LEASE

This lease (this "Lease Agreement") is made and entered into effective this 19th day of March, 2003 by and between the City of Columbus, Ohio, hereinafter "City" or "Landlord" and 670 Cap Partners, Ltd., an Ohio limited liability company, hereinafter "Tenant."

NOW THEREFORE, for value received in consideration of the mutual promises, covenants, agreements, and obligations set forth herein, Landlord and Tenant, respectively, hereby make the following agreement, intending to be legally bound hereby:

ARTICLE I
Definitions of Certain Terms

1. Definitions

1.1 "Airspace" means that three-dimensional space above Interstate 670 and, in the event of any Improvements made upon the Platforms, such structural and utility penetrations below the top surface of the Platforms as are required to construct, operate and maintain the Improvements.

1.2 "Buildings" means one-story retail/office buildings, totaling approximately 26,000 sq. ft. constructed on top of the Platforms. Buildings are included in the Improvements.

1.3 "City" means the City of Columbus, Ohio and unless otherwise indicated, or where such action by the City would require an ordinance of City Council, the action of the Director of Public Service.

1.4 "Extraordinary Maintenance" means the act of repairing, replacing, removing, or rehabilitating either the Highway Facility, the High Street Bridge, the Platforms, or the Highway Related Structures which both parties understand to be of such magnitude as to be beyond the scope of work ordinarily performed by routine maintenance and repair forces. This work shall be categorized as unexpected, emergency, or in need of immediate attention.

1.5 "Fixtures" means all furniture, fixtures, machinery, equipment, and trade fixtures hereafter installed, maintained or kept in the Improvements or otherwise at the Premises for any purpose whatsoever and which are not the property of a subtenant or sublease.

1.6 "FHWA" means the Federal Highway Administration.

1.7 "High Street Bridge" means the structure constructed by ODOT to carry the road surface known as North High Street over Interstate 670 in the City of Columbus, Franklin County, Ohio. For maintenance, extraordinary maintenance, repair, rehabilitation, and reconstruction, this structure shall be considered separately from the Platforms joined to it.

1.8 "Highway Facility" means the State of Ohio's (hereinafter "State") entire right-of-way for Interstate 670, including its adjacent entry and exit ramps, paved and marked lanes and shoulders, and all related structures, lying within the limits described in Attachment A; but not including those

Highway Related Structures (other than crash attenuation devices) placed within the highway right-of-way for the City as a result of the Platform's existence or construction.

1.9 "Highway Related Structures" means the sub-structure supporting the Platforms, as constructed for the City by ODOT as part of the Plans and Specifications for FRA 670-3.80 Part 1 of 2 of the B-1 Project, which are needed for, assist in, or are related to the construction, operation, or uses of the Platforms or the passage of traffic under the Platforms, which features or structures rest within, are adjacent to, or include, the State's entire right-of-way at that location, and the airspace above it.

1.10 "Improvements" means such additional structural Improvements made by the Tenant, or caused to be made by the Tenant, upon the Platforms and shall include the Buildings and appurtenances thereto, including appurtenances necessary to attach the Buildings to the Platforms, any sidewalks within the Premises, and insulation and utility lines and conduit within the Platforms.

1.11 "Initial Term shall have the meaning set forth in Section 3.1

1.12 Intentionally omitted.

1.13 "ODOT" means the Ohio Department of Transportation and unless otherwise indicated, the Director of the Ohio Department of Transportation.

1.14 "Platforms" means the superstructures constructed by ODOT as part of the Plans and Specifications for FRA 670-3.80 Part 2 of 2 of the B-1 Project.

1.15 "Premises" means the real property interests and air space rights described in Attachment A-1 to this Lease Agreement.

1.16 "Rehabilitation or Reconstruction" means major bridge or Platform repair, including but not limited to, bridge painting, maintenance of epoxy coatings on concrete, cathodic protection, thermoplastic pavement markings, maintenance of extru sheet (large) highway signs, surface treatments such as resurfacing, overlay or drainage repairs, and major joint repair.

1.17 "Project" means the construction and operation of the Improvements and Fixtures by Tenant, as contemplated by this Lease Agreement.

1.18 "Renewal Term" means any five (5) year term after the Initial Term.

1.19 "Repair" means all work necessary to restore the Platforms, Highway Related Structures, and High Street Bridge, including its substructure and superstructure, to a sound state after decay, corrosion, or damage has occurred requiring the performance of work beyond the scope of ordinary maintenance, inclusive of painting of the structural steel.

ARTICLE II
Creation of Leasehold, Rent

2.0 Demise: Upon the terms and conditions set forth in this Lease Agreement, and to the extent applicable Permit No.__________ of the State of Ohio, Department of Transportation (the "ODOT Permit"), Landlord does hereby demise and let the Premises unto Tenant, and Tenant does hereby lease and hire the Premises from Landlord. Landlord warrants and represents to Tenant that attached hereto as Attachment "B" and made a part hereof is a true and complete copy of the ODOT Permit.

Landlord further grants unto Tenant, for the Lease Term, the non-exclusive right and easement to utilize those areas generally depicted on Attachment "C" to this Lease Agreement for ingress and egress to the Improvements, as well as the right to place and maintain within said easement areas trash dumpsters and similar facilities for the placement, storage and removal of garbage. Landlord shall not, after the date hereof, grant any easements, licenses or other property interests in and to said easement areas that will interfere with such rights of Tenant, it being hereby agreed that installation and maintenance of utility lines shall not be construed as interfering with the easement rights of Tenant.

2.1 Rent: Base Rent shall be $1.00 per year. "Rent" for the Initial Term and all Renewal Terms shall be Base Rent plus Additional Rent. "Additional Rent" shall be ten percent (10%) of the annual Net Cash Flow after Tenant first receives a ten percent (10%) annual Cash-on-Cash Return. Additional Rent shall be calculated as set forth below on an annual basis, or pro rata portion thereof, and not on a cumulative basis (i.e., losses shall not be carried forward from one year to the next in making such computation).

"Net Cash Flow" is defined as: total gross collected rent receipts for the calendar year in question, less Property Expenses not reimbursed by subtenants of Tenant, less total debt service (provided that in the event Tenant's interest in this Lease Agreement is transferred to a Leasehold Mortgagee or its nominee by foreclosure or assignment-in-lieu of foreclosure, and such Leasehold Mortgagee or its nominee holds such interest free of any indebtedness secured by a lien on its interest in this Lease Agreement, "Net Cash Flow" shall exclude an amount equal to the total debt service which was required to be paid by the Tenant to such Leasehold Mortgagee immediately prior to such foreclosure or assignment-in-lieu of foreclosure, less any penalties or increase in the interest rate resulting from a default with respect to such indebtedness).

"Property Expenses" are defined as: expenses, which are usual and customary in their nature and appropriate within the commercial real estate industry, and are associated directly with the ownership, maintenance and operation of the Premises and the Improvements. Property Expenses include, but are not limited to: real estate taxes and assessments (less any penalties and interest); hazard and liability insurance; costs of utilities; reserves for capital replacements if maintained in a segregated account; maintenance, repair and replacement of the Improvements; property management fees; leasing commissions; legal fees; accounting fees; and Project marketing. If Tenant elects to maintain such segregated capital replacement account and includes contributions to such account as annual expenses, then no additional expenditures for those capital improvements may be included as expenses until the segregated account has been depleted. Property Expenses for the purpose of calculating Net Cash Flow may not include any allocation of ownership overhead or any other expense not incurred as a direct result of the maintenance, management, and operation of the Premises. With respect to any services, work, supplying of materials, or other activities that are or will result in a deduction as a Property Expense and that are done by Tenant or any affiliate of Tenant, such deductions shall be limited to fair, reasonable, and competitive charges for the performance of such work and the furnishing of such services and materials.

"10% Cash on Cash Return to Tenant" is defined as: the amount of annual Net Cash Flow paid to the Tenant which equals 10% of the cash equity which the Tenant has paid into the Project from time-to-time. For purposes of this provision the amount of equity attributable to the Tenant does not adjust as a result of debt amortization or property value appreciation. In any calendar year in which the Tenant receives proceeds of Net Cash Flow equal to 10% of the certified amount of cash equity, then all subsequent amounts of Net Cash Flow during the same year shall be distributed 90% to the Tenant and 10% to the Landlord. In the event of any dispute between parties in the determination of the Project's annual income or expense, or in the calculation of Net Cash Flow or the Cash-on-Cash Return to the Tenant, then the parties agree to engage the services of a CPA firm, to be selected by the Landlord and reasonably approved by Tenant, which will be charged with auditing the records and making the necessary calculations and determinations. The cost of the services provided by said CPA firm will be divided equally between Tenant and Landlord. Landlord and Tenant agree to be bound by the decision of the CPA firm.

Tenant shall provide to Landlord by February 1 of each year an estimated pro forma statement for that calendar year showing the calculation of the expected Additional Rent on the basis of information then available to Tenant. Following the end of the first calendar quarter of each year of the Lease Term Tenant shall furnish to Landlord a statement of operations for the preceding year, certified by an authorized officer of Tenant in reasonable detail, and in such form as reasonably approved by Landlord necessary to calculate Additional Rent payable hereunder. Tenant shall pay Landlord by April 30 any Additional Rent due for the prior calendar year based on the annual statement provided herein. Tenant makes no representations or warranties, express or implied, regarding the amount of Net Cash Flow, if any, that Tenant hopes to achieve pursuant to this Lease Agreement and Tenant's operation of the Improvements.

2.2 Additional Rent as Result of Sale. In the event of a sale of Tenant's leasehold interest, Tenant shall pay, as Additional Rent, 10% of the Net Proceeds on Sale.

The transfer of a majority interest (constituting 51% or more) of Tenant to an unrelated third party (in which Tenant holds no interest) is considered a sale for purposes of this lease provision and will treated in the same manner.

A cash-out refinance is also considered a sale for the purposes of this provision, with the gross loan proceeds obtained for refinance substituting for the settlement statement.

"Net Proceeds on Sale" is defined as: the gross purchase price, evidenced by a bona-fide third-party purchase contract and/or a settlement statement, less: (i) usual and customary closing costs of sale (or refinance in the event of a cash-out refinance) payable by Tenant including, without limitation, brokers' commissions; title insurance premiums; transfer and recording taxes; costs of surveys; tax prorations; escrow fees; and attorneys' fees; (ii) the principal amount of any indebtedness paid off (or on the west side of High Street is available for Commencement of Construction of the west side Building. As used herein, the term "Lease Term", or "Term of this Lease", or words of similar import, shall mean the Initial Term and any properly invoked Renewal Term.

3.4 Options to Renew: Provided Tenant is not in default under the terms of this Lease Agreement during the Initial Term or any Renewal Term thereof then upon notice given pursuant to Section 16.1 hereof, no later than 120 days prior to expiration of the Initial Term or any successive Renewal Term, Tenant shall have the option to renew this Lease Agreement under the same terms and conditions for eight (8) separate, consecutive periods of five (5) years each (each a "Renewal Term").

It is the intention of the parties hereto to avoid forfeiture of Tenant's rights to extend the Initial Term of this Lease Agreement pursuant to the provisions of this Section 3.4 through the inadvertent failure of Tenant to give notice of the exercise thereof within the prescribed time period. Accordingly, the Parties agree that notwithstanding Tenant's failure to timely notify Landlord of the exercise of any particular Renewal Term, Tenant's right to do so shall not lapse until thirty (30) days after Landlord notifies Tenant of Tenant's failure to exercise its option in a timely manner. In the absence of Landlord's notice, this Lease Agreement shall continue from month to month as provided in Section 3.5 hereof unless, on or before the date which is sixty (60) days prior to the last day of the Initial Term, or, if Tenant has elected to extend the Initial Term for one or more Renewal Terms, sixty (60) days prior to the expiration of last-exercised Renewal Term, Tenant has notified Landlord of its intent not to exercise its right to extend the for the next-available Renewal Term, in which case this Lease Agreement shall expire on the last day of the Initial Term or on the last day of the last-exercised Renewal Term, as the case may be.

3.5 Holdover: In the event Tenant remains in possession after the expiration of the Initial Term, or any Renewal Term, Tenant shall be deemed to be a tenant from month-to-month only, at a monthly rental rate equal to the greater of Ten Thousand Dollars ($10,000.00) or the amount of Rent due from Tenant pursuant to the provisions of Article II of this Lease Agreement.

ARTICLE IV
Design of Improvements

4.1 Tenant shall submit complete sets of design schematics, showing the proposed design and layout of any Improvements to Landlord and to ODOT. Landlord and ODOT shall respond with written approval or disapproval of the design schematics as soon as possible but no later than 90 days after receipt and specifying in the case of disapproval the specific reason therefore. In the event of disapproval by either Landlord or ODOT, Tenant shall submit revised schematics incorporating such changes and modification specifically by Landlord or ODOT and specifying any changes, modifications or corrections which were not incorporated, setting forth Tenant's reasons therefore. Landlord and ODOT shall give Tenant written notice of its approval or disapproval of the revised design schematics as soon as possible, but no later than 90 days after receipt of the revised set of design schematics. Notwithstanding anything to the contrary contained herein, Tenant shall have the right to terminate this Lease Agreement without liability to Landlord or any other party in the event Tenant, in its sole judgment, does not approve of the changes, modifications or corrections to the design schematics required by Landlord or ODOT.

4.2 After approval of the design schematics by Landlord and ODOT, Tenant shall prepare final plans and specifications of the Improvements, which shall be substantially in conformance with the approved design schematics. If such plans and specifications are in any significant or substantial respect inconsistent with the approved design schematics, Tenant shall obtain Landlord's and ODOT's written approval of the inconsistent portion before proceeding to submit final plans and specifications for approval. The procedure for approval of said deviations and final plans shall be set forth in Section 4.1. Tenant's anticipated critical path milestones for construction are attached hereto as Attachment "E".

4.3 <u>Construction of Improvements</u>: Subject to the provisions of Section 18.3 of this Lease Agreement, Tenant shall complete construction of the Improvements (excluding interior tenant buildouts) on the west Platform prior to the opening to traffic of the portion of Interstate 670 lying underneath the Platforms. ODOT and City shall provide Tenant prior to opening the portion of I-670 to public traffic unimpeded access to I-670 for a continuous 8-week period to construct exterior portions of the eastside Building, such 8-week period to commence as of the date ODOT notifies the City of the commencement of such 8-week period in accordance with Section 5.4 of the ODOT Permit. In the event construction is not completed sufficiently before the end of such 8-week period such that in the opinion of the Director of ODOT that lane closures are required for further construction activities then Tenant shall cease construction and Tenant, at its sole cost and expense, shall provide Landlord and ODOT with a traffic control plan (TCP) for handling traffic during the period of the remaining construction. Tenant shall not recommence construction activities, which would require lane closures until such time as the TCP is approved by ODOT and implemented at Tenant's cost.

4.4 The exterior surface of any Improvements shall be made of material with characteristics that minimize the refection of light and glare back to Interstate 670. The surface material shall be submitted to Landlord and ODOT as a part of the plan approval process set forth above.

4.5 No billboard, advertising device of any type, or any sign of any nature is to be placed anywhere on or over the Platforms or Improvements whether within, or attached to or apart from the Improvements so as to be visible to traffic using Interstate 670. Nothing in this Section 4.5 shall prohibit the installation on the High Street side of the Buildings of tenant-identification signage and other signage typically employed by retail shopping center tenants (e.g., signs advertising sales promotions, hours of operation, etc.) provided such signs are oriented and directed toward High Street, and provided further that the tenant obtains such certificates and permits as required by Columbus City Codes. For purpose of obtaining such certificates and permits, such signs shall not be considered as being within the right-of-way.

ARTICLE V
<u>Maintenance and Repair</u>

5.0 Tenant shall, at its sole cost and expense, maintain and repair the Improvements. Such maintenance and repair of the Improvements shall be accomplished in accordance with all City, State, and Federal laws, rules, regulations and applicable industry standards. Such maintenance and repair of the Improvements shall be accomplished in a manner so as not to cause unreasonable interference with the use or access to the Highway Facility.

5.1 Tenant shall, at its own expense, keep and maintain the Improvements free of flammable and hazardous materials of every description and, at all times, in an orderly, clean, safe and sanitary condition. Wrecked vehicles, or parts thereof, shall not be parked or stored thereon. Tenant shall not install, or caused to be installed, facilities for, nor operate on the Premises, a gasoline supply station; nor shall vehicles or tanks used to, or designed for, the transportation or storage of gasoline or petroleum products, or any other ignitable materials be permitted on the Premises; nor shall explosives or hazardous waste of any nature be permitted on the Premises.

5.2 Landlord, ODOT and FHWA and their respective authorized officers, engineers, employees, agents, contractors, or designated utility company, shall be permitted, upon giving reasonable prior notice to Tenant, to enter upon the Premises for the purpose of inspection, or doing any and all acts necessary and proper for the Maintenance, Repair, Construction, Reconstruction, Removal, or Rehabilitation of the Highway Facility, including the High Street Bridge, the Highway Related Facilities and the Platforms. Any such entry shall be designed, to the extent reasonably possible under the circumstances, to minimize intrusion into the Premises.

5.3 Tenant agrees to permit ODOT and/or FHWA to immediately enter upon the Platforms, Highway Related Structures, and Improvements, and to take immediate possession thereof, in case of and during any state or national emergency declared either by ODOT, the State of Ohio, or the Federal government, or for the purpose of preventing sabotage, and for the protection of the Highway Facility, the Platforms, and Highway Related Structures. In case of any emergency oral notice shall be given to Tenant and such notice shall be promptly followed by written notice. Such entry or right to enter shall continue only for so long as the emergency declaration or emergency.

5.4 In the event that an emergency is declared under Section 5.3, Tenant agrees to release Landlord, the State and the Federal government from any claim of damage or lost rent, or profits because of any closure of the Platforms, Highway Related Structures or the Improvements.

5.5 Landlord shall at all times throughout the term of this Lease and at no cost or expense to Tenant, maintain the Platforms and the Highway Related Structures in good condition and repair and in full compliance with the provisions of Sections 6.1 and 6.3 of the ODOT Permit. In addition, Landlord shall be responsible for and shall promptly repair any damage to the Improvements (including, without limitation, any insulation) damaged in connection with the maintenance of the Highway Related Structures.

ARTICLE VI
Indemnification and Insurance

6.0 Tenant shall indemnify the Landlord and ODOT and save them harmless from and against all loss, liability, damages, or claims for injury, death, or whatever nature to any person, property, or business caused by or resulting from any event or occurrence in, on, or about the Improvements (other than injury, death, or damage resulting from a wrongful or negligent acts or omissions of Landlord or ODOT) resulting from the construction, maintenance, inspection, alteration, and repair and use of the Improvements, and from and against any and all costs, expenses or liability, including reasonable attorney fees, experts, court reporters, or other court related expense, incurred by Landlord and/or

ODOT in connection with any claim action or proceeding in respect of any such loss, liability, damage, or claim.

6.1 Tenant shall maintain general public liability insurance against claims for personal injury, wrongful death and property damage occurring on or about the Premises, with minimum coverage of Five Million Dollars ($5,000,000) on account of bodily injury to, or death of, one or more persons as the result of one or more occurrences and Ten Million Dollars ($10,000,000) against claims of two or more persons resulting from any one incident and Tenant shall maintain property damage insurance against any and all liability incident to the use of, or resulting from, any and every cause occurring, in, or about, the Premises in the amount of not less than Five Million Dollars ($5,000,000). Said policies shall inure to the contingent liabilities, if any, of Tenant, and shall obligate the insurance carriers to notify the Landlord and ODOT, in writing, not less than 15 days after the cancellation thereof, or any material change affecting the coverage of the policies. If the policies contain any exclusion concerning property in the care, custody, or control of the insured, an endorsement shall be attached thereto stating such exclusion shall not apply with regard to any liability of Landlord or ODOT. The aforementioned policies shall name Landlord and the State as additional insureds. Tenant shall provide a copy of all policies (or certificates thereof) to Landlord. Tenant shall have the right to provide any of its required coverages through so-called "blanket" or "umbrella" policies that include properties in addition to the Premises. Notwithstanding anything contained in this Section 6.1 to the contrary, and in recognition of the length and number of Renewal Terms, Landlord shall have the right within each notice period for renewal provided by Section 3.4, based on community custom and standards, to reestablish, by written notice to Tenant, minimum insurance amounts in excess of those set forth above in this Section 6.1 and which are consistent with other similar retail properties in the greater Columbus area; provided, however, this adjustment right on the part of the Landlord may only be exercised once per Renewal Term.

6.2 Casualty Insurance: At all times on and after the Commencement Date of the Lease and during the Initial and Renewal Terms, Tenant shall keep the Improvements insured, with financially responsible insurers and licensed to transact insurance business in the State of Ohio, against all loss or damage by fire, vandalism, malicious mischief and all other hazards, risks and perils in respect of which extended coverage and "all risk" insurance is available in an amount equal to at least 90% of the replacement cost of the Improvements.

6.3 Insurance During Construction: During the construction of the Improvements, Tenant shall obtain, at its sole expense, carry and maintain, or cause to be carried and maintained, with financially responsible insurers licensed to transact insurance business in the State of Ohio, Builder's Risk Insurance in the full amount of the cost of the work being performed and comprehensive general public liability insurance against claims for personal injury or death or property damage occurring on or about the Premises and/or the Improvements, with a combined single limit of not less than Five Million Dollars ($5,000,000) per occurrence.

All losses or claims under any policy or policies of insurance required to be carried and maintained by Tenant under this Article shall be adjusted by Tenant; provided that, except for claims under the policies described in Section 6.1, hereof prior to adjustment of any loss or claim in excess of $250,000 adjusted to 2003 Dollars, Tenant must obtain Landlord's written consent thereto, which consent Landlord shall not unreasonably withhold or delay.

6.4 Notice of Cancellation: Each policy of insurance required to be carried and maintained by Tenant under this Article VI shall provide that it cannot be cancelled unless Landlord have been given actual notice of such proposed cancellation at least thirty (30) days prior to such cancellation.

6.5 Evidence of Insurance: Originals, duplicate originals or certificates of each policy of insurance required to be carried and maintained by Tenant or its contractors under this Article VI, and renewal or other policies, as the case may be, or certificates thereof, shall be delivered by Tenant to Landlord promptly upon the issuance or effectuation thereof by the insurer.

6.6 Waiver of Subrogation: Landlord and Tenant each hereby waive any and all right that they may have to recover from the other damages for any loss occurring to them by reason of any act or omission of the other, but only to the extent that the waiving party is actually compensated therefore by insurance; provided that, this waiver shall be effective only with respect to loss or damage occurring during such time as the waiving party's coverage under the appropriate policy of insurance is not adversely affected by this waiver. If, in order to avoid such adverse effect, an endorsement must be added to any insurance policy required hereunder, Landlord and Tenant shall cause such an endorsement immediately to be added and thereafter maintained throughout the Terms of the Lease.

6.7 Casualty Repairs: Tenant shall, at its sole cost and expense, make all repairs and replacements to the Improvements necessitated by damage from any casualty in order to rebuild and restore the Improvements to a quality and condition sufficient to permit the operation of the Improvements. Tenant shall apply all proceeds paid under each fire, extended coverage, "all risk" and builder's risk insurance policy purchased by Tenant as required by Section 6.2 or Section 6.3 of this Lease Agreement for the purposes of making and performing such rebuilding and restoration. If the amount of such insurance proceeds shall be in excess of the cost of such rebuilding and restoration, the excess shall belong to Tenant. In the event of any damage to or destruction or the Improvements in respect of which insurance proceeds are paid, an escrow account shall be established in an interest bearing account under the control of the Leasehold Mortgagee then having a first priority lien on the portion of the Improvements so damaged (or if no such Leasehold Mortgagee exists, such escrow shall be established under the control of Landlord), and all such insurance proceeds shall be paid into such escrow account; provided that, with respect to any loss for which the proceeds are less than $250,000.00 adjusted to 2003 Dollars, such proceeds shall be paid directly to Tenant who shall use the same to accomplish restoration in accordance with its obligations under this Lease Agreement. Any interest earned in respect of the deposit of insurance proceeds to the interest bearing escrow account shall be treated and distributed in the same manner as the insurance proceeds. The insurance proceeds shall be paid from such escrow account from time to time in installments on a stage of completion basis. Upon completion of and payment for all repairs and restorations, Tenant shall cause to be furnished to Landlord appropriate lien waivers and affidavits in respect thereof together with a certificate of final completion prepared by a licensed architect.

Notwithstanding anything contained herein to the contrary: (i) Tenant shall have no obligation to expend sums in excess of the amount of the available insurance proceeds aforesaid to repair and/or replace the Premises and the Improvements in accordance with this Section 6.7, and, Landlord shall not unreasonably withhold its consent to, and shall cooperate with Tenant in connection with, any necessary downsizing or downgrading of the Improvements resulting from the inadequacy of insurance proceedings to accomplish any such repairs or replacements in accordance with this Section 6.7; (ii) in order to ensure the availability of insurance proceeds to accomplish the aforesaid repairs and/or replacements, and as a continuing covenant and obligation of Tenant during the entirety of the Initial and Renewal Terms, Tenant shall cause each and every lender to which Tenant shall give or grant rights, liens or security interests in or to Tenant's interests in the Premises and the Improvements, including, without limitation, each and every Leasehold Mortgage to, in the document(s) pursuant to which said rights, liens, or security interests arise, subordinate (in a manner satisfactory to Landlord) its rights, liens and/or security interests in and to any and all insurance proceeds to the provisions of this Section 6.7 and to agree to make the same available, without encumbrance, for the repair and replacement of the Premises and the Improvements, and, in connection therewith, each and every said lender shall execute and deliver to Landlord such additional writings as Landlord shall from time to time reasonably deem appropriate to confirm the foregoing subordination and agreement; and (iii) if Tenant shall fail or neglect to repair and replace the Premises and the Improvements in the manner described in this Section 6.7, or having so commenced such repair and replacement shall fail to complete the same within a reasonable time after commencement thereof, or if prior to completion of any such repair or replacement this Lease Agreement shall expire or be terminated for any reason, then Landlord shall have the right to use any and all such insurance proceeds to so restore the Premises the Improvements.

ARTICLE VII
Utilities

7.0 Landlord shall be responsible, at Landlord's sole cost and expense, in an amount not to exceed Three Hundred Twenty-Five Thousand Dollars ($325,000) to construct water and sewer utility lines of sufficient capacity to serve the Improvements to the Premises. Tenant shall be responsible, at its cost and expense, for causing all other utility facilities to service the Improvements and for any amount in excess of Three Hundred Twenty-Five Thousand Dollars ($325,000) for the cost bringing sufficient capacity water and sewer lines to the Premises. In the event a certificate of occupancy is not issued for the west Building prior to the fifth (5th) anniversary of the Commencement Date then Tenant shall reimburse Landlord the aforementioned utility costs up to a maximum of $325,000. The plans for the extension of such utilities (including, without limitation, the sizing of the lines and the location to which such lines are brought) shall be subject to the prior written approval of Tenant, such approval not to be unreasonably withheld so long as the design is deemed reasonably adequate to service the intended use of the Improvements. Further provided, should Landlord change the scope of work required in connection with the aforesaid utility construction, and as a result thereof the cost of such work exceeds $325,000, then Landlord and not Tenant shall be responsible for payment of such excess amount.

7.1 Tenant shall contract in its name with relevant utility service providers and shall pay for all charges for gas, water, electricity, storm and sanitary sewer and other utility services furnished to the Premises and, shall pay all fees and services normally charged by the City and other utility providers to tap into or otherwise access utility service. If required by Tenant or any utility service provider, Landlord shall execute such instrument(s) required by such providers as a condition of bringing the applicable utility service to the Premises including, without limitation, easement agreements.

ARTICLE VIII
Real Estate Taxes

8.0 Taxes and Assessments: Commencing on the Commencement Date and continuing at all times thereafter during the Lease Term, Tenant shall be responsible for and shall pay not later than the final date for payment without penalty all intangible, sales, personal property, and real estate taxes and assessments, both general and special, and all other charges of any kind levied, assessed, charged, taxed or imposed by any governmental authority upon or in respect of the Premises and Platforms during the Term of this Lease Agreement, and to the extent not exempt the Improvements and/or the Fixtures ("Tax" or "Taxes"). Tenant acknowledges that: (a) but for this Lease Agreement the Platforms and Premises would be exempt from Taxes; (b) this Lease Agreement will cause Landlord to lose the tax exemption, effective as of the first January 1 during the Initial Term; (c) Landlord will be ineligible to apply for restoration of the exemption until the January 1 following the later of termination or expiration of the Term or any holding over by Tenant; (d) Landlord will incur expense in applying for restoration of the exemption; (e) Taxes for the full calendar year in which the Term ends or during which any holding over occurs, whichever is later, will become due and payable at one or more times following the termination or expiration of the Lease Agreement; and (f) Taxes payable during or in respect of the final year of the Term or any holding over shall not be prorated. Tenant's obligations under this Article 8 shall survive the Term as to any Taxes in respect of tax years falling in whole or in part within the Term, including any taxes payable in installments, regardless of the date that the final installment is payable.

8.1 Exemption from Certain Taxes: Landlord and Tenant each shall cooperate and use their best efforts to claim and enjoy the exemption from taxation afforded the Improvements by separate agreement to be entered into between Landlord and Tenant. In the event the tax abatement agreement with the City is not executed prior to Commencement of Construction of the Buildings then Tenant may terminate this Lease Agreement.

8.2 Right to Contest Taxes or Other Charges: Tenant may (but shall not be required to) contest in its name or in the name of Landlord the amount or validity of any Taxes which Tenant is required to pay as provided in this Article 8, or apply for the reduction thereof. Promptly after its receipt of the same from the appropriate governmental authorities, Landlord shall deliver to Tenant the originals of any and all statements, bills and notices in respect of Taxes to be paid by Tenant as provided in this Article 8. Additionally, Landlord shall use its best efforts to notify (or shall make all necessary arrangements to have the appropriate governmental authorities notify) Tenant of any new or increased Taxes of which Landlord has actual knowledge and which Tenant is obligated to pay under this Article 8 of this Lease Agreement within sufficient time to permit Tenant to contest or appeal the same or to seek reassessment in respect thereof. Landlord shall, upon request by Tenant, execute or join in executing all such documents as are necessary or desirable in connection with any such contest or appeal, and Landlord shall, upon request by Tenant and at Tenant's sole cost and expense, join and actively participate in prosecuting any such proceeding.

8.3 Tax and other Statements: Landlord and Tenant shall make all necessary arrangements to have the appropriate governmental authorities send directly to Tenant all pertinent statements and bills in respect of Taxes to be paid by Tenant as provided in this Article 8 of this Lease Agreement, and Tenant shall promptly furnish to Landlord written evidence of the payment by Tenant of any all such statements and bills.

ARTICLE IX
Ownership of Improvements and Fixtures

9.1 During the Lease Term the Improvements and the Fixtures shall be real and personal property of Tenant.

9.2 The Improvements and Fixtures shall (automatically and without further act by Tenant or Landlord or any other person) become the property of Landlord upon the expiration or sooner termination of the Lease Term and promptly after expiration or sooner termination of the Lease Term, Tenant shall execute and deliver to Landlord such deeds, bills of sale, assignments and/or other instruments of conveyance and/or transfer as Landlord may reasonably request to evidence, confirm and effect the conveyance to Landlord of Tenant's right, title and interest in and to the Premises, the Improvements and the Fixtures, free and clear of all defects, leases, liens and mortgages. Tenant shall have no obligation to remove the Improvements or the Fixtures at any time during the Lease Term or upon expiration or termination thereof.

ARTICLE X
Liens

10.1 Removal of Liens: If (notwithstanding other provisions of this Lease Agreement) Tenant's leasehold interest in the Premises shall at any time during the Lease Term, become subject to any vendor's, mechanic's, laborer's materialmen's or other similar lien based upon the furnishing of materials, fuel, machinery, supplies or labor to the Improvements or to the Premises by or on behalf of Tenant, or to Tenant and not expressly contracted for in writing by Landlord, or if any lien shall be asserted against the Premises and/or Landlord's interest therein, then (i) except in situations wherein the lien is and remains properly asserted (as reasonably determined by Landlord and Tenant) solely against the leasehold estate of any of Tenant or any subtenant, licensee or concessionaire, Tenant shall, within forty-five (45) days after Landlord's request and at Tenant's sole cost and expense, cause any claims or liabilities arising out of any such lien(s) to be insured against, for the benefit of Landlord, on any policy of title insurance then existing in favor of Landlord in respect of the Premises and (ii) Tenant shall cause any such liens to be discharged at its sole cost and expense within thirty (30) days after Tenant shall have notice of the existence of any suit, action or other proceeding to foreclose the lien or to seek execution upon the Improvements or the Premises, unless such lien and the claim occasioning it both are contested or litigated in good faith by Tenant, at its sole cost and expense, a bond (with surety) sufficient to insure that , upon final determination of the validity of such lien or claim, any final judgment rendered against Tenant and/or Landlord together with all related costs and charges, will be fully paid.

10.2 Liens Prohibited: Nothing in this Lease Agreement shall be construed as constituting the express or implied consent or request of Landlord to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials, fuel, machinery or supplies or any specific improvement, alteration of or repair to the Improvements, the Premises or any improvement thereto, nor as giving Tenant any right, power or authority to act as agent of Landlord or to contract for, or to permit the performance or furnishing of, any labor, materials, fuel, machinery or supplies on any basis which would entitle any person to assert and/or perfect a mechanic's lien or other claim encumbering the Premises and/or the interests of Landlord in the Premises. During construction of the Improvements, Landlord may (but shall not be required to) post and maintain at the Premises any notices, which Landlord may deem appropriate for the protection of the Premises from efforts by others to perfect or assert mechanics' liens or other claims in respect of the Premises.

ARTICLE XI
Condemnation

11.1 Total Condemnation: If all of the Premises and the Improvements are taken by any condemning authority under the power of eminent domain or otherwise or by any purchase or other acquisition in lieu of eminent domain or otherwise (a "Total Take"), this Lease Agreement and the Lease Term shall terminate as of the date when possession of the Premises and/or the Improvements is required by the condemning authority.

11.2 Partial Condemnation: If only a part of the Premises and/or the Improvements are taken by any condemning authority under the power of eminent domain or otherwise or by any purchase or other acquisition in lieu of eminent domain or otherwise (a "Partial Take"), and if such Partial Take results in an interference with the operation of the Premises or the Improvements which is also substantial as to render its further operation economically or physically impractical, as reasonably determined by Tenant, Tenant shall have the option, exercisable by written notice to Landlord within six (6) months after Landlord gives Tenant written notice of the Partial Take:

(A) To terminate this Lease Agreement and the Lease Term in which event the Lease Term shall terminate as of the date when possession of that portion of the Premises or the Improvements so taken is required by the condemning authority; or in the alternative,

(B) To permit this Lease Agreement to continue in full force and effect except with respect to that portion of the Premises or the Improvements which are the subject of the Partial Take.

Tenant's failure to exercise its option as foresaid within the prescribed time period shall be deemed to be an election of the option set forth in clause (B) above.

In the event of a Partial Take which does not result in a termination of this Lease Agreement, this Lease Agreement shall continue in full force and effect except with respect to that portion of the Premises or the Improvements which are the subject of the Partial Take.

11.3 Distribution of Condemnation Proceeds: In the event of a Partial Take, and whether or not this Lease Agreement is thereupon terminated pursuant to the provisions of Section 11.2 hereof, Tenant shall be entitled to receive the entire appropriation award or condemnation proceeds paid by the condemning authority with respect to the value of the Improvements so taken, with the balance of the award belonging to Landlord. In the event of a Total Take, or Partial Take resulting in an uneconomic remnant, than such event shall be deemed a sale and the proceeds distributed in accordance with Article II hereof. Notwithstanding the possibility of termination of this Lease Agreement under this Article 11, nothing contained in Sections 11.1 or 11.2 of this Lease Agreement shall be construed to terminate or eliminate

Tenant's right upon any Total Take or Partial Take to share in any appropriation award or condemnation proceeds in the manner prescribed in this Section 11.3.

ARTICLE XII
Assignment and Subletting

12.1 Assignment: With the exception of any leasehold mortgage permitted under this Lease Agreement, prior to completion of the original construction of the Improvements, Tenant shall not assign this Lease Agreement or its rights in or to the Premises or the Improvements or under this Lease Agreement, without the express written consent of Landlord, which consent shall not be unreasonably withheld, delayed or conditioned. Following completion of such original construction, Tenant may, from time-to-time and without notice to or the consent of Landlord, assign its interest as Landlord under this Lease, if such assignment is to an affiliate of the Tenant. No assignment by Tenant, whether or not the consent of Landlord is required hereunder, shall release Tenant from any of its obligations under this Lease Agreement.

12.2 Subletting: Tenant shall have the right to sublease all or any part of the Premises or the Improvements, from time to time or at any time, without the consent of Landlord. No subletting by Tenant hereunder shall release Tenant from any of its obligations under this Lease Agreement and all subleases of any part of the Premises or the Improvements shall be and be deemed at all times to be subject and subordinate to the terms and conditions of this Lease Agreement and shall contain and be deemed to contain provisions whereby the subtenant agrees to attorn to and accept as its landlord, Landlord, in the event that Tenant shall default in its obligation under, and trigger the termination of, this Lease Agreement; provided that, for so long as any such subtenant shall not be in default of its obligations under its duly and properly created sublease, Landlord shall not disturb said subtenant's possession, use or enjoyment of the Premises or the Improvements. At Tenant's request, Landlord, Tenant and the subtenant shall execute and deliver a non-disturbance and attornment agreement in a form reasonably acceptable to Landlord, Tenant and such subtenant so as to confirm the non-disturbance and attornment provided for in this Lease Agreement.

ARTICLE XIII
Default; Termination

13.1 Default by Tenant: Tenant shall create an event of default under this Lease Agreement if:

(A) Tenant shall fail to pay any installment of Rent, or other amounts required to be paid or expended by it under the provisions of this Lease Agreement or any other document executed or delivered in connection herewith, including, but not limited to, Taxes, insurance premiums and/or costs of indemnity required to be paid by Tenant, when the same shall become due for payment and if such default shall remain uncured for more than thirty (30) consecutive calendar days after written notice of such default shall have been given to Tenant by Landlord; or

(B) Tenant shall fail to perform to comply with any material non-monetary obligation of Tenant under this Lease Agreement and if Tenant shall not commence the correction of such default within thirty (30) days after notice of such default from Landlord and shall not complete such correction within a reasonable time; or

(C) Tenant shall make an assignment for the benefit of creditors, or if Tenant's interest in the Premises, the Improvements and/or the Fixtures is sold upon execution or other legal process; or

(D) Tenant shall suffer a receiver to be appointed in any action or proceeding by or against Tenant and such appointment is not stayed or discharged within ninety (90) days after the commencement thereof, or if Tenant is a debtor in any insolvency proceeding conducted pursuant to the laws of any state or of a political subdivision of any state and such proceeding is not stayed or discharged within ninety (90) days after the commencement thereof, or if Tenant shall be or become, either voluntarily or involuntarily, a debtor in any case commenced under the provisions of the U.S. Bankruptcy Code, as amended, and such case is not stayed or discharged within ninety (90) days after the commencement thereof; or

(E) Tenant shall abandon the Premises for a period of time in excess of ninety (90) consecutive days, excluding periods of abandonment due to force majeure.

13.2 <u>Rights of Landlord upon Tenant's Default</u>: If Tenant shall create or suffer an event of default under this Lease Agreement, Landlord shall have the right, by giving an Election Notice as prescribed in Section 13.3 hereof, to elect:

(A) Without canceling or terminating this Lease Agreement or the Lease Term, to repossess the Premises, and to possess the Improvements, and each and every part thereof and to expel Tenant therefrom. Neither such termination of the right of Tenant to occupy the Premises and the Improvements, nor such repossessions and possessions by Landlord, shall relieve Tenant from its obligations to pay Rent and all amounts payable by Tenant under the terms of this Lease Agreement and/or to perform and observe all the obligations of Tenant under this Lease Agreement; and/or

(B) To cancel and terminate this Lease Agreement and the Lease Term at any time (including any time after Landlord has terminated the right of Tenant to possession only of the Premises and of the Improvements as provided in Subsection 13.2(A) of this Lease Agreement), and to collect from Tenant without demand therefore any and all amounts of Rent and all other amounts payable by Tenant under the terms of this Lease Agreement and accruing through the date of such termination; but

(C) Nothing contained in this Section 13.2 is intended to or shall permit or authorize Landlord to expel any subtenant from the Premises or the Improvements so long as said subtenant is not in default of its obligations under the subtenant's sublease.

13.3 <u>Election Notice</u>: Landlord may elect to exercise the rights afforded to it under Section 13.2 of this Lease Agreement only by giving notice of such election (each an "Election Notice"), in addition to any notice provided for under Section 13.1 of this Lease Agreement, to:

(A) Tenant; and

(B) To each Leasehold Mortgagee of Tenant (at the address for each such Leasehold Mortgagee as theretofore provided in writing to Landlord in accordance with Section 19(b)(ii) hereof).

ARTICLE XIV
Plenary Right to Cure Certain Defaults

14.1 Landlord's Rights: If Tenant shall create or suffer an event of default under Section 13.1 of this Lease Agreement, Landlord may (but shall not be required to) cure such default on behalf of Tenant (without thereby waiving any of the rights otherwise afforded to Landlord under Article 13 of this Lease Agreement by reason of such default), and the amount of the reasonable cost to Landlord of curing any such default shall be paid by Tenant to Landlord on demand, together with interest thereon at the rate of 10% per annum, or at the maximum rate of interest permitted by law, if less than 10% per annum, from the date or dates of payment thereof by Landlord.

ARTICLE XV
Quiet Enjoyment, Title and Title Insurance

15.1 Quiet Enjoyment: Landlord covenants with and warrants and represents to Tenant that, so long as Tenant is not in default hereunder, Tenant shall at all times during the Lease Term subsequent to the Commencement Date peaceably and quietly have, hold, occupy and enjoy the Premises without hindrance or molestation by Landlord and/or by any Person claiming rights in respect of the Premises, other than rights created by Tenant. Landlord's covenant herein shall include, without limitation, the obligation, at Landlord's sole cost, to promptly and diligently take all actions (including use the City's power of eminent domain, if necessary), to appropriate all fee simple interests from owners of all or any portion of the Premises including, without limitation, those interests as are identified on Attachment "D" to this Lease Agreement. Tenant acknowledge that Landlord's acts of enforcing any City, State, or Federal health, zoning building, fire and any other codes, laws or regulations which Landlord normally enforces in the exercise of police powers conferred upon it by the constitution and laws of the State of Ohio and the charter and ordinances of the City of Columbus against the Premises or Tenant shall not constitute "hindrance or molestation by Landlord" as that phrase is used in this Section 15.1 of this Lease Agreement. Landlord further acknowledges that the Premises are subject to the terms and conditions of the ODOT Permit and that termination of the ODOT Permit for reasons other than non-compliance with the obligations of the City thereunder shall not constitute a breach of the covenant set forth in this Section 15.1. Landlord hereby covenants and agrees that it shall not modify, amend or terminate the ODOT Permit without the written consent of Tenant, which consent Tenant may withhold in its sole and absolute discretion.

ARTICLE XVI
Notices and Payments

16.1 Addresses for Payments and Notices: All payments of Rent and other payments, if any, required to be made by Tenant under the provisions of this Lease Agreement, and all notices and other communications required or permitted to be given or delivered under this Lease Agreement to Landlord or to Tenant (which notices or communications must be in writing), shall either be (i) delivered personally or (ii) placed in the US Mail, Certified Mail, Return Receipt Requested, addresses as follows:

(A) If to Landlord, to:

Director of Development
50 W. Gay Street
Columbus, OH 43215

With a copy (except as to payments) to:

City Attorney of Columbus
City Hall, 90 W. Broad Street
Columbus, OH 43215

(B) If to Tenant, to:

670 Cap Partners, Ltd.
c/o Continental Real Estate Companies
150 East Broad Street, Suite 800
Columbus, OH 43215
Attn: Jonathan E. Kass

Any payment or notice delivered personally shall be deemed to have been given and delivered when so personally delivered. Any payment or notice mailed as aforesaid shall be deemed to have been given and delivered upon receipt by the party to whom such payment or notice is addressed.

16.2 Landlord and Tenant may, by notice received by each other party, from time to time and at any time designate a different address for the making of payments or the giving of notices or other communications required or permitted to be given to the party designating such new address.

ARTICLE XVII
Compliance with Laws

17.1 Prevailing Wages: All persons working under construction contracts awarded by Tenant or contractors employed by it for the Improvements, shall be paid the prevailing wages rate for the particular classification which describes their work in accordance with Chapter 4115 of the Revised Code of Ohio.

17.2 General Compliances: At all times during the Lease Term, Tenant shall in respect of this Lease Agreement and its use and occupancy of the Premises, the Improvements and the Fixtures comply with all applicable federal, state, and local laws, codes, ordinances, rules and regulations.

17.3 Incorporation of Provisions of Law: Each and every provision required by applicable federal, state, or local laws, codes, ordinances, rules and regulations to be included in this Lease Agreement shall be deemed to be incorporated herein my reference and included in this Lease Agreement, and if this Lease Agreement shall be read, construed and enforced as though each such provision were set forth herein and if, through mistake, inadvertence, or otherwise, any such provision or clause is not included herein or is incorrectly set forth herein, this Lease Agreement shall nevertheless be read, construed, and enforced as though such provision were correctly set forth herein.

17.4 City Income Taxes: Tenant will withhold, and will require subtenants to withhold, all city income taxes due or payable under the provisions of Chapter 361, Columbus City Code. 1959, for wages, salaries and commissions paid to their employees.

ARTICLE XVIII
Miscellaneous

18.1 Recording. This Lease Agreement shall not be recorded, but a memorandum of lease, describing the premises herein demised, giving the term of this Lease Agreement and referring to this Lease Agreement, may be recorded by either party. All governmental charges attributable to the execution or recording of such memorandum of lease shall be charged to and paid by the party requesting such memorandum.

18.2 Estoppel Certificate: At any time and from time to time, upon written request from Tenant, Landlord agrees to execute, acknowledge, and deliver to Tenant or to the holder of any mortgage that is a lien on Tenant's leasehold estate in and to the Premises, a statement in writing, in form and substance reasonably satisfactory to Tenant and its mortgagee, certifying all or any part of the following information as Tenant reasonably requests: (i) that this Lease Agreement constitutes the entire agreement between Landlord and Tenant and is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications); (ii) the dates to which rents and other charges hereunder have been paid, and the amount of any security deposited with Landlord; (iii) that the Premises have been completed on or before the date of such statement and that all conditions precedent to this Lease Agreement taking effect have been carried out or stating otherwise; (iv) that Tenant has accepted possession, the term of this Lease Agreement has commenced, and Tenant is occupying the Premises; (v) that Landlord knows of no default under this Lease by Tenant and there are no defaults or offsets that Tenant has against enforcement of this Lease by Landlord or stating same: (vi) the Commencement Date and Expiration Date of this Lease; and (vii) that the Premises are open for business.

18.3 Force Majeure: If Landlord or Tenant is delayed or prevented from performing any of their respective obligations during the term of this Lease Agreement because of acts of God, war, riots, shortages of labor or material or any other causes that are reasonably beyond their control, then the period of any such delay shall be added to the time herein provided for the performance of any such obligation and the defaulting party shall not be liable for losses or damages caused by such delay; provided, however, that this Section 18.3 shall not apply to the payment of any sums of money required to be paid by Tenant hereunder or any obligation of Landlord or Tenant that can be satisfied by the payment of money.

ARTICLE XIX
Leasehold Mortgagee Provisions

19.1 Leasehold Mortgagee Provisions:

(a) Encumbrance of Tenant's Estate. Tenant shall have the right to encumber Tenants's estate or any portion thereof or interest therein pursuant to one or more Mortgages ("Permitted Mortgages").

(b) Mortgagee Protections. Landlord hereby covenants and agrees to faithfully perform and comply with the following provisions with respect to each Permitted Mortgage:

(i) No Cancellation or Modification. No action by Tenant or Landlord to cancel, surrender, or materially modify the terms of this Lease shall be binding upon a mortgagee under a Permitted Mortgage ("Mortgagee") without its prior written consent.

(ii) Notices. If Landlord shall give any notice, demand, election or other communication which may adversely affect the security for a Permitted Mortgage, including without limitation a notice of an event of default hereunder (hereinafter collectively "Notices"), to Tenant hereunder, Landlord shall simultaneously give a copy of each such Notice to the Mortgagee at the address theretofore designated by it. No Notice given by Landlord to Tenant shall be binding upon or affect said Mortgagee unless a copy of said Notice shall be given to Mortgagee pursuant to this Section. In the case of an assignment of such Permitted Mortgage or change in address of such Mortgagee, said assignee or Mortgagee, by written notice to Landlord, may change the address to which such copies of Notices are to be sent. Landlord shall not be bound to recognize any assignment of such Permitted Mortgage unless and until Landlord shall be given written notice thereof, a copy of the executed assignment, and the name and address of the assignee. Thereafter, such assignee shall be deemed to be the Mortgagee hereunder with respect to the Permitted Mortgage being assigned.

(iii) Performance of Covenants. The Mortgagee shall have the right to perform any term, covenant or condition and to remedy any default by Tenant hereunder within the time periods specified herein, and Landlord shall accept such performance with the same force and effect as if furnished by Tenant; provided, however, that said Mortgagee shall not thereby or hereby be subrogated to the rights of Landlord.

(iv) Default by Tenant. In the event of an event of default by Tenant in the payment of any monetary obligation hereunder, Landlord agrees not to terminate this Lease unless and until Landlord provides written notice of such event of default to any Mortgagee and such Mortgagee shall have failed to cure such event of default within thirty (30) days following delivery of such notice. In the event of an event of default by Tenant in the performance or observance of any non-monetary term, covenant, or condition to be performed by it hereunder, Landlord agrees not to terminate this Lease unless and until Landlord provides written notice of such event of default to any Mortgagee and such Mortgagee shall have failed to cure such event of default within sixty (60) days following the expiration of any grace or cure periods granted Tenant herein; provided, however, if such event of default cannot practicably be cured by the Mortgagee without taking possession of the Premises, or if such event of default is not susceptible of being cured by the Mortgagee, then Landlord shall not terminate this Lease if and as long as:

(A) In the case of an event of default which cannot practicably be cured by the Mortgagee without taking possession of the Premises, the Mortgagee has delivered to Landlord, prior to the date on which Landlord shall be entitled to give notice of lease termination, a written undertaking wherein the Mortgagee agrees that it will cure such event of default;

(B) In the case of an event of default which cannot practicably be cured by the Mortgagee without taking possession of the Premises, said Mortgagee shall proceed diligently to obtain possession of the Premises as Mortgagee (including possession by receiver), and, upon obtaining such possession, shall proceed diligently to cure such event of default in accordance with the undertaking delivered pursuant to Subsection (i) above but in no event later than 180 days after obtaining possession; and

(C) In the case of an event of default which is not susceptible to being cured by the Mortgagee (for example, the insolvency of Tenant), the Mortgagee shall institute foreclosure proceedings and diligently prosecute the same to completion (unless in the meantime it shall acquire Tenant's Estate hereunder, either in its own name or through a nominee, by assignment in lieu of foreclosure) and, upon such completion of foreclosure or acquisition, such event of default shall be deemed to have been cured.

The Mortgagee shall not be required to obtain possession or to continue in possession as Mortgagee of the Premises pursuant to Subsection (B) above, or to continue to prosecute foreclosure proceedings pursuant to Subsection (C) above, if and when such event of default shall be cured. Nothing herein shall preclude Landlord from exercising any of its rights or remedies with respect to any other event of default by Tenant during any period of such forbearance, but in such event the Mortgagee shall have all of its rights provided for herein. If the Mortgagee, its nominee, or a purchaser in a foreclosure sale, shall acquire title to Tenant's estate hereunder and shall cure all events of default which are susceptible of being cured by the Mortgagee or by said purchaser, as the case may be, then prior events of default which are not susceptible to being cured by the Mortgagee or by said purchaser shall no longer be deemed events of default hereunder.

(v) Foreclosure. Foreclosure of any Permitted Mortgage, or any sale thereunder, whether by judicial proceedings or by virtue of any power contained in the Permitted Mortgage, or any conveyance of the leasehold estate hereunder from Tenant to any Mortgagee or its designee through, or in lieu of, foreclosure or other appropriate proceedings in the nature thereof, shall not require the consent of Landlord or constitute a breach of any provision of or a default under this Lease, and upon such foreclosure, sale or conveyance Landlord shall recognize the Mortgagee or such designee as the Tenant hereunder. If any Mortgagee or other third party shall acquire Tenant's estate as a result of a judicial or non-judicial foreclosure under any Permitted Mortgage, or by means of a deed in lieu of foreclosure, or through settlement of or arising out of any pending or contemplated foreclosure action, such Mortgagee or such other third party purchaser shall thereafter have the right to further assign or transfer Tenant's estate to an assignee upon obtaining Landlord's consent with respect thereto, which consent shall not be unreasonably withheld or delayed. Upon such acquisition of Tenant's estate as described in the preceding sentence by Mortgagee or its designee, Landlord shall immediately execute and deliver a new lease of the Premises to such Mortgagee, upon the written request therefore by such Mortgagee given not later than one hundred twenty (120) days after such party's acquisition of the Tenant's estate. Such new lease shall be substantially similar in form and content to the provisions of this Lease, except with respect to the parties thereto, the term thereof (which shall be co-extensive with the remaining term hereof), and the elimination of any requirements which have been fulfilled by Tenant prior thereto, and such new lease shall have priority equal to the priority of this Lease. Upon execution and delivery of such new ground lease, Landlord shall cooperate with the new Tenant, at the sole expense of said new

Tenant, in taking such action as may be necessary to cancel and discharge this Lease and to remove Tenant named herein from the Premises.

(vi) New Lease. Landlord agrees that in the event of termination of this Lease by reason of any event of default by Tenant, or by reason of the disaffirmance hereof by a receiver, liquidator or trustee for Tenant or its property, Landlord will enter into a new lease of the Premises with the most senior Mortgagee requesting a new lease for the remainder of the Initial Term, effective as of the date of such termination, at the rent, and upon the terms, provisions, covenants and agreements as herein contained and subject to the rights, if any, of any parties then in possession of any part of the Premises, provided:

(A) The senior Mortgagee shall make written request upon Landlord for the new lease within sixty (60) days after the date of termination:

(B) The senior Mortgagee shall pay to Landlord at the time of the execution and delivery of the new lease any and all sums which would, at the time of the execution and delivery thereof, be due and unpaid pursuant to this Lease but for its termination, and in addition thereto any expenses, including reasonable attorneys' fees, to which Landlord shall have been subjected by reason of the event of default;

(C) The senior Mortgagee shall perform and observe all covenants herein contained on Tenant's part to be performed which are susceptible to being performed by the senior Mortgagee, and shall further remedy any other conditions which Tenant under the terminated Lease was obligated to perform under its terms, to the extent the same are curable or may be performed by the senior Mortgagee; and

(D) The Tenant under the new lease shall have the same right, title and interest in and to all improvements located on the Premises as Tenant had under the terminated Lease immediately prior to its termination.

(E) Notwithstanding anything to the contrary expressed or implied elsewhere in this Lease, any new lease made pursuant to this subsection, shall be prior to any Permitted Mortgage or other lien, charge or encumbrance on the Premises, to the same extent as the terminated Lease, and shall be accompanied by a conveyance of title to the existing improvements (free of any mortgage, deed of trust, lien, charge, or encumbrance created by Landlord) for a term of years equal to the term of the new lease, subject to the reversion in favor of Landlord upon expiration or sooner termination of the new lease. The rights granted any Mortgagee to a new lease shall survive any termination of this Lease.

(F) If a Mortgagee shall elect to demand a new lease under this subsection, Landlord agrees, at the request of the Mortgagee, to institute and pursue diligently to conclusion any appropriate legal remedy or remedies to oust or remove the original tenant from the Premises, or any part thereof.

(vii) No Obligation to Cure. Nothing herein contained shall require any Mortgagee to enter into a new lease pursuant to subsection (vi) above, or to cure any default of Tenant referred to above.

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

The foregoing instrument was acknowledged before me this 19th day of March, 2003 by Mark Barbash, Dir., the Dept. of Development of City of Columbus, Ohio, a municipal corporation, for and on behalf of the corporation.

Jean C Cocroft
Notary Public

My commission expires: June 17, 2004

NOTARIAL SEAL STATE OF OHIO
JEAN C. COCROFT
Notary Public, State of Ohio
My Commission Expires

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

The foregoing instrument was acknowledged before me this 21st day of March, 2003 by Jonathan E. Kass, President of 670 Cap Partners, Ltd., an Ohio limited liability company, for and on behalf of the company.

Nannette C Buel
Notary Public

My commission expires: ________

NOTARIAL SEAL STATE OF OHIO
NANNETTE C. BUEL
Notary Public, State of Ohio
My Commission Expires 10-01-04

ATTACHMENT A

LEGAL DESCRIPTION OF FEE SIMPLE TITLE UNDERLYING THE PREMISES

PARCEL I (WESTSIDE):

SITUATED IN THE STATE OF OHIO, COUNTY OF FRANKLIN AND CITY OF COLUMBUS AND DESCRIBED AS FOLLOWS:

BEING LOTS NUMBERED ONE (1) THROUGH ELEVEN (11) INCLUSIVE OF FREDERICK MICHEL'S AMENDED SUBDIVISION OF THE CAPITAL UNIVERSITY ADDITION TO SAID CITY, AS THE SAME ARE NUMBERED AND DELIENATED UPON THE RECORDED PLAT THEREOF, OF RECORD IN PLAT BOOK 3, PAGE 45, RECORDER'S OFFICE, FRANKLIN COUNTY, OHIO.

PARCEL II (EASTSIDE):

SITUATED IN THE STATE OF OHIO, COUNTY OF FRANKLIN AND CITY OF COLUMBUS AND DESCRIBED AS FOLLOWS:

BEING LOTS NUMBERED SIX (6) THROUGH TEN (10) INCLUSIVE OF WILLIAM NEIL'S ADDITION TO SAID CITY, AS THE SAME ARE NUMBERED AND DELIENATED UPON THE RECORDED PLAT THEREOF, OF RECORD IN PLAT BOOK 1, PAGE 170, RECORDER'S OFFICE, FRANKLIN COUNTY, OHIO.

EXCEPTING THEREFROM A STRIP OF GROUND TEN (10) FEET WIDE TAKEN OFF OF THE ENTIRE WEST END THEREOF FOR THE PURPOSE OF WIDENING NORTH HIGH STREET.

ATTACHMENT A-1

DESCRIPTION OF PREMISES

The "Premises", as defined, in the Lease, shall consist of the lease areas described by metes and bounds legal description and map on pages 2 and 3 of this Attachment A-1, which Premises: (i) except as provided in item 3 below, lie wholly within the areas described in Attachment A to this Lease; and (ii) are limited to the following:

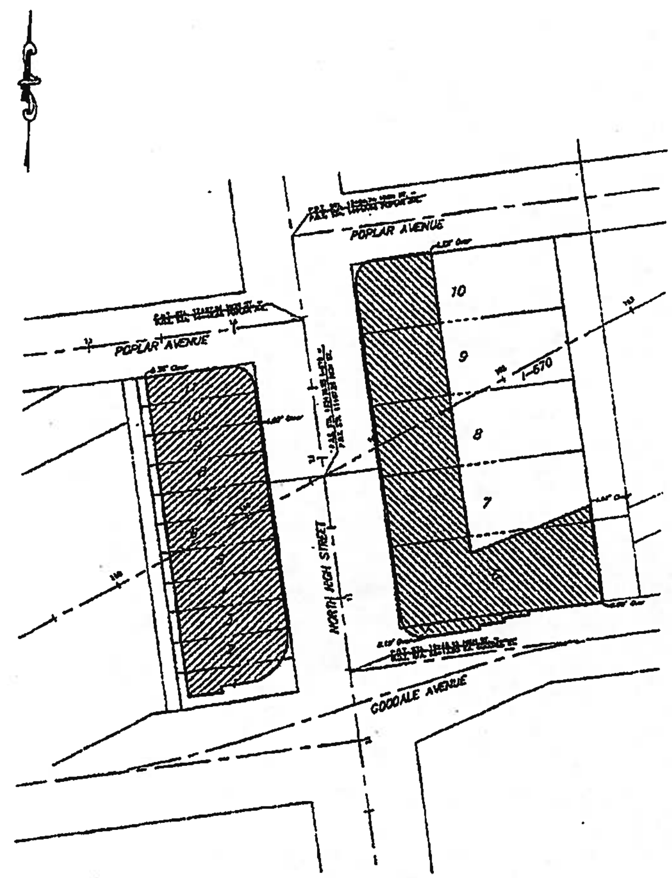
1. The Platforms, and the right to use the Platforms for the purposes contemplated by the Lease including, without limitation, the right to use the surface of the Platforms, the air space above the Platforms, the utility channels within the Platforms, and the right to penetrate the Platforms as needed to place and maintain the Improvements upon the Platforms.

2. Those portions of the Premises which abut the Platforms and upon which no portion of the paved roadway commonly known as Interstate 670 is situated.

3. Those portions of the Premises which encroach onto Poplar Avenue and onto Goodale Avenue, as depicted on pages 2 and 3 of this Attachment A-1.

SURVEY EXHIBIT OF I-670 CAP

lying in
Section 8, Township 5, Range 22
Refugee Lands
and being
LOT NOS. 1-11, FREDERICK MICHEL'S AMENDED SUBDIVISION OF THE
CAPITAL UNIVERSITY ADDITION TO SAID CITY, PLAT BOOK 3, PAGE 45 &
LOT NOS. 6-10, WILLIAM NEIL'S ADDITION TO SAID CITY, PLAT BOOK 1, PAGE 170
CITY OF COLUMBUS, FRANKLIN COUNTY, OHIO



NOT TO SCALE (Reduced to 64.7%)

■ = MON. FND.
● = I.P. FND.
○ = I.P. SET
● = MAG. NAIL FND.
○ = MAG. NAIL SET
▲ = R.R. SPK. FND.
△ = R.R. SPK. SET
● = P.K. NAIL FND.

I.P.S Set are 13/16" I.D. Iron pipe W/ cap inscribed EMH&T.

Lease Area – Building A

Lease Area – Building B

Lease Area High Street Cap
Building "A"

Situated in the State of Ohio, County of Franklin, City of Columbus, lying in Section 8, Township 5, Range 22, Refugee Lands and being part of Lot Nos. 1 through 11 of "Frederick Michel's Amended Subdivision of the Capital University Addition to said City", a subdivision of record in Plat Book 3, Page 45 and being a leased area above elevation 751.0 (North American Vertical Datum of 1988) across I-670 at North High Street said lease area being bound and described as follows:

Beginning at the intersection of North High Street and I-670;

Thence, S 81° 41' 22" W, 39.00 feet to the True Place of Beginning;

Thence, S 8° 18' 38" E, 104.64 feet;

Thence, with a curve to the right, having a radius of 32.14 feet, a chord which bears S 36° 41' 22" W, 45.45 feet;

Thence, S 81° 41' 22" W, 17.50 feet;

Thence, S 8° 18' 38" E, 5.00 feet;

Thence, S 81° 41' 22" W, 23.28 feet;

Thence, N 8° 18' 38" W, 227.15 feet;

Thence, N 81° 41' 22" E, 57.62 feet;

Thence, with a curve to the right, having a radius of 15.00 feet, a chord which bears S 53° 18' 38" E, 21.21 feet;

Thence, S 8° 18' 38" E, 70.17 feet to the True Place of Beginning containing 0.376 Acres (16,377 square feet) more or less. This description was prepared by Jeffrey C. LaVally, Ohio Surveyor # 7743 for the City of Columbus, City Attorney's Office Real Estate Division.

The Basis of Bearings is the centerline of North High Street being N 8° 18' 38" W and all other bearings based upon this meridian.

Lease Area High Street Cap
Building "B"

Situated in the State of Ohio, County of Franklin, City of Columbus, lying in Section 8, Township 5, Range 22, Refugee Lands and being part of Lot Nos. 6 through 10 and part of the Poplar Avenue right-of-way and part of the Goodale Avenue right-of-way as delineated in "William Neil's Addition to said City", a subdivision of record in Plat Book 1, Page 170, and being a leased area above elevation 751.0 (North American Vertical Datum of 1988) across I-670 at North High Street said lease area being bound and described as follows:

Beginning at the intersection of North High Street and I-670;

Thence, N 81° 41' 22" E, 39.00 feet to the True Place of Beginning;

Thence, N 8° 18' 38" W, 130.77 feet;

Thence, with a curve to the right, having a radius of 15.00 feet, a chord which bears N 36° 41' 22" E, 21.21 feet;

Thence, N 81° 41' 22" E, 37.92 feet;

Thence, S 8° 18' 38" E, 214.92 feet;

Thence, N 85° 23' 42" E, 68.14 feet;

Thence, S 8° 18' 38" E, 68.58 feet;

Thence, S 85° 41' 22" W, 50.85 feet;

Thence, S 8° 18' 38" E, 2.50 feet;

Thence, S 81° 41' 22" W, 17.50 feet;

Thence, S 8° 18' 38" E, 2.50 feet;

Thence, S 81° 41' 22" W, 17.50 feet;

Thence, S 8° 18' 38" E, 2.50 feet;

Thence, S 81° 41' 22" W, 37.09 feet;

Thence, with a curve to the right, having a radius of 15.00 feet, a chord which bears N 53° 18' 38" W, 21.21 feet;

Thence, N 8° 18' 38" W, 106.98 feet to the True Place of Beginning containing 0.437 Acres (19,030 square feet) more or less. This description was prepared by Jeffrey C. LaVally, Ohio Surveyor # 7743 for the City of Columbus, City Attorney's Office Real Estate Division.

The Basis of Bearings is the centerline of North High Street being N 8° 18' 38" W and all other bearings based upon this meridian.

Certification:

This is to certify, to the best of my knowledge, information and belief, that the lease area for Building A falls completely within Parcel I (Westside) and that the lease area for Building B falls partly within Parcel II (Eastside) and partly within the rights-of-way of Goodale Avenue and Poplar Avenue, as supplied in Title Commitment No. 00061820 prepared by Chicago Title Insurance Company with an effective date of December 2, 2002 at 7:00 am

E.M.H.T., Inc.

Registered Surveyor No. 7840 Date

Surveyed & Prepared
By
EVANS, MECHWART, HAMBLETON & TILTON INC.
CONSULTING ENGINEERS & SURVEYORS
170 MILL STREET
GAHANNA, OHIO 43230
614/471-5150

SCALE: 1" = 50' DATE: MARCH 10, 2003

ATTACHMENT B

COPY OF THE ODOT PERMIT