



MISC 2005130043



OCT 17 2005 09:30 P 4

IBIT I

c/o The Gap, Inc.  
Real Estate Law  
901 Cherry Avenue  
San Bruno, CA 94066  
Attn: Sean Dennison, Esq.  
Store #3187

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
10/17/2005 09:30:35.31



2005130043

MEMORANDUM OF LEASE

This Memorandum of Lease is made and entered into as of this 7<sup>th</sup> day of March 2005 by and between BANANA REPUBLIC, LLC, a Delaware limited liability company ("Tenant") and 168TH AND DODGE, L.P., a Nebraska limited partnership ("Landlord").

1. **Premises.** Pursuant to the Unrecorded Lease (as defined below), Landlord leases to Tenant that certain store premises (the "Premises") containing approximately 8,966 square feet of gross leasable area and constituting a part of a retail shopping center (the "Shopping Center") commonly known as Village Pointe located at 168th & Dodge Streets in the City of Omaha, County of Douglas, State of Nebraska. All land comprising the Shopping Center is referred to as the "Property" and is legally described in **Exhibit A** attached hereto.

2. **Unrecorded Lease.** This Memorandum of Lease is made upon all of the terms, covenants and conditions set forth in that certain unrecorded lease by and between the parties hereto of even date herewith (the "Unrecorded Lease"), all of the terms and conditions of which are made a part hereof as though fully set forth herein.

3. **Term/Commencement Date.** The term of this Memorandum of Lease and the Unrecorded Lease shall commence in accordance with the terms of the Unrecorded Lease, and shall expire on the last day of the month five (5) years next following the commencement date unless earlier terminated or extended in accordance with the provisions of the Unrecorded Lease. Alternatively, the original term may expire on the January 31st following the fifth (5<sup>th</sup>) anniversary of the commencement date, upon the occurrence of certain conditions set forth in the Unrecorded Lease. In addition, Tenant is granted two (2) option(s) to extend the original term for additional periods of five (5) years each.

4. **Common Easement.** Tenant and the employees, agents, officers, directors, licensees, contractors, subcontractors, successors and assigns (collectively, "Agents") of Tenant and Tenant's customers and invitees shall have all rights appurtenant to the Premises and a non-exclusive, irrevocable easement and right, in common with the other occupants of the Shopping Center and with the public, for the purpose of access over and across as well as the use of all areas for the common use of the occupants of the Shopping Center, including, without limitation, the sidewalks, driveways and parking areas on the Property (collectively, the "Common Areas"), which easement shall be appurtenant to the Premises and shall run with the land.

5. **Use.** The Premises may be used for any lawful retail purpose. The foregoing is collectively referred to herein as the "Permitted Use." Landlord shall take no action which would impair or limit Tenant's ability to conduct the Permitted Use.

6. **Restrictions.** Except as expressly set forth in the Unrecorded Lease, Tenant is entering into this Memorandum of Lease and has entered into the Unrecorded Lease in reliance upon its ability to conduct the Permitted Use without any limitation or restriction whatsoever by reason of any exclusive provision or contractual restriction granted to any other party whatsoever and wherever located, which applies or pertains to the Premises or Tenant's use therein.

7. **Interpretation.** Landlord and Tenant have entered into this Memorandum of Lease in order that third parties may have notice of the existence of the Unrecorded Lease and some of its specific provisions. This Memorandum of Lease is not a complete summary of the Unrecorded Lease. This Memorandum of Lease is not intended to amend, modify, or otherwise change the terms and conditions of the Unrecorded Lease between the parties hereto. Provisions in this Memorandum shall not be used in interpreting the provisions of the Unrecorded Lease. In the event of a conflict between this Memorandum and the Unrecorded Lease, the Unrecorded Lease shall control.


112664.1 Village Pointe #3187  
Omaha, NE

Return To:  
Gap Inc.  
901 CHERRY AVE  
San Bruno, CA 94066

FEE 25.00 FB 68-40328  
BKP 4 C/D 68-40344  
DEL 10 SCAN 68-40329 FV 68026677

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the date and year first above written.

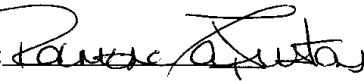
LANDLORD

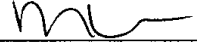
Witness or Attest: 

168TH AND DODGE, L.P., a Nebraska limited partnership

By: RED DEVELOPMENT OF WEST DODGE,  
LLC, a Missouri limited liability company, its General  
Partner

By: E & R Holdings, LLC, an Arizona limited  
liability company, Manager

By: 

By: 

Michael L. Ebert, Manager

Date: 3/1/05

TENANT

Witness or Attest:

BANANA REPUBLIC, LLC,  
a Delaware limited liability company

By: 

By: 

Title: David B. Matthews  
Associate General Counsel  
Assistant Secretary

Date: 3/3/05

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA )

) ss:

COUNTY OF SAN MATEO )

On March 3, 2005, before me, Melanie Ulate, Notary Public, personally appeared David Matthews personally known to me to or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Melanie Ulate (SEAL)  
Notary Public Signature



STATE OF Az )

) ss:

COUNTY OF Maricopa )

On March 7, 2007, before me, Amy McClaghry, Notary Public, personally appeared Michael L. Eby personally known to me to or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Amy McClaghry (SEAL)  
Notary Public Signature

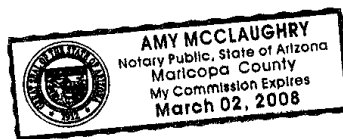


EXHIBIT A

LEGAL DESCRIPTION:

Lots 2, 4 and 5, inclusive, and Lot 8, Outlot A and Outlot B,  
Village Pointe, a subdivision in Douglas County, Nebraska.

②

68-40328

AND

(formerly Lot 10, Village Pointe)

Lots 1 through 3, inclusive, Replat One Village Pointe, a  
subdivision in Douglas County, Nebraska.

②

68-40329

AND

Lot 3 and 4, inclusive, Replat Two Village Pointe, a  
subdivision in Douglas County, Nebraska.

②

68-40344