

SHORT TITLE North Valley Mall, LLC v. Deas	CASE NUMBER: 30-2012-00605092
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6. a. ☒ Plaintiff's claim or claims arise out of conduct by the defendant who is a natural person of a trade, business, or profession. The claim or claims are not based on the sale or lease of property, a license to use property, the furnishing of services, or the loan of money where any of the foregoing was used by the defendant primarily for personal, family, or household purposes.
- b. ☐ Plaintiff's claim or claims arise out of conduct of a natural person who or an entity that has taken, secreted, appropriated, obtained or retained, or assisted in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use, with intent to defraud, or by using undue influence.

7. The facts showing plaintiff is entitled to a judgment on the claim up on which the attachment is based are set forth with particularity in the

- a. ☐ verified complaint.
b. ☒ attached affidavit or declaration.
c. ☒ following facts (*specify*):

Defendants, husband and wife, personally guaranteed the obligation of their wholly owned corporation under a commercial lease for retail space used as a Quizno's Classic Subs restaurant. Defendants breached the guarantee by failing to pay Plaintiff \$140,810 in rent, CAM and late charges. Plaintiff claims against are unsecured and has probable validity.

8. The amount to be secured by the attachment is: \$ 200,809.92

- a. ☒ which includes estimated costs of: \$ 5,000
b. ☒ which includes estimated allowable attorney fees of: \$ 55,000

9. Plaintiff is informed and believes that the following property sought to be attached for which a method of levy is provided is subject to attachment:

- a. ☐ Any property of a defendant who is **not** a natural person.
b. ☐ Any property of a nonresident defendant.
c. ☒ Property of a defendant who is a natural person that is subject to attachment under Code of Civil Procedure section 487.010 (*specify*):

5 Woodstone Lane, Chico, California 95928 (APN No. 018-080-014)

d. ☐ Property covered by a bulk sales notice with respect to a bulk transfer by defendant on the proceeds of the sale of such property (*describe*):

e. ☐ Plaintiff's pro rata share of proceeds from an escrow in which defendant's liquor license is sold (*specify license number*):

10. Plaintiff is informed and believes that the property sought to be attached is not exempt from attachment.

11. ☐ The court issued a Right to Attach Order on (*date*):
(*Attach a copy.*)

12. ☐ Nonresident defendant has not filed a general appearance.

SHORT TITLE:

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13. a. Plaintiff ☐ alleges on ex parte application for order for writ of attachment
☒ is informed and believes on application for temporary protective order
that plaintiff will suffer great or irreparable injury if the order is not issued before the matter can be heard on notice because
(1) ☒ it may be inferred that there is a danger that the property sought to be attached will be
(a) ☒ concealed.
(b) ☒ substantially impaired in value.
(c) ☒ made unavailable to levy by other than concealment or impairment in value.
(2) ☐ defendant has failed to pay the debt underlying the requested attachment and is insolvent as defined in Code of Civil Procedure section 485.010(b)(2).
(3) ☐ a bulk sales notice was recorded and published pursuant to division 6 of the Commercial Code with respect to a bulk transfer by the defendant.
(4) ☐ an escrow has been opened under the provisions of Business and Professions Code section 24074 with respect to the sale by the defendant.
(5) ☐ other circumstances (*specify*):
- b. The statements in item 13a are established by ☐ the attached affidavit or declaration
☐ the following facts (*specify*):

14. ☐ Plaintiff requests the following relief by temporary protective order (*specify*):

15. Plaintiff
a. ☐ has filed an undertaking in the amount of: \$
b. ☒ has not filed an undertaking.

Date: 3/13/2013

David Jafari

(TYPE OR PRINT NAME OF PLAINTIFF OR PLAINTIFF'S ATTORNEY)



(SIGNATURE OF PLAINTIFF OR PLAINTIFF'S ATTORNEY)

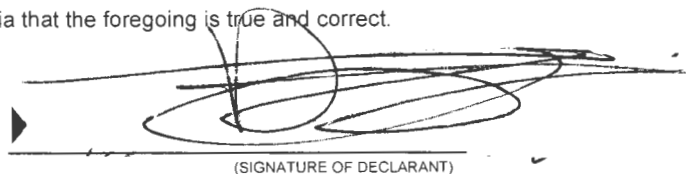
DECLARATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 3/13/2013

David Klein

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)
16. Number of pages attached: 85

David V. Jafari, SBN: 207881
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Attorney for Plaintiff
NORTH VALLEY MALL, LLC

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
700 CIVIC CENTER DRIVE WEST, SANTA ANA, CALIFORNIA 92701

NORTH VALLEY MALL, LLC,

Plaintiff,

vs.

JAMES DEAS;
JULIE DEAS;

Defendants.

Case No.: 30-2012-00605092

)
) ASSIGNED FOR ALL PURPOSES TO
) JUDICIAL OFFICER: FREDERICK P. HORN
) DEPARTMENT: C-31
)
) **DECLARATION OF DAVID KLEIN IN**
) **SUPPORT OF NORTH VALLEY MALL, LLC'S**
) **APPLICATION FOR RIGHT TO ATTACH**
) **ORDER AND TEMPORARY PROTECTIVE**
) **ORDER**

)
)
)
) Complaint filed: October 15, 2012
) Trial Date: None set
)
)

I, David Klein, declare as follows:

1. I am an individual over the age of eighteen years and reside in Orange County, California. Since March 2004, I have been a partner of Parks Diversified, L.P., which is member of the plaintiff in this action, North Valley Mall, LLC.

2. At all times, North Valley Mall, LLC has owned and managed certain shopping center ("Center") in Chico, California known as North Valley Plaza within which the leased premises for

1 Defendants' Quiznos Classic Subs restaurant, the real property-at-issue, is located at 2471 Cohasset Road
2 #120 Chico, CA 95926 ("Premises").

3 3. Since August 2004, I have been the authorized agent for Plaintiff in this matter and have
4 consistently been responsible for daily property management of the Center, including the Premises. I have
5 been the main contact person with Defendants relating to management and maintenance of the Premises
6 and the Center. I also have been the custodian of records for Plaintiff and Parks Diversified, L.P.

7 4. I make this declaration based upon my own personal knowledge as the property manager
8 and custodian of record for Plaintiff, the Center, and the Premises. I could and would be competent to
9 testify as to the truth of the matters stated herein if called as a witness.

10 5. As the property manager and custodian of those records, I am familiar with the mode and
11 method of the preparation of each of those business records. Those business records were made and
12 maintained in the normal course of business at or near the time of the acts, conditions, or events described
13 therein and are made by North Valley Mall, LLC employees or agents with full authority and personal
14 knowledge of the acts, conditions, or events described therein and the sources of information and method
15 and time of the preparation of each of those business records were all such so as to indicate the
16 trustworthiness thereof. As the custodian of records relating to the Premises, I can personally attest to the
17 genuineness of any such exhibits attached hereto.

18 6. North Valley Mall, LLC is the owner of the Premises containing approximately 1,470
19 square feet of retail space with the Center commonly known as North Valley Plaza.

20 7. North Valley Mall, LLC succeeded to the interest of M&H Realty Partners IV L.P.
21 ("MHRP") as it purchased the Center where the Premises is located and was assigned the lease.

22 8. North Valley Mall, LLC is the Landlord under the Retail Lease for the Premises dated on
23 or about June 7, 2002 ("Lease"), between North Valley Mall, LLC's predecessor-in-interest, MHRP, as
24 landlord, and J. Deas Enterprises, Inc. ("JDEI"), a California corporation with the Trade Name
25 "QUIZNO'S CLASSIC SUBS" as tenant. A true and correct copy of the Lease is attached as **Exhibit 1**. A
26 true and correct copy of the Assignment of Leases And Rents for Project Commonly Known as "North
27 Valley Plaza ("Assignment") dated July 30, 2004 between M&H Realty Partners, IV L.P., as grantor, and
28

1 North Valley Mall, LLC, as grantee, is attached as **Exhibit 2**. Lucia Parks, my mother and a partner in
2 Parks Diversified, L.P., was the signatory to Assignment. Mrs. Parks, who lives in Orange County,
3 California, would and could testify competently on behalf of Plaintiff in this matter, if necessary.

4 9. Defendants James Deas and Julie Deas, husband and wife, each individually executed the
5 Lease on behalf of JDEI. (James Deas and Julie Deas are sometimes collectively referred to as "Tenant").

6 10. Defendant James Deas entered into a Guaranty agreement dated June 7, 2002 guaranteeing
7 JDEI's performance and obligations under the Lease. A true and correct copy of the James Deas Guaranty
8 is attached as Exhibit F to the Lease.

9 11. Defendant Julie Deas entered into a Guaranty agreement dated June 7, 2002 guaranteeing
10 JDEI's performance and obligations under the Lease. A true and correct copy of the Julie Deas Guaranty
11 is attached as Exhibit F to the Lease.

12 12. JDEI entered into possession of the Premises pursuant to the Lease and continuously
13 operated, and still operates, a Quizno's Classic Subs restaurant. Until last month, I had been in regular
14 phone and email communications with James Deas concerning JDEI's obligations under the lease,
15 including JDEI's failure to pay rent due and owing under the Lease. Based on my conversations with
16 James Deas, Defendants were personally involved in the management and operation of JDEI.

17 13. The fixed term of the Lease expired on November 8, 2012. Plaintiff has not terminated
18 JDEI's right to possession. Specifically, Landlord has not obtained judgment in an unlawful detainer
19 action, established abandonment per Civil Code § 1951.3, or served a three-day notice for the breach on
20 JDEI. Currently, JDEI is in possession of the Premises and continues to operate a Quizno's Classic Subs
21 restaurant thereon.

22 14. I am familiar with and have reviewed the books, records and transactions pertaining to the
23 payment of rent by JDEI.

24 15. Pursuant to the Lease, the initial term of the Lease was set for Ten (10) years plus any
25 period of time through the last day of the month of the term. The Lease commencement date was
26 November 8, 2002. Attached as **Exhibit 3** is a letter from MHVP to JDEI pursuant to Article 2.1 of the
27 Lease giving notice to JDEI that the "Landlord's Work has been substantially completed and the Premise
28

are hereby delivered to Tenant, as of November 8, 2002.” The initial Term ended sometime in November 2012.

16. Pursuant to the Lease, JDEI had the option to extend the Lease for an additional five (5) year period beyond the initial ten year term, provided Tenant has not during the initial term been in default in the payment of rent, beyond any applicable cure period. As explained below, Tenant has during the initial term been in default in the payment of rent, beyond any applicable cure period. Landlord has thus refused to grant JDEI a renewal based on said default.

17. Pursuant to the Lease, the initial base monthly rental rate was \$2,940.00 per month. In addition, the Lease provided for rent increase as follows:

Rental commencement date to month 12	\$2,940.00
Months 13-24	\$3,055.00
Months 25-36	\$3,180.00
Months 37-48	\$3305.00
Months 49-60	\$3,440.00
Months 61-72	\$3,575.00
Months 73-84	\$3,720.00
Months 85-96	\$3,865.00
Months 97-108	\$4,025.00
Months 109-120	\$4,185.00

18. Pursuant to the Lease, JDEI was also required to pay estimated operating expenses (CAM charges) each month. Also, JDEI was required to pay late charge of ten percent on any monthly installment that is late more than two (2) times in any calendar year.

19. Plaintiff thus far incurred approximately \$9,500 in attorney fees and \$500 in costs for litigating this action. I expect to additionally expend up to \$45,500 in attorney fees and \$4,500 in costs for litigating this case to a final judgment. Thus, plaintiff's estimated attorney fees and costs is \$60,000.

20. Since four years prior to filing of this complaint, JDEI was required to pay rent in the total amount of \$189,540.00, however JDEI has only paid \$80,625.00 in rent to Plaintiff, leaving unpaid rent balance of \$108,915.

21. Since four years prior to filing of this complaint, JDEI has failed to pay all CAM charges due, leaving an unpaid balance of \$10,296.42.

22. Since four years prior to filing of this complaint, JDEI has consistently paid rent late each month so as to give rise to late charges under the Lease. JDEI total unpaid late charges for said period are \$20,028.50. Additionally, pursuant to the lease, JDEI is responsible for interest at the legal rate for all past due rent at the highest legal rate of interest. Defendants therefore owe at least, and Plaintiff is therefore seeking the right to attach **\$200,809.92**, consisting of the following amount:

<i>RENT</i>	\$108,915.00
<i>CAM</i>	\$10,296.42
<i>LATE CHARGES</i>	\$20,028.50
<i>ATTORNEY FEES (estimated)</i>	\$55,000.00
<i>COSTS (estimated)</i>	\$5,000
TOTAL	<u>\$200,809.92</u>

23. Plaintiff has performed all obligations required of it under the Lease and has not breached any of its terms or conditions.

24. Defendants have failed to pay to Plaintiff the monies owed as set forth above despite repeated written and oral demands by Plaintiff.

25. Defendants' Guarantee obligations are unsecured, as is JDEI's Lease obligation. Plaintiff's claim is not secured by any interest in real property.

26. The Premises were not, and are not, used for "personal, family or household purposes" and Defendants only conducted, and continue to conduct, a commercial business at the Premises.

27. To the best of my knowledge, the obligations comprising Plaintiff's claim have not been discharged in a proceeding under Chapter 11 of the United States Code (Bankruptcy) nor has the

1 prosecution of this action been stayed in a proceeding under Chapter 11 of the United States Code
2 (Bankruptcy).

3 28. Plaintiff does not seek this attachment for any improper purpose and only seeks this
4 attachment for the purpose of the recovery on the claim upon which this attachment is based – to recover
5 the rent, CAM charges, late charges, interest, attorney fees and costs, and other sums owed and owing
6 under the Lease and Guarantees and incurred due to Defendants' breaches of their Guarantee.

7 29. With respect to Defendants James Deas and Julie Deas, Plaintiff seeks an order and writ
8 granting it the right to attach all real property including but not limited to the 5 Woodstone Lane property,
9 personal property, equipment motor vehicles, chattel paper, negotiable and other instruments, securities,
10 deposit accounts, safe deposit boxes, accounts receivable, general intangibles, property subject to pending
11 actions, final money judgments, and personality in the estates of decedents. Plaintiff is informed and
12 believes that said property is subject to attachment.

13 30. Landlord never orally agreed, or otherwise agreed in writing, with Defendants that
14 Landlord would solely or first look to tenant-entity for liabilities under the Lease.

15 31. During numerous phone conversations over that past few years, Defendant James Deas
16 told me that since 2009, he has been involved in a contested legal separation proceeding with his wife, co-
17 defendant Julie Deas, in Superior Court of California, County of Butte. James Deas told me that he and
18 Julie have been living separate and apart since 2009 but, more recently, he told the separation proceeding
19 is coming to a resolution. During my communications with James Deas, he told me that he and Julie Deas
20 co-own two unencumbered real properties commonly known as 5 Woodstone Lane, Chico, California
21 95928 and 821 Whispering Winds Lane, Chico, California 95928 and one encumbered property at 1924
22 Potter Road, Chico, California 95928. Based on public records, the Potter road property was sold on July
23 20, 2012 and the Whispering Winds Lane property was sold on November 16, 2012. Based on public
24 records, the Woodstone Lane property was listed for sale on October 30, 2012 for \$149,000, however,
25 based on information available on the internet, it does not yet appear to be sold. Moreover, the
26 Woodstone Lane property listing price is a \$50,000 discount from its listing price earlier in 2012.

32. On January 2, 2013, I sent an email to Defendant James Deas offering to settle the lawsuit in exchange for, among other considerations, the 5 Woodstone Lane property. I gave James until January 20th, 2013 to accept the offer. Thereafter, I had subsequent phone conversations with James during which James indicated that he was inclined to accept my offer. However, near the expiration of the offer, I attempted to call James, however, a recording notified me that my number had been blocked by James. Since, James has failed to return any of my calls or emails. Last week, I visited the Butte County Court's website and searched its docket records for James' legal separation case. The online record indicated the following: RFO: OTHER-ACCEPT OFFER TO SETTLE PENDING LITIGATION CK 4912 *OST GRANTED. Based on the foregoing and the Deas's pattern of selling off their real properties, I suspect that Defendants are attempting to sell the 5 Woodstone Lane property and not pay the money owed to Plaintiff with proceeds of the sale. Since the Woodstone Lane property has been listed for sale since October 30, 2012 at a discounted price, there is an immediate danger that said property would be made unavailable by the time a noticed hearing is heard, unless an immediate protective order is entered prohibiting Defendants from transferring or disposing of the Woodstone Lane property.

I declare under the penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed on 2/7/13 in Aliso Viejo, California.


DAVID KLEIN

EXHIBIT "1"

**NORTH VALLEY PLAZA
SHOPPING CENTER LEASE**

BY AND BETWEEN

**M&H REALTY PARTNERS IV L.P.,
a California limited partnership ("Landlord")**

and

**J. DEAS ENTERPRISES, INC., a California corporation
dba QUIZNO'S CLASSIC SUBS
("Tenant")**

**JIM DEAS and JULIE DEAS,
husband and wife, jointly and severally
("Guarantor")**

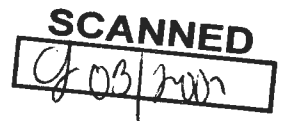


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The following exhibits are attached hereto and incorporated herein by this reference:

Exhibit A - Legal Description of Shopping Center
Exhibit B - Site Plan
Exhibit C - Construction Obligations
Exhibit D - Sign Criteria
Exhibit E - Confirmation Letter
Exhibit F - Guaranty
Exhibit G - Estoppel Certificate
Exhibit H - Rules and Regulations
Exhibit I - Exclusive Use

LEASE SUMMARY

This Lease Summary is attached to and incorporated into that certain Lease between Landlord and Tenant as defined below. For purposes of the attached Lease, the following terms shall have the following meanings:

Effective Date of Lease:	<u>June 7</u> , 2002
Shopping Center:	North Valley Plaza
Landlord:	M&H REALTY PARTNERS IV L.P.
Landlord's Notice Address:	M&H REALTY PARTNERS IV L.P. Re: North Valley Plaza, Unit #101-39 353 Sacramento Street, 21st Floor San Francisco, CA 94111 Telephone: (415) 693-9000 Facsimile: (415) 693-0480
Tenant:	J. Deas Enterprises, Inc., a California corporation
Tenant's Notice Address:	J. Deas Enterprises, Inc. PMB-139 236 W. East Ave., Suite A Chico, CA 95926
Guarantor:	Jim Deas and Julie Deas, husband and wife, jointly and severally
Guarantor's Address:	Jim and Julie Deas 1924 Potter Road Chico, CA 95928
Franchisor's Corporate Notice Address:	The Quizno's Franchise Company 1415 Larimer Street Denver, CO 80202 Attn.: Legal Department
<u>Quizno's Notice And Cure Rights:</u>	Landlord agrees to give Franchisor written notice of any Tenant defaults as a prerequisite to exercising any remedies against Tenant under the Lease. Franchisor shall have Tenant's cure period plus an additional ten (10) days (but in no event less than thirty (30) days total for non-monetary defaults) to cure (at Franchisor's option) any such defaults on Tenant's behalf, and to perform any other acts on Tenant's behalf as may be necessary to keep the Lease in full force and effect. In the event Franchisor thereafter executes on its security interest in the Lease and Tenant's fixtures and equipment (pursuant to the terms of its Franchise Agreement

	with Tenant), such action shall not be deemed a default or assignment under the Lease; provided, however, Franchisor shall thereafter have the right to assign the Lease on Tenant's behalf, without charge and without Landlord's consent being required, to an authorized franchisee. Notice to Franchisor shall be addressed as above.
Tenant's Trade Name: (Section 8.1)	QUIZNO'S CLASSIC SUBS
Permitted Use: (Section 8.1)	The Premises shall be used for an eat-in/take-out delivery restaurant selling oven baked breads (hot), and submarine sandwiches, salads, smoothies (not to exceed 5% of Gross Sales), soups, kids pizza, frozen desserts (excluding ice cream), cookies (not to exceed 2% of Gross Sales), and the other products sold in the majority of Quizno's Classic Subs stores as defined in the Lease and for no other purpose.
Exclusive Use: (Section 8.2)	Throughout the Initial Term of the Lease and any extension thereof, Landlord shall not lease space in the Shopping Center to any new tenant or any current tenant under 8,000 sq. ft. that does not require Landlord's approval in its lease (excluding all new or current restaurants that have table service) to engage in the primary sale (greater than 20% of gross sales) of oven baked, delicatessen and/or submarine type sandwiches. All similar users (i.e. <i>Subway, Togo's Eatery, Blimpie's, Eriks, Submarina, Genoa</i> and others) shall not be permitted to conduct business in or about the Shopping Center so long as Tenant is conducting their business as <i>Quizno's Classic Subs</i> . Landlord shall not allow any other party on or about the property to violate the terms or spirit of this exclusivity agreement, and if a violation occurs (notwithstanding Section 8.2 herein), in addition to other remedies Tenant may have in law or in equity, Tenant shall have the right to terminate the Lease upon thirty (30) days written notice within ninety (90) days of Tenant's knowledge of said violation. Landlord shall have thirty days to cure from receipt of letter if Landlord violates this exclusive.
Tenant Reimbursement:	Tenant agrees to reimburse Landlord the sum of One Thousand Seven Hundred Fifty Dollars (\$1,750.00) for the added cost of Landlord's installation of Tenant's HVAC (as provided below in Section 1.1.6. of Exhibit "C"). Tenant shall pay said reimbursement sum upon Lease execution.
Premises Address:	_____ East Avenue, Chico, CA 95926 (the exact address shall be provided after Lease execution, as soon as it is determined by the post office)

M&H Unit:	Unit #101-39	
Gross Floor Area of Premises: (Section 1)	Approximately 1,470 s.f.	
Initial Term: (Section 2.1)	Ten (10) years plus any period of time through the last day of the last month of the term.	
Option Period(s): (Section 2.3)	One (1) five (5) year period.	
Term Commencement Date: (Section 2.1)	Upon substantial completion of Landlord's Work as shown in Exhibit "C" hereto and delivery of the Premises to Tenant.	
Rental Commencement Date: (Section 3.1)	Ninety (90) days following the Term Commencement Date.	
Minimum Rent: (Section 3.1)	<u>Months</u>	<u>Per Month</u>
	Term Commencement Date -	
	Rental Commencement Date:	\$0.00
	Rental Commencement Date	
	To month 12:	\$2,940.00
	13 - 24:	\$3,055.00
	25 - 36:	\$3,180.00
	37 - 48:	\$3,305.00
	49 - 60:	\$3,440.00
	61 - 72:	\$3,575.00
	73 - 84:	\$3,720.00
	85 - 96:	\$3,865.00
	97 - 108:	\$4,025.00
	109 - 120:	\$4,185.00
	<u>Option Period</u>	
	1 - 12:	\$4,350.00
	13 - 24:	\$4,525.00
	25 - 36:	\$4,705.00
	37 - 48:	\$4,895.00
	49 - 60:	\$5,090.00
Tenant shall pay the first month's Minimum Rent, Security Deposit and estimated common area maintenance charges, taxes and insurance upon Tenant's execution of the Lease. These payments (other than the Security Deposit) shall be credited towards Tenant's account as they become due. Section 3.3 below shall govern use of the Security Deposit.		

Percentage Rent: (Section 3.2)	Five percent (5%) above a natural breakpoint. The breakpoint shall increase by the same percentage as the rent during the Initial Term and Option Period
Security Deposit: (Section 3.3)	\$3,200.00 due and payable upon Tenant's execution of Lease.
Minimum Business Hours: (Section 8.4)	Monday – Friday: 11:00 a.m. to 6:00 p.m. Saturday: 11:00 a.m. to 5:00 p.m. Sunday: 11:00 a.m. to 5:00 p.m.
Tenant Contingencies:	This Lease is contingent on Tenant receiving permits for Tenant's Work and Tenant's sign (for Quizno's standard sign package to the maximum size allowed by the appropriate local agencies) from the local issuing authority within sixty (60) days from the Effective Date of Lease ("Tenant's Contingencies"). Tenant's Contingencies shall automatically terminate if Tenant does not notify Landlord in writing to the contrary by the 61 st day from the Effective Date of Lease.

SHOPPING CENTER LEASE

THIS SHOPPING CENTER LEASE ("Lease") is made and entered into as of June 7, 2002, (the "Effective Date") by and between **M&H Realty Partners IV L.P.**, a California limited partnership ("Landlord"), and **J. Deas Enterprises, Inc.**, a California corporation, dba **Quizno's Classic Subs** ("Tenant").

1. PREMISES.

1.1. In consideration of the mutual promises, covenants and conditions herein set forth, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises (which are deemed to contain the number of square feet of floor area set forth in the Lease Summary) located in the Shopping Center described in Exhibit "A" hereto.

1.2. Outdoor Seating Area.

1.2.1. Tenant shall be permitted to use the maximum seating area (3 tables or more if allowed by Landlord) within the Premises' lease line outside of Premises as an outdoor eating area (the "Outdoor Seating Area"). Tenant shall arrange therein certain outdoor tables, chairs, umbrellas, and waste receptacles, subject to Landlord approval, not to be unreasonably withheld. Tenant shall maintain the portions of the Outdoor Seating Area adjacent to the Premises or otherwise used by its customers in a clean, attractive and first-class condition at its sole cost and expense. Tenant shall also be allowed to serve samples in the Common Area within ten feet (10') of the front of the Premises. In addition to the other covenants of Tenant concerning maintenance of the Premises set forth in this Lease, Tenant shall, at its sole cost and expense: (i) be responsible for promptly cleaning any spills or waste in the Outdoor Seating Area and the common area and parking areas of the Shopping Center in the vicinity of the Premises occasioned by off-Premises consumption of food and other items sold by Tenant; (ii) clean and wash daily all tables, chairs, dividers, fixtures, floor mats, and furnishings in the portions of the Outdoor Seating Area adjacent to the Premises or otherwise used by Tenant's customers with approved detergent-disinfectant type of solvent to prevent build-up from food spills, dust, dirt and other substances (floor mats should not be washed and cleaned outside the Premises in the common area); (iii) cause trash containers in portions of the Outdoor Seating Area adjacent to the Premises to be emptied on a regular basis prior to their overflowing, and substitute a replacement container during the time period when containers are being emptied, keep and maintain all trash containers in a clean and attractive condition and appearance at all times, and utilize three (3) millimeter polyurethane liners in all lined trash containers; (iv) utilize dumpsters or other disposal facilities provided by Landlord for the disposal of garbage and waste products; (v) cause signs (approved in advance by Landlord in writing) to be posted requesting patrons, invitees and employees of Tenant to deposit waste in the trash containers; (vi) cause its exterior trash containers and dumpsters to be emptied daily unless Tenant, at its expense, provides refrigerated trash storage; and (vii) steam-clean all sidewalk areas within lease lines of the Premises as frequently as necessary, to remove all food particles, grease and residue resulting from Tenant's use of the Premises; (viii) be solely responsible for

SHOPPING CENTER LEASE

THIS SHOPPING CENTER LEASE ("Lease") is made and entered into as of _____, 2002, (the "Effective Date") by and between **M&H Realty Partners IV L.P.**, a California limited partnership ("Landlord"), and **J. Deas Enterprises, Inc.**, a California corporation, dba **Quizno's Classic Subs** ("Tenant").

1. PREMISES.

1.1. In consideration of the mutual promises, covenants and conditions herein set forth, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises (which are deemed to contain the number of square feet of floor area set forth in the Lease Summary) located in the Shopping Center described in Exhibit "A" hereto.

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policing the portion of the Outdoor Seating Area adjacent to the Premises and insuring pedestrian traffic is not impeded; and (ix) be solely responsible for the maintenance and cleanliness of the portion of the Outdoor Seating Area adjacent to the Premises or otherwise used by Tenant's customers, and cause all tables in such area to be continuously bussed and such areas to be continuously policed for trash and debris during all hours such areas are in use. If Tenant breaches any of the above-referenced covenants, and fails to cure such breach within seventy-two (72) hours after notice from Landlord, Landlord shall have the right to terminate Tenant's use of the Outdoor Seating Area immediately upon delivery of written notice to Tenant or Landlord shall have the right to maintain the Outdoor Seating Area and the costs incurred by Landlord shall be paid by Tenant within ten (10) days after Tenant's receipt of Landlord's written invoice for such costs.

1.2.2. Tenant shall receive Landlord's written approval of all of Tenant's outdoor furniture, which approval shall not be unreasonably withheld.

1.2.3. Tenant's right to use the Outdoor Seating Area in Section 1.2.1 shall be subject to approval by all applicable governmental authorities.

2. TERM.

2.1. Term. The Initial Term of this Lease shall be for the period set forth in the Lease Summary, commencing (along with all obligations under this Lease, except Tenant's obligation to pay Minimum Rent and all other monetary charges) on the Term Commencement Date and terminating on the last day of the last month of the Term. "Lease Term" or "Term" shall mean the Initial Term and any exercised Option Period (as defined herein). Landlord agrees to deliver and Tenant agrees to accept from Landlord possession of the Premises upon substantial completion of "Landlord's Work" as described in Exhibit "C". Within ten (10) days after notice from Landlord, Tenant shall execute and deliver to Landlord a confirmation letter similar to the form attached hereto as Exhibit "E" confirming Tenant's possession of the Premises, the Rental Commencement Date and any other terms reasonably requested by Landlord. All obligations with respect to construction of the Premises are set forth in Exhibit "C" and all work not specified as Landlord's Work therein ("Tenant's Work") shall be performed by Tenant at Tenant's sole cost and expense, except as may be expressly stated to the contrary.

2.2. Lease Year. For the purpose of this Lease and the anniversary dates for rental adjustments, the first Lease Year shall be defined as follows:

2.2.1. If the Term commences on the first day of a calendar month, the first Lease Year shall end on the day immediately preceding the first anniversary of the Term Commencement Date;

2.2.2. If the Term commences on the second through fifteenth day of a calendar month, the first Lease Year shall be the partial month of the Term Commencement Date and the next eleven (11) full calendar months;

2.2.3. If the Term commences on the sixteenth day through the last day of a calendar month, the first Lease Year shall be the partial month of the Term Commencement Date and the next twelve (12) full calendar months.

For the purpose of the remainder of the Term, "Lease Year" shall mean each consecutive twelve (12) month period following the first Lease Year.

2.3. Option Periods. Provided Tenant has not during the Term been in default in the payment of Rent, beyond any applicable cure period, Tenant may extend the Term for the number of Option Periods set forth in the Lease Summary by giving notice of exercise thereof ("Option Notice") to Landlord at least nine (9) full months, but not more than one (1) year, before the date the Lease Term would otherwise expire. If Tenant is in default, beyond any applicable cure period, on the date of giving an Option Notice, such Option Notice shall be null and void; and if Tenant is in default beyond any applicable cure period, on the date the Option Period is to commence, such Option Period shall not commence and this Lease shall expire at the end of the Lease Term. If Tenant delivers a valid Option Notice, the Term shall thereby be extended on all the terms and provisions contained in this Lease.

3. RENT AND PERCENTAGE RENT.

3.1. Rental Payment. Tenant shall pay to Landlord the Minimum Rent set forth in the Lease Summary in advance in monthly installments on or before the first day of each and every month of the Lease Term from and after the Rental Commencement Date; provided, however, the first month's Minimum Rent shall be payable by Tenant upon execution of this Lease. Minimum Rent for any period during the Term, which is for less than a full calendar month, shall be prorated based on the number of actual days in the month. Minimum Rent adjustments set forth herein shall occur on the first (1st) day of the Lease Year specified in Section 2.2. hereinabove. All Rent shall be payable without demand, deduction or offset, to Landlord at the address stated in the Lease Summary, or to such other persons or at such other places as Landlord may designate in writing. The terms "Rent" and "Rental" shall mean all Minimum Rent, Percentage Rent, and other charges that may be due from Tenant to Landlord pursuant to this Lease.

3.2. Percentage Rent.

3.2.1. Amount. In addition to Minimum Rent, Tenant shall pay to Landlord, as "Percentage Rent", an amount equal to the percentage rent rate set forth in the Lease Summary multiplied by the amount of Gross Sales (defined below) made in or from the Premises during each calendar year of the Lease Term, less the aggregate amount of the Minimum Rent previously paid for such year ("Percentage Rent"). Within fifteen (15) days after the end of each calendar month of the Lease Term, Tenant shall furnish Landlord with a written statement, certified by Tenant to be correct, showing the total Gross Sales made from the Premises during the preceding calendar month. Within thirty (30) days after the close of each calendar year, Tenant shall furnish Landlord with a written statement, certified by Tenant to be correct, of Gross Sales during said calendar year and shall accompany each annual statement with a payment of the Percentage Rent due for such calendar year.

3.2.2. Books and Records. Tenant and its permitted sublessees, licensees and concessionaires shall keep at the Premises or at their principal places of business full and accurate books of account, records, cash receipts and other pertinent data showing their Gross Sales. Such books of account, records, cash receipts and other data shall be kept for a period of at least two (2) years after the end of the calendar year to which they relate. The receipt by Landlord of any statement or payment of Percentage Rent for any period shall not bind Landlord as to the correctness of the statement or the payment.

3.2.3. Inspection and Audit. Upon ten (10) days prior notice to Tenant, Landlord shall be entitled to inspect, examine and/or audit all of the books of account, records, cash receipts and other pertinent data of Tenant, and Tenant's permitted subleases, licensees and concessionaires, to the extent Landlord deems necessary in order to verify the amount of Gross Sales. Tenant shall cooperate fully with Landlord in making the inspection, examination or audit. The inspection and audit shall be conducted at Tenant's principal offices during usual business hours on reasonable prior notice to Tenant, and Tenant shall be required to make available at such place and time all required sales records. Landlord shall pay its costs of the inspection or audit unless the inspection or audit shows that Tenant understated the Gross Sales in any calendar year by more than three percent (3%), in which case Tenant shall pay all Landlord's costs of the inspection or audit as additional Rent upon demand.

3.2.4. Gross Sales. The term "Gross Sales" is defined as the entire gross receipts of every kind and nature from sales and services made from the Premises during the Lease Term, including gross receipts from all vending or amusement machines. Any transaction on an installment basis, including any layaway sale or like transaction, or otherwise involving the extension of credit, shall be treated as a sale for the full price at the time that the goods are delivered to a customer (or the services are performed for a customer), irrespective of the time of payment or when title passes. Gross Sales shall not include any of the following:

- (i) credits or refunds to customers for merchandise purchased at the Premises and returned or exchanged;
- (ii) transfers of merchandise from the Premises to other stores or warehouses of Tenant or its affiliated companies;
- (iii) any sales tax or other tax imposed under any laws, ordinances, orders or regulations, whether now or hereafter in force, upon or based upon the gross receipts of Tenant or the sale or sales price of merchandise and which must be paid by Tenant, whether or not collected by Tenant from its customers;
- (iv) returns of merchandise to shippers or manufacturers;
- (v) the net amount of discounts allowed to any customer pursuant to any customary and reasonable policy adopted by Tenant;
- (vi) receipts from public telephones installed solely for use by Tenant, tenant's employees or invitees;
- (vii) sales of fixtures, equipment, property or bulk sales not in the ordinary course of business;
- (viii) sales to Tenant's employees or employees of Tenant's affiliated companies or franchisees at discount, not to exceed three percent (3%) of Gross Sales;
- (ix) fees received for classes, demonstrations and franchise sales events

conducted within the Premises at no profit to Tenant and for the primary purpose of selling franchises, training employees of Tenant or TQC or increasing Gross Sales; or

(x) insurance proceeds received from the settlement of claims for loss of or damage to merchandise, fixtures or other personal property of Tenant.

Notwithstanding the above, the value of any merchandise returned to the Premises that was purchased from a catalog or through the Internet shall not be deducted from Gross Sales in regards to the reporting of Gross Sales and the payment of Percentage Rent.

Tenant may maintain its sales records at TQC's headquarters.

3.3. Security Deposit. Concurrent with Tenant's execution of this Lease, Tenant shall furnish Landlord with a security deposit in the amount set forth in the Lease Summary. If Tenant defaults in the performance of any provision hereof, Landlord may use, apply or retain any part thereof for the payment of any Rent or other sum in default, or for the payment of any other amount which Landlord may spend or become obligated to spend by reason of Tenant's default, or to compensate Landlord for any loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of said deposit is so used or applied, Tenant shall, within five (5) days after receipt of written demand therefor, deposit cash with Landlord in amount sufficient to restore the Security Deposit to its original amount. Landlord shall not be required to keep the security deposit separate from its general funds, and Tenant shall not be entitled to interest on such deposit. Provided Tenant is not in default under this Lease, the Security Deposit or any balance thereof shall be returned to Tenant at the expiration or sooner termination of the Lease Term and after delivery of exclusive possession of the Premises to Landlord in the condition required by this Lease. Within five (5) days after receipt of such notice, Tenant shall deposit said increase with Landlord.

4. PRO RATA SHARE OF COMMON AREA EXPENSES, TAXES and INSURANCE. Commencing the earlier of ninety (90) days from the Term Commencement Date or Tenant's opening for business in the Premises, Tenant shall pay to Landlord, as additional rent, one-twelfth (1/12th) of an amount reasonably estimated by Landlord to be Tenant's Pro Rata Share (as herein defined) of the total annual common area expenses, real property taxes and assessments and the costs of Landlord's insurance, as defined in Articles 5, 6 and 7, respectively, of this Lease; provided, however, the first month's estimated common area expenses, real property taxes and assessments and the costs of Landlord's insurance shall be payable by Tenant upon execution of this Lease. Tenant's Pro Rata Share shall equal the ratio of the total square feet of the floor area of the Premises to the total square feet of the floor area of all the buildings constructed and leased or available for lease in the Shopping Center as of the end of each calendar year. Tenant's Pro Rata Share shall be subject to adjustment by Landlord to reflect Tenant's share of a particular cost that is not applicable to all the tenants within the Shopping Center. Landlord may adjust its estimate of such expenses at the end of any calendar quarter on the basis of Landlord's experience and reasonably anticipated costs. Following the end of each calendar year (and after the date of expiration or sooner termination of this Lease), Landlord shall furnish to Tenant a statement showing in reasonable detail the common area expenses, real property taxes and assessments and cost of Landlord's insurance during such calendar year (or portion thereof prior to the expiration or sooner termination of this Lease). If Tenant's share of such costs exceeds Tenant's payments so made, Tenant

shall pay Landlord the deficiency within thirty (30) days after receipt of such statement. If such payments exceed Tenant's share of such costs, Tenant shall be entitled to credit the excess against payments for such costs next thereafter to become due Landlord as set forth above. Upon termination of this Lease, if Tenant is not in default hereunder, Landlord shall promptly refund to Tenant the amount of any excess.

5. COMMON AREA.

5.1. Common Area. "Common Area" is defined as all areas and facilities within the Shopping Center not appropriated to the exclusive occupancy of tenants, including, but not limited to, all vehicle parking spaces or areas, roads, traffic lanes, driveways, sidewalks, pedestrian walkways, landscaped areas, signs, service delivery facilities, common storage areas, common utility facilities and all other areas for non-exclusive use in the Shopping Center which may from time to time exist. Common Areas shall include repair and maintenance of the roofs and exterior walls (other than storefronts) of buildings in the Shopping Center, all shared utility systems to the point of entry to any individual leased premises and all utility systems which are exterior to the buildings other than: (a) heating, ventilating and cooling system components or elements which serve individual tenants, and (b) sewer laterals to the point of junction with a common sewer line, which shall be the responsibility of individual tenant whose premises are served by such lateral.

5.2. Common Area Expenses. The term "common area expenses" shall include, without limitation, all amounts paid by Landlord for the maintenance, repair, replacement, operation and management of the Common Area, including insurance covering the Common Area, together with an administrative fee equal to fifteen percent (15%) of all such amounts, and shall include, without limitation, the costs of gardening; landscaping; repaving; resurfacing; restriping; security; property management; repairs, maintenance and replacements of bumpers, directional signs and other markers; painting; lighting and other utilities; cleaning; common area trash removal; Tenant's trash removal (if contracted by the Shopping Center); depreciation and replacement of equipment; and the costs of public liability and all-risk property damage insurance covering the Shopping Center (including earthquake insurance, if purchased by Landlord).

5.3. Control of the Common Area. Landlord shall have exclusive control of the Common Area and may exclude any person from use thereof except bona fide customers, employees and service suppliers of Tenant. Tenant acknowledges that Landlord may change the shape, size, location, number and extent of the improvements to any portion of the Shopping Center without Tenant's consent. Tenant and its employees and invitees shall observe faithfully and comply with the rules and regulations for the Shopping Center attached hereto as Exhibit "H" and any reasonable amendments thereto or other reasonable rules and regulations governing the Shopping Center. Notwithstanding the foregoing, Landlord shall not change or alter the Common Area in any manner which would alter the dimensions or location of the Premises or adversely affect the use, operation or conduct of Tenant's business being conducted in the Premises or adversely affect the accessibility or visibility of the Premises.

6. TAXES. The term "real property taxes" shall include, without limitation, any general or special

assessment, tax, commercial rental tax, in lieu tax, levy, charge, or similar imposition imposed by any authority, including any government or any school, agricultural, lighting, drainage or other improvement or special assessment district, or any agency or public body, as against any legal or equitable interest of Landlord in the Premises and/or the Shopping Center or arising out of Tenant's occupancy of the Premises or which are attributable to the Premises, together with the reasonable costs of professional consultants and/or counsel to analyze tax bills and prosecute any protests, refunds and appeals for the period covered during the Lease Term. Tenant's liability with respect to such taxes and assessments shall be prorated on the basis of a 365-day year to account for any fractional portion of a fiscal tax year included in the Lease Term at its commencement or expiration (or sooner termination).

7. INSURANCE; INDEMNITY; SUBROGATION.

7.1. General. All insurance policies required to be carried by Tenant under this Lease shall: (i) be written by companies rated A-/IX or better in the most recent edition of "Best's Insurance Guide" and authorized to do business in the state in which the Premises are located and (ii) name Landlord and any parties designated by Landlord as additional insureds. Any deductible amounts under any insurance policies required hereunder shall be subject to Landlord's prior written approval, which shall not be unreasonably withheld. Tenant shall deliver to Landlord certified copies of its insurance policies, or an original certificate evidencing that such coverage is in effect, on the Term Commencement Date and thereafter at least thirty (30) days before the expiration dates of expiring policies. Coverage shall not be canceled or materially reduced (and the certificate of insurance furnished by Tenant shall verify same), except after thirty (30) days prior written notice has been given to Landlord's property administrator. Tenant's coverage shall be primary insurance with respect to Landlord and its property administrator, and the officers, directors and employees of both of them. Any insurance or self-insurance maintained by Landlord and/or its property administrator shall be in excess of, and not contributing with, Tenant's insurance. Coverage shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to any aggregate limit applicable to the insuring party's policy.

7.2. Tenant's Liability Insurance. Tenant shall keep in force during the term of this Lease a policy of commercial general liability insurance insuring against any liability arising out of Tenant's use, occupancy, or maintenance of the Premises and the acts, omissions and negligence of Tenant, its employees, agents and contractors in and about the Premises and the Shopping Center. As of the Term Commencement Date, such insurance shall provide coverage for and shall be in the amount of not less than One Million Dollars (\$1,000,000.00) per occurrence/Two Million Dollars (\$2,000,000.00) aggregate for bodily injury and Property Damage. Landlord shall have the right to increase the amount of insurance required hereunder to reflect changing market conditions or industry standards. Tenant's coverage shall be primary insurance as respects Landlord, its officers, agents and employees. Any insurance or self-insurance maintained by Landlord shall be excess of the Tenant's insurance and shall not contribute with it. Coverage shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

7.3. Tenant's Other Insurance. Tenant shall maintain special form property coverage, with sprinkler leakage, vandalism and malicious mischief endorsements on all of Tenant's fixtures,

including tenant improvements and betterments, equipment and personal property on the Premises, in an amount not less than one hundred percent (100%) of their full guaranteed replacement value, the proceeds of which shall, so long as the Lease is in effect, be used for the repair or replacement of the property so insured. Tenant shall maintain Worker's Compensation insurance in accordance with the laws of the state in which the Premises are located and employer's liability insurance with a limit of not less than One Million Dollars (\$1,000,000.00) each accident. Tenant shall maintain plate glass insurance, (or Tenant may self-insure the same) sufficient to pay for the replacement of and any or all damages to exterior plate glass and storefront supports in the Premises. In the event Tenant sells alcoholic beverages from the Premises, tenant shall maintain a customary policy of liquor liability insurance with limits no less than those required above with respect to Tenant's commercial general liability insurance under Section 7.2. Notwithstanding the foregoing, Tenant may self insure for plate glass.

7.4. Landlord's Insurance. Landlord shall keep and maintain in full force and effect, a policy of fire insurance, including special form coverage, in the amount of the full replacement value of the Premises and the Shopping Center as such value may exist from time to time, including foundations, footings and excavations. The term "Landlord's insurance" shall include any and all insurance maintained by Landlord (including earthquake and flood insurance, if purchased by Landlord). If Tenant's use of the Premises increases the premium for any insurance carried by Landlord over that charged for normal retail uses, then Tenant shall pay to Landlord, as additional rent, the full amount of such increase in premium.

7.5. Waiver of Subrogation. Neither Landlord nor Tenant shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure or other tangible property, or any resulting loss of income and benefits (even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees) if such loss or damage is covered by insurance benefiting the party suffering such loss or damage or was required to be covered by insurance pursuant to this Lease. Landlord and Tenant shall require their respective insurance companies to include a standard waiver of subrogation provision in their respective policies.

7.6. Indemnification and Waiver By Tenant. To the fullest extent permitted by law and except to the extent any damage to property or injury is caused by the negligence or willful misconduct of Landlord, Tenant agrees (and Tenant shall cause its contractors and subcontractors to agree) that neither Landlord nor Landlord's employees, agents, representatives and contractors shall be liable for any injury to or death of persons or damage to property of Tenant (or its contractors and subcontractors) or any other person from the date of this Lease. Tenant shall defend, indemnify and hold Landlord and Landlord's agents, officers, directors, employees and contractors harmless against and from any and all claims, liabilities, losses, damages, suits, costs and expenses of any kind or nature including without limitation reasonable attorney's fees ("Claims") arising from or relating to (a) Tenant's use of the Premises or the Common Areas, or (b) any acts, omissions, negligence, or default of Tenant or Tenant's agents, employees, or contractors, except to the extent any such Claim is caused by the negligence or willful misconduct of Landlord. The terms of the indemnification by Tenant set forth in this Section shall survive the expiration or earlier termination of this Lease.

7.7. Indemnification by Landlord. Landlord shall defend, indemnify, and hold Tenant harmless against and from any and all Claims caused by the negligence or willful misconduct of Landlord or Landlord's agents, employees, or contractors, except to the extent any such Claim is caused by the negligence or willful misconduct of Tenant, its agents, contractors or employees, or the failure of Tenant to perform maintenance and repair as required elsewhere in this Lease or breach of Tenant's obligations under applicable law or this Lease.

8. USE.

8.1. Use Defined. The Premises shall be used for the purposes set forth in the Lease Summary only and for no other purpose or use. Tenant shall operate its business at the Premises in a first class manner under the trade name set forth in the Lease Summary and shall not change its trade name without Landlord's prior written consent, nor shall Tenant operate its business in a manner or for such a use as would be inconsistent with first class shopping facilities. Notwithstanding the foregoing, subject to Landlord's prior written consent, in the event Tenant changes the trade name of a majority of its stores in California, Tenant shall change the trade name of its store located at the Premises to such trade name. Tenant shall not conduct any sidewalk sale, auction, distress sale, or going-out-of-business sale on the Premises, without the prior written consent of Landlord. Tenant shall use the Premises in such a way as not to annoy other tenants of the Shopping Center or create a nuisance or cause the cancellation of any insurance policy covering the Premises. Tenant shall keep the Premises, front and rear walkways adjacent to the Premises and any service delivery facilities allocated for the use of Tenant, clean and free from rubbish and dirt at all times and shall store all trash and garbage within the Premises or in designated refuse areas.

8.2. Exclusive Use. Notwithstanding anything to the contrary set forth in the Lease, after the Date of Lease, Landlord shall not execute any lease for premises located within the Shopping Center to any other "Competitive Store", as defined below ("Exclusive Use"), subject to the following terms and the satisfaction of each and all of the following conditions:

(a) **Quizno's Classic Subs** is the Tenant's Trade name under the Lease and Tenant has not made a Transfer of the Lease or Tenant's interest in the Premises, which requires Landlord's prior written consent in accordance with the terms of Section 12.

(b) Provided such use is currently permitted under an existing Lease, the Exclusive Use is not applicable to: (i) any premises containing eight thousand (8,000) or more square feet of gross floor area; (ii) any Shopping Center leases entered into on or before the Effective Date of this Lease; (iii) any new Shopping Center leases or extensions of existing leases entered into with Existing Tenants; or (iv) any tenants or occupants, including their successors and assigns, existing in the Shopping Center on or before the Effective Date of this Lease, even if such occupants complete construction and/or open for business after the Effective Date of Lease ("Existing Tenants").

(c) The Exclusive Use restrictions shall automatically terminate if Tenant fails to continuously operate its business in the entire Premises in accordance with this Lease, excepting

closures for reasonable periods of time for remodeling as permitted under this Lease (not to exceed sixty (60) days in any twelve (12) month period), closures due to rebuilding and repair after casualty and closures due to force majeure which prevents Tenant from operating its business in the Premises.

(d) The Exclusive Use restrictions shall automatically terminate without notice to Tenant and be of no further force or effect effective as of the date which is the earliest of: (i) a Transfer of the Lease other than to a Quizno's entity or Franchisee, which requires Landlord's prior written consent; (ii) a change in the Permitted Use set forth in the Lease Summary; (iii) the effective date of any default by Tenant under the Lease, not cured within the applicable cure period; or (iv) the expiration or earlier termination of the Lease. The Exclusive Use restrictions shall cease to apply to any products that Tenant discontinues selling.

(e) The term "Competitive Store" shall mean the business operation of a new tenant whose "Primary Business" is the sale of oven baked, delicatessen and/or submarine type sandwiches, if the gross sales derived from the sale of such goods and/or services constitute more than twenty percent (20%) of such tenant's total annual gross sales.

Notwithstanding anything contained herein to the contrary, Landlord shall not be obligated to maintain or enforce the terms of this Section 8.2 or any similar provisions of the Lease to the extent same would be in violation of any anti-trust law. If such anti-trust violation is the basis of a claim or counterclaim against Landlord in connection with Landlord's attempted enforcement of this exclusive, then Landlord shall promptly consult with Tenant regarding Tenant's desire to further pursue enforcement of this exclusive. In addition, Tenant shall defend, indemnify and save Landlord and its employees, agents and assigns harmless from and against any and all losses, damages, actions, causes of action, claims, liabilities, demands, costs and expenses including, without limitation, attorneys' fees, arising out of the Exclusive Use restrictions set forth herein or arising out of the enforcement of such restrictions.

8.2.1. Violation of Exclusive Use. In the event of a violation of the Exclusive Use, Tenant shall give Landlord thirty (30) days notice to cure, from the date of the violation (the "Violation Date"). If, after said thirty (30) day period the violation continues, Tenant shall have a one-time right (per occurrence) to terminate this Lease if Tenant's Gross Sales for the six (6) month period immediately following the Violation Date are reduced by more than thirty percent (30%) for the same calendar period during the prior twelve (12) months. Tenant shall provide Landlord with a termination notice within the seventh (7th) full calendar month following the Violation Date, or Tenant's termination rights for that particular violation shall cease and this Lease shall remain in full force and effect. If Tenant elects to terminate this Lease, said termination shall be effective sixty (60) days following the date of Tenant's notice to Landlord (Termination Date") and neither Landlord or Tenant shall be liable to the other under this Lease, from and after the Termination Date, except for matters which shall have arisen prior to such date and except for obligations of Tenant under this Lease with respect to the condition of the Premises upon termination or expiration of this Lease, pursuant to Section 9.3 below.

8.3. Continuous and Full Operation. Tenant shall exercise due diligence to open for business in the Premises not later than ninety (90) days after the Term Commencement Date and

Tenant shall thereafter remain open for business continuously and uninterruptedly during the Lease Term operating from the entirety of the Premises. Notwithstanding the foregoing, Tenant may close its business once every five (5) years for up to thirty (30) days.

8.4. Minimum Business Hours. Tenant shall keep the Premises open for business during the required Minimum Business Hours as set forth in the Lease Summary of which Tenant is notified from time to time. In the event that Tenant is found not to be open during the Minimum Business Hours (and/or Extended Holiday Hours, as the case may be) more than three (3) times in any Lease Year in excess of one (1) hour, then Tenant agrees to pay to Landlord, in addition to all other Rents payable hereunder, a charge equal to one half day's Minimum Rent for each such day that the Premises are not operated during the required hours. Notwithstanding the foregoing, Tenant may close its business once every five (5) years for up to thirty (30) days.

8.5. Conditions of Record. Landlord's title is subject to: (a) the effect of any covenants, conditions, restrictions, easements, development agreements, mortgages or deeds of trust, ground leases, rights of way and any other matters or documents of record now or hereafter recorded against Landlord's title; (b) the effects of any zoning laws of the city, county and state where the Shopping Center is situated; and (c) general and special taxes and assessments not delinquent. Tenant agrees that it will conform to and will not violate said matters of record and that this Lease is and shall be subordinate to said matters of record and any amendments or modifications thereto. Landlord warrants to the best of its knowledge that no condition of record will negatively impact Tenant's Permitted Use.

9. MAINTENANCE, REPAIRS, ALTERATIONS.

9.1. Tenant's Obligations. Subject to Landlord's obligations as expressly set forth in this Lease, Tenant, at its sole cost and expense, shall make all repairs and/or replacements to the Premises and shall keep at all times the Premises in good order and repair, including without limitation the storefront, all doors, plate glass, all plumbing, heating, ventilating and air conditioning ("HVAC") unit(s), electrical and lighting facilities and equipment within the Premises or exclusively serving the Premises. Subject to Section 7.5, Tenant shall also be responsible for the repair of any and all damage to the Premises and/or Shopping Center caused by any act of Tenant or its employees, agents or contractors and for any repairs necessitated by alterations, additions or improvements made by or on behalf of Tenant. If Tenant fails to perform any of its obligations, Landlord may, at its option, after five (5) days written notice to Tenant, enter the Premises and put the same in good order and repair and the cost of Landlord's work, together with an administrative fee of fifteen percent (15%) of such costs, shall become due and payable as additional rent by Tenant to Landlord. Tenant shall enter into a service contract (the "Service Contract") within thirty (30) days after the Term Commencement Date with a maintenance contractor approved by Landlord, for the monthly servicing of HVAC systems and equipment within the Premises. The Service Contract shall include all scheduled maintenance as recommended by the equipment manufacturer as set forth in the operation/maintenance manual. Notwithstanding the foregoing, Landlord may (but shall not be obligated to) elect to maintain the HVAC equipment serving the Premises, in which event, Tenant shall pay to Landlord on the first day of each month all reasonable and competitive costs and expenses for the repair, maintenance and

replacement of all HVAC equipment for the Premises.

9.2. Landlord's Obligations. Landlord covenants and agrees, at its sole cost and expense and without reimbursement or contribution by Tenant, to keep, maintain and replace, if necessary, the foundations, the main plumbing system, the main electrical system, the main utility and main sewer lines and connections to the Premises, the sprinkler mains, if any, structural systems including, (excluding without limitation, the roof, roof membrane roof covering, which Landlord shall repair and bill Tenant through the common area expenses; and interior ceiling if damaged by leakage which Tenant shall repair at its sole cost and expense), load-bearing walls, floor slabs and masonry walls in good condition and repair. Utilities for Landlord's Work in Exhibit "C" shall be stubbed to the Premises at no cost to Tenant. Notwithstanding anything to the contrary contained in this Lease, Landlord shall not be liable to Tenant for failure to make repairs as herein specifically required of Landlord, unless Tenant has previously notified Landlord in writing of the need for such repairs and Landlord has failed to commence and complete said repairs within the time periods set forth in Section 13.3 of this Lease. Notwithstanding the foregoing, Landlord shall make reasonable efforts to commence to repair damage to any of the above-mentioned items within seven (7) business days following Tenant's notice to Landlord thereof.

9.3. Surrender. Upon the expiration or termination of this Lease, Tenant shall surrender the Premises to Landlord in good and broom clean condition, with all of Tenant's trade fixtures and personality removed, excepting ordinary wear and tear and damage which is caused by fire or other casualty which Landlord is obligated to repair. Tenant shall also remove any Tenant-installed improvements that Landlord may require to be removed.

9.4. Alterations. Tenant shall not make any structural repairs or alterations of the Premises. Tenant shall not make any non-structural repairs or modifications of the Premises costing in excess of Ten Thousand Dollars (\$10,000.00) in the aggregate without Landlord's prior written consent. In addition, Tenant shall not make any repair or alteration which affects the storefront of the Premises, the electrical, HVAC or other utility or mechanical systems serving the Premises, or the exterior walls or roof of the Premises (including roof penetrations), nor shall Tenant erect any mezzanine or increase the size of same, if one shall be initially constructed, without the prior written consent of Landlord.

9.5. Personal Property. Personal property, fixtures and equipment used in the conduct of the Tenant's business and placed by the Tenant on or in the Premises shall be new and consist of first quality materials, consistent with comparable stores with similar tenants typically found in other first-class shopping centers. Provided Tenant is not in default under the Lease, no such personal property, fixtures and equipment shall become a part of the realty and may be removed by the Tenant at any time. Any trade fixtures, equipment or personal property belonging to the Tenant shall be deemed abandoned and shall become the property of Landlord if not removed within five (5) business days after the expiration or sooner termination of the Lease Term. Upon the Term Commencement Date and for the balance of the Lease Term, Tenant shall pay, prior to delinquency, any taxes and assessments that may be assessed or levied on or against any of Tenant's personal property, fixtures or equipment placed on or in the Premises.

10. UTILITIES.

10.1. Obligation to Pay. Tenant shall pay for all water, gas, electricity and other utilities used by Tenant during the Lease Term, all of which shall be measured through meters or sub meters to be installed by Landlord and maintained by Tenant; provided, if any such services cannot be separately metered or sub metered to Tenant, Tenant shall pay its proportionate share (as equitably determined by Landlord) of all charges for utilities jointly metered with other premises.

10.2. Alternative Electricity Service Provider.

10.2.1. Landlord Consent Required. In the event that Tenant wishes to utilize services of an alternative electricity service provider ("ASP") rather than the existing public utility or Landlord ASP that is servicing the Shopping Center as of the date of Tenant's execution of this Lease, no such ASP shall be permitted to provide service to Tenant or to install its lines or other equipment within the Shopping Center without obtaining the prior written consent of Landlord, which shall not be unreasonably withheld.

10.2.2. Conditions to Consent. Unless all of the following conditions are fulfilled to Landlord's satisfaction in a written agreement between the ASP and Tenant or by any other means acceptable to Landlord, it shall be reasonable for Landlord to refuse its consent:

(i) No Expense to Landlord. Landlord shall incur no expense whatsoever with respect to any aspect of the ASP's provision of its services, including without limitation, the cost of installation, service and materials;

(ii) ASP Supplies Insurance and Financial Verification. Prior to commencement of any work in or about the Premises and/or the Shopping Center by the ASP, the ASP shall supply Landlord with verification that, in Landlord's sole judgment, the ASP is (a) properly insured, and (b) financially capable of covering any uninsured damage;

(iii) ASP Will Follow Building Rules. Prior to the commencement of any work in or about the Shopping Center by the ASP, the ASP shall agree in writing to abide by such rules and regulations, job site rules, and such other requirements as reasonably determined by Landlord to be necessary to protect the interest of the Shopping Center;

(iv) Sufficient Space for Equipment and Materials. Landlord reasonably determines that there is sufficient space in the Shopping Center for the placement of all of the ASP's equipment and materials;

(v) ASP in Good Standing. The ASP is, in Landlord's sole judgment, licensed and reputable, as shown in documents acceptable to Landlord;

(vi) Compensation for Space. The ASP agrees, in a license agreement signed by Landlord and ASP, to compensate Landlord the amount determined by Landlord for (a) space used in the Shopping Center for the storage and maintenance of the ASP's equipment

(the "ASP's Space"); and (b) all costs that may be incurred by Landlord in arranging for access by the ASP's personnel, security for the ASP's equipment, and any other such costs as Landlord may incur;

(vii) ASP Subject to Landlord's Supervision. The ASP agrees that Landlord shall have the right to supervise the ASP's performance of any work on or about the Shopping Center, including, without limitation, any installations or repairs;

(viii) ASP Must Give Landlord Access. The ASP agrees that Landlord shall have the right to enter the ASP's Space at any time in the event of an emergency and at all reasonable times and upon reasonable notice for the purpose of (a) inspecting same; (b) making repairs to the ASP's Space and performing work therein as may be necessary, in Landlord's judgment; or (c) exhibiting the ASP's Space for purposes of sale, lease, ground lease, or financing;

(ix) ASP and Tenant Provide Landlord With Agreement. The ASP and Tenant must provide Landlord with the terms and conditions of the ASP agreement with Tenant, including without limitation the cancellation rights and expiration date;

(x) ASP Violation. The ASP agreement is not in violation of an existing Landlord ASP agreement, if any;

(xi) Equipment Removal. The ASP and Tenant jointly and severally agree to remove or leave in place, at Landlord's option and at no cost to Landlord, all lines and other equipment installed as a result of Tenant's election to use an ASP, said removal to occur within ten (10) days after the earlier of the following: (a) expiration or termination of this Lease and expiration or termination of the ASP agreement; and

(xii) Repair. The ASP and Tenant jointly and severally agree to maintain, repair and replace as necessary all lines and other equipment installed as a result of Tenant's election to use an ASP; provided, however, at Landlord's election, Landlord shall have the right to make perform such maintenance, repairs and replacements for and at the cost of Tenant, and Tenant shall reimburse Landlord for all such costs within twenty (20) days after receipt of billing from Landlord.

10.2.3. Consent Not a Landlord Warranty. Landlord's consent under this Article shall not be deemed any kind of warranty or representation by Landlord, including without limitation, as to the suitability or competence of ASP.

10.2.4. Tenant Responsible for Service Interruptions. Tenant agrees that to the extent service by a utility company or an ASP is interrupted, curtailed, or discontinued for whatever reason, Landlord shall have no obligation or liability with respect thereto.

10.2.5. Tenant Indemnifies Landlord. Tenant shall indemnify and hold harmless Landlord for all losses, claims, demands, expenses, and judgments against Landlord caused by or

arising out of, either directly or indirectly, any acts or omissions by the ASP.

10.2.6. Landlord's Refusal to Consent. Notwithstanding any provision herein to the contrary, the refusal of Landlord to consent to any prospective ASP shall not be deemed a default or breach by Landlord of its obligations under this Lease unless and until Landlord is adjudicated in a final and unappealable court decision to have acted recklessly or maliciously with respect to its refusal.

10.2.7. Right to Make Tenant Change ASP. Notwithstanding Tenant's rights hereunder, Landlord shall have the right at any time and from time to time during the Lease Term to require Tenant to contract for electricity service with a different ASP or ASP's ("Landlord ASP") provided Tenant's use of Landlord's ASP shall lower Tenant's direct electricity costs, and provided further that the requirements to use the Landlord's ASP does not violate an existing Tenant ASP agreement, if any.

11. MECHANIC'S LIENS. Tenant shall keep the Premises and the Shopping Center free and clear of all mechanic's liens, stop notices, demands and claims arising from work done by or for Tenant or for persons claiming under Tenant, and Tenant shall indemnify and save Landlord free and harmless from and against any Claims arising from or relating to the same. If Tenant fails to remove or satisfy any mechanic's lien, stop notice or claim in connection with work performed by or on behalf of Tenant within five (5) days after written notice by Landlord, Landlord shall have the right (but not the obligation), in addition to any other rights or remedies of Landlord, to use whatever means in its discretion it may deem appropriate to cause said claim, stop notice, or lien to be rescinded, discharged, compromised, dismissed or removed, including, without limitation, posting a bond. Any such sums paid by Landlord, including attorneys' fees and bond premiums, shall be immediately due and payable to Landlord by Tenant. Tenant shall immediately give Landlord notice of any claim, demand, stop notice or lien made or filed against the Premises or the Shopping Center and/or any action affecting title to the Premises or Shopping Center.

12. ASSIGNMENT AND SUBLETTING.

12.1. Landlord's Right of Consent. Tenant shall not transfer, assign, sublet, enter into any franchise, license or concession agreements, change ownership or voting control, mortgage, encumber, pledge or hypothecate all or any part of this Lease, Tenant's interest in the Premises or Tenant's business (collectively "Transfer") without first obtaining Landlord's written consent, which shall not be unreasonably withheld. Should Tenant desire to make a Transfer hereunder, Tenant shall give Landlord thirty (30) days prior written notice thereof ("Tenant's Notice"), which (i) shall state that the Tenant intends to Transfer the Lease as of a specific date (the "Transfer Date"); (ii) shall identify the proposed transferee; (iii) shall set forth all material terms and conditions of the proposed Transfer; and (iv) shall be accompanied by certified financial statements of the proposed transferee for the three (3) fiscal years immediately preceding such proposed Transfer or such other documentation or information relating to the financial strength and credit worthiness of the proposed transferee as may be reasonably acceptable to the Landlord. Tenant shall pay a fee of Five Hundred Dollars (\$500.00) for the costs of processing any proposed Transfer other than the *Permitted Transfers* pursuant to Section 12.4 below, whether or not the proposed Transfer is consummated. If Landlord consents to a proposed

Transfer, Tenant shall pay to Landlord any and all amounts payable by the transferee to Tenant under the Lease in excess of the Rent payable hereunder (excluding amounts reasonably paid for the value of Tenant's business). Any Transfer other than as permitted in this Section shall be null and void. Notwithstanding the above, acceptance of any payment of rent and other charges by Landlord from any party other than Tenant named herein shall not be deemed a consent to a Transfer or a waiver of any of Landlord's rights in connection with any proposed Transfer hereunder.

12.2. Recapture Option. Excluding Quizno's transfers, at any time during the thirty (30) day period following Landlord's receipt of Tenant's Notice, Landlord may, at its sole discretion, give written notice to Tenant that Landlord elects to terminate this Lease, said termination to be effective, as designated by Landlord in Landlord's termination notice, at any time as of the proposed Transfer Date through the sixtieth (60th) day thereafter ("Termination Date"). If Landlord elects to terminate this Lease, then neither Landlord nor Tenant shall be liable to the other under this Lease from and after the Termination Date, except for matters which shall have arisen prior to such date and except for the obligations of Tenant under this Lease with respect to the condition of the Premises upon the termination or expiration of this Lease.

12.3. No Release of Tenant. Should Tenant make a Transfer as permitted in this Section, Tenant shall nevertheless remain primarily liable to Landlord for full payment of the Rent and other charges and full performance of Tenant's other obligations under this Lease. No consent by Landlord to any modification, amendment or termination of this Lease, or extension, waiver or modification of payment or performance of any obligation under this Lease, shall affect the continuing liability of Tenant for its obligations and liabilities hereunder, and Tenant waives any defense arising out of or based thereon. With respect to any Transfer permitted in this Section, such Transfer shall not be valid or effective unless and until Tenant delivers to Landlord a copy of a written agreement in form and substance satisfactory to Landlord pursuant to which, in the case of an assignment, the assignee assumes all of the obligations and liabilities of the Tenant under this Lease and, in the case of any other Transfer, the transferee agrees that such Transfer shall be subject to all of the covenants, terms and conditions of this Lease.

12.4. Permitted Assignments. The following shall be deemed "Permitted Assignments": without Landlord's consent being required, Tenant shall have the right to assign the Lease or sublet the Premises, with a charge not to exceed Two Hundred Fifty Dollars (\$250.00), to The Quizno's Franchise Company ("TQFC"), its parent, subsidiaries or affiliates (TQFC, its parent, subsidiaries or affiliates are hereinafter referred to as a "TQFC Entity"), or to a duly authorized franchisee of TQFC. In the event of an assignment to a TQFC Entity, the TQFC Entity shall have the right to reassign the Lease with a charge not to exceed \$250.00 and without Landlord's consent being required to a duly authorized TQC franchisee with a net worth no less than \$250,000.00 with at least \$75,000.00 of that net worth "liquid", and to thereupon be released from any further liability under the Lease, provided that, within fifteen (15) days after the effective date of any such transfer, the assignee or Tenant executes and delivers to Landlord an instrument in form and content satisfactory to Landlord and executed by Tenant and such assignee or transferee, as the case may be. Notwithstanding the foregoing, Tenant shall not be released from liability under the lease for any assignment, sublet or transfer on interest.

12.5. Attornment and Nondisturbance. Should Landlord assign its interest in the Lease, Tenant shall agree to attorn to any assignee of Landlord provided such assignee will agree not to disturb Tenant's possession of the Premises.

12.6. Landlord Consent Agreement. Tenant shall have the right from time to time to grant and assign a mortgage or other Security interest in all of Tenant's personal property located within the Premises to its lenders in connection with Tenant's financing arrangements, and any lien of Landlord against Tenant's personal property (whether by statute or under the terms of this Lease) shall be subject and subordinate to such security interest. Landlord shall execute a Landlord Consent Agreement, as may be reasonably required by Tenant's lender, and which does not modify the terms of this Lease, in connection with any such financing.

13. DEFAULTS, REMEDIES.

13.1. Tenant's Default. Tenant shall be in default in the event of any of the following: (i) if Tenant fails to make any payment of rent, additional rent or any other sum or amount payable hereunder and such failure shall continue for three (3) days after written notice by Landlord; (ii) if Tenant fails to perform any other obligation to be performed by Tenant hereunder and such failure shall continue for ten (10) days after written notice by Landlord; provided, however, if the nature of such default is such that the same cannot reasonably be cured within a ten (10)-day period, then Tenant shall not be deemed to be in default if it shall commence such cure within such ten (10) day period and thereafter rectify and cure such default with due diligence; (iii) if Tenant abandons or vacates the Premises; (iv) if Tenant files a petition or institutes any proceedings under the Bankruptcy Code, or if any such proceeding or similar kind or character be filed against Tenant and shall not be discharged for sixty (60) days; or if Tenant is in monetary default three (3) times in any twelve (12) month period. Any notice given by Landlord pursuant to clauses (i) or (ii) of this Section shall be in lieu of and not in addition to, any notice required under of the California Code of Civil Procedure Section 1161 of or any similar, superseding statute. When this Lease requires service of a notice, that notice shall replace rather than supplement any equivalent or similar statutory notice, including any notices required by California Code of Civil Procedure section 1161 or any similar or successor statute. When a statute requires service of a notice in a particular manner, service of that notice (or a similar notice required by this Lease) in the manner required by this Lease shall replace and satisfy the statutory service-of-notice procedures, including those required by California Code of Civil Procedure Section 1162 or any similar or successor statute.

13.2. Quizno's Corporate Notice and Cure Rights. Landlord agrees to give The Quizno's Franchise Company ("Franchisor") written notice of any Tenant defaults as a prerequisite to exercising any remedies against Tenant under the Lease. Franchisor shall have Tenant's cure period plus an additional ten (10) days (but in no event less than thirty (30) days total for non-monetary defaults) to cure (at Franchisor's option) any such defaults on Tenant's behalf, and to perform any other acts on Tenant's behalf as may be necessary to keep the Lease in full force and effect. In the event Franchisor thereafter executes on its security interest in the Lease and Tenant's fixtures and equipment (pursuant to the terms of its Franchise Agreement with Tenant), such action shall not be deemed a default or assignment under the Lease; provided, however, Franchisor shall thereafter have the right to

assign the Lease on Tenant's behalf, without charge and without Landlord's consent being required, to an authorized franchisee. Notice to Franchisor shall be addressed as follows:

The Quizno's Franchise Company
1415 Larimer Street
Denver, CO 80202
Attn: Legal Department

13.3. Remedies in Default.

13.3.1. In the event of a default by Tenant, Landlord, in addition to any other remedies available to it at law or in equity, including injunction, at its option, without further notice or demand of any kind to Tenant or any other person, may: (i) terminate this Lease and Tenant's right to possession of the Premises and recover possession of the Premises and remove all persons therefrom; (ii) have the remedies described in California Civil Code Section 1951.4 (Landlord may continue the Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due, if Tenant has the right to sublet or assign, subject only to reasonable limitations); or (iii) even though it may have re-entered the Premises, thereafter elect to terminate this Lease and all of the rights of Tenant in or to the Premises. Notwithstanding the foregoing, Landlord shall use reasonable efforts to mitigate its damages in the event of a default by Tenant.

13.3.2. Tenant's right to possession shall not be deemed to have been terminated by efforts of Landlord to relet the Premises, by its acts of maintenance or preservation with respect to the Premises, including its entry upon the Premises, appointment of a receiver to protect Landlord's interests hereunder, or by any action, in unlawful detainer or otherwise, to obtain possession of the Premises, unless Landlord shall have notified Tenant in writing that Landlord has so elected to terminate this Lease. Tenant covenants that the service by Landlord of any notice pursuant to the unlawful detainer statutes of the State of California and the surrender of possession pursuant to such notice shall not be deemed to be a termination of this Lease. In the event of any entry or taking possession of the Premises as aforesaid, Landlord shall have the right, but not the obligation, to: (i) remove therefrom all or any part of the personal property located therein and place the same in storage at the expense and risk of Tenant and/or (ii) erect a barricade and partition the Premises at the expense of Tenant.

13.3.3. Should Landlord elect to terminate this Lease pursuant to the provisions of Section 13.2.1(i) or 13.2.1(iii) above, Landlord may recover from Tenant as damages, the following: (i) the worth at the time of the award of any unpaid rent and other charges which had been earned at the time of termination; plus (ii) the worth at the time of the award of the amount by which the unpaid rent and other charges which would have been earned after termination until the time of the award exceeds the amount of the loss of such rent and other charges that Tenant proves could have been reasonably avoided; plus (iii) the worth at the time of the award of the amount by which the unpaid rent and other charges for the balance of the Lease Term after the time of the award exceeds the amount of the loss of such rent and other charges that Tenant proves could have been reasonably avoided; plus (iv) any other amount necessary to compensate Landlord for all of the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things

would be likely to result therefrom.

13.3.4. As used in Section 13.2.3(i) and 13.2.3(ii) above, the "worth at the time of the award" shall be computed by allowing interest at the interest rate specified in Article 19. As used in Section 13.2.3(iii) above, the "worth at the time of the award" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%).

13.4. Default by Landlord. Landlord's failure to perform any of the terms, covenants, conditions, agreements, or provisions of this Lease required to be done by Landlord, within thirty (30) days after written notice by Tenant to Landlord of said failure shall be deemed a default by Landlord (except that when the nature of the Landlord's obligation is such that more than thirty (30) days are reasonably required for its performance, then the Landlord shall not be deemed in default if it commences performance within the thirty (30) day period and thereafter diligently pursues the cure to completion). In no event shall Tenant have the right to terminate this Lease as a result of Landlord's default unless Tenant is unable to operate its business in the Premises for a period of thirty (30) consecutive days as a result of Landlord's default. In no event shall Landlord be liable for consequential damages, nor shall Tenant be entitled to deduct any sums from Rents. Tenant's remedies shall be limited to: (i) an action at law for costs incurred by Tenant to correct a Landlord default, (ii) an injunction or restraining order to stop or prevent Landlord from violating Tenant's rights under this Lease, or (iii) an action at law to terminate this Lease. Nothing herein contained shall be interpreted to mean that Landlord excuses Tenant from the payment of Rent due hereunder as a result of any default by Landlord.

14. DESTRUCTION.

14.1. Landlord's Option to Terminate. In the event of: (a) substantial damage to the Premises or Shopping Center caused by an uninsured casualty; (b) a casualty causing damage to the Premises or Shopping Center which cannot be repaired within one hundred twenty (120) days from the date of damage or destruction under the laws and regulations of the state, federal, county, municipal authorities or other authorities with jurisdiction; or (c) a casualty occurring during the last two (2) years of the Lease Term and any available options, if exercised (subject to Section 14.4 hereof), Landlord may terminate this Lease at the date of the damage upon written notice to the Tenant following the casualty. Notwithstanding the foregoing, Tenant shall have the right to terminate this Lease if the casualty cannot be repaired within 180 days from the date of damage or destruction.

14.2. Repairs; Rental Abatement. In the event of an insured casualty which may be repaired within one hundred twenty (120) days from the date of the damage, or, in the alternative, in the event the Landlord does not elect to terminate this Lease under the terms of Section 14.1 above, then this Lease shall continue in full force and effect and the Premises shall be reconstructed with the obligations of the parties being as set forth in Section 14.3. Such partial destruction shall in no way annul or void this Lease, except that Tenant shall be entitled to a proportionate reduction of Minimum Rent and other charges following the casualty until the time the Premises are restored. Such reduction shall be an amount that which reflects the degree of interference with Tenant's business. So long as

Tenant conducts its business in the Premises, without material interference, there shall be no abatement until the parties agree on the amount thereof.

14.3. Limitation on Repairs. In the event of any reconstruction of the Premises under this Article 14, Landlord's obligation to reconstruct the Premises shall be to the extent reasonably practicable and to the extent of available proceeds, to restore the Premises to the condition in which they were delivered to Tenant. Landlord's repair obligations shall in no way include any construction obligations originally imposed on Tenant or subsequently undertaken by Tenant.

14.4. Waiver of Tenant's Rights of Termination. Tenant hereby waives all statutory or common-law rights of termination in respect to any partial destruction or casualty, which Landlord is obligated to repair or may elect to repair under the terms of this Article, including without limitation, the provisions of California Civil Code Sections 1932(2) and 1933(4) and any present or future laws or case decisions to the same effect.

14.5. Shopping Center Damage. In the event that the Shopping Center is destroyed to the extent of not less than thirty-three and one-third percent (33 1/3%) of the replacement cost thereof, and Landlord elects not to rebuild within six (6) months, Landlord may elect to terminate this Lease, whether the Premises be injured or not, in the same manner as in Section 14.1 above. At all events, a total destruction of the Shopping Center or the Premises shall, at Landlord's option, terminate this Lease.

15. CONDEMNATION.

15.1. Taking. If any portion of the building that contains the Premises ("Building") or the Common Area shall be taken under any right of eminent domain, or any transfer in lieu thereof and such taking renders the Premises unsuitable, in the reasonable judgment of Landlord and Tenant, for Tenant's business operations, then Tenant or Landlord may terminate this Lease by giving written notice to the other within twenty (20) days after such taking. If this Lease is not so terminated, Landlord shall repair and restore the Building and/or the Shopping Center, as the case may be, as practicable (but shall not be required to expend more than the amount of the award received by Landlord for such purpose) and this Lease shall continue in full force and effect, but commencing with the date on which Tenant is deprived of the use of any portion of the Premises, the Minimum Rent shall be proportionately abated to the extent to which Tenant's use of the Premises is impaired, as reasonably determined by Landlord.

15.2. Award. Any and all awards payable by the condemning authority or other governmental agency in connection with a taking under the right of eminent domain shall be the sole property of Landlord, except that Tenant may make a separate claim for business loss, relocation expenses and loss of personal property and trade fixtures.

16. ADVERTISING, SIGNS AND DISPLAYS.

16.1. Tenant shall not erect or install in, upon or about the Premises any exterior or

interior signs or advertising media, or window or door lettering or placards, without Landlord's consent which may be withheld in Landlord's sole discretion. All such signs shall comply with all applicable laws, ordinances, rules and regulations and the Shopping Center's sign criteria attached hereto as Exhibit "D". Tenant shall not use any advertising media that can be heard or seen outside the Premises, such as loudspeakers, phonographs or radio broadcasts. Upon expiration of this Lease, Tenant shall promptly remove all signs installed hereunder, "cap-off" the electrical wiring thereto and repair all damage caused thereby. Notwithstanding the foregoing, Tenant shall be allowed to use its standard Quizno's sign package on the interior and exterior of the Premises to the maximum size allowed by the appropriate local agencies.

16.2. Opening Signage. Tenant shall have a license, subject to all required City approvals, to: (a) erect at least one (1) single or double sided wooden sign in the landscaped Common Area adjoining the most heavily traveled right-of-way adjacent to the Shopping Center which sign shall say "Coming Soon - Quizno's Classic Subs" or words similar thereto during the period between the Term Commencement Date and sixty (60) days after the date Tenant opens for business; and (b) display "Coming Soon" or "Grand Opening" banners on or near the Premises during such period and eight (8) weeks following opening.

17. COMPLIANCE WITH LAWS.

17.1. Laws Generally. Tenant, at its sole cost and expense, shall comply with all existing and future laws, ordinances, orders, rules, regulations and requirements of all governmental and quasi-governmental authorities (including the Americans With Disabilities Act) having jurisdiction over the Premises and shall perform all nonstructural, interior work required to comply therewith. If any such work would involve changes to the structure, exterior or mechanical, electrical or plumbing systems of the Building, then such work shall be performed by Landlord, and Tenant shall reimburse Landlord the cost thereof within ten (10) days after receipt of billing.

17.2. Compliance with Environmental Laws.

17.2.1. Tenant shall not cause or permit any hazardous or toxic materials or substances ("Hazardous Material") including, without limitation, asbestos, to be brought upon, stored, used, handled, transported, generated, released or disposed of, on, in, under or about the Premises, the Common Areas or any portion of the Shopping Center by Tenant, its agents, employees, subtenants, assignees, contractors or invitees (collectively, "Tenant Parties"); provided Tenant shall have the right to maintain upon the Premises such Hazardous Materials as are reasonably necessary for the conduct of Tenant's business and the proper maintenance of the Premises as long as such Hazardous Materials are used and stored in compliance with all Requirements (as defined below). At all times and in all respects, Tenant and the other Tenant Parties shall comply with all federal, state and local laws, statutes, ordinances, orders, rules, regulations and requirements ("Requirements") of all governmental and quasi-governmental authorities ("Authorities") with jurisdiction and all regulations relating to Hazardous Materials.

17.2.2. If at any time during or after the Lease Term, Hazardous Materials are

found to exist in or on the Premises (including the soils and underground water) or to have contaminated the soils, air or underground water of the Premises and such Hazardous Materials were caused by Tenant, then Tenant, at its sole cost and expense, shall: (i) promptly remove such Hazardous Materials; and (ii) take all such remedial action required by all Requirements of all Authorities. Notwithstanding the foregoing, Landlord, at its sole cost and expense, shall arrange for the necessary removal and/or remediation if Tenant can prove that the Hazardous Materials were present in or on the Premises before the date of this Lease and that such removal and/or remediation was not necessitated by any work or any other activity performed by Tenant.

17.2.3. Tenant shall indemnify, defend, protect and hold Landlord and each of its partners, employees, agents, attorneys, successors and assigns, free and harmless from and against any and all claims, liabilities, penalties, forfeitures, losses and expenses (including attorneys' fees), arising from or caused in whole or in part, directly or indirectly, by the failure of Tenant or any Tenant Party failure to comply with the terms of this Section, or the use, analysis, storage, transportation, disposal, release, threatened release, discharge or generation by Tenant or any Tenant Party of Hazardous Materials introduced to, under or around the Premises or any portion of the Shopping Center by Tenant including, without limitation, any buildings located thereon. The terms of the indemnification by Tenant set forth in this Section shall survive the expiration or earlier termination of this Lease

17.2.4. Landlord represents and warrants to the best of its knowledge that the Premises are free of all asbestos, asbestos containing materials and other hazardous or toxic materials (collectively, "Hazardous Materials"). Tenant shall have no obligation to make any repairs, alterations or improvements to the Premises or incur any costs or expenses whatsoever as a result of Hazardous Materials in or about the Shopping Center, Building or the Premises, other than those Hazardous Materials brought onto such areas by Tenant. Landlord shall be solely responsible for any changes to the Premises relating to Hazardous Materials (at Landlord's expense and not as a charge to Tenant's build out allowance), unless those Hazardous Materials were brought onto the Premises by Tenant or required for Tenant's Work. Landlord shall indemnify and hold Tenant harmless from and against all liabilities, costs, damages and expenses which Tenant may incur (including reasonable attorneys' fees) as the result of a breach of Landlord's representation and warranty set forth in this paragraph or the presence of Hazardous Materials in or about the Shopping Center, Building or the Premises, unless those Hazardous Materials were brought onto such areas by Tenant.

18. HOLDING OVER. If Tenant, with Landlord's consent, remains in possession of the Premises after the expiration or sooner termination of the Lease Term, such possession by Tenant shall be deemed to be a month-to-month tenancy, terminable on thirty (30) days prior written notice given at any time by either party. All provisions of this Lease shall apply to the month-to-month tenancy, except those specifying the Lease Term, options to extend and Monthly Minimum Rent, which shall be one hundred fifty percent (150%) of the Monthly Minimum Rent paid in the month immediately preceding the month-to-month tenancy.

19. LATE CHARGE and INTEREST.

19.1. Late Charge. Tenant hereby acknowledges that late payment by Tenant to

Landlord of rent and other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Accordingly, if any installment of rent or other sum due from Tenant shall not be received by Landlord's designee on the date such rent or other sums are due Landlord, more than two (2) times in any calendar year, Tenant shall pay to Landlord a late charge equal to ten percent (10%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. In addition, Tenant shall pay to Landlord any attorney fees and expenses incurred by Landlord by reason of Tenant's failure to pay rent and/or other charges when due hereunder.

19.2. Interest. Any sum due and payable to Landlord under the terms of this Lease which is not paid when due shall bear interest from the date when the same becomes due and payable by the provisions hereof until paid at a per annum interest rate equal to the maximum rate allowed by applicable usury law.

20. QUIET ENJOYMENT. So long as Tenant is not in default hereunder, then, subject to the other terms and conditions of this Lease, Tenant shall not incur any manner of hindrance or interference with its quiet enjoyment, possession and use from Landlord.

21. RIGHT OF ENTRY. Landlord and its authorized representatives, shall have the right to enter the Premises at all reasonable times upon reasonable notice without diminution or abatement of Rent. During the last ninety (90) days of the Lease Term, Landlord shall have the right to show the Premises to prospective tenants upon reasonable notice to Tenant. Landlord shall use reasonable efforts to limit such entries to between 11:00 a.m. and 2:00 p.m.

22. WAIVERS. No delay or omission in the exercise of any right or remedy of Landlord with respect to any default by Tenant shall impair such right or remedy or be construed as a waiver. The receipt and acceptance by Landlord of delinquent Rent or other payments due hereunder shall not constitute a waiver of any other default. Landlord's consent or approval shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act by Tenant, whether or not similar to the act so consented to or approved.

23. TRANSFER OF LANDLORD'S INTEREST. If Landlord conveys in a sale, exchange or otherwise all of its interest in the Premises, then Landlord, on consummation of the conveyance and assumption of Landlord's obligation, shall thereupon automatically be released from any obligation or liability thereafter accruing under this Lease.

24. ESTOPPEL CERTIFICATES.

24.1. Tenant shall, within ten (10) days after notice from Landlord, execute and deliver to Landlord an Estoppel Certificate, in the form attached hereto as Exhibit "G", or such other form as Landlord may require. Failure to deliver the certificate within said ten (10) day period shall be an

acknowledgment that: (i) this Lease is in full force and effect and has not been modified except as represented by Landlord; (ii) there are no uncured defaults in Landlord's performance hereunder; (iii) not more than one (1) month's minimum monthly rent has been paid in advance; and (iv) that there is no security deposit except as represented by Landlord.

24.2. If Landlord desires to finance, refinance or sell the Premises or the Shopping Center, or any part thereof, Tenant shall deliver to any potential lender or purchaser designated by Landlord such financial statements of Tenant as may be reasonably required by such lender or purchaser, including but not limited to Tenant's financial statements for the past three (3) years. All such financial statements shall be received by Landlord and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

25. ATTORNEY'S FEES. If either party hereto brings an action at law or in equity to enforce, interpret or seek redress for the breach of this Lease, then the prevailing party in such action shall be entitled to recover all court costs, witness fees and reasonable attorneys' fees, at trial or on appeal in addition to all other appropriate relief.

26. REAL ESTATE BROKER; FINDERS. Except for a separate agreement between M&H Realty Partners IV L.P. and Lowen Real Estate, 250 Vallombrosa, Suite 266, Chico, CA 95926-3958., each party represents that it has not had dealings with any real estate broker, finder or other person with respect to this Lease in any manner. Each party shall indemnify, defend, protect and hold the other party harmless from and against all claims, costs, demands, action, liabilities, losses and expenses (including the reasonable attorneys' fees of counsel chosen by the other party) arising out of or resulting from any claims that may be asserted against such other party by any broker, finder or other person with whom the party bearing the indemnity obligation has or purportedly has dealt, other than any party referenced in this Section 26.

27. SUBORDINATION AND ATTORNMENMENT.

27.1. Subordination. Provided Tenant's possession of the Premises is not disturbed, this Lease and all of Tenant's rights and interests in the leasehold estate hereunder, shall be subject and subordinate to any mortgages or deeds of trust that now encumber or may hereafter be placed upon the Premises and to the rights of the mortgagees or beneficiaries thereunder, any and all advances made or to be made thereunder, the interest thereon and all modifications, renewals, replacements and extensions thereof. If any such mortgagee or beneficiary so elects in writing, then this Lease shall be superior to the lien of the mortgage or deed of trust held by such mortgagee or beneficiary, whether this Lease is dated or recorded before or after such mortgage or trust deed. Any such mortgagee or beneficiary may make such election by executing and recording in the appropriate office of the county where the Premises are situated, a notice reciting that this Lease shall be superior to the lien of the mortgage or deed of trust of such mortgagee or beneficiary. From and after the recordation of such notice, this Lease shall be superior to the lien of said mortgage or deed of trust and shall not be extinguished by a foreclosure thereof or any sale thereunder. Upon request, Tenant shall promptly execute and deliver to Landlord, or any such mortgagee or beneficiary, any documents or instruments

required by any of them to evidence subordination of this Lease hereunder or to make this Lease prior to the lien of any mortgage or deed of trust as herein specified. If Tenant fails or refuses to do so within ten (10) days after written request therefor by Landlord or such mortgagee or beneficiary, such failure or refusal shall constitute an event of default hereunder by Tenant, but shall in no way affect the validity or enforceability of the subordination to or by the mortgage or deed of trust held by such mortgagee or beneficiary.

27.2. Attornment by Tenant. Upon enforcement of any rights or remedies under any mortgage or deed of trust to which this Lease is subordinated, Tenant shall, at the election of the purchaser or transferee under such right or remedy, attorn to and recognize such purchaser or transferee as Tenant's landlord under this Lease. Tenant shall execute and deliver any document or instrument required by such purchaser or transferee confirming the attornment hereunder.

28. LIMITATION ON LIABILITY. In consideration of the benefits accruing hereunder, Tenant on behalf of itself and all successors and assigns of Tenant covenants and agrees that, in the event of any actual or alleged failure, breach or default hereunder by Landlord: (a) the sole and exclusive remedy shall be against Landlord's interest in the Shopping Center; (b) no partner of Landlord shall be sued or named as a party in any suit or action (except as may be necessary to secure jurisdiction of the partnership); (c) no service of process shall be made against any partner of Landlord (except as may be necessary to secure jurisdiction of the partnership); (d) no partner of Landlord shall be required to answer or otherwise plead to any service of process; (e) no judgment will be taken against any partner of Landlord; (f) any judgment taken against any partner of Landlord may be vacated and set aside at any time after the fact; (g) no writ of execution will be levied against the assets of any partner of Landlord; (h) the obligations under this Lease do not constitute personal obligations of the individual partners, directors, officers or shareholders of Landlord and Tenant shall not seek recourse against individual partners, directors, officers or shareholders of Landlord or any of their personal assets for satisfaction in any liability in respect to this Lease; (i) in no event shall Landlord be liable to Tenant for special or consequential damages; and (j) these covenants and agreements are enforceable both by Landlord and also by any partner of Landlord.

29. NO ACCORD AND SATISFACTION. No payment by Tenant, or receipt by Landlord, of a lesser amount than the rent or other payment herein provided shall be deemed to be other than on account of the earliest rent or other payment due and payable hereunder, nor shall any endorsement or statement on any check, or letter accompanying any check or payment, as rent or other payment be deemed an accord and satisfaction. Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of such rent or other payment or pursue any other right or remedy provided in this Lease.

30. LANDLORD'S RIGHT TO RELOCATE PREMISES. (INTENTIONALLY OMITTED)

31. OTHER TENANCIES. Landlord reserves the absolute right to enter into such other tenancies in the Shopping Center as Landlord, in the exercise in its sole discretion, determines may best promote the Shopping Center. Landlord does not warrant, represent or covenant, expressly or impliedly, that any

specific lease or leases now or hereafter in effect between Landlord and any third (3rd) party will be continued in effect for any period of time, or that any other tenant, tenants, owner or occupant, shall continue during the term hereof to occupy any space in the Shopping Center.

32. NOTICES. Every notice, demand or request (collectively "Notice") required hereunder or by law to be given by either party to the other shall be in writing and shall be served on the parties at the addresses set forth in the Lease Summary or such other address as the party to be served may from time to time designate in a Notice to the other party. Any such Notices shall be either: (a) sent by overnight delivery using a nationally recognized overnight courier, in which case Notice shall be deemed delivered one (1) business day after deposit with such courier; (b) sent by telefax, in which case Notice shall be deemed delivered upon receipt of confirmation of transmission of such Notice provided a follow up Notice is mailed by certified or registered US Mail, postage prepaid, return receipt requested, or delivered by the means set forth in either clause (a) or (c) hereof within (1) business day thereafter; or (c) sent by personal delivery, in which case notice shall be deemed delivered upon receipt.

33. MISCELLANEOUS.

33.1. Landlord Warranties. Landlord represents, covenants and warrants to the best of its knowledge (i) that it has lawful title to the Shopping Center and has full right, power and authority to enter into this Lease; (ii) that the Shopping Center is in compliance with the Americans with Disabilities Act. ("ADA"); (iii) that the permitted "use" of the Premises does not currently violate the terms of any of Landlord's insurance policies; (iv) that it currently maintains all risk of physical loss coverage for the full replacement cost of the Shopping Center and shall maintain throughout the term of this Lease general liability insurance coverage for the Shopping Center consistent with that being maintained from time to time by reasonably prudent owners of properties similar to the Shopping Center in California; and (v) that so long as Tenant pays all monetary obligations due under this Lease and performs all other covenants contained herein, Tenant shall peacefully and quietly have, hold, occupy and enjoy the Premises during the term of this Lease and its use and occupancy thereof shall not be disturbed. Landlord covenants and agrees that it shall take no action that will interfere with Tenant's intended usage of the Premises. The foregoing indemnification shall survive expiration or termination of this Lease.

33.2. Reasonable Consent. Wherever either party to the Lease is required or requested to give its consent, such consent shall not be unreasonably withheld.

33.3. Cumulative Remedies. No remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other remedy herein or by law provided, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now hereafter existing at law or in equity by statute.

33.4. Waiver of Trial by Jury. Landlord and Tenant desire and intend that any disputes arising between them with respect to or in connection with this Lease be subject to expeditious resolution in a court trial without a jury. Therefore, Landlord and Tenant each hereby waive the right

to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding or other hearing brought by either Landlord against Tenant or Tenant against Landlord or any matter whatsoever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

33.5. Arbitration. Unless agreed to otherwise by Landlord and Tenant, in matters concerning disputes under the Lease of One Hundred Thousand Dollars (\$100,000.00) or less, if Landlord and Tenant cannot agree on the extent of Tenant's obligations, as stated herein, Landlord and Tenant shall submit the matter to arbitration. Within five (5) business days of either party's request for arbitration, each party shall select an arbitrator of its choice and the two chosen arbitrators shall in turn choose a third arbitrator to settle the matter within ten (10) business days. Landlord and Tenant hereby agree that they shall abide by the decision of the chosen arbitrator whose decision shall be binding on both parties. Each party shall share equally in the costs of arbitration, subject to reconciliation and the decision of the arbitrator in favor of the prevailing party.

33.6. Severability. The unenforceability, invalidity or illegality of any provision of this Lease shall not render the other provisions unenforceable, invalid or illegal.

33.7. Governing Laws. This Lease shall be construed and interpreted in accordance with the laws of the State in which the Premises are located.

33.8. Force Majeure. If by reason of any event of Force Majeure either party to this Lease is prevented, delayed or stopped from performing any act which such party is required to perform under this Lease, the deadline for performance of such act by the party obligated to perform shall be extended for a period of time equal to the period of prevention, delay or stoppage resulting from the Force Majeure event, unless this Lease specifies that Force Majeure is not applicable to the particular obligation. As used in this Lease, the term "Force Majeure" shall include, but not be limited to, fire or other casualty, bad weather, inability to secure materials, strikes or labor disputes (over which the obligated party has no direct or indirect bearing in the resolution thereof, or if said party does have such bearing, said dispute occurs despite said party's good faith efforts to resolve the same), acts of God, acts of the public enemy or other hostile governmental action, civil commotion, governmental restrictions, regulations or controls affecting, and/or other events over which the party obligated to perform (or its contractor or subcontractors) has no control. Force Majeure shall not apply to any payment of any amounts owed by either party to the other.

33.9. Successors and Assigns. Subject to the provisions of Article 12 regarding assignment and subletting, all of the provisions, terms, covenants and conditions of this Lease shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, successors and assigns.

33.10. Relationship. Nothing contained in the Lease shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between Landlord and Tenant.

33.11. Integration; Modification. This Lease contains all of the representations, understandings and agreements of the parties with respect to the demise of the Premises and may not

be amended or modified except by a written agreement signed by both parties.

33.12. Time of Essence. Time is of the essence with respect to the performance of every provision of this Lease in which time performance is specified. If Tenant elects to dispute any billing or reconciliation from Landlord, Tenant must do so within one hundred eighty (180) days after Tenant's receipt of such billing or reconciliation or Tenant shall be deemed to have waived all rights to so dispute the same.

33.13. Survival of Obligations. All obligations of Tenant accrued as of the date of acceptance or rejection of this Lease due to the bankruptcy of Tenant, and those accrued as of the date of termination or expiration of this Lease for any reason whatsoever, shall survive such acceptance, rejection, termination or expiration.

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the respective dates set opposite their signatures below, but the Effective Date of this Lease shall be as first set forth above in the Lease Summary.

LANDLORD:

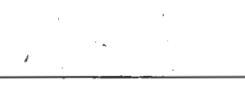
M&H REALTY PARTNERS IV L.P.,
a California limited partnership

By: MHRP IV L.P., a California limited partnership,
its General Partner

By: MERLONE/HAGENBUCH IV INC., a California corporation,
its General Partner

Date: 6/7/, 2002 By: 

Its: DAVID H. MECKLER
MANAGING DIRECTOR

Date: 6/7/, 2002 By: 

Its: JOHN L. HAGENBUCH
CHAIRMAN

TENANT:

J. DEAS ENTERPRISES, INC., a California corporation,
dba QUIZNO'S CLASSIC SUBS

Date: 6-3-, 2002 By: 
Jim Deas, its CEO

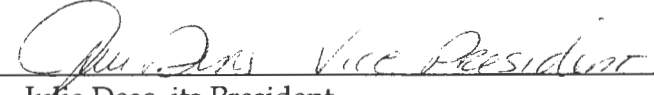
Date: 6-3-, 2002 By: 
Julie Deas, its President

EXHIBIT "A"
SHOPPING CENTER LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF CHICO AND COUNTY OF BUTTE, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL I:

A PORTION OF THE H.B. REED RANCH LOCATED IN THE RANCHO ARROYO CHICO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF EAST AVENUE AND COHASSET ROAD; THENCE SOUTH 00 DEG. 36' EAST, 40.00 FEET TO THE SOUTH LINE OF EAST AVENUE, EXTENDING EAST; THENCE SOUTH 89 DEG. 24' WEST, 618.00 FEET ALONG THE SOUTH LINE OF SAID EAST AVENUE, TO THE TRUE POINT OF BEGINNING FOR THE PARCEL HEREIN DESCRIBED; THENCE FROM SAID TRUE POINT OF BEGINNING, CONTINUING SOUTH 89 DEG. 24' WEST, 699.26 FEET ALONG THE SOUTH LINE OF SAID EAST AVENUE, TO THE BEGINNING OF AN 840 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 8 DEG. 47' 16", AN ARC DISTANCE OF 128.84 FEET; THENCE LEAVING THE SOUTH LINE OF SAID EAST AVENUE SOUTH 08 DEG. 11' 16" WEST, 175.61 FEET; THENCE NORTH 73 DEG. 31' WEST, 167.03 FEET; THENCE ALONG THE ARC OF A 250 FOOT RADIUS CURVE TO THE LEFT WHOSE TANGENT AT THIS POINT BEARS SOUTH 16 DEG. 29' WEST, THROUGH A CENTRAL ANGLE OF 17 DEG. 05', AN ARC DISTANCE OF 74.54 FEET; THENCE SOUTH 00 DEG. 36' EAST, 524.11 FEET TO THE BEGINNING OF A 250 FOOT RADIUS CURVE TO THE LEFT; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90 DEG. 00', AN ARC DISTANCE OF 392.70 FEET; THENCE NORTH 89 DEG. 24' EAST, 270.11 FEET; THENCE AT RIGHT ANGLES NORTH 00 DEG. 36' WEST, 152.00 FEET; THENCE AT RIGHT ANGLES NORTH 89 DEG. 24' EAST, 315.00 FEET; THENCE AT RIGHT ANGLES NORTH 00 DEG. 36' WEST, 261.18 FEET; THENCE AT RIGHT ANGLES NORTH 89 DEG. 24' EAST, 190.00 FEET; THENCE AT RIGHT ANGLES NORTH 00 DEG. 36' WEST, 549.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS, AS RESERVED IN DEED FROM BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, TO RICHARDSON MINERAL SPRINGS, RECORDED MARCH 31, 1948, IN BOOK 420, PAGE 398, OFFICIAL RECORDS OF BUTTE COUNTY. THE SURFACE RIGHTS WERE QUITCLAIMED TO A DEPTH OF 100 FEET BY DEED FROM CAPITAL COMPANY, A CORPORATION, TO VERNON E. FISH, ET UX, RECORDED DECEMBER 11, 1957, IN BOOK 913, PAGE 328, OFFICIAL RECORDS OF BUTTE COUNTY.

ALSO EXCEPTING THEREFROM THAT PORTION DEEDED TO THE CITY OF CHICO, BY INSTRUMENT EXECUTED BY NORTH VALLEY PLAZA ASSOCIATES, DATED MARCH 27, 1996, AND RECORDED JULY 23, 1996, AS INSTRUMENT NO. 96-027299, OFFICIAL RECORDS OF BUTTE COUNTY.

PARCEL II:

A PORTION OF THE H.B. REED RANCH LOCATED IN THE RANCHO ARROYO CHICO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF EAST AVENUE AND COHASSET ROAD; THENCE SOUTH 00 DEG. 36' EAST, 40.00 FEET TO THE SOUTH RIGHT OF WAY LINE OF EAST AVENUE, EXTENDED EAST; THENCE SOUTH 89 DEG. 24' WEST, 60.06 FEET ALONG THE SOUTH RIGHT OF WAY LINE OF THE EASTERLY EXTENSION OF EAST AVENUE, TO THE TRUE POINT OF BEGINNING; THENCE FROM SAID TRUE POINT OF BEGINNING SOUTH 89 DEG. 24' WEST, ALONG SAID RIGHT OF WAY LINE, 557.94 FEET; THENCE LEAVING SAID RIGHT OF WAY LINE AT RIGHT ANGLES SOUTH 00 DEG. 36' EAST, 549.00 FEET; THENCE AT RIGHT ANGLES SOUTH 89 DEG. 24' WEST, 190.00 FEET; THENCE AT RIGHT ANGLES SOUTH 00 DEG. 36' EAST, 413.18 FEET TO A POINT IN THE NORTH RIGHT OF WAY LINE OF PILLSBURY ROAD; THENCE ALONG SAID RIGHT OF WAY LINE NORTH 89 DEG. 24' EAST, 187.53 FEET TO THE BEGINNING OF A 300 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG SAID RIGHT OF WAY LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 5 DEG. 51' 24", AN ARC DISTANCE OF 30.67 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE SOUTH 84 DEG. 44' 36" EAST, 236.31 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE NORTH 5 DEG. 15' 24"

EAST, 1.50 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE SOUTH 84 DEG. 44' 36" EAST, 28.54 FEET; THENCE LEAVING SAID RIGHT OF WAY LINE NORTH 00 DEG. 36' 00" WEST, 128.96 FEET; THENCE NORTH 89 DEG. 24' 00" EAST, 192.55 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF COHASSET ROAD; THENCE ALONG SAID RIGHT OF WAY LINE NORTH 14 DEG. 51' 59" EAST, 78.32 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE NORTH 28 DEG. 02' 06" EAST, 52.00 FEET; TO A POINT ON A CURVE CONCAVE TO THE WEST; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE AND ALONG SAID CURVE TO THE LEFT WITH A TANGENT BEARING IN OF NORTH 14 DEG. 02' 08" EAST HAVING A RADIUS OF 1,460.00 FEET THROUGH A CENTRAL ANGLE OF 12 DEG. 52' 09", AN ARC LENGTH OF 327.93 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE NORTH 00 DEG. 25' 54" WEST, 395.23 FEET TO THE BEGINNING OF A 20 FOOT RADIUS CURVE TO THE LEFT; THENCE LEAVING SAID RIGHT OF WAY LINE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90 DEG. 10' 06", AN ARC DISTANCE OF 31.47 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS, AS RESERVED IN DEED FROM BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, TO RICHARDSON MINERAL SPRINGS, RECORDED MARCH 31, 1948, IN BOOK 420, PAGE 398, OFFICIAL RECORDS OF BUTTE COUNTY. THE SURFACE RIGHTS WERE QUITCLAIMED TO A DEPTH OF 100 FEET BY DEED FROM CAPITAL COMPANY, A CORPORATION, TO VERNON E. FISH, ET UX, RECORDED DECEMBER 11, 1957, IN BOOK 913, PAGE 328, OFFICIAL RECORDS OF BUTTE COUNTY.

ALSO EXCEPTING THEREFROM THAT PORTION DEEDED TO THE CITY OF CHICO, BY INSTRUMENT EXECUTED BY NORTH VALLEY PLAZA ASSOCIATES, DATED MARCH 27, 1996, AND RECORDED JULY 23, 1996, AS INSTRUMENT NO. 96-027299, OFFICIAL RECORDS OF BUTTE COUNTY.

PARCEL III:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 4, AS SHOWN ON THAT CERTAIN MAP ENTITLED "FAIRVIEW MANOR SUBDIVISION", WHICH MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF BUTTE COUNTY, CALIFORNIA, ON OCTOBER 1, 1965, IN BOOK 34 OF MAPS, PAGES 22 AND 23 SAID CORNER BEING MARKED BY A CONCRETE MONUMENT TAGGED R.C.E. 7294; THENCE FROM SAID POINT OF BEGINNING AND RUNNING ALONG THE SOUTHWESTERLY LINE OF PILLSBURY ROAD ON THE ARC OF 310 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 54 DEG. 15' 25" AN ARC LENGTH OF 293.56 (CHORD BEARS SOUTH 38 DEG. 06' 37" EAST, 282.71 FEET) TO THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN DEED FROM VERNON E. FISH PROPERTIES, INC. TO C.N.A. REALTY CORP., RECORDED IN BOOK 1560, PAGE 680, OFFICIAL RECORDS OF BUTTE COUNTY; THENCE ALONG THE WESTERLY LINE OF SAID C.N.A. REALTY PROPERTY, SOUTH 24 DEG. 45' 40" WEST, 394.48 FEET TO A POINT ON THE NORTHERLY LINE OF THE HIGHWAY 99E FREEWAY; THENCE ALONG SAID FREEWAY LINE NORTH 52 DEG. 32' 05" WEST, 446.50 FEET AND NORTH 53 DEG. 54' 34" WEST, 100.67 FEET TO A POINT ON THE EASTERLY LINE OF THE CHICO-SACRAMENTO NORTHERN RAILROAD; THENCE ALONG SAID RAILROAD LINE, NORTH 14 DEG. 23' EAST, 158.84 FEET AND NORTH 16 DEG. 29' EAST, 23.00 FEET TO THE SOUTHWEST CORNER OF THE AFOREMENTIONED FAIRVIEW MANOR SUBDIVISION; THENCE ALONG THE SOUTHERLY LINE THEREOF, NORTH 79 DEG. 01' 05" EAST, 387.60 FEET TO THE POINT OF BEGINNING.

PARCEL IV:

A PORTION OF THE H.B. REED RANCH LOCATED IN THE RANCHO ARROYO CHICO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE OF EAST AVENUE AND COHASSET ROAD; THENCE SOUTH 89 DEG. 24' WEST ALONG THE CENTERLINE OF EAST AVENUE A DISTANCE OF 271.26 FEET; THENCE LEAVING SAID CENTERLINE, SOUTH 00 DEG. 36' 00" EAST, A DISTANCE OF 900.32 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 89 DEG. 24' 00" EAST, A DISTANCE OF 137.55 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF COHASSET ROAD; THENCE SOUTH 14 DEG. 51' 59" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 136.07 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT; THENCE LEAVING SAID RIGHT OF WAY LINE ALONG SAID CURVE HAVING A RADIUS OF 30.00 FEET, THROUGH A CENTRAL ANGLE OF 95 DEG. 17' 10", AN ARC LENGTH OF 49.89 FEET TO A POINT OF REVERSE CURVATURE AND A POINT ON THE NORTH RIGHT OF WAY LINE OF PILLSBURY ROAD; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE OF SAID

CURVE TO THE LEFT HAVING A RADIUS OF 303.71 FEET, THROUGH A CENTRAL ANGLE OF 14 DEG. 53' 45", AN ARC LENGTH OF 78.96 FEET; THENCE NORTH 84 DEG. 44' 36" WEST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 40.31 FEET; THENCE LEAVING SAID NORTH RIGHT OF WAY LINE NORTH 00 DEG. 36' 00" WEST, A DISTANCE OF 128.96 FEET; THENCE NORTH 89 DEG. 24' 00" EAST, A DISTANCE OF 55.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL V:

A PORTION OF THE H.B. REED RANCH LOCATED IN THE RANCHO ARROYO CHICO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

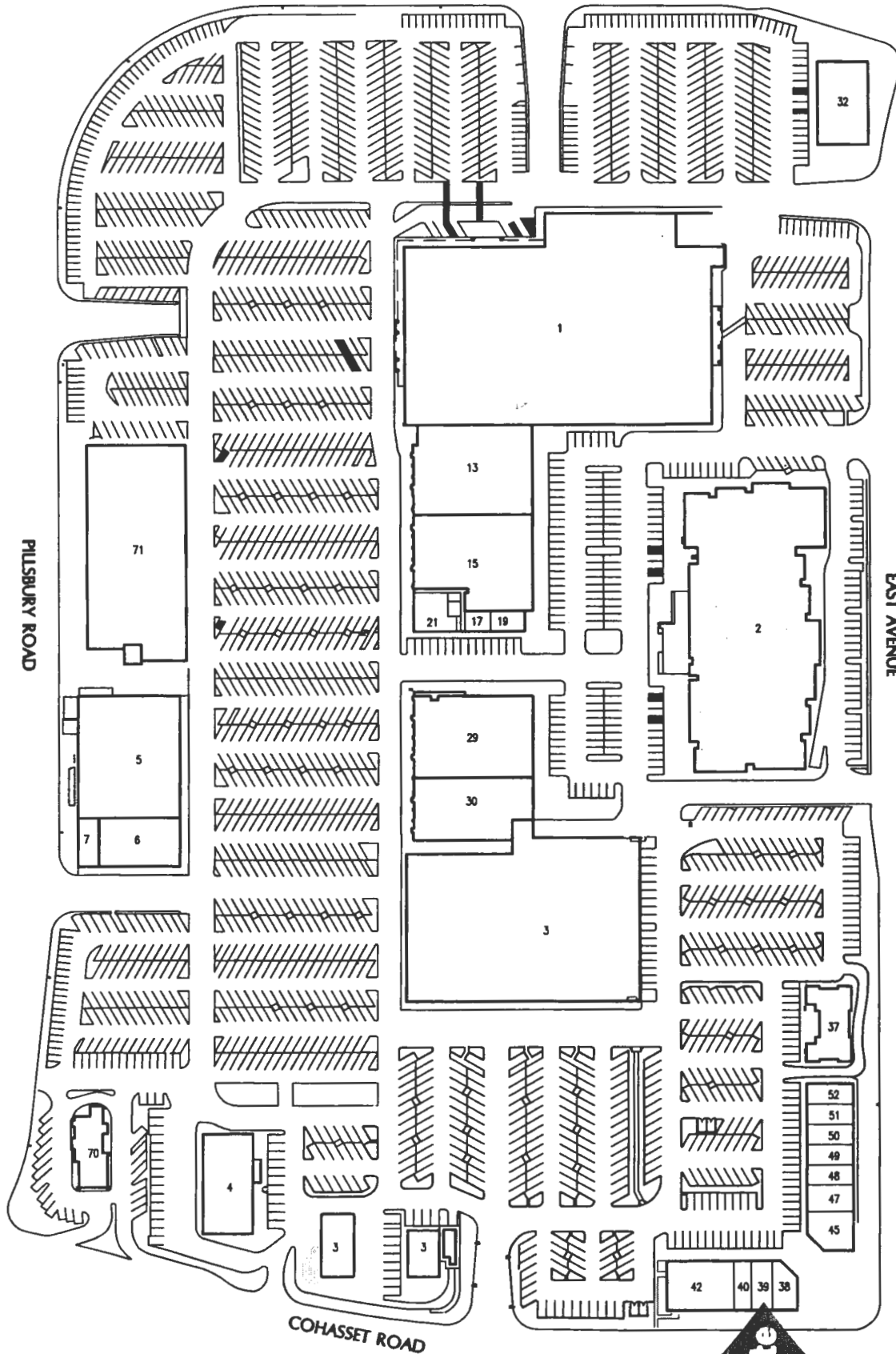
BEGINNING AT A POINT WHICH LIES SOUTH 73 DEG. 29' EAST, 215.00 FEET AND SOUTH 16 DEG. 29' WEST, 30.01 FEET FROM THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF EAST AVENUE WITH THE EASTERLY LINE OF THAT CERTAIN STRIP OF LAND DESCRIBED IN DEED TO THE CITY OF CHICO AND RECORDED IN BOOK 289, PAGE 192, OFFICIAL RECORDS OF BUTTE COUNTY; THENCE FROM SAID POINT OF BEGINNING SOUTH 16 DEG. 29' WEST, 145.00 FEET; THENCE SOUTH 73 DEG. 31' EAST, 167.06 FEET; THENCE NORTH 8 DEG. 11' 16" EAST, 175.61 FEET TO A POINT WHICH LIES 10.00 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF EAST AVENUE; THENCE ON A CURVE TO THE RIGHT FROM A TANGENT LINE WHICH BEARS NORTH 81 DEG. 48' 44" WEST, WHOSE DELTA ANGLE IS 8 DEG. 19' 44" AND WHOSE RADIUS IS 840.00 FEET, AN ARC DISTANCE OF 122.11 FEET, SAID LINE BEING 10.00 FEET DISTANT FROM AND PARALLEL TO THE SOUTHERLY LINE OF EAST AVENUE; THENCE ALONG THE ARC OF A CURVE TO THE LEFT, WHOSE DELTA ANGLE IS 90 DEG. 02' AND WHOSE RADIUS IS 20.00 FEET, AN ARC DISTANCE OF 31.43 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS, AS RESERVED IN DEED FROM BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, TO RICHARDSON MINERAL SPRINGS, RECORDED MARCH 31, 1948, IN BOOK 420, PAGE 398, OFFICIAL RECORDS OF BUTTE COUNTY. THE SURFACE RIGHTS WERE QUITCLAIMED TO A DEPTH OF 100 FEET BY DEED FROM CAPITAL COMPANY, A CORPORATION, TO VERNON E. FISH, ET UX, RECORDED DECEMBER 11, 1957, IN BOOK 913, PAGE 328, OFFICIAL RECORDS OF BUTTE COUNTY.

ALSO EXCEPTING THEREFROM THAT PORTION DEEDED TO THE COUNTY OF BUTTE, BY INSTRUMENT EXECUTED BY SERGIO ORESTANO, ET UX, DATED APRIL 24, 1980 AND RECORDED APRIL 28, 1980, IN BOOK 2510, PAGE 276, OFFICIAL RECORDS OF BUTTE COUNTY.

ALSO EXCEPTING THEREFROM THAT PORTION DEEDED TO THE CITY OF CHICO, BY INSTRUMENT EXECUTED BY NORTH VALLEY PLAZA ASSOCIATES, DATED MARCH 27, 1996, AND RECORDED JULY 23, 1996, AS INSTRUMENT NO. 96-027299, OFFICIAL RECORDS OF BUTTE COUNTY.

EXHIBIT "B" - SITE PLAN



This exhibit is for reference only and is not a representation as to size, dimension, or location of any tenant in the shopping center. All buildings, improvements, their occupants and their uses as shown on this plan are subject to modification at the Landlord's discretion.

Exhibit B - Site Plan
North Valley Plaza
Chico, California
#101
05/16/02

EXHIBIT "C"
CONSTRUCTION OBLIGATIONS

1. LANDLORD'S WORK

1.1. Prior to execution of this Lease, Tenant has inspected and is aware of the present condition of the Premises and the Shopping Center. Landlord shall deliver the Premises in the "*Standard Quizno's Shell*" condition as outlined below. Landlord shall have no obligation with respect to construction within or about the Premises or the Shopping Center, except for the following improvements and/or modifications at Landlord's expense (herein referred to as "Landlord's Work):

1.1.1. Front Door: Two (2), clear, safety-glazed glass, 3'x7', double-acting entry doors, installed per Tenant's plans with hardware per Code, and weather-stripping.

1.1.2. Rear Door: 3'x7', hollow, metal door, with panic hardware requirements and weather-stripping to Code.

1.1.3. Storefront: Clear, glass storefront with *GLAZING* per elevation (*or ET coating*).

1.1.4. Demising Walls: Drywall taped, sanded, and ready for paint.

1.1.5. Concrete Floor: Smooth, commercially level and in a condition ready to receive Tenant's ceramic tile.

1.1.6. HVAC: Ten (10) tons A/C capacity; new, installed and stubbed to Premises (distributed).

1.1.7. Electrical: 225 amp, 120/208V, 3-Phase, 4-wire service with a minimum 250 amp, 42 circuit distribution panel, installed on Premises per Tenant's plans. Duplex wall outlets and all service installed and distributed per Tenant's plans.

1.1.8. Water and Sewer: Minimum 1" water line stubbed to the Premises in location per Tenant's plans. Minimum 4" sewer line stubbed into the Premises in sufficient size and depth for Tenant's use in location per Tenant's plans.

1.1.9. Gas: Minimum gas line as may be required for Tenant's water heater and HVAC unit, stubbed to Premises per Tenant's plans.

1.1.10. "J" box for sign electrical circuit on storefront and street side of Premises with conduit to distribution panel.

1.1.11. Ceiling: 2' x 4' acoustic tile drop ceiling, color per Quizno's specs (at 12' if possible); vinyl-faced ceiling tiles, per code, in the kitchen area; grid color according to Quizno's specs.

1.1.12. Lighting: 2' x 2' - 18 cell parabolic lens light fixtures; one (1) fixture for each 80 square feet.

1.1.13. Water Heater: 60-80 gallon, quick recovery gas water heater in accordance with local requirements, installed per Tenant's plans.

1.1.14. Restrooms: Minimum restroom(s) and fixture amounts as set forth by ADA and the local code requirements per Tenant's occupant load. Restroom(s) with number of fixtures required by code, *QUIZNO'S VCT* flooring, *QUIZNO'S SPEC F.R.P. WALL FINISH*, overhead light, exhaust fan, light switch, grab bars, soap dispenser, paper towel dispenser, toilet paper dispenser and mirror.

- 1.1.15. Grease Trap: Shared grease trap, if required by local municipality.
- 1.1.16. Plumbing: All other plumbing installed by Tenant at Tenant's expense.
- 1.1.17. Tap Fees: All tap or connection fees for utilities to be paid by Tenant.
- 1.1.18. Telephone: Telephone pull string and conduit only, to location determined by Tenant.
- 1.1.19. Signage. Provide a common circuit timer for exterior signs.

1.2. Upon substantial completion of Landlord's Work, Tenant shall have three (3) days from: (i) Landlord's notice to perform a walk-thru; or (ii) date of possession, to submit a reasonable punch list to Landlord.

1.3. Landlord Work And Repair. All Landlord Work shall be performed in a workmanlike manner with quality materials in compliance with all laws, codes and all regulations, and shall be warranted by Landlord to be free from defects for the first full calendar lease year. If Landlord's Work is not performed as herein required, or if such work or the Shopping Center is not in compliance with all laws, codes or other regulations, Landlord shall perform the necessary remedial work at its sole cost and expense.

1.4. Reimbursement From Tenant for Landlord's Work. Notwithstanding anything to the contrary contained in this Exhibit "C", Tenant agrees to reimburse Landlord the sum of One Thousand Seven Hundred Fifty Dollars (\$1,750.00) (the "Reimbursement") for the added cost of Landlord's installation of Tenant's HVAC as provided above in Section 1.1.6. Tenant shall pay the Reimbursement upon Lease execution.

2. TENANT'S WORK

2.1. Except for Landlord's Work, Tenant, at Tenant's sole expense, shall be responsible for design, plans, approvals, permits, fees, and construction for all work necessary to conduct Tenant's business in the Premises (including but not limited to demolition, plumbing, concrete slab alterations, electrical power and lighting, natural gas piping and connections, hoods, coolers, HVAC systems, interior framing, drywall, upgrades to occupancy separation walls, interior doors, storefront and exterior door alterations if any, casework, millwork, floor and wall finishes, fixtures, furnishings, equipment, fire sprinkler alterations, life safety systems, fire extinguishers and fire suppression systems, and signage), and such work shall be referred to hereinafter as "Tenant's Work." Tenant shall immediately commence the preparation of plans for Tenant's Work and, upon receipt of Landlord's design approval and permits from governmental agencies, shall diligently prosecute the construction of Tenant's Work to completion.

2.2. Drawings and Specifications. Within thirty (30) days after the Effective Date of this Lease, Tenant shall, at Tenant's expense, submit to Landlord three (3) sets of fully detailed working drawings covering all aspects of Tenant's Work, prepared, stamped and signed by a California licensed Architect (or licensed California Engineer, as appropriate). As

soon as practicable after receipt thereof, Landlord shall notify Tenant in writing either that the plans are: "Approved as Submitted"; "Approved Subject to Comments"; or "Disapproved," with requirements for changes and/or submittal of supplementary information. Within ten (10) days of receipt after such disapproval, Tenant shall submit to Landlord three (3) sets of corrected and/or supplemented drawings for final approval. If approved, Landlord shall return to Tenant one set of drawings, bearing Landlord's written approval; these plans shall be the "Final Drawings" for Tenant's Work. If not approved, the foregoing process shall repeat. Landlord's approval of any plans does not guarantee code compliance, efficiency, safety, or accuracy, for which Tenant is solely responsible.

2.3. Signage. Signage shall be reviewed for approval separately, per Exhibit "D" of the Lease, and Tenant shall not construe Landlord's approval of Tenant's construction plans as approval of any signage that may appear in such construction plans. At Landlord's option, Tenant's sign(s) shall be wired to a common area electrical circuit controlled by Landlord's time clock(s) for the Shopping Center.

2.3.1. Opening Signage. Tenant shall have the right to: (a) erect at least one single or double sided wooden sign in the landscaped Common Area adjoining the most heavily traveled right-of-way adjacent to the Shopping Center which sign shall say "Coming Soon - Quizno's Classic Subs" or words similar thereto during the period between the Possession date and sixty (60) days after the date Tenant opens for business and (b) display "Coming Soon" or "Grand Opening" banners on or near the Premises during such period and eight (8) weeks following opening subject to all required City approvals.

2.4. Permits and Code Compliance. Tenant shall make timely applications for all governmental approvals and permits necessary for Tenant's Work, including signage, and shall pay for all governmental and utility fees and charges in connection with all of Tenant's Work, including but not limited to plan check fees, planning review fees, building permit fees, and, utility hook-up fees and sewer connection charges for Tenant's specific use. Tenant's Work shall conform to governmental approvals and permits, and all applicable local, State and federal laws, building, health, and safety codes, ordinances, rules, regulations, and standards. Where discrepancies exist among the various regulations and Landlord requirements, the strictest standards shall govern, but changes to the Final Drawings required by governmental agencies shall be subject to Landlord's approval. Tenant shall be solely responsible for obtaining timely inspections and approvals by governing agencies as necessary during construction.

2.5. Insurance. Tenant agrees to indemnify and hold harmless Landlord, and Landlord's partners, employees and agents, from all liability in connection with Tenant's Work. During performance of Tenant's Work and all fixturing and merchandising activities (and during any subsequent repairs, modifications, alterations and/or renovations of the Premises), in addition to other insurance required under this Lease, Tenant shall provide or cause its contractor(s) to provide, insurance as specified in this Article 2.5, and such insurance as may from time to time be required by city, county, state or federal laws, codes, regulations or authorities, together with such other insurance as is reasonably necessary or appropriate under the circumstances. All insurance policies required under this Exhibit "C" shall name Landlord, Landlord's agents and beneficiaries, Landlord's on-site representatives, Landlord's architect and

Landlord's general contractor as additional insureds, except for Tenant's Worker's Compensation Insurance which shall contain an endorsement waiving all rights of subrogation against Landlord, Landlord's property management company and personnel and Landlord's architect, engineer, contractors, agents and beneficiaries. All policies shall provide that Landlord be given thirty (30) days prior written notice of any alteration or termination of coverage.

2.5.1. Worker's Compensation. Tenant shall obtain Worker's Compensation Insurance, as required by state law and Employer's Liability Insurance with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) and any other insurance required by any employee benefit acts or other statutes applicable where the work is to be performed as will protect the contractor and subcontractors from any and all liability under the aforementioned acts.

2.5.2. Comprehensive General Liability Insurance. Tenant shall obtain Comprehensive General Liability Insurance (including Contractor's Protective Liability) with a combined single limit (bodily injury and property damage) of not less than Two Million Dollars (\$2,000,000.00) per occurrence and in the aggregate. Such insurance shall provide for explosion, collapse and underground coverage and contractual liability coverage and shall insure the general contractor and/or subcontractors against any and all claims for personal injury, including death resulting therefrom and damage to the property of others and arising from his operations under the contract, whether such operations are performed by the general contractor, subcontractors or any of their subcontractors, or by anyone directly or indirectly employed by any of them. Such insurance policy shall include (i) a products/completed operations endorsement; (ii) endorsements deleting the employee exclusion on personal injury and the liquor liability exclusion; and (iii) a cross-liability endorsement or a severability of interest clause. Such insurance shall be primary and Landlord's insurance shall be excess insurance only.

2.5.3. Comprehensive Automobile Liability Insurance. Tenant shall obtain Comprehensive Automobile Liability Insurance, including the ownership, maintenance and operation of any automotive equipment, owned, hired and non-owned in an amount not less than Two Million Dollars (\$2,000,000.00) combined single limit (bodily injury and property damage) per occurrence and in the aggregate. Such insurance shall insure the general contractor and/or subcontractors against any and all claims for bodily injury, including death resulting therefrom and damage to the property of others arising from his operations under the contract, whether such operations are performed by the general contractor, subcontractor or any of their subcontractors, or by anyone directly employed by any of them.

2.5.4. Builder's Risk Insurance - Completed Value Builder's Risk Damage Insurance Coverage. Tenant shall provide an "All Physical Loss" Builder's Risk insurance policy on the work to be performed for Tenant in the Premises as it relates to the building within which the Premises are located. The policy shall include as insureds Tenant, its contractor and subcontractors and Landlord, as their respective interests may appear within the Premises and within one hundred feet (100') thereof. The amount of insurance to be provided

shall be one hundred percent (100%) replacement cost.

2.6. Prior to Construction. Prior to any operations or construction at the Premises, Tenant must secure the Landlord's written approval of the Final Drawings per Article 2.2. of this Exhibit "C". At least five (5) working days prior to the commencement of construction, Tenant shall deliver to Landlord the following which shall be subject to Landlord's approval:

2.6.1. Contact List. A list of names, addresses, regular and 24-hour "emergency" phone numbers, fax numbers for Tenant's construction representative, general contractor, mechanical, and electrical subcontractors, and any other known subcontractors, plus license numbers for all contractors.

2.6.2. Schedule. Schedule for Tenant's Work, including starting and completion dates, fixturation periods, merchandising periods, and projected date for "open-for-business."

2.6.3. Insurance. Certificates of Insurance, naming the Landlord as an additional insured, both for Tenant (per Lease) and Tenant's contractor(s) (per Exhibit "C", Article 2.5., above).

2.6.4. Permits. Photocopy of permit card(s) for Tenant's Work as issued by governing agencies.

2.6.5. Bonds. Landlord may require Tenant to obtain or cause its contractor(s) to obtain payment and performance bonds, naming Landlord as beneficiary, covering the faithful performance of the contract(s) for the construction of Tenant's Work and the payment of all obligations arising thereunder.

2.7. Construction. Tenant's Work shall be performed in a first-class, professional manner in conformity with the approved Final Drawings, except where Landlord has given prior written approval for modifications. . Only new, first-quality materials shall be used. The quality of Tenant's Work shall be subject to the approval of Landlord and Landlord shall make any determination as to whether Tenant's Work conforms to the Final Drawings. Landlord shall be allowed to enter the Premises during construction for inspection, coordination and emergency purposes.

2.7.1. General Contractor. Tenant shall use a licensed, bondable, general contractor, experienced in commercial construction, possessing good labor relations, and approved by Landlord for the construction of Tenant's Work. The Landlord reserves the right to disapprove any contractors to whom Landlord has a reasonable objection.

2.7.2. Disruptive Conduct. Tenant and Tenant's contractor(s) shall plan and execute their work to minimize disruption of the normal business operations of existing tenants and the Shopping Center. This may require special scheduling of disruptive aspects of

Tenant's Work, at Tenant's sole expense. All of Tenant's Work shall be conducted within the interior of the Premises, to the greatest extent possible, not in the common area. Tenant shall comply with noise abatement measures required by Landlord and any nuisance is strictly prohibited.

2.7.3. Safety. All of Tenant's Work must be planned and conducted in an orderly manner, with the highest regard for the safety of the public, the workers, and the property, and in conformity with all local, California and federal job-safety requirements, including OSHA and Cal-OSHA regulations. All workers shall be properly attired, and wear long pants, shirts, and work shoes. At no time will pipes, wires, boards or other construction materials cross public areas where harm could be caused to the public. If Tenant fails to comply with these requirements, Landlord shall have the right, at Tenant's cost, to cause remedial action as deemed necessary by Landlord to protect the public and the property.

2.7.4. Protection of Existing Conditions. Tenant shall, at Tenant's sole cost and expense, furnish all necessary ramps, barricades, coverings, etc., to protect Landlord's facilities and adjoining premises from damage due to Tenant's Work. All costs to repair such damage to Landlord's facilities and to adjoining premises will be performed at the expense of Tenant. Landlord may accomplish actual repair work at Landlord's option.

2.7.5. Utilities During Construction. Tenant shall arrange and pay for temporary utilities and facilities, including electricity, water, sanitary facilities, etc., as necessary for the completion of Tenant's Work. Tenant shall not use Landlord's or common area utilities and services for construction purposes, without Landlord's prior written approval.

2.7.6. Trash Removal and Cleanup. At all times, Tenant shall keep the Shopping Center clean and free of dirt, dust, stains, trash, etc. related to Tenant's Work. During construction, fixturing and merchandising, Tenant shall, at Tenant's cost, cause the removal and legal disposal of all trash, debris, packaging, and waste materials from the Premises on a daily basis. Upon Landlord's prior approval, Tenant may place trash disposal bins at locations designated by Landlord. If Tenant fails to provide trash disposal and cleanup per these requirements, Landlord shall have the right to cause the removal of such trash and debris or performance of appropriate clean up at Tenant's sole cost and expense. Tenant and/or Tenant's contractor(s) shall not use the Shopping Center trash bins or receptacles for construction-related disposal under any circumstances.

2.7.7. Building Shell Alterations. There are to be no alterations or modifications to the Landlord's building shell or any structural element thereof, utilities, fire protection services or common area improvements, without Landlord's prior written consent, which may be withheld in Landlord's sole discretion. If Tenant's Work entails structural changes to the Premises, Tenant shall submit detailed structural plans and calculations for Landlord's review at Tenant's expense, up to One Thousand and 00/100 Dollars (\$1,000.00). Tenant's Work shall not commence until Landlord has approved all structural modification plans in writing.

2.7.8. Roofing. There shall be no penetrations of the roof or installation of radio or television antennas without the prior written approval of Landlord, which may be withheld in Landlord's sole discretion. All flashing, counter-flashing and roofing repairs shall conform to the requirements of Landlord and such work shall be paid for by Tenant and performed by a roofing subcontractor approved by Landlord. At Landlord's option, Tenant shall use the same roofing contractor used by Landlord for any roofing work, to maintain Landlord's roof guarantee.

2.7.9. Landlord's Right to Perform Work. Landlord shall have the right, but not the obligation, to perform, on behalf of and for the account of Tenant, subject to reimbursement of the cost thereof by Tenant, any and all of the Tenant's Work which Landlord determines, in its sole discretion, should be performed immediately and on an emergency basis and/or for the best interest of the Shopping Center and public safety, including without limitation, work which pertains to structural, mechanical, electrical, sprinkler, general utility systems and roofing.

2.7.10. Guarantees. Tenant shall require each contractor and subcontractor to guarantee in writing his portion of the Tenant's Work to be free from defects in workmanship and materials for a minimum of one (1) year from the date of completion of Tenant's Work and shall repair or replace, without additional charge, all work done under its contract which shall become defective within such one (1) year period. All such guarantees must inure to the benefit of, and be enforceable by, both Landlord and Tenant.

2.8. Completion. Prior to store opening for business, Tenant shall deliver to Landlord the following:

2.8.1. Certificate of Occupancy. Copy of a permanent *Certificate of Occupancy* for the Premises, as issued by the governing Building Department.

2.8.2. Lien Releases. Copies of *Final Unconditional Waiver of Lien Rights* for all Tenant's contractors, subcontractors, and suppliers.

2.9. Other. During the Lease Term, Tenant shall deliver to Landlord detailed Working Drawings and appropriate calculations for any and all proposed modifications to the Premises entailing alterations to the architectural, mechanical, electrical, fire protection, or structural systems, for Landlord's written approval prior to construction. Interior painting, wall covering, carpeting and placement of movable trade fixtures are considered normal maintenance items and do not require Landlord approvals, but otherwise must meet the requirements of this Exhibit "C". All other alterations require Landlord's written approval, and will be subject to the same procedures and requirements described herein for the original Tenant's Work, except that no additional Construction Allowance shall be payable unless expressly agreed to in writing by Landlord.

EXHIBIT "D" SIGN CRITERIA

1. General Procedures

Within thirty (30) days from lease signing, Tenant shall cause its sign company to prepare and deliver four (4) complete sets of plans and specifications of Tenant's proposed signage to Landlord for its review and approval. Prior to engaging the sign company, Tenant shall supply the sign company with a copy of this Exhibit "D" and instructions to work within the design parameters noted therein. Upon receipt of plans, Landlord will expeditiously review the same, noting its approval, conditional approval or required changes on the plans returning two (2) sets of marked-up plans to the Tenant's sign company. If changes are required, the sign company will clear changes with Tenant and, within five (5) days, resubmit to Landlord for approval. **All sign plans shall be delivered to: David Geiser @ M&H Property Management, 12555 High Bluff Drive, Ste. 385, San Diego, California 92130.**

1.1. Tenant and its sign company shall have Landlord's prior written approval of all signs before making submittals to the City and before commencing the fabrication of the signs.

1.2. Tenant's sign company, on behalf of Tenant, shall pay for and obtain all City permits and licenses required for installation and maintenance of signage.

1.3. No decals shall be visible, except as required by local codes and ordinances

1.4. No exposed conduits or raceways will be allowed. All electric signs must have time-switch controls and accessible switches in a location as required by code.

1.5. The sign contractor shall be responsible for the fulfillment of all requirements and specifications, insurance, completing the installation in a workmanlike manner, clean up, patching and painting all surfaces damaged by them.

1.6. Tenant is responsible for the sign fabrication, installation, cost and maintenance in its entirety.

1.7. All signs and the installation thereof must comply with all City sign ordinances and local building and electrical codes.

1.8. Location and spacing of the signs on all buildings shall be at a location, which centers on that tenant space, or as approved by Landlord.

1.9. Letter style and design are encouraged to be in good taste. Logos and graphics will be evaluated on an individual basis.

1.10. Tenant's choice of letter color shall be subject to final approval by Landlord.

2. Notice. Tenant must obtain from Landlord, in writing, an approval of sign shop drawings prior to manufacture and installation. The drawings shall show all of the minimum information shown on these criteria and any deviations to it. Tenant shall submit a minimum of three (3) shop drawings to the address below. Two (2) drawings will be returned with an approval and/or comments in a reasonable amount of time.

M&H REALTY PARTNERS IV L.P.
RE: North Valley Plaza
353 Sacramento Street, 21st Floor
San Francisco, CA 94111

EXHIBIT "E"
CONFIRMATION LETTER

_____, 2002

Tenant Name
Company Name
Tenant Address
Tenant Address

RE: CONFIRMATION LETTER
Tenant DBA/North Valley Plaza, City, CA/Unit #101-39

Dear Tenant:

On _____, M&H Realty Partners IV L.P., a California limited partnership, as Landlord and {Tenant}, as Tenant entered into a Lease for the above referenced property. By execution of this letter, the parties acknowledge they have agreed to the following:

1. Term Commencement Date:
2. Term Expiration Date:
3. Possession Date:
4. Rent Commencement Date:
5. Impound Commencement Date:
6. Number of Option Periods:
7. Option Notification Date:
8. Gross Floor Area of Premises:
9. The monthly Minimum Rent due under this Lease is as follows:

	<u>From</u>	<u>To</u>	<u>Amount</u>
Initial Term			
First Option			
Second Option			

M&H PROPERTY MANAGEMENT LLC
On behalf of M&H REALTY PARTNERS IV L.P.

TENANT

By: _____
Its: _____

By: _____
Its: _____
Date: _____, 2002

EXHIBIT "F"
GUARANTY

THIS GUARANTY OF LEASE ("Guaranty") is made as of June 7, 2002 by **Jim Deas** and **Julie Deas**, husband and wife, jointly and severally (collectively, the "Guarantors" and individually, each a "Guarantor"), whose addresses are set forth below opposite their signatures, in favor of **M&H Realty Partners IV L.P.**, a California limited partnership ("Landlord"), with reference to the following facts:

- A. Landlord and J. Deas Enterprises, Inc., a California corporation ("Tenant") desire to enter into a lease dated June 7, 2002 (the "Lease") concerning the premises located in the North Valley Plaza and commonly known as _____ East Avenue, Chico, CA 95926;
- B. Guarantors have a financial interest in Tenant; and
- C. Landlord would not execute the Lease if Guarantors did not execute and deliver to Landlord this Guaranty.

NOW, THEREFORE, in consideration of the execution of the foregoing Lease by Landlord and as a material inducement to Landlord to execute the Lease, Guarantors hereby jointly, severally, unconditionally and irrevocably guaranty the prompt payment by Tenant of all rents and all other sums payable by Tenant under the Lease and the faithful and prompt performance by Tenant of each and every one of the terms, conditions and covenants of the Lease to be kept and performed by Tenant, and further agree as follows:

- 1. It is specifically agreed that the terms of the Lease may be modified by agreement between Landlord and Tenant, or by a course of conduct, and the Lease may be assigned by Landlord or any assignee of Landlord without consent or notice to Guarantors and that this Guaranty shall guarantee the performance of the Lease as so modified.
- 2. This Guaranty shall not be released, modified or affected by the failure or delay on the part of Landlord to enforce any of the rights or remedies of the Landlord under the Lease, whether pursuant to the terms thereof or at law or in equity.
- 3. No notice of default need be given to Guarantors, it being specifically agreed that this Guaranty is a continuing guarantee under which Landlord may proceed immediately against Tenant and/or against Guarantors following any breach or default by Tenant or for the enforcement of any rights which Landlord may have as against Tenant under the terms of the Lease or at law or in equity. This Guaranty is a guaranty of payment and performance and not of collection. Guarantors also recognize that there are some obligations and liabilities of Tenant under the Lease that survive the termination of the Lease and that this Guaranty shall survive any termination under the Lease.
- 4. Landlord shall have the right to proceed against Guarantors hereunder following any breach or default by Tenant without first proceeding against Tenant and without previous notice to or demand upon either Tenant or Guarantors.
- 5. Guarantors hereby waive (a) notice of acceptance of this Guaranty, (b) demand of payment, presentation or protest, (c) all right to assert or plead any statute of limitations relating to this Guaranty or the Lease, (d) any right to require the Landlord to proceed against Tenant or any other

Guarantor or any other person or entity liable to Landlord, (e) any right to require Landlord to apply to any default, any security deposit or other security it may hold under the Lease, (f) any right to require Landlord to proceed under any other remedy Landlord may have before proceeding against Guarantors, and (g) any right of subrogation.

6. Guarantors do hereby subrogate all existing or future indebtedness of Tenant to Guarantors to the obligations owed to Landlord under the Lease and this Guaranty.

7. The obligations of each Guarantor hereunder shall not be altered, limited or affected by any case, voluntary or involuntary, involving the bankruptcy or insolvency of Tenant or any defense which Tenant may have by reason of an order, decree or decision of any court or administrative body resulting from any such case. Each Guarantor acknowledges and agrees that any payment which accrues with respect to Tenant's obligations under the Lease after the commencement of any such proceeding shall be included in Guarantors' obligations hereunder because it is the intention of the parties that said obligations should be determined without regard to any rule or law or order which may relieve Tenant of any of its obligations under the Lease.

8. If a Guarantor is married, such Guarantor expressly agrees that recourse may be had against his or her separate property for all of the obligations hereunder.

9. The obligations of Landlord under the Lease to execute and deliver estoppel statements and financial statements, as therein provided, shall be deemed to also require the Guarantors hereunder to do and provide the same.

10. The term "Landlord" refers to and means the Landlord named in the Lease and also Landlord's successors and assigns. The term "Tenant" refers to and means the Tenant named in the Lease and also Tenant's successors and assigns.

11. If either party hereto brings an action at law or in equity to enforce, interpret or seek redress for the breach of this Lease, then the prevailing party in such action shall be entitled to recover all court costs, witness fees and reasonable attorneys' fees, at trial, arbitration or on appeal in addition to all other appropriate relief.

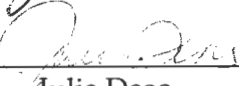
IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date written below:

"GUARANTOR" JIM DEAS and JULIE DEAS, husband and wife, jointly and severally

Date: 6-3- 2002

By: 
Jim Deas

Date: 6-3- 2002

By: 
Julie Deas

Landlord's Address for Notices:

M&H Realty Partners IV L.P.
353 Sacramento Street, 21st Floor
San Francisco, CA 94111
RE: North Valley Plaza

Guarantor's Address for Notices:

Jim and Julie Deas
1924 Potter Road
Chico, CA 95928

EXHIBIT "G"
TENANT ESTOPPEL CERTIFICATE

RE: That certain lease dated _____ (the "Lease") between M&H Realty Partners IV L.P. (the "Landlord") and _____ (the "Tenant") for premises located in the _____ Shopping Center in _____, California, identified as Suite [No. _____], containing approximately [_____] square feet (the "Premises"), as further described in the Lease.

The undersigned, as Tenant under the above referenced Lease, hereby certifies as follows:

1. The above-referenced Lease has not been modified or amended in any way, except for the following modifications or amendments, if any (it will be presumed that there are no modifications or amendments unless they are specified here): _____ (as so modified or amended, the "Lease"). The Lease represents the entire agreement between the parties as to the leasing of the Premises.
2. The Lease is in full force and effect.
3. All conditions under the Lease to be performed by Landlord as a condition to the full effectiveness of the Lease have been satisfied. As of this date, Tenant has (a) no claims against the Landlord, and (b) no defenses or offsets against the enforcement of the Lease by the Landlord.
4. The term of the Lease began on _____, and expires on _____ (including renewal options already exercised, if any). The term is subject to [()] outstanding renewal option(s) of _____ () years each pursuant to Paragraph _____ of the Lease (it will be presumed that there are no outstanding renewal options unless they are specified here).
5. The Tenant has opened for business in the Premises and is currently conducting business therein.
6. The base rent obligation of the Tenant under the Lease is in effect and the current base rent (exclusive of any applicable percentage rent and operation expense costs) is _____ (\$) per month. The base rent is subject to periodic increases or adjustment pursuant to Paragraph _____ of the Lease.
7. The percentage rent obligation of the Tenant under the Lease, if any, is set forth under Paragraph _____ of the Lease.
8. No rent has been paid for any period after the end of the current calendar month.
9. The current amount of security deposit held by the Landlord is [\$_____].
10. The Tenant has no notice or knowledge of any assignment, hypothecation or pledge by the Landlord of the rent payable under the Lease.
11. The Tenant has no right of first refusal, option or other right to purchase all or any portion of the Premises or the Property of which the Premises is a part.

12. The Tenant does not have any exclusive right to use the Premises for any use or uses, nor does the Lease provide for any restriction or prohibition on any use or uses on the property of which the Premises are a part, except as set forth in the Lease.

13. From and after the date hereof, the Tenant will not pay any rent under the Lease more than thirty (30) days in advance of its due date.

This certification is made for the benefit of Landlord, [_____] (Lender)] and any lenders with an interest in any deed of trust now or hereafter encumbering the property of which the Premises are a part.

IN WITNESS WHEREOF, the undersigned Tenant has executed this Certificate as of the date written below.

TENANT: _____ Tenant Name dba Tenant dba

Date: _____, 2002 By: _____

Its: _____

EXHIBIT "H"

RULES AND REGULATIONS

Landlord hereby establishes the following rules and regulations for the safety, care and cleanliness of (i) the store areas (hereinafter referred to as the "demised premises") of any tenant or tenants of the Shopping Center (hereinafter referred to as the "tenant"); (ii) the common area; and (iii) the Shopping Center in general. The following is not intended to be exclusive, but to indicate the manner in which the right to use the store and common areas is limited and controlled by Landlord.

1. All floor areas of the demised premises, doors, fixtures, windows and plate glass shall be maintained in a clean, safe and good condition.
2. All trash, refuse and waste materials shall be stored in adequate containers and regularly removed from the demised premises. These containers shall not be visible to the general public and shall not constitute a health or fire hazard, or a nuisance to any other tenant.
3. Tenants may use the demised premises only for the use as stated in the lease and for no other purpose. Without Landlord's consent, tenants may not utilize the common areas, sidewalks or walkways adjacent to the demised premises nor the roof of the demised premises for any of the following uses: to display, store, or place any merchandise, equipment or devices; to install public telephones/telecommunication systems, newsstands, vending or other coin operated machines; nor may the demised premises be used to conduct any type of distress or "going out of business" sale; to store any merchandise or materials, other than those reasonably necessary for the operation of a tenant's business, or to black out or otherwise obstruct the windows of the demised premises. In addition no shopping carts and/or baskets may be stored outside the designated areas.
4. Other than those areas, if any, specifically designated as Premises on Exhibit "B" attached hereto, all tenants and their authorized representatives and invitees shall use any roadway or walkway (including the enclosed mall, if any) only for ingress and egress from the stores in the Shopping Center in accordance with directional or other signs or guides. Roadways shall not be used at a speed in excess of five (5) miles per hour. Walkways (including the enclosed mall, if any) shall be used only for pedestrian travel.
5. Other than those areas, if any, specifically designated as Premises on Exhibit "B" attached hereto, the parking areas shall be used only for parking motor vehicles, which shall be parked in an orderly manner within the designated painted lines. Parking in front of the designated area will subject the vehicle to being towed off the parking lot.
6. Landlord may furnish either within the Shopping Center or reasonably close thereto, a limited amount of space for employee parking, which designation may be changed by Landlord from time to time at Landlord's sole and absolute discretion. Tenant shall furnish Landlord with its and its employees' license numbers within five (5) days after requested by Landlord and tenant shall thereafter notify Landlord of any change within five (5) days after such change occurs. If tenant or its employees fail to park their vehicles in designated parking areas, Landlord may charge tenant Twenty-Five Dollars (\$25.00) per day for each day or partial day per vehicle parked in any areas other than those designated. Tenant hereby authorizes Landlord to tow away from the Shopping Center, at tenant's expense, any vehicle or vehicles belonging to tenant or tenant's employees that are parked in violation of the foregoing. Notwithstanding the foregoing or anything to the contrary contained elsewhere in the Lease or exhibits, Landlord may, in its sole discretion, charge for automobile or other vehicular parking, and/or install parking meters in the parking areas comprising the Shopping Center. Tenant's customers will be afforded such free parking with validation as Landlord provides to a majority of the tenants in the Shopping Center.
7. No person shall use any of the common areas, (or any cars in the parking lot) for any of the following uses without the prior written consent of Landlord: (i) vending, peddling or soliciting orders for sale or distributing of any matter; (ii) exhibiting or distributing any written material; (iii) soliciting membership or contributions for any purpose; (iv) parading, patrolling, picketing, demonstrating of any kind; (v) any purpose when none of the businesses in the Shopping Center are open for business; or (vi) any sound-making or lighting device.

EXHIBIT I
EXCLUSIVE USE RESTRICTIONS

(see attached)

NORTH VALLEY PLAZA #101

Exclusive Use

5/30/02

UNIT #	TENANT	EXCLUSIVES
101-1	Mervyn's	None
101-2	Cinemark	<u>Art. 19.1/P. 23</u> As partial consideration for the execution of this Lease by Tenant, Landlord agrees that it and/or any entity of which Landlord or any principal of Landlord is a part shall not lease or sell any space in the Shopping Center, including out-parcels, pad, or future phases or additions to the Shopping Center to any other entity for the operation of a motion picture theatre. Landlord and Tenant agree that this clause is given as an inducement to Tenant to enter into this Lease, and is not in any way to be construed as an attempt to restrain the free trade of other tenants or occupants of the Shopping Center, but merely designed to provide the best mixture of tenants at the Shopping Center and to maximize the agreed and bargained for rent set forth in this Lease. Landlord further agrees not to lease or sell any space in the Shopping Center, including out-parcels, pads or future phases or additions to the Shopping Center to any entity for the purpose of operation a bowling alley, bingo parlor, bar or lounge (except in conjunction with a restaurant which derives at least 50% of its gross sales from the sale of food), post office, liquor store, flea market, "bulk" candy store, popcorn vendor, pool hall, massage parlor, skating rink, arcade, adult (i.e. pornographic) book store, video rental or tape sales.
101-4	Bank of America	<u>Art. 4/Section 4.3 /P. 5-6</u> Landlord covenants (1) that during the first year of the lease term of this lease, it will not lease all or any portion of the shopping center, or use or permit to be used, except by Tenant, any portion of the shopping center for the purpose of conducting thereon the business of (a) a state or national savings bank or trust company, (b) a state or federal building or savings and loan association, or (c) any company operation under the provisions of the California Industrial Loan Law; and that it will not use or permit to be used, except by Tenant, any portion of the shopping center for the purpose of advertising any such business. Thereafter, during the term of this lease or any extension thereof, Landlord agrees that no financial institution, as herein defined, shall occupy space larger in area than that occupied by Tenant nor shall the advertising signs of any other financial institution be larger in size or more prominent in location than those of Tenant herein. In the event of the breach of the covenant set forth in this Section 4.3, Tenant, in addition to any right to recover damages therefore, shall have the right (a) to enforce said covenant specifically or (b) enjoin the use of any portion of the shopping center in violation of the provisions of said covenants. If Tenant shall make any contention that Landlord has violated or has failed to perform or has violated such covenants. Landlord shall thereupon commence to correct the matters complained of with reasonable promptness and shall prosecute the same to completion with reasonable diligence. In the event (i) Landlord fails, after such notice, to correct the matters complained of in the manner and within the time specified and (ii) Tenant should bring an action (whether against Landlord or any other person bound by the covenant contained in this section) to enjoin the matters complained of, and successfully prosecute such action to final judgment, then Landlord shall reimburse Tenant for the court costs and attorneys' fees reasonably incurred by Tenant in commencing and prosecuting such action. Tenant may, should it desire, commence any such action in the name of

	Bank of America	Landlord against any person, firm, or corporation violating any such covenant should Landlord fail to promptly commence and diligently prosecute and action to correct the matters complained of in any such notice so served upon Landlord by Tenant .
101-5	Michaels	<u>Section 16.4/P. C 16</u> <u>Limitation on Use.</u> Neither Landlord nor any entity controlled by Landlord will use, lease (or permit the use, Leasing or subleasing of) or sell any space in or portion of the Shopping Center during the Lease Term, to any "craft store" (exclusive of a store selling exclusively finished crafts such as a "Crafters Mall"), "frame store", a store selling artificial flowers, artificial floral arrangements, handcrafted wedding supply goods, or party goods, or any store similar to a "typical Michaels Store" (as defined in Section 17.25 of <u>Exhibit C</u>) in operation or merchandising of the Effective Date. This Section 16.4.1 shall not apply beyond the termination of this Lease or (a) to any lessee for which the sale of a product or service covered by the exclusive granted to Tenant hereunder is merely incidental to such lessee's primary use, unless the total space which such lessee devotes to the products or services which violate the exclusive contained in this Section 16.4.1 exceeds one thousand (1,000) Leasable Square Feet (inclusive of merchandise display areas and all properly allocable aisle space), (b) to the current occupants of the Shopping Center and their successors and assigns, or (c) to any party goods store of less than six thousand (6,000) Leasable Square Feet; provided, however, that subsection (b) of this sentence shall not apply if Landlord permits the expansion of the premises or change of use of said premises. Tenant acknowledges that Landlord does not currently own or control the premises occupied by Longs Drug Store. If, for a period of twenty-four (24) consecutive months, Tenant fails to operate Tenant's business (other than for reasons beyond Tenant's reasonable control) or changes it's use such that it is no longer selling items covered by the exclusive granted in this Section 16.4.1, Tenant shall no longer have an exclusive right as to the specific item(s) not sold but described in this Section 16.4.1.
101-6	Washington Mutual	None
101-7	Vacant	
101-15	Factory 2-U	<u>Art. 3-3.1/P. 4</u> The Premises are leased for the purpose of conducting thereupon, the sale of first quality discount family apparel for men, women, children, infants and toddlers, related apparel items and accessories, shoes, baby furnishings, luggage, domestics, toys, home store items ("Initial Use") and other items sold from time to time in the majority of Factory 2-U store locations in California, excepting any use which is now subject to an exclusive use restriction in the Center as set forth in Exhibit "E" or is prohibited use as set forth on Exhibit "D" entitled Prohibited Uses, attached hereto and made a part hereof. Tenant may operate in the Premises utilizing the dba or trade name of Family Bargain, Factory 2-U, or any other trade name desired by Tenant not in conflict with an existing trade name utilized by a tenant in the Center.
101-29	Hancock Fabrics	<u>Section 6 (a) (ii) /P. 1&2 (ii)</u> In the event Tenant desires to use the Premises for something other than a Fabric Use, Tenant agrees it shall not use the Premises for any purpose that conflicts with any exclusive use right granted by Landlord to another tenant on the real property described in Exhibit A hereto by a written instrument which is in full force and effect on the date of Tenant's proposed change in use, and that Tenant shall not use the Premises for any purpose that is the same as a primary use then being made of any portion of the real property described in Exhibit A hereto as of the date of Tenant's proposed change in use. Should Tenant desire to use the Premises for something other than a Fabric Use, Tenant shall so notify Landlord, and Landlord shall have thirty (30) days following receipt of Tenant's

	Hancock Fabrics	notice within which to notify Tenant in writing that Tenant's proposed use conflicts with an existing exclusive use right or is the same as a primary use then existing on the real property described in Exhibit A as provided above. In the case of a conflict with an exclusive use right, Landlord's notice must be accompanied by copies of the written instrument (s) granting such exclusive right. In the event such proposed change in use is the same as a primary use then being made of any portion of the real property described in Exhibit A hereto, Landlord's notice must be accompanied by a written list of all primary uses then being made of any and all portions of the real property described in Exhibit A hereto. In the event Landlord does not deliver to Tenant such notice and instrument (s) (as applicable) within such thirty (30) day period, Tenant shall send Landlord a second written notice enclosing a copy of the first such notice and indication that Tenant did not receive a response from Landlord to such first notice within such thirty (30) day period, and if Landlord then does not respond as provided hereinabove within fifteen (15) days following receipt of such second notice, Tenant shall be permitted to use the Premises as proposed, even if such proposed new use conflicts with a previously granted exclusive use right or is the same as a then existing primary use. <u>Section 6 (a) (i) /P. 1(i)</u> Tenant shall not be required to continuously use for any purpose, nor shall Tenant be required to continuously occupy, the Premises. Tenant may use the Premises for the purpose of conduction a fabrics, materials, piece goods and accessories store selling any and all types of fabrics, piece goods, draperies, upholstery and upholstered products, yarns, threads, needles, sewing notions, sewing machines (including parts and service) and crafts (hereinafter a "Fabric Use") , or any other lawful purpose (subject to the terms of Section 6 [a] [ii] hereof), including no purpose at all. Tenant shall conduct its business insofar as the same relates to Tenant's use and occupancy of the Premises in compliance with all applicable laws and governmental regulations. At all times when Tenant is operating a business from the Premises, Tenant shall be open for business at least eight (8) hours each day, Monday through Saturday, and at least five (5) hours per day on Sunday; provided however, Tenant shall not be required to open for business on Sunday if the majority of Tenant's other Northern California stores are not generally open for business on Sundays. <u>Section 6 (a) (iii) /P. 2 (iii)</u> Notwithstanding the terms of Section 6 (a) (i) hereof, in the event the Premises remain vacant for a period longer than one hundred twenty (120) consecutive days (hereinafter a "Vacancy Period") during the term hereof (other than for the purpose of the remodeling thereof or alterations thereto, or as a result of damage thereto, destruction thereof, or in connection with a changeover resulting from an assignment or subletting, or due to any other cause beyond the control of Tenant), during the thirty (30) day period immediately following the Vacancy Period (hereinafter the "Termination Period") , Landlord shall have the right, at its option, to terminate this lease upon written notice to Tenant, which termination shall be effective upon the thirtieth (30th) day following Tenant's receipt of such notice; provided, however, that Landlord shall not have the right to terminate this lease under the terms of this Section 6 (a) (iii) at any time that a business permitted under the terms of this lease and not a "Temporary Business" (as hereinafter defined), is being conducted on the Premises. As used in this Section 6 (a) (iii), a "Temporary Business" is any seasonal business or business occupying the Premises under the terms of a sublease, or temporary assignment of this lease, of less than one (1) year in term. If Landlord does not so terminate this lease within the applicable Termination Period, Landlord's right to terminate as provided herein shall be deemed waived with respect to the immediately preceding Vacancy Period. In addition, Tenant shall have the option to void Landlord's right to terminate this lease as provided herein if Tenant notifies Landlord in writing within then (10) days of Tenant's receipt of such termination notice that the Premises shall be open for business for other than a Temporary Business within sixty (60) days after the date Tenant receives such notice. In the event a business other than a Temporary Business is not then opened in the Premises within such sixty (60) day period, Landlord may, within the immediately following thirty (30)
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		day period, terminate this lease by written notice effective as of the date Tenant receives such notice. If Landlord does not so terminate this lease, Landlord's right to terminate shall be deemed waived with respect to the immediately preceding Vacancy Period.
101-37	Butte Community Bank	<u>Lease Summary pg 1:</u> The Landlord shall not lease shop space in that portion of the Shopping Center located on the corner of East and Cohasset to a full service bank. <u>Sec. 9.2: Exclusive Use.</u> Notwithstanding anything to the contrary set forth in the Lease, after the Date of Lease, Landlord shall not execute any lease for premises located within the Shopping Center to any other "Competitive Store", as defined below ("Exclusive Use"), subject to the following terms and the satisfaction of each and all of the following conditions: a) Butte Community Bank, a California corporation is the Tenant under the Lease and has not made a Transfer of the Lease or Tenant's interest in the Premises that requires Landlord's prior written consent in accordance with the terms of Article 13. (b) If other tenant leases in the Shopping Center allow for relocation rights, and those rights are set forth on Exhibit "F" hereto, Tenant's Exclusive Use shall not be applicable to: (i) any leases entered into on or before the Effective Date of this Lease; or (ii) any new leases or extensions of existing leases entered into with Existing Tenants. (c) The Exclusive Use restrictions shall automatically terminate if Tenant fails to continuously operate its business in the entire Premises in accordance with this Lease, excepting closures for reasonable periods of time for remodeling as permitted under this Lease (not to exceed sixty (60) days in any twelve (12) month period), closures due to rebuilding and repair after casualty and closures due to force majeure which prevents Tenant from operating its business in the Premises. (d) The Exclusive Use restrictions shall automatically terminate without notice to Tenant and be of no further force or effect effective as of the date which is the earliest of (i) a Transfer of the Lease which requires Landlord's prior written consent; (ii) a change in the Permitted Use set forth in the Lease Summary; (iii) the effective date of any default by Tenant under the Lease under the Lease; or (iv) the expiration or earlier termination of the Lease. (e) The term "Competitive Store" shall mean the business operation of a new tenant whose "Primary Business" is that of a full service bank located in the shop spaces in that portion of the Shopping Center located on the corner of East and Cohasset, if the gross sales derived from the sale of such services constitute more than forty percent (40%) of such tenant's total annual gross sales Notwithstanding anything contained herein to the contrary, Landlord shall not be obligated to maintain or enforce the terms of this Section 9.2. or any similar provisions of the Lease to the extent same would be in violation of any anti-trust law. If such anti-trust violation is the basis of a claim or counterclaim against Landlord in connection with Landlord's attempted enforcement of this exclusive, then Landlord shall promptly consult with Tenant regarding Tenant's desire to further pursue enforcement of this exclusive. In addition, Tenant shall defend, indemnify and save Landlord and its employees, agents and assigns harmless from and against any and all losses, damages, actions, causes of action, claims, liabilities, demands, costs and expenses including, without limitation, attorneys' fees, arising out of the Exclusive Use restrictions set forth herein or arising out of the enforcement of such restrictions.
101-38	Starbucks Coffee	<u>Sec. 5.4 pg 7:</u> Exclusivity. Landlord shall not use or allow any other person or entity (except Tenant) to use any portion of the Property for the sale of (a) freshly ground or whole coffee beans, (b) espresso, espresso-based coffee drinks or coffee-based drinks, or (c) gourmet, brand-identified brewed coffee. This restriction shall also apply to kiosks and carts except any kiosk or cart operating in the Shopping Center as of the date of this Lease. This restriction shall not apply to (i) any tenants in the Shopping Center as of the date of this Lease (and their permitted successors and assigns) whose leases either expressly permit or do not prohibit the sale of Tenant's exclusive items; (ii) any full service, sit down

		restaurant with waiter service and menu ordering; or (iii) to any future or existing grocery store. Notwithstanding the foregoing, future tenants of the Shopping Center shall be allowed to sell items described in (a), (b) and (c) of this Section 5.4 so long as the total sales of such items with respect to any tenant does not exceed five percent (5%) of Tenant's sales in any calendar month.
101-39	Quizno's Classic Sub	Lease Summary: Throughout the Initial Term of the Lease and any extension thereof, Landlord shall not lease space in the Shopping Center to any new tenant or any current tenant under 8,000 sq. ft. that does not require Landlord's approval in its lease (excluding all new or current restaurants that have table service) to engage in the primary sale (greater than 20% of gross sales) of oven baked, delicatessen and/or submarine type sandwiches. All similar users (i.e. <i>Subway</i>, <i>Togo's Eatery</i>, <i>Blimpie's</i>, <i>Eriks</i>, <i>Submariania</i>, <i>Genoa</i> and others) shall not be permitted to conduct business in or about the Shopping Center so long as Tenant is conducting their business as <i>Quizno's Classic Subs</i>. Landlord shall not allow any other party on or about the property to violate the terms or spirit of this exclusivity agreement, and if a violation occurs (notwithstanding Section 8.2 herein), in addition to other remedies Tenant may have in law or in equity, Tenant shall have the right to terminate the Lease upon thirty (30) days written notice within ninety (90) days of Tenant's knowledge of said violation. Landlord shall have thirty days to cure from receipt of letter if Landlord violates this exclusive. <u>Section 8.2 pg 13</u>: Exclusive Use. Notwithstanding anything to the contrary set forth in the Lease, after the Date of Lease, Landlord shall not execute any lease for premises located within the Shopping Center to any other "Competitive Store", as defined below ("Exclusive Use"), subject to the following terms and the satisfaction of each and all of the following conditions: (a) Quizno's Classic Subs is the Tenant's Trade name under the Lease and Tenant has not made a Transfer of the Lease or Tenant's interest in the Premises, which requires Landlord's prior written consent in accordance with the terms of Section 12. (b) Provided such use is currently permitted under an existing Lease, the Exclusive Use is not applicable to: (i) any premises containing eight thousand (8,000) or more square feet of gross floor area; (ii) any Shopping Center leases entered into on or before the Effective Date of this Lease; (iii) any new Shopping Center leases or extensions of existing leases entered into with Existing Tenants; or (iv) any tenants or occupants, including their successors and assigns, existing in the Shopping Center on or before the Effective Date of this Lease, even if such occupants complete construction and/or open for business after the Effective Date of Lease ("Existing Tenants"). (c) The Exclusive Use restrictions shall automatically terminate if Tenant fails to continuously operate its business in the entire Premises in accordance with this Lease, excepting closures for reasonable periods of time for remodeling as permitted under this Lease (not to exceed sixty (60) days in any twelve (12) month period), closures due to rebuilding and repair after casualty and closures due to force majeure which prevents Tenant from operating its business in the Premises. (d) The Exclusive Use restrictions shall automatically terminate without notice to Tenant and be of no further force or effect effective as of the date which is the earliest of: (i) a Transfer of the Lease other than to a Quizno's entity or Franchisee, which requires Landlord's prior written consent; (ii) a change in the Permitted Use set forth in the Lease Summary; (iii) the effective date of any default by Tenant under the Lease, not cured within the applicable cure period; or (iv) the expiration or earlier termination of the Lease. The Exclusive Use restrictions shall cease to apply to any products that Tenant discontinues selling. (e) The term "Competitive Store" shall mean the business operation of a new tenant whose "Primary Business" is the sale of oven baked, delicatessen and/or submarine type sandwiches, if the gross sales derived from the sale of such goods and/or services constitute more than twenty percent (20%) of such tenant's total annual gross sales.

101-42	Western Dental Services	<u>Lease Summary:</u> The Landlord shall not lease space in the Shopping Center to another tenant whose business is general dental, orthodontic, specialty dental and/or oral surgery, nor shall the Landlord consent to or permit any tenant in the Shopping Center under existing leases or any amendments thereto or assignments thereof hereafter to use any space in the Shopping Center for any of the foregoing purposes unless such use is permitted under any such lease without Landlord's consent or approval. <u>8.2: Exclusive Use.</u> Notwithstanding anything to the contrary set forth in the Lease, after the Effective Date of Lease, Landlord shall not execute any lease for premises located within the Shopping Center to any other "Competitive Store", as defined below ("Exclusive Use"), subject to the following terms and the satisfaction of each and all of the following conditions: Tenant has not made a Transfer of the Lease or Tenant's interest in the Premises that requires Landlord's prior written consent in accordance with the terms of Section 12. The Exclusive Use is not applicable to: <i>Longs Drug</i> and their assignees or transferees; or except as provided in Section 8.2(b)(2) below; any Shopping Center leases entered into on or before the Effective Date of this Lease; any tenants or occupants, including their successors and assigns, existing in the Shopping Center on or before the Effective Date of this Lease, even if such occupants complete construction and/or open for business after the Effective Date of Lease ("Existing Tenants") but only to the extent that the use permitted under the existing leases to such Existing Tenants ("Existing Leases") permits such Existing Tenants to use the premises leased to such Existing Tenants for a Competitive Store; or any new Shopping Center leases or extensions of existing leases entered into with Existing Tenants where the permitted use of said Existing Tenant does not change.(b)(1) Landlord represents to Tenant that none of the Existing Tenants have the right under the terms of their Existing Leases to use any part of the Shopping Center for a Competitive Store, and that each of the Existing Tenants would require the Landlord's consent in order to use their respective premises for a Competitive Store. Notwithstanding the foregoing, the Existing Leases of the following Existing Tenants in the Shopping Center would permit such Existing Tenants to use their premises for a Competitive Store if the majority of such Existing Tenant's stores converted their business to include Tenant's Permitted Use: <i>Factory 2U and Mervyns</i>.(b)(2) Notwithstanding anything to the contrary in this Lease, Landlord shall not give its consent for any proposed change in an Existing Tenant's permitted use (in an Existing Lease that would require Landlord's consent), if said proposed change would change the Existing Tenant's permitted use to a Competitive Store and Landlord shall not enter into any new lease or amend any Existing Lease which would allow the use of any part of the Shopping Center to be used as a Competitive Store (c) The Exclusive Use restrictions shall automatically terminate if Tenant fails to continuously operate its business in the entire Premises in accordance with this Lease, excepting closures for reasonable periods of time for remodeling as permitted under this Lease (not to exceed ninety (90) days in any twelve (12) month period), closures due to governmental regulation or rebuilding and repair after casualty and closures due to force majeure, which prevents Tenant from operating its business in the Premises. (d) The Exclusive Use restrictions shall automatically terminate without notice to Tenant and be of no further force or effect effective as of the date which is the earliest of: (i) a Transfer of the Lease involving a change in the Permitted Use which requires Landlord's prior written consent; (ii) a change in the Permitted Use set forth in the Lease Summary; or (iii) the expiration or earlier termination of the Lease. (e) The term "Competitive Store" shall mean the business operation of a new tenant whose business" is general dental, orthodontic, specialty dental and/or oral surgery.
101-45	La Salsa Fresh Mexican Grill	<u>Lease Summary:</u> The Landlord shall not lease space on/in any of the pad buildings/shops fronting East Avenue or Cohasset Road to another tenant whose primary business is the operation of a quick service Mexican restaurant: <u>8.2 pg 12 Exclusive Use.</u> Notwithstanding anything to the contrary set forth in the Lease, after the Date of Lease, Landlord shall

	La Salsa Fresh Mexican Grill	not execute any lease for premises located within the Shopping Center located specifically on/in any of the pad buildings/shops fronting East Avenue or Cohasset Road, to any other "Competitive Store", as defined below ("Exclusive Use"), subject to the following terms and the satisfaction of each and all of the following conditions: (a) Gary Lewis, an individual dba La Salsa Fresh Mexican Grill, is the Tenant under the Lease and has not made a Transfer of the Lease or Tenant's interest in the Premises, which requires Landlord's prior written consent in accordance with the terms of Article 12. (b) The Exclusive Use is not applicable to (i) any premises containing six thousand (6,000) or more square feet of gross floor area, (ii) any Shopping Center leases entered into on or before the Effective Date of this Lease, (iii) any tenants or occupants, including their successors and assigns, existing in the Shopping Center on or before the Effective Date of this Lease, even if such occupants complete construction and/or open for business after the Effective Date of Lease ("Existing Tenants") that do not include a change in use, or require Landlord's approval for a change in use. Notwithstanding any provision to the contrary, Landlord shall not consent to the operation of any Competitive Store, as defined below, under any lease with an existing tenant where Landlord's consent to any change in use or transfer under such lease is required. (c) The Exclusive Use restrictions shall automatically terminate if Tenant fails to continuously operate its business in the entire Premises in accordance with this Lease, excepting closures for reasonable periods of time for remodeling as permitted under this Lease (not to exceed sixty (60) days in any twelve (12) month period), closures due to rebuilding and repair after casualty and closures due to force majeure which prevents Tenant from operating its business in the Premises. (d) The Exclusive Use restrictions shall automatically terminate without notice to Tenant and be of no further force or effect effective as of the date which is the earliest of: (i) a Transfer of the Lease which requires Landlord's prior written consent; (ii) a change in the Permitted Use set forth in the Lease Summary; (iii) the effective date of any default by Tenant under the Lease; or (iv) the expiration or earlier termination of the Lease. The Exclusive Use restrictions shall cease to apply to any products that Tenant discontinues selling. (e) The term "Competitive Store" shall mean the business operation of a new tenant whose "Primary Business" is the operation of a quick service Mexican restaurant, if the gross sales derived from the sale of such goods and/or services constitute more than forty percent (40%) of such tenant's total annual gross sales.
101-49	Code Red Wireless	<u>Lease Summary:</u> The Landlord shall not lease space in the Shopping Center to another tenant whose primary business is the same as the Permitted Use herein. <u>Permitted Use:</u> The Premises shall be used for the retail sale of cellular telephone service and sales, as defined in the Lease and for no other purpose. <u>Sec. 8.2 pg9:</u> Exclusive Use. Notwithstanding anything to the contrary set forth in the Lease, after the Date of Lease, Landlord shall not execute any lease for premises located within the Shopping Center to any other "Competitive Store", as defined below ("Exclusive Use"), subject to the following terms and the satisfaction of each and all of the following conditions: (a) Matthew Allred and Steve Montgomery, as individuals dba Code Red Wireless, is the Tenant under the Lease and has not made a Transfer of the Lease or Tenant's interest in the Premises which requires Landlord's prior written consent in accordance with the terms of Section 12. (b) The Exclusive Use is not applicable to (i) any premises containing five thousand (5,000) or more square feet of gross floor area, (ii) any Shopping Center leases entered into on or before the Effective Date of this Lease, (iii) any tenants or occupants, including their successors and assigns, existing in the Shopping Center on or before the Effective Date of this Lease, even if such occupants complete construction and/or open for business after the Effective Date of Lease ("Existing Tenants"), or (iv) any new Shopping Center leases or extensions of existing leases entered into with Existing Tenants. (c) The Exclusive Use restrictions shall automatically terminate if Tenant fails to continuously operate

		its business in the entire Premises in accordance with this Lease, excepting closures for reasonable periods of time for remodeling as permitted under this Lease (not to exceed sixty (60) days in any twelve (12) month period), closures due to rebuilding and repair after casualty and closures due to force majeure which prevents Tenant from operating its business in the Premises. (d) The Exclusive Use restrictions shall automatically terminate without notice to Tenant and be of no further force or effect effective as of the date which is the earliest of: (i) a Transfer of the Lease which requires Landlord's prior written consent; (ii) a change in the Permitted Use set forth in the Lease Summary; (iii) the effective date of any default by Tenant under the Lease; or (iv) the expiration or earlier termination of the Lease. The Exclusive Use restrictions shall cease to apply to any products that Tenant discontinues selling. (e) The term "Competitive Store" shall mean the business operation of a new tenant whose "Primary Business" is the same as Tenant's Permitted Use hereunder, if the gross sales derived from the sale of such goods and/or services constitute more than twenty percent (20%) of such tenant's total annual gross sales.
101-70	Wendy's	<u>Art. 21.29 & 1/P. 36</u> Landlord reserves the absolute right to effect such other tenancies in the Shopping Center as Landlord, in the exercise of its sole business judgment, shall determine to best promote the interests of the Shopping Center. Tenant does not rely on the fact, nor does Landlord represent, that any specific tenant or number of tenants shall during the Term of this lease occupy any space in the Shopping Center./1. 1-Provided that the Tenant is operating a fast food hamburger restaurant and is not in default under this lease beyond the expiration of the applicable cure periods set forth in Section 18.1 hereof, Landlord warrants to Tenant that Landlord shall not during the Term of this lease enter into a lease agreement with any other tenant occupying any freestanding building along the perimeter of the Shopping Center whose primary business is the operation of fast food hamburger restaurant.
101-71	Longs	<u>Art. 3 a & b/P.2 & 3</u> (a) For the conduct of any store, business, trade or profession (whether separately or as a part of another entity) which requires or has a license or permit to conduct a pharmacy from the California State Board of Pharmacy, or other agency which hereafter may be empowered to license or permit the conduct of a pharmacy or which employs or is required to employ a registered pharmacist as such; (b) For the conduct of any store, business, trade or profession which is called, labeled, named or is commonly known as or referred to as a "drug store", "pharmacy" or "apothecary". The foregoing restrictions on real property use not be so construed as to constitute an abrogation of the rights heretofore granted to Montgomery Ward certain lease dated March 4, 1963, naming Montgomery Ward & Company, Inc., an Illinois corporation, as tenant modified or amended.



353 Sacramento Street, 21st Floor
San Francisco, California 94111
Ph: (415) 693-9000
Fax: (415) 675-0480

PROPERTY MANAGEMENT LLC

October 14, 2003

VIA AIRBORNE EXPRESS

Mr. Jeff Farrar
INGRAM COMMERCIAL REAL ESTATE
2550 Lakewest Drive, Suite 50
Chico, CA 95928

RE: Due Diligence Materials
North Valley Plaza, Chico, CA

Dear Mr. Farrar:

In connection with the above referenced property, enclosed are copies of the following:

1. Tenant Leases
2. Environmental Reports with Index
3. Property Condition Reports
4. Property/Tenant Summary (Rent Roll) dated October 13, 2003
5. Property Tax Bills, Fiscal Year July 1, 2002-June 30, 2003
6. Budget - 2003
7. Site Plan
8. CAM Reconciliation - 2002
9. Operating Statements - 2000, 2001 and 2002
10. Sales Report
11. ALTA Survey dated January 28, 1999
12. Vendor Agreements

Please sign below acknowledging receipt of the above documents and fax acknowledgement to me at (415) 675-7738.

If you have any questions, please call Michael Feldman at (415) 675-7726 or me at (415) 263-7397.

Yours truly,

M&H Property Management LLC

Viola Otten

RECEIVED:

Enclosures

cc: Michael Feldman

Buyer: _____

By: _____

Its: _____

Date: _____

EXHIBIT "2"

ASSIGNMENT OF LEASES

THIS ASSIGNMENT OF LEASES, dated as of July 6, 2004, is made and entered into by and between M&H Realty Partners IV L.P., a California limited partnership ("Assignor"), and North Valley Mall, LLC, a California limited liability company ("Assignee"), with reference to the following facts:

A. Assignor, as Seller, and Assignee, as Buyer, have entered into that certain Agreement of Purchase and Sale and Joint Escrow Instructions dated as of May 13, 2004 (the "Purchase Agreement"), pursuant to which Seller agreed to sell and convey to Buyer, and Buyer agreed to purchase from Seller, the Property (as defined in the Purchase Agreement).

B. Assignor is the lessor pursuant to those certain leases (the "Leases") affecting the Property and described in Schedule 1 hereto.

C. Assignor desires to assign the Leases to Assignee, as Assignee desires to accept the assignment of the Leases, on the terms and conditions stated below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed that:

1. Effective as of the Closing Date (as defined in the Purchase Agreement), Assignor hereby assigns, transfers and conveys to Assignee all of Assignor's right, title and interest in, to and under the Leases.

2. Effective as of the Closing Date, Assignee hereby accepts the foregoing assignment and assumes all of the obligations of Assignor under the Leases arising from and after the Closing Date.

3. Assignor agrees to indemnify and hold Assignee harmless from and against any and all liability, loss, cost, damage and/or expense (including, without limitation, reasonable attorneys' fees and expenses) arising out of the lessor's obligations under the Leases accruing prior to the Closing Date.

4. Assignee agrees to indemnify and hold Assignor harmless from and against any and all liability, loss, cost, damage and/or expense (including, without limitation, reasonable attorneys' fees and expenses) arising out of the lessor's obligations under the Leases accruing from and after the Closing Date.

5. Assignor and Assignee agree to execute such other instruments as the other party may reasonably request, from time to time, to carry out the intent and purposes hereof.

6. This instrument shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

7. This instrument may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

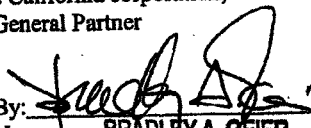
IN WITNESS WHEREOF, the parties hereto have executed this Assignment of Leases as of the date first above written.

"ASSIGNOR"

M&H Realty Partners IV L.P.,
a California limited partnership

By: MHRP IV L.P.,
a California limited partnership,
General Partner

By: Merlone/Hagenbuch IV Inc.,
a California corporation,
General Partner

By: 
Name: BRADLEY A. GEIER
Title: MANAGING DIRECTOR

"ASSIGNEE"

North Valley Mall, LLC,
a California limited liability company

By: CODA Development, LLC,
a California limited liability company, A Member

By: _____
Constantine Zahoudanis, Manager

By: Parks Diversified, LP,
a California limited partnership, A Member

By: _____
Lucia Parks, General Partner

7. This instrument may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment of Leases as of the date first above written.

"ASSIGNOR"

M&H Realty Partners IV L.P.,
a California limited partnership

By: MHRP IV L.P.,
a California limited partnership,
General Partner

By: Merlone/Hagenbuch IV Inc.,
a California corporation,
General Partner

By: _____
Name: _____
Title: _____

"ASSIGNEE"

North Valley Mall, LLC,
a California limited liability company

By: CODA Development, LLC,
a California limited liability company, A Member

By: 
Constantine Zahoudanis, Manager

By: Parks Diversified, LP,
a California limited partnership, A Member

By: 
Lucia Parks, General Partner

SCHEDULE 1

Leases

Tenant

DBA

Mervyn's
Cinemark USA, Inc.
Bank of America N.A.
Michael Stores, Inc.
Washington Mutual Bank, FA
Scott Gailey and Yvonne Gailey
Mr. Formal Inc.
Timothy Vereschagin and Jenice Vereschagin
Hancock Fabrics, LLC
Butte Community Bank
Starbucks Corporation
J. Deas Enterprises, Inc.
Nicole M. Russell
Western Dental Services, Inc.
Garwin Enterprises, Inc.
Gary Lewis
Matthew Allred and Steve Montgomery
GameStop, Inc.
Mr. Formal Inc.
Wenmar Foods, Inc.

Mervyn's
Tinseltown
Bank of America ATM
Michaels
Washington Mutual
Jackson Hewitt
Tuxedo Den
Twisted Strands
Hancock Fabrics
Butte Community Bank
Starbucks
Quizno's Classic Subs
Pizza Guys Chico
Western Dental Services
La Salsa Fresh Mexican Grill
Ben and Jerry's Ice Cream
Code Red Wireless
GameStop
Tuxedo Den
Wendy's

EXHIBIT "3"

M&H

BB - Delivery of Premises
Unit No. 101-39
() Prop. Mgr. _____
() Prop. Acct. _____
() Proj. Mgr. _____
() Prop. Admin. _____
(☒) Lease Admin. _____
(☒) Master File _____
() _____

2100 Arden Way, Suite 210
Sacramento, California 95825
Ph: (916) 923-0900
Fax: (916) 923-3719

PROPERTY MANAGEMENT LLC

November 8, 2002

VIA: OVERNIGHT DELIVERY
FACSIMILIE: (530) 343-5072

J. Deas Enterprises, Inc.
PMB-139
236 W. East Avenue, Suite A
Chico, CA 95926

RE: LEASE DATED JUNE 7, 2002 BY AND BETWEEN M&H REALTY PARTNERS IV LP ("LANDLORD") AND J. DEAS ENTERPRISES, INC., DBA QUIZNO'S CLASSIC SUBS ("TENANT") FOR A PREMISES LOCATED AT 2471 COHASSET, SUITE 120, CHICO, CALIFORNIA, 95926 (THE "PREMISES") M&H UNIT NUMBER #101-39

This is notice, pursuant to the provisions of Article 2.1 of the referenced Lease, that the Landlord's Work has been substantially completed and the Premises are hereby delivered to Tenant, as of November 8, 2002.

Prior to commencement of any operations in the Premises, please cause the delivery to the Landlord of: 1) Certificates of Insurance, naming M&H Realty Partners IV L.P., M&H Property Management LLC, 353 Sacramento Street, 21st Floor, San Francisco, CA 94111, as an Additional Insured, per Article 7.2 of the Lease for Tenant's insurance, and per Article 2.5 of Exhibit C for Tenant's general contractor's insurance; 2) Three sets of proposed Tenant Improvement Plans for Landlord review (which must be completed before start of construction); 3) Copies of building permits for Tenant's Work; and, 4) Emergency contact data, including 24-hour phone or pager numbers, for a responsible party during construction. Please fax a copy of the Insurance Certificates to me at (916) 923-3719, with hard copies sent by mail to our San Francisco address.

Note that the locks at the Premises are currently openable by a construction master key; we strongly recommend that you have the locks rekeyed as soon as possible.

Please call me at (916) 923-0900 if you have any questions or need further information.

Yours truly,

M&H Property Management LLC
As agent for M&H Realty Partners IV L.P.

Monty Daley

Monty Daley
Property Manager

cc: Jain Wager
M&H-SF: Masterfile for Unit# 101-39

M&H PROPERTY MANAGEMENT LLC

2100 Arden Way, Suite 210

Sacramento, CA 95825 (916) 923-0900 / Fax: (916) 923-3719

Facsimile Transmittal Information

Fax: (916) 923-3719

Date: 11/8/2002 12:27 PM

Please deliver the following page(s) as soon as possible to:

Attention: Jim & Julie Deas

Company: Quizno's

Fax No. (530) 343-5072

From: Monty Daley

Total number of pages, including cover sheet: 2

Additional instructions or comments (if any):

Please contact John Miller (530) 893-8228 to receive your keys once the Certificate of Insurance has been provided per the terms of your Lease.

Thanks!

If you do not receive all of the pages,
Please call (916) 923-0900.

ORIGINALS WILL FOLLOW: ☐ YES. ☐ NO.

*** TRANSMISSION REPORT ***

NOV-08-02 12:36 ID:9169230900

M&H Property Management

JOB NUMBER

018

INFORMATION CODE

OK

TELEPHONE NUMBER 15303435072

NAME(ID NUMBER) 5303435072

START TIME NOV-08-02 12:35

PAGES TRANSMITTED 002 TRANSMISSION MODE G3

RESOLUTION STD REDIALING TIMES 00

SECURITY OFF MAILBOX OFF

MACHINE ENGAGED 01'08

THIS TRANSMISSION IS COMPLETED.

LAST SUCCESSFUL PAGE 002