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Doc#: 0619317007 Fee: \$34.50  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 07/12/2006 09:08 AM Pg: 1 of 6

Prepared by and When Recorded Return To:  
Phillip J. Bowen, Esq.  
Conlin, McKenney & Philbrick, P.C.  
350 S. Main Street, Suite 400  
Ann Arbor, MI 48104

## MEMORANDUM OF LEASE (Hyde Park, Illinois)

THIS MEMORANDUM OF LEASE, dated this ~~1st~~ <sup>July</sup> day of ~~June~~, 2002, between LAKE PARK PROPERTIES, INC., an Illinois corporation having its principal office c/o Aegis Properties, 1525 East 53<sup>rd</sup> Street, Chicago, Illinois 60615 ("Landlord"), and BORDERS, INC., a Colorado corporation, having its principal office at 100 Phoenix Drive, Ann Arbor, Michigan 48108 (herein referred to as "Tenant").

### WITNESSETH:

- DEMISED PREMISES.** Landlord and Tenant have entered into a Lease Agreement dated ~~June~~ <sup>July</sup> ~~1st~~, 2002 (the "Lease"), pursuant to which Tenant has leased from Landlord a parcel of land (the "demised premises") located in Chicago, Illinois. Tenant intends to construct upon the demised premises a building and certain other site improvements. The demised premises are adjacent to additional land owned by the Landlord (the "Adjacent Parking Lot"). The demised premises, the Building, and the Adjacent Parking Lot are shown on the area site plan attached as Exhibit B to the Lease (the "Site Plan"). The demised premises are described on the attached Exhibit A. The demised premises and the Adjacent Parking Lot (collectively the "Development") are described on the attached Exhibit A-1.
- TERM - OPTIONS.** The term of the Lease commences on the date of the Lease, and terminates twenty (20) years from the last day of the month in which the "Rent Commencement Date" (as defined in Article 8 of the Lease) occurs; 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 January 30, such term shall be extended to the following January 31.
- BORDERS SERVICE AREA.** Landlord has agreed that during the term of the Lease, Landlord shall not construct, install, or place, or permit or suffer to be constructed, installed, or placed, any structure, improvement or kiosk within the Borders Service Area depicted on Exhibit B of the Lease.

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## 4. AGREEMENTS REGARDING THE DEVELOPMENT.

- (a) No portion of the Development, including the demised premises, shall be occupied or used, directly or indirectly, for:
- (i) a non-retail use; or
  - (ii) a flea market, swap shop or "outlet store" selling merchandise that is used, damaged or discontinued, bowling alley, arcade, game room, skating rink, billiard room, massage parlor, adult book store, bar, tavern, pub, restaurant, ballroom, dance hall, discotheque, beauty shop, barber college, theater, health club, offices, place of instruction, reading room or any operation catering primarily to students or trainees rather than to customers, funeral parlors, facility for the sale of paraphernalia for use with illicit drugs, off-track betting parlor, carnival, amusement park or circus, grocery store, discount/off-price store, shoe store, auto parts store, optical store, party supply store, home improvement store (such as Home Depot or Lowe's), new or used car dealership, gas station or auto repair shop (collectively the "Prohibited Uses").
- (b) No use of the Development shall interfere with the use of the Adjacent Parking Lot, impede the free flow of pedestrian or vehicular traffic thereon, or impede access to or visibility of the demised premises.

5. **TENANT'S EXCLUSIVE USE.** Landlord will not, during the term of the Lease, permit any other tenant or occupant in the Development (including, without limitation, any owner, subtenant, licensee, or concessionaire of any portion of the Development) to engage in: (i) the sale of (A) books, (B) periodicals, (C) video products and/or (D) music products (in any current or future format of such enumerated items) unless the subject matter of such items is directly related and ancillary to the primary use of such other tenant's premises (e.g., a computer store which sells books or periodicals dealing with computer products) and not more than 100 square feet of surface display area is devoted to the retail display of such related items, or (ii) the operation of a café or a "coffee bar" featuring, non-exclusively, hot and cold coffee and tea beverages in any format, whether as an incidental or primary use.

6. **RESTRICTIONS ON ADJACENT PARKING LOT.** Landlord has the right to construct additional improvements on the Adjacent Parking Lot (the "Additional Retail"); provided, however, that the height of the Additional Retail shall not be greater than thirty (30) feet (including parapets and architectural embellishments) and no portion of the Additional Retail shall be constructed within the Borders Service Area. Prior to construction of the Additional Retail on the Adjacent Parking Lot, the Adjacent Parking Lot shall be reserved for transient parking for customers of the Tenant and others, and Landlord shall not take any actions that result in a reduction of the number of parking spaces contained within the Landlord Parcel as depicted on the site plan.

7. **SIGNAGE.** Tenant has the right, at Tenant's expense and in accordance with applicable governmental laws and ordinances, to mount its name sign on at least two (2) exterior facades of the Building. Tenant also has the right to construct a freestanding pylon or monument sign within the Development as shown on the site plan.

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

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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

Margaret Dearden Petersen

By: Alex J. Lelli *ALJ*  
Name: ALEX J. LELLI  
Title: VICE PRESIDENT - DEVELOPMENT

WITNESS:

LANDLORD:

Lake Park Properties, Inc.,  
an Illinois corporation

Patrick J. Smith

By: Timothy Allwatt  
Name: TIMOTHY ALLWATT  
Title: PRESIDENT

(Acknowledgments on following page)

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## EXHIBIT A

### Legal Description of Demised Premises

THE NORTH 33 FEET OF LOT 4 (EXCEPT THAT PART OF SAID LOT TAKEN FOR STREET) IN BLOCK 32 IN HYDE PARK, BEING A SUBDIVISION OF THE EAST ½ OF THE NORTHEAST ¼ OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; AND LOTS 4, 5, 6, 7, 8 AND 9 (EXCEPT THAT PART OF LOTS 4, 7, 8 AND 9 TAKEN FOR STREET) IN THE SUBDIVISION OF LOTS 1, 2 AND 3 IN BLOCK 32 IN HYDE PARK AFORESAID; AND THAT PART OF THE 14 FOOT ALLEY LYING SOUTH OF AND ADJOINING LOTS 4, 5 AND 6 AND NORTH OF AND ADJOINING LOT 7 (EXCEPT THAT PART OF SAID ALLEY LYING EAST OF THE WEST LINE OF THE STREET AS OPENED BY RESOLUTION OF THE CITY COUNCIL PASSED AUGUST 25, 1966 AND RECORDED OCTOBER 25, 1966 AS DOCUMENT 19976969) IN THE SUBDIVISION OF LOTS 1, 2 AND 3 IN BLOCK 32 IN HYDE PARK AFORESAID; AND THE NORTH 183 FEET OF THE EAST 21 FEET OF ORIGINAL LAKE PARK AVENUE LYING WEST OF AND ADJOINING THE AFORESAID PARCELS.

Tax ID No: 20-11-419-040-0000  
20-11-419-042-0000

Cook County Clerk's Office

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## EXHIBIT A-1

### Legal Description of the Development

**PARCEL 1:**

LOTS 4 TO 9 (EXCEPT THAT PART OF SAID LOTS TAKEN FOR STREET) IN BLOCK 32 IN HYDE PARK, BEING A SUBDIVISION OF THE EAST  $\frac{1}{2}$  OF THE SOUTH EAST  $\frac{1}{4}$  AND THE EAST  $\frac{1}{2}$  OF THE NORTH EAST  $\frac{1}{4}$  OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN;

**PARCEL 2:**

LOTS 4, 5, 6, 7, 8 AND 9 (EXCEPT THAT PART OF LOTS 4, 7, 8, AND 9 TAKEN FOR STREET) IN THE SUBDIVISION OF LOTS 1, 2, AND 3 IN BLOCK 32 IN HYDE PARK AFORESAID;

**PARCEL 3:**

THAT PART OF THE 14 FOOT ALLEY LYING SOUTH OF AND ADJOINING LOTS 4, 5 AND 6 AND NORTH OF AND ADJOINING LOT 7 (EXCEPT THAT PART OF SAID ALLEY LYING EAST OF THE WEST LINE OF THE STREET AS OPENED BY RESOLUTION OF THE CITY COUNCIL PASSED AUGUST 25, 1966 AND RECORDED OCTOBER 25, 1966 AS DOCUMENT 19976969) IN THE SUBDIVISION OF LOTS 1, 2 AND 3 IN BLOCK 32 IN HYDE PARK AFORESAID;

**PARCEL 4:**

THE EAST 21 FEET OF ORIGINAL LAKE PARK AVENUE LYING WEST OF AND ADJOINING PARCELS 1, 2 AND 3 AFORESAID VACATED BY ORDINANCE RECORDED MAY 22, 1974 AS DOCUMENT 22724439, ALL IN COOK COUNTY, ILLINOIS.

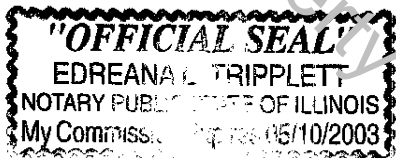
Tax ID Nos. : 20-11-419-040-0000  
20-11-419-042-0000

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STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF COOK )

I do hereby certify that on this 24<sup>th</sup> day of June, 2002, before me, a notary public in and for the County and State aforesaid, and duly commissioned, personally appeared H. Timothy Allwardt, residing at 1525 E. 53<sup>rd</sup> St. Chicago, IL, personally known to me to be the President of Lake Park Properties, Inc., who, being by me duly sworn, did depose and say that, on behalf of said entity and by authority of its governing documents, 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.



Edreana L. Tripplett  
Notary Public  
Cook County,  
My commission expires: 5/10/2003

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF WASHTENAW )

I do hereby certify that on this 1<sup>st</sup> day of ~~June~~ <sup>July</sup>, 2002, before me, a notary public in and for the County and State aforesaid, and duly commissioned, personally appeared Alex J. Lelli, Jr., residing at Ann Arbor, Michigan, known to me to be the VP - Development 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  
Washtenaw County, Michigan  
My commission expires: \_\_\_\_\_

Linda D. McGeachy  
Notary Public  
Livingston County, Acting In  
Washtenaw County, Michigan  
My Commission Expires: June 29, 2003