

LEASE AGREEMENT

This Lease Agreement ("Lease") is entered into on this _____ day of _____, 2010, by and between **THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY**, a municipal corporation of the State of Tennessee ("Metro") and **HICKORY HOLLOW/SB, LLC**, a Tennessee limited liability company ("Lessor").

WITNESSETH:

WHEREAS, Metro and Lessor desire to enter into this Lease for certain space in the shopping center known as Hickory Hollow Mall and further described as Building D.

NOW, THEREFORE, for the mutual promises and other considerations, the receipt and adequacy of which is hereby acknowledged, and for the mutual promises hereinafter set out, and subject to the conditions, limitations and for the rent or other consideration hereinafter established, Lessor lets and leases unto Metro all parts and portions of certain real property for the purpose of the Permitted Use (as hereinafter defined).

1. PURPOSE.

Lessor hereby leases to Metro and Metro leases from Lessor **200,000 rentable square feet** of space being **Building D** and the related parcel located at the shopping center known as **Hickory Hollow Mall** located at 5252 Hickory Hollow Parkway, Antioch, Tennessee 37013 (the "Shopping Center"). This 200,000 square feet of space and the related parcel in Hickory Hollow Mall is hereafter referred to as the "Leased Premises". The Leased Premises is more particularly described on the floor plans and site plan attached hereto and incorporated herein as Exhibit A, and the legal description attached hereto and incorporated herein as Exhibit A- 1

2. **TERM.** The term of this Lease shall commence as set forth in Section 3, subject to (a) final approval by Metro Council and the Mayor and filing with the Metro Clerk and delivery to Metro of possession of the Leased Premises, and (b) approval of the Lease by Macy's in a form acceptable to Lessor in its sole discretion and acquisition of the Leased Premises from Dillard Tennessee Operating Limited Partnership; and shall expire ten (10) years thereafter (the "Term"). If the Term commences on a day other than the first day of a calendar month, then the period commencing with the first day of the Term and ending on the last day of the calendar month in which the Term commenced shall be added to the first Lease year of the Term. Other than the first Lease year, each "Lease year" during the Term will be the consecutive twelve (12) month period commencing on the date of the first full month of the Term to the last day of the succeeding twelfth (12th) month.

Should Metro fail to obtain approval of this Lease within ninety (90) days after the date hereof, Lessor may, at its discretion, terminate this Lease, or, in the alternative, may grant Metro an additional ninety (90) days to obtain approval of the Lease. If Metro has not obtained approval of this Lease within the extended period of ninety (90) days, then this Lease shall expire automatically and be of no force and effect. Further, if Lessor has not obtained written approval of this Lease by Macy's in a form acceptable to Lessor in its sole discretion within ninety (90) days after the date

hereof, or if Lessor has not acquired fee title to the Leased Premises within said 90 days, Lessor shall have the right to terminate this Lease by written notice to Metro and thereupon this Lease shall expire and be of no further force and effect.

3. **RENTAL FEES.** Metro shall pay to Lessor on or before the first day of each month during the Term, without previous demand therefor, and without offset or deduction except as specifically provided in this Lease, a rental equal to the following sums per rentable square feet per year:

<u>Period</u>	<u>Annual Base Rental Per Rentable Square Foot</u>	<u>Annual Payment</u>	<u>Monthly Payment</u>
(a) from the date that is 21 days after filing with the Metro clerk but no earlier than January 1, 2011, until the full Rent commences as set forth immediately below:	\$3.00	\$600,000	\$50,000.00
(b) Term of the Lease	\$5.00	\$1,000,000	\$83,333.33

If the Term commences on a date other than the first day of a month, Metro shall pay Lessor on the first day of the Term, a pro-rata portion of such annual base rent, based upon the number of calendar days in the month in which Metro's obligation to pay full rent commences. The Rent shall commence upon the earlier of (a) the issuance of a Use and Occupancy Permit by Metro Codes Department with respect to Lessor's work to prepare the Leased Premises described in Section 10(b) and (b) the date that is (120) days after the date hereof.

Interest at the rate of one percent per month shall accrue on any rent or other charges not paid by the tenth (10th) day after such rent is due.

4. **REAL ESTATE TAXES.** Lessor shall not be responsible for any real estate taxes on the Leased Premises. Metro shall be responsible for all real estate taxes, if any, imposed upon Metro's rent, Lease, and business operation, including, without limitation, all sales taxes, value added taxes, documentary taxes, stamp taxes, and other taxes assessed upon the consideration to be received by Lessor for this Lease, upon all personal property of Metro. The term "real estate taxes" shall mean all taxes and assessments (special or otherwise), if any, levied or assessed directly or indirectly against the Shopping Center (land, buildings and/or improvements as the same may be enlarged or reduced from time to time), personal property used in connection with the common areas and other taxes arising out of the use and/or occupancy of the Leased Premises imposed by federal, state, or local governmental authority or any other taxing authority having jurisdiction over the Shopping Center. The term "real estate taxes" shall also mean any taxes based upon the value of the Shopping Center, including, without limitation, the value of the Shopping Center as part of the "net worth" or value of

the Lessor's assets as a component of any franchise tax; if the Shopping Center is located in the State of Michigan the term "real estate taxes" shall also mean the Michigan Business Tax.

5. DELIVERY OF POSSESSION. Except as set forth herein, Metro acknowledges that Lessor has not been the prior owner and accepts the Leased Premises in its AS-IS, WHERE-IS CONDITION. Metro's access to the Leased Premises prior to the commencement of the Term shall be upon all of the terms, covenants and conditions of this Lease except for the payment of rent and other charges.

6. PERMITTED USE. Metro will use the Leased Premises for the purpose of operating an event center to include shows such as boat shows, craft shows, auto shows, antique shows and to hold community meetings, provide training and testing, and for periodic flea markets; Metro may provide food services through concession vendors, but shall not license or sublease to any food vendor and shall not allow any food that would typically be found in a shopping center food court or in-line space. Metro shall not use the Leased Premises for any of the uses listed as "prohibited uses" in Exhibit B, attached to and made a part of this Lease (the "Permitted Use"). Metro shall use the Leased Premises for no other purpose without the prior written consent of Lessor. Metro's hours during which the premises are open to the public shall be between 8:00 am and 9:30 pm, Mondays through Saturdays, and 8 am to 6 pm on Sundays.

7. UTILITIES/SERVICES. Metro is responsible for all utilities serving the Leased Premises. If utilities serving the Leased Premises are not currently separately metered, Metro may, at its expense, provide separate meters for all utilities.

If Metro does not elect to provide separate meters, Lessor may supply and bill Metro for electric consumption in accordance with the following terms:

Environmental Charge. At Lessor's election Lessor or its designee may collect from Metro as additional rent under this Lease an "Environmental Charge" which may contain, without limitation, the following items which Lessor may supply to the Leased Premises.

Metro agrees that Lessor may at Metro's expense furnish and install a check meter that shall be read monthly or at some other regular interval by Lessor and Metro shall pay monthly or at some other regular interval, as the case may be, as its Electrical Charge (the "Electrical Charge") for the electrical energy consumed in the Leased Premises.

The Electrical Charge shall include a proportionate cost of the central electrical distribution system but only that portion from the electric master meter to the Leased Premises, including the cost of the electric meter Metro would have paid had electricity not been supplied by Lessor. Also, the Electrical Charge shall include a reasonable allowance for Lessor's survey, if applicable, billing and administrative expenses, and Lessor's costs of repair and maintenance of Lessor's electrical supply system. The Electrical Charge may be revised by Lessor from time to time to reflect an increase or decrease in the following: taxes, costs of repair and maintenance of Lessor's electrical supply system, rates charged to similar consumers by the Local Utility Company or the Designated Service Provider,

as the case may be. Metro's connected load, any adjustment required as a result of actual operating experience, and seasonal requirements. Regardless of whether the Electrical Charge is determined by method 1 or 2 above, the rate segment of the Electrical Charge shall not exceed the rate (including taxes) which Metro as the operator of a separately metered and billable facility would otherwise pay for continuous comparable service to the applicable municipality, governmental authority or utility company located in and serving retail facilities of a size and with the same requirements as Metro's in the geographic location of the Shopping Center ("Local Utility Company") if such electrical energy were not supplied by Lessor and had Metro purchased such electricity directly from the Local Utility Company.

8. REPAIRS AND MAINTENANCE.

- a) Metro shall pay the cost of repair and replacement due to damage or injury done to the Shopping Center and/or the Leased Premises by Metro or Metro's agents, employees, contractors, licensees or invitees. Such amount shall be paid by Metro to Lessor upon within thirty (30) days of demand. Payment of such amount after thirty (30) days shall be subject to interest, as provided in this Lease, from demand until payment. Upon termination of this Lease, Metro will surrender and deliver up the Leased Premises to Lessor in the same condition in which they existed at the commencement of the Lease, excepting only ordinary wear and tear and damage arising from any cause required hereunder to be repaired at Metro's expense.
- b) Metro acknowledges that it has inspected the Leased Premises and Metro's taking possession of the Leased Premises shall be conclusive evidence that the Leased Premises were in acceptable order and satisfactory condition when Metro took possession. No promise of the Lessor to alter, remodel, repair or improve the Leased Premises and no representation respecting the condition of the Leased Premises have been made by Lessor to Metro other than as may be contained herein.
- c) Should Metro desire any additional services beyond those described in Sections 7 and 8 or rendition of any of such services outside the normal times of Lessor for providing such services, Lessor may (at Lessor's option), upon reasonable advance notice from Metro to Lessor, furnish such services and Metro agrees to pay Lessor such charges as may be agreed on between Lessor and Metro, but in no event at a charge less than Lessor's actual cost for the additional services provided.
- d) Metro shall be responsible for janitorial services within the Leased Premises.
- e) In the event Metro is or becomes a generator of medical waste, Metro shall be solely responsible for complying with all federal, state and local laws, whether existing now or established in the future, relating in any way to the storage, containment, treatment, transfer, transportation and disposal of medical waste (including the use of licensed medical waste management companies). For

purposes hereof, "medical waste" shall mean any solid, semisolid or liquid waste which is generated in the diagnosis, treatment (e.g., provisions of medical services), immunization or performance of a service to the body of human beings or animals, in research pertaining thereto or in the production or testing of biologicals. "Generator" shall mean any person or entity whose act or process produces medical waste as hereinbefore defined.

- f) Metro shall be responsible for all repairs and maintenance to the Leased Premises, and shall maintain the Leased Premises in a condition that is compatible with a first class regional Shopping Center, such that Leased Premises are in no worse condition than exists on the commencement date of the Lease. Metro shall make necessary structural repairs to the exterior walls; necessary repairs to the roof, foundations, load bearing items, external plumbing, pipes, and conduits located outside the Leased Premises and/or in the common areas, and necessary repairs to sidewalks, malls, parking areas, parking lot lighting, and curbs such that Leased Premises are in no worse condition than exists on the commencement date of the Lease. Lessor shall not be required to make any repairs whatsoever regardless of cause, except as it relates to fire or other casualty or condemnation, but not including any improvements installed or modified by Metro.
- g) Metro shall at all times keep the Leased Premises and all exterior entrances, exterior walls, glass and show mouldings, partitions, doors, floor surfaces, fixtures, equipment, and appurtenances thereof in good order, condition, and repair, and in a reasonably satisfactory condition of cleanliness, and Metro shall make such other necessary repairs in and to the Leased Premises not specified in this Lease as being the responsibility of Lessor. Metro shall at its expense replace all broken or damaged glass or substitutes therefor, as the case may be. If (i) Metro does not repair the Leased Premises as required hereunder, after reasonable written notice from Lessor, or (ii) Lessor determines that emergency repairs are necessary, or (iii) repairs the Shopping Center and/or common areas are made necessary by any act or omission or negligence of Metro, its agents, employees, subtenants, assignees, concessionaires, contractors, invitees, licensees, or visitors, then Lessor may make such repairs, and upon completion thereof, Metro shall pay Lessor's costs for making such repairs, upon presentation of a bill therefor, as additional rent.
- h) Lessor reserves the right to install an exterior sign on the western façade of Building D in the location shown on Exhibit A. If Metro exercises its option to purchase the Leased Premises, Metro agrees to provide a permanent easement for the installation and maintenance of the sign.

9. **INSPECTION.** Lessor shall have the right of access at reasonable times during the regular business hours and upon reasonable notice to Metro (and in emergency at all times) for examining the Leased Premises and for making repairs. In no event will such right of access to the Leased Premises give Lessor the right to access the documents and records kept

by Metro in the Leased Premises as such records may be protected under HIPPA and other privacy laws.

10. ALTERATIONS.

- a) Metro's initial work to prepare the Leased Premises for its use and occupancy shall be subject to Lessor's reasonable approval, as set forth in Exhibit D, will be conducted in a good and workmanlike manner, in compliance with all laws and regulations, and shall be conducted in a manner so as to keep the Shopping Center and the Leased Premises free from mechanics' claims and liens.
- b) Lessor will perform initial Metro improvements to the Leased Premises as described in a mutually-agreed upon scope up to a cost of \$2,500,000 (the "Lessor's Work") to prepare the Leased Premises. The Lessor's Work shall include bearing all costs incurred for capital and non-capital improvements including soft and hard costs required to prepare the Leased Premises for Metro's use. Lessor shall perform the capital improvements of such Lessor's Work based on schematic plans and specifications to be provided by Metro within sixty (60) days after Metro Council approval of this Lease and the filing of such approval with the Metro Clerk, as such plans and specifications may be agreed upon by Lessor. Lessor's Work may be performed during the Term of the Lease.
- c) Metro will make no alteration, change, improvement, repair, replacement or additions to the Leased Premises without the prior written consent of Lessor, which consent shall not be unreasonably withheld. Lessor agrees that Metro has the right to make emergency repairs to the Leased Premises without the prior consent of Lessor. In no event shall any work be conducted by Metro between October 15 through January 5 of any year during the Term. If Lessor grants such prior written consent, the work in such connection shall be at Metro's expense but by workmen of Lessor or workmen and contractors approved in advance in writing by Lessor and in a manner and upon terms and conditions and at times satisfactory to and approved in advance in writing by Lessor. Metro shall discharge of record by bond or otherwise within ten (10) days following the filing thereof any mechanic's or similar lien or encumbrance filed against the Leased Premises or the Project for work or materials claimed to have been furnished to or for the benefit of Metro and/or the Leased Premises.
- d) Metro may remove its trade fixtures, office supplies and movable office furniture and equipment not attached to the Leased Premises provided: (1) such removal is made prior to the termination of the Term; and (2) Metro promptly repairs all damage caused by such removal. All other property at the Leased Premises and any alteration or addition to the Leased Premises (including wall-to-wall carpeting, paneling or other wall covering) and any other article attached or affixed to the floor, wall or ceiling of the Leased

Premises (any of which as stated above shall require Lessor's prior written consent) shall become the property of Lessor and shall remain upon and be surrendered with the Leased Premises as part thereof at the termination of this Lease. Metro hereby waiving all rights to any payment or compensation therefor.

11. SURRENDER OF POSSESSION. Upon the termination of this Lease, Metro shall surrender the Leased Premises to Lessor in as good condition as at the beginning of the Term of this Lease, less by fire or other casualty, ordinary wear, alterations, and repairs chargeable to Lessor excepted. Metro specifically agrees to remove all changes, alterations, and additions to the exterior of the Building and surrender it to Lessor with parking areas restored to parking in the same or better condition as existing on the date possession was delivered to Metro, unless the Leased Premises are purchased by Metro in accordance with Section 44 hereof.

12. HOLDING OVER. In no event shall there be any renewal of this Lease by operation of law. If Metro remains in possession of the Leased Premises after the termination of this Lease, or any extension thereof, the Lease shall be considered extended only upon a month-to-month basis upon the terms and conditions set forth herein with an increase of 10% to Minimum Rent.

13. DESTRUCTION OF PREMISES. If the Leased Premises shall be totally destroyed by fire or other casualty so as to render it unfit for Metro's use, then at Metro's option, this Lease shall terminate as of the date of such destruction and all of Metro's liability hereunder shall cease from and after such date and any unearned rent paid in advance by Metro to Lessor shall be refunded to Metro.

If the Leased Premises shall be partially destroyed by fire or other casualty, then it shall be restored or made safe at Lessor's option and a just portion of the rent shall abate until the Leased Premises shall have been restored and put in proper condition for Metro's use and occupancy. If the Leased Premises cannot be restored or made safe after partial destruction so that it is fit for Metro's use, then Metro, at its option, may cancel and terminate this Lease in its entirety, and all of Metro's liability hereunder shall cease from and after the date of such destruction.

14. LESSOR'S DEFAULT. In the event of any breach of this Lease by Lessor, Metro will give Lessor written notice specifying such breach with particularity, and Lessor shall have thirty (30) days after its receipt of such notice to commence to cure such default; and Lessor shall not be in default hereunder as long as Lessor commences such cure within such thirty (30) day period, and diligently pursues such cure thereafter. Unless and until Lessor fails to so cure any breach within the requisite cure period after receipt of written notice from Metro, Metro shall not have any remedy or cause of action by reason thereof. All obligations of Lessor hereunder will be construed as covenants, not conditions. In the event of an uncured event of default by Lessor, Metro shall be entitled to pursue any and all remedies available under Tennessee law.

15. COMPLIANCE WITH LAWS. Lessor and Metro agree to comply with any applicable federal, state and local laws and regulations, including fire, building and other codes applicable to the Leased Premises and the Shopping Center.

16. **PRESERVATION OF REMEDIES.** Exercise of any option to obtain repairs or services or to terminate for breach shall not relieve Lessor of any liability to Metro for damages sustained by virtue of Lessor's breach.

17. **NOTICES.** Any notice or request which may or shall be given under the terms of this Lease shall be in writing and shall be delivered by hand to the management office (for Lessor) or the Leased Premises (for Metro), addressed to the parties hereto. Notice shall be deemed given when delivered. Such addresses may be changed from time to time by either party giving notice as provided above. As of the date hereof, the addresses for the parties are as follows:

Notices to Metro shall be sent to:

Metropolitan Department of Finance
Director of Public Property
Metropolitan Courthouse
1 Public Square, suite 106
P. O. Box 196300
Nashville, TN 37201

with copy to:

[METRO PROPERTY MANAGER]

Notices to Lessor shall be sent to:

CBL & Associates Management, Inc.
2030 Hamilton Place Boulevard
CBL Center, Suite 500
Chattanooga, TN 37421
Attention: President

With copy to:

CBL & Associates Management, Inc.
2030 Hamilton Place Boulevard
CBL Center, Suite 500
Chattanooga, TN 37421
Attention: General Counsel

18. **MAINTENANCE OF RECORDS.** Lessor shall maintain documentation for all charges under this Lease against Metro. The books, records, and documents of Lessor insofar as they relate to work performed or money received under the Lease, must be maintained for a period of three (3) full years from the date of final payment and will be subject to review at any reasonable time during the regular business hours and upon reasonable notice by Metro or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.

19. **MODIFICATION OF LEASE AGREEMENT.** This Lease may be modified only by written amendment executed by all parties hereto, including approval by the Metropolitan Council.

20. **PARTNERSHIP/JOINT VENTURE.** Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act or omission of any other party contrary to the terms of this paragraph.

21. **WAIVER.** No waiver of any provision of this Lease shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

22. **EMPLOYMENT.** Lessor affirms that it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, dismissal or laying off of any individual due to his race, creed, color, national origin, age, sex or handicapping condition.

23. **CONTINGENT FEES.** Lessor hereby represents that Lessor has not been retained or retained any persons to solicit or secure a Metropolitan Government contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

24. **GRATUITIES AND KICKBACKS.** It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefor. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

25. **INDEMNIFICATION AND HOLD HARMLESS** Neither Lessor nor any of Lessor's Indemnitees shall be liable in any manner to Metro or any other party for any injury to or death of persons or for any loss of or damage to the property of Metro, its employees, agent, customers, invitees, or to others, regardless of whether such property is entrusted to employees of the Shopping Center, or such loss or damage is occasioned by casualty, theft, or any other cause of whatsoever nature, unless caused by the willful misconduct or negligence or omissions of Lessor. In no event shall Lessor or Lessor's Indemnitees be liable in any manner to Metro or any other party for loss resulting solely from the acts or omissions of Metro, its agents, employees, contractors, invitees,

or any other tenant of the Shopping Center.

26. ASSIGNMENT AND SUBLEASE-CONSENT REQUIRED. The provisions of this Lease shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Neither this Lease nor any of the rights and obligations of Metro hereunder shall be assigned or transferred in whole or in part by Metro, without the prior written consent of Lessor, which may not be unreasonably withheld. Metro may not sublease all or any portion of the Leased Premises without the prior written consent of Lessor. Any such assignment, transfer or sublease shall not release either party from its obligations hereunder.

27. ENTIRE LEASE AGREEMENT. This Lease sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

28. FORCE MAJEURE. No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, force, casualty, work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

29. GOVERNING LAW AND VENUE. The validity, construction and effect of this Lease and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Any dispute arising out of this Lease shall be litigated in the courts of Davidson County, Tennessee.

30. SEVERABILITY. Should any provision of this Lease be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this Lease.

31. SUBORDINATION AND ATTORNMENT.

- a) Unless otherwise required pursuant to subsection (c) below, this Lease and all rights of Metro hereunder are and shall be subject and subordinate to the lien of any Mortgage. The term "Mortgage" means any deed to secure debt, mortgage, deed of trust, or other instrument in the nature thereof which may now or hereafter affect Lessor's fee title to the building in the Shopping Center, any other instrument encumbering the fee title of the building in which the Leased Premises are located, and any modifications, renewals, consolidations, extensions, or replacements thereof.
- b) Subsection (a) above shall be self-operative and no further instrument of subordination shall be required by the holder of any Mortgage. In confirmation of such subordination, Metro shall, upon demand, at any time or times, execute, acknowledge, and deliver to Lessor or the holder of any Mortgage, without expense to Lessor or such holder, any and all instruments that may be requested by Lessor or such holder to evidence the subordination

of this Lease and all rights hereunder to the lien of any such Mortgage, and if Metro shall fail at any time, within ten (10) days following the giving of a written request therefor, to execute, acknowledge, and deliver any such instrument. Lessor or such holder, in addition to any other remedies available to it in consequence thereof, may execute, acknowledge, and deliver the same on behalf of Metro.

- c) Metro shall, upon demand, at any time or times, execute, acknowledge, and deliver to Lessor or to the holder of any Mortgage, without expense to Lessor or such holder, any and all instruments that may be necessary to make this Lease superior to the lien of any such Mortgage and, if Metro shall fail at any time, within ten (10) days following the giving of a written request therefor, to execute, acknowledge, and deliver any such instrument. Lessor or such holder, in addition to any other remedies available to it in consequence thereof may execute, acknowledge, and deliver the same on behalf of Metro.
- d) If the holder of any Mortgage or any purchaser from such holder shall hereafter succeed to the rights of Lessor under this Lease, whether through possession or foreclosure action or delivery of a new lease or otherwise, then Metro shall, at the option of such holder or purchaser, attorn to and recognize such holder or purchaser as Metro's Lessor under this Lease and shall promptly execute and deliver such reasonable instrument that may be necessary to evidence such attornment. Upon such attornment, this Lease shall continue in full force and effect as a direct lease between such successor Lessor and Metro, subject to all of the terms, covenants and conditions of this Lease.
- e) Lessor shall use reasonable and diligence efforts to obtain for Metro a Subordination, Non-Disturbance and Attornment Agreement from the holder of any mortgage that is superior to this Lease, in the form attached hereto as Exhibit E, or in such other form as may be reasonably acceptable to Lessor, Metro and said mortgagee.

32. ESTOPPEL CERTIFICATE. At any time and from time to time, Metro, on or before the date specified in a request therefor made by Lessor, which date shall not be earlier than fifteen (15) days from the making of such request, shall execute, acknowledge, and deliver to Lessor a certificate evidencing whether or not (i) this Lease is in full force and effect, (ii) this Lease has been amended in any way, (iii) there are any existing defaults on the part of Lessor hereunder to the knowledge of Metro and specifying the nature of such defaults, if any, and (iv) the date to which rent, and other amounts due hereunder, if any, have been paid. If Metro does not execute, acknowledge and deliver to Lessor any such certificate within fifteen (15) days after Metro's receipt of same from Lessor, then Metro will be deemed for all purposes under this Lease to have executed, acknowledged and delivered such certificate to Lessor in the form submitted by Lessor and to have acknowledged and agreed to the terms of such certificate in the form submitted by Lessor, effective as of the last day of such fifteen (15) day period. Each certificate delivered or deemed delivered pursuant to this Section may be relied on by Lessor or any prospective purchaser or transferee of

Lessor's interest hereunder or of any part of Lessor's property or by any mortgage of Lessor's interest hereunder or of any part of Lessor's property or by an assignee of any such mortgage.

33. DEFAULT AND REMEDIES.

- a) The occurrence of any of the following shall constitute an event of default:
1. The rent and any other sum of money payable under this Lease is not paid when due and remains unpaid for a period of thirty (30) days after the due date;
 2. Metro's interest in the Lease or the Leased Premises shall be subjected to any attachment, levy, or sale pursuant to any order or decree entered against Metro in any legal proceeding and such order or decree shall not be vacated within fifteen (15) days after entry thereof; or
 3. Metro breaches or fails to comply with any term, provision, condition, or covenant of this Lease, other than the payment of rent or any other sum of money, and Metro has not commenced and diligently pursued cure of such breach or failure to comply within thirty (30) days after Lessor has provided Metro notice of such breach or failure to comply.
- b) Upon the occurrence of an event of default, Lessor shall be entitled to terminate this Lease, and this Lease shall be deemed to have been terminated upon receipt by Metro of written notice of such termination. Upon such termination Lessor shall recover from Metro all arrearages in rentals and other sums due hereunder. In no event, will Metro be liable for any future amounts due or any services Metro has not received.
- c) No course of dealing between Lessor and Metro or any failure or delay on the part of Lessor in exercising any rights of Lessor under this Section or under any other provisions of this Lease shall operate as a waiver of any rights of Lessor hereunder or under any other provisions of this Lease, nor shall any waiver of a default on one occasion operate as a waiver of any subsequent default or of any other default. No express waiver shall affect any condition, covenant, rule or regulation other than the one specified in such waiver and that one only for the time and in the manner specifically stated.
- d) The exercise by a party to this Lease of any one or more of the rights and remedies provided in this Lease shall not prevent the subsequent exercise by that party of any one or more of the other rights and remedies herein provided. All remedies provided for in this Lease are cumulative and may be exercised alternatively, successively, or in any other manner, and all remedies provided for in this Lease are in addition to any other rights provided for or allowed by law or in equity.

- e) In addition, upon an occurrence of default, Lessor may (1) cure Metro's default at Metro's cost and expense, and/or (2) without terminating this Lease re-enter and repossess the Leased Premises, and/or (3) relet the Leased Premises or any part or parts thereof. The exercise by Lessor of any right granted in this subsection (e) shall not relieve Metro from the obligation to make all rental payments, and to fulfill all other covenants required by this Lease. Except to the extent specifically required by applicable law, Lessor shall not be required to relet the Leased Premises nor exercise any other right granted to Lessor hereunder, nor shall Lessor be under any obligation to minimize Metro's loss as a result of Metro's default.

34. PARKING. Throughout the Term of this Lease, Lessor grants Metro the non-exclusive use of the Shopping Center parking spaces, available to the public, as such areas may be changed or be reduced from time to time, for use by Metro's employees and invitees.

35. RULES AND REGULATIONS. From time to time Lessor will make and publish reasonable rules and regulations for the operation and occupancy of the Shopping Center, which rules and regulations are subject to Metro's approval in Metro's reasonable discretion. A current list of Rules and Regulations is outlined in Exhibit "C" of this lease.

36. INSURANCE. Metro shall provide property insurance for all property belonging to Metro that shall be in use within the Leased Premises. Metro is a self-insured entity under the Tennessee Governmental Tort Liability Act, Tenn. Code Section 29-20-101 et.seq. Metro will provide self-insured liability coverage for any damage to property or injury to or death of a person or persons caused by the negligent acts or omissions of the employees, agents, contractors, or invitees of Metro subject to the limitations and exclusions of the Tennessee Governmental Tort Liability Act. ~~Metro shall be responsible for any and all increases of Lessor's property insurance premiums and any security, as determined by Lessor, related to or arising out of Metro's use of the Leased Premises.~~ JSB

37. CERTAIN RIGHTS RESERVED TO LESSOR. Without limiting Lessor's rights contained elsewhere in this Lease, the following rights are reserved to Lessor:

- a) To name the Shopping Center and to change the name of the Shopping Center.
- b) To install and maintain a sign or signs on the exterior or interior of the Shopping Center.
- c) To constantly have pass keys to the Leased Premises.
- d) From time to time to make and publish reasonable rules and regulations for the operation and occupancy of the Shopping Center, which rules and regulations Metro agrees to observe.

38. COMMON AREA. All common areas and other common facilities (hereinafter collectively called "common areas") made available by Lessor in or about the Shopping Center shall

be subject to the exclusive control and management of Lessor, expressly reserving to Lessor, without limitation, the right to erect and install within the malls and/or the parking areas, kiosks, planters, pools, sculpture, free-standing buildings, additional stories to buildings, or otherwise. Common areas (as initially constructed or as the same may be enlarged or reduced at any time thereafter) shall mean all areas, space, facilities, equipment, signs, and special services from time to time made available by Lessor for the common and joint use and benefit of Lessor and its designees, Metro and other tenants and occupants of the Shopping Center, and their respective employees, agents, subtenants, concessionaires, licensees, customers, and invitees, which may include (but shall not be deemed a representation as to their availability), the sidewalks, parking areas, access roads, driveways, landscaped areas, truck serviceways, tunnels, loading docks, pedestrian malls (enclosed or open), courts, stairs, ramps, elevators, escalators, comfort and first aid stations, public restrooms, community hall or auditorium, and parcel pick-up stations. Lessor hereby expressly reserves the right from time to time, to construct, maintain, and operate lighting and other facilities, equipment, and signs on all of the common areas; to police the same; to change the area, level, location, and arrangement of the parking areas and other facilities forming a part of the common areas; to construct, operate, maintain, repair, and replace retention ponds and mitigation areas which serve the Shopping Center; to build multi-story parking facilities; to restrict parking by tenants and other occupants of the Shopping Center and their employees, agents, subtenants, concessionaires, and licensees; to enforce parking charges (by operation of meters or otherwise); to close temporarily all or any portion of the common areas for the purpose of making repairs or changes thereto and to discourage non-customer parking; to establish, modify, and enforce reasonable rules and regulations with respect to the common areas and the use to be made thereof; to grant rights to hold events in the common areas such as automobile displays and carnivals; and to grant individual tenants the right to conduct sales in the common areas. Lessor shall operate, manage, equip, light, and maintain the common areas in such manner as Lessor may from time to time determine, and Lessor shall have the right and exclusive authority to employ and discharge all personnel, including independent contractors, with respect thereto. Metro is hereby given a non-exclusive license to use, during the Term, the common areas of the Shopping Center as they may now or at any time during the Term exist, provided, however, that if the size, location, or arrangement of such common areas or the type of facilities at any time forming a part thereof is changed or diminished, Lessor shall not be subject to any liability therefor, nor shall Metro be entitled to any compensation or diminution or abatement of rent therefor, nor shall such change or diminution of such areas be deemed a constructive or actual eviction. Lessor reserves the right to grant to third persons the non-exclusive right to cross over and use in common with Lessor and all tenants of the Shopping Center the common areas as designated from time to time by Lessor. In order to establish that the Shopping Center and any portion thereof is and will continue to remain private property and to prevent a dedication thereof or the accrual of any rights to any person or the public therein, Lessor hereby reserves the unrestricted right to close all or any portion of the Shopping Center owned, leased, or controlled by Lessor to the general public for one (1) day in each calendar year, and, in connection therewith, to seal off all entrances to the Shopping Center, or any portion thereof. Metro hereby acknowledges, consents, and agrees that any and/or all services, facilities, and access by the public to the Leased Premises and/or to the Shopping Center may be suspended in whole or in part during such temporary times as any of the anchor stores in the Shopping Center are not open for business, on legal holidays, or such other days as may be declared by local, state, or federal authorities as days of observance, and/or during any periods of actual or threatened civil commotion, insurrection, or other circumstances beyond Lessor's control.

In consideration of Lessor's managing, repairing, operating, and maintaining the Shopping Center, Metro and Lessor hereby agrees that during the Term Metro's operating costs charge is \$.25 per square foot contained in Building B D for the first partial month and the first full Lease year, \$.50 per square foot contained in Building B D for the second Lease year, \$.75 per square foot contained in Building B D for the third Lease year, and, thereafter, for the rest of the Term, \$1.00 per square foot of Building B D annually with an automatic 3% annual increase thereafter. Lessor's maintenance on Metro's parcel includes periodic restriping as needed, routine lot sweeping and minor repairs, replacement of parking lot light bulbs (but not pole and fixture repairs), and landscape trimming and mowing (but not plantings, plant replacement, mulch, or watering).

39. JANITORIAL. All janitorial, maintenance, and security services are Metro's sole responsibility. The Lessor has estimated that the cost is \$2.50 per square foot annually to provide this service to Metro, if Lessor provides such services upon request by Metro, Metro shall pay Lessor monthly the amount of \$16,666.67. Lessor shall submit a quarterly account of actual services rendered and Lessor and Metro will adjust payments to actual charges accordingly. Lessor and/or Metro shall have the right to terminate these services upon sixty (60) days' notice to the other.

40. EMINENT DOMAIN. If the entire Leased Premises shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, or conveyance shall be made in lieu thereof, this Lease shall terminate and expire as of the date of such taking, and the parties shall thereupon be released from all liability hereunder which accrues after the date of such taking.

Anything in this Lease to the contrary notwithstanding, in the event more than fifteen percent (15%) of the Leased Premises or more than twenty-five percent (25%) of the then existing paved parking spaces of the Shopping Center shall be appropriated or taken, or conveyance made in lieu thereof, either party shall have the right to cancel and terminate this Lease as of the date of such taking upon giving notice to the other of such election within thirty (30) days after such taking. In the event of such cancellation, the parties shall thereupon be released from any further liability under this Lease (except for obligations existing on the effective date of such termination).

If a portion of the Leased Premises is taken, or conveyance made in lieu thereof, and if this Lease shall not be terminated as provided in the preceding paragraph, then the minimum annual rent shall be ratably apportioned according to the space so taken, and Lessor shall, at its own expense, restore the remaining portion of the Leased Premises to a complete architectural unit; provided, however, the cost of Lessor's obligation hereunder shall be limited to that portion of the net proceeds of the condemnation award actually received and retained by Lessor which are allocable to the Leased Premises.

If more than fifteen percent (15%) of the leasable floor space within the Shopping Center shall be so taken, regardless of whether or not the Leased Premises shall have been partially taken, then Lessor shall have the right to terminate this Lease on ninety (90) days' written notice; provided Lessor also terminated the leases of the tenants contiguous to the Leased Premises.

All compensation awarded or paid upon such a total or partial taking of the Leased Premises shall belong to and be the property of Lessor without any participation by Metro.

41. NO RECORDATION OF LEASE. This Lease is not in recordable form, and Metro agrees not to record this Lease or any memorandum thereof with the Register of Deeds for the Metropolitan Government of Nashville and Davidson County. The parties acknowledge that a copy of the Lease will be filed with the Metropolitan Clerk.

42. EFFECTIVE DATE. This Lease shall not be binding upon the parties until it has been signed first by the Lessor and then by the representatives of Metro.

43. DEFINITION AND LIABILITY OF LESSOR.

Metro agrees to look solely to Lessor's interest in the building in which the Leased Premises are located and the rent and other income derived therefrom for the recovery of any monetary judgment against Lessor. Accordingly, Lessor's obligations and liability with respect to this Lease shall be limited solely to Lessor's interest in the building, as such interest is constituted from time to time, and the rent and other income derived therefrom, and Lessor shall not have any personal liability whatsoever with respect to this Lease. The foregoing provisions of this Section are not intended to, and shall not, limit any right that Metro might otherwise have to obtain injunctive relief against Lessor or any suit or action in connection with enforcement or collection of amounts which may become owing or payable under or on account of insurance maintained by Lessor.

In addition hereto, it is specifically understood and agreed that Lessor's rights, privileges, duties, and obligations may be administered by Lessor's designee, including, but not limited to, Lessor's agent, and that such designee shall have the full authority of Lessor hereunder to perform all of Lessor's functions hereunder including, but not limited to, the execution of this Lease and any other related documentation.

44. OPTION TO PURCHASE.

- (a) Provided that Metro is not in default under this Lease beyond any applicable notice and cure periods, and, after the expiration of the first four (4) years of the Term of this Lease, Metro shall have the option to purchase the land constituting a part of the Leased Premises and the Leased Premises from Lessor. The purchase price for the Leased Premises shall be equal to Two Million Five Hundred Thousand Dollars (\$2,500,000), plus all costs associated with Lessor's Work as described in Section 10(b) hereof, and the total purchase price is estimated to be Five Million Dollars (\$5,000,000.00) if closing occurs during the fifth (5th) Lease year; the purchase price reduces each year thereafter by \$1.00 per square foot contained in Building D, or \$200,000, as follows: the estimated purchase price the fifth (5th) Lease year is: Four Million Eight Hundred Thousand Dollars (\$4,800,000) if the closing occurs during the sixth (6th) Lease year; Four Million Six Hundred Thousand Dollars (\$4,600,000) if closing occurs in the seventh (7th) Lease year; Four Million Four Hundred Thousand Dollars (\$4,400,000) if closing occurs in the eighth (8th) Lease year; Four

Million Two Hundred Thousand Dollars (\$4,200,000) if closing occurs in the ninth (9th) Lease year; and Four Million Dollars (\$4,000,000) if closing occurs in the tenth (10th) Lease year. Metro shall give Lessor at least twelve (12) months' prior written notice of its exercise of its option to purchase.

- (b) The terms and conditions of the closing of the sale and purchase shall be in accordance with the agreement in substantially the form and substance of Exhibit F. The purchase price shall be payable in cash by wire transfer of immediately available federal funds to Lessor at closing. Metro and Lessor shall each pay the fees and expenses of its attorneys. Possession of the Leased Premises shall be delivered to Metro at the closing. It is understood and agreed by Metro that Lessor's control and operation of the common areas of the Shopping Center is of critical importance to Lessor and the anchors of the Shopping Center. Therefore, all of the provisions of Section 38 hereof, including Lessor's rights and obligations thereunder, and Metro's obligations to make the payments described therein for common area maintenance, shall be incorporated into the terms and conditions of the conveyance documents upon Metro's purchase of the Leased Premises and shall survive closing thereunder for a period of no less than ten (10) years after the date hereof or the closing of the Macy's store, whichever occurs first.
- (c) In the event that the option is not exercised or if exercised is terminated by either party pursuant to the terms of Exhibit F or in the event that Exhibit F automatically terminates pursuant to the terms thereof, then this Section 44 shall be void and of no further force and effect and this Lease shall continue as if the option had not been exercised.

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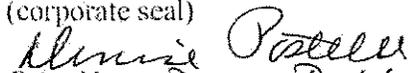
IN WITNESS WHEREOF, the authorized representatives of the parties have affixed their signatures below with the intent to make this Lease effective as of the date first written above.

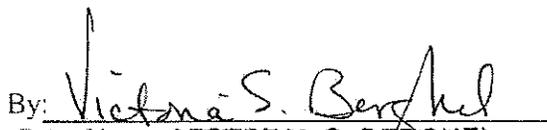
LESSOR:

HICKORY HOLLOW/SB, LLC., a Tennessee limited liability company, Federal Identification 62-1542285, by **CBL & Associates Management, Inc.,** a Delaware corporation, Federal Identification Number 62-1542279, Managing Agent

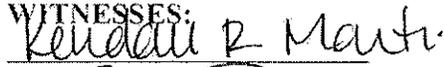
ATTEST:

(corporate seal)


Print Name: Denise Puella
Its: Assistant Secretary

By: 
Print Name: VICTORIA S. BERGEL
Its: Senior Vice President and General Counsel

WITNESSES:




DATE: October 21, 2010

**THE METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON COUNTY:**

APPROVED:

Director, Metropolitan

APPROVED:

APPROVED:

Director, Public Property Administration

APPROVED AS TO AVAILABILITY OF FUNDS:

Director of Finance

APPROVED AS TO INSURANCE:

Director of Insurance

APPROVED AS TO FORM AND LEGALITY:

Metropolitan Attorney

FILED IN THE OFFICE OF THE METROPOLITAN CLERK:

Date: _____

EXHIBIT A-1

Legal Description of the Dillard Site

Being a parcel of land in the First Civil District of Nashville, Davidson County, Tennessee, being portions of Lot No. 2 and Lot No. 4 as shown on the Plan of Hickory Hollow Mall, Section One, as of record in Book 5050, Page 25, R.O.D.C., and also shown as Lot No. 2 on Resubdivision of Lots 2 and 4, Section One, Hickory Hollow Mall as of record in Book 7900, Page 258, R.O.D.C., and being more particularly described as follows:

BEGINNING at a point in the northerly margin of Hickory Hollow Parkway, said point being 575.66 feet west of the westerly margin of Bell Road and being the most southerly corner of Lot No. 2 of said plan;

THENCE, leaving said northerly margin, N 60° 40' 00" E, 35.36 feet to a point;

THENCE, N 15° 40' 00" E, 95.69 feet to a point;

THENCE, N 29° 19' 18" W, 35.36 feet to a point;

THENCE, with a curve to the right 219.49 feet to a point, said curve having a central angle of 11° 25' 57" a radius of 1100.00 feet, a tangent of 110.11 feet, and a chord of N 68° 37' 02" W, 219.12 feet;

THENCE, severing new Lot No. 2 of said plan, N 14° 38' 00" E, 534.08 feet to a point;

THENCE, S 75° 22' 00" E, 17.39 feet to a point;

THENCE, S 14° 38' 00" W, 23.24 feet to a point;

THENCE, severing Lot No. 4 and Lot No. 2, S 75° 22' 00" E, 227.63 feet to a point;

THENCE, S 14° 38' 00" W, 57.09 feet to a point;

THENCE, S 75° 22' 00" E, 533.70 feet to a point in the westerly line of Lot No. 3 of said plan;

THENCE, S 14° 38' 00" W, 461.75 feet to a point in the southerly line of Lot No. 4;

THENCE, with said southerly line and the southerly line of Lot No. 2 the following calls:

with a curve to the right 184.15 feet to a point, said curve having a central angle of 17° 35' 06", a radius of 600.00 feet, a tangent of 92.80 feet, and a chord of N 83° 07' 32" W, 183.43 feet to a point;

N 74° 20' 00" W, 259.59 feet to a point;

S 60° 40' 00" W, 35.36 feet to a point;

S 15° 40' 00" W, 90.77 feet to a point;

S 29° 40' 00" E, 35.36 feet to a point;

N 76° 40' 25" W, 120.11 feet to the point of beginning.

Containing 398,285 square feet or 9.14 acres, more or less.

BARGE, WAGGONER, SUMNER AND CANNON

File 10693-01

October 31, 1989

Revised June 8, 1990

EXHIBIT "B"

PROHIBITED USES

Included among the uses which are so incompatible or inimical to the Shopping Center are uses or operations which produce or are accompanied by the following characteristics, which list is not intended to be all inclusive:

- A. Any noise, litter, odor or other activity which may constitute nuisance to other occupants of the Shopping Center, or any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness;
- B. Any unusual firing, explosive or other damaging or dangerous hazard;
- C. Any warehouse operation, or any assembling, manufacturing, distilling, refining, smelting, industrial, agriculture, drilling or mining operation;
- D. Any trailer court, mobile home park, sale of new or used motor vehicles (except as sold in an auto show format), labor camp, junk yard, stock yard or animal raising (other than pet shops and veterinarians, provided they otherwise comply with the provisions of this Exhibit);
- E. Any dumping, disposal, incineration or reduction of garbage or refuse other than handling or reducing such waste if produced on the premises from authorized uses and if handled in a reasonably clean and sanitary manner;
- F. Any commercial laundry or dry cleaning plant, laundromat, veterinary hospital;
- G. Any automobile body and fender repair work, car washing establishment, or any gasoline or fuel pumps;
- H. Any automobile customizing work;
- I. Any cemetery, mortuary or crematorium;
- J. Any pet shops within seventy-five (75) feet of any entrance to a anchor store;
- K. Any bookstore, theatre or other tenant space used primarily for the sale of text or images, or conducting any activity which would be defined as obscene according to the applicable federal, state, and local ordinances, laws and regulations, but such prohibition shall not preclude to the lease of space to national or regional chain of bookstores and/or video stores which, as an incidental part of their videos, books or other merchandise offered to their customers, maintain a selection of materials directed to mature or adult audiences, such as Barnes & Noble or Borders, and Blockbuster or Hollywood Video, provided such material is not visible from the exterior of the store;
- L. Any veterinarian or establishment with overnight boarding of animals except pet shops provided they otherwise comply with the provisions of this Exhibit;
- M. Any "second hand" store (but excluding stores primarily selling antiques or stores selling previously viewed DVDs or previously listened to CDs or as part of an event) or a discount store. For purposes of this Exhibit, Metro and Lessor acknowledge an event use in the nature of a flea market is permitted and that stores operating under the trade names "Sears" or "Macy's," and any of their successors assigns, or replacements, are not discount stores;

- N. Any fire sale or bankruptcy sale:
- O. Any dance hall (except that the premises may be used for weddings):
- P. Any tattoo parlors or so called "head shops"; and
- Q. Any casino or off track betting facilities, any bingo parlors (except for bingo events conducted in connection with a Shopping Center promotional event) or other similar gambling facilities; provided, however, the sale of lottery tickets and instant win tickets shall not be prohibited.

EXHIBIT C

SHOPPING CENTER RULES AND REGULATIONS

- a) All deliveries to or from the Leased Premises shall be done only at such times, in the areas, and through the entrances designated for such purpose by Lessor.
- b) All garbage and refuse shall be kept inside the Leased Premises in the kind of container specified by Lessor, and shall be placed outside of the Leased Premises prepared for collection in the manner and at the times and places specified by Lessor. Metro shall use any trash compactor Lessor provides for the general use of tenants in a designated area of the Shopping Center.
- c) No radio or television aerial or other device shall be erected on the roof or exterior walls of the Leased Premises or the building in which the Leased Premises are located without first obtaining in each instance Lessor's consent in writing. Metro will be permitted to install a WiFi antenna dish on the roof of the Demised Premises, subject to Lessor's consent; Metro shall provide complete details to Lessor on equipment, installation, and any other related matter. Any aerial or device installed without such written consent shall be subject to removal at Metro's expense without notice at any time.
- d) No loud speakers, televisions, phonograph, radios, tape players, or other devices shall be used in a manner so as to be heard or seen outside the Leased Premises without the prior written consent of Lessor, nor shall Metro solicit business or distribute advertising or promotional material in the common areas. No electronic or communication devices shall be used in the Leased Premises or in connection therewith which interrupt or interfere with the use and enjoyment of electronic or communication devices of other occupants of the Shopping Center or of the neighborhood in which the Shopping Center is located.
- e) The plumbing facilities shall not be used for any other purpose than that for which they are constructed; no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Metro.
- f) Metro at its expense shall contract for termite and pest extermination services covering the Leased Premises, to be rendered as needed but at least annually.
- g) Metro shall not burn any trash or garbage of any kind in the Leased Premises or the Shopping Center.
- h) Metro shall keep and maintain the Leased Premises (including, without limitation, exterior and interior portions of all windows, doors and all other glass) in a neat and clean condition.
- i) Metro shall take no action which would violate Lessor's labor contracts, if any, affecting the Shopping Center, nor create any work stoppage, picketing, labor disruption or dispute, or

any interference with the business of Lessor or any other Metro or occupant in the Shopping Center or with the rights and privileges of any customer or other person(s) lawfully in and upon said Shopping Center, nor shall Metro cause any impairment or reduction of the good will of the Shopping Center.

j) Metro shall use the Shopping Center name, as such may be changed from time to time, if referring to the location of the Leased Premises in advertising.

k) Metro shall not perform any act or carry on any practice which may damage, mar, or deface the Leased Premises or any other part of the Shopping Center.

l) Metro shall not use any forklift truck, tow truck, or any other powered machine for handling freight in the Shopping Center except in such manner and in those areas in the Shopping Center as may be approved by Lessor in writing. Lessor agrees such equipment and activities are permitted within the Demised Premises. All such equipment shall have rubber wheels only. Further, Metro shall be responsible for verifying to Lessor that the building structure is capable of handling the load of such equipment. Metro shall be responsible at its sole cost for any structural reinforcement required and for all repairs to and restoration of the Leased Premises if damage results from the presence and/or installation of such equipment.

m) Metro shall not place a load on any floor in the interior delivery system, if any, or in the Leased Premises, or in any area of the Shopping Center, exceeding the floor load which such floor was designed to carry, nor shall Metro install, operate, or maintain therein any heavy item or equipment except in such manner as to achieve a proper distribution of weight.

n) Metro shall not install, operate, or maintain in the Leased Premises or in any other area of the Shopping Center any electrical equipment which does not bear Underwriter's Laboratory approval, or which would overload the electrical system or any part thereof beyond its capacity for proper and safe operation as determined by Lessor.

o) Metro shall not suffer, allow, or permit any vibration, noise, light, noxious odor, or other effect to emanate from the Leased Premises, or from any machine or other installation therein, or otherwise suffer, allow, or permit the same to constitute a nuisance or otherwise interfere with the safety, comfort, and convenience of Lessor or any of the other occupants of the Shopping Center or their customers, agents, invitees, or any others lawfully in or upon the Shopping Center. Upon notice by Lessor to Metro that any of the aforesaid is occurring, Metro agrees to forthwith remove or control the same.

p) Metro shall not use or occupy the Leased Premises in any manner or for any purpose which would injure the reputation or impair the present or future value of the Leased Premises, the Shopping Center, and/or the neighborhood in which the Shopping Center is located.

q) Metro shall not use or occupy the Leased Premises or do or permit anything to be done therein in any manner which shall prevent Lessor and/or Metro from obtaining at standard rates any insurance required or desired, or which would invalidate or increase the cost to Lessor of any existing insurance, or which might cause structural injury to any building, or which would constitute a public or private nuisance, or which would violate any present or future laws, including the ADA, regulations, ordinances, or requirements (ordinary or extraordinary, foreseen or unforeseen) of the federal, state, or municipal governments, or of any department, subdivisions, bureaus, or offices thereof, or of any other governmental public or quasi-public authorities now existing or hereafter created having jurisdiction over the Leased Premises or the Shopping Center of which they form a part.

r) Metro shall not operate on the Leased Premises or in any part of the Shopping Center any coin or token operated vending machine or similar device (including, without limitation, pay telephones, pay lockers, pay toilets, scales, amusement devices, and machines for the sale of beverages, foods, candy, cigarettes, or other merchandise and/or commodities), except for the sole and exclusive use of Metro's employees.

s) Metro shall not allow any third party to make use of any portion of the Leased Premises in any manner including but not limited to the display of advertising material for which Metro is compensated.

t) Metro may not erect, install or maintain any signs in or about the Leased Premises unless Lessor shall have first approved the same.

u) Metro will refer all contractor's, contractor's representatives, and installation technicians, rendering any service on or to the Leased Premises for Metro, to Lessor for Lessor's approval and supervision before performance of any contractual service. This provision shall apply to all work performed in the Leased Premises including installation of telephones, telegraph equipment, electrical devices and attachments, and installations of any nature affecting floors, walls, woodwork, trim, windows, ceilings, and equipment of any other physical portion of the Leased Premises.

v) Metro shall not at any time occupy any part of the Shopping Center or the Leased Premises as sleeping or lodging quarters.

w) Metro will hold periodic meetings with Lessor, Sears, and Macy's (or their agents and/or replacements) to coordinate activities that disrupt or may impact the Shopping Center common area and parking fields to insure all concerns are properly addressed.

x) All shows during the months of November and December must be limited to uses that require modest parking requirements so as not to interfere with the parking that is typically needed for a retail center. No common area or parking field disruption is permitted during these months to insure adequate parking for retailers' peak periods.

EXHIBIT D

CONSTRUCTION

Section 1.1 Condition of Premises. (a) Metro acknowledges that it has examined and inspected the Leased Premises, is familiar with the physical condition thereof, and finds same suitable for Metro's purposes. Metro further acknowledges (i) that Lessor has not made and does not hereby make any representations regarding the physical condition of the Leased Premises or the Shopping Center, and (ii) that there are no warranties, either express or implied, regarding the condition of the Leased Premises and/or the Shopping Center. Other than Lessor's Work (described in Section 10(b) of the Lease), Lessor shall have no responsibility for (a) the removal, modifications, or upgrading of any existing construction or equipment to accommodate Metro's occupancy of the Leased Premises, (b) the undertaking of any additional improvements or alterations, or (c) the installation of any equipment. Accordingly, Metro hereby accepts the Leased Premises in their "AS IS" condition.

Section 1.2 Metro's Plans and Specifications. (a) In the event Metro plans to improve, renovate or alter the Leased Premises, Metro shall, prepare at Metro's sole cost and present to Lessor complete plans and specifications for work to be done to alter the Leased Premises in accordance with Lessor's design criteria and Metro's requirements.

(b) With regard to Metro's plans and specifications Lessor may either: (i) evidence its approval by endorsement to that effect by signature or initials on one (1) set of said plans and specifications and the return of such signed or initialed set to Metro (whereupon such approved preliminary plans and specifications shall then constitute the final plans and specifications), or (ii) refuse such approval if Lessor shall determine that the same: (A) do not conform to the Lessor's design criteria and the standards of design, motif and decor established or adopted by Lessor and/or other tenants in the Shopping Center; and/or (B) would subject Lessor to any additional cost, expense or liability or the Leased Premises to any violation, fine, or penalty; and/or (C) would in any way adversely affect the reputation, character and/or nature of the Shopping Center; and/or (D) would provide for or require any installation or work which is or might be unlawful or create an unsound or dangerous condition or adversely affect the structural soundness of the Leased Premises and/or the building of which the Leased Premises are a part; and/or (E) interfere with or abridge the use and enjoyment of any adjoining space in the building in which the Leased Premises are located. If Lessor refuses approval, Lessor shall advise Metro of those revisions or corrections which Lessor requires, and Metro shall within a reasonable time thereafter submit revised plans and specifications to Lessor for its approval in accordance with this Exhibit D.

(c) Metro shall at Metro's cost and expense obtain all necessary permits and approvals from any governmental authority or agency having jurisdiction which are required for the performance of the work shown on the approved plans and specifications and Metro's occupancy of the Leased Premises. Metro shall obtain all necessary permits, approvals, meters and hook-ups from the appropriate utility companies, and Metro shall pay all fees, charges and deposits required in connection therewith.

(A)	Up to 30' storefront:	Capitals - 24" Lower case - 18"
(B)	30'-1" and greater storefront:	Capitals - 30" Lower case - 24"

(c) The length of Metro's sign shall be limited to 70% of Metro's storefront.

(d) All conduit, wiring for and connection to sign shall be furnished by Metro.

(e) No flashing signs or exposed neon tubing permitted.

(f) In a mall no outdoor signs permitted without Lessor's prior written approval.

(g) All signs shall be composed of individually lighted, separate letters; provided, however, in a strip center an internally illuminated aluminum box, finished on all exposed faces, with sign letters individually cut into the face panel, and with Plexiglas letters may be permitted by Lessor.

(h) In a strip center, under-canopy sign design shall be as designated by Lessor.

(i) No exterior signs shall be permitted without Lessor's prior written approval.

(j) For spaces fronting on an enclosed mall, Metro shall furnish and install in a convenient location above the sign panel specified above one (1) 110-volt electrical outlet for use with seasonal promotions.

Section 1.4 Construction by Metro. (a) Other than Lessor's Work described in Section 10 (b) of the Lease, Metro shall perform at Metro's sole cost and expense all construction and demolition work required to complete the Leased Premises in accordance with the Metro's plans and specifications as approved by Lessor and the Shopping Center's tenant construction requirements. Metro is responsible for all removals, modifications, and upgrades to any existing construction or equipment to accommodate Metro's work and occupancy of the Leased Premises. No construction shall be commenced by Metro prior to Metro's compliance with the requirements of this Exhibit and Lessor's written authorization and consent to the commencement of work in the Leased Premises. All construction work shall comply with applicable building, fire and underwriter's codes and shall be performed in a workmanlike manner. If Metro elects or the Lessor does not permit the reuse of existing improvements and equipment, the Metro shall remove such improvements and repair the remaining construction to its original condition, or as may be required by the Lessor.

(b) (i) Anything in this Exhibit to the contrary notwithstanding, all roof penetrations and roof restoration as well as the installation of all structural supports shall be performed at Metro's expense by the roofing contractor who performed the roofing work upon the initial construction of the Shopping Center or by such roofing contractor as Lessor may designate. In addition, any tenant producing grease exhaust will install a Lessor approved grease protection system on the Shopping Center roof. Upon completion of said roofing work the roofing contractor shall furnish a letter

addressed to Lessor stating that the work done in accordance with Metro's approved plans and specifications has not affected the roof bond or guaranty for the Shopping Center roof.

(ii) Anything in this Exhibit to the contrary notwithstanding, all upper level tenants whose use includes the preparation and/or sale of food must install a waterproof membrane under its entire floor and above the concrete slab, and any penetrations of such membrane shall be sealed tight.

(iii) Anything in this Exhibit to the contrary notwithstanding, all entryway floor tiles to the Leased Premises must match the existing common area floor tiles immediately adjacent to the Leased Premises.

(c) Metro's General Contractor shall be subject to Lessor's prior written approval, which approval may not be unreasonably withheld. Metro and Metro's General Contractor shall comply with the requirements set forth in this subsection (c). Metro and Metro's General Contractor shall enter into a construction contract in the form of the current edition of Document A101 or A107 of The American Institute of Architects in which the General Contractor agrees to perform Metro's work required hereunder. Said contract shall be subject to Lessor's prior written approval. Said contract shall provide, among other things, as follows:

(i) That notwithstanding anything contained in the Contract Documents to the contrary, the General Contractor will perform the work and furnish the materials required therefor on the sole credit of Metro; that no lien for labor or materials will be filed or claimed by the General Contractor against the Shopping Center premises of which the Leased Premises are a part or against the Leased Premises; that the General Contractor will discharge any such lien filed or claims by any person or entity that furnishes labor or materials to the Leased Premises; and that the General Contractor will indemnify and save Lessor harmless from any and all costs and expenses, including reasonable attorney's fees, suffered or incurred as a result of any such lien that may be filed or claimed in connection with or arising out of the work;

(ii) That the General Contractor shall furnish the following satisfactory in form and substance to Lessor prior to commencement of the work: (A) a payment bond and a performance bond in the amount of the contract issued by a bonding company acceptable to Lessor licensed in the state where the Shopping Center is located wherein Lessor is named a co-obligee, or a guaranty of such construction in the form and executed by such persons as Lessor may require; (B) a lien waiver executed by the General Contractor, lien waivers executed by all subcontractors, and lien waivers executed by all materialmen who will furnish materials in excess of Two Thousand Dollars (\$2,000.00) in the aggregate, and (C) a letter executed by the General Contractor which provides in substance that the General Contractor will not permit its worker and subcontractors to create any disharmony or interfere with any worker, General Contractors or subcontractors working in the Shopping Center, that either Lessor or Metro shall have the right to suspend work under said contract on twenty-four (24) hours notice until any such condition ceases, and that either Lessor or Metro shall have the right to terminate said contract without liability if any such condition continues for thirty (30) days;

(iii) That the General Contractor shall furnish Metro and Lessor with certificates of insurance setting forth the following coverages, and showing Metro and Lessor as additional insureds: (A) worker's compensation insurance with limits of not less than Five Hundred Thousand Dollars (\$500,000.00); (B) bodily injury, including death, with limits of \$500,000.00 per person and \$2,000,000.00 per occurrence and \$4,000,000.00 aggregate; (C) property damage, with limits of \$2,000,000.00 per occurrence and \$4,000,000.00 aggregate; (D) motor vehicle liability and property damage in the amounts set forth in (B) and (C); and (E) Builder's Risk Insurance in the full amount of the Replacement Cost on an Agreed Amount Basis;

(iv) That the General Contractor shall be responsible from the time of its execution of the agreement or from the time of the beginning of the first work, whichever shall be earlier, for all injury or damage of any kind resulting from the work to persons or property. In addition to the liability imposed upon the General Contractor on account of personal injury (including death) or property damage suffered through the General Contractor's negligence, which liability is not impaired or otherwise affected hereby, the General Contractor shall assume the obligation to save Lessor harmless and to indemnify Lessor from every expense, liability, or payment arising out of or through injury (including death) to any person or persons or damage to property of any person at any place in which work is located arising out of or suffered through any act or omission of the General Contractor or any Subcontractor, or any one either (A) directly or indirectly employed by or (B) under the supervision of any of them in the prosecution of the work; and

(v) That the General Contractor shall at all times keep the Leased Premises and adjacent areas free from accumulation of waste materials or rubbish caused by its operations. The General Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work and shall take all necessary precautions for the safety of, and shall provide all necessary protection to prevent damage, injury or loss to (A) all employees on the work and other persons who may be affected thereby, including without limitation licensees and invitees of the Shopping Center and other tenants in the Shopping Center; (B) all the work and other materials and equipment to be incorporated therein, and (C) other property at the site or adjacent thereto. Such precautions shall include, but shall not be limited to, the furnishing of guard rails, barricades and the securing of the Leased Premises.

EXHIBIT E
APPROVED FORM OF SNDA

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

Tenant Name: _____
Trade Name: _____
Room/Unit No.: _____

THIS AGREEMENT is dated the _____ day of _____, 20____, and is made by and among CONNECTICUT GENERAL LIFE INSURANCE COMPANY, having an address c/o CIGNA Investment Management, Wilde Building, A4-CRI, 900 Cottage Grove Road, Hartford, CT 06152, Attn: Debt Asset Management ("Mortgagee"), _____, /b/a _____, having an address of _____, ("Metro"), and _____, having an address of _____ ("Lessor").

RECITALS:

A. Metro has entered into a lease ("Lease") dated _____ with _____ as lessor ("Lessor"), covering the premises known as _____ (the "Premises") within the property known as _____, more particularly described as shown on Exhibit A, attached hereto (the "Real Property").

B. Mortgagee has agreed to make or has made a mortgage loan in the amount of _____ to Lessor, secured by a mortgage of the Real Property (the "Mortgage"), and the parties desire to set forth their agreement herein.

NOW, THEREFORE, in consideration of the premises and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The Lease and all extensions, renewals, replacements or modifications thereof are and shall be subject and subordinate to the Mortgage and all terms and conditions thereof insofar as it affects the Real Property of which the Premises form a part, and to all renewals, modifications, consolidations, replacements and extensions thereof, to the full extent of amounts secured thereby and interest thereon.

2. Metro shall attorn to and recognize any purchaser at a foreclosure sale under the Mortgage, any transferee who acquires the Premises by deed in lieu of foreclosure, and the successors and assigns of such purchaser(s), as its lessor for the unexpired balance (and any extensions, if exercised) of the term of the Lease on the same terms and conditions set forth in the Lease.

3. If it becomes necessary to foreclose the Mortgage, Mortgagee shall neither terminate

the Lease nor join Metro in summary or foreclosure proceedings for the purpose of terminating the Lease so long as Metro is not in default under any of the terms, covenants, or conditions of the Lease beyond any applicable notice and cure periods.

4. If Mortgagee succeeds to the interest of Lessor under the Lease, Mortgagee shall not be: (a) liable for the return of any security deposit unless such deposit has been delivered to Mortgagee by Lessor or is in an escrow fund available to Mortgagee, (b) bound by any rent or additional rent that Metro might have paid for more than the current month to any prior lessor (including Lessor), (c) bound by any amendment, modification, or termination of the Lease made without Mortgagee's prior written consent (which consent shall not be unreasonably withheld or delayed), or (d) personally liable under the Lease, Mortgagee's liability thereunder being limited to its interest in the Real Property.

5. This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their successors and assigns.

6. Metro shall give Mortgagee, by commercial overnight delivery service, a copy of any notice of default served on Lessor at the same time such notice is sent to the Lessor, addressed to Mortgagee at Mortgagee's address set forth above or at such other address as to which Metro has been notified in writing. Mortgagee shall have the right, but not the obligation, to cure such default within the time period specified in the Lease.

7. Lessor has agreed under the Mortgage and other loan documents that rentals payable under the Lease shall be paid directly by Metro to Mortgagee upon default by Lessor under the Mortgage. After receipt of notice from Mortgagee to Metro, at the address set forth above or at such other address as to which Mortgagee has been notified in writing, that rentals under the Lease should be paid to Mortgagee, Metro shall pay to Mortgagee, or at the direction of Mortgagee, all monies due or to become due to Lessor under the Lease. Metro shall have no responsibility to ascertain whether such demand by Mortgagee is permitted under the Mortgage, or to inquire into the existence of a default. Lessor hereby waives any right, claim, or demand it may now or hereafter have against Metro by reason of such payment to Mortgagee, and any such payment shall discharge the obligations of Metro to make such payment to Lessor.

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

WITNESSES:

Name:

Name:

Name:

Name:

MORTGAGEE:

By: _____

Its: _____

METRO:

By: _____

Its: _____

LESSOR:

By: _____

Its: _____

STATE OR COMMONWEALTH OF _____
: _____ ss.
COUNTY OF _____

On this, the ____ day of _____, 20____, before me, the undersigned officer, personally appeared _____ who acknowledged himself/herself to be the _____ of _____, and signed the foregoing instrument for the purposes therein contained as his/her free act and deed and the free act and deed of such entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal the day and year aforesaid.

Notary Public
My Commission Expires:

STATE OR COMMONWEALTH OF _____
: _____ ss.
COUNTY OF _____

On this, the ____ day of _____, 20____, before me, the undersigned officer, personally appeared _____ who acknowledged himself/herself to be the _____ of _____, and signed the foregoing instrument for the purposes therein contained as his/her free act and deed and the free act and deed of such entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal the day and year aforesaid.

Notary Public
My Commission Expires:

STATE OR COMMONWEALTH OF _____
: _____ ss.
COUNTY OF _____

On this, the ____ day of _____, 20____, before me, the undersigned officer, personally appeared _____ who acknowledged himself/herself to be the _____ of _____, and signed the foregoing instrument for the purposes therein contained as his/her free act and deed and the free act and deed of such entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal the day and year aforesaid.

Notary Public
My Commission Expires:

EXHIBIT F

Option Sale and Purchase Terms

This **Exhibit F**, Option Sale and Purchase Terms, is attached to and made a part of that certain Lease Agreement, dated _____, 2010 between Lessor and Metro and shall govern the parties in the event that Metro exercises its option to purchase the Leased Premises in a timely manner as provided in **Section 44** of the Lease (the "**Exercised Option**"). In the event of a conflict between the terms of this **Exhibit F** and the Lease, the terms of this **Exhibit F** shall control. For purposes of this **Exhibit F**, Lessor (or the fee owner of the Leased Premises at such time) shall hereinafter be referred to as "**Seller**" and Metro shall hereinafter be referred to as "**Buyer**."

NOW, THEREFORE, in consideration of the mutual promises and covenants of the parties hereunder, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Purchase Price.** The purchase price is estimated to be \$5,000,000 Five Million Dollars (\$5,000,000), which is subject to adjustment based on the final costs of Lessor's Work, if closing occurs during the fifth (5th) Lease year; the purchase price reduces each year thereafter by \$1.00 per square foot contained in Building D, or \$200,000, as follows: the estimated purchase price after the fifth (5th) Lease year is Four Million Eight Hundred Thousand Dollars (\$4,800,000) if the closing occurs during the sixth (6th) Lease year; Four Million Six Hundred Thousand Dollars (\$4,600,000) if closing occurs in the seventh (7th) Lease year; Four Million Four Hundred Thousand Dollars (\$4,400,000) if closing occurs in the eighth (8th) Lease year; Four Million Two Hundred Thousand Dollars (\$4,200,000) if closing occurs in the ninth (9th) Lease year; and Four Million Dollars (\$4,000,000) if closing occurs in the tenth (10th) Lease year, ("**Purchase Price**"), subject to any adjustments and prorations set forth in this **Exhibit F**. Metro shall give Lessor at least twelve (12) months' prior written notice of its exercise of its option to purchase

2. **Title.** The Leased Premises shall be conveyed to Buyer subject to all matters of record, including without limit the matters set forth on **Schedule I** attached to this **Exhibit F** (the "Approved Exceptions").

3. **Other Agreements.** If the sale of the Leased Premises will result in or require a subdivision of the Leased Premises or a lot line adjustment (the "Subdivision"), which requires approval of any planning commission and/or governmental authorities, then Seller agrees to exercise reasonable efforts to cause the Subdivision to be accomplished at Seller's sole cost and expense on or before the date that is sixty (60) days after the Trigger Date. Buyer and Seller shall cooperate with each other in order that any required Subdivision shall be promptly applied for and prosecuted. In the event that Seller is unable to obtain approval of the Subdivision within such 60-day period and Lessor is not diligently pursuing the subdivision, then Buyer shall have the right to attempt to obtain approval of the Subdivision, at Buyer's cost. Buyer and Seller shall confirm at Closing the agreement in Section 44(b) of the Lease Agreement regarding Seller's continuing rights and obligations to control and operate the common areas of the Shopping Center, and Buyer's payment therefor at the

then-applicable rates.

4. **Closing and Obligations at Closing.** The closing ("Closing") shall take place in escrow (but proceeds from Closing shall be delivered to Seller or its designee upon the exchange of documents described below and not upon recordation of the deed) at the office of First American Title Insurance Company (the "Title Company") on a mutually agreeable date upon the later to occur of: (a) ninety (90) days after the Trigger Date, or (b) thirty (30) days after the approval of the Subdivision. In the event that approval of the Subdivision is not necessary to convey the Leased Premises, then Closing shall occur within ninety (90) days after the Trigger Date. In the event that Subdivision approval is required to convey the Leased Premises and the Subdivision is not approved within eighteen (18) months after the Trigger Date after the exercise of reasonable efforts by Seller and Buyer, then this **Exhibit F** shall automatically terminate. The date of Closing shall be referred to as the "Closing Date."

On the Closing Date, the obligations of Buyer and Seller shall be as follows:

(a) Buyer shall cause the Purchase Price, as adjusted pursuant to the terms of this **Exhibit F** and the Lease, to be paid in cash to Seller by wire transfer or as otherwise directed by Seller.

(b) Seller shall execute (or cause to be executed) and deliver a Special Warranty Deed, substantially in the form in use in Tennessee, conveying fee simple title to the Leased Premises to Buyer, subject only to the Approved Exceptions described in **Section 2** above.

(c) Seller shall execute (or cause to be executed) and deliver a non-foreign status certificate.

(d) Seller shall execute any affidavits, lien waivers or other documents reasonably requested by the Title Company and approved by Seller, which approval shall not be unreasonably withheld, to permit the issuance of an Owner's Policy of Title Insurance to Buyer insuring title to the Leased Premises subject only to the Approved Exceptions.

(e) Buyer, Seller and the Title Company shall execute a Closing Statement setting forth the receipts, disbursements and adjustments made at the Closing.

(f) Buyer shall pay all recording fees, except for any fees in connection with Seller's mortgage release(s) which shall be paid by Seller, and the cost of any title examination and title insurance premiums (including without limitation the cost of all endorsements) ordered by Buyer.

(g) Buyer and Seller shall each pay one-half (1/2) of any escrow fees charged by the Title Company at Closing.

(h) Buyer and Seller shall each pay its own attorneys' fees.

(i) If Seller has incurred any maintenance and/or capital improvement expenses during the Lease Term related to Metro's responsibilities and Metro has not reimbursed Seller, then these costs will be added to the Purchase Price.

5.

Default. (a) In the event Buyer shall fail to close on the Purchase of the Leased Premises as a result of a default by Buyer, which remains uncured after 10 days written notice from Seller, Seller shall have the right to exercise the following remedy as its sole and exclusive remedy: declare the Option canceled, in which event the sum of \$50,000.00 shall be paid to Seller forthwith as liquidated damages and not as a penalty, this being in full satisfaction of any and all claims which Seller might have arising in any manner whatsoever out of this transaction, it being understood that in no event shall Buyer's liability for failure to close be in excess of such liquidated damages. The parties recognize that in view of the fluctuating real estate market, and in view of the fact that Seller will remove the Leased Premises from the market during the period when the Exercised Option is in effect, it is impossible to ascertain in advance the damages Seller will suffer in the event of a default by Buyer. Accordingly, the parties have agreed that the amount of such liquidated damages has been arrived at by Seller and Buyer in good faith in an effort to establish agreed-upon liquidated damages, which Seller will suffer in the event of default by Buyer. The foregoing remedy shall be Seller's sole and exclusive remedy as a result of Buyer's default hereunder.

(b) In the event Seller shall fail to close the sale of Leased Premises as a result of a default by Seller, which remains uncured after 10 days written notice from Buyer, Buyer shall have as its sole and exclusive remedy the right to elect (i) to declare the Option canceled, in which event the sum of \$50,000.00 shall be paid to Buyer forthwith as liquidated damages and not as a penalty, this being in full satisfaction of any and all claims which Buyer might have arising in any manner whatsoever out of this transaction, it being understood that in no event shall Seller's liability for failure to close be in excess of such liquidated damages, or (ii) to enforce specific performance against the Seller to compel conveyance of the Leased Premises in accordance with the terms of the Exercised Option. The parties recognize that in view of the fluctuating real estate market, and in view of the fact that Buyer will cease consideration of other sites during the period when the Exercised Option is in effect, it is impossible to ascertain in advance the damages Buyer will suffer in the event of a default by Seller. Accordingly, the parties have agreed that the amount of such liquidated damages has been arrived at by Seller and Buyer in good faith in an effort to establish agreed-upon liquidated damages, which Buyer will suffer in the event of default by Seller.

6. **As Is/No Warranties.** Buyer represents to Seller that Buyer has been in possession of the Leased Premises as of the date that Seller tendered possession of the Leased Premises to Buyer under the terms of the Lease and that Buyer has examined, inspected and investigated or has been given the opportunity to examine, inspect and investigate to the full satisfaction of Buyer the zoning, physical nature and condition of the Leased Premises, and that neither Seller nor any agent, officer, employee or representative of Seller has made any representation or warranty whatsoever regarding the subject matter of this sale or any part thereof, including (without limiting the generality of the foregoing) representations as to the zoning, physical nature or condition of the Leased Premises, planning status, topography, grading, climate, air, flood, earthquake or mudslide hazards, water

rights, water, utilities, present and future zoning, governmental entitlements and restrictions, soil, subsoil, paint or contamination of soil or water, access to public roads or the presence or absence of any mold, mildew, radon gas or Hazardous Material, as hereinafter defined, operating expenses or carrying charges affecting the same, and that Buyer, in executing, delivering and/or performing its obligations under the Exercised Option does not rely upon any statement, information, representation or warranty made by Seller or any officer, employee, agent or representative of Seller to whomsoever made or given, whether to Buyer or others and whether directly or indirectly, verbally or in writing, made by any person, firm or corporation. Without limiting the foregoing but in addition thereto, Buyer takes the Leased Premises in its "AS IS" "WHERE IS" and "WITH ALL FAULTS" condition, subject to such reasonable wear and tear as may occur between the date hereof and the time of closing. Buyer is in all respects satisfied with the Leased Premises. Buyer hereby knowingly and voluntarily waives and relinquishes any common law or statutory requirements for disclosures by Seller, any disclosures that Seller knew or should have known, any latent or patent defects in the Leased Premises, and any requirements that Seller perform any pre-sale investigations. **BUYER HEREBY DISCLAIMS AND SELLER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF QUANTITY, QUALITY, CONDITION, HABITABILITY, MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE OF THE LEASED PREMISES, THE LEASED PREMISES' CONDITION (ENVIRONMENTAL OR OTHERWISE), EXISTENCE OF UTILITIES, ZONING OR USE.** Buyer acknowledges that Buyer's Exercised Option to purchase the Leased Premises in its "AS IS" "WHERE IS" and "WITH ALL FAULTS" condition was bargained for in the Purchase Price, and Seller would have required additional compensation in the absence of the foregoing disclaimers and waivers. The foregoing disclaimers and waivers shall be in full force and effect as of the Closing Date and shall survive the Closing.

7. **Brokers.** The parties hereby represent to each other that no broker or finder has brought the Leased Premises to the attention of Buyer, or Buyer to the attention of Seller, and that no broker is entitled to a commission or other compensation in connection with this transaction.

9. **Assignment.** All terms, covenants, conditions and provisions of the Option shall be binding upon, and shall inure to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, legal representatives, and successors-in-interest and assigns; provided, however, Buyer shall not assign its interest in the Option without the prior written consent of Seller. The terms, covenants, conditions and provisions of the Option are for the benefit of the parties hereto and the aforesaid permitted successors and assigns, and no rights or benefits are created or intended to be created in favor of any third parties or the public.

10. **Relationship of Parties.** Nothing contained in the Lease shall be construed to make the parties partners, joint venturers or an agent of the other party or to render either of said parties liable for the debts or obligations of this other.

11. **No Representation.** Buyer hereby covenants and agrees that no representation, inducement, understanding or anything of any nature whatsoever made, stated or represented by or on behalf of Seller, either orally or in writing, except as contained in this **Exhibit F** and the Lease, has

induced Buyer to enter into this **Exhibit F**.

12. **Day for Performance.** Wherever herein there is a day or time period established for performance and such day or the expiration of such time period is a Saturday, Sunday or holiday, then such time for performance shall be automatically extended to the next business day.

13. **Prohibited Transactions.** Buyer and Seller, each hereby represent and warrant to the other that, as of the Effective Date and as of the Closing Date, such party is not and shall not become a person or entity with whom the other party is restricted from doing business with under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transaction or be otherwise associated with such persons or entities. Notwithstanding the foregoing, neither Buyer or Seller makes any representations or warranties about any person or entity which is an owner of any stock of such party (or such party's affiliate) which is publicly traded on the New York Stock Exchange (or any subsequent public stock exchange).

14. **Termination.** Notwithstanding any termination of this **Exhibit F**, in no event shall such termination constitute a default under the Lease nor in any way be constructed or deemed a termination of the Lease; provided, however, in the event of any termination of this **Exhibit F**, Section 44 of the Lease shall be null and void and of no further force and effect. In such event, at the request of either party, the parties agree to enter into an amendment to the Memorandum of Lease to evidence the termination of the Option.

15. **Incorporation.** Any term not defined herein shall have the meaning ascribed to it in the Lease. (except any reference to Lessor, Metro, or Leased Premises shall be deemed to mean Seller, Buyer and Property, respectively).

(Signatures Appear On The Following Page)

IN WITNESS WHEREOF, the parties have executed this Exercised Option Purchase Agreement to be effective as of the day and year first above written.

SELLER:

HICKORY HOLLOW/SB, LLC a Tennessee limited liability company

By: CBL & associates Management, Inc.,
a Delaware corporation, managing agent

By: _____
Victoria S. Berghel
Senior Vice President and General Counsel

BUYER:

By: _____
Printed Name: _____
Title: _____