

TITLE TO REAL ESTATE

Tenant vacates the leased premises pursuant to such termination, but Tenant shall not be obligated for any payment to Landlord in connection with Tenant's election to exercise said option effective as of June 30th, 1946 or thereafter.

(23) If the sum equal to four per cent (4%) of the cash receipts of sales, as hereinafter defined, made by Tenant on the leased premises in any twelve months, or portion thereof, ending August 31st, during the periods covered by Sub-paragraphs (d) and (e) of Article 1, shall exceed the total fixed Minimum Monthly rents in any such twelve months, or portion thereof, during such period only, then and in such event, paid on or before September 20th next succeeding Tenant shall pay to Landlord the amount of such excess as additional rent and at the same time Tenant shall furnish to Landlord a statement of the amount of such cash receipts of sales; but as to any such twelve months, or portion thereof, for which Tenant is not required to furnish such statement, Tenant shall, in lieu thereof, furnish to Landlord a certificate stating that a sum equal to the aforesaid percentage of such cash receipts of sales for the preceding twelve months, or portion thereof, ending August 31st, is less than the total fixed Minimum Monthly rents for such preceding twelve months, or portion thereof, and upon Landlord's written request, made within ten days thereafter, the same certified public accountants who prepare Tenant's annual audit shall likewise certify thereto as soon as conveniently possible after the completion of such annual audit. If Tenant shall hereafter change its fiscal year to end on some date other than as at present, then and in such event Tenant shall thereafter have the right to change the time of rendering the above mentioned statements and percentage rent payments, or certificates accordingly.

It is expressly understood and agreed that this Article 23 shall have no application to or during the period covered by Sub-paragraph (a) of Article 1.

Tenant shall keep separate records and accounts in connection with Tenant's cash receipts of sales in the leased premises; and as to any periods covering which Tenant is required to furnish to Landlord a statement of the amount of said cash receipts of sales, Landlord and Landlord's fully authorized representative at reasonable times during business hours shall have access to such records and accounts, covering said periods, at the place where the same are kept, for the purpose of inspecting and auditing the same. Landlord agrees not to divulge to anyone the information obtained by Landlord and Landlord's representative from such records and accounts or from the statements and certificates above mentioned, except as may be necessary for the enforcement of Landlord's rights under this lease.

The term "Cash receipts of sales" as used herein shall be taken and construed to mean the total amount of all receipts from sales of drug, food, drinks, goods,wares and merchandise of every sort whatsoever made by Tenant in the leased premises, receipts from sales by any concessions therein, and charges or fees received for all services performed therein, but shall not include receipts from the operation of telephones or telephone booths or public weighing scales therein, nor transfers or exchanges of merchandise by Tenant with its own wholesale warehouse, commissary, or any of its retail stores,