

THIS LEASE AGREEMENT, entered into this 15<sup>th</sup> day of June, 1972, by and between LOUIS M. JOSEPH and ROSE JOSEPH, husband and wife, hereinafter referred to as the "Lessors", and UNITED GROCERS, INC., hereinafter referred to as the "Lessee",

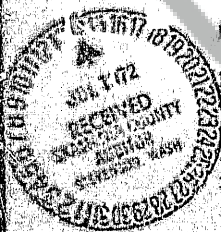
## WITNESSETH :

1. In consideration of the rents, covenants and agreements herein contained upon the part of the Lessee to be paid, kept and faithfully performed, the Lessors do hereby lease, demise and let unto the said Lessee a portion of those certain premises situated at Stevenson, Washington, the full legal description of which is marked Exhibit A, attached hereto and by this reference made a part hereof as though set forth herein in full.

Attached hereto, marked Exhibit B and by this reference made a part hereof, is a plot plan of the above described premises.

The leased premises consist of a supermarket building containing 6,875 square feet of floor space, more or less, and surrounding grounds as designated and outlined in red on the attached plot plan. Together with the demised area delineated in red, the Lessee is granted a non-exclusive right to utilize, in common with other tenants in the center, the parking area outlined in black as set forth in Exhibit B.

2. Lessors warrant that they are the owners of the leased premises; that the Lessors have the right to lease the premises, free from all encumbrances. The Lessors further warrant that there are no restrictive covenants, zoning or other ordinances or regulations which will prevent Lessee from conducting a supermarket business on the leased premises throughout the term of this lease. The Lessors will defend the Lessee's right to quiet enjoyment of the leased premises from the lawful claims of all persons during the lease term.



*Handwritten signature and initials.*

3. This lease is for a period of fifteen (15) years commencing on the 15th day of September, 1972, or the date on which Lessors give written notice to Lessee of right of possession, whichever is earlier.

4. The Lessee covenants and agrees to pay to the Lessors, the greater of the following amounts as rental for the said premises:

- (a) A minimum monthly rental of Eight Hundred Seventy Five Dollars (\$875.00) from the date of possession of the leased premises in a condition suitable for the purposes hereinafter set out. The first month's rental is to be pro-rated if possession takes place other than on the first day of a calendar month.
- (b) A minimum monthly rental equal to one and one-half per cent (1½%) of all "gross sales" for each month as hereinafter defined. Said monthly average rental shall be computed on a quarterly basis. PROVIDED, HOWEVER, that in the event the Lessee is required to pay an additional rental by reason of an increase in property taxes, to the extent that the percentage rental herein reserved exceeds the minimum monthly rental, said excess shall first be applied to the increased property taxes, if any.
- (c) The date of possession for the purposes of the monthly rental reserved herein shall be the 15th day of September, 1972; PROVIDED, that if the building is completed prior to that date and both parties agree that the building is ready for occupancy, the rental period shall begin on the date that the Lessee actually occupies the premises. The rent shall be payable on or before the 15th day of each month, in advance, for the next succeeding month.



5. The term "gross sales" as used in this lease shall mean the selling price of all goods and merchandise sold and all services furnished in, upon or from any part of the leased premises by the Lessee or by any person, firm or corporation, and shall include, without limiting the generalities thereof, sales or charges for cash or credit, regardless of collections, but shall exclude;

- (a) All credits, returns and refunds made to customers for merchandise refunded or exchanged;
- (b) All settlements and claims received in settlements for loss of merchandise;
- (c) The amount of any sales tax or other excise tax imposed upon the purchaser and collected by the Lessee as an agent for the taxing authority imposing the tax and billed to the purchaser as a separate item.

6. In respect to each calendar quarter herein during the term of this lease, Lessee shall submit to the Lessors on or before the 15th day following the end of each calendar quarter, an accurate written statement in a form satisfactory to the Lessors, signed by a duly authorized officer or representative of Lessee, showing in reasonable detail the amount of gross sales during such calendar quarter. Lessee shall pay at that time the sum due, if any, in excess of the minimum monthly average rental during said quarter as provided in Paragraph 4(b).

7. Lessee agrees to pay upon the execution of this agreement the sum of Eight Hundred Seventy-Five Dollars (\$875.00), being the minimum monthly installment for the last month of the term.

of this lease.

8. Lessee is hereby granted the exclusive right at its option to renew and extend this lease for an additional term of five (5) years, terminating five (5) years after the original term of this lease, provided the Lessee, at the time of the exercise of such option, is not then in default under the terms of this lease. Lessee shall exercise this option by giving written notice of its intention to renew and extend at least six (6) months prior to the end of the fifteen (15) year term herein provided, which in itself shall be sufficient to make the lease binding for the renewal term without further acts of the parties. All the terms and conditions of the lease for such additional term shall be the same as contained in this Lease Agreement, except that the rental for the additional five (5) year term shall be as mutually agreed upon between Lessors and Lessee. If within a period of one month after delivery of the written notice, the parties are unable to agree upon a rental for such additional five (5) year term, they shall submit the matter for decision to a board of arbitration, Lessors shall appoint one member, Lessee shall appoint one member, and the two so appointed shall appoint a third. The decision of the board of arbitration as to the rental shall be binding upon all parties, provided that no lease payment shall in any event be in a lesser amount than herein set forth. The cost of arbitration shall be borne equally by both parties.

9. Lessors shall, in any future construction of buildings adjacent or peripheral to the leased premises, retain both architectural and engineering compatibility with the leased premises hereunder. No person shall occupy any such adjacent or peripheral building for any purpose unless the Lessee shall first have consented in writing to the purpose for which the said building is to be used. PROVIDED, that the Lessee shall not unreasonably withhold its consent, and PROVIDED FURTHER, that at the time of this lease, it is contemplated there will



be a department store immediately adjacent to the leased premises, and that sometime in the future two additional shops will be developed - the area for said shops are delineated on the attached Exhibit B and designated "future building". Except as shown in said plot plan the Lessors covenant that no further construction will be placed on said site.

10. Throughout the term of this lease and any extension thereof without the consent of the Lessee first having been obtained in writing, the Lessors will not directly or indirectly allow any property owned or controlled by them within 1,000 feet of the leased premises to be used as a retail outlet for the sale of groceries.

11. Lessee shall use the premises for the purposes of conducting a supermarket business thereon, and shall be entitled to sell all types of merchandise customarily sold in and by supermarkets.

12. Lessee shall keep the premises continuously open for business during normal business hours on all normal business days customary to supermarkets in this area, provided, however, that the Lessee shall not be required to keep the premises open for business during temporary closures for repairs, alterations, or redecorating, or for reasons beyond Lessee's reasonable control.

13. Lessors shall require all other businesses operated in this shopping center, of which the demised premises is a part, to keep their premises continuously open for business during normal business hours on normal business days customary to their competitors in the area.

14. Lessee shall not use or permit said premises or any part thereof to be used for any purpose in violation of any municipal, county, state, or federal ordinances or law, nor to commit or permit any nuisance thereon, nor permit any lien of any

kind, type or description to be placed or imposed upon the leased premises, or any part thereof. In addition thereto, the Lessee shall have the right to defend any claims for liens that may be asserted against the Lessors' estate and, if required by law, the Lessee may take such action in the name of the Lessors that may reasonably be required to defend or assert the rights of the Lessors and Lessee, and the Lessors agree to cooperate with the Lessee to such extent as may reasonably be required to the end that such proceeding may be brought to a successful conclusion; provided, however, that the Lessee shall fully indemnify and save the Lessors harmless from all costs and expenses arising out of any action brought by the Lessee under this paragraph.

15. Lessee shall not permit anything to be done on or about the building on the premises which would increase the fire insurance rate above that which would otherwise apply to a building being used as a supermarket. Lessee shall maintain in full force and effect with a reliable insurance company or companies during the term of this lease, a policy of fire insurance upon the merchandise, trade fixtures, and supplies which are kept in the leased premises.

16. The Lessors shall keep the leased premises insured in the amount of \$90,000.00, against fire and other risks covered by a standard fire insurance policy with an endorsement for extended coverage.

17. The parties shall obtain from their respective insurance carriers, waivers of subrogation against the other party, agents, employees and, as to the Lessee's invitees. Neither party shall be liable to the other for any loss or damage caused by fire or any of the risks enumerated in a standard fire insurance policy with an extended coverage endorsement if such insurance was obtainable at the time of such loss or damage. The



party benefiting from a waiver of subrogation clause in an insurance policy shall pay any additional premium required to obtain such a clause within ten (10) days after being notified by the other party of such additional cost, unless the benefited party can obtain such insurance without the additional cost from another insurance carrier satisfactory to the other party.

10. If the leased premises are damaged but less than fifty per cent (50%) destroyed, the property shall be repaired as follows:

- (a) If the damage is caused by a risk which would be covered by a standard fire insurance policy with an endorsement of extended coverage, repair shall be at the expense of the Lessors whether or not the damage occurred as the result of fault on the part of the Lessee.
- (b) If the damage occurred from a risk which would not be covered by insurance of the kind described in sub-paragraph (a) above, repairs shall be at the expense of the Lessors unless the damage was the result of the fault of the Lessee, in which case the Lessee shall have the obligation to repair.
- (c) In any event, repairs shall be accomplished with all reasonable dispatch subject to interruptions and delays from labor disputes and matters beyond the control of the party responsible. Rent shall be abated to the extent the premises are untenable subsequent to the damage and during the period of repair except when damage occurs because of the fault of the Lessee, or any tenant, sub-lessee, or successor in interest to the Lessee, and the Lessor.



would as a result of any abatement of rent suffer an economic loss non-reimbursable from insurance proceeds or otherwise.

19. If the leased premises are fifty-one per cent (51%) or more destroyed, the parties shall proceed as follows:

- (a) Lessors may elect to terminate the lease as of the date of the damage or destruction by notice given to Lessee in writing not more than forty-five days following the date of damage. In such event, all rights and obligations of the parties shall cease as of the date of termination, and Lessee shall be entitled to the reimbursement of any prepaid rent, real property taxes, security deposit or other amounts paid by the Lessee and attributable to the anticipated term subsequent to the termination date.
- (b) In the absence of an election under the foregoing subparagraph (a), Lessors shall proceed to restore the leased premises to substantially the same form as prior to the damage or destruction so as to provide for the Lessee usable space equivalent in quantity and character to that before the damage. Work shall be commenced as soon as reasonably possible and thereafter shall proceed without interruption except for work stoppages on account of labor disputes and matters not under control of the Lessors. In either event, rent shall be abated from the date of damage except when the damage



occurs as set out in Paragraph 18. above and the Lessor elect to rebuild, and, in the event the damage does occur because of the fault of the Lessee, or any tenant, sub-lessee, or successor in interest to the Lessee, and the Lessors did sustain an economic loss if the rent would abated that would not be recompensable by insurance or otherwise.

20. If a portion of the leased premises, including the parking area, is condemned and if the area taken is less than ten per cent (10%) of the area of the leased premises, including the parking area, the lease shall continue on the following terms:

- (a) The Lessors shall be entitled to all the proceeds of the condemnation and the Lessee shall have no claim against the Lessors as a result of the condemnation.
- (b) The Lessors shall proceed as soon as reasonably possible to make such repairs and alterations of the premises as are necessary to restore the remaining premises to a condition as comparable as reasonably practicable to that existing at the time of the condemnation. The Lessors may, but shall not be required to perform alterations prior to the actual taking after the portion to be taken has been finally determined. Rent shall be abated to the extent the premises are untenable during the period of alteration and repair.
- (c) After the date on which title vests in the condemning authority, or an earlier date on which alterations or repairs are commenced by the Lessors, to restore the balance of the property

in anticipation of taking, the rent shall be reduced commensurably with the reduction in value of the leased premises as an economic unit on account of the partial taking. If the parties are unable to agree on the amount of the reduction of the rent, the amount shall be determined by arbitration in the same manner as is provided for determination of rent during a renewal period under Paragraph 9 above.

21. If a portion of the Lessors' property not included in the leased premises is taken and the severance damages are awarded on account of the leased premises, or an award is made for detriment to the leased premises as a result of the change of grade of adjacent streets or other activity by a public body not involving a physical taking of any portion of the land, this shall be regarded as a partial condemnation to which the foregoing shall apply and the rent shall be reduced to the extent of diminution of value of the premises as an economic unit as though a portion had been physically taken.

22. If a condemning authority takes 10% or more of the area of the leased premises, the Lessee, at its' option, may elect to terminate the lease at the date the title vests in the condemning authorities. If the Lessee elects to terminate the lease, the Lessors shall be entitled to all of the proceeds of condemnation and the Lessors shall promptly pay to the Lessee on or before the date that any such award is paid to them, a sum which is equal to the cost of dismantling, transporting and reinstalling at a new location all of the Lessee's merchandise, trade fixtures, supplies and other equipment located on the leased premises, provided, however, that the cost of transporting such property to be paid by the Lessors shall not exceed the cost of transporting such property for a distance of 25 miles. In the event the Lessee elects not to terminate the lease or fails to



exercise its' option, then and in that event the Lessors shall be entitled to all the proceeds of condemnation and the Lessors shall proceed to make repairs and alterations to the premises as are necessary to restore them as is provided above in the case of partial condemnation; provided, however, that the rent received hereunder shall be reduced pro-rata or as determined by arbitration.

23. Lessee will indemnify and hold harmless Lessors from any and all expenses, fines, claims, damages, suits and actions arising out of or in any way connected with the use and occupancy of the leased premises, and from all cost, loss, expenses and damages that may or might occur to any employee or employees of Lessee or the public in general in, upon or about the leased premises; and will provide comprehensive public liability and property damage insurance, with a cross liability clause or endorsement, insuring Lessors and Lessee and will keep them insured against all legal liability for damages to persons or property caused by the ownership, maintenance, use or occupancy of the leased premises or by reason of the conduct of any business carried on therein, in an insurance company or companies to be approved by Lessors in amounts not less than the following limits, namely:

- (a) Bodily injury to or death of any one person. . . . . \$ 100,000.00
- (b) Bodily injury or death resulting from any one accident. . . . \$ 300,000.00
- (c) Property damage . . . . \$ 50,000.00

and will make all payments necessary for the above purposes promptly as the same shall become due and to deliver to the Lessors certificates evidencing said policies of insurance.

24. The Lessor shall pay all real property taxes which may be levied by any lawful authority against the leased premises. If the amount of the real property taxes levied against the leased premises for any lease year exceed the amount of such taxes for

the first full tax year, the Lessee shall pay such excess as additional rental. The term "first full tax year" shall mean the lease year in which the leased premises shall have been first assessed as a completed building. In determining the real property taxes levied against the leased premises, a reasonable allocation shall be made, utilizing to the fullest extent possible, component values determined by the Skamania County Assessor. To the extent that developed areas are used by the Lessee in common with others, and to the extent that the County Assessor's valuations are otherwise insufficiently detailed to permit isolation of the property taxes levied against the demised premises, then such property tax shall be allocated among the respective premises in question upon the basis of the number of square feet of covered floor space of each. In no event shall any taxes pertaining to real property owned by the Lessor but undeveloped as part of the shopping center be allocated to the Lessee, nor shall the Lessee be charged with any increase in real property taxes which is attributable solely to further development of the shopping center. In the event there is a reduction in property taxes as a result of legislation or otherwise, the Lessee's rent shall be accordingly reduced. A tax bill submitted by the Lessor to the Lessee shall be sufficient evidence of the amount of the taxes assessed or levied against the parcel of real property to which such bill relates. Lessee shall pay annually an amount equal to 1/30th of the amount of all general or special assessments or other public charges which during the term of this lease or its renewal are levied upon or assessed against the leased premises or any improvements thereon. Any and all of such assessments shall be allocated among the respective premises in question on the basis of the number of square feet of covered floor space of each tenant in the shopping center. In determining the proportion of any such assessment of each tenant pertaining to common area, each tenant shall be charged according to the ratio that their total covered square footage bears to the total covered square footage within the center. For example, if



an assessment is levied against the total center of \$10,000, and if the Lessee is occupying covered floor space equal to one-half of the total covered floor space in the center, then the Lessee's assessment shall be \$5,000, payable over a thirty (30) year period at the rate of 1/30th per year. It is the intention of this provision to amortize the cost of such assessments and charges over a thirty (30) year period, the Lessee paying that portion of the amortization which falls within the term of this lease, the remaining cost being borne by Lessors. Lessee shall pay the amount due hereunder within thirty (30) days after being furnished by Lessors with proof of payment of the said assessment or charge, and annually thereafter on the anniversary date of the first said payment. Lessee is to be liable in the manner hereinabove provided for each and every such assessment and charge. The tax year of any lawful authority commencing during any lease year shall be deemed to correspond to such lease year. A tax bill submitted by Lessors to Lessee shall be sufficient evidence of this amount of the taxes assessed or levied against the parcel of real property to which such bill relates. The Lessee shall have the right at its own cost and expense and for its sole benefit to initiate and prosecute any proceeding permitted by law for the purpose of obtaining an abatement of, or otherwise contesting the validity or the amount of taxes or assessments assessed to or levied upon the demised premises and required to be paid by the Lessee hereunder, and if required by law Lessee may take such action in the name of the Lessors who shall cooperate with the Lessee to such extent as Lessee may reasonably require, to the end that such proceedings may be brought to a successful conclusion: provided-

ed, however, that Lessee shall fully indemnify and save Lessors harmless from all costs and expense arising out of any action commenced by Lessors

25. Lessor shall paint the exterior of the building as necessary, and shall maintain the structural portions of the premises in good order and repair, including the roof, walls, concealed plumbing, concealed wiring, foundation, and parking lot. The Lessor shall be responsible for the maintenance of exterior water, sewerage, gas and electrical services up to the point of entry to the leased premises. The Lessor shall also be responsible for the repair of any heating and air conditioning system other than ordinary maintenance. The Lessor shall have the further responsibility for the striping of the parking lot.

26. Lessee shall maintain the interior of the premises in a neat, clean, orderly and sanitary condition and shall do the interior painting as necessary, and make such other repairs as may become necessary by reason of the Lessee's use and occupancy of the premises.

27. Lessee covenants and agrees to furnish and supply its own lights, air, water, power, gas, janitor, telephone service and all and every other convenience and service, for use in the leased premises.

28. Lessee shall make no alterations in or additions to the leased premises without first obtaining the written consent of the Lessors, which written consent shall not be unreasonably



withheld.

29. Upon expiration of this lease or any renewal thereof, the Lessee will peaceably and quietly quit and deliver the leased premises and all present and future additions, alterations or renovations to the leased premises, excepting only merchandise, trade fixtures and equipment of like character which can be removed without damage to the building, unto the Lessors in good order and condition.

30. If the rental hereby reserved, or any installment thereof, shall be in arrears for ten days, or if the said Lessee, its' successors or assigns, shall neglect to or fail to do or perform and observe any of the covenants herein contained on their part to be performed or observed, or if the Lessee shall become insolvent or be declared bankrupt or enter into a composition of creditors, or if a receiver be appointed to take charge of or conduct the affairs of the Lessee, then and in any of such cases, the Lessors or those having their estate in the premises, in addition to the other remedies provided by law, lawfully may, upon ten (10) days written notice, and while said neglect or default continues, enter said premises, or any part thereof, and declare said term ended in the name of the whole, repossess the same of their former estate therein, and expel the Lessee and those claiming under it and remove Lessee's effects (forcibly, if necessary) without being taken or deemed guilty of trespass in any manner, and without prejudice to any remedies which might be used for arrears of rent, or preceding breach of covenant; and all the Lessee's right, title and interest in the said premises and in all the improvements thereon, and rentals paid hereunder, shall be forthwith and forever forfeited and terminated. Provided, that in the event the default of the Lessee is of such a manner that it cannot be completely remedied within a 10-day period this provision shall be deemed to be complied

with if the Lessee begins correction of the default within said 10-day period and thereafter proceeds with reasonable diligence and good faith to effect the remedy as soon as possible.

31. If the lease is terminated for any reason, the Lessee's liability to the Lessors for damages shall survive such termination. Following re-entry or abandonment, the Lessors may re-let the premises and in that connection may:

- (a) <sup>Make</sup> ~~May~~ any suitable alterations or refurbish the premises, or both, or change the character or use of the premises, but Lessors shall not be required to re-let for any use or purpose (other than that specified in the lease) which Lessors may reasonably consider injurious to the premises, or to any tenant which Lessors may reasonably consider objectionable.
- (b) Re-let all or part of the premises, alone or in conjunction with other properties, for a term longer or shorter than the term of this lease, upon any reasonable terms and conditions including the granting of some rent-free occupancy or other rent concession.

32. In the event of termination on default, Lessors shall be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of the lease term, the following amounts as damages:

- (a) Any excess of (1) the value of all of Lessee's obligations under this lease, including the obligation to pay rent, from the date of default until the end of the term, over (2) the reasonable rental value of the property for the same period figured as of the date of default, the



net result to be discounted to the date of default at a reasonable rate not exceeding 4% per annum.

- (b) The reasonable costs of re-entry and re-letting including without limitation the cost of any clean up, refurbishing, removal of Lessee's property and fixtures, or any other expense occasioned by Lessee's failure to quit the premises upon termination and to leave them in the required condition, any remodeling costs, attorney's fees, court costs, broker commissions and advertising costs.
- (c) The loss of reasonable rental value from the date of default until a new tenant has been, or with the exercise of reasonable efforts, could have been secured.

33. If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to costs, such sum as the court may adjudge reasonable as attorney's fees.

34. Subject to the above-stated limitations on transfer of Lessee's interest, this lease shall be binding upon and enure to the benefit of the parties, their respective successors and assigns.

35. No waiver of nor neglect to enforce Lessors' rights upon breach of any covenant, condition or agreement herein contained shall be deemed a waiver by the Lessors of such right or rights upon any subsequent breach of the same or any other covenant, condition or agreement contained herein.

36. Nothing herein contained shall in any way prohibit the lessors from selling or otherwise disposing of their interest in the premises herein described at any time, subject, how-

ever, to the Lessee's interest in the premises created hereby.

37. The Lessee shall not sublet the premises without the written consent of the Lessors; provided that the consent of the Lessors must not unreasonably be withheld. Whether or not it is reasonable to consent to the subletting may among other things involve a determination by the Lessors that the prospective Lessee's proposed activities on the leased premises would be substantially more in competition with the Lessors' activities on adjacent properties. It is contemplated between the parties hereto that the Lessee intends to sublet the leased premises to an operator of the premises and that said operator is to conduct a grocery business on said premises. The contemplated operator or sub-lessee will assume and agree to perform all the terms and conditions of the lease between the Lessee and Lessor. The initial sub-lessee is a current operator of the business known as "Ann's Food Fair" in Stevenson, Shington, and the Lessors hereby consent to said sublease. However, nothing herein shall relieve the Lessee of its' responsibilities under the terms of this lease should the sublessee default herein.

DATED the day and year first above written.

Louis M. Joseph  
Rose Joseph  
 (Lessors)

UNITED GROCERS, INC.

By [Signature]

(Lessee)



EXHIBIT "A"

A tract of land in Section 1, Township 2 North,  
Range 7 E.W.M., more particularly described as  
follows:

Beginning at the S.E. corner of Lot 8 of the Town  
of Stevenson according to the official plat there-  
of on file and of record in the office of the Ska-  
mania County Auditor; thence S  $55^{\circ} 30'$  W along the  
southerly line of Lot 8 and the northerly right of  
way line of Second Ave. 118.00 ft. to the true  
point of beginning of described tract; thence N  $34^{\circ}$   
30' W 46.00 ft.; thence N  $55^{\circ} 30'$  E 38.00 ft.;  
thence N  $34^{\circ} 30'$  W 17.00 ft.; thence S  $55^{\circ} 30'$  W  
4.00 ft.; thence N  $34^{\circ} 30'$  W 22.50 ft.; thence S  
 $55^{\circ} 30'$  W 4.50 ft.; thence N  $34^{\circ} 30'$  W 34.20 ft.;  
thence S  $55^{\circ} 30'$  W 11.50 ft.; thence N  $34^{\circ} 30'$  W  
104.50 ft.; thence S  $55^{\circ} 30'$  W 80.85 ft.; thence  
N  $89^{\circ} 15'$  W 43.81 ft.; thence S  $72^{\circ} 22' 48''$  W 64.25  
ft. to the west line of the Shepard D.L.C.; thence  
S  $0^{\circ} 32' 45''$  E along the west line of said D.L.C.  
323.57 ft. to the northerly right of way line of  
Second Ave.; thence N  $55^{\circ} 30'$  E along said right  
of way line 340.27 ft. to the true point of begin-  
ning.