

the day after Thanksgiving Day and Christmas Eve and such other times as may be requested by at least one (1) Department Store Party and approved by Developer; provided that the Party(ies) operating such Department Store(s) and other Occupants operating during such times shall pay a reasonably allocated share of all costs reasonably connected with or arising from the operation of the Mall and the Common Area during such time, including the reasonable costs of security, as deemed reasonably necessary by Developer.

Developer shall cause the retail stores within the Mall Store Building and the Mall to be open for business with the public during such business hours as are appropriate and customary in first-class, enclosed mall regional shopping centers in the Grand Rapids metropolitan area.

ARTICLE IX

USE AND OPERATION OF SHOPPING CENTER

Section 9.1 Use and Operation of Shopping Center. Each of the Parties covenants and agrees with each other for the benefit of the Shopping Center Site that for so long as one (1) or more of the Department Store Parties is operating a retail store on its Parcel and Developer is operating the Mall on its Parcel, during the Term, no part of its Parcel may be used for any purpose other than commercial or business compatible with the operation of a shopping center nor will any use or operation that is obnoxious to or inconsistent with the development or operation of a first-class regional shopping center containing an enclosed air-conditioned mall be made, conducted or permitted on or with respect to all or any part of its respective Parcel including but not limited to, the following:

- (a) any public or private nuisance;
- (b) any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness;
- (c) any obnoxious odor;
- (d) any noxious, toxic, caustic or corrosive fuel or gas;
- (e) any dust, dirt or fly ash in excessive quantities;

- (f) any fire, explosion or other damaging or dangerous hazard (including the storage, display or sale of explosives or fireworks);
- (g) any warehouse use (use of any area within a Building for the storage of goods intended to be sold at any retail establishment in such Building will not be deemed to be a warehouse use);
- (h) assembling, manufacturing, distilling, refining, smelting, agriculture or mining operation or drilling for oil, gas or other minerals;
- (i) any second hand store, flea market, fire sale, laundry, animal hospital, funeral establishment, living quarters;
- (j) any distribution, sale, viewing or use of pornographic material (NC-17 movies shall not be deemed pornographic);
- (k) any manufacture, use, storage or release of any Hazardous Materials except to the extent expressly permitted by Section 25.26; and
- (l) any emission of any substance, gas, particulate matter, audio, radio, or infrared electromagnetic wave frequency or other form of radiation that materially interferes with the business of any Occupant.

Developer agrees that none of its leases with Occupants of the Mall Store Building will permit uses prohibited by this Section 9.1.

Section 9.2 Kiosks. Developer will have the right to place kiosks, retail merchandising units and push carts (collectively "kiosks") in the Mall only within the areas designated "Kiosk Area" on Exhibit B and within the area identified as "Food Court" on Exhibit B. Kiosks will have maximum height of ten (10) feet and a maximum area of two hundred (200) square feet.

This Section 9.2 will not apply to automatic teller machines or to other electronic devices enabling a Person to transact banking or to engage in other financial (as opposed to merchandise) transactions, provided that such electronic devices are (i) placed next to or affixed to a wall in the Mall located more than one hundred (100) feet from the Mall entrance of any Department Store Building and do not protrude into the Mall by more than twenty four (24) inches or (ii) are placed within the area designated "Kiosk Area" on Exhibit B. The electronic devices meeting such criteria are not kiosks within the meaning of that term as applied in this Section 9.2; and Developer may, from time to time, place or cause to be placed such electronic devices throughout the Mall at the locations permitted