

Deborah M. Perry
Texas Bar No. 24002755
Jonathan S. Petree
Texas Bar No. 24116897
MUNSCH HARDT KOPF & HARR, P.C.
500 N. Akard Street, Suite 4000
Dallas, Texas 75201-6659
Telephone: (214) 855-7500
Email: dperry@munsch.com
jpetree@munsch.com

COUNSEL FOR BV NWH, LP

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	Chapter 7
	§	
TRICOLOR HOLDINGS, LLC., <i>et al.</i> , ¹	§	Case No. 25-33487 (MVL)
	§	
Debtors.	§	Jointly Administered

BV NWH, LP'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY

PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(b), A RESPONSE IS REQUIRED TO THIS MOTION, OR THE ALLEGATIONS IN THE MOTION MAY BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 1100 COMMERCE ST., RM. 1254, DALLAS, TX 75242-1496 BEFORE CLOSE OF BUSINESS ON NOVEMBER 4, 2025, WHICH IS AT LEAST 14 DAYS FROM THE DATE OF SERVICE HEREOF. A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR EXAMINER APPOINTED IN THE CASE. ANY RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE "ADQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED.

¹ The Debtors in these chapter 7 cases are as follows: Tricolor Holdings, LLC, TAG Intermediate Holding Company, LLC, Tricolor Auto Group, LLC, Tricolor Auto Acceptance, LLC, Tricolor Insurance Agency, LLC, Tricolor Home Loans LLC dba Tricolor Mortgage, Tricolor Real Estate Services, LLC, TAG California Holding Company, LLC, Flexi Compras Autos, LLC, TAG California Intermediate Holding Company, LLC, Tricolor California Auto Group, LLC, Tricolor California Auto Acceptance, LLC, Risk Analytics LLC, Tricolor Tax, LLC, Tricolor Financial, LLC, Tricolor Auto Receivables LLC, TAG Asset Funding, LLC, and Apoyo Financial, LLC.



TO THE HONORABLE MICHELLE V. LARSON, U.S. BANKRUPTCY JUDGE:

BV NWH, LP (“Movant” or “Landlord”), a creditor and party-in-interest herein, files this *Motion for Relief from the Automatic Stay* (the “Motion”), and, in support, respectfully states:

I. RELIEF REQUESTED

1. BV NWH, LP seeks entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), granting relief from the automatic stay for cause pursuant to section 362(d)(1) of the Bankruptcy Code, or alternatively pursuant to section 362(d)(2) of the Bankruptcy Code, and allowing Movant to exercise its rights and remedies available under the terms of the parties’ lease agreement and otherwise applicable law.

2. In support of this Motion, Movant relies on the following exhibits, each attached hereto and incorporated by reference as if fully set forth herein:

<u>Exhibit A</u>	Proposed Order
<u>Exhibit B</u>	Declaration of Pryor Blackwell
<u>Exhibit C</u>	Lease
<u>Exhibit D</u>	Guaranty
<u>Exhibit E</u>	Unpaid Rent Invoices

II. JURISDICTION & VENUE

3. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding as defined by 28 U.S.C. § 157(b)(2)(A) and (G). Venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409.

4. The statutory basis for the requested relief includes 11 U.S.C. §§ 361, 362(d), and 363(e), Federal Rule of Bankruptcy Procedure 4001, and Rule 4001-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas.

III. BACKGROUND

5. On September 10, 2025 (the “Petition Date”), Tricolor Holdings, LLC a/k/a Ganas Holdings, LLC and seventeen affiliates (collectively, the “Debtors”) filed voluntary petitions for relief under Chapter 7 of the Bankruptcy Code. Anne E. Burns is serving as the duly appointed Chapter 7 Trustee (the “Trustee”).

6. The real property subject to this Motion is the non-exempt, non-residential real property and improvements commonly described as 3363 W. Northwest Highway, Dallas, Texas 75220 (the “Property” or “Premises”).

7. Prior to the Petition Date, BV NWH, LP, as Landlord, and Tricolor Auto Group, LLC,² as Tenant, entered into a *Lease Agreement* dated July 1, 2008 relating to the Property, which was subsequently amended pursuant to the *Amendment to Lease Agreement* dated March 31, 2010, and *Second Amendment to Lease Agreement* dated April 15, 2014 (collectively, the “Lease”). A true and correct copy of the Lease is attached hereto as Exhibit C.

8. The Lease is guaranteed by Tag Holding Company, LLC (“Guarantor”) pursuant to that certain *Lease Guaranty* dated March 31, 2010 (the “Guaranty”). A true and correct copy of the Guaranty is attached hereto as Exhibit D.

9. The Lease is for a term commencing on or about July 1, 2008, and terminating on December 31, 2029, and provides for Base Rent, as such term is defined in the Lease, plus certain other additional charges defined in the Lease.

² Tricolor Auto Group, LLC is the debtor in Case No. 25-33496, which is jointly administered with the above-captioned bankruptcy case.

10. Since the Petition Date, no rent has been paid pursuant to the Lease for October 2025 and Landlord did not receive rent for September 2025. True and correct copies of the unpaid invoices for September and October rent are attached hereto as **Exhibit E**.

11. After the Petition Date, on or about October 7, 2025, the Property was forcibly broken into or vandalized, causing the destruction of a front glass windowpane. The undersigned counsel immediately notified the Trustee and her counsel of the incident. Supposedly, Vervent (retained by the Trustee to service the portfolio and secure assets) was going to secure the Premises—but they have not done so and now say that they will not be doing so, despite removing all vehicles from the Premises in the interim. As of October 13, 2025, all vehicles had been removed from the Property while the glass window to the Property remained in disrepair putting the Property at risk of significant damage.





IV. ARGUMENTS & AUTHORITIES

A. Relief from the automatic stay is warranted for cause.

12. Section 362(d)(1) of the Bankruptcy Code provides that the Court shall grant relief from the automatic stay upon a showing of cause, including the lack of adequate protection. 11 U.S.C. § 362(d)(1). Because “cause” is not defined in the Bankruptcy Code, what constitutes cause for the purposes of section 362(d) requires an analysis on a case-by-case basis. *In re Reitnauer*, 152 F.3d 341, 343 n.4 (5th Cir. 1998); *In re JCP Properties, Ltd.*, 540 B.R. 596, 613 (Bankr. S.D. Tex. 2015). Although the debtor’s possessory rights in a lease implicate the automatic stay, these rights “are not determinative of the fundamentally different question as to whether the stay, once triggered, should be modified or terminated for cause.” *In re Project Orange Assocs. LLC*, 432 B.R. 89, 103 (Bankr. S.D.N.Y. 2010).

13. Good and sufficient cause exists for this Court to grant Movant relief from the automatic stay pursuant to section 362(d)(1) of the Bankruptcy Code.

14. **First**, post-petition rent is not being paid despite the express statutory command to timely do so. 11 U.S.C. § 365(d)(3); *In re Compudad Corp.*, 166 B.R. 862, 864 (Bankr. W.D. Tex. 1994) (“[Under § 365(d)(3) the trustee must make *timely* payment of rent under such leases. It is mandatory.”) (emphasis original). “The clear and unambiguous language of the statute ... mandates the payment be timely.” *Id.* at 865.

15. Even before enactment of Bankruptcy Code section 365, Judge Learned Hand admonished that the estate, as the successor tenant, must pay post-petition rent as it comes due “if the trustee were to hold the premises even temporarily.” *Palmer v. Palmer*, 104 F.2d 161, 163 (2d Cir. 1939). In fact, the Bankruptcy Code was amended to include section 365 for the express purpose of providing landlords current, timely payment for current services rendered post-petition.

16. Congress unequivocally deemed non-residential landlords to be a class of vulnerable creditors with interests in need of protecting. Accordingly, section 365(d)(3) was added to the Bankruptcy Code as a direct remedy to estates remaining in possession of landlords' property with nothing but the assurance that they would hopefully eventually be reimbursed as an administrative claimant against the estate. The express language in section 365(d)(3), "notwithstanding section 503(b)(1) of this title," separates a landlord's right to timely payment for current services rendered from the administrative priority scheme otherwise afforded. It was the administrative priority protections that were deemed insufficient to protect vulnerable landlords, and thus § 365 was enacted to mandate *timely* payment for the current post-petition services provided. *See In re Krystal Co.*, 194 B.R. 161, 163–164 (Bankr. E.D. Tenn. 1996).

17. Here, the Trustee benefits from the continued possessory interest in the Premises yet has failed to pay post-petition rent for October—or otherwise indicate that accruing post-petition obligations will be paid as and when due on the first of each month.

18. ***Second***, the Property has been actively vandalized and the Premises are effectively abandoned with a hole through the front wall. The Lease obligates the lessee to restore the Premises in the event of total or partial damage or destruction. Lease, § 14.2(a). Further, the post-petition vandalism to the Property presents a very serious risk of escalating ruin, fixtures and wiring being stolen from the Premises, and/or squatters moving in. Movant's interest in its Property is not only threatened but actively under attack. Meanwhile, Movant is being forced to provide post-petition credit to the Trustee without timely compensation or assurance of a cure or future performance. The Movant must protect its ownership interest in the Property and mitigate the damages actively unfolding.

19. **Third**, the Trustee represented at the last hearing in this case that she was investigating whether insurance was in place. The uncertainty surrounding whether insurance coverage is in place with respect to the Property is especially concerning in light of the damage to Movant's Property.³

20. The status quo is deleterious to Movant. Under these circumstances, good and sufficient cause justifies immediate relief from the automatic stay. For each of the foregoing reasons, Movant requests that the Court enter the Proposed Order granting it relief from the automatic stay to exercise the rights and remedies available under the Lease and applicable law.

B. Relief from the automatic stay is warranted because the Debtor lacks equity in the Property and the Property is not necessary for an effective reorganization.

21. Movant's requested relief from the automatic stay is also warranted under section 362(d)(2), which provides that the Court shall grant stay relief if the debtor does not have equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2).

22. The Lease includes the Tenant's express acknowledgement that the Premises are the property of the Movant. Lease, § 6.1. Furthermore, the Dallas Central Appraisal District database confirms that BV NWH holds an undivided 100% ownership interest in the Property.⁴ The Debtors do not own and do not have equity in the Property.

23. Additionally, the vehicles once present at the Property have been removed and therefore the Property is not necessary for an effective reorganization (even assuming *arguendo*

³ The Lease requires that insurance be maintained covering the Premises and the tenant's personal property from, *inter alia*, "loss or damage by ... vandalism and malicious mischief," specifically naming Movant as an additional insured and loss payee. Lease, Art. 13, § 13.1.

⁴ See Dallas Central Appraisal District, Commercial Account #00000432070000000, <https://www.dallascad.org/AcctDetailCom.aspx?ID=00000432070000000> (last visited October 16, 2025).

that an effective reorganization is in prospect). In fact, bankruptcy courts in the Fifth Circuit have concluded that, in a chapter 7 case, there could be no effective reorganization as a matter of law (thus automatically fulfilling prong 2 of § 362(d)(2)), because a chapter 7 case strictly involves a liquidation. *In re JCP Properties, Ltd.*, 540 B.R. 596, 618 (Bankr. S.D. Tex. 2015) (citing *In re Young*, No. 06-80534, 2007 WL 128280 at *6 (Bankr. S.D. Tex. Jan. 10, 2007)); *In re Machado*, No. 21-51329, 2022 WL 257396, at *5 (Bankr. W.D. Tex. Jan. 27, 2022).

24. Because the Debtors have no equity in the Property and the Property is not necessary to an effective reorganization, Movant is entitled to relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(2).

C. Movant requests waiver of the 14-day stay pursuant to Fed. R. Bankr. P. 4001(a)(4).

25. Movant requests a waiver of the 14-day stay of an order granting the relief sought by this Motion pursuant to Federal Rule of Bankruptcy Procedure 4001(a)(4) so that Movant may take immediate action to enforce its rights pursuant to the Lease. Absent such relief, the Property will be susceptible to increased diminution in value, further ruin, theft, vandalism, weather damage, and other damages.

D. In the alternative to stay relief, Movant must be adequately protected.

26. In the event the Court determines not to grant Movant relief from the automatic stay, Movant hereby requests, alternatively, adequate protection of its interest in the Property pursuant to 11 U.S.C. §§ 361, 365(d)(3), and 363(e). Movant requests, in the alternative, that the Trustee be ordered to timely pay the accrued post-petition rent, timely pay rent as it comes due on the first of each month, repair the damage to the Premises, provide proof of insurance coverage satisfactory to Movant, and otherwise comply with all obligations arising under the Lease. Movant further requests that any order compelling the provision of adequate protection provide for

springing stay relief upon the failure to provide such adequate protection in accordance with the terms of such order.

V. CONCLUSION & PRAYER

WHEREFORE, PREMISES CONSIDERED, BV NWH, LP respectfully requests that the Court enter the Proposed Order granting BV NWH relief from the automatic stay, and grant BV NWH, LP all other and further relief, at law or in equity, to which it may be entitled.

Dated: October 21, 2025

Respectfully submitted,

MUNSCH HARDT KOPF & HARR, P.C.

By: /s/ Deborah M. Perry

Deborah M. Perry
Texas Bar No. 24002755
Jonathan S. Petree
Texas Bar No. 24116897
500 N. Akard Street, Suite 4000
Dallas, Texas 75201
Telephone: (214) 855-7500
E-mail: dperry@munsch.com
jpetree@munsch.com

COUNSEL FOR BV NWH, LP

CERTIFICATE OF CONFERENCE

I certify that, on October 17, 2025, my office conferred with the Trustee's counsel regarding the relief requested in this Motion. The Trustee's counsel indicated that they are opposed to the requested relief.

/s/ Deborah M. Perry

Deborah M. Perry

CERTIFICATE OF SERVICE

I certify that, on October 21, 2025, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas, which electronically served the same to all parties requesting notice pursuant to L.B.R. 2002-1(j), and by U.S. first class mail, postage prepaid, on the entities reflected below:

Tricolor Holdings, LLC
Attn: Officer, Managing or General Agent
6021 Connection Dr., 4th Floor
Irving, TX 75039

Office of the United States Trustee
Earle Cabell Federal Building
1100 Commerce Street, Room 976
Dallas, TX 75242

Tricolor Auto Group, LLC
Attn: Officer, Managing or General Agent
6021 Connection Dr., 4th Floor
Irving, TX 75039

Darren T. Azman
Counsel to Anne E. Burns, Trustee
McDermott Will & Schulte LLP
One Vanderbilt Ave.
New York, NY 10017-3852

Thomas R. Califano, on behalf of the Debtors
Sidley Austin, LLP
2021 McKinney Ave., Ste. 2000
Dallas, TX 75021

Charles R. Gibbs
Counsel to Anne E. Burns, Trustee
McDermott Will & Schulte LLP
2801 North Harwood Street, Suite 2600
Dallas, TX 75201

Anne E. Burns, Trustee
900 Jackson Street, Suite 570
Dallas, TX 75202

/s/ Jonathan S. Petree

Jonathan S. Petree

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	Chapter 7
	§	
TRICOLOR HOLDINGS, LLC., <i>et al.</i> , ¹	§	Case No. 25-33487 (MVL)
	§	
Debtors.	§	Jointly Administered

**ORDER GRANTING BV NWH, LP'S
MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

Before the Court is the *Motion for Relief from the Automatic Stay* [ECF ---] (the “Motion”)² filed by BV NWH, LP, seeking relief from the automatic stay pursuant to 11 U.S.C. § 362(d) and Federal Rule of Bankruptcy Procedure 4001. Having considered the Motion, the arguments and evidence presented by counsel at the hearing on the Motion, and the record and docket of the

¹ The Debtors in these chapter 7 cases are as follows: Tricolor Holdings, LLC, TAG Intermediate Holding Company, LLC, Tricolor Auto Group, LLC, Tricolor Auto Acceptance, LLC, Tricolor Insurance Agency, LLC, Tricolor Home Loans LLC dba Tricolor Mortgage, Tricolor Real Estate Services, LLC, TAG California Holding Company, LLC, Flexi Compras Autos, LLC, TAG California Intermediate Holding Company, LLC, Tricolor California Auto Group, LLC, Tricolor California Auto Acceptance, LLC, Risk Analytics LLC, Tricolor Tax, LLC, Tricolor Financial, LLC, Tricolor Auto Receivables LLC, TAG Asset Funding, LLC, and Apoyo Financial, LLC.

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

above-captioned bankruptcy cases, the Court finds that: (i) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (ii) the Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b); (iii) proper and adequate notice of the Motion and an opportunity for a hearing on the Motion has been given and no other or further notice is necessary; and (iv) good and sufficient cause exists for approving the relief requested in the Motion.

Accordingly, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The automatic stay imposed in the above-captioned bankruptcy cases by 11 U.S.C. § 362 is hereby vacated under section 362(d) to allow BV NWH, LP to exercise any and all rights and remedies pursuant to the Lease and applicable law with respect to BV NWH's interest in the Property.
3. The 14-day stay provided by Federal Rule of Bankruptcy Procedure 4001(a)(4) is waived, and this Order shall be fully effective and enforceable immediately upon entry.

END OF ORDER

Deborah M. Perry
Texas Bar No. 24002755
Jonathan S. Petree
Texas Bar No. 24116897
MUNSCH HARDT KOPF & HARR, P.C.
500 N. Akard Street, Suite 4000
Dallas, Texas 75201-6659
Telephone: (214) 855-7500
Email: dperry@munsch.com
jpetree@munsch.com

COUNSEL FOR BV NWH, LP

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	Chapter 7
	§	
TRICOLOR HOLDINGS, LLC., <i>et al.</i> , ¹	§	Case No. 25-33487 (MVL)
	§	
Debtors.	§	Jointly Administered

**DECLARATION OF PRYOR BLACKWELL IN SUPPORT OF
BV NWH, LP'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

1. This Declaration is made in lieu of an affidavit as permitted under 28 U.S.C. § 1746.

2. My name is Pryor Blackwell. I am a duly authorized representative of BV NWH, LP ("BV NWH"). I am over twenty-one (21) years of age, of sound mind, and capable of making this Declaration. I have never been convicted of a felony or crime involving moral turpitude. Unless otherwise explained, my statements in this Declaration are based upon my personal knowledge and my review of the documents and records maintained by BV NWH in the ordinary course of its business.

3. As part of my responsibilities with BV NWH, I have become familiar with the manner and method in which BV NWH keeps its books and records in the regular course of business. Those books and records are managed by employees and agents whose duty it is to keep the books and records accurately and completely and to record each event or item at or near the time of the occurrence of the event or item.

¹ The Debtors in these chapter 7 cases are as follows: Tricolor Holdings, LLC, TAG Intermediate Holding Company, LLC, Tricolor Auto Group, LLC, Tricolor Auto Acceptance, LLC, Tricolor Insurance Agency, LLC, Tricolor Home Loans LLC dba Tricolor Mortgage, Tricolor Real Estate Services, LLC, TAG California Holding Company, LLC, Flexi Compras Autos, LLC, TAG California Intermediate Holding Company, LLC, Tricolor California Auto Group, LLC, Tricolor California Auto Acceptance, LLC, Risk Analytics LLC, Tricolor Tax, LLC, Tricolor Financial, LLC, Tricolor Auto Receivables LLC, TAG Asset Funding, LLC, and Apoyo Financial, LLC.

4. I have reviewed BV NWH's *Motion for Relief from the Automatic Stay* (the "Motion") and affirm that the statements and representations made therein are, to the best of my knowledge and belief, true and correct.

5. BV NWH and Tricolor Auto Group, LLC are parties to a *Lease Agreement* dated July 1, 2008 relating to the non-exempt, non-residential real property and improvements commonly described as 3363 W. Northwest Highway, Dallas, Texas 75220 (the "Property" or "Premises"), which was subsequently amended pursuant to the *Amendment to Lease Agreement* dated March 31, 2010, and *Second Amendment to Lease Agreement* dated April 15, 2014 (collectively, the "Lease"). A true and correct copy of the Lease is attached to the Motion as Exhibit C.

6. The Lease is guaranteed by Tag Holding Company, LLC ("Guarantor") pursuant to that certain *Lease Guaranty* dated March 31, 2010 (the "Guaranty"). A true and correct copy of the Guaranty is attached to the Motion as Exhibit D.

7. The Lease is for a term commencing on or about July 1, 2008, and terminating on December 31, 2029, and provides for current base monthly rent of \$24,421.92, plus certain other additional charges defined in the Lease. Since the Petition Date, BV NWH has not been paid rent. A true and correct copy of the unpaid rent invoices attached to the Motion as Exhibit E.

8. I personally visited the Property on October 7, 2025, discovering vandalism to the storefront glass windowpane. The photograph appended to page 4 of the Motion was taken by me and is a fair, accurate, true, and good depiction of the scene of the Property at the time in question which I personally witnessed.

9. I again visited the Property on or about October 13, 2025, discovering that all vehicles had been removed from the Premises. The photographs appended to page 5 of the Motion were taken by me and are a fair, accurate, true, and good depiction of the scene of the Property at the time in question which I personally witnessed. When I visited the Property on or about October 13, 2025, the vandalism to the Property had not been repaired.

10. BV NWH has incurred, and continues to incur, legal fees and expenses associated with the pursuit of its rights under the Lease and applicable law.

11. BV NWH requests that the Court grant it relief from the automatic stay, allowing BV NWH to exercise the rights and remedies available to it under the Lease and otherwise applicable law.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: October 21, 2025

/s/ Pryor Blackwell
Pryor Blackwell

LEASE AGREEMENT

between

BV NWH, LP

as Lessor,

and

TRICOLOR AUTO GROUP, LLC

as Lessee

for Premises located at

**3363 W. Northwest Highway
Dallas, Texas 75220**

LEASE AGREEMENT

This Lease Agreement (this "Lease") is executed to be effective as of July 1, 2008 ("Effective Date"), and is between BV NWH, LP, a Texas limited partnership ("Lessor"), and TRICOLOR AUTO GROUP, LLC ("Lessee").

ARTICLE 1.

LEASED PROPERTY; TERM

Section 1.1. Leased Premises; Term. Upon and subject to the terms and conditions hereinafter set forth, Lessor leases to Lessee and Lessee rents from Lessor all of Lessor's rights and interest in and to the following real property (collectively, the "Leased Premises");

(a) the real property described on Exhibit A attached hereto (the "Land");

(b) all buildings, ~~structures, fixtures~~ (as hereinafter defined) and other improvements of every kind including, but not limited to, alleys and connecting tunnels, sidewalks, utility pipes, conduits and lines (on-site and off-site), signage, parking areas and roadways appurtenant to such buildings and structures presently or hereafter situated upon the Land, and any permitted alterations and additions (collectively, the "Leased Improvements");

(c) all easements, rights and appurtenances relating to the Land and the Leased Improvements; and

(d) all permanently affixed equipment, machinery, fixtures, and other items of real and/or personal property, including all components thereof, now and hereafter located in, on or used in connection with, and permanently affixed to or incorporated into the Leased Premises, including, without limitation, all furnaces, boilers, heaters, electrical equipment, heating, plumbing, lighting, ventilating, refrigerating, waste disposal, air-cooling and air-conditioning systems and apparatus, sprinkler systems and fire and theft protection equipment, all of which, to the greatest extent permitted by law, are hereby deemed-by the parties hereto to constitute real estate, together with all replacements, modifications, alterations and additions thereto, (collectively, the "Fixtures");

SUBJECT, HOWEVER, to all liens, encumbrances and other matters of record as of the date hereof (the "Permitted Exceptions"); to have and to hold for a fixed term (the "Fixed Term") commencing on the "Commencement Date", which is the earlier of (i) Lessee's occupancy of the Leased Premises (which occupancy will be deemed to occur if Lessee takes possession of all or any part of the Leased Premises for any purpose) or (ii) July 1, 2008; and ending at midnight on the last day of the 144th full calendar month after the Commencement Date (the "Expiration Date").

Section 1.2. Renewal Terms. Provided no Event of Default exists as of the date of the Extension Notice and as of the date immediately proceeding the first day of the Renewal Term (as defined below) in question and Lessee is occupying the entire Leased Premises at the time of each such election, Lessee may renew this Lease for 2 additional periods of 60 months each

(respectively, the "First Renewal Term" and the "Second Renewal Term", and each being a "Renewal Term"), by delivering written notice of the exercise of the renewal option in question (each being an "Extension Notice") to Lessor no later than 1 year before the expiration of the Term (or an existing Renewal Term). Base Rent payable each month during each such extended Term shall be determined in accordance with Section 3.1. Lessor and Lessee shall, on or before the commencement date of the extended Term, execute an amendment to this Lease extending the Term on the same terms provided in this Lease, except as follows:

- (a) Base Rent shall be adjusted in accordance with the terms of Section 3.1;
- (b) except for any unexercised Renewal Term(s) hereunder, Lessee shall have no further renewal options unless expressly granted by Lessor in writing; and
- (c) Lessor shall lease to Lessee the Leased Premises in their then-current condition, and Lessor shall not provide to Lessee any allowances or other tenant inducements nor shall any real estate broker commissions be paid or due. Lessee's renewal rights under this Section shall terminate if (A) this Lease or Lessee's right to possession of the Leased Premises is terminated, (B) Lessee assigns any of its interest in this Lease or sublets any portion of the Leased Premises other than to an Affiliate of Lessee to the extent permitted by Article 22, or (C) Lessee fails to timely exercise its option under this Section, time being of the essence with respect to Lessee's exercise thereof.

ARTICLE 2. **DEFINITIONS**

For all purposes of this Lease, except as otherwise expressly provided or unless the context otherwise requires, (a) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular, (b) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as at the time applicable, and (c) all references in this Lease to designated "Articles", "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this Lease, and the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision:

"Additional Charges": As defined in Section 3.2.

"Additional Rent": As defined in Section 3.2.

"Affiliate": When used with respect to any entity, the term "Affiliate" shall mean any person, which, directly or indirectly, controls or is controlled by or is under common control with such entity. For the purposes of this definition, "Control" (including the correlative meanings of the terms "Controlled by" and "under common control with"), as used with respect to any person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, through the ownership of voting securities, partnership interests, other equity interests or otherwise through management agreements.

"Award": All compensation, sums or anything of value awarded, paid or received on a total or partial Condemnation.

"Bankruptcy Code" means Title 11 of the United States Code or any successor hereinafter enacted.

"Base Rent": As defined in Section 3.1.

"Business Day": Each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which national banks in the City of Dallas, Texas are authorized, or obligated, by law or executive order, to close.

"Claims": As defined in Section 21.1.

"Code": The Internal Revenue Code of 1986, as amended.

"Commencement Date" as defined in Article 1.

"Condemnation": (1) The exercise of any governmental power, whether by legal proceedings or otherwise, by a Condemnor or (2) a voluntary sale or transfer by Lessor to any Condemnor, either under threat of Condemnation or while legal proceedings for Condemnation are pending.

"Condemnor": Any public or quasi-public authority, or private corporation or individual, having the power of Condemnation.

"Date of Taking": The date the Condemnor has the right to possession of the property being condemned.

"Effective Date": As defined in the preamble.

"Encumbrance": As defined in Article 32.

"Environmental Report" The Phase I Environmental Site Assessment Report dated March 5, 2007, prepared by Green Valley Environmental Services, Inc.

"Event of Default": As defined in Article 16.

"Expiration Date": As defined in Article 1.

"First Renewal Term": as defined in Article 1.

"Fixed Term": as defined in Article 1.

"Fixtures": As defined in Article 1.

"Hazardous Substances": Any hazardous, toxic or dangerous substance, material, waste, gas or particulate matter which is defined as such for purposes of regulation by any governmental authority, including, but not limited to, any material or substance which is (i)

defined as a "hazardous waste," "hazardous material," "Hazardous Substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of Texas law, (ii) petroleum, (iii) asbestos, (iv) polychlorinated biphenyl, (v) radioactive material, (vi) designated as a "Hazardous Substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Sec. 1251 et seq. (33 U.S.C. Sec. 1317), (vii) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et seq. (42 U.S.C. Sec. 6903), or (viii) defined as a "Hazardous Substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sec. 9601 et seq. (42 U.S.C. Sec. 9601), the Texas Asbestos Health Protection Act, Art. 4477-3a, Vernon's Texas Civil Statutes, the Texas Water Code, the Texas Solid Waste Disposal Act, and other applicable existing and future federal, state or local environmental laws and the regulations adopted under those acts, as amended.

"Impositions": Collectively, all taxes (including, without limitation, all ad valorem, sales and use, single business, gross receipts, transaction privilege, rent or similar taxes), assessments (including, without limitation, all assessments for public improvements or benefits, whether or not commenced or completed prior to the date hereof and whether or not to be completed within the Term), ground rents (if applicable), water, sewer or other rents and charges, excises, tax levies, fees (including, without limitation, license, permit, inspection, authorization and similar fees), and all other governmental charges (including, without limitation, any franchise tax and margins tax), in each case whether general or special, ordinary or extraordinary, or foreseen or unforeseen, of every character in respect of the Leased Premises and/or the Rent (including all interest and penalties thereon due to any failure in payment by Lessee), which at any time prior to, during or in respect of the Term hereof may be assessed or imposed on or in respect of or be a lien upon (a) Lessor or Lessor's interest in the Leased Premises, (b) the Leased Premises or any part thereof or any rent therefrom or any estate, right, title or interest therein, or (c) any occupancy, operation, use or possession of, sales from, or activity conducted on, or in connection with, the Leased Premises or the leasing or use of the Leased Premises or any part thereof, provided, however, nothing contained in this Lease shall be construed to require Lessee to pay (1) any transfer or net revenue tax of Lessor, or (2) any tax imposed with respect to the sale, exchange or other disposition by Lessor of any portion of the Leased Premises or the proceeds thereof, or (3) except as expressly provided elsewhere in this Lease, any principal or interest on any Encumbrance on the Leased Premises, except to the extent that any tax, assessment, tax levy or charge which Lessee is obligated to pay pursuant to the first sentence of this definition and which is in effect at any time during the Term hereof is totally or partially repealed or reduced.

"Insurance Requirements": All terms of any insurance policy required by this Lease and all requirements of the issuer of any such policy.

"Land": As defined in Article 1.

"Lease": As defined in the Preamble.

"Lease Year": Each twelve (12) calendar month period during the Term and any Renewal Term, beginning on the first day of the first full calendar month after the Commencement Date.

"Leased Improvements": As defined in Article 1.

"Leased Premises": As defined in Article 1.

"Legal Requirements": Federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions affecting either the Leased Premises or the construction, use or alteration thereof, whether now or hereafter enacted and in force, including without limitation the Americans with Disabilities Act and including any which may (a) require repairs, modification, or alterations in or to the Leased Premises, or (b) in any way adversely affect the use and enjoyment thereof, and all permits, licenses, authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record or known to Lessee (other than encumbrances created by Lessor without the consent of Lessee), at any time in force affecting the Leased Premises.

"Lessee": TRICOLOR AUTO GROUP, LLC, and its successors and permitted assigns.

"Lessee Part(ies)": Lessee, its officers, directors, shareholders, partners, trustees, members, agents, contractors, subcontractors, employees, licensees and invitees.

"Lessee's Personal Property": All machinery, equipment, furniture, furnishings, movable walls or partitions, computers, trade fixtures or other personal property, used or useful in Lessee's business on the Leased Premises, including without limitation, all items of furniture, furnishings, equipment, supplies and inventory, except items, if any, included within the definition of Fixtures.

"Lessor": BV NWH, LP, a Texas limited partnership.

"Lessor Part(ies)": Lessor, its officers, directors, shareholders, partners, trustees, members, agents, employees, contractors and subcontractors.

"Mortgage": As defined in Section 13.1.

"Mortgagee": As defined in Section 13.1.

"Net Insurance Proceeds": As defined in Section 14.8.

"Officer's Certificate": A certificate of Lessee signed by the Chairman of the Board of Directors, the President, any Vice President, the Treasurer or authorized Manager of Lessee or any general partner of Lessee or another officer authorized to so sign by the Board of Directors, By-Laws or partnership agreement of Lessee or the general partner of Lessee, or any other person whose power and authority to act has been authorized by delegation in writing by any of the persons holding the foregoing offices.

"Overdue Rate": On any date, a rate per annum equal to the lesser of 5% above the Prime Rate, or the maximum rate then permitted under applicable law.

"Payment Date": Any due date for the payment of the installments of Base Rent or any other sums payable under this Lease.

"Primary Intended Use": As defined in Section 7.2(a).

"Prime Rate": The annual rate announced by Bank of America, N.A. to be its prime rate for ninety (90) day unsecured loans to its United States corporate borrowers as in effect from time to time, or if Bank of America, N.A. no longer exists or conducts business in the United States, then the largest commercial bank existing in the United States.

"Rent": Collectively, the Base Rent, the Additional Charges, and other Additional Rent.

"Second Renewal Term": As defined in Article 1.

"Taking": A taking or voluntary conveyance during the Term hereof of all or part of the Leased Premises, or any interest therein or right accruing thereto or use thereof, as the result of, or in settlement of any Condemnation or other eminent domain proceeding affecting the Leased Premises whether or not the same shall have actually been commenced.

"Term": The Fixed Term unless extended or earlier terminated pursuant to the provisions hereof.

"Unsuitable for Its Primary Intended Use": As used anywhere in this Lease, the term "Unsuitable for Its Primary Intended Use" shall mean that, by reason of non-compliance with Legal Requirements, damage or destruction, or a partial Taking by Condemnation, the Leased Premises cannot be operated on a commercially practicable basis for its Primary Intended Use.

ARTICLE 3.

RENT

Section 3.1. Base Rent. Lessee will pay to Lessor, without demand, notice, deductions, set off or counterclaim, in lawful money of the United States of America, at Lessor's address set forth herein or at such other place or to such other person, firms or corporations as Lessor from time to time may designate in writing, Base Rent during the Term, as follows.

(a) **Base Rent.** The Base Rent shall be a specified amount and shall not be adjusted based on the amount of square footage in the Leased Premises. Base Rent shall be the following amounts for the following periods of time, and shall be due on the first day of each month, payable monthly in advance to Lessor at the address set forth in the preamble of this Lease or at such other address designated by Lessor in writing ("Base Rent"):

<u>Lease Month</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent</u>
1 – 12	\$ 200,000.00	\$ 16,666.67
13 – 24	\$ 206,000.00	\$ 17,166.67
25 - 36	\$ 212,180.00	\$ 17,681.67
37 - 48	\$ 218,545.40	\$ 18,212.12
49 - 60	\$ 225,101.76	\$ 18,758.48
61 - 72	\$ 231,854.81	\$ 19,321.23
73 - 84	\$ 238,810.46	\$ 19,900.87
85 - 96	\$ 245,974.77	\$ 20,497.90
97 - 108	\$ 253,354.02	\$ 21,112.83
109 - 120	\$ 260,954.64	\$ 21,746.22
121 - 132	\$ 268,783.28	\$ 22,398.61
133 - 144	\$ 276,846.77	\$ 23,070.56

(b) **Base Rent During Renewal Terms.** If Lessee timely exercises its first renewal option in accordance with Section 1.2, Base Rent shall be the greater of Market Rent (as hereinafter defined) or the Base Rent in effect immediately prior to the commencement of the First Renewal Term. If Lessee timely exercises its second renewal option in accordance with Section 1.2, Base Rent shall be the greater of Market Rent (as hereinafter defined) or the Base Rent in effect immediately prior to the commencement of the Second Renewal Term.

As used herein, the term "Market Rent") shall mean, with respect to the First Renewal Term and Second Renewal Term, such rate as Lessor shall reasonably determine and notify Lessee of in writing (the "Market Rent Notice") within thirty (30) days after Lessor's receipt of an Extension Notice; provided, however, in no event shall the Market Rent be less than the sum of the Base Rent for the Lease Year immediately preceding the first day of the Renewal Term. In the event that Lessee does not agree with Lessor's determination of the Market Rent, then Lessee may, as its sole and exclusive remedy, irrevocably revoke its exercising of the extension option by delivering written notice of such revocation to Lessor within 15 days after Lessee's receipt of the Market Rent Notice. In the event that Lessee fails to deliver such revocation to Lessor within such 15 day period for any reason whatsoever, then (i) Lessee shall conclusively be deemed to have approved Lessor's determination of the Market Rent, and (ii) Lessee shall have no further right to revoke its exercise of the Renewal Term.

Section 3.2. Additional Charges. In addition to the Base Rent:

(a) Lessee will also pay and discharge as and when due and payable all Impositions and all other amount, liabilities and obligations that Lessee assumes or agrees to pay under the Lease, and (b) in the event of any failure on the part of Lessee to pay any of those items referred to in clause (a) above, Lessee will also promptly pay and discharge every fine, penalty, interest and cost which may be added for non-payment or late payment of such items (the items referred to in clauses (a) and (b) above being referred to herein collectively as the "Additional Charges"), and Lessor shall have all legal, equitable and contractual rights, powers and remedies provided in this Lease, by statute or otherwise, in the case of non-payment of the Additional Charges, as well as the Base Rent. If any installment of Base Rent or Additional Charges (but only as to those Additional Charges which are payable directly to Lessor) shall not be paid within 5 Business Days after notice, Lessee will pay Lessor on demand, as Additional Charges, a late charge (to the extent permitted by law) computed at the Overdue Rate on the amount of such installment, from the due date of such installment to the date of payment thereof. To the extent that Lessee pays any Additional Charges to Lessor pursuant to any requirement of this Lease, Lessee shall be relieved of its obligation to pay such Additional Charges to the entity to which they would otherwise be due. Tenant acknowledges and agrees that each provision of this Lease for determining charges and other amounts payable by Tenant under this Lease, including but not limited to the Additional Charges, constitutes a method by which the charge is to be computed for purposes of Section 93.012 (Assessment of Charges) of the Texas Property Code, as amended or succeeded from time to time.

(b) Lessor may, from time to time, by written notice to Lessee, require Lessee to make monthly or other periodic payments based upon the estimated annual total of all or any Impositions for a future period and direct that Lessee prepay monthly a pro rata portion of the prospective future Impositions (i.e., the prospective future payment divided by the number of months before the prospective future payment will be due). Lessee agrees that any such prepayment directed by Lessor is due and payable monthly on the same day that Base Rent is due and is subject to adjustment at the end of the year on the basis of the actual Impositions for such year. Any excess or deficiency between estimated payments and actual payments shall be adjusted between the parties within 15 days after demand by either party. Lessor shall apply the proceeds of such deposits to pay the Impositions prior to delinquency. Lessor shall make no charge to Lessee for holding and applying such funds, and shall keep such funds in a segregated account and all interest earned thereon shall be added to the fund.

Section 3.3. Net Lease. This is a net lease, absolutely net to Lessor. The term "net lease," as used herein, means that, from and after the Commencement Date, Lessor has no obligations under this Lease except to collect rent as it becomes due and payable and as otherwise expressly set forth herein, and the use of such term is not intended to create any additional obligations or increase any existing obligations of the Lessee except as expressly set forth in this Lease. The Rent shall be paid absolutely net to Lessor, so that this Lease shall yield to Lessor the full amount of the installments of Base Rent, and the payments of Additional

Charges throughout the Term, all as more fully set forth in Article 4, but subject to any other provisions of this Lease which expressly provide for adjustment of Rent or other charges.

Section 3.4. All Sums Rent. All Impositions, insurance premiums, utility costs and all sums, liabilities, obligations, and other amounts which Lessee is required to pay or discharge pursuant to this Lease, including but not limited to, Articles 4, 9, 13 and 14 of this Lease, in addition to Rent or as a result of Lessor's curing a potential Event of Default pursuant to Article 17 of this Lease, together with any interest, penalty, or other sum which may be added for late payment thereof, shall constitute additional rent hereunder ("Additional Rent"). Without limiting the generality of the foregoing, and notwithstanding anything contained in this Lease to the contrary, all amounts payable by Lessee to or on behalf of Lessor under this Lease, whether or not expressly denominated as rent, shall constitute rent for the purposes of Section 502(b)(6) (or any comparable successor provision) of the Bankruptcy Code and for all other purposes.

ARTICLE 4. **IMPOSITIONS**

Section 4.1. Payment of Impositions. Subject to Article 12 relating to permitted contest, Lessee will pay, or cause to be paid (and provide to Lessor written evidence of such payment), all Impositions at least 15 days prior to the date that any fine, penalty, interest or cost may be added for non-payment, such payments to be made directly to the taxing authorities where feasible, and Lessee will promptly, upon request, furnish to Lessor copies of official receipts or other satisfactory proof evidencing such payments. Lessee's obligation to pay such Impositions shall be deemed absolutely fixed upon the date such Impositions become a lien upon the Leased Premises or any part thereof. If any such Imposition may, at the option of the taxpayer, lawfully be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Lessee may exercise the option to pay the same (and any accrued interest on the unpaid balance of such Imposition) in installments and, in such event, shall pay such installments during the Term hereof (subject to Lessee's right of contest pursuant to the provisions of Article 12) as the same respectively become due and before any fine, penalty, premium, further interest or cost may be added thereto. Lessor, at its expense, shall, to the extent permitted by applicable law, prepare and file all tax returns and reports as may be required by governmental authorities in respect of Lessor's net income, gross receipts, and taxes on its capital stock, and Lessee, at its expense, shall, to the extent permitted by applicable laws and regulations, prepare and file all other tax returns and reports in respect of any Imposition as may be required by governmental authorities. If any refund shall be due from any taxing authority in respect of any Imposition paid by Lessee, the same shall be paid over to or retained by Lessee if no Event of Default shall have occurred hereunder and be continuing. Any such funds retained by Lessor due to an Event of Default shall be applied as provided in Article 16. Lessor and Lessee shall, upon request of the other, provide such data as is maintained by the party to whom the request is made with respect to the Leased Premises as may be necessary to prepare any required returns and reports. In the event governmental authorities classify any property covered by this Lease as personal property, Lessee shall file all personal property tax returns in such jurisdictions where it may legally so file. Lessor, to the extent it possesses the same, and Lessee, to the extent it possesses the same, will provide the other party, upon request, with costs and depreciation records necessary for filing returns for any property so classified as personal property. Where Lessor is legally required to file personal property tax returns, Lessee will be

provided with copies of assessments notices indicating a value in excess of the reported value in sufficient time for Lessee to file a protest. Lessee may, upon giving notice to Lessor, at Lessee's option and at Lessee's sole cost and expense, protest, appeal, or institute such other proceedings as Lessee may deem appropriate to effect a reduction of real estate or personal property assessments and Lessor, at Lessee's expense as aforesaid, shall fully cooperate with Lessee in such protest, appeal, or other action. Billings for reimbursement by Lessee to Lessor of personal property taxes shall be accompanied by copies of a bill therefor and payments thereof which identify the personal property with respect to which such payments are made.

Section 4.2. Adjustment of Impositions. Impositions imposed in respect of the tax-fiscal period during which the Term terminates shall be adjusted and prorated between Lessor and Lessee, whether or not such Imposition is imposed before or after such termination, and Lessee's obligation to pay its prorated share thereof shall survive such termination.

Section 4.3. Utility Charges. Lessee will contract for, in its own name, and will pay or cause to be paid all charges for electricity, gas, oil, water, storm sewer, sanitary sewer, garbage collection, communications, and other utilities used in or serving the Leased Premises during the Term. Lessee shall also pay for all maintenance upon such utilities. In no event shall Lessor be liable for any interruption or failure of utility service to the Leased Premises.

Section 4.4. Insurance Premiums. Lessee will contract for in its own name and will pay or cause to be paid all premiums for the insurance coverage required to be maintained pursuant to Article 13 during the Term.

ARTICLE 5.

NO TERMINATION

Lessee shall remain bound by this Lease in accordance with its terms and shall neither take any action without the consent of Lessor to modify, surrender or terminate the same, nor seek nor be entitled to any abatement, deduction, deferment or reduction of Rent, or set off against the Rent, nor shall the respective obligations of Lessor and Lessee be otherwise affected by reason of (a) any damage to, or destruction of, any Leased Premises or any portion thereof from whatever cause or any Taking of the Leased Premises or any portion thereof, (b) the lawful or unlawful prohibition of, or restriction upon, Lessee's use of the Leased Premises, or any portion thereof, or the interference with such use by any person, corporation, partnership or other entity, or by reason of eviction by paramount title; (c) any claim which Lessee has or might have against Lessor or by reason of any default or breach of any warranty by Lessor under this Lease or any other agreement between Lessor and Lessee, or to which Lessor and Lessee are parties, (d) any bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding up or other proceedings affecting Lessor or any assignee or transferee of Lessor, or (e) for any other cause whether similar or dissimilar to any of the foregoing other than a discharge of Lessee from any such obligations as a matter of law. Except as may otherwise be expressly provided herein, Lessee hereby specifically waives all rights, arising from any occurrence whatsoever, which may now or hereafter be conferred upon it by law to (i) modify, surrender or terminate this Lease or quit or surrender the Leased Premises or any portion thereof, or (ii) entitle Lessee to any abatement, reduction, suspension or deferment of the Rent or other sums payable by Lessee hereunder, except as otherwise specifically provided in this Lease. The

obligations of Lessor and Lessee hereunder shall be separate and independent covenants and agreements and the Rent and all other sums payable by Lessee hereunder shall continue to be payable in all events unless the obligations to pay the same shall be terminated pursuant to the express provisions of this Lease or by termination of this Lease other than by reason of an Event of Default.

ARTICLE 6.

OWNERSHIP OF LEASED PROPERTY AND PERSONAL PROPERTY

Section 6.1. Ownership of the Leased Premises. Lessee acknowledges that the Leased Premises is the property of Lessor and that Lessee has only the right to the possession and use of the Leased Premises upon the terms and conditions of this Lease.

Section 6.2. Lessee's Personal Property. Lessee may (and shall as provided hereinbelow), at its expense, install, affix or assemble or place on any parcels of the Land or in any of the Leased Improvements, any items of Lessee's Personal Property, and Lessee may, subject to the conditions set forth below, and upon notice from Lessor, must remove the same upon the expiration or any prior termination of the Term. Lessee shall provide and maintain during the entire Term all such Lessee's Personal Property as shall be necessary in order to operate the Leased Premises in compliance with all licensure and certification requirements, in compliance with all applicable Legal Requirements and Insurance Requirements and otherwise in accordance with customary practice in the industry for the Primary Intended Use. Lessor agrees to subordinate any landlord's liens covering Lessee's Personal Property to the lien of bona fide third-party lenders or equipment financiers.

ARTICLE 7.

CONDITION AND USE OF LEASED PROPERTY

Section 7.1. Condition of the Leased Premises. Lessee is leasing the Leased Premises "AS IS" in its present condition. Lessee's occupancy of the Leased Premises is conclusive evidence that: (a) Lessee accepts the Leased Premises as suitable for the purposes for which they are leased and (B) accepts the Leased Premises as being in good and satisfactory condition. Except as otherwise provided herein, **Lessee waives any claim or action against Lessor in respect of the condition of the Leased Premises. Except as otherwise provided herein, Lessor makes no warranty or representation, express or implied, in respect of the leased property or any part thereof, either as to its fitness for use, suitability, design or condition for any particular use or purpose or otherwise.**

Section 7.2. Use of the Leased Premises. Lessee covenants that it will obtain and maintain all approvals needed to use and operate the Leased Premises for the Primary Intended Use, as defined below, under applicable local, state and federal law.

(a) After the Commencement Date and during the entire Term, Lessee shall continuously occupy and use or cause to be used the Leased Premises and the improvements thereon as a car lot for the sale of new or used vehicles and periodic repair of such vehicles, (the "Primary Intended Use"). Lessee shall not use the Leased Premises or any portion thereof for any other use without the prior written consent of Lessor. No

use shall be made or permitted to be made of the Leased Premises and no acts shall be done which will cause the cancellation of any insurance policy covering the Leased Premises or any part thereof. Lessee shall, at its sole cost, comply with all Legal Requirements and all of the requirements pertaining to the Leased Premises or other improvements of any insurance board, association, organization, or company necessary for the maintenance of the insurance, as herein provided, covering the Leased Premises and Lessee's Personal Property.

(b) Lessee shall not commit or suffer to be committed any waste on the Leased Premises nor shall Lessee cause or permit any nuisance thereon.

(c) After notice or knowledge of unpermitted uses of the Leased Premises, Lessee shall neither suffer nor permit (provided Lessee knows) the Leased Premises or any portion thereof, or Lessee's Personal Property, to be used in such a manner as (1) might reasonably tend to impair Lessor's title thereto or to any portion thereof, or (2) may reasonably make possible a claim or claims or adverse usage or adverse possession by the public, as such, or of implied dedication of the Leased Premises or any portion thereof.

Section 7.3. Hazardous Substances.

(a) Lessee may not cause or permit the escape, disposal, or release in the Leased Premises of any Hazardous Substances or bring, or permit any of its agents, contractors, employees, or invitees to bring, any Hazardous Substances into the Leased Premises. Except as disclosed in the Environmental Report, Lessor warrants that it has no knowledge of history of use of Hazardous Substances on the Leased Premises or Hazardous Substances contamination of the Leased Premises.

(b) If any lender or governmental agency requires testing to ascertain whether or not a release of Hazardous Substances has occurred in or on the Leased Premises based on probable cause that a release occurred and was caused by Lessee, its agents, contractors, employees, or invitees, then Lessee shall reimburse the reasonable costs of the testing to Lessor as Additional Rent.

(c) Lessee shall execute affidavits, representations, and the like from time to time at Lessor's reasonable request concerning Lessee's best knowledge and belief regarding the presence of Hazardous Substances in the Leased Premises.

(d) Lessee shall indemnify Lessor in the manner specified in Article 21 from any release of Hazardous Substances in or on the Leased Premises caused or permitted by Lessee, its agents, contractors, employees, or invitees after the Commencement Date. These covenants survive the expiration or earlier termination of this Lease.

ARTICLE 8. LEGAL AND INSURANCE REQUIREMENTS

Section 8.1. Compliance with Legal and Insurance Requirements. Subject to Article 12 relating to permitted contests, Lessee, at its expense, will promptly (a) comply with all

Legal Requirements and Insurance Requirements in respect of the use, operation, maintenance, repair and restoration of the Leased Premises, whether or not compliance therewith shall require structural change in any of the Leased Improvements or interfere with the use and enjoyment of the Leased Premises, and (b) procure, maintain and comply with all licenses, certificates and other authorizations required for any use of the Leased Premises and Lessee's Personal Property then being made, and for the proper erection, installation, operation and maintenance of the Leased Premises or any part thereof.

Section 8.2. Legal Requirement Covenants. Lessee covenants and agrees that the Leased Premises and Lessee's Personal Property shall not be used for any unlawful purpose. Lessee shall acquire and maintain all licenses, certificates, permits, and other authorizations and approvals needed to operate the Leased Premises in its customary manner for the Primary Intended Use and any other use conducted on the Leased Premises as may be permitted from time to time hereunder. Lessee further covenants and agrees that Lessee's use of the Leased Premises and maintenance, alteration, and operation of the same, and all parts thereof, shall at all times conform to all applicable local, state and federal laws, ordinances, rules and regulations.

ARTICLE 9.

REPAIRS, RESTRICTIONS

(a) Lessee, at its expense, will keep the Leased Premises and all private roadways, sidewalks and curbs appurtenant thereto (and Lessee's Personal Property), including any landscaping thereon, in good order and repair (whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements, the age of the Leased Premises or any portion thereof) and, except as otherwise provided in Articles 14 and 15, with reasonable promptness, shall make all necessary and appropriate repairs thereto of every kind and nature, whether interior or exterior, structural or non-structural, ordinary or extraordinary, foreseen or unforeseen or arising by reason of a condition existing prior to the commencement of the Term of this Lease (concealed or otherwise). All repairs shall, to the extent reasonably achievable, be at least equivalent in quality to the original work. Lessee will not take or omit to take any action the taking or omission of which might materially impair the value or the usefulness of the Leased Premises or any part thereof for the Primary Intended Use.

(b) Lessor shall not under any circumstances be required to build or rebuild any improvements on the Leased Premises, or to make any repairs, replacements, alterations, restoration, or renewals of any nature or description to the Leased Premises, whether ordinary or extraordinary, structural or non-structural, foreseen or unforeseen, or to make any expenditure whatsoever with respect thereto in connection with this Lease, or to maintain the Leased Premises in any way.

(c) Nothing contained in this Lease and no action or inaction by Lessor shall be construed as (i) constituting the consent or request of Lessor, expressed or implied, to any contractor, subcontractor, laborer, materialman or vendor to or for the performance of any labor or services or the furnishing of any materials or other property for the construction, alteration, addition, repair or demolition of or to the Leased Premises or any part thereof, or (ii) giving Lessee any right, power or permission to contract for or permit

the performance of any labor or services or the furnishing of any materials or other property in such fashion as would permit the making of any claim against Lessor in respect thereof or to make any agreement that may create, or in any way be the basis for, any right, title, interest, lien, claim or other encumbrance upon the estate of Lessor in the Leased Premises or any portion thereof.

(d) Lessee will, upon the expiration or prior termination of this Term, vacate and surrender the Leased Premises to Lessor in the condition in which the Leased Premises was originally received from Lessor, as repaired, rebuilt, restored, altered or added to as permitted or required by the provisions of this Lease, and except for ordinary wear and tear (subject to the obligation of Lessee to maintain the Leased Premises in good order and repair during the entire Term of the Lease), damage caused solely by the affirmative negligent acts or willful misconduct of Lessor and damage or destruction described in Article 14 or resulting from a Taking described in Article 15 which Lessee is not required by the terms of this Lease to repair or restore.

ARTICLE 10. ALTERATIONS

Section 10.1. Tenant Improvements. Except for the alterations permitted by Section 10.2, Lessee shall not make any alterations, improvements, ~~modifications, or additions~~ to the Leased Premises without Lessor's prior written consent, which shall not be unreasonably withheld with regard to interior, non-structural alterations that do not affect building systems.

Section 10.2. Permitted Alterations. No consent is required for (i) interior, non-structural alterations that do not affect building systems, which cost \$25,000 or less or (ii) with regard to replacement of any item that has previously been approved by Lessor, provided such items is replaced with an item of equal or better value, utility, and (if visible) appearance.

Section 10.3. Guidelines for Alterations. Any alterations, additions, substitutions or replacements performed by Lessee (i) shall be performed in a good and workmanlike manner, (ii) shall not violate any term of any agreement or restriction to which the Leased Premises are subject, and (iii) shall be expeditiously completed in compliance with all Legal Requirements applicable thereto. Lessee shall promptly pay all costs and expenses of each such alterations, additions, substitutions or replacements, discharge all liens arising therefrom and procure and pay for all permits and licenses required in connection therewith. Any such alteration, improvement, modification, or fixture which is installed by Lessee on the Leased Premises and which is in any manner attached to the floors, walls or ceilings shall remain upon the Land when the Leased Premises are surrendered by Lessee unless otherwise designated by Lessor in connection with Lessor's approval of such alteration, improvement, modification or fixture.

Section 10.4. Plans For Alterations. Lessee shall promptly furnish lessor copies of as-built plans and specifications for work after completion. Lessee shall notify Lessor upon completion of any alterations, improvements, modifications, or additions and Lessor may inspect same for workmanship and compliance with any approved plans and specifications.

ARTICLE 11.

LIENS

Subject to the provisions of Article 12 relating to permitted contests, Lessee will not directly or indirectly create or allow to remain and will promptly discharge at its expense any lien, encumbrance, attachment, title retention agreement or claim upon the Leased Premises or any attachment, levy, claim or encumbrance in respect of the Rent, not including, however, (a) this Lease, (b) the Permitted Exceptions, (c) restrictions, liens and other encumbrances which are consented to in writing by Lessor, (d) liens for those taxes of Lessor which Lessee is not required to pay hereunder, (e) subleases permitted by Article 22, (f) liens for Impositions or for sums resulting from noncompliance with Legal Requirements, so long as (1) the same are not yet payable or are payable without the addition of any fine or penalty or (2) such liens are in the process of being contested as permitted by Article 12, (g) liens of mechanics, laborers, materialmen, suppliers or vendors for sums either disputed or not yet due, provided that (1) the payment of such sums shall not be postponed for more than 60 days after the completion of the action giving rise to such lien and such reserve or other appropriate provisions as shall be required by law or generally accepted accounting principles shall have been made therefore or (2) any such liens are in the process of being contested as permitted by Article 12, and (h) any liens which are the responsibility of Lessor pursuant to the provisions of Article 32 of this Lease.

ARTICLE 12.

PERMITTED CONTESTS

Lessee, on its own or on Lessor's behalf (or in Lessor's name), but at Lessee's expense, may contest, by appropriate legal proceedings conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of any Imposition, Legal Requirement, Insurance Requirement, lien, attachment, levy, encumbrance, charge or claim not otherwise permitted by Article 11, provided that (a) in the case of an unpaid Imposition, lien, attachment, levy, encumbrance, charge or claim, the commencement and continuation of such proceedings shall suspend the collection thereof from Lessor and from the Leased Premises, (b) neither the Leased Premises nor any Rent therefrom nor any part thereof or interest therein would be in any immediate danger of being sold, forfeited, attached or lost, (c) in the case of a Legal Requirement, Lessor would not be in any immediate danger of civil or criminal liability for failure to comply therewith pending the outcome of such proceedings, (d) in the case of a Legal Requirement and/or an Imposition, lien, encumbrance or charge, Lessee shall give such reasonable security as may be demanded by Lessor (such as a bond or title insurance endorsement) to insure ultimate payment of the same and to prevent any sale or forfeiture of the affected portion of the Leased Premises or the Rent by reason of such non-payment or non-compliance, provided, however, the provisions of this Article 12 shall not be construed to permit Lessee to contest the payment of Rent (except as to contests concerning the method of computation or the basis of levy of any Imposition or the basis for the assertion of any other claim) or any other sums payable by Lessee to Lessor hereunder, (e) in the case of an Insurance Requirement, the coverage required by Article 13 shall be maintained, (f) if such contest be finally resolved against Lessor or Lessee, Lessee shall, as Additional Charges due hereunder, promptly pay the amount required to be paid, together with all interest and penalties accrued thereon, or comply with the applicable Legal Requirement or Insurance Requirement, and (g) there is no Event of Default or occurrence of an event that the passing of all applicable notice

and cure periods would be an Event of Default. Lessor, at Lessee's expense, shall execute and deliver to Lessee such authorizations and other documents as may reasonably be required in any such contest and, if reasonably requested by Lessee or if Lessor so desires, Lessor shall join as a party therein. Lessee shall indemnify and save Lessor harmless against any liability, cost or expense of any kind that may be imposed upon Lessor in connection with any such contest and any loss resulting therefrom.

ARTICLE 13. **INSURANCE**

Section 13.1. General Insurance Requirements. During the Term of this Lease, Lessee shall at all times keep the Leased Premises, and all property located in or on the Leased Premises, including Lessee's Personal Property, insured with the kinds and amounts of insurance described below (or with increased limits as may be required from time to time by Lessor by giving notice to Lessee, no more frequently than once per any 12 month period). This insurance shall be written by companies authorized to do insurance business in the State in which the Leased Premises is located. The policies must name Lessor as an additional insured and losses shall be payable to Lessor and/or Lessee as provided in Article 14. In addition, the policies shall name as an additional insured or loss payee (as applicable) the holder ("Mortgagee") of any mortgage, deed of trust or other security agreement securing any Encumbrance placed on the Leased Premises in accordance with the provisions of Article 32 ("Mortgage"), if any, by way of a standard form of mortgagee's loss payable endorsement. Any loss adjustment relating to the Leased Premises shall require the written consent of Lessor and each affected Mortgagee. Evidence of insurance shall be deposited with Lessor on an annual basis or otherwise as requested by Lessor and, if requested, with any Mortgagee(s). If because of any act or omission of Lessee any provision of any Mortgage which constitutes a first lien on the Leased Premises then requires deposits of insurance to be made with such Mortgagee, Lessee shall either pay to Lessor monthly the amounts required and Lessor shall transfer such amounts to such Mortgagee or, pursuant to written direction by Lessor, Lessee shall make such deposits directly with such Mortgagee. The policies on the Leased Premises, including the Leased Improvements, the Fixtures and Lessee's Personal Property, shall insure against the following risks:

(a) Loss or damage by fire, vandalism and malicious mischief, extended coverage perils commonly known as "All Risk" and all physical loss perils, including, but not limited to, sprinkler leakage in an amount not less than 100% of the then Full Replacement Cost thereof (as defined below in Section 13.2);

(b) Loss or damage by explosion of steam boilers, pressure vessels or similar apparatus, now or hereafter installed in the Leased Premises, in such limits with respect to any one accident as may be reasonably requested by Lessor from time to time;

(c) Loss of business under a business interruption insurance policy covering the risk of loss during the first 12 months of reconstruction necessitated by the occurrence of any of the hazards described in Sections 13.1(a) or 13.1(b), in an amount sufficient to prevent Lessee from becoming a co-insurer;

(d) Claims for personal injury or property damage under a policy of comprehensive general public liability insurance, including but not limited to insurance against assumed or contractual liability including indemnities under this Lease, with amounts not less than \$2,000,000 per occurrence in respect of bodily injury and death, \$2,000,000 for property damage and \$5,000,000 umbrella coverage;

(e) Flood (when the Leased Premises is located in whole or in part within a designated flood plain area) and such other hazards specifically mold including and in such amounts as may be customary for comparable property in the area and if available from insurance companies authorized to do business in the State in which the Leased Premises are located at rates which are economically practicable in relation to the risks covered; and

(f) If Lessee shall engage or cause to be engaged any contractor to perform work on the Leased Premises, Lessee shall require such contractor to carry and maintain, at no expense to Lessor, non-deductible comprehensive general liability insurance, including but not limited to contractor's liability coverage, completed operations coverage, broad form property damage endorsement and contractor's protection liability coverage, in such amounts and with such companies as Lessor shall approve.

Section 13.2. Replacement Cost. The term "Full Replacement Cost" as used herein, shall mean the actual replacement cost thereof (including both hard and soft costs) from time to time, including increased cost of construction endorsement plus exclusions provided in the normal fire insurance policy.

Section 13.3. Additional Insurance. In addition to the insurance described above, Lessee shall maintain such additional insurance (commercially reasonable as to type, form and amounts) as may be required from time to time by any Mortgagee and shall further at all times maintain adequate worker's compensation insurance coverage for all persons employed by Lessee on the Leased Premises, in accordance with the requirements of applicable local, state and federal law.

Section 13.4. Waiver of Subrogation. Each party waives all claims that arise or may arise in its favor against the other party, or anyone claiming through or under them, by way of subrogation or otherwise, during the Fixed Term or any Renewal Term, for all losses of, or damage to, any of its property (**WHETHER OR NOT THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF THE OTHER PARTY OR ANYONE FOR WHOM THE OTHER PARTY IS RESPONSIBLE**), which loss or damage is covered by valid and collectible property insurance policies, to the extent that the loss or damage is recovered under the insurance policies. All insurance policies carried by either party covering the Leased Premises, the Fixtures, and/or Lessee's Personal Property, including without limitation, contents, fire and casualty insurance, shall expressly waive any right of subrogation on the part of the insurer against the other party.

Section 13.5. Form of Insurance. All of the policies of insurance referred to in Section 13.1 shall be written in form satisfactory to Lessor and by insurance companies reasonably satisfactory to Lessor. Lessee shall pay all of the premiums therefor and deliver such policies or

certificates thereof to Lessor prior to their Commencement Date (and with respect to any renewal policy, at least 15 days prior to the expiration of the existing policy) and in the event of the failure of Lessee either to effect such insurance in the names herein called for or to pay the premiums therefore, or to deliver such policies or certificates thereof to Lessor at the times required, Lessor shall be entitled, but shall have no obligation to enact such insurance and pay the premiums therefore, which premiums shall be repayable to Lessor upon written demand therefore, and failure to repay the same shall constitute an Event of Default within the meaning of Section 16.1(b). Each insurer mentioned in Section 13.1 shall agree by endorsement on the policy or policies issued by it, or by independent instrument furnished to Lessor, that it will give to Lessor 30 days' written notice before the policy or policies in question shall be altered, allowed to expire or canceled.

Section 13.6. Blanket Policy. Notwithstanding anything to the contrary contained in this Article 13, Lessee's obligations to carry the insurance provided for herein may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Lessee and its Affiliates; provided, however, that the coverage afforded Lessor will not be reduced or diminished or otherwise be different from that which would exist under a separate policy meeting all other requirements of this Lease by reason of the use of such blanket policy of insurance, and provided further that the requirements of this Article 13 are otherwise satisfied.

Section 13.7. No Separate Insurance. Except as to Lessee's personal property if Lessee so elects, Lessee shall not on Lessee's own initiative or pursuant to the request or requirement of any third party, take out separate insurance concurrent in form or contributing in the event of loss with that required in Section 13.1 to be furnished by, or which may reasonably be required to be furnished by, Lessee, or increase the amounts of any such then existing insurance by securing an additional policy or additional policies, unless all parties having an insurable interest in the subject matter of the insurance, including in all cases Lessor and all Mortgagees, are included there plus additional insured's and the loss is payable under said insurance in the same manner as losses are required to be payable under this Lease. Lessee shall immediately notify Lessor of the taking out of any such separate insurance or of the increasing of any of the amounts of the then existing insurance by securing an additional policy or additional policies.

ARTICLE 14.

FIRE AND CASUALTY

Section 14.1. Insurance Proceeds. All proceeds payable by reason of any loss or damage to the Leased Premises or any portion thereof, and insured under any policy of insurance required by Sections 13.1(a) and 13.1(b) of this Lease shall be paid to Lessor and held by Lessor in trust (subject to the provisions of Section 14.6) and, unless otherwise provided in Section 14.5, shall be made available for reconstruction or repair, as the case may be, of any damage to or destruction of the Leased Premises, or any portion thereof, and shall be paid out by Lessor from time to time for the reasonable cost of such reconstruction or repair. Any excess proceeds of insurance remaining after the completion of the restoration or reconstruction of the Leased Premises shall be paid to Lessor free and clear upon completion of any such repair and restoration except as otherwise specifically provided below in this Article 14; provided, in the event neither Lessor nor Lessee is required or elects to repair and restore the Leased Premises, all

such insurance proceeds shall be retained by and belong to Lessor (except any proceeds relating to Lessee's Personal Property which shall belong to Lessee). All salvage resulting from any risk covered by insurance shall belong to Lessee unless neither Lessor nor Lessee is required or elects to repair and restore the Leased Premises, in which case such salvage (except that any salvage relating to Lessee's Personal Property) shall belong to Lessor.

Section 14.2. Reconstruction in the Event of Damage or Destruction Covered by Insurance.

(a) Except as provided in Section 14.6, if during the Term, the Leased Premises is totally or partially destroyed (whether or not from a risk covered by the insurance described in Article 13), unless otherwise provided in Section 14.5, Lessee shall restore the Leased Premises to substantially the same condition as existed immediately before the damage or destruction (or, with Lessor's prior written approval, said approval not to be unreasonably withheld, to such other condition as Lessee may reasonably determine is appropriate, consistent with the Primary Intended Use).

(b) During the period of repair or restoration, neither Base Rent nor any Additional Rent shall be reduced or abated. If the cost of the repair or restoration exceeds the amount of proceeds received by Lessor from the insurance required under Article 13 and Lessee elects or is required by the terms of this Lease to restore the Leased Premises, Lessee shall be obligated to contribute any excess amount needed to restore the Leased Premises. An amount shall be paid by Lessee to Lessor to be held in trust together with any other insurance proceeds for application to the cost of repair and restoration as provided in Section 14.8 below.

(c) Lessee shall (i) commence to repair any such damage or to restore the Leased Premises within sixty (60) days after the date of the casualty, and (ii) diligently and continuously prosecute such repairs or restoration to completion, and (iii) complete such repairs or restoration as soon as reasonably practicable but in any case within 210 days after commencement of such repairs or restoration. Subject to the provisions of Section 14.8, Lessor shall make proceeds of insurance in respect of such fire or other casualty available to Lessee.

Section 14.3. Lessee's Property. All insurance proceeds payable by reason of any loss of or damage to any of Lessee's Personal Property shall be paid to Lessee. Lessee shall use the insurance proceeds payable to Lessee under the provision of Section 14.2 above to replace its property in the Leased Premises if Lessee is required to have the Leased Premises restored.

Section 14.4. No Abatement of Rent. This Lease shall remain in full force and effect and Lessee's obligation to make rental payments and to pay all other charges required by this Lease shall remain unabated during any period required for repair and restoration.

Section 14.5. Termination By Lessor if Required by Mortgagee. Notwithstanding any provisions of Sections 14.1 and 14.2 to the contrary, if Lessor is required to pay any insurance proceeds arising out of the damage to or destruction of the Leased Premises to Lessor's

Mortgagee, then Lessor may terminate this Lease by giving written notice of its election to terminate within 30 days following the date of loss.

Section 14.6. Damage Near End of Term. Notwithstanding any provisions of Sections 14.1 and 14.2 to the contrary, if damage to or destruction of the Leased Premises occurs during the last 12 months of the Term or any Renewal Term, and if such damage or destruction renders the Leased Premises Unsuitable for Its Primary Intended Use and cannot be fully repaired and restored within 6 months immediately following the date of loss, either party shall have the right to terminate this Lease by giving notice to the other within 30 days after the date of damage or destruction, in which event Lessor shall be entitled to retain the insurance proceeds (except as to Lessee's personal property) and Lessee shall pay to Lessor on demand the amount of any deductible or uninsured loss arising in connection therewith; provided, however, that any such notice given by Lessor shall be void and of no force and effect if Lessee exercises any available option to extend the Term for either the First Renewal Term or Second Renewal Term, as applicable, within 30 days following receipt of such termination notice.

Section 14.7. Waiver. Lessee hereby waives any statutory or common law rights of termination which may arise by reason of any damage or destruction of the Leased Premises.

Section 14.8. Application of Proceeds. With respect to the proceeds from insurance claims which are to be applied to the repair, rebuilding or restoration of any portion of the Leased Premises, (i) if less than all or substantially all (as reasonably determined by Lessor) of the Leased Premises is damaged or destroyed, (ii) no event of default exists hereunder, (iii) such damage or destruction results in the need for repair, rebuilding or restoration work to occur on the Leased Premises, and (iv) Lessee has delivered evidence satisfactory to Lessor that sufficient funds (including available insurance proceeds and Lessee's contribution) are available to repair, rebuild or restore the Leased Premises (such repairs, rebuilding or restoration being hereinafter referred to as the "Restoration Work") to a condition of at least equal in value and general utility to that of such Leased Premises prior to such destruction, damage or taking, then Lessee will be entitled to have so much of the insurance proceeds, less the reasonable cost out-of-pocket, if any, to Lessor of the recovery thereof and of the paying out of such proceeds, including but not limited to, reasonable attorneys' fees and expenses and architects' and engineers' fees and expenses allocable to inspecting the Restoration Work and the plans and specifications therefor (collectively, the "Net Insurance Proceeds") resulting from such damage or destruction to the Leased Premises that are available for the Restoration Work, applied thereto. If the Net Insurance Proceeds are equal to or less than \$25,000.00 such sum shall be paid directly to Lessee. If the Net Insurance Proceeds exceed \$25,000.00, such proceeds shall be paid to Lessee as needed to pay for the Restoration Work during the progress of the Restoration Work, subject to the following conditions:

- (a) Lessee will deliver to Lessor such evidence as Lessor may reasonably require that the portion of Restoration Work for which payment has been requested (net of any required retainage) has been completed in accordance with the plans and specifications therefor, which shall be previously approved by Lessor; provided, however, that, to the extent that such plans and specifications are the substantially similar to the plans and specifications existing as of the date of this Lease, Lessor's approval shall not be unreasonably withheld;

(b) The Net Insurance Proceeds required for the Restoration Work will be received and disbursed by Lessor or, if Lessor's Mortgagee so requires, Lessor's Mortgagee;

(c) If the Restoration Work is structural or if the cost of the Restoration Work as estimated by Lessor exceeds \$50,000.00, an architect or engineer selected by Lessee and approved by Lessor shall be in charge of the Restoration Work;

(d) The disbursement of the Net Insurance Proceeds will be made within seven (7) days' after written request therefor, accompanied by (1) evidence of amounts charged for the portion of the Restoration Work in question and prior payment of amounts expended for the portion of the Restoration Work as to which previous disbursements have been made by Lessor, (2) a certificate of the architect and/or engineer, if one be required under clause (c) of this Section 14.8, otherwise by Lessee, stating that all of the Restoration Work for which payment is requested has been completed and has been done in compliance with any approved plans and specifications, (3) lien waivers reasonably satisfactory in form and substance to Lessor covering the Restoration Work, and (4) if requested by Lessor, a search prepared by a title company or licensed abstractor or by other evidence satisfactory to Lessor that there has not been filed with respect to the Leased Premises any mechanics', materialmen or other lien instrument or affidavit for the retention of title not discharged of record;

(e) There will be no default or occurrence of an act or omission (other than the damage itself) which, with the giving of notice or the passage of time, or both would create or constitute a default or event of default hereunder; and,

(f) The request for any payment after the Restoration Work has been completed will be accompanied by a copy of any certificate or certificates required by law, rule, ordinance or regulation to render occupancy of the Leased Premises legal. Should Lessor receive a request which Lessor deems insufficient for the purpose intended, Lessor shall promptly, in writing, notify Lessee of the specific insufficiencies which Lessor desires remedied.

ARTICLE 15. **CONDEMNATION**

Section 15.1. Parties' Rights and Obligations. If during the Term there is any Taking of all or any part of the Leased Premises or any interest in this Lease by Condemnation, the rights and obligations of the parties shall be determined by this Article 15.

Section 15.2. Total Taking. If there is a Taking of all of the Leased Premises by Condemnation, this Lease shall terminate on the Date of Taking.

Section 15.3. Partial Taking. If there is a Taking of a portion of the Leased Premises by Condemnation, this Lease shall remain in effect if the Leased Premises is not thereby rendered Unsuited for Its Primary Intended Use, Lessee shall restore the Leased Premises to the extent possible, to substantially the same condition as existed immediately before the partial Taking (or, with Lessor's approval, to such other comparable condition as Lessee determines is

appropriate for Lessee's Primary Intended Use) and Base Rent shall be fairly and equitably adjusted. If, however, the Leased Premises is thereby rendered Unsuited for Its Primary Intended Use by Condemnation, this Lease shall terminate on the Date of Taking.

Section 15.4. Restoration. If there is a partial Taking of the Leased Premises and this Lease remains in full force and effect pursuant to Section 15.3, Lessee shall commence the necessary restoration (or, in the event, Lessor elects to restore the Leased Premises, Lessor) within 60 days after the date of the Taking and prosecute the restoration with diligence and continuity and complete same no later than 180 days after the Date of Taking.

Section 15.5. Award Distribution. The entire Award shall belong to and be paid to Lessor, except that, if this Lease is terminated, and subject to the rights of the Mortgagee, Lessee shall be entitled to receive from the Award, if and to the extent such Award specifically includes such item, an award for damages to Lessee's Personal Property. If Lessee is required or elects to restore the Leased Premises, Lessor agrees that, subject to the rights of the Mortgagee, its portion of the Award shall be used for such restoration and it shall hold such portion of the Award in trust, for application to the cost of the restoration.

Section 15.6. Temporary Taking. The Taking of the Leased Premises, or any part thereof, by military or other public authority shall constitute a Taking by Condemnation only when the use and occupancy by the Taking authority has continued for longer than 6 months. During any such 6 month period all, the provisions of this Lease shall remain in full force and effect and the Base Rent shall not be abated or reduced during such period of Temporary Taking. Any award associated with any such temporary Taking shall be paid to Lessee; provided, if such Taking has continued for longer than 6 months any award shall be distributed in accordance with the terms of Section 15.5.

Section 15.7. Termination By Lessor if Required by Mortgagee. Notwithstanding any provisions of Sections 15.3, 15.4 and 15.5 to the contrary, if Lessor is required to pay any Award to Lessor's Mortgagee, then Lessor may terminate this Lease by giving written notice of its election to terminate within 30 days following the date of the Taking.

ARTICLE 16.

DEFAULT

Section 16.1. Events of Default. The occurrence of any one or more of the following events (individually, an "Event of Default") shall constitute Events of Default hereunder:

(a) if Lessee shall fail to make a payment of the Rent payable by Lessee under this Lease on or before the date due therefor; or

(b) if Lessee shall fail to observe or perform any term, covenant or condition of this Lease on its part to be performed and such failure shall continue for a period of 10 days after notice thereof from Lessor, unless such failure cannot with due diligence be cured within a period of 10 days, in which case such failure shall not be deemed to continue if Lessee, within said 10 day period, proceeds promptly and with due diligence to cure the failure and diligently completes the curing thereof within 30 days after receipt by Lessor of Lessee's notice of default; or

(c) if Lessee shall:

(i) admit in writing its inability to pay its debts generally as they become due;

(ii) file a petition in bankruptcy or a petition to take advantage of any insolvency act;

(iii) make an assignment for the benefit of its creditors;

(iv) consent to the appointment of a receiver of itself or of the whole or substantially all of its property;

(v) file a petition or answer seeking reorganization or arrangement under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any State thereof; or

(vi) attempt to assign or sublease this Lease without the prior written permission of Lessor, said permission not to be unreasonably withheld.

(d) if the Lessee shall, after a petition in bankruptcy is filed against it, be adjudicated a bankrupt or if a court of competent jurisdiction shall enter an order or decree appointing, without the consent of Lessee a receiver of Lessee or any guarantor of this Lease or of the whole or substantially all of its property, or approve the petition filed against it seeking reorganization or arrangement of Lessee under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any State thereof, and such judgment, order or decree shall not be vacated or set aside or stayed within ninety (90) days from the date of the entry thereof; or

(e) if Lessee shall merged or consolidated with any other entity or be liquidated or dissolved, or shall begin proceedings toward such liquidation or dissolution, or shall, in any manner, permit the sale or divestiture of all or substantially all of its assets; or

(f) if the estate or interest of Lessee in the Leased Premises or any part thereof shall be levied upon or attached in any proceeding and the same shall not be vacated or discharged within the later of 90 days after commencement thereof or 30 days after receipt of Lessee of notice thereof from Lessor (unless Lessee shall be contesting such lien or attachment in good faith in accordance with Article 12 hereof).

Section 16.2. Lessor's Remedies.

(a) If an Event of Default occurs, Lessor may then or any time thereafter, and without any further notice or opportunity to cure except as expressly set forth in this Section 16.2, pursue any one or more of the following remedies:

(i) Terminate this Lease by giving notice to Lessee, in which event Lessee shall immediately surrender the Leased Premises to Lessor. If Lessor terminates this Lease under this Section 16.2(a)(i), then Lessee shall pay to Lessor

on demand the amount of all loss and damage Lessor suffers by reason of the Event of Default and termination of this Lease, whether through inability to relet the Leased Premises on satisfactory terms or otherwise. Lessor has no duty to relet the Leased Premises, except as required by applicable laws. Lessor's damages under this Section 16.2(a)(i) specifically include, but are not limited to: (A) all amounts due and unpaid under this Lease as of the termination date; (B) the fair market rental value of the Leased Premises from the date that Lessee vacates the Leased Premises until the date that the Leased Premises are relet; (C) the difference between the fair market rental value of the Leased Premises from the date the Leased Premises are relet through the expiration of the Term and the rental to be received from a new tenant or tenants through the expiration of the Term, discounted to present value at the Prime Rate; (D) all reasonable expenses necessary to recover possession of the Leased Premises and relet the Leased Premises, including the cost of renovating, repairing, and altering the Leased Premises for a new tenant or tenants, any concessions granted to the new tenant or tenants (including but not limited to free rent) and advertisements; (E) any concessions made by Lessor to Lessee under this Lease (including, but not limited to, abated Rent, if any); and (F) any increase in insurance premiums caused by the vacancy of the Leased Premises. Nothing in this Lease limits Lessor's right to prove and obtain in bankruptcy or insolvency proceedings damages by reason of the termination of this Lease in an amount equal to the maximum amount allowed by any statute or rule of law in effect at the time when the damages are to be proved, whether or not the amount is greater, equal to, or less than the amount of the loss or damages referred to above.

(ii) Terminate Lessee's right of possession under this Lease (without terminating this Lease or Lessee's obligation to pay Rent for the balance of the Term) by giving notice to Lessee, in which event Lessee shall immediately surrender the Leased Premises to Lessor. Lessor may (but is under no obligation, except as required by applicable laws, to) relet the Leased Premises or any part thereof for the account of Lessee, in the name of Lessee or Lessor or otherwise, without notice to Lessee for a term or terms (which may be greater or less than the period that would otherwise have constituted the balance of the Term) and on conditions (which may include concessions or free rent) and for uses as Lessor in its sole discretion may determine. Lessor may collect and receive any rents payable by reason of any reletting. Lessee shall pay Lessor on demand as Additional Rent all reasonable expenses necessary to recover possession of the Leased Premises and relet the Leased Premises, which includes the cost of renovating, repairing, and altering the Leased Premises for a new tenant or tenants, and advertisements, as well as any deficiency that may arise by reason of the reletting. Except as provided under applicable laws, Lessor is not liable for any failure to relet the Leased Premises or any part thereof or for any failure to collect any Rent due upon any reletting. No taking of possession of the Leased Premises by Lessor is an election on Lessor's part to terminate this Lease unless a notice of termination is given to Lessee.

(iii) Enter upon the Leased Premises without having any civil or criminal liability and do whatever Lessee is obligated to do under the terms of this Lease. Lessee shall reimburse Lessor on demand as Additional Rent for any expenses Lessor incurs in performing Lessee's obligations under this Lease, together with interest at the Overdue Rate from the date incurred until repaid by Lessee. **LESSOR IS NOT LIABLE FOR ANY DAMAGES RESULTING TO LESSEE FROM ANY LESSOR PARTY'S ACTIONS OR OMISSIONS IN PERFORMING LESSEE'S OBLIGATIONS, WHETHER CAUSED BY THE NEGLIGENCE OR STRICT LIABILITY OF ANY LESSOR PARTY OR OTHERWISE.**

(iv) Remove, alter, or change any door, window, or attic hatchway cover to the Leased Premises, or any lock, latch, hinge, hinge pin, doorknob, or other mechanism connected to any door, window, or attic hatchway cover to the Leased Premises, and intentionally prevent Lessee from entering the Leased Premises without resort to judicial process and without being liable for prosecution or any claim of damages. Lessor is under no obligation to restore any door, window, or attic hatchway cover or any lock, latch, hinge, hinge pin, doorknob, or other mechanism attached thereto or to deliver or make available to Lessee any key to any door, window, or attic hatchway cover until Lessee fully cures all Acts of Default then existing under this Lease.

(b) If Lessee fails to surrender the Leased Premises under Sections 16.2(a)(i) or 16.2(a)(ii), then Lessor may, without prejudice to any other remedy it has for possession or arrearages in Rent, take possession of the Leased Premises and expel or remove Lessee and any other person occupying the Leased Premises, or any part thereof, without being liable for prosecution or any claim of damages.

(c) No repossession, re-entering, or reletting of all or any part of the Leased Premises under this Section 16.2 or otherwise relieves Lessee or any guarantor of this Lease of any liabilities or obligations under this Lease, all of which survive repossession or re-entering by Lessor. If Lessor repossesses or re-enters all or any part of the Leased Premises under Sections 16.2(a)(ii), Section 16.2(a)(iii) or Section 16.2(a)(iv) after an Event of Default, Lessee shall continue to pay to Lessor the Rent required to be paid by Lessee. No right or remedy of Lessor under this Lease is intended to be exclusive of any other right or remedy. Each right and remedy of Lessor is cumulative of all other rights or remedies under this Lease or now or hereafter existing at law, in equity, or by statute. In addition to other remedies provided in this Lease, Lessor is entitled, to the extent permitted by applicable laws, to injunctive relief in case of the violation, or attempted or threatened violation, of any of the terms of this Lease, or to a decree compelling specific performance of the terms of this Lease.

(d) If Lessor is deemed to have a duty to mitigate its damages arising from a default by Lessee under this Lease, then Lessor's duty to mitigate is limited to using objectively reasonable efforts to relet the Leased Premises to a replacement tenant suitable under the circumstances, which duty to relet the Leased Premises does not require Lessor to (i) give priority to the Leased Premises over other premises owned or managed by Lessor or its affiliates, (ii) relet for less than market rent, or (iii) relet to a

tenant (or for a use) that is not in keeping with the first class character of the Leased Premises. Further, any breach of Lessor's duty to relet the Leased Premises does not give rise to a cause of action by Lessee, but rather, will reduce Lessor's recovery against Lessee to the extent that damages reasonably could have been avoided if Lessor had properly exercised its above-described duty.

Section 16.3. Additional Expenses. It is further agreed that, in addition to payments required pursuant to Section 16.2, Lessee shall compensate Lessor for all actual expenses, excluding consequential damages (except as provided in Article 18), incurred by Lessor in repossessing the Leased Premises (including among other expenses, any increase in insurance premiums caused by the vacancy of the Leased Premises), all expenses incurred by Lessor in reletting (including among other expenses, repairs, remodeling, replacements, and advertisements), all concessions granted to a new tenant upon reletting, all losses incurred by Lessor as a direct result of Lessee's default.

Section 16.4. Waiver. If this Lease is terminated pursuant to Section 16.2, Lessee waives, to the extent permitted by applicable law, (a) any right of redemption, re-entry or repossession, (b) any right to a trial by jury in the event of summary proceedings to enforce the remedies set forth in this Article 16, and (c) the benefit of any laws now or hereafter in force exempting property from liability for rent or for debt.

Section 16.5. Application of Funds. Any payments otherwise payable to Lessee which are received by Lessor under any of the provisions of this Lease during the existence or continuance of any Event of Default shall be applied to Lessee's obligations in the order which Lessor may reasonably determine or as may be prescribed by the laws of the State in which the Leased Premises is located.

Section 16.6. Notices by Lessor. The provisions of this Article 16 concerning notices shall be liberally construed insofar as the contents of such notices are concerned, and any such notice shall be sufficient if reasonably designed to apprise Lessee of the nature and approximate extent of any default, it being agreed that Lessee is in good or better position than Lessor to ascertain the exact extent of any default by Lessee hereunder.

ARTICLE 17.

LESSOR'S RIGHT TO CURE

If Lessee shall fail to make any payment, or to perform any act required to be made or performed under this Lease and to cure the same after applicable notice and within the relevant time periods provided in this Lease, Lessor, without waiving or releasing any obligation or Event of Default, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of Lessee, and may, to the extent permitted by law, enter upon the Leased Premises for such purpose and take all such action thereon as, in Lessor's opinion, may be necessary or appropriate there for. No such entry shall be deemed an eviction of Lessee. All sums so paid by Lessor and all costs and expense (including, without limitation, reasonable attorneys' fees and expense, in each case, to the extent permitted by law) so incurred, together with a late charge thereon (to the extent permitted by law) at the Overdue Rate from the date on which such sums or expenses are paid or incurred by Lessor, shall be paid

by Lessee to Lessor on demand. The obligations of Lessee and rights of Lessor contained in this Article shall survive the expiration or earlier termination of this Lease.

ARTICLE 18.
HOLDING OVER

If Lessee shall for any reason remain in possession of the Leased Premises after the expiration of the Term or any earlier termination of the Term hereof, such possession shall be as a tenancy at will during which time Lessee shall pay as rental each month, (a) 150% of the aggregate of 1/12 of the aggregate Base Rent payable with respect to the last complete Lease Year prior to the expiration of the Term; and (b) all Additional Rent and other sums, if any, payable by Lessee pursuant to the provisions of this Lease with terms, covenants and conditions of this Lease, but shall have no rights hereunder other than the right, to the extent given by law to month-to-month tenancies, to continue its occupancy and use of the Leased Premises. If Lessee fails to surrender the Leased Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Lessor accruing therefrom, Lessee shall protect, defend, indemnify and hold Lessor harmless from all loss, costs (including reasonable attorney's fees) and liability resulting from such failure, including any claims made by any succeeding tenant founded upon such failure to surrender, and any lost profits to Lessor resulting therefrom. Nothing contained herein shall constitute the consent, express or implied, of Lessor to the holding over of Lessee after the expiration or earlier termination of this Lease nor shall Lessor or Lessee have the unilateral right to renew the Lease Term as a result of the holding over of Lessee.

ARTICLE 19.
RISK OF LOSS

During the Term of this Lease, the risk of loss or of decrease in the enjoyment and beneficial use of the Leased Premises in consequence of the damage or destruction thereof by fire, the elements, casualties, thefts, riots, wars or otherwise, or in consequence of foreclosures, attachments, levies or executions (other than by Lessor and those claiming from, through or under Lessor) is assumed by Lessee and, Lessor shall in no event be answerable or accountable therefore nor shall any of the events mentioned in this Section entitle Lessee to any abatement of Rent except as specifically provided in this Lease.

ARTICLE 20.
LIMITATIONS ON LIABILITY

Lessee may not cause or knowingly permit any mechanic's or materialman's lien to be placed upon Lessor's interest in the Leased Premises or any part thereof or against Lessor's interest under this Lease by any contractor, subcontractor, laborer, materialman or supplier performing any labor or furnishing any materials to Lessee for any improvement, alteration, or repair of or to the Leased Premises, or any part thereof. If any lien is filed on Lessor's or Lessee's interest in the Leased Premises, Lessee shall cause the same to be discharged of record within twenty (20) days after filing.

ARTICLE 21.
INDEMNIFICATION

Section 21.1. Limitations on Liability of Lessor Parties; Waiver.

(a) To the fullest extent permitted by law, Lessee, on its behalf and on behalf of all Lessee Parties, waives all claims, fines, suits, losses, costs, liabilities, demands, expenses, actions, and judgments, of every kind and character (in law, equity, or otherwise), including legal fees and expenses (collectively, "Claims") against all Lessor Parties arising out of, knowingly and voluntarily assumes the risk of, and agrees that Lessor Parties are not liable to any Lessee Parties for any of the following **EVEN IF THE CLAIMS ARE CAUSED SOLELY OR IN PART BY THE NEGLIGENCE OR STRICT LIABILITY OF ANY LESSOR PARTY (BUT NOT TO THE EXTENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY LESSOR PARTY)**:

(i) any injury or damage to person or property due to the condition or design of, or any defect in, the Leased Premises that exists now or occurs in the future, or due to the Leased Premises or related improvements or appurtenances being out of repair, or defects in or failure of pipes or wiring, or backing up of drains, or the bursting or leaking of pipes, faucets, and plumbing fixtures, or gas, water, steam, electricity, or oil leaking, escaping, or flowing into the Leased Premises;

(ii) any loss or damage caused by the acts or omissions of other persons; or

(iii) any loss or damage to property or person occasioned by theft, fire, act of God, public enemy, injunction, riot, insurrection, war, court order, requisition, order of governmental authority, and any other cause beyond the control of Lessor.

(b) Notwithstanding the foregoing or anything else to the contrary contained in this Lease, the liability of any Lessor Party to any Lessee Party for any default or indemnity by Lessor under this Lease is limited to to Lessee's actual direct, but not consequential, damages therefor and shall be recoverable only from the interest of Lessor in the Leased Premises, and Lessor (and its partners, shareholders or members) shall not be personally liable for any deficiency. Additionally, Lessee hereby waives its statutory lien under Section 91.004 of the Texas Property Code.

(c) The provisions of this Section 21.1 survive the expiration or earlier termination of this Lease.

Section 21.2. Lessee's Indemnification of Lessor Parties; Assumption; Employees' Claims.

(a) Lessee shall indemnify, defend, and hold all Lessor Parties harmless from all Claims **(INCLUDING THOSE CLAIMS RESULTING SOLELY OR IN PART FROM THE**

NEGLIGENCE OR STRICT LIABILITY OF ANY LESSOR PARTY) arising out of or relating (directly or indirectly) to this Lease, including, without limitation:

(i) any breach or default in performance of any obligation on Lessee's part to be performed under this Lease, whether before or during the Lease Term or after its expiration or earlier termination;

(ii) any act, omission, negligence, or misconduct of any Lessee Party or of any other person entering upon the Leased Premises under or with the express or implied invitation or permission of Lessee;

(iii) any alterations, activities, work, or things done, permitted, allowed, or suffered by Lessee in, at, or about the Leased Premises, including the violation by any Lessee Party of any law, ordinance, or governmental order of any kind; and

(iv) the occupancy or use by any Lessee Party of the Leased Premises.

(b) Lessee shall indemnify, defend, and hold all Lessor Parties harmless from any Claim for damage to the Lessee Improvements or Lessee's personal property, fixtures, furniture, and equipment in the Leased Premises **(INCLUDING THOSE CLAIMS RESULTING SOLELY OR IN PART FROM THE NEGLIGENCE OR STRICT LIABILITY OF ANY LESSOR PARTY)**.

(c) If any employee (full-time, part-time, or temporary) of any Lessee Party suffers an injury and does not exhaust all rights under the applicable Workers' Compensation Laws, then Lessee shall indemnify, defend, and hold all Lessor Parties harmless from all Claims suffered by Lessor Parties arising from the injured employee's failure to exhaust all rights under the applicable Workers' Compensation Laws before making any claim against Lessor Parties.

(d) The provisions of this Section 21.2 survive the expiration or earlier termination of this Lease.

(e) The indemnification provisions of this Section 21.2 may not be construed or interpreted as in any way restricting, limiting, or modifying Lessee's insurance or other obligations under this Lease and are independent of Lessee's insurance and other obligations under this Lease.

ARTICLE 22.

SUBLETTING AND ASSIGNMENT

Section 22.1. Subletting and Assignment. Lessee may not assign this Lease or sublet all or any portion of Leased Premises without Lessor's prior written consent, which consent shall not be unreasonably withheld. Any such consent granted by Lessor shall be subject to the following: (A) in the case of a subletting, the sublessee shall comply with the provisions of this Section 22.1, (B) in the case of an assignment, the assignee shall assume in writing and agree to

keep and perform all of the terms of this Lease on the part of Lessee to be kept and performed and shall be and become jointly and severally liable with Lessee for the performance thereof, (C) a copy of each such sublease and assignment and assumption, duly executed by Lessee and such sublessee or assignee, as the case may be, in form and substance reasonably satisfactory to Lessor, shall be delivered promptly to Lessor, (D) in case of either an assignment or subletting, Lessee shall remain primarily liable, as principal rather than as surety, for the prompt payment of the Rent and for the performance and observance of all of the covenants and conditions to be performed by Lessee hereunder, and (E) if the rent payable to Lessee by any sublessee or other consideration payable by any assignee to Lessee is greater than the Base Rent, then such excess rent shall be payable by Lessee as Additional Rent to Lessor hereunder on the same dates Lessee pays Base Rent.

Section 22.2. No Release of Lessee. Notwithstanding any assignment or subletting, Lessee shall at all times remain fully responsible and liable for the payment of the rent herein specified and for compliance with all of Lessee's other obligations under this Lease unless Lessor specifically and expressly agrees in writing that Lessee may be released. If an Event of Default should occur while the Leased Premises or any part thereof are assigned or sublet, Lessor, in addition to any other remedies herein provided or provided by law, may at its option collect directly from such assignee or subtenant all rents becoming due to Lessee under such assignment or sublease and apply such rent against any sums due to Lessor by Lessee hereunder, and Lessee hereby authorizes and directs any such assignee or subtenant to make such payments of rent directly to Lessor upon receipt of notice from Lessor. No direct collection by Lessor from any such assignee or subtenant shall be construed to constitute a novation or a release of Lessee from the further performance of its obligations hereunder. Receipt by Lessor of rent from any assignee, subtenant, or occupant of the Leased Premises shall not be deemed a waiver of the covenant in this Lease contained against assignment and subletting or a release of Lessee under this Lease. The receipt by Lessor of rent from any such assignee or subtenant obligated to make payments of rent shall be a full and complete release, discharge, and acquittance to such assignee or subtenant to the extent of any such amount of rent so paid to Lessor. Any attempted assignment, sublease, mortgage, or pledge by Lessee in violation of the terms and covenant of this Article 22 shall be void.

Section 22.3. Sublessee Attornment. Lessee shall insert in each sublease permitted under Section 22.1 provisions to the effect that (a) such sublease is subject and subordinate to all of the terms and provisions of this Lease and to the rights of Lessor hereunder, (b) in the event this Lease shall terminate before the expiration of such sublease, the sublessee thereunder will, at Lessor's option, attorn to Lessor and waive any right the sublessee may have to terminate the sublease or to surrender possession thereunder, as a result of the termination of this Lease and (c) in the event the sublessee receives a written notice from Lessor or Lessor's assignees, if any, stating that Lessee is in default under this Lease, the sublessee shall thereafter be obligated to pay all rentals accruing under said sublease directly to the party giving such notice, or as such party may direct. All rentals received from the sublessee by Lessor or Lessor's assignees, if any, as the case may be, shall be credited against the amounts owing by Lessee, as and when due, under this Lease and any excess shall be paid to Lessee from time to time.

ARTICLE 23.
OFFICER'S CERTIFICATES

At any time not to exceed one request per month, within five (5) days following written request by Lessor, Lessee will furnish to Lessor an Officer's Certificate certifying, if true, that this Lease is unmodified and in full force and effect (or that this Lease is in full force and effect as modified and setting forth the modifications) and the dates to which the Rent has been paid and any other information as may be required by Lessor, a prospective purchaser of the Leased Premises, Mortgagee(s), or potential lenders. Any such Officer's Certificate furnished pursuant to this Article may be relied upon by Lessor or Mortgagee and any prospective purchaser or mortgagee of the Leased Premises.

ARTICLE 24.
INSPECTION

Upon reasonable notice except in the event of an emergency, Lessor and its authorized representatives may enter the Leased Premises at reasonable hours to inspect the Leased Premises, to show the Leased Premises to prospective lenders and purchasers and during the last twelve (12) months of the Term, to show the Leased Premises to prospective tenants and, if the Leased Premises are vacant, to prepare them for reoccupancy.

ARTICLE 25.
NO WAIVER

No failure by Lessor or Lessee to insist upon the strict performance of any term hereof or to exercise any right, power or remedy consequent upon a breach thereof, and no acceptance of full or partial payment of Rent during the continuance of any such breach, shall constitute a waiver of any such breach or any such term. To the extent permitted by law, no waiver of any breach shall affect or alter this Lease, which shall continue in full force and effect with respect to any other then existing or subsequent breach.

ARTICLE 26.
REMEDIES CUMULATIVE

To the extent permitted by law, and except as otherwise provided herein, each legal, equitable or contractual right, power and remedy of Lessor or Lessee now or hereafter provided either in this Lease or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power and remedy and the exercise or beginning of the exercise by Lessor or Lessee of any one or more of such rights, powers and remedies shall not preclude the simultaneous or subsequent exercise by Lessor or Lessee of any or all of such other rights, powers and remedies.

ARTICLE 27.
SURRENDER

No surrender to Lessor of this Lease or of the Leased Premises or any part of any thereof, or of any interest therein, shall be valid or effective unless agreed to and accepted in writing by

Lessor and no act by Lessor or any representative or agent of Lessor, other than such a written acceptance by Lessor, shall constitute an acceptance of any such surrender.

ARTICLE 28.
NO MERGER OF TITLE

There shall be no merger of this Lease or of the leasehold estate created hereby by reason of the fact that the same person, firm, corporation or other entity may acquire, own or hold, directly or indirectly, (a) this Lease or the leasehold estate created hereby or any interest in this Lease or such leasehold estate and (b) the fee estate in the Leased Premises.

ARTICLE 29.
TRANSFERS BY LESSOR

If Lessor or any successor owner of the Leased Premises shall convey the Leased Premises in accordance with the terms hereof, other than security for a debt, and the grantee or transferee of the Leased Premises shall expressly assume all obligations of Lessor hereunder arising or accruing from and after the date of such conveyance or transfer, Lessor or such successor owner, as the case may be, shall thereupon be released from all future liabilities and obligations of the Lessor under this Lease arising or accruing from and after the date of such conveyance or other transfer as to the Leased Premises and all such future liabilities and obligations shall thereupon be binding upon the new owner.

ARTICLE 30.
QUIET ENJOYMENT

Subject to Article 16, Lessee shall peaceably and quietly have, hold and enjoy the Leased Premises for the Term hereof, free of any claim or other action by Lessor or anyone claiming by, through or under Lessor, but subject to the Permitted Exceptions and all other liens and encumbrances hereafter consented to by Lessee. LESSOR AND LESSEE EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE LEASED PREMISES IS SUITABLE FOR LESSEE'S INTENDED COMMERCIAL PURPOSE, AND LESSEE'S OBLIGATION TO PAY RENT HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE LEASED PREMISES OR THE PERFORMANCE BY LESSOR OF ITS OBLIGATIONS HEREUNDER, AND, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, LESSEE SHALL CONTINUE TO PAY THE RENT, WITHOUT ABATEMENT, SETOFF OR DEDUCTION, NOTWITHSTANDING ANY BREACH BY LESSOR OF ITS DUTIES OR OBLIGATIONS HEREUNDER, WHETHER EXPRESS OR IMPLIED. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO DIMINISH THE OBLIGATIONS OF LESSOR THAT ARE EXPRESSLY SET FORTH ELSEWHERE IN THIS LEASE.

ARTICLE 31.
NOTICES

All notices, demands, requests, consents, approvals and other communications hereunder shall be in writing and delivered or mailed (by (a) registered or certified mail, return receipt requested and postage prepaid, (b) overnight carrier, or (c) facsimile transmission during normal business hours followed by a confirmatory letter sent in another manner permitted hereunder) addressed to the respective parties, as follows:

if to Lessee: Tricolor Auto Group, LLC

Attention: _____
Phone: _____
Fax: _____

if to Lessor: BV NWH, LP
c/o Bandera Ventures, LP
8117 Preston Road, Suite 220
Dallas, Texas 75225
Attention: Charles A. Anderson
Phone: 214-378-8200
Fax: 214-378-8202

or to such other address as either party may hereafter designate, and shall be effective upon receipt. All notices shall be deemed delivered 3 Business days after posting or the following day if forwarded by overnight carrier.

ARTICLE 32.
FINANCING OF THE LEASED PROPERTY

Lessee agrees that if any current or future Mortgagee requires any modifications of the terms of this Lease as a condition to approving this Lease or loaning funds to be secured by this Lease, other than a modification that materially and adversely affects Lessee's economic obligations under this Lease, Lessee shall execute and deliver any required modifications within 10 days after receipt of Lessor's request therefor.

ARTICLE 33.
SUBORDINATION AND NON-DISTURBANCE

At the request from time to time by one or more institutional holders of a mortgage or deed of trust that may hereafter be placed upon the Leased Premises or any part thereof, and any and all renewals, replacements, modifications, consolidations, spreaders and extensions thereof, Lessee will subordinate this Lease and all of Lessee's rights and estate hereunder to each such mortgage or deed or trust and agree with each such institutional holder that Lessee will attorn to and recognize such holder or the purchaser at any foreclosure sale or any sale under a power of sale contained in any such mortgage or deed of trust, as the case may be, as Lessor under this Lease for the balance of the Term then remaining, subject to all of the terms and provisions of this Lease; provided, however, that each such institutional holder simultaneously executes, delivers and records a written agreement (a) consenting to this Lease and agreeing that, notwithstanding any such other lease, mortgage, deed of trust, right, title or interest, or any default, expiration, termination, foreclosure, sale, entry or other act or omission under, pursuant to or affecting any of the foregoing, Lessee shall not be disturbed in peaceful enjoyment of the Leased Premises nor shall this Lease be terminated or canceled at any time, except in the event Lessor shall have the right to terminate this Lease under the terms and provisions expressly set forth herein; and (b) agreeing that for any period while it is Lessor hereunder, it will perform,

fulfill and observe all of Lessor's representations, warranties and agreements set forth herein including rights of purchase. Lessor and Lessee agree to enter into a subordination, non-disturbance and attornment agreement as described above with the Lessor's Mortgagee.

ARTICLE 34.
MISCELLANEOUS

Section 34.1. General. Anything contained in this Lease to the contrary notwithstanding, all claims against, and liabilities of, Lessee or Lessor arising prior to any date of termination of this Lease shall survive such termination. If any term or provision of this Lease or any application thereof shall be invalid or unenforceable, the remainder of this Lease and any other application of such term or provision shall not be affected thereby. If any late charges provided for in any provision of this Lease are based upon a rate in excess of the maximum rate permitted by applicable law, the parties agree that such charges shall be fixed at the maximum permissible rate. Except as may otherwise be provided for herein, neither this Lease nor any provision hereof may be changed, waived, discharged or terminated except by an instrument in writing signed by Lessor and Lessee. All the terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The headings in this Lease are for convenience of reference only and shall not limit or otherwise affect the meaning hereof. This Lease shall be governed by and construed in accordance with the laws of Texas but not including its conflict of laws rules.

Section 34.2. Complete Agreement. This Lease supersedes and takes the place of any and all previous agreements and communications between the parties hereto relating to the matters covered hereby. By executing this Lease, the parties agree that any prior versions of this Lease shall be of no further force or effect and that this Lease shall supersede and supplant any prior versions or drafts of this Lease in all respects.

Section 34.3. Transfer of Licenses. Upon the expiration or earlier termination of the Term, to the extent transferable, Lessee shall use commercially reasonable efforts to transfer to Lessor or Lessor's nominee all licenses, operating permits and other governmental authorizations and all contracts, including contracts with governmental or quasi-governmental entities which may be necessary or useful in the operation of the Leased Premises but not including licenses operating permits and other governmental authorizations and all contracts, including contracts with governmental or quasi-governmental entities specifically related to the business of Lessee.

Section 34.4. Independent Covenants. Lessee acknowledges and agrees that the covenants and agreements hereunder are independent of one another and Lessee's obligations hereunder (including, without limitation, the payment of rent) and the rights of Lessor under this Lease, shall be absolute, unconditional and irrevocable. It is the intention of the parties hereto that the obligations of Lessee hereunder shall be separate and independent covenants and agreements, that the Base Rent, the Additional Rent and all other sums payable by Lessee hereunder shall continue to be payable in all events and that the obligations of Lessee hereunder shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated or modified pursuant to an express provision of this Lease.

Section 34.5. Brokers. Lessee and Lessor each warrants that it has had no dealings with any broker or agent in connection with the negotiation or execution of this Lease. Each party shall indemnify, defend, and hold the other party harmless against all costs, expenses, legal fees, or other liability for commissions or other compensation or charges claimed by any broker or agent with respect to this Lease or any renewal or extension or with respect to any expansion of the Leased Premises.

ARTICLE 35.

MEMORANDUM OF LEASE AND COMMENCEMENT DATE LETTER

Section 35.1. Memorandum of Lease. Lessee agrees that it will not record a memorandum of this Lease or any other record thereof in the Real Property Records of the county in which the Leased Property is located.

Section 35.2. Commencement Date Letter. When the first day of the Lease Term is determined by Lessor, Lessor shall prepare and Lessor and Lessee shall execute and deliver a letter acknowledging that date and the Expiration Date.

[Signature page to follow.]

EXHIBIT A

LAND DESCRIPTION

LOT 5B, BLOCK L/5775 OF 3113 NORTHWEST ADDITION, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 68249, Page 1995, Map Records, Dallas County, Texas.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed and their respective corporate seals to be hereunto affixed and attested by their respective officers thereunto duly authorized.

LESSOR:

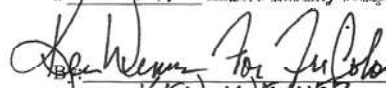
BV NWH, LP,
a Texas limited partnership

By: BV NWH GP, LLC,
a Texas limited liability company
its general partner

By: 
Name: _____
Title: Charles A. Anderson
Authorized Agent

LESSEE:

TRICOLOR AUTO GROUP, LLC,
a Texas limited liability company

By: 
Name: KEN WEAVER
Title: CEO

AMENDMENT TO LEASE AGREEMENT

THIS AMENDMENT TO LEASE AGREEMENT (this "**Amendment**") is entered into as of March 31, 2010, but effective as of the Effective Time (as defined in Section 12) among TRICOLOR AUTO GROUP, LLC, a Delaware limited liability company (the "**New Lessee**"), TRICOLOR AUTO GROUP, LLC, a Texas limited liability company ("**Original Lessee**"), KEN WEAVER, an individual resident of the State of Texas ("**Original Guarantor**"), and BV NWH, LP, a Texas limited partnership ("**Lessor**").

BACKGROUND:

- A. Original Lessee and Lessor entered into that certain Lease Agreement (the "**Lease**") dated effective as of July 1, 2008, covering that certain parcel of real property located at 3363 W. Northwest Highway, Dallas, Dallas County, Texas, as more particularly described in the Lease.
- B. Original Guarantor executed that certain Limited Guaranty (the "**Original Guaranty**") dated June 9, 2008, in favor of Lessor.
- C. Original Lessee, Tricolor Auto Acceptance Corporation LLC, a Texas limited liability company, Original Guarantor, Daniel Chu, an individual resident of the State of Texas, and TAG Holding Company, LLC (the "**Replacement Guarantor**") entered into that certain Asset Purchase Agreement, dated March 19, 2010 (the "**Purchase Agreement**").
- D. Original Lessee has requested that Lessor consent to the assignment of the Lease from the Original Lessee to the New Lessee.
- E. Lessor agrees to (i) accept the New Lessee as "lessee" under the Lease and accept Replacement Guarantor as a new Lease guarantor, (ii) release Original Lessee from any obligations under the Lease and (iii) release Original Guarantor from any obligations under the Original Guaranty; all subject to the terms of this Amendment.
- F. All capitalized terms used but not defined in this Amendment shall have the meaning ascribed to them in the Lease.

AGREEMENTS:

Lessor, Original Lessee and New Lessee agree as follows:

- 1. Approval of Replacement of Original Lessee and Assumption of Obligations by New Lessee.
 - (a) By execution of this Amendment, Lessor evidences its approval of the replacement of the Original Lessee, as "lessee" under the Lease, by New Lessee as "lessee" under the Lease, subject to the modification of the Lease set forth in this Amendment. New Lessee hereby assumes all duties, obligations and

responsibilities of "Lessee" under the Lease. Hereafter, all references to the term "Lessee" refers solely to New Lessee.

- (b) Lessee acknowledges that the financial capability of (i) Lessee to perform its obligations hereunder and (ii) Replacement Guarantor to perform its obligations under the Replacement Guaranty, is material to Lessor and that Lessor would not enter into this Amendment but for its belief, based on its review of Lessee's financial statements, that Lessee and Replacement Guarantor are capable of performing such financial obligations. New Lessee hereby represents, warrants and certifies to Lessor that its financial statements previously furnished to Lessor were at the time given true and correct in all material respects and that there have been no material changes thereto as of the date of this Amendment.
- (c) Lessee accepts the Leased Premises in their "AS-IS" condition and Lessor shall have no obligation to improve, repair, restore or refurbish the Leased Premises. Lessee acknowledges that neither Lessor nor any agent of Lessor has made any representation or warranty, except as otherwise expressly provided in this Amendment, with respect to the Leased Premises or any other portion thereof including, without limitation, any representation or warranty with respect to the suitability or fitness of the Leased Premises or any other portion thereof for the conduct of Lessee's business.

2. Extension of Term.

- (a) The term of the Lease is hereby extended so the Expiration Date is the 168th month after the Commencement Date. Section 3.1(a) of the Lease is hereby amended to add the following:

<u>Lease Month</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent</u>
145-156	\$285,152.17	\$23,762.68
157-168	\$293,706.74	\$24,475.56

- (b) The second sentence of Section 1.2(c) of the Lease is hereby removed and replaced with the following sentence:

"Lessee's renewal rights under this Section shall terminate if (A) this Lease or Lessee's right to possession of the Leased Premises is terminated; (B) Lessee assigns any of its interest in this Lease (other than with Lessor's consent pursuant to the Amendment to Lease Agreement) or sublets any portion of the Leased Premises other than to an Affiliate of Lessee to the extent permitted by Article 22, or (C) Lessee fails to timely exercise its option under this Section, time being of the essence with respect to Lessee's exercise thereof."

3. Financial Covenants of Lessee. At all times during the Term of the Lease, Lessee represents and covenants the following:

- (a) Replacement Guarantor is an operating business that is the “parent company” of all the entities constituting the Lessee and all of its affiliates and subsidiaries.
 - (b) Lessee and Replacement Guarantor shall maintain a minimum aggregate Tangible Net Worth of \$7,000,000. The term “**Tangible Net Worth**” means the excess of total assets over total liabilities, in each case as determined in accordance with generally accepted accounting principles consistently applied (“**GAAP**”), excluding, however, from the determination of total assets all assets which would be classified as intangible assets under GAAP including goodwill, licenses, patents, trademarks, trade names, copyrights, and franchises.
 - (c) On or before April 15 of each year after the date of this Amendment, Lessee shall deliver to Lessor (a) a certification from Lessee and Replacement Guarantor to Lessor (the “**Net Worth Certification**”) that the aggregate Tangible Net Worth of Lessee and Replacement Guarantor is equal to or greater than \$7,000,000.00, and (b) audited annual financials for the previous fiscal year attached to the Net Worth Certification, which are certified by Lessee and Replacement Guarantor to be true, correct and complete. Within 15 days after Lessor’s request, Lessee will furnish to Lessor such additional financial information reasonably requested by Lessor. If Lessee is a publicly traded corporation, Lessee may satisfy its obligations hereunder by providing to Lessor the most recent annual and quarterly reports of Lessee. Lessee will reasonably discuss its financial statements with Lessor. Lessor will not disclose any aspect of financial statements that Lessee designates to Lessor as confidential except (1) to Lessor’s mortgagee or prospective mortgagees or purchasers of the Leased Premises, (2) in litigation between Lessor and Lessee, and/or (3) if required by court order. Lessee shall not be required to deliver the financial statements required under this Section 3(c) more than twice in any 12-month period unless requested by Lessor’s mortgagee or a prospective buyer or lender of the Leased Premises or an Event of Default occurs. Lessee’s failure to timely deliver the Net Worth Certification and audited annual financials shall be an Event of Default.
4. Guaranty. As a condition to the terms of this Amendment, Replacement Guarantor shall deliver a Guaranty Agreement (the “**Replacement Guaranty**”) in connection with the Lease.
5. Releases.
- (a) Lessor does hereby forever release and discharge Original Lessee and Original Guarantor from any and all claims, demands, damages, causes of action, and liability of every kind and nature whatsoever on account of or in any way relating to or arising under the Original Lease, the Original Guaranty or this Amendment.
 - (b) Original Lessee does hereby forever release and discharge Lessor and its successors and assigns from any and all claims, demands, damages, causes of

action, and liability of every kind and nature whatsoever on account of or in any way relating to or arising under the Original Lease, the Original Guaranty or this Amendment.

- (c) Original Guarantor does hereby forever release and discharge Lessor and its successors and assigns from any and all claims, demands, damages, causes of action, and liability of every kind and nature whatsoever on account of or in any way relating to or arising under the Original Lease, the Original Guaranty or this Amendment.

6. No Offsets. Each of Original Lessee, Original Guarantor and New Lessee hereby represents to Lessor that to the best of its/his knowledge, as of the date of this Amendment, neither Lessee nor Original Guarantor has any defenses to or offsets against the full and timely payment and performance of each and every covenant and obligation required to be performed by Lessee or Original Guarantor under the terms of the Lease or Original Guaranty.
7. Conflicts. The terms of this Amendment prevail if there is a conflict with the terms of the Lease.
8. Joint Several. The obligations imposed upon Lessee under the Lease as amended by this Amendment shall be joint and several obligations of each entity that comprises the Lessee. All notices, payments, and agreements given or made by, with or to any one of such persons or entities shall be deemed to have been given or made by, with or to all of them.
9. Notice Addresses. The notice addresses for Lessor and Lessee as set forth in Article 31 of the Lease are revised as follows:

If to Lessee: Tricolor Auto Group, LLC
545 E. John Carpenter Freeway
Suite 1900
Irving, Texas 75062
Attention: Daniel Chu, President
Phone: 214-271-0637
Fax: 214-271-0638

If to Lessor: BV NWH, LP
c/o Bandera Ventures
8115 Preston Road, Suite 415
Dallas, Texas 75225
Attention: Charles A. Anderson
Phone: 214-378-8200
Fax: 214-378-8202

10. Ratification of Lease. Except as expressly modified by this Amendment, the Lease is in full force and effect as originally written and all of the terms, covenants and

conditions of the Lease, as modified by this Amendment, are hereby ratified and confirmed and will remain in full force and effect.

11. Execution. This Amendment may be executed in multiple counterparts, each of which shall constitute an original but when taken together constitute one and the same instrument. Facsimile signatures or other digital images (e.g., .pdf) constitute originals for all purposes under this Amendment.
12. Effective Time. The parties hereto shall be legally bound by this Amendment as of the date of the execution of this Agreement; provided, however, that the provisions of Sections 1, 5, 7, 8, 10 and 12 shall only become effective contemporaneously with the closing of the transactions contemplated by the Purchase Agreement (the "**Effective Time**"). If the Effective Time does not occur on or before April 21, 2010, this Amendment shall be terminated and shall be of no force or effect. New Lessee shall deliver written notice to Lessor within three (3) business days of either the closing or termination of the Purchase Agreement.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the
date first set forth above.

LESSOR:

BV NWH, LP,
a Texas limited partnership

By: BV NWH GP, LLC,
a Texas limited liability company
its general partner

By: 
Name: Charles A. Anderson
Title: Authorized Agent

NEW LESSEE:

TRICOLOR AUTO GROUP, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

ORIGINAL LESSEE:

TRICOLOR AUTO GROUP, LLC,
a Texas limited liability company

By: _____
Name: _____
Title: _____

ORIGINAL GUARANTOR:

By: _____
Ken Weaver

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the
date first set forth above.

LESSOR:

BV NWH, LP,
a Texas limited partnership

By: BV NWH GP, LLC,
a Texas limited liability company
its general partner

By: _____
Name: _____
Title: _____

NEW LESSEE:

TRICOLOR AUTO GROUP, LLC,
a Delaware limited liability company

By: 
Name: LANCE FENTON
Title: _____

ORIGINAL LESSEE:

TRICOLOR AUTO GROUP, LLC,
a Texas limited liability company

By: _____
Name: _____
Title: _____

ORIGINAL GUARANTOR:

By: _____
Ken Weaver

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the
date first set forth above.

LESSOR:

BV NWH, LP,
a Texas limited partnership

By: BV NWH GP, LLC,
a Texas limited liability company
its general partner

By: _____
Name: _____
Title: _____

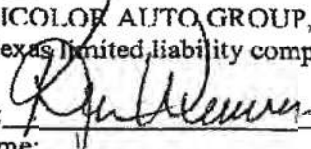
NEW LESSEE:

TRICOLOR AUTO GROUP, LLC,
a Delaware limited liability company

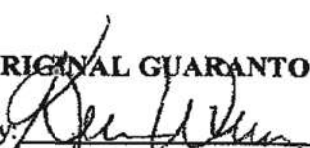
By: _____
Name: _____
Title: _____

ORIGINAL LESSEE:

TRICOLOR AUTO GROUP, LLC,
a Texas limited liability company

By:  _____
Name: _____
Title: _____

ORIGINAL GUARANTOR:

By:  _____
Ken Weaver

SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO LEASE AGREEMENT (this "**Amendment**") is entered into as of April 15, 2014, among TRICOLOR AUTO GROUP, LLC, a Delaware limited liability company ("**Lessee**"), and BV NWH, LP, a Texas limited partnership ("**Lessor**").

BACKGROUND:

- A. Lessor and Lessee's predecessor-in-interest ("**Original Lessee**") entered into that Lease Agreement (the "**Original Lease**") dated July 1, 2008, covering that certain parcel of real property located at 3363 W. Northwest Highway, Dallas, Dallas County, Texas, as more particularly described in the Lease.
- B. Lessee succeeded to the interest of Original Lessee under the Lease pursuant to that Assignment and Assumption of Lease Agreement dated March 31, 2010.
- C. The Original Lease was amended by that Amendment to Lease Agreement dated March 31, 2010. The Original Lease, as so amended, is hereafter referred to as the "**Lease**".
- D. Lessor and Lessee desire to amend the Lease to, among other things, extend the term of the Lease.
- E. All capitalized terms used but not defined in this Amendment shall have the meaning ascribed to them in the Lease.

AGREEMENTS:

Lessor and Lessee agree as follows:

- 1. Extension of Term. The term of the Lease (the "**Term**") is hereby extended so the Expiration Date is December 31, 2029.
- 2. Base Rent. Base Rent for calendar year 2014 is \$231,854.81, and Base Rent for each calendar year commencing January 2015 and every year thereafter shall be adjusted as follows:

Effective on each Adjustment Date, Base Rent shall be increased by the increases in the CPI to be calculated as follows: (i) subtract one point zero (1.0) from a fraction, the numerator of which shall be the Variable Index, and the denominator of which shall be the Base Index; and (ii) multiply the result obtained in (i) above by the applicable Base Rent for the prior calendar year; provided however, in no event shall the adjusted Base Rent be less than the previous Base Rent.

The new Base Rent shall be payable in advance in consecutive monthly installments on the first day of each month until the next Adjustment Date, or the expiration of the Term, as the case may be. Lessor's delay or the failure of Lessor,

beyond commencement of any Adjustment Date, in computing or billing for these adjustments will not impair the continuing obligation of Lessee to pay the rent adjustments. In applying the foregoing formula for Base Monthly Rent adjustments, the following terms shall have the following meaning:

- (a) "Adjustment Date" shall mean January 1st of each year during the Term beginning January 1, 2015.
 - (b) "Base Index" shall mean the last reported CPI Factor as of the date which is one year prior to the Adjustment Date.
 - (c) "CPI Factor" shall mean the Consumer Price Index for All Urban Consumers, All Items, U.S.A. Area, 1982-1984 = 100, as published by the Bureau of Labor Statistics, United States Department of Labor (Dallas/Fort Worth, Texas CMSA). If such index is discontinued, the CPI Factor shall then mean the most nearly comparable index published by the Bureau of Labor Statistics or other official agency of the United States Government as determined by Lessor.
 - (d) "Base Rent" shall mean the Base Rent payable by Lessee for the full calendar year prior to the Adjustment Date.
 - (e) "Variable Index" shall mean the last reported CPI Factor as of the Adjustment Date.
3. Agreement to Pay Taxes Directly to Taxing Authorities. Lessee will pay all ad valorem and personal property taxes directly to the applicable taxing authorities. Lessor shall file a request with all taxing authorities that issue tax bills or tax statements for Impositions on the Premises to deliver the tax bills or tax statements directly to Lessee. Lessee shall promptly deliver to Lessor copies of all tax bills and tax statements Lessee receives directly from the taxing authorities and Lessee shall pay all such tax bills or tax statements prior to delinquency. At least 30 days prior to the date each tax bill or tax statement would become delinquent, Lessee shall deliver to Lessor a copy of a paid receipt that the taxing authority issues or a Certificate of No Tax Due issued by a reputable title insurance company, at Lessee's expense, demonstrating the payment of that Imposition. If Lessee does not timely provide proof of the payment of the Imposition as required in the prior sentence, Lessor may pay the Imposition and bill Lessee therefor (such bill to include a reasonable administrative charge and a late charge [to the extent permitted by law]). Lessee will be responsible for any interest or penalties that accrue with respect to all Impositions not timely paid by Lessee under this Section and Article IV of the Lease. At Lessor's request, Lessor may resume paying such Impositions directly to the applicable taxing authorities, to be reimbursed by Lessee as provided in the Lease.
4. No Offsets. Lessee hereby represents to Lessor that to the best of its knowledge, as of the date of this Amendment, Lessee has no defenses to or offsets against the full and timely payment and performance of each and every covenant and obligation required to be performed by Lessee under the terms of the Lease.

5. Conflicts. The terms of this Amendment prevail if there is a conflict with the terms of the Lease.
6. Joint Several. The obligations imposed upon Lessee under the Lease as amended by this Amendment shall be joint and several obligations of each entity that comprises the Lessee. All notices, payments, and agreements given or made by, with or to any one of such persons or entities shall be deemed to have been given or made by, with or to all of them.
7. Ratification of Lease. Except as expressly modified by this Amendment, the Lease is in full force and effect as originally written and all of the terms, covenants and conditions of the Lease, as modified by this Amendment, are hereby ratified and confirmed and will remain in full force and effect.
8. Execution. This Amendment may be executed in multiple counterparts, each of which shall constitute an original but when taken together constitute one and the same instrument. Facsimile signatures or other digital images (e.g., .pdf) constitute originals for all purposes under this Amendment.

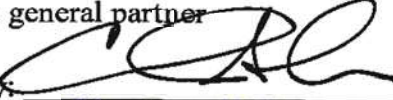
[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

LESSOR:

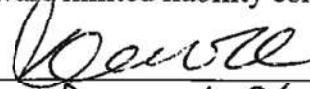
BV NWH, LP,
a Texas limited partnership

By: BV NWH GP, LLC,
a Texas limited liability company
its general partner

By: 
Name: Charles A. Anderson
Title: Authorized Officer

LESSEE:

TRICOLOR AUTO GROUP, LLC,
a Delaware limited liability company

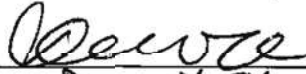
By: 
Name: Daniel Chin
Title: President

CONSENT OF GUARANTOR

Unless otherwise provided in this Consent of Guarantor (this "**Consent**"), the capitalized terms of this Consent shall have the meaning set forth in the Second Amendment to Lease Agreement (the "**Second Amendment**") to which this Consent is attached. The undersigned, being the Guarantor of the Lease under that certain Lease Guaranty dated March 31, 2010, hereby consents to the Second Amendment, and acknowledges and reaffirms that the Guaranty is in full force and effect as it relates to the Lease, as amended by the Second Amendment.

GUARANTOR:

TAG HOLDING COMPANY, LLC,
a Delaware limited liability company

By: 
Name: Daniel Chu
Title: member

LEASE GUARANTY

This Lease Guaranty (this “**Guaranty**”) is executed by TAG HOLDING COMPANY, LLC, a Delaware limited liability company (“**Guarantor**”), as of March 31, 2010.

RECITALS

- A. Tricolor Auto Group, LLC, a Texas limited liability company (“**Original Lessee**”), as Lessee, and BV FW, LP, a Texas limited partnership (“**Lessor**”), as Lessor, entered into that certain Lease Agreement (the “**Original Lease**”) dated as of July 1, 2008, relating to that property located at 3363 W. Northwest Highway, Dallas, Texas, more particularly described in the Lease.
- B. Lessor and Original Lessee agreed to amend certain terms in the Original Lease pursuant to that Amendment to Lease Agreement (the “**Lease Amendment**”) dated of even date herewith, by and among Original Lessee, Tricolor Auto Group, LLC, a Delaware limited liability company (“**New Lessee**”), and Ken Weaver, an individual. The Original Lease as amended by the Lease Amendment is referred to as the “**Lease**”. Original Lessee and New Lessee are referred together as “**Lessee**”.
- C. As a condition to Lessor’s execution of the Lease Amendment, Lessor required Guarantor to guarantee the full performance of all of the liabilities, obligations, and duties of Lessee under the Lease.
- D. Guarantor is the owner of New Lessee and benefits from Lessor’s agreement to execute and deliver the Lease Amendment.

NOW, THEREFORE, in consideration of the recitals and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Guarantor agrees that:

- 1. Guarantor unconditionally assumes and agrees to perform all liabilities, obligations, and duties of Lessee under the Lease. Guarantor guarantees to Lessor and Lessor’s successors and assigns the full, prompt, and complete performance of all of the terms, covenants, conditions, and provisions of the Lease to be kept and performed by Lessee or Lessee’s successors or assigns, including, without limitation, the payment of all Rent (as defined in the Lease) and other charges to accrue under the Lease and all damages that may arise as a consequence of nonperformance under the Lease (collectively, the “**Obligations**”).
- 2. The liability of Guarantor under this Guaranty is unconditional and primary. In relation to any right of action that accrues against Lessee under the Lease, Lessor may, at its option, proceed from time to time solely against Guarantor and any other person or entity without regard to Lessee’s ability to perform and without first commencing any action, exhausting any remedy, obtaining any judgment, or proceeding in any way against Lessee or any other person or entity. Lessor may bring suit against Guarantor to enforce any

liability, duty, or obligation under this Guaranty without joinder of Lessee or any other person or entity.

3. This Guaranty continues until Lessee and Lessee's successors, representatives or assigns have fully discharged all Obligations under the Lease. This Guaranty is not diminished by payments of Rent or performance of the Obligations by Guarantor.
4. Until all the Obligations under the Lease to be performed and observed by Lessee, Guarantor:
 - (a) has no right of subrogation or any other right to enforce any remedy against Lessee or Lessee's successors or assigns by reason of any payment or performance by Guarantor under this Guaranty; and
 - (b) subordinates any liability or indebtedness of Lessee or Lessee's successors or assigns now or hereafter held by Guarantor to all Obligations of Lessee or Lessee's successors or assigns to Lessor under the Lease.
5. Guarantor waives the benefits of any right of discharge under Chapter 34 of the Texas Business and Commerce Code and any rights of sureties and guarantors thereunder. This Guaranty is not released, diminished, impaired, reduced, or affected by any limitation of liability or recourse under the Lease or by the occurrence of any one or more of the following events:
 - (a) the taking or accepting of any security or other guaranty for the Lease;
 - (b) any assignment by Lessee of its interest in the Lease or any sublease by Lessee of all or any part of the Leased Premises;
 - (c) any release, surrender, exchange, subordination or loss of any security at any time existing or purported or believed to exist in connection with the Lease;
 - (d) the insolvency, bankruptcy, disability, dissolution, termination, receivership, reorganization, or lack of corporate, partnership, or other power of Lessee, Guarantor, or any party at any time liable for the payment or performance of the Lease, whether now existing or hereafter occurring;
 - (e) renewal, extension, modification, or rearrangement of the payment or performance of the Lease either with or without notice to or consent of Guarantor, or any adjustment, indulgence, forbearance, or compromise that may be granted or given by Lessor to Lessee or Guarantor;
 - (f) any neglect, delay, omission, failure, or refusal of Lessor to take or prosecute any action for the collection or enforcement of the Lease or to foreclose or take or prosecute any action to foreclose upon any security therefor or to take or prosecute any action in connection with the Lease;

- (g) any failure of Lessor to notify Guarantor of any renewal, extension, rearrangement, modification, or assignment of the Lease or any part thereof, or of the release of or change in any security, or of any other action taken or refrained from being taken by Lessor against Lessee, or of any new agreement between Lessor and Lessee, it being understood that Lessor is not required to give Guarantor any notice of any kind under any circumstances with respect to or in connection with the Lease;
 - (h) the unenforceability of all or any part of the Lease against Lessee, or any other circumstance that might otherwise constitute a legal or equitable discharge of a surety or guarantor, it being agreed that Guarantor remains liable under this Guaranty whether Lessee or any other person is found not liable on the Lease or Obligations for any reason; or
 - (i) any payment by Lessee to Lessor is held to constitute a preference under the bankruptcy laws or if for any other reason Lessor is required to refund any payment or to pay the amount thereof to someone else.
- 6. If any suit or action is brought in connection with the enforcement of this Guaranty or if it is collected by legal proceedings or through any probate or bankruptcy court, Guarantor shall pay reasonable legal fees and all other expenses and court costs incurred by Lessor in connection therewith.
- 7. This Guaranty is binding upon the successors and assigns of Guarantor and inures to the benefit of the successors and assigns of Lessor.
- 8. The obligations of Guarantor, Lessee, and any other guarantor or surety of the Lease are joint and several. Guarantor agrees that Lessor, in its discretion, may:
 - (a) bring suit against Guarantor, Lessee, and any other guarantor or surety of the Lease jointly and severally or against any one or more of them;
 - (b) compound or settle with any one or more of Lessee and the guarantors or sureties of the Lease for any consideration Lessor deems proper;
 - (c) release one or more of the guarantors or sureties of the Lease or Lessee from liability thereunder; and
 - (d) otherwise deal with Guarantor, Lessee, and any other guarantor or surety of the Lease, or any one or more of them, in any manner whatsoever, and no such action impairs the rights of Lessor to collect under this Guaranty.
- 9. This Guaranty and all rights, obligations, and liabilities arising hereunder are to be construed according to the laws of the State of Texas. This Guaranty is performable in Tarrant County, Texas and Guarantor waives the right to be sued elsewhere.

10. Guarantor represents and warrants to Lessor, as a material inducement to Lessor to enter into the Lease, that (a) this Guaranty and each instrument securing this Guaranty have been duly executed and delivered and constitute legally enforceable obligations of Guarantor; (b) there is no action, suit or proceeding pending or, to Guarantor's knowledge, threatened against or affecting Guarantor, at law or in equity, or before or by any governmental authority, which might result in any materially adverse change in Guarantor's business or financial condition; (c) as of the date hereof, Guarantor's financial condition is adequate to secure Guarantor's obligations under this Guaranty; (d) the execution of this Guaranty will not render Guarantor insolvent; and (e) the financial statements of Guarantor and Lessee previously furnished to Lessor were at the time given true and correct in all material respects and that there have been no material changes thereto as of the date of this Guaranty.
11. To the maximum extent permitted by law, Guarantor irrevocably waives all right to trial by jury in any action, proceeding, or counterclaim (whether based on contract, tort, or otherwise) arising out of or relating to any of the provisions of this Guaranty.

Executed as of the date first above written.

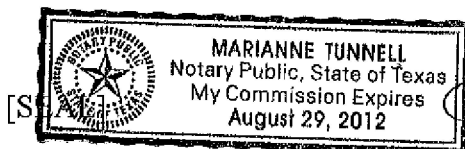
GUARANTOR:

TAG HOLDING COMPANY, LLC,
a Delaware limited liability company

By: [Signature]
Name: Daniel Chu
Title: VP

STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on MARCH 31, 2010, by Daniel Chu, as VICE PRESIDENT of TAG Holding Company, LLC, a Delaware limited liability company, on behalf of such limited liability company.



[Signature]
Notary Public, State of TEXAS

BV NWH, LP

901 S. Mopac Expwy Bldg III #220
Austin, TX 78746

Invoice

Date	Invoice #
9/1/2025	408

Bill To
TriColor Auto Group Attn: Accounts Payable 1111 W. Mockingbird Lane, Suite 1500 Dallas, TX 75247

P.O. No.	Terms	Project

Quantity	Description	Rate	Amount
	September 2025 Rent	24,421.92	24,421.92
		Total	\$24,421.92

BV NWH, LP

901 S. Mopac Expwy Bldg III #220
Austin, TX 78746

Invoice

Date	Invoice #
10/1/2025	409

Bill To
TriColor Auto Group Attn: Accounts Payable 1111 W. Mockingbird Lane, Suite 1500 Dallas, TX 75247

P.O. No.	Terms	Project

Quantity	Description	Rate	Amount
	October 2025 Rent	24,421.92	24,421.92
		Total	\$24,421.92