

Court File No. CV-23-00694493-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

IN THE MATTER OF THE PLAN OF COMPROMISE OR
ARRANGEMENT OF **BBB CANADA LTD.**

Applicant

MOTION RECORD OF THE APPLICANT
(Motion for Assignment and Approval & Vesting Order)

May 5, 2023

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SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF BBB CANADA LTD.**

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Court File No. CV-23-00694493-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

IN THE MATTER OF THE PLAN OF COMPROMISE OR
ARRANGEMENT OF **BBB CANADA LTD.**

Applicant

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TAB 1

Court File No. CV-23-00694493-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

IN THE MATTER OF THE PLAN OF COMPROMISE OR
ARRANGEMENT OF BBB CANADA LTD.

NOTICE OF MOTION

The Applicant, BBB Canada Ltd. (the “**Applicant**”) will make a motion before the Honourable Chief Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) on May 15, 2023 at 9:00 AM, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING:

- ☐ In writing under subrule 37.12.1 (1) because it is *(insert one of on consent, unopposed or made without notice)*;
- ☐ In writing as an opposed motion under subrule 37.12.1 (4);
- ☐ In person;
- ☐ By telephone conference;
- X By video conference.

at the following location: Videoconference details will be circulated when provided by the Court.

THE MOTION IS FOR:

1. An Order substantially in the form attached as **Tab 3** of the Motion Record:
 - (a) assigning the Ottawa Trainyards Lease (as defined below) to Winners Merchants International L.P. (“**Winners LP**”) pursuant to section 11.3 of the *Companies’ Creditors Arrangement Act*, R.S.C., 1985 c. C-36 (the “**CCAA**”); and

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- (b) approving the transactions contemplated by the Assignment and Assumption of Lease Agreement, dated May 1, 2023 (the “**Giant Tiger Agreement**”), among Bath & Beyond Canada L.P. (“**BBB LP**”, and together with the Applicant, “**BBB Canada**”), Bed Bath & Beyond Inc. (“**BBBI**”) and Giant Tiger Stores Limited (“**Giant Tiger**”) and vesting BBB LP’s right, title and interest in and to the Colossus Lease (as defined below) and the other purchased assets described in the Giant Tiger Agreement free and clear of all Encumbrances other than permitted encumbrances identified in, or pursuant to, the Giant Tiger Agreement;
2. Such other and further relief as counsel may request and this Honourable Court may allow.

THE GROUNDS FOR THIS MOTION ARE:

Assignment of the Ottawa Trainyards Lease

3. BBB LP and Winners LP are party to an Assignment and Assumption of Lease Agreement, dated May 5, 2023 (the “**Winners Ottawa Agreement**”) with respect to premises located in the Ottawa Trainyards Shopping Center located at 500 Terminal Avenue, Ottawa, Ontario (the “**Ottawa Trainyards Lease**”);
4. Under the Winners Ottawa Agreement, BBB LP agreed to assign and transfer, and Winners LP agreed to assume, all of BBB LP’s right, title and interest in and to the Ottawa Trainyards Lease, the premises described in the Ottawa Trainyards Lease, and all personal property, FF&E and Trade Fixtures left in the premises on the closing date (May 18, 2023), in each case on as “as is, where is” basis;

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5. Winners LP agreed to pay to the monitor, Alvarez & Marsal Canada Inc. (the “**Monitor**”), in trust, cash consideration in the amount of \$300,000. All cure costs have been addressed as between Winners LP and BBB LP;
6. Until recently, BBB Canada was not intending to seek any specific relief with respect to the Winners Ottawa Agreement as: (a) the consideration payable both on a standalone basis and on an aggregate basis fall under the defined monetary thresholds in the ARIO; and (b) BBB Canada was in advanced discussions with counsel to the landlord under the Ottawa Trainyards Lease in the negotiation of the applicable landlord consent. However, over the past number of weeks, the landlord under the Ottawa Trainyards Lease has not been responsive to attempts by its counsel to obtain instructions regarding the proposed final form of the landlord consent, nor has the landlord responded to communications from Winners LP regarding the assignment;
7. Winners LP has advised that it is not prepared to complete an assignment of the Ottawa Trainyards Lease without a waiver from the landlord or an order from this Court under section 11.3 of the CCAA;
8. BBB Canada is accordingly seeking an order under section 11.3 of the CCAA assigning the Ottawa Trainyards Lease to Winners LP;
9. Winners LP has covenanted to assume all of BBB LP’s obligations contained in the Ottawa Trainyards Lease from and after the closing date;
10. Winners LP is a wholly owned subsidiary of The TJX Companies, Inc., a public company which was ranked 75 in the 2022 Fortune 500 company listings. Winners LP holds leases for 554 retail stores in Canada and had net sales of \$6.45 billion during fiscal year 2023. Winners LP has

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advised that it has the financial ability to close the transaction, pay all rent at the times and in the manner provided in the Ottawa Trainyards Lease, make all payments covenanted to be paid by the tenant under the Ottawa Trainyards Lease, and otherwise assume, observe, perform and be liable for the performance of the terms, covenants, provisions, conditions and agreements contained in the Ottawa Trainyards Lease;

11. No amendments to the permitted use restrictions, go dark rights, or other provisions are being sought by BBB Canada or Winners LP that would prejudice landlord rights under the Ottawa Trainyards Lease;

12. An assignment of the Ottawa Trainyards Lease to Winners LP pursuant to section 11.3 of the CCAA will maximize the realizable value of BBB Canada's estate for the benefit of its stakeholders;

13. The Monitor supports BBB Canada's request for an assignment of the Ottawa Trainyards Lease pursuant to section 11.3 of the CCAA;

Giant Tiger Agreement

14. BBB LP, BBBI, and Giant Tiger are party to the Giant Tiger Agreement relating the premises located at 67 Colossus Drive, Unit D10, Vaughan, Ontario (the "**Colossus Lease**");

15. Under the Giant Tiger Agreement, BBB LP agreed to assign and transfer, and Giant Tiger agreed to assume, all of BBB LP's right, title and interest in and to the Colossus Lease, the premises described in the Colossus Lease, and all personal property, FF&E and Trade Fixtures left in the premises on the closing date (May 1, 2023), in each case on as "as is, where is" basis;

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16. Giant Tiger agreed to pay the Monitor, in trust, cash consideration in the amount of \$268,663.73, plus any applicable sales, goods and services, harmonized sales and excise taxes, and be responsible for all cure costs under the Colossus Lease;

17. Simultaneous with execution of the Giant Tiger Agreement, BBB LP, BBBI, Giant Tiger and the landlord under the Colossus Lease executed a Landlord Waiver and Amendment of Lease Agreement pursuant to which, among other things, the landlord to the Colossus Lease agreed to certain waivers and amendments to the Colossus Lease and Giant Tiger agreed to pay cure costs of \$1,336.23;

18. While the transactions under the Giant Tiger Agreement closed on May 1, 2023, Giant Tiger has recently requested that BBB Canada seek an approval and vesting order in respect of the Giant Tiger Agreement;

19. The Giant Tiger Agreement is in the best interests of BBB Canada and its stakeholders. The consideration paid by Giant Tiger for the Colossus Lease is fair and reasonable in the circumstances, representing the highest, non-overlapping, executable offer received within the marketing process for the Colossus Lease;

20. The Monitor supports BBB Canada's request for approval of the Giant Tiger Agreement in the circumstances;

Other Grounds

21. The provisions of the CCAA, including section 11.3 and section 36, and the inherent and equitable jurisdiction of this Honourable Court;

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22. Rule 1.04, 1.05, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990 Reg. 194, as amended;

23. Such further and other grounds as the counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of this motion:

- (a) the Affidavit of Wade Haddad, sworn May 5, 2023;
- (b) the Affidavit of Wade Haddad, sworn April 5, 2023;
- (c) the Affidavit of Wade Haddad, sworn April 21, 2023;
- (d) the Supplemental Affidavit of Wade Haddad, sworn April 26, 2023;
- (e) Fourth Report of the Monitor, to be filed; and
- (f) such further and other material as counsel may advise and this Honourable Court may allow.

May 5, 2023

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Lawyers for the Applicant

- 7 -

TO: THE SERVICE LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
1985, c. C-36, AS AMENDED

Court File No: CV-23-00694493-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
BBB CANADA LTD.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION

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Lawyers for the Applicant

TAB 2

Court File No. CV-23-00694493-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

IN THE MATTER OF THE PLAN OF COMPROMISE OR
ARRANGEMENT OF BBB CANADA LTD.

Applicant

AFFIDAVIT OF WADE HADDAD

I, Wade Haddad, of the City of Union, in the State of New Jersey, MAKE OATH AND SAY:

1. I am the Senior Vice President, Real Estate and Store Development, at Bed Bath & Beyond Inc. (“**BBBI**”), the ultimate parent corporation of BBB Canada Ltd. (the “**Applicant**”) and Bed Bath & Beyond Canada L.P. (“**BBB LP**”, and together with the Applicant, “**BBB Canada**”). I have served in the capacity of Senior Vice President, Real Estate and Store Development at BBBI since September 2020. I am also an officer of the Applicant. I have more than 25 years of experience in retail and corporate multi-brand portfolio management and have overseen real estate and store development functions for numerous companies and brands throughout my career. I hold a Bachelor of Arts from Princeton University and a Juris Doctor from the University of Detroit Mercy School of Law.

2. As Senior Vice President, Real Estate and Store Development at BBBI, I oversaw both the retention of Retail Ventures CND Inc. (“**RVC**”) as listing agent for and on behalf of BBB LP and the subsequent process undertaken by RVC since February 2023 to monetize BBB LP’s leases and

other property rights for some or all of BBB Canada's retail stores across Canada (the "**Leases**"). The retention of RVC as listing agent, the subsequent marketing process undertaken by RVC, and the results of that marketing process are described further in my Affidavits sworn April 5, 2023 (the "**April 5 Affidavit**"), April 21, 2023 (the "**April 21 Affidavit**"), and April 26, 2023 (the "**April 26 Affidavit**"). This Affidavit should be read in conjunction with the April 5 Affidavit, April 21 Affidavit, and April 26 Affidavit. All capitalized terms not otherwise defined in this affidavit have the meanings ascribed to them in the April 5 Affidavit, April 21 Affidavit or April 26 Affidavit.

3. I have personal knowledge of the matters deposed to in this Affidavit. Where I have relied on other sources for information, I have stated the source of my information and I believe such information to be true. In preparing this Affidavit, I consulted with BBB Canada's legal, financial, and other advisors and with other members of BBB Canada's and BBBI's senior management teams.

4. This Affidavit is made in support of a motion by BBB Canada for an Order substantially in the form attached at **Tab 3** to the Motion Record (the "**Order**");

- (a) assigning the Ottawa Trainyards Lease (as defined below) to Winners Merchants International L.P. ("**Winners LP**") pursuant to section 11.3 of the *Companies' Creditors Arrangement Act*, R.S.C., 1985 c. C-36 (the "**CCAA**"); and
- (b) approving the transactions contemplated by the Assignment and Assumption of Lease Agreement, dated May 1, 2023 (the "**Giant Tiger Agreement**") among BBB LP, BBBI and Giant Tiger Stores Limited ("**Giant Tiger**") vesting BBB LP's right, title and interest in and to the Colossus Lease (as defined below) and the other

purchased assets described in the Giant Tiger Agreement free and clear of all Encumbrances other than permitted encumbrances identified in, or pursuant to, the Giant Tiger Agreement.

A. Update on the CCAA Proceedings

5. Since the hearing of BBB Canada's motion on April 28, 2023, BBB Canada has, among other things:

- (a) closed all 65 retail stores across Canada and, apart from the Ottawa Trainyards Lease and one additional lease under the Canadian Tire Agreement which remains under discussion with the applicable landlord regarding the terms of the assignment, either returned the store keys to the applicable landlord (for leases that were previously disclaimed by BBB Canada) or facilitated transfer of the keys to the applicable assignee (for leases subject to an Assignment and Assumption of Leases Agreements or a Lease Surrender Agreement);
- (b) together with the Consultant, and in consultation with the Monitor, commenced preparation of the final reconciliation of all funds realized in BBB Canada's liquidation sale;
- (c) closed the transactions provided in the DKB Capital Agreement, the Lease Surrender Agreements, the Canadian Tire Agreement (excluding the one lease discussed above which remains under negotiation with the landlord), the Winners Agreement, the Second DKB Capital Agreement, and the Giant Tiger Agreement; and

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- (d) negotiated, finalized and executed the Assignment and Assumption of Lease Agreement, dated May 5, 2023 with Winners LP (the “**Winners Ottawa Agreement**”) with respect to the Ottawa Trainyards Lease.

6. The Giant Tiger Agreement and the Winners Ottawa Agreement are the final two assignment and assumption agreements resulting from the marketing process undertaken by BBB Canada, with the assistance of RVC for the sale of leases and other property rights for BBB Canada’s retail stores (the “**Leases**”) since February 2023. While a comprehensive overview of the marketing process is provided in the April 5 Affidavit, by way of summary:

- (a) on or about February 27, 2023, BBB LP entered into an Exclusive Listing Agreement with RVC for RVC to market and, where there was interest, facilitate the sale of the Leases across Canada (the “**Exclusive Listing Agreement**”);
- (b) between February 28 and March 24, 2023, fifty-eight (58) parties were contacted by, or reached out directly to, RVC to discuss the process for bidding on one or more of the Leases, and forty-four (44) parties executed NDAs with BBB LP and were granted access to a data site;
- (c) BBB Canada received 19 separate expressions of interest from landlords and third parties for a transaction involving one or more of the Leases; and
- (d) following receipt of all expressions of interest, BBB Canada (with the assistance of RVC and in consultation with the Monitor) undertook extensive negotiations with bidders to reduce overlap between the bids and maximize realized sale proceeds.

7. The marketing process resulted in the above noted executable transactions by BBB Canada, together with:

- (a) the Winners Ottawa Agreement relating to the Ottawa Trainyards Lease which is described further below and is the subject of BBB Canada's current motion; and
- (b) the Giant Tiger Agreement relating to the premises located at 67 Colossus Drive, Unit D10, Vaughan, Ontario (the "**Colossus Lease**") which is described further below and is also the subject of BBB Canada's current motion.

B. Assignment of the Ottawa Trainyards Lease

8. BBB LP and Winners LP are party to the Winners Ottawa Agreement with respect to premises located in the Ottawa Trainyards Shopping Center located at 500 Terminal Avenue, Ottawa, Ontario (the "**Ottawa Trainyards Lease**"). Key terms of the Winners Ottawa Agreement include the following:

- (a) BBB LP agreed to assign and transfer, and Winners LP agreed to assume, all of BBB LP's right, title and interest in and to the Ottawa Trainyards Lease, the premises described in the Ottawa Trainyards Lease, and all personal property, FF&E and Trade Fixtures left in the premises on the closing date (May 18, 2023), in each case on as "as is, where is" basis;
- (b) Winners LP agreed to pay the Monitor, in trust, cash consideration in the amount of \$300,000; and
- (c) Winners LP will be responsible for any non-monetary defaults under the Ottawa Trainyards Lease, save and except for any non-monetary default arising by reason

of BBB Canada's CCAA proceedings or BBB LP's insolvency. BBB LP will be responsible for all monetary defaults existing as of the closing date which relate solely to the period prior to the closing date, provided, however, that if any monetary defaults exceed \$150,000, BBB LP, acting in a commercially reasonable manner and with the approval of the Monitor, will have the option to terminate the Winners Ottawa Agreement on or before 2:00 p.m. on May 18, 2023 and the consideration paid by Winners LP will be returned by the Monitor to Winners LP.

9. A copy of the Winners Ottawa Agreement is attached hereto as **Exhibit "A"**.

10. Until recently, BBB Canada was not intending to seek any specific relief with respect to the Winners Ottawa Agreement as: (a) the consideration payable both on a standalone basis and on an aggregate basis fall under the defined monetary thresholds in the ARIO; and (b) BBB Canada was in advanced discussions with counsel to the landlord under the Ottawa Trainyards Lease ("**Landlord's Counsel**") in the negotiation of the applicable landlord consent (as described further below). However, over the past number of weeks, BBB Canada understands that the landlord under the Ottawa Trainyards Lease has not been responsive to attempts by Landlord's Counsel to obtain instructions regarding the proposed final form of the landlord consent, nor has the landlord responded to communications from Winners LP regarding the proposed assignment. Landlord's Counsel is listed on the Service List established in these CCAA proceedings.

11. BBB Canada understands that the principal of the landlord under the Ottawa Trainyards Lease is an elderly individual who singularly manages her family's real estate portfolio, which includes the Ottawa Trainyards Lease. BBB Canada has been advised by Landlord's Counsel that in his last discussion with the principal of the landlord, she was generally supportive of the

assignment of the Ottawa Trainyards Lease to Winners LP, but that he has thereafter been unable to obtain instructions regarding completion of the landlord consent. At no point has the landlord or Landlord's Counsel expressed opposition to the assignment of the Ottawa Trainyards Lease to BBB Canada or Winners LP.

12. BBB Canada's counsel, Osler Hoskin & Harcourt LLP ("**Osler**"), has been in regular contact with Landlord's Counsel since March 27, 2023. In particular, between March 27 and May 5, 2023, Osler has exchanged at least 17 emails with Landlord's Counsel and has had numerous telephone discussions. I am advised by Matthew Ritchie, partner in Osler's real estate group, that: (a) between March 27 and April 6, 2023, he and Landlord's Counsel exchanged emails regarding the details of Winners LP's bid to assume the Ottawa Trainyards Lease; (b) in mid-April, Landlord's Counsel provided comments on the draft landlord waiver and amendment agreement; (c) on April 11, 2023, he had a telephone call with Landlord's Counsel to discuss Landlord's Counsel's comments on the draft agreement, subsequent to which a revised draft of the agreement was circulated by Osler on April 11 incorporating the Landlord's Counsel's comments and on April 13 incorporating Winners LP's comments; and (d) a proposed final draft of the agreement was circulated to Landlord's Counsel on April 14, 2023.

13. Osler has followed up with Landlord's Counsel regarding the proposed final draft of the agreement on April 17, April 18, April 21, April 25, April 27, and May 5, 2023 but has been advised by Landlord's Counsel that he has not received a response from his client and, as a result, does not have instructions.

14. I also understand that representatives of Winners LP have attempted to reach the landlord directly by phone on April 6, 17, 24, and 27, 2023, however no voicemails were returned.

15. In addition to the Ottawa Trainyards Lease, a second lease in the same development and involving the same landlord was included in the Canadian Tire Agreement. I understand that Canadian Tire Corporation, Limited (“**Canadian Tire**”) unsuccessfully attempted to contact the landlord numerous times regarding the proposed assignment, but no response was ever received. Canadian Tire eventually excluded the lease from the scope of the Canadian Tire Agreement in light of the landlord’s unresponsiveness. As a result of such exclusion, BBB Canada lost \$140,000 of value that would otherwise have been payable by Canadian Tire.

16. With respect to the Winners Ottawa Agreement, Winners LP has reduced the consideration it was originally proposing to pay for assignment of the Ottawa Trainyards Lease to account for cost increases caused by the failure of the transaction to close on May 1, 2023 (as originally intended). The landlord’s ongoing refusal to respond to communications from BBB Canada and Winners LP, and previously to communications from Canadian Tire, has caused, and will continue to cause, significant loss to BBB Canada unless addressed by an order under section 11.3 of the CCAA.

17. BBB Canada is accordingly seeking, and the Winners Ottawa Agreement is conditional on the receipt of, an order under section 11.3 of the CCAA assigning the Ottawa Trainyards Lease to Winners LP. BBB Canada does not anticipate that the proposed assignment of the Ottawa Trainyards Lease will be opposed. Landlord’s Counsel will be served with BBB Canada’s Motion Record as part of the Service List. BBB Canada also intends to mail a copy of the Motion Record directly to the landlord at the address for notice listed in the Ottawa Trainyards Lease.

18. A copy of the Ottawa Trainyards Lease is attached hereto as **Exhibit “B”**. Key terms of the Ottawa Trainyards Lease include the following:

	Lease Article	Summary¹
Term	1.1.43 2.2.2	January 31, 2024 with two remaining five-year renewal options
Operating Covenant	14.1	Tenant shall have no obligation to open or operate any business in the Premises, and shall have the right, at any time, to cease to conduct any business operations in the Premises, and Tenant shall incur no liability to Landlord or its Mortgagee by reason thereof.
Go Dark Rights & Restrictions	14.1	In the event that Tenant does not operate or cause to be operated any retail business in the Premises (other than prior to the Rent Commencement Date or during Excused Periods) for more than three hundred sixty-five (365) consecutive days, Landlord shall have the option to terminate this Lease.
Permitted Uses	1.1.27	The sale at retail of a variety of linens and domestics (including, but not limited to, sheets, bedspreads, comforters, duvets, pillows, pillow covers, chair pads, placemats, tablecloths, dish towels, oven mittens and aprons); bathroom items (including, but not limited to, towels, shower curtains, bathroom rugs, toilet seats, health and beauty care items, cosmetics, and drug remedies, personal care devices and other bathroom appliances and accessories); housewares (including, but not limited to, kitchen utensils, kitchen appliances and kitchen "gadgets," cleaning appliances and supplies, cookware, bakeware, dishes and china, glassware, garbage pails, ironing boards and other laundry items, mops and brooms, candles and candle holders, ready-to-assemble furniture and artificial flowers); frames and wall art; window treatments; closet, shelving and storage items; home furnishings; area rugs; wall and floor coverings; furniture (including, without limitation, mattresses, box springs, bed frames, and bedroom furniture); decorative accessories; photo albums; photo storage boxes; luggage; books; party supplies; cards and stationery; seasonal items; juvenile merchandise (including, but not limited to, toys, car seats and safety-proofing items); specialty food items; food and non-alcoholic beverage services; any and all other items sold or services provided from time to time in any store owned or operated by Tenant or its Affiliate(s) and for any other lawful retail use not specifically prohibited by the provisions of the Lease. In addition, Tenant shall be permitted to use portions of the Premises for storage and office uses incidental to the Permitted Use.
Use Restrictions	Exhibit M	(1) Any use which emits or results in strong, unusual or offensive odors, fumes, dust or vapors, is a public or private nuisance, emits noise or sounds which are objectionable due to intermittence, beat,

¹ Capitalized terms used but not defined in the table have the meanings ascribed to such terms in the Ottawa Trainyards Lease.

	Lease Article	Summary ¹
		<p>frequency, shrillness or loudness, creates a hazardous condition, or is used, in whole or in part, as or for warehousing or the dumping or disposing of garbage or refuse;</p> <p>(2) Any operation primarily used as a storage facility and any assembling, manufacturing, distilling, refining, smelting, agricultural, or mining operation;</p> <p>(3) Any "second hand" store, "surplus" store;</p> <p>(4) Any mobile home park, trailer court, labor camp, junkyard, or stockyard (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction, or maintenance);</p> <p>(5) Any dumping, disposing, incineration, or reduction of garbage (exclusive of trash compactors or trash containers located near the rear of any building);</p> <p>(6) Any fire sale, bankruptcy sale (unless pursuant to a court order), auction house operation, fictitious going-out-of-business sale, lost-our-lease sale or similarly advertised event;</p> <p>(7) Any central laundry, dry cleaning plant, or laundromat (except that a dry cleaner that performs all dry cleaning outside the Shopping Center shall be permitted, so long as its on-site premises are located more than 150 feet away from the Premises);</p> <p>(8) Any automobile, truck, trailer, boat, or recreational vehicle sales, leasing, display or body shop repair operation;</p> <p>(9) Any bowling alley or skating rink;</p> <p>(10) Any live performance theater, auditorium, meeting hall, sporting event, or other entertainment use;</p> <p>(11) Any living quarters, sleeping apartments, or lodging rooms;</p> <p>(12) Any veterinary hospital or animal raising or boarding facilities (except to the extent permitted below);</p> <p>(13) Any mortuary or funeral home;</p> <p>(14) Any "Pornographic Use";</p> <p>(15) Any so-called "head shop", or other establishment primarily selling or exhibiting drug-related paraphernalia;</p> <p>(16) Any bar, tavern, or other establishment selling alcoholic beverages for on- or off premises consumption except for (i) restaurants for which 50% or less of the revenue is derived from the sale of alcoholic beverages, (ii) The Beer Store, (iii) Liquor Control Board of Ontario store;</p> <p>(17) Any catering or banquet hall;</p>

	Lease Article	Summary ¹
		<p>(18) Any flea market, amusement or video arcade, pool or billiard hall, night club, discotheque, or dance hall;</p> <p>(19) Any training or education facility;</p> <p>(20) Any gambling facility or operation;</p> <p>(21) Any unlawful use;</p> <p>(22) Any pawn shop, check-cashing store, gun shop, or tattoo parlor;</p> <p>(23) Any church or other place of religious worship;</p> <p>(24) Any car wash, automobile repair shop, or any business servicing motor vehicles in any respect, including, without limitation, any quick lube oil change service, tire center or gasoline or service station or facility</p> <p>(25) Any carnival, amusement park or circus;</p> <p>(26) Any supermarket, except that an upscale, boutique-type food store of the type normally operated in the Ottawa metropolitan area (such as, by way of example, Whole Foods, Pusateri's, or Wild Oats), provided, that such store shall not occupy more than 27,000 square feet of Floor Area, and shall be located at least 200 feet away from the Premises (except that an upscale, boutique-type food store shall be permitted to be located within the Premises);</p> <p>(27) Any office use, other than: (x) office space used in connection with and ancillary to a permitted retail use hereunder; and (y) retail offices providing services commonly found in similar first-class shopping centers in the Ottawa metropolitan area (for example, financial services, real estate brokerage, insurance agency, banking, travel agency), provided that such uses are located at least 200 feet away from the Premises, and not more than ten thousand (10,000) square feet of Floor Area in the Shopping Center, in the aggregate, shall be devoted to such uses;</p> <p>(28) hotel/motel;</p> <p>(29) daycare center;</p> <p>(30) veterinary office, except as may be incidental to a permitted full-line pet and pet supply store operating in at least 15,000 square feet of Floor Area and located at least 100 feet away from the Premises;</p> <p>(31) children's entertainment or activity facility (such as "Discovery Zone", or "Chuck E. Cheese's");</p> <p>(32) karate center except in specific areas;</p> <p>(33) movie theater;</p> <p>(34) restaurant serving meals for on- or off-premises consumption in certain areas;</p> <p>(35) beauty parlor or nail salon;</p>

	Lease Article	Summary ¹
		(36) health spa, exercise facility or similar type business except in certain areas; or (38) a store primarily selling merchandise which is classed as "odd lot," "close out," "clearance," "discontinued," "cancellation," "second," "factory reject," "sample," "floor model," "demonstrator," "obsolescent," "over stock," "distressed," "bankruptcy," "fire sale" or "damaged", such as, for example, "Grossman's Bargain Outlet", "Contractor's Warehouse", "Big Lots", "Liquidation World", or "Odd Job"; the retailers commonly known as "Winners" and "Christmas Tree Shops" shall be deemed not to violate the foregoing restriction.
Assignment	15.1	Tenant shall have the right from time to time, without the consent of Landlord but with notice to Landlord within thirty (30) days of such assignment, to assign Tenant's interest in this Lease and/or to sublet, concession or license all or any portion of the Premises, subject to all of the terms and conditions of this Lease.

19. Winners LP has advised that it is not prepared to complete an assignment of the Ottawa Trainyards Lease without a waiver from the landlord or an order from this Court under section 11.3 of the CCAA.

20. Winners LP has covenanted to assume all of BBB LP's obligations contained in the Ottawa Trainyards Lease from and after the closing date. I am advised by Susan Beaumont, Vice President, Legal-Real Estate at The TJX Companies, Inc. ("**TJX**"), and believe that Winners LP is a wholly owned subsidiary of TJX, a public company which trades under the ticker "**TJX**" on the New York Stock Exchange and which was ranked 75 in the 2022 Fortune 500 company listings. I am further advised by Ms. Beaumont that at the end of fiscal 2022, TJX had nearly 4,700 stores across nine countries and three continents, and five distinctive branded e-commerce sites. TJX Canada is a division of TJX which operates the *Winners*, *HomeSense* and *Marshalls* chains in Canada. Winners LP is the operating entity within the TJX Canada division, holds TJX Canada's real estate portfolio

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and is party to all store leases, office leases, distribution center leases, and other real property interests held by TJX Canada.

21. I am advised by Ms. Beaumont and believe that as at January 31, 2023 (the end of TJX's 2023 fiscal year), Winners LP held leases for 554 retail stores in Canada, comprised of 297 *Winners* stores, 151 *HomeSense* stores, and 106 *Marshalls* stores. TJX Canada (through Winners LP) had net sales of US\$4.9 billion or CAD\$6.45 billion during fiscal year 2023. TJX announced in its Form 10-K for the fiscal year ended January 31, 2023 that TJX Canada expected to add approximately 11 stores in Canada to its current real estate portfolio during fiscal year 2024, which would increase selling square footage by approximately 2%.

22. I am further advised by Ms. Beaumont that Winners LP has the financial ability to close the transaction, pay all rent at the times and in the manner provided in the Ottawa Trainyards Lease, make all payments covenanted to be paid by the tenant under the Ottawa Trainyards Lease, and otherwise assume, observe, perform and be liable for the performance of the terms, covenants, provisions, conditions and agreements contained in the Ottawa Trainyards Lease. No amendments to the permitted use restrictions, go dark rights, or other provisions are being sought by BBB Canada or Winners LP that would prejudice landlord rights under the Ottawa Trainyards Lease.

23. An assignment of the Ottawa Trainyards Lease to Winners LP pursuant to section 11.3 of the CCAA will maximize the realizable value of BBB Canada's estate for the benefit of its stakeholders. The consideration paid by Winners LP for the Ottawa Trainyards Lease represents the highest, non-overlapping, executable offer received within the marketing process for the Ottawa Trainyards Lease. If the assignment is not completed, a portion of this realizable value will be lost. The Ottawa Trainyards Lease is an asset of BBB Canada and the transactions proposed

under the Winners Ottawa Agreement will allow BBB Canada to obtain monetary value for the Ottawa Trainyards Lease for the benefit of its stakeholders.

24. I am advised by the Monitor and believe that the Monitor supports BBB Canada's request for an assignment of the Ottawa Trainyards Lease pursuant to section 11.3 of the CCAA.

C. Giant Tiger Agreement

25. The Giant Tiger Agreement relates to one Lease – the Colossus Lease. Key terms of the Giant Tiger Agreement include the following:

- (a) BBB LP agreed to assign and transfer, and Giant Tiger agreed to assume, all of BBB LP's right, title and interest in and to the Colossus Lease, the premises described in the Colossus Lease, and all personal property, FF&E and Trade Fixtures left in the premises on the closing date (May 1, 2023), in each case on as "as is, where is" basis;
- (b) Giant Tiger agreed to pay the Monitor, in trust, cash consideration in the amount of \$268,663.73, plus any applicable sales, goods and services, harmonized sales and excise taxes; and
- (c) Giant Tiger agreed to be responsible for all cure costs under the Colossus Lease incurred or due and owing for the period between January 1, 2023 and the closing date, which cure costs shall be deducted and remitted from the cash consideration otherwise payable by Giant Tiger thereunder.

26. A copy of the Giant Tiger Agreement is attached hereto as **Exhibit "C"**.

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27. Simultaneous with execution of the Giant Tiger Agreement, BBB LP, BBBI, Giant Tiger, and the landlord under the Colossus Lease executed a Landlord Waiver and Amendment of Lease Agreement pursuant to which, among other things, the landlord to the Colossus Lease agreed to certain waivers and amendments to the Colossus Lease and Giant Tiger agreed to pay cure costs of \$1,336.23.

28. While the transactions under the Giant Tiger Agreement closed on May 1, 2023, Giant Tiger has recently requested that BBB Canada seek an approval and vesting order in respect of the Giant Tiger Agreement.

29. BBB Canada believes that the consideration paid by Giant Tiger for the Colossus Lease is fair and reasonable in the circumstances. It represents the highest, non-overlapping, executable offer received within the marketing process for the Colossus Lease. I am advised by the Monitor and believe that the Monitor agrees with this assessment. I am further advised by the Monitor and believe that the Monitor supports BBB Canada's request for approval of the Giant Tiger Agreement in the circumstances.

SWORN BEFORE ME over video
teleconference this 5th day of May, 2023
pursuant to O. Reg 431/20, Administering
Oath or Declaration Remotely. The affiant was
located in the City of Union, in the State of
New Jersey while the Commissioner was
located in the City of Toronto, in the Province
of Ontario.

DocuSigned by:
Emilie Dillon
58C63E8818CD461...

Commissioner for Taking Affidavits
Emilie Dillon (LSO No. 85199L)

DocuSigned by:
Wade Haddad
39C2464B1AAD429...

Wade Haddad

THIS IS **EXHIBIT “A”** REFERRED TO IN THE AFFIDAVIT OF WADE HADDAD SWORN BEFORE ME over video teleconference this 5th day of May, 2023 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Union, in the State of New Jersey while the Commissioner was located in the City of Toronto, in the Province of Ontario.

DocuSigned by:

58C63E8818CD461...

Commissioner for Taking Affidavits
Emilie Dillon (LSO No. 85199L)

ASSIGNMENT AND ASSUMPTION OF LEASE

THIS AGREEMENT (“**Agreement**”) is made as of the 5th day of May, 2023 (the **Effective Date**)

B E T W E E N:

BED BATH & BEYOND CANADA L.P.

(the “**Assignor**”)

- and -

WINNERS MERCHANTS INTERNATIONAL L.P.

(the “**Assignee**”)

RECITALS:

- A. Pursuant to a lease dated as of May 9, 2008, as same has been assigned, amended, restated, renewed or supplemented from time to time, including but not limited to those documents listed in Schedule “A” attached hereto (collectively, the “**Lease**”), 1663321 Ontario Inc. and 1414614 Ontario Inc. (collectively, the “**Landlord**”) leased to the Assignor certain premises at Ottawa Trainyards in the City of Ottawa, in the Province of Ontario (the “**Shopping Centre**”) as more particularly described in the Lease (the “**Premises**”).
- B. BBB Canada Ltd. and the Assignor (collectively, the “**BBB Canada Entities**”) were granted protection by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed as the monitor of the BBB Canada Entities (in such capacity, the “**Monitor**”), pursuant to an Order of the Court dated February 10, 2023, as amended and restated on February 21, 2023, and as may be further amended, restated and/or amended and restated from time to time (collectively, the “**Initial Order**”). Pursuant to the terms of the Initial Order, the BBB Canada Entities have the benefit of a stay of proceedings and certain other protections and benefits provided by the Initial Order and the CCAA.
- C. The Assignor and the Assignee are entering into this Agreement to provide for the assignment and assumption of the Assigned Interest (as hereinafter defined) by the Assignor to the Assignee in accordance with and subject to the terms and conditions contained herein.

THEREFORE, in consideration of the covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 ASSIGNMENT

1.1 Assignment by Assignor

- (a) Subject to the release of the Consideration (as hereinafter defined) from escrow pursuant to Section 3.1(a) and obtaining an Assignment Order (as hereinafter defined), the Assignor assigns and transfers to the Assignee, as of May 18, 2023 (the “**Closing Date**”), all of the Assignor’s obligations, rights, title and interest, both at law and at equity, in and to the Lease and the Premises and in and, at no additional cost to the Assignee, to the personal property, FF&E and Trade Fixtures (each as hereinafter defined) left in the Premises on the Closing Date, and all related rights, benefits and advantages, including the residue of the term of the Lease, any rights of renewal and/or extension, any rights of first refusal, rights of first offer and similar pre-emptive rights, and rights to purchase, if any, contained in the Lease (collectively, the “**Assigned Interest**”). No Consideration shall be allocated to any personal property, FF&E or Trade Fixtures. Notwithstanding anything to the contrary herein, the Assigned Interest will not include any FF&E, Trade Fixtures, leasehold improvements or personal property in the Premises that are not owned by the Assignor.
- (b) “**FF&E**” includes all tools, signs, furniture, machinery, equipment, personal or moveable property, chattels, furnishings and fixtures including shelves, video cameras and equipment, security systems, point-of-sales systems and related appurtenances, telecommunications systems and related appurtenances, electric light fixtures, elevating devices and equipment, and which are now used or intended to be used, or which were previously used, in connection with the Assignor’s occupation and operation of the Premises, other than the Trade Fixtures, save and except such items which are leased by the Assignor or a related party and such items which constitute intellectual property of the Assignor or any related parties.
- (c) “**Trade Fixtures**” means the fixtures, shelves, counters, equipment, and other improvements in each case which were installed by or on behalf of the Assignor or any related party, in each case to the extent owned by the Assignor or any related party and which are now used or intended to be used, or which were previously used, in connection with the Assignor’s occupation and operation of the Premises, and regardless of whether the same were constructed, installed or attached in any manner whatsoever to the floors, walls or ceilings of the Premises.

1.2 Assumption by Assignee

The Assignee hereby accepts the assignment of the Assigned Interest provided for in this Agreement and assumes all of the Assignor’s obligations with respect to the Assigned Interest arising or in respect of the period of time from and after the Closing Date.

1.3 Indemnity

- (a) The Assignee hereby covenants with the Assignor, as of and from the Closing Date, including any renewals or extensions of the term of the Lease, to indemnify and save the Assignor harmless, from any and all Claims (as hereinafter defined) arising from, relating to or in connection with any non-payment of rents or other amounts payable on the part of the tenant to be paid from time to time under the Lease, or any non-observance or non-performance of

any of the terms, agreements, covenants, obligations and conditions on the part of the tenant under the Lease to be paid, observed or performed from time to time, in respect of the period from and after the Closing Date, or otherwise arising, incurred or accrued on or after the Closing Date but solely in respect of the period from and after the Closing Date.

- (b) For the purposes of the foregoing paragraph, “**Claims**” means claims, demands, complaints, grievances, actions, applications, suits, causes of action, orders, injunctions, judgments, administrative complaints, decrees, rulings, awards, assessments, directions, instructions, penalties or sanctions issued, filed or imposed by any governmental authority or arbitrator, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, equitable interests, options, preferential arrangements of any kind or nature, assignments, restrictions, financing statements, deposit arrangements, rights of others, leases, sub-leases, licences, rights of first refusal or similar restrictions, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, including loss of value, reasonable professional fees, including fees and disbursements of legal counsel on a full indemnity basis, and all actual and documented costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing but specifically excludes any amounts due to Landlord under the Lease up to and including the day before the Closing Date, including, without limitation, any Fixed Rent, Taxes and/or Common Area Charges and any year end adjustments or reconciliations related thereto.

1.4 Conditional on Assignment Order

This Agreement is conditional on the receipt of an order from the Court assigning the Lease to the Assignee pursuant to Section 11.3 of the CCAA (the “**Assignment Order**”), which Assignment Order shall be in form and substance satisfactory to each of the Assignor and the Assignee, acting reasonably, prior to May 17, 2023, failing which this Agreement will be terminated and the Consideration will be returned by the Monitor to the Assignee. The Assignee shall use commercially reasonable efforts to assist the Assignor in obtaining the Assignment Order, including preparing materials required to be submitted to the Court and served to the Landlord and other parties in respect of the Assignment Order.

1.5 Cure Costs

The Assignor will not be responsible for any costs which may be necessary to cure any defaults under the Lease which exist as of the Closing Date (collectively, the “**Cure Costs**”) except for those which relate to monetary defaults existing as of the Closing Date and which relate solely to the period prior to the Closing Date, which shall be adjusted for upon the Closing Date in accordance with Section 4.1 hereof. Notwithstanding the foregoing, if there are monetary defaults which exceed One Hundred Fifty Thousand Dollars (\$150,000), then the Assignor, acting in a commercially reasonable manner, with the approval of the Monitor, shall have the option to terminate this Agreement prior to closing and prior to 2:00 p.m. EST on the Closing Date by giving notice prior to closing and prior to 2:00 p.m. EST on the Closing Date, and the Consideration will be promptly returned to the Assignee. The Assignee will be responsible for and hereby assumes the obligations for Cure Costs related to non-monetary defaults under the Lease, save and except for any non-monetary default arising by reason of the BBB Canada Entities’ CCAA proceedings or the insolvency of the Assignor.

ARTICLE 2 AS IS, WHERE IS

2.1 As Is, Where Is

The Assignee covenants and agrees in favour of the Assignor that it will accept the Assigned Interest, including the Premises, in all respects in an “as is where is” condition as of the Closing Date without any representation or warranty whatsoever, in this Agreement or in any agreement entered into directly between the Landlord and the Assignee, and the Assignee has reviewed the Lease and is familiar with the Lease in all respects. The Assignor shall leave the Premises in broom-swept condition on the Closing Date. Any personal property, FF&E or Trade Fixtures left in the Premises on the Closing Date shall become the sole property of the Assignee.

2.2 Permitted Use

The Assignee accepts the permitted use and all prohibited uses, exclusive use restrictions and other limitations on the permitted use set out in the Lease and will provide any required agreements to the Court and the Landlord regarding same as may be requested by the Court, the Landlord or any other tenant at the Shopping Centre.

ARTICLE 3 CONSIDERATION AND COVENANTS

3.1 Consideration for Assignment

- (a) In consideration for the assignment of the Assigned Interest, the Assignee agrees to pay to the Monitor, in trust and to be held in escrow, or as the Monitor may otherwise direct in writing, within one (1) Business Day (as hereinafter defined) of the execution of this Agreement, the amount of Three Hundred Thousand Dollars (\$300,000.00) (the “**Consideration**”), plus any and all applicable sales, goods and services, harmonized sales and excise taxes. The Consideration shall be released from escrow to the Assignor on the Closing Date in accordance with payment instructions to be provided by the Assignor to the Monitor prior to the Closing Date.
- (b) The Consideration shall be allocated 99% to BBB Canada Ltd. and 1% to BBB Canada LP Inc. (with the amount allocated to BBB Canada LP Inc. being the “**Non-Resident Consideration**”).
- (c) The parties hereto acknowledge and agree that the Monitor shall (i) be under no obligation to invest the Consideration or hold same in an interest bearing account prior to the Closing Date, and (ii) be entitled to release the Consideration from escrow to the Assignor on the Closing Date in accordance with Section 3.1(a), without independent investigation, upon receiving written confirmation from the Assignor and the Assignee or their respective counsel that the conditions to closing in favour of the Assignor and the Assignee (if any), as applicable, have been satisfied or waived, and the Monitor shall have no liability to the parties hereto in connection therewith.

- (d) The parties hereto acknowledge and agree that A&M, acting in its capacity as Monitor, shall have no liability in its personal or corporate capacity or otherwise, in connection with this Agreement.

3.2 Clearance Certificate and Withholding

- (a) At the Closing Date, the Assignor will deliver to the Assignee a clearance certificate issued by the Canada Revenue Agency (the "CRA") pursuant to section 116 of the Income Tax Act (Canada) (the "Tax Act") addressed to the Assignor with a certificate limit equal to the Non-Resident Consideration (a "Clearance Certificate") or, if the Assignor does not deliver such Clearance Certificate, the Assignee shall be entitled to withhold such amount as it is permitted or required to withhold under the Tax Act from the Non-Resident Consideration (the "Withheld Funds") and to pay the Withheld Funds to the Assignee's Solicitors on their undertaking to keep the Withheld Funds in their trust account and make no use of them whatsoever except in accordance with the following:
- (b) if the Assignor's Solicitors have not delivered to the Assignee's Solicitors the Clearance Certificate for the Assignor by the 29th day of the month following the Closing Date, the Assignee's Solicitors will remit the Withheld Funds to the CRA by the 30th day of such month unless prior to that date the Assignee has received in writing, addressed to the Assignor's Solicitor, the consent of the CRA to remit the Withheld Funds at a later date without application of any interest or penalties, in which case the Assignee's Solicitors will remit the Withheld Funds in accordance with the directions of the CRA, and
- (c) after the Assignor's Solicitors have delivered to the Assignee's Solicitors the Clearance Certificate, the Assignee's Solicitors may disburse to the Assignor the excess of the Withheld Funds (if any) over the amount required to obtain such Clearance Certificate.

3.3 Access

From the date hereof until the Closing Date, the Assignee and its agents, advisors, consultants, employees and representatives will have access to the Premises upon reasonable prior written Notice (as hereinafter defined) of not less than two (2) Business Days to the Assignor solely for the purposes of visiting and conducting noninvasive inspections of the Premises. The Assignee and its agents, advisors, consultants, employees and representatives will use commercially reasonable efforts to not interfere with the Assignor's business.

3.4 Interim Period

During the period from the Effective Date to the Closing Date, the Assignor shall comply with each and every term and condition of the Lease to the extent required by the Assignor's CCAA proceedings, subject only to the provisions of the CCAA, the Initial Order and any other order of the Court.

3.5 Trademarks

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Assignee acknowledges and agrees that: (a) no signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying “Bed Bath & Beyond” or “buybuy Baby” are conveyed or intended to be conveyed to the Assignee as part of the Assigned Interest; and (b) all right, title and interest of the Assignor in and to all of its existing signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying “Bed Bath & Beyond” or “buybuy Baby” or containing the words “Bed Bath & Beyond” or “buybuy Baby” are hereby specifically reserved and excluded from the Assigned Interest. The Assignor shall be under no obligation to remove any signage from the Premises.

ARTICLE 4 ADJUSTMENTS

4.1 Rent

The Assignor and the Assignee shall adjust as between themselves the rent (including basic or minimum rent and additional rent) and other amounts payable under the Lease which have been paid or pre-paid to the Landlord in respect of the Lease for any period, with the Closing Date itself to be allocated to the Assignee. The Assignee acknowledges that on May 15, 2023 the Assignor will be paying all rent payable under the Lease for the period of May 15 – May 31, 2023, inclusive, and the Assignee agrees to adjust for all rent in favour of the Assignor for the period from and after the Closing Date. Otherwise, such adjustments shall be agreed on by the parties in advance of Closing with the consent of the Monitor, with the Assignee making any required payment on account of such adjustments to the Monitor prior to Closing and the Assignor agreeing that any adjustments in favour of the Assignee shall be paid on Closing from the Consideration held by the Monitor.

4.2 Utilities

The Assignee shall not assume, and as of the Closing Date, the Assignor shall terminate, any contracts or agreements entered into by or on behalf of the Assignor for the supply of any utilities including, without limitation, electricity, gas, water, fuel, telephone service, internet services, security and surveillance services or otherwise (collectively, “Utilities”, and each, a “Utility”) at the Premises. From and after the Closing Date, any and all charges and other related fees payable for Utilities for the Premises pursuant to any invoice or statement issued on or after the Closing Date and relating solely to a time period commencing on or after the Closing Date, shall be the sole responsibility of the Assignee. On the Closing Date, the Assignee shall set up all required Utility accounts for the Premises in its own name, and the Assignor shall not be responsible for payment of any utilities following such date. The parties agree to adjust on the Closing Date for any Utilities paid by the Assignor in respect of any period following the Closing Date that the Assignee will have the benefit of.

ARTICLE 5 TAXES

5.1 Tax Matters

The Assignee will pay, in addition to the Consideration, and the Assignor will collect, any goods and services tax or harmonized sales tax, as the case may be, imposed under the Excise Tax Act, R.S.C. 1985, c. E-15, as amended (the “**Excise Tax Act**”) and any similar value added or multi-staged tax or sales tax exigible on the Consideration, except to the extent that the Assignee is permitted under subsection 221(2) of the Excise Tax Act and any equivalent or corresponding provision under any applicable provincial or territorial legislation to self-assess and remit such taxes directly to the appropriate governmental authority. Further, together with the execution of this Agreement, the Assignee shall execute a certificate, undertaking and indemnity which includes its certification of its registration number issued under the Excise Tax Act, and is in the form attached hereto as Schedule “B”, dated as of the Closing Date.

5.2 Residency of Assignee

The Assignee warrants, represents and covenants to the Assignor, and acknowledges and confirms that the Assignor is relying on such representation and warranty in connection with the entering into of this Agreement, that the Assignee is not a non-resident of Canada within the meaning of the Tax Act.

The provisions of this Article 5 shall survive and not merge on closing.

5.3 Residency of BBB Canada Ltd. And BBB Canada LP Inc.

The Assignor warrants, represents and covenants to the Assignee, and acknowledges and confirms that the Assignee is relying on such representation and warranty in connection with the entering into of this Agreement, that BBB Canada Ltd. is not a non-resident of Canada within the meaning of the Tax Act, and that BBB Canada Ltd. is the legal and beneficial owner of ninety-nine percent (99%) of the partnership units of the Assignor, and that BBB Canada LP Inc. is the legal and beneficial owner of one percent (1%) of the partnership units of the Assignor.

ARTICLE 6 GENERAL

6.1 Defined Terms

Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Lease.

6.2 Indemnifier

Intentionally deleted.

6.3 Time of the Essence

Time shall be of the essence of this Agreement.

6.4 Enurement

This Agreement shall become effective when executed by the parties hereto and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

6.5 Entire Agreement

This Agreement and the schedules hereto constitute the entire agreement between the parties with respect to the assignment and assumption of the Lease and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement.

6.6 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of any party to this Agreement to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

6.7 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to carry out the terms and conditions of this Agreement in accordance with their true intent.

6.8 Severability

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

6.9 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

6.10 Forum

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA proceedings before the Court until the termination of such proceedings and, thereafter, pursuant to and in accordance with the Lease.

6.11 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

6.12 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

6.13 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

6.14 Business Days

For purposes of this Agreement, “Business Days” shall mean those days that are Monday – Friday, inclusive, excluding holidays in the Province of Ontario or the Province in which the Premises are located. If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

6.15 Notice

Any notice, consent, confirmation or approval required or permitted to be given in connection with this Agreement or the Lease (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Lease at the address for such party set out below:

(a) To the Assignor:

Bed Bath & Beyond Canada LP
c/o
Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: SVP Real Estate and Store Development

Bed Bath & Beyond Canada LP
c/o
Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: General Counsel

Bed Bath & Beyond Canada LP
c/o
Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: Lease Administration

(b) To the Assignee:

c/o Winners Merchants International L.P.
60 Standish Court, 4th Floor, Pacific Tower
Mississauga, Ontario L5R 0G1
Attention: Real Estate Department

With a copy to:
The TJX Companies, Inc.
770 Cochituate Road
Framingham, Massachusetts 01701
Attention: VP Legal – Real Estate

(c) To the Monitor:

Alvarez & Marsal Canada Inc.
200 Bay St.
Toronto, Ontario M5J 2J1
Attention: Al Hutchens/Ryan Gruneir
Email: ahutchens@alvarezandmarsal.com/rgruneir@alvarezandmarsal.com

6.16 Counterparts and Delivery

All parties agree that this Agreement may be executed in counterpart and transmitted by electronic means and that the reproduction of signatures in counterpart by way of electronic means will be treated as though such reproduction were executed originals.

- 11 -

[Signature pages follow.]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.

**BED BATH & BEYOND CANADA L.P. by
its general partner BBB CANADA LTD.**

By: Wade Haddad
Name: Wade Haddad
Title: Authorized Signing Officer

**WINNERS MERCHANTS
INTERNATIONAL L.P.**
An Ontario limited partnership

By its General Partner:
WMI-1 Holding Company,
A Nova Scotia corporation

By: _____
Name: Alicia C. Kelly
Title: Secretary

By: _____
Name: David L. Averill
Title: Vice-President

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.

**BED BATH & BEYOND CANADA L.P. by
its general partner BBB CANADA LTD.**

By: _____
Name: Wade Haddad
Title: Authorized Signing Officer

**WINNERS MERCHANTS
INTERNATIONAL L.P.**
An Ontario limited partnership

By its General Partner:
WMI-1 Holding Company,
A Nova Scotia corporation

By: _____
DocuSigned by:
Alicia Kelly
8A8B018DE73A407...
Name: Alicia C. Kelly
Title: Secretary

By: _____
DocuSigned by:
David L. Averill
0E7B22DA110D42E...
Name: David L. Averill
Title: Vice-President

**SCHEDULE “A”
LEASE PARTICULARS**

1. Letter Agreement dated January 8, 2010 between Michaels of Canada, ULC and Assignor.
2. Option Notice dated July 25, 2018 (Assignor exercised first Renewal Option).
3. Consent letter dated November 6, 2019 (Assignor consented to “West Elm”).

SCHEDULE "B"
GST/HST CERTIFICATE, UNDERTAKING AND INDEMNITY

TO: **BED BATH & BEYOND CANADA L.P.** (the "**Assignor**")

RE: Assignment and Assumption of Lease (Ottawa Trainyards) dated May __, 2023 made between the Assignor and Winners Merchants International L.P. (the "**Assignee**"), as amended from time to time (the "**Agreement**").

DATED: May 18, 2023

In consideration of the Agreement and the assignment of the Assigned Interest contemplated therein (the "**Assignment**"), the Assignee hereby certifies and agrees as follows:

- (a) the Assignee is duly registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act*, R.S.C., 1985, c. E-15, as amended, restated, supplemented or substituted from time to time (the "**Excise Tax Act**") with respect to the goods and services tax and harmonized sales tax, and that its registration number is 860326255 RT0001, which registration shall be in full force and effect and shall not have been cancelled or revoked on the Closing Date;
- (b) the Assignee has entered into the Agreement, and the Assigned Interest is being assigned to the Assignee on the Closing Date, as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of or for another Person (as defined in the Excise Tax Act);
- (c) to the extent permitted under subsection 221(2) of the Excise Tax Act and any equivalent or corresponding provision under any applicable provincial or territorial legislation, the Assignee shall self-assess and remit directly to the appropriate governmental authority any taxes including goods and services tax or harmonized sales tax, as the case may be, imposed under the Excise Tax Act and any similar value added or multi-staged tax or sales tax imposed by any applicable provincial or territorial legislation payable in connection with the Assignment;
- (d) the Assignee shall make and file all required return(s) in accordance with the requirements of subsection 228(4) of the Excise Tax Act and any equivalent or corresponding provision under any applicable provincial or territorial legislation; and
- (e) the Assignee shall indemnify and save the Assignor harmless from and against any and all goods and services tax or harmonized sales tax, as the case may be, imposed under the Excise Tax Act and any similar value added or multi-staged tax or sales tax, penalties, costs and/or interest which may become payable by or assessed against the Assignor as a result of any failure by the Assignor to collect and remit any goods and services tax or harmonized sales tax payable under the Excise Tax Act or any similar value added or multi-staged tax or sales tax and applicable on the Assignment or as a result of any inaccuracy, misstatement or misrepresentation made by the Assignee on the Closing Date in connection with any matter raised in this GST/HST Certificate, Undertaking and Indemnity or any failure by the Assignee to comply with the provisions of this GST/HST Certificate, Undertaking and Indemnity.

Capitalized terms used in this GST/HST Certificate, Undertaking and Indemnity and not defined herein shall have the meanings ascribed to them in the Agreement.

This GST/HST Certificate, Undertaking and Indemnity may be executed in counterpart and transmitted by electronic means and that the reproduction of such signatures will be treated as though such reproduction were executed originals.

[Signature page follows.]

DATED as of the date first above written.

**WINNERS MERCHANTS
INTERNATIONAL L.P.**
An Ontario limited partnership

By its General Partner:
WMI-1 Holding Company,
A Nova Scotia corporation

By: _____
Name: Alicia C. Kelly
Title: Secretary

By: _____
Name: David L. Averill
Title: Vice-President

THIS IS **EXHIBIT “B”** REFERRED TO IN THE AFFIDAVIT OF WADE HADDAD SWORN BEFORE ME over video teleconference this 5th day of May, 2023 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Union, in the State of New Jersey while the Commissioner was located in the City of Toronto, in the Province of Ontario.

DocuSigned by:
Emilie Dillon
58C63E8818CD461...

Commissioner for Taking Affidavits
Emilie Dillon (LSO No. 85199L)

LEASE AGREEMENT

Between

1663321 ONTARIO INC. AND 1414614 ONTARIO INC.

Landlord

and

BED BATH & BEYOND CANADA L.P.

Tenant

OTTAWA TRAINYARDS, OTTAWA, ONTARIO, CANADA

Dated as of: May 9th, 2008

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EXHIBITS

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Exhibit B Site Plan

Exhibit C Form of Rent Commencement and Expiration Date Agreement

Exhibit D Specifications for Landlord's Work

Exhibit D-1 Exterior Elevations of the Premises, and Sidewalk Plan

Exhibit D-2 Exterior Elevations of the Shopping Center

Exhibit E Permitted Encumbrances

Exhibit F Signage

Exhibit G Form of Subordination, Non-Disturbance and Attornment Agreement

Exhibit H Form of Subtenant Recognition Agreement

Exhibit I Form of Delivery Date Notice

Exhibit J Form of Delivery Date Certification

Exhibit K-1 Existing Exclusives

Exhibit K-2 Existing Leases

Exhibit L Alternate Rent

Exhibit M Prohibited Uses

Exhibit N Form of Construction Lien indemnification

LEASE AGREEMENT

THIS LEASE AGREEMENT ("**Lease**") is entered into as of May 9, 2008 by and between **1663321 ONTARIO INC. and 1414614 ONTARIO INC.**, having an office at 223 Colonnade Road South, Ottawa, Ontario K2E 7K3 ("**Landlord**"), and **BED BATH & BEYOND CANADA L.P.**, having an office at 650 Liberty Avenue, Union, New Jersey 07083 ("**Tenant**").

WITNESSETH:

ARTICLE 1. BASIC TERMS AND DEFINITIONS

Section 1.1 Basic Terms and Definitions. The following terms shall have the meanings set forth in this Section 1.1 except as otherwise expressly provided herein.

1.1.1 Additional Rent: Any monies which Tenant is required to pay to Landlord under the terms and conditions of this Lease, other than Fixed Rent.

1.1.2 Affiliate: A corporation, partnership, person or other entity which is controlling, controlled by, or under common control with, Landlord or Tenant, as the case may be. As used herein, "**control**" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities or rights, by contract, or otherwise.

1.1.3 Alternate Rent: As defined in and payable in the manner set forth in Exhibit L attached hereto.

1.1.4 Common Areas: All areas in the Shopping Center which are, from time to time, available for the joint use and benefit of Tenant and other tenants and occupants of the Shopping Center, and their respective employees, agents, subtenants, concessionaires, licensees, customers and other invitees, including, but not limited to, any and all parking areas, parking spaces, driveways, truck serviceways, passageways, sidewalks, entrances, exits, lighting facilities, courts, landscaped areas, retention or detention areas, elevators, escalators and common utility lines.

1.1.5 Common Areas Charges: As defined in Section 5.1 hereof.

1.1.6 Delivery Date: As defined in Section 2.3 hereof.

1.1.7 Effective Date: The date hereof.

1.1.8 Event of Default: As defined in Section 16.1 hereof.

1.1.9 Excused Periods: Periods during which Tenant's failure to conduct the operations of its business or any other business: (x) resulted from alterations or renovations being performed in and to the Premises, (y) was caused by damage or destruction, eminent domain proceedings or actions, or *Force Majeure*, or (z) was caused by any act or omission of Landlord, or its employees, agents, or contractors.

1.1.10 Exhibits. The exhibits listed in the Table of Contents annexed to this Lease have been agreed to by the parties and attached hereto, it being the intention of the parties that they shall become a binding part of this Lease as if fully set forth herein.

1.1.11 Fixed Rent: The following amounts for the periods indicated (subject to adjustment pursuant to Section 3.4 hereof):

(a) For the period commencing on the Rent Commencement Date and ending on the last day of the "Initial Term" (defined in Subsection 1.1.43 below), at the rate of Five Hundred and Seventy-One Thousand One Hundred and Sixty-Six Dollars and 75/100 (\$571,166.75) per year based on Nineteen Dollars and 25/100 (\$19.25) per square foot of Floor Area in the Premises;

(b) In the event Tenant exercises the first Renewal Option, for the first five (5) year Renewal Period, at the rate of Six Hundred and Eight Thousand Two Hundred and Fifty-Five Dollars and 50/100 (\$608,255.50) per year based on Twenty Dollars and 50/100 (\$20.50) per square foot of Floor Area in the Premises;

(c) In the event Tenant exercises the second Renewal Option, for the second five (5) year Renewal Period, at the rate of Six Hundred and Thirty-Seven Thousand Nine Hundred and Twenty-Six Dollars and 50/100 (\$637,926.50) per year based on Twenty-One Dollars and 50/100 (\$21.50) Dollars per square foot of Floor Area in the Premises; and

(d) In the event Tenant exercises the third Renewal Option, for the third five (5) year Renewal Period, at the rate of Six Hundred and Sixty-Seven Thousand Five Hundred and Ninety-Seven Dollars and 50/100 (\$667,597.50) per year based on Twenty-Two Dollars and 50/100 (\$22.50) per square foot of Floor Area in the Premises.

1.1.12 Floor Area: The actual number of square feet of space contained on all floors within any building area in the Shopping Center (including the Premises) and, with respect to exterior areas, including all exterior areas leased to or exclusively used by one or more tenants (other than exterior loading dock areas, trash compactor areas trash container areas and outdoor patios). All measurements pursuant to this Subsection shall be from the exterior of outside walls or store front and/or to the centerline of any common walls, but in no event shall Floor Area within either the Premises or the remainder of the Shopping Center include any non-selling or storage space areas within any mezzanine, lower floor, second floor or areas which serve or are for the benefit of the building in which the Premises are located or for the Shopping Center including but not limited to sprinkler, transformer and electrical rooms, and, except as set forth above, any exterior areas.

1.1.13 Force Majeure: As defined in Section 23.4 hereof.

1.1.14 Ground Lessor: The landlord under any existing or future ground or underlying leases encumbering or affecting all or any part of the Shopping Center.

1.1.15 Intentionally omitted.

1.1.16 Hazardous Substances: As defined in Subsection 12.4.1 hereof.

1.1.17 Intentionally omitted.

1.1.18 Landlord: As defined in the preamble and Section 23.11 hereof.

1.1.19 Landlord's Mailing Address: 223 Colonnade Road South, Ottawa, Ontario K2E 7K3, or such other place and/or to the attention of such other person as Landlord may notify Tenant from time to time by notice given in accordance with the provisions of Article 18 hereof.

1.1.20 Landlord's Work: As defined in Section 3.1 hereof.

1.1.21 Lease Interest Rate: The then effective prime rate as published from time to time by the Royal Bank of Canada (or any successor thereof) plus two (2%) percent.

1.1.22 Legal Requirements: All laws, statutes, codes, acts, ordinances, judgments, decrees, authorizations, directions and requirements of, and agreements with, all governmental departments, commissions, boards, courts, authorities, agencies, officials and officers, which now or at any time hereafter may be applicable to the Premises, the Shopping Center, or any part(s) thereof.

1.1.23 Mortgagee: Any provincial or federally regulated: bank, savings and loan association, insurance company, pension fund, credit union, real estate investment trust, or other institutional lender, which is not an Affiliate of Landlord, and which holds a mortgage on the Shopping Center or is the beneficiary under a deed of trust encumbering the Shopping Center.

1.1.24 Intentionally omitted.

1.1.25 Intentionally omitted.

1.1.26 Intentionally omitted.

1.1.27 Permitted Use: The sale at retail of a variety of linens and domestics (including, but not limited to, sheets, bedspreads, comforters, duvets, pillows, pillow covers, chair pads, placemats, tablecloths, dish towels, oven mittens and aprons); bathroom items (including, but not limited to, towels, shower curtains, bathroom rugs, toilet seats, health and beauty care items, cosmetics, and drug remedies, personal care devices and other bathroom appliances and accessories); housewares (including, but not limited to, kitchen utensils, kitchen appliances and kitchen "gadgets," cleaning appliances and supplies, cookware, bakeware, dishes and china, glassware, garbage pails, ironing boards and other laundry items, mops and brooms, candles and candle holders, ready-to-assemble furniture and artificial flowers); frames and wall art; window treatments; closet, shelving and storage items; home furnishings; area rugs; wall and floor coverings; furniture (including, without limitation, mattresses, box springs, bed frames, and bedroom furniture); decorative accessories; photo albums; photo storage boxes; luggage; books; party supplies; cards and stationery; seasonal items; juvenile merchandise (including, but not limited to, toys, car seats and safety-proofing items); specialty food items; food and non-alcoholic beverage services; any and all other items sold or services provided from time to time in any store owned or operated by Tenant or its Affiliate(s) (the aforementioned items are hereinafter collectively referred to as the "**Permitted Items**"); and for any other lawful retail use not specifically prohibited by the provisions of Section 13.1.1 below. In addition, Tenant shall be permitted to use portions of the Premises for storage and office uses incidental to the Permitted Use.

1.1.28 Premises: Being the area cross-hatched on Exhibit B hereto, having dimensions as shown on Exhibit B and containing approximately twenty-nine thousand six hundred and seventy-one (29,671) square feet of Floor Area, subject to adjustment in accordance with the provisions of Section 3.4 below. In no event shall such non-selling space within any mezzanine, lower floor, second floor or basement (or any space used for fire pump facilities) result in any charge to Tenant by way of Fixed Rent or any Additional Rent, nor shall such space be included in the determination of Tenant's Pro Rata Share.

1.1.29 Renewal Option: As defined in Section 2.2.2 hereof.

1.1.30 Renewal Period(s): Three (3) successive periods of five (5) years each, as provided in Section 2.2.2 hereof.

1.1.31 Rent: Fixed Rent and/or Additional Rent.

1.1.32 Rent Commencement Date: As defined in Section 2.2 hereof.

1.1.33 Intentionally omitted.

1.1.34 Shopping Center: The shopping center commonly known as "Ottawa Trainyards", containing approximately two hundred and sixty-seven thousand (267,000) square feet of Floor Area, on the property located at the southwest corner of Terminal Avenue and Trainyards Drive, in Ottawa, Ontario, and more particularly described in Exhibit A hereto. Landlord shall not change the name of the Shopping Center without giving at least ninety (90) days prior notice to Tenant, and Landlord shall not include the name of any tenant in the name of the Shopping Center.

1.1.35 Substantially Completed or Substantial Completion: The completion of specified work at the Shopping Center (including, without limitation, as applicable, Landlord's Work) to the extent that only "Punch List Items" of such work (defined in Subsection 3.3.3 below) shall not be completed.

1.1.36 Taxes: As defined in Section 4.3.3 hereof.

1.1.37 Tenant: As defined in the preamble hereof.

1.1.38 Tenant's Mailing Address: 650 Liberty Avenue, Union, New Jersey 07083, Attn: Mr. Warren Eisenberg, or such other place and/or to the attention of such other person as Tenant may notify Landlord from time to time by notice given in accordance with the provisions of Article 18 hereof.

1.1.39 Tenant's Permits: As defined in Section 2.3.1(b) hereof.

1.1.40 Tenant's Property: All of Tenant's personal property, including, without limitation, phone and alarm systems, satellite antennae, shelving, computers, furniture, cash registers and customer service counters, specialty lighting, track lighting, millwork, conveyor systems, storage racks and signage and any and all other personal property of Tenant which is capable of being removed from the Premises without material damage thereto, but which shall not include electrical or plumbing systems, heating, ventilation and air conditioning systems, and other mechanical systems, flooring, carpet, elevators, standard lighting and wiring installed within the walls of the Premises.

1.1.41 Tenant's Pro Rata Share: A fraction whose numerator is the Floor Area of the Premises and whose denominator is the Floor Area of the Shopping Center as may be re-determined any time a building (and/or Floor Area) is added to or removed from the Shopping Center, but in no event shall Tenant's Pro Rata Share be greater than 11.3% percent. Floor Area shall be deemed added to or removed from the Shopping Center on the earlier of (i) the date upon which such Floor Area is Substantially Completed, or (ii) at such time as an assessment for Taxes is made or removed, as the case may be, with respect to such Floor Area. Within thirty (30) days following written request from Tenant, Landlord shall certify to Tenant in writing as to the then Floor Area of the Shopping Center.

1.1.42 Tenant's Work: As defined in Section 3.1 hereof.

1.1.43 Term: A period (the "**Initial Term**") of approximately ten (10) years beginning on the Rent Commencement Date and expiring at midnight on the last day of January following the tenth (10th) anniversary of the Rent Commencement Date, unless the Rent Commencement Date is February 1, in which event the Expiration Date shall be the day before the tenth (10th) anniversary of the Rent Commencement Date. As used herein: (i) "**Term**" shall refer to the Initial Term, as the same may be extended by any Renewal Period exercised pursuant to Section 2.2.2 below; and (ii) "**Expiration Date**" shall mean the date on which the Term expires.

ARTICLE 2.

LEASE OF PREMISES; LEASE TERM; DELIVERY DATE

Section 2.1 Lease of Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises together with any and all rights, benefits, privileges and easements, now or hereafter appurtenant to either or both of the Premises and the Shopping Center, arising out of any public or private grant or authority, including, without limitation, the non-exclusive right and easement to use the Common Areas in common with other tenants and occupants of the Shopping Center.

Section 2.2 Term.

2.2.1 Initial Term. Subject to the provisions of this Article 2, the Term of this Lease shall begin on the one hundred fiftieth (150th) day following the later of the Delivery Date or the "Permit Contingency Date" (hereinafter defined in Section 2.6) (the "**Rent Commencement Date**"). The Term shall expire on the Expiration Date, unless earlier terminated as herein provided. When the Rent Commencement Date has been determined, as provided in this Section, Landlord and Tenant shall execute, acknowledge and deliver, each to the other, a written statement in the form attached hereto as Exhibit C specifying the Rent Commencement Date.

2.2.2 Renewal Options. Tenant shall have the right and option (hereinafter a **"Renewal Option"**) to extend the Initial Term from the date on which it would otherwise expire for three (3) successive renewal periods of five (5) years each (individually, a **"Renewal Period"**, and collectively, the **"Renewal Periods"**) upon the same terms and conditions as are herein set forth, save and except for Landlord's obligation to complete Landlord's Work, Tenant's obligation to complete Tenant's Work (and all related covenants and obligations in respect of the completion of Landlord's Work and Tenant's Work respectively), Tenant Allowance, Permit Contingency, Tenant's fixturing period referred to in Section 2.2.1 hereof and any other covenants and obligations of the parties that are specifically stated to be inapplicable beyond the Initial Term of this Lease. Each Renewal Option shall be exercisable by notice given to Landlord at least one hundred eighty (180) days prior to the commencement of the applicable Renewal Period(s). In order to prevent the inadvertent failure of Tenant to exercise any of the Renewal Options within the time specified above, the Term of this Lease shall not expire unless and until Tenant fails to exercise a Renewal Option within fifteen (15) days after receiving notice from Landlord that the Renewal Option in question has not been exercised (Landlord's notice shall not be given prior to the 180th day prior to the Expiration Date), or unless and until Tenant gives notice to Landlord that it will not be exercising any remaining Renewal Options. If Landlord fails to give Tenant such notice prior to the Expiration Date, and Tenant occupies the Premises after the Expiration Date, then Tenant shall remain in possession subject to the provisions of this Lease but without the application of Article 20 hereof. If Landlord then gives Tenant such notice and Tenant exercises its Renewal Option, then the effective date of such exercise shall be retroactive to the Expiration Date.

Section 2.3 Delivery Date.

2.3.1 Definition. Subject to Landlord's delivery to Tenant of the Delivery Date Notice in accordance with the provisions of Subsection 2.3.2 below and Landlord's timely compliance therewith, Landlord shall be deemed to have delivered possession of the Premises to Tenant at 8:00 a.m. on the date (the **"Delivery Date"**) following the day on which all of the following conditions (the **"Delivery Date Conditions"**) shall have occurred and Tenant shall have received from Landlord the Delivery Date Certification in accordance with the provisions of Section 2.3.3 below, which shall constitute Landlord's written certification that all of the following shall have occurred:

(a) Actual possession of the Premises shall have been delivered to Tenant water-tight, free of Hazardous Substances, broom clean and free of any previous tenant's or occupant's furniture, fixtures, and equipment, in a good, structurally sound condition, with all of Landlord's Work Substantially Completed, which Substantial Completion shall be evidenced by a written certification by Landlord's architect to Tenant;

(b) Landlord shall have obtained (and delivered copies thereof to Tenant, upon request) all permits and approvals required from all applicable governmental authorities to enable Tenant to occupy and use the Premises for the conduct of its business in the Premises (exclusive of building permits which may be necessary for the performance of Tenant's Work and any business licenses which Tenant may be required to obtain in order to open and operate its specific business and not a general retail business (collectively **"Tenant's Permits"**)), which permits and approvals shall include, without limitation, zoning and building code approvals, environmental requirements, and a certificate of occupancy for the Premises (unless a certificate of occupancy for the Premises cannot be obtained solely as a result of Tenant's Work not having been commenced or completed, in which event the delivery of a certificate of occupancy for the Premises shall not be a condition to the occurrence of the Delivery Date);

(c) The Common Areas, and all of the improvements thereto shown on Exhibit B hereto shall have been Substantially Completed and operational, and all off-site improvements (including, without limitation, street, storm drainage, and traffic signalization improvements) required for the Shopping Center to open for business and for Tenant to receive a permanent certificate of occupancy shall have been Substantially Completed; Landlord, at its sole cost and expense, shall have obtained (and delivered copies thereof to Tenant, upon request) all

permits and approvals required from applicable governmental authorities to enable the Common Areas to be developed, operated, and used for the purposes herein contemplated, which permits and approvals shall include, without limitation, zoning, building code, environmental requirements, curb cut and site plan approvals, all permits pertaining to pylon and/or monument signage (and Tenant's panel(s) thereon), construction, and development and use permits;

(d) The representations and warranties of Landlord set forth in subparagraphs (a) through (i) of Section 12.3 below shall then be true and in effect;

(e) Landlord shall have delivered to Tenant, in recordable form: (i) a subordination, non-disturbance and attornment agreement substantially in the form attached hereto as Exhibit G executed by each holder of any mortgage or deed of trust encumbering or affecting the Shopping Center or any portion thereof (it being understood and agreed that this Subsection 2.3.1 (f) is not intended to extend the date by which Landlord is to deliver to Tenant any document(s) required pursuant to Section 17.3 hereof), and (ii) a fee owner recognition agreement in the form and content described in clause (b) of Section 17.1 hereof executed by any existing Ground Lessor; and

(f) The OEA (hereinafter defined in Section 12.5) is (x) fully executed and delivered and recorded in Clerk's Office of Carleton County, Ontario, Canada, and (y) superior to all mortgages, deeds of trust and other liens affecting the Shopping Center.

2.3.2 Delivery Date.

(a) Landlord shall give Tenant at least thirty (30) days prior notice of the Delivery Date, using the form of Delivery Date Notice attached hereto as Exhibit I (the "**Delivery Date Notice**"). Landlord's delivery of the Delivery Date Notice shall be a condition precedent to the Rent Commencement Date. Notwithstanding any provision of this Lease to the contrary, in no event shall the Delivery Date be deemed to occur prior to the Delivery Date established in the Delivery Date Notice. No event of Force Majeure occurring prior to the giving of the Delivery Date Notice shall serve to delay the Delivery Date thereby established.

(b) Landlord acknowledges that if it shall fail to satisfy all of the Delivery Date Conditions by the Delivery Date as established in the Delivery Date Notice, Tenant will sustain substantial, additional costs and expenses, including, without limitation, costs incurred in connection with contractors and subcontractors hired to perform Tenant's Work, storage costs for fixtures, equipment, and inventory, employee costs during the waiting period, and additional advertising and promotional costs, the exact amount of which would be impracticable or extremely difficult to ascertain. If the Delivery Date does not occur by the date established therefor in the Delivery Date Notice, then, in addition to any other remedies available to Tenant under this Lease, Tenant shall be entitled to offset against the initial installment(s) of Rent hereunder, as liquidated reimbursement (and not as a penalty) for all of the aforesaid costs incurred by Tenant, an amount equal to the sum of: (i) Fifty Thousand Dollars (\$50,000), plus (ii) Two Thousand Five Hundred Dollars (\$2,500) for each day that the Delivery Date established in the Delivery Date Notice is delayed. The foregoing liquidated reimbursements represent the parties' good faith agreement as to an agreed upon amount which shall have been incurred by Tenant and which shall otherwise not be susceptible of exact ascertainment.

2.3.3 Delivery Date Certification. Upon the satisfaction of all of the Delivery Date Conditions, Landlord shall so certify to Tenant, using the form of Delivery Date Certification attached hereto as Exhibit J.

2.3.4 No Waiver. Neither Tenant's acceptance of physical possession of the Premises nor Tenant's opening of the Premises for business to the public prior to the Delivery Date shall: (i) be deemed a waiver by Tenant of any of the Delivery Date Conditions, or (ii) relieve Landlord of any obligation under this Lease, unless such condition or obligation is expressly waived in writing by Tenant.

Section 2.4 Unseasonable Delivery: Slack Period. If, for any reason (including, without limitation, Force Majeure), the Delivery Date (or the Permit Contingency Date, if later) occurs during the period commencing on May 1 and ending on the November 1 next following (the "**Slack Period**"), then Tenant shall have, in addition to any other remedies, the right to:

(a) accept delivery of physical possession of the Premises; or

(b) defer its acceptance of delivery of physical possession of the Premises to a later date within the Slack Period, whereupon the Delivery Date shall be deemed to have occurred on the date that Tenant actually accepts physical possession of the Premises (subject to the other provisions of this Article 2 and the continuing satisfaction of the Delivery Date Conditions); and

in either event, if both the Delivery Date and the Rent Commencement Date occur during the Slack Period, Tenant shall be entitled to pay Alternate Rent in lieu of Fixed Rent for the period commencing on the Rent Commencement Date and ending on the expiration of the Slack Period; any benefit which Tenant may realize thereby shall constitute a reimbursement to Tenant for certain pre-opening expenses incurred by Tenant in connection with this Lease. In the event Tenant is entitled to the liquidated reimbursement provided for in Section 2.3.2(b) above, and Tenant defers the acceptance of physical possession of the Premises as set forth in this Section 2.4, the per diem liquidated reimbursement of \$5,000.00 payable by Landlord to Tenant under Section 2.3.2(b) shall cease to accrue as of the date the Delivery Date would have occurred had Tenant not elected to defer acceptance, but shall recommence on the date later in the Slack Period which Tenant designates for delivery of the Premises if Landlord fails to deliver the Premises with all Delivery Date Conditions satisfied on such date.

Section 2.5 Intentionally omitted.

Section 2.6 Permits Contingency.

2.6.1 Tenant shall use reasonable commercial and diligent efforts to obtain all of Tenant's Permits (defined in Section 2.3.1(b) above) on or before July 31, 2008. Notwithstanding the provisions of this Article 2 to the contrary, if, despite Tenant's reasonable commercial and diligent efforts, all Tenant's Permits have not been obtained by said date, Tenant shall have the right, upon notice given to Landlord prior to the unconditional grant of all of Tenant's Permits, to: (a) delay its acceptance of physical possession of the Premises to the date on which all of the Tenant's Permits have been obtained, whereupon the Delivery Date shall be deemed to have occurred on such date (subject to the other provisions of this Article 2 and the continuing satisfaction of the Delivery Date Conditions); or (b) terminate this Lease. Tenant's exercise of its rights under (a) above shall not preclude the subsequent exercise of its rights under (b) above. The date on which all Tenant's Permits are unconditionally granted is referred to herein as the "**Permit Contingency Date**".

2.6.2 If all of Tenant's Permits have not been obtained within one hundred and eighty (180) days after the date set forth in the first sentence of Section 2.6.1 above for any reason other than Landlord's failure to perform or observe any of its obligations under this Lease, then Landlord shall have the option, upon notice given to Tenant prior to the unconditional grant of all Tenant's Permits, to terminate this Lease, provided, however, that Tenant shall have the right to avoid Landlord's termination by giving notice to Landlord, within fifteen (15) days after receiving Landlord's termination notice, of Tenant's waiver of its rights under Section 2.6.1 above, whereupon Landlord's termination notice shall be rendered null and void.

2.6.3 In the event Tenant or Landlord elects to terminate this Lease pursuant to this Section 2.6, this Lease shall cease and be deemed canceled and terminated as of the date set forth in Tenant's or Landlord's notice of such termination and upon such termination, Tenant and Landlord shall be relieved of any and all further liability hereunder, except for those obligations which survive the expiration or other termination of this Lease pursuant to the express terms of this Lease.

ARTICLE 3. IMPROVEMENTS

Section 3.1 Landlord's Work and Tenant's Work. Landlord shall, at its sole cost and expense, perform the work and obligations described on Exhibit D, hereto, and the "Final Plans and Specifications" (hereinafter defined in Section 3.2) (collectively, "**Landlord's Work**"), and shall deliver possession of the Premises to Tenant in the condition described therein. Except for Landlord's Work, Tenant shall, at its own cost and expense, do any and all work (hereinafter referred to as "**Tenant's Work**") which Tenant desires to adapt the Premises to Tenant's use.

Section 3.2 Plan Approvals.

3.2.1 Preparation of Tenant's Plans.

(a) Landlord and Tenant hereby acknowledge that prior to the Effective Date, Landlord has delivered to Tenant the "Shell Drawings" (hereinafter defined), which shall be subject to any reasonable modifications indicated by Tenant in Tenant's Plans. As used herein, the term "**Shell Drawings**" include all of the following: (i) a dimensioned building floor plan for the Premises which shall denote egress, ingress, vertical transportation, receiving area (truck access), and trash compactor and trash container locations; (ii) building elevations for all buildings in the Shopping Center; (iii) exterior wall sections of the Premises; (iv) a sidewalk plan showing improvements located within the area from the back of the front curb to the front wall of the Premises and any adjacent premises (including, without limitation, sidewalks, depressed curbing, cart corral locations, and planters); (v) roof plan of the Premises (including, without limitation, roof construction, location of heating, ventilation and air conditioning units, drainage, and penetrations); (vi) dimensioned structural drawing showing interior layout and exterior facade column layout of the Premises (including, without limitation, column sizes for each); and (vii) landscape and grading plans for the Shopping Center (and the then current site plan).

(b) On or before June 20, 2008 Tenant shall deliver to Landlord Tenant's plans ("**Tenant's Plans**") depicting Tenant's Work. Landlord shall have thirty (30) days from its receipt of Tenant's Plans (or revisions thereto, as applicable) to approve or disapprove Tenant's Work depicted thereon, which plans and work shall be approved so long as they: (i) comply with all Legal Requirements, and (ii) do not materially reduce the structural soundness of the building containing the Premises. If Landlord shall fail to disapprove Tenant's Plans with reasonable specificity within said 30-day period, Tenant's Plans shall be deemed approved. This Lease is subject to and conditioned upon Landlord's approval (or deemed approval) of Tenant's Plans.

3.2.2 Preparation of Plans. Within five (5) business days after Landlord receives Tenant's Plans, it shall prepare and submit to Tenant, in a single submission (which, in Tenant's reasonable opinion, shall be at least 85% complete), Landlord's preliminary plans and specifications for Landlord's Work (the "**Preliminary Plans**"). Within ten (10) business days after its receipt of the Preliminary Plans, Tenant shall give Landlord notice of the respects, if any, in which the Preliminary Plans fail to meet Tenant's reasonable approval or of the respects, if any, in which the Preliminary Plans fail to conform to the Shell Drawings (as the same may have been modified by Tenant), Tenant's Plans, and/or Exhibits D, D-1, and E hereto, and Landlord shall promptly make any revisions necessary to correct such matters and within five (5) business days after its receipt of notice of Tenant's proposed revisions to the Preliminary Plans, Landlord shall prepare and deliver to Tenant, in a single submission, final plans and specifications (the "**Final Plans and Specifications**") based upon the revised Preliminary Plans. Within ten (10) business days after its receipt of the Final Plans and Specifications, Tenant shall notify Landlord of Tenant's approval thereof or the reasons why such approval will not be granted, and Landlord shall promptly make any revisions necessary to correct such matters and obtain Tenant's approval. Upon

Tenant's approval of the Final Plans and Specifications, any further changes thereto shall be subject to Tenant's prior written approval. Unless specifically noted on the Final Plans and Specifications, in the event of a conflict between the terms and provisions of Tenant's Plans, Exhibit D, Exhibit D-1, and/or Exhibit F hereto, and the terms and provisions of the Final Plans and Specifications, then the terms and provisions of Tenant's Plans, Exhibit D, Exhibit D-1, and/or Exhibit F shall govern and prevail.

3.2.3 Plan Changes.

(a) After Tenant approves either or both of the Preliminary Plans and Specifications or the Final Plans and Specifications, it shall have the right to require Landlord to subsequently make changes to either or both thereof (the "**Changes**"). Within ten (10) business days after receiving Tenant's request for any Change, Landlord shall give Tenant notice of the cost or savings, and any delay that may be occasioned by such Change. If Tenant fails to authorize such Change within five (5) business days after receiving Landlord's notice, Tenant shall be deemed to have disapproved such Change.

(b) Tenant shall pay to Landlord the net reasonable additional third-party costs of Landlord's Work resulting directly and solely from the aggregate Changes (exclusive of any charges for overhead and profit, other than sums not exceeding 5% subcontractor profit and 5% general contractor profit thereon), taking into consideration all savings realized by Landlord as a result of the Changes. Such payment shall be due and payable within thirty (30) days after Tenant's receipt of backup information reasonably supporting all such costs, including, without limitation, invoices, receipts, and lien waivers of subcontractors and materialmen.

(c) Landlord shall pay to Tenant the net reasonable cost savings resulting from the aggregate Changes, taking into consideration all reasonable additional third-party costs of Landlord's Work directly and solely resulting from the Changes (exclusive of any charges for overhead and profit, other than sums not exceeding 5% subcontractor profit and 5% general contractor profit thereon). At Tenant's request, Landlord shall deliver to Tenant backup information reasonably supporting all such additional costs, including, without limitation, invoices, receipts, and lien waivers of subcontractors and materialmen. Such payment shall be due and payable within thirty (30) days after the Delivery Date.

(d) If, despite Landlord's diligent efforts in performing Landlord's Work, the Changes cause a net delay in the Substantial Completion of Landlord's Work (taking into consideration any time reductions resulting from such Changes), then: (i) the Rent Commencement Date shall be determined as if such delay had not occurred; (ii) the commencement of the Slack Period, and the dates set forth in clauses (a) and (b) of Section 3.3.2 below, shall be extended by the number of days of such net delay; and (iii) with respect to Changes requested after the Delivery Date Notice is given, for purposes of calculating liquidated damages under Subsection 2.3.2(b) above, the Delivery Date shall be extended by the number of days of such net delay.

Section 3.3 Performance of Work.

3.3.1 Both Landlord's Work and Tenant's Work shall be performed in a good and workmanlike manner, in compliance with all applicable Legal Requirements, utilizing only new, first-class materials Landlord shall perform Landlord's Work in a manner such that Tenant will be able to obtain Tenant's Permits. Landlord shall pay any and all development charges and related governmental charges in connection with the Shopping Center and the Premises, save and except for building permit fees relating directly to Tenant's Work. If Tenant's Permits cannot be obtained because Landlord's Work has not been completed or has been performed improperly or by reason of any then existing condition of the Shopping Center, Landlord shall remedy the situation so as to enable Tenant to obtain Tenant's Permits, and the Delivery Date shall be deemed delayed, for Tenant's benefit only, on a day-for-day basis for each day of delay occasioned thereby.

3.3.2 If: (a) Landlord's Work has not been commenced by May 15, 2008, or (b) the Delivery Date shall not have occurred by August 1, 2008 (subject to *Force Majeure*, not to

exceed thirty (30) days in the aggregate, and provided that Landlord shall have given Tenant notice of such event of *Force Majeure* promptly after its occurrence), Tenant may thereafter, during such time as Landlord's Work has not been commenced or the Delivery Date has not occurred, as the case may be, consider Landlord to be in default hereunder and, at Tenant's option in its sole discretion, elect to:

(i) terminate this Lease, if Landlord shall fail to fully cure such default within thirty (30) days after receiving Tenant's notice thereof, in which event neither party shall have any further liability hereunder, except: (i) for those obligations which survive the expiration or other termination of this Lease pursuant to the express terms of this Lease, and (ii) Landlord shall be obligated to promptly reimburse Tenant, as Tenant's sole monetary remedy by reason thereof, for all its reasonable third-party costs and expenses incurred in connection with this Lease (including, without limitation, costs associated with the preparation and review of plans and specifications, attorney's fees, and the performance of Tenant's Work), not to exceed Fifty Thousand Dollars (\$50,000); and/or

(ii) avail itself of the remedies set forth in Section 16.2 below (provided, however, that the cure period set forth therein shall not be applicable); and/or

(iii) extend one or more times the dates set forth in clauses (a) and/or (b) of this Subsection 3.3.2 to such future dates designated by Tenant in notice given to Landlord, and as to any extension granted with respect to the clause 3.3.2(b) above, in addition to any other rights and remedies to which Tenant may be entitled, the Rent Commencement Date shall be postponed by two (2) days for each day of the extension granted as to clause 3.3.2(b) above.

The election by Tenant of any one or more of the foregoing remedies shall not preclude the subsequent election of any alternative remedy provided in this Section, this Lease, at law, or in equity.

3.3.3 Landlord's Work Performed After Delivery of Possession. On or before the Delivery Date, Landlord's and Tenant's representatives together shall conduct a walk-through of the Premises to compile a punch list of the "Punch List Items" (hereinafter defined). Tenant shall deliver to Landlord a copy of said punch list within five (5) days after the walk-through. Landlord shall complete any Punch List Items within ten (10) days after it receives a copy of said punch list. If Landlord fails to complete any item on said punch list within said 10-day period, Tenant shall have the right to complete such item(s) using its own contractors and receive reimbursement from Landlord for the reasonable costs and expenses thereof upon demand. If reasonably required by Tenant, any portion of Landlord's Work which is performed after Tenant accepts physical possession of the Premises shall occur only "after hours", when neither Tenant nor any of its agents, contractors, employees and servants are working within the Premises, and Landlord shall reimburse Tenant for the reasonable costs and expenses incurred by Tenant by reason of such "after hours" performance of Landlord's Work. As used herein, the term "**Punch List Items**" shall mean such minor items of a cosmetic nature which, when considered as a whole, do not adversely affect either the performance of Tenant's Work or Tenant's ability to conduct its normal business operations in the Premises.

3.3.4 Tenant's Right of Entry. Prior to the Delivery Date, Tenant may enter upon the Premises for the purposes of inspecting the work, taking measurements, making plans, erecting temporary or permanent signs and doing such other work as may be appropriate or desirable without being deemed thereby to have taken possession or obligated itself to pay Rent, provided, however, that Tenant shall not, during the course of such work, materially interfere with the performance of Landlord's Work and shall indemnify and hold Landlord harmless from and against any and all claims or losses arising from Tenant's entry upon the Premises, except to the extent caused by Landlord, its agents, employees, or contractors.

3.3.5 Tenant's Leasehold Improvements. Tenant's Work and all other improvements erected by Tenant with respect to the Premises, together with any replacements thereof, shall be and remain the property of Tenant throughout the Term, and Tenant alone shall be entitled to the benefits of ownership thereof, including, but not limited to, depreciation of same as an asset for tax purposes.

3.3.6 Work Requirements After Delivery Date. Following the Delivery Date, any construction by Landlord or other tenants or occupants of the Shopping Center affecting any portion of the Shopping Center shall be subject to the following terms and conditions:

(a) staging and storage of materials and parking of construction vehicles shall not occur within two hundred feet of the Premises;

(b) Landlord shall diligently ensure that, from and after Tenant's opening for business to the public, no ingress, egress or passage of any construction, delivery and related vehicles engaged in the performance of such work or other construction activities shall take place except within the "Construction Areas" shown on Exhibit B hereto; and

(c) Landlord shall maintain the Shopping Center in a clean, safe, and sightly condition, and shall use reasonable efforts to ensure that such construction shall not materially adversely interfere with the normal conduct of any business operations in the Premises.

3.3.7 Tenant's Trailer. Tenant shall have the right, subject to applicable Legal Requirements, to place a trailer on the Common Areas in an area immediately adjacent to the Premises, in the location shown on Exhibit B hereto, during the period commencing on the forty-fifth (45th) day prior to date on which Tenant has scheduled for the commencement of its fixturing in the Premises, until the twentieth (20th) day after said fixturing date (but not later than the date Tenant opens for business in the Premises), for the purpose of conducting employee interviews and recruiting. Landlord shall install, at Landlord's expense, utility hookups to the trailer in accordance with the specifications set forth in Exhibit D hereto.

3.3.8 Tenant Allowance. Landlord shall pay Tenant the sum of Sixty Dollars (\$60.00) per square foot of the Floor Area of the Premises (the "*Tenant Allowance*") in consideration for Tenant's Work. Landlord and Tenant hereby acknowledge and agree that the Tenant Allowance shall be in addition to Landlord's Work. Landlord shall pay the Tenant Allowance to Tenant as follows:

(a) Thirty Dollars and 00/100 (\$30.00) per square foot of the Floor Area of the Premises shall be paid to Tenant within twenty (20) days after Landlord's receipt or the occurrence, as the case may be, of all of the following:

(i) completion of at least fifty percent (50%) of Tenant's Work, as certified by Tenant; and

(ii) receipt of a copy of a fully-executed standard form of contractor's requisition indicating that at least fifty percent (50%) of Tenant's Work has been completed.

(b) The balance of the Tenant Allowance shall be paid to Tenant within twenty (20) days after the later to occur of Substantial Completion of Tenant's Work in accordance with the Tenant's Plans, as certified by Tenant's architect, and Landlord's receipt of all of the following:

(i) a copy of a fully executed standard form of contractor's requisition indicating substantial completion of Tenant's Work;

(ii) at Tenant's discretion, either (y) a lien waiver from Tenant's general contractor, or (z) an agreement regarding construction liens in the form attached hereto as Exhibit N; and

(iii) a temporary or permanent certificate of occupancy (or its local equivalent), unless such certificate is not available for any reason other than Tenant's failure to perform Tenant's Work in compliance with all Legal Requirements.

If Landlord fails to provide Tenant with the Tenant Allowance or applicable portion thereof within twenty (20) days of Landlord's receipt of the applicable documentation or occurrence of all of the events set forth above, then in addition to the rights and remedies under Section 16.2 of this Lease, Tenant shall have the right to offset against one hundred percent (100%) of the Rent payable by Tenant hereunder, together with interest thereon at a rate equal to the then effective prime rate as published from time to time by the Royal Bank of Canada (or any successor thereof) plus five percent (5%). The Tenant Allowance is an offset (and not an inducement) for Tenant's construction, on behalf of Landlord, of Tenant's Work (the "*Landlord's Special Improvements*") (which Landlord's Special Improvements, together with any replacements thereof, when completed shall be the property of Landlord, subject to use by Tenant of same during the Term of, and in accordance with, this Lease). Landlord alone shall be entitled to depreciate the Landlord's Special Improvements as an asset for tax purposes, and Tenant shall not recognize income with respect to the Tenant Allowance. Tenant shall be responsible for and herewith agrees to pay all costs of Tenant's Work in excess of the Tenant's Allowance, and Tenant's Work (except for Landlord's Special Improvements), together with any replacements thereof, shall be and remain the property of Tenant throughout the Term, and Tenant alone shall be entitled to the benefits of ownership thereof, including, without limitation, depreciation of same as an asset for tax purposes.

3.3.9 Dedication. In the event construction of any roads, acceleration lanes, deceleration lanes, entrances, or other roadway improvements, or the widening or relocation of existing streets, is dependent upon Landlord's dedicating any land to a governmental agency or body, Landlord agrees to make such dedication in time to permit construction work to commence without delay.]

Section 3.4 Measurement; Adjustment of Rent.

3.4.1 Measurement of Premises and Shopping Center. Within five (5) days after the completion of the first course of masonry for the exterior walls of the Premises and demising walls of the Premises (and at least sixty (60) days prior to the Delivery Date), Landlord shall deliver to Tenant a certification to Tenant by Landlord's licensed architect, surveyor or engineer of the interior clear dimensions and the Floor Area (with the dimensions on which it is based) of the Premises, and Floor Area of the Shopping Center, the measurements of which shall be subject to confirmation by Tenant's licensed architect, surveyor or engineer. If Landlord shall fail so to deliver such certification to Tenant, Tenant shall have the right to have any of such measurements made and certified to Landlord by Tenant's licensed architect, surveyor or engineer. If the interior clear dimensions and/or the Floor Area of the Premises vary from those shown on the Certified LOD (as may be modified by any applicable Changes), then Landlord shall correct such work to conform to the Certified LOD (as may be modified by any applicable Changes).

3.4.2 Intentionally omitted.

3.4.3 Adjustment of Fixed Rent and Tenant's Pro Rata Share. Subject to the foregoing provisions of this Section 3.4, if the measurement of the Premises shall indicate a Floor Area less than the Floor Area of the Premises set forth in Subsection 1.1.28 above, the Fixed Rent and any other applicable provision of this Lease (including, without limitation, Tenant's Pro Rata Share) shall be reduced to conform to the actual measurement, and Tenant shall receive a proportional refund of any Rent theretofore paid to Landlord. If the measurement of the Premises indicates that the actual Floor Area of the Premises exceeds the Floor Area of the Premises set forth in Section 1.1.28 hereof plus 1.5% of such Floor Area, neither Fixed Rent nor Tenant's Pro Rata Share shall be increased by reason thereof. Landlord and Tenant shall each promptly execute and deliver to the other an amendment memorializing any change to the Fixed Rent, Tenant's Pro Rata Share, or any other applicable provisions of this Lease, made pursuant to this Section 3.4. Any dispute between the parties with respect to the Floor Area of the Premises, the

square footage of said non-selling space or the Floor Area of the Shopping Center shall be resolved by arbitration in accordance with the provisions of Section 16.3 below.

ARTICLE 4. FIXED RENT, TAXES: DETERMINATION AND PAYMENT

Section 4.1 Fixed Rent. Commencing on the Rent Commencement Date and continuing throughout the Term, Tenant shall pay to Landlord the Fixed Rent, in equal successive monthly installments, in advance, on the first day of each and every calendar month throughout the Term, except that Fixed Rent payable for any partial calendar month during the Term shall be prorated based on a 365-day year. Fixed Rent shall be paid without deduction or set-off, except to the extent otherwise expressly provided herein.

Section 4.2 Payment of Rent. All Rent shall be mailed or otherwise delivered to Landlord's Mailing Address above or, upon at least thirty (30) days' prior notice to Tenant, to such other address as Landlord may from time to time designate. Landlord acknowledges and agrees that for administrative purposes, Tenant has designated BBY Management Corporation, a New York corporation (the "**Paying Agent**"), to make all Rent payments due to Landlord under this Lease. Said designation (which may be revoked by Tenant at any time) is not intended as, and shall not constitute, an assignment of any rights or obligations of Tenant to the Paying Agent, and Tenant shall remain primarily liable for payment of Rent under this Lease. All payments of Rent received by Landlord from the Paying Agent shall be credited to Tenant as if such payments of Rent had been made by Tenant directly to Landlord.

Section 4.3 Real Estate and Other Taxes.

4.3.1 Landlord shall pay on or before the due dates thereof all "Taxes" (defined in Subsection 4.3.3 below) other than personal property taxes levied against tenants. Throughout the Term, Landlord shall cause the Shopping Center to be maintained entirely within tax parcels and lots that exclude any property not a part of the Shopping Center.

4.3.2 (a) Tenant shall pay to Landlord Tenant's Pro Rata Share of the Taxes which accrue during the Term, subject to the provisions of this Section 4.3. Any Taxes for a real estate fiscal tax year, only a part of which is included within the Term, shall be adjusted between Landlord and Tenant on the basis of a 365-day year as of the Rent Commencement Date or the date on which the Term expires or earlier terminates, as the case may be, for the purpose of computing Tenant's Pro Rata Share of Taxes. If, by law, any Taxes may, at the option of the taxpayer, be paid in installments (whether or not interest shall accrue on the unpaid balance thereof), Landlord shall exercise such option so as to maximize the number of installments, and Landlord shall pay the same as they come due and before any fine, penalty, interest or cost may be added thereto for nonpayment thereof.

(b) Landlord shall submit annually to Tenant a copy of the bill for Taxes issued by the applicable taxing authority, a computation of Tenant's Pro Rata Share of such Taxes and proof of the payment of Taxes for the previous payment period, as well as copies of all notices concerning assessments, tax rates, and changes thereto. Tenant shall pay Landlord in the amount required by this Subsection 4.3.2 within thirty (30) days after receipt of such bill (but in no event earlier than the fifteenth (15th) day prior to the date on which such Taxes would become delinquent).

4.3.3 As used herein, "**Taxes**" shall mean all general, *ad valorem* real estate taxes, and assessments for betterments and improvements that are levied or assessed by any lawful authority on the Shopping Center (general or special), including any substitution therefor, in whole or in part, due to a future change in the method of taxation. Taxes shall be reduced by any deferral, abatement, or other tax-lowering adjustment received by Landlord from the taxing authorities. For purposes of computing Tenant's Pro Rata Share of Taxes, Taxes shall not include any: (1) income, excise, profits, estate, inheritance, succession, gift, transfer, franchise, capital, or other tax or assessment upon Landlord or upon the rentals payable under this Lease; (2) taxes on

rents (other than to the extent that such taxes are customarily paid by retail tenants in the province in which the Shopping Center is located), gross receipts or revenues of Landlord from the Premises; (3) fine, penalty, cost or interest for any tax or assessment, or part thereof, which Landlord or its lender failed to timely pay (except if same are caused by an Event of Default); (4) assessment for a public improvement arising from the initial construction or expansion of the Shopping Center or the Premises (it being agreed that all assessments imposed during the Term which are permitted to be included within Taxes hereunder shall, for the purposes of computing Tenant's Pro Rata Share thereof, be deemed to have been paid in the maximum number of installments permitted by the applicable taxing authority); (5) Taxes resulting directly from an increase in the assessment caused by a sale or ground lease of all or any portion of the Shopping Center to an Affiliate of Landlord or more than once every five (5) years; or (6) fees imposed upon Landlord in connection with Landlord's development of the Shopping Center. All Taxes payable by Tenant pursuant to this Section 4.3 shall be determined as if the Shopping Center was the only property owned by Landlord. Landlord represents to Tenant that, as of the Effective Date and, to the best of Landlord's knowledge, as of the anticipated Delivery Date, no portion of the Shopping Center is or will be (i) subject to or the beneficiary of an abatement, exemption and/or phase-in of Taxes, (ii) subject to any special assessments or similar charges, or (iii) included in any special improvement district(s) which would result in higher sales taxes or other similar impositions than would exist in the absence of such district(s). Landlord estimates that the Tenant's Pro Rata Share of Taxes for the first full calendar year after the Shopping Center has been completed and fully-assessed will be approximately \$8.00 per square foot of Floor Area in the Premises.

4.3.4 At Tenant's request, Landlord shall contest the amount or validity of any assessed valuation or Taxes, failing which, Tenant shall have the right to contest the assessed valuation or Taxes by appropriate proceedings conducted in good faith, whereupon Landlord shall cooperate with Tenant, execute any and all documents required in connection therewith and, if required by any governmental authority having jurisdiction, join with Tenant in the prosecution thereof. If, as a result of any contest or otherwise, any rebate or refund of Taxes is received, Tenant shall be entitled to Tenant's Pro Rata Share thereof (after reasonable and customary expenses incurred by Landlord and/or Tenant in connection with such contest are paid to the party which incurred such expense).

ARTICLE 5. COMMON AREAS, THEIR USE AND CHARGES

Section 5.1 Common Areas: Maintenance.

5.1.1 Maintenance of Common Areas. Landlord shall operate, maintain, repair and replace the Common Areas as required by this Lease and otherwise to the standard by which Common Areas of first-class shopping centers in the province in which the Shopping Center is located are operated, maintained, repaired and replaced, including, without limitation, snow, ice, rubbish and debris removal (including installation and maintenance of sidewalk refuse containers), landscaping (including, without limitation, the trimming and pruning of trees to avoid interference with the use or visibility of canopies or signs on the exterior of the Premises), adequate lighting, insurance, supervision, use, parking lot paving and striping, drainage, security (as reasonably required), and control of all Common Areas, and Landlord shall comply with all applicable Legal Requirements.

5.1.2 Tenant's Pro Rata Share of Common Areas Charges.

(a) During the Term, Tenant shall pay to Landlord Tenant's Pro Rata Share of the reasonable costs (hereinafter referred to as the "**Common Areas Charges**") paid by Landlord to operate, maintain, insure and repair the Common Areas. Tenant's Pro Rata Share of Common Areas Charges shall be paid in equal monthly installments on the first day of each calendar month, in advance, during each calendar year based on Landlord's reasonable budget.

(b) Within one hundred and fifty (150) days after the end of each calendar year, (Landlord hereby confirming, representing and warranting that all other tenants of

the Shopping Center have also agreed to a period of at least 150 days for the delivery of such statement), Landlord shall provide to Tenant a statement, in detail reasonably satisfactory to Tenant, of Common Areas Charges for such year, which statement shall be prepared in accordance with generally accepted accounting principles consistently applied (the "**CAC Reconciliation Statement**"). The CAC Reconciliation Statement shall be certified by Landlord as being accurate and shall be accompanied by a calculation of Tenant's Pro Rata Share of Common Areas Charges, and payment to Tenant in the amount of any overpayment made by Tenant during the preceding calendar year. If Tenant's Pro Rata Share of the actual Common Areas Charges for a calendar year shall exceed the aggregate monthly installments paid by Tenant during said calendar year, Tenant shall pay to Landlord the deficiency within sixty (60) days after receipt of such notice. Upon Tenant's request, Landlord shall promptly deliver to Tenant copies of relevant backup materials (including, but not limited to, contracts, correspondence and paid invoices) reasonably required by Tenant. If Landlord fails to timely remit to Tenant the amount of any overpayment hereunder, Tenant shall have the right (in addition to any rights and remedies to which it may be entitled under this Lease, at law, or in equity) to offset such amount from payments of Rent next becoming due hereunder, together with interest thereon at the Lease Interest Rate from the date such remittance is due until reimbursement or full satisfaction by credit. Notwithstanding any provision hereof to the contrary, in no event shall the Tenant's Pro Rata Share of Common Areas Charges with respect to the first full calendar year of the Term exceed \$3.00 per square foot of Floor Area, and with respect to any other calendar year thereafter (exclusive of the costs of snow removal, insurance rate increases, and utility rate increases, for the Common Areas during such calendar year) exceed one hundred five percent (105%) of the Tenant's Pro Rata Share of Common Areas Charges paid by Tenant for the immediately preceding calendar year (exclusive of the costs of snow removal, insurance rate increases, and utility rate increases, for the Common Areas during such calendar year).

5.1.3 Exclusions from Common Areas Charges.

(a) Common Areas Charges shall not include: (1) the capital cost of any additions to the Common Areas pursuant to an expansion of the Shopping Center; (2) the cost of any replacements or capital improvements to the Common Areas, except that the cost of repaving the parking areas of the Shopping Center may be included within Common Areas Charges so long as such cost is amortized on a straight-line basis over the useful life thereof under generally accepted accounting principles, and is not incurred (A) prior to the expiration of the fifth (5th) full calendar year of the Term, or (B) more than once during each five (5) full calendar years of the Term; (3) the cost of investigating, monitoring or remedying any environmental condition or "Hazardous Substances" or any other "Compliance Costs" (both as hereinafter defined in Subsection 12.4.1); (4) any debt service (including principal and interest) or payments of any judgments or other liens against Landlord; (5) the cost of maintaining, repairing or providing security for interior portions of buildings; (6) Taxes or other taxes levied or assessed against Landlord or the Shopping Center; (7) the cost of compliance with applicable Legal Requirements (including, without limitation, the cost of curing violations or contesting such Legal Requirements); (8) any costs resulting from insurance deductibles or any payments made under any self-insurance policy maintained by Landlord; (9) any costs which would have been reimbursed or paid for by insurance proceeds had Landlord maintained the insurance required under Section 10.3 hereof and the amount of any judgment or other charge entered or costs assessed against Landlord in excess of the policy limits of the insurance maintained by Landlord under Section 10.3 hereof; (10) those portions of Landlord's insurance premiums which are reimbursed to Landlord by any other tenant in the Shopping Center other than through the payment of such tenant's proportionate share of insurance premiums otherwise includable as part of Common Areas Charges; (11) sums paid or owed by Landlord to any tenant in the Shopping Center; (12) costs incurred in connection with the negotiation of leases with, or construction of improvements for, any tenant in the Shopping Center (including, without limitation, brokerage commissions and legal fees); (13) costs incurred in connection with lawsuits or other legal actions (including, without limitation, arbitrations and mediations) instituted or defended by Landlord; (14) sums incurred as late payment fees, penalties or interest; (15) ground rent; (16) depreciation [except as expressly permitted pursuant to item 23 below]; (17) costs disproportionately incurred by or on behalf of any one or more of the tenants in

the Shopping Center (including, without limitation, all costs relating to the operation of any food court or exterior dining area in the Shopping Center); (18) electricity costs for lighting Common Areas later than the "Normal Hours" [hereinafter defined in Section 5.2], other than low-level security lighting; (19) Landlord's advertising, entertainment and promotional costs for the Shopping Center (including, without limitation, holiday decorations); (20) costs of acquiring, leasing, restoring, insuring or displaying sculptures, paintings and other objects of art located within or outside the Shopping Center; (21) costs and expenses payable to Landlord or its Affiliate, to the extent that such costs and expenses exceed competitive costs and expenses for materials and services by unrelated persons or entities of similar skill and experience; (22) repairs resulting from defects in the original construction of the Shopping Center arising within one (1) year after the Rent Commencement Date; (23) the cost of mechanized equipment for the maintenance of the Common Areas (but not the straight-line depreciation thereof over its useful life, as determined in accordance with generally accepted accounting principles); (24) reserves for anticipated future expenses; (25) any cost or expense relating to the administration and management of the Common Areas except for the reasonable salary (including benefits) of an on-site manager including, but not limited to, overhead, management fees, office salaries and benefits, office rental, office supplies, dues and subscriptions, office utility charges, telephone charges and automobile expenses; (27) costs and expenses payable to Landlord, or its Affiliate or designee, for the provision of utility service(s) to the Common Areas, to the extent that such costs and expenses exceed competitive market rates; (28) except as specifically provided in Section 7.2 hereof, any costs relating to any pylon signs or other signage identifying tenants of the Shopping Center and (29) any portion of the cost of insurance which Landlord is required to maintain under this Lease, which is attributable to any betterments or improvements contained within any other tenant's premises within the Shopping Center.

(b) In addition, if any tenant or other occupant of the Shopping Center (i) maintains the Common Areas in whole or in part, or any facilities therein, (ii) provides any services the cost of which would otherwise be includable in Common Areas Charges, and/or (iii) pays directly for costs which would otherwise be included in the Common Areas Charges, then the costs associated with or attributable to any of the foregoing shall be excluded from Common Areas Charges, and the denominator used to determine Tenant's Pro Rata Share of such costs (and only such costs) shall be reduced by the Floor Area occupied by such tenant or other occupant. In applying the provisions hereof, Landlord shall act equitably, taking into account, for example, the relationship of the size of the Common Areas maintained by the other tenant or occupant to the size of its premises.

(c) Common Areas Charges for any period during the Term which constitutes less than a full calendar year shall be equitably prorated.

5.1.4 Tenant's Right to Audit. Tenant shall have the right, within three (3) years after receiving any CAC Reconciliation Statement (and not more than once annually) to audit Landlord's books and records to verify Landlord's calculation of Common Areas Charges as reflected therein and Tenant's Pro Rata Share thereof. Upon Tenant's request, Landlord shall promptly deliver to Tenant copies of relevant backup materials (including, but not limited to, contracts, correspondence and paid invoices) reasonably required by Tenant. In the event of an error in Landlord's favor, Landlord shall refund the overcharge to Tenant within thirty (30) days after Tenant's demand therefor, and if the overcharge exceeds three (3%) percent of Tenant's Pro Rata Share of Common Areas Charges, Landlord shall pay to Tenant the reasonable expenses of the audit within thirty (30) days after Tenant's demand therefor, failing which, Tenant shall have the right (in addition to any rights and remedies to which it may be entitled under this Lease, at law, or in equity) to offset such amount from payments of Rent next becoming due hereunder, together with interest thereon at the Lease Interest Rate from the date such remittance is due until reimbursement or full satisfaction by credit. Landlord shall maintain all books and records pertaining to a calendar year for at least three (3) years after it delivers to Tenant a CAC Reconciliation Statement for such calendar year. Tenant shall keep the results of any such audit confidential, provided that nothing contained herein shall restrict Tenant from disclosing such information as may be required by applicable Legal Requirements, or to its accountants, attorneys

or *bona fide* prospective assignees or subtenants (provided that each of such recipients shall be bound by the same non-disclosure provisions as are imposed upon Tenant). Any dispute by Landlord with respect to an audit by Tenant shall be submitted to arbitration in accordance with the provisions of Section 16.3 below.

5.1.5 In no event shall Tenant be required to join, participate in or contribute to any promotional fund, marketing fund or merchants' association.

Section 5.2 Common Areas: Restrictions.

5.2.1 Continuous Access. No entrances, exits, approaches and means of ingress and egress to, from, and/or within the Shopping Center or the Premises as shown on Exhibit B hereto shall be interrupted or disturbed by any act or omission of Landlord during the Term, except: (i) in the event of an emergency or as may be otherwise required by applicable Legal Requirements, in which event Landlord shall use reasonable efforts to give Tenant advance notice of same and to minimize interference to Tenant's normal business operations in the Premises as a result thereof; or (ii) in the event that Landlord is required to temporarily close the Common Areas, for the minimum time legally necessary to prevent a dedication thereof or an accrual of any rights in any person or the public generally therein; provided that such closure shall not occur during August, November or December of any calendar year, and Landlord shall give Tenant at least thirty (30) days' prior notice thereof.

5.2.2 No Alterations. Landlord shall not, without obtaining Tenant's prior written consent in each instance, which consent may be withheld in its sole discretion: (i) alter the area of the Shopping Center or the location, availability, or size of any Common Area improvement, located within the Critical Area as shown on Exhibit B hereto; (ii) construct or permit to be constructed any structures in the Critical Area of the Shopping Center as shown on Exhibit B (including, without limitation, any buildings, kiosks, booths, signs or similar structures in the Critical Area), other than as shown on Exhibit B hereto; or (iii) materially change the entrances or exits to and from the Shopping Center, or the curb cuts, roadways, drive aisles, sidewalks or other elements of the Common Areas, within the Critical Area, or the number, location or layout of parking spaces, located within the Critical Area from those shown on Exhibit B hereto. Landlord shall neither perform nor permit to be performed, any construction, repairs, replacements or maintenance to any portion of the Critical Area, including the Premises (other than emergency repairs to utilities and Common Areas) during the months of August, November and December of any year, without the prior consent of Tenant, which consent may be withheld in Tenant's sole discretion.

5.2.3 Outparcels. Intentionally Deleted

5.2.4 Parking Area. During the Term, Landlord shall maintain in the Shopping Center, at a minimum, the greater of (i) the number of parking spaces required by applicable Legal Requirements, without variance, or (ii) four and one-half (4.5) ground-level parking spaces for every one thousand (1,000) square feet of Floor Area in the Shopping Center, with each such space being at least eight and one-half (8.5) feet in width and seventeen (17) feet in length. Parking spaces shall at all times be clearly marked by painting, striping or otherwise. Landlord shall not designate specific parking spaces for use by other tenants or occupants of the Shopping Center, nor shall Landlord permit any person or entity to use the parking areas other than Tenant, the other tenants and occupants of the Shopping Center, and their respective employees, agents, subtenants, concessionaires, licensees, customers, and invitees. There shall be no charge whatsoever levied for the use of any parking areas within the Shopping Center. Landlord shall not permit overnight parking in the Shopping Center.

5.2.5 Lighting. Throughout the Term, Landlord shall keep the Common Areas fully lighted and open to the customers of the Shopping Center seven (7) days a week from dusk until 11:00 p.m. Monday through Saturday and until 7:00 p.m. on Sunday ("**Normal Hours**"). Upon request of Tenant, Landlord shall keep the Common Areas lighted for as long after Normal Hours as Tenant shall request, provided Tenant shall pay for a share of the reasonable cost of said

requested lighting, which share shall be equal to the product of (x) such cost, and (y) a fraction, the numerator of which shall be the number of square feet of Floor Area within the Premises and the denominator of which shall be the aggregate number of square feet of Floor Area of all premises within the Shopping Center (including the Premises) open later than Normal Hours (excluding, however, those tenants and occupants who separately control and pay for their own Common Area lighting). In addition to the foregoing, Landlord shall provide for low level security lighting from one (1) hour after the close of business in the Premises until dawn.

5.2.6 Repairs. During the Term, any construction or repair by Landlord permitted or required under this Lease and undertaken in the Common Areas or in any other portion of the Shopping Center shall:

(a) not be performed during the months of August, November, or December of any year, except in the event of an emergency or as may be otherwise required by applicable Legal Requirements;

(b) be commenced only upon at least five (5) days' prior notice to Tenant (except in an emergency, in which event Landlord shall only be required to give such notice as is reasonable under the circumstances); and

(c) be performed in such a manner so as not to materially interfere with the normal conduct of any business operations in the Premises.

5.2.7 Rules and Regulations. Tenant shall comply with the rules and regulations of the Shopping Center as established from time to time by Landlord, within thirty (30) days after Landlord notifies Tenant thereof, provided they: (i) are reasonable, (ii) do not adversely affect the normal conduct of any business operations in the Premises, (iii) do not adversely affect any of Tenant's rights under this Lease, and (iv) are uniformly enforced against all tenants of the Shopping Center and without prejudice against Tenant. In the event of any conflict between the provisions of this Lease and any rules or regulations, the provisions of this Lease shall prevail and govern.

5.2.8 Miscellaneous.

(a) No Promotional Use. Landlord shall not use or permit the use of all or any portion of the Common Areas for retail sales or for promotional purposes. Notwithstanding the foregoing provision, tenants of the Shopping Center (including Tenant) shall be permitted to conduct sidewalk sales, or promotional events on the sidewalks that are directly adjacent to and in front of their respective stores only, provided that such sales or events shall: (A) be conducted in a manner consistent with sidewalk sales in first-class shopping centers in the province in which the Shopping Center is located, (B) not materially interfere with normal pedestrian access over the sidewalks, and (C) not materially interfere with the normal business operations of Tenant in the Premises or materially impair the visibility of Tenant's signage. Landlord shall not permit any solicitation, distribution of handbills, picketing, or other public demonstration in the Common Areas, except as otherwise may be mandated by applicable Legal Requirements.

(b) Trash Compactor & Containers. Tenant shall be permitted to maintain and operate, at no extra charge: (i) a trash compactor in the portion of the Common Areas designated on Exhibit B hereto as "Trash Compactor Pad"; and (ii) a trash container(s) in the portion(s) of the Common Areas designated on Exhibit B hereto as "Trash Container Pad". Tenant, at its sole cost and expense, shall keep the trash compactor and containers neat and clean and repair any damage caused by use and storage of such compactor and containers.

(c) Shopping Carts. Tenant shall be permitted to store its shopping carts in such exterior cart corrals as may be reflected on Exhibits B and D-1 hereto. With respect to shopping carts provided by Tenant for the use of its customers, Tenant will use reasonable efforts to periodically remove same from the Common Areas.

(d) Cellular Towers. No transmission and/or reception towers for wireless telephone or internet communications shall be permitted within the Shopping Center except those that are erected on the roof of their individual premises by tenants of the Shopping Center for their own use.

(e) Tenant shall be permitted to maintain temporary storage containers or trailers in the locations designated on Exhibit B hereto during the Term, subject to applicable Legal Requirements.

ARTICLE 6. UTILITIES

Section 6.1 Utility Service. From and after the Delivery Date and continuing thereafter through the end of the Term, Tenant shall be solely responsible for and shall pay the cost of utilities services (including, without limitation, electricity, gas, water, sanitary sewer, alarm (other than fire alarm) and telecommunications) consumed in the Premises by Tenant. Tenant shall not be obligated to purchase utility service(s) directly from Landlord, or from any utility provider designated by Landlord. Landlord shall provide separate utility meters exclusively serving the Premises, at its sole cost and expense (including, without limitation, all connection and hook-up fees) with the exception of water for which the Tenant shall pay its reasonable share (not to exceed its Pro Rata Share) based on a check meter to be installed by Landlord, at its sole expense. Tenant's entry upon the Premises prior to the Delivery Date shall not constitute a waiver by Tenant of Landlord's obligation to pay the costs of all utility charges incurred in the Premises prior to the Delivery Date. Landlord shall not permit the capacity of utility lines available for use at the Premises to be reduced or overloaded by any other persons or entities. Landlord shall permit Tenant and its telecommunications provider full and free access to, and use of, available telecommunications conduits in the Shopping Center for the provision of telecommunications service to the Premises, subject to such reasonable requirements as Landlord may impose.

Section 6.2 Interruption. Notwithstanding any provision of this Lease to the contrary, in the event utilities serving the Premises are disrupted due to the acts or omissions of Landlord, its agents, contractors, servants or employees, Landlord shall promptly restore the affected utilities at Landlord's sole cost and expense. If the disrupted utilities are not restored within twenty-four (24) hours after the Landlord has knowledge of the disruption, and Tenant is unable to conduct its normal business in the Premises as a result thereof, Rent shall be equitably abated during the period of disruption.

ARTICLE 7. SIGNS

Section 7.1 Tenant's Building Signage. Subject to compliance with applicable Legal Requirements, Tenant shall have the exclusive right, in connection with Tenant's Work, and thereafter during the Term, at its sole cost and expense, to erect, maintain, and replace on the storefront and exterior walls of the Premises, and on the side walls of any entrance design element, if any, signs (including, without limitation, under-canopy (e.g., blade, signs) and banners (including temporary banners placed on the storefront of the Premises and such other walls of the Premises as selected by Tenant announcing "Sneak Preview," "Grand Opening" and/or "Now Hiring"). Tenant shall be entitled, at Tenant's sole cost and expense, to: (i) install and maintain on the storefront of the Premises a temporary banner(s) announcing "Coming Soon" at such time, and for such duration prior to the Rent Commencement Date, as Tenant shall desire, and (ii) install and maintain, during the period commencing on the Effective Date and ending on the day prior to the Rent Commencement Date, a temporary sign near the site of the main entrance to the Shopping Center which states "Bed Bath & Beyond Coming Soon" (which sign is more particularly shown in Exhibit F hereto). Tenant may erect and maintain in the interior of the Premises any signs it may desire, provided same are professionally prepared.

Section 7.2 Pylon/Monument Signage. Landlord shall provide at least two (2) pylon signs at the locations shown on Exhibit B hereto (and indicated thereon as "Terminal Pylon" and

"Industrial Pylon") during the entire Term, and obtain all permits and approvals therefor. Landlord, as part of Landlord's Work, shall obtain all governmental approvals and permits for, and shall procure and install, Tenant's sign panel(s) on all sides of such pylons and monuments, in accordance with the provisions of Article 3 and Exhibits D and F hereto. The location of Tenant's sign panels will be as shown on Exhibit F (Pylon). The dimensions of Tenant's pylon sign panel(s) shall be at least as large as those of other occupants of the Shopping Center, and shall be located above the signs of all other tenants of the Shopping Center, save and except for the sign panels previously installed by "Wal-Mart" and "Golf Town". In addition, if Landlord constructs or makes available to any other tenant or tenants in the Shopping Center any other signage located in the Common Areas, Landlord shall also include on such signage Tenant's identification sign, as shown on Exhibit F hereto, which shall be higher than and at least as large as the largest sign made available to such other tenant or tenants. Landlord shall maintain all pylons and monuments, and Tenant's signs thereon, in good order and repair, and allow Tenant access to replace its signs thereon, at Tenant's cost and expense. Landlord shall not change or alter the location, structure, height or general appearance of the pylons or monuments without obtaining Tenant's prior consent. The cost of maintaining all pylons and monuments bearing Tenant's sign panel(s) [but not the cost of individual tenants' signs thereon or the cost of the construction of the pylons and monuments] and the cost of any electricity used to illuminate them, shall be includable in Common Areas Charges. Notwithstanding anything to the contrary contained herein, the Landlord covenants and agrees that the Terminal Pylon and the Industrial Pylon shall be fully complete and operational (which shall include, without limitation, all general lighting of such pylons and specific lighting of Tenant's sign panels thereon) on or before the date that Tenant opens for business within the Premises, failing which Tenant shall be entitled to pay Alternate Rent in lieu of Fixed Rent for the period commencing on the Rent Commencement Date and ending on the date that Landlord's obligations in respect of pylon signage set out in this Section have been fully complied with.

Section 7.3 Signage: Alteration/Removal/Allocation. Tenant shall have the right, from time to time, without Landlord's approval, to change its signs on the storefront and exterior of the Premises, as well as on any pylon or monument, provided that the area of the new sign is no larger than the area of the sign which it replaces and that the method of construction and attachment is substantially the same. Upon the expiration or earlier termination of the Lease, Tenant shall remove its signs from the fascia or other exterior walls of the Premises and from any pylon or monument, and shall repair any damage occasioned thereby. The signage rights granted to Tenant pursuant to this Article 7 shall, at Tenant's option, be allocated to or between Tenant and/or any subtenant(s) of all or any portion of the Premises. All signage installed by Landlord and Tenant hereunder shall comply with applicable Legal Requirements.

Section 7.4 Cooperation. Landlord, upon request, shall execute any consents or applications which may be required by applicable Legal Requirements to permit the placement, installation, and/or replacement by Tenant of any signs on any part of the Premises or on any pylon or monument, to which Tenant may be entitled under this Lease.

Section 7.5 Signage and Building Restrictions and Criteria.

7.5.1 During the Term, no exterior identification signs attached to any building of the Shopping Center shall be of the following type: (i) flashing, moving or audible signs; (ii) signs employing exposed raceways, exposed neon tubes, exposed ballast boxes, or exposed transformers, provided that Tenant shall have the right to employ any methods necessary for the installation of internally illuminated self-contained channel letters; or (iii) paper or cardboard signs other than professionally prepared interior window signs advertising special sales within the subject premises, temporary signs (exclusive of contractor signs), stickers or decals, provided, however, the foregoing shall not prohibit the placement at the entrance of each such premises of (A) small stickers or decals which indicate hours of business, emergency telephone numbers, credit cards accepted, and other similar information, and/or (B) a sticker or decal which contains the phrase "no solicitation" or words of like import. No billboard signs shall be permitted within the Shopping Center.

7.5.2 Landlord shall not permit any obstructions (including, without limitation, any trees, bushes or other landscaping, scaffolding or architectural details) to obscure Tenant's storefront, storefront signs or other exterior wall signs or any pylons, monuments or other freestanding signs. No premises in the building in which the Premises are located containing less Floor Area than the Floor Area of the Premises shall have: (i) building signage possessing more total square footage than the total square footage available for use by Tenant, or a maximum height greater than the maximum height of Tenant's building signage, as measured from the finished floor level to the highest point on such signage, or (ii) a building and entrance design element higher or wider than the height or width of the building and entrance design element of the Premises.

ARTICLE 8. ALTERATIONS AND IMPROVEMENTS

Section 8.1 Alterations and Improvements.

8.1.1 Tenant shall not perform any structural alterations or structural improvements to the Premises (except to the extent same pertain to Tenant's Work) without the prior approval of Landlord. Any alteration of the exterior of the Premises following the opening of Tenant's business within the Premises shall also require the prior approval of Landlord, provided that such approval shall not be required in respect of any alterations to Tenant's storefront signage in accordance with its then current prototypical storefront designs. All work performed by Tenant in connection with structural and non-structural alterations or improvements shall be done at Tenant's sole cost and expense, in a good and workmanlike manner and in compliance with all applicable Legal Requirements. The provisions of this Section 8.1 shall not apply to Tenant's building signage, which shall be governed by the applicable provisions of Article 7 above.

8.1.2 Tenant may, from time to time, at its sole cost and expense, without the prior approval of Landlord, make non-structural alterations and non-structural improvements to the Premises as Tenant deems necessary or desirable, including, but not limited to, electrical systems, heating, ventilation and air conditioning and other mechanical systems, installation of fixtures and equipment, painting, and wall and floor coverings located in and serving exclusively the Premises.

8.1.3 Tenant shall have the right to subdivide the Premises into two (2) or more separate stores, each of which may have its own front entrance and access to the loading docks in the rear of the Premises, as well as separately sub-metered utilities, and all costs of such subdividing will be borne by the Tenant.

8.1.4 Tenant shall have the right to erect and maintain an antenna and a satellite dish on the roof of the Premises, provided that Tenant: (i) obtains Landlord's prior approval of its plans for the installation of such equipment, (ii) uses a contractor designated or approved by Landlord for all roof penetrations so as not to violate or invalidate any roof warranties maintained by Landlord, (iii) maintains the area where roof penetrations are made while Tenant's equipment is present, (iv) repairs any damage to the roof caused by the making of the roof penetrations, including, but not limited to, the repair of the roof penetrations upon the removal of any equipment installed thereon, and (v) erects and maintains such equipment in accordance with applicable Legal Requirements.

8.1.5 Landlord shall execute and return to Tenant all appropriately completed building department or equivalent applications within ten (10) days after Tenant's request therefor, and will reasonably cooperate with Tenant in the permitting process.

8.1.6 If any violation of any applicable Legal Requirement which is noted against the Shopping Center or the Premises (other than a violation caused by Tenant) prevents Tenant from obtaining a building permit for any alterations or a certificate of occupancy, then, upon request by Tenant, Landlord shall promptly and diligently cause such violation to be removed of record to the extent required to permit Tenant to obtain its building permit or certificate of occupancy, as the case may be.

8.1.7 Landlord shall not make any alterations to the Premises (including, without limitation, changing the design, color or materials of the exterior of the Premises) nor shall Landlord construct an additional floor or floors above the Premises. Landlord shall neither make nor permit to be made any alterations to the exterior architectural theme of the remainder of the Shopping Center (as shown on Exhibit D-2 hereto) which would be inconsistent with a first-class shopping center in the province in which the Shopping Center is located (exclusive of other tenants' entrance features) without the prior consent of Tenant.

ARTICLE 9. REPAIRS

Section 9.1 Tenant's Repairs. Subject to the provisions of Articles 10 and 11 hereof, and except as otherwise provided in Section 9.2 below, Tenant shall maintain in good condition and repair, at its sole cost and expense: (i) the non-structural, interior elements of the Premises (including plate glass, and the electrical, plumbing, mechanical, and/or alarm systems located in, and serving exclusively the Premises); and (ii) the heating, ventilation and air conditioning ("*HVAC*") units exclusively serving the Premises; and (iii) the improvements which constitute Tenant's Work. All repairs and replacements on Tenant's part to be performed hereunder shall be at Tenant's sole cost and expense, and performed in a good and workmanlike manner in accordance with all applicable Legal Requirements.

Section 9.2 Landlord's Repairs. Subject to the provisions of Articles 10 and 11 hereof, Landlord shall perform, as the same shall from time to time be necessary, all repairs and replacements to the following:

(a) the buildings of the Shopping Center as necessary to maintain same in good condition and repair (including, without limitation, repainting the exterior walls of the buildings of the Shopping Center (including, without limitation, the Premises)) as same may be reasonably required from time to time during the Term, provided that the costs incurred in cleaning, removing or painting over of graffiti on the exterior walls of the buildings of the Shopping Center may be included in Common Area Charges;

(b) the structural elements of the Premises, which shall be deemed to include, without limitation, the roof joists, columns, footings, foundation, exterior walls (including, without limitation, repainting, but excluding plate glass, storefront windows, doors, door closure devices, window and door frames, molding, locks and hardware, and painting or other treatment of interior walls), floor (but not the floor covering, unless the same is damaged as a result of a floor defect or settling), and the structural elements of any building of which the Premises may be a part;

(c) the roof, gutters, flashings, downspouts and scuppers;

(d) the electric, gas, water, sanitary sewer, and other public utility lines serving the Premises, to the point of connection to the Premises;

(e) all electric, gas, water, sanitary sewer, and other public utility lines and ducts in or passing through the Premises which do not exclusively serve the Premises; and

(f) the non-structural elements of the Premises (including, without limitation, the maintenance, repair and replacement of the HVAC units and the electrical, plumbing, mechanical, and/or fire alarm systems located in or serving the Premises) until the first (1st) anniversary of the Delivery Date, and thereafter for such period of time and to the extent any such non-structural elements are covered by any contractors', manufacturers', vendors', or insurers' warranties or guarantees; and

(g) any damage to the Premises or the Shopping Center which is occasioned by (A) the act or omission of Landlord, its employees, agents or contractors, or (B) any breach by Landlord of any provision of this Lease.

All repairs and replacements on Landlord's part to be performed hereunder shall be at Landlord's sole cost and expense (and not includable in Common Areas Charges), performed in a good and workmanlike manner in accordance with all applicable Legal Requirements, and without material interference with or disruption to the normal conduct of any business operations in the Premises. Notwithstanding the foregoing, at any time following the expiration of the 15th year of the Term (provided Tenant has exercised both the first and the second Renewal Options), if the roof membrane of the Premises requires replacement, then the cost thereof may be amortized over its useful life (minimum 15 years) and the annual amortized amount may be included in Common Area Charges. Landlord shall give Tenant at least five (5) days' prior notice of any repairs or replacements to, or which would otherwise affect the normal conduct of any business operations in, the Premises (except in the case of an emergency posing imminent risk of material harm to persons or property, in which event Landlord shall only be required to give such notice as is reasonable under the circumstances). If, in Tenant's reasonable judgment, Landlord's repairs would materially interfere with or disrupt the normal conduct of any business operations in the Premises, Landlord shall perform such repairs only after the regular hours of operation of Tenant and any other occupant of the Premises (or any portion thereof), and Landlord shall reimburse Tenant for the reasonable costs and expenses incurred by Tenant in connection with such "after hours" repairs, including, without limitation, utilities charges and security expenses. In the event Landlord does not reimburse Tenant for any amounts payable to Tenant hereunder within ten (10) days after Tenant's demand therefor, Tenant shall have the right (in addition to any rights and remedies to which it may be entitled under this Lease, at law, or in equity) to offset such amounts against Rent, together with interest thereon at the Lease Interest Rate from the date of outlay until reimbursement or full satisfaction by credit.

Section 9.3 Legal Compliance Work. Except as hereinafter expressly provided, Landlord shall be responsible, at its sole cost and expense (and not includable in Common Areas Charges), for performing all "Legal Compliance Work" (hereinafter defined). Notwithstanding the foregoing, Tenant shall be responsible, at its sole cost and expense, for the performance of Legal Compliance Work: (a) pertaining to the interior elements of the Premises which are neither structural nor comprise the major building systems serving the Premises; or (b) required solely as a result of Tenant's specific manner of use of the Premises (*i.e.*, are not of general applicability to tenants and occupants of the Shopping Center); provided, however, that the foregoing shall not relieve Landlord of its obligations to perform: (x) Landlord's Work in accordance with all Legal Requirements, and (y) the repairs required in this Lease. As used herein, "**Legal Compliance Work**" shall mean any obligation, addition, alteration, improvement, or rebuilding, structural or otherwise, to or of the Premises, the Shopping Center, or any part thereof, as applicable, which may be required by reason of any Legal Requirement.

ARTICLE 10.

INDEMNIFICATION, INSURANCE AND WAIVER OF SUBROGATION

Section 10.1 Mutual Release, Waiver of Subrogation and Mutual Indemnification.

10.1.1 Mutual Waiver of Claims. Landlord and Tenant, on their own behalf and on behalf of anyone claiming under or through either one by way of subrogation, hereby release and waive all rights of recovery and causes of action against each other and their Affiliates from any and all liability for any loss or damage to property or resulting from damage to such property (and, in either case, any resulting loss of business or rental income), whether caused by the negligence or fault of the other party, which is normally insured under Special Form property insurance (formerly known as "All-Risk") and time element insurance required to be maintained hereunder. In the event either Landlord or Tenant is a self-insurer or maintains a deductible (as either may be permitted hereunder), then the self-insuring party or the party maintaining the deductible hereby releases the other party from any liability arising from any event which would have been covered had the required insurance been obtained and/or the deductible not been maintained.

10.1.2 Waiver of Subrogation. Landlord and Tenant shall cause each property insurance policy carried by either of them insuring the Premises, the contents thereof, or the

Shopping Center, to provide that the insurer waives all rights of recovery by way of subrogation or otherwise against the other party hereto (and all of such other party's Affiliates) in connection with any loss or damage which is covered by such policy or that such policy shall otherwise permit, and shall not be voided by the releases provided above.

10.1.3 Mutual Indemnification.

(a) Except as otherwise provided in Subsections 10.1.1 and 10.1.2 above, Tenant covenants to defend and indemnify Landlord and hold Landlord harmless from and against any and all claims, actions, damages, liability and expense, including reasonable attorneys' fees, (x) in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in or upon the Premises, or any part thereof, or (y) occasioned wholly or in part by any act or omission of Tenant, its agents, contractors, employees, servants, or licensees, except to the extent such claims, actions, damages, liability and expense are caused by the acts or omissions of Landlord, its agents, contractors, licensees, employees, or other tenants and occupants, or for which any of said parties may be statutorily liable.

(b) Except as otherwise provided in Subsections 10.1.1 and 10.1.2 above, Landlord covenants to defend and indemnify Tenant and hold Tenant harmless from and against any and all claims, actions, damages, liability and expense, including reasonable attorneys' fees, (x) in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in or upon any portion(s) of the Shopping Center (excluding the Premises), or (y) occasioned wholly or in part by any act or omission of Landlord, its agents, contractors, employees, servants, tenants (other than Tenant), occupants or licensees, except to the extent such claims, actions, damages, liability and expense are caused by the acts or omissions of Tenant, its agents, contractors, licensees or employees, or for which any of said parties may be statutorily liable.

Section 10.2 Tenant's Insurance.

10.2.1 Tenant's Insurance. Tenant, at its own cost and expense, shall maintain in full force and effect from and after the Delivery Date and throughout the Term: (i) commercial general liability insurance protecting and insuring Tenant, naming Landlord as "additional insured-lessee" for claims arising out of the use or occupancy of the Premises by Tenant and the obligations assumed by Tenant under this Lease, and having a combined single limit of liability of not less than Ten Million Dollars (\$10,000,000) for bodily injury, death and property damage liability; and (ii) Special Form (formerly known as "All-Risk") property insurance, on a replacement cost basis, in an amount adequate to cover the full insurable replacement value of all of Tenant's Property and Tenant's Work. Tenant may carry any of its insurance under "blanket policies" covering the Premises and other locations it or any Affiliate of Tenant owns or leases, provided that: (i) the amount of the total insurance available shall be at least the protection equivalent to separate policies in the amounts herein required, and (ii) in all other respects, any such policy or policies shall comply with the applicable provisions of this Article 10.

10.2.2 Self-Insurance. All insurance required to be maintained under this Section 10.2 may be provided under: (i) an individual policy covering this location; (ii) a blanket policy or policies which includes other liabilities, properties and locations of Tenant or its Affiliates; (iii) a plan of self-insurance, provided that Tenant or any guarantor of Tenant's obligations under this Lease maintains, during the period of such self-insurance, a net worth of at least Fifty Million Dollars (\$50,000,000); or (iv) a combination of any of the foregoing insurance programs. To the extent any deductible is permitted or allowed as a part of any insurance policy carried by Tenant in compliance with this Section 10.2, then Tenant shall be deemed to be covering the amount thereof under an informal plan of self-insurance; provided, however, that in no event shall any deductible exceed Two Hundred Fifty Thousand Dollars (\$250,000) unless Tenant complies with the requirements regarding self-insurance pursuant to clause (iii) above.

Section 10.3 Landlord's Insurance.

10.3.1 Liability Insurance. Landlord shall maintain in full force and effect on and after the Effective Date and throughout the Term commercial general liability insurance with regard to the Common Areas protecting and insuring Landlord, naming Tenant as an "additional insured-lessee", and having a combined single limit of liability of not less than Ten Million Dollars (\$10,000,000) for bodily injury, death and property damage liability. Landlord shall have the right to carry its insurance under "blanket policies" covering the Shopping Center and other properties provided that: (i) the amount of the total insurance available shall be at least the protection equivalent to separate policies in the amounts herein required, and (ii) in all other respects, any such policy or policies shall comply with the applicable provisions of this Article 10.

10.3.2 Special Form Property Insurance. Landlord shall procure and maintain in full force and effect on and after the Effective Date and throughout the Term, Special Form (formerly known as "All-Risk") property insurance (including loss of rents for a minimum period of one (1) year) and endorsements for coverages for flood, earthquake, windstorm, earth movement [sinkholes], demolition, increased cost of construction and contingent operation of building laws coverages, on a replacement cost basis, in an amount adequate to cover the full insurable replacement value of all of the buildings (including the Premises) and other insurable improvements in the Shopping Center; provided, however, in no event shall such insurance cover Tenant's Property. All policies required to be maintained by Landlord pursuant to this Subsection 10.3.2 shall provide that any proceeds thereof shall be deposited with Landlord's Mortgagee, or if none, to Landlord, in either event to be held in trust by such party and disbursed only in accordance with the provisions of, and for the purposes set forth in, Section 11.1 hereof. The property insurance required to be maintained by Landlord pursuant to this Section shall not have deductibles exceeding One Hundred Thousand Dollars (\$100,000) without Tenant's prior consent.

10.3.3 Tenant's Pro Rata Share of Insurance Premiums. Tenant shall reimburse Landlord for Tenant's Pro Rata Share of the reasonable insurance premiums attributable to the policies required to be maintained by Landlord pursuant to this Section 10.3 as part of Common Areas Charges (it being agreed, however, that for the purposes of calculating Tenant's Pro Rata Share of such part of Common Areas Charges, said "insurance premiums" shall not be deemed to include premiums to the extent same are attributable to any betterments or improvements contained within any other tenant's premises within the Shopping Center). If the rates for any insurance Landlord is required to carry hereunder are increased as a result of the use or other activity of any other occupant of the Shopping Center, the amount of such increase shall be excluded from Common Areas Charges. To the extent that Landlord receives a dividend, credit, rebate or other return of a premium which had previously been included in Common Areas Charges, Landlord shall promptly refund Tenant's Pro Rata Share of such dividend, credit, rebate, or return to Tenant. Tenant's Pro Rata Share of any insurance premium for any period during the Term which constitutes less than a full calendar year shall be equitably prorated. The provisions of this Subsection 10.3.3 shall survive the expiration or earlier termination of this Lease.

Section 10.4 General Insurance Requirements.

10.4.1 All insurance required to be maintained by the parties under this Lease shall be maintained with insurance companies qualified to do business in the province in which the Shopping Center is located, and rated at least B+/VIII by the most current Best's Key Rating Guide (or its equivalent, if such Guide ceases to be published). Each party shall use its diligent efforts to have its insurers provide thirty (30) days in the event of non-payment of premium prior notice to the other party of cancellation or non-renewal of any policy required hereunder. Each party shall provide to the other duly executed certificates evidencing the insurance coverage described in Sections 10.2.1 and 10.3 above.

10.4.2 The liability insurance requirements under Sections 10.2 and 10.3 above shall be reviewed by Landlord and Tenant every five (5) years for the purpose of mutually increasing (in consultation with their respective insurance advisors) the minimum limits of such insurance to limits which shall be reasonable and customary for similar facilities of like size and

operation in accordance with generally accepted insurance industry standards. The replacement value of the buildings and other insurable improvements constituting the Shopping Center shall be re-evaluated from time to time at the request of either Landlord or Tenant.

ARTICLE 11. FIRE AND OTHER CASUALTY; EMINENT DOMAIN

Section 11.1 Fire and Other Casualty.

11.1.1 (a) Except as otherwise provided in this Section 11.1, if all or a portion of the Premises, the Common Areas (including all improvements thereto) or other buildings in the Shopping Center shall be damaged by fire or other casualty, Landlord shall promptly rebuild and restore the same to the condition existing immediately prior to such fire or other casualty, which restoration shall not include any of Tenant's Work or any other leasehold improvements performed by Tenant, and shall not include any of Tenant's Property. The proceeds of the policies required to be obtained and maintained by Landlord pursuant to Subsection 10.3.2 hereof shall, to the extent necessary, be used for the performance of such rebuilding and restoration work. In the event such insurance proceeds are insufficient to complete such work, Landlord shall provide the balance of the amount necessary to rebuild or restore the Shopping Center in the manner provided in this Section 11.1. Landlord shall give Tenant at least ninety (90) days' prior notice of the date on which the restoration work to the Premises will be Substantially Completed.

(b) Notwithstanding the foregoing, if any portion of the Premises are so damaged or destroyed, Tenant shall have the right to require Landlord to make changes to the Premises in the course of, and as part of, such rebuilding or restoration work. If the net cost and expense of such rebuilding or restoration work is increased solely as a result of such changes (taking into consideration any and all actual reduced and additional costs resulting from such changes and/or other cost savings arising therefrom), then Tenant shall pay to Landlord, as Additional Rent, the amount of such net increase, which amount shall be due and payable within thirty (30) days after Landlord has delivered to Tenant backup information evidencing such increase (including, without limitation, receipted invoices) as may be reasonably required by Tenant (but in no event earlier than the occurrence of the date on which possession of the restored areas of the Premises are delivered to Tenant). To the extent that Landlord's substantial completion of such rebuilding or restoration work is delayed solely as a result of such changes (taking into consideration any and all reasonable time savings to Landlord resulting from such changes), then the applicable period(s) specified in Section 11.1.2 below shall be appropriately adjusted to the extent of such net delay.

(c) If, in Tenant's reasonable judgment, any damage to the Premises renders all or any portion of the Premises unusable for the conduct of Tenant's business or, in the case of damage to the Shopping Center, materially interferes with the normal conduct of any business operations in the Premises, the Rent shall be equitably reduced or totally abated based upon the extent to which the remaining portion of the Premises may, in Tenant's reasonable judgment, be utilized for its normal conduct of business.

11.1.2 In the event that:

(a) Landlord does not commence the repair and restoration work to the Premises, the Common Areas, or other buildings in the Shopping Center as required pursuant to this Section 11.1 within one hundred and twenty (120) days after the date of such destruction, or thereafter fails to diligently pursue the completion of such repair and restoration work (subject to such period as may be reasonably necessary for the adjustment of insurance proceeds, not to exceed thirty (30) days in the aggregate); or

(b) the required repairs and restorations to the Premises, the Common Areas, or other buildings in the Shopping Center are not Substantially Completed by Landlord in accordance with the provisions of this Section 11.1 within fifteen (15) months after the date of destruction (which period may be extended by reason of an event of Force

Majeure, not to exceed thirty (30) days in the aggregate, provided that Landlord shall have given Tenant notice thereof promptly after its occurrence),

then, in either of such events, Tenant shall have the right, at its sole discretion and option, to:

(i) after giving thirty (30) days' prior notice to Landlord (and Landlord's continued failure to commence and diligently pursue such repairs and restoration work to completion), perform or complete, as the case may be, said work (or any portion thereof) on Landlord's behalf and at the sole cost of Landlord, which cost Landlord shall pay to Tenant during the course of such repairs within ten (10) days after Tenant's delivery to Landlord of an invoice therefor and, in default of any such payment, Tenant shall have the right to offset the amount thereof, together with interest at the Lease Interest Rate, against the Rent next accruing hereunder (it being agreed, without limiting the foregoing provisions of this Subsection 11.1.2, that at Tenant's election all insurance proceeds paid or payable to Landlord or Landlord's Mortgagee pursuant to Subsection 10.3 hereof shall be paid (or, as applicable, in turn delivered) directly to Tenant, to be applied to such work by Tenant as same is being performed); or

(ii) seek to obtain specific performance of Landlord's repair and restoration obligations pursuant to the laws of the province in which the Shopping Center is located; or

(iii) terminate this Lease by thirty (30) days' notice to Landlord.

In addition to the foregoing, if, in the opinion of an independent licensed architect designated by Tenant (and reasonably acceptable to Landlord), the required repairs and restorations to the Premises, the Common Areas or other buildings in the Shopping Center cannot be completed by Landlord in accordance with the provisions of this Section 11.1 within fifteen (15) months after the date of destruction, Tenant shall have the right, at its sole discretion and option, to terminate this Lease by giving Landlord at least thirty (30) days' notice thereof.

11.1.3 If the Premises are substantially destroyed by fire or other casualty during the last three (3) years of the Term to the extent of more than one-third (1/3) of the Floor Area thereof, Landlord or Tenant shall each have the right to terminate this Lease as of the date of such damage or destruction by giving notice within thirty (30) days following such damage or destruction, but Tenant may negate any termination by Landlord by agreeing to extend the Term for an additional five (5) year period by exercising an option pursuant to Subsection 2.2.2 hereof, if available, within ten (10) days after receipt of the termination notice from Landlord.

Section 11.2 Condemnation/Expropriation.

11.2.1 As used in this Section 11.2, "**Taking**" or "**Taken**" shall mean a taking for any public or quasi-public use by any lawful power or authority by exercise of the right of expropriation, condemnation or eminent domain or by agreement between Landlord and those having the authority to exercise such right.

11.2.2 If all of the Premises shall be Taken, this Lease shall terminate as of the date of vesting of title or transfer of possession, whichever is earlier, without further liability on the part of either Landlord or Tenant, except for an adjustment between the parties for the Rent payable by Tenant hereunder.

11.2.3 In the event that:

(a) any portion of the Premises shall be Taken so that it is commercially unreasonable or unfeasible for Tenant, in its reasonable judgment, to conduct its normal business in the Premises;

(b) as a consequence of any Taking: (i) portions of the Shopping Center shall be divided or separated in any manner that it materially interferes with parking,

visibility, or access to the Premises from other portions of the Shopping Center, or (ii) the Shopping Center no longer has all of the entrances from both Terminal Avenue and Trainyards Drive, and as a result, it is not commercially reasonable or feasible for Tenant, in its reasonable judgment, to conduct its normal business in the Premises;

(c) there occurs, in Tenant's reasonable judgment, a denial of adequate access to the Shopping Center at the grade of any street adjoining the Shopping Center or to any easement granted under this Lease, whether or not a Taking shall have occurred;

(d) any portion of the Shopping Center shall be Taken which materially interferes with parking, visibility or access to the Premises, and as a result of such taking it is commercially unreasonable or unfeasible for Tenant, in its reasonable judgment, to conduct its normal business in the Premises;

(e) more than twenty-five (25%) percent of the total Floor Area of all of the buildings in the Shopping Center (other than the Premises) are Taken; or

(f) five (5%) percent or more of the parking spaces located in the Shopping Center are Taken, or if so many of the parking spaces in the Shopping Center are Taken such that there are fewer than (i) four and one-half (4.5) parking spaces for every one thousand (1,000) square feet of Floor Area in the Shopping Center, or (ii) the number of parking spaces required by applicable Legal Requirements;

then, in any of such events, Tenant shall have the right to terminate this Lease by giving at least sixty (60) days' prior notice to Landlord within sixty (60) days of any such event, in which event this Lease shall terminate without any further liability on the part of either Landlord or Tenant, except for an adjustment between the parties for the Rent payable by Tenant hereunder and for payment to Tenant for its share of the award for the taking pursuant to Subsection 11.2.5 below. Upon any partial Taking of the Premises, the Rent shall be equitably reduced or totally abated based upon the extent to which the remaining portion of the Premises may, in Tenant's reasonable judgment, be utilized for its normal conduct of business.

(g) If this Lease is not terminated pursuant to this Section 11.2, Landlord, at its sole cost and expense, within a reasonable period of time after such Taking, shall repair and restore the area not so Taken to tenantable condition, similar in physical appearance to the condition of the area immediately prior to the Taking, pursuant to plans and specifications approved by Tenant (which repair and restoration shall, as applicable, include all Tenant's Work and all other leasehold improvements performed by Tenant; provided, however, that Landlord shall not be obligated to repair or restore Tenant's Property), and any and all amounts awarded to Landlord for any Taking shall be made available to and used by Landlord for any rebuilding or restoration which it is required to perform hereunder. During the period of such repairs and restoration, all Rent shall abate to the extent that the Premises may not, in Tenant's reasonable judgment, be used by Tenant for the normal conduct of its business. Such abatement shall terminate in accordance with the terms of Section 11.3 below. Landlord shall give Tenant at least ninety (90) days' prior notice of the date on which the restoration work to the Premises will be Substantially Completed.

11.2.4 In the event of a Taking resulting in a termination of this Lease under this Article 11.2, the parties hereto, and each of their respective mortgagees, agree to cooperate in applying for and in prosecuting any claim for such Taking and further agree that the aggregate net award, after deducting the reasonable expenses of Landlord, Tenant, and any fee or Leasehold Mortgagee, excluding attorneys' fees, incurred in connection therewith, shall be paid and distributed as follows, and in the following order of priority:

(a) Tenant shall be entitled to an amount of the award equal to the then unamortized cost of Tenant's Work and any alterations performed by Tenant less the amount of the Tenant Allowance. For purposes hereof, the Term shall be determined as if the Lease had been renewed by Tenant for all of the renewal periods.

(b) Landlord next shall be entitled to an amount equal to the value, on the date of the Taking, of the land taken, as if vacant and unimproved and available for its best or most economic use, giving effect to the existence of this Lease.

(c) Tenant shall next be entitled to that portion of the award equal to the fair market value of Tenant's leasehold interest in the Premises under this Lease.

(d) Landlord shall be entitled to the balance of the award.

11.2.5 Any dispute between the parties with respect to this Section 11.2 shall be resolved by arbitration in accordance with the provisions of Section 16.3 below.

Section 11.3 Abatement of Rent Charges. Notwithstanding any other provisions of this Lease, if the Fixed Rent and Additional Rent payable by Tenant hereunder shall be abated pursuant to Sections 11.1 or 11.2 above, such abatement shall terminate upon the first to occur of: (a) the date on which Tenant shall reopen the Premises to the general public for business; or (b) the expiration of the period which is one hundred fifty (150) days after Landlord shall have completed such repairs and restoration work as Landlord is obligated to perform hereunder and the interference with the operation of business in the Premises has ceased.

ARTICLE 12. COVENANTS, REPRESENTATIONS AND WARRANTIES

Section 12.1 Quiet Enjoyment. Tenant shall peaceably and quietly have, hold, occupy and enjoy the Premises for the Term, without hindrance from Landlord or any party claiming by, through, or under Landlord.

Section 12.2 Authority. Tenant and Landlord each warrant and represent that the person(s) signing this Lease on their behalf has authority to enter into this Lease and to bind Tenant and Landlord, respectively, to the terms, covenants and conditions contained herein. The submission of this Lease to each party hereto shall be for examination and negotiation purposes only, and does not and shall not constitute a reservation of or an obligation of Tenant to lease, or otherwise create any interest of Tenant in, the Premises or any other premises situated in the Shopping Center unless and until the Lease is fully executed and delivered by Tenant and Landlord.

Section 12.3 Landlord's Covenants, Warranties and Representations. To induce Tenant to execute this Lease, and in consideration thereof, Landlord covenants, warrants and represents to Tenant as follows:

(a) As of the Effective Date, Landlord has, and as of the Delivery Date Landlord shall have, good and marketable fee simple title to the entire Shopping Center, free and clear of all easements, restrictions, liens, encumbrances, leases and the like, except for the encumbrances described on Exhibit E hereto;

(b) In the event the legal description of the Shopping Center described in Exhibit A hereto indicates that the Shopping Center is composed of more than one parcel or lot, Landlord represents that there exist no strips or gores between such parcels or lots which are not owned by Landlord;

(c) No third party consents or approvals are required in order for Landlord to enter into this Lease, or for the performance of Landlord's Work and Tenant's Work (excluding, as of the Effective Date, governmental permits and approvals);

(d) Tenant's use of the Premises for sale of "Permitted Items" (defined in Section 1.1.27 above) will not violate any exclusive provision or prohibited use restriction granted to any other tenant or occupant in the Shopping Center;

(e) The Shopping Center now has, and, on the Delivery Date, shall have, access to and from Terminal Avenue and Trainyards Drive, as shown on Exhibit B hereto, for the passage of vehicular traffic;

(f) This Lease does not violate the provisions of any instrument heretofore executed and/or binding on Landlord, or affecting or encumbering the Shopping Center, or the Premises, and no rights granted by Landlord to Tenant under the terms of this Lease conflict with any rights granted by Landlord to any other tenant or occupant in the Shopping Center (including, without limitation, any rights of first offer or first refusal or the like);

(g) There shall be no restrictions or other legal impediments imposed by any public or private instrument which would prevent: (i) the use of the Premises for the Permitted Use; (ii) the use of the parking facilities, access roads, and other Common Areas in the manner contemplated by this Lease; or (iii) the performance of Tenant's Work (provided any permit or other authorization to proceed with Tenant's Work shall have been obtained by Tenant);

(h) As of the Effective Date, there are no sign ordinances, restrictive covenants, uniform sign plans or other signage restrictions which would prevent the Premises from having the signage (including, without limitation, the square foot area and size of letters) as depicted on Exhibit D-1 and Exhibit F hereof.

(i) As of the Effective Date there is no "Related Land" (defined in Section 13.1.2 below) except as shown on Exhibit B, Landlord shall promptly execute any recordable instrument reasonably requested by Tenant which memorializes the provisions of this Lease pertaining to or otherwise affecting Related Land);

(j) Attached hereto as Exhibit K-2 is a complete list of all fully executed and delivered leases in effect on the Effective Date with respect to the Shopping Center (the "**Existing Leases**"); and

(k) Landlord shall promptly forward to Tenant any notice or other communication received by Landlord from any owner of property adjoining or adjacent to the Shopping Center or from any municipal or other governmental authority, in connection with any hearing or other administrative proceeding relating to any proposed zoning, building code, signage, or related variance affecting the Shopping Center or any adjoining or adjacent property, which, if granted, could adversely affect Tenant's use or occupancy of the Premises, the conduct of Tenant's business therein, or Tenant's rights and benefits under this Lease. Landlord, at its sole cost and expense, shall appear in such proceeding and shall contest such proposed variance. If Landlord fails so to appear and contest such proposed variance after receiving five (5) days' notice from Tenant (or such shorter notice as may be practicable under the circumstances), then Tenant shall be entitled (but shall not be obligated to), in its own name and/or in the name of Landlord, to appear in such proceeding, in which event Landlord shall fully cooperate with Tenant, provide such information, and execute any documents or other instruments as Tenant may reasonably request in connection with any such proceeding.

Section 12.4 Environmental Matters.

12.4.1 Definitions.

(a) As used herein, the term "**Environmental Laws**" shall mean any and all Legal Requirements concerning the protection of the environment, human health or safety.

(b) As used herein, the term "**Hazardous Substances**" shall mean each and every element, compound, material, mixture, substance, waste, hazardous substance, hazardous waste, hazardous material, toxic substance, pollutant or contaminant either as those

terms are defined in any of the Environmental Laws or the presence of which may cause liability at common law, including, without limitation, asbestos and/or asbestos-containing products, whether or not currently friable.

(c) As used herein, the term "**Environmental Notice**" shall mean a summons, citation, directive, order, claim, notice, litigation, investigation, judgment, legal pleading, letter or other communication, written or oral, actual or threatened, from the Canadian Environmental Protection Agency or other federal, provincial or local governmental agency or authority, or any other private individual or entity concerning (i) any Hazardous Substances at, on, in, under or emanating from the Premises, the Shopping Center or any contiguous property; (ii) any violation or potential violation of Environmental Laws at the Premises, the Shopping Center or any contiguous property; or (iii) any underground storage tanks on the Premises or the Shopping Center.

(d) As used herein, the term "**Releasing**" or "**Release**" shall mean releasing, spilling, leaking, discharging, disposing or dumping or otherwise introducing any substance into the environment or into any building or other improvements in violation of Environmental Laws.

(e) As used herein, the term "**Compliance Costs**" shall mean any and all costs incurred by a party in complying with applicable Environmental Laws, including, without limitation, consultant's and engineer's fees; laboratory costs; contractor's and subcontractor's fees; application and filing fees; costs of investigation, monitoring or cleanup of soil or other substrate, surface water, groundwater, or buildings or other improvements; equipment costs; disposal fees; costs of operation and maintenance of equipment; legal fees; other governmental fees or costs; interest at the Lease Interest Rate from the date of expenditure until paid in full; and other similar or related costs.

(f) As used herein, the term "**Tenant Related Parties**" shall mean Tenant's agents, servants, employees, contractors or licensees or those for whom the Tenant is responsible at law.

12.4.2 Compliance with Environmental Laws. Tenant shall comply with all applicable requirements of Environmental Laws governing its use of, and operations at, the Shopping Center and the Premises. Landlord shall comply with all applicable requirements of Environmental Laws relating to the Shopping Center and the Premises, except to the extent such requirements arise from Tenant's operations thereon.

12.4.3 Responsibility for Releases of Hazardous Substances. Notwithstanding any other provision of this Lease, Tenant shall only be liable for any Release of Hazardous Substances at, on, in, under or emanating from the Premises or Shopping Center which were introduced by Tenant or Tenant Related Parties (hereinafter "**Tenant Releases**"), including, without limitation, any Compliance Costs required to address Tenant Releases. Landlord shall be liable for any Hazardous Substances at, on, in, under or emanating from the Premises or Shopping Center, including, without limitation, any Compliance Costs attributable to such Hazardous Substances, unless the Hazardous Substances are caused by Tenant Releases. Notwithstanding anything to the contrary in this Lease, if any Hazardous Substances are found in or on the Premises (including, without limitation, in the roof system thereof) or the Shopping Center which pre-date the Delivery Date, then Landlord shall promptly remove the same in compliance with all applicable laws at Landlord's sole cost and expense, and, to the extent such work delays Tenant's Work, then the Rent Commencement Date and the date on which Tenant is required to open for business under Article 14 hereof shall be delayed on a day for day basis for each day of such delay, and Landlord shall reimburse Tenant for any and all reasonable costs incurred by Tenant in connection with such delay. Except in the event of an emergency or if compelled by applicable governmental authority, any work performed by Landlord relating to Hazardous Substances shall be performed by Landlord at any time other than during the months of August, November and December, and shall be undertaken in such a manner so as to (i) not adversely affect ingress to or egress from the Shopping Center, (ii) have no adverse effect on the visibility of the Premises or any signs which

contain Tenant's name, and (iii) not otherwise materially interfere with the normal conduct of any business operations in the Premises. If the presence of Hazardous Substances, or Landlord's remediative work relative thereto, interferes with Tenant's normal business operations in the Premises, then Tenant shall be entitled to an equitable abatement of Rent for so long as such condition persists.

12.4.4 Standards. Except as expressly provided herein, the parties agree that any investigation or remediation of Hazardous Substances, or cure of a violation of Environmental Laws, required to be conducted at the Premises or Shopping Center shall be no more stringent than necessary to meet the minimum standards of Environmental Laws applicable to properties used in the manner the Shopping Center is being used.

12.4.5 Landlord's Representations and Warranties. Landlord represents and warrants that: (i) Landlord has received no Environmental Notices concerning the Shopping Center, the Premises or any contiguous properties; (ii) Landlord has no knowledge of, and has received no notice of, any violation, or potential or alleged violation, of any Legal Requirement, including, without limitation, Environmental Laws, affecting the Shopping Center, the Premises or any contiguous properties, regardless of whether same has been cured; and (iii) to the best of Landlord's knowledge: (A) no Hazardous Substances are located at, on, in, under or emanating from the Shopping Center, the Premises or any contiguous properties; and (B) no underground storage tank exists at the Shopping Center or the Premises. The foregoing representations and warranties shall in no way serve to vitiate Landlord's obligations under this Article 12.

12.4.6 Documents. Each party shall immediately notify the other party of the notifying party's receipt of an Environmental Notice.

12.4.7 Indemnity. Each party to this Lease shall indemnify, defend and hold the other party, and its agents, servants, shareholders, directors, officers, partners, members and employees harmless from any and all claims, losses, expenses, costs, lawsuits, actions, administrative proceedings, damage, orders, judgments, penalties and liabilities of any nature whatsoever, including, without limitation, reasonable attorneys' fees (incurred to enforce this indemnity or for any other purpose) and Compliance Costs, arising from (i) the indemnifying party's breach of any of its representations, warranties, covenants or other obligations under this Section 12.4; (ii) Hazardous Substances for which the indemnifying party is liable under this Section 12.4; or (iii) violations of Environmental Laws for which the indemnifying party is liable under this Section 12.4.

12.4.8 Survival. The obligations of the parties under this Section 12.4 shall survive the renewal, expiration, breach or earlier termination of this Lease.

12.4.9 Conflict. In the event of any conflict between the provisions of this Section 12.4 and any other provision of this Lease, the provisions of this Section 12.4 shall control.

Section 12.5 OEA.

12.5.1 As used in this Lease, the term "**OEA**" shall mean that certain Operation and Easement Agreement by and between 1163321 Ontario Inc., 1414614 Ontario Inc., 1414612 Ontario Inc., 1394683 Ontario Inc. and Wal-Mart Canada Corp. dated as of January 12, 2006 and registered on January 18, 2006 in the Land Titles Division of the Land Registry Office of Ottawa-Carleton, in the City of Ottawa, Province of Ontario (the "**Clerk's Office**") as Instrument No. OC555299.

12.5.2 Landlord covenants, represents and warrants to Tenant that: (i) the OEA has not been modified, amended or terminated; (ii) the OEA is currently in full force and effect; (iii) to its actual knowledge as of the date hereof, it is in full compliance with all of the development restrictions that are contained in Paragraph 1 of Schedule D of the OEA and no default under the OEA exists thereunder beyond any applicable notice and cure period; (iv) none of the easements or other restrictions contained in the OEA will have an adverse effect on the Tenant's rights under

this Lease, the ability of Tenant to complete Tenant's Work, the Tenant's use and occupancy of the Premises or the conduct of Tenant's business therein; and (v) the OEA is, and shall remain, superior in lien to all mortgages and related liens affecting the Shopping Center and all other land which is encumbered by the OEA. Landlord and Tenant each acknowledge that this Lease is made and shall continue to be subject and subordinate to the OEA, subject to the provisions of this Section 12.5. Tenant shall comply with the terms and conditions of the OEA to the extent same affects the Premises (it being agreed that Tenant shall not be obligated to expend any sums in connection with such compliance).

12.5.3 Landlord shall, during the Term: (i) perform and observe all of the terms, covenants, provisions and conditions of the OEA on Landlord's part to be performed and observed; (ii) defend, indemnify and hold harmless Tenant from and against any and all claims, demands, causes of action, suits, damages, liabilities, and expenses of any nature arising out of or in connection with the enforcement of, or a claimed breach by, Landlord of any covenant, term, condition, or provision of the OEA; and (iii) diligently enforce, at its sole expense, the covenants, agreements, and obligations of the OEA.

12.5.4 Whenever an amendment is proposed in respect of the OEA or pursuant to the OEA the consent or approval of Landlord shall be required or requested, and such amendment, consent or approval could diminish the rights or increase the obligations of Tenant thereunder or under this Lease, or could adversely affect Tenant's use or occupancy of the Premises, or the conduct of Tenant's business therein, such amendment, consent or approval shall not be granted without the prior consent of Tenant, which consent may be withheld in its sole and absolute discretion.

12.5.5 Landlord shall, immediately upon receipt, forward to Tenant and Tenant's leasehold mortgagee, if any, a copy of any and all notices and/or demands received by Landlord under or pursuant to the OEA, which relate to, or could adversely affect, Tenant's use or occupancy of the Premises, the conduct of Tenant's business therein, or Tenant's rights pursuant to this Lease.

12.5.6 Landlord shall not amend, or modify the OEA if such amendment or modification could diminish the rights or increase the obligations of Tenant thereunder or under this Lease, or could adversely affect Tenant's use or occupancy of the Premises or the conduct of Tenant's business therein, nor shall Landlord terminate the OEA.

12.5.7 In the event Landlord defaults in the performance of any of its obligations under the OEA or fails to enforce the obligations of any other obligee under the OEA, and such default or failure to enforce could adversely affect Tenant's rights thereunder or under this Lease, Tenant's Work, Tenant's use or occupancy of the Premises or the conduct of Tenant's business therein, Tenant may, but shall not be obligated to, after thirty (30) days written notice (except in the event of emergency, in which case no notice shall be required) cure any default by Landlord under the OEA and/or enforce, in its own name, at Landlord's expense, the obligations of any other obligee under the OEA. Landlord shall, upon demand, reimburse Tenant for the costs incurred by Tenant in performing any of Landlord's obligations under the OEA or enforcing the obligations of any obligee under the OEA, together with interest thereon at the Lease Interest Rate, and failing such reimbursement, Tenant shall have the right (in addition to any rights and remedies to which it may be entitled under this Lease, at law, or in equity), upon ten (10) days' prior notice to Landlord, to offset such costs from the next succeeding payment or payments of any Rent due hereunder, together with interest thereon at the Lease Interest Rate from the date of outlay until reimbursement or full satisfaction by credit.

12.5.8 As between Landlord and Tenant, in the event of any conflict between the OEA and this Lease, this Lease shall in all respects control.

12.5.9 Landlord shall obtain any third-party approvals required pursuant to the terms of the OEA for the performance of Landlord's Work (including, without limitation, Tenant's

elevations and signage, as shown on Exhibit D-1 and Exhibit F hereto), Tenant's Work, and the operation of Tenant's business in the Premises.

Section 12.6 Intentionally omitted.

ARTICLE 13. USES AND RESTRICTIONS

Section 13.1 Permitted and Prohibited Uses.

13.1.1 Tenant's Permitted Use. The Premises may be used and occupied for the Permitted Use (defined in Subsection 1.1.27 above). Tenant shall not use the Premises for any of the "Prohibited Uses" (defined in Exhibit M hereto annexed) or the "Existing Exclusives" (hereinafter defined in Subsection 13.3.1), to the extent then applicable.

13.1.2 Prohibited Uses. Landlord shall construct, lease, operate, maintain and manage the Shopping Center as a first-class shopping center comparable to other first-class shopping centers in the province in which the Shopping Center is located. Landlord shall not lease, rent or occupy or permit any portion of the Shopping Center or any land (the "**Related Land**") contiguous or adjacent to the Shopping Center (including, without limitation, any land that would be contiguous or adjacent to the Shopping Center but for any intervening road, street, alley or highway) now or hereafter owned or controlled by Landlord or its Affiliate(s), to be occupied (except to the extent otherwise permitted under any lease for space in the Shopping Center or the Related Land existing as of the Effective Date) for any of the "Prohibited Uses" (defined in Exhibit M hereto annexed), provided, however, that the foregoing provisions of this Subsection 13.1.2 shall not apply to any business existing on any Related Land owned or controlled by a person or entity which: (i) was previously, but is no longer, the Landlord hereunder, or (ii) at the time it became Landlord hereunder, already owned or controlled such Related Land (excluding, however, the Landlord originally named herein and its Affiliates).

Section 13.2 Tenant's Exclusive in Center. To induce Tenant to execute this Lease, and subject to all of the terms and provisions of this Section 13.2, Landlord covenants and agrees as follows.

13.2.1 Landlord shall not lease, rent or occupy or permit any other premises in the Shopping Center or on any Related Land to be occupied, whether by a tenant, sublessee, assignee, licensee or other occupant or itself, for the sale, rental or distribution, at retail or at wholesale, either singly or in any combination, of items contained in any of the following respective categories of merchandise: (a) linens and domestics; (b) bathroom items (excluding plumbing hardware); (c) housewares (excluding furniture, and major appliances or "white goods"); (d) frames and wall art (except in the area adjacent to the premises operating (or to be operating) as "Tommy Hilfiger", a fine art gallery (which also includes framing services and the sale of art supplies) shall not be precluded); (e) window treatments; and/or (f) closet, shelving and storage items (which items, either singly or in any combination, are hereinafter referred to as the "**Exclusive Items**"). Notwithstanding the foregoing, any tenant or subtenant in the Shopping Center or the Related Land shall have the right to utilize its respective premises for the sale, rental and/or distribution of Exclusive Items within an aggregate area (which shall include an allocable portion of the aisle space adjacent to such sales, rental and/or distribution area) not to exceed the lesser of (x) ten percent (10%) of the Floor Area of such tenant's or subtenant's premises, or (y) two thousand (2,000) square feet of Floor Area within such tenant's or subtenant's premises. [For example only, a tenant occupying premises containing a total of five thousand (5,000) square feet of Floor Area could sell Exclusive Items (either singly or in any combination) so long as the aggregate area within its entire demised premises in which any and all Exclusive Items are sold shall not exceed five hundred (500) square feet. Existing tenants of the Shopping Center and any Related Land, as listed in Exhibit K-2, shall be exempt from this Section 13.2, provided that such tenants' leases do not allow the Landlord to restrict the use of such premises in the manner required under this Section 13.2. However existing tenants of the Shopping Center and any Related Land (and current or future assignees or sublessees of such tenants) shall nevertheless be subject to the restrictions

contained in this Section 13.2 in the event that: (i) the lease between Landlord (or Landlord's Affiliate) and any such tenant requires the consent of Landlord (or its Affiliate) to any assignment or subletting or to a change in the use of the applicable premises to permit the sale, rental or distribution of the Exclusive Items; or (ii) Landlord or its Affiliate permits or agrees to an expansion of the applicable premises for the sale, rental, or distribution of the Exclusive Items.

13.2.2 The restrictions set forth in Subsection 13.2.1 above shall not apply to a full-line national or regional: (i) department store [for example, Wal-Mart, Macy's, or Target, Holt Renfrew, The Bay, Zellers, (but not "Home Outfitters" or "HomeSense"), (ii) discount club [for example, Costco, BJ's Wholesale Club, or Sam's Club], or (iii) home improvement center [for example, Home Depot or Lowe's], or (iv) supermarket / grocery store [for example Loblaws, A & P, Sobeys], commonly located in first-class shopping centers in the province in which the Shopping Center is located, each occupying at least 60,000 square feet of Floor Area within the Shopping Center, as such stores are currently operated (as of the Effective Date).

13.2.3 For the Related Land only, the restrictions set forth in Subsection 13.2.1 shall not apply to:

- Winners
- BouClair (existing concept as of the Effective Date)
- Canadian Tire
- Sears /Home Store
- Leon's, The Brick, or similar furniture store
- Holt Renfrew
- English Butler
- Pier I
- Restoration Hardware
- Pottery Barn – Williams Sonoma
- Crate & Barrel
- Sleep Country or similar store
- Urban Barn
- Corbeil
- Home Hardware
- Mikasa

13.2.4 The exclusive rights granted to Tenant in this Section 13.2 shall inure to the benefit of any assignee of Tenant's interest in this Lease and to any sublessee of at least fifty percent (50%) of the Floor Area of the Premises.

13.2.5 (a) Upon breach of the aforesaid covenant and agreement by Landlord (which breach shall not include a situation in which the lease between Landlord and any tenant in the Shopping Center or in the Related Land prohibits the tenant therein from violating the exclusive rights granted to Tenant in this Section 13.2 and despite such prohibition, such tenant violates such exclusive rights, unless Landlord fails to comply with any of the provisions of subparagraph (b) below), the Rent payable hereunder shall be reduced by fifty percent (50%) for so long as such violation shall continue, and Tenant shall have all remedies given to it at law and in equity, including, without limitation, the right to obtain injunctive relief, and/or to terminate this Lease, and/or to commence and prosecute an action against Landlord or any other violator for damages.

(a) If any person or entity other than Landlord shall violate any of the exclusive provisions herein set forth, or shall indicate in writing to Landlord that it intends to violate any of said provisions, Landlord shall promptly commence appropriate legal proceedings, and diligently prosecute the same, to enjoin and prohibit any such violation. If Landlord fails to promptly commence such proceedings, or shall fail thereafter to diligently prosecute the same, then Tenant shall have the right (a) to conduct and prosecute such legal proceedings (including, without limitation, an action for injunctive relief) in its own name, at Landlord's expense, or (b) in the event the right set forth in (a) above is not permitted to be exercised under applicable Legal

Requirements, to conduct and prosecute such legal proceedings in the name of Landlord, at Landlord's expense, and Landlord shall cooperate with Tenant with respect to such prosecution (including, without limitation, by executing any documentation or authorization reasonably required by Tenant in connection with such prosecution and by appearing at any hearing or trial with respect to such prosecution).

Section 13.3 Exclusives Which Tenant Must Honor.

13.3.1 Tenant shall honor certain exclusives granted by Landlord to certain other tenants in the Shopping Center pursuant to the terms of leases or firm, binding and unconditional offers to lease which have been executed prior to the Effective Date (hereinafter, "**Existing Exclusives**") [a true and complete listing and description of such Existing Exclusives being attached hereto as Exhibit K-1], and shall not sublease, occupy or use all or any portion of the Premises, or permit all or any portion of the Premises to be occupied or used in violation of any such Existing Exclusive (except as may be specifically set forth on Exhibit K-1). Landlord represents and warrants that no Existing Exclusive(s) exist other than those listed on Exhibit K-1 hereto and that Exhibit K-1 is true accurate and complete, and covenants to indemnify, defend and hold Tenant harmless from and against all loss, cost, liability or expense (including, without limitation, reasonable legal fees) incurred by Tenant by reason of the enforcement by any person or entity of such unlisted Existing Exclusive. Notwithstanding the foregoing, Tenant shall be entitled to enter into a separate agreement with any tenant or other occupant for whose benefit the Existing Exclusive is granted which nullifies or modifies the corresponding Existing Exclusive with regard to the Premises.

13.3.2 Except as expressly set forth in this Section 13.3, Tenant shall not be obligated to honor any exclusive granted by Landlord to any tenant in the Shopping Center or in any other property owned by Landlord or Landlord's Affiliate.

ARTICLE 14. CONDUCT OF BUSINESS OPERATIONS

Section 14.1 Covenant to Open for One Day.

Notwithstanding any other provisions of this Lease, Tenant shall have no obligation to open or operate any business in the Premises, and shall have the right, at any time, to cease to conduct any business operations in the Premises, and Tenant shall incur no liability to Landlord or its Mortgagee by reason thereof (it being understood and agreed that all of Tenant's obligations under this Lease shall continue unless this Lease is terminated pursuant, *inter alia*, to the further provisions of this Article 14 or any other provision of this Lease [other than by reason of an Event of Default]). In the event that Tenant does not operate or cause to be operated any retail business in the Premises (other than prior to the Rent Commencement Date or during Excused Periods) for more than three hundred sixty-five (365) consecutive days, Landlord shall have the option to terminate this Lease, which option shall be exercisable by giving notice thereof to Tenant by not later than the ninetieth (90th) day after the date on which said 365-day period expires, whereupon this Lease shall terminate upon the sixtieth (60th) day (the "**Recapture Date**") after the date on which Tenant receives Landlord's termination notice, as if the Recapture Date was originally set forth herein as the expiration date of the Term. Upon such termination, Landlord and Tenant shall each be released from any and all liabilities thereafter accruing hereunder, except for those obligations which survive the expiration or other termination of this Lease pursuant to the express terms of this Lease. All Rent payable by Tenant hereunder shall be apportioned as of the Recapture Date and Tenant shall promptly pay to Landlord any amounts so determined to be due and owing by Tenant to Landlord, and conversely Landlord shall promptly reimburse Tenant for any amounts prepaid by Tenant for periods subsequent to the Recapture Date.

ARTICLE 15.
TENANT ASSIGNMENT AND SUBLETTING

Section 15.1 Assignment and Subletting. Tenant shall have the right from time to time, without the consent of Landlord but with notice to Landlord within thirty (30) days of such assignment,, to assign Tenant's interest in this Lease and/or to sublet, concession or license all or any portion of the Premises, subject to all of the terms and conditions of this Lease.

Section 15.2 Liability of Tenant. Unless otherwise agreed to in writing by Landlord, no assignment, subletting, licensing or concessioning by Tenant shall reduce, diminish, or otherwise affect the liability of Tenant hereunder; provided, however, that in the event of an assignment by the Tenant originally named herein or its Affiliate (collectively, the "**Original Tenant**") of its interest in this Lease to a Major Assignee or to a tenant whose obligations under this Lease are guaranteed by a Major Guarantor, all liability of the Original Tenant under this Lease accruing from and after the effective date of such assignment, shall terminate and all liability of any guarantor of this Lease, accruing from and after the effective date of such assignment, shall terminate. For purposes of this Section 15.2, the term "**Major Assignee**" or "**Major Guarantor**", as the case may be, shall mean a person or entity which has, as of the effective date of such assignment, a net worth of at least One Hundred Million (\$100,000,000) Dollars.

Section 15.3 Collateral Assignment. In addition to Tenant's other rights set forth in this Article 15, a collateral assignment of Tenant's interest in this Lease by Tenant to one or more "Lenders" (hereinafter defined), as collateral security for an indebtedness or other obligation of Tenant or its Affiliates shall be permitted and Landlord shall execute all documentation reasonably requested by Tenant or any such Lender in connection therewith. In addition, Tenant shall have the right, without Landlord's consent, to grant to an Affiliate of Tenant a license to operate all of Tenant's business operations at the Premises, without such Affiliate having assumed any liability for the performance of Tenant's obligations under this Lease. As used herein, "**Lender**" shall mean a provincially or federally regulated: bank, savings and loan association, insurance company, pension fund, credit union, real estate investment trust, or other institutional lender.

Section 15.4 Cure Rights of Original Tenant.

15.4.1 If Tenant assigns Tenant's interest in this Lease, then Landlord, when giving notice to said assignee or any future assignee in respect of any default, shall also give a copy of such notice to the Original Tenant, and no notice of default shall be effective until a copy thereof is so given to Original Tenant. Original Tenant shall have the same period after receipt of such notice to cure such default as is given to Tenant therefor under this Lease.

15.4.2 If this Lease is terminated because of: (a) an Event of Default of such assignee, or (b) the rejection, disaffirmation, or other termination of this Lease by or on behalf of the assignee pursuant to any proceeding in bankruptcy under any Legal Requirements of Canada affecting creditors' rights, then Landlord shall promptly give to Original Tenant notice thereof, and Original Tenant shall have the right, exercisable by notice given to Landlord within fifteen (15) days after receipt by Original Tenant of Landlord's notice, to enter into a new lease of the Premises with Landlord ("**New Lease**"), provided that the Original Tenant shall have remedied all Events of Default of the assignee hereunder, unless such Events of Default are personal to the assignee and/or not reasonably susceptible of cure by the Original Tenant, in which event the Original Tenant shall not be obligated to cure such Events of Default as a condition to the exercise of its rights under this Subsection 15.4.2. Upon the Original Tenant's curing of any such Event of Default of the assignee as aforesaid, Landlord shall assign to the Original Tenant all of Landlord's rights against such assignee (whether arising as a result of bankruptcy court proceedings or otherwise). The term of said New Lease shall begin on the date of termination of this Lease and shall continue for the remainder of the Term (including any Renewal Periods). Such New Lease shall otherwise contain the same terms and conditions as those set forth herein, except for requirements which are no longer applicable or have already been performed. It is the intention of the parties hereto that such New Lease shall have the same priority relative to other rights or interests in or to the Premises as this Lease. The provisions of this Subsection 15.4.2 shall survive

the termination of this Lease and shall continue in full force and effect thereafter to the same extent as if this Subsection 15.4.2 were a separate and independent contract between Landlord and the Original Tenant. From the date on which the Original Tenant shall serve Landlord with the aforesaid notice of the exercise of its right to a New Lease, the Original Tenant shall have quiet and undisturbed use and enjoyment of the Premises and all appurtenances thereto, as contemplated in this Lease.

Section 15.5 Recognition Agreement. In the event Tenant subleases all or any portion of the Premises for a term of at least five (5) years, then, notwithstanding any other provisions of this Lease, Landlord shall, upon Tenant's request, execute and deliver an agreement among Landlord, Tenant and each such subtenant in the form of Exhibit H hereto, in recordable form.

ARTICLE 16. DEFAULT AND DISPUTE RESOLUTION

Section 16.1 Tenant Default.

16.1.1 If Tenant shall fail to: (i) pay any Rent when due, within ten (10) days after its receipt of notice thereof from Landlord specifying the amount and details of the unpaid Rent, or (ii) perform or observe any of the other covenants of this Lease on Tenant's part to be performed or observed within thirty (30) days after its receipt of notice thereof from Landlord specifying the nature of such default (or, if such default shall be of a nature that same cannot reasonably be cured within thirty (30) days and Tenant does not commence to cure such default on or before such thirtieth (30th) day and thereafter diligently prosecute said cure to completion), or (iii) materially breach any warranty or representation under this Lease, such circumstance shall constitute an ***"Event of Default"***.

16.1.2 Upon an Event of Default, Landlord shall have all remedies given to it at law or in equity (except that Landlord hereby expressly waives any rights to accelerate any element of the Rent, and any right of distraint, which may be granted to it by law), including the following:

(a) to bring suit for the collection of such unpaid Rent or for the performance of such other covenant of this Lease on Tenant's part to be performed; and/or

(b) without waiving any non-monetary default, may (but shall not be obligated to) perform any covenant which is capable of being remedied by the performance of affirmative acts for the account and at the reasonable expense of Tenant (it being agreed that should Landlord require access to the Premises in order to perform such covenant as aforesaid, Landlord shall comply with the applicable provisions of Sections 9.2 hereof), in which event, Tenant shall pay to Landlord on demand, as Additional Rent, the reasonable cost or amount thereof, together with interest thereon at the Lease Interest Rate from the date of outlay of expense until payment; and/or

(c) upon at least five (5) days' notice to Tenant, to terminate this Lease, whereupon Landlord shall have and retain full right to sue for and collect all unpaid Rent which shall have accrued up to the date of termination and any damages to Landlord by reason of any such breach as provided in Section 16.1.3 below, and Tenant shall surrender and deliver the Premises to Landlord, failing which, Landlord shall have the right to initiate summary proceedings to recover possession; and/or

(d) upon at least five (5) days' notice to Tenant to terminate Tenant's right of possession, re-enter the Premises and take possession thereof by lawful means. If Landlord shall so elect to repossess the Premises without terminating the Lease, then Tenant shall be liable for and shall pay to Landlord all Rent payable to Landlord pursuant to the terms of this Lease which shall have accrued up to the date of repossession, as well as all Rent as and when same shall become due and payable pursuant to the terms of this Lease during the remainder of the Term, diminished by any net sums thereafter received by Landlord through reletting the Premises during said period (after deducting reasonable expenses incurred by Landlord in

connection with such reletting). In no event shall Tenant be entitled to any excess of any rent obtained by such reletting over and above the Rent herein reserved. Landlord may bring actions to collect amounts due by Tenant under this Lease, from time to time, prior to the expiration of the Term.

16.1.3 Upon an Event of Default, Tenant shall be liable for and shall pay to Landlord, in addition to any sum provided to be paid above, brokers' fees incurred by Landlord in connection with reletting the whole or any part of the Premises for the remainder of the then unexpired Term (excluding any then unexercised Renewal Periods), the costs of removing and storing Tenant's or other occupant's property; the cost of repairs; and all other commercially reasonable expenses incurred by Landlord in enforcing or defending Landlord's rights and/or remedies, including reasonable attorneys' fees.

16.1.4 Upon an Event of Default, any amounts paid by Landlord to cure said Event of Default and any Rent payments not paid after notice thereof is given shall bear interest at the Lease Interest Rate from and after the expiration of any applicable grace period until paid.

16.1.5 Landlord shall use all reasonable efforts to relet the Premises or any portion thereof to mitigate Landlord's damages to which Landlord would otherwise be entitled to as a result of an Event of Default. In no event shall Tenant be liable to Landlord for any consequential damages suffered by Landlord as a result of an Event of Default by, or any other act of, Tenant.

Section 16.2 Landlord Default. If Landlord shall: (i) fail to perform or observe any of the covenants of this Lease on Landlord's part to be performed or observed within thirty (30) days after receiving notice from Tenant thereof (or, if same cannot reasonably be cured within thirty (30) days, if Landlord shall fail to promptly commence and diligently prosecute said cure to completion), or (ii) materially breach any warranty or representation under this Lease (either of (i) or (ii) above being hereinafter referred to as a "**Landlord's Default**"), then Tenant, in addition to such other rights and remedies as may be available under this Lease, or at law or in equity, may, in its sole discretion:

(a) as applicable, perform such obligation(s) of Landlord in accordance with the provisions of this Lease on behalf of, and at the expense of Landlord; and/or

(b) bring suit for the collection of any amounts for which Landlord is in default, seek injunctive relief, or seek specific performance for any other covenant or agreement of Landlord, without terminating this Lease; and/or

(c) offset against the Rent payable by Tenant hereunder for amounts owed by Landlord to Tenant and/or for the amounts reasonably expended by Tenant performing Landlord's obligations hereunder, including costs and reasonable attorneys' fees, together with interest thereon at the Lease Interest Rate from the date of the outlay until paid; and/or

(d) terminate this Lease, without waiving its rights to damages for Landlord's Default, provided that: (1) Landlord's Default materially interferes with the normal conduct of any business operations in the Premises, (2) Landlord's Default is not reasonably capable of being cured by Tenant, and (3) Tenant gives notice of Landlord's Default to any Mortgagee of whom Landlord shall have previously given Tenant notice (including its address), and such Mortgagee shall not have cured Landlord's Default within thirty (30) days after such notice is given (or, if such default cannot reasonably be cured within thirty (30) days, such Mortgagee fails to promptly commence and diligently prosecute said cure to completion).

Notwithstanding the foregoing, if, in Tenant's reasonable judgment, a condition posing imminent risk of liability or material harm to persons or property or material disruption to the normal conduct of any business operations in the Premises shall exist (it being agreed, without limitation, that any water infiltration into the Premises from within or without the Premises, or mold remediation in connection therewith, shall be deemed to be such a condition unless such water infiltration or mold exists within the Premises as a direct result of the actions of Tenant), Tenant

may, at its election, and without prior notice to Landlord, exercise any or all of the remedies set forth in (a), (b) and (c) above. In no event shall Landlord be liable to Tenant for any consequential damages suffered by Tenant as a result of a default by, or any other act of, Landlord.

Section 16.3 Arbitration. In any case where this Lease expressly provides for submission of a dispute or matter to arbitration (but not otherwise), the same shall be settled by arbitration in Ontario, before one arbitrator in accordance with the procedural rules then obtaining of the Arbitration Act (Ontario) or any successor thereto. The decision of the arbitrator shall be final, conclusive and binding on the parties, but the powers of the arbitrator are hereby expressly limited to the determination of factual issues, and the arbitrator shall have no power to reform, supplement or modify this Lease. The arbitrator shall make only required findings of fact incident to an arbitrable dispute, which findings shall be set forth in reasonable detail in a written decision by the arbitrator. Landlord and Tenant shall share equally in the cost and expenses of such arbitration, and each shall separately pay its own attorneys' fees and expenses, unless the arbitrator finds that one of the parties did not act in good faith in connection with the dispute or the conduct of the arbitration proceeding, in which case the arbitrator may award all or part of said costs, expenses and fees to the other party.

ARTICLE 17.

RIGHT TO MORTGAGE AND NON-DISTURBANCE; ESTOPPEL CERTIFICATE

Section 17.1 Right to Mortgage and Non-Disturbance. Landlord reserves the right to subject and subordinate this Lease at all times to the lien of any first mortgage or deed of trust for the benefit of any Mortgagee hereafter encumbering or affecting all or any portion of the Shopping Center, as well as to any future ground or underlying leases encumbering or affecting all or any part of the Shopping Center; provided, however, that (a) each Mortgagee shall first execute and deliver to Tenant a subordination, non-disturbance and attornment agreement in substantially the form attached as Exhibit G hereto, in recordable form, and (b) any Ground Lessor shall execute (and shall obtain the written consent of any holder of any mortgage, deed of trust or any other existing lien encumbering or affecting the Shopping Center or any portion thereof, as applicable) and deliver to Tenant a fee owner recognition agreement in a form reasonably satisfactory to Tenant, which shall include the following provisions: (i) the Ground Lessor will not, in the exercise of any of the rights arising or which may arise out of such lease, disturb or deprive Tenant in or of its possession or its rights to possession of the Premises or of any right or privilege granted to or inuring to the benefit of Tenant under this Lease; (ii) in the event of the termination of the ground or underlying lease, Tenant will not be made a party in any removal or eviction action or proceeding, nor shall Tenant be evicted or removed of its possession or its right of possession of the Premises, and this Lease shall continue in full force and effect as a direct lease between the Ground Lessor and Tenant for the remainder of the Term and on the same terms and conditions as contained herein, without the necessity of executing a new lease; and (iii) Landlord and Tenant shall have the right to execute any amendment to this Lease which is specifically required hereunder and the Ground Lessor shall recognize and be bound thereto.

Section 17.2 Estoppel Certificate. Upon written request of Landlord or Tenant, the other party, within thirty (30) days after the date of receipt of such request, shall execute and deliver to and only for the benefit of the requesting party or any Mortgagee, *bona fide* prospective purchaser, assignee, or sublessee of the requesting party, without charge, a written statement: (1) ratifying this Lease; (2) certifying, to such party's actual knowledge, that this Lease is in full force and effect, if such is the case, and has not been modified, assigned, supplemented or amended, except by such writings as shall be stated; (3) specifying the dates to which Fixed Rent and Additional Rent have been paid; (4) stating whether or not, to such party's actual knowledge, the party requesting the estoppel is in default and, if so, stating the nature of such default, (5) stating the Rent Commencement Date, and (6) stating which options to extend the Lease Term have been exercised, if any. Each request for a written statement pursuant to this Section 17.2 made within twelve (12) months of an earlier request for such a written statement shall be accompanied by a payment, from the requesting party to the other party, in the amount of One Thousand (\$1000)

Dollars (increased by Two Hundred (\$200) Dollars on each date that the Fixed Rent increases pursuant to Section 1.1.11 hereof).

Section 17.3 Existing Mortgages and Ground Leases. If a mortgage, deed of trust, or other security instrument, or any ground or underlying lease, encumbers the Shopping Center or any part thereof on the Effective Date, then within thirty (30) days after the Effective Date, Landlord shall deliver to Tenant, in recordable form: (x) a subordination, non-disturbance and attornment agreement substantially in the form attached hereto as Exhibit G, in recordable form, executed by each and every holder of any mortgage, deed of trust or any other existing lien encumbering or affecting the Shopping Center or any portion thereof, and (y) a fee owner recognition agreement in the form and content described in clause (b) of Section 17.1 hereof, in recordable form, executed by any Ground Lessor (and, as may be required, consented to by the holder of any mortgage, deed of trust or other existing lien as aforesaid). Should Landlord fail to so deliver such instrument(s) within said 30-day period, Tenant shall have the right by notice given to Landlord at any time prior to the date on which such instrument(s) are delivered, to terminate this Lease, in which event, neither party shall have any further liability hereunder, except: (i) for those obligations which survive the expiration or other termination of this Lease pursuant to the express terms of this Lease, and (ii) Landlord shall be obligated to promptly reimburse Tenant for all its reasonable, third-party costs and expenses incurred in connection with this Lease, including, without limitation, the preparation and review of plans and specifications, and the performance of Tenant's Work, provided, however, that such reimbursement by Landlord shall not exceed the aggregate sum of Seventy-five Thousand Dollars (\$75,000).

ARTICLE 18. NOTICE

Subject to the further provisions of this Article 18, whenever it is provided herein that any notice, demand, request, consent, approval or other communication ("**Notice**") shall or may be given to either of the parties by the other, it shall be in writing and, any Legal Requirement to the contrary notwithstanding, shall not be effective for any purpose unless same shall be given by registered or certified mail, postage prepaid, return receipt requested, or by any recognized overnight mail carrier, with proof of delivery slip, addressed to Landlord at Landlord's Mailing Address or to Tenant at Tenant's Mailing Address, with copies of notices to Tenant also given to: (i) Allan N. Rauch, Esq., c/o Bed Bath & Beyond Inc., 650 Liberty Avenue, Union, New Jersey 07083, and (ii) Cory G. Sherman, Sherman Brown, Barristers & Solicitors, Suite 900, 5075 Yonge Street, Toronto, Ontario M2N 6C6, or to such other person or other address as may, from time to time, be specified by either party in a written notice to the other party. All notices given in accordance with the provisions of this Section shall be effective upon receipt (or refusal of receipt) at the address of the addressee. Notwithstanding the foregoing, Landlord shall instead send the following items to Tenant (Attention: Lease Administration) at Tenant's Mailing Address: (A) all bills, notices (but not notices of default) and related information pertaining to Tenant's Pro Rata Share of Taxes as described in Section 4.3 of this Lease, and (B) all budgetary information, notices (but not notices of default), statements, bills and related information pertaining to Tenant's Pro Rata Share of Common Areas Charges as described in Section 5.1 of this Lease.

ARTICLE 19. TENANT'S PROPERTY

All of Tenant's Property which may be installed or placed in or upon the Premises by Tenant shall remain the property of Tenant. Tenant may assign, hypothecate, encumber, mortgage or create a security interest in or upon Tenant's Property in the Premises without the consent of Landlord and may remove Tenant's Property at any time during the Term. Landlord waives any right it may have in Tenant's Property. To the extent Landlord may have a lien on or security interest in the Tenant's Property pursuant to this Lease, by law or otherwise, Landlord hereby waives, and agrees not to assert, such lien or security interest. Landlord shall provide to Tenant, within ten (10) days after Tenant's request therefor, a written waiver in form reasonably

satisfactory to Tenant evidencing Landlord's waiver of any rights it has or may have in Tenant's Property.

ARTICLE 20. END OF TERM

Section 20.1 Surrender of Premises. At the expiration of the Term, Tenant will quit and surrender the Premises in good condition and repair, excepting, however, reasonable wear and tear, damage by fire or other casualty, damage by eminent domain, and repairs and replacements to be made by Landlord hereunder.

Section 20.2 Hold Over. If Tenant fails to deliver possession of the Premises to Landlord at the end of the Term, and unless Landlord and Tenant are, at such time, engaged in good faith negotiations to extend the Term, Tenant shall be a tenant at sufferance and shall be liable for Fixed Rent on a monthly basis (or, if applicable, on a prorated daily basis) in an amount equal to one hundred fifty (150%) percent of the amount thereof payable by Tenant for the month immediately preceding the last day of the Term as well as for all Additional Rent payable by Tenant hereunder.

ARTICLE 21. TENANT'S RIGHT OF FIRST OFFER

Provided an uncured Event of Default does not then exist under this Lease, Tenant shall have continuing rights of first offer to lease additional space in the Shopping Center which is contiguous to the Premises and which may become available on and after the date of this Lease. At such time that Landlord has knowledge that such space ("**Offered Space**") is or will become available, Landlord will give Tenant notice (the "**Offering Notice**") of the terms and conditions Landlord would be willing to accept with respect to the Offered Space (including, without limitation, the proposed rent, additional rent, scope of Landlord's proposed tenant improvements, location and Floor Area), and Tenant shall have thirty (30) days within which to respond to Landlord's offer. In the event Tenant elects to accept Landlord's offer, then Tenant shall notify Landlord of such election by giving notice to Landlord during such thirty (30) day period and Landlord and Tenant shall thereupon enter into an amendment to this Lease for the leasing of the Offered Space, which amendment shall (a) contain the terms and conditions set forth in the Offering Notice, (b) provide that the term thereunder shall expire or sooner terminate contemporaneously with the expiration or sooner termination of the Term hereof (subject to extension in accordance with Section 2.2.2 above), and (c) contain such other terms and provisions as either Landlord or Tenant may reasonably require in order to effectuate the incorporation of the Offered Space into the Premises and to otherwise effectuate the intent of this Article 21. Should Tenant decline Landlord's offer or fail to respond thereto, then, and in such event, Tenant shall have been deemed to have waived any prospective rights of first offer to the Offered Space (but Tenant shall not lose any prospective rights of first offer with respect to any space (including, without limitation, the Offered Space) which may in the future become vacant and available), and Landlord may lease the Offered Space to any other party upon substantially the same terms and conditions as that offered to Tenant, provided that such lease is executed within twelve (12) months after Tenant has declined (or has been deemed to have waived) Landlord's offer with respect to the Offered Space. As used herein, the phrase "**substantially the same terms and conditions as that offered to Tenant**" shall mean terms not materially different and/or a rent of not more than five (5%) percent below the rent requested by Landlord of Tenant. Any dispute between the parties with respect to this Article 21 (including, without limitation, any dispute as to the provisions of the amendment described in this Article 21) shall be resolved by arbitration in accordance with the provisions of Section 16.3 above.

ARTICLE 22. CO-TENANCY

Section 22.1 Phase II Co-Tenancy. If, on the Rent Commencement Date, the Phase II Co-Tenancy Condition, as defined below, has not been satisfied, Tenant shall pay, in lieu of the Fixed Rent otherwise payable by Tenant herein, a reduced amount (the "**Reduced Rent**") equal to

fifty percent (50%) of the Fixed Rent payable herein, provided that during such period, the Tenant's obligation to pay Additional Rent herein shall remain applicable.

For the purposes of this Section, Phase II shall be the area so designated on Exhibit B attached hereto.

For the purposes of this Section, the Phase II Co-Tenancy Condition shall be satisfied when either of the following events have occurred:

- A. the tenant operating as "Future Shop" or "Best Buy" shall be open for business and operating in premises within Phase II, comprising an area of at least 25,000 square feet; and one (1) additional national or regional tenant typically found in first class regional shopping centres located in the Ottawa Metropolitan area shall be open for business and operating in premises within Phase II, comprising an area of at least 17,000 square feet;

OR

- B. three (3) national or regional tenants of the type typically found in first class regional shopping centres located in the Ottawa Metropolitan area, shall each be open for business and operating in premises within Phase II, each comprising an area of at least 17,000 square feet.

The Reduced Rent shall be payable by the Tenant as contemplated herein until the Phase II Co-Tenancy Condition has been complied with, at which time, Tenant shall, from and after such date of compliance, be obligated to pay the Fixed Rent as agreed upon pursuant to Article 4 of the Lease, subject to the terms and conditions contained herein.

Section 22.2 Ongoing Co-Tenancy. If, at any time during the Term, more than fifty percent (50%) of the total Floor Area of all buildings in the Shopping Center, as set forth in Section 1.1.34 above (excluding the Premises), ceases to be used for the operation of retail business by national or regional tenants of the type typically found in first-class regional shopping centers located in the Ottawa metropolitan area (such condition being hereinafter referred to as an "**Excess Vacancy**"), then in such event, Tenant shall have the right to: (i) pay Alternate Rent in lieu of Fixed Rent during the period of such Excess Vacancy, and/or (ii) if the Excess Vacancy continues for a period in excess of three hundred sixty-five (365) continuous days, to terminate this Lease, exercisable by giving Landlord, within one hundred twenty (120) days after the expiration of such 365-day period, at least sixty (60) days' prior notice, in which event this Lease shall terminate on the date set forth in Tenant's notice of termination without further liability on the part of either Landlord or Tenant, except: (A) for those obligations which survive the expiration or other termination of this Lease pursuant to the express terms of this Lease, and (B) Landlord, promptly after receiving a statement from Tenant showing the costs and expenses of Tenant's Work less Tenant's Allowance and any alterations made by Tenant, shall reimburse Tenant for the unamortized portion of such costs and expenses based upon the unexpired portion of the Term. If Tenant does not terminate this Lease pursuant to this Article 22, then commencing on the expiration of the aforesaid 120-day period, Tenant shall resume paying full Rent, provided, however, that Tenant shall: (x) again be entitled to exercise its rights under this Article 22 each time the then existing condition of Excess Vacancy worsens by more than five percent (5%); and (y) retain all of its original rights under this Article 22 with respect to any future condition(s) of Excess Vacancy.

ARTICLE 23. MISCELLANEOUS

Section 23.1 Loading Facilities. Tenant shall have the exclusive right to utilize the loading facilities serving the Premises (shown on Exhibit B) on a "24 hour a day", "365 days a year" basis.

Section 23.2 Liens. Within thirty (30) days after notice of the filing thereof, Tenant shall discharge (either by payment or by filing of the necessary bond, or otherwise) any lien against the Premises and/or Landlord's interest therein, which may arise out of any payment due for, or purported to be due for, any labor, services, materials, supplies or equipment alleged to have been furnished to or for Tenant in, upon or about the Premises. Similarly, within thirty (30) days after notice of the filing thereof, Landlord shall discharge (either by payment or by filing of the necessary bond, or otherwise) any lien against the Premises and/or Landlord's interest therein, which may arise out of any payment due for, or purported to be due for, any labor, services, materials, supplies or equipment alleged to have been furnished to or for Landlord in, upon or about the Premises.

Section 23.3 Broker's Commission. Landlord and Tenant each warrant and represent to the other that they did not deal with any real estate broker in connection with the negotiation, execution and delivery of this Lease, except for Northwest-Atlantic (Canada) Inc. (the "**Broker**"). Landlord shall pay the Broker a commission pursuant to a separate agreement. Each party agrees to indemnify, defend, and save the other harmless from and against any and all liabilities, costs, causes of action, damages and expenses, including, without limitation, attorneys' fees, with respect to or arising out of any claims made by any real estate broker (other than the Broker), agent or finder with respect to this Lease in breach of the foregoing representation. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

Section 23.4 Force Majeure. Except as otherwise expressly set forth herein, in the event either party hereto shall be delayed or hindered in, or prevented from, the performance of any act required hereunder by reason of strikes, failure of power, riots, insurrection, war, earthquake, hurricane or tornado (or comparable weather conditions of unusual severity), or other reasons of an extraordinary nature which are beyond the reasonable control of the party, and which could not have been avoided through the exercise of due diligence by a party (collectively referred to herein as "**Force Majeure**"), then the performance of any such act shall be excused for a period equal to the period of the delay. Notwithstanding the foregoing provisions, the following shall not constitute Force Majeure: (i) the financial inability of a party to perform its obligations under this Lease; or (ii) delays occurring in the course of complying with applicable Legal Requirements that could have been avoided through the exercise of due diligence by a party hereto. A party wishing to invoke this Section shall give the other party notice of that intention within ten (10) days of the commencement of any event of Force Majeure and shall, at that time, specify the reasons therefor, the specific provision of this Lease which will be delayed as a result, and the period of such extension, if known, or if not known, a reasonable estimate thereof.

Section 23.5 Consents. Except as may be otherwise expressly set forth in this Lease, whenever under this Lease provision is made for either party's securing the consent or approval of the other party, (i) such consent or approval shall be in writing and shall not be unreasonably withheld, delayed or conditioned, and (ii) in all matters contained herein, both parties shall have an implied obligation of reasonableness.

Section 23.6 Costs. Whenever this Lease requires the performance of an act by a party, such party shall perform the act at its own cost and expense, unless expressly provided to the contrary.

Section 23.7 Attorneys' Fees. In any action or proceeding hereunder (whether to enforce the terms and provisions of an indemnity or otherwise), the prevailing party shall be entitled to recover from the other party the prevailing party's reasonable costs and expenses in such action or proceeding, including reasonable attorneys' fees, costs and expenses. Except as otherwise set forth herein, if either party is sued by a third party as a result of a violation of a covenant or warranty herein contained by the other party hereto, then the party who has violated the covenant or warranty shall be responsible for the reasonable costs and expenses in such action or proceeding against the non-violating party, including reasonable attorneys' fees, costs and expenses.

Section 23.8 Survival of Obligations. The obligation to pay any sums due to either party from the other that by the terms herein would not be payable, or are incapable of calculation, until after the expiration or sooner termination of this Lease shall survive and remain a continuing obligation until paid. All indemnity obligations under this Lease shall survive the expiration or earlier termination of this Lease.

Section 23.9 Non-Waiver. The failure of Landlord or Tenant to insist upon the strict performance of, or to enforce, any provision, covenant or condition herein shall not be deemed to be a waiver thereof, nor void or affect the right of the aggrieved party to enforce the same covenant or condition on the occasion of any subsequent breach or default; nor shall the failure of either party to exercise any option in this Lease upon any occasion arising therefor be deemed or construed to be a waiver of the right to exercise that same kind of option upon any subsequent occasion.

Section 23.10 Rights Cumulative. Unless expressly provided to the contrary in this Lease, each and every one of the rights, remedies and benefits provided by this Lease shall be cumulative and shall not be exclusive of any other such rights, remedies and benefits allowed by applicable Legal Requirements.

Section 23.11 Definition of Landlord. The term "**Landlord**" shall mean only the person or entity which, from time to time, shall then own the Shopping Center, and in the event of the transfer by such owner of its interest in the Shopping Center, such owner shall (except to the extent of (1) claims made by Tenant against Landlord which arose prior to the effective date of the transfer of such ownership interest, and/or (2) judgments obtained by Tenant against Landlord, on or prior to the effective date of the transfer of such ownership interest) thereupon be released and discharged from all covenants and obligations of Landlord thereafter accruing, but such covenants and obligations shall be binding during the Term upon each new owner for the duration of such owner's ownership.

Section 23.12 Successors and Assigns. The provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

Section 23.13 Limitation of Landlord's Liability. Except with respect to insurance proceeds or condemnation awards received by Landlord which are required by the terms of this Lease to be applied to the repair or restoration of the Premises or the Shopping Center make an additional exception, as applicable, for any construction contribution or reimbursement from Landlord, Tenant shall, on and after the Delivery Date, look only to Landlord's estate and property in the Shopping Center (or the proceeds from the sale of all or any portion thereof) and net income derived from the Shopping Center for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord hereunder and no other property or assets of Landlord, its officers, directors, stockholders, members or partners shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease. Except with respect to the limitation on personal liability hereinabove set forth, the provisions of this Section 23.13 shall not be deemed or construed to limit Tenant's rights and remedies pursuant to this Lease or which may be available at law or in equity.

Section 23.14 Limitation of Tenant's Liability.

Landlord, its successors and assigns, shall look solely to the assets, if any, of Tenant and its successors and assigns, for the satisfaction of any claim arising from or under this Lease and shall not seek to impose personal liability on any shareholder, officer, director, member or employee of Tenant or any of its Affiliates.

Section 23.15 Joint and Several Liability. If either party consists of more than one person, then the persons constituting such party shall be jointly and severally liable hereunder.

Section 23.16 Severability. If any term, covenant, condition or provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

Section 23.17 Grammatical Usages and Construction. In construing this Lease, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires. This Lease shall be construed without regard to: (i) the identity of the party who drafted the various provisions hereof, and (ii) the addition or deletion of text made during the negotiation of this Lease. Moreover, each and every provision of this Lease shall be construed as though all parties hereto participated equally in the drafting thereof. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable hereto.

Section 23.18 Table of Contents, Line Numbering and Paragraph Headings. The table of contents and line numbering, if any, and section headings are inserted only for convenience and in no way define, limit or describe the scope or intent of this Lease, nor in any way affect this Lease.

Section 23.19 Definition of Hereunder, Herein, etc.. Unless the context clearly indicates to the contrary, the words "herein," "hereof," "hereunder," "hereafter," and words of similar import refer to this Lease and all the Exhibits attached hereto as a whole and not to any particular section, subsection, or paragraph hereof.

Section 23.20 Short Form Lease. Upon the request of either party following the execution and delivery of this Lease, Landlord and Tenant shall execute a short form lease or memorandum for recording, which shall be in form and substance as either party shall reasonably request. In no event shall the amount of Fixed Rent reserved hereunder be included in any such short form lease or memorandum.

Section 23.21 Entire Agreement and Modification. This Lease constitutes the entire agreement of the parties hereto, and all prior agreements between the parties, whether written or oral, are merged herein and, except as may be specifically set forth herein, shall be of no force and effect. This Lease cannot be changed, modified or discharged orally, but only by an agreement in writing, signed by the party against whom enforcement of the change, modification or discharge is sought.

Section 23.22 No Joint Venture or Partnership Created by Lease. Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

Section 23.23 Tenant's Tradename. Landlord shall not make use of Tenant's tradename [i.e., "Bed Bath & Beyond"®] in any advertising or marketing material, including, without limitation, on any internet website, without obtaining Tenant's prior written approval, which may be withheld in Tenant's sole and absolute discretion.

Section 23.24 Counterparts. This instrument may be executed in several counterparts, each of which shall be deemed an original. The signatures to this instrument may be executed and notarized on separate pages, and when attached to this instrument, shall constitute one complete document.

Section 23.25 Waiver of Trial by Jury. Landlord and Tenant hereby mutually waive any and all rights which either may have to request a jury trial in any proceeding between them at law or in equity.

Section 23.26 Goods and Services Tax. In addition to the Rent payable hereunder, Tenant will pay to Landlord (acting as agent for the taxing authority if applicable) or directly to the

taxing authority (if required by the applicable legislation) in the manner specified by Landlord, the full amount of all goods and services taxes, sales taxes, value-added taxes, multi-stage taxes, business transfer taxes and any other taxes imposed on Tenant in respect of the Rent payable by Tenant under this Lease or in respect of the rental of space by Tenant under this Lease (collectively and individually, "GST"). GST so payable by Tenant will:

(a) be calculated by Landlord in accordance with the applicable legislation;

(b) be paid by Tenant at the same time as the amounts to which the GST applies are payable to Landlord under the terms of this Lease (or upon demand at such other time or times as Landlord from time to time determines); and

(c) despite anything else in this Lease, be considered not to be Rent, but Landlord shall have all of the same remedies for and rights of recovery with respect to such amounts as it has for non-payment of Rent under this Lease or at law.

Section 23.27 Currency: Except where otherwise expressly provided, all amounts in this Lease are stated and shall be paid in Canadian currency.

[signature page follows]

Section 23.28 Governing Law. This Lease shall be governed by, construed, and enforced in accordance with the laws of the Province in which the Premises are located.

IN WITNESS WHEREOF, the parties have executed this instrument under seal the day and year first-above written.

WITNESS:

Karen Frankland

[SEAL]

LANDLORD:

1663321 ONTARIO INC.

By: [Signature]

Name: P. G. DENT

Title: PRESIDENT

WITNESS:

Karen Frankland

[SEAL]

LANDLORD:

1414614 ONTARIO INC.

By: [Signature]

Name: P. G. DENT

Title: PRESIDENT

ATTEST:

Alan M. Freeman

Name: Alan M. Freeman

Title: Assistant Secretary

[SEAL]

TENANT:

BBB Canada Ltd., as general partner of and on behalf of **Bed Bath & Beyond Canada L.P.**

By: [Signature] *AMF*

Name: Richard C. McMahon

Title: President

INDEX OF EXHIBITS

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Exhibit D-2	Exterior Elevations of the Shopping Center
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Exhibit F -	Signage
Exhibit G -	Form of Subordination, Non-Disturbance and Attornment Agreement
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Exhibit A

Legal Description of Shopping Center

PIN: 04256-0646
04256-0647
04256-0648
04256-0649
04256-0668
04256-0659

Blocks 10, 11, 12, 13, 21 and 23
Plan 4M-1283
City of Ottawa

Legal Description of Related Land

PIN: 04256-0651
04256-0652
04256-0653
04256-0654
04256-0663
04256-0239

Blocks 15, 16, 17, 18 and 27
Plan 4M-1283; and
Lot 19 on Plan 560
City of Ottawa

Exhibit B

Site Plan

Exhibit C

Rent Commencement and Expiration Date Agreement

THIS RENT COMMENCEMENT AND EXPIRATION DATE AGREEMENT, made as of the ____ day of _____, 200____, by and between 1663321 ONTARIO INC. and 1414614 ONTARIO INC. ("**Landlord**") and BED BATH & BEYOND OF CANADA INC. ("**Tenant**").

WITNESSETH:

WHEREAS, Landlord is the owner of a certain shopping center known as "Ottawa Trainyards" (the "**Shopping Center**"), situated in Ottawa, Ontario;

WHEREAS, by that certain Lease Agreement dated as of _____, 200____ (the "**Lease**"), Landlord leased a portion (the "**Premises**") of the Shopping Center to Tenant;

WHEREAS, Tenant is in possession of the Premises and the Term of the Lease has commenced; and

WHEREAS, under Section 2.2 of the Lease, Landlord and Tenant agreed to enter into an agreement setting forth certain information in respect of the Premises and the Lease.

NOW, THEREFORE, Landlord and Tenant agree as follows:

- 1. The Rent Commencement Date occurred on _____, 200____.
- 2. The **Initial Term** of the Lease shall expire on January 31, 20____, unless Tenant exercises any option to extend the Term of the Lease or unless the Lease terminates earlier as provided in the Lease.
- 3. The date of commencement of the **first Renewal Period** shall be February 1, 20____, if Tenant effectively exercises its option in respect thereof, and if Tenant does so, the Term of the Lease shall expire on January 31, 20____, unless Tenant exercises any option to further extend the Term of the Lease or unless the Lease terminates earlier as provided in the Lease.
- 4. The date of commencement of the **second Renewal Period** shall be February 1, 20____, if Tenant effectively exercises its option in respect thereof, and if Tenant does so, the Term of the Lease shall expire on January 31, 20____, unless Tenant exercises any option to further extend the Term of the Lease or unless the Lease terminates earlier as provided in the Lease.
- 5. The date of commencement of the **third Renewal Period** shall be February 1, 20____, if Tenant effectively exercises its option in respect thereof, and if Tenant does so, the Term of the Lease shall expire on January 31, 20____, unless the Lease terminates earlier as provided in the Lease.
- 6. Capitalized terms used, but not defined, herein shall have the meanings ascribed to them in the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this Rent Commencement and Expiration Date Agreement to be executed the date and year first above written.

LANDLORD:

WITNESS:

1663321 ONTARIO INC.

[SEAL]

By: _____
Name: _____
Title: _____

WITNESS:

[SEAL]

ATTEST:

[SEAL]

LANDLORD:

1414614 ONTARIO INC.

By: _____

Name: _____

Title: _____

TENANT:

BED BATH & BEYOND OF CANADA INC.

By: _____

Name: Warren Eisenberg

Title: Co-Chairman

Exhibit D

Specifications for Landlord's Work



Ottawa, ON

Exhibit D – Landlord’s / Tenant’s Work

10/17/07 (rev. 4/18/08)

[All capitalized terms used, but not otherwise defined, herein shall have the meanings ascribed to them in the Lease. To the extent not inconsistent with the terms of this Exhibit D, the terms of the lease regarding Landlord’s work shall be deemed to supplement the provisions of the Exhibit D. It is specifically understood and agreed that all materials and supplies shall be installed in strict accordance with all manufacturer’s specifications.]

Landlord’s Work

Building Requirements: The following describes project-specific elements of Landlord’s Work. Landlord agrees to perform any and all work necessary at its sole cost as set forth below “Landlord’s Work” to deliver possession of the Premises to Tenant.

General Requirements

- A. Landlord to deliver to Tenant, (1) hard copy set of as-built drawings of the Premises.
- B. The Premises shall be delivered to Tenant by Landlord in a structural sound, broom clean, secured condition with the roof watertight (and all gutters, downspouts, roof drains in good working order),
- C. The Premises shall be free from asbestos material and other Hazardous Substances.
- D. Subject to Landlord’s Work, the Premises shall be delivered to Tenant in the same condition and state as existed on the date of Tenant’s inspection thereof on 11/8/07.
- E. All work performed in the Premises, whether performed by Landlord or Tenant, shall be done in a good and first class workmanlike manner; in accordance with all applicable laws, by-laws, ordinances, codes and insurance requirements (“Applicable Laws”). Landlord agrees to fully cooperate with Tenant and to assist Tenant (including without limitation performing any work outside of the Premises required by governmental authority) in obtaining all required building permits for Tenant’s Work, and in obtaining an unconditional permanent certificate of occupancy, or the local equivalent thereof.
- F. Except as otherwise provided in this Lease and the exhibits thereto, Landlord shall deliver the Premises to Tenant in its present “As Is” physical condition. The foregoing reference to the Premises being delivered in “As Is” condition shall not relieve Landlord of any maintenance or repair obligations with respect to the Premises otherwise specifically set forth in this Lease as the responsibility of Landlord.
- G. In the event that additional on-site and/or off-site development work is required by governmental authorities having jurisdiction (“Governmental Authorities”) in order for Tenant to obtain permits, use, or occupancy rights, Landlord shall perform such work at its sole cost and expense.
- H. Warranties – Landlord shall provided a list of contractors’ and subcontractors’ contacts and addresses, and a guarantee, including parts and labor, for a period of at least one (1) year after the commencement date. Send all warranties of equipment, service manuals and as-built drawings to Tenant’s construction project manager within 30 days of delivery. Landlord to cause contractor to instruct Tenant’s representative in operation of any equipment installed pursuant to these specifications. All of Landlord” work shall be performed in a manner which will not void or diminish any manufacturers’, installers’ or contractors’ warranties which would otherwise have been provided by such manufacturer, installer or contractor to either Landlord or Tenant. Two (2) months prior to the end of the warranty period the Landlord must forward a written report to the tenant on the condition of all warranty items.

Site Specifications

- A. Tenant’s Truck Ramp is currently in place and is 48” deep at rear dock door opening. Area in front of dock must be made level and accommodate Tenant’s ability to pull in a 55’ truck from the rear Shopping Center access entry and back-up to tenant’s dock door without any encumbrances. Landlord is to provide a 10’ wide x 40’ long, 6” thick concrete “Compactor Pad”, as shown on Exhibit B.
- B. Sidewalk - Storefront sidewalk to have a minimum of one ADA curb. Location and width to be as shown on Exhibit D-1 Building elevation and Partial sidewalk plan.
- C. The lighting throughout the Shopping Center is existing. Landlord shall provide low level security lighting min. (1) foot-candle throughout center that shall remain illuminated from dusk to dawn seven days a week. Landlord shall be required to re-lamp the parking field light poles as required to ensure that no burned out lamps exist.

JB
5/2/08

- D. Cart Corrals - Tenant to have the right to install parking lot and sidewalk cart corrals as indicated on Exhibit B.
- E. Front Drive Aisle - Provide an 8'-0" wide striped crosswalk as shown on Exhibit B.
- F. Exterior Building Lights – **Wall packs, soffit lights and wall sconces** to be installed in accordance with Shopping Center standards as showed on Exhibit D-1. **Landlord is to wire fixtures to a junction box behind the wall and from which Tenant is to wire and terminate at its panel.**

Building Specifications

- A. Clear Height – **Existing structure in place.**
- B. Floor Slab - Provide a minimum 102 mm (4") thick slab or as required by the geo-technical engineer, which ever is more stringent. Landlord shall provide a minimum 4000-psi compressive and 650 psi flexural strength at 28 days, 8 inch slump maximum for concrete containing High Range Water Reducer admixture, with a water cement ratio of 0.53. Maximum shrinkage of 0.04% at 28 days. Maximum air content of 3%. Structural system shall be rated to accept a minimum 100 lb. per square foot of live load. **Installation of finished concrete slab shall be completed within 30 days after lease execution.**

MOISTURE / VAPOR BARRIER

- 1. Provide Stego Wrap (15 mil) vapor barrier by Stego Industries. The vapor barrier to be place above the approved granular fill and immediately beneath the concrete slab.

REINFORCEMENT: comply with the following minimum requirements:

- 1. Reinforcing bars: ASTM A615, Grade 60, deformed bars for #3 and larger reinforcing.
- 2. Welded wire fabric: ASTM A185.
- 3. Reinforcing bending: ACI 318.

Fabricate all reinforcement to the required shapes and dimensions, within the fabrication tolerances specified in the CRSI "Manual of Standard Practices".

Do NOT use reinforcement having any of the following defects:

- 1. Bar lengths, depths, or bends which exceed specified fabrication tolerances.
- 2. Bends or kinks not indicated on the drawings or required for this work.
- 3. Reinforcing bars with reduced cross-sectional area due to rust or other cause.

CONCRETE: comply with the following minimum requirements:

- 1. Fly ash is NOT PERMITTED in the concrete mix.
- 2. Concrete mixture with temperature at or above 95 degrees F – when delivered to site – shall be rejected.
- 3. Fiber reinforcement (including glass fibers, polymeric fibers, steel fibers, asbestos fibers, carbon fibers, and natural fibers, etc.) is NOT PERMITTED in the concrete mix.
- 4. Interior concrete is NOT PERMITTED to receive air entrainment.

All above noted items, 1-4, are to meet Canadian Ready Mix and CSA Standards.

CONCRETE CURING COMPOUND OR SHEET MATERIALS:

- 1. **Sheet Material:** Sheet membrane curing materials: A naturally colored, non-woven polypropylene fabric with a 4-mil non perforated reflective (white) polyethylene coating stabilizers to resist degradation and ultraviolet light, Fabric shall exhibit low permeability and high moisture retention. Similar and equal in quality to a Hydracure by PNA Construction Technologies, Inc. , Mathews, NC (Web site : www.pna-inc.com) (800-542-0214) or Transguard 4000 by Reef Industries (Armorion Division), Incorporated, Houston, TX (Website: www.reefindustries.com, voice 800-231-6074).

JOINTS:

- 1. Construction and Contraction (Control) Joints: Provide saw-cut joints in slab or butt construction joints. Maximum joint spacing shall be 12' x 12'.
- 2. Expansion Joints: Expansion joints around columns to be keep as tight as possible.

CONCRETE FINISHES:

- 1. All finishes must be true to line and free of defects and blemishes. Troweled finish floors shall not be below FF35/FL30. The maximum curl shall be 3/16" in the last four feet to a construction or contraction joint. Any finished concrete slabs that contain defects exceeding these tolerances shall be replaced at Contractor's expense. No dryers, dry cement, nor cement sand mixture

shall be used in conjunction with any finish surfaces to absorb water, stiffen mix or for any other purpose.

- 2. **Hard Steel-Troweled Finish:** The surface shall first be float-finished. It shall then power-troweled at least twice to a smooth dense finish. The first troweling after power-floating shall produce a smooth surface which is relatively free of defects but which may still show some trowel marks. Additional troweling(s) shall be done so that the finished surface shall be free of defects such as any and all trowel marks, chattering marks and produce a uniform texture and appearance. If the surface contains any defects of sufficient magnitude and can't be removed by grinding, then the slab shall be replaced at Contractor's expense.

LEAVE-OUT

- 1. Landlord shall provide a "Leave Out" section of concrete slab, approximately 500 sf to allow Tenant to construct its required mezzanine office core as depicted on Tenant's Plans. Tenant shall complete the "Leave Out" section of the concrete slab.
- C. **Automatic Doors** – Landlord to provide Stanley's Dura Glide 3000, 14' wide, bi-part, door assembly, full breakout package. Doors should have Schlage cylinders to accept Schlage core. Doors to have integral emergency exit hardware with no thumb turn locks. Stanley Contact: Darren Mattson 860-409-6570. This provision shall apply to exterior doors only. **The location of doors to will be as shown on Exhibit D-1. Size of the Tenant's exterior sliding door system package shall be 7'-8" high (sliding doors are 7' high) as depicted on sheet A3.2 of the Tenant's 1.2007 Prototype documents.**
- D. **Storefront** – Landlord to provide a storefront and glazing to be in compliance with Exterior Elevations (Exhibit D-1) Landlord to structurally design the storefront system. Tenant's storefront finish to be clear anodized. Provide tempered glass at all doors and adjacent sidelights. **The installation for this specified work shall be competed with-in 90 (Ninety) days of lease execution.**
- E. **Loading Dock** – Existing loading dock to receive new 8' x 10' sectional door at the out side position with dock hood. The Existing 6' x 6' dock leveler is to be replaced with a new 7' wide x 8' deep platform, 25,000 lb Hydraulic dock leveler (Kelly Model # BBB-DL-3-C). The new Sectional dock door, hood and dock leveler is to be purchased through our National Account Vendor; Miner Fleet Management /Trey Roeder 888-606-4637 x 216, No substitutions. At interior of building, at Landlord's sole expense, Landlord is responsible to modify existing layout in compliance with new loading dock and receiving area design as depicted on Exhibit B. Work to be done shall be, but not limited to, all partitions as shown in the detailed blow-up on Exhibit B. **The installation for this specified work shall be competed with-in 60 (sixty) days of lease execution.**
- F. **Compactor Door** – Landlord to enclose the existing opening where the current, existing end position location, 8' x 10' dock door with CMU construction. Provide an opening in the new wall measuring 3'-8" x 3'-8" and metal door 3'-4" x 3'-4" for the compactor. The door is to be located 3'-6" aff. Provide the following hardware: Lockset: Falcon T411 BD B 26D institutional function, Closer: Doromatic SC71 RW/PA AL and Glynn Johnson 454F US32D overhead stop. Door should have weather-stripping and silencers. Provide bollards so container is protected. Door and bollard location are as shown on Exhibit D-1. **The installation for this specified work shall be competed with-in 60 (sixty) days of lease execution.**
- G. **Roofing** –**A new Roof System is already installed** and Landlord is to provide a 15 year warranty for this system. All Tenant's work which requires penetration(s) or modifications to Landlord's roof shall be performed by Tenant using Landlord's specified roofing subcontractor so as not to void the warranty at Tenant's expense.
- H. **Exit Doors** – Doors to be painted. If additional exit doors are required based on code analysis of Tenant's fixture plan, then Landlord to install exit door with hardware. Provide any necessary steps, ramps and railings for the exit door as required per code. Landlord shall install exterior lighting. Lighting at exit doors shall only be provided as required by the Local Authority. Doors and hardware for exit door and receiving door to be purchase through Tenant's National Account Vendor – Girtman & Associates Contact: Amy Baker 615-350-6000 x 29.
- I. **Entry Element** - Landlord shall provide Tenant with an entry element feature as shown on Exhibit D-1. **The installation for this specified work shall be competed with-in 90 (Ninety) days of lease execution.**
- J. **Insulation** – Exterior walls to have a minimum insulation value of **R-20** and roof to have a minimum insulation value of **R-22.5**.

Utilities

- A. Landlord shall split all existing utilities including installation of separate meters and stub utilities to Tenant's Premises at **locations that will be coordinated with Tenant's Plans.**
- B. All existing/new electric, gas, water (fire and domestic), sanitary and phone utilities (split to the premises) shall be in good working order and of sufficient size, capacity and pressure as defined below:
Fire Protection Requirements:
 - 1. Provide a minimum (1) 8" Fire Suppression Water Service Line providing a density of .49/2000 complying with NFPA 231-C and NFPA 13 , which will allow for (high pile solid shelf storage) for class I-IV commodities, solid shelves, min. 4 foot wide aisles and to stock merchandise up to least 16'-6". **If the existing Service will not allow Tenant to Stock to 16'-6", tenant will then stock to 15' utilizing the service that is currently in place. If pressure is inadequate to allow Tenant to stock to the height of 15' and system cannot be designed to properly function**

without incorporating a fire pump, then Landlord shall supply and install a Fire Pump within a space outside the Premises at Landlord's sole cost and expense. Landlord shall maintain the Fire Pump for the full term of the Lease without any cost to Tenant. Landlord shall, without any cost to Tenant and for the full term of the Lease, routinely inspect, test and maintain the Fire pump in accordance with NFPA 25, Standard for the Inspection, Testing and Maintenance of Water – based Fire Protection Systems (Chapter 5 of 1998 Edition). If it is determined that the Landlord is required to install a fire pump then this said scope of work shall not be a Delivery Date condition but that the Landlord must be completed a minimum of four (4) weeks prior to Tenant's Fixture Date.

Mechanical Requirements:

1. Landlord to provide HVAC equipment sized for a minimum of 350 sf / ton of cooling. The office core area to receive a dedicated 5 ton unit. The HVAC system shall also be designed to maintain an inside temperature of 74 degrees Fahrenheit at 50% RH in the cooling mode and 68 degrees Fahrenheit for heating on a design day for the specific geographical area. Roof top units shall be electric cooling / gas heating as manufactured by Lennox Industries Inc., L-Series High Efficiency Model. No other manufacturer may be substituted. Roof top units must be order through our National Account Vendor Lennox contact # 800-628-5289
2. The following accessories are required on all units: economizers, power exhaust dampers, smoke detectors in the return, disconnect switches, Novar 2051 modules, high heat, R410A refrigerant and 115V GFI outlets.
3. Landlord shall connect the gas lines to all HVAC units.
4. Landlord will provide properly flashed curbs in areas designated on tenant's roof plan for the rooftop HVAC units.
5. **NA**
6. Gas meter is set. Landlord shall establish utility account and Tenant shall transfer into Tenant's name at time of Substantial Completion.
7. At the time Tenant turns on the HVAC units, Landlord to be present to make sure that the units are functional. If there's any defects at this time, than Landlord to repair units within 15 days. Also at this time Landlord to complete and provide Tenant delivery of the Lennox recommended Equipment Operation Check (EOC).
8. Landlord to provide any screening of the rooftop HVAC units that may be required by the City, at Landlord's expense.
9. Main supply and return duct stubs supplied to 36 inch below roof deck and open ended.

Plumbing Requirements:

1. Provide 2" water service located with Tenant's Premises.
2. 6" plugged sanitary line with clean-outs brought to the front of the Premises, final termination as shown on Exhibit B. The Sanitary gravity line to have a minimum 1% slope.
3. Provide minimum gas equal to or greater than 2 PSI or as necessary to meet the heating load requirements of the Tenant's specified RTUs.

Electrical Requirements:

1. Electrical requirements shall be a fully rated 400 amps 347/600 volts (existing service provides only a rated 320 amp service at 347/600 Volts).

Landlord is to replace existing switch rates at 80% with a fully rated 100% switch to achieve the required 400 amp service. The installation for this specified work shall be competed with-in 60 (sixty) days of lease execution.
2. Supply and setting of electric meter(s). Tenant to be responsible to change over name of utility account(s) into Tenant's name at time of Tenant's Substantial Completion.

- 3. Telephone conduit with pull string for main service stubbed to Premises to phone board located on rear wall next to electrical distribution panel, typical tenant requirement is for ten separate incoming phone lines. Conduit size to be 4 inches in diameter.
- 4. All exterior automatic entry doors at vestibule shall be wired to a junction box within 10 feet of the vestibule. Temporary power to be provided for setup and testing of doors. Tenant to make necessary final connections to Tenant's panel.
- 5. Fire Alarm System – Fire alarm system within the Premises to be designed, furnished and installed by Tenant. **Landlord to provide conduit, with pull string, from Tenant's Premises to existing Shopping Center's Fire Alarm Control Panel.**
- 6. Tenant shall provide power to existing HVAC units, by connecting to J-boxes below the roof deck to be installed by the Landlord.

Partitions

- A. Landlord shall construct the demising partitions as shall be necessary to separate the Premises from the balance of the building which contains the Premises in substantial accordance with Tenant's floor plan. Partition to be placed from top of existing slab to the underside of the existing metal roof deck. Provide minimum R-7 sound attenuation insulation from top side of existing concrete slab to the underside of the existing roof structure over the entire length of the demising wall. Such demising walls and partitions shall taped, bedded and sanded smooth, and in a condition ready for final finish to be applied by Tenant. Landlord shall insure that the demising walls and partitions meet or exceed all applicable fire codes and insurance regulations. Landlord is responsible for modification of existing sprinkler system due to installation of demising partitions. Landlord shall allow Tenant to further modify sprinkler system in order to accommodate Tenant's specific storage requirements.

Construction Schedule

- A. Landlord to complete the Floor Slab within 30 days **after Lease execution.**
- B. Compactor Door and Loading area modifications (as depicted on Exhibit B), to be completed within 60 (sixty) days **after Lease Execution.**
- C. Storefront Glazing , Entry System, Exterior Front and Rear façade modification and finishes to be completed within 90 (Ninety) days after Lease execution (it being the intent of the parties that Landlord commence seeking approval immediately after the effective date of this Lease).

Tenant's Work

Tenant's Work will be consistent with Tenant's Plans and Tenant's Prototype Drawings and Specification

- A. Tenant's Plans consist of the following: FIXTURE PLAN (F1); FLOOR FINISH PLANS, NOTES AND DETAILS (F2); POWER/SPECIALTY LIGHTING PLANS AND NOTES (F3); LIGHTING PLANS AND NOTES (F4); HIGH PILE STORAGE PLAN (F5) and additional F-drawings as may be required to address atypical site-specific conditions. Tenant's Plans are project-specific design-development documents. In the event of a conflict between Tenant's Plans and "Tenant's Prototype Drawings and Specifications"(defined below), then Tenant's Plans shall govern and prevail.
- B. Tenant's Prototype Drawings and Specifications entitled "Bed Bath & Beyond Prototype Drawings and Specifications – version 1.2007, dated 03-01-07 developed by Casco Architects, comprise the following drawings and specifications:

<u>SHEET #</u>	<u>DRAWING TITLE</u>	<u>CURRENT ISSUE</u>	<u>DRAWING DATE</u>
A0.1	Code Data, Project Data and Responsibility Schedule	Prototype Version 1.2007	03/01/07
A0.2	Generic Site Requirements Plan	Prototype Version 1.2007	03/01/07
A1.1	Site Details	Prototype Version 1.2007	03/01/07
A1.2	N/A	Prototype Version 1.2007	03/01/07
A2.1	Store Fixture/Egress Path Plan & Notes	Prototype Version 1.2007	03/01/07
A2.2	Floor Plan	Prototype Version 1.2007	03/01/07
A2.3	Floor Finish Plans	Prototype Version 1.2007	03/01/07
A2.4	Reflected Ceiling Plans & Notes	Prototype Version 1.2007	03/01/07
A2.5	Roof Plan, Details & Notes	Prototype Version 1.2007	03/01/07
A3.1	Finish Schedule, Storefront Types	Prototype Version 1.2007	03/01/07

	& Vestibule Elevations		
A3.2	Door Hardware, Door Schedules & Door Types	Prototype Version 1.2007	03/01/07
A3.3	BBB National Account Vendors & Specified Manufactures w/ Distribution Schedule	Prototype Version 1.2007	03/01/07
A4.1	Exterior Elevations	Prototype Version 1.2007	03/01/07
A5.1	Building Sections, Interior Wall Sections	Prototype Version 1.2007	03/01/07
A5.2	N/A	Prototype Version 1.2007	03/01/07
A5.3	N/A	Prototype Version 1.2007	03/01/07
A5.4	N/A	Prototype Version 1.2007	03/01/07
A5.5	Interior Wall Sections	Prototype Version 1.2007	03/01/07
A5.6	N/A	Prototype Version 1.2007	03/01/07
A6.1	Exterior Details	Prototype Version 1.2007	03/01/07
A6.2	Interior and Exterior Details	Prototype Version 1.2007	03/01/07
A6.3	Slatwall Details	Prototype Version 1.2007	03/01/07
A7.1	Large Scale Plans	Prototype Version 1.2007	03/01/07
A7.2	Large Scale Plans & Partition Types	Prototype Version 1.2007	03/01/07
A8.1	Interior Details	Prototype Version 1.2007	03/01/07
A8.2	Interior Details	Prototype Version 1.2007	03/01/07
A8.3	Customer Service Desk	Prototype Version 1.2007	03/01/07
A8.4	Register Bays and Remote Service Desks	Prototype Version 1.2007	03/01/07
A9.1	Interior Elevations	Prototype Version 1.2007	03/01/07
A9.3	Alternate Plans, Elevations & Details	Prototype Version 1.2007	03/01/07
A9.4	FTG Fixture Plan & Vendor Responsibility Schedule	Prototype Version 1.2007	03/01/07
A9.5a	N/A	Prototype Version 1.2007	03/01/07
A9.5b	N/A	Prototype Version 1.2007	03/01/07
A9.6a	(Alternate) - Awning Elevations & Details	Prototype Version 1.2007	03/01/07
A9.6b	(Alternate) - Awning Details	Prototype Version 1.2007	03/01/07
A9.6c	(Alternate) - Awning Wall Sections	Prototype Version 1.2007	03/01/07
HP1.1	High Pile Storage Plan & Fixture-Shelf Details	Prototype Version 1.2007	03/01/07
S1.1	Structural General Information & Typical Details	Prototype Version 1.2007	03/01/07
S2.1	N/A	Prototype Version 1.2007	03/01/07
S2.2	N/A	Prototype Version 1.2007	03/01/07
S3.1	N/A	Prototype Version 1.2007	03/01/07
S3.2	N/A	Prototype Version 1.2007	03/01/07
P1.1	Plumbing Riser Diagrams and Fixture Schedule	Prototype Version 1.2007	03/01/07
P2.1	Plumbing Floor Plan	Prototype Version 1.2007	03/01/07
P3.1	Plumbing Enlarged Plans & Details	Prototype Version 1.2007	03/01/07
FP1.0	Fire Sprinkler Plans & Details	Prototype Version 1.2007	03/01/07
FP1.1	Fire Sprinkler Notes and Details	Prototype Version 1.2007	03/01/07
FA1.0a	Fire Alarm Plans & Notes Base System	Prototype Version 1.2007	03/01/07
FA1.0b	(Alternate) Fire Alarm Plans & Notes – Occupant Notification	Prototype Version 1.2007	03/01/07
FA1.0c	(Alternate) Fire Alarm Plans & Notes – Full Smoke Detection	Prototype Version 1.2007	03/01/07
FA1.1a	Fire Alarm Details – Base System	Prototype Version 1.2007	03/01/07
FA1.1b	(Alternate) Fire Alarm Details – Occupant Notification	Prototype Version 1.2007	03/01/07
FA1.1c	(Alternate) Fire Alarm Details – Full Smoke Detection	Prototype Version 1.2007	03/01/07
FA1.2a	Fire Alarm Device Lists & Calcs - Base System	Prototype Version 1.2007	03/01/07
FA1.2b	(Alternate) Fire Alarm Device Lists & Calcs – Occupant Notification	Prototype Version 1.2007	03/01/07
FA1.2c	(Alternate) Fire Alarm Device Lists & Calcs – Full Smoke Detection	Prototype Version 1.2007	03/01/07
M1.1	Mechanical General Information	Prototype Version 1.2007	03/01/07
M2.1	Mechanical Floor Plan	Prototype Version 1.2007	03/01/07
M2.1a	(Alternate) Mechanical Floor Plan	Prototype Version 1.2007	03/01/07

M3.1	Mechanical Enlarged Plans & Details	Prototype Version 1.2007	03/01/07
M4.1	Mechanical Schedules & Details	Prototype Version 1.2007	03/01/07
		Prototype Version 1.2007	03/01/07
E1.1	Electrical General Information & Schedules	Prototype Version 1.2007	03/01/07
E2.1	Power Plan	Prototype Version 1.2007	03/01/07
E2.2	Lighting Layout Plan	Prototype Version 1.2007	03/01/07
E2.3	Lighting Circuiling Plan	Prototype Version 1.2007	03/01/07
E2.4	Specialty Lighting Plans & Diagrams	Prototype Version 1.2007	03/01/07
E2.5	Specialty Lighting Elevations	Prototype Version 1.2007	03/01/07
E3.1	Electrical Large Scale Plans & Details	Prototype Version 1.2007	03/01/07
E3.2	Lighting Sequencing	Prototype Version 1.2007	03/01/07
E3.3	Electrical Details	Prototype Version 1.2007	03/01/07
E4.1	Electrical Schedules	Prototype Version 1.2007	03/01/07
E4.2	Electrical Diagrams	Prototype Version 1.2007	03/01/07
E4.3	Power Wall Details, Security Details, Sign Schedule	Prototype Version 1.2007	03/01/07
E4.4	Novar Wiring Details	Prototype Version 1.2007	03/01/07
E4.4a	N/A	Prototype Version 1.2007	03/01/07
E4.5	ETM Details for Lennox RTU's	Prototype Version 1.2007	03/01/07
E4.5a	N/A	Prototype Version 1.2007	03/01/07
E5.1	FTG Power, Lighting, Specialty Lighting	Prototype Version 1.2007	03/01/07

Project Manual for Bed Bath & Beyond, dated March 1, 2007.

- F. Neither Tenant's Plans nor Tenant's Prototype Drawings and Specifications reflect the requirements of Governmental Authorities. The construction documents for this project will be designed to be in accordance with all Applicable Laws.

Building and Site Signs

- A. Building Sign -- Tenant to install Tenant identification sign on the premises as shown on Exhibit D-1.
- B. Pylon/Monument/Directional Signs – Landlord shall furnish and install pylon panels as shown on Exhibit D-2 to this Lease.
- C. Temporary Signs -- commencing on the effective date of the Lease, and continuing thereafter through the Commencement Date, Tenant shall install and maintain, for such duration as Tenant may desire, and in accordance with Exhibit D-2 to this Lease, a temporary banner bearing the phrase "Coming Soon" on the storefront of the Premises. Banners subjected to City approval.

Exhibit D-1

Exterior Elevations of Premises and Sidewalk Plan

Exhibit D-2

Exterior Elevations of the Shopping Center

Exhibit E

Permitted Encumbrances

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

04256-0646 (LT)

SUBJECT TO PRESERVATION IN CROWN GRANT



Ontario

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Services

PROPERTY DESCRIPTION:

BLOCK 10, PLAN 481383, OTTAWA. S/T AN EASEMENT IN FAVOUR OF NITRO OTTAWA OVER PARTS 2 AND 3 OF PLAN 481735 AS IS OT5757. S/T AN EASEMENT/RIGHT OF WAY
 IN FAVOUR OF EABL TROTTER AND 14146714 OTTAWA INC OVER PART 1 OF PLAN 481735 AS IN N571548. S/T AN EASEMENT IN FAVOUR OF NITRO ONE NETWORKS INC OVER
 PART 3 PLAN 481711 AS IN CT142155. S/T AN EASEMENT IN FAVOUR OF NITRO OTTAWA OVER PARTS 2 TO 4 PLAN 481714 AS IN CT191406. T/N AN EASEMENT OVER
 PART 1 OF PLAN 582060 AS IN M478485.

PROPERTY RECORDS:

ESTATE/QUALIFIER:
PER SIMPLE
ABSOLUTE

RECEIPT:

RECEIVED:
TELETYPE DIVISION FROM 04256-0636

CAPACITY SHARE

COMPANY NAME	TELEPHONE
1914514 ONTARIO INC.	
1661321 ONTARIO INC.	

AGOSTINE, BATER, POLONIN -

LOD. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CITY/CHCD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (UNLISTED INSTRUMENTS NOT INCLUDED) **						
OTS757	1951/08/16	AGREEMENT			CORPORATION OF THE CITY OF OTTAWA HYDRO ELECTRIC COMMISSION OF THE CITY OF OTTAWA	C
REMARKS: AND EASEMENT (ENTERED 2 JAN 1999)						
CTL14215E	1969/12/05	TRANSFER BASEMENT			THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO	C
CTS191806	1974/05/02	TRANSFER BASEMENT			THE HYDRO ELECTRIC COMMISSION OF THE CITY OF OTTAWA	C
4M1283	2005/11/24	PLAN SUBDIVISION				C
OCS37419	2005/11/24	MO GUN AGREEMENT		CITY OF OTTAWA	1414612 ONTARIO INC. 1414614 ONTARIO INC. 1258816 ONTARIO INC. 1258815 ONTARIO INC. 1278314 ONTARIO INC. 1394683 ONTARIO INC. 1135029 ONTARIO INC. 1301986 ONTARIO INC.	C
OCS52701	2006/01/10	APL CH NAME OWNER		1258816 ONTARIO INC.	1663321 ONTARIO INC.	C
OCS52702	2006/01/10	APL CH NAME OWNER		1258815 ONTARIO INC.	1663321 ONTARIO INC.	C
OCS55299	2006/01/18	NOTICE	\$1	1663321 ONTARIO INC. 1414614 ONTARIO INC. 1414612 ONTARIO INC. 1394683 ONTARIO INC. MAL-MAST CANADA CORP.	MAL-MAST CANADA CORP.	C
	2006/08/23	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC.	C

01/71 NOTICES 31 JUL 71 OF OFFICIALS

NOTE: ADDITIONAL PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DISCREPANCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY. INCLUDE BUILDING ROOM NUMBER, STATE THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PILED THEM ALL UP.

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIBITIVE INCONSISTENCIES, IF ANY, THAT MAY AFFECT THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PricED THEM ALL UP.

PAGE 2 OF 2
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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

01255-0546 (LTV)
SUBJECT TO RESERVATIONS IN CROWN GRANT

Ontario
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LAND REGISTRY OFFICE #4

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	COPY/ CURED
OC616898	2006/08/11	NOTICE		\$1 CITY OF OTTAWA	1414614 ONTARIO INC.	C
OC669198	2006/12/11	NOTICE OF LEASE		LA SENEA INC.	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC694498	2007/03/07	LA'S ORDER REMARKS: ASSIGNING TRIBUTARY DESCRIPTION		LAND REGISTRAR		C
OC696138	2007/03/14	CURSE	\$49,000,000	1414614 ONTARIO INC. 1663321 ONTARIO INC.	BANK OF MONTREAL	C
OC696139	2007/03/14	NO ASSIGNMENT DEM REMARKS: OC696138		1414614 ONTARIO INC. 1663321 ONTARIO INC.	BANK OF MONTREAL	C
OC703888	2007/04/04	NOTICE OF LEASE		REITHMANS (CANADA) LIMITED	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC703890	2007/04/04	NOTICE OF LEASE		REITHMANS (CANADA) LIMITED	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC703892	2007/04/04	NOTICE OF LEASE		REITHMANS (CANADA) LIMITED	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC765800	2007/09/07	NOTICE		\$1 CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC765801	2007/09/07	NOTICE		\$1 CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC765802	2007/09/07	NOTICE		\$1 CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

04256-0647 (LIT)

SUBJECT TO RESERVATIONS IN CROWN GRANT

PAGE 1 OF 2
PREPARED FOR PUBLIC
ON 2007/10/04 AT 14:55:35

PROPERTY DESCRIPTION:

BLOCK 11, PLAN 4M1281, OTTAWA. 5/7 AN EASEMENT IN FAVOUR OF HYDRO ONE NETWORKS INC OVER PART 2 PLAN 4M1215E, 9/7 AN EASEMENT IN FAVOUR OF HYDRO OTTAWA OVER PART 2 PLAN 4M1215E, 7/7 AN EASEMENT OVER PART 8 PLAN 5M12050 AS IN R478445. SUBJECT TO AN EASEMENT IN FAVOUR OF THE OWNERS OF BLOCK 12 ON 4M-1283 OVER BLOCK 11 ON 4M-1283 AS IN OCS55300.

PROPERTY FEATURES:

SUBJECT TO, ON SEPTEMBER 26, 2001, SUBSECTION 44(1) OF THE LAND TITULATURE EXCEPT PROGRAMS 3 AND 14 AND PROVINCIAL SUCCESSION DUTIES.

ESTATE/QUALIFIER:

RECENTLY:
SUBDIVISION FROM 04256-0636

FOR SIMPLE

ABSOLUTE

OWNERS' NAMES

1663321 ONTARIO INC.

CAPACITY

SHARE

PIN CREATION DATE:
2005/12/05

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHRD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED LASTMENTS NOT INCLUDED) **						
CT114215E	1969/12/05	TRANSFER EASEMENT			THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO	C
CT191806	1974/05/02	TRANSFER EASEMENT			THE HYDRO ELECTRIC COMMISSION OF THE CITY OF OTTAWA	C
4M1283	2005/11/24	PLAN SUBDIVISION		CITY OF OTTAWA		C
OCS37419	2005/11/24	MO SUB AGREEMENT				C
OCS51184	2006/01/04	LP'S ORDER REPLACES: AMENDS THURMALL DESCRIPTION		LAND REGISTAR		C
4R20821	2006/01/04	PLAN REFERENCE				C
OCS52700	2006/01/10	APL CH NAME OWNER		1274314 ONTARIO INC.	1663321 ONTARIO INC.	C
OCS52701	2006/01/10	APL CH NAME OWNER		1254815 ONTARIO INC.	1663321 ONTARIO INC.	C
OCS52702	2006/01/10	APL CH NAME OWNER		1254815 ONTARIO INC.	1663321 ONTARIO INC.	C
OCS53703	2006/01/13	APL (GENERAL) REPLACES: DELETING NS217104		NATIONAL CAPITAL COMMISSION		C
OCS55299	2006/01/18	NOTICE		1663321 ONTARIO INC.	1663321 ONTARIO INC.	C

1663321 ONTARIO INC.

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PARTIAL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

04256-0647 (LT)

PAGE 2 OF 2
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ON 2007/10/04 AT 14:58:35

SUBJECT TO RESERVATIONS IN CROWN GRANT

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CDED
OC555100	2006/01/18	TRANSFER EASEMENT		1414614 ONTARIO INC. 1414612 ONTARIO INC. 1394683 ONTARIO INC. MAL-MART CANADA CORP.	MAL-MART CANADA CORP.	C
OC524897	2006/08/11	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC524898	2006/08/11	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC569398	2006/12/11	NOTICE OF LEASE		LA SEPTA INC.	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC596138	2007/03/14	CHARGE	\$40,000,000	1414614 ONTARIO INC. 1663321 ONTARIO INC.	BANK OF MONTREAL	C
OC596139	2007/03/14	NO ASSIGN REPT GEN		1414614 ONTARIO INC. 1663321 ONTARIO INC.	BANK OF MONTREAL	C
OC703888	2007/04/04	NOTICE OF LEASE		REITHANS (CANADA) LIMITED	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC703890	2007/04/04	NOTICE OF LEASE		REITHANS (CANADA) LIMITED	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC703891	2007/04/04	NOTICE OF LEASE		REITHANS (CANADA) LIMITED	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC769800	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC769801	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC769802	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C

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40/15



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PACCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

04256-0648 (L)

SUBJECT TO RESERVATIONS IN CROWN GRANT

PAGE 1 OF 2
PREPARED FOR P55dca01
ON 2007/10/04 AT 14:55:59

PROPERTY DESCRIPTION: BLOCK 12, PLAN 481282, OTTAWA, S/T AN EASEMENT AS IN DT37427, S/T AN EASEMENT OVER PART 3 PLAN 481714 AND PART 3 ON PLAN 481717 AS IN CT114115E, S/T AN EASEMENT OVER PART 3 PLAN 481714 AND PART 3 PLAN 481717 AS IN CT131806, T/M AN EASEMENT OVER PART 8 PLAN 5812060 AS IN M698485.

PROPERTY REMARKS: SUBJECT TO, ON SEPTEMBER 26, 2001, SUBSECTION 4(1) OF THE LAND TITLES ACT EXCEPT PARAGRAPHS 3 AND 14 AND PROVINCIAL SUCCESSION DUTIES.

ESTATE/QUALIFIER:
PFI SIMPLE
ABSOLUTE

RECENTLY:
SUBDIVISION FROM 04256-0636

FIN CREATION DATE:
2005/12/05

OWNERS' NAMES
1663321 ONTARIO INC.

CAPACITY SHARE

REG. NO.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHSD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (RELATED INSTRUMENTS NOT INCLUDED) **						
DT37427	1955/09/04	AGREEMENT			THE CORPORATION OF THE CITY OF OTTAWA THE HYDRO ELECTRIC COMMISSION OF THE CITY OF OTTAWA THE BELL TELEPHONE CO. OF CANADA	C
REMARKS: EASEMENT; SEE L7669176						
CT1142158	1965/12/05	TRANSFER EASEMENT			THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO	C
CT191806	1974/05/02	TRANSFER EASEMENT			THE HYDRO ELECTRIC COMMISSION OF THE CITY OF OTTAWA	C
481283	2005/11/24	PLAN SUBDIVISION		CITY OF OTTAWA		C
OCS17419	2005/11/24	NO SUB AGREEMENT			1414612 ONTARIO INC. 1414614 ONTARIO INC. 1258815 ONTARIO INC. 1278314 ONTARIO INC. 1394683 ONTARIO INC. 1135029 ONTARIO INC. 1301986 ONTARIO INC.	C
4820821	2006/01/04	PLAN REFERENCE				C
OCS51700	2006/01/10	APL ON NAME OWNER		1378314 ONTARIO INC.	1663321 ONTARIO INC.	C
OCS52701	2006/01/10	APL ON NAME OWNER		1258815 ONTARIO INC.	1663321 ONTARIO INC.	C
OCS52702	2006/01/10	APL ON NAME OWNER		1258815 ONTARIO INC.	1663321 ONTARIO INC.	C
OCS55299	2006/01/18	NOTICE	51	1663321 ONTARIO INC. 1414614 ONTARIO INC. 1414612 ONTARIO INC. 1394683 ONTARIO INC.	WAL-MART CANADA CORP.	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 2 OF 2
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04256-0618 (LT)

SUBJECT TO RESERVATIONS IN CROWN GRANT

REQ. NBR.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHGD
OC526897	2006/08/11	NOTICE		WAL-MART CANADA CORP.	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC526898	2006/08/11	NOTICE		CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC569198	2006/12/11	NOTICE OF LEASE		LA SENZA INC.	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
4821745	2007/02/05	PLAN REFERENCE				C
OC596136	2007/01/14	CHARGE	\$40,000.000	1414614 ONTARIO INC. 1663321 ONTARIO INC.	BANK OF MONTREAL	C
OC596139	2007/01/14	NO ASSESS RENT CHG		1414614 ONTARIO INC. 1663321 ONTARIO INC.	BANK OF MONTREAL	C
REMARKS: OC596139						
OC703888	2007/04/04	NOTICE OF LEASE		REITMANS (CANADA) LIMITED	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC703890	2007/04/04	NOTICE OF LEASE		REITMANS (CANADA) LIMITED	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC703892	2007/04/04	NOTICE OF LEASE		REITMANS (CANADA) LIMITED	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC769809	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC769801	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC769802	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C

NOTE: ALIENING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

04256-0649 (LT)

SUBJECT TO RESERVATIONS IN CROWN GRANT

PAGE 1 OF 2
PREPARED FOR: 04256-0649
ON 2007/10/04 AT 14:56:19

PROPERTY DESCRIPTION:

BLOCK 13, PLAN 481283, OTTAWA, S/4 AN EASEMENT OVER PART 3 PLAN 481735 AS IN OT5757, S/4 AN EASEMENT OVER PART 5 PLAN 481735 AS IN OT54388, S/4 AN EASEMENT OVER PART 6 PLAN 481735 AS IN CT1142158, S/4 AN EASEMENT IN FAVOUR OF HYDRO ONE SERVICES INC. AS IN U11385426, T/4 AN EASEMENT OVER PART 8 PLAN 5812060 AS IN 847885, S/4 AN EASEMENT OVER PART 11 OF PLAN 481714 AS IN CT191806, SUBJECT TO AN EASEMENT IN FAVOUR OF BLOCK 22 PLAN 481283 OVER PARTS 3, 4, AND 5 PLAN 480920 AS IN OC530299.

PROPERTY REMARKS:

SUBJECT TO, ON SEPTEMBER 26, 2001, SUBSECTION 41(1) OF THE LAND TITLES ACT EXCEPT PARAGRAPHS 3 AND 14 AND PROVINCIAL SUCCESSION DUTIES.

ESTATE/QUALIFIER:

INDIVIDUAL:
SUBDIVISION FROM 04256-0616
3005/12/05

FOR SINGLE:

ABSOLUTE

CAPACITY:

SUBJECT

OWNER'S NAME:
1414614 ONTARIO INC.
1663321 ONTARIO INC.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CRED
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **						
OTS757	1951/08/16	AGREEMENT			CORPORATION OF THE CITY OF OTTAWA HYDRO ELECTRIC COMMISSION OF THE CITY OF OTTAWA	C
REMARKS: AND AGREEMENT (ENTERED 2 JUNE 1999)						
OT39164	1960/02/09	RELEASE				C
REMARKS: LICENSE						
OTS4308	1963/01/10	TRANSFER EASEMENT			THE EVIOLD ELECTRIC COMMISSION OF THE CITY OF OTTAWA	C
CT1142158	1969/12/05	TRANSFER EASEMENT			THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO	C
481283	2005/11/24	PLAN SUBDIVISION		CITY OF OTTAWA		C
OC537439	2005/11/24	NO SUB AGREEMENT			1414612 ONTARIO INC. 1414614 ONTARIO INC. 1258816 ONTARIO INC. 1258815 ONTARIO INC. 1278314 ONTARIO INC. 1194683 ONTARIO INC. 1135029 ONTARIO INC. 1301796 ONTARIO INC.	C
OC552701	2006/01/10	APL CH NAME ORDER		1258816 ONTARIO INC.	1663321 ONTARIO INC.	C
OC552702	2006/01/10	APL CH NAME ORDER		1258815 ONTARIO INC.	1663321 ONTARIO INC.	C
OC552735	2006/01/18	NOTICE	51	1663321 ONTARIO INC. 1414614 ONTARIO INC. 1414612 ONTARIO INC. 1394683 ONTARIO INC.	WAL-MART CANADA CORP.	C


NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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008/0/11

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

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PAGE 2 OF 2
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ON 2007/10/04 AT 14:56:19

04256-0649 (02)

SUBJECT TO RESERVATIONS IN CROWN GRANT

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ C/OED
4820920	2006/02/13	PLAN REFERENCE		WAL-MART CANADA CORP.		C
OC610299	2006/06/30	TRANSFER EASEMENT		1663321 ONTARIO INC. 3414614 ONTARIO INC. 3414614 ONTARIO INC.	WAL-MART CANADA CORP.	C
OC669396	2006/12/13	NOTICE OF LEASE		LA SEDEA INC.	1663321 ONTARIO INC. 3414614 ONTARIO INC.	C
OC762888	2007/04/04	NOTICE OF LEASE		REITMANS (CANADA) LIMITED	1663321 ONTARIO INC. 3414614 ONTARIO INC.	C
OC703850	2007/04/04	NOTICE OF LEASE		REITMANS (CANADA) LIMITED	1663321 ONTARIO INC. 3414614 ONTARIO INC.	C
OC703892	2007/04/04	NOTICE OF LEASE		REITMANS (CANADA) LIMITED	1663321 ONTARIO INC. 3414614 ONTARIO INC.	C
OC749600	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 3414614 ONTARIO INC.	C
OC762801	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 3414614 ONTARIO INC.	C
OC762802	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 3414614 ONTARIO INC.	C

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AUGUSTINE.BATER.POLWIN

10/04/2007 18:12 FAX 613 569 9522

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

04256-0659 (LT)

SUBJECT TO RESERVATIONS IN CROWN GRANT

PAGE 1 OF 3
PREPARED FOR ouimet01
ON 2008/05/05 AT 10:12:27

PROPERTY DESCRIPTION:

BLOCK 23, PLAN 4M1283, OTTAWA. S/T AN EASEMENT IN FAVOUR OF HYDRO ONE NETWORKS INC OVER PART 3 PLAN 4R17114 AS IN CT114215E. S/T AN EASEMENT IN FAVOUR OF HYDRO OTTAWA OVER PARTS 2 TO 4 PLAN 4R17114 AS IN CT191806.

PROPERTY REMARKS:

SUBJECT TO, ON SEPTEMBER 26, 2001, SUBSECTION 44(1) OF THE LAND TITLES ACT EXCEPT PARAGRAPHS 3 AND 14 AND PROVINCIAL SUCCESSION DUTIES.

ESTATE/QUALIFIER:

FEE SIMPLE
ABSOLUTE

PIN CREATION DATE:
2005/12/05

OWNERS' NAMES
1663321 ONTARIO INC.

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
** PRINTOUT	INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **					
CT114215E	1969/12/05	TRANSFER EASEMENT			THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO	C
CT191806	1974/05/02	TRANSFER EASEMENT			THE HYDRO ELECTRIC COMMISSION OF THE CITY OF OTTAWA	C
4M1283	2005/11/24	PLAN SUBDIVISION		CITY OF OTTAWA	1414612 ONTARIO INC. 1414614 ONTARIO INC. 1258816 ONTARIO INC. 1258815 ONTARIO INC. 1278314 ONTARIO INC. 1394683 ONTARIO INC. 1135029 ONTARIO INC. 1301986 ONTARIO INC.	C
OC537419	2005/11/24	NO SUB AGREEMENT				C
OC552702	2006/01/10	APL CH NAME OWNER		1258815 ONTARIO INC.	1663321 ONTARIO INC.	C
OC555299	2006/01/18	NOTICE	\$1	1663321 ONTARIO INC. 1414614 ONTARIO INC. 1414612 ONTARIO INC. 1394683 ONTARIO INC. WAL-MART CANADA CORP.	WAL-MART CANADA CORP.	C
OC669398	2006/12/11	NOTICE OF LEASE		LA SENZA INC.	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC703888	2007/04/04	NOTICE OF LEASE		REITMANS (CANADA) LIMITED	16633221 ONTARIO INC. 1414614 ONTARIO INC.	C
OC703890	2007/04/04	NOTICE OF LEASE		REITMANS (CANADA) LIMITED	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C

NOTE: JOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY. IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.



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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

04256-0659 (LT)

SUBJECT TO RESERVATIONS IN CROWN GRANT

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REG. NOM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
OC703892	2007/04/04	NOTICE OF LEASE		REITMANS (CANADA) LIMITED	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC769800	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC769801	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC769802	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC807852	2007/12/14	NOTICE OF LEASE		1414614 ONTARIO INC. 1663321 ONTARIO INC.	ESPRIT CANADA RETAIL LIMITED	C
OC820560	2008/01/31 REMARKS: OC669398 TO OC769800.	POSTPONEMENT		LA SENZA CORPORATION	CITY OF OTTAWA	C
OC820561	2008/01/31 REMARKS: OC669398 TO OC769802.	POSTPONEMENT		LA SENZA CORPORATION	CITY OF OTTAWA	C
OC820562	2008/01/31 REMARKS: OC669398 TO OC769801.	POSTPONEMENT		LA SENZA CORPORATION	CITY OF OTTAWA	C
OC820563	2008/01/31 REMARKS: OC703888 TO OC769800.	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820564	2008/01/31 REMARKS: OC703890 TO OC769801.	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820565	2008/01/31 REMARKS: OC703888 TO OC769801. ENTERED IN ERROR. THE CORRECT NOS. OC703892 POSTPONED TO OC769802.	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820566	2008/01/31 REMARKS: OC703888 TO OC769801.	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820567	2008/01/31 REMARKS: OC703888 TO OC769802.	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820568	2008/01/31 REMARKS: OC703890 TO OC769800.	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 3 OF 3
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04256-0659 (LT)

SUBJECT TO RESERVATIONS IN CROWN GRANT

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
OC820569	2008/01/31	POSTPONEMENT REMARKS: OC703890 TO OC769802.		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820570	2008/01/31	POSTPONEMENT REMARKS: OC703892 TO OC769800.		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820571	2008/01/31	POSTPONEMENT REMARKS: OC703892 TO OC769801.		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC828488	2008/02/29	NOTICE OF LEASE		1414614 ONTARIO INC. 1663321 ONTARIO INC.	DYNAMITE STORES INC.	C
OC831033	2008/03/10	NOTICE OF LEASE	\$2	1414614 ONTARIO INC. 1663321 ONTARIO INC.	TOWN SHOES LIMITED	C
OC832856	2008/03/17	POSTPONEMENT REMARKS: OC555299 TO OC769800.		WAL-MART CANADA CORP.	CITY OF OTTAWA	C
OC832857	2008/03/17	POSTPONEMENT REMARKS: OC555299 TO OC769801.		WAL-MART CANADA CORP.	CITY OF OTTAWA	C
OC832858	2008/03/17	POSTPONEMENT REMARKS: OC555299 TO OC769802.		WAL-MART CANADA CORP.	CITY OF OTTAWA	C
4R22819	2008/04/30	PLAN REFERENCE				
OC848524	2008/05/05	TRANSFER		1663321 ONTARIO INC.	1414614 ONTARIO INC.	C

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NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

04256-0668 (LT)

SUBJECT TO RESERVATIONS IN CROWN GRANT

PAGE 1 OF 4
PREPARED FOR ouimet01
ON 2008/05/06 AT 13:36:49

PROPERTY DESCRIPTION:

BLOCK 21 PLAN 4M1283, EXCEPT PART 1 PLAN 4R22264; OTTAWA, S/T AN EASEMENT IN FAVOUR OF HYDRO ONE NETWORKS INC OVER PART 3 PLAN 4R17114 AND PART 3 PLAN 4R17117 AS IN CT114215E. S/T AN EASEMENT IN FAVOUR OF HYDRO OTTAWA OVER PART 4 PLAN 4R17114 AND PART 3 PLAN 4R17117 AS IN CT191806. T/W AN EASEMENT OVER PART 8 PLAN 5R12060 AS IN N478485. T/W AN EASEMENT OVER BLOCK 11 PLAN 4M1283 AS IN OC848525.

PROPERTY REMARKS:

FOR THE PURPOSE OF THE QUALIFIER THE DATE OF REGISTRATION OF ABSOLUTE TITLE IS 2001/09/26.CORRECTION: INSTRUMENT NUMBER OC794683 WAS OMITTED FROM THIS PROPERTYIN ERROR AND WAS ADDED AND CERTIFIED ON 2007/12/07 BY MONICA WASAG.

ESTATE/QUALIFIER:
FEE SIMPLE
LT ABSOLUTE PLUS

RECENTLY:
DIVISION FROM 04256-0657

PIN CREATION DATE:
2007/11/20

OWNERS' NAMES
1414614 ONTARIO INC.

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
** PRINTOUT	INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **					
**SUBJECT TO SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT	PARAGRAPHS 3 AND 14 AND *					
** PROVINCIAL SUCCESSION DUTIES AND EXCEPT PARAGRAPH 11 AND ESCHEATS OR FORFEITURE **						
** TO THE CROWN UP TO THE DATE OF REGISTRATION WITH AN ABSOLUTE TITLE. **						
CT114215E	1969/12/05	TRANSFER EASEMENT		CITY OF OTTAWA	THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO	C
CT191806	1974/05/02	TRANSFER EASEMENT			THE HYDRO ELECTRIC COMMISSION OF THE CITY OF OTTAWA	C
4M1283	2005/11/24	PLAN SUBDIVISION				C
OC537419	2005/11/24	NO SUB AGREEMENT			1414612 ONTARIO INC. 1414614 ONTARIO INC. 1258816 ONTARIO INC. 1258815 ONTARIO INC. 1278314 ONTARIO INC. 1394683 ONTARIO INC. 1135029 ONTARIO INC. 1301986 ONTARIO INC.	C
4R20821	2006/01/04	PLAN REFERENCE				C
QC555299	2006/01/18	NOTICE	\$1	1663321 ONTARIO INC. 1414614 ONTARIO INC. 1414612 ONTARIO INC. 1394683 ONTARIO INC. WAL-MART CANADA CORP.	WAL-MART CANADA CORP.	C
OC626897	2006/08/11	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

04256-0668 (LT)

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SUBJECT TO RESERVATIONS IN CROWN GRANT

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
OC626898	2006/08/11	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC6669398	2006/12/11	NOTICE OF LEASE		LA SENZA INC.	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC696138	2007/03/14	CHARGE	\$40,000,000	1414614 ONTARIO INC. 1663321 ONTARIO INC.	BANK OF MONTREAL	C
OC696139	2007/03/14	NO ASSGN RENT GEN		1414614 ONTARIO INC. 1663321 ONTARIO INC.	BANK OF MONTREAL	C
REMARKS: OC696138						
OC703888	2007/04/04	NOTICE OF LEASE		REITMANS (CANADA) LIMITED	16633221 ONTARIO INC. 1414614 ONTARIO INC.	C
OC703890	2007/04/04	NOTICE OF LEASE		REITMANS (CANADA) LIMITED	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC703892	2007/04/04	NOTICE OF LEASE		REITMANS (CANADA) LIMITED	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC769800	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC769801	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC769802	2007/09/07	NOTICE	\$1	CITY OF OTTAWA	1663321 ONTARIO INC. 1414614 ONTARIO INC.	C
OC807852	2007/12/14	NOTICE OF LEASE		1414614 ONTARIO INC. 1663321 ONTARIO INC.	ESPRIT CANADA RETAIL LIMITED	C
OC820560	2008/01/31	POSTPONEMENT		LA SENZA CORPORATION	CITY OF OTTAWA	C
REMARKS: OC6669398 TO OC769800.						
OC820561	2008/01/31	POSTPONEMENT		LA SENZA CORPORATION	CITY OF OTTAWA	C
REMARKS: OC6669398 TO OC769802.						
OC820562	2008/01/31	POSTPONEMENT		LA SENZA CORPORATION	CITY OF OTTAWA	C
REMARKS: OC6669398 TO OC769801.						

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

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SUBJECT TO RESERVATIONS IN CROWN GRANT

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ON 2008/05/06 AT 13:36:49

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHRD
OC820563 REMARKS: OC703888 TO OC769800.	2008/01/31	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820564 REMARKS: OC703890 TO OC769801.	2008/01/31	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820565 REMARKS: OC703888 TO OC769801. ENTERED IN ERROR. THE CORRECT NOS. OC703892 POSTPONED TO OC769802.	2008/01/31	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820566 REMARKS: OC703888 TO OC769801.	2008/01/31	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820567 REMARKS: OC703888 TO OC769802.	2008/01/31	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820568 REMARKS: OC703890 TO OC769800.	2008/01/31	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820569 REMARKS: OC703890 TO OC769802.	2008/01/31	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820570 REMARKS: OC703892 TO OC769800.	2008/01/31	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC820571 REMARKS: OC703892 TO OC769801.	2008/01/31	POSTPONEMENT		REITMANS (CANADA) LIMITED	CITY OF OTTAWA	C
OC828488	2008/02/29	NOTICE OF LEASE		1414614 ONTARIO INC. 1663321 ONTARIO INC.	DYNAMITE STORES INC.	C
OC831033	2008/03/10	NOTICE OF LEASE	\$2	1414614 ONTARIO INC. 1663321 ONTARIO INC.	TOWN SHOES LIMITED	C
OC832854 REMARKS: OC555299 TO OC626897.	2008/03/17	POSTPONEMENT		WAL-MART CANADA CORP.	CITY OF OTTAWA	C
OC832855 REMARKS: OC555299 TO OC626898.	2008/03/17	POSTPONEMENT		WAL-MART CANADA CORP.	CITY OF OTTAWA	C
OC832857 REMARKS: OC555299 TO OC769801.	2008/03/17	POSTPONEMENT		WAL-MART CANADA CORP.	CITY OF OTTAWA	C

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

04256-0668 (LT)

SUBJECT TO RESERVATIONS IN CROWN GRANT

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PREPARED FOR ouimet01
ON 2008/05/06 AT 13:36:49

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERE/ CHRD
OC832858 REMARKS: OC555299 TO OC769802.	2008/03/17	POSTPONEMENT		WAL-MART CANADA CORP.	CITY OF OTTAWA	C
OC834202 REMARKS: OC696138 TO OC769800.	2008/03/20	POSTPONEMENT		BANK OF MONTREAL	CITY OF OTTAWA	C
OC834203 REMARKS: OC696138 TO OC769801.	2008/03/20	POSTPONEMENT		BANK OF MONTREAL	CITY OF OTTAWA	C
OC834204 REMARKS: OC696138 TO OC769802.	2008/03/20	POSTPONEMENT		BANK OF MONTREAL	CITY OF OTTAWA	C
OC848524	2008/05/05	TRANSFER		1663321 ONTARIO INC.	1414614 ONTARIO INC.	C

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NOTES: PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY. IF ANY INCONSISTENCIES ARE FOUND, THE USER SHOULD CONTACT THE LAND REGISTRY OFFICE. THIS PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP. IF YOU HAVE NOT, PLEASE CONTACT THE LAND REGISTRY OFFICE.

Exhibit F

Signage

Exhibit GForm of Subordination, Non-Disturbance and Attornment Agreement

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT, made as of the ____ day of _____, 200__, by and between Bank of Montreal, having an office at _____ (the "**Mortgagee**") and Bed Bath & Beyond of Canada Inc., having an office at 650 Liberty Avenue, Union, New Jersey 07083 (the "**Tenant**").

WITNESSETH:

WHEREAS, Mortgagee is the holder of a mortgage (the "**Mortgage**") covering a parcel of land owned by 1663321 ONTARIO INC. and 1414614 ONTARIO INC. (the "**Landlord**") together with the improvements [to be] erected thereon (said parcel of land and improvements thereon being hereinafter referred to as the "**Shopping Center**" and being more particularly described on Exhibit A attached hereto and made a part hereof); and

WHEREAS, by a certain Lease Agreement heretofore entered into between Landlord and Tenant dated as of _____ (the "**Lease**"), Landlord leased to Tenant a portion of the Shopping Center, as more particularly described in the Lease (the "**Premises**"); and

WHEREAS, a copy of the Lease has been delivered to Mortgagee, the receipt of which is hereby acknowledged; and

WHEREAS, as an inducement to Tenant to enter into the Lease, [Section 2.3.1/Section 17.3] thereof provides that the Lease is conditioned upon Landlord obtaining this Agreement from Mortgagee; and

WHEREAS, the parties desire to satisfy the foregoing condition and to provide for the non-disturbance of Tenant by the holder of the Mortgage; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereto, intending to be legally bound hereby, agree as follows:

7. Mortgagee hereby consents to and approves the Lease and the term thereof, including the options to extend the term as set forth in the Lease, and covenants and agrees that the exercise by Tenant of any of the rights, remedies and options therein contained shall not constitute a default under the Mortgage.

8. Tenant covenants and agrees with Mortgagee that the Lease hereby is made and shall continue hereafter to be subject and subordinate to the lien of the Mortgage, and to all modifications and extensions thereof (and such subordination shall not lessen or diminish Tenant's rights under the Lease), subject, however, to the provisions of this Agreement.

9. Mortgagee agrees that so long as the Lease shall be in full force and effect, and so long as Tenant shall not be in default under the Lease beyond any applicable notice and grace period:

Tenant shall not be named or joined as a party or otherwise in any suit, action or proceeding for the foreclosure of the Mortgage or to enforce any rights under the Mortgage or the bond or note or other obligation secured thereby;

The possession by Tenant of the Premises and Tenant's rights thereto shall not be disturbed, affected or impaired by, nor will the Lease or the term thereof be terminated or otherwise affected by (i) any suit, action or proceeding brought upon the Mortgage or the bond or note or other obligation secured thereby, or for the foreclosure of the Mortgage or the enforcement of any rights under the Mortgage, or by any judicial sale or execution or other sale of the Premises or the Shopping Center, or any deed given in lieu of foreclosure, or by the exercise of any other rights

given to any holder of the Mortgage or other documents as a matter of law, or (ii) any default under the Mortgage or the bond or note or other obligation secured thereby; and

All condemnation awards and insurance proceeds paid or payable with respect to the Premises or any other part of the Shopping Center shall be applied and paid in the manner set forth in the Lease.

10. If Mortgagee or any future holder of the Mortgage shall become the owner of the Shopping Center by reason of foreclosure of the Mortgage or otherwise, or if the Shopping Center shall be sold as a result of any action or proceeding to foreclose the Mortgage, or transfer of ownership by deed given in lieu of foreclosure, the Lease shall continue in full force and effect, without necessity for executing any new lease, as a direct lease between Tenant and the then owner of the Shopping Center, as "landlord", upon all of the same terms, covenants and provisions contained in the Lease, and in such event:

Tenant shall be bound to such new owner under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the Renewal Periods, if Tenant elects or has elected to exercise its options to extend the term) and Tenant hereby agrees to attorn to such new owner and to recognize such new owner as "landlord" under the Lease; and

Such new owner shall be bound to Tenant under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the Renewal Periods, if Tenant elects or has elected to exercise its options to extend the term) which such new owner hereby agrees to assume and perform and Tenant shall, from and after the date such new owner succeeds to the interest of "landlord" under the Lease, have the same remedies against such new owner for the breach of any covenant contained in the Lease that Tenant might have had under the Lease against Landlord if such new owner had not succeeded to the interest of "landlord"; provided, however, that such new owner shall not be:

liable for any act or omission of any prior landlord (including Landlord) unless such act or omission continues from and after the date upon which the new owner succeeds to the interest of such prior landlord and then only for such liability that arises from and after the date upon which the new owner succeeds to the prior interest;

subject to any defenses which Tenant may have against any prior landlord (including Landlord) unless resulting from any default or breach by such prior landlord which continues from and after the date upon which the new owner succeeds to the interest of such prior landlord and then only for such liability that arises from and after the date upon which the new owner succeeds to the prior interest;

subject to any offsets which Tenant may have against any prior landlord, except to the extent such offsets are expressly provided under the Lease and Mortgagee has received notice thereof and the opportunity to cure within the applicable time periods set forth in the Lease (it being further agreed that offsets under the Lease that were deducted by Tenant prior to the date upon which the new owner succeeds to the interest of such prior landlord shall not be subject to challenge);

bound by any fixed rent or additional rent which Tenant might have paid for more than one month in advance of its due date under the Lease to any prior landlord (including Landlord), unless such additional rent is paid in accordance with the applicable provisions of the Lease; or

bound by any amendment or modification of the Lease made without its consent; notwithstanding the foregoing, Mortgagee acknowledges that the Lease specifically provides for amendments thereof upon the occurrence of certain events described in the Lease (such as, for example, an amendment to the Lease confirming the measurement of the Premises), and, by its execution below, Mortgagee agrees to recognize such amendments as part of the Lease, and Mortgagee further agrees that such new owner shall also be bound by such amendment(s) to the Lease, without any consent on the part of Mortgagee or such new owner.

Tenant's obligations hereunder shall be effective only so long as Mortgagee is bound to Mortgagee's obligations hereunder.

11. Tenant will notify Mortgagee of any default by Landlord under the Lease which would entitle Tenant to terminate the Lease or abate the rent payable thereunder and agrees that notwithstanding any provision of the Lease, no notice of termination thereof nor any abatement shall be effective unless Mortgagee has received the aforesaid notice and has failed to cure the subject default within the same time period allowed Landlord under the Lease. It is understood that the abatement provisions of this Section relate to abatements by reason of Landlord's default and do not apply to provisions of the Lease whereby Tenant has the automatic right to abate rentals such as, for example, abatement upon casualty or condemnation.

12. Neither the Mortgage nor any other security instrument executed in connection therewith shall encumber or be construed as subjecting in any manner to the lien thereof, any trade fixtures, signs or other personal property at any time furnished or installed by or for Tenant or its subtenants or licensees on the aforementioned property regardless of the manner or mode of attachment thereof.

13. Any notices of communications given under this Agreement shall be in writing and shall be given by registered or certified mail, return receipt requested, or by any recognized overnight mail carrier, with proof of delivery slip, postage prepaid, (a) if to Mortgagee, at the address of Mortgagee as hereinabove set forth or at such other address or persons as Mortgagee may designate by notice in the manner herein set forth, or (b) if to Tenant, at the address of Tenant as hereinabove set forth, with duplicate copies to Allan N. Rauch, Esq., c/o Bed Bath & Beyond Inc., 650 Liberty Avenue, Union, New Jersey 07083, and Cory G. Sherman, Sherman Brown, Barristers & Solicitors, Suite 900, 5075 Yonge Street, Toronto, Ontario M2N 6C6, or such other address or persons as Tenant may designate by notice in the manner herein set forth. All notices given in accordance with the provisions of this Section shall be effective upon receipt (or refusal of receipt) at the address of the addressee.

14. This Agreement shall bind and inure to the benefit of and be binding upon and enforceable by the parties hereto and their respective successors, assigns, and sublessees.

15. This Agreement contains the entire agreement between the parties and cannot be changed, modified, waived or canceled except by an agreement in writing executed by the party against whom enforcement of such modification, change, waiver or cancellation is sought.

16. This Agreement and the covenants herein contained are intended to run with and bind all lands affected thereby.

IN WITNESS WHEREOF, the parties hereto have duly executed this Subordination, Non-Disturbance and Attornment Agreement as of the day and year first above written.

MORTGAGEE:

ATTEST:

BANK OF MONTREAL

By: _____
Name: _____
Title: (Assistant) Secretary

By: _____
Name: _____
Title: (Vice) President

[SEAL]

TENANT:

ATTEST:

BED BATH & BEYOND OF CANADA INC.

By: _____
Name: Alan M. Freeman
Title: (Assistant) Secretary

By: _____
Name: Warren Eisenberg
Title: Co-Chairman

[SEAL]

Exhibit H

Form of Recognition Agreement

THIS RECOGNITION AGREEMENT, made as of the ____ day of _____, 200__, by and between _____, a [_____] [**corporation**] [**limited**] [**general**] [**partnership**], having an address at _____ ("**Landlord**"); Bed Bath & Beyond of Canada Inc., a [_____] corporation, having an address at 650 Liberty Avenue, Union, New Jersey 07083 ("**Tenant**"); and _____, a [_____] [**corporation**] [**limited**] [**general**] [**partnership**], having an address at _____ ("**Subtenant**").

RECITALS:

- A. Landlord and Tenant have entered into a certain Lease Agreement (the "**Lease**") dated as of _____, 200__, a short form of which has been recorded in _____, which demises certain premises (the "**Premises**") located in the _____ Shopping Center, [**City**], [**State**], which Shopping Center is more particularly described on Exhibit A annexed hereto and made a part hereof.
- B. Section 15.5 of the Lease provides that in the event Tenant subleases all or a portion of the Premises for a term of at least five (5) years, Landlord shall, upon Tenant's request, execute and deliver a Recognition Agreement among Landlord, Tenant and each such subtenant in the form attached to the Lease, in recordable form.
- C. Pursuant to a Sublease dated as of _____ (the "**Sublease**"), Tenant has subleased [**a portion of**] the Premises to Subtenant (the "**Subleased Premises**").
- D. The parties hereto desire to effectuate the provisions of Section 15.5 of the Lease with respect to the Sublease and the Subleased Premises.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto, intending to be legally bound hereby, agree as follows:

17. Landlord warrants and represents as follows:
- that it is the fee owner of the Premises,
- that the Lease is unmodified (except as may be otherwise set forth in Exhibit B annexed hereto, if any) and is in full force and effect,
- that the term of the Lease expires on _____, but is subject to [three] renewal periods of [five] years each and
- that Tenant is not in default under the Lease nor has any event occurred which would after notice to Tenant and the passage of time become a default of Tenant under the Lease.
18. Landlord hereby acknowledges receipt of a copy of, and consents to and approves, the Sublease and all of the terms, covenants and provisions thereof, and agrees that the exercise by Subtenant of any of its rights, remedies and options contained therein shall not constitute a default under the Lease.
19. Landlord agrees that whenever it has an obligation with respect to the Premises, or its consent or approval is required for any action of Tenant under the Lease, then, to the extent such obligation, consent or approval relates to the Subleased Premises or Subtenant's use and occupation thereof, it will perform such obligation in accordance with the terms and conditions of the Lease, and, subject to the applicable terms of the Lease, will not unreasonably withhold or unduly delay such consent or approval.
20. Landlord shall not, in the exercise of any of the rights arising or which may arise out of the Lease or of any instrument modifying or amending the same or entered into in substitution or

replacement thereof (whether as a result of Tenant's default or otherwise), disturb or deprive Subtenant in or of its possession or its rights to possession of the Subleased Premises or of any right or privilege granted to or inuring to the benefit of Subtenant under the Sublease, provided that Subtenant is not in default under the Sublease beyond the expiration of any applicable notice and cure period.

21. In the event of the termination of the Lease by reentry, notice, conditional limitation, surrender, summary proceeding or other action or proceeding, or otherwise, or, if the Lease shall terminate or expire for any reason before any of the dates provided in the Sublease for the termination of the initial or renewal terms of the Sublease and if immediately prior to such surrender, termination or expiration the Sublease shall be in full force and effect, Subtenant shall not be made a party in any removal or eviction action or proceeding nor shall Subtenant be evicted or removed of its possession or its right of possession of the Subleased Premises be disturbed or in any way interfered with, and the Sublease shall continue in full force and effect as a direct lease between Landlord and Subtenant (provided, that in such event, Subtenant shall, for the then remainder of the term of the Sublease, pay fixed rent and additional rent in an amount equal to the greater of (x) the Fixed Rent and additional rent then payable under the Lease, prorated on the basis of the ratio which the Floor Area of the Subleased Premises bears to the Floor Area of the Premises, or (y) the fixed rent and additional rent then payable under the Sublease).

22. Landlord hereby waives and relinquishes any and all rights or remedies against Subtenant, pursuant to any lien, statutory or otherwise, that it may have against the property, goods or chattels of Subtenant in or on the Subleased Premises.

23. Any notices, consents, approvals, submissions, demands or other communications (hereinafter collectively referred to as "**Notice**") given under this Agreement shall be in writing. Unless otherwise required by law or governmental regulation, Notices shall be deemed given if sent by registered or certified mail, return receipt requested, or by any recognized overnight mail carrier, with proof of delivery slip, postage prepaid (a) to Landlord, at the address of Landlord as hereinabove set forth or such other address or persons as Landlord may designate by Notice to the other parties hereto, (b) to Tenant, at the address of Tenant as hereinabove set forth, with duplicate copies to Allan N. Rauch, Esq., c/o Bed Bath & Beyond Inc., 650 Liberty Avenue, Union, New Jersey 07083, and _____, or such other address or persons as Tenant may designate by Notice to the other parties hereto, and (c) to Subtenant, at the address of Subtenant as hereinabove set forth or such other address or persons as Subtenant may designate by Notice to the other parties hereto. During the period of any postal strike or other interference with the mails, personal delivery shall be substitute for registered or certified mail. All Notices shall become effective only on the receipt or rejection of same by the proper parties.

24. No modification, amendment, waiver or release of any provision of this Agreement or of any right, obligation, claim or cause of action arising hereunder shall be valid or binding for any purpose whatsoever unless in writing and duly executed by the party against whom the same is sought to be asserted.

[Signature Page Follows]

25. This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, assigns and sublessees.

IN WITNESS WHEREOF, the parties have caused this Recognition Agreement to be executed under seal the date first above written.

LANDLORD:

By: _____
Name: _____
Title: _____

TENANT:

BED BATH & BEYOND OF CANADA INC.

By: _____
Name: Warren Eisenberg
Title: Co-Chairman

SUBTENANT:

By: _____
Name: _____
Title: _____

Exhibit I

Form of Delivery Date Notice

[Letterhead of Landlord]

_____, 200__

[via Federal Express or other
recognized overnight delivery
service per Article 18 of the foregoing
lease]

Bed Bath & Beyond of Canada L.P.
650 Liberty Avenue
Union, NJ 07083
Attn: Warren Eisenberg

Re: Lease Agreement dated as of _____, 200__ (the "**Lease**"), between
[name of Landlord], as landlord ("**Landlord**"), and Bed Bath & Beyond of
Canada L.P., as tenant ("**Tenant**"), with respect to certain retail premises
(the "**Premises**") located in the _____ Shopping Center, _____
[City], [Province]_____.

Gentlemen:

In accordance with the provisions of Subsection 2.3.2 of the Lease, the Landlord hereby
informs the Tenant that the Delivery Date shall take place at 8:00 A.M. on _____, 200__.
This notice shall constitute the Delivery Date Notice referred to in Subsection 2.3.2 of the Lease.

[NAME OF LANDLORD]

By: _____
_____, (Vice) President

cc: [_____, Esq.]
[Allan N. Rauch, Esq.]

Exhibit J

Form of Delivery Date Certification

[Letterhead of Landlord]

_____, 200__

[via Federal Express or other
recognized overnight delivery
service per Article 18 of the foregoing
lease]

Bed Bath & Beyond of Canada L.P.
650 Liberty Avenue
Union, NJ 07083
Attn: Warren Eisenberg

Re: Lease Agreement dated as of _____, 200__ (the "**Lease**"), between
[name of Landlord], as landlord ("**Landlord**"), and Bed Bath & Beyond of
Canada L.P., as tenant ("**Tenant**"), with respect to certain retail premises
(the "**Premises**") located in the _____ Shopping Center,
_____, [City], [Province]

Gentlemen:

In accordance with the provisions of Subsection 2.3.3 of the Lease, Landlord hereby
certifies to Tenant that, as of the date of this certification, all of the Delivery Date Conditions (as
defined in the Lease) have been satisfied, and that, as a result, the Delivery Date (as such term is
defined in the Lease) will be deemed to be _____, 200__ . This notice shall constitute the
Delivery Date Certification referred to in Subsection 2.3.3 of the Lease.

[NAME OF LANDLORD]

By: _____
_____, (Vice) President

cc: [_____, Esq.]
[Allan N. Rauch, Esq.]

Exhibit K-1

Existing Exclusives

Exhibit K-1

Existing Exclusives

Tenant	
1. Golftown Canada Inc.	<p>The Landlord will not lease any other premises for the primary purpose of the sale of golf equipment, golf clothing, golf sportswear and the operation of golf simulators. This restrictive covenant will not apply to general sporting goods stores such as Atmosphere or Sports Experts or clothing stores as long as the retail space allocated to golf equipment and apparel in these stores does not exceed 10% of the total retail space of those stores. No portion of the centre shall be used for the purposes of a tavern including a pub, cocktail lounge, night club or hotel where the aggregate of the floor area devoted primarily to a stand up bar and drinking lounge area of the consumption of alcoholic beverages exceeds 50% of the total floor area of such establishments.</p> <p>No portion of the Centre shall be used for the purpose of an arcade, bingo hall or other similar gaming establishment, or for manufacturing or warehousing purposes (other than the incidental warehousing of goods for premises operated as a retail store in the Centre). No portion of the centre shall be used for the purposes of a flea market or premises featuring full or partial nudity.</p>
2. Subway Franchise Restaurants of Canada Ltd.	<p>Landlord agrees not to sell, lease, let, use or permit to be used, any property owned or controlled by it within the Shopping Centre now or at any time during the initial term of this Lease or any renewal thereof to any entity which specializes in the selling of submarine sandwiches, pitas or hot and cold sandwiches. Furthermore the Landlord agrees not to sell, lease, let to Quiznos, Mr. Sub, Captain Sub, Extreme Pita, Pita Pit, Blimpies, TOGOES. Further, current tenants shall be prohibited from adding items to their menus which conflict with this exclusive.</p>
3. Lunetterie New Look Inc.	<p>The Landlord will not sell or permit any person other than Tenant to sell in the Complex or on the Lands the sale at retail of eyewear except for fashion eyewear sold at apparel stores, drugstores, grocery stores and sporting goods stores and eyewear corrective products and services. Further the Landlord will not lease, sub-lease, licensee, permit to be occupied or grant consent (where it is within the power of the Landlord to refuse consent) to an assignment or sublease of any premises in the Complex to the Tenants competitors known as but not limited to Greiche and Scaff, Laurier Optical..... save and except for those leasing space in the Complex at the Commencement Date.</p> <p>.</p>
4. Dollarama L.P.	<p>It is of the essence of Tenant's decision to enter into this Offer and/or the Lease that the Landlord covenants and agrees that throughout the Term and/or any renewal thereof, the Tenant shall have the exclusive right to operate a dollar store in the Shopping Centre including the lands on which the Shopping Centre is built and/or any expansion of the Shopping Centre and that the Landlord shall not lease any other space in the Shopping Centre or permit any other space in the Shopping Centre to be operated or used principally as a dollar store or principally for the sale of a variety of merchandise items generally (35% or more of such merchandise) priced not to exceed One Dollar (\$1.00) and/or Two Dollars (\$2.00) per item, failing which, the parties agree that Tenant may at its sole option and discretion terminate the Offer and/or the Lease upon 30 days prior written notice to Landlord, without recourse against the Tenant and without prejudice to any of Tenant's other rights or recourses against the Landlord. The Tenant acknowledges that the Wal-mart Lands are not part of the Shopping Centre and drugstores, pharmacies such as Shopper's Drug Mart are not considered to be dollar stores but stores such as a Buck or Two, Everything for a Dollar are considered to be dollar stores.</p>

5. La Senza Inc.	<p>Landlord covenants and agrees that it shall not lease, licensee, suffer or permit the use of any other space in the Centre and shall not consent to any space in the Centre to be transferred to any Tenant or occupant whose principle business is: the sale of lingerie or undergarments.</p> <p>The foregoing however shall not preclude any Tenant from selling any of the foregoing items as ancillary to its other principal business. For clarity the sale of lingerie and undergarments in stores including without limitation, Jacob, Winners, Old Navy, Fairweather, etc. shall be deemed not to be a principle use.</p> <p>Tenant agrees that notwithstanding the foregoing Landlord shall have the right to Lease one unit in the shopping centre comprising not more than 4,200 sq.ft. to La Vie en Rose ("La Vie Premises") provided that such lease is concluded by November 15, 2006 (and notice thereof is given to Tenant by November 16, 2006) and provided that this exception shall only be applicable so long as La Vie en Rose is in occupancy of the La Vie Premises.</p>
6. Reitman's (Canada) Limited	<p>The Landlord agrees not to lease any space or permit the operation of any space in the area of the Development outlined in yellow on Schedule A-1 attached hereto for the purposes of a bar, or of a restaurant of any type, including without limitation a buffet style restaurant or an "all you can eat" restaurant. Furthermore, the Landlord agrees not to lease any space or permit the operation of any space in the building comprising the Premises for the operation of a gym or fitness centre except in the area outlined in purple on Schedule "A" attached hereto. The aforementioned restrictive covenants shall not apply to any offer to lease/lease existing for the building comprising the Premises at the date of this Agreement.</p> <p>Furthermore, Landlord covenants and agrees not to permit the operation anywhere in the Development of any night-club, theatre, auditorium, meeting hall, school save for those under 4,000 square feet, dance hall provided there may be dancing in a restaurant/bar, billiard or pool hall provided billiards or pool may be offered in a restaurant/bar, massage parlour, video game arcade except for a business like Chuckee Cheese, bowling alley, skating rink, car wash, adult book or adult video store, or a business such as "Hooters" or a similar establishment engaged in the sexual exploitation of its employees or staff.</p>
7. Addition Elle	<p>It is of the essence of Tenant's decision to enter into this Agreement to Lease that the Landlord covenants and agrees not to lease any other space in the Development as same may be expanded from time to time, or permit any other space in the Development as same may be expanded from time to time, to be operated or used or advertised for the sale of any large size (size 14 and over) ladies wearing apparel of any kind, including without limitation, lingerie (the "Exclusivity").</p> <p>Notwithstanding the foregoing, it is agreed that:</p> <ul style="list-style-type: none">(a) the Exclusivity shall not infringe upon the existing rights granted by the Landlord to any tenant under an existing offer to lease as of the date of this Agreement to Lease;(b) the Exclusivity shall not apply to any tenant operating in single premises having an area in excess of 15,000 square feet;(c) the Exclusivity shall not apply to any other premises leased by Reitmans (Canada) Limited in the Development; and(d) the sale of large size ladies wearing apparel shall be permitted by other operators of the Development (as same may be expanded from time to time) where the sale of such items represents less than five percent (5%) of the sales floor area of such operator's premises but in no event shall any such operator be permitted to sell or market women's large size wearing apparel as a separate department section or division nor shall it be permitted to

	<p>dedicate a certain floor area of the store specifically to women's large size wearing apparel.</p> <p>The Landlord agrees not to lease any space or permit the operation of any space in the area of the Development outlined in yellow on Schedule A-1 attached hereto for the purposes of a bar, or of a restaurant of any type, including without limitation a buffet style restaurant or an "all you can eat" restaurant. Furthermore, the Landlord agrees not to lease any space or permit the operation of any space in the building comprising the Premises for the operation of a gym or fitness centre except in the area outlined in purple on Schedule "A" attached hereto. The aforementioned restrictive covenants shall not apply to any offer to lease/lease existing for the building comprising the Premises at the date of this Agreement.</p> <p>Furthermore, Landlord covenants and agrees not to permit the operation anywhere in the Development of any night-club, ^theatre, auditorium, meeting hail, school save for those under 4,000 square feet, dance hall provided there may be dancing in a restaurant/bar, billiard or pool hall provided billiards or pool may be offered in a restaurant/bar, massage parlour, video game arcade except for a business like Chuckee Cheese, bowling alley, skating rink, car wash, adult book or adult video store, or a business such as "Hooters" or a similar establishment engaged in the sexual exploitation of its employees or staff.</p>
8. Thyme Maternity	<p>It is of the essence of Tenant's decision to enter into this Agreement to Lease that the Landlord covenants and agrees not to lease any other space in the Development as same may be expanded from time to time, or permit any other space in the Development as same may be expanded from time to time, to be operated or used or advertised for the sale of any maternity wearing apparel of any kind, (the "Exclusivity"). Notwithstanding the foregoing, it is agreed that the Exclusivity shall not infringe upon the existing rights granted by the Landlord to any Tenant under an existing offer to lease as of the date of this Agreement to Lease, nor shall the Exclusivity apply to any Tenant operating in single premises having an area in excess of 15,000 square feet.</p> <p>The Landlord agrees not to lease any space or permit the operation of any space in the area of the Development outlined in yellow on Schedule A-1 attached hereto for the purposes of a bar, or of a restaurant of any type, including without limitation a buffet style restaurant or an "all you can eat" restaurant. Furthermore, the Landlord agrees not to lease any space or permit the operation of any space in the building comprising the Premises for the operation of a gym or fitness centre except in the area outlined in purple on Schedule "A" attached hereto. The aforementioned restrictive covenants shall not apply to any offer to lease/lease existing for the building comprising the Premises at the date of this Agreement.</p> <p>Furthermore, Landlord covenants and agrees not to permit the operation anywhere in the Development of any night-club, ^theatre, auditorium, meeting hail, school save for those under 4,000 square feet, dance hall provided there may be dancing in a restaurant/bar, billiard or pool hall provided billiards or pool may be offered in a restaurant/bar, massage parlour, video game arcade except for a business like Chuckee Cheese, bowling alley, skating rink, car wash, adult book or adult video store, or a business such as "Hooters" or a similar establishment engaged in the sexual exploitation of its employees or staff.</p>
9. The Aldo Group Inc.	<p>The Landlord has agreed that so long as the Tenant is itself (or a transferee permitted without the Landlord's consent) in possession of the whole of the Leased Premises, it will not lease or re-lease space in the Complex to more than 3 tenants (including Aldo) whose principal use is the sale of footwear excluding socks and hosiery. For clarity this does not apply to the sale of athletic footwear or to Winners or its transferees. Further, Aldo will be the only premises in Building B whose principal business is the sale of footwear. Further,</p>

	should the Landlord wish to lease space elsewhere in the Complex to Shoe Company or Town Shoes, a condition of that deal would be that Shoe Co. agree to release its exclusivity in another shopping centre in Canada acceptable to the Aldo Group Inc. in its sole discretion, to permit The Aldo Group Inc. to put a store into such shopping centre.
10. Tommy Hilfiger Canada Retail Inc.	<p>The Landlord will not permit any of the following uses on or in the building B in which the Leased Premises are situated:</p> <ul style="list-style-type: none">a. educational services, dance halls, video stores, funeral services;b. for any entertainment purposes such as a bowling alley, skating rink, cinema, bar, night club, discotheque, amusement gallery, pool room, health club, massage parlor, sporting event, sports or game facility, off-track betting club, arcade, bingo hall, poker hall;c. any establishment for the sale or display of pornographic materials;d. pawnshops and any establishment which sells or displays used merchandise or second hand goods;e. restaurants or establishments selling food prepared on premises for consumption on or off premises;f. dollar stores or similar stores selling mostly items below ten dollars; org. gas bars, car wash services, motor vehicle sales of any kind. <p>Notwithstanding the above, there may be a health club or educational services in the location identified on Schedule B attached hereto.</p> <p>Co-Tenancy Restriction</p> <p>The Landlord represents and covenants with the Tenant that during the initial term it will not lease to the operators of Laura, Tristan, Ardene, Urban Planet, Ricki's, Cleo and Fairweather more than fifteen thousand square feet in the aggregate of area within the building where the Leased Premises are situated.</p>
11. Chatters Salon Limited	The Landlord will not permit any other premise within the Shopping Centre/Complex whose principal business is the sale of hair care products. Notwithstanding the foregoing it is agreed by Landlord and Tenant that this exclusivity does not apply to drugstores, dollar stores or stores whose principle business is a hair salon or barber shop, however any hairsalon or barbershop is limited to selling hair care products in an area not to exceed 15% of its selling space.
12. Drs. Joshi, Matheson & Korner	With the exception of any existing Offers to Lease/Lease which may permit such use and/or not prohibit such use, the Landlord will not lease any other premises in the Complex for use as a general practice dental office. For clarity this shall not preclude the Landlord from leasing premises in the Complex to dental specialist, including without limitation, orthodontists.
13. Solutions Your Organized Living Store Ltd.	A retail store for the sale of household, home and office storage products and organizational products, together with incidental related items as sold from time to time in the majority of the Solutions stores in the Province of Ontario, or any other use as reasonably agreed to by Landlord. The Landlord agrees not to lease premises in the Shopping Centre, to any operation with a primary use similar to that of the Tenant, provided that this restriction shall not apply to Bed Bath & Beyond of Canada Inc., its transferees, successors and assigns.
14. Mike's Restaurants Inc.	The Landlord for itself and its successors and assigns covenants that it will not operate itself nor license or lease or permit to operate any

	<p>premises (other than the Premises) within the Shopping Centre as outlined in green on Schedule "A", to any person, firm or corporation for the principal use of a sit down full-service restaurant primarily serving chicken and /or ribs and /or salad bar for the duration of the Term and any renewal periods.</p> <p>This restrictive applies to but is not limited to such concepts as Swiss Chalet and St. Hubert's. This restrictive covenant shall not apply to full service restaurants whose specialty is <u>not</u> chicken and ribs and salad bar such as Outback, Kelsey's, Montana's, Milestones and The Keg.</p>
15. Starbucks Coffee Canada Inc.	<p>Landlord will not sell or permit any party or lease to other Tenants whose primary business is the sale of (a) whole or ground coffee beans, (b) espresso, espresso-based drinks or coffee-based drinks, (c) tea or tea-based drinks, (d) brewed coffee, and/or (e) blended beverages, including without limitation, those containing the following: ice, coffee, espresso, tea, milk, cream, juice and/or fruit. Tenant's Exclusive Use shall apply to the Shopping Centre, future expansions of the Shopping Centre and any properties adjacent to the Shopping Centre owned by Landlord or Landlord's affiliates. Landlord shall not enter into any offers or agreements which allow for violation of the Tenant's Exclusive Use.</p> <p>As such the Landlord shall not lease to any coffee or tea retailers including but not limited to Second Cup, Timothy's, Tim Horton's, Williams Coffee Pub, Letteri, Coffee World, Country Style Donuts, Coffee Time, Teaopia, or similar coffee and tea houses.</p> <p>Notwithstanding the foregoing anchor tenants or full-line grocery store tenants occupying at least 15,000 contiguous square feet or more will not be subject to Tenant's exclusive so long as they at all times occupy and operate out of the foregoing minimum square footage under a single trade name, do not have a separate entrance or exterior signage for the sale of Tenant's exclusive items, or otherwise advertise, in a manner visible from the exterior of such tenant's space, the sale of Tenant's exclusive items.</p> <p>As well full service, sit-down restaurants with a wait staff and table service serving a complete dinner menu may sell, in conjunction with a sale of a meal, brewed coffee or tea that is not gourmet or brand-identified, and hot espresso drinks that are not gourmet or brand-identified.</p>
16. Canadian Imperial Bank of Commerce	<p>The Landlord covenants with the Tenant that in consideration of the Premises being used as a branch Bank and so long as they shall be used for that purpose, the Landlord will not permit or suffer (by way of lease, sub-lease, assignment of lease, license, franchise or otherwise) any part of the development cross-hatched on Schedule 'B' attached, plus the area outlined in blue on Schedule "B" (except the Premises) or any building or part of a building or structure on such development cross-hatched on Schedule "B" plus the area outlined in blue on Schedule "B" to be used or occupied by any "financial institution" or "foreign bank" as each such Term is defined in the Bank Act, SC 1991, c.46, as amended, or used or occupied for the sale of Registered Retirement Savings Plans or Mutual Funds, nor will the Landlord permit such lands, buildings or structures (including any extensions thereof) or part thereof to be used for the installation, placing or use of any automated banking machine, cash dispensing machine, kiosk or device of whatsoever nature, the purpose of which is to provide or advertise any service of a financial institution whatsoever.</p> <p>(a) The restrictive covenant does not apply to any premises in excess of 20,000 square feet where the use(s), which are the subject matter of the restrictive covenant, are not the primary use of such premises.</p>

Exhibit K-2

Existing Leases

Exhibit K-2Existing Leases

Coconut Palm Restaurant
Subway Franchise Restaurants of Canada Ltd.
Payless ShoeSource Canada L.P.
Lunetterie New Look Inc.
Dollarama L.P.
Solutions Your Organized Living Store Ltd.
Golftown Canada Inc.
La Senza Inc.
Town Shoes Limited
Thyme Maternity
Reitmans (Canada) Limited
Addition Elle
Arden Holdings Inc.
Boutique La Vie en Rose
Esprit Canada Retail Ltd.
The Aldo Group Inc.
Dynamite Stores Inc.
Tommy Hilfiger Canada Retail Inc..
Starbucks Coffee Canada, Inc.
Struc-Tube Ltd.
Wireless Store
Charles Nesrallah
Comark Inc. (Ricki's)
Comark Inc. (Cleo)
Northern Reflections Ltd.
Cotton Ginny Limited
Chatters Salon Limited
Grafton-Fraser Inc.
Stokes Inc.
Liz Claiborne Canada Inc.
Bowring & Co. Inc.
International Clothiers Inc.
Benix & Co. Inc.
Fairweather Ltd.
Mike's Restaurants Inc.
Drs. Joshi, Matheson & Korner
Canadian Imperial Bank of Commerce
Tim Hortons
Wendy's Restaurants of Canada Inc.

Exhibit LAlternate Rent

1. During the applicable period(s) described within Sections 2.4 and/or 2.5 and/or Article 22 of the Lease, Tenant shall pay as "**Alternate Rent**" an amount equal to three (3%) percent of all "Gross Sales" (hereinafter defined) resulting from business conducted in, on or from the Premises, not to exceed fifty percent (50%) of the amount of Fixed Rent which otherwise would have been payable during such period (the "**Cap**").

2. As used herein, the term "**Gross Sales**" shall mean the total amount of all sales of merchandise or services completed at the Premises by Tenant or any sublessee, licensee or concessionaire of Tenant and any other person or entity operating in the Premises (for purposes of this Paragraph 2 only, collectively, "**Tenant**"), whether for cash, credit or otherwise, including redemption of gift certificates and gift cards (regardless of where or how such gift certificates and gift cards were purchased). Tenant shall record, at the time of each Gross Sale, all receipts from such sale, whether for cash, credit or otherwise, in a cash register or cash registers, or in such electronic or computer device which records sales in a manner which is generally acceptable by industry standards. The term "**Gross Sales**" shall exclude: (1) proceeds from any sales tax, gross receipts tax or similar tax, by whatever name called, which are separately stated and are in addition to the sales price, (2) *bona fide* transfers or exchanges of merchandise from the Premises to any other stores or warehouses of Tenant or any Affiliates of Tenant, and returns to shippers and manufacturers for credit, (3) refunds or credits given to customers for merchandise returned or exchanged at the Premises (regardless of where or how purchased), (4) sales of Tenant's fixtures and equipment not in the ordinary course of Tenant's business, (5) to the extent of prior inclusion in Gross Sales, bad debts when written off the books of Tenant, provided that any collections made on account of such bad debts shall be included in Gross Sales when received, (6) receipts from vending machines installed solely for the use of Tenant's employees and receipts from pay telephones, (7) sales to employees of Tenant at discount [which, for the purposes of determining Alternate Rent hereunder, shall not exceed two percent (2%) of Gross Sales per calendar year or pro rata portion thereof, as applicable], (8) fees paid to independent third party credit card, charge card, and debit card companies in connection with sales charged to or debited from customers' credit cards, charge cards, or debit cards, as applicable, (9) proceeds from delivery, gift-wrapping and check cashing charges [which, for the purposes of determining Alternate Rent hereunder, shall not exceed two percent (2%) of Gross Sales per calendar year or pro rata portion thereof, as applicable], (10) sums and credits received in settlement of claims for loss or damage to merchandise, (11) separately stated service, finance and interest charges, (12) the dollar value of coupons utilized by customers in the purchase of merchandise from the Premises, (13) close-out or bulk sales of inventory to jobbers or wholesalers, (14) sales of gift certificates or gift cards, and (15) forfeited deposits.

3. Alternate Rent shall be payable within thirty (30) days after the end of the calendar month to which it pertains. If the Alternate Rent for a calendar month does not exceed the Cap, such payment shall be accompanied by a statement prepared by an officer of Tenant setting forth the amount of Gross Sales achieved during, and the amount of Alternate Rent payable for, such month.

4. Tenant shall maintain at the Premises or at its principal office, complete books and records reflecting all elements of Gross Sales. Tenant shall be permitted to maintain its books and records in a computerized form; provided, however, that (A) such computerized books and records provide the same level of information as the books and records described above and are retained for the full record retention period provided for herein, and (B) promptly upon request, printed copies of any such books and records shall be made available at Tenant's principal office for inspection by Landlord's representatives who are engaged in inspecting and/or auditing Tenant's books and records as provided herein. Such books and records shall be kept in accordance with generally accepted accounting principles and practices consistently applied and shall be retained by Tenant for not less than one (1) year following the end of the calendar year to which they refer.

5. Provided that the Alternate Rent payable for a calendar month does not exceed the Cap, Landlord and/or its auditor shall have the right, upon at least ten (10) days prior notice to Tenant, to inspect and/or audit Tenant's records relating solely to Gross Sales achieved in the Premises for such calendar month.

6. Landlord shall not disclose to any third party Tenant's Gross Sales or the amount of Alternate Rent paid or payable by Tenant, provided, however, that (A) such information was not previously disclosed by Tenant to such third party or to the public generally, and (B) nothing contained herein shall restrict Landlord from disclosing such information as may be required by law, or to its accountants, attorneys, *bona fide* prospective purchasers, or current or prospective Mortgagees or Ground Lessor(s) of all or any portion of Landlord's interest in the Shopping Center (provided that each of such recipients shall be bound to the same non-disclosure provisions as are imposed upon Landlord).

Exhibit MProhibited Uses

As used in this Lease, the term "***Prohibited Uses***" shall mean any of the following uses:

A. As to the Shopping Center, any of the following uses:

(1) Any use which emits or results in strong, unusual or offensive odors, fumes, dust or vapors, is a public or private nuisance, emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness, creates a hazardous condition, or is used, in whole or in part, as or for warehousing or the dumping or disposing of garbage or refuse;

(2) Any operation primarily used as a storage facility and any assembling, manufacturing, distilling, refining, smelting, agricultural, or mining operation;

(3) Any "second hand" store, "surplus" store;

(4) Any mobile home park, trailer court, labor camp, junkyard, or stockyard (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction, or maintenance);

(5) Any dumping, disposing, incineration, or reduction of garbage (exclusive of trash compactors or trash containers located near the rear of any building);

(6) Any fire sale, bankruptcy sale (unless pursuant to a court order), auction house operation, fictitious going-out-of-business sale, lost-our-lease sale or similarly advertised event;

(7) Any central laundry, dry cleaning plant, or laundromat (except that a dry cleaner that performs all dry cleaning outside the Shopping Center shall be permitted, so long as its on-site premises are located more than 150 feet away from the Premises);

(8) Any automobile, truck, trailer, boat, or recreational vehicle sales, leasing, display or body shop repair operation;

(9) Any bowling alley or skating rink;

(10) Any live performance theater, auditorium, meeting hall, sporting event, or other entertainment use;

(11) Any living quarters, sleeping apartments, or lodging rooms;

(12) Any veterinary hospital or animal raising or boarding facilities (except to the extent permitted below);

(13) Any mortuary or funeral home;

(14) Any "Pornographic Use", which shall include, without limitation: (x) a store displaying for sale or exhibition books, magazines or other publications containing any combination of photographs, drawings or sketches of a sexual nature, which are not primarily scientific or educational [provided, however, that the sale of books, magazines and other publications by a national bookstore of the type normally located in first-class shopping centers in the Province in which the Shopping Center is located (such as, for example, Borders and Barnes & Noble, as said stores currently operate) shall not be deemed a "pornographic use" hereunder]; or (y) a store offering for exhibition, sale or rental video cassettes or other medium capable of projecting, transmitting or reproducing, independently or in conjunction with another device, machine or equipment, an image or series of images, the content of which has been rated or advertised generally as NC-17 or "X" or unrated by the Motion Picture Rating Association, or any successor thereto [provided, however, that the sale or rental of such videos by a national video store of the type normally located in first-class shopping centers in the Province in which the Shopping Center

is located (such as, for example, Blockbuster or West Coast Video, as said stores currently operate) shall not be deemed a "pornographic use" hereunder]; or massage parlor [except for therapeutic massages given in connection with the operation of a day spa or health club which may otherwise be permitted under this Exhibit M];

(15) Any so-called "head shop", or other establishment primarily selling or exhibiting drug-related paraphernalia;

(16) Any bar, tavern, or other establishment selling alcoholic beverages for on- or off-premises consumption except for (i) restaurants for which 50% or less of the revenue is derived from the sale of alcoholic beverages, (ii) The Beer Store, (iii) Liquor Control Board of Ontario store;

(17) Any catering or banquet hall;

(18) Any flea market, amusement or video arcade, pool or billiard hall, night club, discotheque, or dance hall;

(19) Any training or education facility, including but not limited to: beauty schools, barber colleges, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers; provided, however, this prohibition shall not be applicable to on-site employee training by an Occupant incidental to the conduct of its business at the Shopping Center or the area in Building B outlined in red on Exhibit "B";

(20) Any gambling facility or operation, including but not limited to: off-track or sports betting parlor; table games such as black-jack or poker; slot machines; video poker/black-jack/keno machines or similar devices; or bingo hall. Notwithstanding the foregoing, this prohibition shall not apply to governmental sponsored gambling activities, or charitable gambling activities, so long as such governmental and/or charitable activities are incidental to the business operation being conducted by the Occupant;

(21) Any unlawful use;

(22) Any pawn shop, check-cashing store, gun shop, or tattoo parlor;

(23) Any church or other place of religious worship;

(24) Any car wash, automobile repair shop, or any business servicing motor vehicles in any respect, including, without limitation, any quick lube oil change service, tire center or gasoline or service station or facility

(25) Any carnival, amusement park or circus;

(26) Any supermarket, except that an upscale, boutique-type food store of the type normally operated in the Ottawa metropolitan area (such as, by way of example, Whole Foods, Pusateri's, or Wild Oats), provided, that such store shall not occupy more than 27,000 square feet of Floor Area, and shall be located at least 200 feet away from the Premises (except that an upscale, boutique-type food store shall be permitted to be located within the Premises);

(27) Any office use, other than: (x) office space used in connection with and ancillary to a permitted retail use hereunder; and (y) retail offices providing services commonly found in similar first-class shopping centers in the Ottawa metropolitan area (for example, financial services, real estate brokerage, insurance agency, banking, travel agency), provided that such uses are located at least 200 feet away from the Premises, and not more than ten thousand (10,000) square feet of Floor Area in the Shopping Center, in the aggregate, shall be devoted to such uses This Section (27) shall not apply to the area in Building B outlined in red on Exhibit "B";

(28) hotel/motel;

(29) daycare center;

(30) veterinary office, except as may be incidental to a permitted full-line pet and pet supply store operating in at least 15,000 square feet of Floor Area and located at least 100 feet away from the Premises (except that a full-line pet and pet supply store shall be permitted to be located within the Premises); such occupant shall use reasonable efforts to prevent its customers from allowing their pets to urinate or defecate in the Common Areas and will promptly remove any "dog dirt" from in front of the Premises; no pet or pet supply store shall be located within 100 feet of the Premises;

(31) children's entertainment or activity facility (such as "Discovery Zone", or "Chuck E. Cheese's");

(32) karate center except the area in Building B outlined in red on Exhibit "B";

(33) movie theater;

(34) restaurant serving meals for on- or off-premises consumption any in Building A;

(35) beauty parlor or nail salon;

(36) health spa, exercise facility or similar type business except the area in Building B outlined in red on Exhibit "B" ; or

(38) a store primarily selling merchandise which is classed as "odd lot," "close out," "clearance," "discontinued," "cancellation," "second," "factory reject," "sample," "floor model," "demonstrator," "obsolescent," "over stock," "distressed," "bankruptcy," "fire sale" or "damaged", such as, for example, "Grossman's Bargain Outlet", "Contractor's Warehouse", "Big Lots", "Liquidation World", or "Odd Job"; the retailers commonly known as "Winners" and "Christmas Tree Shops" shall be deemed not to violate the foregoing restriction.

B. As to Related Land, any of the uses listed in Items 1, 2, 4, 5, 14, 15, 21, 22, and 25 above.

Exhibit N

Form of Construction Lien Indemnification Agreement

THIS CONSTRUCTION LIEN INDEMNIFICATION is made this ____ day of _____, 200__, by BED BATH & BEYOND OF CANADA INC., a _____ corporation (hereinafter referred to as "**Tenant**"), for the benefit of between _____, a _____ corporation ("**Landlord**").

WITNESSETH

Landlord and Tenant have entered into a Lease (the "**Lease**") dated _____, 200__, whereby Landlord has leased to Tenant a portion of the real property located in _____ (the "**Shopping Center**") and Tenant has constructed on such real property a store premises (the "**Premises**").

NOW, THEREFORE, in consideration of the payment of the Tenant Improvement Allowance as defined in the Lease and other good and valuable consideration, the receipt of which is hereby acknowledged, the Tenant agrees as follows:

7. Tenant hereby indemnifies and agrees to hold Landlord harmless from any loss, payment, claim or expense as the result of mechanics and materialmen filing liens or otherwise making claims against Landlord's interest in the Premises and the Shopping Center based upon materials or services provided under contract with Tenant. In the event that any mechanic, materialman or other claimant makes claim against the Premises or Shopping Center based upon materials or services provided under contract with Tenant, Tenant shall hold harmless and protect Landlord from any loss, payment, claim or expense related thereto.

8. Tenant reserves the right to contest in good faith the amount of any claim or lien assessed against the Premises or the Shopping Center by any of such claimants; provided, however, should the holder or holders of such claim or lien attempt to enforce their lien by foreclosure by any other means, Tenant shall bond around, pay or remove such lien by any manner reasonably necessary to protect Landlord's interest in the Premises and the Shopping Center. This indemnity and hold harmless shall not apply to any liens or claims caused by Landlord or Landlord's agents.

EXECUTED this ____ day of _____, 200__.

TENANT:

BED BATH & BEYOND OF CANADA INC.

By: _____
Name: _____
Title: _____



January 8, 2010

Bed Bath & Beyond
650 Liberty Avenue
Union, New Jersey 07083

Re: Modifications of Exclusive Use Provisions as to Michaels of Canada, ULC ("**Michaels**") and Bed Bath & Beyond Canada L.P. ("**BBB**"); Ottawa Train Yards, Ottawa, Ontario (the "**Shopping Center**")

Ladies and Gentlemen:

Michaels and BBB are or are to become co-tenants in the Shopping Center. This letter, when executed by both parties, will confirm the agreement between Michaels and BBB regarding covenants contained in their existing or prospective leases, and/or other recorded instruments, which restrict the types of use and sales activities which may be conducted in the Shopping Center ("**Exclusives**"). In lieu of any Exclusives set forth in their existing or prospective leases for space at the Shopping Center, and/or other recorded instruments, BBB and Michaels agree as follows.

1. As used herein, the following terms shall have the following meanings.

(a) "**Affiliate**" shall mean a person or entity which controls, is controlled by, or is under common control with, Michaels or BBB, as the case may be. As used herein, "**control**" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities or rights, by contract, or otherwise.

(b) "**BBB Exclusive**" shall mean either: (1) the covenant(s) set forth in the BBB Lease (or other instrument encumbering the Shopping Center) which restrict the types of use and sales activities which may be conducted in the Shopping Center, or (2) the covenants set forth in Exhibit A attached hereto, whichever is less restrictive.

(c) "**BBB Lease**" shall mean the Lease existing or to be entered into between BBB and the Landlord for premises at the Shopping Center.

(d) "**BBB Premises**" shall mean the premises at the Shopping Center which are demised to BBB.

(e) "**Excused Periods**" shall mean periods during which: (a) material alterations or renovations are being performed in and to a party's Premises for a period not in excess of 365 days, (b) a party's Premises are being restored with reasonable efforts following damage, destruction, or taking in eminent domain, or (c) an event of *force majeure* prevents the operation of business within a Party's Premises.

(f) "**Michaels Exclusive**" shall mean either: (1) the covenant(s) set forth in the Michaels Lease (or other instrument encumbering the Shopping Center) which restrict the types of

use and sales activities which may be conducted in the Shopping Center, or (2) the covenants set forth in Exhibit B attached hereto, whichever is less restrictive.

(g) **"Michaels Lease"** shall mean the Lease existing or to be entered into between Michaels and the Landlord for premises at the Shopping Center.

(h) **"Michaels Premises"** shall mean the premises at the Shopping Center which are demised to Michaels.

2. The Michaels Exclusive shall not apply to the operations in all or a portion of the BBB Premises of a store operating primarily as home furnishings store or a store selling primarily the exclusive items listed in the BBB Exclusive (singly or in any combination). A store shall be deemed to be operating primarily as a home furnishing store or a store selling primarily the Exclusive Items listed in the BBB Exclusive (singly or in any combination) so long as it devotes fifty percent (50%) or more of the square footage within such store for the sale of the Exclusive Items listed in the BBB Exclusive (singly or in any combination).

3. The BBB Exclusive shall not apply to the operations in all or a portion of the Michaels Premises of a store operating primarily as an arts & crafts store or a store selling primarily the exclusive items listed in the Michaels Exclusive, singly or in any combination. A store shall be deemed to be operating primarily as an arts & crafts store or a store selling primarily the Exclusive Items listed in the Michaels Exclusive (singly or in any combination) so long as it devotes fifty percent (50%) or more of the square footage within such store for the sale of the Exclusive Items listed in the Michaels Exclusive (singly or in any combination).

4. The exclusive rights with respect to any particular category listed in the Michaels Exclusive shall terminate as to such category in the event that the Michaels Premises ceases to be used for the sale, rental or distribution of items contained in such category for in excess of nine (9) consecutive months (except for Excused Periods); provided, however, that the Michaels Exclusive shall be reinstated with respect to such category if the sale, rental or distribution of items contained in such category is resumed in the Michaels Premises, unless the sale, rental or distribution of items contained in such category has been commenced from the BBB Premises during the period in which the Michaels Exclusive had lapsed as to such category. Notwithstanding the foregoing, the Michaels Exclusive shall lapse in its entirety with respect to a non-Affiliated assignee of the Michaels Lease or a non-Affiliated sublessee of all or a portion of the Michaels Premises if that assignee or sublessee fails to use at least fifty percent (50%) of the square footage that it occupies within the Michaels Premises for the sale, rental or distribution of the Michaels Exclusive Items noted in Exhibit B, singly or in any combination, for in excess of nine (9) consecutive months, except for Excused Periods.

5. The exclusive rights with respect to any particular category listed in the BBB Exclusive shall terminate as to such category in the event that the BBB Premises ceases to be used for the sale, rental or distribution of items contained in such category for in excess of nine (9) consecutive months (except for Excused Periods); provided, however, that the BBB Exclusive shall be reinstated with respect to such category if the sale, rental or distribution of items contained in such category is resumed in the BBB Premises, unless the sale, rental or distribution of items contained in such category has been commenced from the Michaels Premises during the period in which the BBB Exclusive had lapsed as to such category. Notwithstanding the foregoing, the BBB Exclusive shall lapse in its entirety with respect to a non-Affiliated assignee of the BBB Lease or a non-Affiliated sublessee of all or a portion of the BBB Premises if that assignee or sublessee fails to

use at least fifty percent (50%) of the square footage that it occupies within the BBB Premises for the sale, rental or distribution of the BBB Exclusive Items noted in Exhibit A, singly or in any combination, for in excess of nine (9) consecutive months, except for Excused Periods.

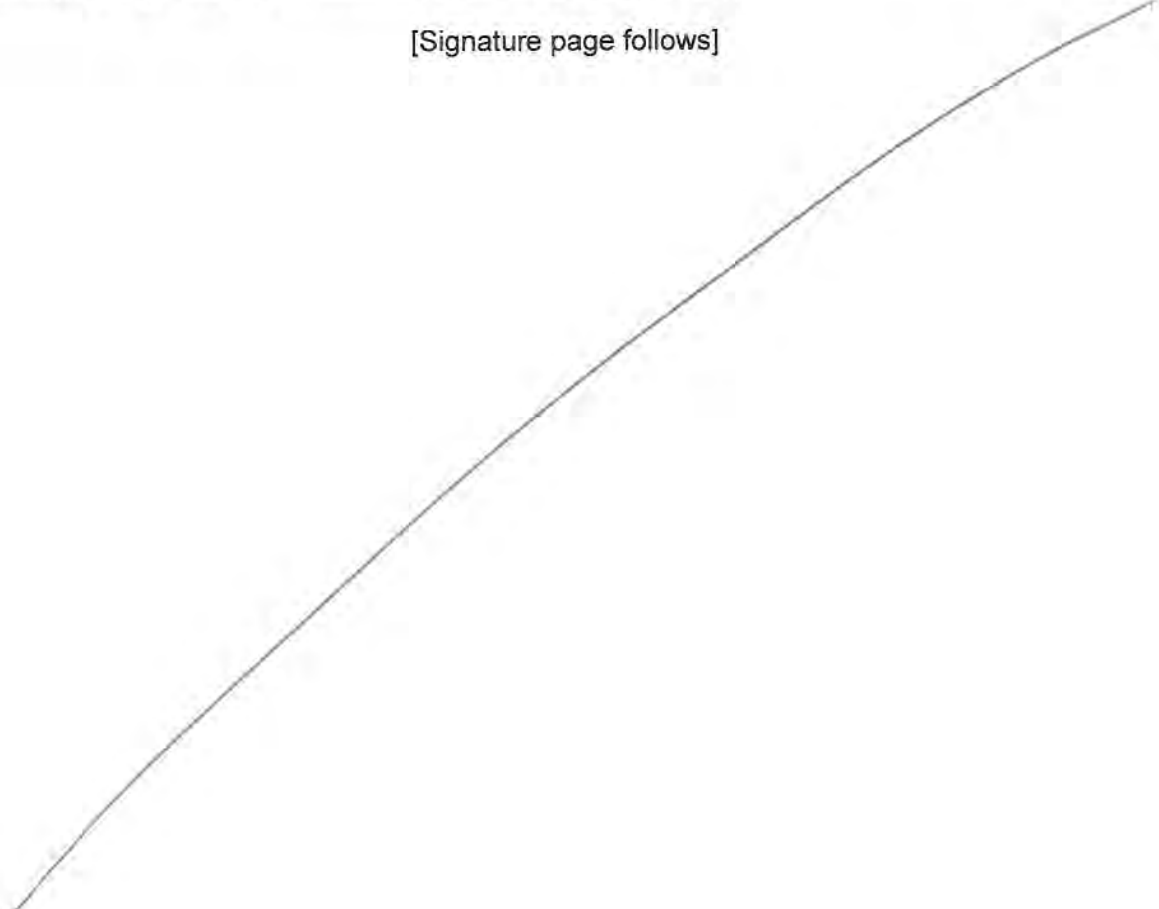
6. For purposes of this agreement, all references herein to "square footage" and/or "floor area" of a particular premises shall be deemed to include an allocable portion of the (i) aisle space adjacent to such selling space or floor area and (ii) storage space in such premises.

7. This letter agreement shall be binding upon, and shall inure to the benefit of Michaels and BBB, and their respective Affiliates, successors, assignees and subtenants.

8. It shall be a condition precedent to the agreements herein set forth that BBB and Michaels shall have entered into a lease or occupancy agreement for its Premises in the Shopping Center on or before eighteen (18) months after the date hereof; upon the satisfaction of such condition precedent, the provisions of this agreement shall continue in force for so long as the BBB Lease and the Michaels Lease (and any renewals, extensions or replacements thereof) remain in full force and effect.

9. The Landlord in the Michaels Lease and the BBB Lease shall be entitled to rely on the terms and conditions set forth in this agreement only as between Michaels and BBB (and their respective assignees and sublessees in the Shopping Center).

[Signature page follows]



Bed, Bath & Beyond
January 8, 2010
Page 4

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Please sign both of the enclosed counterparts of this letter agreement and return to the undersigned one fully executed counterpart of this letter agreement to confirm your acceptance of and agreement to the foregoing. Thank you for your time and cooperation.

Very truly yours,

MICHAELS OF CANADA, ULC

1c8B

By:



Michael J. Veitenheimer
Senior Vice President and Secretary

AGREED TO AND ACCEPTED THIS
15th day of January, 2010.

BED BATH & BEYOND CANADA L.P.

By: BBB Canada Ltd., a Canadian federal
corporation, its general partner

By:

Name: 
Title: 

Seth Goldzohler
Authorized Signatory



EXHIBIT A

Form of BBB Exclusive

Landlord will not lease, rent or occupy or permit any other premises in the Shopping Center or on any "Related Land" (hereinafter defined) to be occupied, whether by a tenant, sublessee, assignee, licensee or other occupant or itself, for the sale, rental or distribution, either singly or in any combination, of items contained in any of the following respective categories of merchandise: (a) linens and domestics; (b) bathroom items; (c) housewares; (d) frames and wall art; (e) window treatments; and/or (f) closet, shelving and storage items (which items, either singly or in any combination, are hereinafter referred to as the **"Exclusive Items"**). Notwithstanding the foregoing, any tenant or subtenant in the Shopping Center or the Related Land shall have the right to utilize its respective premises for the sale, rental and/or distribution of: (AA) Exclusive Items (except housewares) within an aggregate area (which shall include an allocable portion of the aisle space adjacent to such sales, rental and/or distribution area) not to exceed the lesser of (x) five percent (5%) of the Floor Area of such tenant's or subtenant's premises, or (y) one thousand five hundred (1,500) square feet of Floor Area within such tenant's or subtenant's premises and (BB) housewares within an aggregate area (which shall include an allocable portion of the aisle space adjacent to such sales, rental and/or distribution area) not to exceed the lesser of: (xx) five percent (5%) of the Floor Area of such tenant's or subtenant's premises, or (yy) two thousand five hundred (2,500) square feet of Floor Area within such tenant's or subtenant's premises. [For example only, a tenant occupying premises containing a total of five thousand (5,000) square feet of Floor Area could sell the Exclusive Items referred to in (AA) above (either singly or in any combination) so long as the aggregate area within its entire demised premises in which any and all Exclusive Items are sold shall not exceed two hundred fifty (250) square feet.] As used herein, the term **"Related Land"** shall mean land contiguous or adjacent to the Shopping Center (including, without limitation, any land that would be contiguous or adjacent to the Shopping Center but for any intervening road, street, alley or highway) now or hereafter owned by Landlord or its Affiliate(s).

EXHIBIT B

Form of Michaels Exclusive

Neither Landlord nor any entity controlled by Landlord will use, lease (or permit the use, leasing or subleasing of) or sell any space in or portion of the Shopping Center or any property contiguous to the Shopping Center owned or controlled now or at any time hereafter by Landlord or any affiliate of Landlord (the "***Related Land***"), to (i) any store selling arts and crafts, art supplies, craft supplies, store selling picture frames or picture framing services, framed art, store selling artificial flowers and/or plants, artificial floral and/or plant arrangements, wedding or party goods (except apparel), or (ii) any store selling scrapbooking/memory book supplies, accessories and/or decorations or other papercrafting (e.g., making greeting cards, gift bags, tags and other related or similar items) supplies, accessories and/or decorations, or providing classes on any of the foregoing or any combination of the foregoing categories (collectively, the "***Exclusive Items***"). Notwithstanding the foregoing, any tenant or subtenant in the Shopping Center or the Related Land shall have the right to utilize its respective premises for the sale, rental and/or distribution of: (AA) Exclusive Items (other than picture framing services, which shall not be permitted in any event and other than party goods) within an aggregate area (which shall include an allocable portion of the aisle space adjacent to such sales, rental and/or distribution area) not to exceed the lesser of (x) five percent (5%) of the Floor Area of such tenant's or subtenant's premises, or (y) one thousand five hundred (1,500) square feet of Floor Area within such tenant's or subtenant's premises and (BB) party goods within an aggregate area (which shall include an allocable portion of the aisle space adjacent to such sales, rental and/or distribution area) not to exceed the lesser of: (xx) five percent (5%) of the Floor Area of such tenant's or subtenant's premises or (yy) two thousand five hundred (2,500) square feet of Floor Area within such tenant's or subtenant's premises. [For example only, a tenant occupying premises containing a total of five thousand (5,000) square feet of Floor Area could sell the Exclusive Items referred to in (AA) above (either singly or in any combination) so long as the aggregate area within its entire demised premises in which any and all Exclusive Items are sold shall not exceed two hundred fifty (250) square feet.]

BED BATH & BEYOND OF CANADA L.P.
c/o Bed Bath & Beyond Inc.
650 LIBERTY AVENUE
UNION, NEW JERSEY 07083
908-688-0888

November 6, 2019

VIA FEDERAL EXPRESS

1663321 Ontario Inc. and
1414614 Ontario Inc.
223 Colonnade Road South
Ottawa, ON K2E 7K3

Marc Panzer, SVP, Real Estate
Williams-Sonoma, Inc. and
Williams-Sonoma Stores, Inc.
3250 Van Ness Avenue
San Francisco, CA 94105

Re: Lease Agreement dated as of May 9, 2008 (as amended, the
"**Lease**") between 1163321 Ontario Inc. and 1414614 Ontario Inc.
("**Landlord**") and Bed Bath & Beyond Canada L.P. ("**Tenant**")
for premises located at Ottawa Trainyards, Ottawa, ON, Canada
("**Shopping Center**") [**#2003**]



Dear Sir or Madam:

Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Lease.

As you are aware, Article 13 of the Lease (a copy of which is attached as Exhibit A) contains exclusive use protection in favor of Tenant (the "**Exclusive**"). Tenant hereby waives the Exclusive with regard to any use of retail premises in the Shopping Center by Williams-Sonoma, its successors and assigns operating under the trade name "**West Elm**", therefore, the Exclusive shall not apply to West Elm.

Thank you.

Very truly yours,


Seth Geldzahler
Vice President – Real Estate 

Att.

Exhibit A

elevations and signage, as shown on Exhibit D-1 and Exhibit F hereto), Tenant's Work, and the operation of Tenant's business in the Premises.

Section 12.6 Intentionally omitted.

ARTICLE 13. USES AND RESTRICTIONS

Section 13.1 Permitted and Prohibited Uses.

13.1.1 Tenant's Permitted Use. The Premises may be used and occupied for the Permitted Use (defined in Subsection 1.1.27 above). Tenant shall not use the Premises for any of the "Prohibited Uses" (defined in Exhibit M hereto annexed) or the "Existing Exclusives" (hereinafter defined in Subsection 13.3.1), to the extent then applicable.

13.1.2 Prohibited Uses. Landlord shall construct, lease, operate, maintain and manage the Shopping Center as a first-class shopping center comparable to other first-class shopping centers in the province in which the Shopping Center is located. Landlord shall not lease, rent or occupy or permit any portion of the Shopping Center or any land (the "**Related Land**") contiguous or adjacent to the Shopping Center (including, without limitation, any land that would be contiguous or adjacent to the Shopping Center but for any intervening road, street, alley or highway) now or hereafter owned or controlled by Landlord or its Affiliate(s), to be occupied (except to the extent otherwise permitted under any lease for space in the Shopping Center or the Related Land existing as of the Effective Date) for any of the "Prohibited Uses" (defined in Exhibit M hereto annexed), provided, however, that the foregoing provisions of this Subsection 13.1.2 shall not apply to any business existing on any Related Land owned or controlled by a person or entity which: (i) was previously, but is no longer, the Landlord hereunder, or (ii) at the time it became Landlord hereunder, already owned or controlled such Related Land (excluding, however, the Landlord originally named herein and its Affiliates).

Section 13.2 Tenant's Exclusive in Center. To induce Tenant to execute this Lease, and subject to all of the terms and provisions of this Section 13.2, Landlord covenants and agrees as follows.

13.2.1 Landlord shall not lease, rent or occupy or permit any other premises in the Shopping Center or on any Related Land to be occupied, whether by a tenant, sublessee, assignee, licensee or other occupant or itself, for the sale, rental or distribution, at retail or at wholesale, either singly or in any combination, of items contained in any of the following respective categories of merchandise: (a) linens and domestics; (b) bathroom items (excluding plumbing hardware); (c) housewares (excluding furniture, and major appliances or "white goods"); (d) frames and wall art (except in the area adjacent to the premises operating (or to be operating) as "Tommy Hilfiger", a fine art gallery (which also includes framing services and the sale of art supplies) shall not be precluded); (e) window treatments; and/or (f) closet, shelving and storage items (which items, either singly or in any combination, are hereinafter referred to as the "**Exclusive Items**"). Notwithstanding the foregoing, any tenant or subtenant in the Shopping Center or the Related Land shall have the right to utilize its respective premises for the sale, rental and/or distribution of Exclusive Items within an aggregate area (which shall include an allocable portion of the aisle space adjacent to such sales, rental and/or distribution area) not to exceed the lesser of (x) ten percent (10%) of the Floor Area of such tenant's or subtenant's premises, or (y) two thousand (2,000) square feet of Floor Area within such tenant's or subtenant's premises. [For example only, a tenant occupying premises containing a total of five thousand (5,000) square feet of Floor Area could sell Exclusive Items (either singly or in any combination) so long as the aggregate area within its entire demised premises in which any and all Exclusive Items are sold shall not exceed five hundred (500) square feet. Existing tenants of the Shopping Center and any Related Land, as listed in Exhibit K-2, shall be exempt from this Section 13.2, provided that such tenants' leases do not allow the Landlord to restrict the use of such premises in the manner required under this Section 13.2. However existing tenants of the Shopping Center and any Related Land (and current or future assignees or sublessees of such tenants) shall nevertheless be subject to the restrictions

contained in this Section 13.2 in the event that: (i) the lease between Landlord (or Landlord's Affiliate) and any such tenant requires the consent of Landlord (or its Affiliate) to any assignment or subletting or to a change in the use of the applicable premises to permit the sale, rental or distribution of the Exclusive Items; or (ii) Landlord or its Affiliate permits or agrees to an expansion of the applicable premises for the sale, rental, or distribution of the Exclusive Items.

13.2.2 The restrictions set forth in Subsection 13.2.1 above shall not apply to a full-line national or regional: (i) department store [for example, Wal-Mart, Macy's, or Target, Holt Renfrew, The Bay, Zellers, (but not "Home Outfitters" or "HomeSense"), (ii) discount club [for example, Costco, BJ's Wholesale Club, or Sam's Club], or (iii) home improvement center [for example, Home Depot or Lowe's], or (iv) supermarket / grocery store [for example Loblaws, A & P, Sobeys], commonly located in first-class shopping centers in the province in which the Shopping Center is located, each occupying at least 60,000 square feet of Floor Area within the Shopping Center, as such stores are currently operated (as of the Effective Date).

13.2.3 For the Related Land only, the restrictions set forth in Subsection 13.2.1 shall not apply to:

- Winners
- BouClair (existing concept as of the Effective Date)
- Canadian Tire
- Sears /Home Store
- Leon's, The Brick, or similar furniture store
- Holt Renfrew
- English Butler
- Pier I
- Restoration Hardware
- Pottery Barn – Williams Sonoma
- Crate & Barrel
- Sleep Country or similar store
- Urban Barn
- Corbeil
- Home Hardware
- Mikasa

13.2.4 The exclusive rights granted to Tenant in this Section 13.2 shall inure to the benefit of any assignee of Tenant's interest in this Lease and to any sublessee of at least fifty percent (50%) of the Floor Area of the Premises.

13.2.5 (a) Upon breach of the aforesaid covenant and agreement by Landlord (which breach shall not include a situation in which the lease between Landlord and any tenant in the Shopping Center or in the Related Land prohibits the tenant therein from violating the exclusive rights granted to Tenant in this Section 13.2 and despite such prohibition, such tenant violates such exclusive rights, unless Landlord fails to comply with any of the provisions of subparagraph (b) below), the Rent payable hereunder shall be reduced by fifty percent (50%) for so long as such violation shall continue, and Tenant shall have all remedies given to it at law and in equity, including, without limitation, the right to obtain injunctive relief, and/or to terminate this Lease, and/or to commence and prosecute an action against Landlord or any other violator for damages.

(a) If any person or entity other than Landlord shall violate any of the exclusive provisions herein set forth, or shall indicate in writing to Landlord that it intends to violate any of said provisions, Landlord shall promptly commence appropriate legal proceedings, and diligently prosecute the same, to enjoin and prohibit any such violation. If Landlord fails to promptly commence such proceedings, or shall fail thereafter to diligently prosecute the same, then Tenant shall have the right (a) to conduct and prosecute such legal proceedings (including, without limitation, an action for injunctive relief) in its own name, at Landlord's expense, or (b) in the event the right set forth in (a) above is not permitted to be exercised under applicable Legal

Requirements, to conduct and prosecute such legal proceedings in the name of Landlord, at Landlord's expense, and Landlord shall cooperate with Tenant with respect to such prosecution (including, without limitation, by executing any documentation or authorization reasonably required by Tenant in connection with such prosecution and by appearing at any hearing or trial with respect to such prosecution).

Section 13.3 Exclusives Which Tenant Must Honor.

13.3.1 Tenant shall honor certain exclusives granted by Landlord to certain other tenants in the Shopping Center pursuant to the terms of leases or firm, binding and unconditional offers to lease which have been executed prior to the Effective Date (hereinafter, "**Existing Exclusives**") [a true and complete listing and description of such Existing Exclusives being attached hereto as Exhibit K-1], and shall not sublease, occupy or use all or any portion of the Premises, or permit all or any portion of the Premises to be occupied or used in violation of any such Existing Exclusive (except as may be specifically set forth on Exhibit K-1). Landlord represents and warrants that no Existing Exclusive(s) exist other than those listed on Exhibit K-1 hereto and that Exhibit K-1 is true accurate and complete, and covenants to indemnify, defend and hold Tenant harmless from and against all loss, cost, liability or expense (including, without limitation, reasonable legal fees) incurred by Tenant by reason of the enforcement by any person or entity of such unlisted Existing Exclusive. Notwithstanding the foregoing, Tenant shall be entitled to enter into a separate agreement with any tenant or other occupant for whose benefit the Existing Exclusive is granted which nullifies or modifies the corresponding Existing Exclusive with regard to the Premises.

13.3.2 Except as expressly set forth in this Section 13.3, Tenant shall not be obligated to honor any exclusive granted by Landlord to any tenant in the Shopping Center or in any other property owned by Landlord or Landlord's Affiliate.

ARTICLE 14. CONDUCT OF BUSINESS OPERATIONS

Section 14.1 Covenant to Open for One Day.

Notwithstanding any other provisions of this Lease, Tenant shall have no obligation to open or operate any business in the Premises, and shall have the right, at any time, to cease to conduct any business operations in the Premises, and Tenant shall incur no liability to Landlord or its Mortgagee by reason thereof (it being understood and agreed that all of Tenant's obligations under this Lease shall continue unless this Lease is terminated pursuant, *inter alia*, to the further provisions of this Article 14 or any other provision of this Lease [other than by reason of an Event of Default]). In the event that Tenant does not operate or cause to be operated any retail business in the Premises (other than prior to the Rent Commencement Date or during Excused Periods) for more than three hundred sixty-five (365) consecutive days, Landlord shall have the option to terminate this Lease, which option shall be exercisable by giving notice thereof to Tenant by not later than the ninetieth (90th) day after the date on which said 365-day period expires, whereupon this Lease shall terminate upon the sixtieth (60th) day (the "**Recapture Date**") after the date on which Tenant receives Landlord's termination notice, as if the Recapture Date was originally set forth herein as the expiration date of the Term. Upon such termination, Landlord and Tenant shall each be released from any and all liabilities thereafter accruing hereunder, except for those obligations which survive the expiration or other termination of this Lease pursuant to the express terms of this Lease. All Rent payable by Tenant hereunder shall be apportioned as of the Recapture Date and Tenant shall promptly pay to Landlord any amounts so determined to be due and owing by Tenant to Landlord, and conversely Landlord shall promptly reimburse Tenant for any amounts prepaid by Tenant for periods subsequent to the Recapture Date.

Bed Bath & Beyond Canada LP
c/o Bed Bath & Beyond
650 Liberty Avenue
Union, New Jersey 07039

July 25, 2018

Writer's Direct Extension (x4568)
& E-mail: seth.geldzahler@bedbath.com

VIA FEDERAL EXPRESS

1663321 Ontario Inc. and 1414614 Ontario Inc.
223 Colonnade Road South
Ottawa, ON K2E 7K3

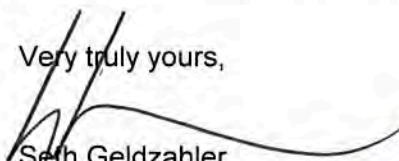
Re: Lease Agreement dated as of May 9, 2008 (as amended, the "**Lease**") between 1663321 Ontario Inc. and 1414614 Ontario Inc. ("**Landlord**") and Bed Bath & Beyond Canada L.P. ("**Tenant**") for retail premises located at Ottawa Trainyards, Ottawa, Ontario, Canada (the "**Shopping Center**") [#2003]

Dear Landlord:

All capitalized terms used herein, but not defined herein, shall have the meanings ascribed to them in the Lease.

PLEASE TAKE NOTICE that pursuant to Section 2.2. 2 of the Lease, Tenant hereby exercises its first Renewal Option, which will commence on February 1, 2019 and end on January 31, 2024.

Very truly yours,


Seth Geldzahler
Vice President – Real Estate *K BN*

cc: Bank of Montreal (via Fed. Exp.)
Capital Centre
269 Laurier Avenue West, Suite 200
Ottawa, ON K1P 5J9

1663321 Ontario Inc. and 1414614 Ontario Inc.

July 25, 2018

Page 2

bcc: Alan Freeman
Allan Rauch
Seth Geldzahler
Steve Goldberg
Bethany Nadel
Scott R Smith
Zanna Lantzman
Jim Brendle
Tom Ostenfeld
Matt Fiorilli
Ross Richman
Kaitlyn Clark
Christine Heider
Larry Guarino
Tiffany Zaborowski
Steve Cohen
Mark Bracken
Kathleen Mobilio
Mary Rochowiak

THIS IS **EXHIBIT “C”** REFERRED TO IN THE AFFIDAVIT OF WADE HADDAD SWORN BEFORE ME over video teleconference this 5th day of May, 2023 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Union, in the State of New Jersey while the Commissioner was located in the City of Toronto, in the Province of Ontario.

DocuSigned by:

Emilie Dillon

58C63E8818CD461...

Commissioner for Taking Affidavits
Emilie Dillon (LSO No. 85199L)

ASSIGNMENT AND ASSUMPTION OF LEASE

THIS AGREEMENT (“**Agreement**”) is made as of the 1st day of May, 2023 (the “**Effective Date**”)

B E T W E E N:

BED BATH & BEYOND CANADA L.P.

(the “**Assignor**”)

- and -

GIANT TIGER STORES LIMITED

(the “**Assignee**”)

- and -

BED BATH & BEYOND INC.

(the “**Indemnifier**”)

RECITALS:

- A. Pursuant to a lease dated February 13, 2015, as same has been assigned, amended, restated, renewed or supplemented from time to time, including but not limited to those documents listed in Schedule “A” attached hereto (collectively, the “**Lease**”), 1493130 Ontario Limited, Riotrin Properties (Vaughan 2) Inc., Riotrin Properties (Vaughan 3) Inc., Riotrin Properties (Vaughan) Inc., (collectively, the “**Landlord**”) leased to the Assignor certain premises at 67 Colossus Drive, Unit D10, being approximately 22,434 square feet of rentable area, in the City of Vaughan, in the Province of Ontario as more particularly described in the Lease (the “**Premises**”).
- B. The Indemnifier entered into an indemnity agreement in favour of the Landlord dated February 13, 2015, as same may have been assigned, amended, restated, renewed or supplemented from time to time.
- C. BBB Canada Ltd. and the Assignor (collectively, the “**BBB Canada Entities**”) were granted protection by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed as the monitor of the BBB Canada Entities (in such capacity, the “**Monitor**”), pursuant to an Order of the Court dated February 10, 2023, as amended and restated on February 21, 2023, and as may be further amended, restated and/or amended and restated from time to time (collectively, the “**Initial Order**”). Pursuant to the terms of the Initial Order, the BBB Canada Entities and the Indemnifier have the benefit of a stay of proceedings and certain other protections and benefits provided by the Initial Order and the CCAA.

- 2 -

- D. The Assignor, the Assignee and the Indemnifier are entering into this Agreement to provide for the assignment and assumption of the Assigned Interest (as hereinafter defined) by the Assignor to the Assignee in accordance with and subject to the terms and conditions contained herein.
- E. The Landlord has provided a waiver of its termination right in connection with the assignment of the Assigned Interest by way of the Landlord Waiver and Amendment of Lease attached hereto as Schedule "B".

THEREFORE, in consideration of the covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 ASSIGNMENT

1.1 Assignment by Assignor

- (a) Subject to the release of the Consideration (as hereinafter defined) from escrow pursuant to Section 3.1(a), the Assignor assigns and transfers to the Assignee, as of May 1, 2023 (the "**Closing Date**"), all of the Assignor's rights, title and interest, both at law and at equity, in and to the Lease and the Premises and in and to the personal property, FF&E and Trade Fixtures (each as hereinafter defined) left in the Premises on the Closing Date, and all related rights, benefits and advantages, including the residue of the term of the Lease, any rights to receive any reimbursement, readjustment or reconciliation for overpayment of rent or other amounts under the Lease, including in respect of periods prior to the Closing Date, any rights of renewal and/or extension, any rights of first refusal, rights of first offer and similar pre-emptive rights, and rights to purchase, if any, contained in the Lease (collectively, the "**Assigned Interest**"). No Consideration shall be allocated to any personal property, FF&E or Trade Fixtures. Notwithstanding anything to the contrary herein, the Assigned Interest will not include any FF&E, Trade Fixtures, leasehold improvements or personal property in the Premises that are not owned by the Assignor.
- (b) "**FF&E**" includes all tools, signs, furniture, machinery, equipment, personal or moveable property, chattels, furnishings and fixtures including shelves, video cameras and equipment, security systems, point-of-sales systems and related appurtenances, telecommunications systems and related appurtenances, electric light fixtures, elevating devices and equipment, in each case to the extent owned by the Assignor or any related party and which are now used or intended to be used, or which were previously used, in connection with the Assignor's occupation and operation of the Premises, other than the Trade Fixtures.
- (c) "**Trade Fixtures**" means the fixtures, shelves, counters, equipment, and other improvements in each case which were installed by or on behalf of the Assignor or any related party, in each case to the extent owned by the Assignor or any related party and which are now used or intended to be used, or which were previously used, in connection with the Assignor's occupation and operation of the Premises, and regardless of whether

the same were constructed, installed or attached in any manner whatsoever to the floors, walls or ceilings of the Premises.

1.2 Assumption by Assignee

The Assignee hereby accepts the assignment of the Assigned Interest provided for in this Agreement and assumes all of the Assignor's obligations with respect to the Assigned Interest arising or in respect of the period of time from and after the Closing Date. The Assignee further assumes all of the Assignor's obligations with respect to the Cure Costs (as hereinafter defined).

1.3 Cure Costs

(a) The Assignor will not be responsible, including pursuant to the Landlord Amendment and Waiver Agreement, for any costs which may be necessary to cure any monetary defaults under the Lease which exist as of the Closing Date (collectively, the "**Cure Costs**"). Subject to any releases which may be provided by the Landlord in the Landlord Waiver and Amendment Agreement, the Assignee will be responsible for all Cure Costs under the Lease incurred or due and owing for the period between January 1, 2023 and the Closing Date. Subject to Section 1.4, any Cure Costs existing under the Lease for the period between January 1, 2023 and the Closing Date shall be paid from the Consideration payable hereunder.

(b) Notwithstanding the foregoing subparagraph (a), if the Cure Costs exceed Two Hundred Thousand Dollars (\$200,000), in the aggregate, then the Assignor, acting in a commercially reasonable manner, with the approval of the Monitor, shall have the option to terminate this Agreement prior to the Closing Date by giving notice prior to May 1, 2023. Promptly following termination of this Agreement pursuant to this Section 1.3 the Monitor shall return the Consideration to the Assignee.

1.4 Adjustments

(a) The parties acknowledge and agree that (i) the amount of amount of One Thousand Three Hundred Thirty-Six Dollars and Twenty-Seven Cents (\$1,336.27) is owing under the Lease in respect of rental arrears and CAM and stormwater payments owing under the Lease for the period prior to the Closing Date (the "Rent Charges") and shall not be the subject of further adjustments and the Assignee shall pay an amount equal to the Rent Charges to the Landlord, or as the Landlord may direct, and such amount has been reflected in the Consideration payable hereunder; and (ii) the Assignor has paid the estimated interim 2023 taxes payable for the period of up to June 30, 2023 and such amount has been reflected in the Consideration payable hereunder, and Assignor and Assignee agree that they shall have no claim against the other for any adjustments and/or reconciliations of any amounts under the Lease, including relating to realty taxes, additional rent or common area

(b) For certainty and without limiting the generality of Section 1.1, the Assignor acknowledges and agrees that it shall have no claims or rights against the Assignee or the Landlord in respect of any right to receive any reimbursement, readjustment or reconciliation for overpayment of rent, realty taxes, common area charges or other amounts under the Lease even if such reimbursement, readjustment or reconciliation or other amounts relate to payments made by the Assignor prior to the Closing Date.

ARTICLE 2 AS IS, WHERE IS

2.1 As Is, Where Is

The Assignee covenants and agrees in favour of the Assignor that it has had an opportunity to inspect and will accept the Assigned Interest, including the Premises, in all respects in an “as is where is” condition as of the Closing Date without any representation or warranty whatsoever, in this Agreement or in any agreement entered into directly between the Landlord and the Assignee, and the Assignee has reviewed the Lease and is familiar with the Lease in all respects. The Assignor shall leave the Premises in broom-swept condition on the Closing Date. Any personal property, FF&E or Trade Fixtures left in the Premises on the Closing Date shall become the sole property of the Assignee.

ARTICLE 3 CONSIDERATION AND COVENANTS

3.1 Consideration for Assignment

- (a) In consideration for the assignment of the Assigned Interest, the Assignee agrees to pay to the Monitor, in trust and to be held in escrow, or as the Monitor may otherwise direct in writing, on the Closing Date, the amount of Two Hundred Sixty-Eight Thousand Six Hundred Sixty-Three Dollars and Seventy-Three Cents (\$268,663.73) (the “**Consideration**”), plus any and all applicable sales, goods and services, harmonized sales and excise taxes. The Consideration, less any amounts required to pay any Cure Costs other than the Rent Charges, shall be released from escrow to the Assignor on the Closing Date in accordance with payment instructions to be provided by the Assignor to the Monitor prior to the Closing Date. An amount equal to any Cure Costs, other than the Adjustment, shall, be released from escrow on the Closing Date to the Landlord or as the Landlord may direct the Monitor in writing prior to the Closing Date.
- (b) The Consideration shall be allocated 99% to BBB Canada Ltd. and 1% to BBB Canada LP Inc. (with the amount allocated to BBB Canada LP Inc. being the “**Non-Resident Consideration**”).
- (c) The parties hereto acknowledge and agree that the Monitor shall (i) be under no obligation to invest the Consideration or Adjustment Settlement or hold same in an interest bearing account prior to the Closing Date, and (ii) be entitled to release the Consideration and Adjustment Settlement from escrow to the Assignor on the Closing Date in accordance with Section 3.1(a), without independent investigation, upon receiving written confirmation from the Assignor and the Assignee or their respective counsel that the conditions to closing in favour of the Assignor and the Assignee (if any), as applicable, have been satisfied or waived, and the Monitor shall have no liability to the parties hereto in connection therewith.
- (d) The parties hereto acknowledge and agree that A&M, acting in its capacity as Monitor, shall have no liability in its personal or corporate capacity or otherwise, in connection with this Agreement.

3.2 Access

From the date hereof until the Closing Date, the Assignee and its agents, advisors, consultants, employees and representatives will have access to the Premises upon prior written Notice (as hereinafter defined) of not less than two (2) Business Days to the Assignor solely for the purposes of visiting and conducting noninvasive inspections of the Premises. The Assignee and its agents, advisors, consultants, employees and representatives will use commercially reasonable efforts to not interfere with the Assignor's business.

3.3 Clearance Certificate and Withholding

- (a) At the Closing Date, the Assignor will deliver to the Assignee a clearance certificate issued by the Canada Revenue Agency (the "**CRA**") pursuant to section 116 of the Income Tax Act (Canada) (the "**Tax Act**") addressed to the Assignor with a certificate limit equal to the Non-Resident Consideration (a "**Clearance Certificate**") or, if the Assignor does not deliver such Clearance Certificate, the Assignee shall be entitled to withhold such amount as it is permitted or required to withhold under the Tax Act from the Non-Resident Consideration (the "**Withheld Funds**") and to pay the Withheld Funds to the Assignee's Solicitors on their undertaking to keep the Withheld Funds in their trust account and make no use of them whatsoever except in accordance with the following:
 - I. if the Assignor's Solicitors have not delivered to the Assignee's Solicitors the Clearance Certificate for the Assignor by the 29th day of the month following the Closing Date, the Assignee's Solicitors will remit the Withheld Funds to the CRA by the 30th day of such month unless prior to that date the Assignee has received in writing, addressed to the Assignor's Solicitor, the consent of the CRA to remit the Withheld Funds at a later date without application of any interest or penalties, in which case the Assignee's Solicitors will remit the Withheld Funds in accordance with the directions of the CRA, and
 - II. after the Assignor's Solicitors have delivered to the Assignee's Solicitors the Clearance Certificate, the Assignee's Solicitors may disburse to the Assignor the excess of the Withheld Funds (if any) over the amount required to obtain such Clearance Certificate.

3.4 Interim Period

During the period from the Effective Date to the Closing Date, the Assignor shall comply with each and every term and condition of the Lease to the extent required by the Assignor's CCAA proceedings, subject only to the provisions of the CCAA, the Initial Order and any other order of the Court.

3.5 Trademarks

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Assignee acknowledges and agrees that: (a) no signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying "Bed Bath & Beyond" or "buybuy

Baby” are conveyed or intended to be conveyed to the Assignee as part of the Assigned Interest; and (b) all right, title and interest of the Assignor in and to all of its existing signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying “Bed Bath & Beyond” or “buybuy Baby” or containing the words “Bed Bath & Beyond” or “buybuy Baby” are hereby specifically reserved and excluded from the Assigned Interest.

ARTICLE 4 SERVICES

4.1 Services

Other than the Lease, the Assignee shall not assume, and as of the Closing Date, the Assignor shall be responsible to terminate, any contracts or agreements entered into by or on behalf of the Assignor in respect of the Premises, including in respect of any cleaning or maintenance services or utilities including, without limitation, electricity, gas, water, fuel, telephone service, internet services, satellite, security and surveillance services or otherwise (collectively, “**Services**” and each, a “**Service**”) at the Premises. From and after the Closing Date, any and all charges and other related fees payable for Services for the Premises pursuant to any invoice or statement issued on or after the Closing Date to the extent relating to a time period commencing on or after the Closing Date, shall be the sole responsibility of the Assignee. On the Closing Date, the Assignee shall set up all required Service accounts for the Premises in its own name, and the Assignor shall not be responsible for payment of any utilities following such date.

ARTICLE 5 TAXES

5.1 Tax Matters

The Assignee will pay, in addition to the Consideration, and the Assignor will collect, any goods and services tax or harmonized sales tax, as the case may be, imposed under the Excise Tax Act, R.S.C. 1985, c. E-15, as amended (the “**Excise Tax Act**”) and any similar value added or multi-staged tax or sales tax exigible on the Assignment, except to the extent that the Assignee is permitted under subsection 221(2) of the Excise Tax Act and any equivalent or corresponding provision under any applicable provincial or territorial legislation to self-assess and remit such taxes directly to the appropriate governmental authority. Further, together with the execution of this Agreement, the Assignee shall execute a certificate, undertaking and indemnity which includes its certification of its registration number issued under the Excise Tax Act, and is in the form attached hereto as Schedule “C”, dated as of the Closing Date.

5.2 Residency of BBB Canada Ltd. And BBB Canada LP Inc.

The Assignor warrants, represents and covenants to the Assignee, and acknowledges and confirms that the Assignee is relying on such representation and warranty in connection with the entering into of this Agreement, that BBB Canada Ltd. is not a non-resident of Canada within the meaning of the Tax Act, and that BBB Canada Ltd. is the legal and beneficial owner of ninety-nine percent (99%) of the partnership units of the Assignor, and that BBB Canada LP Inc. is the legal and beneficial owner of one percent (1%) of the partnership units of the Assignor.

5.3 Residency of Assignee

The Assignee warrants, represents and covenants to the Assignor, and acknowledges and confirms that the Assignor is relying on such representation and warranty in connection with the entering into of this Agreement, that the Assignee is not a non-resident of Canada within the meaning of the *Income Tax Act* R.S.C., 1985, c. 1 (5th Supp.), as amended.

The provisions of this Article 5 shall survive and not merge on the Closing Date.

ARTICLE 6 GENERAL

6.1 Defined Terms

Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Lease.

6.2 Indemnifier

Indemnifier hereby acknowledges this Agreement and the other parties hereto acknowledge that the Indemnifier is a beneficiary hereof.

6.3 Time of the Essence

Time shall be of the essence of this Agreement.

6.4 Enurement

This Agreement shall become effective when executed by the parties hereto and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

6.5 Entire Agreement

This Agreement and the schedules hereto constitute the entire agreement between the parties with respect to the assignment and assumption of the Lease and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants,

conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement.

6.6 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of any party to this Agreement to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

6.7 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to carry out the terms and conditions of this Agreement in accordance with their true intent.

6.8 Severability

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

6.9 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

6.10 Forum

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA proceedings before the Court until the termination of such proceedings and, thereafter, pursuant to and in accordance with the Lease.

6.11 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

6.12 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

6.13 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

6.14 Business Days

For purposes of this Agreement, “**Business Days**” shall mean those days that are Monday to Friday, inclusive, excluding holidays in the Province of Ontario or the Province in which the Premises are located. If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

6.15 Notice

Any notice, consent, confirmation or approval required or permitted to be given in connection with this Agreement or the Lease (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Lease at the address for such party set out below:

(a) To the Assignor:

Bed Bath & Beyond Canada LP
c/o
Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: SVP Real Estate and Store Development

Bed Bath & Beyond Canada LP
c/o
Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: General Counsel

Bed Bath & Beyond Canada LP
c/o

- 10 -

Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: Lease Administration

(b) To the Assignee:

Giant Tiger Stores Limited
2480 Walkley Road, Ottawa, ON K1G 6A9

Attention: President

With a copy to:

Attention: Legal Department
Email: legal@gianttiger.com

(c) To the Monitor:

Alvarez & Marsal Canada Inc.
200 Bay St.
Toronto, Ontario M5J 2J1

Attention: Al Hutchens/Ryan Gruneir
Email: ahutchens@alvarezandmarsal.com/rgruneir@alvarezandmarsal.com

(d) To the Indemnifier:

Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: SVP Real Estate and Store Development

6.16 Counterparts and Delivery

All parties agree that this Agreement may be executed in counterpart and transmitted by electronic means and that the reproduction of signatures in counterpart by way of electronic means will be treated as though such reproduction were executed originals.

[Signature pages follow.]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.

**BED BATH & BEYOND CANADA L.P. by
its general partner BBB CANADA LTD.**

By: Wade Haddad

Name: Wade Haddad

Title: Authorized Signing Officer

By: _____

Name:

Title:

GIANT TIGER STORES LIMITED

By: _____

Name: Gino DiGiacchino

Title: Interim President & Chief
Executive Officer

By: _____

Name: Todd Zator

Title: Executive Vice President & Chief
Financial Officer

BED BATH & BEYOND INC.

By: Wade Haddad

Name: Wade Haddad

Title: Authorized Signing Officer

By: _____

Name:

Title:

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.


**BED BATH & BEYOND CANADA L.P. by
its general partner BBB CANADA LTD.**

By: _____
Name: Wade Haddad
Title: Authorized Signing Officer

By: _____
Name: _____
Title: _____

GIANT TIGER STORES LIMITED

By: Gino DiGiacchino
Name: Gino DiGiacchino
Title: Interim President & Chief
Executive Officer

By: 
Name: Todd Zator
Title: Executive Vice President & Chief
Financial Officer

BED BATH & BEYOND INC.

By: _____
Name: Wade Haddad
Title: Authorized Signing Officer

By: _____
Name: _____
Title: _____

**SCHEDULE “A”
LEASE PARTICULARS**

Lease Agreement between 1493130 Ontario Limited, a corporation incorporated under the laws of Ontario, Riotrin Properties (Vaughan 2) Inc., a corporation incorporated under the laws of Ontario, Riotrin Properties (Vaughan 3) Inc., a corporation incorporated under the laws of Ontario, Riotrin Properties (Vaughan) Inc., a corporation incorporated under the laws of Ontario (collectively, “Landlord”) and Bed Bath & Beyond Canada L.P., an Ontario limited partnership (“Tenant”), dated as of 13 February, 2015

**SCHEDULE “B”
LANDLORD AMENDMENT AND WAIVER**

See attached.

SCHEDULE "C"**GST/HST CERTIFICATE, UNDERTAKING AND INDEMNITY**

TO: **BED BATH & BEYOND CANADA L.P.** (the "Assignor")

RE: Assignment and Assumption of Lease dated May 1, 2023 made between the Assignor, Giant Tiger Stores Limited (the "Assignee") and Bed Bath & Beyond Inc., as amended from time to time (the "Agreement").

DATED: May 1, 2023

In consideration of the Agreement, the Assignee hereby certifies and agrees as follows that as at the date hereof:

- (a) the Assignee is duly registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act*, R.S.C., 1985, c. E-15, as amended, restated, supplemented or substituted from time to time (the "**Excise Tax Act**") with respect to the goods and services tax and harmonized sales tax, and that its registration number is: 102085552, which registration shall be in full force and effect and shall not have been cancelled or revoked on the Closing Date;
- (b) the Assignee has entered into the Agreement, and the Assigned Interest is being assigned to the Assignee on the Closing Date, as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of or for another Person (as defined in the Excise Tax Act);
- (c) to the extent permitted under subsection 221(2) of the Excise Tax Act and any equivalent or corresponding provision under any applicable provincial or territorial legislation, the Assignee shall self-assess and remit directly to the appropriate governmental authority any taxes including goods and services tax or harmonized sales tax, as the case may be, imposed under the Excise Tax Act and any similar value added or multi staged tax or sales tax imposed by any applicable provincial legislation payable in connection with the Assignment;
- (d) the Assignee shall make and file all required return(s) in accordance with the requirements of subsection 228(4) of the Excise Tax Act and any equivalent or corresponding provision under any applicable provincial legislation; and
- (e) the Assignee shall indemnify and save the Assignor harmless from and against any and all goods and services tax or harmonized sales tax, as the case may be, imposed under the Excise Tax Act and any similar value added or multi-staged tax or sales tax, penalties, costs and/or interest which may become payable by or assessed against the Assignor as a result of any failure by the Assignor to collect and remit any goods and services tax or harmonized sales tax payable under the Excise Tax Act or any similar value added or multi-staged tax or sales tax and applicable on the Consideration or as a result of any inaccuracy, misstatement or misrepresentation made by the Assignee on the Closing Date in connection with any matter raised in this GST/HST Certificate, Undertaking and Indemnity or any

failure by the Assignee to comply with the provisions of this GST/HST Certificate, Undertaking and Indemnity.

Capitalized terms used in this GST/HST Certificate, Undertaking and Indemnity and not defined herein shall have the meanings ascribed to them in the Agreement.

This GST/HST Certificate, Undertaking and Indemnity may be executed in counterpart and transmitted by electronic means and that the reproduction of such signatures will be treated as though such reproduction were executed originals.

[Signature page follows.]

DATED May 1, 2023

GIANT TIGER STORES LIMITED

By: _____
Name:
Title:
By: _____
Name:
Title:

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Court File No: CV-23-00694493-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BBB
CANADA LTD.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

AFFIDAVIT OF WADE HADDAD

OSLER, HOSKIN & HARCOURT LLP
100 King Street West, 1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto ON M5X 1B8

Marc Wasserman (LSO# 44066M)
Shawn Irving (LSO# 50035U)
Dave Rosenblat (LSO# 64586K)
Emily Paplawski (LSA# 17693)

Tel: (416) 362-2111
Fax: (416) 862-6666

Lawyers for the Applicant

TAB 3

Court File No. CV-23-00694493-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	MONDAY, THE 15 TH
)	
CHIEF JUSTICE MORAWETZ)	DAY OF MAY, 2023

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF BBB CANADA LTD.
(the "**Applicant**")

ASSIGNMENT, APPROVAL AND VESTING ORDER

THIS MOTION, made by the Applicant pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order, among other things, (i) approving the transactions (collectively, the "**Transactions**" and each, a "**Transaction**") contemplated by the assignment agreements (collectively, the "**Assignment Agreements**" and each, an "**Assignment Agreement**") between, *inter alios*, Bed Bath & Beyond Canada L.P. ("**BBB L.P.**"), and together with the Applicant, the "**BBB Entities**") and each of the purchaser parties to the applicable Assignment Agreement as set out in Schedule "A" attached hereto (collectively, the "**Purchasers**" and for each such Assignment Agreement, a "**Purchaser**"), (ii) assigning to and vesting in the Purchasers, as applicable, all of BBB L.P.'s right, title and interest in and to the leases (as amended, modified, assigned and restated, collectively, the "**Leases**") and other purchased assets described in the Assignment Agreements set out in Schedule "A" hereto, including the Assigned Interest (as defined in the Assignment Agreements) (the Leases and such other assets collectively referred to herein as the "**Purchased Assets**"), was heard this day via videoconference.

ON READING the Notice of Motion of the Applicant, the Affidavit of Wade Haddad sworn on May 5, 2023 including the exhibits thereto (the "**Haddad Affidavit**"), the Fourth Report

of Alvarez & Marsal Canada Inc., in its capacity as Court-appointed monitor (in such capacity, the “**Monitor**”), dated May ●, 2023 (the “**Fourth Report**”), filed, and on hearing the submissions of respective counsel for the BBB Entities, the Monitor, and such other counsel as were present and listed on the Counsel Slip, no one else appearing although duly served as appears from the Affidavit of Service of Emily Paplawski, sworn May ●, 2023, filed:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Amended and Restated Initial Order in these proceedings dated February 21, 2023 (the “**Initial Order**”).

APPROVAL OF ASSIGNMENT OF PURCHASED ASSETS

3. **THIS COURT ORDERS AND DECLARES** that the Transactions are hereby approved, and the execution and delivery of each of the Assignment Agreements by BBB L.P. is hereby authorized and approved, with such minor amendments as BBB L.P. and the applicable Purchaser may agree to with the consent of the Monitor. BBB L.P. is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transactions and for the conveyance of the Leases to the Purchasers pursuant to the Assignment Agreements and the Monitor shall be authorized to take such additional steps in furtherance of its responsibilities under the Assignment Agreements.

4. **THIS COURT ORDERS** that upon delivery of a Monitor’s Certificate to BBB L.P. and the applicable Purchaser, substantially in the form attached as Schedule “B” hereto (collectively the “**Monitor’s Certificates**” and each, a “**Monitor’s Certificate**”):

- (a) all of the rights and obligations of BBB L.P. under the Lease described in the applicable Assignment Agreement and set forth under the header “4(a) Lease” in Schedule “A” (the “**4(a) Lease**”) shall be assigned, conveyed, transferred and assumed by such Purchaser pursuant to section 11.3 of the CCAA and such

assignment is valid and binding upon all of the landlords under the 4(a) Lease notwithstanding any restriction or prohibition, if any, contained in the 4(a) Lease relating to the assignment thereof, including but not limited to, provisions, if any, requiring the consent of or notice for any period in advance of the assignment to any party to the 4(a) Lease;

- (b) all of BBB L.P.'s right, title and interest in and to the Purchased Assets described in the applicable Assignment Agreement shall vest absolutely in such Purchaser free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing:
 - (i) any encumbrances or charges created by the Initial Order; and
 - (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system;

(all of which, as set out in the foregoing paragraphs 4(b)(i) and 4(b)(ii), are collectively referred to as the “**Encumbrances**”), provided that: (A) except as set forth in paragraph 4(a) or (c) or as may be otherwise agreed to by the Purchaser and the applicable landlord with respect to a Lease, nothing herein shall affect the rights and remedies of such landlord against the Purchaser that may arise under or in respect of a Lease; and (B) the Claims and the Encumbrances referred to herein shall not include permitted encumbrances identified in, or pursuant to, the Assignment Agreements. For greater certainty, this Court orders that (i) all of the Encumbrances affected or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets; (ii) nothing in this Order shall affect the rights and remedies under and pursuant to any landlord consent agreement (a “**Consent Agreement**”) executed with respect to the Assignment Agreements; and (iii) nothing in this Order shall affect the rights and remedies of a

landlord against an indemnifier with respect to a Lease (each an “**Indemnifier**”, including but not limited to Bed Bath & Beyond Inc.) arising from any and all indemnity agreements existing between a landlord and an Indemnifier (provided that, for the avoidance of doubt, such indemnity agreements shall be subject to the terms of any applicable Consent Agreement); and

- (c) the landlords under the respective Leases are prohibited from exercising any rights or remedies under the Leases, and shall be forever barred, enjoined and estopped from taking such action, by reason solely of:
 - (i) any defaults arising from the insolvency of the BBB Entities or any of their affiliates;
 - (ii) the commencement of these CCAA proceedings;
 - (iii) any defaults and/or recapture rights which arise upon the assignment of the Leases to the applicable Purchaser; or
 - (iv) BBB L.P. having breached a non-monetary obligation under the Lease unless, (A) the applicable landlord under a Lease and the applicable Purchaser have agreed otherwise; or (B) (i) such non-monetary breach arises or continues after the Lease is assigned to the applicable Purchaser; (ii) such non-monetary breach is capable of being cured by such Purchaser; and (iii) such Purchaser has failed to remedy the default after having received notice of such default pursuant to the terms of the Lease,

and are hereby deemed to waive any defaults relating thereto. For greater certainty, and without limiting the foregoing, no landlord under a Lease shall rely on a notice of default sent prior to the filing of the applicable Monitor’s Certificate to terminate a Lease as against the applicable Purchaser.

5. **THIS COURT ORDERS** that the 4(a) Lease may not be assigned unless all amounts owing in respect of monetary defaults under the 4(a) Lease, other than those arising by reason only of the BBB Entities’ insolvency, the commencement of these CCAA proceedings, or BBB L.P.’s failure to perform a non-monetary obligation, are paid on the Closing Date (as defined below), or

such later date as may be agreed to by the applicable Purchaser and the applicable landlord under the Lease on prior written notice to the Monitor (the “**Closing Date**” being the date of the delivery of the applicable Monitor’s Certificate).

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the proceeds, net of fees payable to RVC pursuant to the Exclusive Listing Agreement (each as defined in the Haddad Affidavit) and other applicable amounts, from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of a Monitor’s Certificate, all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. **THIS COURT ORDERS** that upon delivery of a Monitor’s Certificate, except as expressly set out to the contrary in any agreement between BBB L.P., the Purchaser and the applicable landlord under the Lease, the applicable Purchaser shall be entitled to all of the rights and benefits and subject to all of the obligations as tenant pursuant to the terms of the applicable Leases and registrations thereof and may enter into and upon and hold and enjoy such premises contemplated by the applicable Leases and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with and subject to the terms of the applicable Leases, without any interruption from BBB L.P. or the landlords under the Leases.

8. **THIS COURT ORDERS** that notwithstanding anything contained in this Order, nothing shall derogate from the obligations of the Purchasers to assume the applicable Leases and to perform the Purchasers’ obligations under the applicable Leases, as set out in the Assignment Agreements, except as expressly set out to the contrary in any agreement between BBB L.P., the Purchaser and the applicable landlord under the Lease.

9. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of each of the Monitor’s Certificates, forthwith after delivery thereof.

GENERAL

10. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “BIA”) in respect of any of the BBB Entities and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of any of the BBB Entities;

the vesting of the Purchased Assets in the Purchasers, as applicable, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the BBB Entities and shall not be void or voidable by creditors of any of the BBB Entities, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

11. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

12. **THIS COURT HEREBY REQUESTS** the aid and recognition of any Court, tribunal, regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist the BBB Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the BBB Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the BBB Entities and the Monitor and their respective agents in carrying out the terms of this Order.

13. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of the date of this Order without the need for entry or filing.

**SCHEDULE “A”
LEASES**

(See attached)

LEASE ASSIGNMENT AND ASSUMPTION AGREEMENTS**4(a) Lease:**

1. Assignment and Assumption of Lease Agreement, dated May 5, 2023 with respect to premises located in the Ottawa Trainyards Shopping Center located at 500 Terminal Avenue, Ottawa, Ontario

4(b) Lease:

1. Assignment and Assumption of Lease Agreement, dated May 1, 2023 with respect to the premises located in the RioCan Colossus Centre located at 67 Colossus Drive, Unit D10, Vaughan, Ontario

**SCHEDULE “B”
FORM OF MONITOR’S CERTIFICATE**

Court File No. CV-23-00694493-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES’ CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF BBB CANADA LTD.

MONITOR’S CERTIFICATE

RECITALS

A. All undefined terms in this Monitor’s Certificate have the meanings ascribed to them in the Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated May 15, 2023 (the “**Assignment Order**”).

B. Pursuant to the Assignment Order, the Court approved the Assignment Agreements and provided for the vesting in the Purchasers of BBB L.P.’s right, title and interest in and to the Purchased Assets described in the Assignment Agreements, which vesting is to be effective with respect to the Purchased Assets described in an Assignment Agreement upon the delivery by the Monitor to the applicable Purchaser and BBB L.P. of a certificate confirming (i) the conditions to closing as set out in such Assignment Agreement have been satisfied or waived by such Purchaser and BBB L.P., as applicable; and (ii) the applicable Transaction has been completed to the satisfaction of the Monitor.

THE MONITOR CERTIFIES the following:

1. _____ [PURCHASER] (the “**Assignee**”) has paid and BBB L.P. has received the Consideration payable on the Closing Date pursuant to the Assignment Agreement between, *inter alios*, the Assignee and BBB L.P. (each as defined in such Assignment Agreement);

2. The Monitor has received written notice from the Assignee and BBB L.P. that the conditions to closing as set out in such Assignment Agreement have been satisfied or waived by the Assignee and BBB L.P., as applicable; and

3. The applicable Transaction has been completed to the satisfaction of the Monitor.

This Monitor's Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

Alvarez & Marsal Canada Inc., in its capacity as Monitor of BBB Canada Ltd. and Bed Bath & Beyond Canada L.P., and not in its personal or corporate capacity

By: _____
Name:
Title:

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, C. C-36, AS AMENDED

Court File No: CV-23-00694493-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BBB CANADA LTD.

Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ASSIGNMENT, APPROVAL AND VESTING
ORDER**

OSLER, HOSKIN & HARCOURT, LLP

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Lawyers for the Applicant

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED;

Court File No. CV-23-00694493-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BBB CANADA LTD.

Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at: TORONTO

MOTION RECORD OF THE APPLICANT
(Motion for Assignment and Approval & Vesting Order)

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