

UNOFFICIAL COPY

ASSUMPTION AND MODIFICATION AGREEMENT CONSENT OF GUARANTORS

92183903

This Agreement is entered into on this 1st day of July, 1991, by and between Hampton Mercury Investment Company II Limited Partnership, a Michigan limited partnership, of 27300 West Eleven Mile Road, Suite 806, Southfield, Michigan, (hereinafter referred to as "Borrower") and Michigan National Bank, a national banking association, of 300 River Place, Suite 6000, Detroit, Michigan 48207 (hereinafter referred to as "Bank").

WITNESSETH

WHEREAS, Borrower is indebted to Bank pursuant to a certain Loan and Financing Agreement dated April 28, 1986, as amended December 17, 1986, April 30, 1987, September 1, 1987 and June 1, 1988, between Borrower and Hampton Mercury Investment Company Limited Partnership, a Michigan limited partnership, as co-obligors and Bank.

WHEREAS, one of the loans (the "Loan") made pursuant to the Loan Agreement is evidenced by a Promissory Note (Term Loan) dated April 30, 1987, in the principal amount of One Million One Hundred Sixty-Six Thousand Eight Hundred Fifty-One and 49/100 (\$1,166,851.49) Dollars (the "Note") executed by Chicago Title and Trust Company, as Trustee under Trust No. 1087482, dated August 1, 1985 ("Assignor"); and

WHEREAS, Assignor is the present title holder under an Illinois land trust for the benefit of Borrower of certain real property located in the City of Orland Park, Cook County, Illinois, as more particularly described in exhibit "A" attached hereto (the "Property"); and

WHEREAS, the Property is encumbered by and subject to the lien of that certain mortgage and the collateral described as follows:

(a) a Mortgage and Security Agreement dated April 30, 1987 recorded on May 14, 1987 as Document No. 3616834 with the Registrar of Titles in Cook County, Illinois (the "Mortgage"); (b) by an Assignment of Lease and Rents dated April 30, 1987, and recorded on May 14, 1987 as Document No. 3616835 with the Registrar of Titles in Cook County, Illinois ("Assignment"); and (c) a financing statement recorded as Document No. 3616837 with the Registrar of Titles in Cook County, Illinois ("Financing Statement") (collectively the "Security Instruments");

WHEREAS, Borrower has notified Bank that it desires to terminate the land trust and the services of Assignor and to acquire legal title to the Property; and

70-76-225 D2, MEM

Property of Cook County Clerk's Office

92183903

3350

UNOFFICIAL COPY

WHEREAS, Borrower desires to assume all of the obligations of Assignor, if any, under the Note, the Security Instruments under all related documents and agreements (collectively sometimes hereinafter referred to as the "Loan Documents"); and

WHEREAS, said Loan has been guaranteed by guarantors shown below pursuant to their guaranty agreement dated April 30, 1987, and previously confirmed and ratified from time to time (the "Guaranty"); and

WHEREAS, Bank has agreed to permit the assignment of the Loan Documents to Borrower, subject to Borrower's assumption of the Note and other Loan Documents, and subject, however, to the modifications and agreements herein contained.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

1. Borrower agrees to assume the outstanding principal balance of the Note in the amount of \$1,091,738.37 as of December 31, 1990 (plus interest and expenses as described therein) and to perform all obligations of Assignor under the Note in accordance with its terms and any renewals, extensions and modifications (if any thereof), and all other obligations under the Loan Documents, subject to the terms and conditions of a certain Trustee's Deed ("Deed") and Direction to issue Trustee's Deed ("Direction") dated July 1st, 1991; provided, however, the terms and conditions of the Deed and the Assumption Rider shall not modify or amend the limited recourse obligations of the Borrower and Guarantors contained in the Guaranty and other Loan Documents.

2. Borrower agrees that the Loan Documents are hereby modified and amended wherever necessary to incorporate the following changes:

- (a) Borrower agrees to indemnify and hold Bank harmless from and against any claims of the Assignor for services rendered by the Assignor in its capacity as land trustee.
- (b) All references in the Loan Documents to Assignor are hereby deleted.

3. The Property shall remain subject to the lien, charge and encumbrance of the Security Instruments and nothing herein contained or done pursuant hereto shall affect or be construed

UNOFFICIAL COPY

to affect the lien, charge or encumbrance of said Mortgage or other Security Instruments or to release or affect the liability of any party or parties who may now or hereafter be liable under or on account of said Note, the Security Instruments or the Guaranty.

4. Borrower, to its knowledge, and in reliance on the title insurance date-down endorsements, expressly warrants and represents that the existing lien held by Bank is valid and subsisting and that no liens or encumbrances have arisen or been created against the Property subsequent to the execution of the Security Instruments. Execution of this Agreement by Bank shall not be construed as a waiver of any rights or options which Bank may have in the event of default of Borrower under the terms of the Loan Documents as renewed, modified and extended, nor as prohibiting further extensions and modifications.

5. This Agreement is subject to the following conditions precedent which shall be completed, in form and substance satisfactory to Bank, prior to this Agreement being effective:

- (a) Evidence that the Deed and Direction have been executed and delivered to or placed in escrow with a title insurance company, to be recorded upon completion of all conditions precedent hereto.
- (b) Receipt by Bank of an endorsement to its mortgage title insurance policy, which said endorsement will include the recorded Deed, said endorsement being effective as of the date of this Agreement, insuring the continuing priority of Bank's Mortgage to the date of said endorsement, subject only to matters of record accepted or previously accepted by Bank.
- (c) The consent of the Guarantors to the within assumption and agreements.

6. The provisions of the Loan Documents shall remain in full force and effect and shall remain unchanged except as herein modified.

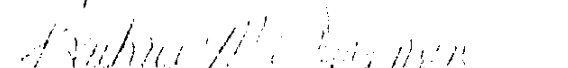
7. In this Agreement, whenever the context so requires, the masculine gender includes the feminine or neuter, the singular number includes the plural and the plural number includes the singular. If this Agreement is executed by more than one person, firm or corporation, the obligations of each such person, firm or corporation hereunder shall be joint and several.

8. This Agreement applies to and inures to the benefit of, and binds all parties hereto and their respective heirs, executors, personal representatives, successors and assigns.

UNOFFICIAL COPY

92153903

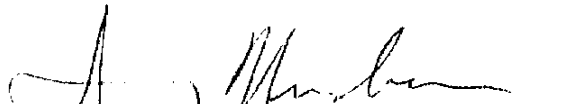
President of Michigan National Bank, a national banking association, on behalf of said association.



Notary Public


BARBARA M. JORGENSEN
Notary Public, Wayne County, MI
My Comm. Expires April 10, 1995

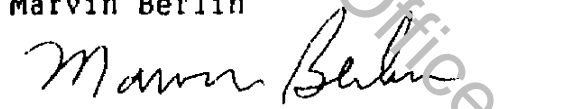
CONSENT OF GUARANTORS

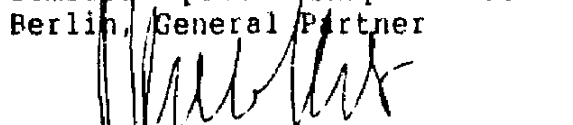
As a specific inducement to Bank, and in consideration of Bank's reliance hereon, the undersigned Guarantors, being all of the Guarantors of the above-referenced Loan, have respectively heretofore executed their Guarantees dated April 30, 1987 and each such Guarantor acknowledges and agrees to the amendments and modifications hereinabove set forth and reaffirms the Guarantees with respect to all liabilities, obligations, and the indebtedness therein guaranteed as herein amended and modified, and further, acknowledge that they remain liable in accordance with the terms of, and only to the extent set forth in their Guarantees, notwithstanding the modifications and amendments herein made.


Irving Nusbaum


The Irving Nusbaum Amended and Restated Revocable Trust, pursuant to a trust Agreement dated April 30, 1984, as amended March 15, 1985. Irving Nusbaum, Trustee


Marvin Berlin


The Berlin Family Limited Partnership, a Michigan limited partnership. Marvin Berlin, General Partner


Dennis G. Dembs

(Signatures continued)

92153903

UNOFFICIAL COPY

Michael N. Roth

Michael N. Roth

Hampton Mercury Investment
Company II Limited
Partnership, a Michigan
limited partnership

Dennis G. Dembs, General
Partner

Irving Nusbaum

Irving Nusbaum, General Partner

Hampton Mercury Investment
Company Limited Partnership, a
Michigan limited partnership

Dennis G. Dembs, General
Partner

Irving Nusbaum

Irving Nusbaum, General Partner

Property of Cook County Clerk's Office

WPPEMC27

92483903

UNOFFICIAL COPY

9 2 1 2 3 3

EXHIBIT A

THE NORTH 213 FEET OF THE SOUTH 378 FEET OF THE NORTH QUARTER (1/4) OF THE EAST HALF (1/2) OF THE EAST HALF (1/2) OF THE SOUTHEAST QUARTER (1/4) OF SECTION 9, TOWNSHIP 36 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT LAGRANGE ROAD HERETOFORE DEDICATED AND EXCEPT THAT PART OF LAND FALLING INTO RAVINIA AVENUE), IN COOK COUNTY ILLINOIS.

PIN# 27-09-401-011-0000

27-09-401-028-0000

27-09-401-029-0000

Prepared BY MAIL TO
Arnold S. Newman
930 W. 175th ST
Homewood, IL 60430

Address of Property:

La Grange Road

West Side, 243 feet south

at 147th Street

Orland Park, IL 60462

92483903