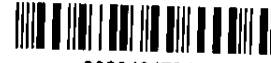


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0020121731  
1563/0430 45 001 Page 1 of 12  
2002-01-30 11:57:34  
Cook County Recorder 43.00

THIS INSTRUMENT PREPARED  
BY AND AFTER RECORDING  
RETURN TO

M. Lawrence Hicks, Jr.  
Thompson & Knight L.L.P.  
1700 Pacific Avenue, Suite 3300  
Dallas, Texas 75201



0020121731

Common Address:  
230 West Monroe Street  
Chicago, Illinois 60606

Permanent Tax Index Nos.  
17-16-202-013-0000  
17-16-202-014-0000

This Space Reserved for Recorder

ASSIGNMENT OF LEASES, RENTS AND PROFITS

This ASSIGNMENT OF LEASES, RENTS AND PROFITS (hereinafter referred to as "Assignment") is made and executed as of the 28th day of January, 2002, by 230 WEST MONROE PT, LLC, a Delaware limited liability company (hereinafter referred to as "Borrower"), having its principal office at 3003 Summer Street, Stamford, Connecticut 06904 to and in favor of NATIONWIDE LIFE INSURANCE COMPANY, an Ohio corporation, its successors and assigns (hereinafter referred to as "Lender"), having its principal office at One Nationwide Plaza, Columbus, Ohio 43215-2220, Attention: Real Estate Investment Department;

WITNESSETH:

WHEREAS, Borrower is the present owner in fee simple of certain real property located in the City of Chicago, County of Cook and State of Illinois, and being more particularly described on Exhibit A attached hereto and by this reference made a part hereof (hereinafter referred to as the "Real Property"); and

WHEREAS, Lender is the owner and holder of that certain Note of even date herewith in the amount of Forty Million and No/100 Dollars (\$40,000,000.00), made by Borrower to and in favor of Lender (hereinafter referred to as the "Note"); which Note is secured, *inter alia*, by that certain Mortgage and Security Agreement of even date herewith (hereinafter referred to as the "Mortgage") encumbering the Real Property and other property more specifically described in the Mortgage (all of which property is referred to herein and in the Mortgage as the "Property"); and

WHEREAS, Lender, as a condition to making a loan to Borrower as hereinabove described (hereinafter referred to as the "Loan") and to obtain additional security therefor, has required the execution of this Assignment by Borrower;

BOX 333-CT7

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NOW THEREFORE, in order to further secure the payment of the Loan to Borrower by Lender evidenced by the Note, and secured by the Mortgage, and in further consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) in hand paid by Lender to Borrower, the receipt and sufficiency of which are hereby acknowledged, Borrower does hereby sell, assign, transfer and set over unto Lender all of the leases, rents, issues, profits and income of, from or pertaining to the Property, including without limitation, any and all fees that permit any tenant of any portion of the Property to terminate its lease (hereinafter referred to as "Termination Fees"), all of Borrower's right, title and interest under any and all lease guaranties, letters of credit and any other credit support furnished to Borrower in connection with any of the foregoing, and any amounts paid by any governmental or quasi-governmental entity in exchange for the use, transfer or taking, whether permanent or temporary, of all or any part of the Property (hereinafter referred to as "Taking Proceeds"). This Assignment shall include any and all leases, licenses or rental agreements that may now be in effect, specifically including without limitation, those leases set forth in Exhibit B attached hereto and by this reference made a part hereof, as well as any future or additional leases, licenses or rental agreements, and any renewals or extensions of the same, that may be entered into by Borrower. Borrower hereby agrees to execute and deliver such further assignments of said leases, licenses or rental agreements as Lender may from time to time request.

This Assignment is absolute, and effective immediately and without possession of the Property by Lender. Notwithstanding the foregoing, Lender grants Borrower a revocable license to receive, collect and enjoy the rents, issues, profits and income accruing from the Property (but excluding any Termination Fees or Taking Proceeds, which shall be paid directly and entirely to Lender) until an event of default has occurred under the Note, the Mortgage, this Assignment or any of the other Loan Documents (as hereinafter defined). Any such Termination Fees shall be deposited into an interest-bearing escrow account (with interest payable to Borrower) and used to retrofit or build out the space for a new tenant(s) under guidelines satisfactory to Lender. Upon the occurrence of an event of default or there is a material adverse change in the value of the Property, the Termination Fees shall be deposited into an interest-bearing escrow account (with interest payable to Borrower) and Lender, in its sole discretion, may decide whether to use the funds to (1) retrofit or build out the space for new tenant(s) under guidelines acceptable to Lender, or (2) reduce at par the indebtedness evidenced by the Note. Taking Proceeds paid to Lender shall be used as appropriate to (1) retrofit or build out space for new tenant(s) upon approval of the tenant(s) and space by Lender; (2) repair or return the improvements on the Property to an architectural whole; or (3) reduce, at par, the Loan evidenced by the Note. Upon the occurrence of an event of default and expiration of the applicable grace, notice and/or cure period, if any, under any of the Loan Documents, Borrower's license to receive, collect and enjoy the rents, issues, profits and income accruing from the Property as provided herein shall immediately and automatically be revoked, without need of notice, possession, foreclosure or any other act or procedure, and all leases, rents, issues, profits and income assigned hereby shall thereafter be payable to Lender.

PROVIDED ALWAYS that if Borrower shall pay unto Lender the Loan evidenced by the Note, and if Borrower shall duly, promptly and fully perform, discharge, execute, effect, complete, comply with and abide by each of the terms, covenants and conditions of the Note, the Mortgage, this Assignment and the other documents executed by Borrower to and in favor of Lender as further evidence of, or as additional security for, the Loan (hereinafter collectively referred to as the "Loan Documents"), then this Assignment, and the estates and interests hereby granted and created, shall terminate.

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## Representations and Warranties of Borrower

1. In furtherance of the foregoing Assignment, Borrower:

A. Represents and warrants: (i) that Borrower is the owner in fee simple of the Real Property, has good title to the leases, licenses, rents, income, issues and profits hereby assigned, and has good right to assign the same; (ii) that no other person, entity, firm or corporation has any right, title, security interest, lien or other interest in, to or on the leases, licenses, rents, income, issues and profits, other than, as to any security deposits, the rights of respective tenants to such security deposits; (iii) that Borrower has not previously sold, assigned, transferred, mortgaged or pledged said leases, licenses, rents, issues, profits and income of the Property; and (iv) that payment of any of the same has not otherwise been anticipated, waived, released, discounted, set off, discharged or compromised.

B. Except as provided in the Mortgage (including Section 12 thereof), agrees and warrants that, without the prior written consent of Lender, the terms of any and all leases and licenses will not be amended, altered, modified or changed in any manner whatsoever, nor will such leases and licenses be surrendered or canceled, nor will any proceedings for dispossession or eviction of any lessee or licensee under said leases or licenses be instituted by Borrower.

C. Agrees and warrants that no request will be made of any lessee or licensee to pay any rent or license fee, and no rent or license fee will be accepted by Borrower, for more than one month in advance of the date such rent or license fee becomes due and payable under the terms of any and all leases or licenses, it being agreed between Borrower and Lender that rent and any license fees shall be paid as provided in said leases and licenses, and not otherwise. The foregoing shall not prevent Borrower from charging and collecting security deposits from each tenant leasing space in the Property.

D. Authorizes Lender, by and through its employees, agents or a duly appointed receiver, at Lender's sole option, for so long as a default under this Assignment, the Note, the Mortgage or any of the other Loan Documents has occurred and is continuing after expiration of the applicable notice, grace and/or cure period, if any, to enter upon the Property, and to collect in the name of Borrower or in Lender's own name, any rents, license fees, issues, profits and income, including Termination Fees and Taking Proceeds, accrued but unpaid and/or in arrears on the date of such default, as well as the rents, license fees, issues, profits and income, including Termination Fees and Taking Proceeds, thereafter accruing and becoming payable during the period of the continuance of the said default or after any other event of default. To this end, Borrower further agrees that it will cooperate with and facilitate in all reasonable ways, Lender's collection of said rents, license fees, issues, profits and income, including Termination Fees and Taking Proceeds, and will, upon request by Lender, execute a written notice (said notice shall be provided in a similar fashion as that prescribed by Written Notice as that term is defined in the Mortgage) to each tenant, occupant, licensee or governmental entity directing said tenant, occupant, licensee or governmental entity to pay all rents, license fees, issues, profits and income, including Termination Fees and Taking Proceeds, which are due and payable directly to Lender; provided, however, that Lender may notify said tenant, occupant, licensee or governmental entity of the effectiveness of this Assignment without first giving notice to Borrower or requesting Borrower to give such notice or join in such notice, and said tenant, occupant or licensee is hereby authorized and directed to comply therewith without further authorization or direction from Borrower.

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E. Authorizes Lender, upon such entry, in accordance with subsection D above, and at Lender's sole option, to assume the management, operation and maintenance of the Property, to perform all acts necessary and proper, and to expend such sums out of the income of the Property as in Lender's sole discretion may be reasonable or necessary in connection therewith, in the same manner and to the same extent as Borrower theretofore might do. Borrower hereby releases all claims against Lender arising out of such management, operation and maintenance of the Property, including Lender's NEGLIGENCE OR STRICT LIABILITY, except for Lender's gross negligence or willful misconduct.

F. Agrees to execute, upon the written request of Lender, any and all other instruments requested by Lender to effectuate this Assignment or to accomplish any other purpose deemed by Lender to be necessary or appropriate in connection with this Assignment.

G. Agrees and acknowledges that nothing in this Assignment shall be construed to limit or restrict in any way the rights and powers granted to Lender in the Note, the Mortgage or any of the other Loan Documents. The collection and application of the rents, license fees, issues, profits and income, including Termination Fees and Taking Proceeds, as described herein, shall not constitute a waiver of any default which might at the time of application or thereafter exist under this Assignment, the Note, the Mortgage or any of the other Loan Documents, and the exercise by Lender of the rights provided herein shall not prevent Lender's exercise of any other rights provided under the Note, the Mortgage, any of the other Loan Documents, at law or in equity, such rights being cumulative.

## Lender's Rights Following Default By Borrower

2. Lender may, for so long as a default has occurred and is continuing after the expiration of the applicable notice, grace and/or cure period, if any, as hereinabove provided, from time to time, appoint and dismiss such agents, contractors or employees as shall be necessary or reasonable for the collection of the rents, license fees, issues, profits and income, including Termination Fees and Taking Proceeds, derived from the Property and for the proper care and operation of the Property, and Borrower hereby grants to Lender the authority to give such agents, contractors or employees so appointed, full and irrevocable authority on Borrower's behalf to manage the Property and to do all acts relating to such management, including without limitation, the entry into and execution of new leases or licenses in the name of Borrower or otherwise, the alteration, amendment or termination of existing leases or licenses, the authorization to repair or replace any Fixtures and Personal Property (as defined in the Mortgage) necessary in order to maintain the building or buildings, and chattels incidental thereto, in good and tenable condition, and the effectuation of such alterations or improvements as in the judgment of Lender may be reasonable or necessary to maintain, increase or enhance the value of or the income from the Property. Lender shall have the sole control of such agents, contractors or employees, whose remuneration shall be paid out of the rents, license fees, issues, profits and income as hereinabove provided, at the rate of compensation reasonably customary in the community where the Property is situated.

## Application by Lender of Net Income from the Property

3. Subject to all applicable statutory requirements, if any, and to the provisions of the Mortgage, Lender shall, after the payment of all proper charges and expenses enumerated above, and



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after retaining sufficient sums to fully pay, as they become due, taxes, assessments, utilities and insurance premiums on insurance policies having coverages in requisite amounts (including liability, fire and extended coverage), credit the net income received by Lender from the Property, by virtue of this Assignment, to any amounts due and owing to Lender by Borrower under and pursuant to the terms of the Note, the Mortgage, this Assignment or any of the other Loan Documents, but the manner of application of such net income shall be determined in the sole discretion of Lender. Lender shall make a reasonable effort to collect the rents, license fees, issues, profits and income, including Termination Fees and Taking Proceeds, reserving, however, within its sole discretion, the right to determine the method of collection and the extent to which enforcement of the collection of delinquent rents, license fees, issues, profits and income, including Termination Fees and Taking Proceeds, shall be prosecuted. Notwithstanding the foregoing, no such credit shall be given by Lender for any sum or sums received from the rents, license fees, issues, profits, income, Termination Fees and/or Taking Proceeds of or relating to the Property until the sums collected are actually received by Lender at its principal office as stated above (or at such other place as Lender shall designate in writing), and no credit shall be given for any uncollected rents, license fees or other uncollected amounts or bills, nor shall credit be given for any rents, license fees, issues, profits, income, Termination Fees and/or Taking Proceeds derived from the Property under any court order or decision or by operation of law until such amounts are actually received by Lender at its principal offices as stated above. The net amount of income received by Lender hereunder and applied by Lender to the amounts due and owing by Borrower shall not serve to cure any default under the Note, the Mortgage or any of the other Loan Documents, nor shall any amounts received by Lender hereunder be in full satisfaction of the Loan evidenced by the Note unless such amounts are sufficient to pay such Loan in full (including any accrued but unpaid interest thereon, prepayment premiums, late payment charges and advances) in accordance with the terms of the Note, the Mortgage and the other Loan Documents.

## Limitation of Lender's Liability

4. Lender shall not be obligated to perform or discharge any obligation under the leases or licenses hereby assigned or by reason of this Assignment, and Borrower hereby agrees to indemnify, defend and hold Lender harmless against any and all liability, loss or damage which Lender might incur under the leases or licenses, or by reason of this Assignment, and of and from any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligation or undertaking on Lender's part to perform or discharge any of the terms of such leases or licenses, including Lender's NEGLIGENCE OR STRICT LIABILITY, except for claims and demands arising by reason of Lender's gross negligence or willful misconduct.

## Reinstatement after Default

5. Lender, at its sole option, may reinstate the Loan evidenced by the Note, upon Borrower having complied with all the terms, covenants and conditions of the Note, the Mortgage, this Assignment and all of the other Loan Documents, and/or fully curing all of the defaults under said documents. In such event, Lender may reinstate Borrower's license to collect rents, license fees, issues, profits and income and return possession of the Property to Borrower. Thereafter Borrower shall remain in possession of the Property unless and until another event of default (and expiration of the applicable notice, grace and/or cure period, if any) occurs under the Note, the Mortgage, this Assignment or any of the other Loan Documents, at which time Lender may, at its option, again revoke Borrower's license to collect rents, license fees, issues, profits and income, including

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Termination Fees and Taking Proceeds, and may again take possession of the Property under authority and pursuant to the terms and provisions of this Assignment.

## Tenant's Notification of Assignment

6. Upon request by Lender, at any time, Borrower will deliver a written notice to each of the tenants, occupants, lessees and licensees of the Property, which notice shall inform such tenants, occupants, lessees and licensees of this Assignment, and instruct them that upon receipt of notice by them from Lender of the existence of an event of default by Borrower under the Note, the Mortgage or any of the other Loan Documents, all rents, license fees, issues, profits, income, Termination Fees and Taking Proceeds due or payable thereafter shall be paid directly to Lender.

## Satisfaction of Mortgage; Satisfaction of Assignment

7. This Assignment shall remain in full force and effect as long as the Loan evidenced by the Note and secured by the Mortgage remains unpaid in whole or in part. It is understood and agreed that a complete release or satisfaction of the aforesaid Mortgage shall operate as a complete release or satisfaction of all of Lender's rights and interest hereunder, and that satisfaction of the Mortgage shall operate to satisfy this Assignment.

## Exculpation

8. Notwithstanding anything contained herein to the contrary, the liability of Borrower is subject to the limited recourse provisions contained in the Exculpation section of the Note, which are incorporated herein and made a part hereof by reference as if fully set forth herein. If Borrower is comprised of more than one person or entity, then the liability of each such person and entity hereunder shall, subject to the limited recourse provisions contained in the Exculpation section of the Note, be joint and several.

## Captions

9. The captions set forth at the beginning of the various sections of this Assignment are for convenience only, and shall not be used to interpret or construe the provisions of this Assignment.

## Attorneys' Fees

10. As used herein, the phrase "Reasonable Attorneys' Fees" shall mean fees charged by attorneys selected by Lender based upon such attorneys' then prevailing hourly rates as opposed to any statutory presumption specified by any statute then in effect in the State of Illinois.

## Miscellaneous

11. Any notices required or permitted to be given hereunder shall be given as provided in the Mortgage.





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## EXHIBIT A

Common Address:  
230 West Monroe Street  
Chicago, Illinois 60606

Permanent Tax Index Nos.  
17-16-202-013-0000  
17-16-202-014-0000

ALL OF LOT 7 AND ALL OF LOT 8 (EXCEPT THE WEST 40 FEET THEREOF TAKEN FOR WIDENING OF FRANKLIN STREET) IN BLOCK 94 IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPTING FROM SAID PREMISES THE NORTH 9.0 FEET THEREOF TAKEN FOR ALLEY) IN COOK COUNTY, ILLINOIS

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## EXHIBIT B

1. Leases dated April 1, 1998 and March 18, 1999 between Teachers Insurance and Annuity Association of America, predecessor in interest to 230 West Monroe PT, LLC ("Teachers"), as landlord, and Sager & Neel Corporation, as tenant.
2. Lease dated May 8, 1998 between Teachers, as landlord, and Success National Bank, as tenant, and as subleased to Xando Cosi, Inc.
3. Lease dated April 30, 1990, as amended, between Teachers, as landlord, and Bally Total Fitness Corporation, as tenant.
4. Lease dated August \_\_, 1993, as amended, between Teachers, as landlord, and Grandma Gebhard Company, as tenant.
5. Lease dated February 28, 1997, as amended, between Teachers, as landlord, and Arthur Andersen, LLP, as tenant.
6. Lease dated November 17, 1998 between TIAA Realty, Inc., predecessor in interest to 230 West Monroe PT, LLC ("TIAA"), as landlord, and Common A Users Group, as tenant.
7. Lease dated May 8, 1998 between Teachers, as landlord, and Success National Bank, as tenant, and as subleased to Xando Cosi, Inc.
8. Lease dated June \_\_, 2001 between TIAA, as landlord, and Cambridge Human Resource Group Incorporated, as tenant.
9. Lease dated March \_\_, 1992 between Teachers, as landlord, and Ravid & Bernstein, as tenant.
10. Lease dated May \_\_, 1991, as amended, between TIAA, as landlord and Parsons, Brinckerhoff, Quade & Douglas, Inc., as tenant.
11. Lease dated August 24, 1998 between TIAA, as landlord and Avaya, Inc., as tenant.
12. Lease dated November 15, 1993, as amended, between Teachers, as landlord, and Combined Life Insurance Company of America, as tenant, and as subleased to The Life Insurance Company of Virginia.
13. Lease dated October 29, 1997 between Teachers, as landlord, and Liberty Mutual Insurance Company, as tenant.
14. Lease dated August 30, 1994, as amended, between Teachers, as landlord, and Diversified Investment Advisors, as tenant.

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15. Lease dated December 1, 1995, as amended, between TIAA, as landlord, and Vining-Sparks, IBG, as tenant.
16. Lease dated July 6, 1998 between TIAA, as landlord, and Norstan, Inc., as tenant, and as subleased to eCreative Search, Inc.
17. Lease dated November 29, 2000 between TIAA, as landlord, and Silicon Valley Bank, as tenant.
18. Lease dated December \_\_, 1991, as amended, between TIAA, as landlord, and Jewish Federation of Metropolitan Chicago, as tenant.
19. Lease dated August 17, 1993, as amended, between TIAA, as landlord, and R.W. Coopers & Associates, Inc., as tenant.
20. Lease dated April \_\_, 1998 between Teachers, as landlord, and Pitney Bowes, Inc., as tenant.
21. Lease dated November 1, 1990, as amended, between TIAA, as landlord, and Marsh USA Inc., as tenant, and as subleased to Crump Insurance Services of Illinois, Inc and to Sedgwick Claims Management Services, Inc.
22. Lease dated June 15, 1993 between Teachers, as landlord, and Balkin & Doran, Ltd., as tenant, and as subleased to Linde & Schlottler, L.L.C.
23. Lease dated June 15, 1993 between TIAA, as landlord, and Adler & Rooth, as tenant.
24. Lease dated September 17, 1993 between Teachers, as landlord, and Adler & Rooth, as tenant.
25. Lease dated March 12, 2001 between TIAA, as landlord, and Adler & Rooth, as tenant.
26. Lease dated August 31, 1998 between TIAA, as landlord, and General Employment Enterprises, Inc., as tenant.
27. Lease dated February \_\_, 1992, as amended, between Teachers, as landlord, and Ogden Allied Building Service Corporation, as tenant.
28. Lease dated March 23, 1992, as amended, between TIAA, as landlord, and Legalink Corporation, as tenant.
29. Lease dated July 25, 1993, as amended, between, TIAA, as landlord, and The National Easter Seal Society, as tenant.
30. Lease dated February 21, 1991, as amended, between Teachers, as landlord, and Variable Annuity Life Insurance Company, as tenant.

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31. Lease dated June 3, 1999, as amended, between TIAA, as landlord, and Digital Work, Inc., as tenant, and as subleased to Technology Services Group.
32. Lease dated March \_\_, 1991, as amended, between Teachers, as landlord, and Harvey L. Walner & Associates, Ltd., as tenant.
33. Lease dated February \_\_, 1992 between Teachers, as landlord, and Dean Witter Reynolds Inc., as tenant.
34. Lease dated November 29, 2000 between TIAA, as landlord, and Real Estate Consultants, Inc. of Metropolitan Chicago, as tenant.
35. Lease dated April \_\_, 1991, as amended, between Teachers, as landlord, and Matthias & Bellah, and as subleased to Cooney, Rikard & Curtin.
36. Lease dated January 1, 1991, as amended, between TIAA, as landlord, and Miglin-Beitler Management Corporation, as tenant.
37. Lease dated \_\_\_\_\_, 1993, as amended, between Teachers, as landlord, and Wallace Computer Services, Inc., as tenant.
38. Lease dated November 5, 1993, as amended, between TIAA, as landlord, and Motion Picture Projectionists, Operators & Video Technicians Local 110, as tenant.
39. Lease dated December 10, 1993, as amended, between Teachers, as landlord, and Marshall & Ilsey Corporation, as tenant.
40. Lease dated \_\_\_\_\_, 1995, as amended, between Teachers, as landlord, and PC Learning Centers, Inc., as tenant.
41. Lease dated February 10, 1998 between Teachers, as landlord, and National Center for Professional Development, Inc., as tenant, and as subleased to Lakeview Underwriters, L.L.C.
42. Lease dated April \_\_, 1995, as amended, between Teachers, as landlord, and Cambridge Technology Partners, as tenant.
43. Lease dated April 17, 1994, as amended, between TIAA, as landlord, and Women in Cable & Telecommunications, as tenant.
44. Lease dated August 29, 1997, as amended, between TIAA, as landlord, and Mid Ventures, Inc., as tenant.
45. Lease dated February 26, 1999 between TIAA, as landlord, and Wells Fargo Bank, N.A., as tenant.

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46. Lease dated May \_\_, 1998 between TIAA, as landlord, and Shay Investment Services, Inc., as tenant.
47. Lease dated December 29, 1995, as amended, between TIAA, as landlord, and First Northern Credit Union, as tenant.
48. Lease dated June \_\_, 2001 between TIAA, as landlord, and First Northern Credit Union, as tenant.

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