

This instrument prepared by and after recording mail to:



Michael D. Burstein, Esq.
Much Shelist
200 North LaSalle, Suite 2100
Chicago, Illinois 60601

LOAN ASSUMPTION AGREEMENT

This Loan Assumption Agreement ("**Agreement**"), dated as of ^{September} ~~August~~ 1, 2002 (the "**Effective Date**"), is made by: (i) NORTH SHORE COMMUNITY BANK & TRUST CO. ("**Lender**"); (ii) WILLIAM B. SILVERSTEIN and THOMAS B. SILVERSTEIN (collectively, "**Borrower**"); and (iii) CLENCOE PARK, LLC, an Illinois limited liability company ("**Assignee**").

RECITALS

A. On or about April 22, 2002, Lender made a loan to Borrower in the principal sum of \$5,400,000.00 (the "**Loan**") evidenced by, among other things, the following (together with this Agreement, the "**Loan Documents**");

1. Promissory Note executed by Borrower in favor of Lender dated April 22, 2002 (the "**Note**") in the Loan amount;
2. Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing executed by Borrower in favor of Lender dated as of April 22, 2002 and recorded on May 3, 2002 with the Cook County Recorder (the "**Recorder**") as Document No. 002050596, encumbering certain real estate (the "**Property**") legally described in attached and incorporated Exhibit A (the "**Mortgage**");
3. Assignment of Leases and Rents executed by Borrower in favor of Lender dated as of April 22, 2002 and recorded on May 3, 2002 with the Recorder as Document No. 002050896, encumbering the Property, amended by Amendment No. 1 dated as of May 31, 2002 and recorded on June 12, 2002 with the Recorder as Document No. 0020659374
4. Environmental Indemnity Agreement executed by Borrower in favor of Lender dated as of April 22, 2002.

B. Section 14 of the Mortgage allows Borrower to transfer the Property to a limited liability company in accordance with the terms thereof.

C. Assignee desires to own the Property and has agreed to assume all of Borrower's obligations under the Loan Documents.

1301004274088 D2 20F2

BOX 333-CT1

UNOFFICIAL COPY

D. All capitalized terms not otherwise defined in this Agreement have the meanings ascribed to them in the Mortgage.

AGREEMENT

1. **Assignee's Acknowledgement of Loan Documents.** Assignee acknowledges that it is fully familiar with the terms of the Loan Documents and that they express the entire understanding of the parties regarding the Loan.
2. **Assignee's Assumption of Loan Obligations.** Assignee assumes and agrees to perform all of Borrower's Obligations under the Note and the other Loan Documents.
3. **Borrower's Liability and Ratification.** Borrower remains personally liable for all of Borrower's Obligations under the Note and the other Loan Documents. Borrower ratifies and affirms the Loan Documents and agrees that the Loan Documents are in full force and effect following the execution and delivery of this Agreement. The representations and warranties of Borrower in the Loan Documents are, as of the date hereof, true and correct and Borrower does not know of any default thereunder. The Loan Documents continue to be the valid and binding obligation of Borrower, enforceable in accordance with their terms and Borrower has no claims or defenses to the enforcement of the rights and remedies of Lender thereunder, except as provided in the Loan Documents.
4. **Liability of Borrower and Assignee.** Assignee and Borrower will be jointly and severally liable under the Note and all other Loan Documents.
5. **Acknowledgement of Conveyance.**
 - (a) Lender acknowledges that, in accordance with Section 14 of the Mortgage, Borrower's transfer of the Property to Assignee does not constitute a default under the Mortgage.
 - (b) Borrower and Assignee agree that Lender's acknowledgement of the transfer of the Property not constitute a waiver of the provisions of Section 14 of the Mortgage and that, upon closing of the transfer of the Property to Assignee, all further sales, conveyances, encumbrances and transfers of the Property will be subject to Section 14 of the Mortgage.
6. **Notice to Assignee.** Assignee requests that all notices under the Loan Documents be given to the address indicated by its signature to this Agreement.
7. **Assignee's Tax Identification.** Assignee certifies to Lender that its federal tax identification number is as set forth below its signature to this Agreement.
8. **Attorneys' Fees.** If any suit or action is brought to enforce or interpret the terms of this Agreement, the losing party will pay the prevailing party's costs and expenses, including reasonable attorneys' fees, incurred in such suit or action. Such fees may include, without limitation, attorneys' fees incurred at or in preparation for any trial, appeal or review or in any bankruptcy proceeding.

21063755

UNOFFICIAL COPY

9. **Financing Statements.** Assignee authorizes Lender to file one or more UCC-1 financing statements covering fixtures and personal property collateral related to the Property and covered by the security agreement contained in the Mortgage, without signature of Assignee where permitted by law, and Assignee confirms that it grants Lender a security interest in all fixtures and personal property collateral described in the Loan Documents.

10. **Lender's Expenses.** Borrower agrees to pay all of Lender's legal and administrative expenses in connection with this transfer and Agreement.

11. **Miscellaneous.**

- (a) Each person included within Borrower and Assignee warrants to Lender that it has full right, power and authority to enter into this Agreement and to perform all its obligations, and that all information and materials submitted to Lender in connection with the request for this modification contain no material misstatement or misrepresentation nor omit to state any material fact or circumstance.
- (b) This Agreement constitutes the entire agreement among the parties with respect to the assumption of the Loan and may not be amended, modified or terminated except by a writing signed by the party to be charged therewith.
- (c) Except as provided in this Agreement, the terms of the Loan Documents remain in full effect and are ratified. This Agreement is not intended to and may not be construed to impair the validity, priority or enforceability of the Mortgage or the other Loan Documents.
- (d) This Agreement is binding upon and inures to the benefit of the parties and their respective heirs, personal representatives, successors and assigns.
- (e) This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute but one instrument.
- (f) This Agreement will be governed by and construed in accordance with the laws of the State of Illinois.
- (g) Assignee affirms and makes to Lender all representations and warranties set forth in the Loan Documents, and further represents and warrants to Lender that as of the Effective Date, no Default exists under the Loan Documents, and Assignee is in full compliance with all of Assignee's obligations under the Loan Documents.
- (h) The Recitals to this Agreement are incorporated into this Agreement by this reference as fully and with the same force and effect as if repeated at length.

UNOFFICIAL COPY

- (i) Borrower and Assignee hereby consent to the jurisdiction of either the Circuit Court of Cook County, Illinois, or the United States District Court for the Northern District of Illinois, Eastern Division, in any action, suit or proceeding which Lender may at any time wish to file in connection with this Agreement or any other Loan Document. Borrower and Assignee hereby agree that an action, suit or proceeding to enforce this Agreement or any other Loan Document may be brought in any State or Federal Court located in the County of Cook, State of Illinois and hereby waive any objection which they may have to the laying of the venue of any such action, suit or proceeding in any such Court; provided, however, that the provisions of this paragraph will not be deemed to preclude Lender from filing any such action, suit or proceeding in any other appropriate forum.

(i) THE PARTIES HERETO ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL RIGHT, BUT THAT THIS RIGHT MAY BE WAIVED. LENDER, BORROWER AND ASSIGNEE EACH HEREBY KNOWINGLY, VOLUNTARILY AND WITHOUT COERCION, WAIVE ALL RIGHTS TO A TRIAL BY JURY OF ALL DISPUTES ARISING OUT OF OR IN RELATION TO THIS AGREEMENT OR ANY OTHER AGREEMENTS BETWEEN THE PARTIES. NO PARTY WILL BE DEEMED TO HAVE RELINQUISHED THE BENEFIT OF THIS WAIVER OF JURY TRIAL UNLESS SUCH RELINQUISHMENT IS IN A WRITTEN INSTRUMENT SIGNED BY THE PARTY TO WHICH SUCH RELINQUISHMENT WILL BE CHARGED.

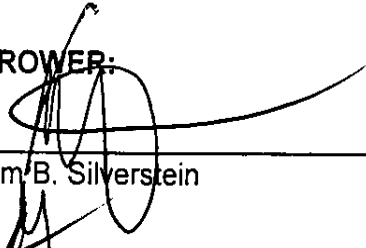
[SIGNATURE PAGE FOLLOWS]

21063755

UNOFFICIAL COPY

The parties have executed this Loan Assumption Agreement as of the Effective Date.

BORROWER:




William B. Silverstein


Thomas B. Silverstein

ASSIGNEE:

GLENCOE PARK, LLC,
an Illinois limited liability company

By: 

Name: Thomas B. Silverstein
Its: Manager

By: 

Name: William B. Silverstein
Its: Manager

Address:
2320 North Damen Avenue

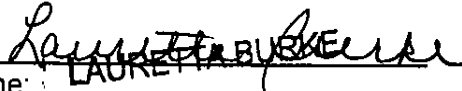
Suite 1D

Chicago, IL 60647

FEIN: 30-0098164

LENDER:

NORTH SHORE COMMUNITY BANK & TRUST
CO.

By: 

Name: LAURRETTA BURKE

Title: Sr VP

Property of Cook County Clerk's Office

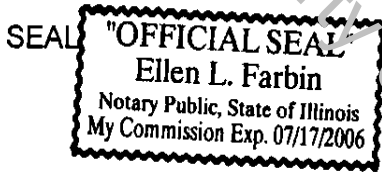
21063755

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that THOMAS B. SILVERSTEIN, WILLIAM B. SILVERSTEIN of Glencoe Park, LLC, an Illinois limited liability company, personally known to be to be the same person whose name is subscribed to the foregoing instrument as such MANAGERS, appeared before me this day in person and acknowledged that he signed and delivered such instrument as his own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this 1st day of September, 2002.



Ellen L. Farbin
Notary Public

Property of Cook County Clerk's Office

21083755

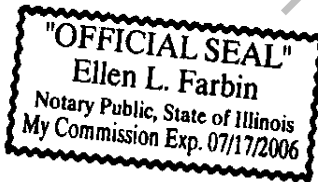
UNOFFICIAL COPY

STATE OF ILLINOIS)
)
COUNTY OF Cook) SS

I, ELLEN L. FARBIN, a Notary Public in and for said County, in the State aforesaid, do hereby certify that William B. Silverstein and Thomas B. Silverstein, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 1st day of ~~August~~ ^{September}, 2002.

SEAL



Ellen L. Farbin
Notary Public

Property of Cook County Clerk's Office

21063755

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that LAURETTA BURKE a SENIOR VICE PRESIDENT of North Shore Community Bank & Trust Co., who is personally known to me to be the same person whose name is described to the foregoing instrument appeared before me in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 16 day of ~~August~~ September, 2002.

SEAL



Patricia L. Witty
Notary Public

County Clerk's Office

21063755

UNOFFICIAL COPY

EXHIBIT A

Legal Description

LOTS 13, 14, 15, 16, 17, 18 AND 19 IN LIGARE'S SUBDIVISION OF PART OF BLOCK 20 IN GLENCOE, BEING A SUBDIVISION OF PART OF SECTION 7, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 05-07-200-038
05-07-200-039

Address: 337-353 Park Street
338-350 Tudor Court
Glencoe, Illinois 60022

Property of Cook County Clerk's Office

210683755