

# UNOFFICIAL COPY

LincolnKimball-AssignLeases.wpd/122007

PREPARED BY AND AFTER  
RECORDING RETURN TO:  
William B. Phillips, Esq.  
McParland & Phillips, L.L.C.  
221 North LaSalle Street  
Chicago, Illinois 60601



Doc#: 0802333141 Fee: \$70.00  
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Cook County Recorder of Deeds  
Date: 01/23/2008 01:53 PM Pg: 1 of 8

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## ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT made as of the 1st day of January, 2008, by and between PICKERING PROPERTY GROUP, L.L.C., an Illinois limited liability company, c/o National Shopping Plazas, Inc., 200 West Madison Street, Suite 4200, Chicago, Illinois 60606 (hereinafter called "Assignor"), and MTL INSURANCE COMPANY, an Illinois corporation, 1200 Jorie Boulevard, Oak Brook, Illinois 60523 (hereinafter called "Assignee").

### WITNESSETH:

Assignor, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby bargain, sell, transfer, assign, convey, set over and deliver unto Assignee all right, title and interest of Assignor in, to and under the leases of the real estate commonly known as 6160-6170 North Lincoln Avenue, Chicago, Illinois, legally described as follows, to-wit:

Parcel 1: Lots 1, 2, and 3 and the Northwesterly 5 feet of Lot 4 in Block 3 in Oliver Salinger and Company's Sixth Kimball Boulevard Addition to North Edgewater, being a Subdivision in the northeast Fractional 1/4 South of the Indian Boundary Line of Section 2, Township 40 North, Range 13, East of the Third Principal Meridian, (except that part thereof taken for the widening of Lincoln Avenue), in Cook County, Illinois.

Parcel 2: Lot 4 (except the Northwesterly 5 feet) and Lots 5 and 6 in Block 3 in Oliver Salinger and Company's Sixth Kimball Boulevard Addition to North Edgewater, being a Subdivision in the Northeast Fractional 1/4 South of the Indian Boundary Line of Section 2, Township 40 North, Range 13, East of the Third Principal Meridian, (except that part thereof taken for the widening of Lincoln Avenue), in Cook county, Illinois.

Address of Property: 6160-6170 North Lincoln Avenue, Chicago, Illinois  
Permanent Index No.: 13-02-211-001; 13-02-211-002; 13-02-211-003;  
13-02-211-004; 13-02-211-005; 13-02-211-006

("Premises") whether now in existence or hereafter entered into, including the leases described in Exhibit "A" attached hereto and made a part hereof and all guaranties, amendments, extensions and renewals of said leases and any of them, all of which are hereafter called the "Leases" and all rents, income and profits which may now or hereafter be or become due or owing under the

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Leases, and any of them or on account of the use of the Premises. This Assignment is made for the purpose of securing:

A. The payment of the indebtedness (including any extensions or renewals thereof) evidenced by a certain Note ("Note") of Assignor of even date herewith in the principal sum of One Million One Hundred Seventy Five Thousand and No/100 Dollars (\$1,175,000.00), and secured by a certain Mortgage ("Mortgage") of even date herewith encumbering the Premises; and

B. The payment of all other sums with interest thereon becoming due and payable to Assignee under the provisions of the Note, Mortgage and any other instrument constituting security for the Note ("Other Loan Documents"); and

C. The performance and discharge of each and every term, covenant and condition contained in the Note, Mortgage and any Other Loan Document.

Assignor covenants and agrees with Assignee as follows:

1. That the sole ownership of the entire Lessor's interest in the Leases is or shall be vested in Assignor and that Assignor has not, and shall not, perform any acts or execute any other instruments which might prevent Assignee from fully exercising its rights under any of the terms, covenants and conditions of this Assignment.

2. That the Leases are and shall be valid and enforceable in accordance with their terms and have not been altered, modified, amended, terminated, canceled, renewed or surrendered nor have any of the terms and conditions thereof been waived in any manner whatsoever except as approved in writing by Assignee.

3. That none of the Leases shall be materially altered, modified, amended, terminated, canceled or surrendered, nor shall new Leases be entered into, without Assignee's consent; nor will rental be collected more than one month in advance nor any term or condition thereof be waived nor shall Assignor consent to any assignment or subletting by any lessee without the prior written approval of the Assignee, which consent shall not be unreasonably withheld.

4. That there are no defaults now existing under any of the 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.

5. That Assignor shall give prompt notice to Assignee of any notice received by Assignor claiming that a default has occurred under any of the Leases on the part of the Assignor, together with a complete copy of any such notice.

6. That Assignor will not permit any Lease to become subordinate to any lien except the lien of the Mortgage and the lien of general real estate taxes.

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7. There shall be no merger of the Leases, or any of them, by reason of the fact that the same person may acquire or hold directly or indirectly the Leases, or any of them, as well as the fee estate in the Premises or any interest in such fee estate.

8. This Assignment is absolute and is effective immediately. Notwithstanding the foregoing, until a notice is sent to the Assignor in writing that a default has occurred under the terms and conditions of the Note, the Mortgage or any other instrument constituting additional security for the Note (which notice is hereafter called a "Notice"), Assignor may receive, collect and enjoy the rents, income and profits accruing from the Premises.

9. Upon the occurrence of a default in the Note, Mortgage or any Other Loan Document, Assignee may, at its option after service of a Notice, receive and collect all such rents, income and profits as they become due, from the Premises and under any and all Leases of all or any part of the Premises. Assignee 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, if any.

10. From and after the service of a Notice, Assignee shall have the right in its own name to demand, collect, receive and give complete acquittances for any and all rents, income and profits accruing from the Premises, and to file any claim or take any other action or proceeding and make any settlement of any claims, which Assignee may deem necessary or desirable in order to collect and enforce the payment of the rents, income and profits. Lessees of the Premises are hereby expressly authorized and directed to pay any and all amounts due Assignor pursuant to the Leases to Assignee or such nominee as Assignee may designate in writing delivered to and received by such lessees who are expressly relieved of any and all duty, liability or obligation to Assignor in respect of all payments so made.

11. From and after service of a Notice, Assignee 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 Assignee or its designee to enter upon the Premises, or any part thereof, without force and with process of law, and take possession of all or any part of the Premises together with all personal property, fixtures, documents, and copies of books, records, papers and accounts of Assignor relating thereto, and may exclude the Assignor, its agents and servants, wholly therefrom. Assignor hereby grants full power and authority to Assignee to exercise all rights, privileges and power herein granted at any and all times after service of a Notice, without further notice to Assignor, with full power to use and apply all of the rents and other income herein assigned to the payment of the costs of managing and operating the Premises and of any indebtedness or liability of Assignor to Assignee, including but not limited to the payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing, rebuilding and restoring the improvements on the Premises or of making the same rentable, reasonable attorneys' fees incurred in connection with the enforcement of this Assignment, and/or principal and interest payments due from the Assignor to Assignee on the Note and the Mortgage, all in such order as Assignee may determine. Assignee shall be under no obligation to exercise or

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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 arising or growing out of the covenants and agreements of Assignor in the Leases until the exercise of this Assignment pursuant to the Notice. It is further understood that this Assignment shall not operate to place responsibility for the control, care, management or repair of the Premises, or parts thereof, upon Assignee, nor shall it operate to make Assignee liable for performance of any of the terms and conditions of any of the Leases, or for any waste of the Premises by any lessee under any of the Leases or any other person, or for any dangerous or defective condition of the Premises or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any lessee, licensee, employee or stranger.

12. Waiver of or acquiescence by Assignee in any default by the Assignor, or failure of the Assignee to insist upon strict performance by the Assignor 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.

13. The rights and remedies of Assignee under this Assignment are cumulative and are not in lieu of, but are in addition to any other rights or remedies which Assignee shall have under the Note, the Mortgage or any other instrument constituting security for the Note, at law or in equity.

14. 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.

15. Any notices, demands and requests required or desired to be given hereunder shall be in writing and shall be deemed properly served if delivered in person or by United States registered or certified mail, return receipt requested, postage prepaid [which shall be deemed received three (3) business days following the postmark thereof], or by Federal Express or other comparable overnight service, addressed as follows:

If to Assignee:	MTL Insurance Company 1200 Jorie Boulevard Oak Brook, Illinois 60523 Attn: Ms. Diane E. Hundseder
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With copies to:	Capmark Finance, Inc. 4920 South Wendler, Suite 201 Tempe, Arizona 85282 Attn: Loan Servicing
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If to Assignor: c/o National Shopping Plazas, Inc.  
200 West Madison, Suite 4200  
Chicago, Illinois 60606  
Attn: Mr. George D. Hanus

With copies to: Barack Ferrazzano Kirschbaum  
& Nagelberg LLP  
200 West Madison, Suite 3900  
Chicago, Illinois 60606  
Attn: Thomas H. Page, Esq.

16. The terms "Assignor" and "Assignee" shall be construed to include the heirs, personal representatives, successors and assigns thereof. The gender and number used in the 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.

17. The 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.

18. It is expressly understood and agreed that in the event of any Default under the terms of this Assignment of Rents and Leases, the Note additionally secured hereby, the Mortgage, or any Other Loan Document, Assignee agrees that it shall neither seek nor take any deficiency or monetary judgment against Assignor, or against any property of Assignor other than the property described herein and described in the Mortgage and Other Loan Documents, and nothing herein contained or contained in said Note, Mortgage or any Other Loan Documents shall be construed as creating any personal liability on the Assignor, its members, agents, or employees, all such personal liability being expressly waived by the Assignee for itself and its successors and assigns, and that so far as Assignor and its members personally are concerned, except as hereinafter set forth, and set forth in an Environmental Indemnity Agreement and Guaranty Agreement, both of even date herewith, Assignee, its successors and assigns, shall look solely to the Premises, and to the income, proceeds and avails thereof for the payment of Indebtedness.

It is further understood and agreed, however, that nothing contained in the preceding paragraph shall in any manner or way release, affect or impair:

- a). the existence of the debt evidenced by Note;
- b). the enforceability of the liens and security interests created by this Assignment of Rents and Leases, the Mortgage and any Other Loan Document;

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c). the right of the Assignee to recover or receive from Assignor and George D. Hanus (collectively the "Guarantor"), (or to recover or receive other property of the Guarantor in lieu thereof):

i). any and all of Assignee's costs, expenses, damages or liabilities, including, without limitation, all reasonable attorney fees, directly or indirectly arising out of or attributable to any fraud, misrepresentation, or misappropriation of funds by the Guarantor;

ii). an amount necessary to repair any damage to the Premises due to waste;

iii). any rental income and other income received by the Guarantor from the Premises after the occurrence of a Default, or security deposits owed to tenants of all or any part of the Premises, not paid over to Assignee on account of sums due under the Note and Mortgage or as otherwise applied by Guarantor on account of the expenses of the Premises or repairs and maintenance of the same;

iv). any sums expended by Assignee in the performance or compliance of all covenants, agreements, and provisions of any lease specifically assigned to Assignee as additional security for the indebtedness evidenced hereby, which is so expended by reason of the Guarantor's neglect or refusal to so perform said obligations or to prevent the Assignee from recovering any rentals lost as a result of the Guarantor's failure to perform said obligations;

v). any sums expended by Assignee, exceeding sums deposited pursuant to Paragraph 4 of the Mortgage, to pay Impositions or premiums on Insurance Policies (as such terms are defined in the Mortgage);

vi). any funds expended by Assignee to replace personal property removed from the Premises and not replaced by the Guarantor;

vii). any Proceeds or Awards (as such terms are defined in the Mortgage) received by the Guarantor not applied in accordance with Paragraphs 6 or 7 of the Mortgage;

viii). any and all of Assignee's costs, expenses, damages or liabilities, including, without limitation, all reasonable attorneys' fees, directly or indirectly arising out of or attributable to the use, generation, storage, release, discharge, disposal, or presence on, under or about the Premises of any Hazardous Substances or other violation of Environmental Law;

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ix). any and all of Assignee's costs, expenses, damages or liabilities, including, without limitation, all reasonable attorney fees, directly or indirectly arising out of or attributable to Assignor's or the Guarantor's failure to comply with the Americans with Disabilities Act (A.D.A.) 42 U.S.C. Section 12101 et. seq. with respect to the Premises.

x). Any accrued but unpaid interest on the Note, but not to exceed the period ending three (3) months following a Default.

IN WITNESS WHEREOF, Assignor has caused this Assignment of Rents and Leases to be signed by its duly authorized officer on the day and year first above written.

PICKERING PROPERTY GROUP, L.L.C., an Illinois limited liability company

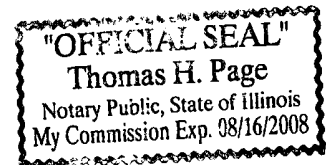
By: *George D. Hanus*  
George D. Hanus, President

STATE OF ILLINOIS     )  
  )  
  )     SS:  
COUNTY OF COOK     )

I, *Thomas H. Page*, a Notary Public in and for and residing in said County, in the state aforesaid, DO HEREBY CERTIFY that GEORGE D. HANUS, President of PICKERING PROPERTY GROUP, L.L.C., an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Company, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this *7<sup>th</sup>* day of January, 2008.

*Thomas H. Page*  
Notary Public



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EXHIBIT "A"  
LEASES

<u>Tenant</u>	<u>Current Expiration Date</u>
Back To Bed, Inc.	April 30, 2009
Tandy Corporation	May 31, 2010
George D. Hanus	January 31, 2013

Property of Cook County Clerk's Office