



MISC 2010081859



SEP 09 2010 14:24 P 9

Fee amount: 45.50
FB: 60-28398
COMP: BW

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
09/09/2010 14:24:27.00



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**THIS PAGE INCLUDED FOR INDEXING
PAGE DOWN FOR BALANCE OF INSTRUMENT**

FEE	FB
BKP	C/O COMP
DEL	SCAN FV

RELS TITLE
FILE NUMBER: 984330

ASSIGNMENT AND ASSUMPTION OF LEASE

This ASSIGNMENT AND ASSUMPTION OF LEASE ("Agreement") is dated as of August 21, 2010 and made effective as of May 5, 2005 by and between DAVE & BUSTER'S, INC., a Missouri corporation ("Assignor") and DAVE & BUSTER'S OF NEBRASKA, INC., a Nebraska corporation ("Assignee").

WITNESSETH

WHEREAS, Assignor is the tenant under that certain Lease dated as of December 16, 2004 by and between Assignor, as tenant, and Gordman 133rd & Arbor LLC (hereinafter "Landlord"), as landlord, together with any lease extension agreements, lease amendments, addenda, riders, modification agreements and other documents pertaining thereto (hereinafter collectively, the "Lease"), by which Landlord leased to Assignor certain premises located at Old Orchard West Shopping Center, Omaha Nebraska (the "Premises"), all as more particularly described in the Lease;

Lot 5, in Old Orchard West, an Addition to the City of Omaha, Douglas County, Nebraska
WHEREAS, the Lease is evidenced by that certain Memorandum of Lease dated July, 2006 and recorded December 5, 2006 as Instrument No. 2006137535; and

WHEREAS, Assignor wishes to assign all of its right, title and interest in and to the Lease to Assignee, and Assignee wishes to assume Assignor's responsibilities and obligations under the Lease and Assignor and Assignee wish to record this Agreement as evidence of such assignment.

NOW, THEREFORE, in consideration of the Premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignor hereby transfers and assigns to the Assignee all of its right, title and interest in and to the Lease.
2. Assignee hereby accepts the assignment of the Lease, and Assignee hereby assumes all liabilities and obligations of Assignor under the Lease.
3. Assignee agrees to indemnify, defend and hold harmless Assignor in connection with all duties, obligations, liabilities and undertakings pursuant to the Lease.
4. This Agreement may not be modified, amended or otherwise changed except by written instrument signed by the party to be bound.
5. This Agreement shall be construed in accordance with and governed by the laws of the State of Nebraska without regard to principles of conflict of laws.

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984330

6. This Agreement shall bind and shall inure to the benefit of Assignor and Assignee and their respective transferees, successors and assigns.

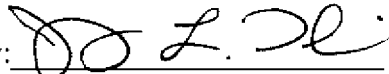
7. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by their duly authorized signatories as of the date first written above.

ASSIGNOR:

DAVE & BUSTER'S, INC., a
Missouri corporation

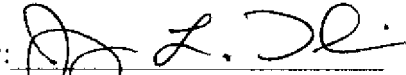
By: 

Name: Jay L. Tobin

Title: Senior Vice President

ASSIGNEE:

DAVE & BUSTER'S OF
NEBRASKA, INC., a Nebraska
corporation

By: 

Name: Jay L. Tobin

Title: Vice President

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by their duly authorized signatories as of the date first written above.

ASSIGNOR:

DAVE & BUSTER'S, INC., a
Missouri corporation


By: 

Name: Jay L. Tobin

Title: Senior Vice President

ASSIGNEE:

DAVE & BUSTER'S OF
NEBRASKA, INC., a Nebraska
corporation

By: 

Name: Jay L. Tobin

Title: Vice President

STATE OF Texas)
 : ss.:
COUNTY OF Dallas)

On this 27 day of August in the year 2010 before me,
Sherrri M. Smith, a Notary Public of said State, duly commissioned and
sworn, personally appeared Jay L. Tolson, personally known to me (or proved to me
on the basis of satisfactory evidence _____) to be the person who
executed the within instrument as S. V. P. or on behalf of the corporation therein
and acknowledged to me that such corporation executed the same.

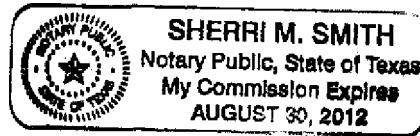
In Witness Whereof, I have hereunto set my hand and affixed by official
seal the day and year in this certificate first above written.

Sherrri M. Smith

Notary Public

[Notarial Stamp]

My commission Expires:



STATE OF Texas)
COUNTY OF Dallas) : ss.:

On this 27 day of August in the year 2010 before me,
Sherrri M. Smith, a Notary Public of said State, duly commissioned and
sworn, personally appeared Jay L. Tubin, personally known to me (or proved to me
on the basis of satisfactory evidence _____) to be the person who
executed the within instrument as Vice Pres or on behalf of the corporation therein
and acknowledged to me that such corporation executed the same.

In Witness Whereof, I have hereunto set my hand and affixed by official
seal the day and year in this certificate first above written.

Sherrri M. Smith
Notary Public

My commission Expires:

