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Doc#: 0616331116 Fee: \$36.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 06/12/2006 03:31 PM Pg: 1 of 7

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES (this "**Assignment**") is made on June 8, 2006, by and between K/MAG, Incorporated, an Illinois corporation, whose address is 138 N. Austin, #5B, Oak Park, Illinois 60302 ("**Assignor**"), to STONE INVESTMENT LLC, an Illinois limited liability company, its successors, nominees, participants and/or assigns, whose address is One North Arlington, 1500 W. Shore Drive, Suite 175, Arlington Heights, IL 60004 ("**Lender**").

Assignor, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby bargain, grant, sell, transfer, assign, convey, set over and deliver unto Lender all right, title and interest of the Assignor in, to and under all present leases of all or any part of the premises legally described in **Exhibit 'A'** attached hereto and made a part hereof ("**Premises**") (including without limitation those leases described on the "**Schedule of Leases**" attached hereto and made a part hereof as Exhibit "B") together with all future leases hereafter entered into by any lessor affecting the Premises, and all guaranties, amendments, extensions and renewals thereof (collectively, the "**Leases**") and all rents, issues, income, profits and privileges (collectively, "**Rents**") which may now or hereafter be or become due or owing under the Leases or on account of the use of all or part of the Premises.

1. **Purpose of Assignment.** This Assignment is made for the purposes of securing:
 - a. The payment of the indebtedness evidenced by the Promissory Note dated of even date herewith made by Assignor in favor of Lender in the principle amount of ONE HUNDRED SIXTY FIVE THOUSAND AND NO/100 DOLLARS (\$165,000.000) (the "**Promissory Note**");
 - b. The payment of all other sums with interest thereon becoming due and payable to Lender under the provisions of that certain Mortgage made by Assignor in favor of Lender of even date herewith (the "**Mortgage**") and the other "**Loan Documents**" (as defined in the Mortgage).

2. **Assignors Covenants, Representations and Warranties; Lender's Rights.** Assignor represents, warrants, covenants and agrees as follows:

There is no present lease of the Premises not listed on the Schedule of Leases.

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- a. The sole ownership of the entire landlords' interest in the Leases is vested in Assignor. Assignor has not and shall not: (i) perform any act or execute any other instrument which might prevent Lender from fully exercising its rights under any term, covenant or condition of this Assignment; or (ii) execute any assignment or pledge of Rents or any of the Leases other than this Assignment.
- b. This Assignment is absolute and effective immediately; however, until notice is sent by Lender to the Assignor in writing that an event of default has occurred under the Promissory Note, Mortgage, or any other Loan Document which has not been cured within any applicable cure period (an "**Event of Default**") (each such notice is hereafter called a "**Notice**"), Assignor may receive the Rents.
- c. If any Event of Default occurs at any time, Lender may (at its option after service of a Notice) receive and collect when due all Rents. Lender shall thereafter continue to receive and collect all Rents until the Event of Default is cured, during the pendency of any foreclosure proceedings, and during the redemption period (as applicable).
- d. Upon the occurrence of an Event of Default, Assignor hereby irrevocably appoints Lender its true and lawful attorney-in-fact, with full power of substitution and with full power of Lender in its own name and capacity or in the name and capacity of Assignor (from and after service of Notice) to demand, collect, receive and give complete acquittances for any and all Rents and at Lender's discretion to file any claim or take any other action or proceeding and make any settlement of any claims, in its own name or in the name of Assignor or otherwise, which Lender may deem necessary or desirable in order to collect and enforce the payment of the Rents. All present and future tenants of the Premises are hereby expressly authorized and directed to pay to Lender, or to such nominee as Lender may designate in a writing delivered to and received by such tenants, all amounts due Assignor pursuant to the Leases. All present and future tenants are further expressly authorized and directed to rely on notices from Lender and shall have no right or duty to inquire as to whether any Event of Default has actually occurred or is then existing, and are expressly relieved of all duty, liability or obligation to Assignor in respect of all payments so made to Lender or such nominee.
- e. After an Event of Default and service of Notice, Lender is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary to properly enforce this Assignment and to collect the Rents, including without limitation the right of Lender or its designee to enter upon the Premises, or any part thereof, and take possession of all or any part of the Premises together with all personal property, fixtures, documents, books, records, papers and accounts of Assignor and each of them relating thereto, and may exclude the Assignor and its agents and employees therefrom. Assignor hereby grants full power and authority to Lender to exercise all rights, privileges and powers herein granted at any and all times (after an Event of Default and service of Notice) without further notice to Assignor, with full power to use and apply all of the Rents to payment of the costs of managing and operating the

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Premises and to payment of all "**Indebtedness**" (as defined in the Mortgage), including but not limited to: (i) payment of taxes, special assessments, insurance premiums, damage claims, the cost of maintaining, repairing, rebuilding and restoring the improvements on the Premises or of making the same rentable, and attorneys' fees incurred in connection with the enforcement of this Assignment; and (ii) principal, interest and all other payments due from Assignor to Lender pursuant to the Promissory Note and the Mortgage; all in such order and for such time as Lender may determine.

- f. Lender shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of any landlord under any of the Leases. Lender does not hereby assume any of the liabilities in connection with or arising or growing out of the terms, covenants and agreements of Assignor under any of the Leases.
- g. Assignor agrees to indemnify, defend, and hold Lender harmless from any liability, loss or damage including, without limitation, reasonable attorneys' fees which may or might be incurred by Lender under the Leases or by reason of this Assignment, and from and against any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligation or undertaking on its part to perform or discharge any term, covenant or agreement contained in any of the Leases, except any liability, loss or damage or claims or demands resulting from Lender's gross negligence.
- h. This Assignment shall not operate to place responsibility for the control, care, management or repair of the Premises, or parts thereof, upon Lender, nor shall it operate to make Lender liable for: (i) the performance or observance of any term, condition, covenant or agreement contained in any of the Leases; (ii) any waste of the Premises by any tenant under any of the Leases or any other person; (iii) any dangerous or defective condition of the Premises, or (iv) any negligence in the management, upkeep, repair or control of the Premises resulting in loss, injury or death to any tenant, occupant, licensee, employee or stranger, other than as a result of Lender's gross negligence.
- i. Lender may, at its option after reasonable notice to Assignor, although it shall not be obligated to do so, perform any Lease covenant for and on behalf of Assignor, and all monies expended in so doing shall be chargeable to the Assignor, with interest thereon at the "**Default Interest Rate**" (as defined in the Promissory Note), shall be added to the Indebtedness, and shall be immediately due and payable.
- j. Assignor shall only enter into Leases that are on commercially reasonable terms for the locality in which the Premises are located, including without limitation rent at a fair market rate.

3. **Waiver.** Waiver of, or acquiescence by Lender in, any default by the Assignor, or failure of the Lender to insist upon strict performance by Assignor of any representation, warranty, covenant,

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condition or agreement in this Assignment, shall not constitute a waiver of any subsequent or other default or failure, whether similar or dissimilar.

4. **Rights Cumulative.** The Rights, remedies and powers of Lender under this Assignment are cumulative and are not in lieu of, but are in addition to, all other rights, remedies and powers which Lender has under the Promissory Note, the other Loan Documents, at law and in equity.

5. **Severability.** If any provision contained in this Assignment or its application to any person or circumstances is to any extent invalid or unenforceable, the remainder of this Assignment and the application of such provisions to persons or circumstances (other than those as to which it is invalid or unenforceable) shall not be affected, and each term of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

6. **Notices.** Each Notice given pursuant to this Assignment shall be sufficient if given in accordance with the Mortgage.

7. **Successors and Assigns.** The terms "Assignor" and "Lender" shall be construed to include the heirs, personal representatives, successors and assigns thereof.

8. **Gender and Number.** The gender and number used in this Assignment are used as a reference term only and shall apply with the same effect whether the parties are of the masculine or feminine gender, corporate or other form, and the singular shall likewise include the plural.

9. **Amendment; Incorporation of Terms.** This Assignment may not be amended, modified or changed nor shall any waiver of any provisions hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought. The terms of the Promissory Note and Mortgage are incorporated herein by this reference.

(Signature Page Follows)

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IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed and acknowledged as of the date first above written.

KMAG INCORPORATED

By: *Kind Montgomery*

Name: *Kind Montgomery*

Its: *President*

ATTEST:

By: *Antoinette Shipp*

Name: *Antoinette Shipp*

Its: *Secretary*

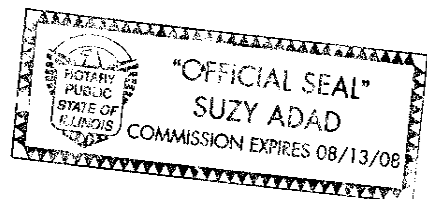
STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, *Suzy Adad*, Notary Public of the County and State aforesaid, certify, that *Kind Montgomery*, personally known to me to be the President, and *Antoinette Shipp* of personally known to me to be the Secretary of KMAG Incorporated, and personally known to me to be the same person whose name is subscribed on the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and Secretary of said Corporation, they signed and delivered said instrument pursuant to authority given by the Board of Directors of said Corporation, as the free and voluntary act of said Corporation for purposes therein set forth.

Witness my hand and official stamp or seal, this *8th* day of June, 2006.

Suzy Adad
Notary Public

My commission expires: *8/13/08*



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EXHIBIT A

LEGAL DESCRIPTION

LOTS 11, 12, 13 AND 14 IN BASS AND EDMOND'S SUBDIVISION OF THE EAST 256 FEET OF THE NORTH ½ OF THE NORTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NO. 20-23-405-023-0000

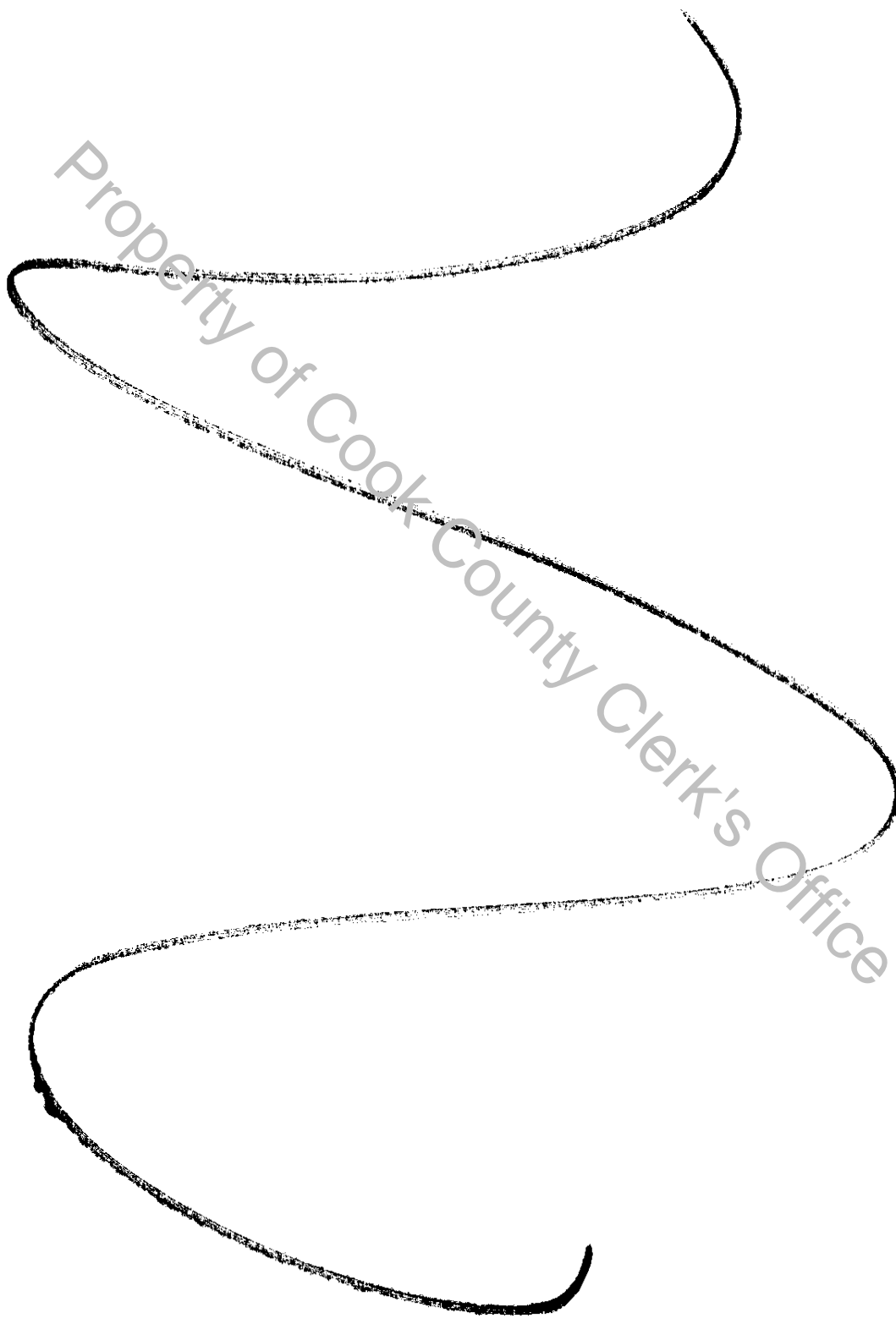
COMMONLY KNOWN AS 6734 South Stony Island, Chicago, Illinois 60649

PREPARED BY AND AFTER RECORDING RETURN TO:
STEVEN R. RAPPIN
HAUSELMAN, RAPPIN & OLSWANG, LTD.
39 SOUTH LASALLE STREET, SUITE 1105
CHICAGO, ILLINOIS 60603
BOX 201

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EXHIBIT B

SCHEDULE OF LEASES



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