control of Landlord or Tenant and which, by the exercise of due diligence, Landlord or Tenant is unable, wholly or in part, to prevent or overcome. In no event, however, shall the foregoing excuse Tenant from the timely payment of its rental obligations under this Lease.

## **23. NOTICES**

All notices or demands of any kind which Landlord is required or desires to serve on Tenant shall be given in writing by registered or certified mail, postage prepaid, return receipt requested or sent by FedEx or other reputable overnight courier service and addressed to Tenant at 44 East Downer Place, Aurora, Illinois 60507, Attention Mayor's Office and, all notices or demands of any kind which Tenant is required or desires to serve on Landlord shall be given in writing by registered or certified mail, postage prepaid, return receipt requested or sent by FedEx or other reputable overnight courier service and addressed to Landlord at 666 Dundee Road, Suite 901, Northbrook, Illinois 60062 or such other place as Landlord and Tenant may designate in writing from time to time. Serving of notice shall be deemed given as of the date of receipt or the third day following posting or first day following deposit with FedEx or other reputable overnight courier service, whichever occurs first.

## **24. SEVERABILITY**

Should any term, covenant, condition, provision, sentence, or part thereof in this Lease be held invalid or unenforceable by any court of proper jurisdiction, the remaining terms and provisions shall nevertheless remain in full force and effect. It is also the intention of the parties hereto that, in lieu of each clause or provision of this Lease which is held illegal, invalid or unenforceable, there be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provisions as may be possible and be legal, valid, and enforceable.

## **25. SUCCESSORS - ENTIRETY**

This Lease shall be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns; no assignee for the benefit of creditors, trustee, receiver, or referee in bankruptcy shall acquire any rights under this Lease by virtue of this paragraph. This Lease may be modified in writing only and it constitutes the entire agreement of the parties who acknowledge that no oral or other representations have been made by the parties hereto or otherwise. Upon the transfer of any ownership of the Demised Premises, the transferee shall, within a reasonable time period, provide Tenant with copies of documents of title showing ownership of the Demised Premises to be vested in such transferee and the date of such transfer in accordance with Article 8.1. Thereafter, any rental payments due shall be made to such transferee. Additionally, Landlord and each successor-in-interest, if any, shall provide Tenant with proper notice of any such transfer.

## **26. COMMON AREAS**

**26.1 COMMON AREAS DEFINED** - All parking areas, access roads and facilities furnished, made available or maintained by Landlord in or near the building of which the Demised Premises comprises a part, including common rest room facilities, sidewalks, landscaping, loading docks, hallways, exterior lighting, and other areas and improvements provided by Landlord for the general non-exclusive use in common of tenants and their customers in the area (all herein outlined in orange on Exhibit A and hereafter called "Common Areas") shall at all times be subject to the exclusive control and management of Landlord.

**26.2 USE OF COMMON AREAS** - Tenant and its business invitees, employees, and customers shall have the non-exclusive right, in common with Landlord and all others to whom Landlord has granted or may hereafter grant rights, to use the Common Areas subject to such reasonable rules and regulations as Landlord may impose from time to time. Landlord may at any time temporarily close any Common Areas to make repairs or changes, prevent the acquisition of public rights therein, discourage non-customer parking or for other reasonable purposes. Tenant shall not interfere with Landlord's or other tenant's rights to use any part of the Common Areas. Landlord shall have the right to police, regulate traffic in and otherwise control the use of the Common Areas.

**26.3 EMPLOYEE PARKING** - It is understood and agreed that the employees of Tenant, of Landlord and of other tenants within the Shopping Center shall be permitted to park their automobiles only in that portion of the parking area specifically designated by the Landlord for employees and the use of said parking areas by any such employee shall at all times be secondary and subordinate to the use by customers and patrons of Tenant, of Landlord and of other occupants of said Center. Tenant, upon written notice from the Landlord, will within five (5) days thereof, furnish to the Landlord the automobile license plate numbers assigned to its cars and the cars of all of its employees.

## **27. DEFAULT BY LANDLORD**

**27.1 DEFAULT BY LANDLORD** - Landlord shall in no event be charged with default in any of its obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days (or such additional time as is reasonably required to correct any such default) after receiving written notice from Tenant specifically describing such default. Upon any such default by Landlord and, as a proximate result thereof the safety of Tenant's employees or the protection of its property is jeopardized, Tenant may, at its option, remedy such default and bill Landlord for such costs reasonably incurred thereby.

## **28. TENANT'S PLANS / PERMITS**

This Lease is made upon the express condition that Tenant shall obtain any and all appropriate governmental permits for Tenant's proposed use and operation of the Demised Premises. In the event that, for any reason whatsoever, Tenant does not secure required authority to perform any of its work contemplated under this Lease, or does not secure any required permits for such installation and/or operation, or to operate the Demised Premises for any of its uses as indicated in the Lease, or to install its contemplated signs (in accordance with local ordinances) and improvements or to perform all or part of the work necessary to install and operate the same within a reasonable amount of time after the execution date of this Lease, hereinafter collectively referred to as the "Permits", Tenant shall, provided Tenant had made application for such Permits within ten (10) days of the execution of this Lease or within ten (10) days of Landlord's approval of Tenant's plans and specifications (whichever date is later) and such Permits have not been obtained within ninety (90) days of such date, have the option of terminating this Lease by giving notice of that election to Landlord; and, in the event this Lease is so terminated, Landlord shall forthwith return to Tenant any deposit theretofore made by Tenant to Landlord, the parties having no further obligation, one to another, of any kind. Further, should Tenant fail to obtain any or all such Permits within said ninety (90) day period following the date of Landlord's approval of Tenant's Plans, either Landlord or Tenant may thereupon, or at any time thereafter while Tenant continues in its inability to obtain such permits, terminate this Lease upon ten (10) days prior written notice to the other party.

## **29. LEASE REPLACEMENT - RECORDATION**

**29.1 LEASE REPLACEMENT** - In the event either party's copy of this Lease is lost, damaged or destroyed, thereby necessitating the replacement thereof, each party hereto agrees to furnish the other party, its successors or assigns, upon written request, a certified copy of such Lease at no cost or expense to the party rendering such request.

**29.2 MEMORANDUM OF LEASE** - This Lease shall not be recorded, however, Landlord and Tenant shall, at the request of the other, execute a Memorandum

of Lease which shall be in a form and executed in a manner sufficient to enable it to be recorded in the governmental office in which a deed covering the Demised Premises would be recorded in accordance with the law of the jurisdiction in which the Demised Premises are located, which Memorandum shall state, among other things, the location of the Demised Premises, the Commencement Date and the Lease Term hereof. Any costs incurred in having such memorandum recorded shall be borne solely by the party requesting such recordation.

### **30. SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE**

**30.1 ESTOPPEL CERTIFICATE** - Within ten (10) days after receipt of written request thereof by either Landlord or Tenant, such requested party shall deliver to the requesting party a written statement, in a form acceptable to the requested party and furnished by the party making such request, certifying (if such is the case) that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended; that all covenants, conditions and agreements on the part of either party have been performed (if such is the case); and that there are no defenses or offsets to the enforcement of this Lease by either Landlord or Tenant or stating those being claimed.

**30.2 ATTORNMENT** - Tenant shall, in the event that any proceedings are brought for the foreclosure of any mortgage made by Landlord covering the Demised Premises, attorn to the purchaser upon such foreclosure and recognize such purchaser as the Landlord under this Lease.

**30.3 SUBORDINATION** - Upon Landlord's written request, Tenant shall execute and deliver to Landlord an agreement furnished by Landlord in recordable form subordinating its rights hereunder to the lien of any mortgage or mortgages now or hereafter encumbering the Demised Premises or any part thereof. Tenant, however, shall not be required to subordinate its rights hereunder to any mortgage unless and until the holder of such mortgage executes and delivers to Tenant a written agreement providing, in substance, that so long as Tenant faithfully discharges its obligations under this Lease, its tenancy will not be disturbed nor its rights hereunder affected by any default by Landlord under any instrument creating or secured by such mortgage, and that in the event of foreclosure or any other enforcement of such mortgage, the rights of Tenant hereunder shall expressly survive and this Lease shall continue in full force and effect.

### **31. MISCELLANEOUS**

**31.1 EXHIBITS** - All exhibits, attachments, annexed instruments and addenda referred to herein shall be considered a part hereof for all purposes with the same force and effect as if copied in full length herein.

**31.2 CONSENT REQUIRED** - Whenever in this Lease Landlord's approval is required, such approval shall be in writing and Landlord shall not withhold or delay such approval unreasonably.



**31.3 GENDER** - Words of any gender used in this Lease shall be held and construed to include any other gender and words in the singular shall be held to include the plural unless the context otherwise dictates or requires.

**31.4 CAPTIONS** - The captions or headings of articles in this Lease are inserted for convenience only and shall not be considered in construing or otherwise interpreting the provisions hereof should any question of intent arise.

**31.5 WAIVER** - No waiver by Landlord or Tenant of any breach of any term, covenant or condition thereof shall be deemed a waiver of the same or any subsequent breach of the same or any other term, condition or provision. No covenant, term or condition of this Lease shall be deemed waived by Landlord or Tenant unless waived in writing.

**31.6 ENTIRE AGREEMENT** - There are no representations, covenants, warranties, promises, agreements, conditions or undertakings, oral or written, between Landlord and Tenant other than herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Landlord or Tenant unless in writing and signed by each party.

## **32 RELOCATION**

Landlord shall have the right during this Lease term to relocate the Demised Premises to another part of the building of which the Demised Premises are a part by the substitution therefore of other space within the building. Landlord shall give Tenant at least sixty (60) days written notice of Landlord's intention to so relocate the Demised Premises. Upon the occurrence of any relocation, the parties hereto shall immediately execute an amendment to this Lease reflecting the relation of the Demised Premises.

**[THIS SECTION INTENTIONALLY LEFT BLANK]**

**33. APPLICABLE LAW** - This Lease shall be construed under the laws of the state of Illinois

IN WITNESS WHEREOF, Landlord and Tenant have set their hand the day and year first above written.

**LANDLORD:**

**TENANT:**

WEST AURORA PLAZA LLC  
By: The Cloverleaf Group, Inc., Manager

\_\_\_\_\_

By: \_\_\_\_\_  
Cindy M. Freese,  
Senior Vice President

By: \_\_\_\_\_

**EXHIBIT A**  
**DEMISED PREMISES**

**EXHIBIT A**  
**DEMISED PREMISES**



## **EXHIBIT B**

### **PERMITTED USES/EXCLUSIVES**

#### **COLONIAL ICE CREAM**

##### **Shopping Center Exclusive Outlet.**

During the term hereof, and any extensions thereof, the LESSEE shall have the exclusive and sole right to operate a restaurant that can be described as an ice cream and/or coffee shop and/or family restaurant in the area known as the West Aurora Plaza as depicted on Exhibit "A". LESSOR also warrants that it will not renew the existing Lease with F-Brand-A Sirloin House, Inc., D/B/A Fran & Art's Circle E when said Lease expires June 30, 1982; however, the provision of this paragraph shall not apply to Town & Country Drugs or any other present Lease existing in the Shopping Center as of the date of the execution hereof, nor to any extensions or renewals thereof.

##### **Use of Premises.**

Paragraph 11 of the Lease is hereby amended to include the following sentence: -- "Lessee shall not sell pizza pies from the premises".

#### **MCDONALD'S**

##### **Covenant Not to Compete**

Landlord shall not, except with the prior written consent of Tenant, directly or indirectly engage in, or acquire any financial or beneficial interest in, or grant a Lease to any persons to engage in a restaurant of any type in which food and beverages are dispensed within a radius of two (2) miles from the Premises. Notwithstanding the foregoing, the restrictions contained in this section shall not apply to the Omni so long as the food service operation within the Omni is operated by Dominick's or a subsidiary thereof, and such operation does not sell hamburgers or cheeseburgers.

#### **ROSIN OPTICAL**

##### **Permitted Uses.**

Tenant acknowledges that certain restrictions on its use of the premises that are listed on Exhibit D (Private Restrictions), attached hereto and made a part hereof, and shall use and occupy the Demised Premises for the providing of optician, ophthalmology and optometry services and the retail sale of glasses, frames contact lenses and related

accessories and for no other purpose. Landlord hereby grants unto Tenant the exclusive right to operate such a store within the Shopping Center during the term hereof; however, such exclusive shall not apply to existing Tenants in the Shopping Center whose leases do not prohibit the provision of such services or the sale of such items. Tenant shall conduct its customary business activity during the term of the Lease through all normal business days and hours, unless prevented from doing so by fire, casualty or some other comparable cause and excepting also during reasonable periods of repairing, cleaning and decorating the Premises, including the performance of Tenant's work described in Exhibit B.

## **AUTOZONE**

### **Protective Covenant.**

In order to induce Tenant to enter into this Lease, Landlord agrees for itself, its successors and assigns, its officers, directors and shareholders (holding more than ten percent (10%) of its stock), its parent, affiliated and subsidiary corporations or other entity and any partner or other party affiliated with it, that none of the foregoing shall use, suffer, permit or consent to the use or occupancy of any part of the Entire Premises (except for the Demised Premises) as an auto parts store or for the sale of automobile parts, supplies and/or accessories as its principal business so long as the Demised Premises is used as an auto parts store or for the sale of automobile parts, supplies and/or accessories. This restriction shall not apply to any business whose principal business is a drug-store and/or pharmacy, grocery store, department store, variety store, hardware store, home improvement store or any other seller of a broad mix of general merchandise which sells auto (or similar) parts as an incidental part of its general merchandise business; provided that, no business sells automobile carburetors, starters, brakes, alternators, fuel pumps, water pumps or other coolant pumps for off-premises installation. The provisions of this paragraph shall not apply to the leases of tenants existing on the Entire Premises as of the Effective Date or to the extension or renewal of such leases; provided, however, the restrictions shall apply in those situations where Landlord's consent is required for existing tenants to change the primary use of their premises.

Prohibited uses of the Entire Premises include the following: manufacturing or industrial uses; flea markets or similar businesses; adult entertainment; schools of any type; churches; car rentals or sales parking vehicles offered for lease or sale in the parking areas of the Entire Premises; nightclubs; undertaking establishments; bingo games, casinos or off-track betting agencies; pawn and gun shops; post offices or postal facilities; theaters, either motion picture or live; bowling alleys; skating rinks of any type; or call centers.

Landlord covenants and agrees that it shall not lease, rent or occupy, or permit the premises immediately to the east and west of the Demises Premises to be occupied for the following uses: medical office; restaurant; cocktail lounge; tavern; entertainment facility; gun or pawn shop; or postal office or postal facility.

## **DOLLAR TREE**

### **Permitted Use**

A variety store selling general merchandise including food products. Tenant agrees that no one category will become the principal product of Tenant's retail business, and the Landlord covenants that Tenant will be permitted to occupy the Premises for the entire Lease Term for the uses herein specified. Landlord warrants that as of the date hereof there are no recorded or unrecorded restrictions or other tenant exclusives that would prohibit Tenant's use of the Premises as stated above. The exclusives and restrictions in place as of the date hereof affecting the Premises, if any, are attached hereto as Exhibit E. In addition, during the Lease Term Tenant may, with written notice to Landlord, change Tenant's use to any lawful retail purpose so long as Tenant agrees that it will not violate other existing written tenant exclusives or other written restrictions, if any, in place at the time of Tenant's change of use.

### **Exclusive Use and Restricted Uses**

As a material inducement for Tenant to enter into this Lease, Landlord hereby agrees as follows:

- a. Exclusive Use. Tenant shall have the exclusive use for the operation of a single price point variety retail store ("Exclusive" or "Exclusive Use"). Landlord shall not lease, rent, occupy or permit any other premises in the Shopping Center to be occupied, whether by a tenant, sublessee, assignee, licensee or other occupant, whose "principal business" (hereinafter defined) is for the operation of a single price point variety retail store.
- b. Restricted Uses. Landlord will not permit any other occupant in the Shopping Center to operate the following uses (hereafter, "Restricted Uses") without Tenant's consent and such consent shall be in Tenant's sole and absolute discretion:
  - a. Variety retail operations with the word "Dollar" in their trade name;
  - b. A close-out store; or
    - i. Selling a combination of gifts, cards, gift wrap and other party supplies; or
    - ii. Selling a combination of artificial flowers and picture frames.
  - c. For the purpose of Sections A.13 and A.13.b hereof, "principal business" shall be defined as selling such merchandise in twenty-five percent (25%) or more of the sales floor area (including one-half [1/2] of the adjacent aisle space).

**EXHIBIT C**  
**LANDLORD'S WORK**