

Prepared by:
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Newark, New Jersey 07102-5400

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After Recording, Return to:
Alan M. Freeman, Esq.
Real Estate Counsel
Bed Bath & Beyond
650 Liberty Avenue
Union, New Jersey 07083

ALAN SPRIGGS, SUMMIT CO RECORDER
2003 OCT 22 11:05 AM FEE \$24.00 BY DMG
REQUEST: SILLS CUMMIS RADIN TISCHMAN EPS

(The Above Space for Recorder's Use Only)

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE, made as of the 10th day of September, 2003, by and between BOYER SPRING CREEK, L.C., a Utah limited liability company, having an office at 127 South 500 East, Salt Lake City, Utah 84102-1906 ("**Landlord**"), and BED BATH & BEYOND INC., a New York corporation, having an office at 650 Liberty Avenue, Union, New Jersey 07083 ("**Tenant**").

Preliminary Statement

1. Landlord is the fee owner of certain real property located at the southeast corner of the intersection of Uinta Boulevard and State Highway 224 in Kimball Junction, Summit County, Utah, and more particularly described in Exhibit A hereto, together with improvements constructed or to be constructed thereon (the "**Shopping Center**") commonly known as Redstone Shopping Center, containing approximately one hundred ninety thousand (190,000) square feet of Floor Area. Landlord and Tenant, as of the date hereof, have entered into a lease (the "**Lease**") demising a portion of the Shopping Center as more particularly described therein (the "**Premises**") to Tenant. In connection therewith, Landlord and Tenant have entered into this Memorandum to confirm the demise of the Premises and to provide notice to any interested party of such demise and of the terms and provisions of the Lease.

NOW, THEREFORE, the parties state as follows:

1. All capitalized terms used, but not otherwise defined, herein shall have the meanings ascribed to them in the Lease.

2. The terms and conditions of the Lease are incorporated herein as though set forth in full, whereby Tenant may have and hold the Premises together with any and all rights, benefits, privileges and easements, now or hereafter appurtenant thereto, at the rental and upon the terms and conditions therein stated, for an initial term of approximately ten (10) years beginning on the Rent Commencement Date and ending at midnight on the last day of January following the tenth (10th) anniversary of the Rent Commencement Date (the "Expiration Date") (the "**Initial Term**"). Under the terms of the Lease, Tenant has the right to extend the Initial Term for three (3) successive renewal periods of five (5) years each (individually, a "Renewal Period", and collectively, the "Renewal Periods") after the expiration of the Initial Term.

3. This Memorandum of Lease is executed for the purpose of recordation in order to give notice of all of the terms, provisions and conditions of the Lease, including, without limitation:

(i) that, subject to certain exceptions more particularly set forth in the Lease, and further subject to certain Existing Leases, Landlord shall not lease, rent or occupy or permit any other premises in the Shopping Center or on any "Related Land" (defined in the Lease) to be occupied, whether by a tenant, sublessee, assignee, licensee or other occupant or itself, for the

sale, rental or distribution, either singly or in any combination, of items contained in any of the following respective categories of merchandise: (a) linens and domestics; (b) bathroom items (excluding plumbing hardware); (c) housewares (excluding furniture, and major appliances or "white goods"); (d) frames and wall art (provided that a fine art gallery shall not be precluded); (e) window treatments; and/or (f) closet, shelving and storage items (which items, either singly or in any combination, are hereinafter referred to as the "*Exclusive Items*");

(ii) the restrictions set forth therein on Landlord's ability to lease certain portions of the Shopping Center for certain uses which are otherwise prohibited by the terms of the Lease;

(iii) provisions set forth therein regarding Tenant's right to install and maintain signage upon the exterior of the Premises and upon pole mounted banners signs located at the Shopping Center;

(iv) provisions set forth therein regarding Tenant's right, if Landlord hereafter constructs or makes available to any other tenant or tenants in the Shopping Center any pylon, monument or other signage located in the Common Areas, to include Tenant's identification sign thereon, which shall be in the second position thereon and shall be at least as large as the largest sign made available to such other tenant or tenants;

(v) provisions set forth therein regarding Tenant's right to use (and to permit Tenant's customers, employees, agents and contractors to use) certain common areas of the Shopping Center (such as, without limitation, the parking facilities of the Shopping Center);

(vi) provisions set forth therein regarding certain areas in the Shopping Center in which no improvements are to be constructed;

(vii) provisions set forth therein restricting Landlord's ability to grant consents or approvals under, to amend or modify, or to terminate, any of (x) that certain "Master Declaration of Covenants, Conditions and Restrictions", dated as of February 2, 2001 by and between Landlord and Boyer Kimball Junction, L.C., recorded February 5, 2001 as Entry No. 581758 in Book 1352 at page 608, records of Summit County, Utah, as amended by First Amendment to Master Declaration of Covenants, Conditions and Restrictions, by and among Landlord, Boyer Kimball Junction, L.C., SGD-Equimark, LLC and Fox Point Affordable Housing, L.C., dated April 11, 2002, and recorded December 20, 2002 as Entry 642057 in Book 1498 at page 428. (y) that certain Air Rights Declaration for Red Stone Village, dated February 2, 2001, made by Landlord, recorded February 5, 2001 as Entry No. 581759 in Book 1352 at page 632, records of Summit County, Utah, , as amended by First Amendment to Red Stone Village Air Rights Declaration made by Landlord and Fox Point Affordable Housing, L.C., dated April 11, 2002 and recorded December 20, 2002 as Entry 642056 in Book 1498 at page 428, (z) that certain Development and Easement Agreement among Landlord, Boyer Kimball Junction, L.C., MJM5, L.C. and Spring Creek Angus Ranch, recorded February 5, 2001 as Entry No. 581761 in Book 1352 at page 664, records of Summit County, Utah, and (xx) that certain Declaration of Covenants, Conditions and Restrictions, and Grants of Easements, dated as of December 31, 1991, between GFI-Park City Investments, Ltd. and John W. Jarman, Helen B. Jarman and Bailey & Sons Company, recorded March 11, 1992 as Entry No. 355433 in Book 650 at page 418, records of Summit County, Utah, as amended by First Amendment to Declaration of Covenants, Conditions and Restrictions, Grant of Easements, recorded December 15, 1992 as Entry No. 370680 in Book 699 at page 218, records of Summit County Utah, Second Amendment to Declaration of Covenants, Conditions and Restrictions, recorded October 27, 1995 as Entry No. 441261 in Book 920 at page 109, records of Summit County, Utah, Amendment to Declaration of Covenants, Conditions and Restrictions, recorded June 5, 1996 as Entry No. 455719 in Book 969 at page 519, records of

Summit County, Utah and Amendment of Declaration of Covenants, Conditions and Restrictions, recorded December 9, 1996 as Entry No. 468923 in Book 1013 at page 129, and re-recorded January 7, 1997 as Entry No. 470945 in Book 1020 at page 23, records of Summit County, Utah

and is not intended, and shall not be construed, to define, limit or modify the Lease.

4. In addition to those terms hereinabove set forth, the Lease contains numerous other terms, covenants and conditions which likewise affect not only the Premises but also the Shopping Center, and notice is hereby given that reference should be had to the Lease directly with respect to the details of such terms, covenants and conditions. The Lease and exhibits thereto are hereby incorporated by reference in this Memorandum of Lease and the parties hereby ratify and confirm the Lease as if said Lease were being re-executed by them and recorded. In the event of any conflict between the provisions of this instrument and the Lease, the provisions of the Lease shall control.

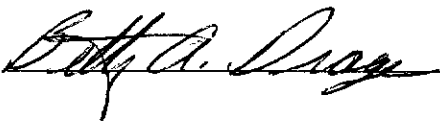
IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the day and year first above written.

WITNESS:

LANDLORD:

BOYER SPRING CREEK, L.C.,
a Utah limited liability company

By: The Boyer Company, L.C.,
its Manager



By: 

Name: H. Roger Boyer

Title: Chairman

TENANT:

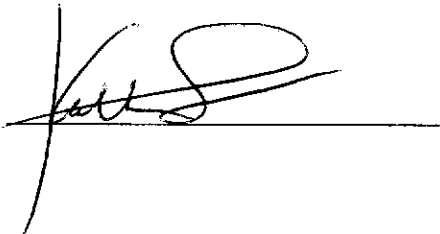
WITNESS:

BED BATH & BEYOND INC.
a New York corporation

By: 

Warren Eisenberg

Co-Chairman of the Board of Directors

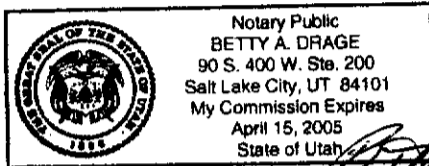


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STATE OF UTAH)
) : ss.
COUNTY OF)

On this 10 day of September, 2003, before me personally came

H Roger Boyer to me know, who being by me duly sworn, did depose and say that he is the Chairman of The Boyer Company, L.C., the Manager of Boyer Spring Creek, L.C., a Utal limited liability company, the company described in and which executed the above instrument, and that [s]he swas authorized to, and did, execute the foregoing instrument as Chairman of The Boyer Company, L.C., as Manager of Boyer Spring Creek, L.C..



Betty A. Drage

STATE OF NEW JERSEY)
) : ss.
COUNTY OF UNION)

On this 20th day of August, 2003, before me personally came Warren Eisenberg to me know, who being by me duly sworn, did depose and say that he is the Co-Chairman of the Board of Directors of Bed Bath & Beyond Inc., the corporation described in and which executed the above instrument and that he signed his name thereto by order of the Board of Directors of said corporation.

Genevieve Prisciandaro
Notary Public

My Commission Expires: 11/4/07

GENEVIEVE PRISCIANDARO
Notary Public - State of N.J.
My Commission Expires **11/4/07**



EXHIBIT A

Legal Description of the Shopping Center

BEGINNING at a point on the East line of Lot 7, THE VILLAGE AT KIMBALL JUNCTION, a subdivision in the West half of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, said point being North 0° 16' 14" West 1238.18 feet from the Southeast corner of said Lot 7; thence North 0° 16' 14" West 826.33 feet; thence South 89° 43' 46" West 304.84 feet; thence South 0° 16' 14" East 40.00 feet; thence South 89° 43' 46" West 70.00 feet; thence North 0° 16' 14" West 40.00 feet; thence South 89° 43' 46" West 740.33 feet; thence South 0° 27' 00" West 15.00 feet; thence North 89° 33' 00" West 165.00 feet; thence South 0° 27' 00" West 234.22 feet; thence South 89° 33' 00" East 185.91 feet; thence South 31° 25' 02" West 185.66 feet; thence South 58° 34' 58" East 191.33 feet; thence South 31° 25' 02" West 33.35 feet; thence South 58° 34' 58" East 21.15 feet; thence South 31° 25' 02" West 17.61 feet; thence South 58° 34' 58" East 81.60 feet; thence North 31° 25' 02" East 79.23 feet; thence North 76° 25' 02" East 55.53 feet; thence South 58° 34' 58" East 45.91 feet; thence North 31° 25' 02" East 48.44 feet; thence South 58° 34' 58" East 80.94 feet; thence South 31° 25' 02" West 21.00 feet; thence South 58° 34' 58" East 44.00 feet; thence South 31° 25' 02" West 17.50 feet; thence South 58° 34' 58" East 206.00 feet; thence North 31° 25' 02" East 31.50 feet; thence South 58° 34' 58" East 44.00 feet; thence North 31° 25' 02" East 13.55 feet; thence South 58° 34' 58" East 215.00 feet; thence South 31° 25' 02" West 5.00 feet; thence South 58° 34' 58" East 88.00 feet; thence North 31° 25' 02" East 5.00 feet; thence South 58° 34' 58" East 44.00 feet; thence North 31° 25' 02" East 88.90 feet; thence South 58° 34' 58" East 38.54 feet; thence North 89° 43' 46" East 114.04 feet to the point of beginning.

LESS AND EXCEPTING THEREFROM THAT PORTION OF THE FOLLOWING DESCRIBED PARCELS CREATED IN THAT CERTAIN DOCUMENT ENTITLED RED STONE VILLAGE AIR RIGHTS DECLARATION RECORDED FEBRUARY 4, 2001 AS ENTRY NO. 581759 IN BOOK 1352 AT PAGE 632, WHICH ARE LOCATED ABOVE THE TOP OF THE JOISTS DEFINING THE CEILING FOR THE COMMERCIAL SPACE AND SUPPORTING THE FLOOR FOR THE AIR PARCELS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Air Rights Parcel #1:

Beginning at a point which is North 0° 16' 14" West 1513.91 feet along the East line of Lot 7, THE VILLAGE AT KIMBALL JUNCTION, a subdivision in the West half of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian; and South 89° 43' 46" West 742.41 feet from the Southeast corner of said Lot 7; thence North 58° 34' 58" West 162.00 feet; thence North 31° 25' 02" East 63.00 feet; thence South 58° 34' 58" East 165.00 feet; thence South 31° 25' 02" West 26.00 feet; thence North 58° 34' 58" West 3.00 feet; thence South 31° 25' 02" West 37.00 feet to the point of beginning.

Air Rights Parcel #2:

Beginning at a point which is North 0° 16' 14" West 1410.24 feet along the East line of Lot 7, THE VILLAGE AT KIMBALL JUNCTION, a subdivision in the West half of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian; thence South 89° 43' 46" West 647.76 feet from the Southeast corner of said Lot 7; thence North 58° 34' 58" West 91.00 feet; thence North 31° 25' 02" East 17.50 feet; thence North 58° 34' 58" West 44.00 feet; thence North 31° 25' 02" East 58.00 feet; thence South 58° 34' 58" East 47.00 feet; thence South 31° 25' 02" West 17.50 feet; thence South 58° 34' 58" East 88.00 feet; thence South 31° 25' 02" West 58.00 feet to the point of beginning.

Air Rights Parcel #3:

Beginning at a point which is North 0° 16' 14" West 1316.08 feet along the East line of Lot 7, THE VILLAGE AT KIMBALL JUNCTION, a subdivision in the West half of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian; and thence South 89° 43' 46" West 409.47 feet from the Southeast corner of said Lot 7; thence North 58° 34' 58" West 93.23 feet; thence South 31° 25' 02" West 13.55 feet; thence North 58° 34' 58" West 44.00 feet; thence South 31° 25' 02" West 31.50 feet; thence North 58° 34' 58" West 91.00 feet; thence North 31° 25' 02" East 58.00 feet; thence South 58° 34' 58" East 71.17 feet; thence North 79° 59' 37" East 68.10 feet; thence South 50° 34' 58" East 106.00 feet; thence South 31° 25' 02" West 58.00 feet to the point of beginning.

Air Rights Parcel #4:

Beginning at a point which is North 0° 16' 14" West 1232.13 feet along the East line of Lot 7, THE VILLAGE AT KIMBALL JUNCTION, a subdivision in the West half of

Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian; thence South 89° 43' 46" West 163.06 feet from the Southeast corner of said Lot 7; thence South 31° 25' 02" West 58.00 feet; thence North 58° 34' 58" West 44.00 feet; thence South 31° 25' 02" West 5.00 feet; thence North 58° 34' 58" West 88.00 feet; thence North 31° 25' 02" East 5.00 feet; thence North 58° 34' 58" West 69.00 feet; thence North 31° 25' 02" East 58.00 feet; thence South 58° 34' 58" East 72.00 feet; thence South 31° 25' 02" West 5.00 feet; thence South 58° 34' 58" East 82.00 feet; thence North 31° 25' 02" East 5.00 feet; thence South 58° 34' 58" East 47.00 feet to the point of beginning.

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