



**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**Pre-Effective Amendment No. 4**

to

**Form S-1**

**REGISTRATION STATEMENT**

**UNDER**

**THE SECURITIES ACT OF 1933**

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**Build-A-Bear Workshop, Inc.**

*(Exact name of registrant as specified in its charter)*

**Delaware**  
*(State or other jurisdiction of  
incorporation or organization)*

**5945**  
*(Primary Standard Industrial  
Classification Code Number)*

**43-1883836**  
*(I.R.S. Employer  
Identification No.)*

**1954 Innerbelt Business Center Drive**

**St. Louis, Missouri 63114**  
**(314) 423-8000**

*(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)*

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**Maxine Clark**

**Chief Executive Bear**  
**Build-A-Bear Workshop, Inc.**  
**1954 Innerbelt Business Center Drive**  
**St. Louis, Missouri 63114**  
**(314) 423-8000**

*(Name, address, including zip code, and telephone number, including area code, of agent for service)*

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**Copies to:**

**James H. Erlinger III, Esq.**  
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**Approximate date of commencement of proposed sale to public:** As soon as practicable after the effective date of this registration statement.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.  \_\_\_\_\_

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.  \_\_\_\_\_

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.  \_\_\_\_\_

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box.

**The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

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## EXPLANATORY NOTE

This Pre-Effective Amendment No. 4 to the Registration Statement on Form S-1 (File No. 333-118142) is being filed to include two revised exhibits, one of which we have requested confidential treatment for from the Securities and Exchange Commission. This Pre-Effective Amendment No. 4 does not modify any provision of the Prospectus constituting Part I of the Registration Statement or Items 13, 14, 15 or 17 of Part II of the Registration Statement. Accordingly, such Prospectus has not been included herein.

### PART II

#### INFORMATION NOT REQUIRED IN PROSPECTUS

##### Item 13. *Other Expenses of Issuance and Distribution*

The following table sets forth the costs and expenses, other than underwriting discounts and commissions, payable by Build-A-Bear in connection with the sale of the common stock being registered hereby, other than underwriting commissions and discounts. All amounts are estimates except the SEC registration fee, the NASD filing fee and the New York Stock Exchange listing fee.

Registration fee	\$15,837.50
NASD filing fee	13,000.00
NYSE listing fee*	
Blue Sky fees and expenses*	
Printing and engraving expenses*	
Legal fees and expenses*	
Accounting fees and expenses*	
Transfer agent and registrar fees*	
Miscellaneous*	
<b>Total*</b>	<b>\$</b>

We intend to pay all expenses of registration, issuance and distribution.

\* To be supplied by amendment

##### Item 14. *Indemnification of Directors and Officers*

Our certificate of incorporation provides that our directors shall not be personally liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director, except for liability for: (i) any breach of the director's duty of loyalty to us or our stockholders; (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) liability for payments of dividends or stock purchases or redemptions in violation of Section 174 of the Delaware General Corporation Law; or (iv) any transaction from which the director derived an improper personal benefit. In addition, our certificate of incorporation provides that we will, to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits us to provide broader indemnification rights than such law permitted us to provide prior to such amendment), indemnify and hold harmless any person who was or is a party, or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that such person is or was our director or officer, or is or was serving at our request as a director, officer, employee or agent of another corporation, or as our representative in a partnership, joint venture, trust or other entity, (an "indemnitee") against expenses, liabilities, and losses (including attorneys' fees, judgments, fines, and amounts paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith. We have also entered into

separate indemnification agreements with our directors that require us, among other things, to indemnify each of them against certain liabilities that may arise by reason of their status or service other than liabilities unless it is determined that he or she did not act in good faith and in a manner he or she reasonably believed to be in or not opposed to our best interests, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

The right to indemnification set forth above includes the right for us to pay the expenses (including attorneys' fees) incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the Delaware General Corporation Law requires an advancement of expenses incurred by an indemnitee in his capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to us of an undertaking, by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is not further right to appeal that such indemnitee is not entitled to be indemnified for such expenses under this section or otherwise. The rights to indemnification and to the advancement of expenses conferred herewith are contract rights and continue as to an indemnitee who has ceased to be a director, officer, employee or agent and inures to the benefit of the indemnitee's heirs, executors, and administrators.

The Delaware General Corporation Law provides that indemnification is permissible only when the director, officer, employee, or agent acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful. The Delaware General Corporation Law also precludes indemnification in respect of any claim, issue, or matter as to which an officer, director, employee, or agent shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine that, despite such adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court deems proper.

The selling stockholders and we have agreed to indemnify the underwriters and their controlling persons, and the underwriters have agreed to indemnify the selling stockholders, us and our controlling persons, against certain liabilities, including liabilities under the Securities Act. Reference is made to the Underwriting Agreement filed as part of the exhibits hereto.

See Item 17 for our undertaking to submit to adjudication the issue of indemnification for violation of the securities laws.

**Item 15.           *Recent Sales of Unregistered Securities***

Since September 20, 2001, the registrant has issued and sold the following securities:

1. In September, November and December 2001, the registrant issued and sold to 14 private investors 3,467,337 shares of Series D preferred stock at a price per share of \$6.10 for an aggregate consideration of \$21,150,756 pursuant to a Stock Purchase Agreement dated as of September 21, 2001. None of the transactions described in this item 1 involved any underwriters, underwriting discounts or commissions, or any public offering, and the registrant believes that each transaction was exempt from the registration requirements of the Securities Act by virtue of Section 4(2) thereof and Regulation D promulgated thereunder. The parties purchasing the securities described in this item 1 represented to the registrant that they were accredited investors at the time of such purchase and further represented to the registrant their intention to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof. Appropriate legends were affixed to the share certificates issued in such transactions and all recipients had adequate access, through their relationships with the registrant, to information about the registrant.

2. In August 2002, the registrant granted stock options to purchase 55,000 shares of its common stock to members of its management team pursuant to its 2000 Stock Option Plan, as amended. Such options

were granted at an exercise price of \$8.42. Under the 2000 Stock Option Plan and the option agreements, the options vest ratably in installments of one-fourth per year starting on the first anniversary of the date of the grant. The purchase price of the common stock under each option was equal to at least 100% of the fair market value, or at least 110% of the fair market value for individuals who own more than 10% of the combined voting power of all classes of common stock, as determined by the compensation committee. Options to purchase an aggregate of 30,000 shares have been forfeited. The awards of options described in this item 6 were deemed to be exempt from registration under the Securities Act by virtue of Rule 701 of the Securities Act, in that they were made either pursuant to a written compensatory benefit plan or pursuant to a written contract relating to compensation, as provided by Rule 701 and the aggregate exercise price of options awarded during any consecutive 12-month period was less than the maximum amount allowed pursuant to Rule 701, or in reliance on Section 4(2) of the Securities Act, or Regulation D promulgated thereunder.

3. In April 2003, the registrant granted stock options to purchase 263,984 shares of its common stock to members of its management team and other employees, pursuant to its 2002 Stock Option Plan. Such options were granted at an exercise price of \$9.10. Under the 2002 Stock Option Plan and the option agreements, the options vest ratably in installments of one-fourth per year starting on the first anniversary of the date of the grant. The purchase price of the common stock under each option was equal to at least 100% of the fair market value, or at least 110% of the fair market value with respect to any individual who owns more than 10% of the total combined voting power of all classes of registrant's common stock, as determined by the compensation committee. Options to purchase an aggregate of 69,000 shares have been canceled without being exercised. The award of options described in this item 7 were deemed to be exempt from registration under the Securities Act by virtue of Rule 701 of the Securities Act, in that they were made either pursuant to a written compensatory benefit plan or pursuant to a written contract relating to compensation, as provided by Rule 701 and the aggregate exercise price of options awarded during any consecutive 12-month period was less than the maximum amount allowed pursuant to Rule 701, or in reliance on Section 4(2) of the Securities Act, or Regulation D promulgated thereunder.

4. In April 2003, the registrant granted nonqualified stock options to purchase 7,500 shares of its common stock to a director pursuant to its 2002 Stock Option Plan. Such options were granted at an exercise price of \$9.10. Under the 2002 Stock Option Plan and the option agreement, the options vest ratably in installments of one-fourth per year starting on the first anniversary of the date of the grant. The purchase price of the common stock under each option was determined by registrant's compensation committee. Options to purchase these 7,500 shares have been exercised. The award of options and sale of common stock upon exercise described in this item 8 were deemed to be exempt from registration under the Securities Act by virtue of Rule 701 of the Securities Act, in that they were made either pursuant to a written compensatory benefit plan or pursuant to a written contract relating to compensation, as provided by Rule 701 and the aggregate exercise price of options awarded during any consecutive 12-month period was less than the maximum amount allowed pursuant to Rule 701, or in reliance on Section 4(2) of the Securities Act, or Regulation D promulgated thereunder.

5. From March 31, 2004 through April 26, 2004, the registrant granted options to purchase 299,734 shares of its common stock, to members of its management team and other employees, pursuant to its 2002 Stock Option Plan. Such options were granted at an exercise price of \$8.78. Options to purchase an aggregate of 2,750 shares have been canceled without being exercised. Under the 2002 Stock Option Plan and the option agreements, the options vest ratably in installments of one-fourth per year starting on the first anniversary of the date of the grant. The purchase price of the common stock under each option was equal to at least 100% of the fair market value, or at least 110% of the fair market value with respect to any individual who owns more than 10% of the total combined voting power of all classes of common stock, as determined by the compensation committee. The awards of options described in this item 9 were deemed to be exempt from registration under the Securities Act by virtue of Rule 701 of the Securities Act, in that they were made either pursuant to a written compensatory benefit plan or pursuant to a written contract relating to compensation, as provided by Rule 701 and the aggregate exercise price of options awarded during any consecutive 12-month period was less than the maximum amount allowed

pursuant to Rule 701, or in reliance on Section 4(2) of the Securities Act, or Regulation D promulgated thereunder.

6. On May 19, 2004, the registrant granted nonqualified stock options to purchase 2,500 shares of its common stock to a director pursuant to its 2002 Stock Option Plan. Such options were granted at an exercise price of \$8.78. Under the 2002 Stock Option Plan and the option agreement, the options vest ratably in installments of one-fourth per year starting on the first anniversary of the date of the grant. The purchase price of the common stock under each option was determined by registrant's compensation committee. These options have been forfeited. The award of options described in this item 10 was deemed to be exempt from registration under the Securities Act by virtue of Rule 701 of the Securities Act, in that it was made either pursuant to a written compensatory benefit plan or pursuant to a written contract relating to compensation, as provided by Rule 701 and the aggregate exercise price of options awarded during any consecutive 12-month period was less than the maximum amount allowed pursuant to Rule 701, in reliance on Section 4(2) of the Securities Act, or Regulation D promulgated thereunder.

The recipients of securities in the transactions described above represented their intention to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof and appropriate legends were affixed to the share certificates issued in such transactions. All recipients had adequate access, through their relationships with the Company, to information about the registrant.

**Item 16. Exhibits and Financial Statement Schedules**

(a) The following is a list of exhibits filed as a part of this Registration Statement:

<b>Exhibit Number</b>	<b>Description</b>
1.1*	Form of Underwriting Agreement
2.1**	Agreement and Plan of Merger dated April 3, 2000 between Build-A-Bear Workshop, L.L.C. and the Registrant
3.1**	Amended and Restated Certificate of Incorporation of the Registrant dated August 10, 2004
3.2**	Bylaws of the Registrant as currently in effect
3.3**	Form of Third Amended and Restated Certificate of Incorporation of the Registrant, to be effective upon the closing of this offering
3.4**	Form of Amended and Restated Bylaws of the Registrant, to be effective upon the closing of this offering
4.1**	Specimen Stock Certificate
4.2**	Stock Purchase Agreement by and among the Registrant, Catterton Partners IV, L.P., Catterton Partners IV Offshore, L.P. and Catterton Partners IV Special Purpose, L.P. and the Purchasers named therein dated as of April 3, 2000
4.3**	Stock Purchase Agreement by and among the Registrant and the other Purchasers named therein dated as of September 21, 2001
4.4**	Amended and Restated Stockholders' Agreement, dated as of September 21, 2001 by and among the Registrant and certain stockholders
4.5**	Amended and Restated Registration Rights Agreement, dated September 21, 2001 by and among Registrant and certain stockholders named therein
5.1*	Opinion of Bryan Cave LLP
10.1**	Build-A-Bear Workshop, Inc. 2000 Stock Option Plan
10.1.1**	Form of Incentive Stock Option Agreement under the Build-A-Bear Workshop, Inc. 2000 Stock Option Plan

Exhibit  
Number

Description

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10.1.2**	Form of Nonqualified Stock Option Agreement under the Build-A-Bear Workshop, Inc. 2000 Stock Option Plan
10.2**	Build-A-Bear Workshop, Inc. 2002 Stock Incentive Plan, as amended
10.2.1**	Form of Manager-Level Incentive Stock Option Agreement under the Build-A-Bear Workshop, Inc. 2002 Stock Option Plan
10.2.2**	Form of Nonqualified Stock Option Agreement under the Build-A-Bear Workshop, Inc. 2002 Stock Option Plan
10.3**	Build-A-Bear Workshop, Inc. 2004 Stock Incentive Plan
10.3.1**	Form of Incentive Stock Option Agreement under the Build-A-Bear Workshop, Inc. 2004 Stock Incentive Plan
10.3.2**	Form of Director Nonqualified Stock Option Agreement under the Build-A-Bear Workshop, Inc. 2004 Stock Incentive Plan
10.4**	Employment, Confidentiality and Noncompete Agreement dated May 1, 2004 between Maxine Clark and the Registrant
10.5**	Employment, Confidentiality and Noncompete Agreement dated April 13, 2004 between Barry Erdos and the Registrant
10.6**	Employment, Confidentiality and Noncompete Agreement dated March 7, 2004 between Tina Klocke and the Registrant
10.7**	Employment, Confidentiality and Noncompete Agreement dated July 9, 2001 between John Burtelow and the Registrant
10.8**	Employment, Confidentiality and Noncompete Agreement dated as of March 7, 2004 between Scott Seay and the Registrant
10.9**	Employment, Confidentiality and Noncompete Agreement dated September 10, 2001 between Teresa Kroll and the Registrant
10.10**	Separation Agreement and General Release dated January 31, 2004 by and between Brian C. Vent and Build-A-Bear Workshop, Inc.
10.11**	Form of Indemnification Agreement between the Registrant and its directors and executive officers
10.12**	Third Amendment to Loan Documents among the Registrant, Shirts Illustrated, LLC, Build-A-Bear Workshop Franchise Holdings, Inc., Build-A-Bear Entertainment, LLC, Build-A-Bear Retail Management, LLC
10.13**	Second Amended and Restated Loan Agreement dated February, 2002 among U.S. Bank National Association, the Registrant and Shirts Illustrated, LLC
10.14**	First Amended and Restated Revolving Credit Note dated February, 2002 by the Registrant and Shirts Illustrated, LLC in favor of U.S. Bank National Association
10.15**	First Amended and Restated Security Agreement dated February, 2002 among the Registrant, Shirts Illustrated, LLC and U.S. Bank National Association
10.16**	Restricted Stock Purchase Agreement dated April 3, 2000 by and between Maxine Clark and the Registrant
10.17**	Secured Promissory Note of Maxine Clark in favor of the Registrant, dated April 3, 2000
10.18**	Repayment and Stock Pledge Agreement dated April 3, 2000 by and between Maxine Clark and the Registrant
10.19**	Restricted Stock Purchase Agreement dated September 19, 2001 by and between Brian C. Vent and the Registrant
10.20**	Secured Promissory Note of Brian C. Vent in favor of the Registrant, dated September 19, 2001
10.21**	Repayment and Stock Pledge Agreement dated September 19, 2001 by and between Brian C. Vent and the Registrant

Exhibit Number	Description
10.22**	Restricted Stock Purchase Agreement dated September 19, 2001 by and between Tina Klocke and the Registrant
10.23**	Secured Promissory Note of Tina Klocke in favor of the Registrant, dated September 19, 2001
10.24**	Repayment and Stock Pledge Agreement dated September 19, 2001 by and between Tina Klocke and the Registrant
10.25**	Public Warehouse Agreement dated April 5, 2002 between the Registrant and JS Logistics, Inc., as amended
10.26**	Agreement for Logistics Services dated as of February 24, 2002 by and among the Registrant and HA Logistics, Inc.
10.27†	Lease Agreement dated as of June 21, 2001 between the Registrant and Walt Disney World Co.
10.28**	Amendment and Restatement of Sublease dated as of June 14, 2000 by and between NewSpace, Inc. and the Registrant
10.29**	Lease dated May 5, 1997 between Smart Stuff, Inc. and Hycel Partners I, L.P.
10.30**	Agreement dated October 16, 2002 between the Registrant and Hycel Properties Co., as amended
10.31**	Construction Management Agreement dated November 10, 2003 by and between the Registrant and Hycel Properties Co.
10.32**	Agreement dated July 19, 2001 between the Registrant and Adrienne Weiss Company
10.33**	Lease between 5th Midtown LLC and the Registrant dated July 21, 2004
10.34**	Exclusive Patent License Agreement dated March 12, 2001 by and between Tonyco, Inc. and the Registrant
10.35	Standard Form Industrial Building Lease dated August 28, 2004 between First Industrial, L.P. and the Registrant
21.1**	List of Subsidiaries of the Registrant
23.1**	Consent of KPMG LLP
23.2*	Consent of Bryan Cave LLP (included in the opinion filed as Exhibit 5.1)
24.1**	Powers of Attorney

\* To be filed by amendment to this registration statement

\*\* Previously filed.

† Confidential treatment requested as to certain portions filed separately with the Securities and Exchange Commission

(b) *Financial Statement Schedules*

Schedules not listed above have been omitted because they are inapplicable or the requested information is shown in the financial statements of the Registrant or notes thereto.

#### **Item 17. Undertakings**

The undersigned registrant hereby undertakes to provide to the Underwriters at the closing specified in the Underwriting Agreement certificates in such denominations and registered in such names as required by the Underwriters to permit prompt delivery to each purchaser.

The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as a part of this registration statement in reliance upon 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or



(4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers, and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

**SIGNATURES**

Pursuant to the requirements of the Securities Act, the registrant has duly caused this Pre-Effective Amendment No. 4 to the Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of St. Louis, State of Missouri, on the 5th day of October, 2004.

BUILD-A-BEAR WORKSHOP, INC.

By: \_\_\_\_\_ /s/ TINA KLOCKE

Name: Tina Klocke

Title: *Chief Financial Bear, Treasurer and Secretary*

Pursuant to the requirements of the Securities Act of 1933, this Pre-Effective Amendment No. 4 to the Registration Statement has been signed by the following persons in the capacities and on the dates indicated:

Signatures	Title	Date
_____ /s/ MAXINE CLARK*		
Maxine Clark	Chief Executive Bear and Chairman of the Board (Principal Executive Officer)	October 5, 2004
_____ /s/ BARNEY A. EBSWORTH*		
Barney A. Ebsworth	Director	October 5, 2004
_____ /s/ JAMES M. GOULD*		
James M. Gould	Director	October 5, 2004
_____ /s/ WILLIAM REISLER*		
William Reisler	Director	October 5, 2004
_____ /s/ FRANK M. VEST, JR.*		
Frank M. Vest, Jr.	Director	October 5, 2004
_____ /s/ TINA KLOCKE		
Tina Klocke	Chief Financial Bear, Treasurer and Secretary (Principal Financial and Accounting Officer)	October 5, 2004
_____ *By: /s/ TINA KLOCKE		
Attorney-in-fact		

## LEASE AGREEMENT

THIS LEASE AGREEMENT ("LEASE") is made and entered into as of the date on which the last one of Landlord and Tenant has executed this Lease, by and between WALT DISNEY WORLD CO., a Florida corporation authorized to transact business in the State of California (hereinafter referred to as "LANDLORD"), and BUILD-A-BEAR WORKSHOP, INC., a Delaware corporation authorized to transact business in the State of California (hereinafter referred to as "TENANT").

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

WHEREAS, Landlord owns or leases that certain parcel of land lying and being in the City of Anaheim, Orange County, California, commonly known as the "THE DISNEYLAND RESORT(R) PROJECT";

WHEREAS, Landlord (or its Affiliates) is developing within THE DISNEYLAND RESORT(R) PROJECT a certain retail, dining and entertainment complex, which is currently known as "DOWNTOWN DISNEY(R)";

WHEREAS, among other things, Landlord intends that the retail, dining and entertainment facilities of DOWNTOWN DISNEY(R) be of a completely first-class nature and operation, consistent with the quality and operating standards of THE WALT DISNEY COMPANY including, without limitation, THE DISNEYLAND RESORT(R) PROJECT;

WHEREAS, Tenant wishes to lease a portion of a building within THE DISNEYLAND RESORT(R) PROJECT for the operation of a first-class, high end specialty retail store selling make-it-yourself plush teddy bears and other animals and accessories for such teddy bears and animals, all in accordance with the requirements of this Lease; and

WHEREAS, the parties wish to enter into this Lease for the aforesaid purposes, subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the terms, covenants and conditions herein contained, the sums of money to be paid hereunder, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, the parties agree as follows:

## 1. DEFINITIONS; PREMISES; TERM.

## 1.1. Definitions.

For purposes of this Lease, the following terms shall have the following meanings, unless the context requires otherwise:

1.1.1. "ADA" shall have the meaning set forth in Section 2.10 hereof.

\* - Redacted Text - Confidential treatment requested; omitted portions have been filed separately with the Securities and Exchange Commission.

1.1.2. "ADDITIONAL RENT" shall have the meaning set forth in Subsection 3.4.1 hereof.

1.1.3. "AESTHETIC ASPECTS" shall mean, collectively, all graphics, signage, partitions and materials (and the location thereof), finish, color, texture, decoration, furnishings, fixtures, equipment, lighting, artwork and landscaping (and the location thereof) affecting public areas, all architectural designs (interior and exterior) for the Premises, site plans, materials, furnishings and artwork (and the location thereof), both interior and exterior, and all other aesthetic considerations for the Site, the interior and exterior of the Improvements and the Furnishings.

1.1.4. "AFFILIATE" of a person or entity shall mean: (i) any person or entity that, directly or indirectly, controls or is controlled by or is under common control with such person or entity; (ii) any other person or entity that owns, beneficially, directly or indirectly, ten percent or more of the outstanding capital stock, shares or equity interests of such person or entity; or (iii) any officer, director, employee, partner or trustee of such person or entity, or any person or entity controlling, controlled by or under common control with such person or entity (excluding trustees and persons serving in similar capacities who are not otherwise an Affiliate of such person or entity); provided, however, that Euro Disney SA. and Euro Disney S.C.A. shall not be Affiliates of Landlord. For the purposes of this definition, "control" (including the correlative meanings of the terms "controls," "controlled by" and "under common control with"), as used with respect to any person or entity, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, through the ownership of voting securities, partnership interests or other equity interests, by contract or otherwise.

1.1.5. "ANNUAL BUDGET" shall have the meaning set forth in Subsection 23.1.2 hereof.

1.1.6. "APPLICABLE RATE" shall mean a per annum interest rate which is equal to the lesser of; (i) \* or (ii) the highest rate of interest then allowable pursuant to applicable Law.

1.1.7. "APPLICABLE RULES" shall have the meaning set forth in Section 1.7 of the Development Agreement.

1.1.8. "ATTRACTION" shall have the meaning set forth in Subsection 4.10.2 hereof.

1.1.9. "AUTHORITY" shall have the meaning set forth in Section 22.2 hereof.

1.1.10. "BOOKS AND RECORDS" shall have the meaning set forth in Subsection 3.3.1 hereof.

1.1.11. "BUSINESS DAY" shall mean any day other than Saturday, Sunday or a day when most U.S. banks are closed.

\* - Redacted Text - Confidential treatment requested; omitted portions have been filed separately with the Securities and Exchange Commission.

1.1.12. "CAPITAL BUDGET" shall have the meaning set forth in Subsection 23.1.2 hereof

1.1.13. "CHANGES" shall have the meaning set forth in Section 4.1.5. hereof.

1.1.14. "CHANGE OF CONTROL" shall have the meaning set forth in Section 18.2 hereof.

1.1.15. "CLEANUP LAWS" shall have the meaning set forth in Section 22.2 hereof.

1.1.16. "CLAIMS" shall have the meaning as set forth in Subsection 1.4.2 hereof.

1.1.17. "COMMENCEMENT DATE" shall mean the earliest to occur of: (i) the date on which any portion of the business to be operated within the Premises opens for business to the public, or (ii) the Outside Opening Date.

1.1.18. "COMMON AREAS" shall have the meaning set forth in Subsection 4.12.1 hereof.

1.1.19. "COMPETING STORE" shall have the meaning set forth in Section 23.4 hereof.

1.1.20. "COMPLETED" shall have the meaning set forth in Section 2.12 hereof.

1.1.21. "CONDITIONS OF APPROVAL" shall have the meaning set forth in Section 1.17 of the Development Agreement.

1.1.22. "CONFIDENTIAL INFORMATION" shall mean all non-public, confidential or proprietary information that Landlord or any of Landlord's Affiliates make available to Tenant or any of Tenant's Affiliates, or that Tenant, or any of Tenant's Affiliates make available to Landlord or any of Landlord's Affiliates, in connection with this Lease. Confidential Information shall include, but not be limited to, the specific terms and conditions of this Lease as well as information related to the past, present and future plans, ideas, business strategies, marketing programs, activities, customers and suppliers of Landlord, Tenant, Landlord's Affiliates and/or Tenant's Affiliates. "Confidential Information" shall not include information that: (i) was, at the time of its disclosure, already in the possession of the receiving party; (ii) is or becomes generally available to the public other than as a result of a breach of this Lease by the receiving party or its Representatives; or (iii) becomes available to the receiving party on a non-confidential basis from a source other than the disclosing party or its Representatives; provided, however, that such source is not to the knowledge of the receiving party bound by a confidentiality agreement or other legal or fiduciary obligation of secrecy to the disclosing party.

1.1.23. "CONTRACT DOCUMENTS" shall mean the final plans and specifications for the Improvements and Furnishings approved by Landlord, in Landlord's sole discretion.

1.1.24. "CPI" shall have the meaning set forth in Subsection 3.1.2. hereof.

1.1.25. "DESIGN AND CONSTRUCTION SCHEDULE REQUIREMENTS AND MILESTONES" shall mean those requirements and milestones attached hereto as Exhibit C and made a part thereof.

1.1.26. "DEVELOPMENT AGREEMENT" shall mean Development Agreement No. 96-01 executed by and between Landlord and the City of Anaheim and dated as of October 22, 1996, and all amendments and modifications thereto.

1.1.27. "DISNEY DOLLARS" shall mean those certain certificates sold or given by Landlord and its Affiliates which can be redeemed for merchandise and services at certain locations owned or leased by Landlord and its affiliates.

1.1.28. "DISNEY PROPERTY" shall have the meaning set forth in Section 1.25 of the Development Agreement.

1.1.29. "DISNEY SALARIED EMPLOYEE" shall have the meaning set forth in Subsection 23.5.2 hereof.

1.1.30. "DISNEY STANDARD" shall have the meaning set forth in Subsection 4.4.1 hereof.

1.1.31. "DOWNTOWN DISNEY(R)" shall mean the retail, dining and entertainment complex being developed within THE DISNEYLAND RESORT(R)PROJECT. Although such term is used throughout this Lease, Landlord may change the name of such retail, dining and entertainment complex in its sole and absolute discretion, and all references herein to "DOWNTOWN DISNEY(R)" shall be deemed changed to such new name.

1.1.32. "EARLY TERMINATION FEE" shall have the meaning set forth in Subsection 23.3 hereof.

1.1.33. "EPA" shall have the meaning set forth in Section 22.3 hereof.

1.1.34. "EVENT OF DEFAULT" shall have the meaning set forth in Section 20.1 hereof.

1.1.35. "EXECUTION DATE" shall mean the date on which the last of Landlord and Tenant execute this Lease.

1.1.36. "EXPENSES" shall have the meaning set forth in Section 24.5 hereof.

1.1.37. "EXPIRATION DATE" shall mean the eleventh (11th) anniversary of the Commencement Date unless this Lease is sooner terminated pursuant to its terms, in which event the Expiration Date shall be deemed to be the effective date of such termination.

1.1.38. "FEE MORTGAGE" shall have the meaning set forth in Subsection 17.1.1 hereof.

1.1.39. "FEE MORTGAGEE" shall have the meaning set forth in Subsection 17.1.2 hereof.

1.1.40. "FINANCIAL OFFICER'S CERTIFICATE" shall have the meaning set forth in Section 23.2 hereof.

1.1.41. "FIVE COUNTY REGION" shall mean the geographic region comprised of Orange County, California; Los Angeles County, California; San Diego County, California; Riverside County, California; and San Bernardino County, California, on the Execution Date.

1.1.42. "FORCE MAJEURE" shall have the meaning set forth in Section 24.25 hereof.

1.1.43. "FURNISHINGS" shall mean all: (x) furniture, fixtures, and equipment (including, without limitation, fixtures, display cases and lighting equipment) for sales areas, corridors and other public rooms and places and for all storerooms and offices on the Premises; and (y) all Personalty necessary and/or proper for the complete and comfortable use, enjoyment, occupancy and operation of a first-class, high-end Build-A-Bear Workshop specialty store hereafter procured and installed in the Shell Premises at Tenant's sole cost and expense and in accordance with the Contract Documents. The term "Furnishings" does not include Tenant's Merchandise, Supplies, consumable goods or inventory.

1.1.44. "GAAP" shall have the meaning set forth in Subsection 3.3.1 hereof.

1.1.45. "GLA" shall mean the gross leaseable area of the Premises, calculated to the exterior faces of exterior walls for each level including any mezzanine. No deductions shall be made for columns, shafts, stairs, ramps, elevators, or loading docks.

1.1.46. "GOVERNMENTAL AUTHORITY" shall mean all applicable federal, state, county, city, district, territory and political subdivisions of the United States and any board, bureau, council, commission, department, agency, court, legislative body or other instrumentality of the United States or any state, or any country, city or political subdivision thereof.

1.1.47. "GROSS SALES" shall mean all revenues received by, or paid to, Tenant or to any other person, corporation or other entity for the use, account or benefit of Tenant from whatever source (including, without limitation, (x) the actual sales price, whether wholly or partially for cash, on credit, or otherwise, for all food, beverages and goods, wares, merchandise and services of any kind, and (y) all other receipts) arising upon, out of or in connection with all business conducted on, in and from the Premises, whether for wholesale, retail, cash, credit, trade-ins or otherwise (including, but not limited to, sales made by mail, telephone, internet or other method although said sales may be made or filled elsewhere, all revenues derived from telephone (including local, long-distance, public telephone booths, etc.) or other electronic service or interactive media (e.g., the Internet), all deposits not refunded to purchasers, and all orders taken on, in and from the Premises although said orders may be filled elsewhere). Each sale on credit (including, without limitation, sales paid for with Disney Dollars) shall be treated as a sale for the full price in cash during the month in which such sale is initially made, without reserve or deduction for inability or failure to collect, and irrespective of the time when Tenant actually receives payment (whether full or partial) from its customer or any applicable credit or

credit card agency. Gross Sales of any sublessee, concessionaire or licensee shall be treated as if made by Tenant (provided, however, nothing contained herein shall be deemed Landlord's consent to any sublessee, concessionaire or licensee). Gross Sales shall exclude: (a) returns to suppliers or vendors; (b) sales of fixtures or equipment after use thereof in the conduct of Tenant's business on the Premises provided that such fixtures or equipment are replaced by new fixtures or equipment to be used for the same use; (c) sales of fixtures or equipment that are no longer reasonably necessary for the ongoing operations of the Premises; (d) any amounts received by Tenant on account of insurance proceeds; (e) cash or credit card refunds made upon transactions included within Gross Sales not exceeding, however, the sales price of the item upon which cash or credit refund is made; (f) the amount of any city, county, state or federal taxes or luxury or excise taxes on sales which are either added to the sales price or absorbed therein and paid to the taxing entity by Tenant; (g) revenues, royalties, fees and/or income received by Tenant in connection with franchise agreements other than with respect to the Premises; (h) proceeds of the sale of inventory outside the ordinary course of Tenant's business in connection with any winding down of Tenant's operations at the end of the Lease Term; (i) sales to Tenant's employees at a discount (not to exceed \* of Gross Sales per Lease Year and provided that the actual sales price to Tenant's employees is included in Gross Sales); (j) proceeds from the sale of gift certificates shall not be included until such time as any merchandise and/or service is delivered in exchange for gift certificates; (k) receipts from telephone and vending machines installed in non-sales areas of the Premises which are solely for the use and convenience of Tenant's employees; (l) postage, shipping and handling at no gross profit to Tenant; (m) bad debts (not to exceed \* of Gross Sales per Lease Year); and (n) sale of merchandise for which cash has been refunded, but only to the extent of such refund (not to exceed \* of Gross Sales per Lease Year).

Gross Sales shall include (a) insurance proceeds received as a result of a loss of Merchandise to the extent that such proceeds exceed Tenant's cost for such items and (b) the proceeds of business interruption insurance or other insurance intended to provide or insure payment to mitigate lost sales.

Gross Sales shall not be deemed cumulative from one Lease Year to any succeeding Lease Year; rather, they shall be computed separately for each Lease Year on an accrual basis in accordance with generally accepted accounting principles consistently applied. Nothing contained in this definition shall authorize any activities by Tenant which are prohibited by (or which are not expressly permitted by, as the case may be) any other provision of this Lease.

1.1.48. "HAZARDOUS MATERIAL" shall have the meaning set forth in Section 22.1 hereof.

1.1.49. "HAZARDOUS MATERIALS CONTAMINATION" shall have the meaning set forth in Section 22.5 hereof.

1.1.50. "IMPROVEMENTS" shall mean (x) all improvements (other than Landlord's Work) within the Shell Premises required to construct a 5,905 square foot, first-class, high-end Build-A-Bear Workshop specialty store, in accordance with the requirements of this Lease, all subject to the requirements of applicable Laws and Project Requirements, and (y) any and all other improvements (other than Landlord's Work) hereafter located on, or attached or

\* - Redacted Text - Confidential treatment requested; omitted portions have been filed separately with the Securities and Exchange Commission.



affixed to, the Site and constructed, installed or placed on the Site, all pursuant to plans and specifications acceptable to Landlord in Landlord's sole discretion, and any and all modifications, alterations and replacements thereof. The term Improvements does not include the Site.

1.1.51. "INDEMNIFIED PARTIES" shall have the meaning set forth in Section 15.1 hereof.

1.1.52. "INDEMNIFIED PARTY" shall have the meaning set forth in Section 15.3 hereof.

1.1.53. "INDEMNIFYING PARTY" shall have the meaning set forth in Section 15.3 hereof.

1.1.54. "INDEX" shall have the meaning set forth in Subsection 3.1.2 hereof.

1.1.55. "LANDLORD" shall mean Walt Disney World Co., a Florida corporation, authorized to do business in the State of California, and shall include the legal representatives, successors and assigns of Landlord.

1.1.56. "LANDLORD DELAY" shall mean an actual delay in Tenant's opening for business by the Outside Opening Date which was caused by an act or omission of Landlord or any Landlord Affiliate which is not permitted by the terms of this Lease.

1.1.57. "LANDLORD SPONSORSHIP AGREEMENTS" shall have the meaning set forth in Subsection 5.1.1 hereof.

1.1.58. "LANDLORD'S WORK" shall have the meaning set forth in Section 2.1 hereof.

1.1.59. "LAWS" shall mean all federal, state, county, municipal and other governmental constitutions, statutes, ordinances, codes, regulations, resolutions, rules, requirements and directives, permits, licenses and officially adopted plans and policies, and all decisions, judgments, writs, injunctions, orders, decrees or demands of courts, administrative bodies and other authorities construing any of the foregoing. "Law" shall be the singular reference to Laws.

1.1.60. "LEASE" shall mean this Lease Agreement, together with any and all exhibits and attachments which may be part of this Lease Agreement, as the same may be hereafter amended in accordance with this Lease.

1.1.61. "LEASE YEAR" shall mean a period of twelve (12) calendar months commencing on October 1 and ending on September 30, and each succeeding twelve (12) month period during the Term. The first Lease Year shall consist only of that period of time from the Commencement Date through and including the following September 30th. To the extent any computation or other provision of this Lease is based upon, or provides for an action to be taken on, an entire Lease Year basis, an appropriate proration or other adjustment shall be made in respect of any Lease Year that consists of periods which are less than the a full twelve (12)

calendar month (such proration or adjustment being based upon the actual number of days in such partial Lease Year).

1.1.62. "LOGO" shall mean, collectively, (x) that certain design and art work designated by Tenant as its logo, a copy of which is attached hereto as Exhibit E and incorporated herein by reference, which design and artwork Tenant has registered with the United States Copyright Office and/or the United States Patent and Trademark Office, (y) Tenant trademarks approved by Landlord in Landlord's sole discretion and (z) Tenant Trade Names (such as Build-A-Bear Workshop, which has been approved by Landlord) approved by Landlord in Landlord's sole discretion.

1.1.63. "MANAGEMENT AGREEMENT" shall have the meaning set forth in Subsection 4.15 hereof.

1.1.64. "MANAGER" shall have the meaning set forth in Section 4.14 hereof.

1.1.65. "MERCHANDISE" shall mean any merchandise or other consumer product.

1.1.66. "MINIMUM NET WORTH" shall have the meaning set forth in Section 23.2 hereof.

1.1.67. "MINIMUM RENT" shall have the meaning set forth in Section 3.1 hereof.

1.1.68. "MITIGATION MEASURES" shall have the meaning set forth in Section 1.44 of the Development Agreement.

1.1.69. "NET WORTH" shall have the meaning set forth in Section 23.2 hereof.

1.1.70. "OPERATING CONDITIONS, RULES AND REGULATIONS" shall mean those conditions, rules and regulations set forth on Exhibit F attached hereto and made a part hereof, and such other rules and regulations which may be promulgated by Landlord from time to time in its sole and absolute discretion.

1.1.71. "OPERATING BUDGET" shall have the meaning set forth in Subsection 23.1.2 hereof.

1.1.72. "OSHA" shall have the meaning set forth in Section 22.3 hereof.

1.1.73. "OUTSIDE CONSTRUCTION COMMENCEMENT DATE" shall have the meaning set forth in Subsection 2.3.1 hereof.

1.1.74. "OUTSIDE OPENING DATE" shall mean the later of (i) November 1, 2001 or (ii) one hundred twenty (120) days after delivery by Landlord of the Shell Premises to Tenant.

1.1.75. "PERCENTAGE RENT" shall mean the amount calculated as Percentage Rent in accordance with Subsection 3.2.1 of this Lease.

1.1.76. "PERSONALTY" shall mean an article which is a chattel, is not physically annexed or affixed to the Premises and is capable of being removed without structural or functional damage to the Premises.

1.1.77. "PERMITTED USE" shall have the meaning set forth in Subsection 4.1.1 hereof.

1.1.78. "PREMISES" shall mean, collectively, the Shell Premises, the Improvements and Furnishings. As the context may require, references to the "Premises" may refer only to a portion or portions of the Premises. The Premises does not include the Site.

1.1.79. "PREVAILING PARTY" shall have the meaning set forth in Section 24.5 herein.

1.1.80. "PRIME RATE" shall mean the rate of interest announced or published by the then largest (as measured by deposits) state chartered bank operating in California as its "Prime Rate", "Reference Rate" or other similar benchmark for commercial borrowers then in effect (or if such Prime Rate, Reference Rate or other similar benchmark is no longer published and announced, an equivalent substitute therefor).

1.1.81. "PROJECT" shall have the meaning set forth in Section 1.54 of the Development Agreement.

1.1.82. "PROJECT APPROVALS" shall have the meaning set forth in Section 1.55 of the Development Agreement.

1.1.83. "PROJECT COMPLETION" shall have the meaning set forth in Section 2.12 hereof.

1.1.84. "PROJECT DESIGN FEATURES" shall have the meaning set forth in Mitigation Monitoring Program 0067, as defined in the Development Agreement, as modified.

1.1.85. "PROJECT REQUIREMENTS" shall mean (i) The Disneyland Resort Specific Plan, (ii) the Development Agreement, including, without limitation, Applicable Rules, Conditions of Approval, Mitigation Measures, Project Approvals, and Project Design Features, (iii) the Tenant Design and Construction Standards, and (iv) the Design and Construction Schedule Requirements and Milestones and all covenants, terms, conditions, approvals and requirements contained, incorporated or referenced in any of such documents.

1.1.86. "RECEIVING PARTY" shall have the meaning set forth in Section 24.3 hereof.

1.1.87. "RELEASE" shall have the meaning set forth in Section 22.1 hereof.

1.1.88. "RENT" shall include, collectively, the Minimum Rent, Percentage Rent, and any Additional Rent as specified in this Lease.

1.1.89. "REPRESENTATIVES" shall have the meaning set forth in Subsection 24.12.1 hereof.

1.1.90. "REQUESTING PARTY" shall have the meaning set forth in Section 24.3 hereof.

1.1.91. "SALES THRESHOLD" shall have the meaning set forth in Section 1.5 hereof.

1.1.92. "SHELL PREMISES" shall mean the improvements to be constructed by Landlord as part of Landlord's Work within the area shown on Exhibit A attached hereto as the diagram outlining the Shell Premises.

1.1.93. "SIMILAR BUSINESS" shall mean another operation of the same (or similar) name, theme or concept, or any part thereof, as that of Tenant's proposed use of the Premises as set forth in this Lease.

1.1.94. "SITE" shall mean that certain site within that tract or parcel of land owned or controlled by Landlord within the City of Anaheim, Orange County, California, within or directly adjacent to the Project intended to be developed by Landlord, on which the Shell Premises is located.

1.1.95. "SUBSTANTIALLY ALL OF THE PREMISES" shall have the meaning set forth in Section 14.1 hereof.

1.1.96. "SUBSTANTIALLY COMPLETE" shall mean when referring to Landlord's Work, that all of Landlord's Work is complete in accordance with the Project Requirements other than punchlist items and exterior work which does not materially and adversely affect Tenant's ability to commence or complete Tenant's Work.

1.1.97. "SUPPLIES" shall have the meaning set forth in Subsection 4.3.1. hereof.

1.1.98. "TAKING" shall have the meaning set forth in Section 14.1 hereof.

1.1.99. "TAKING DATE" shall have the meaning set forth in Section 14.1 hereof.

1.1.100. "TAXES AND ASSESSMENTS" shall mean any and all of the following which shall or may during the Term be charged, laid, levied, assessed, imposed, become due and payable or liens upon, or arise in connection with the use, occupancy or possession of, or grow due or payable out of or for, the Site, the Premises (or any part thereof), the Improvements, the Furnishings, or the Rent, or otherwise with respect to this Lease, at any time during the Term of this Lease: real property and personal property taxes, ad valorem taxes, assessments (including, without limitation, special assessments), excises, permit and impact fees, charges in respect of mitigation measures or otherwise imposed by Project Requirements, charges made by any public or quasi-public authority; for or relating to Improvements, Furnishings or betterments related directly or indirectly to the Premises, sanitary taxes or charges, sewer or water taxes or charges, rapid transit taxes or charges and any other governmental or quasi-governmental impositions, charges, encumbrances, levies, assessments or taxes of any nature whatsoever, whether general

or special, whether ordinary or extraordinary, whether foreseen or unforeseen and whether payable in installments or not, related directly or indirectly to the Premises; together with any tax or other charge levied, assessed or imposed upon this Lease, the Site, the Premises and/or Improvements, (or the use thereof) in lieu of or in addition to the foregoing under or by virtue of any present or future Laws. Taxes and Assessments shall include any tax levied or imposed upon or assessed against, the Rent reserved hereunder or income arising herefrom), to the extent the same are in lieu of, in addition to, or a substitute for any of the Taxes and Assessments hereinabove described. Taxes and Assessments shall not include any profit, income, revenue or similar tax upon the income of Landlord or any franchise, corporate, estate, partnership, inheritance or succession tax on Landlord, except to the extent that any of same are in lieu of or substitution for any of the Taxes or Assessments.

1.1.101. "TENANT" shall mean Build-A-Bear Workshop, Inc., a Delaware corporation, and any permitted successors and assigns.

1.1.102. "TENANT IMPROVEMENT ALLOWANCE" shall have the meaning set forth in Section 2.1. hereof.

1.1.103. "TENANT SPONSOR" shall have the meaning set forth in Subsection 5.2.1. hereof.

1.1.104. "TENANT DESIGN AND CONSTRUCTION STANDARDS" shall mean those standards and guidelines for the design and construction of Tenant's Improvements attached hereto as Exhibit B and made a part hereof.

1.1.105. "TENANT'S EXISTING ALLIANCES" shall have the meaning set forth in Subsection 5.2.1 hereof.

1.1.106. "TENANT'S WORK" shall include, the initial construction and erection of any Improvements by or on behalf of Tenant on the Site and the installation of Furnishings therein in accordance with the approved Contract Documents.

1.1.107. "TERM" shall have the meaning set forth in Subsection 1.3.1 hereof.

1.1.108. "THE AUTHORITY" shall have the meaning set forth in Section 15.1 hereof.

1.1.109. "THE DISNEYLAND RESORT(R) PROJECT" shall mean the Project.

1.1.110. "THE CITY" shall have the meaning set forth in Section 15.1 hereof.

1.1.111. "THE DISNEYLAND RESORT SPECIFIC PLAN" or "SPECIFIC PLAN" shall have the meaning set forth in Section 1.66 of the Development Agreement.

1.1.112. "THE DISNEYLAND RESORT SPECIFIC PLAN AREA" shall have the meaning set forth in Section 1.67 of the Development Agreement.

1.1.113. "THEME PARK" (x) shall have the meaning set forth in Section 18.78.060.010.0101 of the Anaheim Municipal Code (AMC) (including, without limitation, Disneyland(R)), and shall include Retail Entertainment Centers as defined in Section 18.78.030.1105 of the AMC; (y) shall mean all facilities, the primary business of which is offering rides or similar amusement devices, including, without limitation, attractions, game arcades, rides, virtual reality, shows and other entertainment elements, regardless of whether an admission fee is charged (collectively, "ATTRACTIONS"); and (z) shall mean any and all areas and facilities (including, without limitation, resorts, shopping areas, golf courses and restaurants) associated, and/or commonly marketed, with such Attractions.

1.1.114. "THEME PARK MATERIALS" shall have the meaning set forth in Section 4.7.2 hereof.

1.1.115. "THREATENED RELEASE" shall have the meaning set forth in Section 22.1 hereof.

1.1.116. "TI ALLOWANCE CONDITIONS" shall have the meaning set forth in Section 2.1 hereof.

1.1.117. "TRADE NAME" shall have the meaning set forth in Subsection 4.8.1 hereof.

1.1.118. "TRANSFER" shall have the meaning set forth in Section 18.2 hereof.

1.1.119. "TURNOVER DATE" shall have the meaning set forth in Subsection 1.3.1 hereof.

1.1.120. "UTILITIES" shall mean potable water, sanitary sewer, natural gas, electrical, telephone, data, telecommunication, cable television, electricity and storm water connections.

1.2. Premises.

In consideration of the agreements, terms, covenants, conditions, requirements, provisions and restrictions to be kept, observed, performed, satisfied and complied with by Tenant, and of the Minimum Rent specified and provided for in this Lease, and upon the terms and conditions herein stated, Landlord hereby lets, leases and demises unto Tenant, and Tenant hereby leases, takes and accepts from Landlord, the Premises, without any representation or warranty (expressed or implied) by Landlord except as explicitly set forth in this Lease, subject to the following:

(a) Landlord's written approval, in Landlord's sole discretion, of (x) all plans and specifications for the construction of the Improvements and the installation of the Furnishings, and (y) the construction of the Improvements and the installation of the Furnishings, all in accordance with this Lease;

(b) All applicable Laws, Project Requirements, the Operating Conditions, Rules and Regulations, and all building and zoning ordinances;

(c) All easements, encumbrances and other matters of record;

(d) All encroachments, overlaps, lot ties, boundary line disputes or other matters which would be disclosed by an accurate survey or inspection of the Premises or a review of title matters affecting the Site; and

(e) All terms and conditions set forth in this Lease.

Tenant acknowledges that prior to or subsequent to the Execution Date, Landlord and/or Landlord's Affiliates may subdivide the Project and/or enter into lot tie agreements, easements or other matters affecting the Site. This Lease shall at all times be subject and subordinate to all such subdivisions, lot ties, easements or other matters affecting the Site. As a condition to entering into this Lease, Tenant agrees and acknowledges that Tenant and any subtenants and/or assignees shall execute any and all documents required by Landlord in connection with such subdivision, lot tie, easement or other matter affecting the Site. If any such party fails to execute any such agreement upon request, Landlord may execute such agreement on behalf of such party. In addition, Tenant agrees to use its best efforts to ensure that Tenant's lenders or creditors, and the lenders or creditors of any subtenant and/or assignee, execute any and all documents reasonably required by Landlord in connection with such subdivision, lot tie, easement or other matter affecting the Site.

### 1.3. Term.

1.3.1. The "TERM" of this Lease shall be eleven (11) years commencing on the Commencement Date and continuing for eleven (11) years thereafter. Landlord shall give Tenant possession of the Shell Premises with Landlord's Work substantially complete on a date (the "TURNOVER DATE") that is on or before August 1, 2001, so that Tenant may commence its internal construction. Subsequent to the Turnover Date, Landlord shall complete Landlord's Work concurrently with Tenant completing its construction. Tenant agrees that if Landlord fails for any reason to deliver possession of the Shell Premises to Tenant on or before the Turnover Date, and such failure results in a delay by Tenant in opening the Premises to the public for business by the date designated by Landlord, then Tenant's sole and exclusive remedy in such event and in lieu of all other remedies (including, but not limited to, cancellation of this Lease or specific performance, which are hereby expressly waived), shall be the day for day extension of the Outside Opening Date provided herein; provided, however, that if Landlord fails to deliver possession of the Shell Premises to Tenant by January 9, 2002 (subject to Force Majeure or any other event(s) beyond Landlord's reasonable control), then as Tenant's sole additional remedy (Tenant hereby waiving any claim for direct, indirect or consequential damages or any punitive or exemplary damages), Tenant may terminate this Lease by giving Landlord its written notice of termination. If Tenant elects to terminate this Lease as aforesaid, then notwithstanding anything herein to the contrary, the exercise of such right shall be Tenant's sole and exclusive remedy in such event, in lieu of all other remedies (and other such remedies being hereby waived by Tenant). Pre-opening occupancy (i.e., it being understood and agreed that the term "occupancy" as used in this sentence shall not include any portion of Tenant's business being open to the public for business) of the Premises by Tenant prior to the Commencement Date shall be subject to all of the terms and provisions of this Lease excepting only those requiring the payment of Minimum Rent, Percentage Rent, Taxes and Assessments. Landlord and Tenant each agree that

at the request of either party they will, following the Commencement Date, execute and deliver a written acknowledgment or agreement acknowledging that Tenant has accepted possession and reciting the exact Commencement Date of this Lease.

1.4. Opening.

1.4.1. Tenant acknowledges that DOWNTOWN DISNEY(R) opened to the public on January 1, 2001, and that substantially all of the businesses located at DOWNTOWN DISNEY(R) are open and operating as of the date of this Lease. Tenant understands that it is the desire and intention of Landlord to have all of the respective businesses to be conducted within and from DOWNTOWN DISNEY(R) (including the Premises and the business to be conducted by Tenant at the Premises) open for business as soon as possible. Accordingly, Tenant acknowledges and agrees that it is a material benefit to Landlord for Tenant to complete its construction of the Premises and be in a position to open its business to the public no later than the Outside Opening Date.

1.4.2. Landlord shall not be obligated or liable to Tenant for, and Tenant hereby expressly waives any claims against Landlord on account of, any damages, costs or expenses of any nature whatsoever which Tenant or any other person may incur as a result of any delays, interferences, suspensions, rescheduling, congestion, disruptions or the like in connection with Tenant's Work arising from or out of any act or omission of Landlord or any other person or entity (including, without limitation, any of Landlord's Affiliates), unless caused by or arising out of Landlord's or Landlord's Affiliate's gross negligence or willful misconduct. Tenant shall defend, hold harmless and indemnify Landlord and Landlord's Affiliates against any and all claims, liabilities, damages, costs or expenses of any nature whatsoever, (herein "CLAIMS") arising from or out of Tenant's failure to open the Premises to the public for business on or before the Outside Opening Date, unless such failure was caused by Landlord Delay, Force Majeure, a Taking or fire or other casualty. If any claim, action or proceeding is brought against Landlord or a Landlord Affiliate in connection with any indemnified Claim, Tenant upon notice from Landlord, shall defend the same at Tenant's expense with counsel approved in writing by Landlord. Tenant's obligations under this Subsection shall survive the expiration or earlier termination of this Lease.

1.4.3. If Tenant does not complete Tenant's Work and open the Premises to the public for business on or before the Outside Opening Date, subject to a day for day extension for any Landlord Delay, Force Majeure, Taking or fire or other casualty, then in addition to any other remedies available to Landlord, Landlord shall have the following non-exclusive options:

(i) At any time thereafter, but prior to the Project Completion (as defined in Section 2.12 below) of the Work, and the actual opening of the entire Premises for business to the public, Landlord may terminate this Lease by providing written notice to Tenant, whereupon the following shall occur:

(1) Tenant shall immediately surrender possession of the Premises to Landlord;



(2) Landlord shall succeed to ownership of all of the Improvements (provided, however, that this clause shall not be construed to grant Landlord the right to use those portions of the Improvements which bear the Build-A-Bear Workshop Trade Name or the mark of other intellectual property owned by Tenant); and

(3) Tenant shall have no further rights hereunder;

(ii) Landlord may elect to not terminate this Lease and Tenant shall pay to Landlord, in addition to the Rent herein reserved to Landlord, liquidated damages to compensate Landlord for the Percentage Rent Tenant would have paid to Landlord had Tenant opened the Premises for business by the Outside Opening Date, in an amount equal to one hundred percent (100%) of the annual Minimum Rent payable by Tenant hereunder, prorated on a daily basis, for each and every day from the Outside Opening Date, until the day on which the Work is Substantially Completed and the Premises are opened for business to the public in accordance with the provisions of this Lease. The parties acknowledge that it will be extremely difficult, if not impossible, to ascertain with certainty the lost Percentage Rent which might be sustained by Landlord due to the failure of the Premises to be open for business by the Outside Opening Date, and, accordingly, the parties have agreed upon the liquidated damages set forth in this Subsection as fair and reasonable compensation. The foregoing liquidated damages provisions shall not be considered a penalty pursuant to California Law.

Payment of the amounts described in the immediately preceding paragraph is not intended as forfeiture or a penalty within the meaning of California Civil Code Sections 3275, 3369, 3389 or similar authorities, but is intended to constitute liquidated damages to Landlord in respect of lost percentage rent pursuant to the requirements of California Civil Code Section 1671. By their respective initials set forth below, Landlord and Tenant agree that the aforesaid amounts are reasonable as liquidated damages from Tenant in respect to lost percentage Rent for Tenant's failure to open the Premises for business by the Outside Opening Date.

/s/ MC  
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Tenant's Initials

/s/ CH  
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Landlord's Initials

(iii) Landlord may, at its election, reenter the Premises and, without terminating this Lease, at any time and from time to time relet the Premises or any parts thereof for the account and in the name of Tenant or Landlord or otherwise to cure any default by Tenant or to exercise any other right or remedy of Landlord hereunder (provided, however, that this clause shall not be construed to grant Landlord the right to use those portions of the Improvements which bear the Build-A-Bear Workshop Trade Name or the mark of other intellectual property of Tenant). Landlord may execute any leases made under this provision either in Landlord's name or in Tenant's name and shall be entitled to all Rents from the use, operation or occupancy of the Premises or improvements or both. Tenant shall nevertheless pay to Landlord on the due date specified in this Lease the equivalent of all sums required of Tenant under this Lease, plus Landlord's expenses, less the proceeds of any reletting or attornment.

In addition to all other rights and remedies it may have, Landlord shall have all the rights and remedies of a landlord under Section 1951.4 of the California Civil Code. Landlord may do all things reasonably necessary for such reletting, including completing shell and/or improvement

construction, repairing, remodeling and renovating of the Site and/or the Premises and Tenant shall reimburse Landlord on demand for all costs incurred by Landlord in connection therewith. If Landlord relets the Premises it shall apply any sums received upon such reletting in the following order of priority: (i) to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord; (ii) to the payment of all costs incurred by Landlord in restoring the Premises to good order and repair, or in completing construction of, remodeling, renovating or otherwise preparing the Premises for reletting; (iii) to the payment of all costs (including, without limitation, any brokerage commissions) incurred by Landlord in reletting the Premises, and in fulfilling Landlord's obligations with respect to such reletting (such as, by way of example, providing services or utilities), (iv) to the payment of Rent (and any interest thereon) due and unpaid hereunder; and (v) the balance, if any, to the payment of future Rent as the same may become due hereunder. No act by or on behalf of Landlord under this provision shall constitute a termination of this Lease unless Landlord gives Tenant notice of termination. Notwithstanding any election by Landlord not to terminate this Lease, Landlord may at any time thereafter elect to terminate this Lease for any previous breach or default hereunder by Tenant which remains uncured or for any subsequent breach or default.

(iv) Regardless of whether Landlord exercises (i), (ii) or (iii) above, if Tenant fails to have Substantially Completed Tenant's Work on or before the Outside Opening Date, Landlord may, at its option, at any time and from time to time, enter upon the Site and the Premises and do whatever is required to complete the same, including, but not limited to, taking possession of all materials, plans, tools, fixtures, machines and other equipment situated therein, and proceeding with all of Tenant's contracts, using Tenant's contractors, and Landlord shall have no liability to Tenant for any loss or damage resulting in any way from such action by Landlord, and Tenant agrees to reimburse to Landlord, promptly upon demand, any expense incurred by Landlord in taking such action, with interest thereon at the Applicable Rate, if not so paid on demand.

1.5. Kick-out.

1.5.1. Notwithstanding anything contained herein, if Tenant fails to achieve annual Gross Sales from the Premises of at least Three Million Dollars (\$3,000,000) (the "SALES THRESHOLD") during the third (3rd) full Lease Year, Tenant shall have the one-time right to terminate this Lease upon ninety (90) days prior written notice to Landlord. To be effective, such right must be exercised by Tenant within ninety (90) days following the end of the third (3rd) full Lease Year. Such termination right shall lapse and be of no farther force and effect if notice of termination is not served in a timely manner. Such notice of termination shall be accompanied by evidence, satisfactory to Landlord of the amount of Gross Sales for the third (3rd) full Lease Year. If for any reason Tenant is not open for business 365 days during such third (3rd) full Lease Year, then the Sales Threshold shall be prorated for the number of days Tenant is actually open for business during such time. If Tenant elects to terminate the Lease pursuant to this Subsection 1.5.1, Tenant shall remain open and operating in accordance with the terms and provisions of this Lease until the date that is ninety (90) days from the date Landlord receives Tenant's notice. On or before such date of termination, Tenant shall reimburse Landlord for the unamortized portion of the Tenant Improvement Allowance (amortized on a straight-line basis over eleven (11) years).

1.5.2. Notwithstanding anything contained herein, if Tenant fails to achieve the Sales Threshold during the third (3rd) full Lease Year, Landlord shall have the one-time right to terminate this Lease upon at least one hundred twenty (120) days prior written notice to Tenant. To be effective, such right must be exercised by Landlord within one hundred twenty (120) days following the end of the third (3rd) full Lease Year. Such termination right shall lapse and be of no further force and effect if notice of termination is not served in a timely manner. If for any reason Tenant is not open for business 365 days during such third (3rd) full Lease Year, then the Sales Threshold shall be prorated for the number of days Tenant is actually open for business during such time. If Landlord elects to terminate the Lease pursuant to this Subsection 1.5.2, Tenant shall remain open and operating in accordance with the terms and provisions of this Lease until the date that is specified in Landlord's notice to Tenant, which date shall not be earlier than one hundred twenty (120) days from the date Tenant receives Landlord's notice. On or before such date of termination, Landlord shall reimburse Tenant the difference between (i) the unamortized value of Tenant's leasehold Improvements (based on Tenant's actual, out-of-pocket costs verified by bona fide purchase receipts, bills of sale, or other written evidence reasonably satisfactory to Landlord) (amortized using straight-line amortization over an 11 year term) and (ii) \$100,000 (which represents a portion of the Tenant Improvement Allowance).

## 2. CONSTRUCTION.

### 2.1. Scope of Landlord's Work and Tenant's Work.

Landlord shall, at its sole cost and expense, design and construct the work described on Exhibit D attached hereto as Landlord's Work ("LANDLORD'S WORK"). In addition, Landlord shall design and install (in accordance with Landlord's standards and design criteria) an HVAC system, together with one (1) shared, common area service elevator and one (1) public guest elevator. The approximate location of the elevators is depicted on Exhibit A. Tenant acknowledges and agrees that the design, construction and installation of Landlord's Work, as well as the HVAC system and both elevators, shall be in "as is" condition on the Turnover Date. Tenant shall, at its sole cost and expense, design and construct the Improvements within and upon the Shell Premises and install the Furnishings therein in accordance with the terms of this Lease. Tenant acknowledges that the design and construction of the Improvements is intended to be a unique, first class Build-A-Bear Workshop specialty store of an exceptionally high quality which is consistent with a theme park location, and that the Premises will be Tenant's flagship location in the greater Los Angeles and Orange County area. Tenant shall spend approximately \$250 per square foot toward the Improvements and Furnishings. Tenant shall provide Landlord upon execution of this Lease with a detailed breakdown, in form reasonably acceptable to Landlord, of how it shall expend funds to design and construct the Improvements. Landlord shall also have the right from time to time and at any time, at its expense, to have an independent certified public accountant selected by Landlord perform an audit or other review of all of Tenant's books and records regarding the cost of constructing the Improvements in order to verify the amount spent by Tenant; provided, however, that if such audit or review discloses that Tenant has not complied with its obligations under this Section 2.1 (within a five percent (5%) margin of error), then the cost of such audit or review shall be paid by Tenant to Landlord, upon demand. Landlord agrees to provide Tenant an allowance in the amount of up to \* toward the Improvements (the "TENANT IMPROVEMENT ALLOWANCE"). The Tenant Improvement Allowance shall be given to

\* - Redacted Text - Confidential treatment requested; omitted portions have been filed separately with the Securities and Exchange Commission.

Tenant in the form of a credit against Rent in accordance with the terms set forth in the remainder of this Section. Provided that the TI Allowance Conditions (defined below) have been met, Landlord shall grant Tenant a credit against Rent up to the amount of \* , which credit shall be calculated and allocated as follows: (a) a credit against Minimum Rent in the amount of \* for the first twelve (12) months of the Term only (commencing on the Commencement Date); and (b) a credit against Percentage Rent (in the amount of up to \* on Gross Sales which exceed \* ) but are less than \* , for the first twelve (12) months of the Term only (commencing on the Commencement Date). There shall be no credit against Percentage Rent due on Gross Sales of \* or more in any event, and such Percentage Rent shall be due and payable in accordance with the terms of this Lease. In no event shall the Rent credit described above extend beyond the \* of the Term. For purposes of this Lease, the "TI ALLOWANCE CONDITIONS" are as follows: (x) Tenant must provide Landlord with properly executed lien waivers from all of its contractors and subcontractors or, with respect to an existing lien, must bond over any such lien; (y) Tenant must deliver bona-fide receipts or other underlying support documentation reasonably acceptable to Landlord in connection with Tenant's construction of the Improvements; and (z) Tenant must open for business and must attain Project Completion (as defined in Section 2.12 below).

## 2.2. Plans, Specifications and Designs.

All plans, permits, specifications and designs prepared by, for, or on behalf of Tenant for Tenant's Work and submitted to Landlord shall conform and be consistent with the Specific Plan, the City of Anaheim General Plan, all Laws (including ADA) and all other Project Requirements. Tenant's design of its Improvements shall be strictly in accordance with the Tenant's Design and Construction Standards and all other design guidelines promulgated from time to time by Landlord in its sole and absolute discretion, and shall meet the Design and Construction Schedule Requirements and Milestones. Landlord agrees that it will not charge Tenant for Landlord's review of Tenant's design, provided that Tenant does not submit multiple designs to Landlord (except in response to Landlord's comments).

## 2.3. Commencement and Completion of Improvements and Furnishings.

2.3.1. Tenant shall commence construction of the Improvements within the time frame set forth in the Design and Construction Schedule Requirements and Milestones (the "OUTSIDE CONSTRUCTION COMMENCEMENT DATE"). All of Tenant's construction shall be completed in accordance with the Tenant Design and Construction Standards and all other construction guidelines promulgated from time to time by Landlord in its sole and absolute discretion (provided that such construction guidelines do not materially delay Tenant's Work and Landlord gives Tenant advance notice thereof, and Landlord will use reasonable efforts to give Tenant written notice thereof), and the Design and Construction Schedule Requirements and Milestones.

2.3.2. If Tenant fails to commence construction by the Outside Construction Commencement Date (subject to a day for day extension for any Landlord Delay, Force Majeure, Taking or fire or other casualty), Landlord shall have the right, at Landlord's sole option, at any time thereafter, but prior to the actual commencement of construction, to terminate this Lease upon five (5) Business Days' prior written notice to Tenant, whereupon all documents, plans and

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specifications for the proposed Improvements and Furnishings prepared by Tenant, or any contractor, engineer, architect or agent of Tenant, shall be delivered to (and title thereof shall be vested in) Landlord. In addition, whether or not Landlord has elected to terminate this Lease, if Tenant fails to commence construction by the Outside Construction Commencement Date, then, commencing on and continuing until the earlier to occur of: (i) the date on which a new tenant procured by Landlord has commenced paying rent to Landlord for the Premises (it being understood, however, that nothing contained herein shall require Landlord to find or attempt to find such a new tenant); or (ii) the date on which Tenant commences construction (provided Tenant commences such construction prior to the date on which Landlord has procured a replacement tenant for the Premises), Tenant shall pay liquidated damages to Landlord to reimburse Landlord for the damages that Landlord sustains as a result of Tenant not constructing and operating the Improvements as aforesaid, in an amount equal to \* of the annual Minimum Rent payable by Tenant hereunder, prorated on a daily basis, per day, which amount shall be paid monthly, in advance, on the first day of each month commencing on the Outside Construction Commencement Date. The parties acknowledge that it would be extremely difficult, if not possible, to ascertain with certainty the lost Percentage Rent which might be sustained by Landlord due to the failure to commence construction by the Outside Construction Commencement Date, and, accordingly, the parties have agreed upon the liquidated damages set forth in this Section as fair and reasonable compensation. The foregoing liquidated damages provisions shall not be considered a penalty pursuant to California Law.

Payment of the amounts described in the immediately preceding paragraph is not intended as forfeiture or a penalty within the meaning of California Civil Code Sections 3275, 3369, 3389 or similar authorities, but is intended to constitute liquidated damages to Landlord in respect of lost percentage rent pursuant to the requirements of California Civil Code Section 1671. By their respective initials set forth below, Landlord and Tenant agree that the aforesaid amounts are reasonable as liquidated damages from Tenant in respect to lost percentage Rent for Tenant's failure to commence construction of the Improvements by the Outside Construction Commencement Date.

/s/ MC ----- Tenant's Initials	/s/ CH ----- Landlord's Initials
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Tenant's obligations under this Section shall survive the termination of this Lease. Tenant acknowledges and agrees that while the liquidated damages per day payment will, in accordance with the provisions of this Section, cease if Tenant commences the work after the Outside Construction Commencement Date (but prior to Landlord having procured a replacement tenant for the Premises), none of the deadlines established in this Lease (including, without limitation, the Outside Opening Date) shall be extended by virtue of such failure of Tenant to commence construction by such Outside Construction Commencement Date.

2.3.3. In addition to and not in limitation of the foregoing rights and remedies available to Landlord in the event that Tenant fails to commence construction by the Outside Construction Commencement Date or to open for business by the Outside Opening Date as required under Section 1.4 (subject to a day for day extension for any Landlord Delay, Force Majeure, Taking or fire or other casualty), Tenant agrees that following termination of this Lease by Landlord as a result of the failure to commence construction by the Outside Construction

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Commencement Date or failure to open for business by the Outside Opening Date, neither Tenant nor any of Tenant's Affiliates may, either directly or indirectly (whether through legal or beneficial means or otherwise) for a period of five (5) years after the date of such termination, own, hold, develop, construct, sponsor, manage, operate, lease, license, franchise or otherwise participate in (whether in conjunction with a third party or otherwise) any Similar Business within a ten (10) mile radius of THE DISNEYLAND RESORT(R) PROJECT. Tenant's obligations under this Section shall survive the termination of this Lease.

2.3.4. Notwithstanding anything in Subsection 2.3.2 or 2.3.3 to the contrary, if Tenant did not commence construction on or before the Outside Construction Commencement Date, but opens for business by the Outside Opening Date, Landlord shall waive any penalties due under Subsection 2.3.2 and 2.3.3 above.

2.3.5. Once commenced, the construction of the Improvements and installation of the Furnishings shall be prosecuted with due diligence and continuity in strict accordance with the Contract Documents (subject to Landlord Delay, Force Majeure, a Taking, fire or other casualty), so that the Premises will be ready to be opened for business to the public not later than the Outside Opening Date.

2.3.6. In the event of any delays or disruptions which would result in a delay in Tenant completing Tenant's Work by such Outside Opening Date (subject to a day for day extension for any Landlord Delay, Force Majeure, Taking or fire or other casualty), Tenant shall take all necessary steps and accelerate Tenant's Work in order to be open by such Outside Opening Date. All costs associated with such acceleration (including, but not limited to, overtime labor costs and extra costs for accelerated delivery of materials or the Furnishings) shall be borne by Tenant.

2.4. Landlord's Approval of Architect, Contractor, Etc.; Copies of Contracts.

The architects, engineers and consultants selected by Tenant for the design of the Improvements, the general contractor selected by Tenant for the construction of the Improvements and installation of the Furnishings and all subcontractors, shall be licensed in the State of California and shall be subject to the prior approval of Landlord, which approval may be granted or withheld in Landlord's sole discretion. Landlord agrees that if Tenant submits a "short list" of architects and contractors on or before June 25, 2001, Landlord will respond to such "short list" on or before July 1, 2001. Tenant shall furnish to Landlord copies of all contracts for any work in connection with the construction of the Improvements and installation of the Furnishings (including, without limitation, all contracts for the purchase of materials and supplies in connection therewith).

2.5. Inspection.

Landlord shall have the right to inspect any of Tenant's Work at all times during normal working hours and to maintain at the Premises for that purpose (at its own expense) such architects, engineers and other technical persons as it may deem necessary; provided, however, that Landlord shall not thereby assume any responsibility for the proper performance of Tenant's Work in accordance with the terms of this Lease, nor any liability arising from the improper

performance thereof. In the event that Landlord, during any such inspection, discovers any material or aesthetic deviation or defect in the construction of the Improvements or the installation of the Furnishings, Landlord may promptly notify Tenant and Tenant shall, as promptly as is reasonably possible, correct the same.

2.6. Cessation of Work.

Tenant shall promptly notify Landlord of all construction schedules and substantial changes therein. If there should at any time be a stoppage of any work in excess of, or anticipated by Tenant to be in excess of, five (5) consecutive days which is not commercially reasonable, Tenant shall, at Landlord's option, be deemed to be in default hereunder.

2.7. Coordination.

2.7.1. Tenant recognizes that (a) DOWNTOWN DISNEY(R) is open to the public during hours designated by Landlord in its sole and absolute discretion, and (b) there may be other construction activities in the immediate vicinity of the Site. Tenant shall comply with the Tenant Design and Construction Standards and Landlord's Operating Conditions, Rules and Regulations regarding access and coordination of Tenant's Work, and Tenant shall coordinate Tenant's Work to assure that the performance of any of Tenant's Work (and any other work (including, without limitation, repairs, maintenance and replacements of or to the Improvements) performed by or on behalf of Tenant in accordance with this Lease) does not materially disrupt or materially interfere with activities or traffic at THE DISNEYLAND RESORT(R), and does not materially disrupt or interfere with any other construction in the vicinity of the Site. Prior to and during the performance of Tenant's Work, at Tenant's request, Landlord will provide Tenant with a current schedule of the business hours for DOWNTOWN DISNEY(R) and a schedule of any proposed Landlord construction activities in the vicinity of the Premises so that Tenant can adjust its schedule accordingly. Landlord may change the scope of or schedule of proposed activities in the vicinity of the Premises from time to time without liability to Tenant. Landlord may from time to time promulgate construction rules and regulations concerning, among other things, the coordination, safety and appearance of the Premises during construction activities, to which Tenant shall be bound and with which Tenant shall comply.

2.7.2. Tenant agrees that it will not at any time prior to or during the Term, either directly or indirectly employ any contractor, subcontractor, mechanic or laborer, or permit any materials in the Premises or the Project, if the use of such contractor, subcontractor, mechanic or laborer or such materials would, in Landlord's sole and exclusive opinion, create any difficulty, work slowdown, sabotage, strike or jurisdictional dispute with other contractors, subcontractors, mechanics and/or laborers engaged by Tenant or Landlord or others, or would in any way disturb the peaceful and harmonious construction, maintenance, cleaning, repair, management, security or operation of the Project or any part thereof. In the event of any interference or conflict, Tenant, upon written or oral demand of Landlord or its agent, shall cause all contractors, subcontractors, mechanics or laborers, or all materials causing, in Landlord's sole and exclusive opinion, such interference, difficulty or conflict, to leave or be removed from the Premises immediately. Tenant does hereby agree to defend, save and hold Landlord harmless from any and all loss arising thereby, including, without limitation, any reasonable attorneys' fees

and disbursements and any claims made by contractors, subcontractors, mechanics and/or laborers so precluded from having access to the Project.

2.7.3. Lay-Down Area. In order for Tenant to comply with the Project Requirements, Landlord shall provide (free of charge to Tenant) a lay-down area for Tenant's construction of its Improvements. Tenant acknowledges and agrees that no parking will be provided for Tenant or its construction workers in connection with Tenant's build-out of the Premises.

2.8. Quality of Work.

The quality of all materials and workmanship incorporated into the Improvements and Furnishings (including, without limitation, repairs, maintenance and the replacement of or to the Improvements) shall meet the Disney Standard, as hereinafter defined, and shall be of an exceptionally high level consistent with a theme park location.

2.9. Prerequisites to Commencement of Tenant's Work.

Before the commencement of any of Tenant's Work, Tenant shall satisfy all of the following requirements:

2.9.1. Landlord shall have approved the Contract Documents in writing as herein provided;

2.9.2. The Contract Documents are filed by Tenant (at Tenant's sole cost and expense) with and approved by all applicable Governmental Authorities having or claiming jurisdiction, and with any public utility companies having an interest therein, if required by such utility companies, and all necessary approvals and permits have been obtained by Tenant at Tenant's sole cost and expense, and copies thereof delivered to Landlord;

2.9.3. If required by Landlord, Tenant shall, at Tenant's sole cost and expense, erect and install a temporary enclosure approved by Landlord in its sole discretion, which shall enclose the Site (or a portion thereof, as determined by Landlord) during the performance of Tenant's Work, which may include graphics including (i) a reference to DOWNTOWN DISNEY(R) satisfactory to Landlord in its sole discretion with respect to size, color, graphics and all other characteristics and (ii) such other graphics as are approved by Landlord in its sole discretion. Such enclosure shall meet all state and local fire codes and any standards required by Landlord's insurers, and shall otherwise comply with the Operating Conditions. Tenant acknowledges that the windows in the Premises currently have a display that prevents any view into the Premises, and that such display shall remain in place until Tenant opens for business;

2.9.4. Tenant has obtained all necessary certificates, licenses, permits, authorizations, consents and approvals from all applicable Governmental Authorities;

2.9.5. Before entering upon the Site for performance of any of Tenant's Work, Tenant shall furnish to Landlord a payment, performance and completion bond in an amount reasonably satisfactory to Landlord, but not less than the amount of Tenant's general contract for the completion of Tenant's Work, and written by a surety company acceptable to Landlord,



guaranteeing the full performance and completion of Tenant's Work, and payment of all amounts in connection therewith, in accordance with this Lease and free of all liens; and

2.9.6. Tenant shall provide Landlord with evidence that Tenant has obtained all insurance required by this Lease, including, but not limited to, builder's risk insurance.

#### 2.10. Compliance with Law.

At Tenant's sole cost and expense, Tenant shall comply with all Project Requirements, Operating Conditions, Rules and Regulations, and all Laws of all Governmental Authority (including any agreements entered into by Tenant or an Affiliate of Tenant with the Department of Justice), with respect to the Premises or any part or aspect thereof or any aspects of Tenant's construction of the Improvements and installation of the Furnishings (including, without limitation, maintenance and the replacement of or to the Improvements and Furnishings) thereon, and with the requirements and regulations, if any, of any public utilities, the insurance underwriter (Factory Mutual) or insurance inspection bureau having or claiming jurisdiction, or any other body exercising similar functions, and of all insurance companies then writing policies maintained by Tenant or Landlord providing coverage to the Premises, or any part thereof, and any provisions of Landlord's insurance coverage of which Landlord has given Tenant written notice.

Tenant represents and guarantees to Landlord that the construction of the Improvements (including, without limitation, repairs, maintenance, and replacement of or to the Improvements) will be performed and completed in a good and workmanlike manner and in accordance with the provisions of this Lease and all applicable Laws (including, but not limited to, the Americans With Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), and the related implementing regulations, codes, rules and accessibility guidelines, as such acts and related regulations, codes, rules and guidelines may be amended from time to time (collectively, the "ADA")).

#### 2.11. Permits.

Tenant shall obtain any permits (including, but not limited to any applicable permits from any of the agencies listed below having jurisdiction), licenses or similar authorizations to design, develop, construct, occupy, operate or use any buildings, improvements, fixtures and equipment forming a part of the Premises (including, without limitation, those required by reason of any applicable environmental Laws) other than in connection with Landlord's Work. Notwithstanding the foregoing, Tenant shall not submit any applications to obtain any permits (including, without limitation, demolition, grading and building permits) or approvals from any governmental or quasi-governmental agency, including, without limitation, South Coast Air Quality Management District, Southern California Association of Governments, Regional Water Quality Control Board, Orange County Flood District and the Orange County Health Department without first submitting such applications to Landlord for Landlord's review and approval, which shall be promptly granted or withheld in Landlord's sole discretion. At Landlord's request, Tenant shall make such modifications to any permit applications as Landlord reasonably requests. At Landlord's option, Landlord may elect to obtain any or all permits and approvals from any or all of the foregoing or other entities and agencies on Tenant's behalf and at Tenant's expense. Tenant shall, if needed, acquire from Landlord or its Affiliate at competitive rates any AQMD emission offsets if Landlord or its Affiliate acquires such. Tenant shall bear the cost of

complying with any requirements or conditions imposed by any of governmental or quasi-governmental agencies and/or authorities in connection with the issuance of any new permits or the modification of any existing permits in conjunction with the construction and operation of the Premises.

2.12. Project Completion.

Tenant shall not be deemed to have "Completed" Tenant's Work until: (a) all exterior and interior signs, furniture, fixtures, equipment, floor and wall coverings, lighting, Merchandise, and all other items necessary to operate the Premises as a first-class Build-A-Bear Workshop specialty retail store have been completed, installed and delivered to the Premises; (b) a certificate of occupancy and all other required licenses and permits have been issued by the appropriate Governmental Authorities for the Premises; and (c) Tenant has provided Landlord with copies of all of the foregoing documents. Tenant shall be deemed to have attained "PROJECT COMPLETION" (herein so called) of Tenant's Work once Tenant's Work has been Completed.

2.13. Evidence of Project Completion.

Upon Tenant's Project Completion in accordance with the approved Contract Documents, Tenant shall procure and provide Landlord, to the satisfaction of Landlord in its sole and absolute discretion, with copies of: (i) a temporary certificate of occupancy from the appropriate governmental and quasi-governmental authorities verifying the Project Completion thereof as aforesaid; (ii) a certificate from Tenant's architect in charge of Tenant's Work verifying that Tenant's Work has been so completed, and (iii) a detailed cost breakdown of all funds expended on the design and construction of the Improvements and installation of the Furnishings, in form reasonably acceptable to Landlord. The issuance of the foregoing shall not be deemed to relieve Tenant of its obligation under the terms of this Lease to complete any and all such work in accordance with the Contract Documents. Tenant shall deliver a final certificate of occupancy from the appropriate governmental and quasi-governmental authorities upon it being issued.

2.14. Cost of Construction.

As soon as practicable after the Project Completion but no later than sixty (60) days after the opening of the Premises to the public, Tenant shall deliver to Landlord a written certification and affidavit: (i) setting forth the total cost to complete Tenant's Work, including architectural, engineering, legal and other professional fees and costs, and the costs of all Furnishings and supplies purchased and installed by Tenant to initially operate the Premises; and (ii) stating that the Premises are free and clear of all liens and encumbrances.

2.15. Removal of Trash.

Tenant shall, at its sole cost and expense, promptly remove from the Premises all trash and other rubbish which may accumulate in connection with any construction work (or any other activities) by or on behalf of Tenant in such manner as prescribed by Landlord.

2.16. Project Schedules.

Tenant shall provide project scheduling based upon the Design and Construction Schedule Requirements and Milestones. The Design and Construction Schedule and Milestones will serve as an essential measurement of Tenant's compliance with the terms of the Lease.

Tenant shall, based upon electronic templates provided by Landlord, provide a project schedule which incorporates a schedule of design submittals, a materials procurement schedule and a construction activities schedule. The project schedule shall fully integrate the work of all designers, contractors, subcontractors and major suppliers. Tenant shall submit the initial project schedule to Landlord within 21 calendar days of Lease signing. The schedule shall employ the Critical Path Method in development and maintenance of the schedule in Precedence Diagram Mode. The CPM network shall incorporate activity descriptions, sequence, logic relationships, duration estimates and resource loading. Tenant shall not use any "float suppression" techniques in preparing the schedule, such as preferential sequencing or logic, special lead/lag constraints or over-estimating activity durations. Time units for all schedules shall be in work days, and no construction activity scheduled to commence within 60 days of the data date shall have a duration greater than 5 work days. Construction activities scheduled to start more than 60 days from the data date shall not have a duration exceeding 20 days. Tenant shall provide all data files to Landlord electronically.

Upon first acceptance by Landlord, the project schedule shall become the "Baseline Schedule" against which all subsequent schedule updates shall be made, and against which Tenant shall report progress and variances and by which Landlord will monitor Tenant's compliance with Lease requirements and Design and Construction Schedule Requirements and Milestones. Landlord and Tenant will conduct bi-weekly reviews of the progress of Tenant's Work and compare that progress to the agreed project schedule. This review will include actual activity start and completion dates and related variances, forecast activity start and completion dates and related variances and progress of all activities under way at the time of the review. Landlord and Tenant will conduct monthly schedule reviews to determine planned versus actual progress to date, compliance with Lease submittal requirements, Design and Construction Schedule Requirements and Milestones and any changes to the work plan or implementation required to comply with the project schedule.

Tenant shall prepare professional quality presentations of all scheduling and sequencing information and as may be required to communicate its proposed work plans in restricted areas or to implement its coordination obligations under this Lease.

2.17. Aesthetic Aspects and Visual Art.

Tenant shall work with Landlord (at Tenant's sole cost and expense) during all phases of design development to ensure that the Aesthetic Aspects of the Premises are consistent with the overall architectural scheme and designs of DOWNTOWN DISNEY(R). Tenant acknowledges and agrees that Landlord requires that the Premises not contain any works of "Visual art" (as such term is defined or contemplated in 17 U.S.C. Sections 106A, 113 or successor statutes or similar Law) without Landlord's prior consent in Landlord's sole and absolute discretion. If Landlord does consent to the installation or placement of any such work in or upon the Premises, Tenant shall,

prior to any such installation or placement, obtain from all artists and creators of such work, to the fullest extent permitted by Law, a full and complete acknowledgment and assignment (or waiver, in the event assignment is not possible) in favor of Landlord and Tenant (and their respective successors and assigns) of the benefits of any provision of law known as "droit moral," "moral rights" or similar law, to the effect that such artists and creators acknowledge and agree that such installation or placement may subject such work of visual art to destruction, distortion, mutilation or other modification by reason of its removal from the Premises at a later date or otherwise, and such acknowledgment and waiver shall otherwise be in form and substance satisfactory to Landlord in its sole discretion.

#### 2.18. Landlord Approval.

Landlord acknowledges that the plan approval process set forth in this Article 2 requires the cooperation of Landlord in expediting Landlord's review of and comments on proposed plans. Accordingly, Landlord agrees to exercise reasonable efforts to respond to Tenant's submittals, as soon as reasonably practicable, from receipt. Landlord's approval hereunder of any plans (including, without limitation, the Contract Documents and any future alterations, modifications or additions thereto) shall not be construed as approval of the safety or structural adequacy of the improvements detailed therein or their conformity to sound architectural or engineering standards or practices or to any applicable building codes or other legal requirements, it being understood and agreed that, as between Landlord and Tenant, Tenant shall be solely responsible for such matters and Tenant shall hold Landlord and Landlord's Affiliates harmless from all claims and liabilities arising therefrom. Any of Tenant's Work which does not conform to the Contract Documents approved by Landlord and all applicable Laws shall, if so required by Landlord or by Law, be removed or reconstructed by Tenant at Tenant's cost.

#### 2.19. Ownership of Plans; Exclusive Rights to Design; Ownership of Improvements.

Landlord shall be furnished with a complete set of "as-built" drawings upon the Project Completion of Tenant's Work. Landlord shall be deemed the owner of the Contract Documents and all designs of the Improvements, as well as any additions or modifications thereto; provided, however, that nothing in this Section shall be construed to grant Landlord the right to use the Build-A-Bear Workshop Trade Name, trade mark or other intellectual property owned by Tenant. Such ownership rights shall not, however, be deemed to subject Landlord to any responsibility for the safety or adequacy of such plans or to any liability in the event such plans, or the design represented thereby, are deficient in any manner. Tenant shall not be entitled to utilize such plans or replicate the design and/or appearance of the Improvements to be constructed on the Site, at any location other than the Site, unless Landlord expressly consents in writing to such use, which consent Landlord may be granted or withheld in Landlord's sole discretion. Tenant shall be deemed the owner of the Improvements during the Term, and upon the expiration or sooner termination of this Lease, all right, title and interest in, to and under the Improvements shall thereupon vest in Landlord pursuant to the terms of this Lease.

#### 2.20. Furnishings.

Tenant shall, at its own cost and expense and in accordance with the Contract Documents, procure and install the Furnishings within or upon the Improvements. Tenant shall be deemed the

owner of the Furnishings during the Term, and upon the expiration or sooner termination of this Lease, all right, title and interest in, to and under that portion of the Furnishings which constitute non-trade fixtures shall thereupon vest in Landlord pursuant to the provisions of this Lease.

2.21. Expansion of Premises.

Subject to the provisions of Section 11.1, nothing in this Lease shall be deemed to authorize Tenant to renovate, alter or expand the Premises, following its completion, it being understood that Tenant may do so only with the prior written approval of Landlord, which approval Landlord may withhold in its sole discretion.

2.22. Signage and Logos.

2.22.1. Approval. All permitted signage and advertising identifying or otherwise mentioning the Premises, and the use of Landlord's logos, Tenant's Logos and/or of Tenant's name in signage and advertising, shall be subject to Landlord's approval, in Landlord's sole discretion. To the extent that Landlord's guidelines regarding use of logos and/or advertising, which may be distributed by Landlord from time to time, address such usage, and Tenant's proposed use complies with Landlord's guidelines, Landlord's approval shall not be unreasonably withheld. Tenant shall submit to Landlord for Landlord's approval the relative size of the constituent elements of, and the location, design and style of lettering and colors in all signage and in all advertising and promotional materials; the proximity to Tenant's name, and the relative size of any other name, logo, symbol or other thing, which may be desired to be included by Tenant.

2.22.2. Additional Signage. Except as approved by Landlord as part of the Contract Documents and except for small, professionally prepared interior signs identifying a product for sales, Tenant may not erect or display any permanent or temporary exterior or interior signage, banners, displays, announcements or logos without the prior written consent of Landlord, which consent may be withheld by Landlord in its sole discretion. Landlord reserves the right to require Tenant to remove any such small interior signs which Landlord determines, in its sole discretion, to be inconsistent with the Disney Standard or other than in good quality or taste.

2.22.3. Trademark Registration. All signage and all uses of Tenant's name by Landlord as permitted elsewhere herein, shall incorporate the lettering style of Tenant's federal trademark registration as shown on Exhibit E attached hereto.

3. RENT.

3.1. Minimum Rent.

Commencing on the Commencement Date, and subject to the provisions for the Tenant Improvement Allowance in Section 2.1 hereof, Tenant shall pay to Landlord each Lease Year (as such term is hereinafter defined), and Tenant covenants and agrees that Tenant will pay to Landlord during the Term, at the address specified in this Lease for the giving of notices to Landlord or at such other place as Landlord may specify, without any right of set-off, deduction,

counterclaim, suspension of abatement, and without any prior notice or demand, the amount of \* ("MINIMUM RENT").

3.1.1. The aforesaid Minimum Rent shall be due and payable in monthly installments, each in the amount equal to one-twelfth (1/12) of the Minimum Rent for each Lease Year and shall be prorated for the time period between the Commencement Date and the commencement of the next Lease Year. Each such installment shall be due and payable, in advance, on or before the first (1st) day of each month of the Term, commencing on the Commencement Date. If the Commencement Date occurs on a day other than on the first (1st) day of the month in which such date falls, such installment of Minimum Rent shall be prorated based upon the actual number of days in such month.

3.1.2. Commencing with the second Lease Year and commencing on the first day of each succeeding Lease Year (each, a "Rent Adjustment Date"), the Minimum Rent payable by Tenant shall be adjusted to be that product (which shall in no event be less than the Minimum Rent payable for the preceding Lease Year), which is derived by multiplying the Minimum Rent payable for the previous Lease Year by a fraction, the numerator of which shall be the Index (as defined below) in effect for the month of August in the previous Lease Year and the denominator of which shall be the Index in effect for (i) the month of August, 2001 in the case of the first Rent Adjustment Date or (ii) the month of August prior to the preceding Rent Adjustment Date in the case of the second Rent Adjustment Date and each succeeding Rent Adjustment Date. Notwithstanding anything to the contrary in the foregoing, in no event shall the Minimum Rent in any Lease Year exceed \* of the Minimum Rent for the previous Lease Year. The term "INDEX", as used herein, shall mean the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the U.S. Department of Labor for Los Angeles-Anaheim-Riverside, California, all items (1982-84=100) ("CPI"); provided, however, that if the CPI described above shall be discontinued, the Index shall be the index of consumer prices in the U.S. most closely comparable to the discontinued Index, after making such adjustments in items included or method of computation as may be prescribed by the agency publishing the same, or as otherwise may be required to compensate for changes subsequent to the Commencement Date. In the event a comparable substitute index is not available, then the price index used in making the CPI-based adjustments provided for in this Lease shall be the successor thereto, compiled and published by an agency of the United States government, which determines the purchasing power of the dollar. If Landlord determines that there is no such index compiled and published by an agency of the United States government, then a nationally recognized firm of independent certified public accountants designated by Landlord shall select a successor price index, government or private, which best reflects changes in the purchasing power of the dollar, and the decision of said accountants in selecting such successor price index to be used hereunder shall be final and binding upon the parties. Landlord shall pay the fees of said accountants payable in respect of their selection of such successor price index. In the event the base reference year used in computing the CPI is changed during the Term, the 1982-84 = 100 index published concurrently by the Bureau of Labor Statistics shall continue to be used in the calculation of adjustments hereunder; provided, however, that in the event the Bureau of Labor Statistics ceases to currently publish the 1982-84 index, then the adjustments provided for in this Lease shall be calculated based upon the new base year index, and in such event Landlord shall apply a conversion factor to such new index for the purpose of making such new index as comparable as practicable with the prior base year index. Such conversion factor shall be

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obtained from the Bureau of Labor Statistics if in fact the Bureau publishes such a conversion factor; otherwise a nationally recognized firm of certified public accountants designated by Landlord shall select a conversion factor.

### 3.2. Percentage Rent.

3.2.1. In addition to Minimum Rent Commencing as of the Commencement Date, and subject to the provisions for the Tenant Improvement Allowance in Section 2.1 hereof, Tenant shall pay to Landlord, and Tenant covenants and agrees that Tenant will pay to Landlord during the Term, at the address specified in this Lease for the payment of Minimum rent hereunder or at such other place as Landlord may specify, without any right of set-off, deduction, counter-claim, suspension or abatement (except as otherwise expressly provided in this Lease to the contrary), and without any prior notice or demand the sum of (i) \* of its annual Gross Sales which exceed \* but are less than \* , (ii) \* of its annual Gross Sales which exceed \* but are less than \* and (iii) \* of its annual Gross Sales in excess of \* . The foregoing is collectively referred to herein as "PERCENTAGE RENT". If Gross Sales for the then current Lease Year through the end of any month exceeds \* , Tenant shall pay to Landlord as Percentage Rent, on or before the fifteenth (15th) day of the succeeding calendar month, the product of the amount by which Gross Sales exceeds \* , multiplied by the applicable Percentage Rent rate above, less any Percentage Rent payments previously paid by Tenant to Landlord for such Lease Year during the Term and continuing through that month immediately following the date in which the Expiration Date occurs. For the period between the Commencement Date through the next following September 30, Percentage Rent shall be prorated based on the actual number of days in such period. To calculate Percentage Rent for such period, Tenant shall calculate the Percentage Rent that would be due Landlord for the 12-month period following the Commencement Date, and such amount shall be divided by 365, and the resulting number shall be multiplied by the actual number of days in the period beginning on the Commencement Date and ending on September 30 of the same year. Tenant shall pay such Percentage Rent (if any) on or before the fifteenth (15th) day of the month succeeding the month in which such 12-month period terminates.

3.2.2. On or before the fifteenth (15th) day of each month during the Term (including that month immediately following the date in which the Expiration Date occurs), Tenant shall prepare and deliver to Landlord at the place designated by Landlord a statement of Gross Sales made during the preceding month, certified to be true and correct by the chief financial officer of Tenant or other duly authorized officer of Tenant, together with a copy of Tenant's monthly sales tax report for such Lease Period submitted to the State of California, Franchise Tax Board or Department of Revenue. In addition, within thirty (30) days after the expiration of each Lease Year (including the period between the Commencement Date and the commencement of the next Lease Year) and within thirty (30) days after the Expiration Date, Tenant shall prepare and deliver to Landlord at the place designated by Landlord a statement of Gross Sales made and sales tax paid during the preceding Lease Year, certified to be true and correct by Tenant's chief financial officer, as well as a copy of the sales tax return submitted by Tenant. All such monthly and annual statements shall be in such form and shall contain such data as Landlord may reasonably require. If the annual certified statement indicates that the Percentage Rent for the subject Lease Year theretofore paid by Tenant is less than the Percentage

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Rent which was due and payable, then Tenant shall pay the amount of such underpayment along with its submission of its annual statement. If the annual statement indicates that the Percentage Rent for the subject Lease Year theretofore paid by Tenant was in excess of the Percentage Rent which was due and payable, then the amount of such excess shall be credited towards the next installment(s) of Rent due, unless the Term shall have expired or been sooner terminated, in which event the amount of such excess shall be refunded to Tenant (after deducting therefrom any amounts owed by Tenant to Landlord); provided, however, that in no event shall Landlord receive and retain less than the annual Minimum Rent herein specified (subject to Tenant's right to receive the Tenant Improvement Allowance pursuant to the provisions of Section 2.1)

3.2.3. Tenant's point of sale system shall be reasonably acceptable to Landlord. Such point of sale system shall be compatible with Landlord's computer system so that Landlord may retrieve data regarding Tenant's sales directly through such means on an as desired basis.

3.2.4. In addition, Tenant shall submit an unaudited daily report of Gross Sales (including exclusions thereto). Such count shall be telecopied daily in writing to such person or persons as Landlord may designate from time to time.

### 3.3. Required Records.

3.3.1. Tenant shall at all times during the Term keep and maintain (in accordance with generally accepted accounting principles as are at the time applicable and otherwise consistently applied ("GAAP") and separately from any of its other books, records and accounts) accurate, complete and up-to-date books and records pertaining to all operations at or with respect to the Premises, including books of account reflecting all Gross Sales and all matters referred to in this Lease (collectively, "BOOKS AND RECORDS").

3.3.2. Tenant shall record all sales and other transactions at the time each sale is made, whether for cash, credit or otherwise, in a non-resettable cash register or registers that contain locked-in cumulative tapes or electronically produced records with cumulative capacity and such other features as shall be acceptable to Landlord. The Books and Records shall include, without limitation: (i) daily electronically produced records or daily dated register tapes and serially numbered sales slips; (ii) settlement report sheets of transactions with any permitted subtenants, concessionaires, and licensees; (iii) electronic, mail or telephone orders; (iv) records showing that any goods returned by guests was purchased by such guests at or through the Premises; (v) duplicate bank deposit slips and bank statements; and (vi) such other records as normally would be required to be kept for the purpose of examination or audit of Gross Sales by an independent accountant in accordance with generally accepted auditing standards.

3.3.3. Landlord and its employees, agents or representatives shall have, at all times during normal business hours, complete access to all Books and Records. The Books and Records shall be kept at Tenant's principal address (which is set forth in Section 24.7 hereof) or such other place acceptable to Landlord. Upon at least 24 hours' prior written notice, Landlord shall have the right to cause its own or an independent audit of the Books and Records to be made at any time, at Landlord's cost and expense. Such right of inspection and audit may be exercised by Landlord at any time within three (3) years after the end of the Lease Year to which such Books and Records relate, and Tenant shall maintain all Books and Records for at least such



period of time and, if any dispute between the parties with respect to this Lease has arisen and remains unresolved at the expiration of such period of time, for such further period of time until the final resolution of such dispute. Further, each lease or concession agreement or other agreement entered into by Tenant with a permitted subtenant, concessionaire, licensee or other person or entity shall contain a provision pursuant to which Landlord is granted the same rights with respect to the books and records to be maintained as aforesaid, which provisions Tenant shall use its best efforts to enforce (at Tenant's sole cost and expense).

3.3.4. If, upon any examination by Landlord or its employees, agents or representatives of the Books and Records, an error shall be revealed which results in there being due to Landlord Additional Rent of any nature, all Rent calculations prior to the date such discovery is made shall be reviewed (whether or not such Rent has been audited pursuant to this Section) and the amount of any overpayment or underpayment of Rent which may be disclosed by such review, together with interest accrued thereon from the date on which such underpayment or overpayment was made until the amount thereof is paid or credited at the Applicable Rate, during such period, shall, in the case of an underpayment, be paid by Tenant to Landlord upon demand, or, in the case of an overpayment, be credited to the next installment or installments of Rent falling due (or, if this Lease shall have expired or been sooner terminated other than by reason of Tenant's default, be repaid by Landlord to Tenant after deducting therefrom any amount owed by Tenant to Landlord). If such error results in there being due to Landlord Additional Rent for any Lease Year in an amount equal to or exceeding three percent (3%) of the Rent theretofore paid by Tenant in respect of such Lease Year, then the cost of the examination revealing such error shall also be paid by Tenant to Landlord, upon demand. In addition, if such error is due to fraud or gross negligence on the part of Tenant or its agents, accountants or employees, then the same shall be deemed an incurable event of default and shall permit Landlord, in addition to all its other rights and remedies under this Lease due to an event of default, to terminate this Lease.

#### 3.4. Payments of Rent.

3.4.1. All sums of money, other than Minimum Rent and Percentage Rent, which may be due or payable by Tenant to Landlord under this Lease (whether contingent or fixed), including any amounts, taxes, fees, charges, insurance obligations, costs, expenses, obligations, assessments, payments, disbursements or reimbursements whatsoever payable by, attributable to or the responsibility of Tenant, are intended and shall be deemed "ADDITIONAL RENT" for all purposes. Tenant shall pay to Landlord, as "RENT" (herein so called) hereunder, a combination of Minimum Base Rent, Percentage Rent, and Additional Rent as specified hereunder (subject to the provisions for the Tenant Improvement Allowance in Section 2.1 hereof). All such payments of Rent shall be made in lawful money of the United States of America, without any prior demand by Landlord and without any deduction or set-off, at the time, in the manner and in the amounts hereinafter specified by check payable to Landlord mailed or delivered to Landlord at the address hereinafter specified. All such amounts, and any and all other amounts which are attributable to, payable by or the responsibility of Tenant under this Lease, shall constitute "rent" within the meaning of California Civil Code Section 1951(a).

3.4.2. All payments of Rent due under this Lease shall be made by check (in current legal tender of the United States as the same is by Law constituted at the time of such

payment) and drawn upon a United States bank or other financial institution; provided, however, that if an Event of Default shall exist, if any check is returned because of insufficient funds, or if two or more payments of Rent are not paid when due in any Lease Year, then Landlord shall have the right, in its sole and absolute discretion, to require all future installments of Rent payments be by: (i) wire transfer via the Federal Reserve to an account or accounts designated by Landlord; (ii) certified or cashier's check; or (iii) some other method as Landlord may otherwise direct. If any check is returned because of insufficient funds it shall be deemed that Rent was not received when due and such payment shall be subject to all penalties and interest provided in this Lease for a late payment. Any extension, indulgence or change by Landlord in the mode or time of payment of Rent on any occasion shall not be construed as a waiver of any provision of this Lease, or as requiring or granting a similar extension, indulgence or change by Landlord upon any subsequent occasion. No writing, communication or circumstance of any kind which accompanies or which is given or transmitted in connection with any payment made or to be made by Tenant to Landlord shall effect or cause any accord, satisfaction, release or waiver of any kind against Landlord.

3.4.3. Tenant shall pay as a late charge an amount equal to five percent (5%) of any installment or amount of Rent not paid when due. In addition, any such late installment or amount shall bear interest at the Applicable Rate from the date due until paid in full.

3.4.4. The obligation to pay all Rent reserved herein, which is due but unpaid as of the expiration or sooner termination of this Lease, shall survive the expiration or sooner termination of this Lease.

3.4.5. The parties intend that all Minimum Rent and Percentage Rent received by Landlord shall be entirely net of any costs and expenses incurred in connection with the Premises, whether ordinary or extraordinary, whether foreseen or unforeseen, including, without limitation, utilities, operating costs, changes in Laws, labor and overhead, Taxes and Assessments, insurance, repairs and maintenance except as provided otherwise in this Lease.

3.4.6. All payments due under this Lease shall be mailed to such mailing address as Landlord may from time to time designate by notice to Tenant. Any extension, indulgence or change by Landlord in the mode or time of payment of Rent, or any sum due to Landlord hereunder on any occasion shall not be construed as a waiver of any provision of this Lease, or as requiring or granting a similar extension, indulgence or change by Landlord upon any subsequent occasion. The subsequent acceptance by Landlord of any payment owed by Tenant to Landlord under the Lease or the payment of Rent by Tenant shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant, agreement, condition or provision of the Lease, other than the failure of Tenant to make the specific payment so accepted by Landlord, regardless of Landlord's or Tenant's knowledge of such preceding breach at the time of the making or acceptance of such payment.

### 3.5. No Abatement of Rent.

No abatement, diminution or reduction of Rent, charges or other compensation shall be allowed to Tenant or any person claiming under Tenant, and no abatement, diminution or reduction of Tenant's other obligations hereunder shall be allowed to Tenant, under any circumstances

whatsoever including, without limitation, inconvenience, discomfort, interruption of business or otherwise by virtue of, or arising out of: (i) any taking of any portion of the Premises; (ii) the making of alterations, changes, additions, improvements or repairs to the Premises; (iii) any present or future Laws; (iv) restoration of the Premises after damage, destruction or partial condemnation; or (v) any other cause or occurrence.

3.6. No Representation as to Amount of Gross Sales.

It is understood and agreed that there has been no promise, guaranty, representation or warranty of any kind whatsoever made by Landlord or any of its employees, agents or representatives as to the success or failure of the business to be conducted within the Premises, including, without limitation, the minimum or maximum amount of Gross Sales which may or shall be made in the Premises during any Lease Year during the Term.

3.7. Tax on Rent.

In addition to the Minimum Base Rent and Percentage Rent and any other sums or amounts required to be paid by Tenant to Landlord or on Landlord's behalf pursuant to the provisions of this Lease, Tenant shall also be responsible for and shall pay the amount of any applicable sales, use, excise or personal property taxes, charges, rates, duties or license fees with respect to Tenant's payment of Rent under this Lease or assessed against or levied upon any of the Furnishings, plus any tax measured by gross rentals received from the Premises, whether the same be levied, imposed or assessed by the State of California or any other federal, state, county or municipal governmental or quasi-governmental entity or agency. To the extent possible, Tenant shall cause such taxes to be billed separately from any such taxes billed to Landlord. If at any time during the term of the Lease there shall be levied, assessed or imposed on Landlord, the Premises or the Site by any governmental or quasi-governmental entity, any general or special, ad valorem or specific excised capital levy or other taxes, assessments, levies, or charges on the payments received by Landlord under this Lease and/or any license fee, excise or franchise tax measured by or based, in whole or in part, upon such payments, or taxes based directly or indirectly upon the transaction represented by this Lease, and/or any occupancy, use, per capita or other taxes, based directly or indirectly upon the use or occupancy of the Premises, then all such amounts shall be and become the responsibility of Tenant and shall be deemed Rent hereunder. If a separate bill is not issued, any such sales, use or excise taxes shall be paid by Tenant to Landlord, as additional Rent, at the same time that each of the Minimum Base Rent and Percentage Rent, or any other sum or amount with respect to which such taxes are paid by Tenant to Landlord. Tenant shall be liable at its sole cost and expense for, and Landlord shall have no liability in respect of, any sales, use or similar tax (including, without limitation, any and all related or attendant taxes, such as "local option" taxes, etc.) with respect to any and all Rent. Tenant shall indemnify and hold Landlord harmless from and against any loss, cost, expense, liability or obligation which might arise in connection with any such taxes. At Landlord's request, Tenant shall pay any and all of such taxes to Landlord for remittance to the appropriate Governmental Authority.

4. USE; OPERATION.

4.1. Use.

4.1.1. As a material inducement to Landlord to enter into this Lease, subject to the Project Requirements, Operating Conditions, Rules and Regulations and standards imposed upon Tenant in this Lease, and subject to Landlord's approval in Landlord's sole discretion, Tenant shall continuously use and operate the Premises throughout the Term hereof exclusively as a first-class Build-A-Bear Workshop specialty retail store offering the display, assembly and sale at retail of make-it-yourself plush teddy bears and other plush animals, together with related accessories for such make-it-yourself plush teddy bears and animals. Incidental to the sale of make-it-yourself plush teddy bears and animals, Tenant may offer for sale apparel designed and produced exclusively for Tenant and such other items as are sold in the majority of Tenant's other stores, all of which incidental uses shall occupy less than \* of the sales area of the Premises. The foregoing shall be deemed the "PERMITTED USE". The Premises shall be used for the Permitted Use and for no other purpose, and utilizing no name other than Build-A-Bear Workshop (or such other name as is used for substantially all other locations of Tenant which have the same operation as the Permitted Use), unless otherwise approved in writing by Landlord in Landlord's sole discretion. The Premises shall be used and operated as aforesaid without interruption, except as otherwise expressly permitted herein and except for reasonable interruptions in respect of portions (substantially less than all) of the Premises for reasonable periods for repairs, renovations, replacements and rebuilding that is pre-approved in writing by Landlord as to the proposed work and the date and time when such work will be performed. Except as otherwise provided herein, there will be no discontinuance or change in use without the prior written consent of Landlord, which consent Landlord may withhold in its sole discretion.

4.1.2. Tenant shall continuously use and operate the Premises in strict conformity with the terms of this Lease (including, without limitation, the Disney Standard and the Operating Conditions, Rules and Regulations), and for no other use or purpose of any kind or nature whatsoever. Tenant shall immediately remove and withdraw from sale any goods or services which may be found objectionable (as determined in Landlord's sole discretion) to the public welfare and/or Landlord following receipt of written notification thereof from Landlord.

4.1.3. Landlord shall have the right to approve, in its sole discretion and on a case-by-case basis, the design and quality of all Merchandise prior to its display and sale in the Premises, including, without limitation, theming, size, packaging, appearance, quality, quantity and appropriateness; provided, however, that nothing contained in this sentence shall relieve Tenant of its obligations to insure that any Merchandise sold or offered for sale in the Premises is in compliance with applicable Laws and the provisions of this Lease. Landlord reserves the right to require Tenant to remove any items displayed or offered for sale in the Premises which Landlord determines, in its sole discretion, to be inconsistent with the Disney Standard or other than in good quality or taste.

4.1.4. Tenant shall not use or occupy the Premises (or any portion thereof), or permit the Premises (or any portion thereof) to be used or occupied in violation of any Law, or in any manner which would violate any certificate of occupancy with respect to the Premises, which

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would cause or would be likely to cause damage to the Premises, which would constitute a public or private nuisance, which would increase the premium cost of, or invalidate, any insurance policy in force with respect to the Premises, or which may be deemed by Landlord in its sole judgment as disreputable, immoral or hazardous. Tenant shall continuously use the Premises and keep the Premises occupied at all times during the Term, and Tenant shall not abandon, vacate or cease to use the Premises during the Term. Tenant shall not use or permit the Premises to be used by the public, as such, without restriction or in a manner as might tend to impair Landlord's title to, or its reversionary interest in, the Premises, or in a manner which might make possible a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises or any portion thereof.

4.1.5. Updating Facilities. Tenant shall contribute such sums as Landlord may require from time to time \* , to update and remodel the decor and Furnishings in the Premises to insure that at all times, the interior appearance, decor, and Furnishings are of a quality, character, topicality, and diversity (i) equal or better to the three (3) newest facilities of Tenant that have the same (or similar) name, theme or content that may hereafter be opened throughout the world from time to time and/or (ii) if Tenant has not opened any new facilities, then equal to the then current standards of DOWNTOWN DISNEY(R) and THE DISNEYLAND RESORT(R) PROJECT. All such changes and alterations shall be subject to Landlord's approval, which Landlord may grant or withhold in Landlord's sole discretion. If and to the extent that any such new facilities opened after Tenant's Work is completed, feature new or different features, exhibits or characteristics (collectively "CHANGES"), at Landlord's request and subject to Landlord's approval, which Landlord may grant or withhold in Landlord's sole discretion, and provided it is not physically impossible to accommodate such Changes within the Improvements, Tenant shall incorporate any or all of such Changes within the Improvements within a reasonable period of time after receiving Landlord's request.

4.1.6. Restriction on Sales. In order to prevent any diminution in the anticipated revenue to be realized by Landlord through Percentage Rent payments attributable to revenue derived from the sale of Merchandise identifying or identifiable with the first-class Build-A-Bear Workshop specialty retail store to be constructed on the Site, Tenant shall not sell Tenant's Merchandise identifying "Anaheim", "Disney", "Disneyland(R)", "THE DISNEYLAND RESORT(R) PROJECT", "Disney's California Adventure(R)" (or such other name as Tenant or its Affiliates shall name any theme park in THE DISNEYLAND RESORT(R) PROJECT), "DOWNTOWN DISNEY(R)" (or such other name as the retail, dining and entertainment complex shall be known) or any name, trademark or service mark registered to Landlord or any of Landlord's Affiliates, or any phrase containing the name "Disney", from any location other than the Premises (including, without limitation, catalog sales), without Landlord's prior written consent, which consent Landlord may grant or deny in Landlord's sole discretion. In addition to constituting a default under this Lease, any sales in violation of this provision shall be deemed to constitute sales that are includable in Gross Sales attributable to the Premises, for purpose of calculating Percentage Rent.

4.1.7. Nuisance, et. al. Tenant shall not commit or suffer any use, occupancy, act or omission, or condition to exist on, under or adjacent to the Premises which may constitute

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a nuisance, public or private, or which may be deemed by Landlord, in its sole judgment, by Law or by Project Requirement to be disreputable, hazardous or a nuisance.

4.1.8. Compliance with Law. All operations on the Premises, and all aspects thereof, shall at all times be in compliance with all Project Requirements and applicable Laws and all other governmental and quasi-governmental authorities having or claiming jurisdiction over the Premises, and of all their respective departments, bureaus and officers, and of the insurance underwriting board or insurance inspection bureau having or claiming jurisdiction, or any other body exercising similar functions, and of all insurance companies from time to time selected by Tenant to write policies covering the Premises or any part thereof.

4.2. Continuous Operation; Hours; Reservations.

4.2.1. Tenant acknowledges and agrees that the primary purpose of the Premises is to serve, on a non-exclusive basis, the guests of DOWNTOWN DISNEY(R) and THE DISNEYLAND RESORT(R) PROJECT. Accordingly, as a material inducement to Landlord to enter into this Lease, from and after the Commencement Date, Tenant shall continuously use all of the Premises throughout the Term to maximize Gross Sales consistent with the terms and provisions of this Lease and Tenant shall not leave the Premises vacant or suffer or permit any waste or mistreatment thereof.

4.2.2. Tenant shall continuously keep the Premises open and available to the public for permitted business activity seven (7) days per week, 365 days per year, during such hours as shall be acceptable to Landlord (provided, however, that if Landlord changes the hours of operation, Landlord shall give Tenant reasonable advance written notice thereof, which notice may be given to the manager on duty). If Landlord determines that the Premises should remain open for additional or different hours of operation, Tenant shall be obligated to comply with such determination. Tenant may not change its operating hours without the prior written consent of Landlord, which Landlord may grant in its sole and absolute discretion.

4.2.3. Prohibited Uses. All uses of the Premises not expressly permitted by Subsection 4.1.1 above shall be deemed prohibited. In no event may any portion of the Premises be used for any exhibitions, shows or other forms of entertainment. In no event may the Premises contain any video, arcade, virtual reality or simulator games or attractions. No tickets, vouchers, admission media or advertising, discounts or promotional materials of any kind may be sold, distributed, exhibited or otherwise made available to the public within or from any portion of the Premises without Landlord's express consent, which Landlord may withhold in its sole and absolute discretion.

4.2.4. Other Prohibited Uses. The Premises may never be used for the display of any materials, or, subject to applicable Laws, the appearance of any employee, which is, as determined by Landlord, in its sole and absolute discretion, pornographic, lewd, vulgar, obscene or immoral.

4.3. Operating Supplies.

4.3.1. Tenant shall be responsible, at Tenant's sole cost and expense, for all the necessary and appropriate operating supplies for the Premises (including, without limitation, all

paper products, stationery, shopping bags, gift boxes, gift wrap, smallwares, etc.) (all of the foregoing being hereinafter collectively referred to as the "SUPPLIES"). Throughout the Term, Tenant shall keep and maintain an adequate stock and supply of the Supplies, and all Supplies shall be of first-class quality and consistent with the Disney Standard.

4.3.2. Tenant shall not depict or incorporate (or authorize others to depict or incorporate) DOWNTOWN DISNEY(R) name, THE DISNEYLAND RESORT(R) PROJECT name or the word "DISNEY" (or any variation thereof, either alone or in conjunction with, or as a part of, any other word, mark, name or title) on any Supplies for the purpose of referring to the location of the Premises, without obtaining Landlord's prior consent in each instance (which consent may be granted or withheld in Landlord's sole discretion).

4.4. Disney Standard.

4.4.1. As a material inducement to Landlord to enter into this Lease, Tenant acknowledges and agrees that: (i) the Premises is located in DOWNTOWN DISNEY(R) within THE DISNEYLAND RESORT(R) PROJECT; (ii) all guests of the Premises will reasonably expect, because of its name and location, that the services and facilities of the Premises, and the manner of providing or offering of such, will at all times be (1) of the highest quality and standards, (2) suitable for family purposes, and (3) in conformity with the overall theme, concept, atmosphere and quality associated with personal services, recreational activities and family activity associated with THE DISNEYLAND RESORT(R) PROJECT; and (iii) it is in the best interests of all concerned that all guests of the Premises be provided with services and facilities of such standard, suitability and conformity as hereinabove described and that Tenant be held to comply with such standard, suitability and conformity (all of the foregoing as determined by Landlord in its sole and absolute discretion from time to time being herein collectively referred to as the "DISNEY STANDARD").

4.4.2. Throughout the Term, the entire Premises shall be maintained and operated by Tenant in strict accordance with the terms of this Lease. Tenant shall satisfy the Disney Standard in all matters relating to the operation of the Premises, including, without limitation, maintenance, repair, safety, sanitation, guest service and employee courtesy, appearance, conduct and discipline, and Landlord shall have the right to inspect the Premises and all areas thereof at all times to assure itself that Tenant is satisfying the Disney Standard (as well as any other term or provision of this Lease).

4.4.3. Without limiting the generality of the foregoing, Tenant understands and acknowledges that Landlord may, in its sole discretion, designate one or more "Landlord Representative(s)" to inspect and monitor the Premises for the benefit of Landlord and in order to insure compliance by Tenant with the terms of this Lease. Tenant shall cooperate at all times with any such "Landlord Representative(s)" and shall continually provide access to all aspects of the Premises for such person or persons.

4.5. Operational Conditions and Guidelines.

4.5.1. Standards. Tenant acknowledges that Landlord has very substantial interests in maintaining the image, reputation, aesthetic appearance and quality of, and harmony

among, the properties owned by Landlord and/or any of Landlord's Affiliates which include and surround the area of the Premises, and that, accordingly, Tenant shall comply with and maintain high quality standards for the operation of the Premises. Tenant shall at all times manage the Premises in accordance with such reasonable policies and standards as Landlord shall establish from time to time to assure the continued operation of the Premises as high quality facilities. Landlord and Tenant shall confer with respect to excessive complaints by customers of the Premises which come to the attention of Landlord. If such complaints relate to service, cleanliness or the state of repair or other condition of the Premises and are reasonably found by Landlord to be justified, Tenant shall, at its sole cost and expense, remedy immediately the cause or causes of such complaints. Tenant shall comply with and abide by the Operating Conditions, Rules and Regulations. Landlord shall have the right, from time to time during the Term, to make changes, additions to and deletions from the Operating Conditions, Rules and Regulations promulgated by Landlord. Landlord agrees to uniformly enforce the Operating Conditions, Rules and Regulations against all similar retail operations at DOWNTOWN DISNEY(R); however, Landlord shall not be liable to Tenant for the violation of any rules and regulations by Landlord, any other tenant, any other occupant of THE DISNEYLAND RESORT(R) PROJECT, or other person or entity, and the failure to enforce any Operating Conditions, Rules and Regulations against Landlord, any other tenant, any other occupant of THE DISNEYLAND RESORT(R) PROJECT, or any other person or entity, shall not constitute a waiver thereof by Landlord.

4.5.2. Educational Programs. At Landlord's election, Tenant's employees shall attend orientation programs conducted by Landlord prior to or reasonably soon after beginning employment at the Premises and on a periodic refresher basis. Tenant shall pay to Landlord a fee based on Landlord's actual cost for each such employee scheduled to attend the orientation program and shall pay such employee its salary for time spent attending such orientation program. Landlord shall invoice Tenant at the end of each week for employees scheduled to attend during the preceding week, and Tenant shall pay each such invoice within seven (7) days of its receipt thereof.

4.5.3. Costumes and Appearance Standards. No costumes or uniforms to be utilized in the Premises may be used unless first expressly approved by Landlord in writing, in its sole discretion. Landlord agrees that the uniform currently used by Tenant at its other locations is approved by Landlord. In addition, if Tenant changes the uniform used at all of its other locations, such new uniform shall not be subject to Landlord's prior written approval, but shall be subject to Landlord's appearance standards and the Disney Standard. All employees of Tenant shall, while working at the Premises, comply with Landlord's appearance standards and rules of conduct as set out in the Operating Conditions, Rules and Regulations or as may be otherwise applicable to employees of entities operating or sponsoring restaurants, attractions or corporate displays in THE DISNEYLAND RESORT(R) PROJECT, or any part thereof.

4.5.4. Licenses. Tenant shall maintain throughout the Term, and deliver copies thereof to Landlord, all licenses and/or permits and/or certificates from the appropriate governmental and quasi-governmental authorities required for the operation of the Premises, and shall comply with all laws and requirements imposed by the appropriate governmental and quasi-governmental authorities.



4.5.5. Employee Compensation. Tenant shall be solely responsible for all salaries, employee benefits, social security taxes, Federal or state unemployment insurance, workers' compensation coverage and any and all taxes and other charges of any kind whatsoever relating to such employees. Tenant's employees shall not be entitled to participate in any of Landlord's employee benefit or welfare plans.

4.6. Tenant to Obtain Services.

Except as otherwise provided in this Lease, Tenant understands and acknowledges that Landlord shall not be responsible in any manner for providing services to the Premises, including, without limitation, pest control, cable television, landscaping, safety or health inspections, sanitation, transportation, etc., it being understood and agreed that Tenant shall be solely responsible for the provision of such services in a manner consistent with all Laws and with the Disney Standard and the Operating Conditions, Rules and Regulations. Tenant acknowledges, however, that with respect to any services requested by Tenant and provided by Landlord from time to time in connection with the Premises, including, without limitation, emergency services (police, fire, medical, paramedics, ambulance) any costs and expenses to be billed to Tenant in connection with such services shall include: (i) all direct costs of such personnel, including, but not limited to, payroll, payroll taxes and fringe benefit costs (calculated at the appropriate annual composite rate therefor) and (ii) all overhead costs and expenses directly related to such personnel and the services rendered thereby (including, but not limited to, departmental, divisional and administrative overhead and a reasonable allocation of capital charges for assets used to provide such services, including, but not limited to, equipment, facilities and training); and that all materials used in connection with the services rendered pursuant to this section shall be billed at their net cost to Landlord, plus all overhead costs and expenses related to such materials (i.e., departmental, divisional and administrative overhead and a reasonable allocation of capital charges for assets used to provide such materials, including, but not limited to, equipment, facilities and training).

4.7. Theme Park Materials.

4.7.1. Tenant acknowledges that Landlord and Landlord's Affiliates have expended substantial time, money and other resources in connection with the development, management, operation and maintenance of THE DISNEYLAND RESORT(R) PROJECT. Tenant further acknowledges and agrees that the unique location of the Premises within THE DISNEYLAND RESORT(R) PROJECT, along with other unique rights and incidents that inure to Tenant under this Lease, confers substantial and material benefit upon Tenant. Accordingly, in recognition of such substantial and material benefit, and as a material inducement to Landlord to enter into this Lease, and without limiting the generality of any of Landlord's rights, Tenant covenants and agrees that neither Tenant nor any of its agents, employees or permitted successors or assigns shall cause, suffer or permit any portion of the Premises to be used, occupied or operated for the sale, distribution, display, advertisement, marketing or promotion of any Theme Park Materials (as hereinafter defined), it being understood and agreed that Landlord shall have the sole and exclusive right to sell, distribute, display, advertise, market, promote or otherwise commercially exploit Theme Park Materials within THE DISNEYLAND RESORT(R) PROJECT.

4.7.2. "THEME PARK MATERIALS" shall mean any good or service which contains, features, depicts, refers to or is derived from or a manifestation of: (i) any Theme Park or similar attraction or facility (including, without limitation, the Attractions), or (ii) any fanciful or animated themes, stories or characters (whether or not owned or created by Tenant or its Affiliates). The term "Theme Park Materials" shall include, but not be limited to, admission media or tickets, souvenirs of any kind, apparel, artwork, plush, posters or jewelry. The term shall also include, but not be limited to, any brochure, magazine, book, information sheet, flyer, card, letter, video or audio cassette, record, compact or laser disc or any other printed or electronic media or material of any kind whatsoever (whether or not now technologically existent) which promotes, describes or refers to any such good or service.

4.8. Name of Premises.

4.8.1. The trade name under which Tenant shall operate its business within and upon the Premises shall be "Build-A-Bear Workshop" (the "TRADE NAME"). Tenant may not alter or change such Trade Name without the prior consent of Landlord in its sole discretion; provided, however, that Tenant may use such other trade name as is used for substantially all other locations of Tenant which have the same operation as the Permitted Use.

4.8.2. Tenant agrees that it will not permit the Premises to be used in conjunction with, as a sponsor or supporter for or in support of any event, activity, business or other commercial enterprise, charitable or other not for profit venture, physical building, physical improvement, or governmental, civic or social function without the prior written approval of Landlord, which Landlord may grant or withhold in Landlord's sole discretion.

4.8.3. Tenant represents and warrants to Landlord that the Trade Name (and any other name, mark, logo, slogan, design, symbol, figure, drawing, idea, or other matter associated therewith) is safely and freely available for use by Tenant and Landlord (as provided in this Lease) and does not: (i) violate or infringe upon the private, civil or property or other rights of any kind or nature whatsoever of any person, firm, corporation or other entity; or (ii) violate any applicable Laws.

4.9. Disney Dollars; Credit Cards; Point of Sale.

Unless Landlord otherwise directs, Tenant shall accept DISNEY DOLLARS, THE DISNEYLAND RESORT(R) PROJECT hotel identification resort card and other forms of resort cards, gift certificates and package coupons, distributed by Landlord and/or any of Landlord's Affiliates to guests at THE DISNEYLAND RESORT(R) PROJECT, which allow the holder to utilize the same as a means of payment for the goods and/or services offered for sale within the Premises, and such acceptance shall be strictly in accordance with the procedures established by Landlord or any of Landlord's Affiliates. Landlord shall pay, or cause to be paid, to Tenant, within a reasonable period of time, the total amount of all such DISNEY DOLLARS, resort cards, certificates and/or coupons, up to any limit set forth thereon, to the extent Tenant has substantially complied with all applicable procedures (less any applicable sales tax). The specific terms of said arrangements, as in effect from time to time, shall be provided to Tenant in writing prior to the Commencement Date and from time to time thereafter. In addition, Tenant shall also accept certain credit cards, debit cards, stored value cards (i.e., so-called "smart"

cards), travel cards, travelers cheques and similar devices specified and requested by Landlord from time to time during the Term (specifically including, but not limited to, any credit cards, debit cards, stored value cards, travel cards, travelers cheques or similar devices that are the subject of any Sponsorship Agreement as described in Exhibit G attached hereto and made a part hereof, as the same may be amended from time to time pursuant to the terms of this Lease) as a means of payment for the goods and/or services offered for sale by Tenant within the Premises, and Tenant shall be responsible for entering into all necessary agreements with the issuers of such cards and cheques and for paying all fees, discounts, costs and expenses with respect to such cards and cheques. Notwithstanding the foregoing, Tenant agrees that Tenant shall not erect, place or display in any manner within or about the Premises (including, without limitation, all point-of-sale locations) any advertisements or promotional materials (including, but not limited to, "take-one" displays) regarding any credit cards, debit cards, stored value cards, travel cards, travelers cheques or similar devices (including, without limitation, any co-branded cards and cheques), without the prior written consent of Landlord in each instance (which consent may be granted or withheld by Landlord in Landlord's sole discretion) or except as otherwise permitted in any Sponsorship Agreement attached as Exhibit G.

4.10. Control of THE DISNEYLAND RESORT(R) PROJECT and Attractions.

4.10.1. Nothing in this Lease is intended or shall be deemed or construed to grant to or confer upon Tenant any rights whatsoever in respect of THE DISNEYLAND RESORT(R) PROJECT or any of the Attractions, including, without limitation, rights in connection with the closing, alteration, discontinuance, condemnation or casualty loss thereof. Accordingly, without limiting the generality of the foregoing, Landlord and Landlord's Affiliates shall have full, ultimate and unfettered control over THE DISNEYLAND RESORT(R) PROJECT and the Attractions, including, without limitation, the sale of products or services therefrom and the retention of any profits.

4.10.2. "ATTRACTION" shall mean any Theme Park, resort, golf course, structure, facility, arcade, ride, show or other device for entertainment, or any element, collection or combination thereof, including, without limitation, DISNEYLAND(R), DISNEY'S CALIFORNIA ADVENTURE(R), DOWNTOWN DISNEY(R), and which are owned, operated or controlled by one or more Affiliates of The Walt Disney Company.

4.11. Admissions.

Throughout the Term hereof, Landlord and Landlord's Affiliates reserve the exclusive right to control admissions and parking to any or all of THE DISNEYLAND RESORT(R) PROJECT or any or all of its components or elements (including, without limitation, DOWNTOWN DISNEY(R)) and, at Landlord's or Landlord's Affiliates option, to charge admission, entrance or parking fees to any or all of such components or elements as Landlord or Landlord's Affiliates may determine from time to time in their sole discretion, all of which shall be for the account of Landlord and Landlord's Affiliates (and Tenant shall have no rights or interest therein or rights or actions against Landlord as a result of any actual or alleged damages resulting therefrom). Except as to the food, beverages and Merchandise sold by Tenant in and from the Premises pursuant to the terms of this Lease, Tenant shall have no rights or interest under this Lease in any revenues realized from the sale of services, food, beverages, merchandise or other items offered

for sale (or admission fees) in DOWNTOWN DISNEY(R), the various facilities therein, or elsewhere in THE DISNEYLAND RESORT(R) PROJECT.

4.12. Common Areas.

4.12.1. Tenant shall have and Landlord hereby grants to Tenant, and its employees, customers, patrons, suppliers, licensees and invitees, during the Term of this Lease, a non-exclusive revocable license to use and enjoy the Common Areas of DOWNTOWN DISNEY(R) in common with Landlord and all other tenants or occupants of any property in the vicinity of the Site, and their respective employees, customers, patrons, suppliers, licensees and invitees; subject, however at all times to the Operating Conditions, Rules and Regulations and to any other reasonable rules and regulations promulgated by Landlord and to the terms and provisions of this Lease. "Common Areas" shall mean, as they may from time to time exist, those portions of DOWNTOWN DISNEY(R) which are exclusive of gross leaseable area and other areas which are set aside as the exclusive use areas of Landlord or its designees and shall include, without limitation, the driveways, entrances and exits, parking areas, roadways, pedestrian passageways, bridges, sidewalks, walkways, roofs, loading docks, delivery areas, landscaped and streetscaped areas, and all other areas or improvements which may be provided by Landlord for the general use of tenants of DOWNTOWN DISNEY(R) and their agents, employees, and customers. Landlord shall be responsible for the operation, management, and maintenance of the Common Areas. The manner in which the Common Areas shall be maintained and expenditures in connection therewith shall be at the sole discretion of Landlord. Tenant may not place anything, including, without limitation, vehicles, within the Common Areas without the prior approval of Landlord which it may withhold in its sole and absolute discretion. Landlord shall at all times have the right to utilize the Common Areas for promotions, exhibits, outdoor shows, displays, other product shows, the leasing of kiosks and food facilities, landscaping, decorative items, and any other use which, in Landlord's sole judgment, tends to attract customers to, or benefit the customers or tenants of DOWNTOWN DISNEY(R). \* Tenant acknowledges that the wine bar (and related furniture, fixtures and equipment) currently located across from the Premises is not a kiosk or cart and is not affected by the foregoing provision. Without the same constituting or being considered an eviction or disturbance of Tenant's quiet enjoyment or possession of the Premises, Landlord may from time to time close any such area for repairs or alterations, to prevent a dedication of or the accrual of prescriptive rights therein, or for any other reason permitted by Law, and such closure shall not entitle Tenant to any abatement of Rent. Landlord shall at all times during the term of this Lease, subject to the provisions hereof, have the sole and exclusive management and control of all Common Areas and may at any time and from time to time during the term hereof, restrain any use or occupancy thereof that Landlord deems necessary or appropriate in Landlord's sole discretion. Tenant shall keep said areas free and clear of any obstructions created or permitted by Tenant or resulting from Tenant's operations. If in the opinion of Landlord, in its sole and absolute discretion, unauthorized persons are using any of such areas by reason of the presence of Tenant in DOWNTOWN DISNEY(R), Tenant, upon demand of Landlord, shall restrain such unauthorized use by appropriate proceedings. Nothing herein shall affect the right of Landlord at any time to remove any such unauthorized person from such areas or to prohibit the use of any such areas by unauthorized persons.

\* - Redacted Text - Confidential treatment requested; omitted portions have been filed separately with the Securities and Exchange Commission.

4.12.2. Landlord shall have the right to establish, promulgate, change, amend, modify and enforce, from time to time, such rules and regulations affecting and with respect to the use, operation and maintenance of DOWNTOWN DISNEY(R) and the Common Areas as Landlord in its sole and absolute discretion shall deem to be necessary, desirable or appropriate from time to time and Tenant shall and hereby agrees at all times to comply with, abide by and conform to such rules and regulations. The failure of Tenant to comply with, abide by or conform to said rules and regulations shall constitute a default by Tenant under this Lease.

4.12.3. Tenant shall not park any car, truck or delivery vehicle in the Common Areas, nor permit delivery of supplies and equipment at any place other than as designated by Landlord.

4.12.4. Landlord reserves the right, from time to time, in its sole and absolute discretion, to reduce or expand the size of DOWNTOWN DISNEY(R) and its various component parts, to change the size, number, configuration, location and legal description of any building locations (other than the Premises except as provided herein) and buildings within DOWNTOWN DISNEY(R), and to thereby change the size, configuration, location and legal description of the Common Areas, provided, however, that such reconfiguration of the Common Areas shall not materially impede access to the Premises. Landlord also reserves the right to change the size, configuration, layout and traffic circulation pattern of all facilities and improvements, from time to time, located, developed and constructed on the common areas.

4.12.5. Parking Areas-Non-Exclusive Revocable License. Tenant shall have and Landlord hereby grants to Tenant and its employees, customers, patrons, suppliers, licensees and other invitees, during the Term of this Lease, the non-exclusive right, privilege and license, to use and enjoy such parking areas as may be made available for non-valet parking use to Tenant from time to time, with Landlord and all other tenants or occupants of any property in the vicinity of the Site, and their respective employees, customers, patrons, suppliers, licensees and other invitees; subject, however, at all times, to the Operating Conditions, Rules and Regulations, and to any other reasonable rules and regulations promulgated by Landlord, and to the terms and provisions of this Lease. At Landlord's request, Tenant shall participate in such parking programs (e.g. validated parking) as are identified by Landlord to Tenant from time to time. Notwithstanding the foregoing, Landlord agrees that it will not require Tenant to bear the cost of validated self-parking (as opposed to valet parking) for those customers of Tenant who are attending a function in the Build-A-Bear party room on the 2nd floor of the Premises. Tenant agrees to supply supporting documentation reasonably acceptable to Landlord in connection with any such validated self-parking. If Landlord deems it necessary to prevent the acquisition of public rights in any parking areas, or for any other reason in Landlord's sole discretion, Landlord from time to time, closes and/or relocates portions of the parking areas, erects private boundary markers or takes such other steps as it deems appropriate or necessary to accommodate special events or expand Landlord's facilities, no such action shall be deemed to constitute or be considered as an eviction or disturbance of Tenant's quiet enjoyment or possession of the Premises or entitle Tenant to an abatement of Rent. The parking areas shall at all times be subject to the exclusive management and control of Landlord. Tenant shall keep said areas free and clear of any obstructions created or permitted by Tenant or resulting from Tenant's operations. If in the opinion of Landlord unauthorized persons are using any of such areas by reason of the presence of Tenant in DOWNTOWN DISNEY(R), Tenant, upon demand of Landlord, shall

restrain such unauthorized use by appropriate proceedings. Nothing herein shall affect the right of Landlord at any time to remove any such unauthorized person from such areas or to prohibit the use of any such areas by unauthorized persons.

4.13. Music and Entertainment.

Subject to the terms hereof, Tenant may provide pre-recorded and/or broadcast music to Tenant's customers within the Premises. Tenant shall cause all such music at the Premises to be maintained at a reasonable noise level (the determination of which shall be in Landlord's sole discretion), in good taste and suitable for the entire family, including minors, and shall not permit any profanity, obscenity or objectionable material. Tenant shall obtain Landlord's approval for the types of music Tenant desires to offer at the Premises, which approval shall be Landlord's sole discretion. Landlord hereby approves the 2 compact disc recordings currently distributed under the Build-A-Bear Workshop name for use at the Premises.

4.14. Management Agreement.

Tenant shall not enter into any management or agency agreement relating to the management or operation of the Premises or any modifications to such management or agency agreement (collectively, "Management Agreement") without Landlord's prior written approval (which Landlord may grant or deny in its sole discretion) of the terms and conditions thereof and of the identity of any manager of the Premises ("Manager"). If Landlord gives its approval, the Management Agreement shall provide, among other things, that: (i) upon the expiration or sooner termination of this Lease or upon termination of Tenant's right to possession of the Premises for any reason whatsoever, the Management Agreement shall be automatically terminated without liability for any payment due or to become due to the Manager by Landlord; and (ii) all fees and other amounts payable by Tenant to the Manager shall be fully subordinate to the Rent payable by Tenant to Landlord hereunder.

4.15. Tenant Meetings.

Tenant covenants and agrees that, if requested by Landlord, Tenant's general manager of the Premises will meet with Landlord, or its representative or representatives, on a periodic basis throughout each Lease Year in order to discuss certain aspects of the management, maintenance and operation of the Premises.

5. SPECIAL COVENANTS AND CONDITIONS.

5.1. Sponsorships of Landlord.

5.1.1. Tenant recognizes that: (i) Landlord or any of its Affiliates have entered into agreements granting the same, similar or different rights as those described in this Lease to other individuals, entities or products in the past, which rights have been, are currently being, and will be exercised; (ii) Landlord and its Affiliates, in their sole discretion, may enter into further agreements granting similar or different rights in the future; and (iii) the approval rights reserved to Landlord in this Lease and the restrictions and/or limitations set forth in this Lease are necessary to enable Landlord and its Affiliates to enjoy the benefits of, protect their interests in, and prevent dilution of, the value of the proprietary rights, licenses and participations which

Landlord and its Affiliates have granted and may continue to grant in the various registered marks or other rights or properties owned by them. In particular, and not by way of limitation, Tenant recognizes that, pursuant to agreements of the type referred to above in this Section, Landlord and its Affiliates have made certain commitments and in the future reserve the right to make commitments regarding such proprietary rights and the availability of products or services within THE DISNEYLAND RESORT(R) PROJECT (said agreements being collectively referred to herein as the "Landlord Sponsorship Agreements"). Accordingly, to assure the protection of the reputation, appearance and quality of THE DISNEYLAND RESORT(R) PROJECT, and to preserve the goodwill, image and reputation of Landlord and its Affiliates, as well as the enjoyment by them of their respective proprietary rights, Tenant hereby makes the covenants set forth in this Article, and agrees to cause its employees and agents to comply with the requirements and restrictions herein to the extent the same are, by the terms of said sections, to be complied with by Tenant, the due and timely performance of such covenants and agreements being a condition to and a material consideration for the rights granted to Tenant under this Lease.

5.1.2. In order to preserve the value and ensure the non-dilution and the full enjoyment by the beneficiaries of the proprietary rights, licenses and participations granted under, and of the benefits derived by Landlord and its Affiliates under, the Landlord Sponsorship Agreements entered into prior to the Execution Date, Landlord has set forth, in Exhibit G hereto (when read in conjunction with the provisions of this Section), terms and conditions which in its judgment are necessary or appropriate for such purposes, and Tenant hereby covenants and agrees with respect thereto as follows: Tenant hereby agrees that, with respect to the Premises only, it shall perform, observe and comply with the terms and conditions set forth in Exhibit G hereto, provided that with respect to the procurement of said products and services: (i) the respective cost of the products and/or services does not exceed the lowest wholesale price at which said sponsor sells the same products or services to any other similar purchaser, including gratuity and other applicable discounts; and (ii) said products and/or services meet Landlord's and Tenant's quality standards and that said products and/or services are appropriate in light of the concept of the Premises. Tenant shall be obligated to comply with the terms of this Section and of Exhibit G hereto as and to the extent such terms exist, as amended, by virtue of any renewals, extensions or amendments of existing Landlord Sponsorship Agreements or by virtue of any new Landlord Sponsorship Agreements entered into after the Execution Date with different suppliers; provided that with respect to the procurement of said products and services: (i) the respective cost of said products and/or services does not exceed the lowest wholesale price at which said sponsor sells the same products or services to any other similar purchaser, including gratuity and other applicable discounts; (ii) said products and/or services meet Landlord's and Tenant's quality standards and that said products and/or services are appropriate in light of the concept of the Premises; or (iii) compliance with such Landlord Sponsorship Agreement shall not cause a violation or breach by Tenant under any agreement between Tenant and a Tenant Sponsor approved by Landlord pursuant to the provisions of Section 5.2 hereof. Notwithstanding anything to the contrary in this Section 5.1.2 or Exhibit G, Landlord acknowledges and agrees that Tenant may offer for sale the following (subject to the provisions of the Lease other than those in this Section 5.1), and the same shall not constitute a violation of this Section 5.1.2 or Exhibit G: (a) the items described in Section 4.1.1 above, provided that the same are branded only by Build-A-Bear Workshop; (b) a 35mm disposable camera made especially for Tenant (in the form Tenant has submitted to Landlord), provided that the

packaging identifies only the Build-A-Bear Workshop brand and does not identify or reference the camera manufacturer or distributor; and (c) a tea packet as part of tea set, provided that the packaging identifies only the Build-A-Bear Workshop brand and does not identify the tea manufacturer or distributor.

5.1.3. Landlord shall have the right from time to time to require Tenant at the Premises: (i) to utilize those services and/or types and brands of products designated by Landlord which are utilized in the operation and/or maintenance of facilities of the type and caliber comparable to the Premises; and (ii) to meet such other requirements as Landlord shall from time to time establish to enjoy the benefits of and to protect and preserve the value of the said proprietary and other rights of Landlord and its Affiliates; provided, however, that Landlord shall not have the right, with respect to the Premises, to so designate any product or service, or to establish requirements in respect of any person, product, service or thing, which is the subject of any Landlord Sponsorship Agreement entered into by Landlord (or any of its Affiliates) after the Execution Date, if and to the extent that doing so would: (i) have an adverse economic effect on Tenant by preventing Tenant from procuring products or services of similar type and quality which are then available to Tenant at prices significantly lower and/or at terms significantly more favorable to Tenant, than those made available to Tenant for the product or service designated by Landlord; or (ii) would lower the quality of any product or service of Tenant then in existence.

5.1.4. Landlord shall notify Tenant of any Landlord Sponsorship Agreement entered into after the Execution Date, as well as any renewal, extension, amendment, expiration or replacement of any such Landlord Sponsorship Agreement that modifies the terms set forth in Exhibit G hereto, and the terms of Exhibit G hereto shall be deemed amended to reflect the contents of said notice; provided, however, that any modifications to the terms set forth in Exhibit G hereto with respect to the procurement of products and services shall become effective only upon the conclusion of Tenant's use of all previously acquired products and services. Such notice shall contain the name of the sponsor, the applicable products and services and Tenant's obligations in content and form reasonably similar to Exhibit G attached hereto. Tenant acknowledges and agrees that the terms and conditions set forth in Exhibit G hereto are in addition to, and shall in no way limit or restrict, the terms and conditions set forth in this Section or any other provision of this Lease.

5.1.5. Restrictions on Affiliation. In recognition of existing and future contractual obligations of Landlord to third parties who have or may in the future be granted exclusive rights to have their products, services or name utilized or featured in conjunction with all or portions of properties of Landlord and/or any of Landlord's Affiliates, Tenant acknowledges and agrees that Tenant and Tenant's Affiliates shall not publicize or otherwise allow the Premises (i) to be utilized to sponsor, publicize, endorse or otherwise be used in conjunction with the products, services or identity of any third parties, or (ii) to be used in conjunction with, as a sponsor or supporter for or in support of any event, activity, business or other commercial enterprise, charitable or other not for profit venture, physical building, physical improvement, governmental, civic or social function, it being the intent of the parties hereto that Tenant's presence within THE DISNEYLAND RESORT(R) PROJECT be exclusively associated with Landlord and Landlord's Affiliates' and Theme Parks owned, managed and as operated by Landlord and/or Landlord's Affiliates, and that any identification of the Premises with any third parties not approved by Landlord, in Landlord's sole discretion, could diminish the value derived



by Landlord of Tenant's association with Landlord and/or conflict with certain of Landlord's contractual obligations and exclusive rights that Landlord has previously granted to third parties in conjunction with Landlord and Landlord's Affiliates' Theme Parks. Except as set forth below, the foregoing provisions are not intended to bar Tenant's Affiliates from entering into national affiliations or participant relationships with third parties and, in connection therewith, to engage in national advertising campaigns that might otherwise conflict with the foregoing provisions, so long as such activities: (i) do not result in a breach of the obligations of Tenant set forth in this Lease above; and (ii) do not result in sponsorship or participation in local events or advertisements only run in the Five County Region specifically intended to only impact or focus on the Premises or the Five County Region.

## 5.2. Sponsorships of Tenant.

5.2.1. Landlord acknowledges that Tenant has existing corporate alliances with the World Wildlife Federation, ftd.com, Humane Society of the United States, Toys for Tots, the American Cancer Society, Scholastic, Inc., Skechers and the Teddy Bear Foundation ("Tenant's Existing Alliances"). Landlord further recognizes that Tenant may desire to enter into certain sponsorship arrangements after the Execution Date, which sponsorship arrangements may include rights with respect to the Premises. Accordingly, in recognition of the existing and subsequent Landlord Sponsorship Agreements as referred to above, Tenant agrees that all persons or entities having a right of public exposure or other affiliation or association with Tenant with respect to the Premises (whether through an "official status" or other similar designation or association, or otherwise, and including, without limitation, title sponsors, presenting sponsors and/or corporate sponsors) (each, a "Tenant Sponsor"), shall be subject to the prior approval of Landlord, which approval may be granted or withheld in Landlord's sole and absolute discretion. With respect to any product associated with a Tenant Sponsor or any of Tenant's Existing Alliances which Tenant proposes to offer for sale or display at or in connection with the Premises, Tenant shall submit any such proposed product for Landlord's prior approval. In addition, without Landlord's prior written approval, which may be withheld in Landlord's sole and absolute discretion, Tenant shall not enter into any corporate alliance or sponsorship agreement which involves (i) Tenant's sponsorship or endorsement, in connection with Tenant's location at the Premises, of any third party event, product, service or identity or (ii) a third party sponsorship or endorsement of Tenant or Tenant's products which would affect or be evident from the exterior of the Premises (including Tenant's exterior signage and all windows in the Premises) or within any portion of the interior of the Premises which is within five (5) feet of the storefront or windows of the Premises.

5.2.2. Tenant shall notify Landlord prior to commencing any discussions for a corporate alliance or sponsorship with a potential Tenant Sponsor. In conjunction with Tenant's request for Landlord's approval of any proposed Tenant Sponsor, Tenant shall submit to Landlord the name and types of products (or types of services, as the case may be) of any proposed Tenant Sponsor, and such other information relating to such proposed Tenant Sponsor as Landlord may request. Landlord shall respond to any such request for its approval within twenty (20) days after receiving such request from Tenant. Landlord's failure to respond within such 20-day time period shall automatically constitute Landlord's disapproval of the request (it being understood and agreed that Landlord's failure to respond within such 20-day period shall

only constitute Landlord's disapproval of the request, but shall not constitute a breach by Landlord of its obligation to respond within such 20-day period).

5.2.3. With respect to any Tenant Sponsor approved by Landlord pursuant to this Section, the sole affiliation or association of which is with respect to the Premises, Tenant agrees that one hundred percent (100%) of the total fee that Tenant and/or Tenant's Affiliate(s) receives from such Tenant Sponsor shall constitute revenue paid to or received by Tenant with respect to the Premises and, accordingly, shall be included in Tenant's Gross Sales under this Lease.

5.2.4. Tenant agrees that it will not grant any rights to any Tenant Sponsor (or any other sponsor of Tenant) with respect to, or approve the use by any Tenant Sponsor (or any other sponsor of Tenant) of, the name "Disney" (either alone or in conjunction with or as a part of any other word, name or mark) or any marks, fanciful characters or designs of The Walt Disney Company or any of its subsidiary or other related or affiliated companies in any advertising, publicity, or promotion; to express or imply any endorsement of its products and/or services; or in any other manner whatsoever (whether or not similar to the uses hereinabove specifically prohibited), on the account of such sponsorship, unless the same is first approved by Landlord in each instance in Landlord's sole and absolute discretion. Further, without the prior approval of Landlord in each instance (which approval may be granted or withheld in Landlord's sole discretion), Tenant agrees that it will not grant any rights to any Tenant Sponsor (or any other sponsor of Tenant) to take photographs of, take motion pictures of, televise, make miniatures of, or otherwise use, reproduce or exploit any part of the Premises in any manner, or through any media. Additionally, Tenant agrees to advise each Tenant Sponsor (or other sponsor of Tenant) that such Tenant Sponsor (or other sponsor of Tenant) shall have no right to use the name "Disney" (either alone or in conjunction with or as a part of any other word, name or mark) or any marks, fanciful characters or designs of The Walt Disney Company or any of its subsidiary or other related or affiliated companies in any advertising, publicity, or promotion; to express or imply any endorsement of its products and/or services; or in any other manner whatsoever (whether or not similar to the uses hereinabove specifically prohibited), on the account of such sponsorship, unless the same is first approved by Landlord in each instance in Landlord's sole and absolute discretion. Further, Tenant agrees to advise each Tenant Sponsor (or other sponsor of Tenant) that, without the prior approval of Landlord in each instance (which approval may be granted or withheld in Landlord's sole discretion), such Tenant Sponsor (or other sponsor of Tenant) shall have no right to take photographs of, take motion pictures of, televise, make miniatures of, or otherwise use, reproduce or exploit any part of the Premises in any manner, or through any media.

5.2.5. In no event shall any Tenant Sponsor have the right to place any signs, posters or other materials in or about the Premises or any other location within THE DISNEYLAND RESORT(R) PROJECT, without the prior approval of Landlord in each instance, which approval may be granted or withheld in Landlord's sole and absolute discretion.

### 5.3. Advertising Signage.

5.3.1. Tenant shall not promote, advertise or publicize anywhere at DOWNTOWN DISNEY(R) or THE DISNEYLAND RESORT(R) PROJECT, or anywhere outside

of THE DISNEYLAND RESORT(R) PROJECT, its store and Merchandise operations conducted at the Premises (as opposed to its merchandise operations generally), except with the prior written approval of Landlord in its sole discretion in each instance.

5.3.2. Tenant agrees Tenant will not place any signs, posters or similar materials in or about the Premises without first obtaining the prior written approval of Landlord, in its sole discretion. The form, color, materials, design, lettering, location and dimensions of each approved sign, poster or similar material shall be subject to Landlord's approval, in its sole discretion, in each instance

5.4. Marketing of the Premises; Press Releases.

5.4.1. Provided Tenant is not in default in respect of any of its obligations or responsibilities under this Lease, Landlord shall, at Landlord's sole cost and expense, provide the following services for the benefit of the Premises: (i) Landlord shall provide a reference to the Premises in any directories placed by Landlord at DOWNTOWN DISNEY(R) listing all tenants of DOWNTOWN DISNEY(R) so long as Landlord continues to provide such directories (it being understood and agreed by the parties that in no event shall Landlord be obligated to continue to provide such directories and that Landlord may in its discretion alter or cancel such directories at any time); and (ii) Landlord may mention the Premises in any overall brochure specific to DOWNTOWN DISNEY(R) to the extent Landlord elects in its discretion to publish and distribute any such brochure. Tenant shall pay to Landlord, in connection with Landlord's marketing of the Project, \* for the first full Lease Year (and a prorated amount thereof for the initial partial Lease Year), and for each Lease Year thereafter, Tenant shall pay an amount equal to the amount paid by Tenant for the prior Lease Year multiplied by the Index (which increase shall not exceed \* in any Lease Year). In addition, Tenant shall provide a reasonable marketing program for the Premises, as approved by Landlord in its sole and absolute discretion. Tenant and Landlord shall agree on additional joint promotions to be held from time to time. If requested by Landlord, Tenant will participate in resort-wide events. The cost to Tenant of such resort-wide events shall not exceed \* in the first Lease Year, which maximum amount shall be compounded each Lease Year by the amount of the Index (which increase shall not exceed \* in any Lease Year).

5.4.2. The form, style, content, graphics, length, design, lettering and other aspects or characteristics of the services described in Subsection 5.4.1 above shall be chosen by Landlord in its sole discretion; provided, however, that Landlord shall use Tenant's Trade Name in the form in which it is depicted in Exhibit E.

5.4.3. Tenant understands that Landlord cannot guarantee or make any representations or warranties of any kind with respect to any of the services described in Subsection 5.4.1 above.

5.4.4. Except as required by Law, Tenant shall not issue any press releases or make mention of its association with the Premises, Landlord or any of Landlord's Affiliates, without the prior written approval of Landlord, which approval may be granted or withheld in Landlord's sole discretion.

\* - Redacted Text - Confidential treatment requested; omitted portions have been filed separately with the Securities and Exchange Commission.

5.5. Promotional Rights of Landlord.

Landlord and its Affiliates shall have the right to photograph, take motion pictures of, broadcast from, televise, make miniatures of or otherwise use, reproduce or exploit in any manner, or through any media, on a royalty-free and worldwide basis, the Premises, or any portion thereof (including any employees of the Premises), either individually or as an integral part of all or portions of THE DISNEYLAND RESORT(R) PROJECT or DOWNTOWN DISNEY(R). Tenant agrees to use its best efforts to obtain from its employees any releases necessary to allow Landlord to exploit the rights in the foregoing sentence. Landlord and any of its Affiliates may use, sell or license any such pictures or other reproductions for any purpose, commercial or otherwise, connected with promoting, advertising or publicizing DOWNTOWN DISNEY(R), any portion of THE DISNEYLAND RESORT(R) PROJECT or any other facilities, products or promotions of Landlord, The Walt Disney Company or their Affiliates, both during the Term hereof and after the expiration or sooner termination of this Lease, and all of the foregoing materials and all benefits and revenues obtained from such materials shall be the sole and exclusive property of Landlord and its Affiliates. Landlord and its Affiliates shall have the right from time to time and for periods of time appropriate for the accomplishment thereof, to use the Premises as the scene or scenes for motion pictures and/or made-for-television films and programs, such right to be exercisable upon at least five (5) days prior notice and at reasonable times and in such manner as will cause the least interference with the operation of the Premises and the provision of services to customers of the Premises. The duration and nature of the access that Landlord and/or its Affiliates wish to have to the Premises for such purposes shall be indicated in Landlord's notice to Tenant (which shall be delivered in accordance with the provisions of Section 24.7 hereof), and shall be subject to Tenant's approval with respect to such duration and nature of access, which shall not be unreasonably withheld or delayed; provided, however, that if Tenant fails to respond to such notice within five (5) days after receipt thereof, Tenant shall be deemed to have granted its approval as to the matters set forth therein. Tenant shall obtain, for the benefit of Landlord and its Affiliates and licensees, such releases, clearances or other instruments from any of Tenant's employees as shall be necessary to permit Landlord and its Affiliates and licensees to make and use or permit to be made and used any photographs, motion pictures, television, miniatures, or other reproductions for any of the purposes herein provided. Additionally, Landlord and its Affiliates shall have the right, without the prior consent of Tenant in each instance, to make use of the Trade Name (either alone or in conjunction with or as a part of any other word, mark or name) or any marks or designs of Tenant in any of its advertising, publicity or promotion of the Premises, DOWNTOWN DISNEY(R) or THE DISNEYLAND RESORT(R) PROJECT. Landlord's and its Affiliates' right to make reasonable use of the Trade Name, marks and designs of Tenant shall exist throughout the Term and shall continue for a reasonable period of time thereafter until Landlord and/or its Affiliates can remove the same from its existing advertising and promotional materials. Notwithstanding anything to the contrary contained in this Lease, in no event shall Landlord make, use or permit to be made or used, any photographs, motion pictures, videos, compact discs, television programs, miniatures or other reproductions showing the whole or any part of the interior of the Premises or Tenant's Trade Name or logo in any manner which would cause any person(s) viewing such material to associate Tenant with violence, drugs, illegal substances or items, illegal or immoral activities, gambling, pornography, nudity, or lewd or prurient activities.

5.6. Tenants' Association.

In the event that a tenants' or merchants' association shall be formed by Landlord, in which third-party tenants of Landlord (or Landlord's Affiliates) within DOWNTOWN DISNEY(R), shall be members and substantially all of the other third-party tenants at DOWNTOWN DISNEY(R) participate and become members in such association, Tenant agrees that it shall become a member of, and otherwise participate fully in and pay a proportionate share of the dues and assessments of, such association.

5.7. Exclusivity.

5.7.1. Tenant understands and acknowledges that Landlord's demise of the Premises to Tenant will involve substantial commitments and expense on Landlord's part and further that the location of the Premises within THE DISNEYLAND RESORT(R) PROJECT will confer unique and important material benefits to Tenant. Accordingly, as a material inducement to Landlord to enter into this Lease, during the Term, neither Tenant nor its Affiliates (and the respective officers, directors, partners, employees, agents or assign of each of them) shall either directly or indirectly (whether through legal or beneficial means or otherwise) own, hold, license, develop, construct, operate, sponsor, manage or otherwise participate in (whether in conjunction with a third-party or otherwise) a Similar Business: (a) within seven (7) miles of THE DISNEYLAND RESORT(R) (other than a Similar Business existing and operating as of January 26, 2001; (b) at The Block at Orange or Irvine Spectrum; or (c) within, adjacent to or in conjunction with a theme park located within 50 miles of THE DISNEYLAND RESORT(R) which is not owned, operated, controlled or licensed by Landlord or any of Landlord's Affiliates.

5.8. Special Events.

5.8.1. Tenant shall participate in all special events, private parties and cooperative events at DOWNTOWN DISNEY(R), if requested by Landlord. At Landlord's written request (delivered with at least two (2) weeks' prior notice in accordance with the provisions of Section 24.7 of this Lease), such participation shall include, without limitation, closing the Premises (or any part thereof designated by Landlord) to the public and allowing Landlord to use the Premises for not more than a total of \* periods of \* each in any Lease Year. If Landlord exercises its right to require Tenant to close and allow Landlord to use the Premises (or any part thereof) as aforesaid, Landlord shall reimburse Tenant for Tenant's direct, out-of-pocket costs for wages expended by Tenant in connection therewith within thirty (30) days of invoice by Tenant. Notwithstanding anything herein to the contrary, Tenant does not grant Landlord the right to operate its equipment at the Premises.

6. PROMOTIONAL RIGHTS; ADVERTISING.

6.1. Use of Name.

DOWNTOWN DISNEY(R), and any or all of its constituent components, shall have the names as shall be designated by Landlord, from time to time, and Landlord may change the name of DOWNTOWN DISNEY(R) and/or any or all of its constituent components, at any time and from time to time, at Landlord's sole and absolute discretion, without prior notice to or the consent of Tenant. In the event Landlord elects to change the name of DOWNTOWN DISNEY(R) and/or

\* - Redacted Text - Confidential treatment requested; omitted portions have been filed separately with the Securities and Exchange Commission.

any or all of its constituent components, Landlord shall not be liable for any costs incurred by Tenant associated with the name change on any of Tenant's advertising or promotional materials, literature, Merchandise, stationery, or other goods or materials which refer to or depict DOWNTOWN DISNEY(R) and/or any or all of its constituent components. The names and logos of DOWNTOWN DISNEY(R) and its constituent components, and the exterior and interior design characteristics unique to or characteristic of DOWNTOWN DISNEY(R) and its constituent components shall be the sole property of Landlord.

6.2. Reference to Location of Premises.

Subject to the provisions of this Lease (including without limitation, those set forth below in this Section), Landlord hereby grants to Tenant, for and during the Term, the non-exclusive right to make reasonable use of THE DISNEYLAND RESORT(R) PROJECT name, and DOWNTOWN DISNEY(R) name, solely for the purpose of referring to the location of the Premises (it being understood that such names include references to the respective marks and goodwill of Landlord and Landlord's Affiliates). The right granted to Tenant herein shall be exercised by Tenant in strict compliance with the following guidelines (and any future guidelines established from time to time by Landlord):

6.2.1. The DOWNTOWN DISNEY(R) name and THE DISNEYLAND RESORT(R) PROJECT name shall only be used to refer to the location of the Premises in connection with Tenant's advertising, publicity and promotion of the Premises (and not with respect to any person, product, service or thing of any kind), and may not be used in connection with any advertising or promotion related to any other business owned and/or operated by Tenant or in any other respect, without the prior approval of Landlord in its sole and absolute discretion.

6.2.2. The DOWNTOWN DISNEY(R) name and THE DISNEYLAND RESORT(R) PROJECT name shall be used only in the exact form, style and combination then prescribed or permitted by Landlord, in accordance with the guidelines practiced by Landlord from time to time, in the utmost good taste and consistent with the image and reputation of Landlord and Landlord's Affiliates.

6.2.3. The DOWNTOWN DISNEY(R) name and THE DISNEYLAND RESORT(R) PROJECT name, and all rights associated therewith, shall remain the sole and absolute property of Landlord or Landlord's Affiliates, as the case may be.

6.2.4. Tenant shall submit to Landlord for approval in all respects (including subjective aesthetic judgments) all prototype advertising, publicity and promotional material (including, without limitation, publicity copies and press releases, artwork and layout) using the DOWNTOWN DISNEY(R) name, and/or THE DISNEYLAND RESORT(R) PROJECT name, as applicable, together with a brief statement setting forth the use to which the material will be put, and the media through which and the period of time during which it will be distributed or displayed, which shall in no event exceed twelve (12) months unless resubmitted to, and re-approved by, Landlord. Tenant shall also submit such other background and supporting material as Landlord shall require so as to enable it to make an informed judgment and appraisal. All such material shall be transmitted to Landlord in the same manner required under this Lease for the giving of notices, addressed to the attention of Landlord's Vice President - Marketing or its

designee, at least thirty (30) days prior to the date of intended use. Tenant shall not utilize any materials requiring Landlord's approval without first obtaining the specific approval of such Vice President or its authorized representative.

6.2.5. Landlord shall notify Tenant of its approval or disapproval of Tenant's proposed material within ten (10) Business Days of Landlord's actual receipt of all documentation and information required to be submitted to Landlord. Landlord will give due consideration to any request made by Tenant for renewal of any such approval. In the event Landlord fails to respond within the aforesaid ten (10) Business Day period, Tenant may give Landlord an additional notice specifying the proposed materials with respect to which it has failed to respond. If Landlord shall fail to respond to such additional notice within five (5) Business Days after Landlord's actual receipt of same, Landlord shall be deemed to have disapproved such use.

6.2.6. Tenant shall furnish to Landlord, at or before the time they are forwarded or made available to the appropriate media or the public, the final proofs of all such material, which shall not differ significantly from the proposed material approved by Landlord and which shall indicate the specific use to which they will be put. If Landlord finds any of such proofs significantly different from the proposed material approved, or inappropriately or untimely used, then Tenant shall, as soon as practicable after being notified to that effect by Landlord, cause the withholding or discontinuance of such material and diligently seek to effect, to the extent possible, the recall or cancellation of any material already authorized or begun.

6.2.7. To facilitate the coordination by Landlord of advertising and promotional efforts, Tenant shall from time to time, but no less often than quarterly, notify Landlord in writing, so as to afford to it as much advance notice as is reasonably practicable, of all plans for future distribution or display of its advertising or promotional material to be used in connection with the Premises. Such notice shall specify the planned publication dates and media constituents. Tenant shall use reasonable efforts (such as weekly meetings) to advise Landlord of any modifications of, additions to, or cancellations of, any such plans.

6.2.8. As a condition to the exercise by Tenant of the right granted to it in this Section, each such exercise shall be accompanied by such copyright notice or registration notice as shall be required by Landlord. Landlord will, from time to time, notify Tenant of the form and content of the copyright or registration notice to be used.

6.2.9. Neither anything in this Section nor anything contained in this Lease or in any other document, instrument, correspondence or communication, shall be deemed or construed to grant to Tenant any rights whatsoever (except to the extent and in the manner provided herein), and Tenant hereby covenants that, except as otherwise specifically permissible under this Lease, it shall not:

6.2.9.1. Use DOWNTOWN DISNEY(R) name, THE DISNEYLAND RESORT(R) PROJECT name, THE DISNEYLAND(R) name or DISNEY'S CALIFORNIA ADVENTURE(R) name, either alone or in conjunction with, or as a part of, any other word, mark, name or title, in any trademark or service mark sense, or in any other manner;

6.2.9.2. Use the names "Walt Disney", "Walter E. Disney", "Disney" or any variation thereof, either alone or in conjunction with, or as a part of, any other word, mark, name or title;

6.2.9.3. Use any characters (such as Mickey Mouse), designs, names, symbols, representations, figures, drawings, ideas of other matter owned, developed or created by Landlord, The Walt Disney Company, or any of Landlord's Affiliates in any manner whatsoever;

6.2.9.4. Sell or distribute any literature, merchandise, souvenirs or other items which refer to or depict: (i) THE DISNEYLAND RESORT(R)PROJECT, DOWNTOWN DISNEY(R)or (ii) any other property, real or personal, owned, operated or managed by Landlord or any of Landlord's Affiliates; or (iii) DOWNTOWN DISNEY(R) or THE DISNEYLAND RESORT(R) PROJECT name or symbol; provided, however, that subject to the terms of this Lease, Tenant may sell or distribute any duly licensed consumer products acquired from third party vendors which incorporates or is a manifestation of the intellectual property of Landlord or its Affiliates; or

6.2.9.5. Use (or authorize others to use), reproduce, sell, distribute, display or exploit DOWNTOWN DISNEY(R) or THE DISNEYLAND RESORT(R) PROJECT name or symbol or the copyrighted works of The Walt Disney Company, Landlord or any of Landlord's Affiliates.

6.2.10 In the event Tenant fails to comply with or violates any of the terms of this Section, then Landlord may, in addition to any and all remedies provided under this Lease or at law or in equity, terminate (in whole or in part) the right of Tenant provided in this Section, whereupon Tenant shall withhold and discontinue all further use of its right granted hereunder and Tenant shall recall and cancel any materials previously distributed or displayed by Tenant.

### 6.3. Copyrights.

Any use or reproduction of any copyrighted works of art or other copyrighted or registered material approved by Landlord shall be accompanied by such copyright or registration notice as may be required by applicable Laws or by Landlord.

## 7. PREMISES MANAGEMENT AND EMPLOYEES.

### 7.1 Premises Management.

Management and operation of the Premises shall at all times be under the direct supervision and control of Tenant.

### 7.2. Premises Employees.

The following provisions shall apply with respect to all employees of Tenant employed in connection with the Premises:

7.2.1. All such employees shall be employees of Tenant and not of Landlord, any of Landlord's Affiliates or any other person or entity.



7.2.2. All such employees shall, as a condition of their employment or assignment within THE DISNEYLAND RESORT(R) PROJECT, agree to be subject to and comply with all standards, rules and regulations of Landlord which may be in effect from time to time and applicable to employees of entities sponsoring attractions or corporate displays in THE DISNEYLAND RESORT(R) PROJECT or any part thereof, including, but not limited to, the rules of conduct (including working hours) and personal appearance standards established by Landlord for its own employees.

7.2.3. All such employees shall be required to successfully complete Landlord-sponsored (or sponsored by an Affiliate of Landlord) orientation and training programs prior to or reasonably soon after beginning employment and on a periodic basis thereafter as deemed appropriate by Landlord (such orientation and training programs shall be provided by Landlord to Tenant's employees at the expense of Tenant).

7.2.4. Landlord shall have the right to approve the assignment of any such employees and to direct Tenant to reassign any such employees (and Landlord shall have no liability in connection with any employee transfer or discharge thereby made by Tenant and Tenant shall hold Landlord harmless in connection therewith); provided, however, that so long as Tenant has complied with the requirements of: (i) this Lease (including, without limitation, the Disney Standard in all respects); (ii) Tenant's own employment policies; and (iii) all applicable Laws, then Tenant shall not be required to transfer or discharge any employee of Tenant in accordance with this subsection if to do so would, in Tenant's reasonable opinion, result in a violation of any applicable Law.

7.2.5. Tenant shall be solely responsible for all salaries, employee benefits, social security taxes, Federal or state unemployment insurance, workers' compensation coverage and any and all taxes and other charges of any kind whatsoever relating to such employees.

7.2.6. Tenant's employees shall not be entitled to participate in any of Landlord's employee benefit or welfare plans.

7.2.7. Tenant shall be responsible for such employees' failure to comply with any of the applicable provisions of this Lease.

### 7.3. Policies of Employment and Employment Commitment.

7.3.1. Tenant shall maintain policies of employment as follows:

(a) Neither Tenant nor any of its agents, employees or contractors shall discriminate against any employee or applicant for employment on the basis of race, religion, color, sex, national origin, sexual orientation, disability or on any other basis whatsoever which may violate any applicable Law. Tenant shall take action to insure that qualified applicants for available positions are employed. Tenant shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.

(b) Tenant shall, in all solicitations or advertisements for employees placed by it or on its behalf, state that all qualified applicants will receive consideration for

employment without regard to race, religion, color, sex, national origin, sexual orientation, or disability and that Tenant is an equal opportunity employer.

7.3.2. Tenant shall recruit, train, supervise, direct, discipline, and if necessary, discharge personnel working at the Premises. As a requirement of this Lease, all personnel working at the Premises, management, non-management, and hourly, must abide by Landlord's appearance standards and rules of conduct. Employees will adhere to THE DISNEYLAND RESORT(R) PROJECT practices and policies concerning grooming standards, drug abuse, smoking, alcohol consumption, eating, using offensive language, fighting, etc. Name tags shall be worn by all employees. Tenant shall cause all of its employees to behave in a friendly, respectable, and courteous manner towards all guests and Landlord, its staff and management. If Landlord believes that any of Tenant's employees are acting (or failing to act, as the case may be) other than as required under this Lease, or Landlord or its agents determine that any of such employees are not performing their duties in a competent manner, Landlord shall so advise Tenant and Tenant shall promptly arrange to correct the deficiencies or to replace such employee, as determined by Tenant and approved by Landlord.

#### 7.4. Costumes and Appearance Standards.

All employees at the Premises shall wear costumes or uniforms provided by Tenant, at Tenant's sole cost and expense, or employees may wear their own clothing provided such are of a high quality and appearance and are consistent with the Disney Standard. All costumes or uniforms shall be subject to the prior approval of Landlord in writing (in Landlord's sole discretion). All costumes, uniforms or personal clothing shall be maintained, washed and pressed and otherwise be in a condition equivalent or better than that of the costumes or uniforms used at public guest facilities owned or operated by Landlord or its Affiliates within THE DISNEYLAND RESORT(R) PROJECT.

#### 7.5 Employee Parking.

Landlord shall have the right, from time to time, to designate and charge for certain parking areas for Tenant employee parking, and Tenant agrees that Tenant and its employees shall not thereafter park in any parking areas except those areas so designated by Landlord. In order to facilitate the enforcement of such restriction on Tenant and employee parking, Tenant agrees that it shall, within three (3) days after each employee's hire date, furnish and provide to Landlord the automobile license tag numbers of all Tenant and employee vehicles. Landlord may, in its sole discretion, require that any and all of Tenant's employees at the Premises submit copies of their driver's licenses and register their motor vehicles with the Security or other department of Landlord, and that such employees affix and maintain certain decals to their motor vehicles in order to obtain access to certain facilities within THE DISNEYLAND RESORT(R) PROJECT. Tenant shall advise its employees to properly lock and secure their motor vehicles and to refrain from leaving any valuables in their motor vehicles, since Landlord does not assume and Landlord hereby disclaims any liability or responsibility whatsoever for the safety or security of any such employee motor vehicle or the contents thereof. In the event that Tenant or its employees shall fail, following one (1) written or oral notice, to: (i) park their motor vehicles in areas properly designated by Landlord for such parking; or (ii) otherwise follow the requirements of this

Section, then Landlord may, at its sole option, cause any such motor vehicle to be towed, at Tenant's expense, and/or charge Tenant the sum of \$25.00 for each offense.

8. GUEST SURVEYS.

8.1. Periodic Guest Surveys.

8.1.1. Landlord shall, at its option and expense, have the right to conduct itself, or to cause Tenant to conduct at Tenant's expense, guest evaluation and experience surveys at periodic intervals. Any such evaluation or survey may, at the discretion of Landlord, be conducted in or upon the Premises or through the use of mail or telephone (or other electronic) contact. If Landlord wishes to conduct such evaluation or survey by means of mail or telephonic (or other electronic) contact, upon request therefor by Landlord, Tenant shall provide at no cost to Landlord, by hard copy and magnetic media, the names and addresses (and, if available, telephone numbers) of guests who (i) have voluntarily disclosed such information in Tenant's guest book, which shall be present at all times on the point of sale counter, (ii) have voluntarily disclosed such information to the cashier for data entry into the point of sale system, and/or (iii) have paid for goods or services upon the Premises by means of a credit or direct debit card (or its equivalent), sorted by categories as requested by Landlord. The timing of any such surveys described in the preceding sentence shall be coordinated with Tenant (it being understood and agreed by Tenant that Tenant shall cooperate with Landlord in such regard), and such surveys shall be addressed to obtaining such data as Landlord shall require, and the results thereof shall be shared between Landlord with Tenant, provided, however, that nothing in this Section 8.1 shall require Tenant to disclose customer data which Tenant is required to keep confidential, whether by customer request or by Law.

8.1.2. At Landlord's request, Tenant shall at its expense, as a component of its operating standards and in addition to any surveys or evaluations conducted by or at the instance of Landlord as set forth in Subsection 8.1.1 above: (i) periodically (but no fewer than twice per Lease Year) conduct guest evaluation and experience surveys, and (ii) place comment cards or the like in the public areas of the Premises. Tenant shall compile, analyze and review all data received from such efforts in a form reasonably acceptable to Landlord and Tenant shall share all of such data with Landlord, provided, however, that Tenant shall not be required to disclose customer data which Tenant is required to keep confidential, whether by customer request or by Law.

8.1.3. The results of any such guest surveys or comment cards or the like described in the foregoing subsections may be used by Landlord for all purposes as probative evidence of Tenant's compliance or non-compliance with the terms of this Lease, including, without limitation, the Disney Standard.

9. TAXES AND ASSESSMENTS.

9.1. Payment of Taxes and Assessments.

Tenant shall pay as and when they shall become due and payable, as Additional Rent, an amount equal to all Taxes and Assessments during the Term. Landlord shall equitably apportion the total amount of Taxes and Assessments for the tax lot(s) which the Premises is a part among the

various tenants and owners affected thereby, either on a square footage, intensity of use or some other common factor basis, in which event Taxes and Assessments shall be based upon the proportion of the floor area of the Premises to the total floor area of all the land and improvements in the tax lot(s) for which the Premises is a part, or based upon the nature or intensity of use or some other common factor applicable to Tenant and the various other tenants and owners. As of the date of this Lease, Landlord estimates that Tenant's pro rata share of Taxes and Assessments will be approximately \* of the Premises. Tenant shall pay to Landlord, as Additional Rent, Tenant's portion of such Taxes and Assessments within thirty (30) days of Tenant's receipt of a statement from Landlord therefor. Tenant shall not be responsible for the personal property taxes of any person or party other than Tenant (it being acknowledged by the parties, however, that under present Law Tenant is responsible for filing and paying its personal property taxes directly to the appropriate Governmental Authority and that in such event any such equitable allocation would not include personal property taxes with respect to Tenant's personalty).

9.2. Proration of Taxes and Assessments.

Taxes and Assessments for the calendar years during which the Commencement Date and the Expiration Date occur shall be prorated so that Tenant pays only that portion of the Taxes and Assessments for such calendar years allocable to periods of time during the Term. Such proration shall be computed and made as soon as practicable after the Commencement Date and the Expiration Date.

9.3. Challenge of Taxes and Assessments.

9.3.1. Tenant shall not contest, challenge or appeal (directly or indirectly, formally or informally, officially or unofficially) any Taxes and Assessments levied, assessed or imposed by any Governmental Authority without the prior written consent and approval of Landlord, which consent and approval may be granted or withheld by Landlord in its sole and absolute discretion. Without limiting the generality of Section 15.1 (Indemnity of Landlord), Tenant acknowledges and agrees that the indemnity provisions of Section 15.1 shall be deemed to include, without limitation, any and all increased taxes and/or assessments, penalties or interest, imposed on any property owned or operated by Landlord or any Landlord Affiliate (together with all attorneys fees and costs incurred by Landlord or any Landlord Affiliate in appealing or otherwise attempting to reverse such costs or liabilities) resulting, in whole or in part, from Tenant's breach of this Subsection 9.3.1. Landlord reserves the right, but shall not be obligated to do so, to contest, challenge and/or appeal any and all Taxes and Assessments. If any Taxes and Assessments are contested, challenged or appealed by Landlord, then Tenant's proportionate share of Taxes and Assessments shall also include Tenant's proportionate share of Landlord's cost and expense of contesting such Taxes and Assessments.

\* - Redacted Text - Confidential treatment requested; omitted portions have been filed separately with the Securities and Exchange Commission.

10. UTILITIES; REPAIRS; JANITORIAL SERVICE; TRASH COLLECTION AND SECURITY.

10.1. Utilities.

10.1.1. Except for cable television service and phone service, Landlord shall cause lines, cables, mains and other conduits and connections for the delivery of Utilities to be brought to locations fifteen (15) feet of the Premises, as shall be determined by Landlord in Landlord's sole discretion. Landlord may, but shall not be required to furnish to Tenant any Utilities of any kind whatsoever during the Term (including, without limitation, water, steam, heat, fuel, gas, hot water, electricity, light and power). This Lease shall be subject and subordinate to any easements that Landlord may elect to grant to providers of any Utilities to provide service to the Premises.

10.1.2. If Tenant should construct an Improvement which encroaches upon, or should landscape or otherwise improve on or over, a utility easement reserved by Landlord hereunder, whether with or without the consent of Landlord, Tenant shall remove same to the extent necessary to effect the maintenance, repair or replacement of any Utilities within the easement and shall restore same, all at its cost and expense.

10.1.3. Tenant shall pay for the cost of providing temporary utility services to the Premises during construction (including, without limitation, the performance of Tenant's Work). Tenant shall pay to Landlord the actual cost for any such temporary utility services furnished by Landlord.

10.1.4. Tenant shall pay all connection fees imposed by any governmental or quasi-governmental entity or utility or by Landlord or any Affiliate of Landlord (if such utility is so provided) for or relating to the Utilities including, but not limited to, connections for telephone, electric, potable water and waste water lines, and construction costs of connecting to such Utilities. Tenant shall pay and be responsible for the Utilities (and any other utilities utilized by Tenant) and shall pay for customary hook-up and service fees.

10.1.5. Tenant shall make all arrangements for, and pay or cause to be paid when due all charges for, all Utilities and services furnished to the Premises or used by Tenant, including, but not limited to, electricity, water, telephone and sanitary sewer services. Landlord may provide Tenant with hot and chilled water through Landlord's central plant. Tenant shall pay Landlord for its usage of hot and chilled water plus its share of the amortized capital costs of Landlord's central plant plus Tenant's share of the maintenance and utility costs to run the central plant. Tenant may not audit or review Landlord's books and records regarding its capital and maintenance costs for its central plant. If any utility to the Premises cannot be separately metered, or if Landlord is required by any utility supplier or itself elects to supply the utility service through a master meter, then Landlord shall equitably apportion the cost of such utility among the various tenants or users served thereby on either a square footage basis (based upon the proportion of the leased area of the Premises to the gross area served through the same master meter) or based upon the intensity of use by Tenant. If requested by Landlord, Tenant shall, at Tenant's expense, cause to be installed for the Premises submeters or information meters on any utility served through a master meter. In the event of such apportionment or submetering, Tenant

shall pay to Landlord monthly, as Additional Rent, Tenant's portion of the cost of such utility, within ten (10) days of receipt of a statement from Landlord therefor.

10.1.6. If Tenant desires cable television service, it shall contract through Century Cable; provided, however, in no event shall such cable television exhibit obscene, pornographic or objectionable content or any content which is not of the Disney Standard. All public phone service within the Premises shall be through Vista-United Telecommunications and Tenant shall contract within such entity for such service.

10.1.7. For any utility serving the Premises, Tenant shall make all arrangements for, and pay or cause to be paid when due all charges for, installation of connection hook-ups, back flow preventive devices, and submeters and/or other devices for the measurement of utilities supplied to the Premises.

10.1.8. In no event shall Landlord be liable or responsible for any interruption or disruption of utility service and Tenant hereby waives any and all claims against Landlord for any loss, damage or expense arising out of or incurred in connection with any of such events.

10.1.9. Landlord reserves the right to grant such easements to Vista-United Telecommunications and/or any other supplier of utilities services which are reasonably necessary to enable them to provide utility services to the Premises or other portions of THE DISNEYLAND RESORT(R) PROJECT. Further, Landlord reserves the right, at its own cost and expense, to construct, erect, place, bury, operate, maintain, repair, renew or replace utilities on, over, under or through any portion of the Premises or to alter the alignment of any existing utilities on any portion of the Premises, provided that such use shall not unreasonably interfere with Tenant's use of the Premises.

#### 10.2. No Repairs by Landlord.

Except with respect to the structural elements of the Premises that were part of Landlord's Work including, without limitation, the roof and slab of the Building (unless affected by Tenant's actions, normal wear and tear excluded), and any utilities which run through the Premises which do not exclusively serve the Premises, Landlord shall not be obligated to repair, maintain or replace any part of the Premises during the Term.

#### 10.3. Repairs by Tenant.

During the Term, except as provided in Section 10.2 above, Tenant shall perform all maintenance, repair and replacement of the Premises (including the exterior thereof and any portion of the Common Area due to the misuse by Tenant). Tenant shall, at Tenant's sole cost and expense, put, keep, replace, maintain and repair the Premises so that at all times the Premises shall be in good order and repair, and in a good, safe and substantial condition, and Tenant shall not cause or permit any waste or deterioration thereof. Tenant's obligations hereunder shall be timely performed by Tenant whenever the same may arise during the Term, whether foreseen or unforeseen, whether interior or exterior, whether ordinary or extraordinary, and regardless of the time remaining in the Term. Subject to Article 13 hereof, upon the expiration or sooner termination of this Lease, Tenant shall leave the Premises in a condition at least as good as the condition the Premises were in on the Commencement Date, excepting only ordinary wear and

tear, depreciation and obsolescence. Tenant acknowledges that the initial Furnishings will become worn out, defective, obsolete or otherwise inappropriate under or with respect to the Disney Standard. Accordingly, Tenant shall, at its sole cost and expense, periodically procure, install, maintain, repair, renew and replace in, upon or about the Premises all Furnishings necessary or appropriate for the operation of a first-class Build-A-Bear Workshop store consistent with the standards of THE DISNEYLAND RESORT(R) PROJECT, and otherwise in strict conformity with the Disney Standard.

10.4. Standards for Repair and Maintenance.

Notwithstanding the possible existence of any generally accepted industry standards used in the Anaheim area defining the expression "in good order and repair, and in a good, safe and substantial condition," Tenant hereby acknowledges that the overall value, desirability and attractiveness of the Premises will be substantially augmented and enhanced as a result of its location within THE DISNEYLAND RESORT(R) PROJECT and that the Disney Standard materially exceeds any such generally accepted industry standards. Accordingly, Tenant covenants and agrees that, continuously throughout the Term, the Premises will be operated and maintained in strict accordance with the Disney Standard.

10.5. Consultation with Landlord.

In order to: (i) fulfill the terms and provisions contained herein; and (ii) operate, manage and maintain the Premises for the best use, enjoyment, welfare and benefit of Tenant and Landlord, their successors, assigns and legal representatives or any other party claiming an interest in the whole or any portion of the Premises by, through or under either of said parties and the guests, invitees, lessees and licensees of any of the foregoing parties, there is hereby imposed upon Tenant the specific duty and obligation to consult with Landlord and seek its advice, guidance, consent and approval as to all matters concerning the proper maintenance, operation, repair and replacement of any and all Improvements, Furnishings, signs, decorative walls, landscaping, and personal property placed or erected upon the Premises in a manner consistent with the Disney Standard. The aforesaid duty to specifically consult with Landlord shall not in any way limit or condition the affirmative obligation of Tenant to repair and maintain the Premises as set forth in this Article.

10.6. Ultimate Responsibility for Standards.

Notwithstanding anything contained in this Lease to the contrary, the above provisions and standards shall in no way create, impose or imply that Landlord has any specific duty or responsibility to either Tenant, its successors, assigns and legal representatives, any other party claiming an interest in the Premises by, through or under either Landlord or Tenant or to the guests, invitees, lessees and licensees of any of the foregoing parties with regard to the matters addressed herein. Nothing contained herein is intended to set any acceptable minimum safety or welfare standards and it shall remain the sole responsibility of Tenant to determine its own minimal levels of acceptable order and condition for the Premises and to ensure conformity to the terms of this Lease as well as to all other legal requirements as hereinafter provided, it being agreed that Tenant shall hold Landlord harmless from all claims and liabilities arising therefrom.

10.7. Janitorial, Pest Control and Sitemscaping Services.

Tenant shall make arrangements and pay for all janitorial, pest control and landscaping services for the Premises. Tenant shall have the right to contract for such services with third parties; provided, however, that the third parties selected by Tenant shall be subject to Landlord's prior approval in its sole discretion.

10.8. Trash and Garbage Collection.

Tenant shall temporarily store all of Tenant's garbage and trash in a ventilated and enclosed area on the Premises, and Tenant shall be responsible for collecting and transporting all of its garbage and trash to the trash storage area designated by Landlord as and when required by Landlord. Tenant shall ensure that all garbage and trash is properly stored in leak-resistant, odor resistant bags or containers prior to disposal and in accordance with all Laws. Tenant shall take all necessary means to ensure that no offensive odors (as determined by Landlord) emanate from the Premises. Tenant shall maintain the cleanliness and sanitation of the trash area relative to Tenant's use thereof. All boxes and cartons shall be torn or broken down by Tenant as necessary so as to be easily accommodated in the bags or containers. Tenant shall not place any material in any trash or garbage container which cannot be disposed of in the ordinary and customary course of trash and garbage disposal. Tenant shall comply with Landlord's recycling plan as set forth by Landlord from time to time. Tenant shall pre-sort recyclable material and deposit such into designated containers/areas. Tenant shall be responsible for paying to Landlord (or such entity as may be designated by Landlord from time to time) (at rates which shall be competitive with private companies in the area providing the same service or services) or the City of Anaheim and/or the County of Orange, all fees for the use of any dumpsters or containers used by Tenant and all charges in connection with removal of Tenant's trash and garbage from the designated trash storage area including, without limitation, Orange County Sanitation fees.

10.9. Fire Monitoring.

Tenant shall pay to Landlord the monitoring fees which are established from time to time for monitoring of the emergency fire system installed (or to be installed) in the Premises. Such system shall tie into Landlord's fire monitoring system. Landlord shall not have any liability to Tenant as a result of any damage, loss or claim sustained by Tenant as a result of any failure of such system or negligence in the monitoring thereof.

10.10. Sanitation.

Tenant shall be responsible for the normal and customary sanitation and cleaning of the entire Premises. Further, Tenant shall clean the interior and exterior walls, air ducts and vent systems pursuant to all applicable Laws and consistent with the Disney Standard and as otherwise provided in the Operating Conditions, Rules and Regulations. All cleaners and chemicals utilized in the sanitation of the Premises by Tenant must be first approved by Landlord in its sole discretion. Tenant shall promptly forward to Landlord copies of all Orange County Health Department inspections.



10.11. Security.

Tenant shall provide its own security within its Premises. Tenant shall provide security/customer control for Tenant's customer queue lines. All of Tenant's security plans, systems and processes shall be subject to the prior approval of Landlord, in Landlord's sole and absolute discretion. Any outside security companies used by Tenant shall be subject to Landlord's prior approval, in Landlord's sole and absolute discretion. No armed security is permitted. Tenant's security alarm system shall tie into Landlord's system. Any armored car service used by Tenant shall be at Tenant's risk and expense and shall be approved by Landlord, in its sole and absolute discretion. Tenant's employees shall follow all guidelines provided under Landlord's emergency action plan.

11. IMPROVEMENTS OR ALTERATIONS.

11.1. Improvements or Alterations.

Except for the construction and installation of the initial Improvements and Furnishings expressly provided for in this Lease, Tenant shall not make any exterior improvements or alterations of any kind or nature (even if "minor" or "decorative") without the prior consent and approval of Landlord in Landlord's sole discretion in each instance.

\* Notwithstanding the foregoing, with respect to changes or alterations in connection with updating or remodeling the Premises in accordance with Subsection 4.1.5 hereof, and provided such changes or alterations do not affect the exterior of the Premises and do not exceed the amount of \* in the aggregate in any Lease Year, Landlord's approval shall not be required. With respect to any alterations or improvements which require Landlord's consent hereunder, Landlord agrees to respond to a complete proposal for such interior alterations or improvements (including plans, specifications and such other items as Landlord may reasonably request), submitted by Tenant in a form acceptable to Landlord, within thirty (30) days of Landlord's receipt of a complete proposal. Failure by Landlord to respond to such proposal within thirty (30) days of receipt thereof shall be deemed rejection of such proposal. If Landlord in its discretion permits any improvement or alteration proposed by Tenant, any such permission shall be subject to such conditions or requirements as Landlord may in its discretion require, including, without limitation, the following: (i) any such improvement or alteration shall be at Tenant's expense and shall be in compliance with the Disney Standard and all applicable Laws, including, without limitation, the ADA; (ii) any such improvement or alteration shall not weaken or impair the structural strength or integrity of the building, alter its exterior design or appearance, materially impair the use of any of the service facilities, fundamentally affect the character or suitability of the Premises for the permitted purposes described in this Lease, or materially lessen or impair their value; (iii) any such improvement or alteration shall not be commenced until Tenant shall have obtained all certificates, licenses, permits, authorizations, consents and approvals necessary for such improvement or alteration, from all Governmental Authorities having jurisdiction with respect to the Premises or such improvement or alteration, and Landlord, at Tenant's expense, shall fully cooperate with Tenant in obtaining any such

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certificate, license, permit, authorization, consent or approval, and shall have complied with all applicable Lease provisions; (iv) Tenant shall cause all improvements or alterations to be made and completed with first class materials and in a good, substantial and workmanlike manner, and in compliance with the Disney Standard and all Laws, and shall cause all such improvements or alterations to be diligently prosecuted to completion; (v) Tenant shall promptly pay all costs and expenses incurred for any such improvements or alterations, and Tenant shall at all times maintain the Premises free and clear of all liens for services or labor performed or rendered, or for materials delivered, supplied or furnished, to or in connection therewith; and (vi) Tenant shall obtain and maintain in full force and effect builder's risk and commercial liability insurance covering all work in connection with all improvements or alterations, in accordance with the provisions of this Lease. Landlord's consent to any improvements or alterations may be conditioned upon such other factors as Landlord shall deem appropriate, including a requirement that Tenant deposit with Landlord a surety bond or other security satisfactory to Landlord to assure completion of or payment for such improvements or alterations. Except for Tenant's Personalty, title to all improvements or alterations shall vest in Tenant immediately upon construction or installation on, or affixation or annexation to, the Site, but shall subsequently transfer to Landlord upon the expiration or sooner termination of this Lease pursuant to the terms hereof. Tenant shall deliver to Landlord within ten (10) days of completion of any improvement or alteration, as-built drawings of such improvement or alteration, in form acceptable to Landlord.

12. LEGAL REQUIREMENTS AND LIENS.

12.1. Compliance with Legal Requirements.

Other than in connection with the construction of Landlord's Work by Landlord, Tenant shall, at Tenant's expense, promptly comply with all legal requirements affecting the Premises. The phrase "legal requirements affecting the Premises," as used in this Section, shall mean and shall include all applicable Laws and other requirements which relate in any manner to the Premises or any part of the Premises, or to the use, construction or occupancy of the Premises or any part of the Premises, including, but not limited to, health and safety codes and similar requirements, building codes and similar requirements, zoning ordinances and requirements, use restrictions, fire requirements, safety requirements, energy-related requirements, environmental requirements and requirements for the physically challenged (including, without limitation, the ADA).

12.2. Challenge of Legal Requirements.

Subject to the terms of this Lease including, without limitation, maintaining The Disney Standard, Tenant may, at Tenant's sole cost and expense, upon prior written notice to Landlord, in Tenant's own name and on Tenant's own behalf, in good faith, contest any legal requirement affecting the Premises and, in the event of any such contest, may permit such legal requirement so contested to remain unsatisfied during the period of such contest and any appeal therefrom; provided, however, that, if Landlord shall notify Tenant that, in Landlord's sole and absolute opinion: (i) the Premises or any part thereof will be subject to loss or forfeiture by virtue of or by reason of such non-compliance; or (ii) the name, image, reputation, goodwill or proprietary rights of Landlord or any of Landlord's Affiliates or of any portion of THE DISNEYLAND RESORT(R) PROJECT will be adversely affected, then such legal requirements shall be complied

with forthwith or Tenant shall deposit with Landlord a sum of money reasonably required by Landlord as security to protect the Premises from any loss or forfeiture and Tenant shall do or cause to be done such other measures as Landlord shall reasonably require to protect the Premises and such name, image, reputation, goodwill or proprietary rights.

12.3. No Liens.

Landlord's interest in the Site, the Premises and the Furnishings shall not be subjected to liens of any nature by reason of Tenant's construction, alteration, repair, restoration, replacement or reconstruction of any Improvements and/or Furnishings on the Site, or by reason of any other work performed or allegedly performed, materials furnished or allegedly furnished to or for Tenant, or by reason of any other act or omission of Tenant (or of any person claiming by, through or under Tenant) including, but not limited to, mechanics' and materialmen's liens. All persons dealing with Tenant are hereby placed on notice that such persons shall not look to Landlord or to Landlord's credit or assets (including Landlord's interest in the Site, the underlying real property, any Improvements constructed thereon or any Furnishings contained therein) for payment or satisfaction of any obligations incurred in connection with the construction, alteration, repair, restoration, replacement or reconstruction thereof by or on behalf of Tenant. Landlord reserves the right to enter upon the Premises or Site for the purpose of posting Notices of Non-Responsibility or any other notices which Landlord deems necessary or desirable for the proper protection of Landlord's interest in the Premises or Site or underlying real property as are permitted by Law. Tenant shall give Landlord notice of the intended commencement date of any work on or about the Premises or Site sufficiently in advance thereof to enable Landlord to post Notices of Responsibility or such other notices. Tenant has no power, right or authority to subject Landlord's interest in the Site, the underlying real property, or in such Improvements and/or Furnishings to any mechanic's or materialmen's lien or claim of lien. If a lien, a claim of lien or an order for the payment of money shall be imposed against the Site, the underlying real property, or any Improvements thereon or Furnishings therein on account of Work performed, or alleged to have been performed, by or on behalf of Tenant, Tenant shall, within thirty (30) days after the imposition of such lien, claim or order, cause the Site, the underlying real property, the Improvements and the Furnishings to be released therefrom by the payment of the obligation secured thereby or by furnishing a bond or by any other method prescribed or permitted by Law. Tenant agrees to indemnify and hold Landlord harmless from and against any and all claims for mechanic's, materialmen's or other liens in connection with any work performed or allegedly performed, materials furnished or allegedly furnished, or other obligations incurred by or for Tenant, and in connection therewith Tenant shall provide Landlord with immediate notice of any and all liens filed against the Premises, the Site and/or the underlying real property. If Tenant shall fail to discharge such lien within the period herein set forth, then in addition to any other right or remedy of Landlord resulting from Tenant's said default, Landlord may, but shall not be obligated to, and without releasing Tenant from any of its obligations, cause such liens to be released by any means permitted by law, including payment in satisfaction of the claim giving rise to such lien. Tenant shall pay to Landlord at once, upon notice by Landlord, the full sum paid by Landlord to remove such liens, together with interest at the maximum rate per annum permitted by law from the date of such payment by Landlord. If a lien is released, Tenant shall thereupon furnish Landlord with a written instrument of release in form for recording in the office of the county recorder, Orange County, California, or as otherwise necessary to be sufficient to establish the release as a matter of record.

12.4. Contest of Liens.

Tenant may, at its option, contest the validity of any lien or claim of lien if Tenant shall have first posted an appropriate and sufficient bond in favor of the claimant or paid the appropriate sum into court, if permitted by Law, and thereby obtained the release of the Site, the underlying real property, the Improvements and the Furnishings from such lien. If judgment is obtained by the claimant of any lien, Tenant shall pay the same immediately after such judgment shall have become final and the time for appeal therefrom has expired without appeal having been taken. Tenant shall, at its own expense, defend the interests of Tenant and Landlord in any and all such suits; provided, however, that Landlord may, at its election, at Tenant's expense, engage its own counsel and assert its own defenses, in which event Tenant shall cooperate with Landlord and make available to Landlord all information and data which Landlord deems necessary or desirable for such defense. Tenant shall do or cause to be done such other measures as Landlord shall reasonably require to protect the Premises and Landlord's name, image, reputation, good will or proprietary rights.

12.5. Notice of Nonresponsibility.

Prior to commencement of any of the Work (and any other construction, alterations, repairs, restorations, replacements or reconstruction on the Site), Tenant shall take any and all steps necessary and appropriate to protect Landlord and Landlord's interest in the Site, the underlying real property or the Premises from becoming subject to any liens or claims of lien.

13. DAMAGE OR DESTRUCTION.

13.1. Damage or Destruction of Premises.

If the Premises is damaged or destroyed by fire or other casualty, Tenant shall notify Landlord immediately and the following provisions shall determine the effect of the damage or destruction on this Lease.

13.1.1. Subject to the termination rights of Landlord and Tenant under this Lease and Landlord's completion of the restoration of Landlord's Work, Tenant shall repair, reconstruct or replace, Tenant's Work (including the Furnishings), or the portion thereof so destroyed or damaged (whichever is reasonably required) at least to the extent of the value and as nearly as practicable to the character thereof existing immediately prior to such occurrence. All work shall be subject to Landlord's prior approval in its sole discretion, shall be started as soon as practicable after the occurrence of the casualty and, if applicable, the restoration of Landlord's Work, and shall be diligently completed at Tenant's expense (to which the insurance proceeds will be applied as hereinafter provided) in accordance with the construction schedule acceptable to Landlord, and paid for as promptly as Tenant's exercise of due diligence makes practicable. Tenant shall, however, immediately take such action as is necessary to assure that the Premises does not constitute a nuisance, otherwise present a health or safety hazard or detract from the aesthetics of the neighborhood, such work to be accomplished at Tenant's sole cost and expense (but Tenant shall be reimbursed out of the insurance proceeds, which right of reimbursement shall survive the termination of this Lease). All repairs and reconstruction shall be performed in a manner acceptable to Landlord which shall in no way interfere with the ongoing operation of

THE DISNEYLAND RESORT(R) PROJECT. Such repairs and reconstruction shall be performed after operating hours, if required by Landlord. Tenant shall deliver to Landlord within ten (10) days of completion of any repair, replacement or reconstruction, as-built drawings, in form acceptable to Landlord.

13.1.2. In the event of a casualty resulting in a loss payment for Tenant's Work in an amount greater than ten percent (10%) of the total coverage of all insurance applicable to a loss of such nature, the proceeds of all insurance policies maintained by Tenant exclusive of amounts for Tenant's inventory, supplies, Merchandise and other items of Personalty that Tenant may otherwise remove from the Premises, shall be deposited in an interest-bearing escrow account in a commercial bank with trust powers and authorized to transact business in California acceptable to both Landlord and Tenant, and shall be used by Tenant for the repair, reconstruction or restoration of the Premises. The form and content of such escrow agreement shall also be acceptable to Landlord in its sole discretion. Such proceeds shall be disbursed periodically pursuant to the terms of the escrow agreement by the escrow agent upon certification of the architect or engineer having supervision of the work that such amounts are the amounts paid or payable for the repair, reconstruction or restoration. As a condition to such disbursement, Tenant shall, at the time of such deposit with such escrow agent, and from time to time thereafter until said work shall have been completed and paid for, furnish Landlord with adequate evidence that at all times the undisbursed portion of the funds, together with any funds made available by Tenant, is sufficient to pay for the repair, reconstruction or restoration in its entirety. Tenant shall be responsible for depositing any and all additional funds necessary or appropriate to prosecute all repair, reconstruction or replacement to full and final completion. Tenant shall obtain, and make available to Landlord, receipted bills and, upon completion of said work, full, final and unconditional waivers and releases of lien with respect to all labor and materials furnished. If Landlord elects to do any of the work due to Tenant's failure to do so in a satisfactory manner within twenty (20) days of Landlord's notice thereof, Landlord may use the proceeds to pay for such work. If any funds remain after said work is fully paid for and approved by Landlord, the remaining funds will be paid over to Tenant (subject, however, to off-set for any amounts of any kind owed by Tenant (or any of its Affiliates) to Landlord (or any of its Affiliates)). In the event of a casualty resulting in a loss payment for the Premises in an amount equal to, or less than, ten percent (10%) of the total coverage of all insurance applicable to a loss of such nature, the proceeds shall be paid directly to Tenant, and shall be held in trust by Tenant for repair, reconstruction or restoration of the Premises as herein provided, and shall be applied by Tenant towards repair, reconstruction and restoration (and if any funds remain after said work is fully paid for and approved by Landlord, the remaining funds will be kept by Tenant; subject, however, to off-set for any amounts of any kind owed by Tenant (or any of its Affiliates) to Landlord (or any of its Affiliates)).

13.1.3. If, during the last two (2) Lease Years of the Term, the Premises shall be totally destroyed or so damaged as to render them unusable, either Landlord or Tenant may elect to terminate this Lease by written notice to that effect given to the other party not later than thirty (30) days after the occurrence of the casualty, whereupon this Lease shall cease and terminate as of the date of the occurrence; provided, however, that such election shall not be effective unless and until: (i) any entity having any claim to the insurance proceeds has released and assigned to Landlord all rights to the insurance proceeds; (ii) Tenant shall pay or assign to Landlord all proceeds received or receivable under all policies of insurance covering the Premises, and

Landlord must have in fact received, pursuant to this clause (ii) or the immediately preceding clause (i), all proceeds of insurance required under this Lease (except for any amount thereof paid with respect to Tenant's inventory, Supplies, Merchandise and other items of personalty, which Tenant otherwise had the right to remove from the Premises pursuant to the provisions of this Lease); (iii) Tenant shall pay to Landlord all Rent due from Tenant with respect to the period up to and including the effective date of termination; (iv) Tenant shall cure all defaults of Tenant hereunder other than any in respect of the failure to make repairs or effect restoration of any damage giving rise to exercise of Tenant's termination right under this Section; and (v) if such damage or destruction shall not have been covered by collectible insurance as a result of the failure of Tenant to maintain insurance in the limits required under this Lease for any reason, Tenant shall pay to Landlord an amount equal to the excess of the amount of insurance proceeds that would have been collectible in connection with such damage if Tenant had not self-insured or maintained third-party insurance (without any deductible) in accordance with the requirements of this Lease over the amount of insurance proceeds, if any, actually collectible (and collected) in connection with such damage. If Tenant does not elect to terminate this Lease as aforesaid, Tenant shall promptly comply with the provisions of subsections 13.1.1 and 13.1.2 hereof. All insurance proceeds payable by reason of any loss of or damage to any of Tenant's inventory, Supplies, Merchandise and other items of personalty which Tenant otherwise had the right to remove from the Premises pursuant to the provisions of this Lease, and the business interruption insurance maintained by Tenant for the benefit of Tenant, shall be paid to Tenant; provided, however, that no such payments shall diminish or reduce the insurance payments otherwise payable to or for the benefit of Landlord hereunder (it being understood and agreed by the parties hereto that Tenant's right to receive any such proceeds shall be subject to and subordinate in all respects to Landlord's right to receive Tenant's insurance proceeds with respect to the Premises and that Tenant shall not receive or accept any portion of such proceeds unless and until Landlord has been fully paid for its portion of Tenant's insurance proceeds).

13.1.4. Any damage or destruction due to casualty notwithstanding, Tenant's obligation to pay Minimum Rent and Additional Rent required by this Lease shall remain unabated by reason of any damage or destruction to the Premises, and Tenant's obligation to pay Percentage Rent required by this Lease shall also remain unabated by reason of any damage or destruction to the Premises which does not result in a reduction of Gross Sales. If and to the extent that any damage or destruction results in a reduction of Gross Sales which would otherwise be realizable from the operation of the Premises, then Landlord shall receive all loss of income insurance proceeds equal to the Rent (including Percentage Rent based upon the Percentage Rent paid for the previous Lease Year) Tenant would otherwise have been required to pay, and Tenant shall have no obligation to pay Percentage Rent which would have otherwise been realizable from Gross Sales generated by the operation of the Premises; provided, however, that if such damage or destruction was caused by Tenant's gross negligence or willful misconduct, Tenant shall remain liable for the amount of Percentage Rent which otherwise would have been realizable from the operation of the Premises, and the basis for the payment of such Percentage Rent shall be the average Percentage Rent paid by Tenant during the last three preceding Lease Years (or if three Lease Years have not elapsed, the average during the preceding Lease Years or if one Lease Year has not elapsed, the amount derived by annualizing the Percentage Rent from the Commencement Date) as if such damage or destruction had not occurred.

13.2. Effect of No-Insurance.

Nothing contained herein shall relieve Tenant of its obligations under this Article if the destruction or damage is not covered, either in whole or in part, by insurance, or if the net insurance proceeds shall be insufficient to pay the entire cost of the repair, restoration or replacement; and Tenant's liability under this Article shall survive any termination of this Lease (other than a termination pursuant to Subsection 13.1.3 hereof).

13.3. Event of Default.

Any provision of this Lease to the contrary notwithstanding, if an Event of Default has occurred and is continuing, or if this Lease is terminated by reason of the occurrence of an Event of Default, all insurance proceeds and/or condemnation awards shall be turned over to Landlord, on demand, for application to restoration of the Premises or as Landlord otherwise directs and Tenant shall assign to Landlord any and all rights which it has to receive any insurance proceeds.

13.4. Risk of Loss of Property and Risk of Injury.

Landlord shall not at any time be liable for any loss of or damage to any property of Tenant or others in or upon the Premises or any adjoining sidewalks, streets, roads or ways, and Landlord shall not be liable to anyone for personal damage or injury in or upon the Premises or any adjoining sidewalks, streets, roads or ways.

13.5. Landlord's Election. Following damage to or destruction of the Premises, Tenant may request in writing whether or not Landlord elects to rebuild the Premises to the extent of Landlord's Work. If Landlord elects not to rebuild, then this Lease shall terminate as of the date Tenant ceases operating from the Premises due to such damage or destruction. Nothing contained in this Lease shall require Landlord to repair or rebuild the Premises following damage or destruction thereto.

14. CONDEMNATION.

14.1. Applicable Definitions and Standards.

For the purposes of this Article: (i) a "TAKING" (and its derivations) shall mean any condemnation or exercise of the power of eminent domain by any public authority vested with such power, or any taking in any other manner for public use, including a private purchase, in lieu of condemnation, by a public authority vested with the power of eminent domain or a sale by Landlord under threat of condemnation; (ii) the "TAKING DATE" of any Taking shall mean the earlier of the date upon which title to the Premises or portion thereof taken is vested in the condemning authority, or the date upon which possession of the Premises or portion thereof is taken by the condemning authority; and (iii) "SUBSTANTIALLY ALL OF THE PREMISES" shall mean all or so much of the Premises as, when taken, in Landlord's reasonable judgment, leaves the untaken portion unsuitable for the continued feasible and economic operation of the Premises by Tenant for substantially the same purposes as immediately prior to such Taking.

14.2. Total Taking.

If Substantially All of the Premises shall be Taken, then this Lease and the Term hereby granted shall automatically terminate as of the Taking Date and Rent shall be prorated to such date. Landlord shall notify Tenant of such determination made in its reasonable judgment within thirty (30) days after the date on which title vests in the condemner.

14.3. Partial Taking.

If this Lease continues in force upon such partial taking, the Rent shall be equitably and proportionately reduced by Landlord based upon remaining capacity of the Premises as determined by Landlord.

14.4. Condemnation Award.

Any condemnation award for the Premises, or the portion thereof so taken, shall be apportioned between Landlord and Tenant as follows:

(a) If this Lease terminates due to a taking or condemnation, Tenant shall be entitled to the net book value of Tenant's interest in the Improvements (to the extent paid for by Tenant) (taking into account the number of years remaining in the Lease Term and Landlord's right to receive ownership of such Improvements upon termination of the Lease) and Landlord shall be entitled to the balance of the award. Notwithstanding the foregoing, if the balance of the award remaining after such allocation to Tenant is less than the fair market value of the Site as determined by Landlord, Landlord shall be entitled to the portion of the award in an amount equal to the fair market value of the Site, and Tenant shall be entitled to the balance of the award.

(b) If this Lease does not terminate due to such taking or condemnation, Landlord shall first be entitled to that portion of the entire award required to restore Landlord's Work. Tenant shall then be entitled to that portion of the entire award required, pursuant to the terms of this Lease, for restoration of the Improvements and the Furnishings, and out of the portion of the award not applied to restoration, Landlord shall next be entitled to the fair market value of the Premises and/or Furnishings which is so taken. Then, that portion of the balance of the award, if any, equal to the amount by which the value of the Improvements and Furnishings and the value of Tenant's leasehold estate was diminished by the taking or condemnation shall be paid to Tenant and Landlord shall be entitled to the balance of the award.

(c) If this Lease does not terminate due to a taking or condemnation, Tenant shall, following restoration of Landlord's Work by Landlord (to the extent feasible and practicable), with due diligence, restore the remaining portion of the Premises to a complete, independent and self-contained architectural unit in accordance with the provisions of the Lease relating to Tenant's Work. In such event, the proceeds of the award to be paid to Tenant as set forth in subsection (b) above shall be deposited with a bank approved by Landlord as if such award were insurance proceeds hereunder, and the amount so deposited will thereafter be treated in the same manner as insurance proceeds are to be treated under this Lease until the restoration has been completed and Tenant has been reimbursed for all of the costs and expenses thereof;



and, if the award is insufficient to pay for the restoration, Tenant shall be responsible for the remaining cost and expense thereof. Minimum Rent shall be proportionately abated from the date of such taking or condemnation until such restoration is substantially completed.

(d) Notwithstanding anything contained herein to the contrary, Landlord has the right to terminate this Lease in the event any portion of the Premises or any portion of DOWNTOWN DISNEY(R) is taken or condemned for any public or quasi-public use or purpose.

#### 14.5. Temporary Taking.

If the temporary use (but not title) of the Premises, or any part thereof, is taken, this Lease shall remain in full force and effect and Tenant shall continue to pay all Rent hereunder. Tenant shall receive the award for such temporary taking pertaining to the Improvements and Furnishings, to the extent it applies to the period prior to the end of the Term; provided, however, Tenant shall pay to Landlord the portion of the award for such temporary taking pertaining to the Site and Tenant shall pay to Landlord any remaining balance of the award.

#### 14.6. Disputes.

If Landlord and Tenant cannot agree in respect of any matters to be determined under this Section, a determination may be requested of the court having jurisdiction over the taking and if said court will not accept such matters for determination, either party may have the matters determined by a board or body having jurisdiction over the parties or the parties may submit to arbitration.

#### 14.7. Separate Award.

Notwithstanding any provision to the contrary, Tenant shall be entitled to pursue a separate condemnation award or payment for moving and/or relocation; provided, however, that same shall not diminish the amounts Landlord is entitled to receive out of the award pursuant to the provisions of the foregoing subsections.

#### 14.8. Exclusive Remedy.

This Section shall be Tenant's sole and exclusive remedy in the event of a taking or condemnation. Tenant hereby waives the benefit of California Code of Civil Procedure Section 1265.130.

### 15. INDEMNITY.

#### 15.1. Indemnity of Landlord.

Tenant shall pay and discharge, and shall defend, indemnify and hold Landlord (and Landlord's Affiliates and the respective officers, directors, agents, employees, representatives, successors and assigns of each), and the City of Anaheim, and the Anaheim Public Financing Authority, and their respective elected and appointed representatives, boards, commissions, officers, agents and employees (collectively herein, "THE CITY" and "THE AUTHORITY", respectively) (collectively the

"INDEMNIFIED PARTIES") forever harmless from, against and in respect of all obligations, settlements, liabilities, losses, damages, injunctions, suits, actions, proceedings, fines, penalties, claims, liens, demands, costs, charges and expenses of every kind or nature, including, without limitation, reasonable fees of attorneys and other professionals through all appeals, and disbursements which may be imposed on, incurred by or asserted against the persons hereby required to be indemnified (but not against any of the same to the extent that a negligent, willful or intentional act or omission of any of Landlord, its Affiliates, and their respective officers, directors, agents, employees, representatives, successors and assigns, or any of such parties required to be indemnified, gave rise thereto or was the cause of same), arising directly or indirectly from or out of; (i) any failure by Tenant to perform any of the agreements, terms, covenants or conditions on Tenant's part to be performed under this Lease; (ii) any wrongful act, negligence or willful misconduct on the part of Tenant or its Affiliates, or their respective, officers, directors, agents, representatives, employees, contractors or invitees, or any failure of Tenant or its officers, directors, employees, agents or representatives to comply with any Laws, Project Requirements or Operating Conditions, Rules and Regulations, or with the directive of any Governmental Authority; (iii) any misrepresentation, act or omission of or by Tenant, its employees, licensees, invitees, contractors, subcontractors or materialmen, or the employees, agents, officers or directors of any of them or anyone for whose acts any of them may be liable; (iv) any accident, injury or damage which shall happen in or on the Premises, however occurring, and any matter or thing growing out of the condition, occupation, construction, maintenance, alteration, repair, use or operation by any person of or in the Premises, whether such damage, destruction or injury is caused by or is the fault of Tenant or any contractor, subcontractor, laborer, supplier, materialman or any other third party retained by Tenant; (v) any matter or thing growing out of the condition, occupation, maintenance, alteration, repair, use, management or operation of the Premises; (vi) any construction, demolition or other thing done by Tenant in, on or about the Premises, or any part thereof, or any street, alley, sidewalk, garden, curb, passageway or space adjacent thereto (including, without limitation, the Work); or (vii) any use, non-use, possession, occupation, condition, operation, maintenance or management of the Premises or any part thereof or any street, alley, sidewalk, garden, curb, passageway or space adjacent thereto; or (viii) any violation by Tenant, whether based on tort, breach of contract, patent, copyright, trademark or service mark infringement or violations or otherwise arising directly or indirectly from or out of any use by Tenant or its Affiliates of the Trade Name (or any other name, mark, logo, slogan, design, symbol, figure, drawing, idea, or other matter associated therewith); (ix) any breach or violation of Tenant's representations and warranties expressly set forth in this Lease; or (x) any other provision of this Lease which provides that Tenant shall indemnify and/or hold harmless Landlord in respect of the matters contained in such provision.

#### 15.2. Indemnity of Tenant.

Landlord shall pay and discharge, and shall defend, indemnify and hold Tenant (and Tenant's Affiliates and the respective officers, directors, agents, employees, representatives, successors and assigns of each) forever harmless from, against and in respect of all obligations, settlements, liabilities, losses, damages, injunctions, suits, actions, proceedings, fines, penalties, claims, liens, demands, costs, charges and expenses of every kind or nature, including, without limitation, reasonable fees of attorneys and other professionals through all appeals, and disbursements which may be imposed on, incurred by or asserted against the persons hereby required to be indemnified (but not against any of the same to the extent that a negligent, willful or intentional

act or omission of Tenant, its Affiliates, and their respective officers, directors, agents, employees, representatives, successors and assigns, or any such parties required to be indemnified, gave rise thereto or was the cause of same), arising directly or indirectly from or out of: (i) any failure by Landlord to perform any of the agreements, terms, covenants or conditions on Landlord's part to be performed under this Lease; (ii) any wrongful act, negligence or willful misconduct on the part of Landlord or its Affiliates, or their respective agents, representatives or employees; or (iii) any other provision of this Lease which provides that Landlord shall indemnify and/or hold harmless Tenant in respect of the matters contained in such provision.

### 15.3. Defense Provisions.

15.3.1. Any party seeking indemnification under this Lease (the "INDEMNIFIED PARTY") shall give notice to the party required to provide indemnification hereunder (the "INDEMNIFYING PARTY") promptly after the Indemnified Party has actual knowledge of any claim as to which indemnity may be sought hereunder, and the Indemnified Party shall permit the Indemnifying Party (at the expense of the Indemnifying Party) to assume the defense of any claim or litigation resulting therefrom; provided, however, that: (i) counsel for the Indemnifying Party who shall conduct the defense of such claim or litigation shall be reasonably satisfactory to the Indemnified Party; (ii) the Indemnified Party may participate in such defense, but only at the Indemnified Party's own cost and expense; and (iii) the omission by the Indemnified Party to give notice as provided herein shall not relieve the Indemnifying Party of its indemnification obligations hereunder except to the extent that such omission results in a failure of actual notice to the Indemnifying Party and the Indemnifying Party is actually and materially damaged as a result of such failure to give notice.

15.3.2. The Indemnifying Party shall not, except with the consent of the Indemnified Party, consent to entry of any judgment or administrative order or enter into any settlement that does not include as an unconditional term thereof the giving by the claimant or plaintiff to the Indemnified Party of a release from all liability with respect to such claim or litigation.

15.3.3. In the event that the Indemnifying Party does not accept the defense of any matter as above provided, the Indemnified Party shall have the full right to defend against any such claim or demand, and shall be entitled to settle or agree to pay in full such claim or demand, in its sole discretion. Any such defense, settlement or payment by the Indemnified Party shall not constitute a waiver, release or discharge of the Indemnifying Party's obligations under this Article, it being understood and agreed that any such defense, settlement, or payment shall be without prejudice to the right of the Indemnified Party to pursue remedies against the Indemnifying Party arising out of or related to the Indemnifying Party's failure or refusal to defend the Indemnified Party as required herein. Notwithstanding the foregoing, any Indemnified Party shall have the right to settle any such action or proceeding at any time, provided that it releases the Indemnifying Party from any further indemnification obligation hereunder with respect to such settlement.

15.3.4. Neither Landlord, Landlord's Affiliates, the City, nor the Authority shall have any liability to Tenant for any damage or injury to person or property, or both, directly or indirectly caused by or arising from, in whole or in part, any act or failure to act of any of the

City or the Authority. Tenant shall not sue or otherwise seek recourse against Landlord, Landlord's Affiliates, the City or the Authority on any claim, demand, action or cause of action for any such damage or injury to person or property or both.

15.3.5. The provisions of this Article 15 shall survive the expiration or sooner termination of this Lease.

16. INSURANCE.

16.1. Coverage.

Commencing at least ten (10) days prior to Tenant taking possession of the Shell Premises, and thereafter throughout the Term of this Lease, Tenant shall:

(i) Keep the Premises including, without limitation, the Improvements and Furnishings, (including, without limitation, all alterations, changes, additions and replacements thereto and thereof) insured against loss or damage. Tenant shall procure (or cause to be procured), and shall maintain (or cause to be maintained) in full force and effect at all times during the Term, such insurance against such risks as is customarily carried with respect to properties similar to the Premises, paying as the same become due all premiums therefor, including, without limitation, property insurance on the "special causes of loss" form (including vandalism, theft, malicious mischief, wind damage, and sprinkler leakage) in an amount not less than one hundred percent (100%) of the then full replacement cost thereof, and personal property insurance on the "All Risk" form in an amount not less than one hundred percent (100%) of the then full replacement cost thereof. All insurance required hereunder, and all other insurance maintained by Tenant on the Improvements and the Furnishings in excess of or in addition to that required hereunder, shall name as loss payee insureds Landlord, Landlord's Affiliates, the City, the Authority, any Fee Mortgagee and Tenant, as their respective interests may appear. At least once every three (3) years, Tenant shall obtain, within ninety (90) days after the request of Landlord, an insurance appraisal of the Improvements and the Furnishings and adjust the amount of the foregoing insurance, if necessary, to limits which will then reasonably assure sufficient proceeds to replace the Improvements and the Furnishings in the event of a casualty loss;

(ii) Provide and keep in force commercial general liability insurance including, without limitation, blanket contractual, broad form property damage and products/completed operations premises/project site operations coverage against liability for bodily injury, death or property damage having a combined single limit of not less than One Million Dollars (\$1,000,000) with respect to injuries or damages in any one (1) occurrence with a Five Million Dollar (\$5,000,000) umbrella and automobile liability insurance covering owned, non-owned or rented automotive equipment having a combined single limit of not less than One Million Dollars (\$1,000,000) with respect to injuries or damages in any one (1) occurrence with a Five Million Dollar (\$5,000,000) umbrella. Said insurance, and any and all other liability insurance maintained by Tenant in excess of or in addition to that required hereunder, shall include protection for, and shall name as additional insureds, Landlord and Landlord's Affiliates, the City and the Authority, and Fee Mortgagee, the effect of which will insure it (and them) in respect of any and all loss or liability resulting from personal injury, death or property damage arising or occurring upon, or in connection with, the Premises, the Improvements or the

Furnishings (including, without limitation, equipment including, but not limited to, boilers and elevators) or by reason of the operation of the Premises or occupancy of the Premises by Tenant (and, if insurance covering the acts or omissions of the following is available, by any of Tenant's Affiliates). At the end of each year of the Term, upon Landlord's request, Tenant shall review with Landlord the limits of the said policy or policies and, at that time, shall cause such liability limits to be adjusted in view of reasonable exposure anticipated over the next ensuing year; provided, however, that in no event shall such limits be adjusted lower than the limits stated above;

(iii) Provide and keep in force loss of income insurance on the "All Risk" form, in an amount equal to the annual Percentage Rent (based on the first Lease Year of operation or, to the extent the Premises has not been operated for an entire Lease Year, based on the anticipated annual Percentage Rent as determined by Landlord) for the benefit of Landlord, and business interruption insurance on the "All Risk" form in the amount equal to an entire Lease Year of gross profit;

(iv) Provide and keep in force workers' compensation insurance, covering all persons employed by Tenant in connection with the performance of work of any nature in or about the Premises, in a form prescribed by the laws of the State of California, and employers' liability insurance;

(v) Prior to the commencement of and during the performance of Tenant's Work, and as and when Tenant may construct, replace, reconstruct, restore or make a substantial alteration to, any Improvements and/or Furnishings, provide and keep in force builders' risk insurance in accordance with the requirements of this Section 16.1;

(vi) Provide and keep in force such other insurance (with such limits) as may from time to time be commonly be maintained by tenants with similar operations;

(vii) All insurance policies required hereunder shall either extend protection to, or contain a waiver of all rights of subrogation against, Landlord, Tenant, Landlord's Affiliates, the City, the Authority, and Fee Mortgagee;

(viii) Procure policies for all such insurance for periods of not less than one (1) year and renewals thereof from time to time at least thirty (30) days prior to the expiration thereof; and

(ix) Perform and satisfy the requirements of such insurance carriers as Tenant may from time to time select hereunder so that companies of good standing shall at all times be willing to write and continue such insurance.

#### 16.2. Issues; Coverage.

All insurance policies required hereunder shall be issued by fiscally responsible insurance companies authorized to do business in the State of California having an A.M. Best's (or its successor) rating (i) equal to the lesser of an A+X rating as to property insurance and an A-X rating as to all other insurance or (ii) with the same insurers which are then insuring the Disneyland(R) Theme Park; provided, however, that in no event shall the insurer have a Best's or

equivalent rating of less than A- VIII and shall name Landlord and Landlord's Affiliates, the City and the Authority as additional insureds. All such policies shall require thirty (30) days written notice to Landlord and the City and Authority prior to any cancellation thereof or change affecting coverage thereunder. Any insurance coverage required by this Section may be effected by means of a policy or policies of blanket liability (primary and excess) and property insurance covering other premises; provided, however, that any such blanket policy or policies shall specify therein, or Tenant shall furnish Landlord with a written statement from the insurer or its agent specifying, the amount of the total insurance allocated to the Premises and the Furnishings, which amounts shall be no less than the amounts required to be maintained under this Section. Landlord shall be named as certificate holder and loss payee under all policies maintained in accordance with Subsections 16.1(i) and (iii). All insurance policies required hereunder shall state that the coverage provided are primary to and noncontributory with any insurance program administered or coverage carried by Landlord, Landlord's Affiliates, the City, the Authority, or Fee Mortgagee. Each insurance policy: (i) shall be issued by an insurer authorized under the applicable Laws (and in particular, licensed by the State of California) to issue the coverage provided by the policy; (ii) shall be issued on such form of policy, authorized in California, as Landlord may approve; (iii) shall state that the notice of any claim against Landlord, the City, the Authority, or Fee Mortgagee shall be deemed to have occurred only when an officer of Landlord, the City, the Authority, or Fee Mortgagee has received actual notice of, and has actual knowledge of, the claim; (iv) shall not be subject to invalidation only as to Landlord, the City, the Authority, or Fee Mortgagee by reason of any breach or violation by Tenant of any policy warranties, declarations or conditions or by reason of any act or omission of Tenant or any of Tenant's officers, employees or agents; (v) shall provide that any property losses payable thereunder shall be adjusted with Tenant, Landlord, and Fee Mortgagee; and (vi) shall contain a provision to the effect that the policy shall not be invalidated, and shall remain in full force and effect, if any insured waives in writing prior to a loss any or all rights of recovery against any party for loss occurring to property covered by that policy, and a provision whereby the insurer itself waives any claims by way of subrogation against Landlord, its Affiliates, the City, the Authority, and Fee Mortgagee. Tenant shall not procure or maintain in force any insurance policy which might have the effect of reducing or diminishing the amounts payable under any of the policies required by this Lease.

#### 16.3. Payment of Premiums.

Tenant shall pay the premiums (on at least an annual, semi-annual or quarterly basis) for all insurance policies which Tenant is obligated to carry under this Section and, deliver to Landlord immediately upon complete execution of this Lease a copy of the policy or policies, or a certificate or certificates thereof, along with evidence that the premiums therefor have been paid for at least the next ensuing quarter-annual period. Tenant shall also deliver to Landlord copies of all policies, or certificates thereof, of insurance on the Premises and the Furnishings and of all policies of liability insurance maintained by Tenant in excess of or in addition to the insurance required by this Section.

#### 16.4. Proofs of Loss.

Each party will cooperate with the other party in connection with the collection of any insurance proceeds that may be payable in the event of loss and execute and deliver to the insurers such proofs of loss and other documents required for the recovery of any such insurance proceeds.

#### 16.5. Indemnity.

If, for any reason, Tenant fails to provide and keep in force any or all of the insurance policies required of Tenant under this Section, then Tenant shall indemnify Landlord, Landlord's Affiliates, the City, the Authority, and Fee Mortgagee, and hold Landlord and Landlord's Affiliates, the City, the Authority, and Fee Mortgagee, harmless from and against any loss which would have been covered by the insurance Tenant fails to so provide or keep in force. Nothing contained in this section shall be construed to limit Tenant's indemnity of Landlord under this Lease. If Tenant defaults on its obligations relative to insurance as aforesaid, without limitation of any other rights of Landlord, Landlord may, at its option, purchase insurance on Tenant's behalf and require Tenant, on demand, to reimburse Landlord for all costs incurred by Landlord in procuring same, plus interest on such amount, retroactive to the date Landlord incurred such expense, calculated at a rate of four percent (4%) above the Prime Rate then in effect.

#### 16.6. Waivers.

Notwithstanding anything contained herein to the contrary, the parties hereto hereby waive, to the extent covered by applicable insurance maintained by such party hereunder, excluding any applicable insurance deductible thereto, any and all rights of recovery, claim, action or cause of action against each other, their respective agents, officers and employees, for any loss or damage that may occur to the Premises or the Project, and to all property (including, without limitation, the Improvements and the Furnishings), of the waiving party or the property of others under its control whether real, personal or mixed, located in or about the Premises by reason of fire, the elements, or any other cause normally insured against under the terms of standard all-risk fire and extended coverage insurance policies of the type prescribed from time to time for use in respect of the Premises regardless of cause or origin, including negligence of the parties hereto, their respective agents and employees. Tenant shall, upon obtaining the policies of insurance required under this Lease, give notice to its insurance carrier or carriers that this mutual waiver of subrogation is contained in this Lease.

#### 16.7. Exclusive Remedy.

This Section 16 and Section 13 of this Lease shall be Tenant's sole and exclusive remedy in the event of damage or destruction to the Premises and/or the Furnishings, and Tenant, as a material inducement to Landlord entering into this Lease, irrevocably waives and releases Tenant's rights under California Civil Code Section 1932(2) and 1933(4). No damages, compensation or claim shall be payable by Landlord for any inconvenience, any interruption or cessation of Tenant's business, or any annoyance, arising from any damage to or destruction of all or any portion of the Premises and/or the Furnishings. This Lease shall be considered an express agreement governing any case of damage to or destruction of the Premises, Improvements, Furnishings or other improvement by fire or other casualty, and any present or future law which purports to govern

the rights of Landlord and Tenant in such circumstances in the absence of express agreement shall have no application.

16.8. Adjustment to Amount of Commercial Liability Insurance Coverage.

Landlord shall evaluate and review the aforesaid amount of commercial liability insurance on a periodic basis (but not less frequently than every three (3) calendar years), and shall take into account all relevant factors, including, without limitation, the then prevailing practices among first-class restaurants as well as trends in the risk management, current insurance industry and tort litigation and law, inflation, etc. The amount of such insurance shall then be adjusted in accordance with such review and evaluation (but in no event shall such amount be adjusted downward).

16.9. Reports on Insurance Claims.

Tenant shall promptly investigate and make a complete and timely written report to the appropriate insurance company as to all accidents, all claims for damage relating to the ownership, operation and maintenance of the Premises, and any damage or destruction to the Premises and the estimated cost of repair thereof and shall prepare any and all reports required by any insurance company in connection therewith. All such reports shall be timely filed with the insurance company as required under the terms of the insurance policy involved. If requested by Landlord, a copy of any such reports shall be furnished to Landlord.

17. FEE MORTGAGES AND FEE MORTGAGEES.

17.1. Fee Mortgages.

17.1.1. "FEE MORTGAGE" shall mean any mortgage, deed to secure debt, deed of trust, trust deed or other conveyance of, or lien or encumbrance against, fee simple title to the Site and/or Premises (or any portion thereof) as security for any debt, whether now existing or hereafter arising or created.

17.1.2. "FEE MORTGAGEE" shall mean the holder of any Fee Mortgage, together with the heirs, legal representatives, successors, transferees and assigns of the holder.

17.1.3. This Lease shall be subordinate to any and all Fee Mortgages now or hereafter encumbering the Site and/or Premises or any part thereof, and to all renewals, modifications, replacements and extensions of such Fee Mortgages; provided, however, that, as to Fee Mortgages that become liens of record after the date of this Lease, the subordination herein contained shall not be effective unless the Fee Mortgagee thereunder shall, upon request therefor by Tenant, execute and deliver a non-disturbance agreement, in favor of Tenant, providing that, in the event its Fee Mortgage shall be foreclosed, so long as no Event of Default shall have occurred and be subsisting hereunder, and so long as Tenant shall attorn to the purchaser upon such foreclosure, and so long as Tenant continues to pay the Rent and to fully and completely keep, observe, satisfy, perform and comply with all agreements, terms, covenants, conditions, requirements, provisions and restrictions of this Lease, this Lease shall not terminate by reason of such foreclosure and Tenant's possession of the Premises shall not be disturbed. The terms of this Article shall be self-operative, and no further instrument of



subordination shall be required. Upon request of any party in interest, however, Tenant shall execute promptly such instruments or certificates as may be reasonably required to further evidence the intent of this Article, whether the requirement is that of Landlord or any other party in interest, including, without limitation, any Fee Mortgagee.

17.1.4. Notwithstanding the foregoing, if any Fee Mortgagee elects to have this Lease superior to its Fee Mortgage and states its election in its Fee Mortgage or by separate recorded instrument, then this Lease shall be superior to such Fee Mortgage.

## 18. TRANSFERS.

### 18.1. No Transfers.

Tenant acknowledges that Landlord has agreed to allow Tenant to lease the Premises based upon certain factors which are of material importance and consideration to Landlord, and that one such factor is the particular identity of Tenant. Tenant further acknowledges and understands that any change in such identity would likely result in substantially less value for Landlord in respect of this Lease, thereby substantially impairing the consideration to Landlord to enter into this Lease with Tenant. Accordingly, any Transfer (as hereinafter defined) shall be and hereby is strictly and absolutely prohibited, and any attempted or purported Transfer in violation of this provision shall be null and void at the sole option of Landlord. In addition, if there is a Transfer, Landlord shall have the option, exercisable in its sole and absolute discretion, to terminate this Lease, effective thirty (30) days after any such election by Landlord.

### 18.2. Definition of Transfer.

For the purposes of this Article, the term "TRANSFER" shall mean and refer to: (i) any sale, assignment, sublease, management or operating agreement, franchise or license agreement, transfer, devise, hypothecation, encumbrance, secured financing, conveyance or grant (whether voluntary or otherwise) of any kind or nature by or with respect to Tenant as to any of Tenant's right, title or interest in, to or under this Lease or the Premises; (ii) any grant of license or concession or the like to any person or party in respect of the Premises or any aspect thereof; (iii) Tenant shall (A) in any single transaction or series of related transactions, consolidate with or merge with or into any other person or transfer (by lease, assignment, sale or otherwise) all or substantially all of its properties and assets to another person or group of affiliated persons, unless such person is an Affiliate of the affected party on the Execution Date, or (B) experience a Change of Control (as hereinafter defined). For purposes of this Section, a "CHANGE OF CONTROL" shall be deemed to have occurred: (x) if any amount of any class of stock of Tenant shall be issued, granted, bargained, sold, conveyed, transferred, assigned or exchanged after the execution and delivery of this Lease, and, after such transaction, more than fifty percent (50%) of the ownership interests or voting control in Tenant shall be owned or controlled by a party or parties other than the person or persons now owning such stock or control on the Execution Date; or (y) if the present (i.e., as of the Execution Date of this Lease) holders of such stock shall enter into, or otherwise consent to, any shareholder's agreement, voting trust, hypothecation or any other agreement or understanding of any kind or nature whatsoever pursuant to which any such holder transfers, assigns, relinquishes, impairs or restricts his or her right to vote an absolute majority of any of such general partnership interests or stock. The foregoing shall not be deemed to preclude

the transfer of stock pursuant to a trust or other agreement which is, in form and substance, a customary estate planning agreement providing for the orderly transfer of stock owned by an individual. Notwithstanding anything to the contrary herein, a Change in Control shall not include an initial public offering (that is, a transaction in which Tenant becomes an entity whose shares of stock or other ownership interests sold on a national stock exchange) or, following an initial public offering, any subsequent sale of ownership interests or issuance of new ownership interests in Tenant. The term "TRANSFER" within the meaning of this Article shall apply to (without limitation) any sale, conveyance, transfer, merger, assignment or exchange, whether made with or without consideration, and whether arising voluntarily or involuntarily, by reason of merger, consolidation or reorganization, by operation of law, or otherwise.

### 18.3. Permitted Transfers.

18.3.1. Notwithstanding the terms of Sections 18.1 and 18.2 above, provided that the provisions of Section 18.3.2 below are satisfied, the following Transfers (collectively, the "PERMITTED TRANSFERS") shall not require Landlord's consent: (a) any merger, consolidation, sale of all (or substantially all) of Tenant's stock or sale of all (or substantially all) of Tenant's assets, provided that substantially all Build-A-Bear retail stores and Build-A-Bear operations are also transferred in connection with any one of the foregoing, and provided, further, that the resulting entity has a Net Worth equal to or greater than the Net Worth of Tenant on the date of execution of this Lease; (b) the issuance or transfer of stock to (i) employees, (ii) stockholders existing on the date of this Lease, (iii) entities controlled by such employees or existing stockholders or (iv) trusts created for their benefit or that of members of their families; (c) the issuance or transfer of stock in connection with a venture capital funding, or (d) an initial public offering (that is, a transaction in which Tenant becomes an entity whose shares of stock or other ownership interests are sold on a national stock exchange, an over-the-counter exchange or an inter-dealer securities exchange) or, following an initial public offering, any subsequent sale of ownership interests or issuance of new ownership interests in Tenant, provided that any of the foregoing must have been registered with the Securities Exchange Commission.

18.3.2. In connection with any transaction referenced in Subsection 18.3.1 above: (a) Tenant shall deliver at least sixty (60) days prior written notice to Landlord, which notice shall identify any applicable parties, provide facts to demonstrate the transaction is within the scope of Subsection 18.3.1 and, if applicable, provide any new address(es) for notice and billing purposes; (b) Tenant shall not be in default under this Lease either at the time of the notice referred to in clause (a) above or at the time of the relevant Transfer; (c) the resulting entity shall have substantial experience with operating and managing the Build-A-Bear Workshop business or a substantially similar business, and shall have a reputation within the business community similar to that of Tenant at the time the Lease is executed; and (d) the use of the Premises by such resulting entity must not violate other agreements affecting the Premises, Landlord or other tenants or occupants.

18.3.3. Notwithstanding anything to the contrary in this Section 18.3, if at any time during the term of this Lease Tenant is involved in a Permitted Transfer under Subsection 18.3.1 (a). Landlord may elect, in Landlord's sole and absolute discretion, to terminate this Lease, effective upon the date specified in Landlord's notice to Tenant (which shall not be earlier than 30 days from the date Tenant receives such notice). As of such effective date, the parties shall

have no further obligations to each other hereunder except as expressly set forth herein and further, Tenant shall not be entitled to receive the Early Termination Fee as set forth in Section 23.3 or any other sums.

18.3.4. Upon assignment of Tenant's leasehold interest pursuant to this Section 18.3, Tenant shall ensure that the assignee executes and delivers a written assumption of all of Tenant's covenants, duties, obligations and liabilities accruing as of the effective date of such assignment, which assignment and assumption agreement shall be in form and substance satisfactory to Landlord.

18.3.5. There shall, as a result of any Transfer described in this Section 18.3, be no change in the Trade Name in use at the Premises and no change in the business conducted at the Premises without, in each instance, the prior written consent of Landlord, which Landlord may grant or withhold in its sole and absolute discretion.

18.3.6. Notwithstanding any Transfer pursuant to the provisions of this Section 18.3, Tenant shall remain liable for the performance of all covenants, duties and obligations of the tenant hereunder, except to the extent that Tenant is not the surviving entity in a merger or consolidation.

#### 18.4 No Release.

Any provision of this Lease to the contrary notwithstanding, no consent by Landlord to a permitted assignment (nor any transfer of Tenant's interest in this Lease and/or the Premises (or any portion thereof) pursuant to this Section or otherwise, and whether or not such transfer is deemed an assignment) shall operate to release any Tenant-assignor from its obligations hereunder.

#### 18.5. No Division of Interest.

Notwithstanding anything to the contrary set forth in this Section, all permitted assignments of this Lease must include the entire interest of Tenant in, under and to this Lease, the Premises, and the Furnishings, and no permitted transfer of Tenant's interest in the Premises shall be made unless the entity receiving such transfer also receives assignment of this Lease.

#### 18.6. Payment Guarantee.

Should Landlord consent to an assignment of this Lease, Tenant does hereby guarantee payment of all Rent, and all other sums herein reserved to Landlord, and all other obligations due hereunder until the expiration of the Term hereof, and no failure of Landlord to promptly collect from any assignee, or any extension of the time for the payment of Rent or any other sum due to Landlord hereunder, shall release or relieve Tenant or any guarantor from its guaranty or obligation of payment of Rent or any other sum due to Landlord hereunder or performance of other obligations hereunder. Should Landlord consent to such assignment, all amounts of Rent or any other sum due to Landlord hereunder received by Tenant as consideration for the same, shall be the property of Landlord and shall be immediately delivered to Landlord by Tenant.

Any consent by Landlord to an assignment of Tenant's rights hereunder shall be effective for that transaction only.

18.7. No Waiver.

Consent by Landlord to any Transfer by Tenant hereunder shall not constitute a waiver of the requirement for such consent to any subsequent Transfer.

19. LANDLORD'S RIGHTS AND LIABILITIES.

19.1. Transfer, Assignment or Encumbrance of Landlord's Interest.

Landlord's right to sell, convey, transfer, assign or otherwise dispose of Landlord's interest in and to the Premises shall be unrestricted, and, in the event of any such sale, conveyance, transfer or assignment by Landlord, all obligations under this Lease of the party selling, conveying, transferring, assigning or otherwise disposing shall cease and terminate, and Tenant shall look only and solely to the party to whom or which the Premises are sold, conveyed, transferred, assigned or otherwise disposed of for performance of all of Landlord's duties and obligations under this Lease.

19.2. Risk of Loss of Property and Risk of Injury.

Landlord shall not at any time be responsible or liable to Tenant, or those claiming by, through or under Tenant, for any loss of or damage to any property of Tenant or others in or upon the Premises or any adjoining sidewalks, streets, roads or ways, and Landlord shall not be liable to anyone for personal damage or injury in or upon the Premises.

19.3. Right of Entry.

Tenant shall permit Landlord and Landlord's representatives, agents and employees to enter the Premises at all reasonable times (provided, however, that Landlord agrees to provide at least twenty-four (24) hours prior notice to the manager on duty (which notice may be oral) of Landlord's intent to enter any non-public area of the Premises) except in case of emergency (in which case no notice shall be required), for any business purpose with out prior notice, including, but not limited to, inspecting the Premises, showing the Premises to prospective purchasers, tenants and Fee Mortgagees, making any repairs or replacements or performing any maintenance, performing any work on the Premises that Landlord may consider necessary to prevent or cure deterioration, waste or unsafe conditions, and to otherwise enforce or carry out any provision of this Lease. Nothing in this Section shall imply or impose any duty or obligation upon Landlord to enter upon the Premises at any time for any purpose, or to inspect the Premises at any time, or to perform, or pay the cost of, any work which Tenant is required to perform under any provision of this Lease, and Landlord has no such duty or obligation. Additionally, Landlord shall have the right to access the Premises to conduct from time to time an ADA inspection or audit of the Premises, and Tenant agrees to cooperate in the conduct of such investigation or audit. If Landlord has received prior notice of such ADA inspection or audit, or of the need for such ADA inspection or audit, Landlord agrees to give Tenant advance notice thereof (which notice may be oral). If the investigation or audit detects a violation of Tenant's obligation to keep the Premises in compliance with the requirements of the ADA after notice by Landlord or citation or other

action by a Governmental Authority, then Tenant shall bear the cost and take whatever action is necessary to bring the Premises into compliance, and any out-of-pocket fee or cost incurred by Landlord for such investigation or audit shall be borne by Tenant and shall be paid by Tenant as Additional Rent under this Lease on demand by Landlord. Further, if Tenant fails to keep the Premises in compliance with the requirements of the ADA, Landlord may take whatever action is necessary to bring the Premises into compliance, and Tenant agrees to provide Landlord access to the Premises and pay, as Additional Rent, all costs incurred by Landlord in bringing the Premises into ADA compliance. Landlord, however, shall have no affirmative obligation to bring the Premises into ADA compliance and nothing herein shall be construed as creating such an obligation on Landlord.

#### 19.4. Landlord's Rights to Act for Tenant.

If Tenant fails to pay any Rent or to make any other payment or to take any other action when and as required under this Lease within any applicable cure period, Landlord may, without demand upon Tenant and without waiving or releasing Tenant from any duty, obligation or liability under this Lease, pay any such Rent or take any such other action required of Tenant, The actions which Landlord may take shall include, but are not limited to, compliance with the Disney Standard or the Rules and Regulations, the performance of maintenance or repairs and the making of replacements to the Premises, the payment of insurance premiums which Tenant is required to pay under this Lease and the payment of Taxes and Assessments which Tenant is required to pay under this Lease. Landlord may pay all incidental costs and expenses incurred in exercising its rights hereunder, including, without limitation, reasonable attorneys' fees and expenses, penalties, re-instatement fees, late charges, and interest. All amounts paid by Landlord pursuant to this Section, and all costs and expenses incurred by Landlord in exercising Landlord's rights under this Section (including, without limitation, any applicable sales or use taxes thereon), shall bear interest at the Applicable Rate from the date of payment by Landlord and shall be payable by Tenant to Landlord upon demand.

#### 19.5. Landlord's Liability.

Landlord shall have no liability for payment of any sums payable by Landlord under this Lease or for the performance by Landlord of any other duties or obligations of Landlord under this Lease beyond the value of the interest of Landlord in the Premises. In no event shall Landlord be liable to Tenant or Tenant's employees, agents, representatives or others for any damages of any kind or nature except actual compensatory damages, it being understood and agreed by Tenant that all other damages or liabilities (including, without limitation, indirect, consequential, speculative, exemplary or punitive damages) are hereby expressly waived.

### 20. DEFAULT.

#### 20.1. Events of Default by Tenant.

Subject to the cure periods set forth in Section 20.6, each of the following events shall be deemed to constitute an "EVENT OF DEFAULT" hereunder by Tenant and shall constitute a breach of this Lease:

(i) If Tenant shall fail to pay when due any Rent or other payment of money to be made by Tenant hereunder; or

(ii) If Tenant shall violate or breach, or shall fail fully and completely to observe, keep, satisfy, perform and comply with, any agreement, term, covenant, condition, requirement, restriction or provisions of this Lease (other than the payment of Rent or any other payment to be made by Tenant); or

(iii) If Tenant becomes insolvent, as defined in the Federal Bankruptcy Code, Chapter 11, Section 101, Paragraph (32)(A), (B) or (C) (as if Paragraph (C) applied to all types of entities), or makes an assignment for the benefit of creditors; or if any action is brought by Tenant seeking its dissolution or the liquidation of its assets or seeking the appointment of a trustee, interim trustee, receiver or other custodian for any of its property; or if Tenant commences a voluntary proceeding under the Federal Bankruptcy Code; or if any reorganization or arrangement proceeding is instituted by Tenant for the settlement, readjustment, composition or extension of any of its debts upon any terms; or if any action or petition is otherwise brought by Tenant seeking similar relief or alleging that it is insolvent or unable to pay its debts as they mature; or if any action is brought against Tenant seeking its dissolution or liquidation of any of its assets, or seeking the appointment of a trustee, interim trustee, receiver or other custodian for any of its property, and any such action is consented to or acquiesced in by Tenant or is not dismissed within ninety (90) days after the date upon which it was instituted; or if any proceeding under the Federal Bankruptcy Code is instituted against Tenant and an order for relief is entered in such proceeding or such proceeding is consented to or acquiesced in by Tenant or is not dismissed within ninety (90) days after the date upon which it was instituted; or if any reorganization or arrangement proceeding is instituted against Tenant for the settlement, readjustment, composition or extension of any of its debts upon any terms, and such proceeding is consented to or acquiesced in by Tenant or is not dismissed within ninety (90) days after the date upon which it was instituted; or if any action or petition is otherwise brought against Tenant seeking similar relief or alleging that it is insolvent, unable to pay its debts as they mature or generally not paying its debts as they become due, and such action or petition is consented to or acquiesced in by Tenant or is not dismissed within ninety (90) days after the date upon which it was brought; or

(iv) If any assignment or other Transfer of Tenant's interest in this Lease, or the Premises, the Improvements and/or the Furnishings other than as may be expressly permitted under this Lease shall be made or deemed to be made without Landlord's consent, which consent may be withheld or granted in Landlord's sole discretion; or

(v) If the Premises are used or permitted to be used for any purpose, or for the conduct of any activity, not permitted by this Lease, and such use or activity shall not have been discontinued within five (5) days after the receipt of Landlord's written notice thereof to Tenant; or

(vi) If Tenant shall vacate, abandon or close the Premises or cease operating during the full operating hours required hereunder; or

(vii) If Tenant shall fail to comply with any Project Requirements, or any Operating Conditions, Rules or Regulations attached hereto as Exhibit F, or thereafter promulgated by Landlord with respect to the Premises and such default is not cured within \* days after receipt of notice thereof; provided, however, if such default cannot reasonably be cured within a \* day period, it shall not be deemed a default hereunder if Tenant immediately and diligently commences and prosecutes such cure to completion, which, in any event, shall be completed within 30 days after receipt of notice thereof; or

(viii) If any license, permit, certificate or agreement required for the operation of the Premises shall fail to issue on or before the Commencement Date, or thereafter shall be terminated, revoked or not renewed and is not reinstated within \* days thereafter; provided, however, if such default cannot reasonably be cured within a \* day period, it shall not be deemed a default hereunder if Tenant immediately and diligently commences and prosecutes such cure to completion, which, in any event, shall be completed within 30 days after receipt of notice thereof; or

(ix) If (a) any final judgment is entered in any litigation against Tenant or any of Tenant's Affiliates, or (b) any settlement of any litigation is entered into by any of the foregoing, which judgment or settlement materially and adversely affects Tenant's ability to perform any of its respective obligations hereunder (or would result in Tenant being in default hereunder); or

(x) Any final judgment in any litigation is rendered against any of Tenant and/or any of Tenant's Affiliates holding that any of the foregoing have breached or infringed on any contract, license, trademark or other rights of third parties, in connection with the names, logos, Merchandise or concepts employed in the design and/or operation of the Premises, or if Tenant and/or any of Tenant's Affiliates consent to the settlement of any litigation involving any of the foregoing claims by agreeing to materially limit, diminish or change the design, names, logos, Merchandise or concepts employed in the design and/or operation of the Premises; or

(xi) If Tenant shall fail to comply with any of the terms, covenants and/or conditions of this Lease, the breach of which are expressly provided in this Lease as being events of default.

For the purposes of the events of default specified above, the word "TENANT" shall specifically include, without limitation: (i) any party comprising Tenant, should more than one person or entity execute this Lease as Tenant; (ii) any person or entity now or hereafter liable, whether primarily, secondarily or contingently, for the performance of the duties and obligations of Tenant under this Lease including without limitation any principal, maker, endorser, guarantor or surety; (iii) if Tenant or any party comprising Tenant be a general partnership or a limited partnership, any general partner thereof; (iv) if Tenant or any party comprising Tenant be a joint venture, any joint venturer thereof; and (v) if Tenant or any party comprising Tenant be a corporation, any officer, director or shareholder thereof.

\* - Redacted Text - Confidential treatment requested; omitted portions have been filed separately with the Securities and Exchange Commission.

## 20.2. Landlord's Remedies.

Upon the occurrence of any Event of Default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord hereunder, at law or in equity, the option to pursue any one or more of the following remedies (each and all of which shall be cumulative and nonexclusive) without any notice or demand whatsoever:

(i) Landlord may terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in Rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or for any claim or damages therefor, and Tenant shall have no further claim to the Premises or under this Lease;

(ii) Landlord may, at its election, reenter the Premises and, without terminating this Lease, at any time and from time to time, relet the Premises and improvements or any parts of them for the account and in the name of Tenant or Landlord, or otherwise to cure any default by Tenant, or to exercise any other right or remedy of Landlord hereunder, at law or in equity, including without limitation the remedy described in Section 1951.4 of the California Civil Code. In connection with the foregoing, Landlord may execute any leases made under this provision either in Landlord's name or in Tenant's name and shall be entitled to all rents from the use, operation or occupancy of the Premises or improvements or both. Tenant shall nevertheless pay to Landlord on the due date specified in this Lease the equivalent of all sums required of Tenant under this Lease, plus Landlord's expenses, less than proceeds of any reletting or attornment. Landlord may do all things reasonably necessary for such reletting, including repairing, remodeling and renovating of the Premises or improvements and Tenant shall reimburse Landlord on demand for all costs incurred by Landlord in connection therewith;

(iii) Reenter the Premises under the provisions of Subsection (ii), and thereafter elect to terminate this Lease and Tenant's right to possession of the Premises;

(iv) In addition to all other rights and remedies it may have, Landlord shall have all of the rights and remedies of a "lessor" under Section 1951.4 of the California Civil Code (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject to any reasonable limitations). Therefore, if Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all Rent as it becomes due. If Landlord reenters the Premises under the provisions of Subsection (ii) or (iii) above, Landlord shall not be deemed to have terminated this Lease or the obligation of Tenant to pay any Rent or other charges thereafter accruing, unless Landlord notifies Tenant in writing of Landlord's election to terminate this Lease;

(v) If Landlord relets the Premises it shall apply any sums received upon such reletting in the following order of priority: (A) to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord, (B) to the payment of all costs incurred



by Landlord in restoring the Premises to good order and repair, or in completing construction of, remodeling, renovating or otherwise preparing the Premises for reletting, (C) to the payment of all costs (including, without limitation, any brokerage commissions) incurred by Landlord in reletting the Premises, and in fulfilling Landlord's obligations with respect to such reletting (such as, by way of example, providing services and utilities), (D) to the payment of Rent (and any interest thereof) due and unpaid hereunder, and (E) the balance, if any, to the payment of future Rent as the same may become due hereunder, but Tenant shall not in any event have any claim or right to receive any sums so collected by Landlord, even if such sums exceed the Rents payable hereunder. No act by or on behalf of Landlord under this provision shall constitute a termination of this Lease unless Landlord gives Tenant notice of termination. Notwithstanding any election by Landlord not to terminate this Lease, Landlord may at any time thereafter elect to terminate this Lease for any previous breach or default hereunder by Tenant which remains uncured or for any subsequent breach or default;

(vi) Should Landlord elect to terminate this Lease under the provisions of Subsections (i) or (iii) above, Landlord may recover as damages from Tenant the following:

(1) Past Rent. The worth at the time of the award of any unpaid Rent which had been earned at the time of termination; plus

(2) Rent Prior to Award. The worth at the time of the 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 that Tenant proves could have been reasonably avoided; plus

(3) Rent After Award. The worth at the time of the award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the rental loss that Tenant proves could be reasonably avoided; plus

(4) Proximately Caused Damages. Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, any costs or expenses (including reasonable attorneys' fees), incurred by Landlord in (a) retaking possession of the Premises, (b) maintaining the Premises after Tenant's default, (c) preparing the Premises for reletting to a new tenant, including any repairs or alterations, and (b) reletting the Premises, including broker's commission.

"The worth at the time of the award" as used in Subsection (1) and (2) above, is to be computed by allowing interest at the rate of \* per annum. The worth at the time of the award" as used in Subsection (3) above, is to be computed by discounting the applicable amount at the Prime Rate of the Federal Reserve Bank of San Francisco at the time of the award, plus \* .

(5) In the event of expiration of this Lease or any reentry or retaking of possession by Landlord as provided in this Lease, Landlord shall have the right, but not the obligation to remove all or any part of Tenant's property in the Premises and to place

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such property in storage at a public warehouse at the expense and risk of Tenant. Any property of Tenant not removed by Tenant upon the expiration of the term of this Lease, or within five (5) business days after a termination by reason of Tenant's default, shall be considered abandoned and Landlord, upon five (5) business days' notice to Tenant, may (unless Tenant removes same within such five (5) business day period, remove any or all of such property and dispose of the same in any manner. In the event of a sale of such property, Landlord shall apply the proceeds thereof, first, to the cost and expense of sale, including reasonable attorneys' fees; second, to the repayment of the cost of removal and storage; third, to the repayment of any other sums which may then or thereafter be due to Landlord from Tenant under any of the terms of this Lease; and fourth, the balance, if any, to Tenant.

#### 20.3. No Election of Remedies.

Landlord's pursuit of any one or more of the remedies stated hereinabove shall not preclude pursuit of any other remedy or remedies provided in this Lease or any other remedy or remedies provided for or allowed by Law or in equity, separately or concurrently or in any combination. Landlord's pursuit of any one or more of the remedies provided in this Lease shall not constitute an election of remedies excluding the election of another remedy or other remedies, or a forfeiture or waiver of any Rent or other amounts payable under this Lease by Tenant or of any damages or other sums accruing to Landlord by reason of Tenant's failure to fully and completely keep, observe, perform, satisfy and comply with all of the agreements, terms, covenants, conditions, requirements, provisions and restrictions of this Lease. No action taken by or on behalf of Landlord shall be construed to be an acceptance of a surrender of this Lease. Landlord's forbearance in pursuing or exercising one or more of its remedies shall not be deemed or construed to constitute a waiver of any Event of Default or of any remedy.

#### 20.4. Right of Injunctive Relief.

In the event of a breach or threatened breach by Tenant of any of the covenants or provisions hereof, Landlord shall have the right of injunction and the right to invoke any remedy allowed at law or in equity as if re-entry, summary proceedings and other remedies were not herein provided for.

#### 20.5. Waivers by Tenant.

To the extent permitted by Law, Tenant expressly waives:

(i) The benefit of all Laws now or hereafter in force, exempting any goods on the Premises or elsewhere from distraint, levy or sale in any legal proceedings taken by Landlord to enforce any rights under this Lease.

(ii) The benefit of all Laws now made or which may hereafter be made regarding any limitation as to the goods upon which, or the time within which, distress is to be made after the removal of goods, and further relieves Landlord of the obligation of proving or identifying such goods, it being the purpose and intent of this provision that all goods of Tenant, whether upon the Premises or not, shall be liable to distress for Rent.

(iii) The right to issue a writ of replevin for the recovery of any goods seized under a distress for Rent or levy upon an execution for Rent, damages or otherwise.

(iv) The right to delay execution on any real estate that may be levied upon to collect any amount which may become due under the terms and conditions of this Lease and any right to have the same appraised. Tenant authorizes the clerk to enter a writ of execution or other process upon Tenant's voluntary waiver and further agrees that said real estate may be sold on a writ of execution or other process.

#### 20.6. Notice to Tenant.

Except with respect to Tenant's maintenance and repair obligations, notwithstanding anything hereinabove stated, Landlord agrees that Landlord will not exercise any right or remedy provided for in this Lease or allowed by Law because of any default of Tenant, unless Landlord shall have first given written notice thereof to Tenant and Tenant, within a period of five (5) Business Days thereafter, shall have failed to pay the sum or sums due, if the default consists of the failure to pay money, or, if the default consists of something other than the failure to pay money, Tenant shall have failed, within fifteen (15) days thereafter, to correct such default; provided that if such default is not curable within such fifteen day period, Tenant shall have failed within such fifteen (15) day period, to begin the correction of the default or thereafter failed actively and diligently and in good faith to proceed with and continue the correction of the default until it shall be fully corrected no later than sixty (60) days from the date of such event's occurrence. Any such notice shall be in lieu of and not in addition to, any notice required under California Code of Civil Procedure Section 1161. Notwithstanding the foregoing, no such notice from Landlord shall be required, nor shall Landlord be required to allow any part of the said notice period, nor shall Tenant have any additional opportunity to cure any of the following breaches (i) if Tenant shall have temporarily or permanently ceased operating or using the Premises to the extent and in the manner required herein, (ii) if Tenant defaults in an obligation hereunder which cannot be cured or (iii) any default described in Subsections 20.1 (iii) through 20.1(xii), inclusive. Notwithstanding anything to the contrary contained herein, Landlord shall not be required to give any notice called for in this Subsection more than once in any twelve (12) month period for substantially similar events of default. Upon second event of default within any twelve month period, Landlord shall not be obligated to give Tenant any notice or opportunity to cure such default.

#### 20.7. Notice to Landlord.

Landlord shall in no event be in default in the performance of any of its obligations in this Lease contained unless and until Landlord shall have failed to commence to perform such obligation within thirty (30) days after notice by Tenant to Landlord properly specifying wherein Landlord has failed to perform any such obligation or shall have failed to proceed thereafter with reasonable diligence to complete such performance.

21. REPRESENTATIONS AND WARRANTIES.

21.1. Tenant's Representations and Warranties.

Tenant represents and warrants the following to Landlord, and Tenant acknowledges that Landlord shall be entitled to rely upon such representations and warranties:

21.1.1. Tenant is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and is authorized to transact business in the State of California;

21.1.2. Tenant, and the undersigned signatories executing this Lease on behalf of Tenant, are duly authorized and empowered to enter into this Lease with Landlord.

21.1.3. Neither the entering into of this Lease nor the performance or satisfaction by Tenant of its obligations and liabilities hereunder nor the exercise by Tenant of any of its rights or options hereunder will constitute or result in a violation or breach by Tenant of any judgment, order, writ, injunction or decree issued against or imposed upon it, or will result in a violation of any applicable Law.

21.1.4. There is no action, suit, proceeding or investigation pending or, to the best of Tenant's knowledge and belief after reasonable inquiry, threatened, which would prevent or impair the demise contemplated by this Lease or which questions the validity or enforceability of this Lease or any action taken pursuant hereto in any court or before or by any federal, district, county, or municipal department, or before or by any commission, board, bureau, agency or other governmental instrumentality.

21.1.5. No further approval, consent, order or authorization of, or designation, registration or filing with, any Governmental Authority is required in connection with the due and valid execution and delivery of this Lease and compliance with the provisions hereof by Tenant.

22. HAZARDOUS WASTE.

22.1. No Storage or Disposal.

Tenant shall not install, store, use, treat, generate, transport, release or dispose (or knowingly permit or acquiesce in the installation, storage, use, treatment, generation, transportation, release, or disposal by Tenant, its agents, employees, independent contractors, or subtenants) on the Premises of any Hazardous Material (as herein below defined); provided, however, that Tenant may use, keep and store certain Hazardous Materials to the extent (and only to such extent) that: (i) minor amounts of such Hazardous Materials are normally and reasonably used in connection with facilities similar to the Permitted Use of the Premises (e.g. cleaning fluids); and (ii) any such activity on the part of Tenant is in strict accordance with all applicable Laws. Tenant shall immediately notify Landlord when Tenant learns of, or has reason to believe that, a release of Hazardous Material has occurred in, on or about the Premises. Tenant shall further comply with all Laws requiring notice of such releases or threatened releases to governmental authorities, and shall take all action necessary to mitigate the release or minimize the spread of contamination to

the extent caused by Tenant. For purposes hereof, "HAZARDOUS MATERIAL" means any material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state or local governmental authority to pose a present or potential hazard to public health, welfare or the environment. Hazardous Material includes, without limitation, asbestos in any form; urea formaldehyde foam insulation; transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million; petroleum, including, without limitation, crude oil or any fraction thereof; or any material or substance defined as a "hazardous substance", "hazardous waste", "pollutant" or "contaminant" pursuant to the Resource Conservation Recovery Act, the Comprehensive and Environmental Response Compensation and Liability Act, the Hazardous Materials Transportation Act, the Toxic Substances Control Act, the Clean Air Act, and the Clean Water Act as amended, or pursuant to Section 25316 of the California Health & Safety Code; or Section 25140 of the California Health & Safety Code, or any other federal, state, county, regional, local or other governmental authority or which, even if not so regulated, may or could pose a hazard to the health and safety of the occupants of the Premises or premises adjacent to the Premises; and which is either: (x) present in amounts in excess of that permitted or deemed safe under applicable Law or (y) handled, stored or otherwise used in any manner which is prohibited or deemed unsafe under applicable Law. The term "RELEASE" or "THREATENED RELEASE" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposal in, on, under or about the Premises. Tenant shall not install (or knowingly permit or acquiesce in the installation) at, on or under the Premises any underground storage tanks for the storage of Hazardous Materials.

#### 22.2. Cleanup Laws.

With respect to the existence or release of Hazardous Materials by Tenant or its contractors, agents, employees, invitees or any person or entity under Tenant's control, Tenant shall, at Tenant's own expense, comply with any presently existing or hereafter enacted environmental cleanup responsibility laws affecting Tenant's operation of the Premises ("CLEANUP LAWS"). Tenant shall, at Tenant's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "AUTHORITY") under the Cleanup Laws. Should any Authority require that a Cleanup plan be prepared and that a Cleanup be undertaken because of the existence of Hazardous Materials which were installed, stored, used, treated, generated, transported, released, disposed of, spilled or discharged on the Premises by Tenant or its contractors, agents, employees, invitees or any person or entity under the control of Tenant during the Term of this Lease, Tenant shall, at Tenant's own expense, prepare and submit the required plans and financial assurances and carry out the approved plans. At no expense to Landlord, Tenant shall promptly provide all information requested by Landlord for preparation of affidavits or other documents required by Landlord to determine the applicability of the Cleanup Laws to the Premises, and shall sign the affidavits promptly when requested to do so by Landlord.

#### 22.3. Environmental Notices.

Tenant shall promptly supply Landlord with copies of any notices, correspondence and submissions made by Tenant to appropriate governmental authorities, the United States

Environmental Protection Agency ("EPA"), the United States Occupational Safety and Health Administration ("OSHA"), or any other local, state or federal authority that requires submission of any information concerning environmental, health or safety matters or Hazardous Materials. Tenant's liability pursuant to the terms of this provision shall survive termination of this Lease.

#### 22.4. Audit.

Upon Landlord's reasonable request, at any time and from time to time during the existence of this Lease, Tenant will provide, at Landlord's sole expense, an inspection or audit of the Premises from an engineering or consulting firm approved by Landlord, indicating the presence or absence of such Hazardous Materials on the Premises. If Tenant fails to provide same after ten (10) days' notice, Landlord may order same, and Tenant grants to Landlord and its agents, employees, contractors and consultants access to the Premises and a license (which is coupled with an interest and irrevocable while this Lease is in effect) to perform inspections and tests. Notwithstanding the foregoing, the cost of such inspections and tests shall be a demand obligation owing by Tenant to Landlord pursuant to this Lease if the results of any such audit reveal that Tenant is in breach of any of its obligations under this Lease relative to Hazardous Materials.

#### 22.5. Indemnity.

In addition to and without limiting the generality of any other provisions of this Lease, Tenant shall and hereby does indemnify and hold Landlord harmless from and against any and all losses, damages, expenses, fees, claims, demands, causes of action, judgments, costs, and liabilities, including, but not limited to, reasonable attorneys' fees and costs of litigation, and costs and expenses of response, remedial and corrective work and other clean up activities, arising out of or in any manner connected with: (i) the "release" or "threatened release" (as those terms are defined in CERCLA and the rules and regulations promulgated thereunder, as from time to time amended) by Tenant or Tenant's employees, agents, delegees, invitees, licensees, concessionaires, contractors or representatives, of any Hazardous Materials; (ii) an occurrence of Hazardous Materials Contamination, arising out of or in any manner connected with Tenant's use or occupancy of the Premises; or (iii) any and all claims for injury or damage to persons or property arising out of exposure to Hazardous Materials originating or located at the Premises and connected with Tenant's use or occupancy of the Premises. The term "HAZARDOUS MATERIALS CONTAMINATION" shall mean and refer to the contamination of the Premises, soil, surface water, ground water, air, or other elements on, or of, the buildings, facilities, soil, surface water, ground water, air, or other elements on, or of, any other property as a result of Hazardous Materials at any time emanating from the Premises. The provisions of this Section shall survive the expiration or sooner termination of the Term; and such provisions shall remain in full force and effect as long as the possibility exists that Landlord may suffer or incur any such losses, damages, expenses, fees, claims, demands, causes of action, judgments, costs and liabilities. Notwithstanding anything to the contrary herein, it shall be the responsibility of Landlord to pay for the cost to remove any Hazardous Materials required to be removed by a Governmental Authority to the extent that the presence of such Hazardous Materials is due to any act or omission on the part of Landlord or an Affiliate of Landlord, or their respective agents, contractors or employees.

23. SPECIAL PROVISIONS

23.1. Financial Reports and Other Pertinent Information; Annual Budgets.

23.1.1. As a material inducement to Landlord to enter into this Lease, Tenant represents and warrants to Landlord that all financial, management and operational information regarding Tenant previously provided to Landlord by Tenant, were and are true and correct and accurately report and depict the financial and operational experience of the entity(ies) and its principals described therein and does not omit any material facts or information which, if disclosed, might affect a reasonable landlord's judgment regarding the propriety of entering into this Lease with Tenant. Within one hundred twenty (120) days after the end of the fiscal year of Tenant, Tenant shall provide to Landlord a year-end financial report, prepared by independent certified public accountants of recognized standing, and certified as being true and correct by the chief financial officer. Each report shall also be accompanied by an opinion of such accountants, in a form standard in the industry, to the effect that the same fairly presents the financial condition of Tenant and the results of its operations as of the relevant dates thereof.

23.1.2. Not later than sixty (60) days prior to the commencement of each Lease Year, Tenant shall prepare and submit to Landlord an operating budget ("OPERATING BUDGET") and a capital budget ("CAPITAL BUDGET") prepared pursuant to the requirements of this subsection. The Operating Budget and the Capital Budget (together, "ANNUAL BUDGET") shall be prepared in accordance with the following:

23.1.2.1. Tenant's reasonable estimate of Gross Sales for the forthcoming Lease Year itemized on schedules on a monthly or quarterly basis, together with the assumptions, in narrative form, forming the basis of such schedules;

23.1.2.2. a cash flow projection; and

23.1.2.3. a narrative description of the program for operating, marketing and managing the Premises for the forthcoming Lease Year, including, among other things, marketing and advertising budgets, changes in personnel policies, staffing levels, major events plans, franchise issues and other matters affecting the performance and operation of the Premises, and containing a budget of proposed expenditures by category and the assumptions, in narrative form, forming the basis of such budget.

23.1.3. The Annual Budget shall be used by Landlord and Tenant as the basis for an annual meeting (the "Annual Planning Meeting") regarding Tenant's plans in connection with the operation of its business at the Premises for the Lease Year which is the subject of the applicable Annual Budget. The Annual Planning Meeting shall be held and attended by the manager of Tenant's store operated at the Premises or a regional representative of Tenant, on Tenant's behalf, and by a representative designated by Landlord, on Landlord's behalf, and shall be held at a place and time reasonably acceptable to the designated attendees, which shall be not earlier than twenty (20) days after Landlord's receipt of the Annual Budget. During the Annual Planning Meeting, the designated representatives of Landlord and Tenant shall, among other things, review and discuss the following: (i) the results of Tenant's sales at the Premises for the preceding Lease Year; (ii) the results of the special events, direct mail, and other advertising

programs used by Tenant throughout the prior Lease Year and the efficacy of the same, and Tenant's plans regarding the same for the upcoming Lease Year; (iii) any plans Tenant has for operational changes, such as remodeling, or any other changes to the Premises, as well as Tenant's proposed timing for such events; and (iv) discuss Tenant's staffing plans regarding the Premises for the upcoming Lease Year, and any significant personnel changes that Tenant has made or plans to make in connection with its operation of its business at the Premises.

### 23.2. Net Worth.

Tenant shall be obligated to maintain at all times during the Term a Net Worth (as hereinafter defined) in an amount at least equal to \$2,000,000 ("MINIMUM NET WORTH"). As used herein, the term "NET WORTH" shall mean the excess of total assets over total liabilities, total assets and total liabilities each to be determined in accordance with GAAP, excluding, however, from the determination of total assets: (a) goodwill, organizational expenses, research and development expenses, trademarks, trade names, copyrights, patents, patent applications, and other similar intangibles; (b) all deferred charges that are not required to be capitalized in accordance with GAAP or unamortized debt discounts and expense; (c) treasury stock; (d) securities which are not readily marketable; (e) any write-up in the book value of any asset resulting from a revaluation thereof; (f) this Lease; and (g) any items not included in clauses (a) through (f) above that are treated as intangibles in conformity with GAAP. In addition to the financial reports of Tenant to be delivered to Landlord pursuant to this Lease (including Subsection 23.1.1 above), Tenant shall deliver to Landlord, together with such financial reports, a certificate of Tenant's chief financial officer in form reasonably required by Landlord ("FINANCIAL OFFICER'S CERTIFICATE"), certifying the Net Worth of Tenant as of the date of the financial reports being delivered concurrently therewith and stating that Tenant is in compliance with its obligations under this subsection, or if not, so stating and including the reasons therefor. Landlord shall have the right from time to time and at any time to have an independent certified public accountant selected by Landlord perform an audit or other review of the Books and Records of Tenant to verify the amount of Tenant's Net Worth, and Tenant shall cooperate with Landlord in connection therewith, If Landlord audits or reviews the amount of Tenant's Net Worth shown in the last Financial Officer's Certificate delivered to Landlord, and such 24 hours' notice audit or review discloses that either the Net Worth of Tenant as of such date certified is one percent (1%) or more less than the amount shown on the Financial Officer's Certificate or that the statements in such Financial Officer's Certificate regarding Tenant's compliance with its obligations hereunder is otherwise materially incorrect, then in addition to any other rights and remedies of Landlord, Tenant shall pay for the cost of the audit or review. Otherwise, Landlord shall bear the cost of the audit or review.

### 23.3. Termination Option.

Landlord may, at any time during the Term hereof, terminate this Lease. If Landlord elects to terminate this Lease pursuant to this Section 23.3, then Landlord shall pay to Tenant an early termination fee ("EARLY TERMINATION FEE") equal to (i) the unamortized value of Tenant's leasehold Improvements (based on Tenant's actual, out-of-pocket costs verified by bona fide purchase receipts, bills of sale, or other written evidence reasonably satisfactory to Landlord) (amortized using straight-line amortization over an 11 year term) and (ii) if (and only if) such



termination occurs at any time within the first five (5) years of the Term, the amount of \* , which amount shall be payable to Tenant within 90 days of the termination date specified in Landlord's notice to Tenant. Upon such termination, the parties hereto shall have no further obligations to each other hereunder except as expressly set forth herein. This Lease shall be deemed terminated thirty (30) days after election by Landlord.

#### 23.4. Competing Store.

Landlord agrees that if it allows the operation of another store within THE DISNEYLAND RESORT(R) which has more than \* square feet devoted to the assembly and sale of make-it-yourself plush bears and/or animals (the "COMPETING STORE"), then Tenant may, at its option exercised at any time within twelve (12) months of the date such Competing Store opens for business at THE DISNEYLAND RESORT(R) PROJECT, elect to terminate this Lease upon no less than 90 days prior written notice to Landlord. In addition, commencing as of the date such Competing Store opens for business and continuing until the earlier of (i) the expiration or earlier termination of this Lease or (ii) the date such Competing Store ceases to operate at THE DISNEYLAND RESORT(R) PROJECT, Tenant's obligation to pay Minimum Rent and Percentage Rent, collectively, shall be deemed to be the amount which is \* of Gross Sales, not to exceed the amount of Minimum Rent and Percentage Rent, collectively, which would otherwise be due Landlord pursuant to the provisions of Section 3.1 and 3.2 hereof.

#### 23.5. Agreement Regarding Offer or Solicitation of Employment.

23.5.1. As a material inducement for Landlord to enter into this Lease and in consideration of Tenant's right to operate its business at THE DISNEYLAND RESORT(R) PROJECT pursuant to this Lease, the rights granted to Tenant under this Lease and the other terms, covenants and conditions set forth in this Lease, Tenant agrees that it shall not (and agrees to cause its Affiliates not to), either alone or jointly, with or on behalf of others, either directly or indirectly, at any time during the Term and for a period of two (2) years following the expiration or sooner termination of this Lease (i) offer or solicit any employment, contract for services or similar engagement to or from any "Disney Salaried Employee" (as such term is hereinafter defined), or (ii) encourage or induce any Disney Salaried Employee to terminate, or otherwise suggest to or discuss with any Disney Salaried Employee the termination of, his or her employment or other business relationship with Landlord or any of its Affiliates, whether or not such Disney Salaried Employee would commit a breach of any contract of employment or services by reason of his or her terminating such employment or relationship with Landlord or its Affiliate. Tenant acknowledges and agrees that Disney would be irreparably harmed by any breach or threatened breach of this Section and, therefore, in addition to any other right or remedy which Landlord might have under this Lease or at law or in equity as a result of any such breach, Landlord shall be entitled to seek an injunction prohibiting Tenant (or its Affiliate, as the case may be) from any breach or threatened breach of this Section, and Tenant shall not (and shall cause its Affiliates not to) assert that an injunction is not a proper remedy.

23.5.2. For the purpose of this Section, the term "DISNEY SALARIED EMPLOYEE" shall mean and refer to any person who is employed or retained by Landlord or any of its Affiliates and whose base compensation is primarily on a "salaried" (i.e., not by the hour) basis, and with whom Tenant or Tenant's Affiliates have had contact with in connection with the

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opening or operation of Tenant's business at the Premises. Without limiting the generality of the foregoing, "salaried/non-exempt persons" (i.e., persons who receive a salary but who also may be entitled to additional compensation on an hourly basis for overtime or other extra work) shall be deemed to be "Disney Salaried Employees."

24. MISCELLANEOUS PROVISIONS.

24.1. End of Term.

24.1.1. Tenant shall, on or before the last day of the Term or upon the sooner termination of the Term, peaceably and quietly surrender and deliver to Landlord the Premises, in good condition and repair, reasonable wear and tear (and damage by fire or other casualty if the termination is pursuant to Section 13 hereof) excepted, and free and clear of liens or encumbrances.

24.1.2. Upon surrender, or upon the expiration or sooner termination of the Term hereof, whichever first occurs, title to the Premises shall thereupon, and without further act of either party, vest in Landlord, and Tenant shall promptly thereafter execute and deliver to Landlord such deed or bill of sale as Landlord may reasonably request. Such vestiture shall not constitute the payment of Rent or a payment in lieu of Rent by Tenant to Landlord.

24.1.3. Provided Tenant is not in breach or default of its obligations under this Lease, Tenant may, at its cost, upon the expiration or sooner termination of this Lease, remove from the Premises its inventory, Furnishings (except fixtures affixed to the real property) Merchandise, Supplies and other items of personalty. If Tenant shall fail to so remove such personalty, Landlord may, at its option, either remove and dispose of any or all of the same at Tenant's expense or retain the same, in which latter event all right, title and interest therein shall pass to and vest in Landlord. Such vestiture shall not constitute the payment of Rent or a payment in lieu of Rent by Tenant to Landlord. Tenant shall repair any damage to Landlord's property resulting from such removal unless the damage is caused by Landlord or any of Landlord's Affiliates or any of their respective employees, agents, representatives or contractors.

24.1.4. If Tenant holds over or refuses to surrender possession of the Premises in accordance with the provisions of this Lease, Landlord shall have the right, in addition to all other rights and remedies available to it, to treat such holding over as a tenancy at sufferance or a month-to-month tenancy. During such holding over period, Tenant shall be obligated to perform all of its obligations under this Lease (as if this Lease had not so expired or terminated), except that the Rent during the period of holding over shall be doubled. During any such holding over period, Landlord shall have no obligations of any nature whatsoever under this Lease or otherwise to Tenant.

24.1.5. If the Premises is not timely so surrendered, in addition to any other rights or remedies which Landlord may have hereunder or at law or in equity, Tenant shall pay to Landlord all expenses which Landlord may incur by reason thereof and, in addition, shall indemnify and hold harmless Landlord from and against all claims made against Landlord by any tenant or tenants succeeding to the Premises or any part thereof, founded upon delay by Landlord in delivering possession of the Premises to such tenant or tenants or upon the improper or

inadequate condition of the Premises, to the extent that such delay or improper or inadequate condition is occasioned by the failure of Tenant to perform its said surrender obligations and/or to timely surrender the Premises. All property of Tenant or of any other person which shall remain in the Premises after the expiration or sooner termination of this Lease shall be deemed to have been abandoned and may be retained by Landlord as its property or be disposed of without accountability in such manner as Landlord may deem fit and, if the cost of any disposition exceeds any proceeds from the sale of such property, such cost shall be paid by Tenant to Landlord upon demand.

#### 24.2. Binding Effect.

The covenants, terms, conditions, provisions and undertakings in this Lease shall extend to and be binding upon the heirs, personal representatives, executors, administrators and permitted successors and assigns of the respective parties hereto.

#### 24.3. Estoppel Certificates.

Within ten (10) business days after a request by either party ("REQUESTING PARTY") to the other ("RECEIVING PARTY"), the Receiving Party shall execute and deliver to the Requesting Party an estoppel certificate in recordable form, which shall certify: (i) that the Requesting Party has fully and completely performed all of its duties and obligations under this Lease through the date of such certificate, or, if there has been any failure to perform, that the only failures are specifically described in the certificate; (ii) that this Lease has not been modified, and is in full force and effect, or, if there have been modifications, that this Lease is in full force and effect as modified, and that the only modifications are those specifically described in the certificate; (iii) that there are no defenses, claims, counterclaims or rights of set-off against the enforcement of this Lease, or, if claimed, that they are all specifically described, as claimed, in the certificate; and (iv) the dates to which Minimum Rent and Percentage Rent due under this Lease have been paid. The certificate shall also include such other information as may be reasonably required by the Requesting Party.

#### 24.4. Rights Cumulative.

All rights, remedies, powers and privileges conferred under this Lease on the parties shall be cumulative of and in addition to, but not restrictive of or in lieu of, those conferred by Law.

#### 24.5. Attorneys' Fees.

In the event either party employs an attorney or brings an action against the other arising out of the terms of this Lease, the prevailing party (whether such prevailing party has been awarded a money judgment or not) shall receive from the other party (and the other party shall be obligated to pay) the prevailing party's reasonable legal fees and expenses (including the fees and expenses of experts and paraprofessionals), whether such fees and expenses are incurred before, during or after any trial, re-trial, re-hearing, mediation or arbitration, administrative proceedings, appeals or bankruptcy or insolvency proceedings, and irrespective of whether the prevailing party would have been entitled to such fees and expenses under applicable Law in the absence of this Section. Without limiting the generality of the foregoing, the term "EXPENSES" shall include expert witness fees, bonds, filing fees, administrative fees, transcriptions, depositions or proceedings,

costs of discovery and travel costs. The term "PREVAILING PARTY" as used in this Section shall mean that party whose positions substantially prevail in such action or proceeding, and any action or proceeding brought by either party against the other as contemplated in this Section may include a plea or request for judicial determination of the "prevailing party" within the meaning of this Section. In the event neither party substantially prevails in its positions in such action or proceeding, the court may rule that neither party has so substantially prevailed, in which event each party shall be responsible for its own fees and expenses in connection therewith. In addition, the fees and expenses for the services of "in-house" counsel (if any) shall be included within the prevailing party's fees and expenses as fully as if such in-house legal services were provided by an "outside" attorney or law firm as contemplated within this Section, irrespective of whether "outside" legal services are obtained in connection with such matter. The fees and expenses on the part of in-house counsel as aforesaid shall be determined based upon the prevailing hourly rates, fees and expenses for an attorney(s) of comparable experience in the Los Angeles, California area.

#### 24.6. Time of Essence.

Time is of the essence of this Lease. Anywhere a day certain is stated for payment or for performance of any obligation, the day certain so stated enters into and becomes a part of the consideration for this Lease.

#### 24.7. Notices.

Any notice, demand, request, offer, consent, approval or communication to be provided under this Lease shall be in writing and shall be deemed received: (i) three (3) business days after it is deposited, postage prepaid, in the United States mail, certified or registered mail with a return receipt requested, addressed (as the case may be) to Landlord at Landlord's address shown herein, or to Tenant at the address of Tenant shown herein; (ii) the next delivery day after it is deposited for overnight delivery with a nationally recognized and reputable air courier addressed (as the case may be) to Landlord at Landlord's address shown herein, or to Tenant at the address of Tenant shown herein; or (iii) the same day it is personally delivered (as the case may be) to Landlord at Landlord's address shown herein, or to Tenant at the address of Tenant shown herein. Either party may designate a different address for receiving notices hereunder by notice to the other party in accordance with the provisions of this Section. Tenant designates and appoints, as its agent to receive notice of all dispossessory or distraint proceedings and all notices required under this Lease, the general manager, assistant manager or person in charge of the Premises at the time the notice is given, and, if no person is in charge of the Premises at that time, such service of notice may be made by attaching the same, in lieu of mailing, on any entrance to the Premises.

If to Landlord: If sent by U.S. Mail:  
Disneyland  
1313 Harbor Blvd.  
Anaheim, CA 92803-3232  
Attention: Vice President  
Downtown Disney

With a copy to: Disneyland  
1313 Harbor Blvd.  
Anaheim, CA 92803-3232  
Attention: General Counsel

and

The Walt Disney Company  
500 South Buena Vista Street  
Burbank, CA 91521-0171  
Attention: Corporate Legal-Real Estate  
Disneyland, Downtown Disney

If sent by receipted overnight delivery service:

Disneyland  
1580 S. Disneyland Drive, Suite 200  
Anaheim, CA 92802  
Attention: Vice President, Downtown Disney

With a copy to:

Disneyland  
1020 West Ball Road  
Anaheim, CA 92803-3232  
Attention: General Counsel

and

The Walt Disney Company  
500 South Buena Vista Street  
Burbank, CA 91521-0171  
Attention: Corporate Legal-Real Estate  
Disneyland, Downtown Disney

If to Tenant: Build-A-Bear Workshop, Inc.  
1954 Innerbelt Business Center Drive  
St. Louis, MO 63114-5760  
Attention: Maxine Clark

With a copy to: Michael E. Long  
Blumenfeld, Kaplan & Sandweiss, P.C.  
168 North Meramec Avenue  
St. Louis, MO 63105

If any notice is tendered and is refused by the intended recipient, such notice shall nonetheless be considered to have been given and shall be effective as of the date provided herein.

24.8. No Representations.

Tenant acknowledges that it has examined the Premises and that it is not relying upon any representation or warranty, either express or implied, made by Landlord or any of Landlord's Affiliates or any other person or entity in any way Affiliated with Landlord, or being or claiming to be an agent, employee or servant of Landlord, with respect to: the physical condition of the Premises, the ground, earth or subsoil conditions; the financial reports, data, analyses or projections that concern the proposed development, operation or projected occupancy of the Premises; the proposed construction of, or any agreement not to construct, any other facilities or amenities adjacent to, or in proximity to, the Premises (including, without limitation, the Attractions); any zoning or other applicable legal requirements; or any other matter or thing in respect of the subject matter of this Lease and/or the Exhibits hereto or the transaction and development contemplated hereby. Without limiting the generality of the foregoing, Tenant acknowledges and agrees that Landlord makes no representation or warranty of any kind or nature whatsoever (any such warranty being hereby expressly disclaimed) with respect to any study, report, analysis, budget or other information given to Tenant, its agents or representatives by Landlord, its agents or representatives, and Tenant understands and agrees that all due diligence regarding the Premises or matters related thereto are the complete and sole responsibility of Tenant.

24.9. Entire Agreement; No Offer.

This Lease contains the entire agreement of Landlord and Tenant with respect to the subject matter hereof, and no representations, warranties, inducements, promises or agreements, oral or otherwise, between the parties not embodied in this Lease shall be of any force or effect. This Lease may be modified only by a written agreement executed by both parties with the same formalities as this Lease. All prior agreements or communications are and shall be merged into this Lease and shall have no force or effect. Neither any submission of this Lease by one party to the other, nor any correspondence or other communications between the parties in connection therewith, is intended or shall be deemed to constitute an offer of any kind or to create any obligations between the parties unless and until one or more duplicates of this Lease has been fully executed and delivered between the parties. Accordingly, any such submission or communications or correspondence between the parties or their respective agents or attorneys is

intended only as non-binding discussions, and either party shall have the absolute right to withdraw from such discussions without any liability whatsoever to the other party.

24.10. Severability.

If any clause or provision of this Lease is illegal, invalid or unenforceable under applicable present or future Laws effective during the Term, the remainder of this Lease shall not be affected. In lieu of each clause or provision of this Lease which is illegal, invalid or unenforceable, there shall be added as a part of this Lease a clause or provision as nearly identical as may be possible and as may be legal, valid and enforceable. Notwithstanding the foregoing, in the event any clause or provision of this Lease is illegal, invalid or unenforceable as aforesaid and the effect of such illegality, invalidity or unenforceability is that Landlord no longer has the substantial benefit of its bargain under this Lease, then, in such event, Landlord may in its discretion cancel and terminate this Lease upon providing at least ninety (90) days advance notice thereof to Tenant.

24.11. Quiet Enjoyment.

Tenant shall, subject to the terms and conditions of this Lease, peaceably and quietly hold and enjoy the Premises during the Term without hindrance or interruption, so long as Tenant fully and completely keeps, observes, performs, satisfies and complies with all of the agreements, terms, covenants and conditions, requirements, provisions and restrictions of this Lease to be kept, observed, performed, satisfied and complied with by Tenant under this Lease and pays all Rent required to be paid by Tenant under this Lease.

24.12. Confidentiality.

24.12.1. Except as otherwise required by Law or the regulations of any securities exchange, Landlord and Tenant agree not to disclose Confidential Information to any third party other than to their respective directors, officers, employees and agents (and directors, officers, employees and agents of Affiliates) and advisors (including legal, financial and accounting advisors) (collectively, "REPRESENTATIVES"), as needed.

24.12.2. Landlord and Tenant agree that they shall be responsible for any disclosure of Confidential Information by their respective Representatives that would constitute a breach of this Lease.

24.12.3. In the event of any breach of this Section, the non-breaching party will be entitled, in addition to any other remedies that it may have at law or in equity, to injunctive relief or an order of specific performance,

24.12.4. In the event this Lease (or any part thereof) is required to be disclosed or described in any manner due to the requirements of any applicable Law or the regulations of any securities exchange, Tenant shall, prior to any such disclosure or description, contact Landlord and provide Landlord with the full particulars of Tenant's belief that such disclosure or description is required. Following receipt of such notice, Landlord may (but shall not be obligated to) take such measures as Landlord shall deem necessary or desirable to challenge any such disclosure or description or to otherwise redact or minimize such disclosure or description

as Landlord sees fit. In such event, Tenant shall fully cooperate with Landlord, it being understood and acknowledged by Tenant that Landlord regards this Lease as a trade secret and as Confidential Information. Alternatively, Landlord may authorize and direct Tenant to take such measures in Landlord's behalf in which event Tenant shall employ its best efforts in good faith to effectuate such authorization and direction.

24.12.5. Tenant shall not discuss the terms of this transaction or Tenant's involvement in the Project with any third party including, without limitation, any member of the press or media. This restriction shall include making any press release.

24.12.6. The provisions of this Section and the obligations of Tenant hereunder will survive the Expiration Date or sooner termination of this Lease for a period of two (2) years.

24.13. Accord and Satisfaction.

Payment by any party, or receipt or acceptance by a receiving party, of any payment due hereunder in an amount less than the amount required to be paid hereunder shall not be deemed an accord and satisfaction, or a waiver by the receiving party of its right to receive and recover the full amount of such payment due hereunder, notwithstanding any statement to the contrary on any check or payment or on any letter accompanying such check or payment. The receiving party may accept such check or payment without prejudice to the receiving party's right to recover the balance of such payment due hereunder or to pursue any other legal or equitable remedy provided in this Lease.

24.14. No Merger.

There shall be no merger of this Lease or the leasehold estate created hereby with the fee simple estate in the Premises or any part thereof, by reason of the fact that the same person or entity may acquire, own or hold, directly or indirectly, this Lease or the leasehold estate created hereby or any interest in this Lease or such leasehold estate, and the fee simple estate in the Premises or any interest in such fee simple estate; and this Lease shall not be terminated except as expressly provided herein.

24.15. Counterparts.

This Lease may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

24.16. Usury Compliance.

Tenant and Landlord intend and hereby agree to comply with any and all applicable usury Laws. Accordingly, notwithstanding anything to the contrary set forth in this Lease or any other document executed or delivered in connection therewith, neither the Applicable Rate nor any late fees nor any other charges which may be characterized as interest under applicable Law shall exceed the maximum rate of interest permitted under applicable Law, as it exists from time to time. Landlord agrees not to knowingly collect or charge interest which will render any effective interest rate payable with respect to any Minimum Rent, Percentage Rent or other sum under this Lease usurious under applicable Law, and Tenant agrees to give Landlord notice of such fact in



advance of any payment or payments which would render the effective interest rate payable hereunder usurious to the extent Tenant is or becomes aware of such fact. If Landlord receives any payment which constitutes interest hereunder (whether denominated as interest or as other costs, charges and fees which are characterized as interest under applicable Law) in excess of the maximum lawful rate of interest payable with respect to any Minimum Rent, Percentage Rent or other sum under this Lease, then the amount of interest so received by Landlord in excess of the then maximum lawful rate of interest shall, at the sole option and discretion of Landlord: (i) be forgiven to the extent of such illegal excess; or (ii) constitute an advance prepayment of Rent designated by Landlord and shall thereby be applied in full or partial (as the case may be) reduction of the then outstanding balance hereunder of such Rent.

#### 24.17. Governing Law.

This Lease shall be governed by, and construed in accordance with, the laws of the State of California. In the event of any litigation involving this Lease, other than litigation between Landlord and Tenant instituted by Landlord regarding the enforcement of Landlord's rights in other jurisdictions, venue for such litigation shall be vested exclusively either in the California State Circuit Court for Orange County, California, or in the applicable Federal Court having jurisdiction in Orange County, California. In the event litigation is filed in other jurisdictions relating to this Lease, as otherwise permitted above, the parties hereto hereby agree that it is their intent that other jurisdictions employ their choice of law rules so as to construe the meaning and enforceability of this Lease in their jurisdiction in accordance with California Law.

#### 24.18. Recordation of Lease.

Neither this Lease nor any memorandum hereof may be recorded by Tenant without first obtaining Landlord's approval, which approval may be withheld by Landlord in Landlord's sole discretion. Upon Landlord's request, Tenant shall record a memorandum of lease in the public records of Orange County, California in a form and substance satisfactory to Landlord, within thirty (30) days of the Execution Date of this Lease. Landlord shall pay the recording costs. In the event of a discrepancy between the provisions of this Lease and the memorandum of lease, the provisions of this Lease shall prevail. Any attempted recordation of this Lease or any memorandum hereof by Tenant without having obtained Landlord's written approval, which approval may be granted or denied in Landlord's sole discretion, shall, at Landlord's option, constitute an Event of Default under this Lease.

#### 24.19. Waiver of Right of Redemption.

To the extent permitted by Law, Tenant, for itself and for all persons claiming by, through or under it, hereby expressly waives any and all rights which are or may be conferred upon Tenant by any present or future Law, including, without limitation, relief from forfeiture as provided for by Section 1174, 1179 and 3275 of the California Code of Civil Procedure, to redeem the Premises and/or the Furnishings after termination of this Lease or after any warrant to dispossess or judgment in ejectment or summary proceedings or after re-entry upon the Premises by Landlord and reacquisition of possession of the Premises and the Furnishings by Landlord, by summary proceedings.

24.20. Headings.

The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various Sections and shall in no event be considered in construing or interpreting any provision in this Lease. References in this Lease to a given Article shall be construed as a reference to the entirety of such Article; references to any Section or subsection shall be construed to include all provisions contained in such Section or subsection.

24.21. Relationship Disclaimer.

The parties hereby acknowledge that it is not their intention to create between themselves a partnership, joint venture, fiduciary or employment or agency relationship for the purposes of demising the Premises, or for any other purpose whatsoever. Accordingly, notwithstanding any expressions or provisions contained herein or in any other document, nothing in this Lease or in any documents executed or delivered or to be executed or delivered shall be construed or deemed to create, or to express an intent to create, a partnership, joint venture, fiduciary or employment or agency relationship of any kind or nature whatsoever between the parties hereto.

24.22. No Third Party Beneficiaries.

Nothing in this Lease is intended or shall be deemed to confer any rights or benefits upon any entity or person other than the parties hereto or to make or render any such other entity or person a third-party beneficiary of this Lease, except rights contained herein for the benefit of a Fee Mortgagee.

24.23. Broker and Commission.

With the exception of Hycel Properties, which was retained by and will be paid solely by Tenant pursuant to a separate written agreement, all negotiations relative to this Lease and the demise of the Premises as contemplated by and provided for in this Lease have been conducted by and between Landlord and Tenant without the intervention of any person or other party as agent or broker. Landlord represents and warrants to Tenant that there are and will be no broker's commissions or fees payable in connection with this Lease or the demise of the Premises by reason of Landlord's dealings, negotiations or communications. Tenant represents and warrants to Landlord that, other than a brokerage commission due Hycel Properties, which Tenant shall pay in full pursuant to a separate written agreement between Tenant and Hycel Properties, there are and will be no broker's commissions or fees payable in connection with this Lease or the demise of the Premises by reason of Tenant's dealings, negotiations or communications. Landlord and Tenant shall, and do each hereby, indemnify, defend and hold harmless the other from and against the claims, demands, actions and judgments of any and all brokers, agents and other intermediaries alleging a commission, fee or other payment to be owing by reason of their respective dealings, negotiations or communications in connection with this Lease or the demise of the Premises.

24.24. Consent or Approval of Landlord.

24.24.1. Tenant hereby acknowledges that Landlord has a very substantial interest in maintaining the image, reputation, aesthetic appearance, and quality of, and harmony

among, the Premises and the properties owned by Landlord or by Landlord's Affiliates. Accordingly, except where otherwise expressly stated in this Lease to the contrary, each and every term or provision of this Lease which requires or which refers to (as the case may be): (i) the approval or consent of Landlord; or (ii) the satisfaction, judgment, opinion or discretion of Landlord, shall mean that any such approval or consent, or any such satisfaction, judgment, opinion or discretion (as the case may be), shall be subject to the sole and absolute discretion of Landlord. In addition, no provision of this Lease which may require or permit Landlord to state reasons for denial of any submission or request shall be construed as a specific statement that any matter is subject to the reasonable approval, consent, satisfaction, judgment, opinion or discretion of Landlord.

24.24.2. With respect to those terms or provisions of this Lease in which Landlord is obligated to use its reasonable discretion, judgment or approval, if Landlord unreasonably or arbitrarily withholds its consent, approval or acknowledgment of satisfaction or judgment in respect of any such matter, Landlord shall have no liability in connection with such withholding or delay except that: (i) Landlord shall be deemed to have granted such consent or approval if a court or other body of competent jurisdiction finally determines (i.e., a final, non-appealable order) that Landlord withheld same unreasonably; and (ii) if such court or other body determines in such final order that Landlord acted in bad faith in withholding such consent, the foregoing exculpatory language contained in this subsection shall not apply.

24.24.3. With respect to any contractor, supplier, service provider or other third person or party who is subject to the prior approval of Landlord, such approval shall not be intended (nor shall it be deemed) to constitute any representations, warranty, assurance, affirmation or other statement on the part of Landlord regarding the quality, efficiency, honesty, integrity, ability or other characteristic or aspect of any such person or party, it being understood and agreed that Tenant shall be solely responsible for its own due diligence regarding such matters and that Landlord shall in all events be entitled to assume that Tenant shall have first undertaken such due diligence appropriate to the circumstances before Tenant presents any such person or party to Landlord for Landlord's approval.

#### 24.25. Force Majeure.

Except as otherwise expressly provided in this Lease, and except with respect to any failure to pay any sum due hereunder as a result of bankruptcy, insolvency or refusal or inability to pay, if either party shall be delayed or hindered in whole or in part, or prevented from, the performance of any non-monetary covenant or obligation hereunder as a result of acts of God, fire or other casualty, earthquake, hurricane, flood, epidemic, landslide, enemy act, war, riot, intervention by civil or military authorities of government, insurrection or other civil commotion, general unavailability of certain materials, strikes, boycotts, lockouts, labor disputes or work stoppage beyond the control of either party hereto, then the performance of such covenant or obligation, shall be excused for the period of such delay, hindrance or prevention and the period of the performance of such covenant or obligation shall be extended by the number of days equivalent to the number of days of such delay, hindrance or prevention.

24.26. Landlord's Lien.

TO SECURE THE PAYMENT OF ALL RENT DUE AND TO BECOME DUE HEREUNDER AND THE FAITHFUL PERFORMANCE OF THIS LEASE BY TENANT, TENANT HEREBY GIVES TO LANDLORD AN EXPRESS CONTRACT LIEN AND SECURITY INTEREST ON ALL PROPERTY (INCLUDING, WITHOUT LIMITATION, TENANT'S MERCHANDISE, INVENTORY, SUPPLIES, ETC.) WHICH MAY BE PLACED IN THE PREMISES, AND ALSO UPON ALL PROCEEDS OF ANY INSURANCE WHICH MAY ACCRUE TO TENANT BY REASON OF DESTRUCTION OF OR DAMAGE TO ANY SUCH PROPERTY, SUBJECT TO ONLY TO A FIRST PRIORITY PURCHASE MONEY LIEN ON MERCHANDISE, INVENTORY AND SUPPLIES (BUT IN NO EVENT ON FIXTURES) IN FAVOR OF FIRSTSTAR BANK OR ANOTHER BONA FIDE THIRD PARTY LENDER. SUCH PROPERTY SHALL NOT BE REMOVED THEREFROM WITHOUT THE WRITTEN CONSENT OF LANDLORD UNTIL ALL ARREARAGES IN RENT THEN DUE TO LANDLORD HEREUNDER SHALL FIRST HAVE BEEN PAID. ALL EXEMPTION LAWS ARE HEREBY WAIVED IN FAVOR OF SAID LIEN AND SECURITY INTEREST. THIS LIEN AND SECURITY INTEREST IS GIVEN IN ADDITION TO LANDLORD'S STATUTORY LIEN AND SHALL BE CUMULATIVE THERETO. UPON THE OCCURRENCE OF AN EVENT OF DEFAULT, THIS LIEN MAY BE FORECLOSED WITH OR WITHOUT COURT PROCEEDINGS BY PUBLIC OR PRIVATE SALE, PROVIDED LANDLORD GIVES TENANT AT LEAST THIRTY (30) DAYS NOTICE OF THE TIME AND PLACE OF SAID SALE, AND LANDLORD SHALL HAVE THE RIGHT TO BECOME THE PURCHASER, UPON BEING THE HIGHEST BIDDER AT SUCH SALE. CONTEMPORANEOUS WITH THE EXECUTION OF THIS LEASE (AND IF REQUESTED HEREAFTER AT ANY TIME BY LANDLORD), TENANT SHALL EXECUTE AND DELIVER TO LANDLORD UNIFORM COMMERCIAL CODE FINANCING STATEMENTS IN SUFFICIENT FORM SO THAT WHEN PROPERLY FILED, THE SECURITY INTEREST HEREBY GIVEN SHALL THEREUPON BE PERFECTED. IF REQUESTED HEREAFTER BY LANDLORD, TENANT SHALL ALSO EXECUTE AND DELIVER TO LANDLORD UNIFORM COMMERCIAL CODE FINANCING STATEMENT CHANGE INSTRUMENTS IN SUFFICIENT FORM TO REFLECT ANY PROPER AMENDMENT OR MODIFICATION IN OR EXTENSION OF THE AFORESAID CONTRACT LIEN AND THE RIGHTS AND REMEDIES OF A SECURED PARTY UNDER THE UNIFORM COMMERCIAL CODE AS ADOPTED IN THE STATE OF CALIFORNIA FROM TIME TO TIME.

24.27. Construction of Lease.

This Lease has been fully reviewed and negotiated by the parties hereto and their respective counsel. Accordingly, in interpreting this Lease, no weight shall be placed upon which party hereto or its counsel drafted the provisions being interpreted.

24.28. No Waiver.

No release, discharge or waiver of any provision hereof shall be enforceable against or binding upon Landlord or Tenant unless in writing and executed by Landlord or Tenant, as the case may be. Neither the failure of Landlord or Tenant to insist upon a strict performance of any of the agreements, terms, covenants and conditions hereof, nor the acceptance of Rent by Landlord with

knowledge of a breach of this Lease by Tenant in the performance of its obligations hereunder, shall be deemed a waiver of any rights or remedies that Landlord or Tenant may have or a waiver of any subsequent breach or default in any of such agreements, terms, covenants and conditions.

24.29. Easements for Air, Light and View.

Tenant acknowledges that this Lease does not create, nor will Tenant have, any express or implied easements for, or other rights to, air, light or view over or about the Premises.

24.30. Joint and Several Liability.

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

24.31. Rules of Interpretation.

Except as otherwise expressly provided in this Lease, the following rules shall apply hereto: (i) the singular includes the plural and the plural includes the singular; (ii) "or" is not exclusive and "include" and "including" are not limiting; (iii) a reference to any agreement or other contract includes any permitted supplements and amendments; (iv) a reference in this Lease to a section or exhibit is to the section of or exhibit to this Lease unless otherwise expressly provided; (v) a reference to a section or Section in this Lease shall, unless the context clearly indicates to the contrary, refer to all sub-parts or sub-components of any said section or paragraph; (vi) words such as "hereunder", "hereto", "hereof", and "herein", and other words of like import shall, unless the context clearly indicates to the contrary, refer to the whole of this Lease and not to any particular clause hereof; (vii) the headings of the articles or sections and the numbering or position thereof are for convenience only and shall not in any way be deemed to affect the meaning of this Lease; (viii) a reference in this Lease to a "person" or "party" (whether in the singular or the plural) shall (unless otherwise indicated herein) include both natural persons and unnatural persons (including, but not limited to, corporations, partnerships, limited liability companies or partnerships, trusts, etc.); (ix) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP; and (x) any reference in this Lease to a "business day" shall include each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which national banks in Los Angeles are closed.

24.32. Survival.

Notwithstanding anything to the contrary contained in this Lease, the provisions (including, without limitation, covenants, agreements, representations, warranties, obligations and liabilities described therein) of this Lease which from their sense and context are intended to survive the expiration or sooner termination of this Lease shall survive such expiration or sooner termination

of this Lease and continue to be binding upon the applicable party including, without limitation, any indemnity and defense which arise due to an occurrence which occurred prior to the termination of this Lease or any obligation of either party to pay money to the other and any audit or review rights granted in connection therewith.

24.33. Exhibits.

The exhibits referred to in, and attached to, this Lease are hereby incorporated in full by reference. Unless otherwise expressly provided in the exhibit or the body of this Lease, in the event of any conflict or inconsistency with the provisions contained in the body of this Lease and the exhibits, the provisions contained in the body of this Lease shall control.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed on the date set forth below.

LANDLORD:

WALT DISNEY WORLD CO.,  
a Florida corporation

By: /s/ Cynthia Harriss

-----  
Printed Name: CYNTHIA HARRISS  
Title: President  
Date of Execution: 6/21/01

TENANT:

BUILD-A-BEAR WORKSHOP, INC.  
a Delaware corporation

By: /s/ Maxine Clark

-----  
Printed Name: MAXINE CLARK  
Title: President/CEO  
Date of Execution: 6/17/01

EXHIBIT A

SITE

[Attached]

A-1



[FIRST FLOOR PLAN]

First Floor Plan  
Architectural Lease Outline Diagram  
SCALE: 1" = 20'-0"

ELKUS / MANFREDI  
A R C H I T S C T S L T D  
Project Number: 97068.00  
Date: 18 October 2000

Floor [WALT DISNEY IMAGINEERING LOGO]  
Service Level  
Esplande Level  
Upper Level  
Total

[SECOND FLOOR PLAN]

Second Floor Plan  
Architectural Lease Outline Diagram  
SCALE: 1" = 20'-0"

ELKUS / MANFREDI  
A R C H I T S C T S L T D  
Project Number: 97068.00  
Date: 18 October 2000

Floor  
Service Level  
Esplande Level  
Upper Level  
Total

[WALT DISNEY IMAGINEERING LOGO]

EXHIBIT B

TENANT DESIGN AND CONSTRUCTION STANDARDS

This Exhibit B includes the attached (i) Tenant Submissions, (ii) Construction Rules and Regulations and (iii) Design Criteria.

[Attached]

B-1

EXHIBIT "B"

PART 1

TENANT SUBMISSIONS

LEASE ATTACHMENT - SPACE TENANTS

TENANT SUBMISSIONS

The following is an outline of tenant submission requirements for Downtown Disney at The Disneyland Resort.

GENERAL CRITERIA: LANDLORD'S PLAN REVIEW & APPROVAL

All tenants must engage an architect and an engineer registered in the State of California for preparation of their submittals and must notify the Development Manager of their names, addresses, and phone numbers immediately upon receipt of the Design Package. Submittals must bear both the California registered architect's and engineer's title block with their names and addresses. Plans prepared by anyone other than registered professionals will be rejected.

All elements of tenant submittals as outlined below must be submitted to the landlord as a complete package. Partial submittals will not be accepted and will be rejected without review. Landlord approval must be received prior to submission of any documents to the City of Anaheim.

All meetings, work sessions and presentations will be held at the offices of the Development Manager in California. If for any reasons meetings are required outside of the above referenced offices - travel and associated expenses will be the responsibility of the tenant. Such expenses will be reimbursed to the landlord within (30) thirty days of receipt of the landlord's invoice by the tenant.

Each tenant is responsible for submitting plans and must pay all required fees to the appropriate City of Anaheim agency for review, approval and issuance of necessary permits and/or variances. In addition, the tenant is required to schedule and attend meetings and presentations with city officials as needed. All meeting with the City of Anaheim must be schedule and coordinated with the Landlord's Development Manager. The landlord is not responsible for any delay or costs associated with tenant's failure to supply complete information, to follow the procedures to submit to the appropriate authorities.

All plan submission and inquires for the landlord shall be directed to the attention of:

Rob Robinson, Development Manager  
Walt Disney Imagineering  
1401 Flower Street  
Glendale, CA 91201

CHANGES AFTER FINAL PLAN APPROVAL

After the landlord's approval of the Final Plans, no changes shall be made without the prior approval of the landlord. However, in the course of construction, tenant may make such changes in, on or about the building as may be required as a result of "as-built" conditions, provided they are approved in advance and in writing by the landlord's Development Manager Downtown Disney.

#### EXTENT OF LANDLORD'S PLAN REVIEW AND/OR APPROVAL

The landlord's plan review and/or approval does not relieve tenant of responsibility for compliance with Lease documents, field verification of dimensions and existing condition, discrepancies between final working drawings and as-built conditions of tenant's space or pad site, and coordination with other trades and job conditions. No responsibility for proper engineering, safety and/or design of facility is implied on the part of landlord by this plan approval. In addition, tenants shall have sole responsibility for compliance with all applicable governing codes, statutes, ordinances and other regulations for all work performed by or on behalf of the tenant at the tenant premises. The landlord's approval of tenant's working drawings or of tenant's work shall not constitute a representation, or certification by that the working drawings or tenant's work are in compliance with said codes, statutes, ordinances and other regulations. In instances where several sets of requirements must be met, the strictest standards shall apply where not prohibited by applicable codes.

#### MODIFICATIONS TO LANDLORD'S WORK

Any proposed modifications to Landlord's work must be reviewed and approved by Landlord and funded by Tenant.

#### CADD

The CADD system for this Project is AutoCadd Release 14. Any costs that the tenant incurs to upgrade to, communicate with, or translate to this version of AutoCadd shall be at the tenants expense. The tenant is responsible for developing all CADD files in conformance with the Walt Disney Imagineering CADD standards. A complete copy of this document will be distributed to the tenant at the Design Conference.

#### TENANT DESIGN PACKAGE

Upon execution of the Lease, the landlord shall furnish the tenant with a Tenant Design Package consisting of the following:

- Part I : Tenant Design Criteria (this Document)
- Part II : Specific Tenant Information (L.O.D./Concept Information)
- Part III: DLR/Resort Construction Policies
- Part IV: Applicable Mitigation Measures/Conditions of Approval/Specific Plan

#### PROJECT MILESTONES

Durations vary based on tenant size. Large Space Tenants may be required to follow the submission schedule outlined under "Pad Tenants" due to the complexity and size of the tenant fit-out. Consult the Development Manager for further information. A Milestone Schedule will be prepared as an exhibit to the Lease. Tenants shall comply with all specified durations and key schedule milestones as not to delay the project.

## DESIGN CONFERENCE

A conference must be held between the tenant's architect and engineer and the landlord's Development Manager to review the Design Criteria and all procedures and schedules prior to Schematic Design.

## PHYSICAL-ON SITE INSPECTION

During plan development and when appropriate prior to final construction document submission, the tenant or his qualified representatives shall make a physical on-site inspection of the site/demised premises to verify the as-built conditions if applicable, utility locations, and physical dimensions. The landlord will not be responsible for as-built conditions differing from or in conflict with Contract Documents, Lease Outline Drawings, Tenant Design Package, and the Tenant Design Criteria. The tenant's architect and/or the tenant's engineers are required to contact the Development Manager Prior and subsequent to visiting the site. It is required that hard hats and proper footwear be worn at all times.

## SUBMISSION REQUIREMENTS:

### Schematic Design Phase

All tenants should refer to the Submission Schedule and the Milestone Schedule distributed at the Design Conference for specific durations and number of meetings, work sessions and presentations.

The purpose of this phase is to acquaint the landlord with the tenant's design intentions and to agree on a design direction. During this Phase the tenant will begin to coordinate the tenant design with the design criteria, and develop the design concept. Conceptual ideas for the tenant's exterior and interior finishes are required in the Schematic Design presentation. Signage must also be presented during this phase.

The tenant shall schedule with the Development Manager all meetings, presentations to the landlord of the Schematic Design Materials. All work sessions and presentation materials will be shipped and received in the landlord's office (1) one week prior to each presentation and will be reviewed by the Development Manager.

The tenant shall simultaneously with each design presentation submit to the landlord one (1) set of full size and (1) set of half size reproducible drawings; one (1) set of color prints or photographs if applicable, and one (1) set of presentation boards showing the intended design, characters and finishes of the tenant's premises and storefront. In addition the landlord will provide a distribution list to the tenant so that further sets of plans may be distributed as required.

Each Schematic Design presentation shall include the following information at a minimum in a 30" x 42" format, dry-mounted on 1/4" foam core boards - template provided by the landlord:

- A. Image Boards - These images will convey design intent and can include sketches, details, materials and design precedents.
- B. Conceptual Renderings - color depicting at least two (2) interior views and two (2) exterior views. One exterior view shall be as viewed at night.

- C. Floor plans of all floors(scale: 1/8" = 1'-0)- in color. Indicating interior design, display, and space planning concept, including fixture layout. Restaurants should also include kitchen layouts and interior and exterior seating layouts. In addition, the esplanade level plan should illustrate a zone of Area Development in front of the tenant space of approximately fifteen(15) feet depicting any proposed alterations to the landlord's landscape plan and fifteen(15) feet in front of any exterior seating areas.
- D. Cross sections (scale: 1/8" = 1'-0")
- E. Preliminary exterior elevations (scale: 1/4" = 1'-0")
- F. Preliminary interior elevations including: storefront, counter, and partition elevations and sections (scale: 1/8" = 1'-0").
- G. Sample board consisting of materials and color chips firmly applied to a 30" x 42" form core board(s). All samples must be clearly labeled.
- H. Preliminary Outline Specifications.
- I. Interior and Exterior Lighting Plans (scale 1/8" = 1'-0").
- J. Summary of project's compliance to Specific Plans requirements, Mitigation Measures and Conditions of Approval.
- K. Schematic drawings of all proposed wall signage and blade signage (1" = 1'-0"); indicating location size, materials, color, logo and text.
- L. Schematic drawings of all proposed awnings (1" = 1'-0"); indicating location, size, materials, color, logo and text.
- M. Schematic drawings of any other environmental graphic or iconographic elements (1" = 1'-0"); indicating location, size, materials, color, logo and text.

Schematic Design Approval:

After receipt of final Schematic Design Plans, the landlord will return to the tenant one set of prints with its comments, modifications, and/or approval. If the plans are returned to the tenant without an approval by the landlord, the tenant shall revise plans and resubmit a revised package indicating all changes bubbled and listed as an addendum addressing the landlord's comments.

One (1) set of approved Schematic Design Plans will be stamped, signed and dated by the Development Manager on behalf of the landlord and returned to the tenant along with a notice to proceed.

The approved Schematic Design Plans and notice to proceed shall be returned to the tenant and shall serve as the basis of the Contract Documents, but approval of Schematic Design Plans does not guarantee approval of the Contract Documents.



Contract Document Phase:

The purpose of this phase is the development of the Contract Documents for the proposed space. Refer to the Milestone Schedule received at the Design Conference for all durations of submissions and work sessions. All drawings in the Construction Document Phase should be at a scale as specified below. Exceptions may be made at the discretion of the landlord for tenants whose space is sufficiently large to make drawings at this scale unwieldy.

The tenant shall schedule with the Development Manager all submissions, work sessions, and meetings with the landlord relating to the review of Contract Documents. All submission and work session materials will be shipped and received in the landlord's office (1) one week prior to each meeting and will be reviewed by the Development Manager.

For each submission the tenant shall submit to landlord one (1) set of full size, one (1) set of half size reproducible drawings and one (1) print set of final drawings prepared by an architect and an engineer registered in the State of California. The final submission of plans shall be wet scaled by the above noted professionals. The Contract Documents shall be in strict compliance with the Tenant Design Criteria and specifications contained herein and in Parts II-IV, the Lease, and the comments on the approved Schematic Design Plans. In addition the landlord will provide a distribution list to the tenant so that further sets of plans may be distributed as required.

Each Contract Document Submission shall include the following information at a minimum:

- A. Floor plans of all floors (scale: 1/4" = 1'-0"). The esplanade level plan should include delineation of fifteen (15) feet of Area Development in front of the store. Plans should indicate storefront; counter and partition construction by tenant; materials; samples of colors and finishes; location of partitions and type of construction; doors by tenant; toilet room locations; and placement of fixtures and equipment. All restaurants shall indicate all interior and exterior seating layouts and delineate fifteen (15) feet of Area Development in front of the exterior seating areas.
- B. Reflected ceiling plan (scale: 1/4" = 1'-0"). Indicating all suspended ceiling, light fixtures, sprinklers, HVAC grills, ducts and partitions.
- C. Storefront elevations and details (scale: 1/2" = 1'-0")
- D. Cross Sections (scale: 1/4" = 1'-0")
- E. Interior elevations including: storefront, counter, and partition elevations and sections (scale: 1/4" = 1'-0"). Including graphics, display cases, signage, materials and color of finishes.
- F. Sample board consisting of materials and color chips firmly applied to a 30" x 42" foam core guard(s). All samples must be clearly labeled.
- G. Interior and Exterior, Fixtures and Finishes mounted on boards -- including sample mock-ups, drawings/catalog cuts of all Fixtures, Furnishing and Equipment and exact mounting details, including color and finish.
- H. Electrical drawings (scale: 1/4" = 1'-0")
- I. Plumbing Drawings (scale: 1/4" = 1'-0")

- J. HVAC drawings (scale: 1/4" = 1'-0")
- K. Fine protection drawings (scale: 1/4" = 1'-0")
- L. Interior elevations, sections, and details sufficient for construction
- M. Interior Finish Schedule
- N. Drawings must indicate connected electrical loads, weight of heavy equipment cases, etc.
- O. Tenant Data Sheets indicating the tenant utility load demands, project solid waste generation (nature and amount) and waste prevention plans and recycling strategy.
- P. Roof Plans
- Q. Special Systems Drawings (e.g. Satellite dishes, broadcast requirements, etc.)
- R. Structural Drawings and Details (scale: 1/4" = 1'-0")(if applicable)
- S. Interior and Exterior Lighting Drawings (scale: 1/4" = 1'-0"), including keyed plan to lighting specifications
- T. Specifications.
- U. Written verification (Standard A-100 sheet) of all mitigation measures, conditions of approval and specific plan requirements.
- V. Final fabrication drawings of all proposed wall signage and blade signage(1" = 1'-0"). Indicating final location(s), size, materials, color, logo, text and other fabrication requirements.
- W. Final fabrication drawings of all proposed awnings and umbrellas (1" = 1'-0"). Indicating location(s), size, material, color, logo and text.
- X. Final fabrication drawings of any other approved environmental graphic and iconographic elements (1" = 1'-0"). Indicating location(s), size, materials, color, logo, text as well as other fabrication requirements.

#### Contract Document Revisions and Approval Letter

After review of Contract Documents, landlord shall return to tenant one (1) set of prints with its modifications and comments. Comments made by the City of Anaheim shall also be incorporated into the documents by the tenant and reissued as required.

The tenant shall revise plans and resubmit a complete package with all changes bubbled and listed as an addendum to landlord for approval - refer to the Milestone Schedule for duration of submission, review and approvals.

One (1) set of approved Contract Documents shall be stamped, dated and signed by the Development Manager on behalf of the landlord and sent to the tenant along with a letter of approval. The Contract Documents as approved by the landlord shall constitute the actual set of drawings and specifications used for construction.

DESIGN REVIEW PROCESS  
SPACE TENANTS

- A) Sign Lease/LOI
- B) Design Conference  
(Tenant and Landlord)
- C) Interim Work session  
(Schematic Design)
- D) Delivery of Presentation Materials  
(Tenant delivers 1 week prior to 95% Schematic Presentation)
- E) 95% Schematic Presentation  
(Tenant, DTD Sr. Management)
- F) Revise and Resubmit 100% Schematic Design
- G) 100% Schematic Design Presentation  
(Tenant, DTD Sr. Management, Disneyland Sr. Management)
- H) Comments from Schematic Design Presentation  
(Landlord's Architect, Subcontractors and Sr. Management)
- I) Interim Worksession  
(Design Development)
- J) 35% Package Submittal to City of Anaheim  
(Landlord's Project Manager and Tenant)
- K) 65% Package Submittal to City of Anaheim  
(Landlord's Project Manager & Tenant)
- L) Comments from Landlord and City of Anaheim
- M) 100% Contract Document Submittal to Landlord
- N) Final Comments from Landlord (if required)
- O) FINAL PLAN APPROVAL
- P) 100% Package Submittal to City of Anaheim  
(Landlord's Project Manager & Tenant)

EXHIBIT "B"

PART 2

CONSTRUCTION RULES AND REGULATIONS

CONSTRUCTION RULES & REGULATIONS  
SPACE TENANTS

1. GENERAL

1.1. COMPLIANCE

Tenant's contractors must comply with all applicable laws, rules, regulations and directives; including the Disneyland Resort Specific Plan.

1.2. SPECIAL CONDITIONS

The Disneyland Resort operates twenty-four hours per day, seven days per week. The resort's guests have high expectations for a pleasant and unique experience, without undue distraction. Contractors must consult continuously with WDI Construction Management regarding the scheduling of activities such as:

- a. deliveries of equipment and supplies
- b. arrival and departure of construction workers
- c. construction activity that generates noise, vibration, bright lights or visual distractions
- d. safe passage of tourists throughout construction zones when applicable

1.3. COMMUNICATION WITH GUESTS

Landlord will be responsible for all communication with guests of The Disneyland Resort.

2. VISUAL INTRUSION

Visibility of cranes and rigging from within the theme park or from the main entrances to the hotels is of great concern to the Landlord. Among the mitigation measures which may be required are:

- a. selection of equipment that can be lowered out of view when not in use;
- b. placement of equipment so as to minimize visibility;
- c. orientation of equipment (e.g. the boom of a tower crane) when not in use so as to minimize visibility;
- d. themed construction fencing in guests areas;
- e. elimination of marking lights on the equipment except as required to comply with safety regulations;

- f. aiming and shielding of work lights on equipment to minimize glare;  
and
- g. elimination of flags, banners and other conspicuous identification  
(except as required by applicable Landlord for safety)

### 3. NOISE INTRUSION

#### 3.1. Daytime Noise

Limit daytime noise generation to avoid distracting guests inside Disneyland or interfering with Disneyland entertainment and operation. Comply with The Disneyland Resort Specific Plan regarding acceptable noise levels at the perimeter of the construction site. Among the mitigation measures which may be required are:

- a. use equipment engineered to reduce sound (e.g., mufflers on internal combustion engines and sound isolation cases);
- b. use construction techniques that reduce sound ( e.g., drilling vs. Driving of piles);
- c. schedule work for periods when the ambient noise in Disneyland is projected to be high and noise from outside the theme park is unlikely to be heard;
- d. suspend work during periods identified by Landlord as particularly sensitive; and
- e. schedule work for periods when Disneyland is not in operation, while also considering the issue of night time noise.

### 4. VIBRATION

Limit vibration caused by construction activities which may disturb or distract theme park and hotel guests. Among the mitigation measures which may be required are:

- a. use equipment engineered to reduce vibration;
- b. use construction techniques that reduce vibration (e.g., drilling vs. Driving of piles);
- c. suspend work during periods identified by Landlord as particularly sensitive; and
- d. schedule work for periods when Disneyland is not in operation.

## 5. CONSTRUCTION TRAFFIC RESTRICTIONS

All construction traffic will be scheduled and regulated by the Landlord.  
See 11. CONSTRUCTION TEMPORARY UTILITIES, PARKING AND MARSHALING AREA.

### 5.2. Damage and Debris

In order to avoid damaging or defacing roadways, tracked vehicles may not be driven on any paved surface. Use of vehicle wheel wash stations will be implemented to limit the movement of mud, dirt and debris onto roadways. Contractors will be responsible for nightly cleaning of any dirt or mud accumulated on public roads.

## 6. CONSTRUCTION SITE ISOLATION

### 6.1. Waste Disposal

Materials and debris will not be left in guest view or in guest-accessible areas. The following measures will be required of all contractors:

- a. proper storage of materials within secured construction perimeters;
- b. daily clean-up, separation and placement of trash in suitable containers; and
- c. regular removal of trash containers to authorized waste disposal facilities.

### 6.2. Leakage

Leakage of mud, water or construction liquids under construction fences and into guest areas, including parking lots, will be prevented by appropriate measures such as internal site drainage, sandbags or other suitable barriers.

## 7. AIR QUALITY

All contractors shall strictly comply with the requirements of the South Coast AQMD.

## 8. SPECIFIC ONSITE CONSTRUCTION RULES AND REGULATIONS

The Tenant. Tenant's contractors and their subcontractors shall observe the Rules and Regulations contained herein and such further rules and regulations and amendments and additions as may from time to time be made by the Landlord in its sole and absolute discretion and notified in writing to the contractor.

## 8.1. Construction Work General

- a. Prior to commencement of bid process, the Tenant, Tenant's contractors and their subcontractors should become familiar with the Rules and Regulations herein and Lease terms applicable to construction. The Rules and Regulations make specific reference to the procedures to be followed with respect to all construction to be performed. Contractors are responsible for compliance with the requirements of all governmental authorities having jurisdiction, procurement of all permits (including Certificate of Occupancy) and permissions and payment of all fees and charges relating thereto except as part of contract conditions.
- b. All work shall be performed in accordance with working drawings and specifications as approved by the Landlord in writing. No exterior changes to such drawings and specifications including any changes required by the City or other governmental authorities having jurisdiction are permitted without the written approval of the Landlord.
- c. Prior to commencement of work, the Landlord shall have provided the Tenant with written notice that such work can proceed, and the Tenant shall have provided the Landlord with:
  - The names of all contractors and subcontractors proposed to be used for the performance of work, and the Landlord shall have notified the Tenant of its approval thereof in writing.
  - A construction schedule showing the timetable for the progress and completion of work, and the Landlord shall have notified the Tenant of its approval thereof in writing.
  - Certificates of Insurance, including Builder's Risk Insurance, providing evidence satisfactory to the Landlord that the Tenant's contractors have effected, as of the date of commencement of performance of work, all insurance coverage in the amounts and of the types required to be maintained by Tenant and Tenant's contractors under the terms of the Lease.
  - Evidence satisfactory to Landlord, that arrangements have been made for removal of Tenant's contractor's refuse.
- d. Subject to the terms of the Lease, Rules and Regulations contained herein and such other conditions as may be imposed by the



Landlord from time to time, Tenant and its designers, engineers, suppliers, contractors and subcontractors shall be allowed reasonable access to and non-exclusive use of the Premises for the purpose of performance and inspection of Tenant's Work. The Landlord's contractor and its subcontractors shall cooperate with the Tenant and its contractors who require access to and use of the Premises in order to undertake any work that is required to be undertaken contemporaneously with or subsequent to completion of the Landlord's Work.

- e. The Tenant's contractor and its subcontractors shall fully familiarize themselves with the actual site conditions of the area where work is to be performed prior to commencement of their work as such site conditions may from time to time vary from the conditions shown in the drawings and other information supplied Tenant by the Landlord. The Landlord shall not be responsible for any costs incurred by Tenant's contractor as a result of any such variances.
- f. All work shall be of the highest quality, performed by persons trained and skilled in their respective trade and with materials which are new and the best of their respective kinds, and shall be performed in accordance with all applicable Laws, building codes and regulations.
- g. On or about completion of Landlord's Work, tenant's designers shall perform a final inspection of the same and shall prepare a punch list. The Landlord's contractor shall use due diligence to complete all reasonable punch list items. In addition, prior to Tenant's move-in, the Tenant's contractor shall have provided the Landlord with a copy of all city and other governmental permits required to be obtained prior to occupancy of the Premises. Additionally, Landlord shall have a representative present at "move-in" of the Tenant to make note of any problems and provide any corrections feasible at the time.

#### 8.2. Performance of the Work

- a. The Tenant's contractor shall ensure that its employees and subcontractors protect the Premises against damage resulting from the performance of work and transportation of materials to the Premises. Transportation of all materials in or out of the Premises shall be by means of rubber wheeled dollies, carts or like vehicles, so as not to cut, mark or otherwise damage the floors of the building or the site paving.

- b. The Tenant's contractor shall provide whatever protection is required (rigid insulation and masonite boards taped at the seams) to adequately protect floor and wall surfaces in and about Premises, the corridors, and elevators from damage and marking. Where required, appropriate wall and floor protection will be provided and installed prior to delivery of materials or removal of trash.
- c. The Tenant's contractor shall keep all work areas, both within and about the Premises clean and tidy at all times, removing all rubbish and debris promptly as it occurs. No scrap piles shall be left to accumulate. All rubbish or debris found outside of areas designated for the same shall be removed and disposed of at Tenant's cost. Upon completion of the work, the Tenant's contractor shall promptly remove all rubbish, tools, equipment, and surplus materials from and about the Premises and shall leave such Premises clean and in good condition to the satisfaction of the Landlord. Any cleaning of the Premises, repairs of damage to the Premises, and removal of tools, equipment and surplus materials not undertaken by the Tenant's contractor upon completion of the work shall be undertaken by the Landlord at the Tenant's expense.
- d. Floors shall not be loaded beyond their designed capacity. Premises design live loads can be found in the base building structural drawings.
- e. During the course of the work the Tenant's contractor shall be responsible, to the extent necessitated by such work, for the safety of the Premises, its occupants, and their workmen and shall protect the same as required by good construction practice and law.

### 8.3 USE OF BUILDING SERVICES

The Tenant's Contractor shall make arrangements directly with the Landlord for the work on the site particularly with respect to the following:

- a. Hours of work: 7:00 AM to 7:00 PM Monday through Friday, Inclusive. If Tenant's contractor desires to work outside of these hours, it shall notify Landlord at least 48 hours in advance, and such additional work hours shall be subject to Landlord's approval in Landlord's sole and absolute discretion.

## 9. MAINTENANCE OF HARMONIOUS RELATIONS

The Tenant's contractor is hereby advised that any portion of the Project, or other projects in proximity to the Project may be subject to, and governed by, certain union or trade agreements. It is the policy of Landlord to promote and maintain harmonious relationships in connection with the Project. The Tenant's contractor and its subcontractors and sub-subcontractors shall follow this policy; and shall utilize only qualified persons or organizations in the performance of the work. A qualified person or organization is one: which is not likely to promote labor unrest on the Project; which shall abide by all local, state and federal labor and employment relation rules, regulations and laws; whose financial stability is reasonably assured throughout the duration of the contract; and whose commitments to other projects are not likely to interfere with its ability to perform its portion of the work efficiently and cost effectively. Landlord reserves the right to disapprove, or to require the removal of, any person or organization who is being considered for, or has received, an award to perform all or a portion of the work but has failed to demonstrate the willingness or ability to follow this policy.

## 10. UNION AGREEMENTS

Regardless of the expiration of any collective bargaining agreement during the term of this Lease which may affect Tenant's contractor in any of its activities including, without limitation, with respect to the work or the Project, Tenant's contractor is obligated to man the job and properly and timely perform the work in a diligent manner. Upon notification of expected or actual labor disputes or job disruption arising out of any such collective bargaining negotiations, the expiration of any union or trade agreement or any other cause, Tenant's contractor and its subcontractors and sub-subcontractors shall cooperate with Landlord concerning any legal, practical or contractual actions to be taken by Landlord in response thereto and shall perform any actions requested by Landlord to eliminate, neutralize or mitigate the affects of such actions on the progress of the work and the impact of such actions on the public access to Landlord's facilities. It is Tenant's contractor's obligation, at Tenant's contractor's own cost and expense, to take all steps available to prevent any persons performing the work from engaging in any disruptive activities such as strikes, picketing, slowdowns, job actions or work stoppages of any nature or ceasing to work due to picketing or other such activities, which steps shall include, without limitation, execution of an appropriate project agreement with appropriate unions prohibiting all such activities on or about the Project. Notwithstanding any such occurrences, Tenant's contractor shall not be relieved of its obligation to man the job and properly and timely perform the work in a diligent manner.

11. CONSTRUCTION TEMPORARY UTILITIES, PARKING AND MARSHALING AREA

11.1 Utilities

- a. Landlord will provide points of connection of Tenant's contractor's temporary construction needs: power, water, sewer and phones within 100 feet of the Premises.

11.2 Parking

- a. Vehicle access will be generally at Gate L of West Street, or an alternate location depending on the time of construction.
- b. General management may park adjacent to their building pad or lease build out space if other construction activities permit. This shall be at the sole discretion of the Landlord and shall be by permit only.
- c. Trade contractor parking will be off site and is the sole responsibility and cost of that contractor. Tenant's contractor shall bus workmen from the remote site to the construction site at its own expense.
- d. No parking for workers shall be allowed on public streets within the area extending one mile in all directions from the boundaries of the Project (Ball Rd., Walnut St, Katella Ave., Harbor Blvd.).

11.3 Marshaling Area

- a. Deliveries shall come to the Marshaling Yard located near the intersection of Katella at Clementine.
- b. All deliveries to the job site must be scheduled in writing a minimum of 48 hours in advance to Landlord.
- c. Tenant's contractor shall be responsible for coordination of the receipt of goods at this site. Deliveries will then be disbursed to the site. Landlord will staff the yard only for organizing the space and disbursement, NOT for receiving, counting, or authorizing purchase of deliveries.
- d. Deliveries shall be disbursed on an as received basis.
- e. Tenant's Contractor shall coordinate deliveries with the Landlord and comply with all of the rules for deliveries.

EXHIBIT "B"  
PART 3  
DESIGN CRITERIA

DOWNTOWN DISNEY  
Architectural Design Criteria  
Pad Tenants

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SECTION I  
INTRODUCTION

D&C STANDARDS PAD TENANTS

I. INTRODUCTION

GENERAL OVERVIEW/PROJECT DESCRIPTION

The following documents comprise the tenant package:

- Part I: Tenant Design Criteria (this Document)
- Part II: Specific Tenant Information (L.O.D./Concept Information)
- Part III: DLR/Resort Construction Policies

Each tenant and its architect is required by the lease agreement to comply with the intent, scope, and requirements of these documents. The Architectural Design Criteria is intended to encourage design of the tenant space which is both individualized and sensitive to Downtown Disney at the Disneyland Resort as a whole. Tenants should familiarize themselves with the Criteria before the Design Conference, at which time the tenant's questions will be discussed.

The diagrams, details and plans contained in this document are not intended for construction. They are included here for illustrative purposes and to aid in tenant compliance with the Architectural Design Criteria. The landlord's actual configuration and design within the project as constructed, however, may vary in certain aspects from such drawings. In case of deviations between the drawings and criteria, and the landlord's Lease Outline Drawings, the latter shall be considered more accurate. However, the landlord does not guarantee the accuracy of the Lease Outline Drawings and all tenants are required to verify all field conditions.

The purpose of the Tenant Design Criteria is to facilitate the creation of a streetscape of storefronts and feature buildings which contain common elements that lend a sense of order and cohesion to the overall environment. This document is intended to delineate design parameters which permit individual tenant expression within the architectural framework of Downtown Disney. This document may be amended at any time by the landlord as the project progresses. Any amendments will be forwarded to the tenant by the Development Manager.

[DOWNTOWN DISNEY MASTER PLAN]

PROJECT DIRECTORY: TENANT COORDINATION STAFF

The Development Manager will provide coordination among the landlord, the tenant, the tenant's architect, the Executive Architect and other representatives.

1. Development Managers:  
Dev Hawley - Pad Tenants  
Walt Disney Imagineering  
1401 Flower Street  
Glendale, California 91201
2. Architect:  
Clay Benjamin Smook, AIA  
Elkus/Manfredi Architects Ltd.  
530 Atlantic Avenue  
Boston, Massachusetts 02210  
(617) 426-1300-phone  
(617) 426-7502-fax

DOWNTOWN DISNEY BUILDING TYPES

The Downtown Disney Project consists of a variety of building types and classifications. The following is a list of types:

- [ ] Pad Tenants -- These are buildings constructed on pad sites by a third party tenant. Utilities will be brought to the pad only. Specific design criteria and standards for these tenants is included in this manual, and Part II: Specific Tenant Information.
- [ ] Space Tenants -- These are tenants that will occupy space within an existing building or building constructed by the landlord. Services will be stubbed out to the tenant space. Specific design criteria and standards for these tenants are outlined in this manual, Part II.

BUILDING CODE AND CONSTRUCTION INFORMATION

The following is provided as a general guide only and does not release the tenant from complying with all applicable codes and regulations as interpreted by the governing authorities. Answers to specific questions

dealing with the following should be directed to the authority having jurisdiction. Neither the Development Managers nor the Executive Architect will review or interpret code-related questions affecting the design of individual Pad or Space Tenant spaces.

The tenant shall adhere to all applicable codes and ordinances including but not necessarily limited to:

- [ ] Disneyland Resort Specific Plan adopted June 29, 1993 and as amended through October 22, 1996, Mitigation Monitoring Plan & Conditions of Approval
- [ ] All requirements of the City of Anaheim, County of Orange and the State of California
- [ ] The Americans with Disabilities Act
- [ ] California Title 24 - Restaurant tenants shall conform to all applicable Orange County code requirements.
- [ ] SCAQMD Requirements

SECTION II  
ARCHITECTURAL

## II. ARCHITECTURAL

### DOWNTOWN DISNEY AT THE DISNEYLAND RESORT PHILOSOPHY

Downtown Disney will be the hub of the Disneyland Resort in a setting of lush landscape, memorable architecture and electric night time ambiance. It will provide a retail, dining and entertainment experience that complements the intense pace of the theme parks and creates an amenity to the resort hotels. Guests will enjoy Downtown Disney at their own pace, whether they are seeking a destination experience in the evenings or shoulder days of their visit, or an impulse visit on their way to the theme parks and hotels. Some guests will go to relax in the romantic Tivoli-like gardens and shop within a unique retail setting. Others will go to experience the excitement of cutting edge music and entertainment coupled with enticing cuisines from the restaurants and nightclubs.

On opening day, The Disneyland Resort will offer guests a total of 2,300 rooms within three resort hotels. The Disneyland Hotel, The Disneyland Pacific Hotel and the new Disney's Grand Californian Hotel. The Grand Californian Hotel is a 750 room "California Craftsman" style hotel that is located adjacent to Disney's California Adventure and Downtown Disney. Guests choosing to stay at the Grand Californian Hotel will be enthusiastic about using Downtown Disney as a home-base resort amenity during their stay. All three hotels are just a short walk away from the theme parks and offer guests a variety of amenities including swimming pools, banquet and convention rooms, and a wedding chapel. Some hotel dining and retail is located within the Downtown Disney development.

Theme park guests who are staying in nearby hotels visiting both Disneyland and Disney's California Adventure, will enjoy Downtown Disney as a respite from the theme parks during the day and as an exciting entertainment district at night. They will be drawn to the great diversity of entertainment venues, restaurants and shops.

Residents of Orange County will use Downtown Disney as a frequent destination for a "special night out." Locals will elect to visit because of the diversity and quality of the experience, the unique attraction of

## II. ARCHITECTURAL

### DOWNTOWN DISNEY AT THE DISNEYLAND RESORT PHILOSOPHY

Downtown Disney will be the hub of the Disneyland Resort in a setting of lush landscape, memorable architecture and electric night time ambiance. It will provide a retail, dining and entertainment experience that complements the intense pace of the theme parks and creates an amenity to the resort hotels. Guests will enjoy Downtown Disney at their own pace, whether they are seeking a destination experience in the evenings or shoulder days of their visit, or an impulse visit on their way to the theme parks and hotels. Some guests will go to relax in the romantic Tivoli-like gardens and shop within a unique retail [ILLEGIBLE]. Others will go to experience the excitement of cutting edge music and entertainment coupled with [ILLEGIBLE] cuisines from the restaurants and nightclubs.

On opening day, The Disneyland Resort will offer guests a total of 2,300 rooms within three resort hotels. The Disneyland Hotel, The Disneyland Pacific Hotel and the new Disney's Grand Californian Hotel. The Grand Californian Hotel is a 750 room "California Craftsman" style hotel that is located adjacent to Disney's California Adventure and Downtown Disney. Guests choosing to stay at the Grand Californian Hotel will be enthusiastic about using Downtown Disney as a [ILLEGIBLE]-base resort amenity during their stay. All three hotels are just a short walk away from the theme parks and offer guests a variety of amenities including swimming pools, banquet and convention rooms, and a wedding chapel. Some hotel dining and retail is located within the Downtown Disney development.

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[PICTURE]

Disney Quest, the extraordinary state-of-the-art cinema complex and the array of dining possibilities all set in a safe and eclectic environment.

The conventioners at both the Disneyland Hotel Meeting Center and the newly expanded Anaheim Convention Center will be within walking distance of Downtown Disney for a quick break or a relaxing evening after a busy day at the convention.

#### ARCHITECTURAL DESIGN CRITERIA

The following represents the Architectural Design Criteria for Downtown Disney at the Disneyland Resort:

#### RETAIL STOREFRONT ENTRANCES AND DISPLAY ZONE

Tenant paving beyond the lease line is encouraged in a sense to create a welcome mat for the customer. However, all designs will be reviewed on a case-by-case basis. Approval of any design will be installed by the landlord's General Contractor at the tenant's expense.

#### QUEUE ZONES

Queuing Zones are delineated for the tenant on the Lease Outline Drawings delivered to the tenant in Part II. No deviation from the areas indicated will be acceptable without prior approval of the landlord. All stanchions are the tenant's responsibility and shall be removable (not portable); unique designs are encouraged. All stanchions require landlord's approval and must meet all applicable codes.

#### STORAGE AND EQUIPMENT

Tenant storage must be located out of public view. Storage above a ceiling is prohibited. Storage of supplies and trash and other equipment, should be handled in a neat, attractive, and unobtrusive manner which does not detract from merchandise displays, obstruct views, or interfere with natural ventilation. (See specific trash storage, removal and screening requirements in this manual).

Temporary storage and temporary trash accumulation in public areas or in any place visible by the public is prohibited. Open storage of garbage



or trash is prohibited. Trash carts and bins must be covered, and must be emptied before they reach capacity. Specific locations, operations and storage of materials and trash shall be reviewed with tenants on an individual basis by the Operators Representative and the Development Manager. Service area requirements and diagrams are included in the L.O.D. packages issued at or prior to the Design Conference.

#### CLOSURE AND SECURITY

Tenants are responsible for the security of their individual leased premises, and of the merchandise therein. All locations and types of security systems shall be approved by landlord and shall interface with those installed by the landlord. Consult the landlord's architect for specific information on Downtown Disney closure and security. Roll down grills, shutters and gate security systems are prohibited. Landlord-provided security items may not be altered in any way. Visible camera systems are prohibited.

SECTION III  
RESTAURANTS

### III. RESTAURANTS

#### EXTERIOR DINING ZONES

Exterior dining is encouraged in the outdoor spaces, provided landlord approval is received and the area is maintained by the tenant. Exterior Dining Zones shall be as delineated on the Lease Outline Drawing. No deviation from the areas indicated will be acceptable without prior approval of the landlord. The tenant is responsible to ensure conformance with all applicable codes. The number of exterior dining seats shall be as defined by the lease agreement and may not be altered without prior approval by the landlord. All exterior seating areas shall be delineated with a railing, planters or decorative fences that are in conformance with local building codes and approved by the landlord during the design process outlined in this document. Any change in ground plane materials must receive approval from the landlord. Umbrellas and trellis elements over table areas are encouraged and require approval from the landlord during the design process.

#### EXTERIOR DINING FURNITURE

Furniture must be durable. Unique and creative furniture is encouraged. All furniture must meet all applicable codes.

#### EXTERIOR MEZZANINE DINING

The location, area and number of mezzanine dining seats shall be defined by the lease agreement and may not be altered without prior approval by the landlord. Umbrellas over table areas are encouraged and require approval from the landlord during the design process.

#### QUEUE ZONES

Queuing Zones are delineated for the tenant on the Lease Outline Drawings. No deviation from the areas indicated will be acceptable without prior approval of the landlord. All stanchions are the tenants responsibility and shall be removable (not portable). Unique designs are encouraged.

CONDITIONED TRASH AND SERVICE AREAS

All restaurant Pad Tenants will be required to provide adequate conditioned trash and holding areas. See the L.O.D. for locations.

SECTION IV  
INTERIOR LIGHTING  
AND FINISHES

#### IV. INTERIOR LIGHTING AND FINISHES

Tenants shall retain the services of a qualified professional lighting consultant with the expectation of creating dramatic and gratifying illumination of the tenant space.

In order to achieve the ideal lighting effect, mood, intensity and practicality, the following light sources are suggested as a guideline for developing a lighting plan: halogen, incandescent, and metal halide. All light sources shall be warm tone unless there is a clearly defined color concept with a decorative multi-color effect. All such light concepts must be approved by the Landlord.

All retail store illumination must be glare-free. All halogen, incandescent or metal halide down lights should be shielded to minimize glare and adjustable to aim away from external view. Minimal fluorescent lamps should be used either for general or ambient lighting and should be shielded and concealed. All reflectors should be parabolic grid. Suggested light sources are indirect cove lighting, wall sconces, table and floor lamps, illuminated merchandise and or up-lights. Ceiling lights should not be the only source of merchandise lighting.

Locate task and accent lamps in places where they can easily focus on their intended target without creating glare or hot spots.

#### DISPLAY AND ACTIVITY ZONE LIGHTING

Tenants must provide a high level of illumination (30 fc minimum = 100 fc maximum) in storefronts and store entrances during operating hours. Tenants must provide an ambient level of illumination in storefronts and store entrances at all times. All lighting in the Display Zone is to remain on after business hours. Tenant's Display and Activity lighting circuit must be hard-wired to a landlord controlled time clock located in a common area space. Refer to "Mechanical and Electrical Design Criteria" for specific electrical requirements.

#### EMERGENCY LIGHTING

All emergency lighting required by code shall be the responsibility of the Tenant and shall be tied into the Disneyland Resort System. All emergency lighting shall be shielded. All light fixtures shall be submitted to the Landlord for review. All exterior light fixtures must be selected to be consistent with the architectural character of the exterior elevations, and shall not produce glare to adjacent public areas or tenants. No floodlights will be permitted.

#### EXTERIOR LIGHTING LEVELS

Any exterior lighting will be required to be tied into common area communications closets controlled by the landlord. The tenant shall submit plans with control sequences identified to clearly define lights required for emergency egress paths, security lighting, general circulation, and decorative lighting.

Maintenance of any tenant lighting that is to be located outside of the limits of the space leased by the tenant -- but approved for installation by the landlord -- will be the responsibility of the tenant. Installation of this work must be coordinated with the tenant and the Executive Architect.

SECTION V  
SIGNAGE AND  
ENVIRONMENTAL GRAPHICS



#### V. SIGNAGE AND ENVIRONMENTAL GRAPHICS

All signage and environmental graphics and iconographic elements for Pad Tenants will be reviewed on an individual basis. Each Pad Tenant is encouraged to provide major signage and iconographic elements which dramatically express the character of the venue and contribute to the character of Downtown Disney as an entertainment destination. Signage should be brightly illuminated at night. The use of neon is encouraged. Awnings and blade signage similar to those described in the section for Space Tenant are encouraged, however they are not required. Each Pad Tenant shall review Part II documents provided by the landlord. This document includes conceptual elevations/renderings of their building prepared by the Executive Architect for Downtown Disney and suggests signage, graphic and iconographic elements that are deemed important to the landlord from both an urban design and architectural perspective. Innovative and creative design solutions are strongly encouraged. Individual expression of the tenant's venue specific to Downtown Disney at The Disneyland Resort is encouraged. Exact replication of buildings and designs used elsewhere in the United States and abroad are not encouraged. The landlord shall have exclusive rights to reject any proposal.

The tenant is responsible for complying with all applicable codes and regulations as interpreted by the governing authorities. This includes, but is not necessarily limited to, the Specific Plan which has significant limitations on signage facing public streets and adjacent residential properties. Copies of the Specific Plan are available from the Development Manager.

SECTION VI  
MECHANICAL, ELECTRICAL,  
PLUMBING AND FIRE PROTECTION

VI. MEP AND FIRE PROTECTION:

MECHANICAL CRITERIA:

GENERAL

The tenants for buildings on the west side of West Street are responsible for providing all HVAC equipment and systems and access for a complete stand alone installation. For Building B on the Eastside of West Street the landlord has provided chilled water and hot water valved and capped connections in the lower level for the tenants use. The tenant should refer to the Lease Outline Diagram for the size, capacity and location of these HVAC services. All HVAC systems must be designed and installed in conformance with Disney Standards provided by the landlord. The landlord will install all meters at the tenants expense.

The tenants HVAC design engineer preparing the Contract Documents must be a licensed Professional Engineer in the State of California. The tenant's engineer is responsible for designing all systems to comply with all Title 24 requirements and must submit all appropriate documentation as required.

DESIGN CONDITIONS

The systems provided by the tenant are to be sized to maintain inside conditions of 75(degrees) F dry bulb in the summer and 72(degrees) F in the winter. Calculations are based on outside air conditions of 92(degrees)FDB, 71(degrees)FWB in summer and 37(degrees)F in winter.

The following allowances have been made in allocating the cooling and heating capacities of the landlord provided chilled and hot water services:

- - Occupants: 1 person/50 sf.; 250 Btuh sensible 200 Btuh latent
- - Lighting & Equipment: 6.0 watts/sf.
- - Outside air: minimum of 20 cfm/person

- - Heating: 20 Btuh/sf.
- - Chilled water temperature: 42(degrees)F supply; 54(degrees)F return
- - Heating water temperature: 180(degrees) supply; 160(degrees) return
- - In general - Retail spaces: 300 sf./ton maximum  
Restaurant spaces: 200 sf./ton maximum

If these capacities are inadequate to meet the specific tenant needs, the tenant is to notify the landlord's engineer for review prior to proceeding with design.

#### TENANT RESPONSIBILITY

If the tenant requires heating, cooling or ventilation systems beyond the scope of the services provided they are to submit equipment type, use, size and intended locations to the landlord for review and approval. This is especially true for anything requiring penetration of the exterior walls or roof. Each tenant is required to submit standard design submittal forms and final design comments for approval by the landlords representative.

All tenants mechanical equipment must be screened from public view and painted to match roof, minimizing their appearance to Hotel guests. Acoustic information must be provided to the landlord to assure minimal noise intrusion.

Tenants with commercial kitchens are required to meet the following standards:

- - Grease hoods are to be ducted to an upblast fan with 10 gauge welded stainless steel exhaust duct sloped as per code to the hood and insulated with calcium silicate or mineral wool. Provide removable clean out access panels at each change of direction and every 10 ft. for cleaning and maintenance. A stainless steel pipe and nozzle system inside the grease ducts for frequent wash down is a requirement of Disney with details of construction available.

- - Dishwasher exhaust is to be aluminum or stainless steel and sloped back at 1/4"/ft. to the dishwasher connection.
- - Any exhaust vent over a charbroiler or an open wood burning appliance must be ducted to an electrostatic precipitator before discharging to the atmosphere.
- - Make-up air equal to 80% of the exhaust air quantity is to be ducted to the hoods where possible in standard sheet metal with 1-1/2" fiberglass duct wrap. The make-up air fan is to be interlocked with the grease exhaust fan to operate simultaneously.
- - Tenant will be responsible to obtain AQMD approvals

#### SHEETMETAL & EQUIPMENT CONSTRUCTION SPECIFICATIONS

All ductwork is to be galvanized sheet metal except as noted above in accordance with the latest ASHRAE and SMACNA standards. All rectangular supply and return air ductwork is to be lined for thermal and acoustical reasons. All exposed ductwork is to be spiral not snap-lock.

Provide manual volume dampers or other balancing devices at each air outlet and submit a final test and balance report to the landlord for review.

The tenant is required to submit all proposed equipment shop drawings to the landlord for approval prior to purchasing the equipment. Pipe all condensate drains with a trap to an approved drain outlet.

#### ELECTRICAL CRITERIA:

##### GENERAL

All electrical systems shall be designed and installed in accordance with 1995 California Edition of the National Electrical Code, Title 24 and the City of Anaheim.

#### LANDLORD RESPONSIBILITY

The landlord has provided empty conduit from the main electrical room to the tenants' pad. The tenant's electrical contractor shall install the feeder conductors back to the distribution center provided by the landlord. If necessary, the feeder circuit breaker shall be changed, at the tenant's expense to suit tenant's needs. The landlord shall provide and install at the tenants expense an energy demand meter in the landlord's main distribution center.

Typical Pad tenants (non-food-related tenants) will be allowed a connected load of 20 watts per square foot maximum unless otherwise approved by the landlord. Typical restaurant tenants will be allowed a connected load of 30 watts per square foot maximum unless otherwise approved by the landlord. If the maximum allowable load is surpassed, the tenant, depending on the availability of increased service, shall be responsible for all cost associated with the upgrade. The tenant must forward all electrical information to the landlord's representative (including type of lighting, wattages, all motor horsepower, etc.) In order to allow the tenant coordinator to check the actual connected load and forward the same to the electrical engineer.

#### TENANT RESPONSIBILITY

All electrical work beyond the tenant's empty service entrance conduit, including, but not limited to, the transformer, switches, panels, etc., shall be at the sole cost and responsibility of the tenant and shall be rated for available fault current.

Each tenant shall have one main device only. Tenants requiring an increase in service greater than existing shall consult with the landlords architect for available fault current and service provisions. All new loads and capacities to be reviewed by Disneyland Resort Energy/Utilities Department. The tenant shall be responsible for installation.

All storefront and interior reflected ceiling plans and specifications shall indicate all illuminating devices when submitted to the landlord's representative for approval. Copies of catalog cuts of fixtures shall be submitted to expedite approvals and keyed to the lighting reflected ceiling plans.

All showcases and display cases must be adequately lit and ventilated. Direct visual exposure of incandescent lamps and/or fluorescent tubes is not allowed.

To retain and protect the visual environment of the area for the benefits of all tenants, each individual tenant shall control the brightness of the tenant's lighting fixtures which shall be subject to the approval of the landlord's representative. Use of PVC conduits shall not be allowed. All exposed low voltage cable must be Teflon-coated or coated with a similar material acceptable for use in return air plenums in compliance with the local and state codes. The transformer will not be permitted to be mounted above the ceiling.

All distribution equipment, panelboards, disconnects, transformers, etc. shall be labeled per the landlord's requirements.

#### PLUMBING CRITERIA:

##### GENERAL

The tenant's plumbing contractors will not be allowed to prepare working drawings unless they are licensed professional engineers in the State of California.

##### DESIGN CONDITIONS

Domestic cold and hot water pipe sizing shall be based on Hunter's fixture unit method as described in American Society of Plumbing Engineers (ASPE) Handbook.

Sanitary waste and vent pipe sizing shall be based on the Uniform Plumbing Code.

Natural gas pipe sizing shall be based on 100 percent connected load and a maximum of .5" water column pressure loss for the piping runs within the tenant space. Proper allowance shall be included for length of pipe and fitting loss.

#### TENANT RESPONSIBILITY

The Tenant is responsible for the design, furnishing, and installation of complete plumbing systems, as required, to suit the tenant's requirements.

The Tenant's contractor shall furnish and install all piping, fitting, valves, and associated components to accommodate the tenant's plumbing design as follows:

- - Domestic cold water
- - Domestic cold water meter
- - Domestic hot water
- - Domestic water heater (electric or hydronic)
- - Sanitary waste and vent
- - Natural gas
- - Plumbing specialties such as floor drains, trap primers and hose bibs
- - Piping insulation
- - Plumbing fixtures
- - Plumbing equipment

#### PLUMBING SPECIFICATIONS

The tenant shall provide plumbing fixtures as indicated on architectural and plumbing drawings. Each fixture, outlet, and piece of equipment shall be separately trapped, using type and size of trap required by the plumbing code. All traps shall have clean-outs. All wall-mounted devices shall have chair carriers which shall be securely bolted to the floor slabs in accordance with the manufacturer's recommendations. Plumbing fixtures shall be Kohler, Eljer, Sloan or American Standard. Final decision as to type of fixture submitted being equal to that specified shall rest with the tenant's architect. Faucets and fittings shall be Chicago, T & S Brass, Royal Brass, or an approved equal. Flush



valves shall be Sloan Royal.

Clean-outs shall be provided in all sanitary and storm drain piping at changes in direction, at the base of stacks, and as required by the local authorities. Clean-outs shall be located within 50 feet of each other for piping 4" diameter and smaller, and not more than 100 feet apart for larger piping sizes. Clean-outs shall be of the same size as the piping installed up to 4" diameter. For larger piping sizes, a clean-out of a minimum of 4" diameter shall be provided.

Provide water hammer arresters for fixtures with automatic flush valves, pressure-assisted flush tanks, and quick-closing valves; also provide at all quick-closing lavatory valves, such as some metering types.

All equipment and fixtures requiring connections to the sanitary system shall be provided with individual traps with integral clean-outs.

Furnish access panels and doors for installation in walls and ceilings at locations indicated on drawings and as required to permit access for adjustment, removal, or replacement and servicing of all valves and equipment.

Firesafing and smoke seal is required where all piping conduits leave or enter all vertical shafts, at all floors, and through all walls above or below all Class-A acoustical tile ceilings, and all spaces without any type of finished ceiling.

All Pad Tenants are required to make provisions for containment of rain water on their roofs (10-year storm capacity).

#### FIRE PROTECTION CRITERIA:

##### DESIGN CONDITIONS

The tenant shall obtain hydrant flow test information, satisfactorily to NAPA and the Factory Mutual Insurance underwriter's requirements, and in conformance with the timing and requirements of the landlord.

The systems shall be hydraulically designed and supported by hydraulic calculations. Sprinkler working drawings and complete hydraulic calculations shall be provided for approval showing the proposed layout of piping based on hydraulic calculations.

A 10 psig cushion shall be hydraulically designed into each system.

All sprinkler heads should be either 165(degrees) F-rated or 212(degrees) F-rated as noted, with an orifice diameter of 1/2". Sprinkler spacing shall not exceed a maximum spacing of 130 SF per head.

The systems shall be designed in complete accordance with and defined NFPA and as required by Factory Mutual underwriter the City of Anaheim Fire Department and Disneyland Resort Fire Department. Systems shall be designed to provide for the minimum required water densities over the most hydraulically demanding rectangular area.

#### TENANT RESPONSIBILITY

The tenant is responsible for the design and installation of a complete automatic wet sprinkler system as required to suit the tenant's particular ceiling and space layout.

The contractor shall furnish and install all piping, fittings, valves, sprinkler heads, and associated components to accommodate the tenant's sprinkler design. The tenant is responsible for all costs associated with: City inspection of systems during installation, Factory Mutual review as well as Factory Mutual review and approval.

The tenant will install a fire sprinkler system shall be designed to meet Ordinary Hazard Group 1 occupancy at .15 GPM/SF over the hydraulically remote 2500 SF area (or the entire area if less than 2600 SF).

All sprinkler systems shall be installed in conformance with the City of Anaheim Fire Department, Factory Mutual and NFPA 13.

The tenant's sprinkler contractors shall not be allowed to prepare working drawings unless they are licensed Professional Engineers in the State of California.

#### SPRINKLER SPECIFICATIONS

All materials shall be as required by NFPA and FM approved. Seismic protection of all sprinkler piping shall comply with the requirements of NFPA 13 1997, edition and Factory Mutual data sheet 2-8 dated 8/96.



## VII. CONSTRUCTION

A contractor's manual will be issued to the tenant contractor prior to bidding by the Development Manager or Construction Manager outlining the construction rule and regulations and all relevant information. The landlord shall approve the tenants bid documents for compliance with best practices.

### GENERAL

Duties of Tenant's Contractor shall include but not necessarily be limited to the following:

1. Filing of all permits with local utilities.
2. Payment of all fees as well as all inspection and supervision costs as may be levied by local jurisdictional utilities agencies.
3. Maintenance of all temporary work and facilities.
4. All barriers, fences and gates, signs, and all other personnel warning and safety measures and devices of every kind required by code, OSHA safety orders and all applicable regulations.
5. Disconnecting and removing of all temporary work not part of permanent construction.
6. Payment of all usage and energy charges for temporary utilities for construction purposes - consult Construction Manager for specifics.
7. Provide and maintain proper identification (i.e. flagging) and protection of all utility locations, whether permanent or temporary, installed under the contract. Such identification shall be maintained for the duration of the contract and shall be sufficient to thoroughly alert others as to the presence and exact locations of any underground utilities installed by this contractor.
8. Design services required to provide temporary protection, facilities and controls as specified.

9. Furnishing of all services customarily within a General Contractors "General Conditions" portion of his contract.
10. Compliance with the Disneyland Resort Mitigation Plan (obtain a copy from the Development Manager.)

TEMPORARY LIGHTING AND POWER

1. The tenant shall engage appropriate local electric utility company to install temporary service. Connection to or extension from owner's existing power service is not permitted. Where utility company provides only part of the service, provide remainder with matching, compatible materials and equipment. Comply with utility company recommendations.
2. Wiring for temporary lighting and power shall be provided as required by the tenant. Install in accord with applicable codes. Consult the landlord's Construction Manager.
3. Provide and maintain all temporary lighting and power equipment as required until permanent lighting and power equipment is installed and activated. Switch-over from temporary to permanent supply when the permanent supply is ready.
4. Provide temporary site lighting and power systems.
  - a. Temporary site lighting system shall be operational from dusk until dawn, and shall be controlled by the landlord.
5. Provide connections for all construction equipment requiring power.
6. Provide and maintain temporary feeders to permanent mechanical equipment requiring power or testing until permanent feeders are connected and energized.
7. After permanent power has been switched-over, remove those portions of temporary light and power installations which are the responsibility of contractor.

TEMPORARY WATER/STORM WATER

1. Provide temporary water metered for construction purposes. Engage appropriate local water utility company to install temporary service. Connection to or extension from owner's existing water service is not permitted. Where utility company provides only part of the service, provide remainder with matching, compatible materials and equipment. Comply with utility company recommendations.
2. Provide a suitable drainage system, subject to approval of owner and compliance with applicable laws and regulations to carry construction waste water from work area to an approved waste location in accordance with the approved Master Drainage and Runoff Management Plan (MDRMP).
3. Maintain the entire temporary water and drainage system to keep it in good working order. It is essential that water for fire protection purposes be available at all times. When required, relocate temporary water system so as not to interfere with permanent construction.
4. Prior to activation of the temporary water system, provide an alternate means of supplying temporary water and fire protection, subject to approval of owner.
5. At completion of the work, or as directed by owner, remove all temporary water and drainage systems.
6. Furnish an approved Storm Water Pollution Prevention Plan (SWIP).

TEMPORARY SANITARY FACILITIES FOR CONSTRUCTION PERSONNEL

1. Coordinate the required portable chemical toilets with the landlord's Construction Manager.

2. Provide quantity, location and maintenance of temporary toilets as required by authorities having jurisdiction, including but not limited to OSHA.

#### TEMPORARY FIRE PROTECTION SYSTEM

Provide temporary fire protection systems for the project in accord with Disneyland Fire Prevention Regulations (available from the landlord's Construction Manager) and all other applicable regulations.

#### TEMPORARY ROADS

Provide any other temporary roads (if applicable) and/or stabilized areas required for execution of the work and approved by landlord. Maintenance of same shall be for the duration of the contract. Remove same at the completion of contractor's work unless otherwise directed by landlord.

#### TEMPORARY FENCING/BARRICADES

1. Provide temporary chain-link construction fence and vision screening material. Areas not adjacent to guest access area, approved by Landlord
2. Provide temporary wood construction fence/barricades design as approved by the landlord to shield the guests from construction noise, dust and other impacts. The tenant is responsible for providing themed graphics on all construction fencing and barricades designated by the landlord when visible to the guest: final design shall require the approval of the landlord.
3. Maintain all temporary and permanent fencing installed under this contract in condition satisfactory to owner. Immediately replace damaged portions of fence and loose or damaged visual screening, whether or not specifically directed by owner to do so.



OFFICE TRAILERS AND GUARD BOOTHS

1. Consult landlord's Construction Manager for details.

GENERAL ITEMS

1. Contractor is responsible for legal and safe transportation of workers to and from the designated vehicle parking areas and the work areas.

COMMENCEMENT OF CONSTRUCTION

Refer to Milestone Schedule for specific dates regarding the commencement of construction. Prior to construction, the necessary building permits must be received from the local governing authorities and all pre-construction requirements. In addition, all food service tenants must have approved plans from the City of Anaheim Health Department.

The following must be on file with the Development Manager.

1. Copy of approved building permit
2. Copy of application for Certificate of Occupancy
3. Names, addresses, and phone numbers of all contractors and suppliers
4. Construction schedule
5. Itemized estimate of construction costs, including architectural and engineering fees
6. Original copy of insurance certificates as required by the Lease
7. Written approval of plans by landlord
8. Approved plans from the Health Department (if applicable).

TEMPORARY FACILITIES

Utility costs or charges for any service to the premises shall be the responsibility of the tenant from the date tenant is obligated to commence tenant's work.

## SECURITY

Tenant Contractor is responsible for furnishing security for the individual tenant space. Coordinate with the landlord's security department and the landlord's Construction Manager.

## STAGING

Staging of material shall be allowed only in areas designated by the landlord for such activities. Consult the landlord's Construction Manager.

## PARKING

On-site parking is limited and will be allowed only in areas designated by the landlord for such activities. Consult the landlord's Construction Manager for locations, permits and clearance. Off-site parking for construction personnel is available at cost, however remains the responsibility of the contractor. Tenant's contractor must arrange for their own offsite parking. Landlord will not provide construction parking.

## PRE-OPENING/CERTIFICATE OF ACCEPTANCE

Prior to opening for business, the following must be completed:

1. Pre-opening inspection by the landlord
2. Tenant's Contractor to Complete all items on pre-opening inspection punch list
3. Certificate of Occupancy must be on file with the landlord
4. Written approval to open must be obtained from the Landlord prior to opening and removal of any barricades.
5. Site inspection with the landlord and verification of completion of all punch listed items.

CERTIFICATE OF ACCEPTANCE

Upon completion of tenant's construction and fit-out work within its premises, the landlord, upon the receipt of a mandatory request in writing by tenant, shall issue a Certificate of Acceptance of said premises. The issuing of such a certificate shall be contingent upon all of the following and upon landlord having a reasonable period of time to review and verify the same.

1. The satisfactory completion by tenant of the work to be performed by tenant in a good and workmanlike manner.
2. Receipt by landlord of reproducible "as-built" drawings from tenant prepared and sealed by a licensed architect.
3. Receipt by Landlord of complete sprinkler and fire alarm plans.
4. Completion of all items on punch list issued by landlord upon inspection of the premises.
5. Receipt by landlord from Executive Architect of a premises acceptance letter. This letter to be issued upon correction of the deficiencies noted by Executive Architect upon inspection of the premises (punch list inspection).
6. Receipt by landlord of all supporting waivers and lien releases in recordable form from all contractors, subcontractors and suppliers.
7. Submission by tenant to landlord of a detailed breakdown of tenant's final and total construction costs, together with receipted invoices and/or canceled checks showing payment thereof.
8. Tenant shall have reimbursed landlord for the cost of tenant's work done for tenant by landlord, the cost of trash removal and any other sums owed by tenant to landlord pursuant to the Lease.
9. Delivery to landlord by tenant of an agreement wherein tenant agrees to indemnify and hold harmless the landlord against any and all claims by any material suppliers, contractors, or subcontractors, workers and employees.
10. Submission to landlord of a copy of Certificate of Occupancy issued by City of Anaheim for the premises.

LANDLORD'S RIGHT TO CORRECT DEFICIENCIES IN TENANT'S CONSTRUCTION

The landlord may, but shall not be obligated to, correct any of the items of tenant's construction which have not been finished or completed in accordance with the requirements of the lease and tenant's drawings and specifications as approved. The landlord shall not undertake the performance of any such work until it shall have furnished tenant with final punch list of deficient items and permitted the tenant time to correct deficient items (refer to Milestone Schedule). In the event the landlord performs such work, the tenant shall reimburse landlord upon demand for all costs and expenses thereby incurred, plus all costs of administration. These remedies are in addition to all other remedies provided for in the Lease.

IX. GLOSSARY OF TERMS

BULKHEAD

The vertical portion of a dropped enclosure which breaks the ceiling plane.

CALENDAR DAY

The amount of days between submission. This schedule runs on a seven (7) day work week.

CONSTRUCTION POLICIES

The landlord and operator have strict construction policies, many of which have been outlined in this manual. Additional construction restrictions will be available through the landlord's Development Manager.

CORNICE

A projection which crowns or finishes the wall to which it is affixed.

DEMISING COLUMN

Common pier between individual tenant spaces.

DEMISING WALL

The walls of the tenant space defined in the Lease Outline Diagram. Typically, the walls between adjacent tenants.

DESIGN CONCEPT

Is the concept, theme or story about which the design for the space is developed.

DESIGN PACKAGE

Each presentation during the design and construction document phase will consist of an minimum list of drawings outlined in this manual.

DEVELOPER BUILDING

Building being constructed by the landlord for tenancy by Space Tenants.

EXECUTIVE ARCHITECT

The landlord's architect for Downtown Disney.

FACTORY MUTUAL

The landlord's insurance underwriter for the project and will review certain elements of the tenant's design package for consistency with the landlord's insurance coverages.

FINAL CONTRACT DOCUMENTS

The Final Plan represents 100% Contract Documents for the proposed tenant space. These drawings require final approval by the Landlord.

LANDLORD

The entity who owns the properties being leased to the tenant.

LEASE LINE

Line establishing the leasable area.

LEASE OUTLINE DIAGRAM (L.O.D.)

The lease outline drawings will be provided by the Landlord. The diagram will indicate the limits of space leased by the Tenant. The L.O.D. information will include: dimension, M.E.P. and structural information relating to the configuration of the space. Additional information relating to queuing and exterior dining/merchandising will also be indicated on the drawings.

MEZZANINE

An intermediate level lease space.

PAD TENANT

A Pad Tenant is a tenant to which the landlord will provide a prepared site pad (terra-firma level) with all utilities (gas, electric, water) stubbed within 5'-0" of the location.

QUEUE ZONE

An area defined by the landlord in the L.O.D. for customers to wait in line to enter a restaurant, store or other venue.

SITE/DEMISE PREMISE

Site/Demise Premise indicates the limits of a pad tenant's site.

SPACE TENANT

A Space Tenant is a tenant who will occupy a space in a building constructed by the landlord. The limits of the space area are defined in the Lease Outline Diagrams. Certain common area elements such as service corridors, service docks and egress stairs required by code are available for use by the tenant

STOREFRONT

The architectural facade of any tenant's demised premises adjacent to public circulation which incorporates the entrance and display area.

STUBBED-OUT

Utilities will be brought to a tenant space or pad depending on the tenant type. Distribution throughout the tenant premise is the responsibility of the tenant.

TENANT DESIGN PACKAGE

The tenant design package consists of several documents produced by the landlord for tenant's use. See page 1 of this document for further descriptions.

WET SEAL

All final Contract Documents filed with governmental agencies or the landlord shall be wet stamped by a registered architect or engineer in the State of California. Wet stamped means each sheet must be rubber stamped or embossed with the professional's stamp and signed.



EXHIBIT C

CONSTRUCTION SCHEDULE REQUIREMENTS AND MILESTONES

[Attached]

C-1

THE DISNEYLAND RESORT - DOWNTOWN DISNEY  
MILESTONE SCHEDULE: (BUILDING D101 & 201)

MILESTONES

-----  
DESCRIPTION  
-----

DATE  
-----

DESIGN MILESTONES

Complete & Submit 100% Schematic Design/Presentation	07/15/01
Complete & Submit 95% Construction Documents	07/15/01
Complete & Submit 100% Construction Documents	07/30/01
Final Design Approval	07/20/01

CITY REVIEWS

95% Review (95% CD)	7/15-7/30/01
Final Review (100% CD)	8/5-8/15/01

CONSTRUCTION MILESTONES

Start Interior Construction	08/15/01
Interior Complete	11/05/01
Test, Tune & Train	11/15-11/15/01
Open To The Public	11/15/01

DTD\_BAB\_MS

Turnover Date 8/1/01  
Commencement 11/1/01

EXHIBIT D  
LANDLORD'S WORK

[Attached]

D-1

EXHIBIT D  
 LANDLORD/SPACE TENANT RESPONSIBILITY MATRICES  
 BUILD-A-BEAR WORKSHOP (BLDG D)

DESCRIPTION	LANDLORD	TENANT	NOTES
<b>SITework</b>			
Earthwork	X		
Site Grading	X		
Excavation and Backfill	X		
Soil compaction	X		
Storm Drains	X		
Sanitary Sewers	X		Tenant's POC (if required) located below leased premises in service level. Tenant to connect and pay taxes and fees as required by Sanitation District.
Site Improvements	X		
Fences, Gates and Railings	X		Rail around exterior terrace by Landlord. All upgrades beyond Landlord's design will be at Tenant's expense.
Landscaping	X		Landscaping up to leaseline provided by Landlord. All additional "moveable" potted plants and planters will require approval by Landlord and will be Tenant's responsibility to provide and maintain (including all proper irrigation and drainage).
Paving & Surfacing	X		Includes all exterior paving at Esplanade level and second floor terrace. All upgrades beyond Landlord's design will be at Tenant's expense.
Curb & Gutter	X		
Water Piping (domestic and fire protection)	X		Stub to leased premises provided. Submeter installed by Landlord and reimbursed by Tenant. All distribution by Tenant. Fire protection system to be approved by Landlord and installed by Tenant.
Gas Piping	N/A	N/A	
Furniture, Fixtures & Equipment (Exterior)		X	All tables, chairs potted plants, heaters etc. provided and maintained by Tenant.
<b>CONCRETE</b>			
Concrete Formwork	X		Building shell including floor slabs only. All Tenant requested design alterations to core/shell including changes in level, depressed floors, mezzanines, framing of openings and additional support for Tenant furnished items will require approval from Landlord and will be at Tenant's expense. (Refer to LOD)
Concrete Reinforcing	X		Building shell including floor slabs only. All Tenant requested design alterations to core/shell including changes in level, depressed floors, mezzanines, framing of openings and additional support for Tenant furnished items will require approval from Landlord and will be at Tenant's expense. (Refer to LOD)

EXHIBIT D  
 LANDLORD/SPACE TENANT RESPONSIBILITY MATRICES  
 BUILD-A-BEAR WORKSHOP (BLDG D)

DESCRIPTION	LANDLORD	TENANT	NOTES
Reinforcing Steel	X		Building shell including floor slabs only. All Tenant requested design alterations to core/shell including changes in level, depressed floors, mezzanines, framing of openings and additional support for Tenant furnished items will require approval from Landlord and will be at Tenant's expense. (Refer to LOD)
Lightweight Concrete	X		Building shell including floor slabs only. All Tenant requested design alterations to core/shell including changes in level, depressed floors, mezzanines, framing of openings and additional support for Tenant furnished items will require approval from Landlord and will be at Tenant's expense. (Refer to LOD)
<b>METALS</b>			
Structural Steel	X		Building shell only. All Tenant requested design alterations to core/shell including changes in level, mezzanines, framing of openings and additional support for Tenant furnished items will require approval from Landlord and will be at Tenant's expense. (Refer to LOD)
Metal Stairs	X		One service stair by Landlord. All other stairs by Tenant; or installed by Landlord at Tenant's expense.
Handrails and Railings (Exterior)		X	AH upgrades beyond Landlord's standard will be at Tenant's expense.
Control Joints	X		Building shell only.
<b>WOODS &amp; PLASTICS (Interior)</b>			
Milled Woodwork		X	
Storage Fixtures		X	
Retail Display Fixtures		X	
Specialty Display Fixtures		X	
<b>THERMAL &amp; MOISTURE PROTECTION</b>			
Waterproofing	X		Building shell only.
Insulation		X	Roof insulation only provided by Landlord.
Sprayed-on Fireproofing	X		Building shell only.
Roof	X		Factory applied finish by Landlord. All other themeing by Tenant. Roof penetrations by Tenant must be flashed and sealed by Landlord's

EXHIBIT D  
 LANDLORD/SPACE TENANT RESPONSIBILITY MATRICES  
 BUILD-A-BEAR WORKSHOP (BLDG D)

DESCRIPTION	LANDLORD	TENANT	NOTES
			contractor @ Tenant's expense
Skylights		X	Tenant must utilize Landlord architect and other subconsultants. Cost of redesign by Tenant.
<b>DOORS &amp; WINDOWS</b>			
Metal Doors & Frames	X		Primary entrances and exits for building perimeter by Landlord. Any upgrades/themed doors will be at Tenant's expense.
Sliding Glass Doors (Interior)		X	
Metal Windows	X		Building shell only.
Finished Hardware (Exterior)	X		Basic hardware for doors and windows by Landlord. All upgrades/themed hardware will be at Tenant's expense. Rekeying will be at Tenant's expense.
Finished Hardware (Interior)		X	
Glass & Glazing	X		Basic glazing for building shell by Landlord. All upgrades/themed glass will be at Tenant's expense.
Mirror Glass		X	
FINISHES (Interior)			(All interior finishes provided by Tenant.)
Lath/Plaster		X	
Frame, Drywall, Insulation & Taping		X	All interior partitions
Partitions		X	
Tile		X	
Ceramic Tile (floor & wall)		X	
Quarry Tile		X	
Marble Tile		X	
Acoustical Treatment		X	
Acoustical Ceiling		X	
Acoustical Wall Treatment		X	
Acoustical Insulation		X	
Suspension Systems		X	
Specialty Flooring		X	
Resilient Flooring		X	
Painting		X	
Wallcovering		X	
FINISHES (Exterior)			

EXHIBIT D  
 LANDLORD/SPACE TENANT RESPONSIBILITY MATRICES  
 BUILD-A-BEAR WORKSHOP (BLDG D)

DESCRIPTION	LANDLORD	TENANT	NOTES
Stucco	X		Building shell only. All Tenant proposed upgrades from building standard to be approved by Landlord and at Tenant's expense.
Siding	X		Building shell only. All Tenant proposed upgrades from building standard to be approved by Landlord and at Tenant's expense.
Awnings/Canopies & Supports		X	As approved by Landlord (including all graphics applied to awnings/canopies). Materials and installation by Tenant.
Signage & Supports		X	All signage and supports furnished and installed by Tenant (as approved by Landlord or provided to Landlord by Tenant and installed by Landlord's contractor during shell construction at Tenant's expense.
SPECIALTIES (Interiors)			
Toilet & Shower Partitions		X	
Access Flooring		X	
Signage		X	
Lockers		X	
Fire Extinguishers/Cabinets		X	Landlord will only provide in area development and dock area if required. All others by Tenant.
Partitions		X	
Folding Partitions		X	
Storage Shelving		X	
Public Telephone Enclosures		X	
Toilet Accessories		X	
EQUIPMENT (Interior)			
Audio/Visual Equipment		X	
Food Service Equipment		X	
Bar & Soda Equipment		X	
FURNISHINGS			
Art Work		X	
Murals		X	
Window Treatments		X	
Furniture (Interior loose & fixed)		X	
Loose Rugs & Mats		X	

EXHIBIT D  
 LANDLORD/SPACE TENANT RESPONSIBILITY MATRICES  
 BUILD-A-BEAR WORKSHOP (BLDG D)

DESCRIPTION	LANDLORD	TENANT	NOTES
Interior Plants		X	
<b>CONVEYING SYSTEM (Interior)</b>			
Service Elevators (1)		X	(1) Service elevator provided by Landlord. All other elevators will be provided by Tenant or provided by Landlord at Tenant's expense.
Guest Elevator(s)	X		Existing elevator provided by Landlord. Any upgrades to existing will be Tenant's responsibility.
<b>MECHANICAL SYSTEM</b>			
Plumbing (Interior)		X	Landlord will provide one point of connection for plumbing Tenant's connections. The submeter for domestic water will be installed by Landlord and reimbursed by Tenant.
Greasetraps		N/A	
Interior Water Features		X	
Fire Protection System (Interior)		X	Supplied to leased premises by Landlord. All design and distribution by Tenant upon approval by Landlord. System must be compatible with Landlord's systems and meet Factory Mutual requirements.
Heating, Ventilation System		X	Hot and chilled water lines valved and capped. Equipment and distribution by Tenant. Submeters will be installed by Landlord and reimbursed by Tenant. Equipment and distribution by Tenant.
AIR HANDLING UNIT	X		Existing AHU provided by Landlord. Any upgrades to existing equipment will be the responsibility of the Tenant. Tenant is also responsible for installation of the AHU.
<b>ELECTRICAL SYSTEM</b>			
Electrical Distribution		X	Landlord to provide electrical service @ 480 volt, 3 phase to building. Submeter to be installed by Landlord and reimbursed by Tenant. All distribution by Tenant. Tenant to provide Landlord with anticipated load information.
General Lighting (Interior)		X	
Emergency Lighting (by code)		X	Building emergency lighting by Tenant. Emergency generator if required will be Tenant's expense.
Special Systems/POS		X	Empty conduit from Landlord's Main EER room to Tenant's Communications room provided by Landlord. Equipment, wire and distribution by Tenant. Installation of all wire must use through



EXHIBIT D  
 LANDLORD/SPACE TENANT RESPONSIBILITY MATRICES  
 BUILD-A-BEAR WORKSHOP (BLDG D)

DESCRIPTION	LANDLORD	TENANT	NOTES
			Landlord's designated contractor at Tenant's expense.
Phone/Data		X	Empty conduit to Landlord's Main EER room to Tenant's Communications room provided by Landlord. Equipment, wire and distribution by Tenant. Installation of all wire must use through Landlord's designated contractor at Tenant's expense.
Cable TV		X	Empty conduit to Landlord's Main EER room to Tenant's Communications room provided by Landlord. Equipment, wire and distribution by Tenant. Installation of all wire must use Landlord's designated contractor at Tenant's expense.
<b>BUILDING MANAGEMENT SYSTEM</b>			
Fire/Life Safety and Emergency Management System		X	Tenant must connect into Landlord's Simplex fire alarm and central monitoring system. Tenant to provide their own fire alarm panel. Only conduit to and from central fire alarm panel provided by Landlord.
Security System		X	
<b>SERVICE AREA/DOCKS</b>			
Water	X		
Sanitary	X		
Grease inceptor	X		For loading dock washdown water interception only.
Electrical	X		
Emergency Lighting	X		
Area Lighting	X		
Concrete Curbing	X		
Special Systems	X		
Trash Bins	X		Provided by Disneyland Property Management. Shared with other Tenants.
Trash Compactors	X		Provided by Disneyland Property Management. Shared with other Tenants.
Trash Refrigeration		X	Must be provided by and maintained within Tenant's space if required.

EXHIBIT E

LOGO

[Attached]

E-1

[BUILD-A-BEAR LOGO]

EXHIBIT F

OPERATING CONDITIONS, RULES AND REGULATIONS

The following Rules and Regulations shall be applicable to the use and operation of the premises:

1. Access. Tenant shall not obstruct any sidewalks, passages, exits, entrances, truck ways, loading docks, package pick-up stations or pedestrian sidewalks or ramps, parking spaces or emergency vehicle zones within THE DISNEYLAND RESORT. No sidewalk or walkway shall be used for anything other than pedestrian travel. No person shall use any roadway, sidewalk, or walkway, except as a means of egress or ingress. Such use shall be in an orderly manner, and in accordance with directional and other signs or guides. Roadways shall not be used at a speed in excess of posted speeds and roadways and driveways shall not be used for parking or stopping, except for the immediate loading or unloading of passengers. Tenant shall advise vendors of these regulations.

2. Prohibited Activities. Tenant shall not engage in any of the following activities upon or within the Premises: (i) conduct any fire, bankruptcy, auction or "Going Out of Business" sale (whether real or fictitious); (ii) use, or permit to be used, any sidewalks or other exterior portions of the Premises for solicitation or for the sale or display of any merchandise or for any other business, occupation or undertaking, or for outdoor public meetings, promotions or other entertainment of any kind; (iii) use or permit to be used any sound broadcasting or amplifying device which can be heard outside of the Premises unless otherwise permitted by Landlord; or (iv) use or permit to be used any flashing, beacon, strobe, chaser or other form of special attention-getting lighting, unless otherwise specifically permitted by Landlord in this Lease. Tenant shall not park any trailer, truck or other vehicle on THE DISNEYLAND RESORT property at any time for the purpose of advertising or promoting Tenant's business.

3. Solicitation, Etc. Tenant shall not solicit business or distribute any handbills or other adverting materials of any kind within THE DISNEYLAND RESORT, nor shall Tenant engage in any sales practices with THE DISNEYLAND RESORT, except as otherwise expressly permitted in the Lease. Tenant shall not solicit membership in or contributions for any organization, group, association or any other purpose without Landlord's prior consent provided, however, that the sale of items otherwise allowed under the terms of this Lease, which sale includes a contribution to a permitted Tenant Sponsor, shall not be deemed to violate the foregoing provision. Canvassing, soliciting, and peddling within THE DISNEYLAND RESORT is prohibited, and Tenant shall cooperate to prevent the same. In addition to the foregoing, neither Tenant nor its employees or agents shall, in or on any part of THE DISNEYLAND RESORT: (i) engage in any conduct that might tend to interfere with or impede the use of any portion of THE DISNEYLAND RESORT, by any customer, business invitee, employee, or tenant of THE

DISNEYLAND RESORT; create a disturbance; attract attention; or harass, annoy, disparage, or be detrimental to the interest of any of the businesses or activities of THE DISNEYLAND RESORT; or (ii) deface, damage, or demolish any sign, light standard or fixture, landscaping material, or other improvement within THE DISNEYLAND RESORT, or the property of customers, business invitees, or employees situated within THE DISNEYLAND RESORT.

4. Parking. Tenant shall not use any automobile parking areas that may be made available for use by Tenant's customers and employees by Landlord from time to time, except for the parking of motor vehicles during the period of time the occupant(s) of such motor vehicles are at THE DISNEYLAND RESORT. All motor vehicles shall be parked in an orderly manner within the painted lines defining the individual parking spaces. Landlord shall have the right to tow away any vehicle, at Tenant's expense, which is in violation of these Rules and Regulations or which is determined by Landlord to be objectionable. Landlord may designate remote parking areas which must be used by Tenant's employees. In the event that Tenant or its employees shall fail, after written notice, to park their vehicles in the parking areas so designated for employee parking, Landlord, at its option, shall be entitled to either have such cars towed from the parking lots, at Tenant's expense and/or charge Tenant Twenty-Five Dollars (\$25.00) per day or partial day for each car parked in any area other than the designated employee parking area as Landlord may designate.

5. Theft or Loss. Tenant shall be responsible for the protection and security of the Premises, and all property therein, from robbery, theft, vandalism, pilferage or other loss. Tenant, upon leaving the Premises at the end of any day, shall see that all windows and exit doors from the Premises are closed and locked. Tenant shall furnish Landlord with "after hours" emergency telephone numbers, for the sole use of Landlord at its sole and absolute discretion.

6. Keys. Tenant, upon the expiration or earlier termination of the Lease, shall deliver to Landlord all keys to all doors in the Premises, and in the event of a failure of Tenant to do so; Landlord shall have the right to change any locks in the Premises and charge Tenant for the reasonable cost thereof.

7. Deliveries/Loading/Unloading. All deliveries to the Premises and loading and unloading of goods shall be done only at such locations, in such manner and at such times as Landlord may designate from time to time. Beginning on the Commencement Date hereof and until otherwise notified by Landlord, Tenant shall make all deliveries to the Premises only during the hours of 2 a.m. to 9 a.m. unless otherwise approved by Landlord. To coordinate deliveries and use of dock space, Tenant is to submit a list of vendors, delivery schedule, and type/size of delivery vehicle to Landlord at least one month prior to opening. This list is to be kept up to date by Tenant. Delivery routes to be set by Landlord.

8. Equipment/Vibration. Landlord shall have the right to prescribe the weight, size, and position of all equipment, materials, furniture or other property brought into the Premises. Tenant shall not place a load upon any floor which exceeds the designed load per square foot or the load permitted by law. Heavy objects shall stand on such platforms as may be necessary to properly distribute the weight thereof. Business machines and mechanical equipment which cause noise or vibration that may be transmitted, felt or heard outside the Premises shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other similar devices.

9. Installation of Services. Tenant shall not install any telegraphic, telephonic, burglar alarm or similar services within the Premises without Landlord's prior written approval, which consent shall be granted or withheld in Landlord's sole and absolute discretion, and Tenant shall comply with all reasonable limitations or restrictions imposed by Landlord in connection with the installation thereof.

10. Antennas, Etc. Unless otherwise specifically provided in this Lease, Tenant shall not install any radio or television antenna, satellite dish, loudspeaker or other device on the roof or exterior walls of the Premises. Tenant shall not interfere with radio, satellite dish or television broadcasting or reception from or in THE DISNEYLAND RESORT or any other property.

11. Rest Rooms. The rest rooms, toilets, urinals, wash bowls and other bathroom facilities and apparatus shall not be used for any purpose other than that for which they were constructed, and no foreign substances of any kind whatsoever shall be disposed of therein. All expenses of repair or replacement due to any breakage, stoppage or damage of any bathroom facilities or related sanitary sewer lines in or leading to the Premises shall be borne exclusively by Tenant. Tenant shall keep all toilets, urinals, wash bowls and other bathroom fixtures and apparatus clean and sanitary and in compliance with all applicable laws, ordinances and regulations. Rest rooms shall be checked for cleanliness throughout the day and kept clean at all times.

12. ATM/Vending Machines. Tenant shall not install, maintain or operate upon the Premises any automated bank teller machine, vending machine or video game without Landlord's prior written consent, which consent may be granted or withheld by Landlord in Landlord's sole and absolute discretion.

13. Landlord's Employees. Tenant shall not direct the employees of Landlord to do any work of any kind.

14. Windows. Tenant will keep the inside and outside of all glass in the doors and windows of the Premises clean and other than Landlord approved signage and hours of operation, free of decals, posters, etc. and shall replace promptly, at its expense, any plate glass or window glass which may become cracked or broken.

15. Sidewalks, Etc. All sidewalks and other areas contiguous to the Premises shall be kept clean and free at all times of trash, dirt, rubbish or debris of any kind.
16. Signs. No signs shall be erected, placed or installed by Tenant without Landlord's prior written consent, which consent may be granted or withheld in Landlord's sole discretion. All signs erected, placed or installed by Tenant shall be maintained by Tenant in good repair and in a neat, clean, and orderly condition pursuant to the terms and provisions of the Lease.
17. Stock. At all times during the Term, Tenant shall keep the Premises fully stocked with goods and other items necessary to provide all goods and services advertised as available on any promotional materials approved by Landlord for the Premises.
18. Temperature. The interior of the Premises shall at all times be maintained at a comfortable temperature.
19. Screening. During the course of any construction work on the Premises, Tenant shall fence or otherwise screen the visibility of the Premises from the public, all in accordance with plans and specifications acceptable to Landlord. Tenant shall provide signage explaining and apologizing for construction.
20. Refurbishment. From time to time during the Term, Tenant shall, at Tenant's expense, repair, replace, refurbish, and remodel any portions of the Premises that have become worn, damaged, discolored, stained, outdated or otherwise degraded in appearance or performance, including, but not limited to, interior and exterior paint, wall coverings, floor coverings, furniture, fixtures and displays. Any proposed work or replacement of portions of the Premises in accordance with the preceding sentence, which will result in a different color, quality, material, style or appearance, must be approved in advance in writing by Landlord in accordance with the standards and procedures set forth in the Lease.
21. Consent. Whenever any consent or approval of Landlord is required pursuant to these Rules and Regulations, such consent must be obtained in writing in order to be binding on Landlord, and may be given or withheld by Landlord in accordance with the standards for such consent or approval as set forth in the Lease.
22. Landlord's Right. Landlord shall have the right to remove or exclude from or to restrain (or take legal action to do so) any unauthorized person from, or from coming upon, the Premises, or any portion thereof.
23. Waiver. No release or waiver by Landlord of any provisions herein shall be enforceable by Tenant unless in writing and executed by Landlord. The failure by Landlord to insist upon the strict performance of any of the terms or provisions hereof shall not be deemed a waiver of any rights or remedies of Landlord or a waiver of any subsequent violation or failure of compliance with these Rules and Regulations as the same may be amended from time to time.

24. Amendment. Landlord shall have the right to promulgate additional Rules and Regulations or amend or rescind any of the Rules and Regulations hereof from time to time as Landlord, in its sole and absolute discretion, deems suitable or desirable. Tenant shall comply with all new or amended Rules and Regulations upon receipt of written notice of the same from Landlord.

25. Conflict with Lease. These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend any contrary terms, provisions, agreements, covenants or conditions of the Lease. In the event of any conflict between the Rules and Regulations and the Lease, the terms and provisions of the Lease shall control.

26. Staffing. Tenant shall employ adequate number of fully trained employees so as to provide continuous high quality service to Guests.

27. Background Music. Not required. If desired, Tenant to provide background music (BGM) within own premises. Volume not to exceed level which would spill out to public areas unless specifically approved by Landlord. Music list to be approved by Landlord. ASCAP/BMI and other costs responsibility of Tenant. Hardware to be determined by Tenant. If required, Tenant's system must interface with Landlord's BGM system. Landlord acknowledges that it has approved the two (2) compact disc recordings currently distributed under the Build-A-Bear Workshop name for use within the Premises (not to exceed a noise level which would spill out to public areas).

28. Cable Television (CATV).

(a) Statement of Services. The Federal Communications Commission has determined that The Walt Disney Company and its subsidiaries under their current operational organizations can not provide CATV services to any company other than our own.

Knowing the challenge that this may pose for our clients at THE DISNEYLAND RESORT, we are providing this guideline for your use in obtaining CATV service from a third party outside our Company.

This guideline contains a CATV Service Suppliers Contact List, THE DISNEYLAND RESORT standards for third party CATV services, and contact names within THE DISNEYLAND RESORT who can assist you in obtaining CATV services.

(b) Standard for Third Party CATV Services.

(1) Channels Permitted for Display to Guest. Proposed channel listing to be provided to Landlord for approval.



(2) Antennas. Unless specifically approved by THE DISNEYLAND RESORT, no antenna shall be visible to THE DISNEYLAND RESORT Guest. All antenna locations shall be reviewed by THE DISNEYLAND RESORT prior to installation for compliance with this specification. Enclosures to hide antennas must be approved by THE DISNEYLAND RESORT.

Antenna mounting designs shall be submitted for review to THE DISNEYLAND RESORT Architecture & Facilities Engineering for acceptance of mounting methods and roof penetrations.

For Guest show quality, THE DISNEYLAND RESORT standards for CATV distribution shall be followed.

(3) Third Party Contract Service. THE DISNEYLAND RESORT will not be involved in the contractual agreement between the service provider and your company.

29. Dining Reservation System. At Landlord's discretion, Tenant may be required to participate in THE DISNEYLAND RESORT dining/show reservation system. DISNEYLAND RESORT hotel Guests to be given priority seating privileges.

30. E-Mail. The following procedures detail the requirements in order to communicate with THE DISNEYLAND RESORT parties through E-Mail.

It is the responsibility of Tenant to subscribe to an Internet Service Provider (ISP) of their choice. THE DISNEYLAND RESORT only allows text messages to be E-Mailed through the company network. Attached files cannot be sent through THE DISNEYLAND RESORT network.

Any Disneyland Resort party can receive an E-Mail by addressing it in the way listed below:

firstname\_lastname@disney.com.

31. Room Charging. At Landlord's discretion, Tenant may be required to provide guests of THE DISNEYLAND RESORT hotel properties with room charging privileges through electronic means. Interface specifications for writing software to interface Tenant's POS system with THE DISNEYLAND RESORT property management systems are being developed. Cost of interface to be borne by Tenant.

32. Radio Communications. Because we are in the Entertainment Industry, we rely heavily on radio communication. In an effort to avoid conflicts in frequencies, you will

need to receive a frequency from our Telecommunications Department. An example of some of the RF concerns are listed below:

- Wireless microphones used for live show
- Wireless headphone for podium seating systems
- Radio communications
- Courtesy call systems
  - Guest
  - Waiters
  - Managers
  - Wireless feeds
  - Background music

33. Outside Vendors. If outside vendors are used for services such as custodial, maintenance, landscaping, etc. employees of these services are to adhere to conduct and appearance standards of THE DISNEYLAND RESORT if in Guest contact. Tenant shall attempt to do all non-emergency repair work during non-operating hours. Names of all outside vendor employees to be provided to Landlord for security purposes. Tenant shall be responsible for safety and security of own premises while outside vendors are present.

34. Environmental.

(a) Solid Waste: Trash Removal. Tenant will provide temporary holding area in own premises and take all trash to designated area for disposal. Tenant shall coordinate with Landlord to place trash in a location designated by Landlord for hauling on a daily basis. Trash transportation containers are to be enclosed, clean, and free of odors. Landlord will contract trash hauling service and charge back to Tenant on a pro rata basis.

(b) Solid Waste: Recycling. (glass, aluminum, office paper, plastic, cardboard, etc.). Tenant will participate in all Resort-wide recycling programs as stipulated by Landlord and comply with mitigation measures. Tenant will pre-sort recyclable material and deposit in designated containers/areas.

(c) Building/Health Codes. Tenant will comply with all building and health requirements and mitigation measures in the provision of grease traps, exhaust smoke scrubbers (SCAQMD), etc. Copies of all inspections are to be forwarded to Landlord within seven (7) days of inspection date.

35. Security.

(a) Areas of Responsibility. Landlord to provide security in all areas outside of Tenant's building or lease line; provided, however, Tenant will

provide security for customer queue lines that temporarily extend beyond Tenant's lease line. Tenant to provide security inside own premises/lease line. Tenant to immediately notify Disneyland Security in event of any incident or disturbance that may effect the Guest experience either inside or outside of Tenant premises/lease line. Landlord shall reserve final disposition authority in all such cases.

(b) Tenant's Security Plan Including Alarm System, Operations, and manpower. Landlord to approve Tenant's security plan, systems, and processes. Use of outside security companies to be limited to list of approved vendors. No exception without Landlord approval. No armed security allowed inside Tenant's premises or lease line.

(c) Security Alarm. Tenant's security alarm to be tied to Landlord's system. Monitoring provided by Landlord. Installation fee to be paid by Tenant.

(d) Armored Car Service. If Tenant uses armored car service, Tenant is to use armored car service approved by Landlord at sole expense and risk of Tenant.

(e) Emergency Conditions. Tenant's employees are to follow all guidelines provided under Landlord's emergency action plan. Training/orientation of plan to be provided by Landlord as part of normal training orientation program and policies. Under emergency, Tenant's employees to follow direction of Landlord's emergency management in charge.

36. Fire.

(a) Premises Inspections. Tenant will allow full access to Landlord for purposes of periodic inspection of fire/life safety systems. These include but are not limited to:

- (1) Check wash system (hood and duct) cabinet for any defects.
- (2) Check soap levels of Gaylord wash system.
- (3) Run test on each hood and duct wash system for proper operations such as length of time, water temperature, water pressure, soap level operations, and drainage.
- (4) Thermostat settings on cooking equipment
- (5) Exercise all fire protection control valves
- (6) Inspect all fire extinguishers
- (7) Inspect all occupancies in the Resort
- (8) Flow test all sprinkler systems
- (9) Test flow all fire hydrants
- (10) Pressure test all fire hoses

(11) Test all smoke detectors

(b) Special Circumstances. Tenant to provide or request provision of:

(1) Fire watch standbys for welding, soldering, torch cutting, etc.

(2) Fire watch standbys when any flammable material is being applied

(3) Fire watch standbys when sprinkler systems are shut down for repair

(c) Fire Alarm. All Tenant's alarms to be tied into Landlord's system. Monitoring to be provided by Landlord.

(d) After-Hours Emergency Access. Tenant to provide two sets of master keys to Landlord for emergency access to property.

(e) Other Inspections. Landlord to conduct, at a minimum, one yearly inspection to verify compliance with current safety and building codes. Landlord will schedule, at minimum, one yearly power outage to check all emergency/standby equipment. Typically to occur after hours. Tenant to have member of Engineering Department present.

37. Human Resources Employee Policy.

(a) Uniforms. Tenants provide own costumes/uniform; design must be submitted to Landlord for approval of design and quality. Tenant must maintain condition and quality of uniforms in that they are neat, clean, and in good repair.

(b) Nametags. Employees wear Tenant nametags with no DISNEYLAND RESORT identification. Design must be submitted to Landlord for approval of design and quality.

(c) Appearance Guidelines. Tenant's employees are to adhere to THE DISNEYLAND RESORT Cast Member guidelines unless variance due to theming. Any variance must be approved by Landlord.

(d) Hiring Procedures. Tenants responsible for hiring their own employees.

(e) Identification Cards. Landlord will provide ID cards for Tenant employees. Employees to carry this card at all times on premises.

38. Year 2000. Tenant is responsible for ensuring that all tenant owned, leased or rented computer hardware, software, systems/applications and embedded systems equipment will process dates correctly, prior to, during and after the calendar year 2000. This shall include, but not be limited to, century recognition, calculations that accommodate same century and multi-century formulas and date values, and interface values that reflect the century.

Tenant is responsible for replacing or repairing all Tenant owned, leased or rented items which are not Year 2000 compliant to ensure continued operation of Tenant's business.

39. Sanitation.

(a) Areas of Responsibility:

Landlord to provide custodial services for all Common Areas including area sweeping, nightly hosing, pressure washing, area trash cans and public restrooms. Landlord will also provide periodic cleaning of all multi-user common service areas.

Tenant to provide custodial services for the entire Premises including all interior and exterior dining areas, windows, interior and exterior walls/facades (on a minimum quarterly basis), kitchens as well as any exclusive service areas (docks, trash bins or compactors, wash down or recycling areas).

Regardless of whether a common service area (dock) is exclusive or multi-use, it is Tenant's responsibility to maintain the appearance, except that which would be expected in normal use, of those facilities which they use to Disney Standards. All trash spills, grease, food or recyclable spills must be cleaned up immediately and said items put within their proper receptacle and the area returned to a clean and safe state. Wash down areas must be clean and ready for other tenants usage at the conclusion of each use. Failure to do so will result in landlord charging back to Tenant on a pro rata basis the costs associated with keeping their service areas compliant with Disney Standards.

40. Food Safety. Upon request of Landlord and/or as dictated by The County of Orange Environmental Health Department, Tenant will adopt a HACCP food safety plan; implement and monitor that plan in accordance with generally accepted United States Food and Drug Administration guidelines.

41. Health/Emergency Services.

(a) Areas of Responsibility:

It is Tenant's responsibility to provide the necessary Health/Emergency Services to their Premises for both their guests and their employees. These services include but are not limited to Fire/Paramedic, ambulance and general first aid.

Landlord will maintain a Health Services office for medical treatment/first aid of DOWNTOWN DISNEY(R) guests as well as employees of Landlord and responses to all Common Areas.

Tenants may request Health Services and/or Emergency-911 response inside its Premises. All costs associated with providing this service will be billed back to Tenant.

EXHIBIT G

SPONSORSHIP AGREEMENT PROVISIONS

I. All capitalized terms used but not defined below shall have the respective meanings ascribed to them in this Lease. The term "Exhibit" shall mean this Exhibit G, "Sponsor" shall mean a person or entity designated on this Exhibit as the supplier of one or more products or services; and "Product or Service" means any product or service designated on this Exhibit as being a product or service of a Sponsor.

II. Except as otherwise expressly provided in this Lease or this Exhibit, Tenant shall not in any manner whatsoever install, erect, place or otherwise affix signs, posters, displays or advertisements or promotional materials of any nature on the Premises which promote or advertise any entity, product or service other than the Sponsors, Products or Services listed below unless specifically approved in writing by Landlord or its Affiliates, which approval may be withheld in Landlord's sole discretion. In addition, if Tenant utilizes in public view any product or service supplied by any person or entity other than the Products and Services supplied by the Sponsors designated with respect thereto on this Exhibit, and if such product or service identifies such supplier or the brand name of such product or service in any manner (including, without limitation, branding on packages and/or containers of such products or services), Tenant shall mask or otherwise conceal such identification if requested to do so by Landlord or its Affiliates. Additionally, Tenant shall not in any manner "house brand" any of its own products or services to be served or sold within the Premises without the prior approval of Landlord or its Affiliates in their sole discretion. Notwithstanding anything to contrary in the foregoing, Landlord acknowledges that Tenant's operation is largely based on "house branded" products and, provided that the sale, display or use of such products does not otherwise violate any terms or provisions of this Lease, such products shall not be deemed to violate the provisions of the foregoing sentence.

III. Nothing contained in this Exhibit or in the Lease shall be deemed or construed to create, give rise to or confer, by express grant or by implication, any rights, claims or causes of action upon any Sponsor as third-party beneficiary of the obligations, covenants and agreements of Tenant thereunder or otherwise, and Landlord and Tenant hereby expressly disclaim any intention to create or confer any such rights, claims or causes of action.

A. Notwithstanding anything to the contrary in this Exhibit or the Lease, the following sets forth certain obligations with which Tenant agrees to comply (and to cause all permitted assignees, managers, subtenants and concessionaires to comply) in order to enable Landlord and its Affiliates to satisfy its obligations under existing and future Sponsorship Agreements and/or to preserve, continue, promote and/or enhance the favorable business relationships which Landlord and its Affiliates has established with the parties to such existing and future Sponsorship Agreements:

1. Sponsor: American Express Travel Related Services Company, Inc. ("AMEX")

Product or Service: Charge, credit, debit, bank, travel or "smart" cards, and travelers cheques, guaranteed checks, check guarantee programs and money orders.

a. Tenant will honor the American Express Card, the official Card of WALT DISNEY WORLD(R), and the Optima Card (collectively, the "Card") on the Premises where credit cards are accepted for goods or services. Tenant will display such Amex identification in the form of decals, interior shelf plaques, Take-One displays, Card acceptance notices, etc., as Landlord or its Affiliate may deem appropriate at all locations which honor the Card.

b. Tenant will accept American Express Travelers Cheques ("Travelers Cheques"), the Official Travelers Check of WALT DISNEY WORLD(R), as a medium for the payment of goods and services and will display Travelers Cheque acceptance signage at all entrances to appropriate payment transaction points.

c. Nothing in this Section 1 shall be deemed to prohibit Tenant from placing signage in or near the cash register areas stating "We accept most (or all) major credit cards" or similar wording (i.e., without, however, specifying on such signage the particular credit cards which are accepted).

2. Sponsor: The Coca-Cola Company ("Coke")

Product or Service: For purposes of this Section 2, "Products" shall be defined as: (i) all carbonated and non-carbonated, natural or artificially flavored nonalcoholic beverages for independent consumption and for use as mixers with alcoholic beverages and otherwise, including, but not limited to, nonalcoholic beverages with nutritive or non-nutritive sweeteners, flavored and/or sweetened mineral water, natural or artificially flavored nonalcoholic fruit juices, fruit juice-containing drinks, fruit flavored drinks (sweetened or unsweetened), fruit punches and ades, hypertonic, hypotonic and isotonic energy and fluid replacement sports drinks; and (ii) all beverage bases, whether in the form of syrups, powders, crystals, concentrates or otherwise, from which nonalcoholic beverages may be prepared. Products shall not include coffee, tea, hot chocolate, milk, milkshakes, natural one hundred percent (100%) vegetable juices (sweetened or unsweetened), mineral water whether carbonated or noncarbonated, noncarbonated bottled water and noncarbonated water drawn from the public water supply.

a. "Coke Products" shall mean Products bearing trademarks owned by or licensed to Coke or Products manufactured by or under a license from Coke that include: Bacardi banana daiquiri tropical fruit mixer, Bacardi daiquiri tropical fruit mixer, Bacardi mai tai tropical fruit mixer, Bacardi margarita tropical fruit



mixer, Bacardi peach daiquiri tropical fruit mixer, Bacardi pina colada tropical fruit mixer, Bacardi raspberry daiquiri tropical fruit mixer, Bacardi strawberry daiquiri tropical fruit mixer, Barq's, Bright & Early, caffeine free Coca-Cola, caffeine free Coca-Cola classic, caffeine free diet Coke, caffeine free Tab, cherry Coke, Coca-Cola, Coca-Cola classic, diet cherry Coke, diet Coke, and diet Mello Yello; diet Minute Maid lemon-lime; diet Minute Maid orange; diet Sprite; Fanta apple, Fanta banana, Fanta banana slush, Fanta birch beer, Fanta blue raspberry, Fanta blue raspberry slush, Fanta bubble gum, Fanta bubble gum slush, Fanta candycane slush, Fanta cherry, Fanta chocolate fudge, Fanta club soda, Fanta cream soda, Fanta cream soda slush, Fanta fruit punch, Fanta fruit punch slush, Fanta ginger ale, Fanta grape, Fanta grape slush, Fanta grapefruit, Fanta green lemon-lime, Fanta green lemon-lime slush, Fanta lemonade, Fanta lime, Fanta orange, Fanta orange slush, Fanta orange/pineapple, Fanta orange/pineapple slush, Fanta peach, Fanta pina colada slush, Fanta pineapple, Fanta pink lemonade, Fanta pink lemonade slush, Fanta red candy apple, Fanta root beer, Fanta root beer slush, Fanta sour, Fanta spruce beer, Fanta strawberry, Fanta strawberry slush, Fanta Tom Collins mixer, Fanta tonic water, Fanta wild black cherry, Fanta wild cherry, Fanta wild cherry slush, Five Alive citrus, Five Alive berry citrus, Five Alive tropical citrus, Fresca, HI-C apple, HI-C candy apple cooler, HI-C cherry, HI-C concord punch, HL-C double fruit cooler, HI-C fruit punch, HI-C fruit punch slush, HI-C grape, HI-C hula cooler, HI-C hula punch, HI-C lemon flavor, HI-C orange, HI-C peach, HI-C peach slush, HI-C pineapple, HI-C red punch, HI-C tropical punch, HI-C wild berry, HI-C light fruit punch, HI-C light lemon flavor, HI-C whipped orange, HI-C whipped strawberry, Keep Kool and Mello Yello. Minute Maid lemon-lime; Minute Maid orange; Minute Maid orange slush; Minute Maid apple juice; Minute Maid citrus punch; Minute Maid concord punch; Minute Maid fruit punch; Minute Maid grape juice; Minute Maid grapeade; Minute Maid grapefruit juice; Minute Maid pink grapefruit juice; Minute Maid pink grapefruit juice cocktail; Minute Maid lemon juice; Minute Maid lemonade; Minute Maid limeade, Minute Maid orange juice; Minute Maid orange juice-calcium fortified; Minute Maid orange juice-country style; Minute Maid orange juice-premium choice; Minute Maid orange juice-pulp free; Minute Maid orange juice-reduced acid; Minute Maid pineapple juice; Minute Maid pineapple-orange juice; Minute Maid pink lemonade; Minute Maid tangerine juice; Minute Maid light 'n juicy-grape; Minute Maid light 'n juicy-lemonade; Minute Maid light 'n juicy-orange; Minute Maid light 'n juicy-punch; Mr. PIBB, Pepe Rico; Powerade; Ramblin; Santiba ginger ale; Southern Sun apple; Southern Sun apricot; Southern Sun cranberry; Southern Sun fruit punch; Southern Sun grape; Southern Sun grapefruit; Southern Sun lemonade; Southern Sun orange; Southern Sun orange/grapefruit; Southern Sun orange/pineapple; Southern Sun peach nectar; Southern Sun pear nectar; Southern Sun pineapple; Southern Sun prune; Southern Sun tomato, Splash; Sprint; Sprite; Sprite slush; sugar free Mr. PIBB; sugar free Sprite and TAB.

b. Tenant shall not offer, sell or serve any Products as defined in this Section 2 other than Coke Products (as selected by Tenant and Landlord) at the Premises.

c. The availability of Coke Products shall be indicated by brand name listing on all menus, menuboards and/or dispensers (space permitting).

d. Coke Products shall be the only Products offered or sold in vending machines, (as selected by Tenant and Landlord) on the Premises.

e. Tenant shall also limit Products carried in the bar where liquor is served to Coke Products which are normally considered to be bar mixers; provided, however, that if Coke does not have a needed mixer in its product line and cannot supply the same upon request, Tenant may have available (but may not publicly display) such competitive product to satisfy a demand in bars only.

f. Tenant may purchase Coke Products from any licensed bottler or authorized distributor or wholesaler.

3. Sponsor: Eastman Kodak Company ("Kodak")

Product or Service:

a. Only Kodak photographic products and services shall be sold, displayed or promoted within the Premises. The term "photographic products and services" shall include, without limitation, the following:

(i) sensitized goods including all paper, plates, and film, still and motion picture, for any application whatsoever;

(ii) photochemical and other photo finishing supplies and equipment; and

(iii) photographic equipment including all types of cameras, projectors and accessories thereto.

b. Only motion video products, including, without limitation, video tape and video head cleaning supplies in all sizes and formats manufactured or distributed by Kodak shall be sold, displayed or promoted within the Premises.

4. Sponsor: McDonald's Corporation ("McDonald's")

Product or Service: "Restaurant Facilities" shall include, without limitation: (i) a quick-service restaurant in which value-priced meals are prepared on the premises, sold at a counter or window, and intended for immediate on-premise consumption, carry-out, or for home delivery (such as, by way of example, Wendy's, Pizza Hut, KFC and Taco Bell); (ii) a non-tablecloth, sit-down service restaurant that sells value-priced meals (i.e., by way

of example, restaurants with a similar price point and operational/marketing approach such as Bennigans or Denny's); (iii) a contract food operation or food concessionaire (excluding Nestle or an affiliate thereof) or (iv) a donut shop. Restaurant Facilities shall include the fountain (including poured coffee) and/or take-out food service operations of convenience stores and gas stations.

a. Tenant shall not use, serve or otherwise offer at the Premises any product offered by any Restaurant Facility (as defined above) if such product is identified by brand or otherwise identifiable by the public as a product sold or served by a particular Restaurant Facility unless specifically approved in writing by Landlord or its Affiliates, which approval may be withheld in Landlord's sole discretion.

5. Sponsor: American Telephone & Telegraph Company ("AT&T")

Product or Service: Telecommunications equipment and services, including, without limitation, local and long distance services, cellular services and equipment, telephone cards, etc.

a. Only AT&T products and services shall be sold, displayed or promoted within the Premises.

6. Sponsor: Eveready Battery Company, Inc. ("Eveready")

Product or Service: Alkaline, lithium, photo, hearing aid, watch, carbon zinc and rechargeable batteries; flashlights; rechargeable battery packs; and battery chargers (excluding recharging devices sold together with electronic devices (i.e., radios, cellular phones, computers, etc.) (collectively "Eveready Products").

a. Tenant shall not make available at the Premises any products that are competitive with Eveready Products.

b. If Tenant makes photographic and blank video film products available for purchase, Tenant must exclusively make available Eveready Products at such location.

c. Landlord acknowledges and agrees that the requirements regarding Eveready batteries (as listed above) shall apply only to Eveready batteries packaged and sold separately at the Premises and shall not apply to batteries which are contained in themed or novelty products and electronic devices (and, therefore, not visible to the public when sold) that Tenant may sell from time to time.

7. Sponsor: Federal Express Corporation ("FedEx")

Product or Service: Domestic and international express delivery services.

a. If Tenant shall indicate the availability of shipping services at the Premises, Tenant shall indicate the availability of FedEx's express delivery services.

8. Sponsor: Union Bank of California ("UBOC")

Product or Service: Banking services and automated teller machines

a. The Premises shall not be sponsored by another national or state bank, international bank, credit union or savings or loan association.

9. Sponsor: Chevron Corporation ("Chevron")

Product or Service: Energy production and natural resource extraction and automobile travel clubs or services that are affiliated with an entity engaged in energy production and natural resource extraction.

a. Other than Chevron products there shall be no retail sales of motor vehicle gasoline, diesel fuel, or petroleum-based motor vehicle lubricant products from the Premises.

B. The following sets forth certain Products and/or Services that Tenant agrees to solicit and consider, in good faith, proposals from the Sponsors listed below with respect to the procurement for the Premises (or any part thereof) of each type of Product or Service listed below under such Sponsor's name, prior to seeking such product or service from other sources; it being understood that any agreement reached by Tenant with such Sponsor (or, failing such agreement, with any other source) concerning such procurement of such Product or Service shall, in all respects, comply with and be subject to the terms and conditions of the Lease, including, without limitation, Tenant's obligation to cause all permitted assignees, managers, subtenants and concessionaires of Tenant to comply with such obligations and the terms and conditions outlined in Section II above.

1. Sponsor: Nestle USA, Inc. ("Nestle")

Product or Service: Food and beverage products which include, without limitation, baking chips (chocolate and non-chocolate) and baking chocolate, canned pumpkin and prepared pumpkin pie filling; canned tomatoes, tomato sauces, tomato pastes and tomato purees (excluding Mexican salsas and Mexican sauces); roasted, ground and soluble coffee; dog and cat foods and treats; dry and refrigerated pasta; flavored milk and milk flavorings; frozen, dry and refrigerated entrees, meals and side dishes; frozen juice and fruit novelties on a stick; frozen water ice novelties on a stick; hot cocoa mixes; ice cream, ice milk and ice cream and ice milk novelties; infant formula; prepared pasta and pizza sauces (excluding spaghetti sauce mix without mushrooms); and tea (liquid, leaf, bag and soluble forms); and bottled still and sparkling water (nonflavored) baby foods, the following baking products: baking cups, baking pans, baking powder, baking soda, brownie mix, baking cocoa, cake and cupcake mix, cake decorations and icing, dried and

shredded coconut, evaporated and sweetened condensed milk, frosting (ready to serve and mix), fruit pectins, protectors and glaze, graham cracker crumbs, muffin mix, pancake mix, pie and pastry shells (prepared and mix); bread crumbs; breakfast toaster pastries; canned and frozen vegetables; canned meats; canned pasta; chocolate syrup; the following dairy items: powdered instant milk, refrigerated milk and cream, refrigerated milk shakes and drinks, yogurt (spoonable and drinks); the following dessert items: canned pudding and pie filling (excluding fruit), frozen baked goods (excluding cookies and bread items), frozen pudding and gelatin novelties on a stick, frozen whipped topping, gelatin mix, pudding mix, ready-to-serve single serving canned desserts (excluding fruit), refrigerated pudding, toppings (liquids and mixes); diet meal replacement drinks and bars; dry dinner mixes; dry pizza mixes and crusts; frozen potatoes; frozen yogurt and frozen yogurt novelties; frozen and refrigerated prepared pizza; frozen waffles, pancakes and French toast; gravies (other than mixes); gum; honey; instant powdered breakfast mixes; maple and fruit-flavored syrups; meat-based sandwich spreads; the following Mexican specialty foods: burrito and enchilada fillings, chiles, Mexican dinner mixes, retriad beans; non-100% Colombian roasted, ground and soluble coffee (including flavored coffee); non-granola breakfast and non-granola nutritional bars; olive oil; peanut butter; pet supplies; powdered athletic bulking products; powdered and liquid creamers; prepared seafood products; the following snack products: beef jerky, canned dip, dip mixes and refrigerated dip, frozen pizza snacks, non-granola trail mix, sunflower seeds; and tomato ketchup (collectively "Nestle Products").

a. Tenant may purchase the Nestle Products from Nestle, Nestle's affiliates or from any authorized wholesaler of Nestle Products, or, if applicable, any manufacturer licensed to produce Nestle Products. In the event Nestle Products are produced in more than one formulation or recipe (e.g., Contadina tomato sauce with red peppers and Contadina tomato sauce without red peppers), nothing contained herein shall be deemed to require Tenant to sell, use or make available a particular formulation or recipe of Nestle Products.

2. Sponsor: National Federation of Coffee Growers of Colombia ("Federation")

Product or Service: 100% Colombian coffee, regular and decaffeinated

a. Only one hundred percent (100%) Colombian coffee, regular and decaffeinated, as selected by Landlord, shall be served and sold in the Premises so long as Tenant is able to purchase such product in sufficient quantities to satisfy the demands of patrons and guests of the Premises. Landlord shall provide Tenant with a list of suppliers from which Tenant may purchase its requirements for such coffee.

3. Sponsor: Beatrice/Hunt-Wesson ("Hunt")

Product or Service: Orville Redenbacher Gourmet brand popping con

a. With the Orville Redenbacher Gourmet brand popping corn served or sold in the Premises by Tenant, Tenant shall use popping oil which maintains popping performance and taste characteristics consistent with the high quality standards set by Landlord and Hunt.

4. Sponsor: The J. M. Smucker Company ("Smuckers")

Product or Service: Jams and jellies sold under the trademarks of "SMUCKERS," "DICKINSON," "LOST ACRES" and/or "ELSENHAM" in portion control packages (collectively "Smucker Products").

5. Sponsor: American, Automobile Association ("AAA")

Product or Service: Automobile membership club

6. Sponsor: General Motors ("GM")

Product or Service: Passenger cars and trucks and motor vehicle service parts or the provision of mechanical and electrical maintenance and repair services in connection therewith.

7. Sponsor: Mattel Inc. ("Mattel")

Product or Service: Generally, all toys ("excluding construction blocks, electronic consumer products [e.g., video games or products and interactive games and products], riding vehicles, publications, records and recording devices and non-toy musical instruments).

8. Sponsor: National Interrent ("National")

Product or Service: Rental vehicles, excluding U-Haul, Ryder and the like.

STANDARD FORM  
INDUSTRIAL BUILDING LEASE  
(MULTI-TENANT)

1. BASIC TERMS. This SECTION 1 contains the Basic Terms of this Lease between Landlord and Tenant, named below. Other Sections of the Lease referred to in this SECTION 1 explain and define the Basic Terms and are to be read in conjunction with the Basic Terms.

- 1.1. Date of Lease: 08/28/04
- 1.2. Landlord: First Industrial, L.P.
- 1.3. Tenant: Build-A-Bear Retail Management, Inc., a Delaware corporation
- 1.4. Premises: Suites 1938 - 1954 containing approximately 51,976 rentable square feet within in the complex commonly known as 1908 - 2000 Innerbelt Business Center Drive, St. Louis, Missouri 63114 ("BUILDING").
- 1.5. Property: 1908 - 2000 Innerbelt Business Center Drive, St. Louis, Missouri 63114 (See EXHIBIT A)
- 1.6. Lease Term: Four (4) years and zero (0) months ("TERM"), commencing January 1, 2005 ("COMMENCEMENT DATE") and ending December 31, 2008, subject to SECTION 2.3 below, ("EXPIRATION DATE"). SEE RIDER
- 1.7. Permitted Uses: (See SECTION 4.1) General administrative and sales office, along with warehousing, service, assembly and distribution of retail products.
- 1.8. Tenant's Guarantor: None
- 1.9. Brokers: (See SECTION 23)  
(A) Tenant's Broker: None  
(B) Landlord's Broker: None
- 1.10. Security/Damage Deposit: (See SECTION 4.4) Letter of Credit in the amount of \$24,215.68.
- 1.11. Initial Estimated Additional Rent Payable by Tenant: SEE RIDER
- 1.12. Tenant's Proportionate Share: 27%
- 1.13. Riders to Lease: SEE RIDER

2. LEASE OF PREMISES; RENT.

2.1. LEASE OF PREMISES FOR LEASE TERM. Landlord hereby leases the Premises to Tenant, and Tenant hereby rents the Premises from Landlord, for the Term and subject to the conditions of this Lease.

2.2. TYPES OF RENTAL PAYMENTS. Tenant shall pay modified net rent to Landlord in monthly installments, in advance, on the first day of each and every calendar month during the Term of this Lease (the "BASE RENT") in the amounts and for the periods set forth below:

LEASE PERIOD -----	ANNUAL BASE RENT -----	MONTHLY BASE RENT -----
Jan. 1, 2005 - Dec. 31, 2008	\$441,795.96 (\$8.50/ft.)	\$36,816.33

Tenant shall also pay Tenant's Proportionate Share (as set forth in SECTION 1.12) of Operating Expenses (as hereinafter defined) and any other amounts owed by Tenant hereunder [collectively, "ADDITIONAL RENT"]. In the event any monthly installment of Base Rent or Additional Rent, or both, is not paid within 10 days of the date when due, a late charge in an amount equal to 5% of the then delinquent installment of Base Rent and/or Additional Rent [the "LATE CHARGE"; the Late Charge, Default Interest (as defined in SECTION 22.3 below), Base Rent and Additional Rent shall collectively be referred to as "RENT"] shall be paid by Tenant to Landlord, c/o First Industrial, L.P., 75 Remittance Drive, Suite 1589, Chicago, IL 60675-1589, or if sent by overnight courier to, First Industrial, L.P., 75 Remittance Drive, Lockbox #1589, Chicago, IL 60675-1589 (or such other entity designated as Landlord's management agent, if any, and if Landlord so appoints such a management agent, the "AGENT"), or pursuant to such other directions as Landlord shall designate in this Lease or otherwise in writing.

2.3. COVENANTS CONCERNING RENTAL PAYMENTS. Tenant shall pay the Rent promptly when due, without notice or demand, and without any abatement, deduction or setoff, except as may otherwise be expressly and specifically provided in this Lease. No payment by Tenant, or receipt or acceptance by Agent or Landlord, of a lesser amount than the correct Rent shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check or letter accompanying any payment be deemed an accord or

satisfaction, and Agent or Landlord may accept such payment without prejudice to its right to recover the balance due or to pursue any other remedy available to Landlord. If the Commencement Date occurs on a day other than the first day of a calendar month, the Rent due for the first calendar month of the Term shall be prorated on a per diem basis (based on a 360 day, 12 month year) and paid to Landlord on the Commencement Date, and the Term will be extended to terminate on the last day of the calendar month in which the Expiration Date stated in SECTION 1.6 occurs.

### 3. OPERATING EXPENSES.

3.1. DEFINITIONAL TERMS RELATING TO ADDITIONAL RENT. For purposes of this Section and other relevant provisions of the Lease:

3.1.1. OPERATING EXPENSES. The term "OPERATING EXPENSES" shall mean all costs and expenses paid or incurred with respect to the ownership, repair, replacement, restoration, maintenance and operation of the Property, including, without limitation, the following: (i) services provided directly by employees of Landlord or Agent in connection with the operation, maintenance or rendition of other services to or for the Property; (ii) to the extent not separately metered, billed, or furnished, all charges for utilities and services furnished to either or both of the Property and the Premises (including, without limitation, the Common Areas [as hereinafter defined]), together with any taxes on such utilities; (iii) all premiums for casualty, workers' compensation, liability, boiler, flood and all other types of insurance provided by Landlord and relating to the Property, all third party administrative costs incurred in connection with the procurement and implementation of such insurance policies, and all deductibles paid by Landlord pursuant to insurance policies required to be maintained by Landlord under this Lease; (iv) the cost of all supplies, tools, materials and equipment utilized in the ownership and operation of the Property, and sales and other taxes thereon; (v) amounts charged (including, without limitation, those costs and expenses set forth in SECTION 13.2 (i) below) by any or all of contractors, materialmen and suppliers for services, materials and supplies furnished to Landlord in connection with any or all of the operation, repair and maintenance of any part of the Property (together with a reasonable overhead and administrative fee to Landlord), including, without limitation, the structural elements of the Property and the Common Areas; (vi) management fees to Landlord or Agent or other persons or management entities actually and directly involved in the management and operation of the Property; (vii) any capital improvements made by, or on behalf of, Landlord to the Property that are either or both (a) designed to reduce Operating Expenses and (b) required to keep the Property in compliance with all governmental laws, rules and regulations applicable thereto, from time to time, the cost of which capital improvements shall be reasonably amortized by Landlord over the useful life of the improvement, in accordance with generally accepted accounting principles; (viii) all professional fees incurred in connection with the operation, management and maintenance of the Property; and (ix) Taxes, as hereinafter defined in SECTION 3.1.2. Notwithstanding anything to the contrary, Operating expenses shall not include the following: depreciation of property, costs of tenant improvements, real estate brokers' commissions, interest, or capital costs of major roof or major parking lot replacements/restorations, work necessitate by fire or other casualty damage to the extent of net insurance proceeds received by Landlord with respect thereto, attorneys' fees, accounting fees and expenditures incurred in connection with negotiation, disputes and claims of other tenants or occupants of the property, or with other third parties except as specifically provided in this Lease; advertising expenses and other costs incurred in leasing or procuring new tenants, expenses for which Landlord is or will be reimbursed by other sources, excluding Tenant reimbursement for amounts payable, including, but not limited to, repair or replacement of any item covered by warranties; expense for the defense of Landlord's title to the property, structural repairs and replacements, depreciation and amortization of the property or financing costs, including interest and principal amortization of debts; charitable and political contributions; costs to correct original or latent defects in the design, construction or equipment of the property; costs of alterations to any tenants' premises, except for any alterations required by law; or expenses in connection with services or other benefits of the type which are not provided or available to Tenant but which are provided to another tenant of the property or which are paid to Landlord by such other tenant. Tenant's obligations regarding real estate taxes and insurance premiums are further defined herein below.

3.1.2. TAXES. The term "TAXES," as referred to in SECTION 3.1.1(ix) above shall mean (i) all governmental taxes, assessments, fees and charges of every kind or nature (other than Landlord's income taxes), whether general, special, ordinary or extraordinary, due at any time or from time to time, during the Term and any extensions thereof, in connection with the ownership, leasing, or operation of the Property, or of the personal property and equipment located therein or used in connection therewith; and (ii) any reasonable expenses incurred by Landlord in contesting such taxes or assessments and/or the assessed value of the Property.

3.1.3. OPERATING YEAR. The term "OPERATING YEAR" shall mean the calendar year commencing January 1st of each year (including the calendar year within which the Commencement Date occurs) during the Term.

3.1.4 MODIFIED NET RENT. THE TERM "MODIFIED NET RENT" SHALL MEAN TENANT SHALL PAY ITS BASE RENT AS DEFINED ABOVE, ITS PROPORTIONAL SHARE OF OPERATING EXPENSES, AS DEFINED ABOVE AND ITS PROPORTIONAL SHARE OF REAL ESTATE TAXES IN EXCESS OF \$248,978.63 AND INSURANCE PREMIUMS IN EXCESS OF \$9,313.29. (SEE RIDER)

3.2. PAYMENT OF OPERATING EXPENSES. Additional Rent commences to accrue upon the Commencement Date. The Tenant's Proportionate Share of Operating Expenses payable hereunder for the Operating Years in which the Term begins and ends shall be prorated to correspond to that portion of said Operating Years occurring within the Term. Tenant's Proportionate Share of



Operating Expenses and any other sums due and payable under this Lease shall be adjusted upon receipt of the actual bills therefor, and the obligations of this SECTION 3 shall survive the termination or expiration of the Lease.

3.3. PAYMENT OF ADDITIONAL RENT. Landlord shall have the right to reasonably estimate the Operating Expenses for each Operating Year. Upon Landlord's or Agent's notice to Tenant of such estimated amount, Tenant shall pay, on the first day of each month during that Operating Year, an amount (the "ESTIMATED ADDITIONAL RENT") equal to the estimate of the Tenant's Proportionate Share of Operating Expenses divided by 12 (or the fractional portion of the Operating Year remaining at the time Landlord delivers its notice of the estimated amounts due from Tenant for that Operating Year). If the aggregate amount of Estimated Additional Rent actually paid by Tenant during any Operating Year is less than Tenant's actual ultimate liability for Operating Expenses for that particular Operating Year, Tenant shall pay the deficiency within 30 days of Landlord's written demand therefor. If the aggregate amount of Estimated Additional Rent actually paid by Tenant during a given Operating Year exceeds Tenant's actual liability for such Operating Year, the excess shall be credited against the Estimated Additional Rent next due from Tenant during the immediately subsequent Operating Year, except that in the event that such excess is paid by Tenant during the final Lease Year, then upon the expiration of the Term, Landlord or Agent shall pay Tenant the then-applicable excess promptly after determination thereof.

4. USE OF PREMISES AND COMMON AREAS; SECURITY DEPOSIT.

4.1. USE OF PREMISES AND PROPERTY. The Premises shall be used by the Tenant for the purpose(s) set forth in SECTION 1.7 above and for no other purpose whatsoever. Tenant shall not, at any time, use or occupy, or suffer or permit anyone to use or occupy, the Premises, or do or permit anything to be done in the Premises or the Property, in any manner that may (a) violate any Certificate of Occupancy for the Premises or the Property; (b) cause, or be liable to cause, injury to, or in any way impair the value or proper utilization of, all or any portion of the Property (including, but not limited to, the structural elements of the Property) or any equipment, facilities or systems therein; (c) constitute a violation of the laws and requirements of any public authority or the requirements of insurance bodies or the rules and regulations of the Property, including any covenant, condition or restriction affecting the Property; (d) exceed the load bearing capacity of the floor of the Premises; (e) impair or tend to impair the character, reputation or appearance of the Property; or (e) unreasonably annoy, inconvenience or disrupt the operations or tenancies of other tenants or users of the Property. On or prior to the date hereof, Tenant has completed and delivered for the benefit of Landlord a "Tenant Operations Inquiry Form" in the form attached hereto as EXHIBIT D describing the nature of Tenant's proposed business operations at the Premises, which form is intended to, and shall be, relied upon by Landlord.

4.2. USE OF COMMON AREAS. As used herein, "COMMON AREAS" shall mean all areas within the Property that are available for the common use of tenants of the Property and that are not leased or held for the exclusive use of Tenant or other tenants or licensees, including, but not limited to, parking areas, driveways, sidewalks, loading areas, access roads, corridors, landscaping and planted areas. Tenant shall have the nonexclusive right to use the Common Areas for the purposes intended, subject to such reasonable rules and regulations as Landlord may uniformly establish from time to time. Tenant shall not interfere with the rights of any or all of Landlord, other tenants or licensees, or any other person entitled to use the Common Areas. Without limitation of the foregoing, Tenant shall not park or store any vehicles or trailers on, or conduct truck loading and unloading activities in, the Common Areas in a manner that unreasonably disturbs, disrupts or prevents the use of the Common Areas by Landlord, other tenants or licensees or other persons entitled to use the Common Areas. Landlord, from time to time, may change any or all of the size, location, nature and use of any of the Common Areas although such changes may result in inconvenience to Tenant, so long as such changes do not materially and adversely affect Tenant's use of the Premises. In addition to the foregoing, Landlord may, at any time, close or suspend access to any Common Areas to perform any acts in the Common Areas as, in Landlord's reasonable judgment, are desirable to improve or maintain either or both of the Premises and the Property, or are required in order to satisfy Landlord's obligations under either or both of SECTIONS 13.2 and 18; provided, however, that Landlord shall use reasonable efforts to limit any disruption of Tenant's use and operation of the Premises in connection therewith.

4.3. SIGNAGE. Tenant shall not affix any sign of any size or character to any portion of the Property, without prior written approval of Landlord, which approval shall not be unreasonably withheld or delayed. Tenant shall remove all signs of Tenant upon the expiration or earlier termination of this Lease and immediately repair any damage to either or both of the Property and the Premises caused by, or resulting from, such removal.

4.4. SECURITY/DAMAGE DEPOSIT. Simultaneously with the execution and delivery of this Lease, Tenant has deposited with Landlord or Agent A Letter of Credit in the amount of \$24,215.68, the sum set forth in SECTION 1.10 above, in cash (the "SECURITY"), representing security for the performance by Tenant of the covenants and obligations hereunder, the amount of which Security was determined by adding the first two installments of monthly Base Rent. The Security shall be held by Landlord or Agent, without interest, in favor of Tenant; provided, however, that no trust relationship shall be deemed created thereby and the Security may be commingled with other assets of Landlord. If Tenant defaults in the performance of any of its covenants hereunder, Landlord or Agent may, without notice to Tenant, apply all or any part of the Security, to the extent required for the payment of any Rent or other sums due from Tenant hereunder, in addition to any other remedies available to Landlord. In the event the Security is so applied, Tenant shall, upon demand, immediately deposit with Landlord or Agent a sum equal to the amount so used. If Tenant fully and faithfully complies with all the covenants and obligations hereunder, the Security (or any balance thereof) shall be returned to Tenant within 30 days after the last to occur of (i) the date the Term expires or terminates or (ii) delivery to Landlord of possession of the Premises. Landlord may deliver the Security to any purchaser of Landlord's

interest in the Premises [or any Successor Landlord (defined below), if applicable], and thereupon Landlord and Agent shall be discharged from any further liability with respect to the Security.

5. CONDITION AND DELIVERY OF PREMISES.

5.1. CONDITION OF PREMISES. Tenant agrees that Tenant is familiar with the condition of both the Premises and the Property, and Tenant hereby accepts the foregoing on an "AS-IS," "WHERE-IS" basis. Tenant acknowledges that neither Landlord nor Agent, nor any representative of Landlord, has made any representation as to the condition of the foregoing or the suitability of the foregoing for Tenant's intended use. Tenant represents and warrants that Tenant has made its own inspection of the foregoing. Neither Landlord nor Agent shall be obligated to make any repairs, replacements or improvements (whether structural or otherwise) of any kind or nature to the foregoing in connection with, or in consideration of, this Lease, except (a) as set forth in SECTIONS 13.2 and 18 and (b) with respect to all (if any) repairs and improvements expressly and specifically described in EXHIBIT B attached hereto ("LANDLORD WORK ITEMS"). Landlord agrees to make reasonable efforts to enforce, or cause Agent to enforce, upon Tenant's request, all manufacturer's or contractor's warranties, if any, issued in connection with any of the Landlord Work Items.

5.2. DELAY IN COMMENCEMENT. Landlord shall not be liable to Tenant if Landlord does not deliver possession of the Premises to Tenant on the Commencement Date. The obligations of Tenant under the Lease shall not be affected thereby, except that the Commencement Date shall be delayed until Landlord delivers possession of the Premises to Tenant, and the Lease Term shall be extended by a period equal to the number of days of delay in delivery of possession of the Premises to Tenant, plus the number of days necessary to end the Lease Term on the last day of a month.

6. SUBORDINATION; NOTICES TO SUPERIOR LESSORS AND MORTGAGEES; ATTORNNMENT.

6.1. SUBORDINATION. Provided that Tenant is provided with a reasonable and customary subordination, nondisturbance and attornment agreement duly executed by the holder of any mortgage or deed of trust or the landlord pursuant to any ground lease, this Lease shall be subject and subordinate at all times to (a) all ground leases or underlying leases that may now exist or hereafter be executed affecting either or both of the Premises and the Property and (b) any mortgage or deed of trust that may now exist or hereafter be placed upon, and encumber, any or all of (x) the Property; (y) any ground leases or underlying leases for the benefit of the Property; and (z) all or any portion of Landlord's interest or estate in any of said items. Notwithstanding the foregoing, Landlord shall have the right to subordinate or cause to be subordinated any such ground leases or underlying leases that benefit the Property or any such mortgage or deed of trust liens to this Lease. Tenant shall execute and deliver, upon demand by Landlord and in the form reasonably requested by Landlord, any additional documents evidencing the priority of subordination of this Lease with respect to any such ground leases or underlying leases for the benefit of the Property or any such mortgage or deed of trust.

6.2. ESTOPPEL CERTIFICATES. Tenant agrees, from time to time and within fifteen (15) days after request by Landlord, to deliver to Landlord, or Landlord's designee, an estoppel certificate stating such matters pertaining to this Lease as may be reasonably requested by Landlord. Failure by Tenant to timely execute and deliver such certificate shall constitute an acceptance of the Premises and acknowledgment by Tenant that the statements included therein are true and correct without exception. Landlord and Tenant intend that any statement delivered pursuant to this section may be relied upon by any prospective purchaser or mortgagee of the Property or of any interest therein or any other Landlord designee.

6.3. TRANSFER FOR LANDLORD. In the event of a sale or conveyance by Landlord of the Property, the same shall operate to release Landlord from any future liability for any of the covenants or conditions, express or implied, herein contained in favor of Tenant, and in such event Tenant agrees to look solely to Landlord's successor in interest with respect thereto and agrees to attorn to such successor.

7. QUIET ENJOYMENT. Subject to the provisions of this Lease, so long as Tenant pays all of the Rent and performs all of its other obligations hereunder, Tenant shall not be disturbed in its possession of the Premises by Landlord, Agent or any other person lawfully claiming through or under Landlord; provided, however, in addition to Landlord's rights under SECTION 16 and elsewhere in this Lease, Landlord and Landlord's agents, employees, contractors and representatives shall be provided reasonable access to the Premises such that Landlord and Landlord's agents, employees, contractors and representatives may perform the General Maintenance Services (as hereinafter defined) without undue interruption, delay or hindrance. This covenant shall be construed as a covenant running with the Property and is not a personal covenant of Landlord. Tenant shall not unreasonably interrupt, delay, prevent or hinder the performance of the General Maintenance Services by or on behalf of Landlord. Notwithstanding the foregoing, however, Tenant acknowledges and agrees that Landlord shall have the unfettered and unilateral right to use portions of the Common Areas (inclusive of the roof of the Building) for such purposes and uses as Landlord may desire; provided, however, that in all events and under all circumstances, Landlord's use of any portion of the Common Areas shall not interfere, in any material respect, with any or all of (a) Tenant's rights to occupy and use the Common Areas (in the manner and for the purposes contemplated hereunder); (b) Tenant's right to utilize the vehicular parking areas located on the Common Areas; and (c) Tenant's right of access, ingress and egress to and from the Common Areas.

8. ASSIGNMENT, SUBLETTING AND MORTGAGING.

8.1. PROHIBITION. Tenant acknowledges that this Lease and the Rent due under this Lease have been agreed to by Landlord in reliance upon

Tenant's reputation and creditworthiness and upon the continued operation of the Premises by Tenant for the particular use described in SECTION 4.1 above; therefore, Tenant shall not, whether voluntarily, or by operation of law, or otherwise: (a) assign or otherwise transfer this Lease; (b) sublet the Premises or any part thereof, or allow the same to be used or occupied by anyone other than Tenant; or (c)

mortgage, pledge, encumber, or otherwise hypothecate this Lease or the Premises, or any part thereof, in any manner whatsoever, without in each instance obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. Any purported assignment, mortgage, transfer, pledge or sublease made without the prior written consent of Landlord shall be absolutely null and void. No assignment of this Lease shall be effective and valid unless and until the assignee executes and delivers to Landlord any and all documentation reasonably required by Landlord in order to evidence assignee's assumption of all obligations of Tenant hereunder. Any consent by Landlord to a particular assignment, sublease or mortgage shall not constitute consent or approval of any subsequent assignment, sublease or mortgage, and Landlord's written approval shall be required in all such instances. No consent by Landlord to any assignment or sublease shall be deemed to release Tenant from its obligations hereunder and Tenant shall remain fully liable for performance of all obligations under this Lease. Notwithstanding the foregoing, Tenant shall be permitted to assign this Lease or sublease the Premises to an affiliate of Tenant (affiliate, meaning an entity which either controls Tenant, is controlled by Tenant, or is under common control with Tenant), or to a corporation resulting from the merger or consolidation with Tenant, or any persons or entity which acquires substantially all of the assets of Tenant as a going concern, or to any person or entity which acquires substantially all of the stock of Tenant.

8.2. RIGHTS OF LANDLORD. If this Lease is assigned, or if the Premises (or any part thereof) are sublet or used or occupied by anyone other than Tenant, whether or not in violation of this Lease, Landlord or Agent may (without prejudice to, or waiver of its rights), collect Rent from the assignee, subtenant or occupant. Landlord or Agent may apply the net amount collected to the Rent herein reserved, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any of the provisions of this SECTION 8. With respect to the allocable portion of the Premises sublet, in the event that the total rent and any other considerations received under any sublease by Tenant is greater than the total Rent required to be paid, from time to time, under this Lease, Tenant shall pay to Landlord one hundred percent (100%) of such excess as received from any subtenant and such amount shall be deemed a component of the Additional Rent.

#### 9. COMPLIANCE WITH LAWS.

9.1. COMPLIANCE WITH LAWS. Tenant shall, at its sole expense (regardless of the cost thereof), comply with all local, state and federal laws, rules, regulations and requirements now or hereafter in force and all judicial and administrative decisions in connection with the enforcement thereof (collectively, "LAWS"), pertaining to either or both of the Premises and Tenant's use and occupancy thereof. If any license or permit is required for the conduct of Tenant's business in the Premises, Tenant, at its expense, shall procure such license prior to the Commencement Date, and shall maintain such license or permit in good standing throughout the Term. Tenant shall give prompt notice to Landlord of any written notice it receives of the alleged violation of any Law or requirement of any governmental or administrative authority with respect to either or both of the Premises and the use or occupation thereof. The judgment of any court of competent jurisdiction, or the admission of Tenant in any action or proceeding against Tenant, whether Landlord is a party thereto or not, that any such Law pertaining to the Premises has been violated, shall be conclusive of that fact as between Landlord and Tenant.

9.2. HAZARDOUS MATERIALS. If, at any time or from time to time during the Term (or any extension thereof), any Hazardous Material (defined below) is generated, transported, stored, used, treated or disposed of at, to, from, on or in either or both of the Premises and the Property by, or as a result of any act or omission of, any or all of Tenant and any or all of Tenant's Parties (defined below): (i) Tenant shall, at its own cost, at all times comply (and cause all others to comply) with all laws (federal, state or local) relating to Hazardous Materials, including, but not limited to, all Environmental Laws (defined below), and Tenant shall further, at its own cost, obtain and maintain in full force and effect at all times all permits and other approvals required in connection therewith; (ii) Tenant shall promptly provide Landlord or Agent with complete copies of all communications, permits or agreements with, from or issued by any governmental authority or agency (federal, state or local) or any private entity relating in any way to the presence, release, threat of release, or placement of Hazardous Materials on or in the Premises or any portion of the Property, or the generation, transportation, storage, use, treatment, or disposal at, on, in or from the Premises, of any Hazardous Materials; (iii) Landlord, Agent and their respective agents and employees shall have the right to either or both (x) enter the Premises and (y) conduct appropriate tests for the purposes of ascertaining Tenant's compliance with all applicable laws (including Environmental Laws), rules or permits relating in any way to the generation, transport, storage, use, treatment, disposal or presence of Hazardous Materials on, at, in or from all or any portion of either or both of the Premises and the Property; and (iv) upon written request by Landlord or Agent, Tenant shall provide Landlord with the results of reasonably appropriate tests of air, water or soil to demonstrate that Tenant complies with all applicable laws, rules or permits relating in any way to the generation, transport, storage, use, treatment, disposal or presence of Hazardous Materials on, at, in or from all or any portion of either or both of the Premises and the Property. This SECTION 9.2 does not authorize the generation, transportation, storage, use, treatment or disposal of any Hazardous Materials at, to, from, on or in the Premises in contravention of this SECTION 9. Tenant covenants to investigate, clean up and otherwise remediate, at Tenant's sole expense, any release of Hazardous Materials caused, contributed to, or created by any or all of (A) Tenant and (B) any or all of Tenant's officers, directors, members, managers, partners, invitees, agents, employees, contractors or representatives ("TENANT PARTIES") during the Term. Such investigation and remediation shall be performed only after Tenant has obtained Landlord's prior written consent; provided, however, that Tenant shall be entitled to respond immediately to an emergency without first obtaining such consent. All remediation shall be performed in strict compliance with

Environmental Laws and to the reasonable satisfaction of Landlord. Tenant shall be liable for any and all conditions covered hereby, and for all costs relating thereto, that are caused or created by any or all of Tenant and any or all of Tenant's Parties. Tenant shall not enter into any settlement agreement, consent decree or other compromise with respect to any claims relating to any Hazardous Materials in any way connected to the Premises without first obtaining Landlord's written consent (which consent may be given or withheld in Landlord's sole, but reasonable, discretion) and affording Landlord the reasonable opportunity to participate in any such proceedings. As used herein, the term (x) "ENVIRONMENTAL LAWS" shall mean any and all

laws pertaining to Hazardous Materials or that otherwise deal with, or relate to, air or water quality, air emissions, soil or ground conditions or other environmental matters of any kind; and (y) "HAZARDOUS MATERIALS" shall mean any waste, material or substance (whether in the form of liquids, solids or gases, and whether or not airborne) that is or may be deemed to be or include a pesticide, petroleum, asbestos, polychlorinated biphenyl, radioactive material, urea formaldehyde or any other pollutant or contaminant that is or may be deemed to be hazardous, toxic, ignitable, reactive, corrosive, dangerous, harmful or injurious, or that presents a risk to public health or to the environment, and that is or becomes regulated by any Environmental Law. The undertakings, covenants and obligations imposed on Tenant under this SECTION 9.2 shall survive the termination or expiration of this Lease.

#### 10. INSURANCE.

10.1. INSURANCE TO BE MAINTAINED BY LANDLORD. Landlord shall maintain (a) "all-risk" property insurance policy covering the Property (at its full replacement cost), but excluding Tenant's Property (defined below), and (b) commercial general public liability insurance covering Landlord for claims arising out of liability for bodily injury, death, personal injury, advertising injury and property damage occurring in and about the Property and otherwise resulting from any acts and operations of Landlord, its agents and employees, and (c) rent loss insurance, all of the above with limits that are required by any lender(s) of Landlord, or as are otherwise reasonably determined by Landlord.

10.2. INSURANCE TO BE MAINTAINED BY TENANT. Tenant shall purchase, at its own expense, and keep in force at all times during this Lease the policies of insurance set forth below in SECTIONS 10.2.1 and 10.2.2 (collectively, "TENANT'S POLICIES"). All Tenant's Policies shall (a) be issued by an insurance company with a Best rating of A-X or better and otherwise reasonably acceptable to Landlord and shall be licensed to do business in the state in which the Property is located; (b) provide that said insurance shall not be canceled or materially modified unless 30 days' prior written notice shall have been given to Landlord; and (c) otherwise be in such form, and include such coverages, as Landlord may reasonably require. All Tenant's Policies (or, at Landlord's option, Certificates of Insurance, in a form reasonably acceptable to Landlord, evidencing said Tenant's Policies), shall be delivered to Landlord by Tenant upon commencement of the Lease and renewals thereof shall be delivered at least 30 days prior to the expiration of each Tenant's Policy. Tenant shall give prompt notice to Landlord and Agent of any bodily injury, death, personal injury, advertising injury or property damage occurring in and about the Property.

10.2.1. GENERAL LIABILITY AND AUTO INSURANCE. Tenant shall purchase and maintain, throughout the Term, a Tenant's Policy(ies) of (i) commercial general or excess liability insurance, including personal injury and property damage, in the amount of not less than \$2,000,000.00 per occurrence, and \$5,000,000.00 annual general aggregate, per location; (ii) comprehensive automobile liability insurance covering Tenant against any losses arising out of liability for personal injuries or deaths of persons and property damage occurring in or about the Premises in the amount of not less than \$1,000,000, combined single limit. The Tenant's Policies required by this SECTION 10.2.1 shall (a) name Landlord, Agent, and any party holding an interest to which this Lease may be subordinated as additional insureds; (b) provide coverage on an occurrence basis; (c) provide coverage for the indemnity obligations of Tenant under this Lease; (d) contain a severability of insured parties provision and/or a cross liability endorsement; (e) be primary, not contributing with, and not in excess of, coverage that Landlord may carry; and (f) provide coverage with no exclusion for a pollution incident arising from a hostile fire.

10.2.2. PROPERTY AND WORKERS' COMPENSATION INSURANCE. Tenant shall purchase and maintain, throughout the Term, a Tenant's Policy or Policies of (i) "all-risk" property insurance covering Tenant's Property (at its full replacement cost), and damage to other property resulting from any acts or operations of Tenant, and (ii) workers' compensation insurance per the applicable state statutes covering all employees of Tenant.

10.3. WAIVER OF SUBROGATION. To the extent permitted by law, and without affecting the coverage provided by insurance required to be maintained hereunder, Landlord and Tenant each waive any right to recover against the other for (a) damages to property, (b) damages to all or any portion of either or both of the Premises and the Property, (c) claims arising by reason of the foregoing, to the extent such damages and claims are insured against, or required to be insured against, by Landlord or Tenant under this Lease, or (d) claims paid by Tenant's workers' compensation carrier. This provision is intended to waive, fully and for the benefit of each party, any rights and/or claims which might give rise to a right of subrogation by any insurance carrier. The coverage obtained by each party pursuant to this Lease shall include, without limitation, a waiver of subrogation by the carrier which conforms to the provisions of this section.

#### 11. ALTERATIONS.

11.1. PROCEDURAL REQUIREMENTS. Tenant may, from time to time, at its expense, make alterations or improvements in and to the Premises (hereinafter collectively referred to as "ALTERATIONS"), provided that Tenant first obtains the written consent of Landlord in each instance. Landlord's consent to Alterations shall not be unreasonably withheld, provided that: (a) the Alterations are non-structural and the structural integrity of the Property shall not be affected; (b) the Alterations are to the interior of the Premises; (c) the proper functioning of the mechanical, electrical, heating, ventilating, air-conditioning ("HVAC"), sanitary and other service systems of the Property shall not be affected and the usage of such systems by Tenant shall not be increased; (d) the Alterations have no adverse effect on other leased premises in the Property; (e) Tenant shall have appropriate insurance coverage,



reasonably satisfactory to Landlord, regarding the performance and installation of the Alterations; (f) the Alterations shall conform with all other requirements of this Lease; and (g) Tenant shall have provided Landlord with reasonably detailed plans for such Alterations in advance of requesting Landlord's consent. Additionally, before proceeding with any Alterations, Tenant shall (i) at Tenant's expense, obtain all necessary governmental permits and certificates for the commencement and prosecution of Alterations; (ii) submit to Agent, for Landlord's

written approval, working drawings, plans and specifications and all permits for the work to be done and Tenant shall not proceed with such Alterations until it has received said approval; and (iii) cause those contractors, materialmen and suppliers engaged to perform the Alterations to deliver to Landlord certificates of insurance (in a form reasonably acceptable to Landlord) evidencing policies of commercial general liability insurance (providing the same coverages as required in SECTION 10.2.1 above) and workers' compensation insurance. Such insurance policies shall satisfy the obligations imposed under SECTION 10.2.1(a) through (d) and (f). After obtaining Landlord's approval to the Alterations, Tenant shall give Landlord at least five days' prior written notice of the commencement of any Alterations at the Premises, and Landlord may elect to record and post notices of non-responsibility at the Premises. Notwithstanding anything to the contrary contained in this SECTION 11.1, Landlord's consent shall not be required for Alterations satisfying clauses (a) through (f) above and costing \$10,000.00 or less in any one instance (up to a maximum aggregate of \$25,000.00 over the Term) provided that Tenant notifies Landlord of such Alterations prior to commencing thereon and obtains all approvals and permits necessary for the commencement and prosecution of such Alterations.

11.2. PERFORMANCE OF ALTERATIONS. Tenant shall cause the Alterations to be performed in compliance with all applicable permits, laws and requirements of public authorities, and with Landlord's reasonable rules and regulations or any other restrictions that Landlord or Agent may impose on the Alterations. Tenant shall cause the Alterations to be diligently performed in a good and workmanlike manner, using new materials and equipment at least equal in quality and class to the standards for the Property established by Landlord or Agent. Tenant shall obtain all necessary permits and certificates for final governmental approval of the Alterations and shall provide Landlord with "as built" plans, copies of all construction contracts, governmental permits and certificates and proof of payment for all labor and materials, including, without limitation, copies of paid invoices and final lien waivers.

11.3. LIEN PROHIBITION. Tenant shall pay when due all claims for labor and material furnished to the Premises in connection with the Alterations. Tenant shall not permit any mechanics or materialmen's liens to attach to the Premises or the Property. Tenant, at its expense, shall procure the satisfaction or discharge of record of all such liens and encumbrances within 30 days after the filing thereof; or, within such thirty (30) day period, Tenant shall provide Landlord, at Tenant's sole expense, with endorsements (satisfactory, both in form and substance, to Landlord and the holder of any mortgage or deed of trust) to the existing title insurance policies of Landlord and the holder of any mortgage or deed of trust, insuring against the existence of, and any attempted enforcement of, such lien or encumbrance. In the event Tenant has not so performed, Landlord may, at its option, pay and discharge such liens and Tenant shall be responsible to reimburse Landlord, on demand and as Additional Rent under this Lease, for all costs and expenses incurred in connection therewith, together with interest thereon at the rate set forth in SECTION 22.3, which expenses shall include reasonable fees of attorneys of Landlord's choosing, and any costs in posting bond to effect discharge or release of the lien as an encumbrance against the Premises or the Property.

## 12. LANDLORD'S AND TENANT'S PROPERTY.

12.1. LANDLORD'S PROPERTY. Subject to SECTION 12.2, all fixtures, machinery, equipment, improvements and appurtenances attached to, or built into, the Premises at the commencement of, or during the Term, whether or not placed there by or at the expense of Tenant, shall become and remain a part of the Premises; shall be deemed the property of Landlord (the "LANDLORD'S PROPERTY"), without compensation or credit to Tenant; and shall not be removed by Tenant at the Expiration Date unless Landlord requests their removal. Further, any personal property in the Premises on the Commencement Date, movable or otherwise, unless installed and paid for by Tenant, shall be and shall remain the property of Landlord and shall not be removed by Tenant. In no event shall Tenant remove any of the following materials or equipment without Landlord's prior written consent (which consent may be given or withheld in Landlord's sole discretion): any power wiring or power panels, lighting or lighting fixtures, wall or window coverings, carpets or other floor coverings, heaters, air conditioners or any other HVAC equipment, fencing or security gates, or other similar building operating equipment and decorations.

12.2. TENANT'S PROPERTY. All movable non-structural partitions, business and trade fixtures, machinery and equipment, communications equipment and office equipment that are installed in the Premises by, or for the account of, Tenant and without expense to Landlord and that can be removed without structural damage to the Property, and all furniture, furnishings and other articles of movable personal property owned by Tenant and located in the Premises (collectively, the "TENANT'S PROPERTY") shall be and shall remain the property of Tenant and may be removed by Tenant at any time during the Term, provided Tenant repairs or pays the cost of repairing any damage to the Premises or to the Property resulting from the installation and/or removal thereof. At or before the Expiration Date, or the date of any earlier termination, Tenant, at its expense, shall remove from the Premises all of Tenant's Property and any Alterations (except such items thereof as constitute Landlord's Property; or as Landlord shall have expressly permitted, in writing, to remain, which property shall become the property of Landlord), and Tenant shall repair (to Landlord's reasonable satisfaction) any damage to the Premises or the Property resulting from any installation and/or removal of Tenant's Property. Any other items of Tenant's Property that shall remain in the Premises after the Expiration Date, or following an earlier termination date, may, at the option of Landlord, be deemed to have been abandoned, and in such case, such items may be retained by Landlord as its property or be disposed of by Landlord, in Landlord's sole and absolute discretion and without accountability, at Tenant's expense. Notwithstanding the foregoing, if Tenant is in default under the terms of this Lease, Tenant may remove Tenant's Property from the Premises only upon the express written direction of Landlord.

13. REPAIRS AND MAINTENANCE.

13.1. TENANT REPAIRS AND MAINTENANCE.

13.1.1. TENANT RESPONSIBILITIES. Throughout the Term, Tenant shall, at its sole cost and expense: (i) both (x) maintain and preserve, in first-class condition (subject to normal and customary wear and tear), and (y) perform any and all repairs and replacements required in order to so maintain and preserve, in first class condition, the Premises and the fixtures and appurtenances therein (including, but not limited to, the Premises' plumbing and HVAC systems, all doors, overhead or otherwise, glass and levelers located in the Premises or otherwise available in the Property for Tenant's sole use; and excluding, however, only those specific components of the Premises for which Landlord is expressly responsible under SECTION 13.2); and (ii) except to the extent Landlord elects to repair and maintain the HVAC systems as part of General Maintenance Services (as hereinafter defined), maintain, in full force and effect, a preventative maintenance and service contract with a reputable service provider for maintenance of the HVAC systems of the Premises (the "HVAC MAINTENANCE CONTRACT"). The terms and provisions of any such HVAC Maintenance Contract shall require that the service provider maintain the Premises' HVAC system in accordance with the manufacturer's recommendations and otherwise in accordance with normal, customary and reasonable practices in the geographic area in which the Premises is located and for HVAC systems comparable to the Premises' HVAC system.

In addition to Tenant's obligations under (i) and (ii) above, Tenant shall also be responsible for all costs and expenses incurred to perform any and all repairs and replacements (whether structural or non-structural; interior or exterior; and ordinary or extraordinary), in and to the Premises and the Property and the facilities and systems thereof, if and to the extent that the need for such repairs or replacements arises directly or indirectly from any or all of: (a) the performance or existence of any Alterations, (b) the installation, use or operation of Tenant's Property in the Premises, (c) the moving of Tenant's Property in or out of the Property, and (d) any act, omission, misuse, or neglect of Tenant, any of its subtenants, or others entering into the Premises by act or omission of Tenant or any subtenant. Any repairs or replacements required to be made by Tenant to any or all of the structural components of the Property and the mechanical, electrical, sanitary, HVAC, or other systems of the Property or Premises shall be performed by appropriately licensed contractors approved by Landlord, which approval shall not be unreasonably withheld. All such repairs or replacements shall be subject to the supervision and control of Landlord, and all repairs and replacements shall be made with materials of equal or better quality than the items being repaired or replaced.

13.1.2. GENERAL MAINTENANCE SERVICES. Notwithstanding any of the foregoing, however, from time to time during the Term, Landlord may elect, in its sole discretion and by delivery of written notice to Tenant, to perform on behalf of Tenant, all or some portion of the repairs, maintenance, restoration and replacement in and to the Premises required to be performed by Tenant under this Lease (any such repairs, maintenance, restoration and/or replacement activities that Landlord elects to perform on behalf of Tenant are herein collectively referred to as "GENERAL MAINTENANCE SERVICES"). Tenant shall reimburse Landlord for the cost or value of all General Maintenance Services provided by Landlord as Additional Rent, simultaneously with the payment of Operating Expenses as part of Estimated Additional Rent (on a monthly estimated basis subject to annual reconciliation, as described in SECTION 3.3 above). Unless and until Landlord affirmatively elects to provide General Maintenance Services, nothing contained herein shall be construed to obligate Landlord to perform any General Maintenance Services or, except as otherwise expressly provided in SECTION 13.2, to repair, maintain, restore or replace any portion of the Premises. Landlord may from time to time, in its sole discretion, (x) reduce or expand the scope of the General Maintenance Services that Landlord has elected to provide or (y) revoke its election to provide any or all of the General Maintenance Services, in either event, upon delivery of not less than thirty (30) days' prior written notice to Tenant

13.1.3. HVAC MAINTENANCE CONTRACT. If Landlord does not elect to repair and maintain the HVAC systems as part of General Maintenance Services, or revokes such election at any time after having made such election, then, within 30 days following either (a) the Commencement Date or (b) the date on which Landlord advises Tenant that Landlord will no longer provide General Maintenance Services for the HVAC system, whichever date is applicable, Tenant shall procure and deliver to Landlord the HVAC Maintenance Contract. Thereafter, Tenant shall provide to Landlord a copy of renewals or replacements of such HVAC Maintenance Contract no later than 30 days prior to the then-applicable expiry date of the existing HVAC Maintenance Contract. If Tenant fails to timely deliver to Landlord the HVAC Maintenance Contract (or any applicable renewal or replacement thereof), then Landlord shall have the right to contract directly for the periodic maintenance of the HVAC systems in the Premises and to charge the cost thereof back to Tenant as Additional Rent.

13.2. LANDLORD REPAIRS. Notwithstanding anything contrary herein, Landlord shall repair, replace and restore the foundation, exterior and interior load-bearing walls, roof structure and roof covering and tuckpointing of the Property; provided, however, that (i) all costs and expenses so incurred by Landlord to repair, replace and restore the above items shall constitute Operating Expenses; provided, however, that with respect to any costs incurred in the replacement context, those costs shall not constitute an Operating Expense except to the extent that such costs so qualify under SECTION 3.1.1(vii); and (ii) notwithstanding (i) above, in the event that any such repair, replacement or restoration is necessitated by any or all of the matters set forth in SECTIONS 13.1(a) through (d) above (collectively, "TENANT NECESSITATED REPAIRS"), then Tenant shall be required to reimburse Landlord for all costs and expenses that Landlord incurs in order to perform such Tenant Necessitated Repairs, and such reimbursement shall be paid, in full, within 10 days after Landlord's delivery of demand therefor. Landlord agrees to commence the repairs, replacements or restoration described in this SECTION 13.2 within a reasonable period of time after receiving from Tenant written notice of the need

for such repairs.

14. UTILITIES. Tenant shall purchase all utility services and shall provide for scavenger, cleaning and extermination services. As provided in SECTION 3.1.1. above, utility charges are included within Operating Expenses; therefore, when and as Tenant pays estimated Operating Expenses, those estimated monthly payments shall include monthly estimated installments of utility charges; nevertheless, at Landlord's election or with Landlord's consent, Tenant may pay the utility charges for its Premises directly to the utility or municipality

providing such service, and in that event: (a) all charges shall be paid by Tenant before they become delinquent; and (b) utility charges for the Premises shall not be included in estimated Operating Expenses. Tenant shall be solely responsible for the repair and maintenance of any meters necessary in connection with such services. Tenant's use of electrical energy in the Premises shall not, at any time, exceed the capacity of either or both of (i) any of the electrical conductors and equipment in or otherwise servicing the Premises; and (ii) the HVAC systems of either or both of the Premises and the Property.

15. **INVOLUNTARY CESSATION OF SERVICES.** Landlord reserves the right, without any liability to Tenant and without affecting Tenant's covenants and obligations hereunder, to stop service of any or all of the HVAC, electric, sanitary, elevator (if any), and other systems serving the Premises, or to stop any other services required by Landlord under this Lease, whenever and for so long as may be necessary by reason of (i) accidents, emergencies, strikes, or the making of repairs or changes which Landlord or Agent, in good faith, deems necessary or (ii) any other cause beyond Landlord's reasonable control. Further, it is also understood and agreed that Landlord or Agent shall have no liability or responsibility for a cessation of services to the Premises or to the Property that occurs as a result of causes beyond Landlord's or Agent's reasonable control. No such interruption of service shall be deemed an eviction or disturbance of Tenant's use and possession of the Premises or any part thereof, or render Landlord or Agent liable to Tenant for damages, or relieve Tenant from performance of Tenant's obligations under this Lease, including, but not limited to, the obligation to pay Rent; provided, however, that if any interruption of services persists for a period in excess of five (5) consecutive business days Tenant shall, as Tenant's sole remedy, be entitled to a proportionate abatement of Rent to the extent, if any, of any actual loss of use of the Premises by Tenant.

16. **LANDLORD'S RIGHTS.** Landlord, Agent and their respective agents, employees and representatives shall have the right to enter and/or pass through the Premises at any time or times upon reasonable prior notice (except in the event of emergency): (a) to examine and inspect the Premises and to show them to actual and prospective lenders, prospective purchasers or mortgagees of the Property or providers of capital to Landlord and its affiliates; and (b) to make such repairs, alterations, additions and improvements in or to all or any portion of either or both of the Premises and the Property, or the Property's facilities and equipment as Landlord is required or desires to make. Landlord and Agent shall be allowed to take all materials into and upon the Premises that may be required in connection with any repairs, alterations, additions or improvements, without any liability to Tenant and without any reduction or modification of Tenant's covenants and obligations hereunder; provided, however, that Landlord shall use reasonable efforts to limit interference with Tenant's business operations and Tenant's occupancy and use of the Premises. During the period of six months prior to the Expiration Date (or at any time, if Tenant has vacated or abandoned the Premises or is otherwise in default under this Lease), Landlord and its agents may exhibit the Premises to prospective tenants. Additionally, Landlord and Agent shall have the following rights with respect to the Premises, exercisable without notice to Tenant, without liability to Tenant, and without being deemed an eviction or disturbance of Tenant's use or possession of the Premises or giving rise to any claim for setoff or abatement of Rent: (i) to designate and approve, prior to installation, all types of signs; (ii) to have pass keys, access cards, or both, to the Premises; and (iii) to decorate, remodel, repair, alter or otherwise prepare the Premises for reoccupancy at any time after Tenant vacates or abandons the Premises for more than 30 consecutive days or without notice to Landlord of Tenant's intention to reoccupy the Premises.

17. **NON-LIABILITY AND INDEMNIFICATION.**

17.1. **NON-LIABILITY.** Except as provided in SECTION 17.2.2, none of Landlord, Agent, any other managing agent, or their respective affiliates, owners, partners, directors, officers, agents and employees shall be liable to Tenant for any loss, injury, or damage, to Tenant or to any other person, or to its or their property, irrespective of the cause of such injury, damage or loss. Further, except as provided in SECTION 17.2.2, none of Landlord, Agent, any other managing agent, or their respective affiliates, owners, partners, directors, officers, agents and employees shall be liable to Tenant (a) for any damage caused by other tenants or persons in, upon or about the Property, or caused by operations in construction of any public or quasi-public work; (b) with respect to matters for which Landlord is liable, for consequential or indirect damages purportedly arising out of any loss of use of the Premises or any equipment or facilities therein by Tenant or any person claiming through or under Tenant; (c) any defect in the Premises or the Property; (d) injury or damage to person or property caused by fire, or theft, or resulting from the operation of heating or air conditioning or lighting apparatus, or from falling plaster, or from steam, gas, electricity, water, rain, snow, ice, or dampness, that may leak or flow from any part of the Property, or from the pipes, appliances or plumbing work of the same.

17.2. **INDEMNIFICATION.**

17.2.1. **TENANT INDEMNIFICATION.** Tenant hereby indemnifies, defends, and holds Landlord, Agent and their respective affiliates, owners, partners, directors, officers, agents and employees (collectively, "LANDLORD INDEMNIFIED PARTIES") harmless from and against any and all Losses (defined below) arising from or in connection with any or all of: (a) the conduct or management of either or both the Property and the Premises or any business therein, or any work or Alterations done, or any condition created by any or all of Tenant and Tenant's Parties in or about the Premises during the Term or during the period of time, if any, prior to the Commencement Date that Tenant is given access to the Premises; (b) any act, omission or negligence of any or all of Tenant and Tenant's Parties; (c) any accident, injury or damage whatsoever (unless caused by Landlord's negligence) occurring in, at or upon either or both of the Property and the Premises and caused by any or all of

Tenant and Tenant's Parties; (d) any breach by Tenant of any of its warranties and representations under this Lease; (e) any actions necessary to protect Landlord's interest under this Lease in a bankruptcy proceeding or other proceeding under the Bankruptcy Code; (f) any violation or alleged violation by any or all of Tenant and Tenant's Parties of any Law including, without limitation, any Environmental Law; (g) any breach of the provisions of SECTION 9 by any or all of Tenant and Tenant's Parties; (h) claims for work or labor performed or materials supplies

furnished to or at the request of any or all of Tenant and Tenant's Parties; (i) claims arising from any breach or default on the part of Tenant in the performance of any covenant contained in this Lease; (j) any Hazardous Materials used, exposed, omitted, released, discharged, generated, manufactured, sold, transported, handled, stored, treated, reused, presented, disposed of or recycled in, at, near or under all or any portion of the Premises as a result of the acts or omissions of any or all of Tenant and Tenant's Parties; and (k) the violation of any Environmental Law or any permit, application or consent required in connection with any Environmental Law by any or all of Tenant and Tenant's Parties with respect to the Premises during the Term, excluding, however, any violation of any Environmental Law resulting directly from the acts or omissions of Landlord and Landlord's employees, agents and contractors (collectively, "TENANT'S INDEMNIFIED MATTERS"). In case any action or proceeding is brought against any or all of Landlord and the Landlord Indemnified Parties by reason of any of Tenant's Indemnified Matters, Tenant, upon notice from any or all of Landlord, Agent or any Superior Party (defined below), shall resist and defend such action or proceeding by counsel reasonably satisfactory to, or selected by, Landlord. The term "LOSSES" shall mean all claims, demands, expenses, actions, judgments, damages (actual, but not consequential), penalties, fines, liabilities, losses of every kind and nature (including, without limitation, property damage, diminution in value of Landlord's interest in the Premises or the Property, damages for the loss or restriction on use of any space or amenity within the Premises or the Property, damages arising from any adverse impact on marketing space in the Property, sums paid in settlement of claims and any costs and expenses associated with injury, illness or death to or of any person), suits, administrative proceedings, costs and fees, including, without limitation, attorneys' and consultants' reasonable fees and expenses, and the costs of cleanup, remediation, removal and restoration, that are in any way related to any matter covered by the foregoing indemnity. The provisions of this SECTION 17.2.1 shall survive the expiration or termination of this Lease.

17.2.2. LANDLORD INDEMNIFICATION. Landlord hereby indemnifies, defends and holds Tenant harmless from and against any and all Losses actually suffered or incurred by Tenant as the sole and direct result of any negligent, willful or intentional acts or omissions of any or all of Landlord, Agent and any parties within the direct and sole control of either or both of Landlord and Agent. In the event that any action or proceeding is brought against Tenant, and the foregoing indemnity is applicable to such action or proceeding, then Landlord, upon notice from Tenant, shall resist and defend such action or proceeding by counsel reasonably satisfactory to Tenant. Notwithstanding anything to the contrary set forth in this Lease, however, in all events and under all circumstances, the liability of Landlord to Tenant shall be limited to the interest of Landlord in the Property, and Tenant agrees to look solely to Landlord's interest in the Property for the recovery of any judgment or award against Landlord, it being intended that Landlord shall not be personally liable for any judgment or deficiency. The provisions of this SECTION 17.2.2 shall survive the expiration or termination of this Lease.

17.3. FORCE MAJEURE. The obligations of Tenant hereunder shall not be affected, impaired or excused, and Landlord shall have no liability whatsoever to Tenant, with respect to any act, event or circumstance arising out of (a) Landlord's failure to fulfill, or delay in fulfilling any of its obligations under this Lease by reason of labor dispute, governmental preemption of property in connection with a public emergency or shortages of fuel, supplies, or labor, or any other cause, whether similar or dissimilar, beyond Landlord's reasonable control; or (b) any failure or defect in the supply, quantity or character of utilities furnished to the Premises, or by reason of any requirement, act or omission of any public utility or others serving the Property, beyond Landlord's reasonable control.

#### 18. DAMAGE OR DESTRUCTION.

18.1. NOTIFICATION AND REPAIR. Tenant shall give prompt notice to Landlord and Agent of (a) any fire or other casualty to the Premises or the Property, and (b) any damage to, or defect in, any part or appurtenance of the Property's sanitary, electrical, HVAC, elevator or other systems located in or passing through the Premises or any part thereof. Tenant shall be liable for any claim, loss, damage, cost or expense resulting from Tenant's failure to give Landlord the foregoing notice in a timely manner. Subject to the provisions of SECTION 18.3 below, if either or both of the Property and the Premises is damaged by fire or other insured, Landlord shall repair (or cause Agent to repair) the damage and restore and rebuild the Property and/or the Premises (except for Tenant's Property) with reasonable dispatch after (x) notice to it of the damage or destruction and (y) the adjustment of the insurance proceeds attributable to such damage. Subject to the provisions of SECTION 18.3 below, Tenant shall not be entitled to terminate this Lease and no damages, compensation or claim shall be payable by Landlord for purported inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Premises or of the Property pursuant to this Section. Landlord (or Agent, as the case may be) shall use its diligent, good faith efforts to make such repair or restoration promptly and in such manner as not to unreasonably interfere with Tenant's use and occupancy of the Premises, but Landlord or Agent shall not be required to do such repair or restoration work except during normal business hours of business days.

18.2. RENTAL ABATEMENT. Provided that any damage to either or both of the Property and the Premises is not caused by, or is not the result of acts or omissions by, any or all of Tenant and Tenant's Parties, if (a) the Property is damaged by fire or other casualty thereby causing the Premises to be inaccessible or (b) the Premises are partially damaged by fire or other casualty, the Rent shall be proportionally abated to the extent of any actual loss of use of the Premises by Tenant.

18.3. TOTAL DESTRUCTION. If the Property or the Premises shall be so damaged by fire or other casualty that (in the reasonable opinion of a



reputable contractor or architect designated by Landlord): (i) its repair or restoration requires more than 180 days or (ii) such repair or restoration requires the expenditure of more than 50% of the full insurable value of the Property immediately prior to the casualty or (iii) the damage (x) is less than the amount stated in (ii) above, but more than 10% of the full insurable value of the Property; and (y) occurs during the last year of the then current Lease Term, Landlord and Tenant shall each have the option to terminate this Lease (by so advising the other, in writing) within

10 days after said contractor or architect delivers written notice of its opinion to Landlord and Tenant, but in all events prior to the commencement of any restoration of the Premises or the Property by Landlord. In such event, the termination shall be effective as of the date upon which either Landlord or Tenant, as the case may be, receives timely written notice from the other terminating this Lease pursuant to the preceding sentence. If neither Landlord nor Tenant timely delivers a termination notice, this Lease shall remain in full force and effect. Notwithstanding the foregoing, if (A) any holder of a mortgage or deed of trust encumbering the Property or landlord pursuant to a ground lease encumbering the Property (collectively, "SUPERIOR PARTIES") or other party entitled to the insurance proceeds fails to make such proceeds available to Landlord in an amount sufficient for restoration of the Premises or the Property, or (B) the issuer of any casualty insurance policies on the Property fails to make available to Landlord sufficient proceeds for restoration of the Premises or the Property, then Landlord may, at Landlord's sole option, terminate this Lease by giving Tenant written notice to such effect within 30 days after Landlord receives notice from the Superior Party or insurance company, as the case may be, that such proceeds shall not be made available, in which event the termination of this Lease shall be effective as of the date Tenant receives written notice from Landlord of Landlord's election to terminate this Lease. Landlord shall have no liability to Tenant, and Tenant shall not be entitled to terminate this Lease by virtue of any delays in completion of repairs and restoration. For purposes of this SECTION 18.3 only, "FULL INSURABLE VALUE" shall mean replacement cost, less the cost of footings, foundations and other structures below grade.

18.4. INSURANCE PROCEEDS. Landlord shall not be obligated to expend in repairs and restoration an amount in excess of the proceeds of insurance recovered with respect to any casualty. Tenant acknowledges that Landlord shall be entitled to the full proceeds of any insurance coverage, whether carried by Landlord or Tenant, for damage to either or both of the Premises and the Property (excluding any proceeds for damage to Tenant's Property). In the event that either or both of the Premises and the Property are not repaired or reconstructed, all proceeds of insurance (excluding any proceeds covering Tenant's Property), whether carried by Landlord or Tenant, shall be payable to Landlord. Landlord's duty to repair the Premises and the Property (excluding Tenant's Property) is limited to repairing the Premises to the condition existing immediately prior to such fire or other casualty.

19. EMINENT DOMAIN. If the whole, or any substantial (as reasonably determined by Landlord) portion, of the Property is taken or condemned for any public use under any Law or by right of eminent domain, or by private purchase in lieu thereof, and such taking would prevent or materially interfere with the Permitted Use of the Premises, this Lease shall terminate effective when the physical taking of said Premises occurs. If less than a substantial portion of the Property is so taken or condemned, or if the taking or condemnation is temporary (regardless of the portion of the Property affected), this Lease shall not terminate, but the Rent payable hereunder shall be proportionally abated to the extent of any actual loss of use of the Premises by Tenant. Landlord shall be entitled to any and all payment, income, rent or award, or any interest therein whatsoever, which may be paid or made in connection with such a taking or conveyance, and Tenant shall have no claim against Landlord for the value of any unexpired portion of this Lease. Notwithstanding the foregoing, any compensation specifically and independently awarded to Tenant for loss of business or goodwill, or for its personal property, shall be the property of Tenant.

20. SURRENDER AND HOLDOVER. On the last day of the Term, or upon any earlier termination of this Lease, or upon any re-entry by Landlord upon the Premises, (a) Tenant shall quit and surrender the Premises to Landlord "broom-clean" and in good order, condition and repair (as defined by EXHIBIT C, attached hereto and incorporated herein by reference), except for ordinary wear and tear and such damage or destruction as Landlord is required to repair or restore under this Lease, (b) Tenant shall remove all of Tenant's Property therefrom, except as otherwise expressly provided in this Lease, and (c) Tenant shall surrender to Landlord any and all keys, access cards, computer codes or any other items used to access the Premises. Landlord shall be permitted to inspect the Premises in order to verify compliance with this SECTION 20 at any time prior to (x) the Expiration Date, (y) the effective date of any earlier termination of this Lease, or (z) the surrender date otherwise agreed to in writing by Landlord and Tenant. The obligations imposed under the first sentence of this SECTION 20 shall survive the termination or expiration of this Lease. If any repairs are required to be performed in, to or at the Premises (pursuant to the first sentence of this SECTION 20 or any other applicable provision of this Lease) upon the expiration or termination of the Term, Tenant shall cause such repairs to be performed, to Landlord's reasonable satisfaction, within 10 business days after the date on which this Lease is terminated or expired. If Tenant fails to timely comply with the preceding sentence, then Landlord shall have the right to cause the repairs to be performed, at Tenant's expense, and all such expenses so incurred by Landlord shall bear interest (at the rate specified in the second sentence of SECTION 22.3) from the date the expense is incurred until the date paid, in full, by Tenant (inclusive of interest). If Tenant remains in possession after the Expiration Date hereof or after any earlier termination date of this Lease or of Tenant's right to possession: (i) Tenant shall be deemed a tenant-at-will; (ii) Tenant shall pay 150% of the aggregate of the Base Rent and Additional Rent last prevailing hereunder, and also shall pay all actual damages sustained by Landlord, directly by reason of Tenant's remaining in possession after the expiration or termination of this Lease; (iii) there shall be no renewal or extension of this Lease by operation of law; and (iv) the tenancy-at-will may be terminated by either party hereto upon 30 days' prior written notice given by the terminating party to the non-terminating party. The provisions of this SECTION 20 shall not constitute a waiver by Landlord of any re-entry rights of Landlord provided hereunder or by law.

21.1. BANKRUPTCY OF TENANT It shall be a default by Tenant under this Lease if Tenant makes an assignment for the benefit of creditors, or files a voluntary petition under any state or federal bankruptcy or insolvency law, or an involuntary petition alleging an act of bankruptcy or insolvency is filed against Tenant under any state or federal bankruptcy or insolvency law that is not dismissed within 90 days, or whenever a petition is filed by or against (to the extent not dismissed within 90 days) Tenant under the reorganization provisions of the United States Bankruptcy Code or under the provisions of any state or federal law of like import, or whenever a petition

shall be filed by Tenant under the arrangement provisions of the United States Bankruptcy Code or similar state or federal law, or whenever a receiver of Tenant, or of, or for, the property of Tenant shall be appointed, or Tenant admits it is insolvent or is not able to pay its debts as they mature.

21.2. DEFAULT PROVISIONS. Each of the following shall constitute a default by Tenant under this Lease: (a) if Tenant fails to pay Rent or any other payment when due hereunder within five days after written notice from Landlord of such failure to pay on the due date; provided, however, that if in any consecutive 12 month period, Tenant shall, on two (2) separate occasions, fail to pay any installment of Rent on the date such installment of Rent is due, then, on the third such occasion and on each occasion thereafter on which Tenant shall fail to pay an installment of Rent on the date such installment of Rent is due, Landlord shall be relieved from any obligation to provide notice to Tenant, and Tenant shall then no longer have a five day period in which to cure any such failure; or (b) if Tenant fails, whether by action or inaction, to timely comply with, or satisfy, any or all of the obligations imposed on Tenant under this Lease (other than the obligation to pay Rent) for a period of 30 days after Landlord's delivery to Tenant of written notice of such default under this SECTION 21.2(b); provided, however, that if the default cannot, by its nature, be cured within such 30 day period, but Tenant commences and diligently pursues a cure of such default promptly within the initial 30 day cure period, then Landlord shall not exercise its remedies under SECTION 22 unless such default remains uncured for more than 60 days after the initial delivery of Landlord's original default notice; or (c) Tenant vacates or abandons the Premises during the Term.

## 22. RIGHTS AND REMEDIES.

22.1. LANDLORD'S CURE RIGHTS UPON DEFAULT OF TENANT. If Tenant defaults in the performance of any of its obligations under this Lease, and fails to cure such default on a timely basis (pursuant to SECTION 21.2), Landlord, without thereby waiving such default, may (but shall not be obligated to) perform the same for the account, and at the expense of, Tenant.

22.2. LANDLORD'S REMEDIES. In the event of any default by Tenant under this Lease, Landlord, at its option, and after any applicable notice and cure period (as required pursuant to SECTION 21.2), but without additional notice or demand from Landlord, if any, as provided in SECTION 21.2 has expired, may, in addition to all other rights and remedies provided in this Lease, or otherwise at law or in equity: (a) terminate this Lease and Tenant's right of possession of the Premises; or (b) terminate Tenant's right of possession of the Premises without terminating this Lease; provided, however, that Landlord may, whether Landlord elects to proceed under Subsections (a) or (b) above, relet the Premises, or any part thereof for the account of Tenant, for such rent and term and upon such terms and conditions as are acceptable to Landlord. In addition, for purposes of any reletting, Landlord is authorized to decorate, repair, alter and improve the Premises to the extent deemed necessary by Landlord, in its sole discretion. In the event of the termination of this Lease by Landlord pursuant to (a) above, Landlord shall be entitled to recover from Tenant (i) all damages and other sums that Landlord is entitled to recover under any provision of this Lease or at law or in equity, including, but not limited to, all fixed dollar amounts of Base Rent and Additional Rent accrued and unpaid for the period up to and including such termination date; (ii) all other additional sums payable by Tenant, or for which Tenant is liable, or in respect of which Tenant has agreed to indemnify Landlord, under any of the provisions of this Lease, that may be then owing and unpaid; (iii) all costs and expenses (including, without limitation, court costs and attorneys' reasonable fees) incurred by Landlord in the enforcement of its rights and remedies under this Lease; and (iv) any damages provable by Landlord as a matter of law including, without limitation, an amount equal to the positive difference, if any, between (x) the discounted present value (at 6% per annum) of the Base Rent provided to be paid for the remainder of the Term (measured from the effective termination date of this Lease) and (y) the fair market rental value of the Leased Premises (determined at the date of termination of this Lease) after deduction (from such fair market rental value) of the projected costs and expenses of reletting the Premises (including the anticipated costs of repairs, alterations, improvements, additions, legal fees and brokerage commissions) as reasonably estimated by Landlord. If Landlord elects to pursue its rights and remedies under Subsection (b) above, and the Premises are relet and a sufficient sum is not realized therefrom, then to satisfy the payment, when due, of Base Rent and Additional Rent reserved under the Lease for any monthly period (after payment of all Landlord's reasonable expenses of reletting), Tenant shall, in Landlord's sole judgment, either (i) pay any such deficiency monthly or (ii) pay such deficiency on an accelerated basis, which accelerated deficiency shall be discounted at a rate of 6% per annum. If Landlord elects to pursue its rights and remedies under Subsection (b) above, and Landlord fails to relet the Premises, then Tenant shall pay to Landlord the sum of (x) the projected costs of Landlord's expenses of reletting (including the anticipated costs of repairs, alterations, improvements, additions, legal fees and brokerage commissions) as reasonably estimated by Landlord and (y) the accelerated amount of Base Rent and Additional Rent due under the Lease for the balance of the Term, discounted to present value at a rate of 6% per annum. Tenant agrees that Landlord may file suit to recover any sums due to Landlord hereunder from time to time and that such suit or recovery of any amount due Landlord hereunder shall not be any defense to any subsequent action brought for any amount not theretofore reduced to judgment in favor of Landlord. If Landlord elects to pursue its rights and remedies under Subsection (b), then Landlord shall at any time have the further right and remedy to rescind such election and pursue its rights and remedies under Subsection (a). In the event Landlord elects, pursuant to clause (b) of this SECTION 22.2, to terminate Tenant's right of possession only, without terminating this Lease, Landlord may, at Landlord's option, enter into the Premises, remove Tenant's Property, Tenant's signs and other evidences of tenancy, and take and hold possession thereof, as provided in SECTION 20 hereof; provided, however, that such entry and possession shall not terminate this Lease or release Tenant, in whole or in part, from Tenant's obligation to pay the Base

Rent and Additional Rent reserved hereunder for the full Term, or from any other obligation of Tenant under this Lease. Any and all property that may be removed from the Premises by Landlord pursuant to the authority of the Lease or of law, to which Tenant is or may be entitled, may be handled, removed or stored by Landlord at the sole risk, cost and expense of Tenant, and in no event or circumstance shall Landlord be responsible for the value, preservation or safekeeping thereof. Tenant shall pay to Landlord, upon demand, any and all expenses incurred in such removal and all storage charges against such property so long as the same shall be in Landlord's possession or under Landlord's control.

Any such property of Tenant not retaken from storage by Tenant within 30 days after the end of the Term, however terminated, shall be conclusively presumed to have been conveyed by Tenant to Landlord under this Lease as in a bill of sale, without further payment or credit by Landlord to Tenant.

22.3. ADDITIONAL RIGHTS OF LANDLORD. Any and all costs, expenses and disbursements, of any kind or nature, incurred by Landlord or Agent in connection with the enforcement of any and all of the terms and provisions of this Lease, including attorneys' reasonable fees (through all appellate proceedings), shall be due and payable (as Additional Rent) upon Landlord's submission of an invoice therefor. All sums advanced by Landlord or Agent on account of Tenant under this Section, or pursuant to any other provision of this Lease, and all Base Rent and Additional Rent, if delinquent or not paid by Tenant and received by Landlord when due hereunder, shall bear interest at the rate of 5% per annum above the "prime" or "reference" or "base" rate (on a per annum basis) of interest publicly announced as such, from time to time, by the Bank One, or its successor ("DEFAULT INTEREST"), from the due date thereof until paid, and such interest shall be and constitute Additional Rent and be due and payable upon Landlord's or Agent's submission of an invoice therefor. The various rights, remedies and elections of Landlord reserved, expressed or contained herein are cumulative and no one of them shall be deemed to be exclusive of the others or of such other rights, remedies, options or elections as are now or may hereafter be conferred upon Landlord by law.

22.4. EVENT OF BANKRUPTCY. In addition to, and in no way limiting the other remedies set forth herein, Landlord and Tenant agree that if Tenant ever becomes the subject of a voluntary or involuntary bankruptcy, reorganization, composition, or other similar type proceeding under the federal bankruptcy laws, as now enacted or hereinafter amended, then: (a) "adequate assurance of future performance" by Tenant pursuant to Bankruptcy Code Section 365 will include (but not be limited to) payment of an additional/new security deposit in the amount of three times the then current Base Rent payable hereunder; (b) any person or entity to which this Lease is assigned, pursuant to the provisions of the Bankruptcy Code, shall be deemed, without further act or deed, to have assumed all of the obligations of Tenant arising under this Lease on and after the effective date of such assignment, and any such assignee shall, upon demand by Landlord, execute and deliver to Landlord an instrument confirming such assumption of liability; (c) notwithstanding anything in this Lease to the contrary, all amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated as "Rent", shall constitute "rent" for the purposes of Section 502(b)(6) of the Bankruptcy Code; and (d) if this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, any and all monies or other considerations payable or otherwise to be delivered to Landlord or Agent (including Base Rent, Additional Rent and other amounts hereunder), shall be and remain the exclusive property of Landlord and shall not constitute property of Tenant or of the bankruptcy estate of Tenant. Any and all monies or other considerations constituting Landlord's property under the preceding sentence not paid or delivered to Landlord or Agent shall be held in trust by Tenant or Tenant's bankruptcy estate for the benefit of Landlord and shall be promptly paid to or turned over to Landlord.

23. BROKER. Tenant covenants, warrants and represents that the broker set forth in SECTION 1.9(A) was the only broker to represent Tenant in the negotiation of this Lease ("TENANT'S BROKER"). Landlord covenants, warrants and represents that the broker set forth in SECTION 1.9(B) was the only broker to represent Landlord in the negotiation of this Lease ("LANDLORD'S BROKER"). Landlord shall be solely responsible for paying the commission of Landlord's Broker. Each party agrees to and hereby does defend, indemnify and hold the other harmless against and from any brokerage commissions or finder's fees or claims therefor by a party claiming to have dealt with the indemnifying party and all costs, expenses and liabilities in connection therewith, including, without limitation, reasonable attorneys' fees and expenses, for any breach of the foregoing. The foregoing indemnification shall survive the termination or expiration of this Lease.

24. MISCELLANEOUS.

24.1. MERGER. All prior understandings and agreements between the parties are merged in this Lease, which alone fully and completely expresses the agreement of the parties. No agreement shall be effective to modify this Lease, in whole or in part, unless such agreement is in writing, and is signed by the party against whom enforcement of said change or modification is sought.

24.2. NOTICES. Any notice required to be given by either party pursuant to this Lease, shall be in writing and shall be deemed to have been properly given, rendered or made only if personally delivered, or if sent by Federal Express or other comparable commercial overnight delivery service, addressed to the other party at the addresses set forth below (or to such other address as Landlord or Tenant may designate to each other from time to time by written notice), and shall be deemed to have been given, rendered or made on the day so delivered or on the first business day after having been deposited with the courier service:

If to Landlord: First Industrial, L.P.  
311 South Wacker Drive, Suite 4000  
Chicago, Illinois 60606  
Attn: Executive Vice President - Operations

With a copy to: First Industrial Realty Trust, Inc.  
1968 Innerbelt Business Center Drive  
St. Louis, Missouri 63114  
Attn: William H. Stockmann

With a copy to: Barack Ferrazzano Kirschbaum Perlman & Nagelberg LLC  
333 West Wacker Drive  
Suite 2700  
Chicago, Illinois 60606  
Attn: Suzanne Bessette-Smith

If to Tenant: Build-A-Bear Retail Management, Inc.  
1954 Innerbelt Business Center Drive  
St. Louis, Missouri 63114  
Attn: Ms. Tina Klocke, Chief Financial Bear

24.3. NON-WAIVER. The failure of either party to insist, in any one or more instances, upon the strict performance of any one or more of the obligations of this Lease, or to exercise any election herein contained, shall not be construed as a waiver or relinquishment for the future of the performance of such one or more obligations of this Lease or of the right to exercise such election, but the Lease shall continue and remain in full force and effect with respect to any subsequent breach, act or omission. The receipt and acceptance by Landlord or Agent of Base Rent or Additional Rent with knowledge of breach by Tenant of any obligation of this Lease shall not be deemed a waiver of such breach.

24.4. LEGAL COSTS. Any party in breach or default under this Lease (the "DEFAULTING PARTY") shall reimburse the other party (the "NONDEFAULTING PARTY") upon demand for any legal fees and court (or other administrative proceeding) costs or expenses that the Nondefaulting Party incurs in connection with the breach or default, regardless whether suit is commenced or judgment entered. Such costs shall include legal fees and costs incurred for the negotiation of a settlement, enforcement of rights or otherwise. Furthermore, in the event of litigation, the court in such action shall award to the party in whose favor a judgment is entered a reasonable sum as attorneys' fees and costs, which sum shall be paid by the losing party. Tenant shall pay Landlord's attorneys' reasonable fees incurred in connection with Tenant's request for Landlord's consent under provisions of this Lease governing assignment and subletting, or in connection with any other act which Tenant proposes to do and which requires Landlord's consent.

24.5. PARTIES BOUND. Except as otherwise expressly provided for in this Lease, this Lease shall be binding upon, and inure to the benefit of, the successors and assignees of the parties hereto. Tenant hereby releases Landlord named herein from any obligations of Landlord for any period subsequent to the conveyance and transfer of Landlord's ownership interest in the Property. In the event of such conveyance and transfer, Landlord's obligations shall thereafter be binding upon each transferee (whether Successor Landlord or otherwise). No obligation of Landlord shall arise under this Lease until the instrument is signed by, and delivered to, both Landlord and Tenant.

24.6. RECORDATION OF LEASE. Tenant shall not record or file this Lease (or any memorandum hereof) in the public records of any county or state.

24.7. SURVIVAL OF OBLIGATIONS. Upon the expiration or other termination of this Lease, neither party shall have any further obligation nor liability to the other except as otherwise expressly provided in this Lease and except for such obligations as, by their nature or under the circumstances, can only be, or by the provisions of this Lease, may be performed after such expiration or other termination.

24.8. GOVERNING LAW; CONSTRUCTION. This Lease shall be governed by and construed in accordance with the laws of the state in which the Property is located. If any provision of this Lease shall be invalid or unenforceable, the remainder of this Lease shall not be affected but shall be enforced to the extent permitted by law. The captions, headings and titles in this Lease are solely for convenience of reference and shall not affect its interpretation. This Lease shall be construed without regard to any presumption or other rule requiring construction against the party causing this Lease to be drafted. Each covenant, agreement, obligation, or other provision of this Lease to be performed by Tenant, shall be construed as a separate and independent covenant of Tenant, not dependent on any other provision of this Lease. All terms and words used in this Lease, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require. This Lease may be executed in counterpart and, when all counterpart documents are executed, the counterparts shall constitute a single binding instrument.

24.9. TIME. Time is of the essence for this Lease. If the time for performance hereunder falls on a Saturday, Sunday or a day that is recognized as a holiday in the state in which the Property is located, then such time shall be deemed extended to the next day that is not a Saturday, Sunday or holiday in said state.

24.10. AUTHORITY OF TENANT. If Tenant is a corporation, partnership, limited liability company, association or any other entity, it shall deliver to Landlord, concurrently with the delivery to Landlord of an executed Lease, certified resolutions of Tenant's directors or other governing person or body (i) authorizing execution and delivery of this Lease and the performance by Tenant of its obligations hereunder and (ii) certifying the authority of the party executing the Lease as having been duly authorized to do so.

24.11. WAIVER OF TRIAL BY JURY. THE LANDLORD AND THE TENANT, TO THE FULLEST EXTENT THAT THEY MAY LAWFULLY DO SO, HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY ANY PARTY TO THIS LEASE WITH RESPECT TO THIS LEASE, THE PREMISES, OR ANY OTHER MATTER RELATED TO THIS LEASE OR THE PREMISES.





24.12. FINANCIAL INFORMATION. From time to time during the Term, but not more than once in any calendar year, Tenant shall deliver to Landlord information and documentation describing and concerning Tenant's financial condition, and in form and substance reasonably acceptable to Landlord, within ten (10) days following Landlord's written request therefor.

24.13. CONFIDENTIAL INFORMATION. Tenant agrees to maintain in strict confidence the economic terms of this Lease and any or all other materials, data and information delivered to or received by any or all of Tenant and Tenants' Parties either prior to or during the Term in connection with the negotiation and execution hereof. The provisions of this SECTION 24.13 shall survive the termination of this Lease.

24.14. SUBMISSION OF LEASE. Submission of this Lease to Tenant for signature does not constitute a reservation of space or an option to lease. This Lease is not effective until execution by and delivery to both Landlord and Tenant.

24.15. JOINT AND SEVERAL LIABILITY. All parties signing this Lease as Tenant shall be jointly and severally liable for all obligations of Tenant hereunder.

24.16. RIDERS. All Riders and Exhibits attached hereto and executed (or initialed) both by Landlord and Tenant shall be deemed to be a part hereof and hereby incorporated herein.

[Signature Page to Follow]

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

LANDLORD:

First Industrial, L.P., a Delaware Limited Partnership

By: First Industrial Realty Trust, Inc., a Maryland corporation

Its: General Partner

By: /s/ David Harker  
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Its: Senior Regional Director  
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TENANT:

Build-A-Bear Retail Management, Inc., a Delaware corporation

By: /s/ Tina Klocke  
-----

Its: CFO  
-----

EXHIBIT A

PROPERTY

APPROPRIATE SITE DESCRIPTION TO BE ATTACHED

A-1

LEASE EXHIBIT B

LANDLORD'S REPAIRS AND IMPROVEMENTS

Landlord and Tenant acknowledge that the Premises will be leased in its current "AS IS, WHERE IS" condition. All improvements shall be the responsibility of Build A Bear Workshop, Inc., subject to written approval of Landlord, such approval will not be unreasonably delayed or withheld.

B-1

LEASE EXHIBIT C

BROOM CLEAN CONDITION AND REPAIR REQUIREMENTS

- - All walls must be clean and free of holes.
- - Overhead door must be free of any broken panels, cracked lumber or dented panels. The overhead door springs, rollers, tracks, motorized door operator, and all other items pertaining to the overhead door must also be in good working condition.
- - HVAC system must be in good working order. Filters must be changed, and all thermostats must be in working order. Tenant must supply Landlord with maintenance records.
- - All floors (warehouse and office) must be clean and free of excessive dust, dirt, grease, oil and stains.
- - Drop grid ceiling must be free of excessive dust from lack of changing filters. (No ceiling tiles may be missing or damaged.)
- - All trash must be removed from both inside and outside of the Building.
- - All lightbulbs and ballasts must be working.
- - All signs in front of Building and on glass entry door and rear door must be removed.
- - Hot water heater must work.
- - All plumbing fixtures, equipment and drains must be clean and in working order.
- - Windows must be clean.
- - All mechanical and electrical systems must be in good working condition.

LEASE EXHIBIT D

TENANT OPERATIONS INQUIRY

Tenant Name: Build A Bear Retail Management, Inc.

Tenant SIC Code/Description: \_\_\_\_\_

Property Address: 1954 Innerbelt Business Center Drive, St. Louis, Missouri 63114

Property Number/Region: 12627A/Central Region/St. Louis

1. Name of Company (if different from above) \_\_\_\_\_

2. Address (local): 1954 Innerbelt Business Center Drive, St. Louis, Missouri 63114

Phone (local): 314-423-8000

3. Address (corporate): Same

Phone (corporate): Same

4. What is your business (brief description): Retail distribution of toys  
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5. What operations will you maintain at the proposed facility? Corporate offices  
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6. Has your business received any Notices of Violation of environmental laws from municipal or state agencies regarding operations at your current facility? If so, explain: No  
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7. Describe any assembly, manufacturing, machining, painting, printing or mechanical repair activities that will be part of your business operations at the proposed facility: N/A  
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-----

8. Will your employees operate electrical equipment that contains PCB's? YES [x]NO

9. Will your business operate one or more Underground Storage Tanks (UST's) at the proposed facility?  
YES [x]NO

10. Will your business operate one or more Aboveground Storage Tanks (AST's) at the proposed facility?  
YES [x] NO

11. TENANT CHEMICAL INVENTORY AT PROPOSED FACILITY - (make additional copies, if required).  
You may exclude small quantities of toner and other office supplies)

N/A

Chemicals (by name where available)	What will be the average quantity on the proposed premises?	What will be the maximum quantity on the proposed premises?	What will be the annual quantity used?	How will the chemical be stored?
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13. Will your operations generate any chemical wastes that require special disposal? (example: waste oil, waste solvent)      How will the chemical wastes be stored on-site?      How will the wastes be disposed? (example: recycled, landfilled, incinerated)

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N/A

14. Does your business have an EPA Hazardous Waste Generator ID Number?      YES  
NO

15. What spill prevention and containment measures will be in place for the chemicals and wastes stored at the proposed facility? (describe briefly)      N/A

16. Does your business have an Emergency Response or Contingency Plan in place in the event of a chemical incident (please provide a copy)      YES      [x]NO

17. Does your business have any type of Hazardous Materials training program for your employees? (describe briefly):      N/A  
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18. Do you have copies of all Material Safety Data Sheets (MSDS) at your facility for the chemicals listed in question #7?(Please provide copies):      YES      NO

19. Does your business carry environmental insurance coverage in the event of a chemical incident?      N/A  
YES      NO

20. Will you be required to make filings and notices or obtain permits as required by Federal and/or State regulations for the operations at the proposed facility? Specifically:

- a. SARA Title III Section 312 (Tier II) reports      YES      [x]NO  
( > 10,000lbs. of hazardous materials STORED at any one time)
- b. SARA Title III Section 313 (Tier III) Form R reports      YES      [x]NO  
( > 10,000lbs. of hazardous materials USED per year)
- c. NPDES or SPDES Stormwater Discharge permit      YES      [x]NO  
(answer "No" if "No-Exposure Certification" filed)



21. This form was prepared by the undersigned as a complete and correct description of Tenant's proposed operations at the location noted, and the Landlord may rely on this information.

Completed by telephone

/s/ William H. Forkman

-----  
Signature

-----  
Print Name

interview with questions 8/25/04

-----  
Date

RIDER

ATTACHED TO AND MADE PART OF LEASE DATED 8/28/04

BETWEEN FIRST INDUSTRIAL, L. P., AS LANDLORD

AND

BUILD-A-BEAR RETAIL MANAGEMENT, INC., AS TENANT

This Rider is attached to and made a part of the above referenced Lease between mentioned Landlord and Tenant. Except as otherwise set forth in this Rider, all terms and conditions used in this Rider and not specifically defined shall have the same exact meaning as when used in the Lease. To the extent of any inconsistencies between the foregoing provisions of the Lease and the provisions of the Rider, the former is hereby amended.

1. RENTS: All rents and other such payments as due from Tenant to Landlord shall be sent to:

First Industrial, L. P.

75 Remittance Drive, Suite 1589

Chicago, Illinois 60675-1589

2. TENANT RESPONSIBILITIES: Tenant shall be responsible for the costs, operations and maintenance of all electrical, mechanical, alarm monitoring, plumbing systems and dock equipment wholly contained in the Premises throughout the term of the Lease. Tenant shall contract for the removal of all trash and debris from the Premises. Tenant responsible for obtaining any occupancy permits and/or business license required by the City of Overland, Missouri. Tenant shall contract directly for all utilities servicing the Premises. Tenant shall pay as additional rent its prorata share of real estate taxes, common area maintenance and insurance per the terms of the Lease

3. CONDITION OF PREMISES: Tenant hereby agrees to return the Premises in similar condition at the time of Lease Expiration, to include but not limited to: repairs to the walls, docks, seals and levelers, and broom-cleaned, fair wear and tear and damage caused by casualty accepted.

4. EARLY OCCUPANCY: Tenant currently is in full occupancy of Suite 1954, and may occupy Suite 1938 and Suite 1940 of the Premises as soon as the Lease is fully executed by both parties and the existing tenants vacate the respective premises. Landlord and Tenant hereby acknowledge that Landlord is in the process of negotiating terminations and new leases to move the current tenant's from Suite 1938 and Suite 1940. Landlord will deliver Suite 1940 to Tenant for early occupancy on or about August 1, 2004, and Landlord will deliver Suite 1938 to Tenant for early occupancy on or about October 1, 2004.

5. ADDITIONAL RENT: Tenant shall pay its proportional share of increases in the real estate taxes in excess of \$248,978.63 and insurance premiums in excess of \$9,313.29 paid by Landlord. The initial monthly estimated payments shall be \$491.65 for real estate taxes, \$225.00 for insurance and \$5,365.00 for operating expense contributions.

6. EXISTING LEASE: Landlord hereby agrees to terminate the Tenant's existing Lease within the Innerbelt Business Center Drive complex upon the Lease Commencement date of this Lease.

7. CONTINGENCY: Landlord and Tenant understand and acknowledge that this Lease is contingent upon Landlord reaching a Lease agreement with Tenant's neighbor, Dynamic Computer Company to Lease direct from Landlord the entire Suite 2000. Landlord and Tenant understand and acknowledge that this Lease is also contingent upon Landlord reaching a Lease agreement with Tenant's neighbor, Schlumberger d.b.a. Atos Origin to Lease direct from Landlord the entire Suite 1918 and Suite 1922.

8. RENEWAL OPTIONS: Landlord hereby grants Tenant two (2) five (5) year renewal options at the then current market rate for similar space. Tenant must notify Landlord of its intentions to renew in writing no later than nine (9) months prior to the then expiration date of the Lease. Landlord shall present Tenant with the then current market rent for similar space within sixty (60) days of notice, which Tenant may accept or reject and withdraw its Notice of Intention to Renew.

9. AGENCY DISCLOSURE/LEASING COMMISSIONS: Landlord and Tenant acknowledge no broker or agent is involved in this transaction.

In Witness whereof, the said parties have executed the foregoing instrument on the day and year first above