

## Construction of the Leased Premises

### Pre-Construction Requirements

#### Construction Start

The Tenant is required to commence construction no later than fourteen days after receipt by the Tenant of approved Construction Drawings from the Landlord or from date of written notice by Landlord that the Tenant's premises are ready for construction and delivery of the space has been made.

#### Commencement of Construction

Will not be permitted until the Tenant completes the following items:

1. Fully executed Lease.
2. Landlord approval of Construction Documents.
3. Premise Delivery Letter from Landlord.
4. Building Permit issued by the governing Building Department.
5. Completed Pre-Construction Information Form (See Appendix B) with the following information:
  - a. **Names and Addresses:** Provide names and addresses of all contractors on the job including, but not limited to, the general, mechanical, electrical, and plumbing contractors Tenant intends to engage in the construction of the leased premises.
  - b. **Schedule:** The date on which the Tenant's construction work will commence with the estimated date of completion of Tenant's construction work and fixturing work and the date of Tenant's projected opening for business in the leased premises.
  - c. **Costs:** Estimated construction costs including architectural, engineering and contractor's fees.
  - d. **Bonds:** Tenant's contractors' performance or labor and material bonds, if so required by the Landlord or any other bond to be furnished by the Tenant as may be required by the Landlord to ensure the faithful performance of the work according to the drawings and specifications approved by the Landlord.
6. Tenant's Contractor Pre-Construction Requirements:
  - a. Pre-Construction meeting with Landlord's Field Representative.
  - b. Construction deposit as determined by the Landlord's Field Representative.
  - c. Facilities cleaning and maintenance.
7. **Evidence of Insurance:**

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## General Requirements

- a. Tenant shall secure, pay for and maintain or cause its contractor(s) to secure, pay for and maintain during construction and fixturing work within leased premises, all insurance policies required and in the amounts as set forth herein. Tenant shall not permit its contractor(s) to commence any work until all required insurance has been obtained and certificates of insurance have been delivered to the Landlord.
- b. All such insurance policies required, except as noted below, shall include Landlord, its managing agent, its architect, its general contractor and the partners and agents of Landlord and the partners of partners and any other parties in interest designated by Landlord as additional insureds, except Workmen's Compensation Insurance, which shall contain an endorsement waiving all rights or subrogation against Landlord, its architect, its general contractor, partners and agents and the partners of parties and any other parties in interest designated by Landlord.
- c. Certificates of Insurance shall provide that no reduction in the amounts or limits of liability or cancellation of insurance coverage shall be undertaken without prior thirty day written notice to Landlord.
- d. The insurance required shall be in addition to any insurance to be procured by Tenant pursuant to Section 11.01 of the Lease to which the Exhibit is attached.

## Insurance Requirements

(Minimum Coverage and Liability Limits)

- a. Workman's Compensation: Shall be as required by state law including Employer's Liability Insurance with a limit of not less than \$2,000,000 and any insurance required by any Employee Benefits Acts or other statutes applicable where the work is to be performed as will protect the contractor and sub-contractors from any liability under aforementioned acts.
- b. Comprehensive General Liability Insurance (Including Contractor's Protective Liability): Any insurance required under this section furnished under a blanket policy shall contain an endorsement that guarantees a minimum limit available for the premises equal to the insurance amounts required under this section. Must not be less than \$2,000,000 for any one occurrence whether involving bodily injury liability (and subsequent death) or property damage liability or a combination thereof with an aggregate limit of \$2,000,000. Such insurance shall provide for explosion, collapse and underground coverage. Such insurance shall insure Tenant's general contractor against any claims for bodily injury including death resulting therefrom and damage to or destruction of property of any kind whatsoever and to whomever belonging and arising from Tenant's operations under the contract and whether such operations are performed by Tenant's general contractor, sub-contractors or any of their sub-contractors or by anyone directly or indirectly employed by any of them.
- c. Comprehensive Automobile Liability Insurance: Shall include the ownership, maintenance and operation of any automotive equipment owned, hire and non-owned in the following amounts:
  - Bodily injury per occurrence for personal injury or death: \$2,000,000.
  - Property Damage **Liability: \$2,000,000.**

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Such insurance shall insure the general contractor or sub-contractor against any claims for bodily injury including death resulting therefrom and damage to property of others caused by accident and arising from Tenant's operations under contract and whether such operations are performed by the general contractor, subcontractors or by anyone directly or indirectly, employed by any of them.

- d. Tenant's Protective Liability Insurance: Tenant shall provide Owner's Protective Liability Insurance as will insure Tenant against any liability to third parties for damages because of bodily injury liability including death resulting therefrom and property damages liability of others or a combination thereof that may arise from work in connection with the leased premises and any other liability for damages that Tenant's general contractor or sub-contractors are required to insure against under any provisions herein. Said insurance shall be provided in minimum amounts as follows:
- Bodily injury per occurrence for personal injury or death: \$2,000,000.
  - Property Damage Liability: \$2,000,000.
- e. Tenant's Builder's Risk Insurance: Tenant shall provide an "All Physical Loss" Builder's Risk Insurance policy on the work to be performed for Tenant in the leased premises as it relates to the building within which the leased premises are located. The policy shall include the following as insureds: Tenant, Tenant's contractors and sub-contractors, Landlord and the partners and agents of Landlord as their interests may appear. The amount of insurance to be provided shall be 100% of the replacement cost.

### **Construction Rules and Regulations**

Tenant shall engage the services of such bondable, licensed contractors who will work in harmony with Landlord's contractors and the contractors employed by the other tenants so that there shall be no labor disputes which would interfere with the operation, construction and completion of the Shopping Center or with any work being carried out therein.

### **Landlord's Field Representative**

It is the role of the Field Representative to provide the Tenant's architect and contractor as the on-site liaison. Before commencing construction, the Tenant's contractor must check in with the Field Representative to obtain a list of rules and regulations, coordinate activities such as floor slab pour, installation of demising wall studs, etc., and review Landlord's approved Construction Drawings filed on site. A close working relationship between the Landlord's Field Representative and the Tenant's general contractor is essential to maintain an orderly progression of work.

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## Rules and Regulations

1. Construction shall comply in all aspects with applicable federal, state, county or city statutes, ordinances, regulation, laws and codes. All required building and other permits in connection with the construction and completion of the leased premises shall be obtained and paid for by the Tenant.
2. Tenant shall provide temporary heat if required.
3. Tenant shall apply and pay for all temporary utility services.
4. Tenant shall cause its contractor to provide warranties for not less than one year against defects in workmanship, materials and equipment.
5. Tenant's work shall be subject to the inspection of Landlord, its consultants and its supervisory personnel.
6. Tenant shall pay for all temporary utility services and the removal of debris as necessary and required in connection with the construction of the leased premises. Storage of Tenant's contractor's construction material, tools, equipment and debris shall be confined to the leased premises and in the areas that may be designated for such purposes by Landlord. In no event shall any material or debris be stored in the mall or service/exit corridors. If debris is found in these areas, it will be removed at the expense of the Tenant that is responsible.
7. During initial construction, Tenant fixturing and merchandise stocking, Landlord will provide trash removal service from designated truck courts at Tenant's expense. Tenant is responsible for breaking down boxes and placing trash in containers in the designated truck court areas. The Landlord may, at any time, discontinue trash removal service thereby requiring the Tenant to be responsible for arranging removal service. All such work shall be performed by contractors approved by the Landlord.
8. In order to prevent constant shutdown of the sprinkler system, it will be necessary for the Tenant's general contractor to schedule a tie-in with the Landlord's Field Representative. The times for shutdown and fee will be determined by the Landlord's Field Representative in the field.
9. The metal demising studs will be installed by Landlord, at Tenant's expense. The Tenant's contractor should make sure that these studs are plumb and evenly spaced before installation of drywall.
10. A full height barricade shall be installed by the Tenant's contractor. Said barricade will be built approximately 3'-0" from the lease line. The contractor will remove the barricade once a "Certificate of Occupancy" is granted by the local Building Department and all construction deficiencies have been resolved with Landlord's Field Representative.

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## Landlord's Right to Perform Work

Landlord shall have the right to perform, for the account of Tenant, subject to reimbursement of the cost thereof by Tenant, any of the Tenant's work which Landlord determines in its sole discretion should be performed immediately and on an emergency basis for the best interest of the project including without limitation, work that pertains to structural components, mechanical, sprinkler and general utility systems, roofing and removal of unduly accumulated construction material and debris.

## Post-Construction Procedures

Upon the completion of Tenant's construction and fixturing work, Tenant's architect shall inspect the finished space and send to Landlord a copy of the inspection form (included at the end of this section is a sample form).

Contingent upon the Following:

1. The satisfactory completion by Tenant of the work to be performed by Tenant including correction of deficiencies and inconsistencies with approved Construction Drawings and Specifications.
2. The Lien period for the work performed by Tenant in the leased premises has expired and no liens in connection with same have been filed; or if said lien period has not expired, Tenant furnishes Landlord with Waivers of Liens and sworn statements from all persons performing labor or supplying materials in connection with such work showing that all said persons have been compensated in full.
3. Submittal by Tenant to Landlord of a detailed breakdown of Tenant's final and total construction costs.
4. Submittal by Tenant to Landlord of warranties for not less than one year against defects in workmanship, materials and equipment if so required by Landlord.
5. Full payment by Tenant of all sums due Landlord for items of work performed by Landlord on behalf of Tenant.
6. A copy of the air balance report as prepared by Tenant's temperature control contractor.
7. A copy of the contractor's Material and Test Certificate for the tenant's sprinkler system verifying its receipt by Landlord's insurance carrier.
8. The issuance of a Certificate of Occupancy by the governing Building Department.

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## Store Completion Inspection

Store Name: \_\_\_\_\_

Center: \_\_\_\_\_ Space Number: \_\_\_\_\_

The above-named store was inspected on \_\_\_\_\_ by this office and is hereby certified to be in compliance with the Construction Documents submitted to and approved by the Landlord dated \_\_\_\_\_

The following is a list of items either incomplete or inconsistent to those documents:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

(Use back of form for additional items)

The included list has been forwarded to the General Contractor to remedy same. A copy of this form has also been sent to the Tenant.

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Complete address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

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**Appendix B: Pre-Construction Information Form**

This form is to be completed prior to the Pre-Construction Meeting to be held with Landlord's Field Representative. Construction work may not commence until this form is completed in its entirety and approved by Landlord's Project Manager or designated representative.

1. General Contractor:

Superintendent: \_\_\_\_\_  
 \_\_\_\_\_

Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Office Phone: \_\_\_\_\_

2. Mechanical Contractor:

Superintendent: \_\_\_\_\_  
 \_\_\_\_\_

Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Office Phone: \_\_\_\_\_

3. Electrical Contractor:

Superintendent: \_\_\_\_\_  
 \_\_\_\_\_

Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Office Phone: \_\_\_\_\_

4. Plumbing Contractor:

Superintendent: \_\_\_\_\_  
 \_\_\_\_\_

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Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Office Phone:

5. Sprinkler Contractor:

Superintendent:

\_\_\_\_\_  
\_\_\_\_\_

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Office Phone:

\_\_\_\_\_

6. Commencement Date for Construction: \_\_\_\_\_

7. Estimated Date for Completion: \_\_\_\_\_

8. Estimated Date for Fixturing: \_\_\_\_\_

9. Estimated Date for Opening: \_\_\_\_\_

10. Cost of Construction: \_\_\_\_\_

11. Evidence of Insurance as set forth in Exhibit "B" of Lease Agreement \_\_\_\_\_

Tenant's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Landlord's Field Representative: \_\_\_\_\_

Date: \_\_\_\_\_