

UNOFFICIAL COPY

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0329/0004 51 001 Page 1 of 8
2001-10-24 09:58:09
Cook County Recorder 35.50



0010994810

After Recording Return To:
First American Loss Mitigation Services, Inc.

When Recorded Return To: 545414
First American Title Insurance Co.
3 First American Way
Santa Ana, CA 92707
Attn: Loan Modification Dept.
[City, State, Zip]

Prepared By:
RUTH RUHL, P.C.
2305 Ridge Road, Suite 106
Rockwall, TX 75087

(Space Above This Line For Recording Data)

Loan No.: 2003004112

LOAN ASSUMPTION AGREEMENT

THIS LOAN ASSUMPTION AGREEMENT ("Agreement"), made effective as of October 1st, 2000
between Gerardo L. Peralta and Luis A. Pavon ("Seller")
and Gerardo L. Peralta and Amanda Peralta ("Borrower")

and Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Bank of America,
N. A., its successors and assigns ("Lender")

amends and supplements one certain promissory note ("Note") dated July 1, 1998, in the original
principal amount of \$ 98,000.00 executed by Gerardo L. Peralta and Luis A. Pavon ("Maker")

payable to the order of GN Mortgage Corp. in accordance with the terms set forth
therein. Seller and Borrower acknowledge that Lender is the holder and owner of the Note or is acting for the holder
and owner of the Note and understands that Lender may transfer the Note, as amended by this Agreement, and that
anyone who takes the Note by transfer and who is entitled to receive payments under the Note is called the "Lender"
in this Agreement. The Note is secured by a Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security
Instrument"), dated July 1, 1998, and filed for record on July 13, 1998, in the real property
records of Cook County, Illinois under Volume N/A, Page N/A,
Instrument No. 98599688. Said Security Instrument conveys the real and personal property described in
such Security Instrument (the "Property") located at: 1524 North Kolin Avenue, Chicago, Illinois 60651

(Property Address)

THIS INSTRUMENT FILED FOR RECORD BY
FIRST AMERICAN TITLE INSURANCE COMPANY AS AN
ACCOMMODATION ONLY. IT HAS NOT BEEN EXAMINED AS
TO ITS EXECUTION OR AS TO ITS EFFECT UPON THE TITLE.



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JFK

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the real property described being set forth as follows:

LOT 172 IN HINTZERS SUBDIVISION OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PERMANENT PARCEL NUMBER: 16-03-200-039

Borrower is purchasing the above described property from Seller and desires to assume the payment of the Note and the covenants, conditions and obligations of the Security Instrument. Lender who is or who represents the legal holder and owner of the Note and of the lien(s) securing the same has agreed at the request of the Seller to allow the Borrower's assumption of the balance of the indebtedness evidenced by the Note as part of the consideration for the purchase of the property.

For and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by each of the parties to the other, the receipt and sufficiency of which are hereby acknowledged and confessed, and in consideration of the mutual promises and agreements exchanged, the parties hereto agree as follows (notwithstanding anything to the contrary contained in the Note or Security Instrument):

1. Acknowledgment and Assumption of Unpaid Principal Balance: Seller and Borrower acknowledge that as of October 1st, 2000, the amount payable under the Note and secured by the Security Instrument (the "Unpaid Principal Balance") is U.S. \$ 89,407.16. Borrower hereby expressly assumes the payment of the indebtedness evidenced by the above described Note and promises to pay jointly and severally to the order of the Lender the sum of U.S. \$ 89,407.16 (the "Principal Balance"), consisting of the unpaid principal balance less any reductions of principal made by Seller, any accrued but unpaid interest, and any additional sums advanced by Lender. Borrower also agrees to perform and comply with all covenants, conditions and obligations of the Security Instrument, as amended herein.

Interest will be charged on the Principal Balance until the full amount of principal has been paid. Borrower will pay interest at a yearly rate of 7.625% as set forth below. The Borrower promises to make initial monthly payments of principal and interest of U.S. \$ 915.45, beginning on November 1st, 2000, and continuing thereafter on the 1st day of each succeeding month until principal and interest are paid in full. If on July 1, 2013 ("Maturity Date"), the Borrower still owes amounts under the Note and the Security Instrument, as amended by this Agreement, the Borrower will pay these amounts in full on the Maturity Date.

The Borrower will make such payments at BA Mortgage, LLC, 475 Crosspoint Parkway, Getzville, New York 14068-9000 or at such other place as Lender may require.

2. Release of Liability: Seller does hereby transfer and convey to Borrower all of their right, title and interest with respect to any payment heretofore or hereafter received by Lender in connection with the above described Note and Security Instrument securing same. Lender releases Seller from any and all liability, now existing or hereinafter incurred, on or under the Note and Security Instrument securing such debt.

3. Assumption of Original Terms: The Borrower hereto agrees to accept the terms of the Note and Security Instrument as originally entered into between the original Borrower and Lender. The Borrower and Lender have agreed to further enter into a loan modification agreement modifying the terms of the original Note and Security Instrument evidenced by a loan modification agreement.

4. Transfer of Escrow Funds to Borrower: Seller assigns and transfers to Borrower all funds on deposit for payment of taxes, homeowner association dues, insurance premiums and any applicable refunds. Borrower understands that it is Borrower's responsibility to obtain hazard insurance on the Property and that Seller's policy will not inure to Borrower's benefit.

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5. **Waiver of Due-on-Transfer Clause:** In consideration of the assumption of the Note and Security Instrument by Borrower, and the modification of the Note (if any), as described above, the Lender agrees to waive and relinquish its right under the Security Instrument to declare all sums secured by the Security Instrument immediately due and payable by reason of the sale and transfer by Seller to Borrower, it being understood and agreed that this waiver and relinquishment applies only to said sale and not to any future sales or transfers. In addition, Seller hereby agrees that if the prepayment of the Note requires a refund of a portion of the interest previously collected in order to comply with the applicable laws of this state, Seller assigns and transfers to Borrower any and all right and interest in and to any such refund, and Lender is hereby authorized to pay or credit such refund to Borrower.

6. **Late Charges for Overdue Payments:** If the Lender has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, Borrower will pay a late charge to the Lender. The amount of the charge will be 5.00% of the overdue payment of principal and interest. Borrower will pay this late charge promptly but only once on each late payment. The late charge is not in lieu of any other remedy of Lender, including any default remedy, and will not be charged if such charge would constitute interest in excess of the maximum permitted by state law.

7. **Borrower's Right to Prepay:** Borrower has the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment". When Borrower makes a prepayment, Borrower will tell the Lender in writing that Borrower is doing so.

8. **Renewal and Extension of Maturity:** This Agreement is a "written extension" as provided by the applicable laws of this state. It is the intention of the Borrower that all liens and security interests described in the Security Instrument are hereby renewed and extended until the indebtedness evidenced by the Note, as renewed, modified and extended hereby, has been fully paid. The Borrower acknowledges and agrees that such extension, renewal, amendment, modification or rearrangement shall in no manner affect or impair the Note or the liens and security interests securing same, the purpose of this Agreement being simply to provide for the assumption of the indebtedness evidenced thereby, and to carry forward all liens and security interests securing the Note (including if applicable any and all vendor's liens securing the Note), which are expressly acknowledged by the Seller and the Borrower to be valid and subsisting, and in full force and effect so as to fully secure the payment of the Note. The Seller and the Borrower hereby expressly waive the benefit of any and all statutes of limitation which might otherwise inure to Seller's and the Borrower's benefit, or be in any way applicable to Seller's and Borrower's obligations under the terms of any and all instruments described herein.

9. **Usury:** No provisions of this Agreement or the Note or any instrument evidencing or securing the Note, or otherwise relating to the indebtedness evidenced by the Note, shall require the payment or permit the demand, collection, application or receipt of interest in excess of the maximum permitted by applicable state or federal law. If any excess of interest in such respect is herein or in any such other instrument provided for, or shall be adjudicated to be so provided for herein or in any such instrument, the provisions of this paragraph shall govern, and neither Seller, Borrower nor any endorser or guarantor of the Note nor their respective heirs, personal representatives, successors or assigns shall be obligated to pay the amount of such interest to the extent it is in excess of the amount permitted by applicable law. It is expressly stipulated and agreed to be the intent of Seller, Borrower and Lender to at all times comply with the usury and other laws relating to the Note and the Security Instrument and any subsequent revisions, repeals or judicial interpretations hereof, to the extent applicable thereto. In the event Lender ever receives, collects or applies as interest any such excess, including but not limited to any "late charges" collected, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance of the Note, and, if upon such application the principal balance of the Note is paid in full, any remaining excess shall be forthwith paid to Borrower and the provisions of the Note and the Security Instrument shall immediately be deemed reformed and the amounts thereafter collectible thereunder reduced, without the necessity of execution of any new document, so as to comply with the then applicable law, but so as to permit the recovery of the fullest amount otherwise called for thereunder. In determining whether or not the interest paid or payable under any specific contingency exceeds the maximum interest allowed to be charged by applicable law, Borrower and Lender shall, to the maximum extent permitted under applicable law, amortize, prorate, allocate and spread the total amount of interest throughout the entire term of the Note so that the amount or rate of interest charged for any and all periods of time during the term of the Note is to the greatest extent possible less than the maximum amount or rate of interest allowed to be charged by law during the relevant period of time.

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10. **Loan Documentation:** As amended hereby, the provisions of the Note and Security Instrument shall continue in full force and effect, and the Seller and Borrower acknowledge and reaffirm Borrower's liability to Lender thereunder. In the event of any inconsistency between this Agreement and the terms of the Note and Security Instrument, this Agreement shall govern. Nothing in this Agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically provided in this Agreement, the Note and Security Instrument will remain unchanged, and the Borrower and Lender will be bound by, and comply with, all of the terms and provisions thereof, as amended by this Agreement. Any default by Borrower in performance of its obligations herein contained shall constitute a default under the Note and Security Instrument, and shall allow Lender to exercise all of its remedies set forth in said Security Instrument.

11. **Hazardous Substances:** As used in this Paragraph 11, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Paragraph 11, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property. Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

12. **Partial Invalidity:** In the event any portion of the sums intended to be secured by this Agreement cannot be lawfully secured, payments in reduction of such sums shall be applied first to those portions not secured.

13. **Miscellaneous:** Borrower hereby agrees to pay all costs and expenses incurred by Lender in connection with the execution and administration of this Agreement, the assumption, renewal and extension and modification of the Note and Security Instrument and any other documents executed in connection herewith. Lender does not, by its execution of this Agreement, waive any right it may have against any person not a party hereto.

This Agreement may be executed in multiple counterparts, each of which shall constitute an original instrument, but all of which shall constitute one and the same Agreement.

14. **No Oral Agreements:** The written Loan Agreements represent the final agreements between parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties.

There are no unwritten oral agreements between the parties.

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EXECUTED as of the day and year first above written.

Seller:

Gerardo L. Peralta
Gerardo L. Peralta

Luis A. Pavon
Luis A. Pavon

Borrower:

Gerardo L. Peralta
Gerardo L. Peralta

Amanda Peralta
Amanda Peralta

SELLER'S ADDRESS:

BORROWER'S ADDRESS:
1524 North Kolin Avenue
Chicago, Illinois 60651

Lender: Mortgage Electronic Registration Systems, Inc., as nominee for Bank of America, N. A.

(Corporate Seal)

By: *Cary J. Racz*

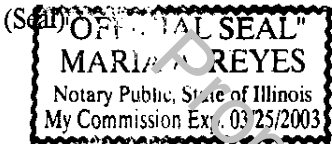
Its: **CARY J. RACZ**
VICE PRESIDENT

SELLER ACKNOWLEDGMENT

State of §
County of §

The foregoing instrument was acknowledged before me on July 12, 2001 [date], 2001 by Gerardo L. Peralta and Luis A. Pavon

[name of person acknowledged].



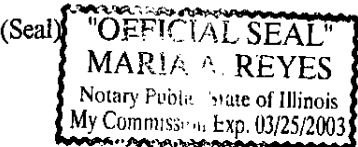
Maria A. Reyes
Notary Public, State of Illinois
My Commission Expires: 3-25-01

BORROWER ACKNOWLEDGMENT

State of Illinois §
County of Cook §

The foregoing instrument was acknowledged before me July 12, 2001 [date], 2001 by Gerardo L. Peralta and Amanda Peralta

[name of person acknowledged].



Maria A. Reyes
Notary Public, State of Illinois
My Commission Expires: 3-25-03

LENDER ACKNOWLEDGMENT

State of New York §
County of Erie §

The foregoing instrument was acknowledged before me this July 12, 2001 [date], by CARY J. RACZ, VICE PRESIDENT [name of officer or agent], title of officer or agent of Mortgage Electronic Registration Systems, Inc., as nominee for Bank of America, N. A.

, on behalf of said entity.

(Seal)

Shelley A. Andrees
Notary Public, State of New York
My Commission Expires: 3/22/03

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ERROR AND OMISSIONS / COMPLIANCE AGREEMENT

The undersigned Borrower(s) for and in consideration of the Lender this date funding the closing or modifying this loan agrees, if requested by Lender or Closing Agent for Lender, to fully cooperate and adjust for clerical errors, any or all loan documentation, if deemed necessary or desirable in the reasonable discretion of Lender, to enable Lender to sell, convey, seek guaranty or market said loan to any entity, including, but not limited to, an investor, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Government National Mortgage Association, Federal Housing Authority or the Department of Veterans Affairs.

The undersigned Borrower(s) do hereby so agree and covenant in order to assure that this loan documentation executed this date will conform and be acceptable in the marketplace in the instance of transfer, sale or conveyance by Lender of its interest in and to said loan documentation.

Dated effective this July day of 2/001

Gerardo L. Peralta (Seal)
Gerardo L. Peralta -Borrower

Amanda Peralta (Seal)
Amanda Peralta -Borrower

____ (Seal)
-Borrower

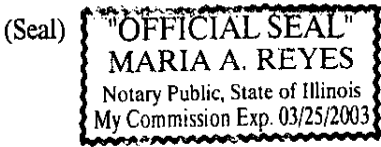
____ (Seal)
-Borrower

State of §
County of §

The foregoing instrument was acknowledged before me on
by Gerardo L. Peralta and Amanda Peralta

July, 02 [date], 2001

[name of person acknowledged].



Maria A. Reyes
Notary Public, State of Illinois
My Commission Expires: 03/25/003

Loan No.: 2003004112

NOTICE OF NO ORAL AGREEMENTS

THIS WRITTEN LOAN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

Receipt of Notice: The undersigned hereby represents and warrants that I/we have each received and read a copy of this Notice on or before the execution of the "Loan Agreement." "Loan Agreement" means one or more promises, promissory notes, agreements, undertakings, security agreements, deeds of trust or other documents, or commitments, or any combination of these actions or documents, pursuant to which a financial institution loans or delays repayment of or agrees to loan or delay repayment of money, goods, or any other thing of value or to otherwise extend credit or make a financial accommodation.

Gerardo L. Peralta
Gerardo L. Peralta -Borrower

Amanda Peralta
Amanda Peralta -Borrower

-Borrower

-Borrower