

At any time after any such expiration, whether or not Lessor shall have collected any such current damages, Lessor shall be entitled to recover from Lessee, and Lessee shall pay to Lessor, on demand, as and for liquidated and agreed final damages for Lessee's default and in lieu of all such current damages beyond the date of such demand, an amount equal to the excess, if any, of

(x) the Basic Rent, the Percentage Rent (as estimated on the basis of the average percentage rent for the three fiscal years immediately preceding the year in which such expiration or repossession occurs) and all additional rent and other charges which would be payable under this Lease from the date of such demand (or, if it be earlier, the date to which Lessee shall have satisfied in full his obligation under this section to pay current damages) for what would be the then unexpired term of this Lease if the same remained in effect,

over

(y) the then fair net rental value of the Leased Property for the same period.

If any statute or rule of law governing a proceeding in which such liquidated final damages are to be proved shall validly limit the amount thereof to an amount less than the amount above agreed upon, Lessor shall be entitled to the maximum amount allowable under such statute or rule of law.

41. Lessee's Waiver of Rights. In the event of any expiration of the term of this Lease, Lessee, so far as permitted by law, hereby expressly waives (a) any notice of re-entry or of the institution of legal proceedings to that end, (b) any right to a stay of execution or right of redemption or re-entry or re-possession or to restore the operation of this Lease, (c) any right to a trial by jury in the event of summary proceedings, and (d) the benefits of any laws now or hereafter in force exempting property from liability for rent or for debt.

42. No Waiver, etc., by Lessor. No failure by Lessor to insist upon the strict performance of any provision of this Lease or to exercise any right, power or remedy consequent upon a breach thereof, and no acceptance of full or partial rent during the continuance of any such breach, shall constitute a waiver of any such breach or provision. 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 thereof.

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