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THIS DOCUMENT PREPARED BY AND
AFTER RECORDING RETURN TO:

Cynthia Jared, Esq.
Sachnoff & Weaver, Ltd.
30 South Wacker Drive
Suite 2900
Chicago, Illinois 60606



Doc#: 0506233130
Eugene "Gene" Moore Fee: \$44.00
Cook County Recorder of Deeds
Date: 03/03/2005 11:29 AM Pg: 1 of 11

ASSIGNMENT OF LEASES AND RENTS LOAN TO 2625 NORTH CLARK STREET, LLC,

THIS ASSIGNMENT OF LEASES AND RENTS (this "Assignment") is dated for reference purposes only as of February 14, 2005 made by 2625 North Clark Street, LLC, an Illinois limited liability company ("**Borrower**") in favor of Corus Bank, N.A. ("**Lender**").

RECITALS

A. LOAN. Borrower is the owner of the land described on Exhibit A attached hereto, together with all improvements thereon (the "**Property**"). Lender has agreed to lend to Borrower a maximum amount of \$21,500,000 (the "**Loan**") pursuant to the terms and conditions set forth in that certain Construction Loan Agreement dated even date herewith (the "**Loan Agreement**").

B. NOTE. Borrower executed and delivered to Lender a promissory note in the maximum principal amount of \$21,500,000 (the "**Note**").

C. LOAN DOCUMENTS. To evidence and secure the obligations and liabilities of Borrower to Lender in connection with the Loan, Borrower has executed and delivered to Lender the Note, the Loan Agreement and a Construction Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement (the "**Mortgage**"). Borrower has also executed various other security agreements, assignments, certificates and indemnities relating to the obligations evidenced by the Loan Agreement and/or the Note. The Note, the Loan Agreement, the Mortgage, together with all such agreements, documents, and instruments given to evidence or secure the indebtedness evidenced by the Note and/or the Loan Agreement and all other written matter and all amendments, modifications, supplements, extensions and restatements thereof and thereto, and all agreements, documents or instruments delivered in substitution thereof or in lieu thereof, whether heretofore, now or hereafter executed by or on behalf of Borrower, or any other Person or entity, delivered to Lender or any participant with respect to the Loan are collectively referred to herein as the "**Loan Documents**". Borrower and any other party who is a party to any one or more of the Loan Documents are referred to collectively as the "**Loan Parties**," and individually as a "**Loan Party**." Definitions contained in this Assignment which identify documents, including the Loan Documents, shall be deemed to include all amendments and supplements to such documents from the date hereof, and all future amendments and supplements thereto entered into from time to time to satisfy the requirements of this Assignment or otherwise with the consent of Lender. Reference to this Assignment in any other Loan Documents shall be deemed to include all amendments, modifications, supplements and replacements hereto and hereof.

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D. THE SECURED OBLIGATIONS. As used in this Assignment, the term "**Secured Obligations**" means and includes all of the following: (i) the principal of and interest on the Note and/or the Loan Agreement; (ii) all Indebtedness (as defined in the Loan Agreement) of any kind arising under, and all amounts of any kind which at any time become due or owing to Lender under or with respect to any of the Loan Documents; (iii) all of the covenants, obligations and agreements of Borrower, or any other Loan Party in, under or pursuant to other Loan Documents; (iv) all Costs (as defined in the Loan Agreement), including but not limited to, all Protective Advances and all advances, costs or expenses paid or incurred by Lender to protect any or all of the Collateral (as defined in the Loan Agreement), perform any obligation of Borrower or any other Loan Party under this Assignment or under any other Loan Document; (v) any and all other liabilities, obligations and indebtedness, howsoever created, arising or evidenced, direct or indirect, absolute or contingent, recourse or nonrecourse, now or hereafter existing or due or to become due, owing by Borrower to Lender; and (vi) interest on all of the foregoing, including but not limited to interest after an Event of Default, acceleration, foreclosure or judgment at the Default Rate.

NOW THEREFORE in consideration of the forgoing Recitals, each of which is made a contractual part hereof, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. GRANT OF ASSIGNMENT. To secure payment and performance of the Secured Obligations, Borrower hereby collaterally grants, transfers and assigns to Lender, all of Borrower's right, title and interest, in, to and under (but none of its obligations under) all of the following (whether now existing or hereafter arising or acquired):

- (a) all leases and agreements to the leasing, letting, use or occupancy of the Property now, heretofore or hereafter entered into, and all renewals and extensions thereof ("**Lease**" or "**Leases**" as the case may be);
- (b) all guarantees of the obligations of any tenant under a lease;
- (c) immediate and continuing right to receive and collect the rents, income, profits and issues arising out of, payable from or collected from the Property including all monies owed Borrower as landlord under a Lease for services, materials, leasehold improvements or otherwise furnished or installed pursuant to any Lease;
- (d) all payments derived therefrom including but not limited to claims for the recovery of damages done to the Property or for the abatement of any nuisance existing thereon, claims for damages resulting from default under any Lease whether resulting from acts of insolvency or acts of bankruptcy or otherwise, and lump sum payments for the cancellation of any Lease or the waiver of any obligation or term thereof prior to the expiration date;
- (e) all rights and remedies the Borrower may have against any tenant under any Lease;
- (f) all proceeds payable by reason of the exercise by a tenant of any option to purchase the Property or any first refusal rights of any tenant contained in any Lease ;

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(g) all rights in and to any proceeds of insurance payable to Borrower and damages or awards resulting from an authority exercising the rights of eminent domain with respect to the Property;

(h) any award or damages payable to the Borrower pursuant to any bankruptcy, insolvency or reorganization proceeding affecting any tenant;

(i) any payments made to Borrower in lieu of rent; and

(j) all security deposits or administration fees paid by any tenant under a Lease;

all the foregoing set forth in subsections (a) through (j) above being collectively referred to herein as the "Rents".

2. PERFORMANCE OF LEASES. Borrower shall:

(a) Faithfully abide by, perform and discharge each and every material obligation, covenant and agreement under any and all Leases of the Premises to be performed by the landlord thereunder;

(b) In a commercially reasonable manner, using commercially reasonable business judgment, enforce or secure the performance of each and every material obligation, covenant, condition and agreement of said Leases by the tenants thereunder to be performed;

(c) Except as expressly permitted pursuant to the Loan Agreement, not borrow against, pledge or further assign any Rents due under said Leases;

(d) Not permit the prepayment of any Rents for more than thirty (30) days in advance nor for more than the next accruing installment of Rents, nor anticipate, discount, compromise, forgive or waive any Rents;

(e) Except in the ordinary course of business, not waive, excuse, condone or in any manner release or discharge any tenants of or from the obligations, covenants, conditions and agreements by said tenants to be performed under the Leases, without Lender's prior consent, acting in Lender's reasonable discretion;

(f) Except in the ordinary course of business, not permit any tenant to assign, sublet or mortgage, or grant any security interest in its interest in its Lease unless required to do so by the terms of the Lease and then only if such assignment does not work to relieve the tenant of any liability for payment of and performance of its obligations under the Lease;

(g) Except in the ordinary course of business, not terminate any Lease or accept a surrender thereof or a discharge of the tenant, without Lender's prior consent, acting in Lender's reasonable discretion;

(h) Except as expressly permitted pursuant to the Loan Agreement, not consent to a subordination of the interest of any tenant to any party other than Lender and then only if specifically consented to by Lender;

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(i) Except in the ordinary course of business, not amend or modify any Lease or alter the obligations of the parties thereunder, without Lender's prior written consent, acting in Lender's reasonable discretion; and

(j) Not enter into any lease, except Permitted Leases under the terms of the Loan Agreement.

3. REPRESENTATIONS AND WARRANTIES. Borrower represents and warrants:

(a) that it is now the absolute owner of said Rents and Leases with full right and title to assign the same, subject to Lender's lien and other liens expressly permitted in the Mortgage and subject to the lien of the Senior Loan Documents;

(b) that, except as expressly permitted in the Loan Agreement, there are no outstanding assignments or pledges of any Rents or Leases, subject to Lender's lien and other liens expressly permitted in the Loan Agreement;

(c) that there are no existing monetary defaults under the Leases, except as otherwise disclosed in writing to Lender and, to the best of their knowledge, no non-monetary defaults under the provisions of any Lease on the part of any party to such Lease which defaults could have a material adverse effect on the Borrower's ability to perform its obligations under the Loan Documents;

(d) that, to Borrower's knowledge, all obligations on the part of the landlord under any Lease have been fully complied with;

(e) that no Rents have been collected for more than thirty (30) days in advance of their due date or waived, anticipated, discounted, compromised or released, except as disclosed to Lender;

(f) that to Borrower's knowledge no tenant has any defenses, setoffs, or counterclaims against Borrower;

(g) Borrower has not executed any instrument that would prevent Lender from enjoying the benefits of this Assignment; and

(h) that no part of the Premises is used as a homestead or agricultural property.

4. PROTECTION OF SECURITY. Upon an Event of Default (as defined in the Loan Agreement), Lender shall have the right at Borrower's, sole cost and expense, to appear in and defend any action or proceeding arising under, growing out of or in any manner connected with any Lease or the obligations, duties or liabilities of the landlord thereunder, and Borrower agrees to pay all costs and expenses of Lender, including reasonable attorneys' fees in any such action or proceeding, and all such amounts expended by Lender shall be deemed to be Costs under the Loan Agreement, payable in accordance with Section 10.2 of the Loan Agreement.

5. PRESENT ASSIGNMENT. This Assignment shall constitute a perfected, absolute and present assignment, provided that Borrower shall have the exclusive right to collect, but not prior to

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accrual, all of the Rents, and to retain, use and enjoy the same unless and until an Event of Default shall occur hereunder. The right of Borrower to collect the Rents shall constitute a revocable license in favor of Borrower, revocable by Lender upon an Event of Default.

6. EVENTS OF DEFAULT. It shall be an Event of Default under this Assignment upon the happening of any of the following:

(a) any Event of Default occurs under the terms of the Note, the Loan Agreement or any other Loan Document, including but not limited to any Event of Default arising from failure to pay principal, interest, Costs, or any other Secured Obligation or failure to perform any other covenant, or agreement under the Note, the Loan Agreement or any other Loan Document, within the time period provided therefor, or any representation or warranty contained in the Note, the Loan Agreement or any other Loan Document is false or misleading in any material respect when made or deemed made. With respect to any Event of Default which is an Event of Default hereunder by reason of being an Event of Default under any other Loan Document, the period for grace, notice, or opportunity to cure, set forth in such other Loan Document, and only such period, shall be applicable thereto;

(b) failure by Borrower to promptly perform any other obligation or observe any other condition, covenant, term, agreement or provision required to be performed or observed by Borrower pursuant to Section 2(c), (d), (h) or (j) of this Assignment;

(c) except as expressly provided in any other section of this Section 6 or any other provision of this Assignment, failure by Borrower to promptly perform any other obligation or observe any other condition, covenant, term, agreement or provision required to be performed or observed by Borrower under this Assignment within thirty (30) days after written notice thereof; provided that: (i) if such default, in the reasonable discretion of Lender, creates a hazardous condition or materially, adversely and imminently affects the value of the Property, such default shall be immediately cured by Borrower; and (ii) subject to the provisions of subsection (i) above, to the extent that such default is of such a character which reasonably requires more than thirty (30) days to cure Borrower shall have such reasonable additional time to cure the default, if Borrower has commenced to cure the same within said thirty (30) day period and is diligently and continuously pursuing such cure, which default shall in all circumstances be cured within sixty (60) days after deliver of the above required written notice; or

(d) any representation or warranty made by Borrower herein shall be inaccurate in any material respect at the time made or deemed made.

7. REMEDIES.

7.1. Remedies of Lender. Upon the occurrence of an Event of Default, Lender, without regard to waste, adequacy of the security or solvency of Borrower, may revoke the license granted Borrower hereunder to collect the Rents, and may, at its option, upon notice (written or oral):

(a) enter and take actual possession of the Property, the Rents and the Leases or any part thereof personally, or by its agents or attorneys, and exclude Borrower therefrom;

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(b) enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of Borrower relating thereto; provided that Borrower may have access to and make copies of such materials (at Borrower's expense), upon reasonable prior notice to Lender during normal business hours.

(c) as attorney-in-fact or agent of Borrower, or in its own name as mortgagee and under the powers herein granted, hold, operate, manage and control the Property, the Rents, and the Leases and conduct the business, if any, thereof (including entering into new leases of the Property, or any part thereof, under such terms and conditions as Lender, in its sole, absolute and good faith discretion, may elect) either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as in its sole, absolute, good faith discretion or in the sole, absolute, good faith discretion of its successors or assigns may be deemed proper or necessary to enforce the payment of the Rents and the Leases (including actions for the recovery of rent, actions in forcible detainer and actions in distress of rent);

(d) cancel or terminate any Lease or sublease for any cause or on any ground which would entitle Borrower to cancel the same;

(e) elect to disaffirm any Lease or sublease made subsequent hereto or subordinated to the lien hereof;

(f) make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements to the Property that, in its reasonable discretion, may seem appropriate;

(g) insure and reinsure the Property for all risks incidental to Lender's possession, operation and management thereof; and

(h) receive all such Rents and proceeds, and perform such other acts in connection with the management and operation of the Property, as Lender in its sole, absolute, good faith discretion may deem necessary or desirable.

7.2. Exercise after Default. Borrower hereby grants Lender full power and authority to exercise each and every one of the rights, privileges and powers contained herein at any and all times after any Event of Default without notice to Borrower or any other person. Lender, in the exercise of the rights and powers conferred upon it hereby, shall have full power to use and apply the Rents to the payment of or on account of the following, in such order as it may, in its sole and absolute discretion, determine: (i) to the payment of the operating expenses of the Property, including the cost of management and leasing thereof (which shall include reasonable compensation to Lender and its agents or contractors, if management be delegated to agents or contractors, and it shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into Leases), established claims for damages, if any, and premiums on insurance hereinabove authorized; (ii) to the payment of Impositions (as defined in the Loan Agreement), Charges (as defined in the Loan Agreement) and special assessments, the costs of all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Property, including the cost from time to time of installing, replacing or repairing the Property, and of placing the Property in such condition as will, in the judgment of

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Lender, make it readily rentable; (iii) to the payment of any Secured Obligations; and (iv) to the payment of any other cost or expense required or permitted hereunder.

7.3. Receiver. The exercise of Lender's rights hereunder, the appointment of a receiver, the collection of such Rents and the application thereof as aforesaid shall not cure or waive any Event or Default or waive, modify or affect notice of default hereunder or under the Mortgage or invalidate any act done pursuant to said notice, nor in any way operate to prevent Lender from pursuing any remedy which now or hereafter it may have under the terms and conditions of the Mortgage or, the other Loan Documents or any other instruments securing the same. The rights and powers of Lender hereunder shall remain in full force and effect both prior to and after any foreclosure of the Mortgage and any sale pursuant thereto and until expiration of the period of redemption for said sale. The purchaser at any foreclosure sale, including Lender, shall have the right at any time and without limitation, to advance money to any receiver appointed of the Property to pay any part or all of the items which the receiver would otherwise be authorized to pay if cash were available from the Property and the sum so advanced, with interest at the Default Rate, shall be a part of the sum required to be paid to redeem from any foreclosure sale.

ANY OF THE ACTIONS REFERRED TO IN THIS SECTION 7.3 MAY BE TAKEN BY LENDER IRRESPECTIVE OF AND WITHOUT REGARD TO THE ADEQUACY OF THE SECURITY FOR THE SECURED OBLIGATIONS.

7.4. All Remedies. It is the intention of the parties that this Assignment shall confer upon Lender the fullest rights, remedies and benefits available under applicable law.

8. GENERAL MATTERS

8.1. No Liability Imposed on Lender. Lender shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under the Leases nor shall this Assignment operate to place responsibility for the control, care, management or repair of the Property upon Lender nor for the carrying out of any of the terms and conditions of said Leases; nor shall it operate to make Lender responsible or liable for any waste committed on the Property, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger nor liable for laches or failure to collect any Rents.

8.2. Indemnification. Borrower shall and does hereby agree to indemnify and to hold harmless Lender from and against any and all liability, loss or damage which it incurs under the Leases or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said Leases excepting the gross negligence or intentional wrongful acts of Lender. Should Lender incur any such liability, or in the defense of any such claims or demands or a judgment be entered against Lender, the amount thereof, including reasonable, actual out-of-pocket costs, expenses, and reasonable attorneys' fees, and all such amounts expended by Lender shall be deemed Costs. **WITHOUT LIMITATION, THE FOREGOING INDEMNITIES SHALL APPLY TO EACH INDEMNIFIED PERSON WITH RESPECT TO MATTERS WHICH IN WHOLE OR IN PART ARE CAUSED BY OR ARISE OUT OF, OR ARE CLAIMED TO BE CAUSED BY OR ARISE OUT OF, THE NEGLIGENCE OR STRICT LIABILITY OF SUCH (AND/OR ANY OTHER) INDEMNIFIED PERSON. HOWEVER, SUCH INDEMNITIES SHALL NOT APPLY TO A PARTICULAR INDEMNIFIED**

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PERSON TO THE EXTENT THAT THE SUBJECT OF THE INDEMNIFICATION IS CAUSED BY OR ARISES OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THAT INDEMNIFIED PERSON.

8.3. Tenant to Recognize Lender. Each tenant under any Lease is hereby irrevocably authorized and directed to recognize the claims of Lender or any receiver appointed, without investigating the reason for any action taken or the validity or the amount of indebtedness owing to Lender, or the existence of any default under the Note, the Mortgage or Event of Default hereunder, or the application of the proceeds to be made by Lender or such receiver. Borrower hereby irrevocably directs and authorizes the tenants to pay to Lender or such receiver all sums due under the Leases and consents and directs that said sums shall be paid to any such receiver in accordance with the terms of its receivership or to Lender without the necessity for a judicial determination that a default or an Event of Default has occurred hereunder or under any other Loan Document or that Lender is entitled to exercise its rights hereunder, and to the extent such sums are paid to Lender or such receiver, the Borrower agrees that the tenant shall have no further liability to Borrower for the same. The sole signature of Lender or such receiver shall be sufficient for the exercise of any rights under this Assignment and the sole receipt by Lender or such receiver for any sums received shall be a full discharge and release therefor to any such tenant or occupant of the Property. Checks for all or any part of the Rents collected under this Assignment shall upon written notice from Lender be drawn to the exclusive order of Lender or such receiver.

8.4. Security Deposits and Administrative Fees. Borrower shall deposit all security deposits and administrative fees delivered by tenants to Borrower in an account at Lender, separated from Borrower's general funds, and if such deposits and fees are required by law to be refunded to the respective tenants with interest thereon, such account shall be an interest bearing account. Upon an Event of Default, Borrower shall on demand transfer to Lender any security deposits or administrative fees held by Borrower under the terms of the Leases to be held as additional collateral to secure the Secured Obligations. Until Lender makes such demand and the deposits and/or fees are paid over to Lender, Lender assumes no responsibility for any such security deposit or administrative fee.

8.5. Attorney in Fact. Borrower hereby irrevocably appoints Lender, its successors and assigns, as Borrower's agent and attorney-in-fact, which appointment is irrevocable and coupled with an interest, to exercise any rights or remedies hereunder and to execute and deliver during the term of this Assignment such instruments as Lender may deem necessary to make this Assignment and any further assignment effective.

8.6. Assignment of Future Leases. Until the Secured Obligations shall have been paid in full, Borrower will on demand of Lender deliver to Lender executed copies of any and all other and future Leases upon all or any part of the said Property and agrees to make, execute and deliver unto Lender upon demand and at any time or times, any and all assignments and other instruments sufficient to assign such Leases and Rents thereunder to Lender or that Lender may deem to be advisable for carrying out the true purposes and intent of this Assignment. From time to time upon request of Lender, the Borrower agrees to furnish Lender with a rent roll of the Property disclosing current tenancies, rents payable, and such other matters as Lender may reasonably request.

8.7. No Lender in Possession. Nothing herein contained and no actions taken pursuant to this Assignment shall be construed as constituting Lender as "Lender in Possession."

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8.8. Continuing Rights. The rights and powers of Lender or any receiver hereunder shall continue and remain in full force and effect until all Secured Obligations, including any deficiency remaining from a foreclosure sale, are paid in full, and shall continue after commencement of a foreclosure action and after foreclosure sale and until expiration of any period of redemption.

8.9. Incorporation by reference. The provisions of Articles 1, 9, 10 and 12 of the Loan Agreement are hereby incorporated by reference and shall be binding upon Borrower and Lender as if fully set forth herein. Any liability identified as a Cost herein, shall be part of the Secured Obligations, secured by the Collateral, bearing interest and payable in accordance with Section 10.2 of the Loan Agreement.

***The remainder of this page is intentionally left blank.
Signature page follows.***

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IN WITNESS WHEREOF, Borrower has executed this Assignment of Leases and Rents dated for reference purposes only as of February 14, 2005.

2625 North Clark Street, LLC, an Illinois limited liability company

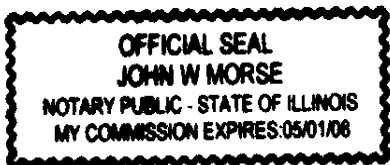
BY: NVG Residential, Inc., an Illinois corporation and its manager

By: *Nicholas V. Gouletas*
Nicholas V. Gouletas, Its: Chairman

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

The Undersigned, a Notary Public within and for said County, in the State aforesaid, duly commissioned and acting, do hereby certify that on this 25th day of February, 2005, personally appeared before me **Nicholas V. Gouletas**, the Chairman of NVG Residential, Inc., sole manager of 2625 North Clark Street, LLC, to me personally well known and known to be the person who signed the foregoing instrument, and who, being by me duly sworn, stated and acknowledged that he is the sole manager of said company and that he signed and delivered the same on behalf of said company with authority, as his and its free and voluntary act and deed for the uses and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public the day and year in this certificate above written.



John W. Morse
Notary Public

My commission expires: _____

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EXHIBIT A

LEGAL DESCRIPTION

LOTS 9, 10, AND THE WEST 30 FEET OF THE EAST 100 FEET OF LOT 11 IN THE SUBDIVISION OF BLOCKS 1 AND 2 OF OUTLOT "A", IN WRIGHTWOOD, BEING A SUBDIVISION OF THE SOUTHWEST ¼ OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 2625 North Clark Street
Chicago, Illinois

Permanent Index Numbers: 14-28-307-004-0000
14-28-307-007-0000

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