

## TITLE TO REAL ESTATE

The Landlords herein hereby consent and agree to permit said building to be constructed and further agree that the part thereof to be constructed on the premises hereby demised to the Tenant shall constitute the subject matter of this lease. So that the work on said new building can be commenced, possession of the herein demised premises shall be delivered to Tenant immediately upon the execution and delivery of this lease by the parties hereto. As soon as the work on said new building shall have progressed to a point where Tenant can do so without interfering with the work, Tenant shall have the right to install fixtures, and prepare the premises for Tenant's occupancy, without any rental being charged for such occupancy by Tenant prior to the beginning of the term hereof.

**FAILURE TO DELIVER PREMISES.** The failure of the Landlords to deliver actual possession of said premises at the time and in the condition provided in the paragraph hereof captioned "Delivery of Premises" shall give Tenant the right either (1) to rescind the lease by giving notice to Landlords, or (2) to waive such default by Landlords, or (3) to postpone the date of commencement of the term of this lease and extend the date of the expiration thereof for a period of time equal to that which shall have elapsed between the date delivery of possession should have been made and the date on which possession of the demised premises is actually delivered to and accepted by the Tenant. It is understood and agreed that the rental shall begin on the date the Tenant opens its place of business in the demised premises, but in no event later than January 1, 1942.

**RENTAL.** In consideration of the demise and leasing of the premises aforesaid by said Landlords, the Tenant covenants, stipulates, and agrees to pay to the Landlords as rental for said demised premises hereinabove described the sum of Forty-eight Hundred Dollars (\$4,800.00) per annum, payable in sums of Four Hundred Dollars (\$400.00) per month, monthly in advance on the first day of each month during the continuance of the term of this lease. Until it receives other instructions in writing from Landlords, Tenant shall pay such rent by checks payable as hereinafter specified.

In addition to the annual rental payments provided for in this lease, Tenant agrees to pay the Landlords the following contingent rental payments based upon net retail sales:

During the term of this lease, an amount for each lease year equivalent to two-thirds of one per cent ( $\frac{2}{3}$  of 1%) of the net retail sales for each such lease year in excess of Seven Hundred Twenty Thousand Dollars (\$720,000.00) as done in the leased premises and the adjacent premises that may be occupied by the Tenant under lease from F. W. Symmes, et al.

Any sums which shall become payable pursuant to the foregoing provision shall be paid within two (2) months following the termination of the lease year on the net retail sales of which said additional payment is based.

For the purpose of interpreting this clause, the "lease year" referred to herein shall be considered to commence on January 1st and expire on December 31st, each year.

Upon the request of the Landlords, Tenant agrees to furnish to the Landlords a statement, verified by one of the officers of Tenant company, specifying the annual net retail sales made by Tenant upon the demised premises.

The Landlords shall have the right each year to examine and audit Tenant's records of sales made upon or from the demised premises, but only for the purpose of ascertaining the amount of the net sales made upon or from the demised premises during the preceding lease year. Such audit or examination shall not be made more often than once in each year, and shall be made on behalf of Landlords by a Certified Public Accountant to be selected by Landlords; if Landlords wish to audit Tenant's records for any lease year, Landlords shall notify Tenant, and proceed with such audit within six (6) months after the end of the lease year in question. Should the Landlords fail to exercise the right to audit the records of Tenant within six (6) months after the end of any lease year, then and in that event Landlords shall have no further right to audit or inspect the records of Tenant for such lease year. Any such audit or examination by the Landlords shall