

# UNOFFICIAL COPY



0323145149

Eugene "Gene" Moore Fee: \$30.00  
Cook County Recorder of Deeds  
Date: 08/19/2003 02:30 PM Pa: 1 of 4

## ASSIGNMENT AND ASSUMPTION AGREEMENT

This **ASSIGNMENT AND ASSUMPTION AGREEMENT** (hereinafter referred to as the "Agreement") made and entered into as of the 1<sup>ST</sup> day of AUGUST, 2003, by and among **MARCELLA M. MOORE**, as

Trustee of the Marcella M. Moore Living Trust Agreement dated January 29, 1993 (hereinafter referred to as the "Lender"), **ALBERT F. MOORE, JR.** as Trustee of the Albert F. Moore, Jr. Living Trust Agreement dated September 29, 1995 (hereinafter referred to as "Borrower"), and **INGRID J. MOORE**, as Trustee of the Ingrid J. Moore Living Trust Agreement dated September 29, 1995 (hereinafter referred to as "Original Borrower").

### RECITALS:

A. Lender is the holder and owner of the following documents (hereinafter sometimes collectively referred to as the "Loan Documents"):

1. Second Mortgage Note dated February 26, 1998, in the original principal face amount of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) executed and delivered by Original Borrower (hereinafter referred to as the "Note"), and
2. Second Mortgage given by Original Borrower as "Mortgagor" to Lender as "Mortgagee" dated February 26, 1998 (hereinafter referred to as the "Mortgage"), Mortgage encumbers the real property as described in Exhibit 'A', attached hereto and made a part hereof (hereinafter referred to as the "Property").

B. Original Borrower is desirous of conveying the Property encumbered by the Mortgage to Borrower.

C. Borrower desires to receive said Property and formally assume the Mortgage and perform all of the covenants and conditions contained in the Note, the Mortgage and all other Loan Documents as partial consideration for its acquisition of the Property and as consideration for the Lender's willingness to consent to the transfer of the Property which is encumbered by the Loan Documents.

D. The Mortgage expressly prohibits the conveyance of the Property without the express written consent of the Lender.

E. Lender is unwilling to consent to the transfer of the Property to the Borrower unless the Borrower shall assume all of the obligations heretofore imposed by the Loan Documents upon the Original Borrower.

# UNOFFICIAL COPY

**NOW, THEREFORE**, for and in consideration of the sum of TEN DOLLARS (\$10.00) and in consideration of the premises and of the mutual covenants contained herein, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereto agree as follows:

1. Assignment and Assumption. Original Borrower assigns all covenants, conditions, duties and obligations under the Loan Document to Borrower and Borrower expressly assumes the Loan Documents and agrees to perform all covenants, conditions, duties and obligations contained therein and agrees to pay the Note and the obligations evidenced thereby in a prompt and timely manner in accordance with the terms thereof.
2. Consent to Conveyance. Lender hereby consents to the transfer of the Property to the Borrower.
3. Warranties and Representations. Borrower affirms, warrants, represents and covenants that Borrower has no defenses nor rights of set-off against Lender or against the payment, collection or enforcement of the indebtedness evidenced by the Note and secured by the Mortgage and owed to Lender. Borrower further warrants and represents as follows:
  - (a) Borrower has done no acts nor omitted to do any act which might prevent Lender from, or limit Lender in, acting upon or under any of the provisions herein, in the Mortgage, in the Note or any other Loan Documents;
  - (b) Borrower is not prohibited under any other agreement with any other person or any judgment or decree, from the execution and delivery of this Agreement, the performance of each and every covenant hereunder or under the Mortgage, Note or any other Loan Documents;
  - (c) No action has been brought or threatened which would in any way interfere with the right of Borrower to execute this Agreement and perform all of Borrower's obligations contained herein, in the Note, in the Mortgage, or in any other Loan Document;
  - (d) All financial statements of Borrower, if any, are true and correct in all respects, fairly present the respective financial conditions of the subjects thereof, as of the respective dates thereof and no material adverse change has occurred that would affect Borrower's ability to repay the indebtedness evidenced by the Note and secured by the Mortgage;
  - (e) Borrower is duly formed, validly existing and in good standing under the laws of the State of Illinois and has full power and authority to consummate the transactions contemplated under this Agreement.

# UNOFFICIAL COPY

4. Acknowledgments. Borrower acknowledges that:

(a) The Loan Documents are in full force and effect; and,

(b) The principal balance of the loan as represented by the aforesaid Note as of the date of this Agreement is \* ↓ DOLLARS (\$ 296,047.<sup>17</sup> ) and principal and interest are unconditionally due and owing to the Lender as provided in the Note.

\* *TWO HUNDRED NINETY SIX THOUSAND FORTY SEVEN AND 17/100 DOLLARS*

5. Costs. Borrower shall pay all costs of the assumption made hereby, to include without limitation, attorneys' fees and recording costs. In the event that it is determined that additional costs relating to this transaction are due, Borrower agrees to pay such costs immediately upon demand.

6. Release of Original Borrower. Lender waives any and all causes of action, claims and other demands of any kind or character which it may presently have against Original Borrower, under the Mortgage, Note and all other Loan documents, and forever releases and discharges Original Borrower from any and all claims, liabilities and obligations, owing or claimed to be owing as of the date of the Agreement under the Mortgage, Note and all other Loan Documents.

7. Recordation. The recording of this Agreement on the public records may evidence the closing of the transaction described herein.

8. Paragraph Headings. The paragraph headings used herein are for convenience of reference only and shall not be used in the construction hereof.

9. Governing Law. This Agreement shall be governed, interpreted and construed by, through and under the laws of the State of Illinois.

10. Time of the Essence. Time is of the essence of this Agreement.

11. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto as well as their successors and assigns, heirs and personal representatives.

# UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first set forth above.

**LENDER:**

*Marcella M. Moore*  
 \_\_\_\_\_  
**MARCELLA M. MOORE**, as Trustee of the  
 Marcella M. Moore Living Trust Agreement dated January 29, 1993

**BORROWER:**

*Albert F. Moore, Jr.*  
 \_\_\_\_\_  
**ALBERT F. MOORE, JR.**, as Trustee of the  
 Albert F. Moore, Jr. Living Trust Agreement dated September 29, 1995

**ORIGINAL BORROWER:**

*Ingrid J. Moore*  
 \_\_\_\_\_  
**INGRID J. MOORE**, as Trustee of the  
 Ingrid J. Moore Living Trust Agreement as dated September 29, 1995

STATE OF ILLINOIS       )  
   ) SS  
 COUNTY OF COOK       )

The foregoing instrument was acknowledged before me this 1<sup>ST</sup> day of AUGUST, 2003, by Mary Ronchetti, Notary Public.

*Mary Ronchetti*  
 \_\_\_\_\_  
**NOTARY PUBLIC**



This instrument was prepared by Lewis M. Schneider, Esq., One South Wacker Drive, Suite 2500, Chicago, Illinois 60606.

Return to: Box 239.

N:\genprac\sryan\moore.al\Assumption.A02