

[Merrillville]

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AMENDED AND RESTATED LEASE

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THIS AMENDED AND RESTATED LEASE, made and entered into as of this 1st day of March, 1997, by and between **LAKE COUNTY TRUST COMPANY**, not personally but as Trustee under Trust Agreement dated April 30, 1993, and known as Trust No. 4427 ("Landlord") and **SUPER CENTER, LLC**, an Indiana corporation ("Tenant").

97021786

Chicago Title Insurance Company

WITNESSETH:

WHEREAS, Landlord is the owner of certain real estate generally located at 61st Avenue and Broadway, Merrillville, Indiana, which real estate depicted on the survey attached hereto as Exhibit "A" and made a part hereof; and

WHEREAS, said real estate, together with certain real estate owned by others, is part of Shopping Center, all of which is subject to a certain Common Area and Cross-Easement Agreement (described below); and

WHEREAS, Landlord constructed a supermarket building of approximately 65,945 square feet on said real estate; and

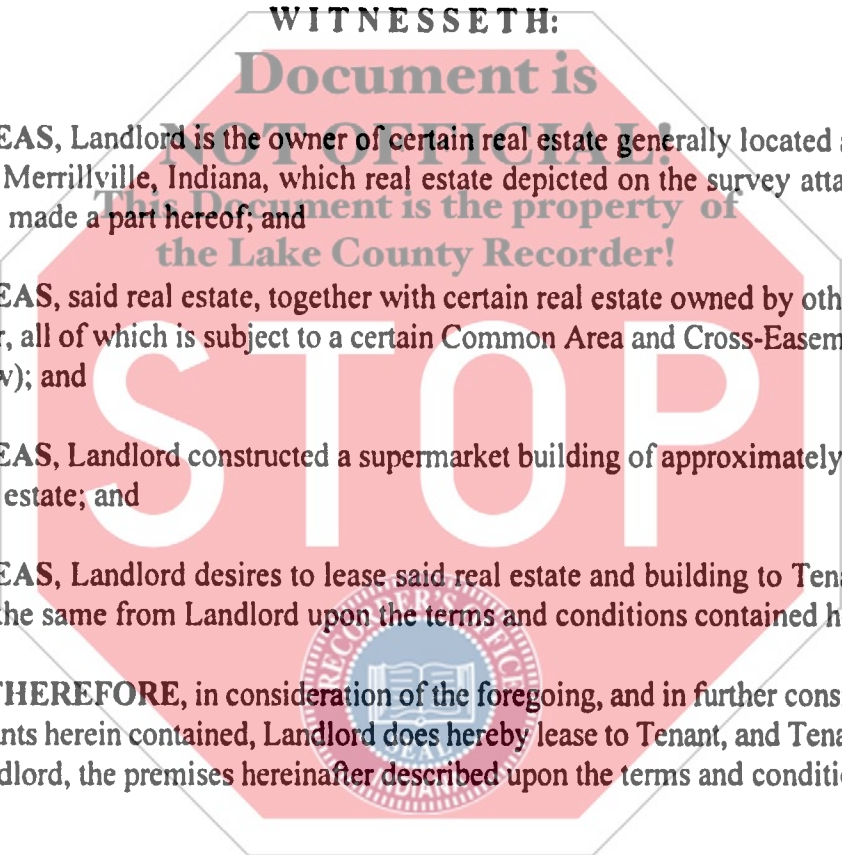
WHEREAS, Landlord desires to lease said real estate and building to Tenant and Tenant desires to lease the same from Landlord upon the terms and conditions contained herein;

NOW, THEREFORE, in consideration of the foregoing, and in further consideration of the rents and covenants herein contained, Landlord does hereby lease to Tenant, and Tenant does hereby accept from Landlord, the premises hereinafter described upon the terms and conditions hereinafter set forth:

ARTICLE I

PREMISES

1. The leased premises shall consist of the real estate described on Exhibit "A" attached hereto and made a part hereof, together with the building which is presently under construction, and together with the nonexclusive use of the common areas, service roads, sidewalks and customer car parking areas located both on the real estate which forms part of the leased premises and which are located on the remainder of the Shopping Center (hereinafter referred to as the "common areas"). Tenant has reviewed Landlord's plans and specifications for the construction of said building and hereby approves the same.



RECORDER
MAR 19 97 1:34

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

Handwritten initials/signature

The nonexclusive right to use the common areas shall be subject to the terms and conditions of the Common Area and Cross-Easement Agreement described below. Said nonexclusive right shall not interfere with the rights of the other tenants in the Shopping Center and their employees, agents, customers and invitees to use any part of said common areas as set forth in their respective leases.

3. Exhibit "B" attached hereto and made a part hereof is a survey of the entire Shopping Center. It is intended to show the location of the leased premises and the common areas. Landlord shall have the following rights with respect to the buildings and common areas of the Shopping Center:

- (a) Landlord shall have the right to manage the common areas and to contract all work necessary for the maintenance of said common areas; at Landlord's election, however, the same may be assigned to Tenant with its consent.
- (b) With Tenant's consent, which consent shall not be unreasonably withheld, Landlord shall have the right to relocate the parking areas shown on said site plan, provided, however, Landlord shall, at all times, provide adequate parking areas, all of which shall be in compliance with all building and zoning ordinances, and all other governmental rules and regulations with respect to parking.
- (c) Landlord shall have the right to make alterations to the buildings and to control use of the common areas shown on said site plan. It is intended hereby that Landlord may, at its option and at its expense, expand the existing size of the building which forms a part of the leased premises. Landlord, however, shall not make any major changes without the Tenant's consent, which consent shall not be unreasonably withheld.
- (d) Landlord shall have the right to acquire additional real estate contiguous to the Shopping Center and to integrate such additional real estate into the Shopping Center.

Notwithstanding the foregoing, during the period that the conditions described in paragraph 10 of Article V hereof are in effect, it is intended that Tenant shall have exclusive control over the common areas, consistent with Landlord's obligations regarding said common areas to the other tenants in the Shopping Center.

4. Only a portion of the Shopping Center, which includes the leased premises, is owned by the Landlord. The remainder of the Shopping Center is owned by a third party. All of said areas owned by Landlord, as well as others, is subject to that certain Common Area and Cross-Easement Agreement dated May 3, 1993, and recorded on June 10, 1993 in the office of the Lake County Recorder as Document Number 93037786. This Lease is subject to said Common Area and Cross-Easement Agreement, together with any subsequent amendments thereto. Landlord expressly

reserves the right, from time to time, to amend said Common Area and Cross-Easement Agreement, without the consent of Tenant, provided that such amendments do not materially and adversely affect Tenant's supermarket business. Tenant agrees to be bound by the terms of said Common Area and Cross-Easement Agreement, together with any such subsequent amendments thereto. Landlord agrees that it shall not make any amendments to said Common Area and Cross-Easement Agreement without the Tenant's consent.

5. With respect to the construction of the building which forms a part of the leased premises, Landlord's work is set forth in those certain Plans and Specifications prepared by Fred Collins Architect and the building is presently under construction. Although Landlord has already let contracts for the HVAC and Electrical Work, Tenant shall be responsible for the entire cost of the HVAC Work and a portion of the cost of the Electrical Work in the amount of Five Hundred Thousand and 00/00 Dollars (\$500,000.00). To the extent that Landlord pays for the same, Tenant shall promptly reimburse Landlord for said cost upon invoice by Landlord to Tenant.

NOT OFFICIAL!

ARTICLE II

This Document is the property of
the LTERM AND OPTIONS Order!

1. The term of this Lease shall commence on the date hereof and shall end on December 31, 2004.

2. Tenant is hereby given six (6) successive options to extend the term of this Lease for additional periods of five (5) years each. Except for the rent, as set forth below, Tenant shall occupy the leased premises during the option periods upon the same terms and conditions as are contained in this Lease. Each option may only be exercised if Tenant is not in default on the last day of the original term or on the last day of the previously extended term, as the case may be. Each successive option shall automatically be deemed to have been exercised unless Tenant gives Landlord written notice of its election not to exercise such option. Should Tenant elect not to exercise any of the aforementioned options, it shall notify Landlord of its intention not to exercise any option no later than one (1) year (i) before the expiration of the original term of this Lease or (ii) before the expiration of the previously extended term, as the case may be. Said notice shall be in writing and delivered by Tenant to Landlord either personally or by registered or certified mail, return receipt requested.

ARTICLE III

RENT

1. Tenant agrees to pay to Landlord, without demand, set-off or deduction, at the office of Donald J. Weiss, 1000 East 80th Place, Suite 222,, Merrillville, Indiana 46410, or such other person and place as Landlord may direct Tenant in writing at any time, rent for the leased premises, as follows:

- (a) **Fixed Minimum Rent During the Original Term.** A fixed minimum rent of Thirty-Five Thousand and 00/100 Dollars (\$35,000) until the expiration of the original term of this Lease. The fixed minimum rent shall be payable in advance on the first day of each calendar month hereunder. If this Lease commences or ends on a day other than the first day of a calendar month, then the rent for such month shall be prorated on a per diem basis.
- (b) **Fixed Minimum Rent During Option Periods.** During the option periods, the fixed minimum rent per month shall be as follows:
- (1) During the first option period, the sum of Thirty-Eight Thousand Four Hundred Sixty-Seven and 92/00 Dollars (\$38,467.92) per month.
 - (2) During the second option period, the sum of Forty-Three Thousand Nine Hundred Sixty-Three and 33/00 Dollars (\$43,963.33) per month.
 - (3) During the third option period, the sum of Forty-Nine Thousand Four Hundred Fifty-Eight and 75/100 Dollars (\$49,458.75) per month.
 - (4) During the fourth option period, the sum of Fifty-Four Thousand Nine Hundred Fifty-Four and 17/00 Dollars (\$54,954.17) per month.
 - (5) During the fifth option period, the sum of Sixty Thousand Four Hundred Forty-Nine and 58/00 Dollars (\$60,449.58) per month.
 - (6) During the sixth option period, the sum of Sixty-Seven Thousand One Hundred Sixty-Six and 20/100 Dollars (\$67,166.20) per month.
- (c) **Percentage Rent.** In addition to the fixed minimum rent and any other rent provided for hereunder, percentage rent in each lease year, both during the original term and during each option period, as follows: One and one-half percent (1½%) of all gross receipts of the Tenant in excess of Twenty Million and 00/00 Dollars (\$20,000,000.00) per year. Percentage rent for partial lease years shall be prorated by annualizing the gross receipts of the partial lease year.
- (d) **Additional Rent.** In addition to the fixed minimum rent and percentage rent, Tenant shall pay as additional rent (hereinafter called "additional rent"), but subject to paragraph 10 of Article V below, both during the original term and during each option period, the following amounts:
- (1) All real estate taxes, special assessments, charges and levies of every kind which may be taxed, assessed or levied on the land and building constituting the leased premises in any lease year, including any such tax which may be

imposed in lieu of or in substitution for the taxes on said real estate as now provided by law, and the cost to Landlord of all efforts to avoid completely or to avoid any increase in any such tax, assessment, charge, etc. (including, but not limited to the cost of tax consultants necessitated thereby).

- (2) The premium cost for fire and extended coverage insurance, liability insurance and rental interruption insurance.
- (3) All costs incurred by Landlord in the operation and maintenance of the common areas, including, but not limited to, lighting; cleaning; snow and ice removal; repair, striping and replacement of the parking areas; policing, repairing, remodeling, renovating, replacing and improving said common areas; maintenance of various shopping center signs; and insuring against casualties, injuries and damages which may occur in such common areas.
- (4) All costs incurred by Landlord as Landlord's obligations under the aforementioned Common Area and Cross-Easement Agreement.

At Landlord's election, from time to time, Tenant shall either be invoiced periodically for the amount of such additional rent or shall pay an estimated amount of such additional rent on a monthly basis as hereinafter described. If Landlord elects to invoice Tenant periodically for the amount of such additional rent, such invoiced amounts shall be due and payable within twenty (20) days of invoice. All such invoices shall be submitted to Tenant, upon Tenant's request, with appropriate documentation of such expenses. If Landlord elects to have Tenant pay an estimated amount each month, Tenant shall pay an estimated amount of such additional rent in equal amounts on the first day of each month. At the beginning of each calendar year, and at any other time during a calendar year if deemed necessary by the Landlord, the Landlord shall revise the estimated amounts to be paid by Tenant hereunder. At the end of each calendar year, Landlord shall bill Tenant for Tenant's pro rata share of the expenses actually incurred by Landlord. If such expenses are greater than the aggregate monthly amounts paid by Tenant, Tenant shall promptly reimburse Landlord for the difference. If such actual expenses are less than the aggregate monthly amounts paid by Tenant, then Landlord shall reimburse Tenant promptly for the difference.

Notwithstanding the foregoing, it is intended hereby that Landlord shall, from all sources, receive no more than one hundred percent (100%) reimbursement for all common area expenses. If, by virtue of various other leases, the total amount received in each lease year by Landlord from all sources for reimbursement of common area expenses shall exceed more than one hundred percent (100%), Tenant's share shall be reduced by an amount equal to such excess.

2. All payments, performances and damages due Landlord from Tenant or Tenant from Landlord under this Lease shall be without relief from valuation and appraisal laws, shall bear

interest at 10% per annum from the due date, or 2% over the prime rate then charged by the First National Bank of Chicago, whichever is higher, together with reasonable attorney fees.

ARTICLE IV

PERCENTAGE RENT PROVISIONS

1. Percentage rent shall be paid annually, on or before sixty (60) days after the end of each lease year during the term hereof (hereinafter referred to as the "percentage rent payment date"). The amount of each payment of percentage rent shall be the amount described in paragraph 1(b) of Article III hereof of Tenant's gross receipts for the immediately preceding lease year. The amount of percentage rent due during any partial lease year shall be determined by annualizing Tenant's gross receipts. Notwithstanding the foregoing, at Landlord's election after the first lease year, Tenant shall pay an estimated amount of percentage rent on a monthly basis equal to one-twelfth (1/12) of the prior lease year's percentage rent amount. The estimated amounts shall be adjusted quarterly if Tenant's actual sales fall below the prior year's levels. If the actual amount of percentage rent due for such lease year is more than said estimated monthly payments, Tenant shall remit the amount due within sixty (60) days of the end of such lease year. If the actual amount due for such lease year is less than said estimated monthly payments, then Tenant shall be credited with such difference to be applied against its subsequent estimated monthly payments therefor, if any, or otherwise Landlord shall remit such difference to Tenant within sixty (60) days of the end of such lease year.

2. The term "Tenant's gross receipts" as used herein is hereby defined to mean all receipts from gross sales and services of Tenant (generated from Tenant's business operations from the leased premises) and from all licensees or concessionaires of Tenant, from all business conducted in, upon or from the leased premises by Tenant and all others, including; without limiting the generality of the foregoing, all deposits not refunded to purchasers and any and all fees, charges or commissions received by Tenant in connection with its business conducted at the leased premises. Tenant's gross receipts shall not include the amount of any sales, use or gross receipts tax imposed by any federal, state, municipal or governmental authority on sales and collected from customers, provided that the amount thereof is added to the selling price or absorbed therein, and actually paid by the Tenant to such governmental authority, nor shall it include any fee or commissions received by Tenant for collecting such taxes. Each charge or sale upon installment or credit shall be treated as a sale for the full price (excluding carrying charges or interest) in the month during which such charge or sale shall be made. With respect to the sale of State of Indiana lottery tickets, Tenant's gross receipts, for purposes of this paragraph, shall include only the commissions received from the sale of such lottery tickets and shall not include the total amount of said lottery tickets sold. No percentage rent shall be calculated on sales made by others who may be occupying a portion of the building which form a part of the leased premises under separate leases with the Landlord as hereinafter described.

3. For the purposes of ascertaining the amount payable as percentage rent, Tenant agrees to prepare and keep available for a period of not less than two (2) years following the end of each

lease year adequate records which shall show inventories and receipts of merchandise at the leased premises, and daily receipts from all sales, services and other transactions on or from the leased premises by Tenant and any other persons conducting any business upon or from said premises (other than Landlord's other tenants), and all pertinent original sales records. Such pertinent original sales records shall include sales tax returns, business, occupation and excise tax reports, cash register tapes on which all sales are recorded and all registers shall be of the type providing "locked-in" totals and Tenant's federal and state income tax returns. Landlord and Landlord's authorized representatives shall have the right to examine Tenant's said records during the regular business hours. If any examination or audit by Landlord shall determine that Tenant's certified statements of Tenant's gross receipts as hereinafter provided have been in error, and as a result, Landlord is entitled to greater percentage rent than Tenant has previously paid for the period covered by such erroneous statement, then Tenant shall pay to Landlord immediately such greater percentage rent, plus interest thereon at the rate of ten percent (10%) per annum from the date the same should have been paid, or two per cent (2%) over the prime rate then charged by the First National Bank of Chicago, whichever is higher, together with the reasonable cost of Landlord's audit should the gross receipts reported on any of Tenant's statements err by two percent (2%) or more from the gross receipts disclosed by the examination: of Landlord's authorized representatives.

4. On each percentage rent payment date during the term hereof (and on the percentage rent payment date following the end of said term, Tenant shall submit to Landlord, at the place then fixed for the payment of rent, together with the remittance of any percentage rent due, a written statement, on a form supplied by Tenant and approved by Landlord, signed by Tenant, and certified by an officer of Tenant to be true and correct, showing in reasonably accurate detail, the amount of Tenant's gross receipts in each preceding lease year (or lesser period, if any, in the first or last lease year). Also when requested by Landlord, the Tenant shall submit to Landlord within thirty (30) days after such request at the place then fixed for the payment of rent, a written statement on a form supplied by Tenant and approved by Landlord, showing in reasonably accurate detail, the amount of Tenant's gross receipts for the month preceding the date of the request.



USE OF PREMISES AND REPAIRS

1. Tenant agrees that 100% of the leased premises shall be continuously used and occupied for a retail supermarket, including the sale of all items which are customarily sold, from time to time, in retail supermarkets in the Chicago-Northwest Indiana metropolitan area. Tenant shall use the Leased Premises for no other purpose or purposes without the prior written consent of Landlord, which consent may be granted or withheld in Landlord's sole and arbitrary discretion. Tenant acknowledges and agrees that Tenant's agreement to continuously use and occupy 100% of the leased premises is a material inducement for Landlord's agreement to enter into this Lease (as the failure of Tenant to continuously use and occupy 100% of the leased premises will affect the percentage rent payable hereunder and the desirability of the Shopping Center for other tenants).

2. Tenant shall promptly comply with all laws, ordinances, directives and regulations of public and insurance authorities affecting that portion of the Shopping Center that are within Tenant's area of responsibility under this Lease. Tenant shall not perform any acts or carry on any practices which may injure the building in which the leased premises are located or be a nuisance or menace to the other tenants in the Shopping Center. Tenant shall not keep anything within the premises or use the premises for any purpose which increases the insurance premium cost or invalidates any insurance policy carried on the leased premises or other parts of the Shopping Center. All property kept, stored or maintained within the premises by Tenant shall be at the Tenant's sole risk. All loading and unloading of merchandise shall be controlled by Tenant so as to least affect or disturb other tenants and customers in the Shopping Center and shall be done through the areas provided therefor. Tenant shall keep the front, side and rear of premises clean and free of trash, dirt and debris and shall provide for periodic trash and rubbish collection. Tenant shall keep the sidewalks clean and free of snow or debris. Tenant shall require its employees to park in areas on or off the Shopping Center, in areas reasonably designated by Tenant, and upon Landlord's request, Tenant shall furnish employee vehicle identification to Landlord.

3. Landlord has made no representations as to the condition of the leased premises and has made no promise to decorate, alter, improve or repair said premises, either before or after the execution hereof, not contained herein; and Landlord shall have no obligation to provide any space, services, fixtures, equipment or facilities other than are specified herein to be provided by Landlord. Tenant hereby accepts the premises "as is" and Tenant's taking possession of the premises shall be conclusive evidence of its receipt thereof in good order and repair.

4. Landlord, at its expense, shall at all times keep the bearing walls and the structural foundation of the leased premises in good order, condition and repair. Tenant shall, at all times, keep all other components of the leased premises in good order, condition and repair. This obligation shall include, but not be limited to, the repair and replacement, if necessary, of all floors, stairways, roofs, entrances, plate glass and window moldings, partitions, doors, frames, fixtures, equipment and appurtenances thereof (including lighting, heating, plumbing, electrical systems and fixtures, sprinkler fire protection systems, and the air conditioning systems). Landlord hereby transfers and assigns to Tenant, and without recourse against Landlord, all warranties and guarantees, if any, made or to be made or given to Landlord in connection with construction of the improvements on the leased premises.

5. If Tenant refuses or neglects to repair property as required hereunder, and to repair to the reasonable satisfaction of Landlord as soon as reasonably possible after written demand Landlord may make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures, or other property or to Tenant's business by reason thereof, and upon completion of such repairs, Tenant shall pay Landlord's costs for making such repairs plus twenty percent (20%) therefor, as additional rent.

6. Notwithstanding the provisions of paragraph 4 of this Article V, if the roof requires replacement (as opposed to repairs) during the last two (2) years of the original term or during any

extended term, as the case may be, Tenant shall give Landlord written notice as to whether it is exercising its next available option to extend the term of this Lease. If Tenant elects to exercise its next available option, then Tenant shall be required to pay for the cost of such replacement. If Tenant fails immediately to exercise its next available option, or if Tenant has no further options available to exercise, then Tenant's share of such replacement shall be limited to an amount equal to the cost of such replacement multiplied by a fraction, the numerator of which is the number of months remaining on the term of the Lease and the denominator of which is sixty (60). In such event, however, Tenant shall thereafter forfeit the right to exercise any otherwise available options in the future. Any and all repair or replacement of the roof shall be performed with comparable quality of material and workmanship as the existing roof. Any and all replacements of the roof hereunder shall be initiated by the Tenant and contracted for by the Landlord. Tenant shall promptly reimburse the Landlord for its share of the cost of such replacement as provided for hereunder.

7. Tenant may not make any structural or exterior alterations to the leased premises or make any contract therefor without the Landlord's prior written consent, which consent may be granted or withheld in Landlord's sole and arbitrary discretion; provided, however, that in no event may any such alterations diminish or otherwise impair the value of the building of which the Leased Premises are a part, and, provided further, that if Landlord, in its sole and arbitrary discretion, grants approval of any such alteration, Tenant shall deliver to Landlord the plans and specifications, copies of the proposed contract or contracts, sworn contractors' statements and necessary permits, and shall furnish indemnification against liens, costs, damages and expenses as may be required by Landlord.

8. Any and all alterations, additions, improvements and fixtures, other than trade fixtures, or any of them, which may be made or installed by either of the parties hereto upon the premises and which in any manner are attached to the floors, walls or ceilings, and at the termination of this Lease, shall become the property of the Landlord and remain upon and be surrendered with the premises as a part thereof, without damage or injury, together with any carpeting or other floor covering which may be cemented or otherwise affixed to the floor; without compensation or credit to Tenant. Notwithstanding the foregoing, at Landlord's option, Landlord may require Tenant to remove any or all of its leasehold improvements at Tenant's expense at the expiration of this Lease.

9. Tenant shall not permit any mechanic's or materialmen's liens to stand against and become liens upon the leased premises or the Shopping Center for any labor or material furnished to or on behalf of Tenant in connection with work of any character performed on the leased premises by, at the direction or with the consent of Tenant. Tenant shall, however, have the right to contest the validity of or amount of any claim occasioning the filing of such lien, provided that (i) after the filing of any such lien Tenant shall take whatever action is necessary, including posting a bond or other security or indemnity in such amount and form as reasonably required by Landlord, to have the lien released within fifteen (15) days after its filing, and (ii) promptly after the conclusion of such contest Tenant shall pay out to the proper person or persons the amount of any judgment or award, if any, necessary to satisfy such claims.

10. At any time that (i) Tenant is controlled by Donald J. Weiss or (ii) Tenant is controlled by any of Donald J. Weiss' descendants and Landlord is not controlled by Marvin Weiss, and provided Tenant is not then in default hereunder (beyond all applicable notice and cure periods), Tenant shall have the option to elect to be responsible for managing and maintaining the common areas of the Shopping Center (including repairs, replacements and alterations) and to pay all charges incurred therefore (subject to reimbursement as provided below), including, but not limited to, gardening and landscaping; decorating and remodeling; sign operation, maintenance and replacement; repairs; replacements; parking lot striping and paving; lighting; fire protection service; sanitary sewers; security; removal of snow, trash, rubbish, garbage and other refuse; and the cost of personnel to implement such services. Tenant shall use commercially reasonable efforts to manage and maintain the common areas of the Shopping Center so that at all times they are in a condition comparable to the common areas of comparable, local shopping centers anchored by Jewel and Dominick's. Landlord shall, from time to time, upon invoicing by Tenant reimburse Tenant for a portion of such costs which benefit the Shopping Center as a whole (as opposed to just Tenant) based on the square footage that the leased premises of the other tenants in the Shopping Center bears to the total square footage of all rentable space in the Shopping Center. Landlord shall not be obligated to reimburse Tenant for any such item which cost more than \$50,000 (in the aggregate with related items) unless Landlord approved the expenditure in advance which approval shall not be unreasonably withheld. Such reimbursement shall be due within twenty (20) days after invoicing (with proper documentation) by Tenant. For purposes of this paragraph 10, "control" of Tenant shall mean the power, directly or indirectly, to direct the management and operations of Tenant. Tenant shall remain obligated to pay all rent due hereunder regardless of whether Tenant is managing and maintaining the common areas of the Shopping Center.

11. For the period that Tenant manages and maintains the common areas of the Shopping Center as provided above, Landlord releases Tenant and its agents and employees from, and waives all claims for, damage or injury to person or property and loss of business sustained by Landlord and resulting from the common areas of the Shopping Center or any part thereof or any facilities, fixtures or equipment therein becoming in disrepair, or resulting from any accident or occurrence in or about the Shopping Center. This paragraph shall apply particularly, but not exclusively, to damage or injury caused, in whole or in part, by flooding, water, snow, broken glass or sewage. Notwithstanding the foregoing, Landlord shall not be deemed to have released Tenant or waived claims for any damage, injury or loss resulting from the negligence or willful misconduct of Tenant or its agents, employees or contractors, subject to the last sentence of paragraph 1 of Article VIII below.

Tenant shall provide Landlord with at least 30 days prior written notice before terminating its management and maintenance obligations. For any period during which Tenant does not assume such management and maintenance of the common areas, Landlord (or Landlord's designated agent) shall be responsible for such management and maintenance.

12. In recognition of Landlord's willingness to accept a percentage of Tenant's gross receipts as a portion of the total rent, neither Tenant nor any person or entity who or which is affiliated with Tenant shall at any time during the term own, lease or operate, directly or indirectly, another store, department within a store or any structure or site for a retail supermarket (either as the primary or as an incidental business use) within a three (3) mile radius of the leased premises. In the event of a violation of the provisions of this paragraph 12 of Article VI, and in addition to all other remedies available to Landlord, the gross receipts from each such other business within the restricted area shall be included in the gross receipts made from the leased premises and the percentage rent payable under this Lease shall be computed upon the aggregate of the gross receipts made from the leased premises and from each such other business. The foregoing radius restriction shall not be applicable to Tenant for so long as Tenant is controlled by Donald J. Weiss or any of his descendants.

13. Tenant acknowledges and agrees that it is the intention of the parties that this is a "net net net" lease and that during the term Tenant is to be solely responsible for all costs associated with the ownership and operation of the leased premises. Landlord shall be under no obligation to expend any funds with respect to the ownership and operation of the leased premises, except as expressly set forth in this Lease.

ARTICLE VII

UTILITIES

Tenant shall pay all charges for all water, gas, electricity, sewage disposal, sprinkler standby service, and other utilities used or consumed by it in the operation of its store in the leased premises. Landlord shall not be liable for interruptions in utility services due to matters beyond its control. Landlord shall not be liable for any damage to Tenant or its property as a result of a discharge from the sprinkler system or the failure of said system to operate, a discharge from any other water pipes, or an electrical or mechanical failure or malfunction in any other system.

ARTICLE VIII

INDEMNIFICATION AND INSURANCE

1. Tenant agrees to indemnify and save Landlord and its beneficiaries harmless against any and all claims, demands, damages, costs and expenses, including reasonable attorney fees for the defense thereof, arising from or out of any occurrence in, upon or at the leased premises, excluding the common areas (and not resulting from negligence of Landlord or its beneficiaries) or from or out of the conduct or management of the business conducted by Tenant in the leased premises or from any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of Tenant to be performed pursuant to the terms of this Lease, or from any act, omission, or negligence of Tenant, its agents, contractors, servants, employees, sublessees, concessionaires or licensees, in or about the premises. Landlord and its beneficiaries shall not be

liable, and Tenant waives all claims for damage to person or property sustained by Tenant or Tenant's employees, agents, servants, invitees and customers resulting from the building in which the leased premises are located by reason of the leased premises or any equipment or appurtenances thereunto appertaining becoming out of repair, or resulting from any accident in or about the building which constitute the leased premises situated or resulting directly or indirectly from any act or neglect of any other tenant in said Shopping Center, except for damage caused by Landlord's negligence or Landlord's failure to repair items for which Landlord is responsible within the time periods provided in this Lease (and then subject to the terms and provisions of the immediately following sentence). Notwithstanding anything in this Lease to the contrary, Tenant hereby releases Landlord from all claims and liabilities arising from or caused by any hazard covered by Tenant's insurance (or which would have been covered by Tenant's insurance if Tenant had maintained the insurance coverages required herein) in connection with Tenant's property or activities on or about the leased premises, regardless of the cause of the damage or loss, and Landlord hereby releases Tenant from all claims and liabilities arising from or caused by any hazard covered by Landlord's insurance in connection with Landlord's property or activities on or about the leased premises, regardless of the cause of the damage or loss, provided this mutual waiver does not invalidate any insurance policy.

2. In any event, Tenant shall, during the entire term hereof keep in full force and effect a policy of comprehensive public liability and property damage insurance with respect to the leased premises and the business operated by Tenant therein in which the limits of public liability shall not be less than One Million Dollars (\$1,000,000.00) per person and One Million Dollars (\$1,000,000.00) per accident, and in which the property damage liability shall be not less than Two Hundred Thousand Dollars (\$200,000.00). In addition, Tenant shall carry an umbrella policy (which may be a blanket policy) with a limit of at least \$15,000,000. The policy shall name the Landlord and its beneficiaries, any persons, firms or corporations designated by Landlord and its beneficiaries, and Tenant, as insured parties and shall contain a clause that the insurer will not cancel or change the insurance without first giving Landlord and its beneficiaries fifteen (15) days prior notice in writing. The insurance shall be in reputable insurance companies which shall be subject to the reasonable approval of the Landlord. Prior to opening for business, and subsequently as such policies are from time to time renewed, Tenant shall deliver a copy of the policy or a certificate of insurance to the Landlord and its beneficiaries.

3. Landlord shall keep the leased premises insured throughout the term of this Lease against the following:

- (a) Loss or damage by fire and such other risks as may be included in the standard form of extended coverage endorsement in an amount equal to the full replacement value of the leased premises.
- (b) Against such other hazards and in such amounts as the holders of any mortgage or deed of trust to which the Lease is subordinated may reasonably require from time to time.

- (c) At Landlord's discretion, rent protection or rental interruption insurance for up to one year's rental for the leased premises.

All insurance provided hereunder shall be effected under enforceable policies issued by insurers of recognized responsibility licensed to do business in Indiana. Subject to the foregoing, all policies of insurance required herein shall name Landlord and its beneficiaries, as their respective interest may appear. Any insurance policy may be made payable to the holders of any mortgage or deeds of trust to which this Lease is at any time subordinate or to which it becomes subordinated as the interest of such holders may appear, pursuant to a standard clause for holders of mortgages or deeds of trust providing that any such mortgage or deed of trust shall contain provisions wherein proceeds of loss by reason of casualty shall be made available to Landlord for the purpose of fulfilling its obligations under Article VII of this Lease. To the extent available, all policies shall contain an agreement by the insurers (i) that any loss shall be payable to Landlord and its beneficiaries, or the holders of any such mortgage or deed of trust, as the case may be, notwithstanding any act or negligence of Landlord, or its beneficiaries, which might otherwise result in forfeiture of such insurance; and (ii) that such policy shall not be canceled except upon fifteen (15) days prior written notice to the holders of any mortgage or deed of trust to whom loss may be payable. Neither Tenant nor Landlord and its beneficiaries shall have any right of action against the other on account of any loss or damage from fire and extended coverage provided such loss is covered by insurance and provided this waiver does not invalidate any insurance policy.

4. Tenant agrees to pay to Landlord as additional rent over and above the amount provided for in paragraph 1 (d) of Article III of this Lease 100% of any increase in premiums for fire and extended coverage and rent protection insurance that may be charged during the term of this Lease on the amount of such insurance which may be carried by Landlord on said premises and the building of which they are a part, resulting from a change in the general type of merchandise presently stored and/or sold by Tenant in the leased premises, or from the use of such premises by Tenant which is different from Tenant's present use, whether or not Landlord has consented to the same. A schedule issued by the rate-making agency, showing the various components of such rate, shall be conclusive evidence of the several items and charges which make up the fire insurance rate on the leased premises. In the event Tenant's occupancy causes any increase of the insurance premium rate on the leased premises above the rate of the least hazardous type of occupancy legally permitted in the leased premises, Tenant shall pay the additional premium as additional rent. Bills for additional premiums to be paid as such additional rent shall be rendered by Landlord to Tenant at such times as Landlord may elect, and shall be due from and payable by Tenant when so rendered.

ARTICLE IX

DESTRUCTION OR TAKING OF LEASED PREMISES

1. If the leased premises shall be damaged by fire, the elements, accident or other casualty ("casualty"), but are not thereby rendered untenable in whole or in part, Landlord shall at its own expense cause such damage to be repaired, and the rent shall not be abated to the extent that such damage and repairs do not substantially impede the continued normal operation of Tenant's business. If by reason of such casualty, the premises shall be rendered untenable only in part, Landlord shall at its own expense cause the damage to be repaired, and the fixed minimum rent meanwhile shall be abated proportionately as to the portion of the premises rendered untenable, or the Tenant's decrease in sales resulting thereby, whichever is greater. If the entire leased premises shall be rendered wholly untenable by reason of such casualty, Tenant shall at its option either (a) cause such damage to be repaired by Landlord at Landlord's expense, and the fixed minimum rent meanwhile shall abate until the leased premises have been repaired by Landlord, or (b) terminate this Lease and the tenancy hereby created as of the date of such casualty by giving to Landlord within ninety (90) days following the date of said casualty, written notice of Tenant's election so to do and in the event of such termination rent shall be adjusted as of such date. Nothing in this paragraph shall be construed to permit the abatement in whole or in part of the percentage rent. Landlord's obligation hereunder to repair the leased premises shall be to repair and restore the damage to the portions of the leased premises covered by said insurance and the building in which the same are located including, but not limited to the building, parking areas, electrical systems, floors and mechanical systems, but excluding Tenant's trade fixture which are to be covered by Tenant's insurance. Upon completion of Landlord's repairs or prior thereto upon receipt from Landlord of written notice that Landlord's repairs are substantially completed, Tenant shall proceed with reasonable promptness with such additional repairs and restoration as are necessary to restore the premises to substantially their condition prior to such casualty and to reopen the damaged premises for business as speedily as Possible.

2. The provisions of Paragraph 1 above requiring Landlord to repair the leased premises under certain circumstances shall not be operative if the casualty necessitating the repair occurs during the last two lease years and if the cost of repair, based on firm bids from responsible contractors, shall exceed the fixed minimum rent for one (1) lease year. In such event, Tenant shall have the option of (a) extending the term of this Lease, as hereinafter provided, thereby requiring Landlord to effect the repairs hereunder; or (b) terminating this Lease as of the date of the casualty. Such option shall be exercised by Tenant giving Landlord written notice thereof within ninety (90) days after said casualty. Tenant's option hereunder to extend the term of the Lease shall be to extend it for an additional ten (10) year period. To the extent available, Tenant shall use the options provided for in Article II, paragraph 2 of this Lease. If Tenant does not have enough options available to it under Article II, paragraph 2, to effect a 10-year extension, then Tenant's sixth option under Article II, paragraph 2, shall be deemed to be for those number of years sufficient to allow a 10-year extension of this Lease.

3. Subject to causes beyond Landlord's control, such as but not limited to strikes, material shortages and lockout, in the event Landlord fails to commence any repairs required or elected to be made pursuant to Paragraphs 1 or 2 above within either (a) ninety (90) days after the date of such casualty or (b) thirty (30) days after receipt of any payment of insurance proceeds payable as a result of such casualty, whichever occurs first, Tenant may, at its option, terminate this Lease as of the date of such casualty by giving Landlord written notice of such termination within thirty (30) days after the date the first of such events occur, and in the event of such termination Landlord shall repay Tenant the amount of any unearned rent held by it. If Landlord's repair of the leased premises has not been completed within nine (9) months after the date Landlord is required or has elected to commence repairs (the "nine month period"), Tenant shall again have the option of terminating this Lease as of the date of such casualty by written notice of such termination to Landlord within ten (10) days after the end of such nine month period, which nine month period shall be extended for such amount of time as is equal to delays in Landlord's repair occasioned by causes beyond Landlord's control.

4. If the whole of the leased premises shall be acquired or condemned by eminent domain, or other taking in lieu thereof, by any governmental or quasi governmental authority for any public or quasi-public use or purpose, then this Lease shall terminate as of the date of title vesting in such proceeding or taking and all rentals shall be paid up to that date and Tenant shall have no claim against Landlord nor the condemning authority for the value of any unexpired term of this Lease. Tenant however shall be entitled to make any separate claim which it may have under law against the condemning authority for its own business loss.

5. If any part of the leased premises shall be acquired or condemned by eminent domain, or other taking in lieu thereof, by any governmental or quasi governmental authority, and such partial taking or condemnation renders the leased premises unsuitable for the business of the Tenant, or substantially impairs the profitability of Tenant's business, then this Lease shall, at Tenant's option, terminate as of the date of title vesting in such proceeding or taking. Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease and rent shall be adjusted to the date of such termination. In the event of a partial taking or condemnation of any part of the leased premises which is not extensive enough to render the Shopping Center economically unfeasible and which does not render the premises unsuitable for the business of Tenant or substantially impairs the profitability of Tenant's business, Landlord shall promptly restore the remaining portion of the leased premises to a condition comparable to its condition at the time of such condemnation, less the portion lost in the taking, and this Lease shall continue in full force and effect with the fixed minimum rent abating for the period after the partial condemnation or taking in the same manner as applicable to a damage of the leased premises by casualty which renders the leased premises wholly or partially untenable.

6. If 50% or more of the common parking area in the Shopping Center shall be acquired or condemned as aforesaid, then Tenant shall have the option, within thirty (30) days of title vesting, to elect to terminate this Lease as of the date of title vesting unless Landlord shall take immediate steps to provide conveniently located parking facilities substantially equal in size to the common

parking areas acquired or condemned in order substantially to maintain the previously existing ratio between the common parking areas and the leased premises. Such substantially equal parking facilities shall be provided by Landlord at its own expense no later than ninety (90) days from the date of the acquisition or condemnation. In the event that Landlord shall provide such other substantially equal parking facilities, then this Lease shall continue in full force and effect without any reduction or abatement of rent.

7. In the event of any condemnation or taking as aforesaid, whether whole or partial, Tenant shall not be entitled to any part of the award paid for such condemnation to Landlord and Landlord shall receive the full amount of such award, provided that such award does not include any of Tenant's damages resulting from said condemnation.

8. Although the damages pursuant to the preceding paragraph shall belong to Landlord, Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord (unless Landlord's award also includes Tenant's damages), such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of (a) any add all damage to Tenant's business by reason of the condemnation; (b) any cost or loss to which Tenant might be put in removing Tenant's merchandise, furniture, fixtures and equipment, and (c) the cost or loss of leasehold improvements made upon the leased premises by Tenant at its expense (or by Landlord at Tenant's expense), including fixtures other than removable trade fixtures and other capital improvements affixed by Tenant to the leased premises. At all times herein, Landlord and Tenant shall have the joint and several right to contest any condemnation proceedings.

ARTICLE X

LIMITATIONS OF TENANCY

1. Landlord covenants that it has the right to make this Lease for the term aforesaid and that it will put the Tenant into complete and exclusive possession of the leased premises. Landlord further covenants that if the Tenant shall pay the rental and perform all the covenants and provisions of this Lease to be performed by the Tenant, the Tenant shall during the term demised, freely, peaceably, and quietly occupy and enjoy the full possession of the premises hereby demised and the tenements, hereditament, and appurtenances thereto belonging and the rights and privileges herein granted without molestation or hindrance.

2. This Lease is subject and subordinate to all mortgages which may now or hereafter affect the real property of which the leased premises forms a part, and to all renewals, modifications, consolidations, replacements and extensions thereof, provided, however, that so long as Tenant is not in default under the terms of this Lease, such subordination shall not affect Tenant's right to quiet possession of the leased premises. This subordination shall be self-operative and no further instrument of subordination shall be required by any lessee or mortgagee. In confirmation of such subordination, Tenant shall promptly execute and deliver any certificate that Landlord may request. Tenant hereby irrevocably appoints and constitutes Landlord the Tenant's attorney-in-fact during the

term hereof and any renewals or extension thereof to execute any such certificate or certificates for and on behalf of Tenant.

3. Tenant, in the event any proceedings are brought for the foreclosure of any mortgage, or in the event of exercise of the power of sale under any mortgage or in the event of a deed from Landlord in lieu of foreclosure of any mortgage, made by Landlord covering the leased premises, shall attorn to the purchaser upon any such foreclosure or sale or grantee of any such deed and recognize such purchaser or grantee as the Landlord under this Lease.

4. Tenant shall from time to time upon written request by Landlord furnish to Landlord a written statement, signed by Tenant and addressed to the person designated in such request by Landlord, on the status of any matter pertaining to this Lease, including to the date of such statement that (i) the terms, provisions and conditions of this Lease have been complied with; (ii) there are no defaults hereunder; and (iii) this Lease is still in full force and effect. If any, or all of (i), (ii) or (iii) are not stated in the affirmative in said statement, said statement shall describe the facts and matters which Tenant alleges prevent such affirmative statement.

5. Landlord shall have the right to enter upon the leased premises at all reasonable hours for the purpose of inspecting the same or of making repairs, additions or alterations thereto or to the building in which the same is located, or for the purpose of exhibiting the same to prospective tenants, purchasers or others. Landlord shall not be liable to Tenant in any manner for any expense, loss or damage by reason thereof nor shall the exercise of such rights be deemed an eviction or disturbance of Tenant's use or possession. No entry upon the leased premises by Landlord for the purpose of inspecting or exhibiting the leased premises shall unreasonably interfere with Tenant's conduct of its business therein.

6. At the termination of this Lease, Tenant shall surrender possession of the leased premises in good condition, reasonable wear and tear, changes and alterations authorized under this Lease, loss and damage by fire or other casualty and repairs and maintenance which are Landlord's obligation excepted.

7. Tenant may not assign in whole or in part, or sublet all or any part of the leased premises or term, without the consent of the Landlord, which consent may be granted or withheld in Landlord's sole and arbitrary discretion. Without limiting the generality of the foregoing, in no event may Tenant cause a violation of any then existing exclusives granted to other tenants in the Shopping Center; furthermore any assignment or subletting shall be for the operation of a like kind or general retail type business; and furthermore, if the gross rentals received by Tenant for any lease year as a result of such assignment or subletting exceeds the gross rentals to be paid by Tenant hereunder for the last lease year prior to such assignment or subletting, then one hundred percent (100%) of such excess shall be deemed to be additional rent which shall be due and payable by Tenant to Landlord.

ARTICLE XI

REMEDIES

1. All rights and remedies of Landlord herein enumerated shall be cumulative, and none shall exclude any other right or remedy allowed by law. It is agreed that in the event:

- (a) That the Tenant shall fail, neglect or refuse to pay within fifteen (15) days after written notice from Landlord any installment of fixed minimum rent at the time and in the amount as herein provided or to pay within fifteen (15) days after written notice any other monies becoming due and payable under the terms hereof; or
- (b) That any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy act shall be filed by or against Tenant, or any voluntary or involuntary proceedings in any Court or tribunal shall be instituted to declare Tenant insolvent or unable to pay Tenant's debts, and in the case of involuntary proceedings if the same shall not be dismissed or discharged within ninety (90) days; or
- (c) That the Tenant shall fail, neglect or refuse to keep and perform any of the other covenants, conditions, stipulations or agreements herein contained and covenanted and agreed to be kept and performed by it (including, without limitation, the agreement to continuously use and occupy 100% of the leased premises for the use described in paragraph 1 of Article V hereof), and in the event any such default shall continue for a period of more than thirty (30) days after notice thereof in writing given to the Tenant by the Landlord; provided, however, that if the cause of giving such notice involves the making of repairs or other matters reasonably requiring a longer period of time than the period of such notice the Tenant shall be deemed to have complied with such notice so long as it has commenced to comply with such notice within the period of time set forth in the notice and is diligently prosecuting the compliance with said notice, or has taken proper steps or proceedings, under the circumstances to prevent the seizure, destruction, alteration, or other interference with the leased premises by reason of noncompliance with the requirements of any law or ordinance or with the rules, regulations or directions of any governmental authority as the case may be;

the Tenant does hereby authorize and fully empower Landlord or Landlord's agent to terminate, cancel or annul this Lease at once and to re-enter and take possession of the leased premises immediately, without any previous notice of intention to re-enter and remove all persons and their property therefrom, and to use such assistance in effecting and perfecting such removal as Landlord may deem necessary and advisable to recover at once full and exclusive possession of all the leased premises whether in possession of Tenant or other persons or otherwise. If Landlord terminates, cancels or annuls this Lease, Landlord may recover from Tenant and Tenant shall pay to Landlord,

on demand, as and for liquidated and final damages, an accelerated lump sum amount equal to the amount by which Landlord's estimate of the aggregate amount of rent owing from the date of such termination through the scheduled expiration date of the term plus Landlord's estimate of the aggregate expenses of reletting the leased premises, exceeds Landlord's estimate of the fair rental value of the leased premises for the same period (after deducting from such fair rental value the time needed to relet the leased premises and the amount of concessions which would normally be given to a new tenant), both discounted to present value at the rate of five percent (5%) per annum.

2. The Landlord, however, may, at its option, at any time after such default or violation of condition or covenants, re-enter and take possession of the leased premises without such re-entering working a forfeiture of the rents to be paid and the covenants, agreements and conditions to be kept and performed by Tenant, for the full term of this Lease. In such event, the Landlord shall have the right, but not the obligation, to divide or subdivide the demised premises in any manner the Landlord may determine and the right, but not the obligation, to lease or let the same or portions thereof for such periods of time and at such rentals and for such use and upon such covenants and conditions as Landlord may elect, applying the net rentals from such letting first to the payment of Landlord's expense incurred in dispossessing the Tenant and the costs and expenses of making such improvements in the demised premises as may be necessary in order to enable the Landlord to relet the same, and to the payment of any brokerage commissions or other necessary expenses of the Landlord in connection with such reletting. The balance, if any, shall be applied by the Landlord from time to time, but in any event no less than once each month on account of the payments due or payable by the Tenant hereunder, with the right reserved to Landlord to bring such actions or proceedings for the recovery of any deficits remaining unpaid as it may deem advisable from time to time, without being obligated to await the end of the term hereof for a final determination of the Tenant's account and the commencement or maintenance of one or more actions shall not bar the Landlord from bringing other or subsequent actions for further accruals pursuant to the provisions of this paragraph. Any balance remaining, however, after full payment and liquidation of Landlord's account as aforesaid, shall be retained by Landlord and in no event shall be payable to Tenant.

3. In the event of any breach hereunder by Tenant, Landlord may also immediately or at any time thereafter, after reasonable notice to Tenant cure such breach for the account and at the expense of Tenant. If Landlord at any time, by reason of such breach by Tenant, is compelled to pay, or elects to pay, any sum of money or do any act which will require the payment of any sum of money, or is compelled to incur any expense, including reasonable attorney fees, in instituting or prosecuting any action to enforce either Landlord's rights or Tenant's obligations hereunder, in each case after reasonable notice to Tenant, the sum or sums so paid by Landlord with interest thereon at the rate of ten percent (10%) per annum from the date of payment thereof, or two percent (2%) over the prime rate then charged by the First National Bank of Chicago, whichever is higher, shall be deemed to be additional rent hereunder and shall be due from Tenant to Landlord on the first day of the month following the payment of such respective sums or expenses.

4. In computing damages or rental due under this Lease, the value of percentage rent for any period subsequent to the termination of this Lease or the termination of Tenant's right of

possession shall be an amount per year equal to the average percentage rent paid by Tenant for the three (3) lease years immediately preceding such termination, and if less than a full year shall have elapsed, in which percentage rent was paid, or was to be paid, then the sales during the months of said uncompleted year shall be annualized in determining the amount of percentage rental due for said year and any subsequent years.

5. All sums due and payable by Tenant to Landlord under this Lease or as a result of a breach thereof by Tenant shall be without relief from valuation and appraisal laws, together with reasonable attorney fees, and interest at the rate of ten percent (10%) per annum or two percent (2%) over the prime rate then charged by NBD Bank, N.A., whichever is higher.

6. Landlord shall in no event be charged with default in the performance of any of its obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days (or such additional time as is reasonably required to correct any such defaults) after notice by Tenant to Landlord properly specifying wherein Landlord has failed to perform any such obligation.

7. The various rights and remedies herein contained and reserved to each of the parties shall not be considered as exclusive of any other right or remedy of such party, but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity or by statute. Landlord shall in all events have available the remedy of specific performance, including specifically with respect to a breach by Tenant of its obligation to continuously use and occupy 100% of the leased premises as provided in paragraph 1 of Article V hereof. No delay in exercising or omission of the right to exercise, any right or power by either party shall impair any such right or power, or shall be construed as a waiver of any breach or default or as acquiescence thereto. One or more waivers of any covenant, term or condition of this Lease by either party shall not be construed by the other party as a waiver of a continuing or subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party of a nature requiring consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

ARTICLE XII

SPECIAL PROVISIONS

1. During the original and any extended term of this Lease, Landlord shall not lease or otherwise permit the operation of (i) another grocery store business, (ii) supermarket business, or (iii) any other business selling food for human consumption off of the premises. To the extent permitted by the Common Area and Cross-Easement Agreement, this restriction shall apply to the Shopping Center and to any land contiguous to the Shopping Center which is now owned or which may hereafter be acquired by the Landlord or any of its beneficiaries. This restriction shall not apply to any restaurant carry-out business. In addition, Landlord shall not agree to any amendments to the Common Area and Cross-Easement Agreement described in Paragraph 3 of Article I of this Lease

which would allow for the operation of another grocery store or supermarket on any other parcels of real estate which form part of the Shopping Center although not owned by Landlord. It is intended hereby that Tenant shall have an exclusive right, subject to the terms of this paragraph, to operate a (i) grocery store business, (ii) supermarket business, and (iii) sale of food for human consumption off the premises business. In the event of a violation of this paragraph by the Landlord, Tenant may enforce the terms of this paragraph under all remedies available, both at law and in equity, including obtaining injunctive relief.

2. Except for certain obligations on the part of the Landlord which are expressly set forth herein, it is the purpose and intent of this Lease that the fixed minimum rent, percentage rent and all forms of additional rent which Tenant is to pay Landlord under the provisions of this Lease shall be absolutely net to Landlord, so that this Lease shall yield on a net basis to Landlord all such fixed minimum rent, percentage rent and additional rent throughout the term of this Lease. It is therefore also the intent and purpose of this Lease that all costs, fees, interest, charges, expenses, taxes, reimbursements and obligations of every kind and nature whatsoever relating to the leased premises which may arise or become due during or out of the term of this Lease shall be paid or discharged by Tenant, and that the Landlord shall be indemnified and saved harmless by Tenant from and against all such costs, fees, interest, charges, expenses, taxes, reimbursements and obligations, except as otherwise expressly provided in this Lease and except for personal obligations of Landlord such as income taxes and, except as provided for in Article III, Paragraph 1(c)(4), obligations on any mortgage debt. It is the further intent of this Lease that Tenant shall, in all particulars, comply with the terms of the Lease so as not to create a default thereunder, anything to the contrary contained herein notwithstanding.

3. Landlord reserves the right to enter into separate leases with a bank for a branch banking facility and a pharmacy for an in-house pharmacy operation within the leased premises; subject however to Tenant's consent as to the size, location and method of operation within the leased premises, which consent shall not be unreasonably withheld, conditioned or delayed..

ARTICLE XIII
MISCELLANEOUS

1. All negotiations, considerations, representations and understandings between the parties are incorporated herein, and may be modified or altered only by agreement in writing between the parties.

2. The covenants, agreements and obligations herein contained shall extend to, bind and inure to the benefit not only of the parties hereto but to their respective personal representatives, heirs, successors and assigns.

3. All notices required under this Lease shall be deemed to be properly served if delivered in writing personally or sent by certified mail to the Landlord at 1000 East 80th Place,

Suite 222, Merrillville, Indiana 46410, and to Tenant at the leased premises, or to any subsequent address which the Landlord or Tenant may designate to the other for such purpose. Date of service of a notice served by mail shall be the date on which such notice is received, as evidenced by the certified mailing return receipt.

4. Landlord does not, in any way or for any purpose, become a partner of Tenant in the conduct of its business, or otherwise, or joint venturer or a member of a joint enterprise with Tenant. The provisions of this Lease relating to the percentage rent payable hereunder are included solely for the purpose of providing a method whereby the rent is to be measured and ascertained.

5. In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this paragraph shall not operate to excuse Tenant from prompt payment of rent or any other payments required by the terms of this Lease.

6. This Lease may be executed in one or more duplicate counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

7. Each party hereto warrants to the other that it has dealt with no broker or finder in connection with the making of this Lease, and each will save, defend and hold the other harmless against any claims, actions, judgments or loss arising out of any activity of such party with any broker or finder in connection with this Lease.

8. Should any term or provision of this Lease for any reason be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other term or provision hereof, which other terms and provisions shall continue in full force and effect. This Lease shall be governed by Indiana law.

9. In the event that Tenant assigns or sublets, or proposes to assign or sublet, all or any portion of this Lease, the Tenant shall pay Landlord all amounts expended by Landlord for reasonable attorney fees in connection with such assignment or subletting, or such proposed assignment or subletting.

10. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal representations, covenants, undertakings

and agreements by the Trustee nor for the purpose nor with the intention of binding said Trustee personally, but are made and intended for the purpose of binding only that portion of the leased premises specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the Trustee or any of the beneficiaries under said Trust Agreement, on account of this instrument or on account of any representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released. ****SEE BELOW FOR TRUSTEE'S ENVIRONMENTAL EXCULPATORY LANGUAGE****

11. The Leased dated December 28, 1993, between Landlord and Tenant relating the leased premises is hereby amended and restated in its entirety, upon the terms and provisions set forth herein.



IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day above written.

LANDLORD:

LAKE COUNTY TRUST COMPANY, not personally, but as Trustee under Trust No. 4427

By: Sandra L. Stiglitz
Sandra L. Stiglitz Asst. Trust Officer

ATTEST:

Sharon Allison
Sharon Allison Asst. Sec

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the Lake County Recorder!

TENANT:

SUPER CENTER, LLC, an Indiana corporation

By: Donald J. Weiss
Donald J. Weiss, President

Nothing contained herein shall be construed as creating any liability on LAKE COUNTY TRUST COMPANY, personally under the provisions of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") or the Indiana Responsible Property Transfer Law (the "Act") as amended from time to time or any other federal, state or local law, rule or regulation. LAKE COUNTY TRUST COMPANY, personally, is not a "Transferor" under the Act and makes no representation concerning any possible environmental defects. In making any warranty herein the Trustee is relying solely on information furnished to it by the beneficiaries and not of its own knowledge and specifically exculpates itself from any liabilities, responsibilities or damages as a result of including any warranty in this instrument.

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STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

Before me the undersigned Notary Public, personally appeared Sandra L. Stiglitz
and Sharon Allison, as the Asst Trust Officer and Asst. Sec,
respectively, of Lake County Trust Company as Trustee under Trust No. 4427, and acknowledged
the execution of the above and foregoing to be their voluntary act and deed this 3rd day of
April, 1997.

Linda Scheidt

_____, Notary Public

My Commission Expires:
5-22-2000

Linda Scheidt
Resident of Lake County, Indiana

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the Lake County Recorder!

Illinois
STATE OF ~~INDIANA~~)
) SS:
Will
COUNTY OF ~~LAKE~~)

Before me, the undersigned Notary Public, personally appeared Donald J. Weiss, President
of Super Center, LLC, and acknowledged the execution of the above and foregoing to be his
voluntary act and deed this 4th day of April, 1997.



Mary C. Hartman

_____, Notary Public

My Commission Expires:

This instrument prepared by Daniel J. Kopp, Schwartz, Cooper, Greenberger & Krauss, Chtd., 180
North LaSalle Street, Suite 2700, Chicago, Illinois 60601

EXHIBIT "A"

The North 235.0 feet of the West 681.0 feet and the South 98.0 feet of the North 333.0 feet of the West 297.0 feet (all measured along the North and West lines) of Lot 2, Old Airport Addition to Lake County, Indiana, as shown in Plat Book 38, page 99, in Lake County, Indiana.

