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Eugene "Gene" Moore Fee: \$42.00
Cook County Recorder of Deeds
Date: 04/07/2005 08:06 AM Pg: 1 of 10

192
First American Title Order # 72955

RECORD AND RETURN TO:

First American Title Insurance Company

NATIONAL COMMERCIAL SERVICES
7370 College Parkway, Suite 104
Fort Myers, Florida 33907
Ph: (800) 585-2906 • Fax: (239) 938-8885

MEMORANDUM OF CONSENT TO ASSIGNMENT AND LEASE AMENDMENT

THIS MEMORANDUM OF CONSENT TO ASSIGNMENT AND LEASE AMENDMENT (this "Memorandum") is made as of this 31st day of August, 2004, by and among NORTHPOINT LLC, an Illinois limited liability company having an address c/o Joseph Freed and Associates, LLC, 220 N. Smith Street, Suite 300, Palatine, Illinois 60067 ("**Landlord**"), TOYS "R" US-DELAWARE, INC., a Delaware corporation having an address at One Geoffrey Way, Wayne, New Jersey 07470 ("**Tenant**") and OFFICE DEPOT, INC., a Delaware corporation, having an address at 2200 Old Germantown Road, Delray Beach, Florida 33445 ("**Assignee**").

WITNESSETH:

WHEREAS, LaSalle National Trust, N.A., as Trustee under Trust Agreement dated October 1, 1961 and known as Trust Number 28684 (Landlord's predecessor-in-interest) and Toys "R" Us, Inc. (Tenant's predecessor-in-interest) entered into that certain Shopping Center Lease dated as of October 2, 1990, as amended and/or supplemented by (i) that certain letter agreement dated March 18, 1991, and (ii) that certain letter agreement dated March 31, 1992 (collectively, the "**Lease**"), with respect to certain premises containing approximately twenty-two thousand (22,000) square feet (the "**Demised Premises**") in a shopping center commonly known as "Northpoint Shopping Center" (the "**Shopping Center**"), which Shopping Center is located in the Village of

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Arlington Heights, County of Cook, State of Illinois, and is more particularly described on EXHIBIT A attached hereto and made a part hereof; and

WHEREAS, pursuant to that certain Assignment and Assumption Agreement dated of even date herewith (the "**Assignment**") between Tenant and Assignee, Tenant assigned to Assignee, and Assignee assumed, all of Tenant's right, title and interest in and to the Lease and Tenant's leasehold estate in the Demised Premises (the date of said Assignment is hereinafter referred to as the "**Effective Date**"); and

WHEREAS, pursuant to that certain Consent to Assignment and Lease Amendment dated of even date herewith, among Landlord, Tenant and Assignee (the "**Amendment**"), Landlord, Tenant and Assignee modified certain provisions of the Lease, some of which modified provisions are set forth in this Memorandum; and

WHEREAS, Landlord, Tenant and Assignee desire by this Memorandum to confirm the existence of the Lease, the assignment thereof to Assignee, and the execution of the Amendment.

NOW, THEREFORE, in consideration of the execution of the Amendment by the parties hereto and for other good and valuable consideration referred to therein, the receipt and adequacy of which are hereby acknowledged by each party hereto, Landlord, Tenant and Assignee hereby confirm the following:

1. Capitalized Terms. Capitalized terms used herein and not otherwise defined shall be as defined in the Lease.
2. Assignment of Lease. As of the Effective Date, Landlord consents to the assignment of the Lease by Tenant to Assignee.
3. Exclusive to Assignee. As of the Effective Date, Section 15.02 of the Lease is hereby amended to read in its entirety as follows:

"Except for rights of any tenant or occupant existing pursuant to any lease or other written arrangement on the date of this Agreement, and only so long as an office supply store has not ceased to be operating in the Leased Premises for a continuous period in excess of six (6) months (excepting any periods during which remodeling or restoration work is being conducted with due diligence), Landlord shall not permit via lease or other agreement any occupant of the Shopping Center, other than Tenant, to (i) use more than two thousand (2,000) square feet of floor area (in the aggregate) for the sale, leasing, distribution or display of office supplies, including office furniture, office fixtures, office machines and equipment,

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computers, computer hardware, software and accessories, art supplies, architectural supplies, engineering supplies, photocopying services, facsimile services, or instant print shop services; or (ii) be primarily engaged as its primary business in the sale, leasing, distribution or display of any of the items set forth in (i) above, except, notwithstanding the foregoing, art supplies, architectural supplies and engineering supplies may be a primary business in any store of three thousand (3,000) square feet or less. Notwithstanding the foregoing to the contrary, CompUSA, CompuAdd, ELEK-TEK, CDW (Computer Discount Warehouse), or another national, or regional (having at least ten (10) stores), or local (having at least three (3) stores), computer store chain, shall not be prohibited from selling (as its primary business), in a store of at least fifteen thousand (15,000) square feet, computers, computer software and ancillary products. Notwithstanding anything contained herein to the contrary, the application of the provisions of this paragraph to any item set forth in (i) above shall exist only so long as such item has not ceased to be sold (or service therefor offered) in the Premises for a continuous period of in excess of six months (excepting any periods during which remodeling or restoration work is being conducted with due diligence).

4. Incorporation of Lease. This Memorandum is for informational purposes only and nothing contained herein shall be deemed to in any way modify or otherwise affect any of the terms and conditions of the Lease (as amended by the Amendment), which terms are incorporated herein by reference. This Memorandum is merely a memorandum of the Amendment, and is subject to all of the terms, provisions and conditions of the Lease, as amended by the Amendment. In the event of any inconsistency between the terms of the Amendment and this Memorandum, the terms of the Amendment shall prevail.

5. Counterparts. This Memorandum may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same agreement. The signature of a party to any counterpart may be attached to any other counterpart.

6. Binding Effect. This Memorandum shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, personal representatives, successors and assigns.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

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

LANDLORD

NORTHPOINT LLC,
an Illinois limited liability company

Witness / Attest:

BY: Procrustes, Inc., an Illinois corporation,
its Manager

By: _____
Name:
Title:

By: _____
Name: LAURANCE H. FREED
Title: PRESIDENT / MANAGER

TENANT

FOYS "R" US-DELAWARE, INC.,
a Delaware corporation

Witness / Attest:

By: _____
Name:
Title:

BY: _____
Name: Michael L. Tumolo
Title: Vice President - Real Estate Counsel

ASSIGNEE

OFFICE DEPOT, INC.,
a Delaware corporation

Witness / Attest:

By: _____
Name:
Title:

By: _____
Name: Mark B. Bander
Title: Senior Vice President - Real Estate

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

LANDLORD

NORTHPOINT LLC,
an Illinois limited liability company

Witness / Attest:

BY: Procrustes, Inc., an Illinois corporation,
its Manager

By: _____

By: _____

Name:

Name:

Title:

Title:

TENANT

Witness / Attest:

TOYS "R" US-DELAWARE, INC.,
a Delaware corporation

By: *Diane Martin*

BY: *Michael L. Tumolo*

Name: Diane Martin

Name: Michael L. Tumolo

Title:

Title: Vice President - Real Estate Counsel

ASSIGNEE

Witness / Attest:

OFFICE DEPOT, INC.,
a Delaware corporation

By: _____

By: _____

Name:

Name: Mark B. Bander

Title:

Title: Senior Vice President - Real Estate

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

LANDLORD

NORTHPOINT LLC,
an Illinois limited liability company

Witness / Attest:

BY: Procrustes, Inc., an Illinois corporation,
its Manager

By: _____
Name:
Title:

By: _____
Name:
Title:

TENANT

Witness / Attest:

TOYS "R" US-DELAWARE, INC.,
a Delaware corporation

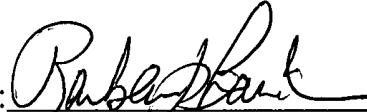
By: _____
Name:
Title:


BY: _____
Name: Michael L. Tumolo
Title: Vice President - Real Estate Counsel

ASSIGNEE

Witness / Attest:

OFFICE DEPOT, INC.,
a Delaware corporation

By: 
Name: BARBARA B. LANGER
Title: CONTRACT ATTORNEY

By: 
Name: Mark B. Bander
Title: Senior Vice President - Real Estate

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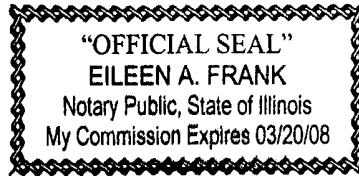
STATE OF ILLINOIS)
) ss.:
COUNTY OF COOK)

On this 18 day of August, 2004, before me, the undersigned officer, personally appeared Eileen A. Frank, who acknowledged herself/himself to be the President/Manager of PROCRUSTES, INC., an Illinois corporation, the Manager of NORTHPOINT LLC, an Illinois limited liability company, and that s/he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by herself/himself in such capacity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Signature: Eileen A. Frank
Print name: EILEEN A. FRANK

(Affix Notarial Seal)



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

On this _____ day of August, 2004, before me, the undersigned officer, personally appeared Michael L. Tumolo, who acknowledged herself/himself to be the Vice President - Real Estate Counsel of TOYS "R" US-DELAWARE, INC., a Delaware corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself in such capacity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Signature: _____
Print name:

(Affix Notarial Seal)

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STATE OF ILLINOIS)
) ss.:
COUNTY OF COOK)

On this _____ day of August, 2004, before me, the undersigned officer, personally appeared _____, who acknowledged herself/himself to be the _____ of PROCURSTES, INC., an Illinois corporation, the Manager of NORTHPOINT LLC, an Illinois limited liability company, and that s/he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by herself/himself in such capacity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Signature: _____ (Affix Notarial Seal)

Print name: _____

STATE OF NEW JERSEY)
) ss.:
COUNTY OF ~~BERGEN~~ ^{Passaic})

On this 18th day of August, 2004, before me, the undersigned officer, personally appeared Michael L. Tumolo, who acknowledged herself/himself to be the Vice President - Real Estate Counsel of TOYS "R" US-DELAWARE, INC., a Delaware corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself in such capacity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Signature: *Diane Martin* (Affix Notarial Seal)

Print name: _____

DIANE E. MARTIN
A Notary Public of New Jersey
My Commission Expires July 7, 20 08
No. 2047488



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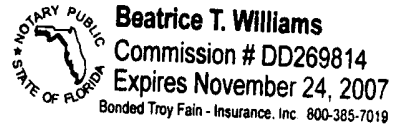
STATE OF FLORIDA)
) ss:
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the state and county named above to take acknowledgments, personally appeared Mark B. Bander, as the Senior Vice President - Real Estate of OFFICE DEPOT, INC., a Delaware corporation, to me known to be the person who signed the foregoing instrument as such officer and he acknowledged that the execution thereof was his free act and deed as such officer for the use and purposes therein expressed and that the instrument is the act and deed of said corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Signature: *Beatrice Williams*
Print name: *Beatrice T. Williams*

(Affix Notarial Seal)



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EXHIBIT A

DESCRIPTION OF SHOPPING CENTER

Lot 1 of Northgate Shopping Center Subdivision of Part of the East $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 17, Township 42 North, Range 11 East of the Third Principal Meridian, in Cook County, Illinois.

EXCEPT:

That part of Lot 1 of Northgate Shopping Center Subdivision, being a Subdivision of part of the East $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 17, Township 42 North, Range 11, East of the Third Principal Meridian, described as follows: Commencing at the Northwest corner of said Lot 1 thence Southward along the Westerly line of said Lot 1, being the Easterly line of Arlington Heights Road; South 1 degree 50 minutes 41 seconds East, a distance of 73.57 feet; thence South 00 degrees 17 minutes 45 seconds East, a distance of 470.00 feet; thence South 13 degrees 37 minutes 59 seconds East a distance of 40.00 feet; thence South 33 degrees 05 minutes 01 seconds East, a distance of 37.43 feet to the point of beginning; thence South 33 degrees 05 minutes 01 seconds East, a distance of 7.57 feet; thence Southeasterly along a line being 50.00 feet Northeasterly of and parallel with the centerline of Rand Road. South 48 degrees 24 minutes 05 seconds East, a distance of 387.47 feet; thence South 50 degrees 47 minutes 20 seconds East, a distance of 48.01 feet; thence North 48 degrees 24 minutes 05 seconds West, a distance of 444.74 feet to the point of beginning, all in Cook County, Illinois.

Tax No: 03-17-301-019	Vol. No.: 232
03-17-301-020	Vol. No.: 232
03-17-301-021	Vol. No.: 232
03-17-301-020	Vol. No.: 232