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ASSUMPTION AND RELEASE AGREEMENT

2003 004006 02-1129

2003 085

This Assumption and Release Agreement ("Agreement") is made effective as of December 20, 2002 by and among Cloisters Geneva Associates, an Illinois limited partnership ("Transferor"), Jerome E. Finis and Richard M. Eisenmenger ("Original Key Principals"), Cloisters Real Estate Limited Partnership, an Illinois limited partnership ("Transferee"), John H. Cox (the "New Key Principal") and Fannie Mae.

RECITALS:

A. Fannie Mae is the holder of that certain Multifamily Note as modified by the Addendum to Multifamily Note, the "Note"), dated July 24, 1997, in the original principal amount of \$1,840,000.00 made by Transferor, to ARCS Commercial Mortgage Co., L.P. ("Original Lender"), which Note evidences a loan ("Loan") made by Original Lender to Transferor. To secure the repayment of the Note, Transferor also executed and delivered a Multifamily Mortgage, Assignment of Rents and Security Agreement, including a Rider to Multifamily Instrument (the "Security Instrument"), dated July 24, 1997, recorded in the official records of Lake County, State of Indiana on July 31, 1997, as Document No. 97049902 that grants a lien on the property described in Exhibit A to this Agreement (the "Property"). The Transferor is liable for the payment and performance of all of Transferor's obligations under the Note, the Security Instrument and all other documents executed in connection with the Loan, as listed on Exhibit B to this Agreement (collectively, the "Loan Documents"). Each of the Loan Documents has been duly assigned or endorsed to Fannie Mae. The current servicer of the Loan is ARCS Commercial Mortgage Co., L. P., a California limited partnership ("Servicer").

B. The Original Key Principals are liable for the obligations under the Acknowledgement and Agreement of Key Principal to Personal Liability for the Exceptions to Non-Recourse Liability contained in the Note and Security Instrument (the "Acknowledgement").

C. Fannie Mae has been asked to consent to the transfer of the Property to the Transferee and the assumption by the Transferee of the obligations of the Transferor under the Loan Documents.

D. Fannie Mae has been asked to consent to the release of the Original Key Principals from their respective obligations under the Acknowledgement and accept the assumption by the New Key Principal of the Original Key Principals' obligations under the Acknowledgement.

E. Fannie Mae has agreed to consent to the transfer of the Property by Transferor to Transferee subject to the terms and conditions stated below.

In consideration of the foregoing and the mutual covenants and promises set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Fannie Mae, Transferor, Original Key Principals, Transferee and New Key Principal agree as follows:

1. Assumption of Obligations. The Transferee agrees to assume all of the payment and performance obligations of the Transferor set forth in the Note, the Security Instrument and

Assumption and Release Agreement - Fannie Mae Multistate
HOLD FOR:
THE TITLE SEARCH CO.



Handwritten signature and initials: AOS 2/28, AS, D, SL

the other Loan Documents in accordance with their respective terms and conditions, as the same may be modified by this Agreement, including without limitation, payment of all sums due under the Note. The Transferee further agrees to abide by and be bound by all of the terms of the Loan Documents, all as though each of the Loan Documents had been made, executed and delivered by the Transferee.

2. Transferor's and Original Key Principals' Representations and Warranties. The Transferor and the Original Key Principals represent and warrant to Fannie Mae as of the date of this Agreement that:

- (a) The Note has an unpaid principal balance of \$1,733,052.32, and prior to default bears interest at the rate of 7.615 per annum;
- (b) The Note requires that monthly payments of principal and interest in the amount of \$13,010.75 be made on or before the first (1st) day of each month, continuing to and including August 1, 2007, when all sums due under the Loan Documents will be immediately due and payable in full;
- (c) The Security Instrument is a valid first lien on the Property for the full unpaid principal amount of the Loan and all other amounts as stated in the Security Instrument;
- (d) There are no defenses, offsets or counterclaims to the Note, the Security Instrument or the other Loan Documents;
- (e) There are no defaults by the Transferor under the provisions of the Note, the Security Instrument or the other Loan Documents;
- (f) All provisions of the Note, the Deed of Trust and other Loan Documents are in full force and effect; and
- (g) There are no subordinate liens of any kind covering or relating to the Property, nor are there any mechanics' liens or liens for unpaid taxes or assessments encumbering the Property, nor has notice of a lien or notice of intent to file a lien been received; and

The Transferor and Original Key Principals understand and intend that Fannie Mae will rely on the representations and warranties contained herein.

3. Transferee's and the New Key Principals' Representations and Warranties. The Transferee and the New Key Principal represent and warrant to Fannie Mae as of the date of this Agreement that neither Transferee nor any New Key Principal has or Transferee does not have any knowledge that any of the representations made by Transferor and Original Key Principals in Paragraph 2 above are not true and correct.

4. Consent to Transfer. Fannie Mae hereby consents to the transfer of the Property and to the assumption by the Transferee of all of the obligations of the Transferor under the Loan

Documents, subject to the terms and conditions set forth in this Agreement. Fannie Mae's consent to the transfer of the Property to the Transferee is not intended to be and shall not be construed as a consent to any subsequent transfer which requires the Lender's consent pursuant to the terms of the Security Instrument.

5. Assumption by the New Key Principal of Liability for the Exceptions to Non-Recourse. New Key Principal hereby assume all liability under the provisions of the Acknowledgement.
6. Release of Transferor and Original Key Principals. In reliance on the Transferor's and the Original Key Principals and the Transferee's representations and warranties in this Agreement, Fannie Mae releases Transferor and the Original Key Principals from all of their respective obligations under the Loan Documents, provided, however, that the Transferor is not released from any liability pursuant to this Agreement or Section 18 of the Security Instrument. If any material element of the representations and warranties made by the Transferor and Original Key Principals contained herein is false as of the date of this Agreement, then the release set forth in this Paragraph 6 will be cancelled as of the date of this Agreement and the Transferor and Original Key Principals will remain obligated under the Loan Documents as though there had been no such release.
7. Priority/Modification. This Agreement embodies and constitutes the entire understanding among the parties with respect to the transactions contemplated herein, and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged, or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge, or termination is sought, and then only to the extent set forth in such instrument. Except as expressly modified hereby, the Note, Security Instrument and other Loan Documents shall remain in full force and effect and this Agreement shall have no effect on the priority or validity of the liens set forth in the Security Instrument or the Loan Documents, which are incorporated herein by reference. Transferor and the Original Key Principals hereby ratify the agreements made by them to Fannie Mae in connection with the Loan and agree that, except to the extent modified hereby, all of such agreements remain in full force and effect.
8. No Impairment of Lien. Nothing set forth herein shall affect the priority or extent of the lien of any of the Loan Documents, nor, except as expressly set forth herein, release or change the liability of any party who may now be or after the date of this Agreement, become liable, primarily or secondarily, under the Loan Documents.
9. Costs. The Transferee and the Transferor agree to pay all fees and costs (including attorneys' fees) incurred by Fannie Mae and the Servicer in connection with Fannie Mae's consent to and approval of the transfer of the Property and a transfer fee of \$17,330.52 in consideration of the consent to that transfer.

10. Financial Information. The Transferee and New Key Principal represent and warrant to Fannie Mae that all financial information and information regarding the management capability of Transferee and New Key Principal provided to the Servicer or Fannie Mae was true and correct as of the date provided to the Servicer or Fannie Mae and remains materially true and correct as of the date of this Agreement.

11. Addresses. Transferee's address for notice hereunder and under the Loan Documents is:

3330 Dundee Road, Suite #S-3
Northbrook, Illinois 60062

Transferor's address for notice hereunder and under the Loan Documents is:

630 Aberdeen Road
Iverness, IL 60067

12. Complete Release. Transferee and Transferor and the Original Key Principals and the New Key Principal, jointly and severally as between Transferee and New Key Principal, unconditionally and irrevocably release and forever discharge Original Lender, Fannie Mae, and their respective successors, assigns, agents, directors, officers, employees, and attorneys, and each current or substitute trustee under the Security Instrument (collectively, the "Indemnitees") from all Claims, as defined below, and jointly and severally agree to indemnify Indemnitees, and hold them harmless from any and all claims, losses, causes of action, costs and expenses of every kind or character in connection with the Claims or the transfer of the Property. Notwithstanding the foregoing, Transferor shall not be responsible for any Claims arising from the action or inaction of Transferee and New Key Principal, and Transferee and New Key Principal shall not be responsible for any Claims arising from the action or inaction of Transferor or the Original Key Principals. As used in this Agreement, the term "Claims" shall mean any and all possible claims, demands, actions, costs, expenses and liabilities whatsoever, known or unknown, at law or in equity, originating in whole or in part, on or before the date of this Agreement, which the Transferor, Original Key Principals, or any of their respective partners, members, officers, agents or employees, may now or hereafter have against the Indemnitees, if any and irrespective of whether any such Claims arise out of contract, tort, violation of laws, or regulations, or otherwise in connection with any of the Loan Documents, including, without limitation, any contracting for, charging, taking, reserving, collecting or receiving interest in excess of the highest lawful rate applicable thereto and any loss, cost or damage, of any kind or character, arising out of or in any way connected with or in any way resulting from the acts, actions or omissions of Indemnitees, including any requirement that the Loan Documents be modified as a condition to the transactions contemplated by this Agreement, any charging, collecting or contracting for prepayment premiums, transfer fees, or assumption fees, any breach of fiduciary duty, breach of any duty of fair dealing, breach of confidence, breach of funding commitment, undue influence, duress, economic coercion, violation of any federal or state securities or

Blue Sky laws or regulations, conflict of interest, NEGLIGENCE, bad faith, malpractice, violations of the Racketeer Influenced and Corrupt Organizations Act, intentional or negligent infliction of mental distress, tortious interference with contractual relations, tortious interference with corporate governance or prospective business advantage, breach of contract, deceptive trade practices, libel, slander, conspiracy or any claim for wrongfully accelerating the Note or wrongfully attempting to foreclose on any collateral relating to the Note, but in each case only to the extent permitted by applicable law. Transferor and Transferee agree that Fannie Mae and Original Lender have no fiduciary or similar obligations to Transferor or Transferee and that their relationship is strictly that of creditor and debtor. This release is accepted by Fannie Mae and Original Lender pursuant to this Agreement and shall not be construed as an admission of liability on the part of either. Transferor and Transferee and the Original Key Principals and New Key Principal hereby represent and warrant that they are the current legal and beneficial owners of all Claims, if any, released hereby and have not assigned, pledged or contracted to assign or pledge any such Claim to any other person.

13. Miscellaneous.

(a) This Agreement shall be construed according to and governed by the laws of the jurisdictions in which the Property is located without regard to its conflicts of law principles.

(b) If any provision of this Agreement is adjudicated to be invalid, illegal or unenforceable, in whole or in part, it will be deemed omitted to that extent and all other provisions of this Agreement will remain in full force and effect.

(c) No change or modification of this Agreement shall be valid unless the same is in writing and signed by all parties hereto.

(d) The captions contained in this Agreement are for convenience of reference only and in no event define, describe or limit the scope or intent of this Agreement or any of the provisions or terms hereof.

(e) This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, successors and assigns.

(f) This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

(g) THIS WRITTEN AGREEMENT AND THE OTHER LOAN DOCUMENTS, AS AMENDED, REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

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

TRANSFeree:

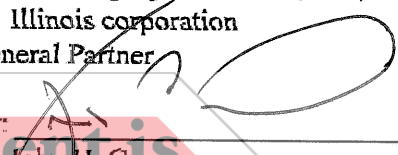
Cloisters Real Estate Limited Partnership,
an Illinois limited partnership

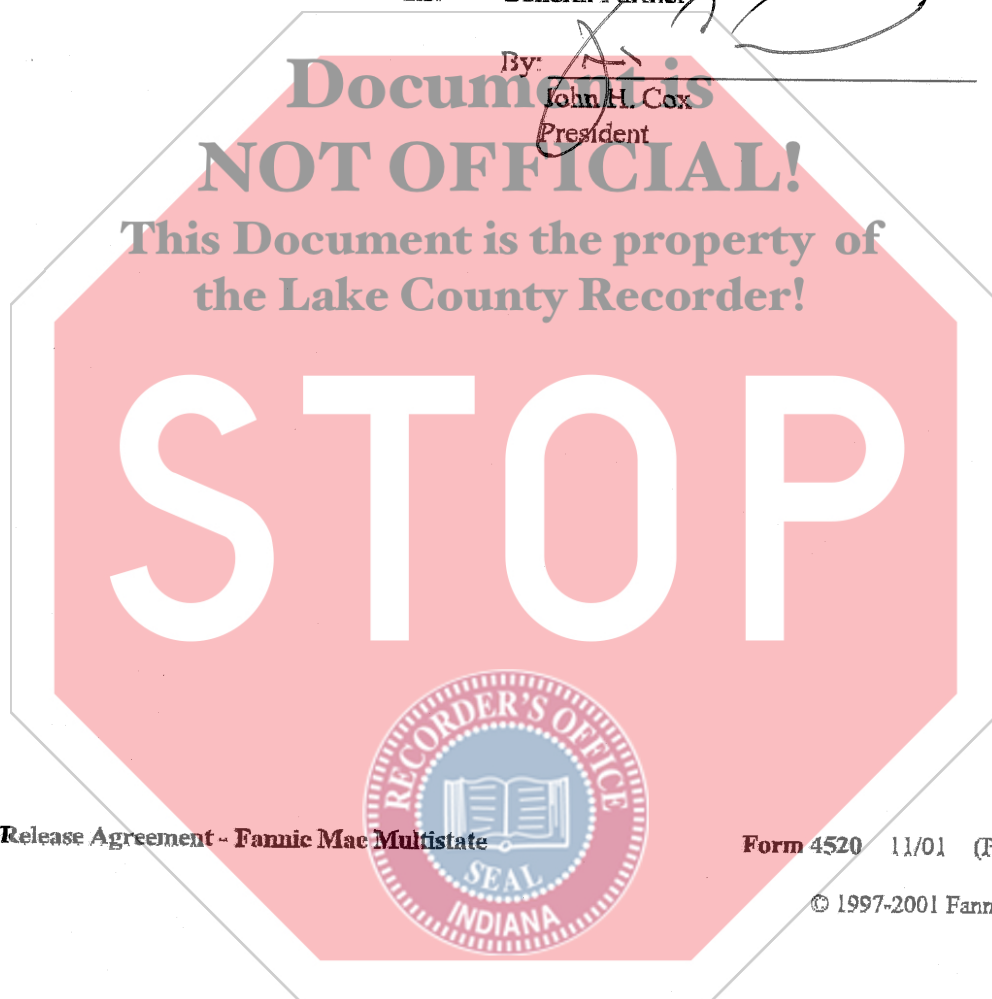
By: Cloisters Investments Limited Partnership,
an Illinois limited partnership

Its: General Partner

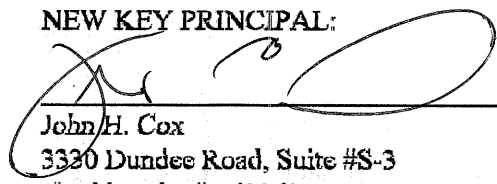
By: Financial Equity Associates, Inc.,
an Illinois corporation

Its: General Partner

By: 
John H. Cox
President



NEW KEY PRINCIPAL:

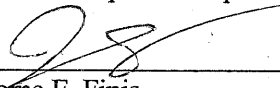

John H. Cox
3320 Dundee Road, Suite #S-3
Northbrook, IL 60062

Social Security/Employer ID No.: 324-34-3579



TRANSFEROR:

Cloisters Geneva Associates,
an Illinois limited partnership

By: 
Jerome E. Finis

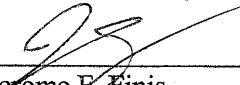
Its: General Partner

By: 
Richard M. Eisenmenger

Its: General Partner

By: Geneva Equities Corporation,
an Illinois corporation

Its: General Partner

By: 
Jerome E. Finis

Its: President

Lake County Trust Company, Trustee under
Trust No. 3543, an Indiana land Trust

By: SEE SIGNATURE PAGE ATTACHED

Its: _____



It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against LAKE COUNTY TRUST COMPANY on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

Nothing contained herein shall be construed as creating any liability on LAKE COUNTY TRUST COMPANY, personally under the provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or the Indiana Responsible Property Transfer Law (the Act) as amended from time to time or any other Federal, State or local law, rule or regulation. LAKE COUNTY TRUST COMPANY, personally is not a "Transferor or Transferee" under the Act and makes no representations concerning any possible environmental defects. In making any warranty herein the Trustee is relying solely on information furnished to it by the beneficiaries and not of its own knowledge and specifically exculpates itself from any liabilities, responsibilities or damages as a result of including any warranty in this instrument.

The information contained in this instrument has been furnished the undersigned by the beneficiaries under aforesaid Trust and the statements made therein are made solely in reliance thereon and no responsibility is assumed by the undersigned, in its individual capacity for the truth or accuracy of the facts herein stated.

(Page 1 of 2 pages of Trustee's Signature Page)



IN WITNESS WHEREOF, LAKE COUNTY TRUST COMPANY, not personally but as Trustee as aforesaid, has caused these presents to be signed by its Trust Officer this 27th day of December, 2002.

LAKE COUNTY TRUST COMPANY, not personally but as Trustee under the provisions of a Trust Agreement dated October 21, 1985, and known as Trust No. 3543.

By: *Elaine M. Sievers*
Elaine M. Sievers, Trust Officer

STATE OF INDIANA)
)SS:
COUNTY OF LAKE)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Elaine M. Sievers, Trust Officer of LAKE COUNTY TRUST COMPANY, who acknowledged the execution of the foregoing instrument as the free and voluntary act of said Corporation and as her free and voluntary act, acting for such Corporation, as Trustee.

Witness my hand and seal this 27th day of December, 2002.

Document is NOT OFFICIAL!
This Document is the property of the Lake County Recorder.
Patricia L. Czarnecki
Patricia L. Czarnecki, Notary Public

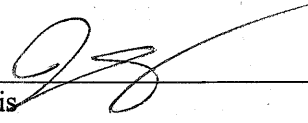
My Commission Expires: 10-05-09 Resident of Porter County, Indiana

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(Page 2 of 2 pages of Trustee's Signature Pages)

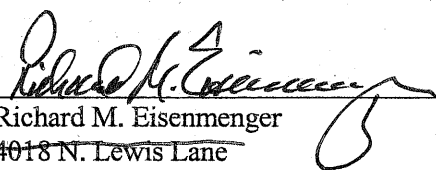


ORIGINAL KEY PRINCIPALS:



Jerome E. Finis
630 Aberdeen Road
Iverness, IL 60067

Social Security/Employer ID No.: 361 50 3879



Richard M. Eisenmenger
4018 N. Lewis Lane
McHenry, IL 60050

Social Security/Employer ID No.: 350-34-8158
10102 Country Club Road
Woodstock, IL 60098



FANNIE MAE

Name: B Hunt

Title: Brian Hunt
Assistant vice president

Date: 1/02/03



THE STATE OF ILLINOIS

COUNTY OF LAKE

BEFORE ME *Cheryl D Warren*, the undersigned, a Notary Public in and for said County and State, on this day personally appeared John H. Cox, known to me to be the President of Financial Equity Associates, Inc. that executed the foregoing instrument, and known to me to be the person who executed the foregoing instrument on behalf of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 6 day of January, 2003.

Cheryl D Warren

Notary Public in and for

Lake county, Illinois



THE STATE OF ILLINOIS

COUNTY OF LAKE

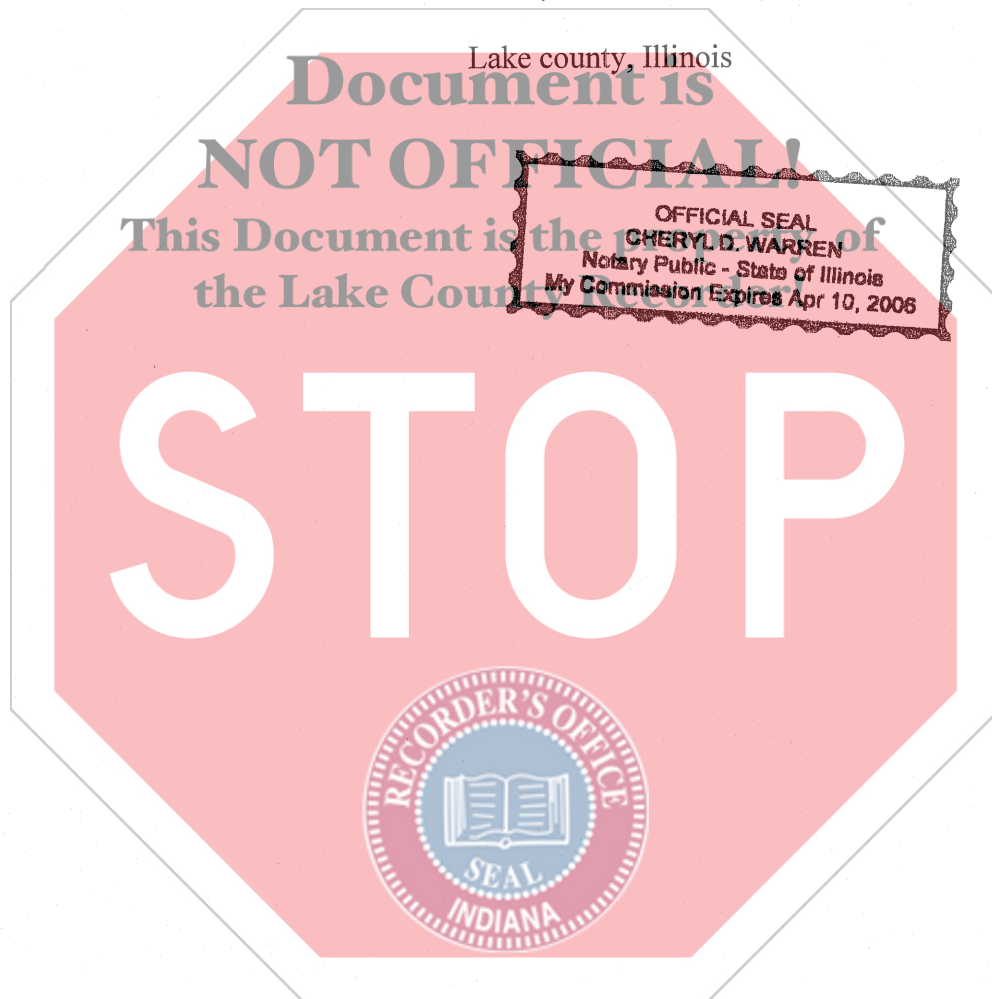
BEFORE ME *Cheryl D Warren*, the undersigned, a Notary Public in and for said County and State, on this day personally appeared John H. Cox, known to me to be the Key Principal that executed the foregoing instrument, and known to me to be the person who executed the foregoing instrument on behalf of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 6 day of January, 2003.

Cheryl D Warren

Notary Public in and for

Lake county, Illinois

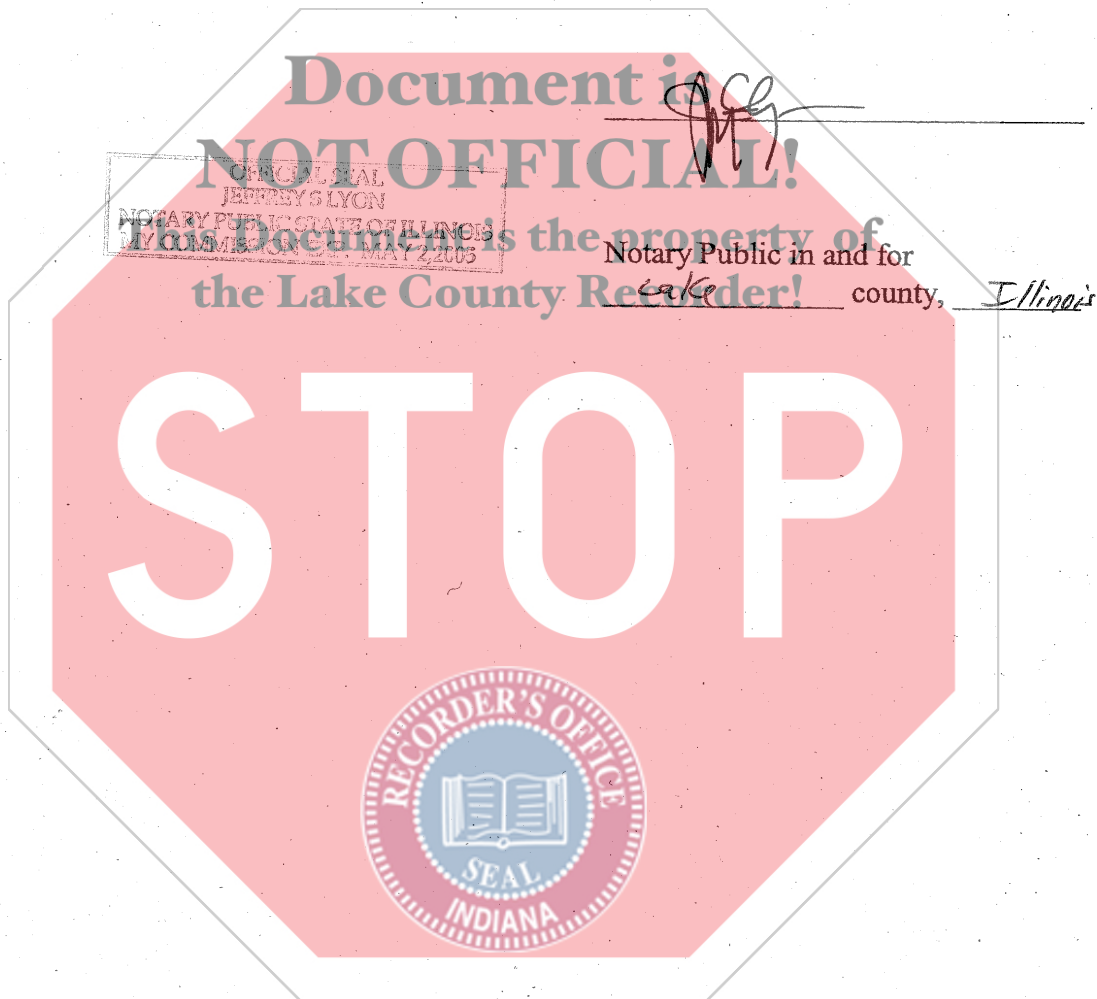


THE STATE OF Illinois

COUNTY OF Lake

BEFORE ME Jeffrey S. Lyon, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Jerome E. Finis, known to me to be the Individual's ^{President} ~~Capital~~ General Partner as aforementioned that executed the foregoing instrument, and known to me to be the person who executed the foregoing instrument on behalf of said Self, Corporation's limited Partnership

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 26th day of December, 2002.



THE STATE OF Illinois

COUNTY OF Lake

BEFORE ME Jeffrey S. Lyon, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Richard M. Eisenmenger, known to me to be the Individual and General Partner of Cloisters Geneva Associates that executed the foregoing instrument, and known to me to be the person who executed the foregoing instrument on behalf of said Self's limited Partnership

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 26th day of December, 2002.

OFFICIAL SEAL
JEFFREY S. LYON
NOTARY PUBLIC STATE OF ILLINOIS
BY COMMISSION EXP. MAY 7, 2005

Document is Not NOT OFFICIAL!

This Document is the property of Notary Public in and for the Lake County Lake county, Illinois

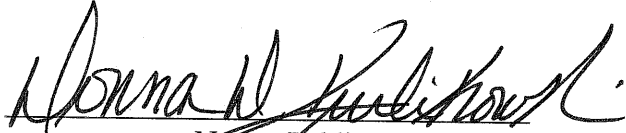
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DISTRICT OF COLUMBIA:

BEFORE ME, Donna D. Krulikowski the undersigned, a Notary Public in and for the District of Columbia, on this day personally appeared Brian Hunt, known to me to be the Assistant Vice President of Fannie Mae that executed the foregoing instrument, and known to me to be the person who executed the foregoing instrument on behalf of said corporation.

JAN. 2003 GIVEN UNDER MY HAND AND SEAL OF OFFICE this 2 day of 2001.


Notary Public

DONNA D. KRULIKOWSKI
Notary Public District of Columbia
My Commission Expires: 9/30/05



EXHIBIT A
to
ASSUMPTION AND RELEASE AGREEMENT

[insert Property description used in the Security Agreement]

PARCEL ONE: THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE 2ND P.M., IN LAKE COUNTY, INDIANA (EXCEPT THE NORTH 215 FEET THEREOF).

PARCEL TWO: THE NORTH 215 FEET OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE 2ND P.M., IN LAKE COUNTY, INDIANA.



EXHIBIT B
to
ASSUMPTION AND RELEASE AGREEMENT

1. Multifamily Note dated July 24, 1997, by Cloisters Geneva Associates for the benefit of ARCS Commercial Mortgage Co, L.P., as modified by an Addendum to Note dated July 24, 1997
2. Multifamily Mortgage, Assignment of Rents and Security Agreement, including a Rider to Multifamily Instrument, dated July 24, 1997, by Transfer for the benefit of Original Lender.
3. Replacement Reserve and Security Agreement dated July 24, 1997 by and between Cloisters Geneva Associates and ARCS Commercial Mortgage Co., L.P.
4. Completion/Repair and Security Agreement dated July 24, 1997 by and between Cloisters Geneva Associates and ARCS Commercial Mortgage Co., L.P.
5. Assignment of Management Agreement.
6. O&M Agreement, dated July 24, 1997, by and between Cloisters Geneva Associates and ARCS Commercial Mortgage Co., L.P.

