

UNOFFICIAL COPY



Doc#: 0522219020
Eugene "Gene" Moore Fee: \$62.50
Cook County Recorder of Deeds
Date: 08/10/2005 11:07 AM Pg: 1 of 6

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:
CARA A. AHOLA, ESQ.
THE TJX COMPANIES, INC.
770 COCHITUATE ROAD
FRAMINGHAM, MA 01701**

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE, made and entered into as of this 10th day of August 2005, by and between **47TH AND BISHOP PLAZA, LLC**, an Illinois limited liability company (the "Landlord"), and **CONCORD BUYING GROUP, INC.**, a New Hampshire corporation, (the "Tenant"), provides:

8/10/05 1. Lease. The provisions set forth in a written lease between the parties hereto dated (the "Lease") are hereby incorporated by reference in this Memorandum.

2. Demised Premises. The Demised Premises are more particularly described as follows:

The Demised Premises consist of a one-story building, to be constructed by Landlord as herein provided, and contain approximately twenty four thousand twenty five (24,025) square feet of floor area having a frontage and width of one hundred thirty five (135) feet and other dimensions as shown and labelled Area A upon the plan attached to the Lease. The Demised Premises are a portion of the Shopping Center land more particularly described in Schedule A attached hereto as a part hereof. In addition, the Tenant shall have the exclusive right to use certain service areas adjacent to the Demised Premises which contain an exterior loading dock and trash storage area.

3. Term and Option to Extend Term. The original term of the Lease shall be the period of ten (10) years and a fraction of month commencing on the Commencement Date (as described below) and terminating on the last day of the month during which the tenth (10th) anniversary of the Commencement Date shall occur, except, however, that if the Commencement Date shall be a first day of a calendar month then the original term of this lease shall be the period of ten (10) years commencing on the Commencement Date and terminating on the day prior to the tenth (10th) anniversary thereof.

Tenant shall have the right, at its election, to extend the term of the Lease three (3) extension periods of five (5) years each, each commencing upon the expiration of the original term, or the original term as thus previously extended. In addition, Tenant shall have the right, at its election, to extend the original term, or the original term as it may have been previously extended as aforesaid, an extension period of a fraction of a year ending upon the January 31st next following the expiration of the original term, or the original term as previously extended, as the case may be. Such extensions shall be granted upon the terms and conditions set forth in the Lease.

4. Commencement Date. An "Opening Day" shall be any Monday through Friday (except for legal holidays) between March 1 and the following May 15, and between August 1 and the following November 15. The "Commencement Date" shall be the first Opening Day after the later to occur of the following dates:

- a. the sixtieth (60th) day after both the completion of Landlord's Construction Work and the receipt by Tenant of notice thereof from Landlord; and
- b. the tenth (10th) day after a food supermarket shall open for business to customers in the Shopping Center under the tradename Farmer's Best containing not less than twenty five thousand (25,000) square feet of floor area (the "Inducement Store") under a lease for a term

UNOFFICIAL COPY

- d. the tenth (10th) day after Landlord shall have delivered to Tenant a current certificate of occupancy (or its equivalent depending on the jurisdiction) for the Demised Premises, if the same shall be issuable in accordance with local law or custom; and
- e. the thirtieth (30th) day after Landlord shall have completed "shell construction" of at least thirty thousand (30,000) square feet of building floor area (in addition to the Demised Premises) in the area adjacent to the Demised Premises shown therefor upon the Lease Plan (as referred to in Paragraph 1 of Schedule B); "shell construction" shall mean the foundation, all exterior walls, roof, and all doors and windows (including glass or aesthetically suitable temporary substitutes for such glass); and
- f. the tenth (10th) day after Landlord shall have delivered the Monument Sign with a space on the Monument Sign for Tenant's identification panels thereon all as required by Paragraph 3 of Schedule B hereof.

Notwithstanding anything in the Lease contained to the contrary, if the Demised Premises shall be formally opened for business with customers prior to the Commencement Date determined as above provided, such date of formal opening shall be the Commencement Date.

5. Duplicate of the originals of the Lease are in the possession of the Landlord and Tenant and reference should be made thereto with respect to any questions arising in connection therewith. The addresses for Landlord and Tenant are as follows:

Landlord:

**Matanky Realty Group
200 N. LaSalle Street, Suite 2350
Chicago, Illinois 60601**

Tenant:

**The TJX Companies, Inc.
770 Cochituate Road
Framingham, Massachusetts 01701
Attn: Vice President - Real Estate**

6. The Lease contains certain restrictions upon the remainder of the Shopping Center property described in Schedule A, as set forth in Schedule B of the Lease, including without limitation, the following:

"(A) Landlord agrees that the Shopping Center shall not be used (a) for any non-retail purposes (repairs, alterations and offices incidental to retailing, and banks and small loan offices, not being deemed non-retail), or (b) for any entertainment purposes such as a bowling alley, skating rink, cinema, bar, nightclub, discotheque, amusement gallery, poolroom, health club, massage parlor (except that massages offered as incidental to a doctor's office, massage therapist's office, day spa, hair salon or the like shall be permitted so long as such premises are not located within 100 linear feet of the nearest demising wall of the Demised Premises), sporting event, sports or game facility, off-track betting club (c) or for any establishment which sells or displays pornographic materials or (d) for any establishment which sells or displays used merchandise or second hand goods (provided, however, that this restriction shall not apply to a store typically found in a comparable shopping center that sells reconditioned merchandise together with new merchandise such as Computer Renaissance, Play It Again Sports, Terry's Consignment, egg AMES, Gamestop or Game Crazy nor shall it prevent a video/record store from engaging in a CD or video exchange program). No restaurants or establishments selling food prepared on premises for consumption on or off premises shall be located in the Shopping Center outside of the areas labeled "Building B," or "Building C," on the Lease Plan. In addition, the supermarket may as an incidental use sell food for consumption off premises or contain a café selling prepared food not to exceed three thousand (3,000) square feet, which café is incidental to the primary use of such premises. (Collectively the uses described herein are referred to as the "Prohibited Uses").

(B) Landlord agrees that, from the date hereof until expiration of the term of this lease, no other premises in the Shopping Center shall at any time contain more than fifteen thousand (15,000) square feet of floor area therein used or occupied for, or devoted to, the sale or display of soft goods (as defined by the trade from time to time), apparel, footwear and furnishings for the home including the following categories of items: linens and domestics, window treatments, floor coverings, bathroom items, bedding, furniture, wall décor, housewares, table top goods, glassware, flatware, cookware, kitchen utensils, giftware and/or closet, shelving and storage items and home accessories (collectively the "Protected Merchandise"). The computation of such floor area shall include one-half (1/2) of all floor area in any aisles, corridors or similar spaces adjacent to or abutting any racks, gondolas, shelves, cabinets, counters or other fixtures or equipment containing or used for the sale or display of the Protected Merchandise. The foregoing sale or display of more than fifteen thousand (15,000) square feet of the Protected Merchandise either

UNOFFICIAL COPY

individually or collectively is defined herein as a "Competing Use."

(C) In addition to all other remedies available to Tenant at law and in equity for a breach of the covenants contained in Paragraphs (A) and (B) of this Paragraph 4, if an occupant or tenant in the Shopping Center engages in a Competing Use or a Prohibited Use, Tenant shall be entitled to any of the following remedies on a non-exclusive basis: (i) Tenant may terminate this lease upon thirty (30) days' notice to Landlord, (ii) Tenant may pay Alternate Rent (as defined in Section 4.7 of the lease) until such Competing Use or Prohibited Use ceases, except that Landlord shall have three (3) months to attempt cure before Tenant may pay Alternate Rent when Landlord has not consented to the Competing Use, or (iii) Tenant may seek injunctive relief to enjoin or restrain such occupant or tenant from engaging in a Competing Use or a Prohibited Use. Notwithstanding anything to the contrary contained herein, so long as Landlord is using its best efforts to diligently enforce the restrictions contained in this Paragraph 4 against any tenant or occupant engaged in the Competing Use or a Prohibited Use in violation of its lease, Tenant's termination right under this Paragraph 4(C) shall be stayed."

7. It is understood and agreed that the only purpose of this Memorandum of Lease is to give notice of the Lease; it being distinctly understood and agreed that said Lease constitutes the entire lease and agreement between Landlord and Tenant with respect to the Demised Premises. The Lease contains additional rights, terms and conditions not enumerated in this instrument. This instrument is not intended to vary the terms of the Lease, including such rights, terms and conditions and in the event of any inconsistency between the provisions of this Memorandum of lease and the Lease, the provisions of the Lease shall control.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum pursuant to due authorization.

47TH AND BISHOP PLAZA, LLC

By [Signature]
Name: J. McArthur
Its: Manager

By _____
Name: _____
Its: _____

WITNESSES AS TO BOTH:

[Signature]

[Signature]

CONCORD BUYING GROUP, INC., a New Hampshire corporation

By [Signature]
Jay H. Meltzer
Secretary/Clerk

By [Signature]
Mary B. Reynolds
Vice President/Treasurer

UNOFFICIAL COPY

STATE OF ILLINOIS)
)
 CITY/COUNTY OF COOK) SS.
)

The foregoing instrument was acknowledged before me this 27th day of January, 2005 by James E. Motanky and _____ on behalf of 47th + Bishop Plaza, L.C.

"OFFICIAL SEAL"
 PAMELA KLEIN
 NOTARY PUBLIC, STATE OF ILLINOIS
 MY COMMISSION EXPIRES 8/3/2006
Pamela Klein
 Notary Public
 My Commission Expires: _____

TENANT'S ACKNOWLEDGMENT

COMMONWEALTH OF MASSACHUSETTS)
)
 COUNTY OF MIDDLESEX) SS.
)

On this 16th day of February, 2005, before me, the undersigned notary public, personally appeared Jay H. Meltzer as Secretary/Clerk and Mary B. Reynolds as Vice President/Treasurer, respectively, of Concord Buying Group, Inc. on behalf of the corporation, proved to me through satisfactory evidence of identification, which is personal knowledge of the identity of both, to be the people whose names are signed on the preceding document and who acknowledged that they signed it voluntarily for its stated purpose.

Dianne M. Goodwin
 Notary Public
 My Commission Expires: _____

DIANNE M. GOODWIN
 Notary Public
 Commonwealth of Massachusetts
 My Commission Expires Aug 29, 2005

UNOFFICIAL COPY

FINAL

SCHEDULE A**DESCRIPTION OF SHOPPING CENTER AND DEMISED PREMISES**

The Demised Premises consist of a portion of a one-story building, to be constructed by Landlord as herein provided, and contain approximately twenty four thousand twenty five (24,025) square feet of gross leaseable ground floor area having a frontage and width of approximately one hundred thirty five (135) feet, a depth of two hundred (200) feet and such other dimensions as shown upon the plan attached hereto (the "Lease Plan"), and are a portion of the premises within the Shopping Center referred to hereinbelow labeled AREA A on the Lease Plan. The portion of the Lease Plan marked as Critical Area shall not be modified in any way without Tenant's consent, which may be withheld at Tenant's sole discretion. Any changes to the Lease Plan outside of Tenant's Critical Area which affect any entrances or exits from the Shopping Center, traffic flow within the Shopping Center, or which will materially affect the visibility of Tenant's storefront or other signs or the accessibility of the Demised Premises to or from any other portion of the Shopping Center or the Main Streets (as defined below) shall require the prior written consent of Tenant, which may be withheld at Tenant's reasonable discretion. In addition, Tenant shall have the exclusive right to use certain service areas adjacent to the Demised Premises which contain an exterior loading dock and trash storage area for Tenant's delivery and removal activities and for Tenant's compactor, dumpster and/or trash receptacles. It is expressly understood and agreed that said service areas shall not be included in computing minimum rent pursuant to Section 5.1 of the lease or Tenant's Fraction of Tenant's Portion (defined in Section 6.1) for purposes of Article VI and Paragraph 10 of Schedule B or for purposes of calculating other charges due under this lease. If after completion of Landlord's Construction Work the Demised Premises shall contain less than the floor area required above then, in addition to all other remedies of Tenant, as a result thereof, the rent payable by Tenant under this lease shall be reduced proportionately. In no event shall rent be based on the Demised Premises containing more than twenty four thousand three hundred fifty (24,350) square feet of gross leaseable ground floor area.

The Demised Premises are situated within the so-called Bishop Plaza Shopping Center, to be constructed by Landlord as herein provided, at the northeast corner and a portion of the northwest corner of the intersection of 47th and Bishop (herein collectively referred to as "the Main Streets") in Chicago, Illinois. The Shopping Center is the land, together with the buildings and other structures from time to time thereon, shown on the Lease Plan, and is more particularly described as follows:

LEGAL DESCRIPTION**PARCEL 1:**

THE EAST HALF OF THE SOUTH EAST QUARTER OF THE SOUTH WEST QUARTER OF THE SOUTH WEST QUARTER OF SECTION 5, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

EXCEPTING FROM ABOVE DESCRIBED PARCEL OF LAND THOSE PARTS THEREOF TAKEN OR USED FOR STREET PURPOSES AS PER DOCUMENT NO. 907217.

LOTS 31 THROUGH 38 IN BLOCK 2 IS S.E. GROSS SUBDIVISION OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 5, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PIN Nos: 20-05-309-031-0000
 20-05-309-032-0000
 20-05-309-033-0000
 20-05-309-034-0000
 20-05-309-035-0000
 20-05-309-036-0000
 20-05-309-037-0000

UNOFFICIAL COPY

FINAL

LEASE PLAN

Chicago, IL Site Plan

DX
THE TX COMPANY INC.

THE marmax GROUP
marmax Merchants HomeGoods AJ Wright

