

**TAB “D”**

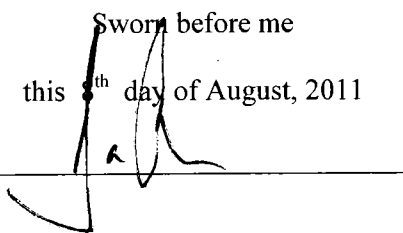
Attached is Exhibit "D"

Referred to in the

AFFIDAVIT OF KEVIN SALSBERG

Sworn before me

this 8<sup>th</sup> day of August, 2011

A handwritten signature in black ink, appearing to be "A. Salsberg", is written over a horizontal line. The signature is somewhat stylized and cursive.

Commissioner for taking Affidavits, etc

THIS AMENDED AND RESTATED LEASE made as of the 6<sup>th</sup> day of October, 2005.

IN PURSUANCE OF THE SHORT FORMS OF LEASES ACT.

BETWEEN:

SCOTT'S REAL ESTATE LIMITED PARTNERSHIP  
(hereinafter called the "Landlord"),

OF THE FIRST PART;

-and -

KIT LIMITED PARTNERSHIP  
(hereinafter called the "Tenant"),

OF THE SECOND PART;

RECITALS:

WHEREAS Scott's Restaurants Inc. (the "Original Landlord") and Prizm Brandz LP, by its General Partner Prizm Brandz Inc. (the "Original Tenant") entered into a lease agreement (the "Original Lease") dated as of May 7, 2001 in respect of the Leased Premises (as defined herein);

AND WHEREAS the original Lease was assigned by the Original Landlord to SRI Realty Inc. by an assignment of leases dated as of August 13, 2001;

AND WHEREAS the Original Lease was amended by way of a Lease Amending Agreement dated as of November 10, 2003 (the Original Lease, as so amended the "Amended Lease")

AND WHEREAS the Amended Lease was assigned by the Original Tenant to the Tenant, by an assignment of leases dated as of November 10, 2003;

AND WHEREAS the Amended Lease was assigned by SRI Realty Inc. to the Landlord, by an assignment of lease (the "Assignment Agreement") dated as of October 6, 2005;

AND WHEREAS the Landlord and the Tenant wish to amend and restate, without novation, the Amended Lease to reflect the fact that, as between the Landlord and the Tenant, the leasing arrangements contemplated thereby now apply, *mutatis mutandis*, in respect of the Leased Premises;

NOW THEREFORE in consideration of the mutual agreements and covenants contained herein and the sum of \$10.00 (the receipt and adequacy of which are hereby acknowledged), the parties agree as follows:

ARTICLE 1 - DEFINITIONS

1.01 In this Lease the following words and terms shall have the following meanings respectively:

- (a) "Building" means the building and the other fixtures and improvements on each of the Lands.
- (b) "Common Areas and Facilities" means all that part of the Property which is not designated for lease to tenants of the Property, together with all other common areas, facilities, equipment and installations which are now or which may in the future be provided or designated (and which may be changed) from time to time by the Landlord for the use by or benefit of the Tenant, its employees, customers and other

invitees in common with others entitled to the use or benefit of such areas, facilities, equipment and installations in the manner and for the purposes permitted by this Lease.

- (c) "GST" means any business transfer tax, value added tax or goods and services tax presently or hereafter imposed from time to time upon the Landlord or the Tenant or in respect of this Lease and payable on account of the rental of each of the Leased Premises or the Landlord's receipt of the rents and other amounts and charges hereunder.
- (d) "Landlord's Insurance" shall have the meaning attributed thereto in section 11.01.
- (e) "Landlord's Proportionate Share" is 53.89%.
- (f) "Lands" means the lands and premises known municipally as 3351 Lawrence Avenue East, in the City of Toronto, in the Province of Ontario and more particularly described in Schedule "A" attached hereto.
- (g) "Lease" means this lease as executed by the Landlord and the Tenant.
- (h) "Leased Premises" means those certain premises on the Property being outlined in black on Schedule "D" with a rentable area of 3477 square feet.
- (i) "Other Tenants" means those tenants under:
  - (i) the Lease Agreement between SRI Properties Inc. as assigned to Scott's Real Estate Limited Partnership (Landlord) and 1268585 Ontario Inc. o/a M&M Meat (Tenant) and Gordon Turney and Mark Turney (Indemnifier) dated April 23, 1998 commencing on May 1, 1998 for a five (5) year term, with a right to renew, and
  - (ii) the Offer to Lease between Scott's Food Services Inc. as assigned to Scott's Real Estate Limited Partnership (Landlord) and 1208050 Ontario Ltd., o/a Signs Now - Scarborough Centre (Tenant) and Kwok Kong Chan (Guarantor) accepted May 1, 1997, commencing May 1, 1997 for a five (5) year term, with a right to renew, and
  - (iii) Lease agreement between SRI Realty Inc., as assigned to Scott's Real Estate Limited Partnership (Landlord) and Prizm Brandz LP, by its general partner Prizm Brandz Inc. made as of November 10, 2003 for term ending May 6, 2016.
- (j) "Property" means the Lands and Building.
- (k) "Property Taxes" means all taxes, rates, local improvement rates, impost charges, duties, assessments or levies which may be levied, rated, charged or assessed against each of the Lands and Building, whether real or personal, moveable or immoveable, by any authority having jurisdiction, whether federal, provincial, municipal, school board, utility commission or other, and includes any taxes or levies which may be imposed on the Landlord or the Tenant or anyone else on account or in lieu thereof, whether or not forming a charge on each property itself, and any other taxes, rates, duties, assessments or levies which may hereafter be levied in lieu of, or of a nature similar to, the foregoing, and whether recurring annually, or at other intervals, or on a special or single instance only, but shall not include the Landlord's income taxes, capital tax, value added taxes, business transfer taxes or other taxes personal to the Landlord.

- (l) "Tenant's Proportionate Share" is 46.11%.
- (m) "Term" shall have the meaning attributed thereto in section 3.01.
- (n) "Transfer" shall have the meaning attributed thereto in Section 21.01.
- (o) "Transferee" shall have the meaning attributed thereto in Section 21.01.
- (p) "Utilities" means gas, fuel, electricity, light, heat, power, other forms of energy, sewage disposal service, garbage and trash removal, cable T.V. and telephone and other communication services used, rendered or supplied upon or in connection with each of the Leased Premises and "Utility" shall have a corresponding meaning.

#### ARTICLE 2 - DEMISE

2.01 In consideration of the rents, covenants and agreements hereinafter reserved contained on the part of the Tenant to be paid, observed and performed, the Landlord presents does demise and lease unto the Tenant for the Term, the Leased Premises.

#### ARTICLE 3 - TERM

3.01 The term of the Lease (the "Term") is set out in Schedule "B" attached hereto.

#### ARTICLE 4 - RENT

4.01 Throughout the Term, the Tenant shall pay to the Landlord in each and every year, an annual minimum rent for the Leased Premises (the "Minimum Rent") yearly and every year during the within Term as set out in Schedule "C" attached hereto.

#### ARTICLE 5 - TAXES

5.01 The Tenant covenants with the Landlord to pay to the respective taxing authorities, subject to the provisions of Section 5.02, all Property Taxes as and when due. The Tenant covenants that it will upon the request of the Landlord forward to the Landlord copies of all receipted tax bills. All sums payable by the Tenant under this clause shall be apportioned for any calendar year during which the Tenant is not in possession of the Leased Premises calendar year.

5.02 Notwithstanding anything contained in Section 5.01, the Tenant agrees that if at any time and from time to time the Landlord places a mortgage or other financial encumbrance on the Leased Premises and such mortgage or encumbrance requires monthly payments to be made with respect to the taxes and other charges required to be made pursuant to the provisions of Section 5.01, then, in such event, all such payments shall be paid by the Tenant to the mortgagee or encumbrancer rather than to the respective taxing authorities as additional rent on the date and in the amounts specified in such mortgage or encumbrance.

5.03 In any suit or proceeding affecting this Lease, a bill from the office, bureau, department or agency issuing bills for any of the Property Taxes shall be prima facie evidence of the amount thereof and that the same is or are due and payable.

5.04 In the event that the Tenant shall deem any of the Property Taxes illegal or excessive or otherwise subject to contest, it may, at its election, contest such imposition in the name of the Landlord or in its own name, but at the Tenant's expense; provided that nothing in this paragraph shall be construed to permit the Tenant to postpone its obligation to make the payments required under this Article.

5.05 The Tenant shall pay when due all taxes, rates, duties, assessments and other charges that may be levied, rated, charged or assessed against or in respect of all improvements, facilities on or in the Leased Premises and every tax and license fee in respect of any business carried on thereon or therein or in respect of the use or occupancy of the Leased Premises.

5.06 The Landlord covenants with the Tenant to pay to the Tenant to the Landlord's Proportionate Share of Property Taxes in accordance with Article 28 of this Lease.

5.07 The Tenant covenants with the Landlord to pay to the Landlord the GST at the same time as rent is payable under Section 4.01 hereof. The Landlord shall have the same remedies with respect to non-payment of GST as it does with respect to non-payment of rent.

#### **ARTICLE 6 - USE OF PREMISES**

6.01 The Leased Premises shall be used by the Tenant for the purpose of conducting therein a sit down family type restaurant, drive-thru, take out and delivery fast food facility, or any combination thereof which may or may not be licensed to sell alcoholic beverages, or any other lawful use.

6.02 The Tenant shall not commit, cause or permit any nuisance or waste on the Leased Premises or permit the emission of any offensive substance, odor or noise from the Leased Premises.

6.03 The Tenant will not bring upon the Leased Premises or any part thereof, any machinery, equipment, article or thing that by reason of its weight, size, or use might, in the opinion of the Landlord, damage the Leased Premises and will not at any time overload the floors of the Leased Premises, the roof deck, the perimeter walls, ceilings, structural steel elements, overhead doors or the parking lots.

6.04 The Tenant will not install any equipment which would exceed or overload the capacity of the utility facilities in the Leased Premises or the electrical wiring and service in the Building or in the Leased Premises and agrees that if any equipment installed by the Tenant shall require additional utility facilities, same shall be installed, if available, and subject to the Landlord's prior written approval thereto (which approval may not be unreasonably withheld), at the Tenant's sole cost and expense in accordance with plans and specifications to be approved in advance by the Landlord, in writing.

#### **ARTICLE 7 - REPAIRS AND MAINTENANCE**

7.01 The Tenant shall repair the Leased Premises. Without limiting the generality of the foregoing, the Tenant's obligation to repair extends to matters notwithstanding that such may be commonly known as a repair of a capital or structural nature.

7.02 The Tenant shall provide normal day-to-day maintenance of the Leased Premises and will repair according to notice in writing. The obligations of the Tenant to provide normal day-to-day maintenance shall include, without limitation, snow removal for the Building, outside maintenance and gardening of the Building, pest control for the Building, painting and decorating, and maintenance of the parking lot.

7.03 It is understood and agreed that the Landlord will be contribute to the Tenant's cost of repairing and providing day-to-day maintenance of the Common Areas and Facilities as set out in Article 28 of this Lease.

#### **ARTICLE 8 - COMPLIANCE WITH LAWS**

8.01 The Tenant, at its own expense, shall comply promptly with and conform to the requirements of all applicable statutes, laws, by-laws, regulations, ordinances and order at any time in force during the term which affect the condition, equipment, maintenance, use or occupation of the Leased Premises, and with every applicable reasonable regulation, order and requirement of the Canadian Fire Underwriters Association or any body having similar functions or of liability or fire insurance company by which the Building may be insured by the Landlord or the Tenant at any time during the Term.

8.02 If the Tenant defaults under the provisions of this Article, the Landlord may itself comply with the requirements of this Article and the Tenant shall forthwith pay all costs and expenses incurred by the Landlord in so doing and all such costs and expenses shall be recoverable by the Landlord as additional rent.

#### ARTICLE 9 - UTILITIES

9.01 The Tenant shall make arrangements, at its own cost and expense, directly with the public service companies and private utilities supplying Utilities during and throughout the Term, and shall indemnify Landlord against any liability for any charges therefor.

9.02 The Tenant shall pay promptly when due all charges, costs, accounts and any other sums payable by reason of the supply of the Utilities.

9.03 The Tenant, at its own cost and expense, shall procure each and every permit, license or other authorization required during the Term, for lawful and proper installation upon the Building of wire, pipes, conduits, tubes and other equipment and appliances for use in supplying Utilities.

9.04 In no event shall the Landlord be liable for any injury to the Tenant, its employees, agents or invitees, or to the Leased Premises, or to any property of the Tenant or anyone else for any loss of profits or business interruption, indirect or consequential damages, or for any other costs, losses or damages of whatsoever kind arising from any interruption or failure in the supply of any Utility to the Leased Premises.

#### ARTICLE 10 - TENANT'S INSURANCE

10.01 The Tenant shall throughout the Term hereof keep in full force and effect at its sole cost and expense in the names of the Tenant, the Landlord and the Landlord's mortgagees as their respective interests may appear,

- (a) all risks (including flood and earthquake) property insurance in an amount of at least one hundred percent (100%) of the full replacement cost, insuring (1) all property owned by the Tenant, or for which the Tenant is legally liable, or installed by or on behalf of the Tenant, and located within the Building including, but not limited to, fittings, installations, alterations, additions, partitions, and all other leasehold improvements, and (2) the Tenant's inventory, furniture and movable equipment;
- (b) the repair and replacement of boilers, pressure vessels, air-conditioning equipment and miscellaneous electrical apparatus on a broad form blanket coverage basis;
- (c) public liability and property damage insurance including personal injury liability, contractual liability, non-owned automobile liability and owners' and contractors' protective insurance coverage with respect to the Leased Premises, coverage to include the activities and operations conducted by the Tenant and any other parties on the

Leased Premises and by the Tenant and any other parties performing work on behalf of the Tenant and those for whom the Tenant is in law responsible. Such policies shall (1) be written on a comprehensive basis with inclusive limits of at least Two Million Dollars (\$2,000,000.00) for bodily injury for any one or more persons, or property damage, (but the Landlord, acting reasonably, or the mortgagee, may require higher limits from time to time) and (2) contain a severability of interests clause and cross liability clauses;

- (d) Tenant's legal liability insurance for the replacement cost of the Leased Premises; and
- (e) any other form of insurance as the Landlord, or the Landlord's mortgagee reasonably require from time to time, in form, in amounts and for risks against which a prudent tenant would insure.

10.02 Notwithstanding subsection 10.01 above, the Tenant shall be entitled to insure the Leased Premises, and the Tenant's business operations therein, under the Tenant's blanket insurance policy which the Tenant maintains for the group of restaurants operated by the Tenant, including the deductible amounts and amounts of coverages and coverages as therein contained.

10.03 All the foregoing policies shall be kept in good standing and in full force and effect at all times throughout the Term, shall be reviewed annually by the Tenant to ensure that they are up to date, and shall be in a form and with insurers acceptable to the Landlord. All the foregoing policies shall contain a waiver of any right of subrogation or recourse by the Tenant's insurers against the Landlord or the Landlord's mortgagees, their contractors, agents and employees, whether or not any loss is caused by the act, omission or negligence of the Landlord, its mortgagees, their contractors, agents or employees. The Tenant shall obtain undertakings to the Landlord from its respective insurers that none of the foregoing policies shall be cancelled or allowed to lapse or materially changed, as against the Landlord or its mortgagees until at least thirty days written notice has been given to the Landlord and its mortgagees to that effect. The Tenant shall provide the Landlord with a certificate of such insurance coverages, issued by its insurer, in the insurer's form, as evidence of compliance with its obligations to insure under this Lease, and the Tenant shall not be required to provide either the original or certified copies of the Tenant's blanket insurance policy to the Landlord.

10.04 If the Tenant fails to take out any of the foregoing insurance, or permits any such insurance to lapse, or fails to put such insurance in good standing promptly after the Landlord or its mortgagees have received notice of an intended cancellation or lapse and have notified the Tenant thereof, the Landlord or its mortgagees may place such insurance on the Tenant's behalf and the premiums payable for such insurance shall be payable by the Tenant to the Landlord or its mortgagees forthwith.

#### ARTICLE 11 - LANDLORD'S INSURANCE

11.01 The Landlord shall throughout the Term hereof keep in full force and effect the following insurance (collectively the "Landlord's Insurance"):

- (a) "all risks" rent and rental value insurance in an amount sufficient to replace all Minimum Rent, Percentage Rent and additional rent payable under the provisions of this Lease for an indemnity period of one year or such other period as the Landlord may determine;
- (b) such insurance as may be available to it at reasonable cost under a standard extended form of fire insurance policy but excluding foundations and excavations and any property that the Tenant is obliged to insure and with such reasonable deductions and exclusions



as would be carried by a prudent owner of a similar building, having regard to the size, age and location of the Building; and

- (c) such insurance as would a prudent owner in connection with the Leased Premises, the Building, and the Common Area and Facilities, including all risk insurance to the full replacement cost, and general public liability insurance against claims for personal injury, death, or property damage occurring in or about the Common Area and Facilities in an amount not less than \$2,000,000.00 in respect of any one accident or occurrence. Copies of certificates of policy or policies for insurance shall be delivered to the Tenant within thirty (30) days after receipt of same by Landlord. All policies of insurance referred to in this Section 11.01(c) shall contain a clause or endorsement to the effect that they may not be terminated or materially amended except after ten (10) days' written notice to the Tenant. Insurance under this Section 11.01(c) shall include the Tenant as an additional insured and contain cross liability and severability of interest provisions, as applicable.

11.02 The Tenant covenants with the Landlord to pay to the Landlord as additional rent the costs to the Landlord of the Landlord's Insurance within thirty (30) days following written demand therefor by the Landlord.

11.03 The amount of any bill or account for Landlord's Insurance shall be apportioned between the Landlord and the Tenant where the Tenant is not in possession of the Leased Premises for the whole of the period covered by the amount of such bill or account.

11.04 The Tenant shall not be an insured under the policies with respect to the Landlord's Insurance, nor shall it be deemed to have any insurable interest in the property covered by such policies, or any other right or interest in such policies or their proceeds.

11.05 If the occupancy of the Leased Premises, the conduct of business in the Leased Premises, or any acts or omissions of the Tenant in the Building or any part thereof, causes or results in any increase in premiums for the insurance carried from time to time by the Landlord with respect to the Building, the Tenant shall pay any such increase in premiums, as additional rent, forthwith after invoices for such additional premiums are rendered by the Landlord. In determining whether increased premiums are caused by or result from the use and occupancy of the Leased Premises, a schedule issued by the organization computing the insurance rate on the Building showing the various components of such rate shall be conclusive evidence of the several items and charges which make up such rate. The Tenant shall comply promptly with all requirements and recommendations of the Insurer's Advisory Organization of Canada (or any successor thereof) or of any insurer now or hereafter in effect, pertaining to or affecting the Leased Premises.

11.06 If any insurance policy upon the Building or any part thereof shall be cancelled or shall be threatened by the insurer to be cancelled, or the coverage thereunder reduced in any way by the insurer by reason of the use and occupation of the Leased Premises or any part thereof by the Tenant or by any assignee or subtenant of the Tenant, or by anyone permitted by the Tenant to be upon the Leased Premises, and if the Tenant fails to remedy the conditions giving rise to the cancellation, threatened cancellation or reduction of coverage within forty-eight (48) hours after notice thereof by the Landlord, the Landlord may, at its option, either: (a) re-enter and take possession of the Leased Premises forthwith by leaving upon the Leased Premises a notice in writing of its intention so to do and thereupon the Landlord shall have the same rights and remedies as contained in Article 22 hereof; or (b) enter upon the Leased Premises and remedy the conditions giving rise to such

cancellation, threatened cancellation or reduction, and the Tenant shall forthwith pay the cost thereof to the Landlord, which cost may be collected by the Landlord as additional rent and the Landlord shall not be liable for any damage or injury caused to any property of the Tenant or of others located on the Leased Premises as a result of such entry. The Tenant agrees that any such entry by the Landlord is not a re-entry or a breach of any covenant for quiet enjoyment contained in this Lease.

#### **ARTICLE 12 - DAMAGE AND DESTRUCTION**

12.01 If the Leased Premises or any portion thereof are damaged or destroyed by fire or by other casualty against which the Landlord is insured, rent shall abate in proportion to the area of that portion of the Leased Premises which, in the reasonable opinion of the Landlord, is thereby rendered unfit for the purposes of the Tenant until the Leased Premises are repaired and rebuilt, and the Landlord shall repair and rebuild the Leased Premises. The Landlord's obligation to repair and rebuild shall not include the obligation to repair and rebuild any chattel, fixture, leasehold improvement, installation, addition or partition in respect of which the Tenant is required to maintain insurance hereunder or any other property of the Tenant. Rent shall recommence to be payable one (1) day after the Landlord notifies the Tenant that the Tenant may occupy the Leased Premises.

12.02 Notwithstanding section 12.01, if the Leased Premises or any portion thereof are damaged or destroyed by any cause whatsoever and cannot, in the reasonable opinion of the Landlord, be rebuilt within 180 days of the damage or destruction, the Landlord instead of rebuilding the Leased Premises may terminate this Lease by giving to the Tenant within 30 days after such damage or destruction notice of termination and thereupon rent and other payments hereunder shall be apportioned and paid to the date of such damage or destruction and the Tenant shall immediately deliver up vacant possession of the Leased Premises to the Landlord.

12.03 Notwithstanding sections 12.01 and 12.02, in the event of damage or destruction occurring by reason of any cause in respect of which proceeds of insurance are substantially insufficient to pay for the costs of rebuilding the Building or the Leased Premises, the Landlord may terminate this Lease on written notice to the Tenant.

#### **ARTICLE 13 - EXPROPRIATION**

13.01 If during the Term the whole of the Leased Premises shall be expropriated or such portion of the Leased Premises as renders the remainder unsuitable or impracticable for the purposes intended in this Lease shall be expropriated, upon possession being required all rentals shall be paid up to that date and both the Landlord and the Tenant will have their separate and distinct claims against the expropriating authority in such manner as may be provided in law, and neither shall have a claim against the other for the termination of the Lease or the shortening of the Term of the Lease.

13.02 In the event of any expropriation of part of the Leased Premises that does not render the remainder unsuitable or impracticable for the purposes intended in this Lease there shall be no abatement of rent or other charges under this Lease and both the Landlord and the Tenant will have their separate and distinct claims against the expropriating authority in such manner as may be provided in law, and neither shall have a claim against the other of any type or kind.

#### **ARTICLE 14 - INSPECTION OF PREMISES BY LANDLORD**

14.01 Landlord shall have the right to enter the Leased Premises at all reasonable times on reasonable notice to the Tenant for the purpose of:

- (a) making any repairs to the Leased Premises and performing any work therein that may be necessary by reason of the Tenant's default under the terms of this Lease continuing beyond any applicable grace periods;
- (b) exhibiting the Leased Premises (within three (3) months prior to the expiration of the Term of this Lease or any renewal thereof to prospective tenants and (at any time during the Term) to prospective purchaser's and mortgagees; and
- (c) viewing the state of repair of the Leased Premises.

14.02 Landlord shall have the right to enter the Leased Premises at any time in the event of an emergency.

#### ARTICLE 15 - LOSS OR DAMAGE, INDEMNITY

15.01 The Landlord, its contractors, agents and employees shall not be liable for any death, injury, or damage to or loss of property, of the Tenant, its employees, agents, or invitees occurring in or about the Leased Premises, unless such death, injury, damage or loss resulted from the negligence of the Landlord, its contractors, agents or employees or other persons for whom it may be responsible. All property of the Tenant within the Leased Premises shall be at the risk of the Tenant only.

15.02 The Tenant shall, during the Term, indemnify and save harmless the Landlord from any and all liabilities, damages, costs, claims, suits or actions incurred by it as a result of or arising out of:

- (a) any breach, violation or non-performance of any covenants, condition or agreement in this Lease set forth and contained, on the part of the Tenant to be fulfilled, kept and observed and performed;
- (b) any damage to property occasioned by the Tenant's use and occupation of the Leased Premises; and
- (c) any injury to person or persons, including death, resulting at any time therefrom occurring in or about the Leased Premises and/or on the: sidewalks and laneways or streets adjacent to same, unless the same is caused by the negligence of the Landlord, its servants or agents or others for whom it is in law responsible.

#### ARTICLE 16 - LANDLORD MAY CURE TENANTS DEFAULTS

16.01 If the Tenant shall default in the performance of any of the terms, covenants and conditions of this Lease, the Landlord, after fifteen (15) days' notice to the Tenant specifying such default, or without notice if, in the reasonable exercise of the Landlord's judgment, an emergency exists, may but shall not be obligated to perform the same for the account and at the expense of the Tenant and the amount of any payments made or expenses incurred by the Landlord for such purpose, shall become due and payable by the Tenant as additional rent with the next or any subsequent instalment of rent which shall become due after such expenditure by the Landlord; but any such expenditure by the Landlord shall not be deemed to waive or relieve the Tenant's default or the right of the Landlord to take such action as may be permissible under the terms of this Lease in the event of such default. When no emergency exists, the provisions of this Article shall be inapplicable if, within fifteen (15) days after such notice by the Landlord, the Tenant shall have cured such default or shall have commenced and is, diligently proceeding to cure same.

#### ARTICLE 17 - CONSTRUCTION LIENS

17.01 If any construction or other liens or order for the payment of money shall be filed against the Leased Premises by reason of or arising out of any labour or

material furnished to the Tenant or to anyone claiming through the Tenant, the Tenant within thirty (30) days after notice to the Tenant of the filing thereof shall cause the same to be discharged by bonding, deposit, payment, court order or otherwise. The Tenant shall defend all suits to enforce such lien, or orders, against the Tenant, at the Tenant's sole expense. The Tenant hereby indemnifies the Landlord against any expense or damage as a result of such liens or orders.

17.02 Notwithstanding anything contained in this Lease, the Landlord and the Tenant agree that the Landlord has not, nor is it intended by any provisions of this Lease, waived the right to receive any notice required to be given the Landlord by any person doing work or supplying materials to the Tenant pursuant to the provisions of the Construction Lien Act.

#### **ARTICLE 18 - WAIVERS, CUMULATIVE REMEDIES, ETC.**

18.01 The specific remedies to which Landlord may resort under the provisions of this Lease are cumulative and are not intended to be exclusive of any other remedies or means or redress to which it may be lawfully entitled in case of any breach or threatened breach by the Tenant of any of the terms, covenants and conditions of this Lease. The failure of the Landlord to insist upon the strict performance of any of the terms, covenants and conditions of this Lease, or to exercise any right or remedy herein contained, shall not be construed as a waiver or relinquishment for the future of such terms, covenants and conditions. In addition to the other remedies in this Lease provided, the Landlord shall be entitled to the restraint by injunction of the violation or attempted or threatened violation of any of the terms, covenants and conditions of this Lease or to a decree, in any court having jurisdiction of the matter, compelling performance of any such terms, covenants and conditions.

#### **ARTICLE 19 - INVALIDITY OF PARTICULAR PROVISIONS**

19.01 If any term or provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such terms or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

#### **ARTICLE 20 - ALTERATIONS AND ADDITIONS**

20.01 The Tenant shall not make any repairs, alterations, replacements or improvements to the structure, any perimeter or bearing wall or alterations, replacements or improvements to the sprinkler system, or the heating, ventilating, air-conditioning, plumbing, electrical or mechanical equipment of the Leased Premises or the Building without obtaining the Landlord's prior written approval, which approval may not be unreasonably or arbitrarily withheld, but may be given on such conditions as the Landlord reasonably imposes. With any such request, the Tenant shall submit to the Landlord details of the proposed work, including drawings and specifications prepared by qualified architects or engineers, if the Landlord shall so require, and conforming to good construction practice. The Tenant will pay the Landlord's reasonable out-of-pocket expenses for consulting services in connection with the Landlord's consideration of any request for approval under this section. Any such repairs, alterations, replacements or improvements shall comply with all applicable laws, by-laws, regulations, and orders enacted or made by any federal, provincial or municipal authority having jurisdiction, and the Landlord's fire insurance underwriters. The Tenant shall at its own expense obtain all requisite building and other permits.

20.02 The Tenant shall indemnify the Landlord and save it harmless from any costs, expenses, damages or increased insurance premiums which may result from the performance of any work (whether or not the Landlord's approval was required or obtained under section 20.01).

20.03 Provided the Tenant obtains all necessary permits and approvals from all authorities having jurisdiction, and provided the Tenant's signage does not conflict with the Landlord's signage criteria for the Building, the Tenant shall have the right to install and use such signage as is used and installed by the Tenant in its other retail locations in the Province of Ontario, and to use those trademarks, names, logos and other registerable marks as may from time to time be used by the Tenant in its business operations. The Tenant shall also have the right to install and use its standard illuminated menu board within the Leased Premises.

#### ARTICLE 21 - ASSIGNMENT AND SUBLETTING

21.01 The Tenant shall not assign, sublet, transfer, set over, mortgage, charge, hypothecate, create any security interest in, or part with possession of, all or any part of the Leased Premises or of this Lease (a "Transfer"), without the prior written consent of the Landlord in each instance, which consent may not be unreasonably withheld. With any request for consent, the Tenant shall submit information as to the financial background, financial status, and business history of the party who is to acquire an interest in the Tenant or in this Lease or the Leased Premises (the "Transferee") and such other information as the Landlord may reasonably request in connection with such request for consent.

21.02 Any consent by the Landlord under this Article shall not constitute a waiver of the necessity for such consent on any subsequent occasion requiring consent, and shall not relieve the Tenant from any of its obligations to pay rent or perform the covenants contained in this Lease. Notwithstanding any Transfer, the Tenant shall not be relieved of liability by any subsequent amendment of the terms hereof between the Landlord and the assignee or any granting of time, renewals, extensions, indulgences, releases, discharges or other arrangements with the assignee. If this Lease is disclaimed or terminated by any trustee in bankruptcy of any assignee of this Lease, the original tenant named in this Lease shall, if requested by the Landlord within thirty days of such disclaimer or termination, enter into a lease with the Landlord upon the same terms and conditions as contained herein except for the duration of term, which shall expire on the date this Lease would have expired save for such disclaimer or termination. Any assignment or other document effecting a transaction to which the Landlord's consent is required shall be in a form satisfactory to the Landlord. Any assignment or sublease shall at the Landlord's option be on the Landlord's form and shall in any event contain a covenant by the Transferee with the Landlord that it will observe and perform all of the Tenant's obligations contained in this Lease. Any such document shall be reviewed by the Landlord or its solicitors or prepared by them at the expense of the Tenant.

21.03 The Landlord's consent to any Transfer shall be subject to the condition that if the minimum rent and additional rent to be paid by the Transferee under such Transfer exceeds the Minimum Rent, Percentage Rent and additional rent payable under this Lease, the amount of any excess shall be paid by the Tenant to the Landlord. If the Tenant receives from any Transferee, either directly or indirectly, any consideration other than rent and additional rent for such Transfer, either in the form of cash, goods or services (other than the proceeds of any bona fide financing as the result of a Transfer involving a mortgage, charge or similar security interest in this Lease) the Tenant shall forthwith pay to the Landlord an amount equivalent to such consideration. The Tenant and the Transferee shall execute any agreement required to give effect to the foregoing term.

21.04 Notwithstanding subsections 21.01, 21.02 and 21.03 herein, provided the Tenant shall remain liable for its covenants under this Lease, upon prior written notice given to the Landlord, but without having to obtain the Landlord's prior written consent, the Tenant shall have the right to assign the Lease or sublet the Leased Premises, including any options to renew or other rights benefiting the Tenant, without any increased rental or fee, to any of the following:

- (a) to any corporation or partnership which is now or in the future affiliated or associated with the Tenant or any holding body corporate or subsidiary body corporate (as those terms are defined pursuant to the Ontario Business Corporations Act) of the Tenant or any of Yum! Brands Canada Management Holding Inc., Scott's Restaurants Inc., SRI Realty Inc. and SRI Realty (No. 2) Inc. (the "Related Companies") or to a franchisee of any of the foregoing;
- (b) to any corporation formed as a result of a merger or amalgamation of the Tenant or any of the Related Companies with another corporation or corporations;
- (c) to any person, corporation or entity who is purchasing a majority in the Province of Ontario of the Tenant's other similar businesses as the business being operated on the Leased Premises; and
- (d) to a party that is a franchisee, licensee or concessionaire entitled to carry on the permitted use, so long as the same business is operated and the franchisee, licensee or concessionaire agrees to be bound by, perform and observe all of the terms, conditions and agreements of the Lease.

#### ARTICLE 22 - DEFAULT AND REMEDIES

22.01 If any of the following shall occur:

- (a) if the Tenant shall fail to pay any rent or other sums due hereunder when due, and if such rent or other sums are not paid within five days after notice is given by the Landlord of such non-payment;
- (b) if the Tenant does not observe, perform and keep each and every of the covenants, provisions, stipulations, conditions, rules and regulations and other terms herein contained to be observed, performed and kept by the Tenant, and, where the breach can be rectified, such non-observance or non-performance shall continue for fifteen days after notice is given by the Landlord requiring that the Tenant rectify the breach, except where rectifying the breach would reasonably require more than fifteen days and the Tenant has commenced rectification in good faith within the fifteen day period and thereafter promptly, diligently and continuously proceeds with rectification of the breach;
- (c) if the Tenant shall abandon the Leased Premises, or make a bulk sale of its goods or sell the business conducted at the Leased Premises, or move, or commence, attempt or threaten to move any of its goods, chattels and equipment out of the Leased Premises (other than in the ordinary course of its business);
- (d) if a writ of execution shall issue against the Tenant, or if the Term hereby granted or any of the goods, chattels or equipment of the Tenant shall be taken in execution or attachment or be seized by any creditor of the Tenant, whether secured or otherwise;
- (e) if the Tenant shall become insolvent or commit an act of bankruptcy or become bankrupt or take the benefit of any Act that may be in force

for bankrupt or insolvent debtors, or become involved in voluntary or involuntary winding up proceedings, or if a receiver shall be appointed by the Court or by any creditor for the business, property, affairs or revenues of the Tenant;

then, and in every such case, the Landlord may, in addition to any other rights or remedies it may have under other provisions of this Lease or by law, at its option exercise all or any of the following remedies:

- (f) The Landlord may perform any obligation which the Tenant should have performed or cause the same to be performed and for such purpose may enter upon the Leased Premises and do such things thereon as the Landlord may consider requisite without effecting a termination of this Lease.
- (g) The Landlord may enter the Leased Premises and distrain upon the goods and chattels of the Tenant, or may remove and sell the goods, chattels and equipment of the Tenant without any notice or form of legal process, any rule of law to the contrary notwithstanding, and the Landlord may seize and sell the goods and chattels and the equipment, whether they are within the Leased Premises or at any place to which the Tenant or any other person may have removed them in the same manner as if they had remained and been distrained upon in the Leased Premises, and the Landlord may follow the goods and chattels for the maximum period permitted by law, and any sale by the Landlord may, in its sole discretion, be effected by public auction or private contract and either in bulk or by individual items, or partly by one means and partly by the other.
- (h) The Landlord may remove the goods, chattels, equipment and fixtures of the Tenant from the Leased Premises and store them in a public warehouse or elsewhere at the cost of and for the account of the Tenant.
- (i) In order to relet, the Landlord may take possession of the Leased Premises as agent of the Tenant and effect such alterations and repairs as it may deem necessary or advisable for the purpose of such reletting, and it may relet the Leased Premises or any part thereof for such term or terms (which may be for a term extending beyond the Term) and at such rental or rentals and upon such other terms and conditions as the Landlord, in its sole discretion, may deem advisable. Upon such reletting, all rentals received by the Landlord from such reletting shall be applied, first to the payment of the Landlord's costs and expenses of such reletting and costs of such alterations and repairs; second to the payment of any indebtedness other than rent due from the Tenant to the Landlord; third to the payment of arrears of rent and other sums owing hereunder; fourth to the payment of rent and other sums owing hereunder as such fall due; and the residue, if any, shall be held by the Landlord without interest until the end of the Term and applied from time to time in payment of rent and other sums owing hereunder as the same may become due and payable, and any residue remaining at the end of the Term shall be held for the Tenant. No such reletting, nor the receipt of any such rentals from any new tenant, nor the creation of the relation of landlord and tenant between the Landlord and any party to whom the Leased Premises may have been relet, shall have the effect of exonerating the Tenant from its obligations to pay rent hereunder as it falls due or of in any way terminating this Lease.
- (j) The Landlord may terminate this Lease by commencing an action for possession or for termination of the Lease or by notice to the Tenant.

Such termination may be effected either at or after the time of the breach or at any later time and notwithstanding that the Landlord may have exercised any of its other remedies including that set out under subsection (i) hereof. In the event that the Landlord or anyone claiming under it or to whom it has rented the Leased Premises is in possession under the provisions of subsection (i) hereof, the Landlord may at any time terminate this Lease by notice to the Tenant and thereafter any then existing or later lease of the Leased Premises shall be for the account of the Landlord notwithstanding that such lease may originally have been entered into as agent for the Tenant. If the Landlord enters the Leased Premises without notice to the Tenant as to whether it is terminating this Lease under subsection (i) or proceeding under subsection (i) or any other provision of this Lease, the Landlord shall be deemed to be proceeding under subsection (i) and the Lease shall not be terminated, nor shall there be any surrender by operation of law, but the Lease shall remain in full force and effect until the Landlord notifies the Tenant that it has elected to terminate this Lease. No entry by the Landlord during the Term shall have the effect of terminating this Lease without notice to that effect to the Tenant.

- (k) The Landlord shall be entitled to damages from the Tenant for breach of this Lease.
- (l) At the option of the Landlord, in the case of the events stated in (d) or (e) above occurring, the full amount of the current month's rent and the next ensuing three months' rent shall accelerate and shall immediately become due and payable.
- (m) On any termination for default, all fixtures, Tenant's improvements or other installations in the Leased Premises, which in law are fixtures or a part of the realty or are attached, affixed to or incorporated into or with the immovable properties situated in or upon the Building or the Leased Premises, and which are not the property of the Landlord, shall at the Landlord's option forthwith become the property of the Landlord, and whether or not such fixtures are in the nature of Tenant's trade fixtures, and whether or not they would be removable by the Tenant at the expiry of the Term if there had been no default.

22.02 Notwithstanding any provision to the contrary in this Lease, the Tenant shall not be obligated to conduct its business operations on the Leased Premises continuously or in a continuous and uninterrupted manner. In the event that the Tenant elects not to so operate its business on the Leased Premises, it is acknowledged and agreed that the Tenant shall still be bound by all of the other applicable terms and covenants of this Lease, save and except that there shall be no default under this Lease as a result of the Tenant's cessation of business operations on the Leased Premises.

22.03 Whenever the Landlord takes any proceedings, sends any notices, does any work, or otherwise incurs any expense or trouble or takes any action with respect to any default by the Tenant, and whether or not legal proceedings are begun or considered in consequence of such default, and whether or not this Lease is terminated, the Landlord shall be entitled to be paid by the Tenant forthwith on demand in addition to any other amounts which may be payable or owing hereunder, all of the following:

- (a) the cost of effecting any repairs or performing any obligation of the Tenant, together with an allowance of fifteen per cent (15%) for the Landlord's overhead and supervision;
- (b) the Landlord's costs and expenses in preparing the Leased Premises for reletting in such manner as in its sole discretion it deems necessary



or advisable, together with an allowance of fifteen per cent (15%) for the Landlord's overhead and supervision;

- (c) the Landlord's Court costs, collection costs, and legal fees as between a solicitor and his own client and all judicial and extra-judicial fees of advocates and notaries;
- (d) interest on rent or any other amounts overdue under the terms of this Lease and on any monies expended by the Landlord in consequence of any default by the Tenant at the rate of eighteen per cent (18%) per annum;
- (e) a charge of fifty dollars (\$50.00) for each cheque of the Tenant which is returned to the Landlord because of insufficient funds in the Tenant's account; and
- (f) any other costs, charges or expenses, which the Landlord incurs or to which it is put, and which would not have been necessary at the time at which they were incurred but for the default of the Tenant.

22.04 Notwithstanding anything contained in any statute at the present time or in the future in force, the Tenant hereby agrees with the Landlord that none of the Tenant's goods or chattels on the Leased Premises at any time during the Term shall be exempt from levy by distress for rent and other costs and charges payable hereunder in arrears, and that the Landlord may follow the Tenant's goods or chattels without limitation of time, and that on any termination of the Lease by the Landlord under the terms hereof, the Tenant shall have no right of redemption or relief from forfeiture, and that the Landlord may enter or take possession of the Leased Premises without judicial order, a writ of possession or any other legal process, and without notice to the Tenant except as provided under this Lease. The Tenant hereby waives all and every benefit that could or might have accrued to the Tenant, but for this section, by virtue of any present or future statute dealing with the matters set out in this section. The Tenant agrees that upon any claim being made for an exemption from levy by distress, or for a right of redemption or relief from forfeiture, or that the Landlord must proceed by judicial process to obtain possession, or with respect to any of the other rights dealt with herein, this section of this Lease may be pleaded as an estoppel against the Tenant in any action brought in which the rights of the Landlord to take the steps set out in this section are in question.

#### **ARTICLE 23 - FINANCING AND ASSIGNMENT BY LANDLORD**

23.01 Within ten days after written request therefor by the Landlord, the Tenant shall deliver, in a form supplied by the Landlord, a certificate and acknowledgement to any proposed mortgagee or purchaser, or the Landlord, certifying (if such be the case) that this Lease is in full force and effect (or if there have been amendments, that the Lease is in full force and effect as amended and identifying the amending agreements), the commencement date and Term of the Lease, the dates to which rent and other charges have been paid and whether the Tenant has made any prepayments thereof, whether there is any existing default by the Landlord or the Tenant or any set-offs or claims by the one against the other, and whether there is any work remaining to be done by the Landlord within or to the Leased Premises, and shall provide, promptly upon availability and in any event within 120 days after the end of each fiscal year of the Tenant, a copy of its financial statements prepared by a chartered accountant in accordance with GAAP and, as the Landlord may reasonably request, the financial statements shall be audited by an independent firm of chartered accountants. The Tenant shall, on the request of the Landlord, acknowledge in writing receipt of any notice of assignment of this Lease by the Landlord.

23.02 This Lease and all the rights of the Tenant hereunder are and shall at all times be subject and subordinate to any and all mortgages, trust deeds, charges, liens or (other security instruments or rights granted or placed on the Lands and Building or any part thereof by the Landlord. Upon request of the Landlord from time to time, the Tenant shall within ten days of such request execute such documents or assurances in such form as the Landlord or its lenders may require to subordinate this Lease to such security and all advances made or to be made upon the security thereof, and if requested, attorning to the holder thereof provided that the said lender first enters into a non-disturbance agreement with the Tenant in form and substance satisfactory to the Tenant acting reasonably.

23.03 In the event of a sale or lease by the Landlord of all of the Leased Premises, or the assignment by the Landlord of this entire Lease, and to the extent that any purchaser, lessee or assignee of the Landlord has, by an instrument entered into with the Landlord, assumed the covenants and obligations of the Landlord hereunder, the Landlord shall without further written agreement or instrument and without notice to the Tenant be freed and released from liability upon the covenants and obligations contained in this Lease.

#### ARTICLE 24 - NOTICE

24.01 Any notice to be given by the provisions of this Lease shall be sufficiently given if served personally or if mailed postage prepaid at any Post Office in Canada in a registered letter:

- (a) if to the Landlord, addressed to: Scott's Real Estate Limited  
Partnership  
161 Bay Street, Suite 2300  
Toronto, ON M5J 2S1
  
- (b) if to the Tenant, addressed to: KIT Inc.  
101 Exchange Avenue  
Vaughan, ON L4K 5R6

or to such other address as the party concerned shall have notified the other in writing. Any notice so mailed shall be held conclusively to have been given 72 hours after such mailing provided however that if at the time of such mailing a mail strike is in progress which affects the delivery of such notice, such notice shall not be deemed to have been received until it is actually received. Either party may from time to time by notice to the other change the address to which notices are to be given.

#### ARTICLE 25 - SURRENDER OF PREMISES - OWNERSHIP OF IMPROVEMENTS

25.01 The Tenant, upon expiration of the Term or earlier termination of this Lease, shall peaceably and quietly surrender the Leased Premises and any improvements thereon in accordance with this Article 25 and in good order, repair and condition.

25.02 The Tenant shall on any surrender of possession of the Leased Premises have the right (but not the obligation) to remove such of its trade fixtures, other fixtures, leasehold improvements and equipment which are incorporated into, affixed or attached to and which have become a part of the Lands and Building, including such trade fixtures and leasehold improvements which identify the Leased Premises as any particular outlet, and in effecting such removal, shall do no damage to the Leased Premises or any parts of the Lands and Building. Any leasehold improvements, equipment and fixtures which are not removed by the Tenant shall

on surrender of possession by the Tenant become the sole and exclusive property of the Landlord without payment to the Tenant. For greater certainty, the Landlord acknowledges that the Tenant shall not be required to remove the interior partitions, drywall, storefront and bulkhead from the Leased Premises.

25.03 When not in default at the expiration of the Term, or at any time during the term if not in default and in the ordinary course of business, the Tenant may remove the Tenant's trade fixtures, inventory and trade articles provided the Tenant makes good any damage in so doing.

#### **ARTICLE 26 - QUIET ENJOYMENT**

26.01 The Landlord covenants with the Tenant that if the Tenant pays the rents hereby reserved and performs its covenants and obligations herein contained, the Tenant may peaceably possess and enjoy the Leased Premises for the Term without interruption or disturbance from the Landlord or any other person lawfully claiming by from or under it.

#### **ARTICLE 27 - CONDITION OF PREMISES**

27.01 The Tenant acknowledges and agrees that it is leasing the Leased Premises on an "as is where is" basis and that there are no representations or warranties with respect to the Leased Premises.

#### **ARTICLE 28 - USE OF COMMON AREAS AND FACILITIES**

28.01 All Common Areas and Facilities as the same may exist from time to time shall at all times be subject to the exclusive control and management of Landlord and Landlord shall have the right from time to time to establish, modify and enforce reasonable rules and regulations with respect to such Common areas and Facilities. Landlord shall have the right to construct, maintain and operate lighting facilities on all said areas and improvements; to police the same; from time to time to change the area, level, location and arrangement of parking areas and other facilities hereinabove referred to; to restrict parking by tenants, their officers, agents and employees to employee parking areas; to enforce parking charges, with appropriate provisions for free parking ticket validation by tenants; to close all or any portion of said areas or facilities to such extent as may, in the opinion of Landlord's counsel, be legally sufficient to prevent a dedication thereof or the accrual of any rights to any person or the public therein; to obstruct or close off any or all of the Common Areas and Facilities or parts thereof for the purpose of maintenance or repair provided same is carried out with all due diligence; to close temporarily all or any portion of the parking areas or facilities to discourage non-customer parking; and to do and perform such other acts in and to said areas and improvements as, in the use of good business judgment, the Landlord shall determine to be advisable with a view to the improvement of the convenience and use thereof by tenants, their officers, agents, employees and customers. Landlord will operate and maintain the common facilities referred to above in such manner as Landlord, in its sole discretion, shall determine from time to time. Without limiting the scope of such discretion, Landlord shall have the full right and authority to employ all personnel and to make all rules and regulations pertaining to and necessary for the proper operation and maintenance of the Common Areas and Facilities.

28.02 It is understood and agreed that the Tenant will repair and provide day-to-day maintenance to the Leased Premises and the Property, other than those portions designated for lease to Other Tenants (for and on behalf of the Landlord), in accordance with the provisions of Article 7 of this Lease. The Landlord will pay to the Tenant to the Landlord's Proportionate Share of Common Areas and Facilities

costs and all of structural repairs, fixtures and equipment costs. In addition, it is understood and agreed that the Tenant will pay to the Landlord as additional rent the Tenant's Proportionate Share of the cost to the Landlord of the Landlord's Insurance, in accordance with Article 11 of this Lease and the Tenant's Proportionate Share of depreciation of fixtures and equipment. The following provisions of this Article 28 are intended to allocate the cost of such repair, maintenance, and insurance on an equitable basis and to mirror the provisions in the Other Tenant's leases.

28.03 In each year, Landlord will pay to Tenant the Landlord's Proportionate Share of the Tenant's costs and expenses of maintaining and operating the Common Areas and Facilities, including without limitation all costs and expenses referred to in the immediately following subparagraphs (i) to (v) inclusive, namely:

- (i) landscaping, cleaning and snow removal;
- (ii) lighting and electrical systems;
- (iii) repairs and replacements to and maintenance and operation of the Common Areas and Facilities including gardening and landscaping maintenance, and any repairs and replacements carried out to comply with then current governmental requirements.
- (iv) repairs and replacements to and maintenance of the Property and the pylon sign located on the Property; and all utility and licensing costs for such pylon sign; and
- (v) utilities supplied to the Common Areas and Facilities.

28.04 In addition, in each year, Landlord will pay to Tenant the cost of all structural repairs, fixtures and equipment, including the ventilation and air conditioning unit servicing the Property which, by their nature, require periodic replacement or substantial replacement.

28.05 The amounts of which Landlord is to pay the Tenant pursuant to sections 28.03 and 28.04 shall be estimated by the Tenant for such period as the Tenant may determine not exceeding one year, and the Landlord agrees to pay to the Tenant such amounts in monthly instalments in advance during such period together with other rent payments provided for in this Lease. At the end of the period for which such estimated payments have been made, the Landlord shall be advised of the actual amount required to be paid under the provisions of Section 28.03, and if necessary, an adjustment shall be made between the parties within thirty (30) days. In advising Landlord of the actual amount required to be paid, Tenant shall provide Landlord with a statement showing in reasonable detail the total expenses arising under the provisions of Section 28.03. At the Landlord's request, the landlord shall be provided with reasonable photocopies of Tenant's expenses applied toward the calculation of Landlord's Proportionate Share and all other expenses for which Landlord is liable pursuant to this lease. The Landlord shall also have the right during the Tenant's business hours to inspect those records of the Tenant including all to this lease in order to verify the Tenant's calculation therein. Upon receiving advice from the Tenant of the amounts to be paid hereunder, Landlord will bill the Other Tenants for a portion of the amount of such a charge.

28.06 In each year, Tenant will pay to Landlord the Tenant's Proportionate Share of:

- (i) the Landlord's total annual costs of insuring the Leased Premises, the Building, and the Common Area and Facilities,

including all risk insurance to the full replacement cost, and general public liability insurance against claims for personal injury, death, or property damage occurring in or about the Common Area and Facilities; and

- (ii) depreciation of cost, including interest payable thereon, if any, of all fixtures and equipment, including the ventilation and air conditioning unit servicing the Property which, by their nature, require periodic replacement or substantial replacement.

28.07 The amounts of which the Tenant is to pay Tenant's Proportionate Share pursuant to Section 28.06 shall be estimated by the Landlord for such period as the Landlord may determine not exceeding one year, and the Tenant agrees to pay to the Landlord the Tenant's Proportionate Share of such amounts in monthly instalments in advance during such period together with other rent payments provided for in this Lease. At the end of the period for which such estimated payments have been made, the Tenant shall be advised of the actual amount required to be paid under the provisions of Section 28.06, and if necessary, an adjustment shall be made between the parties within thirty (30) days. In advising Tenant of the actual amount required to be paid, Landlord shall provide Tenant with a statement showing in reasonable detail the total expenses arising under the provisions of Section 28.06. At the Tenant's request, the Tenant shall be provided with reasonable photocopies of Landlord's expenses applied toward the calculation of Tenant's Proportionate Share and all other expenses for which Tenant is liable pursuant to this lease. The Tenant shall also have the right during the Landlord's business hours to inspect those records of the Landlord including all receipts and invoices and other records relevant to the calculation of the expenses arising pursuant to this lease in order to verify the Landlord's calculation therein.

#### ARTICLE 29 - MISCELLANEOUS

29.01 If the Tenant shall remain in occupation of the Leased Premises after the expiry of the Term hereby granted and any renewal thereof hereby granted, with or without the consent of the Landlord and without any further written agreement, the Tenant shall be a monthly tenant at a monthly rental herein reserved and otherwise on the terms and conditions herein set forth, except as to the length of tenancy.

29.02 All waivers made by the Landlord shall be in writing and no waiver by the Landlord of any default made by the Tenant under this Lease shall be construed as a waiver of any other default which has been made or which may thereafter be made by the Tenant unless so specified in writing. No surrender of this Lease by the Tenant shall be valid unless accepted in writing by the Landlord.

29.03 This Lease contains the entire agreement between the parties relating to the Leased Premises and shall not be modified in any manner except by an instrument in writing executed by the parties and this Lease shall supercede and replace any and all existing leases or agreements to lease between the parties with respect to the Leased Premises.

29.04 The captions herein are for convenience and reference only and in no way define, limit or describe the scope or intent of this Lease nor in any way affect this Lease.

29.05 This Lease is subject to the condition that it is to be effective only on obtaining such consents, if any, as may be required under the Planning Act. The Landlord covenants and agrees to apply and proceed diligently at its expense to obtain any necessary consent to this Lease.

29.06 The covenants, agreements, terms, provisions and conditions of this Lease shall be binding upon and enure to the benefit of the Landlord and the Tenant and their successors and permitted assigns.

29.07 The Tenant shall not register this Lease in full against the title to the Lands. The Tenant may register the minimum notice or memorial of lease required to give notice of its interest under the applicable registration statute with the written consent of the Landlord, such consent not to be unreasonably withheld.

29.08 Without limiting the generality of anything else herein contained, the parties agree that upon expiration of the Term or any renewal thereof, or any earlier termination of this Lease, the Tenant's right of possession shall cease and terminate, but the obligations of the parties with respect to any item of rent or covenants not performed at the date of such expiration, any indemnification, or any other obligations which, by their nature are not completely performed prior to such expiration, shall remain in full force and effect until satisfied. It is agreed, however, that in no event shall the Tenant have any interest in or right to possession of the Leased Premises or any part of the Lands or Building after the expiration of the Term or any renewal thereof, or any such earlier termination of this Lease.

29.09 Each of the Landlord and Tenant has full authority to enter into this Lease and to perform its obligations hereunder.

#### ARTICLE 30 - NET LEASE

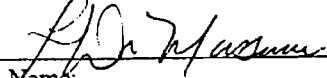
30.01 The parties acknowledge and agree that it is intended that this Lease be a completely net net net and carefree lease to the Landlord, and that except as otherwise specifically provided herein, the Landlord is not responsible during the Term for any costs, charges, expenses and outlays of any nature arising from or relating to the Leased Premises or the use or occupancy thereof, and the Tenant shall pay all charges and expenses relating to the Leased Premises.

30.02 The parties acknowledge that nothing in this Lease has the effect of making the Tenant responsible for the Landlord's debt service costs (principal and interest) or the Landlord's income taxes capital taxes, value added taxes, business transfer taxes or other taxes personal to the Landlord.

30.03 The parties hereby confirm that the Original Lease remains in full force and effect and unamended except as expressly provided herein, without novation of the Original Lease.

IN WITNESS WHEREOF each of the parties hereto have duly executed this Lease.

**SCOTT'S REAL ESTATE LIMITED PARTNERSHIP**, by its general partner, **SCOTT'S GP TRUST**, by its trustee, **SCOTT'S TRUSTEE CORP.**

By:   
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:  
I/We have the authority to bind the Corporation.

**KIT LIMITED PARTNERSHIP**, by its general partner, **KIT INC.**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:  
I/We have the authority to bind the Corporation.

IN WITNESS WHEREOF each of the parties hereto have duly executed this Lease.

**SCOTT'S REAL ESTATE LIMITED PARTNERSHIP**, by its general partner, **SCOTT'S GP TRUST**, by its trustee, **SCOTT'S TRUSTEE CORP.**

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

Name:

Title:

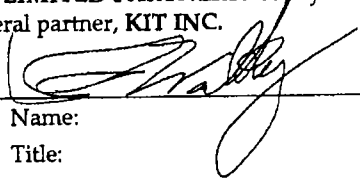
By: \_\_\_\_\_

Name:

Title:

I/We have the authority to bind the Corporation.

**KIT LIMITED PARTNERSHIP** by its general partner, **KIT INC.**

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

Name:

Title:

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

Name:

Title:

I/We have the authority to bind the Corporation.



**SCHEDULE "A"**  
**Legal Description**

Store No. 1305, 3351 Lawrence Avenue East, Toronto, Ontario

Parcel 18131-A, in the Register for Scarborough, being Part Block A, Plan M-802, designated as Part 2 and 3, Plan R-1209, City of Toronto (formerly City of Scarborough), as set out in Instrument No. E22627

**SCHEDULE "B"**  
**Term of the Lease**

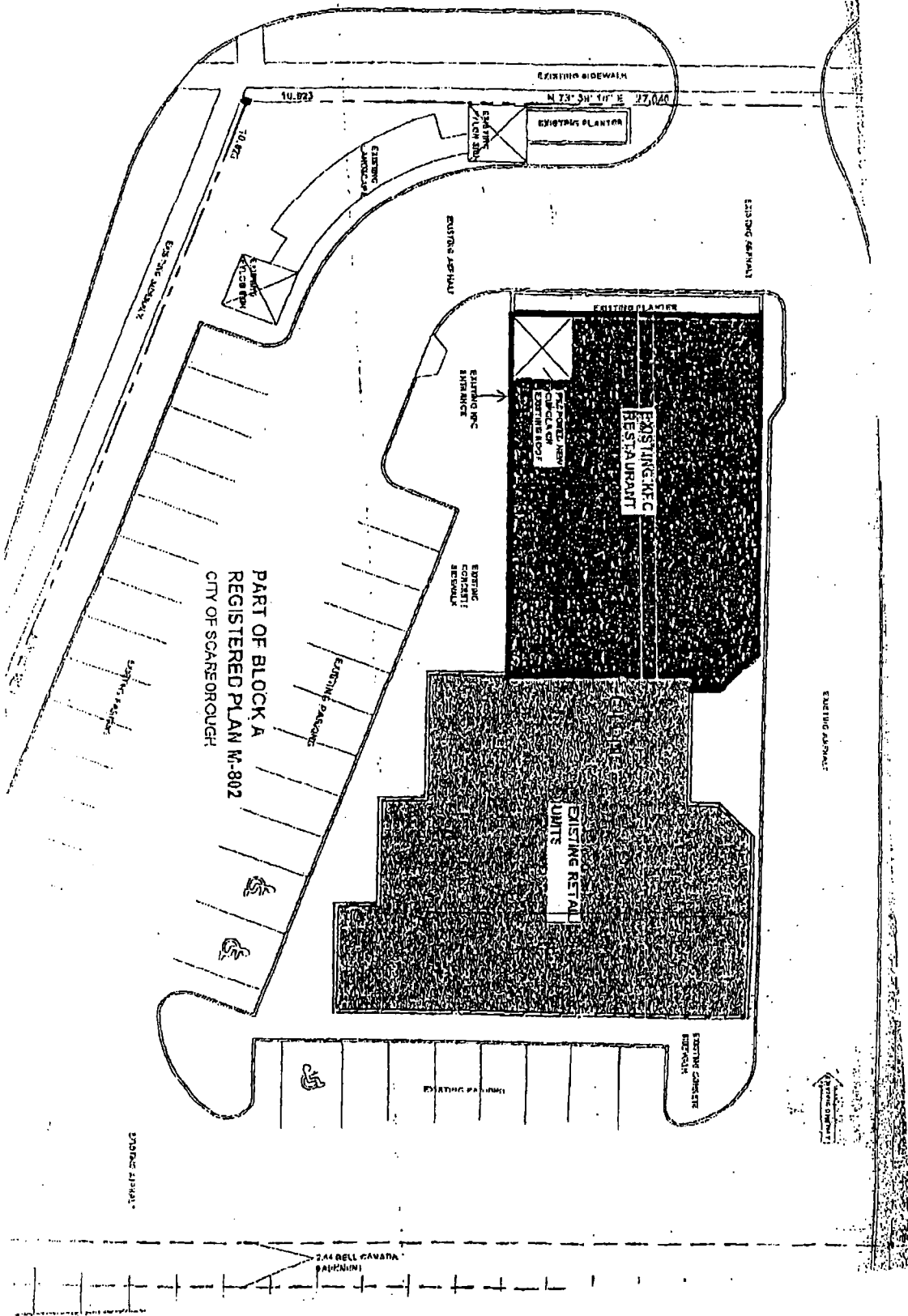
<b>Term</b>	<b>Commencement Date</b>	<b>Completion Date</b>
fifteen (15) years	May 7, 2001	May 6, 2016

SCHEDULE "C"

<b>Rent Payable</b>	
(1)	during the first through fifth years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$150,000.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$12,500.00, in advance
(2)	during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every year the sum of \$157,500.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$13,125.00, in advance; and
(3)	during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$165,375.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$13,781.25, in advance

**SCHEDULE "D"**  
**Leased Premises**

Please see the attached.





THIS AMENDED AND RESTATED LEASE made as of the 6th day of October, 2005.

IN PURSUANCE OF THE SHORT FORMS OF LEASES ACT.

BETWEEN:

SCOTT'S REAL ESTATE LIMITED PARTNERSHIP

(hereinafter called the "Landlord"),

OF THE FIRST PART;

-and -

KIT LIMITED PARTNERSHIP

(hereinafter called the "Tenant"),

OF THE SECOND PART;

RECITALS:

WHEREAS Scott's Restaurants Inc. (the "Original Landlord") and Prizm Brandz LP, by its General Partner Prizm Brandz Inc. (the "Original Tenant") entered into a lease agreement (the "Original Lease") dated as of October 1, 2002 in respect of certain premises described therein, including the Leased Premises (as defined below);

AND WHEREAS the Original Lease was assigned by the Original Tenant to the Tenant, by an assignment of leases dated as of November 10, 2003;

AND WHEREAS the Original Lease was assigned, to the extent only that the Original Lease relates to the Leased Premises, by the Original Landlord to the Landlord, by an assignment of lease (the "Assignment Agreement") dated as of October 6, 2005;

AND WHEREAS the Landlord and the Tenant wish to amend and restate, without novation, the Original Lease to reflect the fact that, as between the Landlord and the Tenant, the leasing arrangements contemplated thereby now apply, *mutatis mutandis*, in respect of the Leased Premises;

NOW THEREFORE in consideration of the mutual agreements and covenants contained herein and the sum of \$10.00 (the receipt and adequacy of which are hereby acknowledged), the parties agree as follows:

ARTICLE 1 - DEFINITIONS

1.01 In this Lease the following words and terms shall have the following meanings respectively:

- (a) "Building" means the building and the other fixtures and improvements on each of the Lands.
- (b) "GST" means any business transfer tax, value added tax or goods and services tax presently or hereafter imposed from time to time upon the Landlord or the Tenant or in respect of this Lease and payable on account of the rental of each of the Leased Premises or the Landlord's receipt of the rents and other amounts and charges hereunder.
- (c) "Landlord's Insurance" shall have the meaning attributed thereto in section 11.01.

- (d) "Lands" means each of the three (3) lands and premises as shown on Schedule "A" attached hereto.
- (e) "Lease" means this lease as executed by the Landlord and the Tenant.
- (f) "Leased Premises" means each of the Lands and Building.
- (g) "Property Taxes" means all taxes, rates, local improvement rates, impost charges, duties, assessments or levies which may be levied, rated, charged or assessed against each of the Lands and Building, whether real or personal, moveable or immovable, by any authority having jurisdiction, whether federal, provincial, municipal, school board, utility commission or other, and includes any taxes or levies which may be imposed on the Landlord or the Tenant or anyone else on account or in lieu thereof, whether or not forming a charge on each property itself, and any other taxes, rates, duties, assessments or levies which may hereafter be levied in lieu of, or of a nature similar to, the foregoing, and whether recurring annually, or at other intervals, or on a special or single instance only, but shall not include the Landlord's income taxes, capital tax, value added taxes, business transfer taxes or other taxes personal to the Landlord.
- (h) "Term" shall have the meaning attributed thereto in section 3.01.
- (i) "Transfer" shall have the meaning attributed thereto in Section 21.01.
- (j) "Transferee" shall have the meaning attributed thereto in Section 21.01.
- (k) "Utilities" means gas, fuel, electricity, light, heat, power, other forms of energy, sewage disposal service, garbage and trash removal, cable T.V. and telephone and other communication services used, rendered or supplied upon or in connection with each of the Leased Premises and "Utility" shall have a corresponding meaning.

#### ARTICLE 2 - DEMISE

2.01 In consideration of the rents, covenants and agreements hereinafter reserved contained on the part of the Tenant to be paid, observed and performed, the Landlord presents does demise and lease unto the Tenant for the Term, the Leased Premises.

#### ARTICLE 3 - TERM

3.01 The term of the Lease (the "Term") shall be for a period of fifteen years commencing at 12:01 a.m. on the 1<sup>st</sup> day of October, 2002 (the "Commencement Date"), to be fully completed at 11:59 p.m. on the 30<sup>th</sup> day of September, 2017.

#### ARTICLE 4 - RENT

4.01 Throughout the Term, the Tenant shall pay to the Landlord in each and every year, an annual minimum rent for each of the Leased Premises (the "Minimum Rent") yearly year during the within Term as set out in Schedule "B " attached hereto.



#### ARTICLE 5 - TAXES

5.01 The Tenant covenants with the Landlord to pay to the respective taxing authorities, subject to the provisions of Section 5.02, all Property Taxes as and when due. The Tenant covenants that it will upon the request of the Landlord forward to the Landlord copies of all receipted tax bills. All sums payable by the Tenant under this clause shall be apportioned for any calendar year during which the Tenant is not in possession of the Leased Premises calendar year.

5.02 Notwithstanding anything contained in Section 5.01, the Tenant agrees that if at any time and from time to time the Landlord places a mortgage or other financial encumbrance on the Leased Premises and such mortgage or encumbrance requires monthly payments to be made with respect to the taxes and other charges required to be made pursuant to the provisions of Section 5.01, then, in such event, all such payments shall be paid by the Tenant to the mortgagee or encumbrancer rather than to the respective taxing authorities as additional rent on the date and in the amounts specified in such mortgage or encumbrance.

5.03 In any suit or proceeding affecting this Lease, a bill from the office, bureau, department or agency issuing bills for any of the Property Taxes shall be prima facie evidence of the amount thereof and that the same is or are due and payable.

5.04 In the event that the Tenant shall deem any of the Property Taxes illegal or excessive or otherwise subject to contest, it may, at its election, contest such imposition in the name of the Landlord or in its own name, but at the Tenant's expense; provided that nothing in this paragraph shall be construed to permit the Tenant to postpone its obligation to make the payments required under this Article.

5.05 The Tenant shall pay when due all taxes, rates, duties, assessments and other charges that may be levied, rated, charged or assessed against or in respect of all improvements, facilities on or in the Leased Premises and every tax and license fee in respect of any business carried on thereon or therein or in respect of the use or occupancy of the Leased Premises.

5.06 The Tenant covenants with the Landlord to pay to the Landlord the GST at the same time as rent is payable under Section 4.01 hereof. The Landlord shall have the same remedies with respect to non-payment of GST as it does with respect to non-payment of rent.

#### ARTICLE 6 - USE OF PREMISES

6.01 The Leased Premises shall be used by the Tenant for the purpose of conducting therein a sit down family type restaurant, drive-thru, take out and delivery fast food facility, or any combination thereof which may or may not be licensed to sell alcoholic beverages, or any other lawful use.

6.02 The Tenant shall not commit, cause or permit any nuisance or waste on the Leased Premises or permit the emission of any offensive substance, odor or noise from the Leased Premises.

6.03 The Tenant will not bring upon the Leased Premises or any part thereof, any machinery, equipment, article or thing that by reason of its weight, size, or use might, in the opinion of the Landlord, damage the Leased Premises and will not at any time overload the floors of the Leased Premises, the roof deck, the perimeter walls, ceilings, structural steel elements, overhead doors or the parking lots.

6.04 The Tenant will not install any equipment which would exceed or overload the capacity of the utility facilities in the Leased Premises or the electrical wiring and

service in the Building or in the Leased Premises and agrees that if any equipment installed by the Tenant shall require additional utility facilities, same shall be installed, if available, and subject to the Landlord's prior written approval thereto (which approval may not be unreasonably withheld), at the Tenant's sole cost and expense in accordance with plans and specifications to be approved in advance by the Landlord, in writing.

#### ARTICLE 7 - REPAIRS AND MAINTENANCE

7.01 The Tenant shall repair the Leased Premises. Without limiting the generality of the foregoing, the Tenant's obligation to repair extends to matters notwithstanding that such may be commonly known as a repair of a capital or structural nature.

7.02 The Tenant shall provide normal day-to-day maintenance of the Leased Premises and will repair according to notice in writing. The obligations of the Tenant to provide normal day-to-day maintenance shall include, without limitation, snow removal for the Building, outside maintenance and gardening of the Building, pest control for the Building, painting and decorating, and maintenance of the parking lot.

#### ARTICLE 8 - COMPLIANCE WITH LAWS

8.01 The Tenant, at its own expense, shall comply promptly with and conform to the requirements of all applicable statutes, laws, by-laws, regulations, ordinances and order at any time in force during the term which affect the condition, equipment, maintenance, use or occupation of the Leased Premises, and with every applicable reasonable regulation, order and requirement of the Canadian Fire Underwriters Association or any body having similar functions or of liability or fire insurance company by which the Building may be insured by the Landlord or the Tenant at any time during the Term.

8.02 If the Tenant defaults under the provisions of this Article, the Landlord may itself comply with the requirements of this Article and the Tenant shall forthwith pay all costs and expenses incurred by the Landlord in so doing and all such costs and expenses shall be recoverable by the Landlord as additional rent.

#### ARTICLE 9 - UTILITIES

9.01 The Tenant shall make arrangements, at its own cost and expense, directly with the public service companies and private utilities supplying Utilities during and throughout the Term, and shall indemnify Landlord against any liability for any charges therefor.

9.02 The Tenant shall pay promptly when due all charges, costs, accounts and any other sums payable by reason of the supply of the Utilities.

9.03 The Tenant, at its own cost and expense, shall procure each and every permit, license or other authorization required during the Term, for lawful and proper installation upon the Building of wire, pipes, conduits, tubes and other equipment and appliances for use in supplying Utilities.

9.04 In no event shall the Landlord be liable for any injury to the Tenant, its employees, agents or invitees, or to the Leased Premises, or to any property of the Tenant or anyone else for any loss of profits or business interruption, indirect or consequential damages, or for any other costs, losses or damages of whatsoever kind

arising from any interruption or failure in the supply of any Utility to the Leased Premises.

#### ARTICLE 10 - TENANT'S INSURANCE

10.01 The Tenant shall throughout the Term hereof keep in full force and effect at its sole cost and expense in the names of the Tenant, the Landlord and the Landlord's mortgagees as their respective interests may appear,

- (a) all risks (including flood and earthquake) property insurance in an amount of at least one hundred percent (100%) of the full replacement cost, insuring (1) all property owned by the Tenant, or for which the Tenant is legally liable, or installed by or on behalf of the Tenant, and located within the Building including, but not limited to, fittings, installations, alterations, additions, partitions, and all other leasehold improvements, and (2) the Tenant's inventory, furniture and movable equipment;
- (b) the repair and replacement of boilers, pressure vessels, air-conditioning equipment and miscellaneous electrical apparatus on a broad form blanket coverage basis;
- (c) public liability and property damage insurance including personal injury liability, contractual liability, non-owned automobile liability and owners' and contractors' protective insurance coverage with respect to the Leased Premises, coverage to include the activities and operations conducted by the Tenant and any other parties on the Leased Premises and by the Tenant and any other parties performing work on behalf of the Tenant and those for whom the Tenant is in law responsible. Such policies shall (1) be written on a comprehensive basis with inclusive limits of at least Two Million Dollars (\$2,000,000.00) for bodily injury for any one or more persons, or property damage, (but the Landlord, acting reasonably, or the mortgagee, may require higher limits from time to time) and (2) contain a severability of interests clause and cross liability clauses;
- (d) Tenant's legal liability insurance for the replacement cost of the Leased Premises; and
- (e) any other form of insurance as the Landlord, or the Landlord's mortgagee reasonably require from time to time, in form, in amounts and for risks against which a prudent tenant would insure.

10.02 Notwithstanding subsection 10.01 above, the Tenant shall be entitled to insure the Leased Premises, and the Tenant's business operations therein, under the Tenant's blanket insurance policy which the Tenant maintains for the group of restaurants operated by the Tenant, including the deductible amounts and amounts of coverages and coverages as therein contained.

10.03 All the foregoing policies shall be kept in good standing and in full force and effect at all times throughout the Term, shall be reviewed annually by the Tenant to ensure that they are up to date, and shall be in a form and with insurers acceptable to the Landlord. All the foregoing policies shall contain a waiver of any right of subrogation or recourse by the Tenant's insurers against the Landlord or the Landlord's mortgagees, their contractors, agents and employees, whether or not any loss is caused by the act, omission or negligence of the Landlord, its mortgagees, their contractors, agents or employees. The Tenant shall obtain undertakings to the Landlord from its respective insurers that none of the foregoing policies shall be cancelled or allowed to lapse or materially changed, as against the Landlord or its

mortgagees until at least thirty days written notice has been given to the Landlord and its mortgagees to that effect. The Tenant shall provide the Landlord with a certificate of such insurance coverages, issued by its insurer, in the insurer's form, as evidence of compliance with its obligations to insure under this Lease, and the Tenant shall not be required to provide either the original or certified copies of the Tenant's blanket insurance policy to the Landlord.

10.04 If the Tenant fails to take out any of the foregoing insurance, or permits any such insurance to lapse, or fails to put such insurance in good standing promptly after the Landlord or its mortgagees have received notice of an intended cancellation or lapse and have notified the Tenant thereof, the Landlord or its mortgagees may place such insurance on the Tenant's behalf and the premiums payable for such insurance shall be payable by the Tenant to the Landlord or its mortgagees forthwith.

#### ARTICLE 11 - LANDLORD'S INSURANCE

11.01 The Landlord shall throughout the Term hereof keep in full force and effect the following insurance (collectively the "Landlord's Insurance"):

- (a) "all risks" rent and rental value insurance in an amount sufficient to replace all Minimum Rent, Percentage Rent and additional rent payable under the provisions of this Lease for an indemnity period of one year or such other period as the Landlord may determine; and
- (b) such insurance as may be available to it at reasonable cost under a standard extended form of fire insurance policy but excluding foundations and excavations and any property that the Tenant is obliged to insure and with such reasonable deductions and exclusions as would be carried by a prudent owner of a similar building, having regard to the size, age and location of the Building.

11.02 The Tenant covenants with the Landlord to pay to the Landlord as additional rent the costs to the Landlord of the Landlord's Insurance within thirty (30) days following written demand therefor by the Landlord.

11.03 The amount of any bill or account for Landlord's Insurance shall be apportioned between the Landlord and the Tenant where the Tenant is not in possession of the Leased Premises for the whole of the period covered by the amount of such bill or account.

11.04 The Tenant shall not be an insured under the policies with respect to the Landlord's Insurance, nor shall it be deemed to have any insurable interest in the property covered by such policies, or any other right or interest in such policies or their proceeds.

11.05 If the occupancy of the Leased Premises, the conduct of business in the Leased Premises, or any acts or omissions of the Tenant in the Building or any part thereof, causes or results in any increase in premiums for the insurance carried from time to time by the Landlord with respect to the Building, the Tenant shall pay any such increase in premiums, as additional rent, forthwith after invoices for such additional premiums are rendered by the Landlord. In determining whether increased premiums are caused by or result from the use and occupancy of the Leased Premises, a schedule issued by the organization computing the insurance rate on the Building showing the various components of such rate shall be conclusive evidence of the several items and charges which make up such rate. The Tenant shall comply promptly with all requirements and recommendations of the

Insurer's Advisory Organization of Canada (or any successor thereof) or of any insurer now or hereafter in effect, pertaining to or affecting the Leased Premises.

11.06 If any insurance policy upon the Building or any part thereof shall be cancelled or shall be threatened by the insurer to be cancelled, or the coverage thereunder reduced in any way by the insurer by reason of the use and occupation of the Leased Premises or any part thereof by the Tenant or by any assignee or subtenant of the Tenant, or by anyone permitted by the Tenant to be upon the Leased Premises, and if the Tenant fails to remedy the conditions giving rise to the cancellation, threatened cancellation or reduction of coverage within forty-eight (48) hours after notice thereof by the Landlord, the Landlord may, at its option, either: (a) re-enter and take possession of the Leased Premises forthwith by leaving upon the Leased Premises a notice in writing of its intention so to do and thereupon the Landlord shall have the same rights and remedies as contained in Article 22 hereof; or (b) enter upon the Leased Premises and remedy the conditions giving rise to such cancellation, threatened cancellation or reduction, and the Tenant shall forthwith pay the cost thereof to the Landlord, which cost may be collected by the Landlord as additional rent and the Landlord shall not be liable for any damage or injury caused to any property of the Tenant or of others located on the Leased Premises as a result of such entry. The Tenant agrees that any such entry by the Landlord is not a re-entry or a breach of any covenant for quiet enjoyment contained in this Lease.

#### ARTICLE 12 - DAMAGE AND DESTRUCTION

12.01 If the Leased Premises or any portion thereof are damaged or destroyed by fire or by other casualty against which the Landlord is insured, rent shall abate in proportion to the area of that portion of the Leased Premises which, in the reasonable opinion of the Landlord, is thereby rendered unfit for the purposes of the Tenant until the Leased Premises are repaired and rebuilt, and the Landlord shall repair and rebuild the Leased Premises. The Landlord's obligation to repair and rebuild shall not include the obligation to repair and rebuild any chattel, fixture, leasehold improvement, installation, addition or partition in respect of which the Tenant is required to maintain insurance hereunder or any other property of the Tenant. Rent shall recommence to be payable one (1) day after the Landlord notifies the Tenant that the Tenant may occupy the Leased Premises.

12.02 Notwithstanding section 12.01, if the Leased Premises or any portion thereof are damaged or destroyed by any cause whatsoever and cannot, in the reasonable opinion of the Landlord, be rebuilt within 180 days of the damage or destruction, the Landlord instead of rebuilding the Leased Premises may terminate this Lease by giving to the Tenant within 30 days after such damage or destruction notice of termination and thereupon rent and other payments hereunder shall be apportioned and paid to the date of such damage or destruction and the Tenant shall immediately deliver up vacant possession of the Leased Premises to the Landlord.

12.03 Notwithstanding sections 12.01 and 12.02, in the event of damage or destruction occurring by reason of any cause in respect of which proceeds of insurance are substantially insufficient to pay for the costs of rebuilding the Building or the Leased Premises, the Landlord may terminate this Lease on written notice to the Tenant.

#### ARTICLE 13 - EXPROPRIATION

13.01 If during the Term the whole of the Leased Premises shall be expropriated or such portion of the Leased Premises as renders the remainder unsuitable or

impracticable for the purposes intended in this Lease shall be expropriated, upon possession being required all rentals shall be paid up to that date and both the Landlord and the Tenant will have their separate and distinct claims against the expropriating authority in such manner as may be provided in law, and neither shall have a claim against the other for the termination of the Lease or the shortening of the Term of the Lease.

13.02 In the event of any expropriation of part of the Leased Premises that does not render the remainder unsuitable or impracticable for the purposes intended in this Lease there shall be no abatement of rent or other charges under this Lease and both the Landlord and the Tenant will have their separate and distinct claims against the expropriating authority in such manner as may be provided in law, and neither shall have a claim against the other of any type or kind.

#### **ARTICLE 14 - INSPECTION OF PREMISES BY LANDLORD**

14.01 Landlord shall have the right to enter the Leased Premises at all reasonable times on reasonable notice to the Tenant for the purpose of:

- (a) making any repairs to the Leased Premises and performing any work therein that may be necessary by reason of the Tenant's default under the terms of this Lease continuing beyond any applicable grace periods;
- (b) exhibiting the Leased Premises (within three (3) months prior to the expiration of the Term of this Lease or any renewal thereof to prospective tenants and (at any time during the Term) to prospective purchaser's and mortgagees; and
- (c) viewing the state of repair of the Leased Premises.

14.02 Landlord shall have the right to enter the Leased Premises at any time in the event of an emergency.

#### **ARTICLE 15 - LOSS OR DAMAGE, INDEMNITY**

15.01 The Landlord, its contractors, agents and employees shall not be liable for any death, injury, or damage to or loss of property, of the Tenant, its employees, agents, or invitees occurring in or about the Leased Premises, unless such death, injury, damage or loss resulted from the negligence of the Landlord, its contractors, agents or employees or other persons for whom it may be responsible. All property of the Tenant within the Leased Premises shall be at the risk of the Tenant only.

15.02 The Tenant shall, during the Term, indemnify and save harmless the Landlord from any and all liabilities, damages, costs, claims, suits or actions incurred by it as a result of or arising out of:

- (a) any breach, violation or non-performance of any covenants, condition or agreement in this Lease set forth and contained, on the part of the Tenant to be fulfilled, kept and observed and performed;
- (b) any damage to property occasioned by the Tenant's use and occupation of the Leased Premises; and
- (c) any injury to person or persons, including death, resulting at any time therefrom occurring in or about the Leased Premises and/or on the sidewalks and laneways or streets adjacent to same, unless the same is

caused by the negligence of the Landlord, its servants or agents or others for whom it is in law responsible.

#### **ARTICLE 16 - LANDLORD MAY CURE TENANTS DEFAULTS**

16.01 If the Tenant shall default in the performance of any of the terms, covenants and conditions of this Lease, the Landlord, after fifteen (15) days' notice to the Tenant specifying such default, or without notice if, in the reasonable exercise of the Landlord's judgment, an emergency exists, may but shall not be obligated to perform the same for the account and at the expense of the Tenant and the amount of any payments made or expenses incurred by the Landlord for such purpose, shall become due and payable by the Tenant as additional rent with the next or any subsequent instalment of rent which shall become due after such expenditure by the Landlord; but any such expenditure by the Landlord shall not be deemed to waive or relieve the Tenant's default or the right of the Landlord to take such action as may be permissible under the terms of this Lease in the event of such default. When no emergency exists, the provisions of this Article shall be inapplicable if, within fifteen (15) days after such notice by the Landlord, the Tenant shall have cured such default or shall have commenced and is, diligently proceeding to cure same.

#### **ARTICLE 17 - CONSTRUCTION LIENS**

17.01 If any construction or other liens or order for the payment of money shall be filed against the Leased Premises by reason of or arising out of any labour or material furnished to the Tenant or to anyone claiming through the Tenant, the Tenant within thirty (30) days after notice to the Tenant of the filing thereof shall cause the same to be discharged by bonding, deposit, payment, court order or otherwise. The Tenant shall defend all suits to enforce such lien, or orders, against the Tenant, at the Tenant's sole expense. The Tenant hereby indemnities the Landlord against any expense or damage as a result of such liens or orders.

17.02 Notwithstanding anything contained in this Lease, the Landlord and the Tenant agree that the Landlord has not, nor is it intended by any provisions of this Lease, waived the right to receive any notice required to be given the Landlord by any person doing work or supplying materials to the Tenant pursuant to the provisions of the Construction Lien Act.

#### **ARTICLE 18 - WAIVERS, CUMULATIVE REMEDIES, ETC.**

18.01 The specific remedies to which Landlord may resort under the provisions of this Lease are cumulative and are not intended to be exclusive of any other remedies or means or redress to which it may be lawfully entitled in case of any breach or threatened breach by the Tenant of any of the terms, covenants and conditions of this Lease. The failure of the Landlord to insist upon the strict performance of any of the terms, covenants and conditions of this Lease, or to exercise any right or remedy herein contained, shall not be construed as a waiver or relinquishment for the future of such terms, covenants and conditions. In addition to the other remedies in this Lease provided, the Landlord shall be entitled to the restraint by injunction of the violation or attempted or threatened violation of any of the terms, covenants and conditions of this Lease or to a decree, in any court having jurisdiction of the matter, compelling performance of any such terms, covenants and conditions.

#### ARTICLE 19 - INVALIDITY OF PARTICULAR PROVISIONS

19.01 If any term or provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such terms or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

#### ARTICLE 20 - ALTERATIONS AND ADDITIONS

20.01 The Tenant shall not make any repairs, alterations, replacements or improvements to the structure, any perimeter or bearing wall or alterations, replacements or improvements to the sprinkler system, or the heating, ventilating, air-conditioning, plumbing, electrical or mechanical equipment of the Leased Premises or the Building without obtaining the Landlord's prior written approval, which approval may not be unreasonably or arbitrarily withheld, but may be given on such conditions as the Landlord reasonably imposes. With any such request, the Tenant shall submit to the Landlord details of the proposed work, including drawings and specifications prepared by qualified architects or engineers, if the Landlord shall so require, and conforming to good construction practice. The Tenant will pay the Landlord's reasonable out-of-pocket expenses for consulting services in connection with the Landlord's consideration of any request for approval under this section. Any such repairs, alterations, replacements or improvements shall comply with all applicable laws, by-laws, regulations, and orders enacted or made by any federal, provincial or municipal authority having jurisdiction, and the Landlord's fire insurance underwriters. The Tenant shall at its own expense obtain all requisite building and other permits.

20.02 The Tenant shall indemnify the Landlord and save it harmless from any costs, expenses, damages or increased insurance premiums which may result from the performance of any work (whether or not the Landlord's approval was required or obtained under section 20.01).

20.03 Provided the Tenant obtains all necessary permits and approvals from all authorities having jurisdiction, and provided the Tenant's signage does not conflict with the Landlord's signage criteria for the Building, the Tenant shall have the right to install and use such signage as is used and installed by the Tenant in its other retail locations in the Province of Ontario, and to use those trademarks, names, logos and other registerable marks as may from time to time be used by the Tenant in its business operations. The Tenant shall also have the right to install and use its standard illuminated menu board within the Leased Premises.

#### ARTICLE 21 - ASSIGNMENT AND SUBLETTING

21.01 The Tenant shall not assign, sublet, transfer, set over, mortgage, charge, hypothecate, create any security interest in, or part with possession of, all or any part of the Leased Premises or of this Lease (a "Transfer"), without the prior written consent of the Landlord in each instance, which consent may not be unreasonably withheld. With any request for consent, the Tenant shall submit information as to the financial background, financial status, and business history of the party who is to acquire an interest in the Tenant or in this Lease or the Leased Premises (the "Transferee") and such other information as the Landlord may reasonably request in connection with such request for consent.

21.02 Any consent by the Landlord under this Article shall not constitute a waiver of the necessity for such consent on any subsequent occasion requiring consent, and



shall not relieve the Tenant from any of its obligations to pay rent or perform the covenants contained in this Lease. Notwithstanding any Transfer, the Tenant shall not be relieved of liability by any subsequent amendment of the terms hereof between the Landlord and the assignee or any granting of time, renewals, extensions, indulgences, releases, discharges or other arrangements with the assignee. If this Lease is disclaimed or terminated by any trustee in bankruptcy of any assignee of this Lease, the original tenant named in this Lease shall, if requested by the Landlord within thirty days of such disclaimer or termination, enter into a lease with the Landlord upon the same terms and conditions as contained herein except for the duration of term, which shall expire on the date this Lease would have expired save for such disclaimer or termination. Any assignment or other document effecting a transaction to which the Landlord's consent is required shall be in a form satisfactory to the Landlord. Any assignment or sublease shall at the Landlord's option be on the Landlord's form and shall in any event contain a covenant by the Transferee with the Landlord that it will observe and perform all of the Tenant's obligations contained in this Lease. Any such document shall be reviewed by the Landlord or its solicitors or prepared by them at the expense of the Tenant.

21.03 The Landlord's consent to any Transfer shall be subject to the condition that if the minimum rent and additional rent to be paid by the Transferee under such Transfer exceeds the Minimum Rent, Percentage Rent and additional rent payable under this Lease, the amount of any excess shall be paid by the Tenant to the Landlord. If the Tenant receives from any Transferee, either directly or indirectly, any consideration other than rent and additional rent for such Transfer, either in the form of cash, goods or services (other than the proceeds of any bona fide financing as the result of a Transfer involving a mortgage, charge or similar security interest in this Lease) the Tenant shall forthwith pay to the Landlord an amount equivalent to such consideration. The Tenant and the Transferee shall execute any agreement required to give effect to the foregoing term.

21.04 Notwithstanding subsections 21.01, 21.02 and 21.03 herein, provided the Tenant shall remain liable for its covenants under this Lease, upon prior written notice given to the Landlord, but without having to obtain the Landlord's prior written consent, the Tenant shall have the right to assign the Lease or sublet the Leased Premises, including any options to renew or other rights benefiting the Tenant, without any increased rental or fee, to any of the following:

- (a) to any corporation or partnership which is now or in the future affiliated or associated with the Tenant or any holding body corporate or subsidiary body corporate (as those terms are defined pursuant to the Ontario Business Corporations Act) of the Tenant or any of Yum! Brands Canada Management Holding Inc., Scott's Restaurants Inc., SRI Realty Inc. and SRI Realty (No. 2) Inc. (the "Related Companies") or to a franchisee of any of the foregoing;
- (b) to any corporation formed as a result of a merger or amalgamation of the Tenant or any of the Related Companies with another corporation or corporations;
- (c) to any person, corporation or entity who is purchasing a majority in the Province of Ontario of the Tenant's other similar businesses as the business being operated on the Leased Premises; and
- (d) to a party that is a franchisee, licensee or concessionaire entitled to carry on the permitted use, so long as the same business is operated and the franchisee, licensee or concessionaire agrees to be bound by, perform and observe all of the terms, conditions and agreements of the Lease.

**ARTICLE 22 - DEFAULT AND REMEDIES**

22.01 If any of the following shall occur:

- (a) if the Tenant shall fail to pay any rent or other sums due hereunder when due, and if such rent or other sums are not paid within five days after notice is given by the Landlord of such non-payment;
- (b) if the Tenant does not observe, perform and keep each and every of the covenants, provisions, stipulations, conditions, rules and regulations and other terms herein contained to be observed, performed and kept by the Tenant, and, where the breach can be rectified, such non-observance or non-performance shall continue for fifteen days after notice is given by the Landlord requiring that the Tenant rectify the breach, except where rectifying the breach would reasonably require more than fifteen days and the Tenant has commenced rectification in good faith within the fifteen day period and thereafter promptly, diligently and continuously proceeds with rectification of the breach;
- (c) if the Tenant shall abandon the Leased Premises, or make a bulk sale of its goods or sell the business conducted at the Leased Premises, or move, or commence, attempt or threaten to move any of its goods, chattels and equipment out of the Leased Premises (other than in the ordinary course of its business);
- (d) if a writ of execution shall issue against the Tenant, or if the Term hereby granted or any of the goods, chattels or equipment of the Tenant shall be taken in execution or attachment or be seized by any creditor of the Tenant, whether secured or otherwise;
- (e) if the Tenant shall become insolvent or commit an act of bankruptcy or become bankrupt or take the benefit of any Act that may be in force for bankrupt or insolvent debtors, or become involved in voluntary or involuntary winding up proceedings, or if a receiver shall be appointed by the Court or by any creditor for the business, property, affairs or revenues of the Tenant;

then, and in every such case, the Landlord may, in addition to any other rights or remedies it may have under other provisions of this Lease or by law, at its option exercise all or any of the following remedies:

- (f) The Landlord may perform any obligation which the Tenant should have performed or cause the same to be performed and for such purpose may enter upon the Leased Premises and do such things thereon as the Landlord may consider requisite without effecting a termination of this Lease.
- (g) The Landlord may enter the Leased Premises and dist: rain upon the goods and chattels of the Tenant, or may remove and sell the goods, chattels and equipment of the Tenant without any notice or form of legal process, any rule of law to the contrary notwithstanding, and the Landlord may seize and sell the goods and chattels and the equipment, whether they are within the Leased Premises or at any place to which the Tenant or any other person may have removed them in the same manner as if they had remained and been distrained upon in the Leased Premises, and the Landlord may follow the goods and chattels for the maximum period permitted by law, and any sale by the Landlord may, in its sole discretion, be effected by public auction or private contract and either in bulk or by individual items, or partly by one means and partly by the other.

- (h) The Landlord may remove the goods, chattels, equipment and fixtures of the Tenant from the Leased Premises and store them in a public warehouse or elsewhere at the cost of and for the account of the Tenant.
- (i) In order to relet, the Landlord may take possession of the Leased Premises as agent of the Tenant and effect such alterations and repairs as it may deem necessary or advisable for the purpose of such reletting, and it may relet the Leased Premises or any part thereof for such term or terms (which may be for a term extending beyond the Term) and at such rental or rentals and upon such other terms and conditions as the Landlord, in its sole discretion, may deem advisable. Upon such reletting, all rentals received by the Landlord from such reletting shall be applied, first to the payment of the Landlord's costs and expenses of such reletting and costs of such alterations and repairs; second to the payment of any indebtedness other than rent due from the Tenant to the Landlord; third to the payment of arrears of rent and other sums owing hereunder; fourth to the payment of rent and other sums owing hereunder as such fall due; and the residue, if any, shall be held by the Landlord without interest until the end of the Term and applied from time to time in payment of rent and other sums owing hereunder as the same may become due and payable, and any residue remaining at the end of the Term shall be held for the Tenant. No such reletting, nor the receipt of any such rentals from any new tenant, nor the creation of the relation of landlord and tenant between the Landlord and any party to whom the Leased Premises may have been relet, shall have the effect of exonerating the Tenant from its obligations to pay rent hereunder as it falls due or of in any way terminating this Lease.
- (j) The Landlord may terminate this Lease by commencing an action for possession or for termination of the Lease or by notice to the Tenant. Such termination may be effected either at or after the time of the breach or at any later time and notwithstanding that the Landlord may have exercised any of its other remedies including that set out under subsection (i) hereof. In the event that the Landlord or anyone claiming under it or to whom it has rented the Leased Premises is in possession under the provisions of subsection (i) hereof, the Landlord may at any time terminate this Lease by notice to the Tenant and thereafter any then existing or later lease of the Leased Premises shall be for the account of the Landlord notwithstanding that such lease may originally have been entered into as agent for the Tenant. If the Landlord enters the Leased Premises without notice to the Tenant as to whether it is terminating this Lease under subsection (i) or proceeding under subsection (i) or any other provision of this Lease, the Landlord shall be deemed to be proceeding under subsection (i) and the Lease shall not be terminated, nor shall there be any surrender by operation of law, but the Lease shall remain in full force and effect until the Landlord notifies the Tenant that it has elected to terminate this Lease. No entry by the Landlord during the Term shall have the effect of terminating this Lease without notice to that effect to the Tenant.
- (k) The Landlord shall be entitled to damages from the Tenant for breach of this Lease.
- (l) At the option of the Landlord, in the case of the events stated in (d) or (e) above occurring, the full amount of the current month's rent and the next ensuing three months' rent shall accelerate and shall immediately become due and payable.

- (m) On any termination for default, all fixtures, Tenant's improvements or other installations in the Leased Premises, which in law are fixtures or a part of the realty or are attached, affixed to or incorporated into or with the immoveable properties situated in or upon the Building or the Leased Premises, and which are not the property of the Landlord, shall at the Landlord's option forthwith become the property of the Landlord, and whether or not such fixtures are in the nature of Tenant's trade fixtures, and whether or not they would be removable by the Tenant at the expiry of the Term if there had been no default.

22.02 Notwithstanding any provision to the contrary in this Lease, the Tenant shall not be obligated to conduct its business operations on the Leased Premises continuously or in a continuous and uninterrupted manner. In the event that the Tenant elects not to so operate its business on the Leased Premises, it is acknowledged and agreed that the Tenant shall still be bound by all of the other applicable terms and covenants of this Lease, save and except that there shall be no default under this Lease as a result of the Tenant's cessation of business operations on the Leased Premises.

22.03 Whenever the Landlord takes any proceedings, sends any notices, does any work, or otherwise incurs any expense or trouble or takes any action with respect to any default by the Tenant, and whether or not legal proceedings are begun or considered in consequence of such default, and whether or not this Lease is terminated, the Landlord shall be entitled to be paid by the Tenant forthwith on demand in addition to any other amounts which may be payable or owing hereunder, all of the following:

- (a) the cost of effecting any repairs or performing any obligation of the Tenant, together with an allowance of fifteen per cent (15%) for the Landlord's overhead and supervision;
- (b) the Landlord's costs and expenses in preparing the Leased Premises for reletting in such manner as in its sole discretion it deems necessary or advisable, together with an allowance of fifteen per cent (15%) for the Landlord's overhead and supervision;
- (c) the Landlord's Court costs, collection costs, and legal fees as between a solicitor and his own client and all judicial and extra-judicial fees of advocates and notaries;
- (d) interest on rent or any other amounts overdue under the terms of this Lease and on any monies expended by the Landlord in consequence of any default by the Tenant at the rate of eighteen per cent (18%) per annum;
- (e) a charge of fifty dollars (\$50.00) for each cheque of the Tenant which is returned to the Landlord because of insufficient funds in the Tenant's account; and
- (f) any other costs, charges or expenses, which the Landlord incurs or to which it is put, and which would not have been necessary at the time at which they were incurred but for the default of the Tenant.

22.04 Notwithstanding anything contained in any statute at the present time or in the future in force, the Tenant hereby agrees with the Landlord that none of the Tenant's goods or chattels on the Leased Premises at any time during the Term shall be exempt from levy by distress for rent and other costs and charges payable hereunder in arrears, and that the Landlord may follow the Tenant's goods or chattels without limitation of time, and that on any termination of the Lease by the Landlord under the terms hereof, the Tenant shall have no right of redemption or relief from forfeiture, and that the Landlord may enter or take possession of the Leased Premises without judicial order, a writ of possession or any other legal

process, and without notice to the Tenant except as provided under this Lease. The Tenant hereby waives all and every benefit that could or might have accrued to the Tenant, but for this section, by virtue of any present or future statute dealing with the matters set out in this section. The Tenant agrees that upon any claim being made for an exemption from levy by distress, or for a right of redemption or relief from forfeiture, or that the Landlord must proceed by judicial process to obtain possession, or with respect to any of the other rights dealt with herein, this section of this Lease may be pleaded as an estoppel against the Tenant in any action brought in which the rights of the Landlord to take the steps set out in this section are in question.

#### ARTICLE 23 - FINANCING AND ASSIGNMENT BY LANDLORD

23.01 Within ten days after written request therefor by the Landlord, the Tenant shall deliver, in a form supplied by the Landlord, a certificate and acknowledgement to any proposed mortgagee or purchaser, or the Landlord, certifying (if such be the case) that this Lease is in full force and effect (or if there have been amendments, that the Lease is in full force and effect as amended and identifying the amending agreements), the commencement date and Term of the Lease, the dates to which rent and other charges have been paid and whether the Tenant has made any prepayments thereof, whether there is any existing default by the Landlord or the Tenant or any set-offs or claims by the one against the other, and whether there is any work remaining to be done by the Landlord within or to the Leased Premises, and shall provide, promptly upon availability and in any event within 120 days after the end of each fiscal year of the Tenant, a copy of its financial statements prepared by a chartered accountant in accordance with GAAP and, as the Landlord may reasonably request, the financial statements shall be audited by an independent firm of chartered accountants. The Tenant shall, on the request of the Landlord, acknowledge in writing receipt of any notice of assignment of this Lease by the Landlord.

23.02 This Lease and all the rights of the Tenant hereunder are and shall at all times be subject and subordinate to any and all mortgages, trust deeds, charges, liens or (other security instruments or rights granted or placed on the Lands and Building or any part thereof by the Landlord. Upon request of the Landlord from time to time, the Tenant shall within ten days of such request execute such documents or assurances in such form as the Landlord or its lenders may require to subordinate this Lease to such security and all advances made or to be made upon the security thereof, and if requested, attorning to the holder thereof provided that the said lender first enters into a non-disturbance agreement with the Tenant in form and substance satisfactory to the Tenant acting reasonably.

23.03 In the event of a sale or lease by the Landlord of all of the Leased Premises, or the assignment by the Landlord of this entire Lease, and to the extent that any purchaser, lessee or assignee of the Landlord has, by an instrument entered into with the Landlord, assumed the covenants and obligations of the Landlord hereunder, the Landlord shall without further written agreement or instrument and without notice to the Tenant be freed and released from liability upon the covenants and obligations contained in this Lease.

#### ARTICLE 24 - NOTICE

24.01 Any notice to be given by the provisions of this Lease shall be sufficiently given if served personally or if mailed postage prepaid at any Post Office in Canada in a registered letter:

- (a) if to the Landlord, addressed to the Landlord at:

Canada Trust Tower  
BCE Place  
161 Bay Street  
Suite 2300  
Toronto, Ontario  
M5J 2S1

Attention: Lilly Di Massimo

Facsimile: 416-361-6018

(b) if to the Tenant, addressed to the Tenant at:

101 Exchange Avenue  
Vaughan, Ontario  
L4K 5R6

Attention: Peter Walkey

Facsimile: (416) 361-6018

or to such other address as the party concerned shall have notified the other in writing. Any notice so mailed shall be held conclusively to have been given 72 hours after such mailing provided however that if at the time of such mailing a mail strike is in progress which affects the delivery of such notice, such notice shall not be deemed to have been received until it is actually received. Either party may from time to time by notice to the other change the address to which notices are to be given.

#### **ARTICLE 25 - SURRENDER OF PREMISES - OWNERSHIP OF IMPROVEMENTS**

25.01 The Tenant, upon expiration of the Term or earlier termination of this Lease, shall peaceably and quietly surrender the Leased Premises and any improvements thereon in accordance with this Article 25 and in good order, repair and condition.

25.02 The Tenant shall on any surrender of possession of the Leased Premises have the right (but not the obligation) to remove such of its trade fixtures, other fixtures, leasehold improvements and equipment which are incorporated into, affixed or attached to and which have become a part of the Lands and Building, including such trade fixtures and leasehold improvements which identify the Leased Premises as any particular outlet, and in effecting such removal, shall do no damage to the Leased Premises or any parts of the Lands and Building. Any leasehold improvements, equipment and fixtures which are not removed by the Tenant shall on surrender of possession by the Tenant become the sole and exclusive property of the Landlord without payment to the Tenant. For greater certainty, the Landlord acknowledges that the Tenant shall not be required to remove the interior partitions, drywall, storefront and bulkhead from the Leased Premises.

25.03 When not in default at the expiration of the Term, or at any time during the term if not in default and in the ordinary course of business, the Tenant may remove the Tenant's trade fixtures, inventory and trade articles provided the Tenant makes good any damage in so doing.

25.04 As of the Commencement Date, the Tenant surrenders to the Landlord the Former Leases with the intent that the unexpired residue of the term and any renewals or extensions thereof shall be merged and extinguished in the reversion. The Landlord shall accept this surrender of the Former Leases as of the date hereof.

Notwithstanding this surrender, both parties covenant and agree that they remain obligated to perform their respective obligations under the Former Leases up to the Commencement Date.

#### **ARTICLE 26 - QUIET ENJOYMENT**

26.01 The Landlord covenants with the Tenant that if the Tenant pays the rents hereby reserved and performs its covenants and obligations herein contained, the Tenant may peaceably possess and enjoy the Leased Premises for the Term without interruption or disturbance from the Landlord or any other person lawfully claiming by from or under it.

#### **ARTICLE 27 - CONDITION OF PREMISES**

27.01 The Tenant acknowledges and agrees that it is leasing the Leased Premises on an "as is where is " basis and that there are no representations or warranties with respect to the Leased Premises.

#### **ARTICLE 28 - MISCELLANEOUS**

28.01 The parties acknowledge and agree that this is a lease of three (3) separate properties each with their own municipal address, legal description, and rent. Where applicable, the terms of this Lease shall be interpreted as if they apply to each separate property individually.

#### **28.02 INTENTIONALLY DELETED**

28.03 If the Tenant shall remain in occupation of the Leased Premises after the expiry of the Term hereby granted and any renewal thereof hereby granted, with or without the consent of the Landlord and without any further written agreement, the Tenant shall be a monthly tenant at a monthly rental herein reserved and otherwise on the terms and conditions herein set forth, except as to the length of tenancy.

28.04 All waivers made by the Landlord shall be in writing and no waiver by the Landlord of any default made by the Tenant under this Lease shall be construed as a waiver of any other default which has been made or which may thereafter be made by the Tenant unless so specified in writing. No surrender of this Lease by the Tenant shall be valid unless accepted in writing by the Landlord.

28.05 This Lease contains the entire agreement between the parties relating to the Leased Premises and shall not be modified in any manner except by an instrument in writing executed by the parties and this Lease shall supercede and replace any and all existing leases or agreements to lease between the parties with respect to the Leased Premises.

28.06 The captions herein are for convenience and reference only and in no way define, limit or describe the scope or intent of this Lease nor in any way affect this Lease.

28.07 This Lease is subject to the condition that it is to be effective only on obtaining such consents, if any, as may be required under the Planning Act. The Landlord covenants and agrees to apply and proceed diligently at its expense to obtain any necessary consent to this Lease.

28.08 The covenants, agreements, terms, provisions and conditions of this Lease shall be binding upon and enure to the benefit of the Landlord and the Tenant and their successors and permitted assigns.

28.09 The Tenant shall not register this Lease in full against the title to the Lands. The Tenant may register the minimum notice or memorial of lease required to give notice of its interest under the applicable registration statute with the written consent of the Landlord, such consent not to be unreasonably withheld.

28.10 Without limiting the generality of anything else herein contained, the parties agree that upon expiration of the Term or any renewal thereof, or any earlier termination of this Lease, the Tenant's right of possession shall cease and terminate, but the obligations of the parties with respect to any item of rent or covenants not performed at the date of such expiration, any indemnification, or any other obligations which, by their nature are not completely performed prior to such expiration, shall remain in full force and effect until satisfied. It is agreed, however, that in no event shall the Tenant have any interest in or right to possession of the Leased Premises or any part of the Lands or Building after the expiration of the Term or any renewal thereof, or any such earlier termination of this Lease.

28.11 Each of the Landlord and Tenant has full authority to enter into this Lease and to perform its obligations hereunder.

#### ARTICLE 29 - NET LEASE

29.01 The parties acknowledge and agree that it is intended that this Lease be a completely net net net and carefree lease to the Landlord, and that except as otherwise specifically provided herein, the Landlord is not responsible during the Term for any costs, charges, expenses and outlays of any nature arising from or relating to the Leased Premises or the use or occupancy thereof, and the Tenant shall pay all charges and expenses relating to the Leased Premises.

29.02 The parties acknowledge that nothing in this Lease has the effect of making the Tenant responsible for the Landlord's debt service costs (principal and interest) or the Landlord's income taxes capital taxes, value added taxes, business transfer taxes or other taxes personal to the Landlord.

29.03 The parties hereby confirm that the Original Lease remains in full force and effect and unamended except as expressly provided herein, without novation of the Original Lease.



IN WITNESS WHEREOF each of the parties hereto have duly executed this Lease.

**SCOTT'S TRUSTEE CORP., in its capacity as trustee of SCOTT'S GP TRUST, in its capacity as general partner of SCOTT'S REAL ESTATE LIMITED PARTNERSHIP**

By: *[Signature]*  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:  
I/We have the authority to bind the Corporation.

**KIT LIMITED PARTNERSHIP by its general partner, KIT INC.**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:  
I/We have the authority to bind the Corporation.

IN WITNESS WHEREOF each of the parties hereto have duly executed this Lease.

**SCOTT'S TRUSTEE CORP., in its capacity as trustee of SCOTT'S GP TRUST, in its capacity as general partner of SCOTT'S REAL ESTATE LIMITED PARTNERSHIP**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:  
I/We have the authority to bind the Corporation.

**KIT LIMITED PARTNERSHIP by its general partner, KIT INC.**

By:  \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:  
I/We have the authority to bind the Corporation.

## SCHEDULE "A"

**Store No. 1315, 829 St. Clair Avenue West, Toronto, Ontario**

Part Lot 5, Plan 1356 and Part Lot 1, Plan 1382, City of Toronto, more particularly described as follows:

FIRSTLY:

That part of Lot Five (5) on the south side of St. Clair Avenue according to a Plan filed in the Registry Office for the Registry Division of Toronto (No. 63) (formerly in the Registry Division of West Toronto), as Plan Number 1356 lying south of the southerly limit of St. Clair Avenue as widened by By-law of the Corporation of the City of Toronto.

SECONDLY:

Lot Number One (1) according to registered Plan No. 1382, registered in the Registry Office for the Registry Division of Toronto (No. 63) (formerly in the Registry Office for the Registry Division of West Toronto), (excepting thereout the northerly ten feet (10') of the said lot, conveyed to the Corporation of the City of Toronto widening St. Clair Avenue), together with a right-of-way over the easterly fifty feet (50') of the northerly one foot six inches (1'6") of Lot Number Two (2) according to said Plan.

Subject to a right-of-way over the southerly one foot six inches (1'6") of the said Lot Number One (1), the said two rights-of-way forming a common passageway for the owners and occupants from time to time of the said Lots One (1) and Two (2).

The south side of St. Clair Avenue West as confined by Boundary Plan No. B.A. 1737 registered May 12, 1980 as Instrument No. CT41 1684.

As described in Instrument No. CA420350.

**Store No. 1329,415 Mount Pleasant Road, Toronto, Ontario**

PIN: 2 1125-0205 (LT)

Parcel 36-2, Section M-121, being Part of Lot 36, East Side of Alberta Crescent, Plan M-1 21, City of Toronto

**Store No. 1442,850 Wellington Road South, London, Ontario**

PIN: 08493-0003 (LT)

Part of Lot 25, Concession 2, designated as Parts 1,2 and 3, Plan 33R-1'544, City of London, County of Middlesex, as in 564818

SCHEDULE "B"

Municipal Address	Rent Payable
829 St. Clair Avenue West, Toronto	<p>during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$81,093.48 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,757.79, in advance</p> <p>during the sixth through tenth years of the Term from October 1, 2007 until September 20, 2012 the sum of \$85,148.15 of lawful money of Canada in twelve (12) equal monthly instalments of \$7,095.68</p> <p>during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$89,405.56 of lawful money of Canada in twelve (12) equal monthly instalments of \$7,450.56, in advance</p>
415 Mount Pleasant Road, Toronto	<p>(a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$74,043.84 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,170.32, in advance.</p> <p>(b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$77,746.03 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,478.84</p> <p>(c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$8 1,633.33 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,802.78, in advance</p>
850 Wellington Road South, London	<p>(a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$98,044.08 of lawful money of Canada in twelve (12) equal monthly instalments of \$8,170.34, in advance</p> <p>(b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$102,946.28 of lawful money of Canada in twelve (12) equal monthly instalments of \$8,578.86</p>

	<p>(c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$108,093.60 of lawful money of Canada in twelve (12) equal monthly instalments of \$9,007.80, in advance</p>
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THIS AMENDED AND RESTATED LEASE made as of the 6<sup>th</sup> day of October, 2005.

IN PURSUANCE OF THE SHORT FORMS OF LEASES ACT.

BETWEEN :

SCOTT'S REAL ESTATE LIMITED PARTNERSHIP  
(hereinafter called the "Landlord"),  
OF THE FIRST PART;

- and -

KIT LIMITED PARTNERSHIP  
(hereinafter called the "Tenant"),  
OF THE SECOND PART;

RECITALS:

WHEREAS Scott's Restaurants Inc. (the "Original Landlord") and Prizm Brandz LP, by its General Partner Prizm Brandz Inc. (the "Original Tenant") entered into a lease agreement (the "Original Lease") dated as of May 7, 2001 in respect of the Leased Premises (as defined herein);

AND WHEREAS the Original Lease was assigned by the Original Landlord to SRI Realty Inc. on or about August 13, 2001;

AND WHEREAS the Original Lease was assigned by the Original Tenant to the Tenant, by an assignment of leases dated as of November 10, 2003;

AND WHEREAS the Original Lease was assigned by SRI Realty Inc. to the Landlord, by an assignment of lease (the "Assignment Agreement") dated as of October 6, 2005;

AND WHEREAS the Landlord and the Tenant wish to amend and restate, without novation, the Original Lease to reflect the fact that, as between the Landlord and the Tenant, the leasing arrangements contemplated thereby now apply, *mutatis mutandis*, in respect of the Leased Premises;

NOW THEREFORE in consideration of the mutual agreements and covenants contained herein and the sum of \$10.00 (the receipt and adequacy of which are hereby acknowledged), the parties agree as follows:

ARTICLE 1 -DEFINITIONS

1.01 In this Lease the following words and terms shall have the following meanings respectively:

- (a) "Building" means the building and the other fixtures and improvements on each of the Lands.
- (b) "GST" means any business transfer tax, value added tax or goods and services tax presently or hereafter imposed from time to time upon the Landlord or the Tenant or in respect of this Lease and payable on

account of the rental of each of the Leased Premises or the Landlord's receipt of the rents and other amounts and charges hereunder.

- (c) "Landlord's Insurance" shall have the meaning attributed thereto in section 11.01.
- (d) "Lands" means each of the thirteen lands and premises as shown on Schedule "A" attached hereto, and more particularly described in Schedule "B" attached hereto.
- (e) "Lease" means this lease as executed by the Landlord and the Tenant.
- (f) "Leased Premises" means each of the Lands and Building.
- (g) "Property Taxes" means all taxes, rates, local improvement rates, impost charges, duties, assessments or levies which may be levied, rated, charged or assessed against each of the Lands and Building, whether real or personal, moveable or immovable, by any authority having jurisdiction, whether federal, provincial, municipal, school board, utility commission or other, and includes any taxes or levies which may be imposed on the Landlord or the Tenant or anyone else on account or in lieu thereof, whether or not forming a charge on each property itself, and any other taxes, rates, duties, assessments or levies which may hereafter be levied in lieu of, or of a nature similar to, the foregoing, and whether recurring annually, or at other intervals, or on a special or single instance only, but shall not include the Landlord's income taxes, capital tax, value added taxes, business transfer taxes or other taxes personal to the Landlord.
- (h) "Term" shall have the meaning attributed thereto in section 3.01.
- (i) "Transfer" shall have the meaning attributed thereto in Section 21.01.
- (j) "Transferee" shall have the meaning attributed thereto in Section 21.01.
- (k) "Utilities" means gas, fuel, electricity, light, heat, power, other forms of energy, sewage disposal service, garbage and trash removal, cable T.V. and telephone and other communication services used, rendered or supplied upon or in connection with each of the Leased Premises and "Utility" shall have a corresponding meaning.

#### ARTICLE 2 -DEMISE

2.01 In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord by these presents does demise and lease unto the Tenant for the Term, the Leased Premises.

#### ARTICLE 3 -TERM

3.01 The term of the Lease (the "Term") shall be for a period of fifteen years-and shall commence at 12.01 am on the 7<sup>th</sup> day of May, 2001 (the "Commencement Date"), to be fully completed at 11:59 pm on the 6<sup>th</sup> day of May, 2016.

#### ARTICLE 4 -RENT

4.01 Throughout the Term, the Tenant shall pay to the Landlord in each and every year, an annual minimum rent for each of the Leased Premises (the "Minimum Rent") yearly and every year during the within Term as set out in Schedule "C" attached hereto.



#### ARTICLE 5 - TAXES

5.01 The Tenant covenants with the Landlord to pay to the respective taxing authorities, subject to the provisions of Section 5.02, all Property Taxes as and when due. The Tenant covenants that it will upon the request of the Landlord forward to the Landlord copies of all receipted tax bills. All sums payable by the Tenant under this clause shall be apportioned for any calendar year during which the Tenant is not in possession of the Leased Premises for the full calendar year.

5.02 Notwithstanding anything contained in Section 5.01, the Tenant agrees that if at any time and from time to time the Landlord places a mortgage or other financial encumbrance on the Leased Premises and such mortgage or encumbrance requires monthly payments to be made with respect to the taxes and other charges required to be made pursuant to the provisions of Section 5.01, then, in such event, all such payments shall be paid by the Tenant to the mortgagee or encumbrancer rather than to the respective taxing authorities as additional rent on the date and in the amounts specified in such mortgage or encumbrance.

5.03 In any suit or proceeding affecting this Lease, a bill from the office, bureau, department or agency issuing bills for any of the Property Taxes shall be prima facie evidence of the amount thereof and that the same is or are due and payable.

5.04 In the event that the Tenant shall deem any of the Property Taxes illegal or excessive or otherwise subject to contest, it may, at its election, contest such imposition in the name of the Landlord or in its own name, but at the Tenant's expense; provided that nothing in this paragraph shall be construed to permit the Tenant to postpone its obligation to make the payments required under this Article.

5.05 The Tenant shall pay when due all taxes, rates, duties, assessments and other charges that may be levied, rated, charged or assessed against or in respect of all improvements, equipment, facilities on or in the Leased Premises and every tax and license fee in respect of any business carried on thereon or therein or in respect of the use or occupancy of the Leased Premises.

5.06 The Tenant covenants with the Landlord to pay to the Landlord the GST at the same time as rent is payable under Section 4.01 hereof. The Landlord shall have the same rights and remedies with respect to non-payment of GST as it does with respect to non-payment of rent.

#### ARTICLE 6 USE OF PREMISES

6.01 The Leased Premises shall be used by the Tenant for the purpose of conducting therein a sit down family type restaurant, drive-thru, take out and delivery fast food facility, or any combination thereof which may or may not be licensed to sell alcoholic beverages, or any other lawful use.

6.02 The Tenant shall not commit, cause or permit any nuisance or waste on the Leased Premises or permit the emission of any offensive substance, odor or noise from the Leased Premises.

6.03 The Tenant will not bring upon the Leased Premises or any part thereof, any machinery, equipment, article or thing that by reason of its weight, size, or use might, in the opinion of the Landlord, damage the Leased Premises and will not at any time overload the floors of the Leased Premises, the roof deck, the perimeter walls, ceilings, structural steel elements, overhead doors or the parking lots.

6.04 The Tenant will not install any equipment which would exceed or overload the capacity of the utility facilities in the Leased Premises or the electrical wiring and service in the Building or in the Leased Premises and agrees that if any equipment installed by the Tenant shall require additional utility facilities, same shall be installed, if available, and subject to the Landlord's prior written approval thereto (which approval may not be unreasonably withheld), at the Tenant's sole cost and expense in accordance with plans and specifications to be approved in advance by the Landlord, in writing.

#### **ARTICLE 7 -REPAIRS AND MAINTENANCE**

7.01 The Tenant shall repair the Leased Premises. Without limiting the generality of the foregoing, the Tenant's obligation to repair extends to matters notwithstanding that such may be commonly known as a repair of a capital or structural nature.

7.02 The Tenant shall provide normal day-to-day maintenance of the Leased Premises and will repair according to notice in writing. The obligations of the Tenant to provide normal day-to-day maintenance shall include, without limitation, snow removal for the Building, outside maintenance and gardening of the Building, pest control for the Building, painting and decorating, and maintenance of the parking lot.

#### **ARTICLE 8 -COMPLIANCE WITH LAWS**

8.01 The Tenant, at its own expense, shall comply promptly with and conform to the requirements of all applicable statutes, laws, by-laws, regulations, ordinances and order at any time in force during the term which affect the condition, equipment, maintenance, use or occupation of the Leased Premises, and with every applicable reasonable regulation, order and requirement of the Canadian Fire Underwriters Association or any body having similar functions or of liability or fire insurance company by which the Building may be insured by the Landlord or the Tenant at any time during the Term.

8.02 If the Tenant defaults under the provisions of this Article, the Landlord may itself comply with the requirements of this Article and the Tenant shall forthwith pay all costs and expenses incurred by the Landlord in so doing and all such costs and expenses shall be recoverable by the Landlord as additional rent.

#### **ARTICLE 9 -UTILITIES**

9.01 The Tenant shall make arrangements, at its own cost and expense, directly with the public service companies and private utilities supplying Utilities during and throughout the Term, and shall indemnify Landlord against any liability for any charges therefor.

9.02 The Tenant shall pay promptly when due all charges, costs, accounts and any other sums payable by reason of the supply of the Utilities.

9.03 The Tenant, at its own cost and expense, shall procure each and every permit, license or other authorization required during the Term, for lawful and proper installation upon the Building of wire, pipes, conduits, tubes and other equipment and appliances for use in supplying Utilities.

9.04 In no event shall the Landlord be liable for any injury to the Tenant, its employees, agents or invitees, or to the Leased Premises, or to any property of the Tenant or anyone else for any loss of profits or business interruption, indirect or consequential damages, or for any other costs, losses or damages of whatsoever kind arising from any interruption or failure in the supply of any Utility to the Leased Premises.

#### ARTICLE 10 -TENANT 'S INSURANCE

10.01 The Tenant shall throughout the Term hereof keep in full force and effect at its sole cost and expense in the names of the Tenant, the Landlord and the Landlord's mortgagees as their respective interests may appear,

- (a) all risks (including flood and earthquake) property insurance in an amount of at least one hundred percent (100%) of the full replacement cost, insuring (1) all property owned by the Tenant, or for which the Tenant is legally liable, or installed by or on behalf of the Tenant, and located within the Building including, but not limited to, fittings, installations, alterations, additions, partitions, and all other leasehold improvements, and (2) the Tenant 's inventory, furniture and movable equipment;
- (b) the repair and replacement of boilers, pressure vessels, air-conditioning equipment and miscellaneous electrical apparatus on a broad form blanket coverage basis;
- (c) public liability and property damage insurance including personal injury liability, contractual liability, non-owned automobile liability and owners' and contractors' protective insurance coverage with respect to the Leased Premises, coverage to include the activities and operations conducted by the Tenant and any other parties on the Leased Premises and by the Tenant and any other parties performing work on behalf of the Tenant and those for whom the Tenant is in law responsible. Such policies shall (1) be written on a comprehensive basis with inclusive limits of at least Two Million Dollars (\$2,000,000.00) for bodily injury for any one or more persons, or/property damage, (but the Landlord, acting reasonably, or the mortgagee may require higher limits from time to time) and (2) contain a severability of interests clause and cross liability clauses;
- (d) Tenant's legal liability insurance for the replacement cost of the Leased Premises;
- (e) any other form of insurance as the Landlord, or the Landlord's mortgagee reasonably require from time to time, in form, in amounts and for risks againstwhich a prudent tenant would insure.

10.02 Notwithstanding subsection 10.01 above, the Tenant shall be entitled to insure the Leased Premises, and the Tenant is business operations therein, under the Tenant's blanket insurance policy which the Tenant maintains for the group of restaurants operated by the Tenant, including the deductible amounts and amounts of coverages and coverages as therein contained.

10.03 All the foregoing policies shall be kept in good standing and in full force and effect at all times throughout the Term, shall be reviewed annually by the Tenant to ensure that they are up to date, and shall be in a form and with insurers acceptable to the Landlord. All the foregoing policies shall contain a waiver of any right of subrogation or recourse by the Tenant 's insurers against the Landlord or the Landlord's mortgagees, their contractors, agents and employees, whether or not any loss is caused by the act, omission or negligence of the Landlord, its mortgagees, their contractors, agents or employees. The Tenant shall obtain undertakings to the Landlord from its respective insurers that none of the foregoing policies shall be cancelled or allowed to lapse or materially changed, as against the Landlord or its mortgagees until at least thirty days written notice has been given to the Landlord and its mortgagees to that effect. The Tenant shall provide the Landlord with a certificate of such insurance coverages, issued by its insurer, in the insurer's form, as evidence of compliance with its obligations to insure under this Lease, and the Tenant shall not be required to provide either the original or certified copies of the Tenant's blanket insurance policy to the Landlord.

10.04 If the Tenant fails to take out any of the foregoing insurance, or permits any such insurance to lapse, or fails to put such insurance in good standing promptly after the Landlord or its mortgagees have received notice of an intended cancellation or lapse and have notified the Tenant thereof, the Landlord or its mortgagees may place such insurance on the Tenant 's behalf and the premiums payable for such insurance shall be payable by the Tenant to the Landlord or its mortgagees forthwith.

#### ARTICLE 11 -LANDLORD'S INSURANCE

11.01 The Landlord shall throughout the Term hereof keep in full force and effect the following insurance (collectively the "Landlord's Insurance"):

- (a) "all risks" rent and rental value insurance in an amount sufficient to replace all Minimum Rent, Percentage Rent and additional rent payable under the provisions of this Lease for an indemnity period of one year or such other period as the Landlord may determine;
- (b) such insurance as may be available to it at reasonable cost under a standard extended form of fire insurance policy but excluding foundations and excavations and any property that the Tenant is obliged to insure and with such reasonable deductions and exclusions as would be carried by a prudent owner of a similar building, having regard to the size, age and location of the Building.

11.02 The Tenant covenants with the Landlord to pay to the Landlord as additional rent the costs to the Landlord of the Landlord's Insurance within thirty (30) days following written demand therefor by the Landlord.

11.03 The amount of any bill or account for Landlord 's insurance shall be apportioned between the Landlord and the Tenant where the Tenant is not in possession of the Leased Premises for the whole of the period covered by the amount of such bill or account.

11.04 The Tenant shall not be an insured under the policies with respect to the Landlord 's Insurance, nor shall it be deemed to have any insurable interest in the property covered by such policies, or any other right or interest in such policies or their proceeds.

11.05 If the occupancy of the Leased Premises, the conduct of business in the Leased Premises, or any acts or omissions of the Tenant in the Building or any part thereof, causes or results in any increase in premiums for the insurance carried from time to time by the Landlord with respect to the Building, the Tenant shall pay any such increase in premiums, as additional rent, forthwith after invoices for such additional premiums are rendered by the Landlord. In determining whether increased premiums are caused by or result from the use and occupancy of the Leased Premises, a schedule issued by the organization computing the insurance rate on the Building showing the various components of such rate shall be conclusive evidence of the several items and charges which make up such rate. The Tenant shall comply promptly with all requirements and recommendations of the Insurer's Advisory Organization of Canada (or any successor thereof) or of any insurer now or hereafter in effect, pertaining to or affecting the Leased Premises.

11.06 If any insurance policy upon the Building or any part thereof shall be cancelled or shall be threatened by the insurer to be cancelled, or the coverage thereunder reduced in any way by the insurer by reason of the use and occupation of the Leased Premises or any part thereof by the Tenant or by any assignee or subtenant of the Tenant, or by anyone permitted by the Tenant to be upon the Leased Premises, and if the Tenant fails to remedy the conditions giving rise to the cancellation, threatened cancellation or reduction of coverage within forty-eight (48) hours after notice thereof by the Landlord, the Landlord may, at its option, either: (a) re-enter and take possession of the Leased Premises forthwith by leaving upon the Leased Premises a notice in writing of its intention so to do and thereupon the Landlord shall have the same rights and remedies as contained in Article 22 hereof; or (b) enter upon the Leased Premises and remedy the conditions giving rise to such cancellation, threatened cancellation or reduction, and the Tenant shall forthwith pay the cost thereof to the Landlord, which cost may be collected by the Landlord as additional rent and the Landlord shall not be liable for any damage or injury caused to any property of the Tenant or of others located on the Leased Premises as a result of such entry. The Tenant agrees that any such entry by the Landlord is not a re-entry or a breach of any covenant for quiet enjoyment contained in this Lease.

#### **ARTICLE 12 -DAMAGE AND DESTRUCTION**

12.01 If the Leased Premises or any portion thereof are damaged or destroyed by fire or by other casualty against which the Landlord is insured, rent shall abate in proportion to the area of that portion of the Leased Premises which, in the reasonable opinion of the Landlord, is thereby rendered unfit for the purposes of the Tenant until the Leased Premises are repaired and rebuilt, and the Landlord shall repair and rebuild the Leased Premises. The Landlord's obligation to repair and rebuild shall not include the obligation to repair and rebuild any chattel, fixture, leasehold improvement, installation, addition or partition in respect of which the Tenant is required to maintain insurance hereunder or any other property of the Tenant. Rent shall recommence to be payable one (1) day after the Landlord notifies the Tenant that the Tenant may occupy the Leased Premises.

12.02 Notwithstanding section 12.01, if the Leased Premises or any portion thereof are damaged or destroyed by any cause whatsoever and cannot, in the reasonable opinion of the Landlord, be rebuilt within 180 days of the damage or destruction, the Landlord instead of rebuilding the Leased Premises may terminate this Lease by giving to the Tenant within 30 days after such damage or destruction notice of termination and thereupon rent and other payments hereunder shall be apportioned and paid to the date of such damage or destruction and the Tenant shall immediately deliver up vacant possession of the Leased Premises to the Landlord.

12.03 Notwithstanding sections 12.01 and 12.02, in the event of damage or destruction occurring by reason of any cause in respect of which proceeds of insurance are substantially insufficient to pay for the costs of rebuilding the Building or the Leased Premises, the Landlord may terminate this Lease on written notice to the Tenant.

#### ARTICLE 13 - EXPROPRIATION

13.01 If during the Term the whole of the Leased Premises shall be expropriated or such portion of the Leased Premises as renders the remainder unsuitable or impracticable for the purposes intended in this Lease shall be expropriated, upon possession being required all rentals shall be paid up to that date and 40th I the Landlord and the Tenant will have their separate and distinct claims against the expropriating authority in such manner as may be provided in law, and neither shall have a claim against the other for the termination of the Lease or the shortening of the Term of the Lease.

13.02 In the event of any: expropriation of part of the Leased Premises that does not render the remainder unsuitable or impracticable for the purposes intended in this Lease there shall be 'no abatement of rent or other charges under this Lease and both the Landlord and the Tenant will have their separate and distinct claims against the expropriating authority in such manner as may be provided in law, and neither shall have a claim against the other of any type or kind.

#### ARTICLE 14 -INSPECTION OF PREMISES BY LANDLORD

14.01 Landlord shall have the right to enter the Leased Premises at all reasonable times on reasonable notice to the Tenant for the purpose of:

- (a) making any repairs to the Leased Premises and performing any work therein that may be necessary by reason of the Tenant's default under the terms of this Lease continuing beyond any applicable grace periods;
- (b) exhibiting the Leased Premises (within three (3) months prior to the expiration of the Term of this Lease or any renewal thereof) to prospective tenants and (at any time during the Term) to prospective purchaser 's and mortgagees; and
- (c) viewing the state of repair of the Leased Premises.

14.02 Landlord shall have the right to enter the Leased Premises at any time in the event of an emergency.

#### ARTICLE 15 -LOSS OR DAMAGE, INDEMNITY

15.01 The Landlord, its contractors, agents and employees shall not be liable for any death, injury, or damage to or loss of property, of the Tenant, its employees, agents, or invitees occurring in or about the Leased Premises, unless such death, injury, damage or loss resulted from the negligence of the Landlord, its contractors, agents or employees or other persons for whom it may be responsible. All property of the Tenant within the Leased Premises shall be at the risk of the Tenant only.

15.02 The Tenant shall, during the Term, indemnify and save harmless the Landlord from any and all liabilities, damages, 'costs, claims, suits or actions incurred by it as a result of or arising out of:

- (a) any breach, violation or non-performance of any covenants, condition or agreement in this Lease set forth and contained, on the part of the Tenant to be fulfilled, kept and observed and performed;

- (b) any damage to property occasioned by the Tenant's use and occupation of the Leased Premises; and
- (c) any injury to person or persons, including death, resulting at any time therefrom occurring in or about the Leased Premises and/or on the sidewalks and laneways or streets adjacent to same, unless the same is caused by the negligence of the Landlord, its servants or agents or others for whom it is in law responsible.

#### **ARTICLE 16 -LANDLORD MAY CURE TENANT 'S DEFAULTS**

16.01 If the Tenant shall default in the performance of any of the terms, covenants and conditions of this Lease, the Landlord, after fifteen (15) days' notice to the Tenant specifying such default, or without notice if, in the reasonable exercise of the Landlord's judgment, an emergency exists, may but shall not be obligated to perform the same for the account and at the expense of the Tenant and the amount of any payments made or expenses incurred by the Landlord for such purpose, shall become due and payable by the Tenant as additional rent with the next or any subsequent installment of rent which shall become due after such expenditure by the Landlord; but any such expenditure by the Landlord shall not be deemed to waive or relieve the Tenant's default or the right of the Landlord to take such action as may be permissible under the terms of this Lease in the event of such default. When no emergency exists, the provisions of this Article shall be inapplicable if, within fifteen (15) days after such notice by the Landlord, the Tenant shall have cured such default or shall; have commenced and is diligently proceeding to cure same.

#### **ARTICLE 17 -CONSTRUCTION LIENS**

17.01 If any construction or other liens or order for the payment of money shall be filed against the Leased Premises by reason of or arising out of any labour or material furnished to the Tenant or to anyone claiming through the Tenant, the Tenant within thirty (30) days after notice to the Tenant of the filing thereof shall cause the same to be discharged by bonding, deposit, payment, court order or otherwise. The Tenant shall defend all suits to enforce such lien, or orders, against the Tenant, at the Tenant's sole expense. The Tenant hereby indemnifies the Landlord against any expense or damage as a result of such liens or orders.

17.02 Notwithstanding anything contained in this Lease, the Landlord and the Tenant agree that the Landlord has not, nor is it intended by any provisions of this Lease, waived the right to receive any notice required to be given the Landlord by any person doing work or supplying materials to the Tenant pursuant to the provisions of the Construction Lien Act.

#### **ARTICLE 18 -WAIVERS, CUMULATIVE REMEDIES, ETC.**

18.01 The specific remedies to which Landlord may resort under the provisions of this Lease are cumulative and are not intended to be exclusive of any other remedies or means or redress to which it may be lawfully entitled in case of any breach or threatened breach by the Tenant of any of the terms, covenants and conditions of this Lease. The failure of the Landlord to insist upon the strict performance of any of the terms, covenants and conditions of this Lease, or to exercise any right or remedy herein contained, shall not be construed as a waiver or relinquishment for the future of such terms, covenants and conditions. In addition to the other remedies in this Lease to a decree, in any court having jurisdiction of the matter, compelling performance of any such terms, covenants and conditions.

#### **ARTICLE 19 - INVALIDITY OF PARTICULAR PROVISIONS**

19.01 If any term or provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such terms or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

#### **ARTICLE 20 - ALTERATIONS AND ADDITIONS**

20.01 The Tenant shall not make any repairs, alterations, replacements or improvements to the structure, any perimeter or bearing wall, the sprinkler system, or the heating, ventilating, not be unreasonably or arbitrarily withheld, but: may be given on such conditions as the Landlord reasonably imposes. With any such request, the Tenant shall submit to the Landlord details of the proposed work, including drawings and specifications prepared by qualified architects or engineers, if the Landlord for consulting services in connection with the Landlord's consideration of any request for approval under this section. Any such repairs, alterations, replacements or improvements shall comply with all applicable laws, by-laws, regulations, and orders enacted or made by any federal, provincial or municipal authority having jurisdiction, and the Landlord's fire insurance underwriters. The Tenant shall at its own expense obtain all requisite building and other permits.

20.02 The Tenant shall indemnify the Landlord and save it harmless from any costs, expenses, damages or increased insurance premiums which may result from the performance of any work (whether or not the Landlord's approval was required or obtained under section 20.01).

20.03 Provided the Tenant obtains all necessary permits and approvals from all authorities having jurisdiction, and provided the Tenant's signage does not conflict with the Landlord's signage criteria for the Building, the Tenant shall have the right to install and use such signage as is used and installed by the Tenant in its other retail locations in the Province of Ontario, and to use those trademarks, names, logos and other registerable marks as may from time to time be used by the Tenant in its business operations. The Tenant shall also have the right to install and use its standard illuminated menu board within the Leased Premises.

#### **ARTICLE 21 - ASSIGNMENT AND SUBLETTING**

21.01 The Tenant shall not assign, sublet, transfer, set over, mortgage, charge, hypothecate, create any security interest in, or part with possession of, all or any part of the Leased Premises or of this Lease (a "Transfer"), without the prior written consent of the Landlord in each instance, which consent may not be unreasonably withheld. With any request for consent, the Tenant shall submit information as to the financial background, financial status, and business history of the party who is to acquire an interest in the Tenant or in this Lease or the Leased Premises (the "Transferee") and such other information as the Landlord may reasonably request in connection with such request for consent



21.02 Any consent by the Landlord under this Article shall not constitute a waiver of the necessity for such consent on any subsequent occasion requiring consent, and shall not relieve the Tenant from any of its obligations to pay rent or perform the covenants contained in this Lease. Notwithstanding any Transfer, the Tenant shall not be relieved of liability by any subsequent amendment of the terms hereof between the Landlord and the assignee or any granting of time, renewals, extensions, indulgences, releases, discharges or other arrangements with the assignee. If this Lease is disclaimed or terminated by any trustee in bankruptcy of any assignee of this Lease, the original tenant named in this Lease shall, if requested by the Landlord within thirty days of ' such disclaimer or termination, enter into a lease with the Landlord upon the same terms and conditions as contained herein except for the duration of term, which shall expire on the date this Lease would have expired save for such disclaimer or termination. Any assignment or other document effecting a transaction to which the Landlord 's consent is required shall be in a form satisfactory to the Landlord. Any assignment or sublease shall at the Landlord 's option be on the Landlord's form and shall in any event contain a covenant by the Transferee with the Landlord that it will observe and perform all of the Tenant 's obligations contained in this Lease. Any such document shall be reviewed by the Landlord or its solicitors or prepared by them at the expense of the Tenant.

21.03 The Landlord 's consent to any Transfer shall be subject to the condition that if the minimum rent and addition, al rent to be paid by the Transferee under such Transfer exceeds the Minimum Rent, Percentage Rent and additional rent payable under this Lease, the amount of any excess shall be paid by the Tenant to the Landlord. If the Tenant receives from any Transferee, either directly or indirectly, any consideration other than rent and additional rent for such Transfer, either in the form of cash, goods or services (other than the proceeds of any bona fide financing as the result of a Transfer involving a mortgage, charge or similar security interest in this Lease) the Tenant shall forthwith pay to the Landlord an amount equivalent to such consideration. The Tenant and the Transferee shall execute any agreement required to give effect to the foregoing term.

21.04 Notwithstanding subsections 20.01, 20.02 and 20.03 herein, provided the Tenant shall remain liable for its covenants under this Lease, upon prior written notice given to the Landlord, but without having to obtain the Landlord's prior written consent, the Tenant shall have the right to assign the Lease or sublet the Leased Premises, including any options to renew or other rights benefiting the Tenant, without any increased rental or fee, to any of the following:

- (a) to any corporation or partnership which is now or in the future affiliated or associated with the Tenant or any holding body corporate or subsidiary body corporate (as those terms are defined pursuant to the Ontario Business Corporations Act) of the Tenant or any of Tricon Global Restaurants (Canada), Inc., KFCC/Tricon Holdings Ltd. or Scott's Restaurants Inc. (the "Related Companies ");
- (b) to any corporation formed as a result of a merger or amalgamation of the Tenant or any of the Related Companies with another corporation or corporations;
- (c) to any person, corporation or entity who is purchasing a majority in the Province of Ontario of the Tenant 's other similar businesses as the business being operated on the Leased Premises; and
- (d) to a party that is a franchisee, licensee or concessionaire entitled to carry on the permitted use, so long as the same business is operated and the franchisee, licensee or concessionaire agrees to be bound by, perform and observe all of the terms, conditions and agreements of the Lease.

**ARTICLE 22 - DEFAULT AND REMEDIES**

22.01 If any of the following shall occur:

- (a) if the Tenant shall fail to pay any rent or other sums due hereunder when due, and if such rent or other sums are not paid within five days after notice is given by the Landlord of such non-payment;
- (b) if the Tenant does not observe, perform and keep each and every of the covenants, provisions, stipulations, conditions, rules and regulations and other terms herein contained to be observed, performed and kept by the Tenant, and, where the breach can be rectified, such non-observance or non-performance shall continue for fifteen days after notice is given by the Landlord requiring that the Tenant rectify the breach, except where rectifying the breach would reasonably require more than fifteen days and the Tenant has commenced rectification in good faith within the fifteen day period and thereafter promptly, diligently and continuously proceeds with rectification of the breach;
- (c) if the Tenant shall abandon the Leased Premises, or make a bulk sale of its goods or sell the business conducted at the Leased Premises, or move, or commence, attempt or threaten to move any of its goods, chattels and equipment out of the Leased Premises (other than in the ordinary course of its business);
- (d) if a writ of execution shall issue against the Tenant, or if the Term hereby granted or any of the goods, chattels or equipment of the Tenant shall be taken in execution or attachment or be seized by any creditor of the Tenant, whether secured or otherwise;
- (e) if the Tenant shall become insolvent or commit an act of bankruptcy or become bankrupt or take the benefit of any Act that may be in force for bankrupt or insolvent debtors, or become involved in voluntary or involuntary winding up proceedings, or if a receiver shall be appointed by the Court or by any creditor for the business, property, affairs or revenues of the Tenant;

then, and in every such case, the Landlord may, in addition to any other rights or remedies it may have under other provisions of this Lease or by law, at its option exercise all or any of the following remedies:

- (f) The Landlord may perform any obligation which the Tenant should have performed or cause the same to be performed and for such purpose may enter upon the Leased Premises and do such things thereon as the Landlord may consider requisite without effecting a termination of this Lease;
- (g) The Landlord may enter the Leased Premises and distrain upon the goods and chattels of the Tenant, or may remove and sell the goods, chattels and equipment of the Tenant without any notice or form of legal process, any rule of law to the contrary notwithstanding, and the Landlord may seize and sell the goods and chattels and /he equipment, whether they are within the Leased Premises or at any place to which the Tenant or any other person may have removed them in the same manner as if they had remained and been distrained upon in the Leased Premises, and the Landlord may follow the goods and chattels for the maximum period permitted by law, and any sale by the Landlord may, in its sole discretion, be effected by public

auction or private contract and either in bulk or by individual items, or partly by one means and partly by the other.

- (h) The Landlord may remove the goods, chattels, equipment and fixtures of the Tenant from the Leased Premises and store them in a public warehouse or elsewhere at the cost of and for the account of the Tenant.
- (i) In order to relet, the Landlord may take possession of the Leased Premises as agent of the Tenant and effect such alterations and repairs as it may deem necessary or advisable for the purpose of such reletting, and it may relet the Leased Premises or any part thereof for such term or terms (which may be for a term extending beyond the Term) and at such rental or rentals and upon such other terms and conditions as the Landlord, in its sole discretion, may deem advisable. Upon such reletting, all rentals received by the Landlord from, such reletting shall be applied, first to the payment of the Landlord's costs and expenses of such reletting and costs of such alterations and repairs; second to the payment of any indebtedness other than rent due from the Tenant to the Landlord; third to the payment of arrears of rent and other sums owing hereunder; fourth to the payment of rent and other sums owing hereunder as such fall due; and the residue, if any, shall be held by the Landlord without interest until the end of the Term and applied from time to time in payment of rent and other sums owing hereunder as the same may become due and payable, and any residue remaining at the end of the Term shall be held for the Tenant. No such reletting, nor the receipt of any such rentals from any new tenant, nor the creation of the relation of landlord and tenant between the Landlord and any party to whom the Leased Premises may have been relet, shall have the effect of exonerating the Tenant from its obligations to pay rent hereunder as it falls due or of in any way terminating this Lease.
- (j) The Landlord may terminate this Lease by commencing an action for possession or for termination of the Lease or by notice to the Tenant. Such termination may be effected either at or after the time of the breach or at any later time and notwithstanding that the Landlord may have exercised any of its other remedies including that set out under subsection (i) hereof. In the event that the Landlord or anyone claiming under it or to whom it has rented the Leased Premises is in possession under the provisions of subsection (i) hereof, the Landlord may at any time terminate this Lease by notice to the Tenant and thereafter any then existing or later lease of the Leased Premises shall be for the account of the landlord notwithstanding that such lease may originally have been entered into as agent for the Tenant. If the Landlord enters the Leased Premises without notice to the Tenant as to whether it is terminating this Lease under subsection (i) or proceeding under subsection (i) or any other provision of this Lease, the Landlord shall be deemed to be proceeding under subsection (i) and the Lease shall not be terminated, prior shall there be any surrender by operation of law, but the Lease shall remain in full force and effect until the Landlord notifies the Tenant that it has elected to terminate this Lease. No entry by the Landlord during the Term shall have the effect of terminating this Lease without notice to that effect to the Tenant.

- (k) The Landlord shall be entitled to damages from the Tenant for breach of this Lease.
- (l) At the option of the Landlord, in the case of the events stated in (d) or (e) above occurring, the full amount of the current month's rent and the next ensuing three month's rent shall accelerate and shall immediately become due and payable.
- (m) On any termination for default, all fixtures, Tenant's improvements or other installations in the Leased Premises, which in law are fixtures or a part of the realty or are attached, affixed to or incorporated into or with the immovable properties situated in or upon the Building or the Leased Premises, and which are not the property of the Landlord, shall at the Landlord's option forthwith become the property of the Landlord, and whether or not such fixtures are in the nature of Tenant's trade fixtures, and whether or not they would be removable by the Tenant at the expiry of the Term if there had been no default.

22.02 Notwithstanding any provision to the contrary in this Lease, the Tenant shall not be obligated to conduct its business operations on the Leased Premises continuously or in a continuous and uninterrupted manner. In the event that the Tenant elects not to so operate its business on the Leased Premises, it is acknowledged and agreed that the Tenant shall still be bound by all of the other applicable terms and covenants of this Lease, save and except that there shall be no default under this Lease as a result of the Tenant's cessation of business operations on the Leased Premises.

22.03 Whenever the Landlord takes any proceedings, sends any notices, does any work, or otherwise incurs any expense or trouble or takes any action with respect to any default by the Tenant, and whether or not legal proceedings are begun or considered in consequence of such default, and whether or not this Lease is terminated, the Landlord shall be entitled to be paid by the Tenant forthwith on demand in addition to any other amounts which may be payable or owing hereunder, all of the following:

- (a) the cost of effecting any repairs or performing any obligation of the Tenant, together with an allowance of fifteen per cent (15%) for the Landlord's overhead and supervision;
- (b) the Landlord's costs and expenses in preparing the Leased Premises for reletting in, such manner as in its sole discretion it deems necessary or advisable, together with an allowance of fifteen per cent (15%) for the Landlord's overhead and supervision;
- (c) the Landlord's Court costs, collection costs, and legal fees as between a solicitor and his own client and all judicial and extra-judicial fees of advocates and notaries;
- (d) interest on rent or any other amounts overdue under the terms of this Lease and on any monies expended by the Landlord in consequence of any default by the Tenant at the rate of eighteen per cent (18%) per annum;
- (e) a charge of fifty dollars (\$50.00) for each cheque of the Tenant which is returned to the Landlord because of insufficient funds in the Tenant's account;

- (f) any other costs, charges or expenses, which the Landlord incurs or to which it is put, and which would not have been necessary at the time at which they were incurred but for the default of the Tenant.

22.04 Notwithstanding anything contained in any statute at the present time or in the future in force, the Tenant hereby agrees with the Landlord that none of the Tenant's goods or chattels on the Leased Premises at any time during the Term shall be exempt from levy by distress for rent and other costs and charges payable hereunder in arrears, and that the Landlord may follow the Tenant's goods or chattels Without limitation of time, and that on any termination of the Lease by the Landlord under the terms hereof, the Tenant shall have no right of redemption or relief from forfeiture, and that the Landlord may enter or take possession of the Leased Premises without judicial order, a writ of possession or any other legal process, and without notice to the Tenant except as provided under this Lease. The Tenant hereby waives all and every benefit that could or might have accrued to the Tenant, but for this section, by virtue of any present or future statute dealing with the matters set out in this section. The Tenant agrees that upon any claim being made for an exemption from levy by distress, or for a right of redemption or relief from forfeiture, or that the Landlord must proceed by judicial process to obtain possession, or with respect to any of the other rights dealt with herein, this section of this Lease may be pleaded as an estoppel against the Tenant in any action brought in which the rights of the Landlord to take the steps set out in this section are in question.

#### **ARTICLE 23 -FINANCING AND ASSIGNMENT BY LANDLORD**

23.01 Within ten days after written request therefor by the Landlord, the Tenant shall deliver, in a form supplied by the Landlord, a certificate and acknowledgement to any proposed mortgagee or purchaser, or the Landlord, certifying (if such be the case) that this Lease is in full force and effect (or if there have been amendments, that the Lease is in full force and effect as amended and identifying the amending agreements), the commencement date and Term of the Lease, the dates to which rent and other charges have been paid and whether the Tenant has made any prepayments thereof, whether there is any existing default by the Landlord or the Tenant or any set-offs or claims by the one against the other, and whether there is any work remaining to be done by the Landlord within or to the Leased Premises, and shall provide evidence of the Tenant's financial standing in reasonable detail and such other information as the Landlord may reasonably request. The Tenant shall, on the request of the Landlord, acknowledge in writing receipt of any notice of assignment of this Lease by the Landlord.

23.02 This Lease and all the rights of the Tenant hereunder are and shall at all times be subject and all mortgages, trust deeds, charges, liens or other security instruments or rights granted or placed on the Lands and Building or any part thereof by the Landlord. Upon request of the Landlord from time to time, the Tenant shall within ten days of such request execute such documents or assurances in such form as the Landlord or its lenders may require to subordinate this Lease to such security and all advances made or to be made upon the security thereof, and if requested, attorning to the holder thereof provided that the said lender first enters into a non-disturbance agreement with the Tenant in form and substance satisfactory to the Tenant acting reasonably.

23.03 In the event of a sale or lease by the Landlord of all of the Leased Premises, or the assignment by the Landlord of this entire Lease, and to the extent that any purchaser, lessee or assignee of the Landlord has, by an instrument entered into with the Landlord, assumed the covenants and obligations of the Landlord hereunder, the Landlord shall without further written agreement or instrument and without notice to the Tenant be freed and released from liability upon the covenants and obligations contained in this Lease.

#### ARTICLE 24 - NOTICE

24.01 Any notice to be given by the provisions of this Lease shall be sufficiently given if served personally or if mailed postage prepaid at any Post Office in Canada in a registered letter:

- (a) if to the Landlord, addressed to Scott's Real Estate Limited Partnership  
161 Bay Street, Suite 2300  
Toronto, Ontario  
M5J 2S1
- (b) if to the Tenant, addressed to Kit Limited Partnership  
101 Exchange Avenue  
Vaughan, Ontario  
LK4 5RL

or to such other address as the party concerned shall have notified the other in writing. Any notice so mailed shall be held conclusively to have been given 72 hours after such mailing provided however that if at the time of such mailing a mail strike is in progress which affects the delivery of such notice, such notice shall not be deemed to have been received until it is actually received. Either party may from time to time by notice to the other change the address to which notices are to be given.

#### ARTICLE 25 - SURRENDER OF PREMISES - OWNERSHIP OF IMPROVEMENTS

25.01 The Tenant, upon expiration of the Term or earlier termination of this Lease, shall peaceably and quietly surrender the Leased Premises and any improvements thereon in accordance with this Article 25 and in good order, repair and condition.

25.02 The Tenant shall on any surrender of possession of the Leased Premises have the right (but not the obligation) to remove such of its trade fixtures, other fixtures, leasehold improvements and equipment which are incorporated into, affixed or attached to and which have become a part of the Lands and Building, including such trade fixtures and leasehold improvements which identify the Leased Premises as any particular outlet, and in effecting such removal, shall do no damage to the Leased Premises or any parts of the Lands and Building. Any leasehold improvements, equipment and fixtures which are not removed by the Tenant shall on surrender of possession by the Tenant become the sole and exclusive property of the Landlord without payment to the Tenant. For greater certainty, the Landlord acknowledges that the Tenant shall not be required to remove the interior partitions, drywall, storefront and bulkhead from the Leased Premises.

25.03 When not in default at the expiration of the Term, or at any time during the term if not in default and in the ordinary course of business, the Tenant may remove the Tenant's trade fixtures, inventory and trade articles provided t, he Tenant makes good any damage in so doing.

#### ARTICLE 26 - QUIET ENJOYMENT

26.01 The Landlord covenants with the Tenant that if the Tenant pays the rents hereby reserved and performs its covenants and obligations herein contained, the Tenant may peaceably possess and enjoy the Leased Premises for the Term without interruption or disturbance from the Landlord or any other person lawfully claiming by from or under it.

#### ARTICLE 27 - CONDITION OF PREMISES

27.01 The Tenant acknowledges and agrees that it is leasing the Leased Premises on an "as is where is" basis and that there are no representations or warranties with respect to the Leased Premises.

#### ARTICLE 28 - MISCELLANEOUS

28.01 The parties acknowledge and agree that this is a lease of thirteen (13) separate properties each with their own municipal address, legal description, and rent. Where applicable, the terms of this Lease shall be interpreted as if they apply to each separate property individually.

28.02 The parties acknowledge and agree that it may be the case that either of the parties will wish to terminate this Lease in respect of certain of the separate properties, but to continue the Lease in respect of others. Each of the parties shall have the right to give at least ninety (90) days prior written notice to the other to request the termination of this Lease in respect of such separate properties. In the event that such termination is requested by either of the parties, both of the parties will negotiate the same in a reasonable manner.

28.03 If the Tenant shall remain in occupation of the Leased Premises after the expiry of the Term hereby granted and any renewal thereof hereby granted, with or without the consent of the Landlord and without any further written agreement, the Tenant shall be a monthly tenant at a monthly rental herein reserved and otherwise on the terms and conditions herein set forth, except as to the length of tenancy.

28.04 All waivers made by the Landlord shall be in writing and no waiver by the Landlord of any default made by the Tenant under this Lease shall be construed as a waiver of any other default which has been made or which may thereafter be made by the Tenant unless so specified in writing. No surrender of this Lease by the Tenant shall be valid unless accepted in writing by the Landlord.

28.05 This Lease contains the entire agreement between the parties relating to the Leased Premises and shall not be modified in any manner except by an instrument in writing executed by the parties and this Lease shall supercede and replace any and all existing leases or agreements to lease between the parties with respect to the Leased Premises.

28.06 The captions herein are for convenience and reference only and in no way define, limit or describe the scope or intent of this Lease nor in any way affect this Lease.

28.07 This Lease is subject to the condition that it is to be effective only on obtaining such consents, if any, as may be required under the Planning Act. The Landlord covenants and agrees to apply and proceed diligently at its expense to obtain any necessary consent to this Lease.

28.08 The covenants, agreements, terms, provisions and conditions of this Lease shall be binding upon and enure to the benefit of the Landlord and the Tenant and their successors and permitted assigns.

28.09 The Tenant shall not register this Lease in full against the title to the Lands. The Tenant may register the minimum notice or memorial of lease required to give notice of its interest under the applicable registration statute with the written consent of the Landlord, such consent not to be unreasonably withheld.

28.10 Without limiting the generality of anything else herein contained, the parties agree that upon expiration of the Term or any renewal thereof, or any earlier termination of this Lease, the Tenant's right of possession shall cease and terminate, but the obligations of the parties with respect to any item of rent or covenants not performed at the date of such expiration, any indemnification, or any other obligations which, by their nature are not completely performed prior to such expiration, shall remain in full force and effect until satisfied. It is agreed, however, that in no event shall the Tenant have any interest in or right to possession of the Leased Premises or any part of the Lands or Building after the expiration of the Term or any renewal thereof, or any such earlier termination of this Lease.

28.11 Each of the Landlord and Tenant has full authority to enter into this Lease and to perform its obligations hereunder.

#### **ARTICLE 29 -NET LEASE**

29.01 The parties acknowledge and agree that it is intended that this Lease be a completely net net net and carefree lease to the Landlord, and that except as otherwise specifically provided herein, the Landlord is not responsible during the Term for any costs, charges, expenses and outlays of any nature arising from or relating to the Leased Premises or the use or occupancy thereof, and the Tenant shall pay all charges and expenses relating to the Leased Premises.


29.02 The parties acknowledge that nothing in this Lease has the effect of making the Tenant responsible for the Landlord's debt service costs (principal and interest) or the Landlord's income taxes capital taxes, value added taxes, business transfer taxes or other taxes personal to the Landlord.

29.03 The parties hereby confirm that the Original Lease remains in full force and effect and unamended except as expressly provided herein, without novation of the Original Lease.



IN WITNESS WHEREOF each of the parties hereto have duly executed this Lease.

SCOTT'S REAL ESTATE LIMITED PARTNERSHIP, by its general partner, SCOTT'S GP TRUST, by its trustee, SCOTT'S TRUSTEE CORP.

Per:   
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

I/We have the authority to bind the Corporation.

KIT LIMITED PARTNERSHIP, by its general partner, KIT INC.

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

I/We have the authority to bind the Corporation.

IN WITNESS WHEREOF each of the parties hereto have duly executed this Lease.

SCOTT'S REAL ESTATE LIMITED PARTNERSHIP, by its general partner, SCOTT'S GP TRUST, by its trustee, SCOTT'S TRUSTEE CORP.

Per: \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_

Name:

Title:

I/We have the authority to bind the Corporation.

KIT LIMITED PARTNERSHIP, by its general partner, KIT INC.

Per:  \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_

Name:

Title:

I/We have the authority to bind the Corporation.

SCHEDULE "A"

Store No.	Municipal Address
1303	965 Dundas Street East, Mississauga, Ontario, and more particularly described in Schedule "B"
1307	190 Queen Street East, Brampton, Ontario, and more particularly described in Schedule "B"
1309	563 Gerrard Street East, Toronto, Ontario, and more particularly described in Schedule "B"
1311	2567 Eglinton Avenue East, Scarborough, Ontario, and more particularly-described in Schedule "B"
1318	2032 Kipling Avenue, Etobicoke, Ontario, and more particularly described in Schedule "B"
1324	15492 Yonge Street, Aurora, Ontario, and more particularly described in Schedule "B"
1327	1221 Dundas Street West, Toronto, Ontario, and more particularly described in Schedule "B"
1331	1338 Kennedy Road, Scarborough, Ontario, and more particularly described in Schedule "B"
1333	466 Queen Street West, Toronto, Ontario, and more particularly described in Schedule "B"
1334	636 Bloor Street West, Toronto, Ontario, and more particularly described in Schedule "B"
1336	2500 Danforth Avenue, Toronto, Ontario, and more particularly described in Schedule "B"
1337	1300 Weston Road, Toronto, Ontario, and more particularly described in Schedule "B"
1338	2296 Eglinton Avenue West, Toronto, Ontario, and more particularly described in Schedule "B"

**SCHEDULE "B"**  
**Legal Description**

**Store No. 1303, 965 Dundas Street East, Mississauga, Ontario**

Part of South Half of Lot 9, First Concession, North of Dundas Street, City of Mississauga, Regional Municipality of Peel, as set out in Instrument No. R01121243

**Store No. 1307, 190 Queen Street East, Brampton, Ontario**

Part of Lot 29, Block C, Plan BR-13, designated as Part 2 on Plan 43R-18930, City of Brampton (formerly Township of Chinguacousy), Regional Municipality of Peel

**Store No. 1309, 563 Gerrard Street East, Toronto, Ontario**

In the City of Toronto, Municipality of Metropolitan Toronto (formerly in the County of York), being composed of:

**FIRSTLY:** Lots 57, 110 and 111 and Part of Lot 190, Plan 374, more particularly described as follows:

**COMMENCING** at the south-easterly angle of the said Lot No. 57 being a point in the westerly limit of Hamilton Street;

**THENCE** northerly along the said westerly limit of Hamilton Street 41 feet 9-3/8 inches, more or less, to the northerly limit of the said Lot. No. 57, being the southerly limit of Gerrard Street East;

**THENCE** westerly along the northerly limit of the said lots Nos. 57 and 111, 180 feet 2-3/4 inches, more or less, to the westerly limit of the said Lot No. 111, and the easterly limit of Munro Street;

**THENCE** southerly along the said easterly limit of Munro Street 76 feet 7-3/4 inches, more or less, to its intersection with the westerly production of the northerly face of the northerly wall of the house standing in August, 1949 on the lands immediately to the south of the herein described parcel of land and known as No. 243 Munro Street;

**THENCE** easterly to and along the said northerly face of wall, and along the fence line in rear thereof, in all a distance of 89 feet and 10 inches, more or less, to the easterly limit of the said Lot No. 109;

**THENCE** northerly along the easterly limits of the said Lots Nos. 109, 110 and 111, 50 feet 7 inches, more or less, to the south westerly angle of the said Lot No. 57;

**THENCE** easterly along the south limit of the said Lot No. 57, 89 feet 9 1/2 inches, more or less, to the point of commencement.

**SECONDLY:** Lot 58 on the west side of Hamilton Street, Plan 374 (York).

**TOGETHER WITH** a right of way over the easterly sixty-five feet of the northerly four feet of the land lying immediately to the south of this land, being part of Lot 59, Plan 374.

**SUBJECT TO** a right of way over the easterly sixty-five feet of the southerly four feet of this land, being part of Lot 58.

The said two strips of land to form a driveway for the use of the owners and occupiers of Lot 58 and the land lying immediately adjacent thereto.

**AS DESCRIBED IN INSTRUMENT NO. CA 675993**

**Store No. 1311, 2567 Eglinton Avenue East, Scarborough, Ontario**

Lots 229, 230, 231, 232, 233 and the northerly 17 feet from front to rear of Lot 234, Plan 2029, City of Toronto (formerly City of Scarborough), as set out in Instrument No. CA675994

**Store No. 1318, 2032 Kipling Avenue, Etobicoke, Ontario**

Part of Lot 27, Concession 1, Fronting the Humber, City of Toronto (formerly City of Etobicoke), as set out in Instrument No. EB523125

**Store No. 1324, 15492 Yonge Street, Aurora, Ontario**

Part of Lot 3, Plan 246, Town of Aurora, Regional Municipality of York, as set out in Instrument No. R682629

**Store No. 1327, 1221 Dundas Street West, Toronto, Ontario**

ALL and Singular that certain parcel or tract of land and premises, situate lying and being in the City of Toronto, in the County of York, and being composed of part of Lot Number 19 on the south side of Dundas Street West according to Plan 330 registered in the Registry Office for the Registry Division of Toronto and more particularly described as follows:

COMMENCING at a point on the southerly limit of Dundas Street West where it is intersected by the production northerly of the line of the west face of the west wall of the store building standing on the lands to the west of those herein described, the said point being distant 48 feet 1-3/4 inches measured easterly along the said limit of Dundas Street from its intersection with the easterly limit of Grove Avenue;

THENCE Southerly to and along the line of the westerly face of the westerly wall of the store building standing on the lands to the east of those herein described and its production southerly 100.0 feet;

THENCE Westerly and parallel with the southerly limit of Dundas Street West, 17 feet 5 inches more or less to the easterly limit of Grove Avenue;

THENCE Northerly along the easterly limit of Grove Avenue, 102 feet 2 inches more or less to the southerly limit of Dundas Street West;

THENCE Easterly along the last mentioned limit 48 feet 1-3/4 inches to the place of beginning.

TOGETHER WITH the right to the Grantee, its successors and assigns to have the use of the west wall belong to the building and premises situated on the lands immediately to the east of the lands herein conveyed if such right is possessed by the Grantor.

AS DESCRIBED IN INSTRUMENT NO. CA 675996

**Store No. 1331, 1338 Kennedy Road, Scarborough, Ontario**

FIRSTLY: Parcel B-1, Section M-703, being Block B, Plan M-703, City of Toronto (formerly City of Scarborough)

SECONDLY: Block D, Plan 5318, City of Toronto (formerly City of Scarborough), as set out in Instrument No. E22626

**Store No. 1333, 466 Queen Street West, Toronto, Ontario**

All and Singular that certain parcel or tract of land and premises situate lying and being in the City of Toronto, in the Municipality of Metropolitan Toronto, formerly in the County of York, and the Province of Ontario, being composed of part of Lot 3 on the north side of Queen Street, now Queen Street West according to a plan filed in the Registry office for the Registry Division of Toronto as 65, the said part of lot

being parts of PARTS 1, 2 and 3 according to the expropriation plan registered in the said Registry Office for Toronto as Instrument 90102 W.A., the boundaries of the said parcel being described as follows:

PREMISING that the easterly limit of Bathurst Street, between the northerly limit of lot 15 according to Plan D-164 and the northerly limit of Lot 1 according to plan 1070, both the said plans being filed in the said Registry Office for Toronto, is on a course of North 16 degrees 17 minutes and 15 seconds West, and governs all bearings herein, then;

COMMENCING at the south-westerly angle of the said PART 1 according to Instrument 90102 W.A., the said angle being a point in the northerly limit of Queen Street West, distant 58.09 feet measured westerly thereon from the westerly limit of Augusta Avenue as widened by Instrument 16143B, registered in the said Registry Office for Toronto;

THENCE North 16 degrees 17 minutes and 30 seconds West along the westerly limit of the said PART1, a distance of 57.00 feet more or less to an angle therein;

THENCE North 15 degrees 22 minutes and 15 seconds West along the westerly limit of the said PART 1 a distance of 43.19 feet more or less to another angle therein;

THENCE North 74 degrees 11 minutes and 35 seconds East, a distance of 48.88 feet more or less to a point in the westerly limit of Augusta Avenue as dedicated by City of Toronto By-law 297-69 and described Firstly therein, distant 100.44 feet measured northerly along the said westerly limit and southerly production thereof from the aforesaid northerly limit of Queen Street West;

THENCE South 16 degrees 34 minutes and 40 seconds East along the said westerly limit of Augusta Avenue as dedicated by By-law 297-69, a distance of 74.94 feet more or less to the beginning of a curve to the right having a radius of 25.00 feet;

THENCE south-westerly along the said curve to the right having a radius of 25.00 feet, being along a south-easterly limit of Augusta Avenue as dedicated by the said City of Toronto By-law 297-69 and described Firstly therein, a distance of 39.76 feet more or less to the end of the said curve, being a point in the aforesaid northerly limit of Queen Street West, distant 35.70 feet measured on a course of South 28 degrees 59 minutes and 10 seconds West from the beginning of the said curve;

THENCE South 74 degrees 32 minutes and 55 seconds West along the said northerly limit of Queen Street West, being along the southerly limits of the said PARTS 2 and 1, a distance of 24.59 feet more or less to the point of commencement.

AS DESCRIBED IN INSTRUMENT NO. CA 675997

**Store No. 1334, 636 Bloor Street West, Toronto, Ontario**

Part of Lot 44, Plan 219, in the City of Toronto, in the Municipality of Metropolitan Toronto and more particularly described as follows:

COMMENCING at the intersection of the northerly limit of Bloor Street West with the easterly limit of Euclid Avenue;

THENCE easterly along the said limit of Bloor Street West 40 feet and 11 inches to the site of an old fence;

THENCE northerly to and along the line of the said fence and along the site thereof in all a distance of 130 feet more or less to a point in the southerly limit of a lane in rear of the said lot, which point is distant 40 feet and 9 inches measured easterly thereon from the said limit of Euclid Avenue;

THENCE westerly along the said limit of a lane 40 feet and 9 inches to the easterly limit of Euclid Avenue aforesaid;

THENCE southerly along the last mentioned limit 130 feet more or less to the point of commencement.

AS DESCRIBED IN INSTRUMENT NO. CA 675998

**Store No. 1336, 2500 Danforth Avenue, Toronto, Ontario**

In the City of Toronto, Municipality of Metropolitan Toronto, (formerly in the County of York) and being composed of Part of Lot 1, Plan 1081, described as follows:

COMMENCING at a point in the westerly limit of said Lot 1, being also the easterly limit of Chisholm Avenue, where it is intersected by the northerly limit of Danforth Avenue as widened by By-law 5735, said point of commencement being 7.38 feet more or less measured northerly along said westerly limit of Lot 1 from the southwest angle of said Lot 1;

THENCE easterly along a connecting line joining the said point of commencement with a point in the southerly limit of Lot 4 on Plan 1081, distant 20.25 feet measured westerly along said southerly limit from the southeast angle of said Lot 4, a distance of 73.00 feet to a point, the said connecting line being the northerly limit of Danforth Avenue as widened by By-law No. 5735;

THENCE northerly parallel to the easterly limit of Chisholm Avenue a distance of 120.67 feet more or less to a point in the northerly limit of said Lot 1;

THENCE westerly along said northerly limit a distance of 73.00 feet to the northwest angle of said Lot 1;

THENCE southerly along the westerly limit of said Lot 1, being also the easterly limit of Chisholm Avenue, a distance of 118.29 feet more or less to the point of commencement.

As described in Instrument No. 83472 E.V.

SAVE AND EXCEPT that part of Lot 1 on the north side of Danforth Avenue, Plan 1081, shown as Part 1 on reference plan 63R-4809, transferred to The Corporation of the City of Toronto by Instrument Number CA112713.

AS DESCRIBED IN INSTRUMENT NO. CA 675999

**Store No. 1337, 1300 Weston Road, Toronto, Ontario**

In the City of York; (formerly the Borough of York) in the Municipality of Metropolitan Toronto, being composed of part of Lot 17, Plan 1510, which parcel is described as follows:

FIRSTLY:

PREMISING that the bearings used herein are referred to the North 74 degrees, 24 minutes, 00 seconds East of the northerly limit of said Lot 17 as shown on Plan 1510;

COMMENCING at an iron bar found marking the north-westerly corner of said Lot;

THENCE North 74 degrees, 24 minutes, 00 seconds East along the northerly limit of said Lot, 99.54 feet to the intersection of said limit with the south-westerly limit of Weston Road, as widened by Borough of York By-law Number 8007;

THENCE South 59 degrees, 33 minutes, 20 seconds East along the said south-westerly limit of Weston Road, 57.04 feet to an iron bar found marking the intersection of the said limit with the south-easterly limit of said Lot;

THENCE South 33 degrees, 01 minutes, 50 seconds West, along the south-easterly limit of said Lot, 185.96 feet to the most southerly corner of said Lot;

THENCE North 65 degrees, 07 minutes, 20 seconds West along the south-westerly limit of said Lot, 22.08 feet to an iron bar found at a corner of said Lot;

THENCE North 09 degrees, 01 minutes, 00 seconds West along the westerly limit of said Lot, 150.62 feet to the place of commencement;

AS DESCRIBED IN INSTRUMENT NO. CA 676000.

**Store No. 1338, 2296 Eglinton Avenue West, Toronto, Ontario**

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of York, in the Municipality of Metropolitan Toronto, and being composed of Lots 57, 59 and the westerly 4 feet throughout from front to rear of Lot 58 on the north side of Eglinton Avenue according to a Plan registered in the Registry Office for the Registry Division of Toronto Borough (No. 64) as Plan No. 1700 and also that part of Lot 58 as shown on a Plan registered in the said Registry Office as No. 1700, which said parcel may be more particularly described as follows:

COMMENCING at the north-easterly angle of the said Lot 58;

THENCE southerly along the easterly limit of the said Lot a distance of 100 feet more or less to a point in the northerly limit of Eglinton Avenue as widened by York Township By-law No. 12030;

THENCE westerly along the northerly limit of Eglinton Avenue as widened by York Township By-law No. 12030 a distance of 36 feet;

THENCE northerly parallel to the easterly limit of the said Lot a distance of 100 feet more or less to a point in the northerly limit of the said Lot;

THENCE easterly along the northerly limit of the said Lot a distance of 36 feet to the point of commencement.

AS DESCRIBED IN INSTRUMENT NO. CA 676001



**SCHEDULE "C"**

Municipal Address	Rent Payable
965 Dundas Street East, Mississauga, Ontario (Store No. 1303)	<p>(a) during the first five years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$85,000.00 of lawful money of Canada in twelve (12) equal monthly instalments of 7,083.33, in advance;</p> <p>(b) during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every year the sum of \$89,250.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$7,437.50, in advance; and</p> <p>(c) during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$93,712.50 of lawful money of Canada in twelve (12) equal monthly instalments of \$7,808.37, in advance</p>
190 Queen Street East, Brampton, Ontario (Store No. 1307)	<p>(a) during the first five years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$75,000.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,250.00, in advance;</p> <p>(b) during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every year the sum of \$78,750.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,562.50, in advance; and</p> <p>(c) during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$82,687.50 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,890.63, in advance</p>
563 Gerrard Street East, Toronto, Ontario (Store No. 1309)	<p>(a) during the first five years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$77,000.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,416.67, in advance;</p> <p>(b) during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every year the sum of \$80,850.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,737.50, in advance; and</p> <p>(c) during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$84,892.50 of lawful money of Canada in twelve (12) equal monthly instalments of \$7,074.37, in advance</p>

Municipal Address	Rent Payable
2657 Eglinton Avenue East, Scarborough, Ontario (Store No. 1311)	<p>(a) during the first five years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$100,000.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$8,333.33, in advance;</p> <p>(b) during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every year the sum of \$105,000.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$8,750.00, in advance; and</p> <p>(c) during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$110,250.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$9,187.50, in advance</p>
2032 Kipling Avenue, Etobicoke, Ontario (Store No. 1318)	<p>(a) during the first five years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$83,900.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,991.67, in advance;</p> <p>(b) during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every year the sum of \$88,095.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$7,341.25, in advance; and</p> <p>(c) during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$92,499.75 of lawful money of Canada in twelve (12) equal monthly instalments of \$7,708.31, in advance</p>
15492 Yonge Street, Aurora, Ontario (Store No. 1324)	<p>(a) during the first five years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$46,400.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$3,866.67, in advance;</p> <p>(b) during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every year the sum of \$48,720.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$4,060.00, in advance; and</p> <p>(c) during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$51,156.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$4,263.33, in advance</p>
1221 Dundas Street West, Toronto, Ontario (Store No. 1327)	<p>(a) during the first five years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$62,625.00 of lawful money of Canada in twelve (12) equal monthly</p>

Municipal Address	Rent Payable
	<p>instalments of \$5,208.33, in advance;</p> <p>(b) during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every year the sum of \$65,625.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$5,468.75, in advance; and</p> <p>(c) during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$68,906.25 of lawful money of Canada in twelve (12) equal monthly instalments of \$5,742.19, in advance</p>
<p>1338 Kennedy Road, Scarborough, Ontario (Store No. 1331)</p>	<p>(a) during the first five years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$75,000.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,250.00, in advance;</p> <p>(b) during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every year the sum of \$78,750.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,562.50, in advance; and</p> <p>(c) during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$82,687.50 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,890.63, in advance</p>
<p>466 Queen Street West, Toronto, Ontario (Store No. 1333)</p>	<p>(a) during the first five years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$60,700.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$5,058.33, in advance;</p> <p>(b) during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every year the sum of \$63,735.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$5,311.25, in advance; and</p> <p>(c) during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$66,921.75 of lawful money of Canada in twelve (12) equal monthly instalments of \$5,576.81, in advance</p>
<p>636 Bloor Street West, Toronto, Ontario (Store No. 1334)</p>	<p>(a) during the first five years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$61,400.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$5,116.67, in advance;</p> <p>(b) during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every</p>

Municipal Address	Rent Payable
	<p>year the sum of \$64,470.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$5,372.50, in advance; and</p> <p>(c) during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$67,693.50 of lawful money of Canada in twelve (12) equal monthly instalments of \$5,641.12, in advance</p>
<p>2500 Danforth Avenue, Toronto, Ontario (Store No. 1336)</p>	<p>(a) during the first five years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$76,200.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,350.00, in advance;</p> <p>(b) during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every year the sum of \$80,010.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,667.50, in advance; and</p> <p>(c) during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$84,010.50 of lawful money of Canada in twelve (12) equal monthly instalments of \$7,000.88, in advance</p>
<p>1300 Weston Road, Toronto, Ontario (Stone No. 1337)</p>	<p>(a) during the first five years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$62,700.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$5,225.00, in advance;</p> <p>(b) during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every year the sum of \$65,835.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$5,486.25, in advance; and</p> <p>(c) during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$69,126.75 of lawful money of Canada in twelve (12) equal monthly instalments of \$5,760.56, in advance</p>
<p>2296 Eglinton Avenue West, Toronto, Ontario (Store No. 1338)</p>	<p>(a) during the first five years of the Term from May 7, 2001 until May 6, 2006 yearly and every year the sum of \$70,600.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$5,883.33, in advance;</p> <p>(b) during the second five years of the Term from May 7, 2006 until May 6, 2011 yearly and every year the sum of \$74,130.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,177.50, in advance; and</p>

Municipal Address	Rent Payable
	(c) during the last five years of the Term from May 7, 2011 until May 6, 2016 yearly and every year the sum of \$77,836.50 of lawful money of Canada in twelve (12) equal monthly instalments of \$6,486.37, in advance



**THIS AMENDED AND RESTATED LEASE** made as of the 6th day of October, 2005.

**IN PURSUANCE OF THE SHORT FORMS OF LEASES ACT.**

**BETWEEN:**

**SCOTT'S REAL ESTATE LIMITED PARTNERSHIP**  
(hereinafter called the "Landlord"),

**OF THE FIRST PART;**

**AND**

**KIT LIMITED PARTNERSHIP**  
(hereinafter called the "Tenant"),

**OF THE SECOND PART;**

**RECITALS:**

WHEREAS SRI Realty (No. 2) Inc. (the "Original Landlord") and Prizm Brandz LP, by its General Partner Prizm Brandz Inc. (the "Original Tenant") entered into a lease agreement (the "Original Lease") dated as of October 1, 2002 in respect of certain premises described therein, including the Leased Premises (as defined herein);

AND WHEREAS the Original Lease was assigned by the Original Tenant to the Tenant, by an assignment of leases dated as of November 10, 2003;

AND WHEREAS the Original Lease was assigned, to the extent only that the Original Lease relates to the Leased Premises, by the Original Landlord to the Landlord, by an assignment of lease (the "Assignment Agreement") dated as of October 6, 2005;

AND WHEREAS the Landlord and the Tenant wish to amend and restate, without novation, the Original Lease to reflect the fact that, as between the Landlord and the Tenant, the leasing arrangements contemplated thereby now apply, *mutatis mutandis*, in respect of the Leased Premises;

NOW THEREFORE in consideration of the mutual agreements and covenants contained herein and the sum of \$10.00 (the receipt and adequacy of which are hereby acknowledged), the parties agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

Section 1.01 In this Lease the following words and terms shall have the following meanings respectively:

- (a) "Building" means the building and the other fixtures and improvements on each of the Lands.
- (b) "GST" means any business transfer tax, value added tax or goods and services tax presently or hereafter imposed from time to time upon the Landlord or the Tenant or in respect of this Lease and payable on account of the rental of each of the Leased Premises or the Landlord's receipt of the rents and other amounts and charges hereunder.
- (c) "Landlord's Insurance" shall have the meaning attributed thereto in section 11.01.

- (c) "Landlord's Insurance" shall have the meaning attributed thereto in section 11.01.
- (d) "Lands" means each of the twenty-six (26) lands and premises as shown on Schedule "A" attached hereto.
- (e) "Lease" means this lease as executed by the Landlord and the Tenant.
- (f) "Leased Premises" means each of the Lands and Building.
- (g) "Property Taxes" means all taxes, rates, local improvement rates, impost charges, duties, assessments or levies which may be levied, rated, charged or assessed against each of the Lands and Building, whether real or personal, moveable or immovable, by any authority having jurisdiction, whether federal, provincial, municipal, school board, utility commission or other, and includes any taxes or levies which may be imposed on the Landlord or the Tenant or anyone else on account or in lieu thereof, whether or not forming a charge on each property itself, and any other taxes, rates, duties, assessments or levies which may hereafter be levied in lieu of, or of a nature similar to, the foregoing, and whether recurring annually, or at other intervals, or on a special or single instance only, but shall not include the Landlord's income taxes, capital tax, value added taxes, business transfer taxes or other taxes personal to the Landlord.
- (h) "Term" shall have the meaning attributed thereto in section 3.0 1.
- (i) "Transfer" shall have the meaning attributed thereto in Section 21.01.
- (j) "Transferee" shall have the meaning attributed thereto in Section 21.01.
- (k) "Utilities" means gas, fuel, electricity, light, heat, power, other forms of energy, sewage disposal service, garbage and trash removal, cable T.V. and telephone and other communication services used, rendered or supplied upon or in connection with each of the Leased Premises and "Utility" shall have a corresponding meaning.

**ARTICLE 2  
DEMISE**

Section 2.01 In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord by these presents does demise and lease unto the Tenant for the Term, the Leased Premises.

**ARTICLE 3  
TERM**

Section 3.01 The term of the Lease (the "Term") shall be for a period of fifteen years commencing at 12:01 a.m. on the 1<sup>st</sup> day of October, 2002 (the "Commencement Date"), to be fully completed at 11:59 p.m. on the 30<sup>th</sup> day of September, 2017.



**ARTICLE 4  
RENT**

Section 4.01 Throughout the Term, the Tenant shall pay to the Landlord in each and every year, an annual minimum rent for each of the Leased Premises (the "Minimum Rent") yearly and every year during the within Term in monthly installments as set out in Schedule "B" attached hereto.

**ARTICLE 5  
TAXES**

Section 5.01 The Tenant covenants with the Landlord to pay to the respective taxing authorities, subject to the provisions of Section 5.02, all Property Taxes as and when due. The Tenant covenants that it will upon the request of the Landlord forward to the Landlord copies of all receipted tax bills. All sums payable by the Tenant under this clause shall be apportioned for any calendar year during which the Tenant is not in possession of the Leased Premises for the full calendar year.

Section 5.02 Notwithstanding anything contained in Section. 5.01, the Tenant agrees that if at any time and from time to time the Landlord places a mortgage or other financial encumbrance on the Leased Premises and such mortgage or encumbrance requires monthly payments to be made with respect to the taxes and other charges required to be made pursuant to the provisions of Section 5.01, then, in such event, all such payments shall be paid by the Tenant to the mortgagee or encumbrancer rather than to the respective taxing authorities as additional rent on the date and in the amounts specified in such mortgage or encumbrance.

Section 5.03 In any suit or proceeding affecting this Lease, a bill from the office, bureau, department or agency issuing bills for any of the Property Taxes shall be prima facie evidence of the amount thereof and that the same is or are due and payable.

Section 5.04 In the event that the Tenant shall deem any of the Property Taxes illegal or excessive or otherwise subject to contest, it may, at its election, contest such imposition in the name of the Landlord or in its own name, but at the Tenant's expense; provided that nothing in this paragraph shall be construed to permit the Tenant to postpone its obligation to make the payments required under this Article.

Section 5.05 The Tenant shall pay when due all taxes, rates, duties, assessments and other charges that may be levied, rated, charged or assessed against or in respect of all improvements, equipment, facilities on or in the Leased Premises and every tax and license fee in respect of any business carried on thereon or therein or in respect of the use or occupancy of the Leased Premises.

Section 5.06 The Tenant covenants with the Landlord to pay to the Landlord the GST at the same time as rent is payable under Section 4.01 hereof The Landlord shall have the same rights and remedies with respect to non-payment of GST as it does with respect to nonpayment of rent.

**ARTICLE 6  
USE OF PREMISES**

Section 6.01 The Leased Premises shall be used by the Tenant for the purpose of conducting therein a sit down family type restaurant, drive-thru, take out and delivery fast food facility, or any combination thereof which may or may not be licensed to sell alcoholic beverages, or any other lawful use.

Section 6.02 The Tenant shall not commit, cause or permit any nuisance or waste on the Leased Premises or permit the emission of any offensive substance, odor or noise from the Leased Premises.

Section 6.03 The Tenant will not bring upon the Leased Premises or any part thereof, any machinery, equipment, article or thing that by reason of its weight, size, or use might, in the opinion of the Landlord, damage the Leased Premises and will not at any time overload the floors of the Leased Premises, the roof deck, the perimeter walls, ceilings, structural steel elements, overhead doors or the parking lots.

Section 6.04 The Tenant will not install any equipment which would exceed or overload the capacity of the utility facilities in the Leased Premises or the electrical wiring and service in the Building or in the Leased Premises and agrees that if any equipment installed by the Tenant shall require additional utility facilities, same shall be installed, if available, and subject to the Landlord's prior written approval thereto (which approval may not be unreasonably withheld), at the Tenant's sole cost and expense in accordance with plans and specifications to be approved in advance by the Landlord, in writing.

#### **ARTICLE 7 REPAIRS AND MAINTENANCE**

Section 7.01 The Tenant shall repair the Leased Premises. Without limiting the generality of the foregoing, the Tenant's obligation to repair extends to matters notwithstanding that such may be commonly known as a repair of a capital or structural nature.

Section 7.02 The Tenant shall provide normal day-to-day maintenance of the Leased Premises and will repair according to notice in writing. The obligations of the Tenant to provide normal day-to-day maintenance shall include, without limitation, snow removal for the Building, outside maintenance and gardening of the Building, pest control for the Building, painting and decorating, and maintenance of the parking lot.

#### **ARTICLE 8 COMPLIANCE WITH LAWS**

Section 8.01 The Tenant, at its own expense, shall comply promptly with and conform to the requirements of all applicable statutes, laws, by-laws, regulations, ordinances and order at any time in force during the term which affect the condition, equipment, maintenance, use or occupation of the Leased Premises, and with every applicable reasonable regulation, order and requirement of the Canadian Fire Underwriters Association or any body having similar functions or of liability or fire insurance company by which the Building may be insured by the Landlord or the Tenant at any time during the Term.

Section 8.02 If the Tenant defaults under the provisions of this Article, the Landlord may itself comply with the requirements of this Article and the Tenant shall forthwith pay all costs and expenses incurred by the Landlord in so doing and all such costs and expenses shall be recoverable by the Landlord as additional rent.

#### **ARTICLE 9 UTILITIES**

Section 9.01 The Tenant shall make arrangements, at its own cost and expense, directly with the public service companies and private utilities supplying Utilities during and throughout the Term, and shall indemnify Landlord against any liability for any charges therefor.

Section 9.02 The Tenant shall pay promptly when due all charges, costs, accounts and any other sums payable by reason of the supply of the Utilities.

Section 9.03 The Tenant, at its own cost and expense, shall procure each and every permit, license or other authorization required during the Term, for lawful and proper installation upon the Building of wire, pipes, conduits, tubes and other equipment and appliances for use in supplying Utilities.

Section 9.04 In no event shall the Landlord be liable for any injury to the Tenant, its employees, agents or invitees, or to the Leased Premises, or to any property of the Tenant or anyone else for any loss of profits or business interruption, indirect or consequential damages, or for any other costs, losses or damages of whatsoever kind arising from any interruption or failure in the supply of any Utility to the Leased Premises.

#### ARTICLE 10 TENANT'S INSURANCE

Section 10.01 The Tenant shall throughout the Term hereof keep in full force and effect at its sole cost and expense in the names of the Tenant, the Landlord and the Landlord's mortgagees as their respective interests may appear,

- (a) all risks (including flood and earthquake) property insurance in an amount of at least one hundred percent (100%) of the full replacement cost, insuring (1) all property owned by the Tenant, or for which the Tenant is legally liable, or installed by or on behalf of the Tenant, and located within the Building including, but not limited to, fittings, installations, alterations, additions, partitions, and all other leasehold improvements, and (2) the Tenant's inventory, furniture and movable equipment;
- (b) the repair and replacement of boilers, pressure vessels, air-conditioning equipment and miscellaneous electrical apparatus on a broad form blanket coverage basis;
- (c) public liability and property damage insurance including personal injury liability, contractual liability, non-owned automobile liability and owners' and contractors' protective insurance coverage with respect to the Leased Premises, coverage to include the activities and operations conducted by the Tenant and any other parties on the Leased Premises and by the Tenant and any other parties performing work on behalf of the Tenant and those for whom the Tenant is in law responsible. Such policies shall (1) be written on a comprehensive basis with inclusive limits of at least Two Million Dollars (\$2,000,000.00) for bodily injury for any one or more persons, or property damage, (but the Landlord, acting reasonably, or the mortgagee, may require higher limits from time to time) and (2) contain a severability of interests clause and cross liability clauses;
- (d) Tenant's legal liability insurance for the replacement cost of the Leased Premises;
- (e) any other form of insurance as the Landlord, or the Landlord's mortgagee reasonably require from time to time, in form, in amounts and for risks against which a prudent tenant would insure.

Section 10.02 Notwithstanding subsection 10.01 above, the Tenant shall be entitled to insure the Leased Premises, and the Tenant's business operations therein, under the Tenant's blanket insurance policy which the Tenant maintains for the group of restaurants operated by the Tenant, including the deductible amounts and amounts of coverages and coverages as therein contained.

Section 10.03 All the foregoing policies shall be kept in good standing and in full force and effect at all times throughout the Term, shall be reviewed annually by the Tenant to ensure that they are up to date, and shall be in a form and with insurers acceptable to the Landlord. All the foregoing policies shall contain a waiver of any right of subrogation or recourse by the Tenant's insurers against the Landlord or the Landlord's mortgagees, their contractors, agents and employees, whether or not any loss is caused by the act, omission or negligence of the Landlord, its mortgagees, their contractors, agents or employees. The Tenant shall obtain undertakings to the Landlord from its respective insurers that none of the foregoing policies shall be cancelled or allowed to lapse or materially changed, as against the Landlord or its mortgagees until at least thirty days written notice has been given to the Landlord and its mortgagees to that effect. The Tenant shall provide the Landlord with a certificate of such insurance coverages, issued by its insurer, in the insurer's form, as evidence of compliance with its obligations to insure under this Lease, and the Tenant shall not be required to provide either the original or certified copies of the Tenant's blanket insurance policy to the Landlord.

Section 10.04 If the Tenant fails to take out any of the foregoing insurance, or permits any such insurance to lapse, or fails to put such insurance in good standing promptly after the Landlord or its mortgagees have received notice of an intended cancellation or lapse and have notified the Tenant thereof, the Landlord or its mortgagees may place such insurance on the Tenant's behalf and the premiums payable for such insurance shall be payable by the Tenant to the Landlord or its mortgagees forthwith.

#### ARTICLE 11 LANDLORD'S INSURANCE

Section 11.01 The Landlord shall throughout the Term hereof keep in full force and effect the following insurance (collectively the "Landlord's Insurance"):

- (a) "all risks" rent and rental value insurance in an amount sufficient to replace all Minimum Rent, Percentage Rent and additional rent payable under the provisions of this Lease for an indemnity period of one year or such other period as the Landlord may determine;
- (b) such insurance as may be available to it at reasonable cost under a standard extended form of fire insurance policy but excluding foundations and excavations and any property that the Tenant is obliged to insure and with such reasonable deductions and exclusions as would be carried by a prudent owner of a similar building, having regard to the size, age and location of the Building.

Section 11.02 The Tenant covenants with the Landlord to pay to the Landlord as additional rent the costs to the Landlord of the Landlord's Insurance within thirty (30) days following written demand therefor by the Landlord.

Section 11.03 The amount of any bill or account for Landlord's Insurance shall be apportioned between the Landlord and the Tenant where the Tenant is not in possession of the Leased Premises for the whole of the period covered by the amount of such bill or account.

Section 11.04 The Tenant shall not be an insured under the policies with respect to the Landlord's Insurance, nor shall it be deemed to have any insurable interest in the property covered by such policies, or any other right or interest in such policies or their proceeds.

Section 11.05 If the occupancy of the Leased Premises, the conduct of business in the Leased Premises, or any acts or omissions of the Tenant in the Building or any

part thereof, causes or results in any increase in premiums for the insurance carried from time to time by the Landlord with respect to the Building, the Tenant shall pay any such increase in premiums, as additional rent, forthwith after invoices for such additional premiums are rendered by the Landlord. In determining whether increased premiums are caused by or result from the use and occupancy of the Leased Premises, a schedule issued by the organization computing the insurance rate on the Building showing the various components of such rate shall be conclusive evidence of the several items and charges which make up such rate. The Tenant shall comply promptly with all requirements and recommendations of the Insurer's Advisory Organization of Canada (or any successor thereof) or of any insurer now or hereafter in effect, pertaining to or affecting the Leased Premises.

Section 11.06 If any insurance policy upon the Building or any part thereof shall be cancelled or shall be threatened by the insurer to be cancelled, or the coverage thereunder reduced in any way by the insurer by reason of the use and occupation of the Leased Premises 'or any part thereof by the Tenant or by any assignee or subtenant of the Tenant, or by anyone permitted by the Tenant to be upon the Leased Premises, and if the Tenant fails to remedy the conditions giving rise to the cancellation, threatened cancellation or reduction of coverage within forty-eight (48) hours after notice thereof by the Landlord, the Landlord may, at its option, either: (a) reenter and take possession of the Leased Premises forthwith by leaving upon the Leased Premises a notice in writing of its intention so to do and thereupon the Landlord shall have the same rights and remedies as contained in Article 22 hereof; or (b) enter upon the Leased Premises and remedy the conditions giving rise to such cancellation, threatened cancellation or reduction, and the Tenant shall forthwith pay the cost thereof to the Landlord, which cost may be collected by the Landlord as additional rent and the Landlord shall not be liable for any damage or injury caused to any property of the Tenant or of others located on the Leased Premises as a result of such entry. The Tenant agrees that any such entry by the Landlord is not a re-entry or a breach of any covenant for quiet enjoyment contained in this Lease.

## ARTICLE 12 DAMAGE AND DESTRUCTION

Section 12.01 If the Leased Premises or any portion thereof are damaged or destroyed by fire or by other casualty against which the Landlord is insured, rent shall abate in proportion to the area of that portion of the Leased Premises which, in the reasonable opinion of the Landlord, is thereby rendered unfit for the purposes of the Tenant until the Leased Premises are repaired and rebuilt, and the Landlord shall repair and rebuild the Leased Premises. The Landlord's obligation to repair and rebuild shall not include the obligation to repair and rebuild any chattel, fixture, leasehold improvement, installation, addition or partition in respect of which the Tenant is required to maintain insurance hereunder or any other property of the Tenant. Rent shall recommence to be payable one (1) day after the Landlord notifies the Tenant that the Tenant may occupy the Leased Premises.

Section 12.02 Notwithstanding section 12.01, if the Leased Premises or any portion thereof are damaged or destroyed by any cause whatsoever and cannot, in the reasonable opinion of the Landlord, be rebuilt within 180 days of the damage or destruction, the Landlord instead of rebuilding the Leased Premises may terminate this Lease by giving to the Tenant within 30 days after such damage or destruction notice of termination and thereupon rent and other payments hereunder shall be apportioned and paid to the date of such damage or destruction and the Tenant shall immediately deliver up vacant possession of the Leased Premises to the Landlord.

Section 12.03 Notwithstanding sections 12.01 and 12.02, in the event of damage or destruction occurring by reason of any cause in respect of which proceeds of

insurance are substantially insufficient to pay for the costs of rebuilding the Building or the Leased Premises, the Landlord may terminate this Lease on written notice to the Tenant.

#### **ARTICLE 13 EXPROPRIATION**

Section 13.01 If during the Term the whole of the Leased Premises shall be expropriated or such portion of the Leased Premises as renders the remainder unsuitable or impracticable, for the purposes intended in this Lease shall be expropriated, upon possession being required all rentals shall be paid up to that date and both the Landlord and the Tenant will have their separate and distinct claims against the expropriating authority in such manner as may be provided in law, and neither shall have a claim against the other for the termination of the Lease or the shortening of the Term of the Lease.

Section 13.02 In the event of any expropriation of part of the Leased Premises that does not render the remainder unsuitable or impracticable for the purposes intended in this Lease there shall be no abatement of rent or other charges under this Lease and both the Landlord and the Tenant will have their separate and distinct claims against the expropriating authority in such manner as may be provided in law, and neither shall have a claim against the other of any type or kind.

#### **ARTICLE 14 INSPECTION OF PREMISES BY LANDLORD**

Section 14.01 Landlord shall have the right to enter the Leased Premises at all reasonable times on reasonable notice to the Tenant for the purpose of:

- (a) making any repairs to the Leased Premises and performing any work therein that may be necessary by reason of the Tenant's default under the terms of this Lease continuing beyond any applicable grace periods;
- (b) exhibiting the Leased Premises (within three-(3) months prior to the expiration of the Term of this Lease or any renewal thereof) to prospective tenants and (at any time during the Term) to prospective purchaser's and mortgagees; and
- (c) viewing the state of repair of the Leased Premises.

Section 14.02 Landlord shall have the right to enter the Leased Premises at any time in the event of an emergency.

#### **ARTICLE 15 LOSS OR DAMAGE, INDEMNITY**

Section 15.01 The Landlord, its contractors, agents and employees shall not be liable for any death, injury, or damage to or loss of property, of the Tenant, its employees, agents, or invitees occurring in or about the Leased Premises, unless such death, injury, damage or loss resulted from the negligence of the Landlord, its contractors, agents or employees or other persons for whom it may be responsible. All property of the Tenant within the Leased Premises shall be at the risk of the Tenant only.

Section 15.02 The Tenant shall, during the Term, indemnify and save harmless the Landlord from any and all liabilities, damages, costs, claims, suits or actions incurred by it as a result of or arising out of:

- (a) any breach, violation or non-performance of any covenants, condition or agreement in this Lease set forth and contained, on the part of the Tenant to be fulfilled, kept and observed and performed;
- (b) any damage to property occasioned by the Tenant's use and occupation of the Leased Premises; and
- (c) any injury to person or persons, including death, resulting at any time therefrom occurring in or about the Leased Premises and/or on the sidewalks and laneways or streets adjacent to same, unless the same is caused by the negligence of the Landlord, its servants or agents or others for whom it is in law responsible.

**ARTICLE 16  
LANDLORD MAY CURE TENANT'S DEFAULTS**

Section 16.01 If the Tenant shall default in the performance of any of the terms, covenants and conditions of this Lease, the Landlord, after fifteen (15) days' notice to the Tenant specifying such default, or without notice if, in the reasonable exercise of the Landlord's judgment, an emergency exists, may but shall not be obligated to perform the same for the account and at the expense of the Tenant and the amount of any payments made or expenses incurred by the Landlord for such purpose, shall become due and payable by the Tenant as additional rent with the next or any subsequent installment of rent which shall become due after such expenditure by the Landlord; but any such expenditure by the Landlord shall not be deemed to waive or relieve the Tenant's default or the right of the Landlord to take such action as may be permissible under the terms of this Lease in the event of such default. When no emergency exists, the provisions of this Article shall be inapplicable if, within fifteen (15) days after such notice by the Landlord, the Tenant shall have cured such default or shall have commenced and is diligently proceeding to cure same.

**ARTICLE 17  
CONSTRUCTION LIENS**

Section 17.01 If any construction or other liens or order for the payment of money shall be filed against the Leased Premises by reason of or arising out of any labour or material furnished to the Tenant or to anyone claiming through the Tenant, the Tenant within thirty (30) days after notice to the Tenant of the filing thereof shall cause the same to be discharged by bonding, deposit, payment, court order or otherwise. The Tenant shall defend all suits to enforce such lien, or orders, against the Tenant, at the Tenant's sole expense. The Tenant hereby indemnifies the Landlord against any expense or damage as a result of such liens or orders.

Section 17.02 Notwithstanding anything contained in this Lease, the Landlord and the Tenant agree that the Landlord has not, nor is it intended by any provisions of this Lease, waived the right to receive any notice required to be given the Landlord by any person doing work or supplying materials to the Tenant pursuant to the provisions of the *Construction Lien Act*.

**ARTICLE 18  
WAIVERS, CUMULATIVE REMEDIES, ETC.**

Section 18.01 The specific remedies to which Landlord may resort under the provisions of this Lease are cumulative and are not intended to be exclusive of any other remedies or means or redress to which it may be lawfully entitled in case of any breach or threatened breach by the Tenant of any of the terms, covenants and conditions of this Lease. The failure of the Landlord to insist upon the strict performance of any of the terms, covenants and conditions of this Lease, or to

exercise any right or remedy herein contained, shall not be construed as a waiver or relinquishment for the future of such terms, covenants and conditions. In addition to the other remedies in this Lease provided, the Landlord shall be entitled to the restraint by injunction of the violation or attempted or threatened violation of any of the terms, covenants and conditions of this Lease or to a decree, in any court having jurisdiction of the matter, compelling performance of any such terms, covenants and conditions.

#### **ARTICLE 19 INVALIDITY OF PARTICULAR PROVISIONS**

Section 19.01 If any term or provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such terms or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

#### **ARTICLE 20 ALTERATIONS AND ADDITIONS**

Section 20.01 The Tenant shall not make any repairs, alterations, replacements or improvements to the structure, any perimeter or bearing wall or alterations, replacements or improvements to the sprinkler system, or the heating, ventilating, air-conditioning, plumbing, electrical or mechanical equipment of the Leased Premises or the Building without obtaining the Landlord's prior written approval, which approval may not be unreasonably or arbitrarily withheld, but may be given on such conditions as the Landlord reasonably imposes. With any such request, the Tenant shall submit to the Landlord details of the proposed work, including drawings and specifications prepared by qualified architects or engineers, if the Landlord shall so require, and conforming to good construction practice. The Tenant will pay the Landlord's reasonable out-of-pocket expenses for consulting services in connection with the Landlord's consideration of any request for approval under this section.- Any such repairs, alterations, replacements or improvements shall comply with all applicable laws, by-laws, regulations, and orders enacted or made by any federal, provincial or municipal authority having jurisdiction, and the Landlord's fire insurance underwriters. The Tenant shall at its own expense obtain all requisite building and other permits.

Section 20.02 The Tenant shall indemnify the Landlord and save it harmless from any costs, expenses, damages or increased insurance premiums which may result from the performance of any work (whether or not the Landlord's approval was required or obtained under section 20.01).

Section 20.03 Provided the Tenant obtains all necessary permits and approvals from all authorities having jurisdiction, and provided the Tenant's signage does not conflict with the Landlord's signage criteria for the Building, the Tenant shall have the right to install and use such signage as is used and installed by the Tenant in its other retail locations in the Province of Ontario, and to use those trademarks, names, logos and other registerable marks as may from time to time be used by the Tenant in its business operations. The Tenant shall also have the right to install and use its standard illuminated menu board within the Leased Premises.

#### **ARTICLE 21 ASSIGNMENT AND SUBLETTING**

Section 21.01 The Tenant shall not assign, sublet, transfer, set over, mortgage, charge, hypothecate, create any security interest in, or part with possession of, all or any part of the Leased Premises or of this Lease (a "Transfer"), without the prior



written consent of the Landlord in each instance, which consent may not be unreasonably withheld. With any request for consent, the Tenant shall submit information as to the financial background, financial status, and business history of the party who is to acquire an interest in the Tenant or in this Lease or the Leased Premises (the "Transferee") and such other information as the Landlord may reasonably request in connection with such request for consent.

Section 21.02 Any consent by the Landlord under this Article shall not constitute a waiver of the necessity for such consent on any subsequent occasion requiring consent, and shall not relieve the Tenant from any of its obligations to pay rent or perform the covenants contained in this Lease. Notwithstanding any Transfer, the Tenant shall not be relieved of liability by any subsequent amendment of the terms hereof between the Landlord and the assignee or any granting of time, renewals, extensions, indulgences, releases, discharges or other arrangements with the assignee. If this Lease is disclaimed or terminated by any trustee in bankruptcy of any assignee of this Lease, the original tenant named in this Lease shall, if requested by the Landlord within thirty days of such disclaimer or termination, enter into a lease with the Landlord upon the same terms and conditions as contained herein except for the duration of term, which shall expire on the date this Lease would have expired save for such disclaimer or termination. Any assignment or other document effecting a transaction to which the Landlord's consent is required shall be in a form satisfactory to the Landlord. Any assignment or sublease shall at the Landlord's option be on the Landlord's form and shall in any event contain a covenant by the Transferee with the Landlord that it will observe and perform all of the Tenant's obligations contained in this Lease. Any such document shall be reviewed by the Landlord or its solicitors or prepared by them at the expense of the Tenant.

Section 21.03 The Landlord's consent to any Transfer shall be subject to the condition that if the minimum rent and additional rent to be paid by the Transferee under such Transfer exceeds the Minimum Rent, Percentage Rent and additional rent payable under this Lease, the amount of any excess shall be paid by the Tenant to the Landlord. If the Tenant receives from any Transferee, either directly or indirectly, any consideration other than rent and additional rent for such Transfer, either in the form of cash, goods or services (other than the proceeds of any bona fide financing as the result of a Transfer involving a mortgage, charge or similar security interest in this Lease) the Tenant shall forthwith pay to the Landlord an amount equivalent to such consideration. The Tenant and the Transferee shall execute any agreement required to give effect to the foregoing term.

21.04 Notwithstanding subsections 21.01, 21.02 and 21.03 herein, provided the Tenant shall remain liable for its covenants under this Lease, upon prior written notice given to the Landlord, but without having to obtain the Landlord's prior written consent, the Tenant shall have the right to assign the Lease or sublet the Leased Premises, including any options to renew or other rights benefiting the Tenant, without any increased rental or fee, to any of the following.

- (a) to any corporation or partnership which is now or in the future affiliated or associated with the Tenant or any holding body corporate or subsidiary body corporate (as those terms are defined pursuant to the Ontario Business Corporations Act) of the Tenant or any of Yum! Brands Canada Management Holding Inc., Scott's Restaurants Inc., SRI Realty Inc, and SRI Realty (No. 2) Inc. (the "Related Companies") or to a franchisee of any of the foregoing;
- (b) to any corporation formed as a result of a merger or amalgamation of the Tenant or any of the Related Companies with another corporation or corporations;

- (c) to any person, corporation or entity who is purchasing a majority in the Province of Ontario of the Tenant's other similar businesses as the business being operated on the Leased Premises; and
- (d) to a party that is a franchisee, licensee or concessionaire entitled to carry on the permitted use, so long as the same business is operated and the franchisee, licensee or concessionaire agrees to be bound by, perform and observe all of the terms, conditions and agreements of the Lease.

**ARTICLE 22  
DEFAULT AND REMEDIES**

Section 22.01 If any of the following shall occur:

- (a) if the Tenant shall fail to pay any rent or other sums due hereunder when due, and if such rent or other sums are not paid within five days after notice is given by the Landlord of such non-payment;
- (b) if the Tenant does not observe, perform and keep each and every of the covenants, provisions, stipulations, conditions, rules and regulations and other terms herein contained to be observed, performed and kept by the Tenant, and, where the breach can be rectified, such non-observance or non-performance shall continue for fifteen days after notice is given by the Landlord requiring that the Tenant rectify the breach, except where rectifying the breach would reasonably require more than fifteen days and the Tenant has commenced rectification in good faith within the fifteen day period and thereafter promptly, diligently and continuously proceeds with rectification of the breach;
- (c) if the Tenant shall abandon the Leased Premises, or make a bulk sale of its goods or sell the business conducted at the Leased Premises, or move, or commence, attempt or threaten to move any of its goods, chattels and equipment out of the Leased Premises (other than in the ordinary course of its business);
- (d) if a writ of execution shall issue against the Tenant, or if the Term hereby granted or any of the goods, chattels or equipment of the Tenant shall be taken in execution or attachment or be seized by any creditor of the Tenant, whether secured or otherwise;
- (e) if the Tenant shall become insolvent or commit an act of bankruptcy or become bankrupt or take the benefit of any Act that may be in force for bankrupt or insolvent debtors, or become involved in voluntary or involuntary winding up proceedings, or if a receiver shall be appointed by the Court or by any creditor for the business, property, affairs or revenues of the Tenant;

then, and in every such case, the Landlord may, in addition to any other rights or remedies it may have under other provisions of this Lease or by law, at its option exercise all or any of the following remedies:

- (f) The Landlord may perform any obligation which the Tenant should have performed or cause the same to be performed and for such purpose may enter upon the Leased Premises and do such things thereon as the Landlord may consider requisite without effecting a termination of this Lease;
- (g) The Landlord may enter the Leased Premises and distrain upon the goods and chattels of the Tenant, or may remove and sell the goods,

chattels and equipment of the Tenant without any notice or form of legal process, any rule of law to the contrary notwithstanding, and the Landlord may seize and sell the goods and chattels and the equipment, whether they are within the Leased Premises or at any place to which the Tenant or any other person may have removed them in the same manner as if they had remained and been distrained upon in the Leased Premises, and the Landlord may follow the goods and chattels for the maximum period permitted by law', and any sale by the Landlord may, in its sole discretion, be effected by public auction or private contract and either in bulk or by individual items, or partly by one means and partly by the other.

- (h) The Landlord may remove the goods, chattels, equipment and fixtures of the Tenant from the Leased Premises and store them in a public warehouse or elsewhere at the cost of and for the account of the Tenant.
- (i) In order to relet, the Landlord may take possession of the Leased Premises as agent of the Tenant and effect such alterations and repairs as it may deem necessary or advisable for the purpose of such reletting, and it may relet the Leased Premises or any part thereof for such term or terms (which may be for a term extending beyond the Term) and at such rental or rentals and upon such other terms and conditions as the Landlord, in its sole discretion, may deem advisable. Upon such reletting, all rentals received by the Landlord from such reletting shall be applied, first to the payment of the Landlord's costs and expenses of such reletting and costs of such alterations and repairs; second to the payment of any indebtedness other than rent due from the Tenant to the Landlord; third to the payment of arrears of rent and other sums owing hereunder; fourth to the payment of rent and other sums owing hereunder as such fall due; and the residue, if any, shall be held by the Landlord without interest until the end of the Term and applied from time to time in payment of rent and other sums owing hereunder as the same may become due and payable, and any residue remaining at the end of the Term shall be held for the Tenant. No such reletting, nor the receipt of any such rentals from any new tenant, nor the creation of the relation of landlord and tenant between the Landlord and any party to whom the Leased Premises may have been relet, shall have the effect of exonerating the Tenant from its obligations to pay rent hereunder as it falls due or of in any way terminating this Lease.
- (j) The Landlord may terminate this Lease by commencing an action for possession or for termination of the Lease or by notice to the Tenant. Such termination may be effected either at or after the time of the breach or at any later time and notwithstanding that the Landlord may have exercised any of its other remedies including that set out under subsection (i) hereof. In the event that the Landlord or anyone claiming under it or to whom it has rented the Leased Premises is in possession under the provisions of subsection (i) hereof, the Landlord may at any time terminate this Lease by notice to the Tenant and thereafter any then existing or later lease of the Leased Premises shall be for the account of the Landlord notwithstanding that such lease may originally have been entered into as agent for the Tenant. If the Landlord enters the Leased Premises without notice to the Tenant as to whether it is terminating this Lease under subsection (j) or proceeding under subsection (i) or any other provision of this Lease, the Landlord shall be deemed to be proceeding under subsection (i)

and the Lease shall not be terminated, nor shall there be any surrender by operation of law, but the Lease shall remain in full force and effect until the Landlord notifies the Tenant that it has elected to terminate this Lease. No entry by the Landlord during the Term shall have the effect of terminating this Lease without notice to that effect to the Tenant.

- (k) The Landlord shall be entitled to damages from the Tenant for breach of this Lease.
- (l) At the option of the Landlord, in the case of the events stated in (d) or (e) above occurring, the full amount of the current month's rent and the next ensuing three months' rent shall accelerate and shall immediately become due and payable.
- (m) On any termination for default, all fixtures, Tenant's improvements or other installations in the Leased Premises, which in law are fixtures or a part of the realty or are attached, affixed to or incorporated into or with the immovable properties situated in or upon the Building or the Leased Premises, and which are not the property of the Landlord, shall at the Landlord's option forthwith become the property of the Landlord, and whether or not such fixtures are in the nature of Tenant's trade fixtures, and whether or not they would be removable by the Tenant at the expiry of the Term if there had been no default.

Section 22.02 Notwithstanding any provision to the contrary in this Lease, the Tenant shall not be obligated to conduct its business operations on the Leased Premises continuously or in a continuous and uninterrupted manner. In the event that the Tenant elects not to so operate its business on the Leased Premises, it is acknowledged and agreed that the Tenant shall still be bound by all of the other applicable terms and covenants of this Lease, save and except that there shall be no default under this Lease as a result of the Tenant's cessation of business operations on the Leased Premises.

Section 22.03 Whenever the Landlord takes any proceedings, sends any notices, does any work, or otherwise incurs any expense or trouble or takes any action with respect to any default by the Tenant, and whether or not legal proceedings are begun or considered in consequence of such default, and whether or not this Lease is terminated, the Landlord shall be entitled to be paid by the Tenant forthwith on demand in addition to any other amounts which may be payable or owing hereunder, all of the following:

- (a) the cost of effecting any repairs or performing any obligation of the Tenant, together with an allowance of fifteen per cent (15%) for the Landlord's overhead and supervision;
- (b) the Landlord's costs and expenses in preparing the Leased Premises for reletting in such manner as in its sole discretion it deems necessary or advisable, together with an allowance of fifteen per cent (15%) for the Landlord's overhead and supervision;
- (c) the Landlord's Court costs, collection costs, and legal fees as between a solicitor and his own client and all judicial and extra judicial fees of advocates and notaries,
- (d) interest on rent or any other amounts overdue under the terms of this Lease and on any monies expended by the Landlord in consequence of any default by the Tenant at the rate of eighteen per cent (18%) per annum;

- (e) a charge of fifty dollars (\$50.00) for each cheque of the Tenant which is returned to the Landlord because of insufficient funds in the Tenant's account;
- (f) any other costs, charges or expenses, which the Landlord incurs or to which it is put, and which would not have been necessary at the time at which they were incurred but for the default of the Tenant.

Section 22.04 Notwithstanding anything contained in any statute at the present time or in the future in force, the Tenant hereby agrees with the Landlord that none of the Tenant's goods or chattels on the Leased Premises at any time during the Term shall be exempt from levy by distress for rent and other costs and charges payable hereunder in arrears, and that the Landlord may follow the Tenant's goods or chattels without limitation of time, and that on any termination of the Lease by the Landlord under the terms hereof, the Tenant shall have no right of redemption or relief from forfeiture, and that the Landlord may enter or take possession of the Leased Premises without judicial order, a writ of possession or any other legal process, and without notice to the Tenant except as provided under this Lease. The Tenant hereby waives all and every benefit that could or might have accrued to the Tenant, but for this section, by virtue of any present or future statute dealing with the matters set out in this section. The Tenant agrees that upon any claim being made for an exemption from levy by distress, or for a right of redemption or relief from forfeiture, or that the Landlord must proceed by judicial process to obtain possession, or with respect to any of the other rights dealt with herein, this section of this Lease may be pleaded as an estoppel against the Tenant in any action brought in which the rights of the Landlord to take the steps set out in this section are in question.

### ARTICLE 23 FINANCING AND ASSIGNMENT BY LANDLORD

Section 23.01 Within ten days after written request therefor by the Landlord, the Tenant shall deliver, in a form supplied by the Landlord, a certificate and acknowledgement to any proposed mortgagee or purchaser, or the Landlord, certifying (if such be the case) that this Lease is in full force and effect (or if there have been amendments, that the Lease is in full force and effect as amended and identifying the amending agreements), the commencement date and Term of the Lease, the dates to which rent and other charges have been paid and whether the Tenant has made any prepayments thereof, whether there is any existing default by the Landlord or the Tenant or any set-offs or claims by the one against the other, and whether there is any work remaining to be done by the Landlord within or to the Leased Premises, and shall provide, promptly upon availability and in any event within 120 days after the end of each fiscal year of the Tenant, a copy of its financial statements prepared by a chartered accountant in accordance with GAAP and, as the Landlord may reasonably request, the financial statements shall be audited by an independent firm of chartered accountants. The Tenant shall, on the request of the Landlord, acknowledge in writing receipt of any notice of assignment of this Lease by the Landlord.

Section 23.02 This Lease and all the rights of the Tenant hereunder are and shall at all times be subject and subordinate to any and all mortgages, trust deeds, charges, liens or other security instruments or rights granted or placed on the Lands and Building or any part thereof by the Landlord. Upon request of the Landlord from time to time, the Tenant shall within ten days of such request execute such documents or assurances in such form as the Landlord or its lenders may require to subordinate this Lease to such security and all advances made or to be made upon the security thereof, and if requested, attorning to the holder thereof provided that

the said lender first enters into a non-disturbance agreement with the Tenant in form and substance satisfactory to the Tenant acting reasonably.

Section 23.03 In the event of a sale or lease by the Landlord of all of the Leased Premises, or the assignment by the Landlord of this entire Lease, and to the extent that any purchaser, lessee or assignee of the Landlord has, by an instrument entered into with the Landlord, assumed the

covenants and obligations of the Landlord hereunder, the Landlord shall without further written agreement or instrument and without notice to the Tenant be freed and released from liability upon the covenants and obligations contained in this Lease.

#### ARTICLE 24 NOTICE

Section 24.01 Any notice to be given by the provisions of this Lease shall be sufficiently given if served personally or if mailed postage prepaid at any Post Office in Canada in a registered letter:

(a) if to the Landlord, addressed, to the Landlord at:

Canada Trust Tower  
BCE Place  
161 Bay Street, Suite 2300  
Toronto, Ontario, M5J 2S1

Attention: Lilly Di Massimo  
Facsimile: (416) 361-6018

(b) if to the Tenant, addressed to the Tenant at:

101 Exchange Avenue  
Vaughan, Ontario  
L4K 5R6

or to such other address as the party concerned shall have notified the other in writing. Any notice so mailed shall be held conclusively to have been given 72 hours after such mailing provided however that if at the time of such mailing a mail strike is in progress which affects the delivery of such notice, such notice shall not be deemed to have been received until it is actually received. Either party may from time to time by notice to the other change the address to which notices are to be given.

#### ARTICLE 25 SURRENDER OF PREMISES - OWNERSHIP OF IMPROVEMENTS

Section 25.01 The Tenant, upon expiration of the Term or earlier termination of this Lease, shall peaceably and quietly surrender the Leased Premises and any improvements thereon in accordance with this Article 25 and in good order, repair and condition.

Section 25.02 The Tenant shall on any surrender of possession of the Leased Premises have the right (but not the obligation) to remove such of its trade fixtures, other fixtures, leasehold improvements and equipment which are incorporated into, affixed or attached to and which have become a part of the Lands and Building, including such trade fixtures and leasehold improvements which identify the Leased Premises as any particular outlet, and in effecting such removal, shall do no

damage to the Leased Premises or any parts of the Lands and Building. Any leasehold improvements, equipment and fixtures which are not removed by the Tenant shall on surrender of possession by the Tenant become the sole and exclusive property of the Landlord without payment to the Tenant. For greater certainty, the Landlord acknowledges that the Tenant shall not be required to remove the interior partitions, drywall, storefront and bulkhead from the Leased Premises.

Section 25.03 When not in default at the expiration of the Term, or at any time during the term if not in default and in the ordinary course of business, the Tenant may remove the Tenant's trade fixtures, inventory and trade articles provided the Tenant makes good any damage in so doing.

#### **ARTICLE 26 QUIET ENJOYMENT**

Section 26.01 The Landlord covenants with the Tenant that if the Tenant pays the rents hereby reserved and performs its covenants and obligations herein contained, the Tenant may peaceably possess and enjoy the Leased Premises for the Term without interruption or disturbance from the Landlord or any other person lawfully claiming by from or under it,

#### **ARTICLE 27 CONDITION OF PREMISES**

Section 27.01 The Tenant acknowledges and agrees that it is leasing the Leased Premises on an "as is where is" basis and that there are no representations or warranties with respect to the Leased Premises.

#### **ARTICLE 28 MISCELLANEOUS**

Section 28.01 The parties acknowledge and agree that this is a lease of twenty-six (26) separate properties each with their own municipal address, legal description, and rent. Where applicable, the terms of this Lease shall be interpreted as if they apply to each separate property individually.

Section 28.02 INTENTIONALLY DELETED

Section 28.03 If the Tenant shall remain in occupation of the Leased Premises after the expiry of the Term hereby granted and any renewal thereof hereby granted, with or without the consent of the Landlord and without any further written agreement, the Tenant shall be a monthly tenant at a monthly rental herein reserved and otherwise on the terms and conditions herein set forth, except as to the length of tenancy.

Section 28.04 All waivers made by the Landlord shall be in writing and no waiver by the Landlord of any default made by the Tenant under this Lease shall be construed as a waiver of any other default which has been made or which may thereafter be made by the Tenant unless so specified in writing. No surrender of this Lease by the Tenant shall be valid unless accepted in writing by the Landlord.

Section 28.05 This Lease contains the entire agreement between the parties relating to the Leased Premises and shall not be modified in any manner except by an instrument in writing executed by the parties and this Lease shall supercede and replace any and all existing leases or agreements to lease between the parties with respect to the Leased Premises.

Section 28.06 The captions herein are for convenience and reference only and in no way define, limit or describe the scope or intent of this Lease nor in any way affect this Lease.

Section 28.07 This Lease is subject to the condition that it is to be effective only on obtaining such consents, if any, as may be required under the Planning Act. The Landlord covenants and agrees to apply and proceed diligently at its expense to obtain any necessary consent to this Lease.

Section 28.08 The covenants, agreements, terms, provisions and conditions of this Lease shall be binding upon and enure to the benefit of the Landlord and the Tenant and their successors and permitted assigns.

Section 28.09 The Tenant shall not register this Lease in full against the title to the Lands. The Tenant may register the minimum notice or memorial of lease required to give notice of its interest under the applicable registration statute with the written consent of the Landlord, such consent not to be unreasonably withheld.

Section 28.10 Without limiting the generality of anything else herein contained, the parties agree that upon expiration of the Term or any renewal thereof, or any earlier termination of this Lease, the Tenant's right of possession shall cease and terminate, but the obligations of the parties with respect to any item of rent or covenants not performed at the date of such expiration, any indemnification, or any other obligations which, by their nature are not completely performed prior to such expiration, shall remain in full force and effect until satisfied. It is agreed, however, that in no event shall the Tenant have any interest in or right to possession of the Leased Premises or any part of the Lands or Building after the expiration of the Term or any renewal thereof, or any such earlier termination of this Lease.

Section 28.11 Each of the Landlord and Tenant has full authority to enter into this Lease and to perform its obligations hereunder,

**ARTICLE 29  
NET LEASE**

Section 29.01 The parties acknowledge and agree that it is intended that this Lease be a completely net net net and carefree lease to the Landlord, and that except as otherwise specifically provided herein, the Landlord is not responsible during the Term for any costs, charges, expenses and outlays of any nature arising from or relating to the Leased Premises or the use or occupancy thereof, and the Tenant shall pay all charges and expenses relating to the Leased Premises.

Section 29.02 The parties acknowledge that nothing in this Lease has the effect of making the Tenant responsible for the Landlord's debt service costs (principal and interest) or the Landlord's income taxes capital taxes, value added taxes, business transfer taxes or other taxes personal to the Landlord.

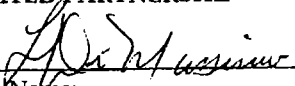
Section 29.03 The parties hereby confirm that the Original Lease remains in full force and effect and unamended except as expressly provided herein, without novation of the Original Lease.

*[Remainder of page intentionally left blank.]*



IN WITNESS WHEREOF each of the parties hereto have duly executed this Lease.

**SCOTT'S TRUSTEE CORP., in its capacity as trustee of SCOTT'S GP TRUST, in its capacity as general partner of SCOTT'S REAL ESTATE LIMITED PARTNERSHIP**

By:   
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

I/We have the authority to bind the Corporation.

**KIT LIMITED PARTNERSHIP,  
by its general partner KIT INC.**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

I/We have the authority to bind the Corporation.

IN WITNESS WHEREOF each of the parties hereto have duly executed this Lease.


**SCOTT'S TRUSTEE CORP., in its capacity as trustee of SCOTT'S GP TRUST, in its capacity as general partner of SCOTT'S REAL ESTATE LIMITED PARTNERSHIP**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

I/We have the authority to bind the Corporation.

**KIT LIMITED PARTNERSHIP,  
by its general partner KIT/INC.**

By:  \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

I/We have the authority to bind the Corporation.

## SCHEDULE "A"

**Store No. 1310, 3495 Sheppard Avenue East, Toronto, Ontario**

PIN: 06157-0134 (LT)

Firstly: Blocks A and B, Plan 5934

Secondly: Part of Lot 32, Concession 2

City of Toronto (formerly City of Scarborough), as in Instrument No. SC390198

**Store No. 1312, 3719 Lakeshore Boulevard West, Toronto, Ontario**

PIN: 07579-0219 (LT)

Lot 3, Plan 2155, City of Toronto (formerly City of Etobicoke)

**Store No. 1323, 3517 Dundas Street West, Toronto, Ontario**

PIN: 10519-0021 (LT)

Lot 6 and Part of Lot 7, Plan 1005, City of Toronto (formerly City of York), as in Instrument No. CA675995

**Store No. 1349, 239 Scarlett Road, Toronto, Ontario**

PIN: 10531-0003 (LT)

Lots 1 and 2, Plan 5052, City of Toronto (formerly City of York)

**Store No. 1372, 973 Simcoe Street North, Oshawa, Ontario**

PIN: 16286-0039(LT)

Part of Lot 9, Sheet IOD, Plan 357, City of Oshawa (formerly East Whitby), Regional Municipality of Durham, as in D475925

**Store No. 1373, 474 Simcoe Street South, Oshawa, Ontario**

PIN: 16368-0312 (LT)

Part Lot C40, Sheet 22, Plan 335, City of Oshawa, Regional Municipality of Durham, as in D475926

**Store No. 1374, 574 King Street East, Oshawa, Ontario**

PIN: 16332-0116 (LT)

Part of Lot 3, Sheet 6C, Plan 357, City of Oshawa (formerly East Whitby), Regional Municipality of Durham., as in D475927

**Store No. 1400, 2795 St. Joseph Boulevard, Orleans, Ontario**

PIN: 04425-0088 (LT) and 04425-0115 (LT)

Firstly: Part of Lots 21 and 22, Plan 86, being Part 1, Plan 5R-3841, except Part 1, Plan 5R10612, north side of St. Joseph Blvd (formerly Ottawa Street), City of Ottawa (formerly City of Gloucester)

Secondly: Part of Lots 21 and 22, Plan 86, being Parts 5 and 6 on Plan 5R-1516, City of Ottawa (formerly City of Gloucester)

**Store No. 1402, 932 St. Laurent Boulevard, Ottawa, Ontario**

PIN: 04245-0114 (LT)

Part of Block N, Plan 131, save and except Part 24, expropriated in CT133866, City of Ottawa (formerly City of Gloucester), as in OT79881 and CT102375

**Store No. 1403, 1096 Wellington Street, Ottawa, Ontario**

PIN: 04093-0085 (LT)

Part of Lot 19 and Lots 20 and 21, Plan 72, City of Ottawa (formerly City of Nepean), as in CR558282

**Store No. 1405, 1677 Bank Street, Ottawa, Ontario**

PIN: 04149-0097 (LT) and 04149-0098 (LT)

Firstly: Parcel 499-1, Section M-23, being Part of Lot 499, Plan M-23, City of Ottawa (formerly City of Gloucester)

Secondly: Parcel 500-1, Section M-23, being Part of Lot 500, Plan M-23, East Side of Bank Street, City of Ottawa (formerly City of Gloucester)

**Store No. 1406, 2919 Bank Street, Ottawa, Ontario**

PIN: 04342-0002 (LT)

Part of Lots 591, 592 and 593, Plan 326 and Lots 647, 648, 649, 650, 651 and 652, Plan 326 and Part of Lane, Plan 326, closed by GL52533, City of Ottawa (formerly City of Gloucester), as in N745869

**Store 1418, 1943 Baseline Road, Ottawa, Ontario**

PIN: 03992-0007 (LT)

Block A, Plan 369253, City of Ottawa (formerly City of Nepean), save and except as in N49973 8

**Store No. 1419, 917 Richmond Road, Ottawa, Ontario**

PIN: 04751-0107 (LT)

Part of Lot 26, Concession 1, Ottawa Front, City of Ottawa (formerly City of Nepean), as in N745868

**Store No. 1436, 450 Wharncliffe Road South, London, Ontario**

PIN: 08387-0140 (LT)

Lots 1, 2, 3 and 10, Plan 529, City of London, County of Middlesex

**Store No. 1440, 1291 Commissioners Road West, London, Ontario**

PIN: 08259-0004 (LT)

Lot 129 and Part of Lots 106 and 107, Compiled Plan 563, designated as Part 1, Plan 33R-4991, City of London, County of Middlesex

**Store No. 1446, 3006 Dougall Road, Windsor, Ontario**

PIN: 01306-0957(LT)

Part of Lots 5 and 6, Plan 713, designated as Parts 1 and 4, Plan 12R-13239, City of Windsor,  
(formerly Township of Sandwich West), County of Essex

**Store No. 1451, 7435 Tecumseh Road Last, Windsor, Ontario**

PIN: 01380-0050 (LT)

Part of Lot 125, Concession 2, City of Windsor (formerly Township of Sandwich East), County of Essex, as in 8437844

**Store No. 1509, 507 Division Street, Cobourg, Ontario**

Parts of Lots 6, 7, 8 and 9, Block I (17-A), being Part 1, Plan 39R-2021; Town of Cobourg, County of Northumberland, save and except Part of Lots 8 and 9, Block I, designated as Part 3, Plan 39R-2892, together with right-of-way over that Part of Lot 21, Block I, designated as Part 2, Plan 39R-2021

**Store No. 1510, 63 Lindsay Street, Lindsay, Ontario**

Town Lot 1, north side of Melbourne Street, Town of Lindsay, County of Victoria, as in 372973

**Store No. 1513, 274 North Front Street, Belleville, Ontario**

Part of Lot 16, Registrar's Compiled Plan 1679, City of Belleville, County of Hastings, together with a right-of-way over Part of Lot 7, Registrar's Compiled Plan 1679, more particularly described as follows:

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the City of Belleville, in the County of Hastings, and being composed of Lot 16, according to Registrar's Compiled Plan No. 1679;

TOGETHER with a right-of-way in common with all other persons having a similar right, with person, animals and vehicles, in, over, along and upon part of Lot 7, Registrar's Compiled Plan No. 1679, described as follows;

PREMISING that the west limit of Front Street has a bearing of N19°19'W as shown on Expropriation Plan No. 161 S;

COMMENCING at a corner of said Lot 7, said corner also being the northeast corner of Lot 16, Registrar's Compiled Plan No. 1679;

THENCE S70°47'00"W along a limit of said Lot 7, also being the north limit of said Lot 16 a distance of 212.07 feet;

THENCE N19°19'W a distance of 26.00 feet;

THENCE N70°47'00"E a distance of 212.07 feet to the east limit of said Lot 7;  
THENCE S19°19'W a distance of 26.00 feet to the point of commencement;

The hereinbefore described parcels are subject to an easement in favour of Ontario Hydro, set out in Instrument No. 16508;

The hereinbefore described right-of-way is subject to an easement in favour of the Corporation of the City of Belleville, as set out in Instrument No. 102163.

As in Instrument No, 583270

SAVE AND EXCEPT that part of Lot 16, Registrar's Compiled Plan 1679, designated as Part 1, Plan 21R-15434, conveyed to The Corporation of the City of Belleville by Instrument No. 509758.

**Store No. 1514, 464 Dundas Street, Belleville, Ontario**

Part of Lot 37, Plan 65, designated as Part 1, Plan 21R-7256, City of Belleville, County of Hastings

**Store No. 1516, 499 Dundas Street, Cambridge, Ontario**

PIN: 03808-0012 (R)

Part of Lots 3, 4, 5 and 6, Plan 214, City of Cambridge (formerly City of Gait), Regional Municipality of Waterloo, more particularly described as follows:

FIRSTLY: Lots 3 and 4, Plan 214 as in Instrument No. 518924.

SECONDLY: Part Lot 6, Plan 214 Cambridge shown as Part 3 on reference plan 67R1573 as in Instrument No. 612524.

THIRDLY: Lot 5., Plan 214 as in Instrument No. 599062.

SUBJECT TO an easement in favour of the Regional Municipality of Waterloo over those Parts of Lots 4 and 5, Plan 214, shown as Parts 1 and 2 on reference plan 67R-1850 for the purposes as set out in Instrument No. 612527.

SAVE AND EXCEPT Part of Lots 3, 4 and 5, Plan 214 shown as Parts 7 and 8 on reference plan 67R-1530 conveyed to The Regional Municipality of Waterloo by Instrument No. 612526.

SAVE AND EXCEPT those parts of Lots 3, 4, 5 and 6, Plan 214, shown as Parts 1, 2 and 4 on reference plan 67R-3712.

**Store No. 1519, 27 Dalhousie Street, Brantford, Ontario**

PIN: 32143-0043 (LT)

Part of Lots 4 and 5, south side of Dalhousie Street, as shown on the Registered Plan prepared by F.J. Ure, P.L.S. in 1982, as in A513066, City of Brantford, County of Brant

**Store No. 1554, 322 Argyle Street South, Caledonia, Ontario**

Part of Lot 1, in the range west of the road from Townsend to Caledonia, designated as Part 1, Plan 18R-992, Town of Haldimand (formerly Township of Oneida), Regional Municipality of Haldimand-Norfolk, now in Haldimand County, as described in Instrument No. 252551

**Store No, 1557, 827 McGill Street, Hawkesbury, Ontario**

Parcel 1-2, Section M-15, being Lot Ion Plan. M-15, Town of Hawkesbury, County of Prescott, subject to an easement in favour of The Hydro-Electric Power Commission of Ontario and The Bell Telephone Company of Canada as set out in Instrument No. 31 1-C and 368-C

**SCHEDULE "B"**

Municipal Address	Rent Payable
<p>3495 Sheppard Avenue East, Toronto (Store No. 1310)</p>	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$51,492.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,291.00, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$54,067.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,505.5\$</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$56,770.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,730.83, in advance</p>
<p>3719 Lakeshore Boulevard West, Toronto (Store No. 1312)</p>	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$60,872.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,072.67, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$63,916.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,326.33</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$67,111.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,592.58, in advance</p>
<p>3517 Dundas Street West, Toronto (Store No. 1323)</p>	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$47,542.00 of lawful money of Canada in twelve (12) equal monthly installments of \$3,961.83, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$49,919.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,159.92</p>

Municipal Address	Rent Payable
	c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$52,415.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,367.92, in advance
239 Scarlett Road, Toronto (Store No. 1349)	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$45,587.00 of lawful money of Canada in twelve (12) equal monthly installments of \$3,798.92, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$47,866.00 of lawful money of Canada in twelve (12) equal monthly installments of \$3,988.83</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$50,259.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,188.25, in advance</p>
973 Simcoe Street North, Oshawa (Store No. 1372)	<p>a) during the first through fifth years of the Terms from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$69,993.00 of lawful money of Canada in twelve (12) , equal monthly installments of \$5,832.75, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$73,493.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,124.42</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$77,168.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,430.67, in advance</p>
474 Simcoe St. South, Oshawa (Store No. 1373)	a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$78,176.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,514.67, in advance



Municipal Address	Rent Payable
	<p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$82,085.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,840.42</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$86,189.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,182.42, in advance</p>
<p>574 King Street East, Oshawa (Store No. 1374)</p>	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$68,389.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,699.08, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$71,809.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,984.08</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$75,399.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,283.25, in advance</p>
<p>2795 St. Joseph Boulevard, Orleans (Store No. 1400)</p>	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$58,128.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,844.00, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$61,034.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,086.17</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$64,086.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,340.50, in advance</p>

Municipal Address	Rent Payable
932 St. Laurent Boulevard, Ottawa (Store No. 1402)	<p>a) during the first through fifth years of the Term I from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$87,545.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,295.42, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$91,922.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,660.17</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$96,519.00 of lawful money of Canada in twelve (12) equal monthly installments of \$8,043.25, in advance</p>
1096 Wellington Street, Ottawa (Store No. 1403)	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$52,750.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,395.83, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$55,387.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,615.58</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$58,157.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,846.42, in advance</p>
1677 Bank Street, Ottawa (Store No. 1405)	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$68,711.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,725.92, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$72,147.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,012.25</p>

Municipal Address	Rent Payable
	<p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$75,754.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,312.83, in advance</p>
<p>2919 Bank Street, Ottawa (Store No. 1406)</p>	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$85,277.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,106.42, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$89,541.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,461.75</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$94,018.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,834.83, in advance</p>
<p>1943 Baseline Road, Ottawa (Store No. 1418)</p>	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$53,674.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,472.83, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$56,358.00 of lawful motley of Canada in twelve (12) equal monthly installments of \$4,696.50</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$59,175.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,931.25. in advance</p>
<p>917 Richmond Road, Ottawa (Store No. 1419)</p>	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$50,416.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,201.33, in advance</p>

Municipal Address	Rent Payable
	<p>b) during the sixth through tenth years of the Term from October 1, 2007 to September 30, 2012 the sum of \$52,937.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,411.42</p> <p>c) during the eleventh through fifteenth years of the Terra from October 1, 2012 until September 30, 2017 yearly and every year the of \$55,583.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,631.92, in advance</p>
<p>450 Wharncliffe Road South, London (Store No. 1436)</p>	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$65,575.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,464.58, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$68,854.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,737.83</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$72,297.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,024.75, in advance</p>
<p>1291 Commissioners Road West, London (Store No. 1440)</p>	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$43,654.00 of lawful money of Canada in twelve (12) equal monthly installments of \$3,637.83, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$45,837.00 of lawful money of Canada in twelve (12) equal monthly installments of \$3,819.75</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$48,129.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,010.75, in advance</p>

Municipal Address	Rent Payable
3006 Dougall Road, Windsor (Store No. 1446)	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$86,954.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,246.17, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 to September 30, 2012 the sum of \$91,301.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,608.42</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$95,867.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,988.92, in advance</p>
7435 Tecumseh Road East, Windsor (Store No. 1451)	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$72,568.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,047.33, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 to September 30, 2012 the sum of \$76,196.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,349.67</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$80,006.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,667.17, in advance</p>

Municipal Address	Rent Payable
507 Division Street, Cobourg (Store No. 1509)	a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$63,181.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,265.08, in advance  b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$66,340.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,528.33  c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$69,658.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,804.83, in advance
63 Lindsay Street, Lindsay (Store No. 1510)	a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$74,524.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,210.33, in advance  b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$78,250.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,520.83  c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$82,163.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,846.92, in advance

Municipal Address	Rent Payable
274 North Front Street, Belleville (Store No. 1513)	a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$74,991.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,249.25, in advance  b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$78,740.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,561,67  c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$82,677.00 of lawful money of Canada in twelve (12) equal monthly installments of \$6,889.75, in advance
464 Dundas Street, Belleville (Store No. 1514)	a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$57,821.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,818.42, in advance  b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$60,712.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,059.33  c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$63,747.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,312.25, in advance

Municipal Address	Rent Payable
499 Dundas Street, Cambridge (Store No. 1516)	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$86,776.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,231.33, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$91,114.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,592.83</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017. yearly and every year the sum of \$95,670.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,972.50, in advance</p>
27 Dalhousie Street, Brantford (Store No. 1519)	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$86,306.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,192.17, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$90,621.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,551.75</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$95,153.00 of lawful money of Canada in twelve (12) equal monthly installments of \$7,929.42, in advance</p>
322 Argyle Street South, Caledonia (Store No. 1554)	<p>a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$54,162.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,513.50, in advance</p> <p>b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$56,870.00 of lawful money of Canada in twelve (12) equal monthly installments of \$4,739.17</p> <p>c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$59,713.00 of lawful money of Canada</p>



Municipal Address	Rent Payable
	in twelve (12) equal monthly installments of \$4,976.08, in advance
827 McGill Street, Hawkesbury (Store No. 1557)	a) during the first through fifth years of the Term from October 1, 2002 until September 30, 2007 yearly and every year the sum of \$60,767.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,063.92, in advance  b) during the sixth through tenth years of the Term from October 1, 2007 until September 30, 2012 the sum of \$63,805.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,317.08  c) during the eleventh through fifteenth years of the Term from October 1, 2012 until September 30, 2017 yearly and every year the sum of \$66,995.00 of lawful money of Canada in twelve (12) equal monthly installments of \$5,592.92, in advance