

ASSIGNMENT OF RENTS AND LEASES

Document Number:



Return Address:

John W. Galanis
Galanis, Pollack & Jacobs, S.C.
330 East Kilbourn Avenue
Milwaukee, WI 53202

CC 3406 282 742

THIS ASSIGNMENT, made as of the 20th day of December, 2002, is by and between RUSH ONTARIO, LLC, a Delaware limited liability company (hereinafter referred to as the "Borrower"), whose address is 250 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, and U.S. BANK NATIONAL ASSOCIATION, a national banking association under the laws of the United States of America, whose mailing address is c/o Commercial Real Estate Division, MK-WI-J3SR, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202 (hereinafter called "Lender").

Handwritten mark resembling a stylized '7' or 'J'.

1. Borrower, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby bargain, sell, transfer, assign, convey, set over and deliver unto Lender all right, title and interest of the Borrower in, to and under any existing leases, together with any and all future leases hereinafter entered into by any lessor or lessee affecting the real estate described in Exhibit "A" attached hereto and made a part hereof (the "Property"), and all guarantees, amendments, extensions, modifications and renewals of such leases and any of them, all of which are hereinafter called the "Leases", and all rents, receipts, revenues, awards, income and profits which may now or hereafter be or become due or owing under the Leases, and any of them, on account of the use of the Property or otherwise arising out of or pertaining to the Property.
2. This Assignment is made for the purposes of securing:
 - (a) The payment of the indebtedness (including any amendments, extensions, modifications or renewals thereof) evidenced by a certain Note of Borrower of even date herewith in the principal sum of \$27,500,000.00 (the "Note") and secured by a certain Mortgage of Real Property, Security Agreement of Personal Property and Assignment of Rents and Profits (the "Mortgage") of even date herewith encumbering the Property, as hereafter amended, extended, modified or renewed and other Loan Documents having the meaning of Loan Documents or Security Agreement as set forth in the Note;

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- (b) The payment of all other sums, with interest thereon, becoming due and payable to Lender under the provisions of the Mortgage and any other instrument constituting security for the Note, including, without limitation, the other Loan Documents;
- (c) All debts, obligations and liabilities of Borrower to Lender under interest rate swap, cap, collar, floor, option or other derivative agreements (including, as applicable, any ISDA Master Agreement and each schedule, transaction and confirmation relating to or entered into under the ISDA Master Agreement or under any other such agreement), and all other agreements designed to protect against fluctuations in interest rates or currency exchange rates; and
- (d) The performance and discharge of each and every term, covenant and condition of Borrower contained in the Note, Mortgage and any other instrument constituting security for the Note, including, without limitation, the other Loan Documents.

3. Borrower covenants and agrees with Lender as follows:

- (a) The sole ownership of the entire lessor's interest in the Leases is vested in Borrower, and that Borrower has not, and shall not, perform any acts or execute any other instruments which might prevent Lender from fully exercising its rights under any of the terms, covenants and conditions of this Assignment. The ownership of the fee simple title to the Property is vested in Borrower.
- (b) No Leases (including any guaranties of such Leases) shall be entered into or materially altered, modified, amended, terminated, cancelled or surrendered nor any material terms or conditions thereof be waived without the Lender's prior written consent.
- (c) There are no defaults now existing under any Leases and there exists no state of facts which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases.
- (d) Each of the Leases shall remain in full force and effect irrespective of any merger of the interest of lessor and any lessee under any of the Leases.
- (e) Borrower has not accepted and will not accept any rents under any Leases for more than thirty (30) days in advance of their due dates.
- (f) Borrower upon request, from time to time, shall furnish to Lender a rent roll and lease abstract in such reasonable detail as Lender may request, certified by Borrower, of all Leases relating to the Property, and on demand, Borrower shall furnish to Lender executed copies of any and all such Leases.

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4. The parties further agree as follows:

- (a) This Assignment is absolute and is effective immediately. Notwithstanding the foregoing, until a default has occurred, and has not been cured, under the terms and conditions of the Note or the Mortgage or any other instrument constituting additional security for the Note (collectively called the "Loan Documents") Borrower may receive, collect and enjoy the rents, income and profits accruing from the Property.
- (b) In the event of any default at any time in the Loan Documents, Lender may, at its option, without notice to Borrower, receive and collect all such rents, income and profits as they become due, from the Property and the leasehold interest therein and under any and all Leases of all or any part of the Property. Lender shall thereafter continue to receive and collect all such rents, income and profits, as long as such default or defaults shall exist, and during the pendency of any foreclosure proceedings, and if there is a deficiency, during any redemption period.
- (c) Borrower hereby irrevocably appoints Lender its true and lawful attorney with full power of substitution and with full power for Lender in its own name and capacity or in the name and capacity of Borrower, from and after any default not having been cured, to demand, collect, receive and give complete acquittances for any and all rents, income and profits accruing from the Property or the leasehold interest therein, 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 otherwise, which Lender may deem necessary or desirable in order to collect and enforce the payment of the rents, income and profits. Lessees of the Property are hereby expressly authorized and directed to pay any and all amounts due Borrower pursuant to the Leases directly to Lender or such nominee as Lender may designate in writing delivered to and received by such lessees who are expressly relieved of any and all duty, liability or obligation to Borrower in respect of all payments so made.
- (d) From and after any default that has not been cured, Lender is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment and to collect the rents, income and profits assigned hereunder, including the right of Lender or its designee to enter upon the Property, or any part thereof, with or without force and with process of law, and take possession of all or any part of the Property together with all personal property, fixtures, documents, books, records, papers and accounts of Borrower relating thereto, and may exclude the Borrower, its agents and servants, wholly therefrom. Borrower hereby grants full power and authority to Lender to exercise all rights, power and authority herein granted at any and all times after any default that has not been cured, without further notice to Borrower, with full power to use and apply all of the rents and other income

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herein assigned to the payment of the costs of managing and operating the Property and the leasehold interest therein and of any indebtedness or liability of Borrower to Lender, including, but not limited to, the payment of taxes, special assessments, insurance premiums, damage claims, the cost of maintaining, repairing, rebuilding and restoring the improvements on the Property or of making the same rentable, attorneys' fees incurred in connection with the enforcement of this Assignment, and of principal and interest payments due from Borrower to Lender on the Note and the Mortgage and the other Loan Documents, all in such order as Lender may determine according to provisions of the Note and Mortgage and the other Loan Documents executed herewith.

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 the lessor under any of the Leases and does not assume any of the liabilities in connection with or growing out of the covenants and agreements of Borrower in the Leases. It is further understood that this Assignment shall not operate to place responsibility for the control, care, management or repair of the Property or leasehold interest therein, or parts thereof, upon Lender, nor shall it operate to make Lender liable for the performance of any waste of the Property by any lessee under any of the Leases or any other person, 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 lessee, licensee, employee or stranger, or for any environmental hazard on the Property.

(e) Waiver of or acquiescence by Lender in any default by the Borrower, or failure of the Lender to insist upon strict performance by the Borrower of any covenants, conditions or agreements in this Assignment, shall not constitute a waiver of any subsequent or other default or failure, whether similar or dissimilar.

5. The rights and remedies of Lender under this Assignment are cumulative and are not in lieu of, but are in addition to any other rights or remedies which Lender shall have under the Loan Documents, or at law or in equity.
6. If any term of this Assignment, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Assignment, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Assignment shall be valid and enforceable to the fullest extent permitted by law.
7. All notices to be given pursuant to this Assignment shall be sufficient and shall be deemed served if mailed postage prepaid, certified or registered mail, return receipt requested, to the above described addresses of the parties hereto, or to such other address as a party may request in writing.

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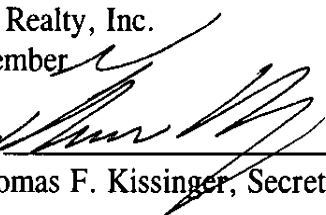
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8. The terms "**Borrower**" and "**Lender**" shall be construed to include the heirs, personal representatives, successors and assigns thereof.
9. This Assignment may not be amended, modified or changed nor shall any waiver of any provision hereof be effective as against Lender, 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.
10. Upon cancellation of record of the Mortgage, this Assignment of Rents and Leases shall automatically and without further documentation or action on the part of the parties hereto, also be cancelled, terminated and be of no further or future force and effect.
11. This Agreement and the rights and obligations of the parties hereunder shall in all respects be governed by, and construed and enforced in accordance with, the laws of the state where the Property is located (without giving effect to principles of conflicts of law).
12. **Waiver of Jury Trial.** The Borrower and the Lender hereby jointly and severally waive any and all right to trial by jury in any action or proceeding relating to this instrument and to any of the loan documents, the obligation hereunder or thereunder, any collateral securing the obligations, or any transaction arising therefrom or connected thereto. The Borrower and the Lender each represents to the other that this waiver is knowingly, willingly and voluntarily given.

IN WITNESS WHEREOF, the Borrower has executed this Assignment as of the 20th day of December, 2002.

RUSH ONTARIO, LLC
a Delaware limited liability company
By: B&G Realty, Inc.
Its sole member

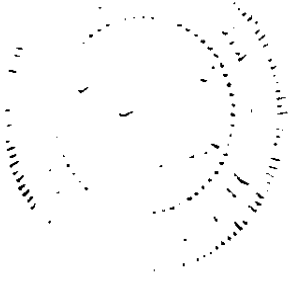
By: 
Thomas F. Kissinger, Secretary

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EXHIBIT A

The South $\frac{1}{2}$ and the South 40 feet of the Northwest $\frac{1}{4}$ of Block 35 in Kinzie's addition to Chicago in Section 10, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

PIN Number: 17-10-112-010

Commonly Known as: 630 N. Rush Street
Chicago, IL

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