LEASE

THIS LEASE, made this First day of January, 1965, by and between the METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE, whose address is Court House Square, Nashville, Tennessee, Lessor, and THE KROGER CO., an Ohio corporation, whose address is Powell Avenue, Nashville, Tennessee, Lessee, WITNESSETH:

1. For and in consideration of One Dollar and other good and valuable consideration, the Lessor hereby demises and leases to Lessee the following described premises situated in the City of Nashville, Davidson County, State of Tennessee, more particularly described as follows, to wit:

> BEGINNING at a point in the Northerly margin of Jackson Street; said point being North 62 degrees 18 minutes East 285.60 feet from the center line of 8th Avenue, North; thence South 62 degrees 18 minutes West along the Northerly margin of Jackson Street 210.02 feet to a point; thence Northwestwardly along a curve that has a radius of 30.00 feet, a distance of 46.96 feet to a point in the Easterly margin of 8th Avenue, North; thence North 28 degrees 01 minutes West along the Easterly margin of 8th Avenue, North 536.37 feet to a point; thence North 21 degrees 29 minutes West continuing along the Easterly margin of 8th Avenue, North 114.36 feet to a point; thence Northeastwardly along a curve that has a radius of 30.00 feet, a distance of 49.38 feet in the Southerly margin of Jefferson Street; thence North 72 degrees 49 minutes East along the Easterly margin of Jefferson Street 184.79 feet to a point; thence leaving Jefferson South 17 degrees 11 minutes East 87.95 feet to a point; thence North 61 degrees 56 minutes East 25.33 feet to a point; thence South 27 degrees 58 minutes East 585.25 feet to the point of beginning, and containing 3.74 acres, more or less.

together with all improvements owned or controlled by Lessor, and all rights, rights-of-way, easements and appurtenances thereunto belonging, all being hereafter referred to as the demised premises.

2. To have and to hold unto Lessee for a term commencing on the first day of January, 1965, and ending on the 31st day of December, 1985. Lessee shall be entitled to six (6) successive renewals hereof, each for a term of five (5) years, upon the same terms and conditions as herein set forth, and it is agreed that unless Lessee shall notify Lessor not less than sixty (60) days prior to the expiration of the original term, or of any renewal term, of its intention to terminate this lease, it shall be deemed to have exercised its option to renew this lease for the next ensuing term and shall not be required to give any further notice of its intention to avail itself of such renewal term. In the event Lessee should give notice of its intention not to exercise its right to renew this lease, all succeeding renewals shall thereupon terminate.

Provided, however, that Lessor may desire a change in the rental for the demised premises during the renewal periods hereof, and in such an event it may advise the Lessee of such an election not less than 120 days prior to the expiration of the original term or any renewal term. Pursuant to this election, the annual rental shall be equivalent to seven percent (7%) of the market value of said demised premises, but in no event shall said annual rental exceed Fifteen Thousand Seven Hundred Fifty Dollars ($15,750.00). The market value shall be determined and established as the average of three appraisals to be made by three qualified real estate appraisers, one to be selected by Lessor and one to be selected by Lessee and the third to be selected by them. Upon completion of their analysis and appraisal, the market value shall be communicated to both Lessor and Lessee. Thereafter the Lessee may within sixty (60) days elect to renew and

extend this lease, as hereinabove set forth, at the revised rental, or it may elect not to exercise its right to renew this lease at such revised rental and thereupon this lease shall termination at the expiration thereof.

Notwithstanding anything hereinabove to the contrary, Lessee's rights to the renewals hereof shall be and are conditioned upon the Lessor's needs and desire for the utilization of the demised premises for urban renewal development or any other public purpose. In the event Lessor, as the Metropolitan Government of Nashville and Davidson County, Tennessee, or the Nashville Housing Authority, desires to make such public utilization of the demised premises, it shall notify the Lessee not less than sixty (60) days prior to the expiration of the original term or of any renewal term of its plans for such utilization. Thereafter this lease shall terminate at the expiration of the original or renewal term.

3. The Lessee agrees to pay to Lessor as rental for the demised premises the sum of Eight Hundred Seventy-five and 00/100 Dollars ($875.00) per month, payable monthly in advance. All rental payments may be made by check payable and delivered to the Farmers Market Commission, Seventh Avenue and Jefferson Street, Nashville, Tennessee. Rental for the demised premises shall commence ninety (90) days from the date of the execution of this agreement by Lessor.

In addition, Lessee will pay to the Lessor, during each year of the term hereof, or any renewal term, in which the Metropolitan Government of Nashville and Davidson County, Tennessee, is the owner of the leased premises, a tax equivalent equal to the real estate taxes which would be assessed on the leased premises and any improvements constructed thereon if such leased premises and improvements were owned by a private or non-exempt owner, the amount of such tax equivalent to be subject to such administrative and judicial review as is available with respect to tax assessments imposed on non-exempt properties; provided, nevertheless, that the amount of this obligation on the part of the Lessee shall be reduced by the amount of any ad valorem taxes which may be lawfully assessed and paid by it on the value of its leasehold interest.

4. Notwithstanding anything herein contained to the contrary, this lease and all of its terms and conditions are subject to the Lessee's securing a building permit for the construction of its improvements upon the demised premises in accordance with plans and specifications to be prepared by it providing for real estate improvements having a cost or value of not less than Two Hundred Thousand and 00/100 Dollars ($200,000.00), which plans and specifications shall be in general conformity with the current ordinances and regulations governing the construction of new store buildings in Metropolitan Nashville and Davidson County. Lessee shall make application for said building permit within six (6) months from the date of the execution of this agreement by Lessor, and a building permit shall be issued or denied within a reasonable time thereafter. In the event said building permit is refused or denied, all rentals theretofore paid shall be returned and refunded to the Lessee and this lease shall thereupon terminate without further liability to the parties.

5. In the event that Lessor shall at any time during the term hereof or any renewal hereof desire to sell the demised premises to private interests, that is to say, a sale by conveyance to parties other than the Local, State, or Federal Government, or agency thereof, Lessor shall submit a copy of any bona fide offer to Lessee prior to sale, and Lessee shall have the first option to purchase the premises on the same terms and conditions as contained in said offer by giving notice to Lessor of its intention to so purchase within thirty (30) days after receipt of said offer. In the event Lessee elects to purchase the demised premises pursuant to the provisions of this paragraph, Lessor will convey a merchantable title in fee simple by good and sufficient Warranty Deed, free from all encumbrances whatsoever.

Lessor specifically covenants and agrees, so long as this lease shall be in effect, not to lease, rent, sell, or convey any premises owned or controlled

directly or indirectly by it which are within one-quarter (1/4) mile of the demised premises for the purpose of conducting thereon or therein a retail business for the sale of grocery products, including meats, produce, dairy products, bakery products, or any of them, unless such premises are presently so occupied. The use of the Farmers Market of the Lessor for the sale of farm produce and other products now sold there is specifically excluded from this covenant. This covenant shall run with the land.

6. Lessee may use said premises in any lawful manner. Lessee may assign this lease or sublet the premises without consent of Lessor provided Lessee shall remain fully responsible for the payment of rent hereunder and for the performance of all of the terms of this lease.

7. Lessor covenants and warrants that the demised premises are free and clear of any and all encumbrances except that certain lease between the Davidson County Farmers Market Commission, as lessor, and the Peoples Oil Realty Company, as lessee, dated June 26, 1956, demising a portion of the herein demised premises. It is understood and agreed that this lease and demise is made subject to the rights of the Peoples Oil Realty Company as lessee as set forth in the hereinabove described lease, and that Lessor will assign said lease to the Lessee as part of the consideration hereof. Notwithstanding anything herein contained to the contrary, Lessee's rights to any improvements located or to be located on that portion of the demised premises under lease to the Peoples Oil Realty Company shall be subject to the rights of said Peoples Oil Realty Company as lessee and the terms and conditions as set forth in the hereinabove described lease. Any Lessor reversionary rights to any improvements under said lease shall, pursuant to the assignment of said lease, inure to the benefit of the herein Lessee.

8. Lessee may construct such building structures and other improvements of whatever nature as Lessee may require or desire. Lessee may grade, fill, excavate, pave, or otherwise alter the existing topographical features of the land herein demised, and may from time to time reconstruct, demolish, alter, and modify, improve, remodel, and otherwise change existing improvements, provided that any and all such construction shall in every respect comply with the laws, ordinances, and regulations that may govern the same. Title to all real property improvements constructed or placed on the demised premises by the Lessee during the term of this lease shall revert to the Lessor at the termination and expiration of this lease. Fixtures and equipment placed in or upon the premises by Lessee shall remain its property and it shall have the right to remove the same at any time.

Lessee agrees to maintain fire and extended coverage insurance on its improvements in an amount not less than eighty percent (80%) of the full insurable value thereof. If Lessee's building improvements to the demised premises shall be damaged by fire, casualty, or other causes, Lessee may restore or reconstruct the premises to a condition generally equivalent to that preceding the damage or destruction. However, Lessee may elect not to reconstruct or rebuild the damaged or destroyed improvements, in which event Lessee shall pay to the Lessor that portion of the proceeds of the fire and extended coverage insurance settlement resulting from said loss equivalent to five percent (5%) of the amount of the insurance settlement multiplied by the number of years of tenancy of the demised premises during the primary term.

In the event of the damage or destruction of the improvements during any of the renewal periods under this lease, should the Lessee elect not to reconstruct or rebuild under this provision, it shall pay over to the Lessor an amount equivalent to one hundred percent (100%) of the proceeds of said insurance settlement.

Provided, however, Fifty Thousand and 00/100 Dollars ($50,000.00) shall be the minimum amount to be paid by the Lessee to the Lessor in the event the Lessee at any time elects not to reconstruct or rebuild the damaged or destroyed improvements.

In the event of damage or destruction of the premises by fire or other hazards, the type and extent of the repair or reconstruction of the improvements shall be at the election of the Lessee and within its discretion and under its control.

In the event the Lessee elects not to reconstruct or rebuild the damaged or destroyed premises under the provisions of this paragraph 8 during the primary term of this lease or any renewal thereof, then the Lessee may at its option cancel and terminate this agreement without further liability hereunder.

9. In the event all of the demised premises or any part of the building improvements are taken in condemnation proceedings, Lessee may cancel this lease. In the event any part of the demised premises, including all or parts of rights-of-way adjoining said premises, or approaches thereto, are taken in condemnation proceedings so that the premises remaining would be unsatisfactory and Lessee's business operation is materially affected, Lessee may cancel this lease or, at its option, remain in possession, and thereafter rental shall be reduced in proportion to the amount of land area lost. Nothing herein shall constitute a waiver of Lessee's right to compensation for damages for the taking of its improvements; provided, however, in the event the Lessor or the Nashville Housing Authority requires or desires the demised premises for a public purpose, the Lessor may terminate this lease upon giving one hundred eighty (180) days' written notice to the Lessee of the termination of the lease, and upon a termination of this lease in this manner the Lessor shall pay to the Lessee as liquidated damages, in lieu of all other damages by reason of its cancellation of the said lease, a sum of money equal to the unamortized cost of the improvements to the real estate made by the Lessee, plus the unamortized, agreed dollar amount of One Hundred Fifty Thousand and 00/100 Dollars ($150,000.00), representing all expenses of the Lessee, in addition to the cost of the improvements to the real estate made by Lessee as provided above. In no event shall the total cost of the improvements to the real estate plus the agreed $150,000.00 provided above exceed the sum of Five Hundred Thousand and 00/100 Dollars ($500,000.00) for the purpose of this computation. The rate of amortization to be used in computing the liquidated damages under this section shall be four percent (4%) per annum for each year. If any street or adjoining right-of-way is obstructed or blocked for repairs or reconstruction or otherwise for a period in excess of thirty (30) days to the extent that the operation of Lessee's business is materially affected, an abatement or proportionate reduction of rental shall be made. However, such an obstruction or blocking of Eighth Avenue, North resulting from the construction or reconstruction pursuant to widening of said street is expressly excepted provided such obstruction or blocking is for a period not to exceed one (1) year.

10. Lessor covenants that it has lawful title and right to make this lease for the term aforesaid, and that it will put Lessee into complete and exclusive possession of the premises, and that, if Lessee shall pay the rental and perform all of the covenants and provisions of this lease to be performed by Lessee, Lessee shall during the term demised freely, peaceably, and quietly occupy and enjoy the full possession of the premises hereby leased and the appurtenances thereto belonging, without hindrance or otherwise.

11. All notices required under this lease shall be deemed to be properly served if delivered in writing personally or sent by certified mail with return receipt requested to Lessor, care of the Public Property Administrator, Court House Square, Nashville, Tennessee, or to Lessee at its office at Powell Avenue, Nashville, Tennessee, attention Real Estate Department, or to any subsequent address which Lessor and Lessee may designate for such purpose. Date of service of a notice served by mail shall be the date on which such notice is deposited in a post office of the United States Post Office Department.

12. Lessor shall pay the real estate commission equivalent to five percent (5%) of the rental paid during the primary term of this lease or any renewals thereof to J. R. Coarsey, Realtor.

13. This lease embodies the entire agreement between the parties hereto relative to the subject matter hereof, and shall not be modified, changed, or altered in any respect except in writing. No waiver of any condition or covenant of this lease by either party shall be deemed to imply or constitute a further waiver of the same or any other condition or covenant of said lease. The provisions of this lease shall bind and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, this lease has been duly executed by the parties hereto on the day and year first above written.

APPROVED:

FARMERS MARKET BOARD

By _____ Chairman

ATTEST: W. M. Carr Jr.
Metropolitan Clerk

LESSOR:
METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE

By _____ Mayor

LESSEE:
THE KROGER CO.

By _____ Vice President, Nashville Division

Deputy Metropolitan Attorney

STATE OF TENNESSEE:
COUNTY OF DAVIDSON: SS.

On this 28 day of January, 1965, before me, a Notary Public of the State and County aforesaid, personally appeared Beverly Briley, Mayor of the Metropolitan Government of Nashville and Davidson County, Tennessee, with whom I am personally acquainted, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Witness my hand and official seal this 28 day of January, A.D., 1965.

Elizabeth J. Hopkins
Notary Public

My Commission Expires
Oct. 2, 1967

STATE OF TENNESSEE:
COUNTY OF DAVIDSON: SS.

On this 14th day of [illegible], 196[illegible], before me, a Notary Public for the State and County aforesaid, personally appeared Paul P. Moore, to me personally known, who, being by me duly sworn, did say that he is the Vice President of the Nashville Division of The Kroger Co., and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Paul P. Moore acknowledged said instrument to be the free act and deed of said corporation.

Witness my hand and official seal this 14th day of [illegible], A. D., 196[illegible].

[illegible]
Notary Public

My Commission Expires
Feb 4, 1966

STATE OF TENNESSEE:
COUNTY OF DAVIDSON: SS.

On this 27th day of January, 1965, before me, a Notary Public of the State and County aforesaid, personally appeared Sam Davis Bell, Chairman of the Farmers Market Board of the Metropolitan Government of Nashville and Davidson County, Tennessee, with whom I am personally acquainted, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Witness my hand and official seal this 27th day of January, A. D., 1965.

Helen M Hutchison
Notary Public

My Commission Expires
11-6-68

Mch. Gov. of Dock & Dev. Co
Tenn.

To Lease

The Property Of

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FELIX A. WALSH, REGISTER
SHELBY COUNTY, TENNESSEE

FEB 2 10 00 AM '95

1/2 $3.50

DEP. CLERK