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INSTRUMENT NUMBER  
2007-24871  
2007 AUG 14 A 11:14 8  
*Blair J. Dawkins*  
REGISTER OF DEEDS

### MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE, dated this 19th day of January, 2007, between **PAPILLION DEVELOPMENT, LLC**, a Nebraska limited liability company, having its principal office at 6263 North Scottsdale Road, Suite 330, Scottsdale, Arizona 85250 ("Landlord"), and **BORDERS, INC.**, a Colorado corporation, having its principal office at 100 Phoenix Drive, Ann Arbor, Michigan 48108 ("Tenant").

WITNESSETH:

1. **DEMISED PREMISES.** Landlord and Tenant have entered into a Lease Agreement (the "Lease") dated January 19, 2007 (the "Effective Date"), pursuant to which Tenant has leased from Landlord certain premises (the "demised premises") consisting of approximately twenty-two thousand (22,000) square feet, which premises are part of the Shopping Center ("Shopping Center") known as Shadow Lake Towne Center and located at the southwest corner of Highway 370 and 72nd Street in Papillion, Nebraska. The legal description of the land upon which the Shopping Center is to be located ("Land") is described on the attached Exhibit A (which legal description does not include the parcel of land depicted as the Hy-Vee Parcel on Exhibit B ("Hy-Vee Parcel") except to the extent of Landlord's rights pursuant to the ECR defined in Article 1(c) of the Lease).

2. **TERM - OPTIONS.** The term of the Lease commences on the Effective Date and ends on the last day of the tenth (10th) Lease year (as defined in Article 3(b) of the Lease); provided, however, that the Tenant has three (3) successive option periods to extend the term of the Lease for an additional period of five (5) years for each option, and further provided that regardless of the exercise or non-exercise by Tenant of any or all of the foregoing options, if the term of the Lease, or any option period, would otherwise expire between the dates July 1 and December 31, such term shall be extended to the following January 31.

3. **COMMON AREAS.**

(a) **Ingress and Egress.** Landlord covenants and warrants that during the term of this Lease, there will be those sidewalks, driveways, service drives, roadways and the entrances for automotive and pedestrian ingress and egress to and from the Common Areas and the adjoining public streets and highways to the demised premises in the number and in the locations depicted within the "Protected Area" depicted on Exhibit B ("Protected Area"), subject to unavoidable temporary closings or temporary relocations necessitated by public authority.

A

(b) **Available Parking.** The aggregate area provided for the parking of automobiles upon the Shopping Center and intended for common use and, except as set forth in Article 13(a) of the Lease, without charge to customers, invitees, and employees of Tenant shall, during the Lease term, be sufficient to accommodate not less than five (5) automobiles per one thousand (1,000) square feet of gross leasable area excluding mezzanines ("Minimum Parking Ratio") existing or to be constructed upon the Shopping Center, and shall be substantially as depicted on Exhibit B. Any Outlot Area (as defined in Article 14(b)(i) of the Lease) located within the Land shall have sufficient land to accommodate the greater of (i) the Minimum Parking Ratio with respect to gross leasable area existing or constructed upon such Outlot Area, or (ii) the parking ratio required to be maintained on such Outlot Area under Applicable Laws, without variance, as a result of the particular use of such Outlot Area. All parking spaces within the land described on Exhibit A must be maintained as customer only parking within a two hundred (200) foot radius of the front entrance to the demised premises, and such parking spaces shall not be assigned for employee parking for this or any other tenant.

(c) **Protected Area.** Except for instances of condemnation governed by Article 22 of the Lease, casualty governed by Article 21 of the Lease and temporary closures governed by Articles 12 and 13 of the Lease, Landlord covenants that, during the term of the Lease, the layout and configuration of parking areas, service driveways, and other Common Areas within the Protected Area, and any buildings, structures or improvements, on the Land will be in conformance with that depicted on Exhibit B, excepting comparable replacements of structures and improvements, and further excepting de minimis deviations from what is depicted on Exhibit B, and provided further that, outside of the Protected Area, Landlord may reconfigure parking areas, drive aisles, and landscaping, and Landlord may reconfigure the dimensions of buildings within the "Permissible Building Areas" depicted on Exhibit B, but in no event shall any reconfigured building extend into the Protected Area. Landlord shall not construct, install, or place, or permit or suffer to be constructed, installed, or placed, any structure, improvement or kiosk in the Common Areas depicted as Protected Area on Exhibit B, and Landlord shall not allow any trees or growing plants to interfere with access to or visibility of the demised premises.

4. **SHOPPING CENTER USES.** Subject to the provisions of Article 14(a)(i) of the Lease, no portion of the Shopping Center, including the demised premises, shall be occupied or used, directly or indirectly, for any of the Prohibited Uses identified on Exhibit F to the Lease.

5. **EXCLUSIVE USE.** Landlord warrants that no tenant or other occupant of the Shopping Center, including Tenant, has an exclusive use that applies to other tenants in the Shopping Center, except for HyVee, and except for restaurant operators and other tenants under 10,000 square feet in size to which Landlord may grant an exclusive use provision that would apply only to other restaurant operators (not including Tenant's café) or other tenants under 10,000 square feet in size and not to the demised premises or any other tenants in the Shopping Center.

B

6. OPERATION OF SHOPPING CENTER.

(i) No building, structure or business shall be constructed or operated in the Shopping Center that shall be inconsistent with the operation of a first-class retail shopping center.

(ii) No use of the Shopping Center, the demised premises, or the sidewalks adjacent to the demised premises, if used by Tenant for the Café Table Area (as defined below), shall materially interfere with the use of the Common Areas, materially impede the free flow of pedestrian or vehicular traffic thereon, or impede access to or visibility of the demised premises.

(iii) The Shopping Center and any improvements thereon shall be continuously maintained and repaired so as to at all times be in a first class condition, free and clear of all debris and accumulation of ice, snow and water.

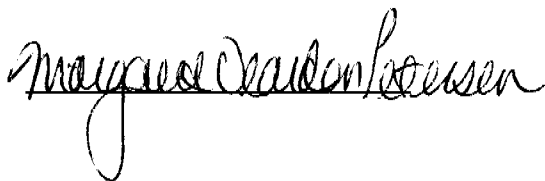
7. SIGNAGE. Tenant shall have the right to be a participant on the freestanding sign in the location shown on Exhibit B and as depicted on the drawing attached as Exhibit G-2 to the Lease.

8. PURPOSE. The sole purpose of this instrument is to give notice of the Lease and all of its terms, covenants and conditions to the same extent as if the Lease were fully set forth herein. This instrument shall in no way amend or be used to interpret the Lease, and in the event of any conflict or inconsistency between any of the terms and conditions of this Memorandum and any term and/or condition of the Lease, the term and/or condition of the Lease shall govern and control. All covenants and agreements of this Memorandum and the Lease shall run with the land until such time as the Lease is terminated. A full and complete copy of the Lease is on file at the offices of Landlord and Tenant.

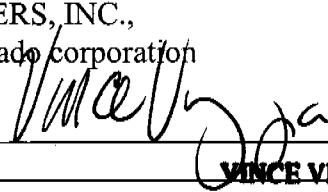
IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the day and year first above written.

WITNESS:

TENANT:



BORDERS, INC.,  
a Colorado corporation

By:   
Name: VINCE VIZZA  
Title: VICE PRESIDENT, REAL ESTATE

C

WITNESS:

LANDLORD:

Papillion Development, LLC  
a Nebraska limited liability company

Kelly Smith

By: RED Papillion, LLC,  
a Missouri limited liability company,  
Its Manager

By: E & R Holdings, LLC, Its Manager

By: Michael L. Ebert  
Michael L. Ebert, Manager

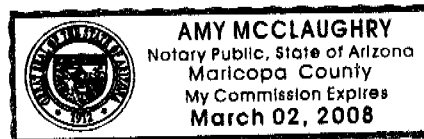
STATE OF Antone  
COUNTY OF Manitou

I do hereby certify that on this 18 day of December, 2006, before me, a notary public in and for the County and State aforesaid, and duly commissioned, personally appeared Michael L. Ebert known to me to be the ~~\*XXXXXX~~ of PAPILLION DEVELOPMENT, LLC, a Nebraska limited liability company, who, being by me duly sworn, did depose and say that, on behalf of said entity and by authority of its governing documents, he/she signed, and delivered said instrument for the uses and purposes therein set forth, as his/her free and voluntary act, and that he/she signed his/her name thereto by like order. \*Manager of E & R Holdings, LLC, the Manager of RED Papillion, LLC, the Manager

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

Amy McClaghry  
Notary Public

My Commission expires:



D

STATE OF MICHIGAN,  
COUNTY OF WASHTENAW

I do hereby certify that on this 19th day of ~~December~~ <sup>January, 2007</sup> 2006, before me, a notary public in and for the County and State aforesaid, and duly commissioned, personally appeared Vinice Vizza, known to me to be the VP Real Estate of BORDERS, INC., who, being by me duly sworn, did depose and say that, on behalf of said corporation and by authority of its bylaws, he signed, and delivered said instrument for the uses and purposes therein set forth, as his free and voluntary act, and that he signed his name thereto by like order.

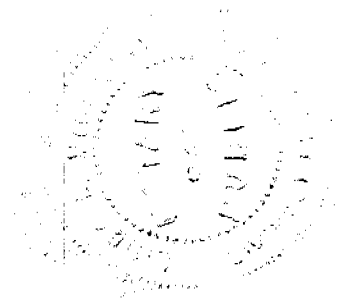
In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Linda D. McGeachy  
Notary Public

My Commission expires:

LINDA D. MCGEACHY  
NOTARY PUBLIC LIVINGSTON CO., MI  
MY COMMISSION EXPIRES Jun 29, 2007

Acting in Washtenaw



E

**EXHIBIT A**

**Legal Description**

Lots 2, 4, 7 through 12, inclusive, and 15 and Outlots A, B, D and E, Shadow Lake Towne Center, a Subdivision in Sarpy County, Nebraska.

Lots 1 and 2 and Outlots A, B and C, Shadow Lake Towne Center Replat 1, an Administrative Subdivision in Sarpy County, Nebraska.

Lots 1 and 2, Shadow Lake Towne Center Replat 2, an Administrative Subdivision in Sarpy County, Nebraska.

Together with easement rights to Lots 1, 3 and 14, Shadow Lake Towne Center, a subdivision in Sarpy County, pursuant to a certain Declaration of Reciprocal Easements, Covenants and Restrictions dated the 16th day of June, 2006, filed in the Sarpy County, Nebraska, Register of Deeds on June 20, 2006, as Instrument Number 2006-20802.

F

**EXHIBIT B**

**Site Plan**

(Attached)

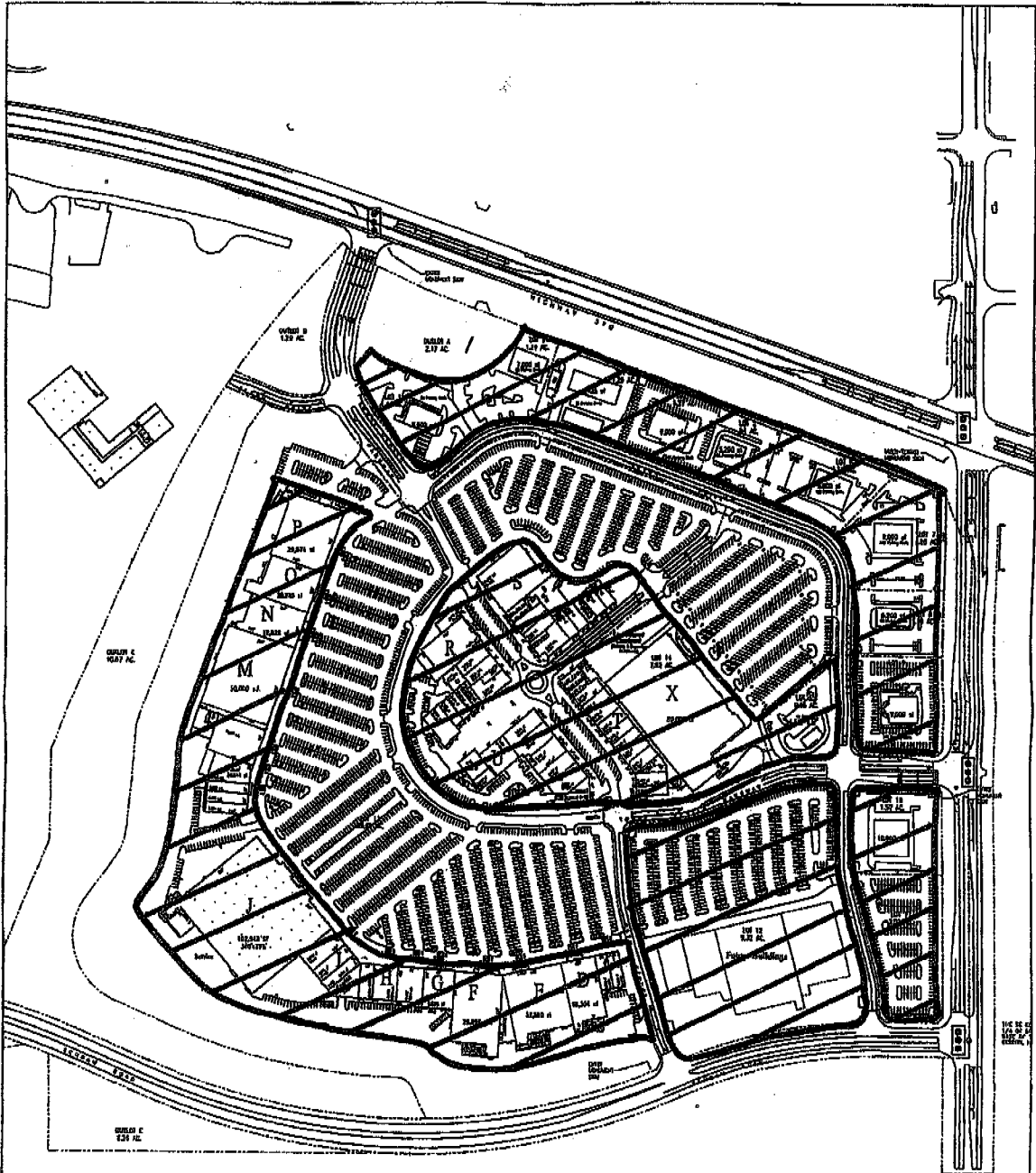




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mlg  
12/18/00

Sheet 2 of 2



Permissible Building Areas



NOT TO SCALE  
FOR INFORMATION ONLY  
DO NOT CONSIDER THIS A FINAL DESIGN



SHADOW LAKE TOWNE CENTER  
PAPILLION, NE