

# UNOFFICIAL COPY

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Doc#: 0511219117  
Eugene "Gene" Moore Fee: \$44.50  
Cook County Recorder of Deeds  
Date: 04/22/2005 03:24 PM Pg: 1 of 11

## **HYDE PARK BANK AND TRUST COMPANY ASSUMPTION AGREEMENT**

This Assumption Agreement ("Agreement") is dated as of this 19th day of April 2005 and is made by and between 320 W. Evergreen L.L.C., an Illinois limited liability company ("Evergreen"), 1359 S. Kildare L.L.C., an Illinois limited liability company ("Kildare") and Hyde Park Bank and Trust Company ("Bank").

### **UNDERSTANDINGS**

A. Bank is the holder of that certain Promissory Note dated October 13, 2004 executed by Kildare made payable to Bank in the principal amount of \$1,472,000.00 ("Note").

B. The Note is secured by (i) that certain Mortgage executed by Kildare dated October 13, 2004 and recorded with the Cook County Illinois Recorder on October 19, 2004 as Document Number 0429318027 ("Mortgage") encumbering the premises legally described on Exhibit A attached hereto ("Premises"); and (ii) that certain Assignment of Rents executed by Kildare in favor of Bank dated October 13, 2004 and recorded October 19, 2004 with the Cook County Illinois Recorder of Deeds as Document Number 0429318028 ("Assignment") encumbering the Premises.

C. Kildare wishes to transfer title the Premises to Evergreen and Evergreen is willing to accept ownership of the Premises subject to the Note, Mortgage and Assignment and Evergreen is willing to assume all of the obligations, responsibilities and liabilities of Kildare under the Note, Mortgage and Assignment.

D. Bank is willing to consent to the transfer of the Premises from Kildare to Evergreen so long as all of the following conditions occur (i) Evergreen assumes all of the obligations, debts, responsibilities and liabilities of Kildare under the Note, Mortgage and

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Assignment; and (ii) Marc Devereux, Liviu Dutca, Clayton Root and Mitchell Squire (hereinafter individually and collectively referred to as "Guarantor" unless otherwise specifically identified herein) execute a written consent to this Assumption Agreement and to Evergreen's assumption of all of the obligations, responsibilities and liabilities of Kildare under the Note, Mortgage and Assignment and execute personal commercial guaranties in form and substance acceptable to the Bank guarantying the payment of all obligations, responsibilities and liabilities of Evergreen to the Bank.

NOW THEREFORE, in consideration of the Understandings set forth above and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Evergreen, Kildare and Bank hereby agrees as follows:

1. The Understandings set forth above are incorporated herein by reference and made a part hereof as though fully set forth herein.

2. Evergreen hereby assumes (a) all indebtedness, obligations, indemnities, agreements, covenants, promises, undertakings and liabilities of Kildare under the Note, Mortgage and Assignment; and (b) the performance and observance of all of the representations, covenants, promises, undertakings, obligations, terms, indemnities and conditions contained in the Note, Mortgage and Assignment to be observed or performed by Kildare.

3. Evergreen agrees to be liable for the performance, observance and obligations of such representations, covenants, promises, undertakings, obligations, terms, indemnities and conditions contained in the Note, Mortgage and Assignment all to the same extent as would be the case had Evergreen executed the Note, Mortgage and Assignment, including but not limited to payment to the Bank of (i) the outstanding principal balance due and payable under the Note and interest on the outstanding principal balance of the Note remaining from time to time unpaid at the per annum interest rates stated in the Note, payable in accordance with the payment terms of the Note including the payment in full of all principal and any accrued and unpaid interest upon the maturity of the Note; (ii) interest after default or maturity of the Note, whether by acceleration or otherwise, at the default rate of interest stated in the Note; and (iii) any and all other amounts due under the Note, Mortgage and Assignment.

4. The Guarantor shall execute a written consent to this Agreement and to Evergreen's assumption of all of the obligations, responsibilities and liabilities of Kildare under the Note, Mortgage and Assignment and shall execute personal Commercial Guaranties in form and substance acceptable to the Bank guarantying the payment of all obligations, responsibilities and liabilities of Evergreen to the Bank. It is understood that this Agreement, the Consent Agreement dated April 19, 2005 ("Consent Agreement") and the personal Commercial Guaranty of Mitchell Squire shall be executed by Marc Devereux, attorney in fact, under a Power of Attorney dated March 31, 2005 since Mitchell Squire is presently out of the country. It is agreed that Mitchell Squire shall personally execute the Consent Agreement and a personal Commercial Guaranty within sixty (60) days after the date of this Agreement. The failure of Mitchell Squire within sixty (60) days of the date hereof to personally execute the Consent Agreement and a

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personal Commercial Guaranty in form and substance acceptable to the Bank shall be an event of default under the Note, Mortgage and Assignment.

5. Bank consents to the transfer of the ownership of the Premises from Kildare to Evergreen subject to the terms of this Assumption Agreement.

6. Bank and Evergreen agree that Evergreen is hereby substituted for Kildare under the Note, Mortgage and Assignment and Kildare shall, upon recording of the Agreement be discharged.

7. Evergreen agrees to execute and deliver to Bank any and all other instruments, documents and agreements necessary to consummate the transactions contemplated by this Agreement or required by the Bank.

8. Except as expressly set forth herein, all covenants, agreements, terms and provisions contained in the Note, Mortgage and Assignment shall remain unchanged and in full force and effect.

9. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and upon their respective heirs, estates, legal representatives, successors and assigns.

10. This Agreement has been delivered in Chicago, Illinois and shall be construed in accordance with and governed by the internal laws of the State of Illinois without regards to conflict of law rules. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.

11. This Agreement constitutes the entire agreement between the parties and supercedes all prior agreements whether written or oral. Evergreen expressly acknowledges that no representations or warranties of any nature or kind were made by the Bank to Evergreen.

12. This Agreement made be executed in counterparts each of which shall be deemed an original, but all of which together shall constitute but one in the same instrument.

IN WITNESS WHEREOF, the parties hereto have execute this Agreement as of the day and year set forth above.

320 W. EVERGREEN L.L.C.,  
an Illinois limited liability company

By: 

Marc Devereux, Member

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By: [Signature]  
Liyu Dutca, Member

By: [Signature]  
Clayton Root, Member

[Signature] Squire, Member by  
Marc Devereux, Attorney in Fact  
under Power of Attorney 3/31/05  
Mitchell Squire, Member by  
Marc Devereux, Attorney in Fact under Power of  
Attorney dated March 31, 2005

1359 S. KILDARE L.L.C.,  
an Illinois limited liability company

By: [Signature]  
Marc Devereux, Member

By: [Signature]  
Liyu Dutca, Member

By: [Signature]  
Clayton Root, Member

[Signature] Squire, Member by Marc  
Devereux, Attorney in Fact under  
Power of Attorney dated March  
Mitchell Squire, Member by 31,05  
Marc Devereux, Attorney in Fact under Power of  
Attorney dated March 31, 2005

HYDE PARK BANK AND TRUST COMPANY

By: \_\_\_\_\_  
Its:

This instrument was prepared by  
and should be returned to:

Paul J. Richter  
Kelly, Olson, Michod, DeHaan, & Richter, L.L.C.  
30 South Wacker Drive  
Suite 2300  
Chicago, Illinois 60606  
(312) 236-6700

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By: \_\_\_\_\_  
Liviu Dutca, Member

By: \_\_\_\_\_  
Clayton Root, Member

\_\_\_\_\_  
\_\_\_\_\_

Mitchell Squire, Member by  
Marc Devereux, Attorney in Fact under Power of  
Attorney dated March 31, 2005

1359 S. KILDARE L.L.C.,  
an Illinois limited liability company

By: \_\_\_\_\_  
Marc Devereux, Member

By: \_\_\_\_\_  
Liviu Dutca, Member

By: \_\_\_\_\_  
Clayton Root, Member

\_\_\_\_\_  
\_\_\_\_\_

Mitchell Squire, Member by  
Marc Devereux, Attorney in Fact under Power of  
Attorney dated March 31, 2005

HYDE PARK BANK AND TRUST COMPANY

By: *Michael Utters*  
Its: *VICE PRESIDENT*

This instrument was prepared by  
and should be returned to:

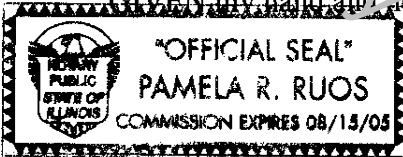
Paul J. Richter  
Kelly, Olson, Michod, DeHaan, & Richter, L.L.C.  
30 South Wacker Drive  
Suite 2300  
Chicago, Illinois 60606  
(312) 236-6700

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STATE OF ILLINOIS )  
  ) SS.  
COUNTY OF COOK )

I, PAMELA R. RUOS a Notary Public in and for the County and State aforesaid, do hereby certify that Marc Devereux personally known to me to be the same person whose name is as Member of 320 W. Evergreen, L.L.C., an Illinois limited liability company subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he, being thereunto duly authorized, signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

GIVEN my hand and notary seal this 19<sup>th</sup> day of April, 2005



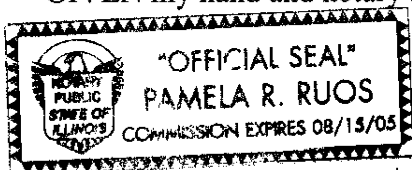
Pamela R. Ruos  
Notary Public

My commission expires: 8/15/05

STATE OF ILLINOIS )  
  ) SS.  
COUNTY OF COOK )

I, PAMELA R. RUOS a Notary Public in and for the County and State aforesaid, do hereby certify that Liviu Dutca personally known to me to be the same person whose name is as Member of 320 W. Evergreen, L.L.C., an Illinois limited liability company subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he, being thereunto duly authorized, signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

GIVEN my hand and notary seal this 19<sup>th</sup> day of April, 2005



Pamela R. Ruos  
Notary Public

My commission expires: 8/15/05

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STATE OF ILLINOIS )

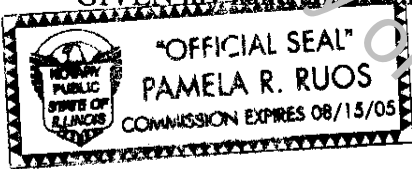
) SS.

COUNTY OF COOK )

I, PAMELA R. RUOS a Notary Public in and for the

County and State aforesaid, do hereby certify that Clayton Root personally known to me to be the same person whose name is as Member of 320 W. Evergreen, L.L.C., an Illinois limited liability company subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he, being thereunto duly authorized, signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

GIVEN my hand and notary seal this 19<sup>th</sup> day of April, 2005



Pamela R. Ruos  
Notary Public

My commission expires: 8/15/05

STATE OF ILLINOIS )

) SS.

COUNTY OF COOK )

I, PAMELA R. RUOS a Notary Public in and for the

County and State aforesaid, do hereby certify that Marc Devereux as Attorney in Fact for Mitchell Squire under Power of Attorney dated March 31, 2005 personally known to me to be the same person whose name is as Member of 320 W. Evergreen, L.L.C., an Illinois limited liability company subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he, being thereunto duly authorized, signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

GIVEN my hand and notary seal this 19<sup>th</sup> day of April, 2005



Pamela R. Ruos  
Notary Public

My commission expires: 8/15/05

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STATE OF ILLINOIS )  
) SS.  
COUNTY OF COOK )

I, PAMELA R. RUOS a Notary Public in and for the County and State aforesaid, do hereby certify that Marc Devereux personally known to me to be the same person whose name is as Member of 1359 S. Kildare L.L.C., an Illinois limited liability company subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he, being thereunto duly authorized, signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

GIVEN my hand and notary seal this 19<sup>th</sup> day of April, 2005



Pamela R. Ruos  
Notary Public

My commission expires: 8/15/05

STATE OF ILLINOIS )  
) SS.  
COUNTY OF COOK )

I, PAMELA R. RUOS a Notary Public in and for the County and State aforesaid, do hereby certify that Liviu Dutca personally known to me to be the same person whose name is as Member of 1359 S. Kildare L.L.C., an Illinois limited liability company subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he, being thereunto duly authorized, signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

GIVEN my hand and notary seal this 19<sup>th</sup> day of April, 2005



Pamela R. Ruos  
Notary Public

My commission expires: 8/15/05



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STATE OF ILLINOIS )  
 ) SS.  
 COUNTY OF COOK )

I, PAMELA R. RUOS a Notary Public in and for the County and State aforesaid, do hereby certify that Clayton Root personally known to me to be the same person whose name is as Member of 1359 S. Kildare L.L.C., an Illinois limited liability company subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he, being thereunto duly authorized, signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

GIVEN my hand and notary seal this 19<sup>th</sup> day of April, 2005



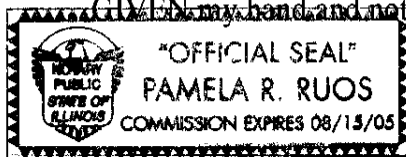
Pamela R. Ruos  
 Notary Public

My commission expires: 8/15/05

STATE OF ILLINOIS )  
 ) SS.  
 COUNTY OF COOK )

I, PAMELA R. RUOS a Notary Public in and for the County and State aforesaid, do hereby certify that Marc Devereux as Attorney in Fact for Mitchell Squire under Power of Attorney dated March 31, 2005 personally known to me to be the same person whose name is as Member of 1359 S. Kildare L.L.C., an Illinois limited liability company subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he, being thereunto duly authorized, signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

GIVEN my hand and notary seal this 19<sup>th</sup> day of April, 2005



Pamela R. Ruos  
 Notary Public

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My commission expires: ~~5-25-08~~

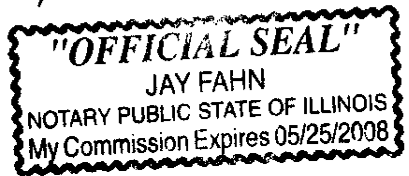
STATE OF ILLINOIS )  
  ) SS.  
COUNTY OF COOK )

I, Jay Fahn a Notary Public in and for the County and State aforesaid, do hereby certify that Michael Wittenback of Hyde Park Bank and Trust Company, an Illinois banking corporation, subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he, being thereunto duly authorized, signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN my hand and notary seal this 20<sup>th</sup> day of April, 2005

Jay Fahn  
Notary Public

My commission expires: 5-25-08



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## EXHIBIT A

UNITS G-S, 1-S, 2-S, 3-S, 4-S, 1-N, 2-N AND 3-N IN THE 320 W. EVERGREEN CONDOMINIUM AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE: LOT 14 IN OGDEN'S RESUBDIVISION OF BLOCKS 154, 155, 156, 157 AND PART OF BLOCK 158 IN BRONSON'S ADDITION TO CHICAGO IN SECTION 4, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS WHICH SURVEY IS ATTACHED AS EXHIBIT - TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT NUMBER ~, TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS, ALL IN COOK COUNTY, ILLINOIS.

P.I.N.: 17-04-212-044-0000  
17-04-212-045-0000

COMMON ADDRESS: 320 W. Evergreen Avenue  
Chicago, Illinois 60610