

2007-005122

Klamath County, Oregon



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03/22/2007 11:18:03 AM

Fee: \$56.00

After Recording,
Return to:

Sterling Savings Bank
Medford Commercial Banking Center
945 Town Center Drive, Suite C
Medford, OR 97504

1st-963405

ASSUMPTION AGREEMENT

(4100 and 4120 Washburn Way, Klamath Falls, OR)

19th THIS ASSUMPTION AGREEMENT ("Assumption Agreement") is made as of this day of March, 2007, by and between MERLIN FJARLI and JOANN FJARLI (hereinafter referred to as "Borrower"), KELLY C. BRUUN and WASHBURN WAY INDUSTRIAL PARK LLC, an Oregon limited liability company (hereinafter singly, collectively, jointly and severally referred to as "Assumptor"), and STERLING SAVINGS BANK, a Washington state chartered bank (hereinafter referred to as "Lender").

RECITALS

A. Borrower and Lender entered into various loan documents and instruments, including the following:

(1) On or about March 31, 2004, Borrower executed and delivered to Lender a Promissory Note in the original principal amount of \$597,750.00, with interest accruing thereunder at a variable rate, and having a maturity date of April 5, 2014 (the "Note"). True and correct copies of the Note have been provided to Assumptor. As of February 28, 2007, the principal balance of the Note is \$548,645.32.

(2) The payment and performance of Borrower's obligations to Lender under the Note are secured, in part, by a Deed Trust, executed by Borrower and delivered to Lender concurrently with the Note, encumbering property in Klamath County, Oregon described therein and in Exhibit A attached hereto (the "Property" and "Deed of Trust", respectively). The Deed of Trust Deed of Trust recorded on or about April 6, 2004, in Volume M04, Page 19427-33, records of Klamath County, Oregon. True and correct copies of the Deed of Trust have been provided to Assumptor.

(3) At the same time as the execution and delivery of the Note and Deed of Trust, in order to provide additional collateral security for the payment and performance of Borrower's obligations under the same, Borrower executed and delivered to Lender an Assignment of Rents, recorded on or about April 6, 2004, in Volume M04, Page 19434-

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38, records of Klamath County, Oregon. True and correct copies of the Assignment of Rents have been provided to Assumptor.

(4) A Hazardous Substances Certificate and Indemnity Agreement (the "Indemnity"), executed by Borrower and delivered to Lender concurrently with the Deed of Trust, pursuant to which, in part, Borrower agreed to indemnify and hold Lender harmless from and against any and all claims, damages, and liabilities arising from, or in any way related to, the presence of Hazardous Substances on, under or about the property encumbered by the Deed of Trust, as well as the Other Property as defined therein. A true and correct copy of the Indemnity has been provided to Assumptor.

(5) A Business Loan Agreement, executed by Borrower and delivered to Lender concurrently with the Deed of Trust, setting forth the terms and conditions of Borrower's obligations to Lender under the Note, Deed of Trust, Assignment of Rents and other Loan Documents and Related Documents (the "Business Loan Agreement"). A true and correct copy of the Business Loan Agreement has been provided to Assumptor by Borrower.

The Note, Deed of Trust, Assignment of Rents, Indemnity, Business Loan Agreement, and any other loan document or instrument executed by Borrower and delivered to Lender in connection with the consummation of the transactions described therein, may hereinafter collectively be referred to as the "Assumed Loan Documents". By executing and delivering this Assumption Agreement to Lender, Assumptor represents and warrants to Lender that it has been provided with copies of, and an opportunity to review, the Assumed Loan Documents.

B. Borrower has or will convey or otherwise transfer the Property to Assumptor and, in consideration of any such conveyance or transfer, has required that (i) Assumptor assume and agree to perform Borrower's obligations to Lender under the Assumed Loan Documents, and (ii) Lender consent to such conveyance, transfer and assumption. Subject to the terms and conditions of this Assumption Agreement, Lender is willing to so consent.

C. Capitalized terms used herein, which are not otherwise defined, shall have the meaning ascribed to such terms by the Assumed Loan Documents.

NOW, THEREFORE, in consideration of the mutual benefits contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower, Assumptor and Lender hereby agree as follows:

1. **Assumption of Loan Documents.** Assumptor, jointly and severally, agrees to and does hereby assume and promise to pay and perform the obligations of Borrower evidenced by and set forth in the Assumed Loan Documents, and each of them, according to the terms thereof, as though, and with the effect as if, Assumptor were an original signatory and obligor thereunder.

2. **Borrower Released.** Subject to the satisfaction of the conditions to assumption, set forth in Section 3 hereof, Lender hereby agrees and permits Assumptor to assume Borrower's obligations under the Assumed Loan Documents, and in consideration of such assumption by Assumptor of the obligations evidenced by the Assumed Loan Documents, it is agreed between Lender, Borrower, and Assumptor that Borrower be released from liability under the Assumed Loan Documents and shall no longer be liable or responsible for the payment and performance of the obligations under the Assumed Loan Documents.

3. **Conditions To Assumption.** Lender's consent to the assumption by Assumptor of Borrower's obligations under the Assumed Loan Documents is conditioned upon and shall become effective when all of the following conditions have been satisfied.

3.1 No Default. There shall be no default under the Assumed Loan Documents.

3.2 Payment of Fees and Costs. Assumptor shall have (i) paid Lender a Loan assumption fee of \$2,743.23; and (ii) reimbursed Lender for (a) the costs of recording this Assumption Agreement in real estate records of Klamath County, Oregon, and (b) the costs of any endorsement to Lender's ALTA Mortgagee's Policy of Title Insurance, insuring the Deed of Trust.

4. **Representations, Warranties and Covenants of Borrower; Waiver.** Borrower hereby acknowledges that the Assumed Loan Documents, and each of them, are legally valid and enforceable obligations in accordance their terms, free of any defenses or claims for set-off or counterclaims of any nature whatsoever. Borrower further confirms that Lender has fully performed each and every duty and obligation imposed upon or required of it under the Assumed Loan Documents. As of the date of this Assumption Agreement, and in consideration for Lender's permitting Assumptor to assume the obligations under the Assumed Loan Documents, Borrower and Assumptor affirm that they have no dispute with or claim against Lender and, to the extent any such dispute or claim may exist, they hereby knowingly and expressly waive any disputes with or claims against Lender in connection with or in any way related to the Assumed Loan Documents.

5. **No Implied Modification.** Except as specifically provided in this Assumption Agreement, the terms of the Assumed Loan Documents shall not be considered as modified, released, altered or affected. It is further agreed that any and all other documents entered into between Lender and Borrower to evidence or secure the Loan are assumed by Assumptor and shall remain in full force and effect unless specifically canceled or amended by an instrument in writing signed by the Lender.

6. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed one and the same instrument.

UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY LENDER CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY LENDER TO BE ENFORCEABLE.

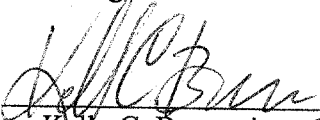
BORROWER:


MERLIN FJARLI


JOANN FJARLI

ASSUMPTOR:


WASHBURN WAY INDUSTRIAL PARK
LLC, an Oregon limited liability company,

By: 
Kelly C. Bruun, its sole Member


KELLY C. BRUUN, individually

LENDER:

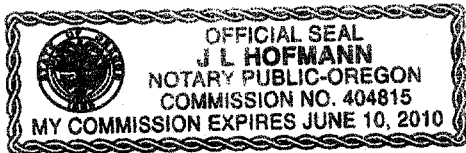
STERLING SAVINGS BANK

By: 
Its: Vice President

STATE OF)
County of Jackson) ss.

I certify that I know or have satisfactory evidence that MERLIN FJARLI is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: March 19, 2007.

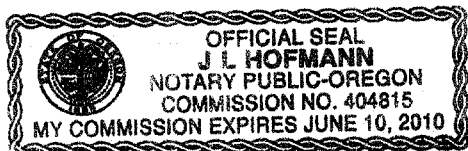


J.L. Hofmann
PRINT NAME: J.L. Hofmann
NOTARY PUBLIC in and for the State of
OREGON, residing at Medford
My appointment expires: 6-10-2010

STATE OF)
County of Jackson) ss.

I certify that I know or have satisfactory evidence that JOANN FJARLI is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: March 19, 2007.

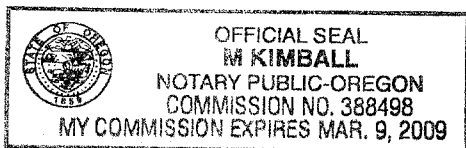


J.L. Hofmann
PRINT NAME: J.L. Hofmann
NOTARY PUBLIC in and for the State of
OREGON, residing at Medford
My appointment expires: 6-10-2010

STATE OF Oregon)
) ss.
County of Multnomah

I certify that I know or have satisfactory evidence that KELLY C. BRUUN is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the sole member of WASHBURN WAY INDUSTRIAL PARK LLC and as its free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: March 15, 2007.

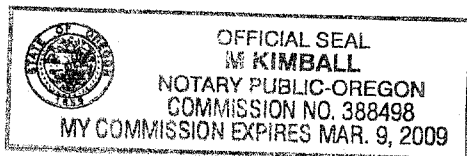


M. Kimball
PRINT NAME: M. Kimball
NOTARY PUBLIC in and for the State of
Oregon, residing at Beaverton
My appointment expires: 3/9/09

STATE OF Oregon)
) ss.
County of Multnomah

I certify that I know or have satisfactory evidence that KELLY C. BRUUN is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: March 15, 2007.

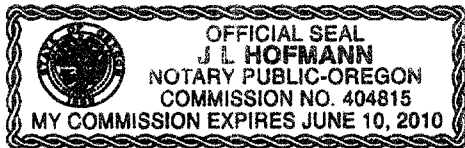


M. Kimball
PRINT NAME: M. Kimball
NOTARY PUBLIC in and for the State of
Oregon, residing at Beaverton
My appointment expires: 3/9/09

STATE OF)
County of Jackson) ss.

I certify that I know or have satisfactory evidence that Chris DuBose is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Vice President of STERLING SAVINGS BANK, as its free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: March 19, 2007.



J.L. Hofmann
PRINT NAME: J.L. Hofmann
NOTARY PUBLIC in and for the State of
OREGON, residing at Medford
My appointment expires: 6-10-2010

EXHIBIT A

LEGAL DESCRIPTION

The N1/2 of the following described parcel of land:

All that portion of the E1/2 of the NE1/4 of the SE1/4 of Section 9, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, which lies Southerly of line drawn parallel to and distant 330 feet Northerly of the Southerly boundary of the said East half of the NE1/4 of the SE1/4, situated in the County of Klamath, State of Oregon.

EXCEPTING THEREFROM that portion conveyed to Klamath County by Warranty Deed recorded February 2, 1988 in Volume M88, page 1442, Microfilm Records of Klamath County, Oregon.

Tax Account No: 3909-009D0-00200-000

Key No: 540098