

UNOFFICIAL COPY

THIS INSTRUMENT PREPARED BY:

Bruce A. Salk
Cohen, Salk & Huvard, P.C.
630 Dundee Road, Suite 120
Northbrook, Illinois 60062

AND AFTER RECORDING MAIL TO:

Oxford Bank & Trust
1100 West Lake Street
Addison, Illinois 60101
Attn: Steve Frank



Doc#: 0407701433
Eugene "Gene" Moore Fee: \$34.00
Cook County Recorder of Deeds
Date: 03/17/2004 02:00 PM Pg: 1 of 6

ASSUMPTION AND MODIFICATION AGREEMENT

81 68 337024
THIS ASSUMPTION AND MODIFICATION AGREEMENT (hereinafter referred to as this "Assumption Agreement") made as of this 15 day of February, 2004, by and among JAMES SHIN and SUSAN SHIN (collectively, the "Obligors") and OXFORD BANK & TRUST ("Lender").

WITNESSETH:

WHEREAS, on September 26, 2003, NORTH STAR TRUST COMPANY, not individually, but as Trustee under Trust Agreement dated September 15, 2003, and known as Trust No. 03-6435 (the "North Star Trustee") executed and delivered to Lender that certain mortgage note dated September 26, 2003 in the original principal sum of Seven Hundred Forty Thousand and 00/100 (\$740,000.00) Dollars (the "Note"), which Note is secured by the following documents (the following documents and any and all other instruments executed by any Obligor are hereinafter collectively referred to as the "Loan Documents"):

- (i) mortgage and security agreement dated September 26, 2003 made by North Star Trustee, recorded in the Office of the Recorder of Deeds of Cook County, Illinois (the "Recorder's Office"), as Document No. 0334633192 (the "Mortgage") on property commonly known as 611 North Milwaukee Avenue, Glenview, Illinois and legally described on Exhibit "A" attached hereto and made a part hereof (the "Premises");
- (ii) assignment of rents and of lessor's interest in leases dated September 26, 2003 encumbering the Premises made by North Star Trustee and North Star Realty Services, LLC, an Illinois limited liability company (the "Beneficiary"), in favor of Lender, recorded in the Recorder's Office as Document No. 0334633193 (the "Assignment of Rents");
- (iii) collateral assignment of beneficial interest in land trust and security agreement dated September 26, 2003 made by Beneficiary in favor of Lender;
- (iii) guaranty dated September 26, 2003 made by Obligors in favor of Lender; and
- (iv) environmental indemnity agreement dated September 26, 2003 made by Obligors in favor of Lender.

WHEREAS, at the direction of the Beneficiary the North Star Trustee has conveyed the Premises to the Obligors; and

UNOFFICIAL COPY

WHEREAS, the Obligors have requested that Lender consent to the assumption of the Note, the Mortgage, and the Assignment of Rents by the Obligors; and

WHEREAS, Lender has consented to such requests, provided the parties hereto execute and deliver this Assumption Agreement to Lender;

NOW THEREFORE, in consideration of the mutual promises of the parties hereto, and upon the express conditions that the lien of the Mortgage held by Lender is a valid, first and subsisting lien on the Premises (as defined in the Mortgage) and that the execution of this Assumption Agreement will not impair the lien of said Mortgage and that there is no existing second mortgage or other liens subsequent to the lien of the Mortgage held by Lender that will not be paid in full and released concurrently herewith (for breach of which conditions, or either of them, this Assumption Agreement shall not take effect and shall be void), **IT IS AGREED AS FOLLOWS:**

1. The parties represent and agree that the foregoing recitals are true and correct.
2. Obligors hereby assume all of the indebtedness, liabilities, and obligations of the North Star Trustee under the Note, the Mortgage and the Assignment of Rents, as if the Obligors were the original makers or grantors of such documents, and covenant and agree to pay, perform and observe all of the indebtedness, liabilities, and obligations (including, without limitation, all covenants, agreements and undertakings) of the North Star Trustee under the Note, Mortgage and Assignment of Rents. All references in the Note and the Loan Documents to the North Star Trustee shall hereafter mean the Obligors.
3. Except for the modifications stated herein, the Note, the Mortgage, the Assignment of Rents and the other Loan Documents are not otherwise changed, modified or amended.
4. Contemporaneously with the execution of this Assumption Agreement by Lender, Obligors shall pay to Lender all of Lender's attorneys' fees incurred in connection with the negotiation and documentation of the agreements contained in this Assumption Agreement, all recording fees and charges, title insurance charges and premiums, appraisal fees, and all other expenses, charges, costs and fees necessitated by or otherwise relating to this Assumption Agreement (the "Additional Fees"). If any of the Additional Fees are not paid at the time this Assumption Agreement is executed by Lender, such Additional Fees shall be paid by Obligors within five days after written demand therefor by Lender, and if not timely paid, they shall bear interest from the date so incurred until paid at an annual rate equal to the Default Rate (as defined in the Note).
5. The Premises described in the Mortgage shall remain in all events subject to the lien, charge or encumbrance of the Mortgage, and nothing herein contained, and nothing done pursuant hereto, shall affect or be construed to affect the lien, charge or encumbrance of the Mortgage, or the priority thereof over any other liens, charges, or encumbrances or conveyances, or, except as expressly provided herein, to release or affect the liability of any party or parties whomsoever may now or hereafter be liable under or on account of the Note, the Mortgage and/or the Assignment of Rents, nor shall anything herein contained or done in pursuance thereof affect or be construed to affect any other security or instrument, if any, held by Lender as security for or evidence of the aforesaid indebtedness.

UNOFFICIAL COPY

6. The Obligors hereby ratify and confirm their respective obligations and liabilities under the Note, the Mortgage, the Assignment of Rents and the other Loan Documents, as hereby assumed and modified, and the liens and security interest created thereby, and acknowledge that they have no defenses, claims or set-offs against the enforcement by Lender of the respective obligations and liabilities of the Obligors under the Loan Documents, as so assumed and modified.

7. This Assumption Agreement shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois, including all matters of construction, validity and performance.

8. This Assumption Agreement constitutes the entire agreement between the parties with respect to the aforesaid modification and shall not be amended or modified in any way except by a document in writing executed by all of the parties thereto.

9. This Assumption Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be one agreement.

10. This Assumption Agreement shall extend to and be binding upon the parties hereto, their heirs, personal representatives, successors and assigns.

11. Lender's consent to this Assumption Agreement shall be subject to Lender (or Lender's nominee) having received the following in a form and substance acceptable to Lender on or before March 31, 2004 (the "Modification Termination Date"):

(a) An endorsement to Chicago Title Insurance Company Loan Policy No. 1401 008168337 D2 (the "Title Policy") which (i) amends the description of the Mortgage insured under the Title Policy to include this Assumption Agreement, (ii) amends the description of the Assignment of Rents to include this Assumption Agreement, (iii) extends the effective date of the Title Policy to the date of the recording of this Assumption Agreement, (iv) includes no additional exceptions to title other than those that have been approved in writing by Lender, (v) states that all real estate taxes and assessments applicable to the Premises which are due and payable as of the date of such endorsement have been paid in full, and (vi) states that title to the Premises is vested in the Obligors; and

(b) Such other documents as Lender may reasonably require.

The Obligors' failure to deliver the aforementioned documents and items to Lender on or before the Modification Termination Date shall, at the option of Lender, result in this Assumption Agreement (including all agreements and waivers of Lender contained herein) being null and void.

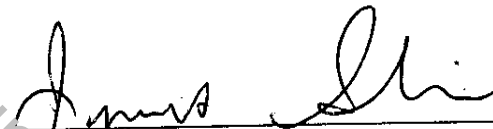
12. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS ASSUMPTION AGREEMENT SHALL BE TRIED AND DETERMINED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, OR, AT THE SOLE OPTION OF LENDER IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE

UNOFFICIAL COPY


DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS ASSUMPTION AGREEMENT, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF OBLIGORS AND LENDER WITH RESPECT TO THIS ASSUMPTION AGREEMENT, OR THE TRANSACTION RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY AGREE THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT ANY OBLIGOR OR LENDER MAY FILE A COPY OF THIS EXECUTED ASSUMPTION AGREEMENT WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF EACH OBLIGOR AND LENDER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

IN WITNESS WHEREOF, the undersigned have caused this Assumption Agreement to be executed as of the date first above written.

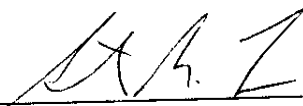


JAMES SHIN



SUSAN SHIN

OXFORD BANK & TRUST

By: 

Its: Vice President

UNOFFICIAL COPY

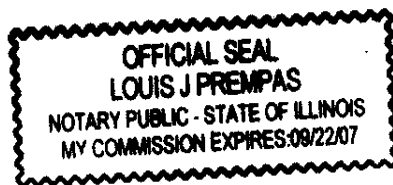
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that JAMES SHIN and SUSAN SHIN, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, personally appeared before me this day and of their own free will, subscribed their names to the foregoing instrument for the uses and purposes therein contained.

Given under my hand and notarial seal this 2nd day of March, 2004.

Louis J Prempas
Notary Public

My Commission Expires: _____



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 STEVE FRANK of OXFORD BANK & TRUST, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice 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 bank, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 11th day of March, 2004.



Angela L. Cook
Notary Public

My Commission Expires: 6-19-07

UNOFFICIAL COPY

STREET ADDRESS: 611 N MILWAUKEE AVENUE

CITY: GLENVIEW

COUNTY: COOK

TAX NUMBER: 04-33-302-088-0000

LEGAL DESCRIPTION:**PARCEL ONE:**

ALL THAT PART OF LOTS 12 AND 13 IN MILLER'S ADDITION TO GLENVIEW COUNTRYSIDE, BEING A SUBDIVISION OF PARTS OF SECTION 32 & 33 IN TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE TPM IN COOK COUNTY, IL THAT IS DESCRIBED AS FOLLOWS: BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT 12, THENCE NORTHWESTERLY ALONG THE WESTERLY LINE OF SAID LOT 12, A DISTANCE OF 57.50 FEET; THENCE NORTHEASTERLY IN A STRAIGHT LINE AND PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 12, A DISTANCE OF 175.00 FEET, THENCE SOUTHEASTERLY IN A STRAIGHT LINE AND PARALLEL WITH THE WESTERLY LINE OF SAID LOT 12, A DISTANCE OF 57.50 FEET TO A POINT IN SAID SOUTHERLY LINE OF SAID LOT 12, SAID POINT BEING 175.00 FEET NORTHEASTERLY OF THE SOUTHERLY MOST CORNER OF SAID LOT 12, AS MEASURED ALONG SAID SOUTHERLY LINE OF SAID LOT 12, THENCE EASTERLY IN A STRAIGHT LINE A DISTANCE OF 55.32 FEET TO A POINT IN A LINE 143.94 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID LOTS 12 AND 13, SAID POINT ALSO BEING 182.10 FEET SOUTH OF THE INTERSECTION OF THE NORTHWESTERLY LINE OF SAID LOT 12 WITH THE NORTH LINE OF SAID LOT 12 AS MEASURED ALONG SAID PARALLEL LINE; THENCE CONTINUING EASTERLY IN A STRAIGHT LINE A DISTANCE OF 144.02 FEET TO A POINT IN THE EASTERLY LINE OF SAID LOT 13, SAID POINT BEING 63.00 FEET NORTH OF THE SOUTH EAST CORNER OF SAID LOT 13 AS MEASURED ALONG SAID EAST LINE OF LOT 13, THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 13, A DISTANCE OF 63.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 13, THENCE SOUTHWESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 13, A DISTANCE OF 305.62 FEET TO THE SOUTHWEST CORNER OF SAID LOT 13, THENCE NORTHWESTERLY ALONG THE WESTERLY LINE OF SAID LOT 13 A DISTANCE OF 180.12 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

ALL THAT PART OF LOTS 12 & 13 IN MILLER'S ADDITION TO GLENVIEW COUNTRYSIDE BEING A SUBDIVISION OF PARTS OF SECTION 32 & 33 IN TOWNSHIP 42 NORTH RANGE 12 EAST OF THE TPM IN COOK COUNTY, IL DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF LOT 12 WITH THE NORTHWESTERLY LINE OF SAID LOT 12, THENCE SOUTH 182.10 FEET ALONG A STRAIGHT LINE PARALLEL WITH THE EAST LINE OF SAID LOTS 12 & 13, THENCE WESTERLY 18.95 FEET ALONG A LINE WHEN EXTENDED WESTERLY WOULD INTERSECT IN THE NORTHWESTERLY LINE OF SAID LOT 13 AT A POINT 175.00 FEET NORTHEASTERLY OF THE NORTHWEST CORNER OF SAID LOT 13, AS MEASURED ALONG SAID NORTHWESTERLY LINE OF SAID LOT 13 TO THE POINT OF BEGINNING, THENCE CONTINUING WESTERLY A DISTANCE OF 36.37 FEET TO A POINT IN THE NORTHWESTERLY LINE OF SAID LOT 13, 175.00 FEET NORTHEASTERLY OF THE NORTHWEST CORNER OF SAID LOT 13, AS MEASURED ALONG SAID NORTHWESTERLY LINE OF SAID LOT 13, THENCE NORTHWESTERLY IN A STRAIGHT LINE PARALLEL WITH THE SOUTHWESTERLY LINE OF SAID LOT 12 A DISTANCE OF 57.50 FEET, SAID POINT BEING 175.00 FEET NORTHEASTERLY OF THE WESTERLY LINE OF SAID LOT 12, AS MEASURED SOUTHWESTERLY ALONG A LINE WHICH IS PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 12, SAID LINE'S INTERSECTION WITH THE SOUTHWESTERLY LINE OF SAID LOT 12 IS 57.50 FEET NORTHWESTERLY OF THE SOUTHERLY MOST CORNER OF SAID LOT 12, AS MEASURED ALONG THE SOUTHWESTERLY LINE OF SAID LOT 12, THENCE NORTHEASTERLY IN A STRAIGHT LINE PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 12 A DISTANCE OF 30.00 FEET, THENCE SOUTHEASTERLY IN A STRAIGHT LINE PARALLEL WITH THE SOUTHWESTERLY LINE OF SAID LOTS 12 & 13 A DISTANCE OF 78.31 FEET TO THE POINT OF BEGINNING.