

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Wells Fargo Bank, National Association
Regional Private Markets Group (AU #1074)
299 South Main Street, 6th Floor
Salt Lake City, UT 84111
Attn: Malerie Young
Loan No. 1006314

ENTRY NO. 00939972

02/23/2012 01:35:09 PM B 2116 P: 1479

Assignment PAGE 1/25

ALAN SPRIGGS, SUMMIT COUNTY RECORDER
FEE 62.00 BY HIGH COUNTRY TITLE



**ASSIGNMENT, CONSENT AND SUBORDINATION
OF MANAGEMENT AGREEMENT**

THIS ASSIGNMENT, CONSENT AND SUBORDINATION OF MANAGEMENT AGREEMENT (this "Agreement") is made as of February 10, 2012, by and among COTTONWOOD PARTNERS MANAGEMENT, LTD., a Utah limited partnership dba Cottonwood Management Services ("Manager") and COTTONWOOD NEWPARK THREE, L.L.C., a Delaware limited liability company ("Borrower") for the benefit of WELLS FARGO BANK, NATIONAL ASSOCIATION (together with its successors and assigns as the lender in respect of the Loan referred to below, "Lender").

RECITALS

A. Borrower owns certain real property described on Exhibit A attached hereto (the "Property"). Pursuant to that certain Property Management Agreement dated February 8, 2012 between Borrower and Manager (the "Management Agreement"), a true and correct copy of which is attached hereto as Exhibit B, Borrower employed Manager exclusively to manage the Property as more particularly described in the Management Agreement. The Management Agreement describes Manager's and Borrower's respective rights and obligations regarding the management of the Property.

B. Lender has made or is about to make a loan (the "Loan") in the principal amount of TEN MILLION FIVE HUNDRED THOUSAND AND NO/100THS DOLLARS (\$10,500,000.00) to Borrower. In connection with the Loan, Borrower has executed and delivered, or expects to execute and deliver, to Lender (i) a Promissory Note dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Note"), (ii) a Construction Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Security Instrument"), (iii) a Building Loan Agreement dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement"), a Collateral Assignment of Contracts and Licenses (the "Assignment of Contracts") and (iv) certain other documents evidencing or securing the Loan (as they may be amended, restated, supplemented or otherwise modified from time to time, such documents, collectively with the Note, the Security Instrument and the Loan Agreement, the "Loan Documents").

C. Borrower has assigned its interest in the Management Agreement to Lender pursuant to the Assignment of Contracts, this Agreement and certain other Loan Documents;

D. At Borrower's request and in order to facilitate Lender's agreement to make the Loan to Borrower, Manager and Borrower desire to subordinate the Management Agreement, their respective

rights under the Management Agreement and their respective interests in the Property, if any, to the Security Instrument and the Loan upon the terms and conditions contained in this Agreement.

E. Manager and Borrower intend that the indebtedness evidenced by the Note and the lien and security interests of the Security Instrument and the Loan Documents be paramount, senior and prior to any and all obligations, expenses and indebtedness owing to Manager which arise from the Management Agreement and any and all existing liens or future rights to liens of Manager or any person or entity claiming by, through or under Manager which arise from any and all obligations, expenses and indebtedness owing to Manager under or in connection with the Management Agreement.

NOW THEREFORE, in consideration of Lender making the Loan, and for other good and valuable consideration, the receipt and sufficiency of which Manager and Borrower acknowledge, Manager and Borrower agree for the benefit of Lender as follows:

1. **Assignment, Consent.** As additional security for the performance by Borrower of its obligations under the Loan Documents, Borrower hereby assigns, transfers and pledges to Lender, and hereby grants to Lender a security interest in, all of Borrower's right, title and interest in, to and under the Management Agreement. Manager hereby consents to the assignment to Lender of Borrower's rights under the Management Agreement, including without limitation Borrower's interest in all accounts maintained under the Management Agreement. Lender shall be entitled to exercise any and all rights of Borrower under the Management Agreement in accordance with the terms thereof, and Manager shall permit and comply in all respects with such exercise. Lender shall have the right to cure any default of Borrower under the Management Agreement, and may perform any act, duty or obligation required to be performed by Borrower under the Management Agreement; provided, however, that nothing herein shall require Lender to cure any such default or to perform any such act, duty or obligation.

2. **Subordination.** Manager and Borrower hereby unconditionally subordinate and subject the Management Agreement and all of their respective rights under the Management Agreement, including, without limitation, any right to receive any amounts or fees (heretofore, now or hereafter payable) as management fees, management commissions, incentive management fees, affiliate payments, termination fees, liquidated damages, "key money", reimbursements of advances made by Manager to the owner of the Property or any other compensation, to the lien of the Security Instrument and Lender's rights and all remedies under the Loan Documents, including, without limitation, Lender's right to receive payments of principal interest and all other sums due and owing from time to time under the Loan Documents. Manager and Borrower agree that the rights of Lender under the Security Instrument and the other Loan Documents are senior and prior to any rights of Manager and Borrower under the Management Agreement.

3. **Representations, Warranties, Acknowledges and Certifications.** Manager and Borrower hereby represent, warrant, certify and acknowledge to Lender as follows: (a) Lender would not make and fund the Loan without the execution and delivery of this Agreement; (b) a true and complete copy of the Management Agreement (including, without limitation, all modifications and amendments thereto, if any) is attached to this Agreement as Exhibit B; (c) the Management Agreement represents the entire agreement between Manager and Borrower with respect to the Property; (d) the Management Agreement is not a lease; (e) Manager has no possessory interest in the Property; (f) as of the date hereof, management fees, management commissions, incentive management fees, affiliate payments, termination fees, liquidated damages, "key money", reimbursements of advances made by Manager to the owner of the Property and all other compensation payable to Manager under the Management Agreement are being paid on a current basis; (g) Manager has no existing defenses or claims against Borrower with respect to the Management Agreement or any payments due and owing to Manager thereunder, and (h) as of the date hereof, the Management Agreement is in full force and effect, and no event of default on the part of either party thereunder, or any event or condition that, with the giving of notice or the passage of time, or both, would constitute an event of default on the part of either party thereunder, has occurred and is continuing.

4. **Default: Lender's Exercise of Rights.** Manager and Borrower agree that in the event of a default by Borrower (continuing beyond any applicable grace period) under the Note, the Security Instrument, the Loan Agreement or any of the other Loan Documents during the term of this Agreement, Lender may take, at Borrower's expense (which shall be reimbursed to Lender upon demand and shall constitute part of the Secured Obligations (as defined in the Security Instrument) secured by the Security Instrument and the other Loan Documents), in Lender's own name or in the name of Borrower or either or both of them, such action as Lender may at any time or from time to time determine to be necessary or appropriate, including, without limitation:

- a. exercising any of the rights of Borrower under the Management Agreement and requiring Manager to attorn to Lender (or its designee);
- b. terminating the Management Agreement upon not less than ten (10) days prior written notice (notwithstanding anything provided for in the Management Agreement) and requiring Manager to transfer its responsibility for the management of the Property to a management company selected by Lender in Lender's sole discretion, and Manager shall have no rights or recourse against Lender on account of such termination;
- c. amending, modifying or extending the Management Agreement by agreement with Manager;
- d. curing any default under the Management Agreement; and
- e. otherwise protecting the rights of Lender hereunder and under the Management Agreement.

Lender shall incur no liability as between itself and Borrower if any action taken by or on its behalf in good faith pursuant hereto shall prove to be, in whole or in part, inadequate or invalid.

BORROWER AGREES TO INDEMNIFY AND HOLD HARMLESS, AND AGREES TO CAUSE ANY GUARANTOR OF THE LOAN TO INDEMNIFY AND HOLD HARMLESS LENDER, LENDER'S AFFILIATES AND LENDER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ADVISORS, ATTORNEYS AND REPRESENTATIVES (EACH, AN "INDEMNIFIED PARTY") FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES AND EXPENSES (EACH AN "INDEMNIFIED CLAIM") (INCLUDING, WITHOUT LIMITATION, REASONABLE FEES AND DISBURSEMENTS OF COUNSEL UNLESS LENDER ASSERTS THAT A CONFLICT EXISTS, IN WHICH CASE LENDER MAY RETAIN ADDITIONAL COUNSEL AS LENDER DETERMINES NECESSARY TO RESOLVE SUCH CONFLICT AND ALL REASONABLE FEES AND EXPENSES OF SUCH COUNSEL SHALL CONSTITUTE AN INDEMNIFIED CLAIM HEREUNDER), JOINT OR SEVERAL, THAT MAY BE INCURRED BY OR ASSERTED OR AWARDED AGAINST ANY INDEMNIFIED PARTY (INCLUDING, WITHOUT LIMITATION, IN CONNECTION WITH OR RELATING TO ANY INVESTIGATION, LITIGATION OR PROCEEDING OR THE PREPARATION OF ANY DEFENSE IN CONNECTION THEREWITH), IN EACH CASE ARISING OUT OF OR IN CONNECTION WITH OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, EXCEPT TO THE EXTENT SUCH CLAIM, DAMAGE, LOSS, LIABILITY OR EXPENSE IS FOUND IN A FINAL NON-APPEALABLE JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SUCH INDEMNIFIED PARTY. IN THE CASE OF AN INVESTIGATION, LITIGATION OR OTHER PROCEEDING TO WHICH THE INDEMNITY IN THIS PARAGRAPH APPLIES, SUCH INDEMNITY SHALL BE EFFECTIVE WHETHER OR NOT SUCH INVESTIGATION, LITIGATION OR PROCEEDING IS BROUGHT BY BORROWER OR ANY GUARANTOR OF THE LOAN, ANY OF THE DIRECTORS, SECURITY HOLDERS OR CREDITORS OF BORROWER OR ANY SUCH GUARANTOR, AN INDEMNIFIED PARTY OR ANY OTHER PERSON, AND WHETHER OR NOT AN INDEMNIFIED PARTY IS OTHERWISE A PARTY THERETO. THIS INDEMNITY WILL SURVIVE REPAYMENT OF THE LOAN.

5. **Attornment; Right to Terminate.** If Lender or any designee or affiliate of Lender shall acquire possession of the Property through judicial or nonjudicial foreclosure or otherwise, Lender or such designee or affiliate shall have the right to cause Manager to continue its management of the Property by assuming the obligations of Borrower under the Management Agreement, but (a) without any liability for any act or omission of Borrower prior to the date of acquisition, (b) without being subject to any offsets or advances which Manager may have had against Borrower, and (c) without being bound by any agreement or modification of the Management Agreement entered into without Lender's prior written consent. If Lender or any designee or affiliate of Lender explicitly assumes the obligations of Borrower under the Management Agreement in writing pursuant to this Section, and if Lender or such designee or affiliate shall thereafter desire to sell the Property to a third party, then Lender shall either (i) cause such third party to assume the obligations of Borrower under the Management Agreement or (ii) terminate the Management Agreement by written notice to Manager without further obligation thereunder. If a third party shall acquire title to the Property as a purchaser at a foreclosure sale or otherwise in connection with the exercise of any remedies of Lender under the Loan Documents, then such third party, immediately upon acquiring title to the Property, shall have the right to cause Manager to continue its management of the Property by assuming the obligations of Borrower under the Management Agreement, but subject to the conditions set forth in clauses (a) through (c) of this Section. Following any assumption by Lender or any designee or affiliate of Lender or any such third party, in accordance with the terms and conditions of this Section, of the obligations of Borrower under the Management Agreement, Manager shall recognize such person or entity as the Borrower under the Management Agreement. Upon any termination or expiration of the Management Agreement, the Manager shall reasonably cooperate with and assist Lender (or its designee or successor) to effect the transfer to Lender (or its designee or successor) of any and all licenses (including food, beverage and liquor licenses), permits, governmental authorizations, keys, combinations, reservation lists, statements, books & records, insurance policies, documents and/or agreements required for the operation of the Property.

6. **Liability of Lender.** Manager agrees that Lender and its successors and assigns shall not have any liability under the Management Agreement until such time, if any, as Lender or such successor or assign, as applicable, shall have explicitly assumed the obligations of Borrower under the Management Agreement in writing and elected to cause Manager to continue its management of the Property. In any event, Manager shall look only to the estate and property of Lender or its successors or assigns in the Property for the satisfaction of Manager's remedies for the collection of a judgment (or other judicial process) requiring the payment of money in the event of any default by Lender or its successors or assigns under the Management Agreement, and no other property or assets of Lender (or its successors or assigns) shall be subject to levy, execution or other enforcement procedure for the satisfaction of Manager's remedies under or with respect to the Management Agreement or the relationship of the parties thereunder. If Lender or a successor or assign explicitly assumes the obligations of Borrower under the Management Agreement in writing or acquires actual physical possession of the Property, Manager may resign upon not less than sixty (60) days notice to Lender or such successor or assign, as applicable.

7. **Indemnification.** Borrower and Manager each agrees to indemnify Lender and defend and hold Lender harmless from and against any and all liabilities, claims, demands, losses, damages, costs and expenses (including but not limited to reasonable attorney's fees) which Lender may incur under the Management Agreement or this Agreement and from any alleged or actual obligation or undertaking on its part to perform or discharge any of the terms, covenants or agreements contained in the Management Agreement. This indemnification will not apply to actions taken by Lender subsequent to Lender's acquisition of title by foreclosure. This provision shall survive any termination of the Management Agreement and any foreclosure.

8. **Notices.** All notices and other communications under this Agreement will be made in writing and given in accordance with this Section 8. All notices, demands, or other communications under this Agreement shall be in writing and shall be delivered to the appropriate party at the address provided below (subject to change from time to time by written notice to all other parties to this Agreement). All notices, demands or other communications shall be considered as properly given if delivered personally or sent by first class United States Postal Service mail, postage prepaid, except that notice of Default may

be sent by certified mail, return receipt requested, or by Overnight Express Mail or by overnight commercial courier service, charges prepaid. Notices so sent shall be effective three (3) days after mailing, if mailed by first class mail, and otherwise upon receipt provided, however, that non-receipt of any communication as the result of any change of address of which the sending party was not notified or as the result of a refusal to accept delivery shall be deemed receipt of such communication. Each party may establish a new address from time to time by written notice to the other given in accordance with this Section 8; provided, however, that no change of address will be effective until written notice thereof actually is received by the party to whom such change of address is sent. Notice to outside counsel designated by a party entitled to receive notice is for convenience only and is not required for notice to a party to be effective in accordance with this Section 8:

To Lender:

Wells Fargo Bank, National Association
Regional Private Markets Group (AU #1074)
299 South Main Street, 6th Floor
Salt Lake City, Utah 84111
Attention: Erick Bengtzen
Loan No. 1006314

With a copy to:

Minneapolis Loan Center
608 2nd Avenue South, 11th Floor
Minneapolis, Minnesota 55402
Attn: Kyle Schwanke
Loan No. 1006314

And:

Snell & Wilmer L.L.P.
15 West South Temple Street, Suite 1200
Salt Lake City, Utah 84101
Attn: Brian D. Cunningham

To Manager:

Cottonwood Partners Management, Ltd.
2855 East Cottonwood Parkway, Suite 560
Salt Lake City, Utah 84121
Attention: Reid T. Brinton

To Borrower:

Cottonwood Newpark Three, L.L.C.
2855 East Cottonwood Parkway, Suite 560
Salt Lake City, Utah 84121
Attention: John L. West

With a copy to:

EsNet, Ltd.
2155 North 200 West
Provo, Utah 84604
Attn: Daniel W. Campbell

9. **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of Utah, except to the extent preempted by federal laws. Borrower and Manager consent to the jurisdiction of any federal or state court within the State of Utah having proper venue and also consent to service of process by any means authorized by Utah or federal law.

10. **Relation to Management Agreement.** In the event of any conflict or discrepancy between any provision in this Agreement and any provision of the Management Agreement, the applicable provision of this Agreement shall control.

11. **Successors and Assigns.** This Agreement shall apply to, bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns. As used herein "Lender" shall include any subsequent holder of the Security Instrument.

12. **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 taken together shall constitute one and the same instrument. Signature and acknowledgement pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature and acknowledgement pages are physically attached to the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS HEREOF, Manager and Borrower have caused this Subordination of Management Agreement to be duly executed under seal as of the date first set forth above.

"MANAGER"

COTTONWOOD PARTNERS MANAGEMENT, LTD.
a Utah limited partnership

By: COTNET MANAGEMENT, INC.
a Utah corporation, its General Partner

By: 
Name: John F. West
Title: Vice President

"BORROWER"

COTTONWOOD NEWPARK THREE, L.L.C.
a Delaware limited liability company

By: CPM NEWPARK, L.C.
a Utah limited liability company, its Manager

By: COTTONWOOD PARTNERS
MANAGEMENT, LTD.
a Utah limited partnership, its Manager

By: COTNET MANAGEMENT, INC.
a Utah corporation, its General Partner

By: 
Name: John F. West
Title: Vice President

STATE OF UTAH

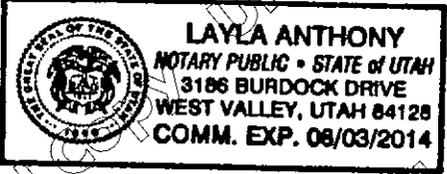
ss.

COUNTY OF Salt Lake

The foregoing instrument was acknowledged before me this 22nd day of February, 2012, by John F. West, the Vice President of COTNET MANAGEMENT, INC., a Utah corporation, the general partner of COTTONWOOD PARTNERS MANAGEMENT, LTD., a Utah limited partnership, on behalf of said partnership.

NOTARY PUBLIC
Residing at: 3186 Burdock Dr. WVS, UT 84128

My commission expires August 3, 2014



STATE OF UTAH

ss.

COUNTY OF Salt Lake

The foregoing instrument was acknowledged before me this 22nd day of February, 2012, by John F. West, the Vice President of COTNET MANAGEMENT, INC., a Utah corporation, the general partner of COTTONWOOD PARTNERS MANAGEMENT, LTD., a Utah limited partnership, the manager of CPM NEWPARK, L.C., a Utah limited liability company, the manager of COTTONWOOD NEWPARK THREE, L.L.C., a Delaware limited liability company, on behalf of said company.

NOTARY PUBLIC
Residing at: 3186 Burdock Dr. WVS, UT 84128

My commission expires August 3, 2014

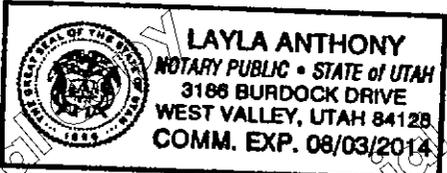


Exhibit "A"
Legal Description of Subject Property

Exhibit "A" to ASSIGNMENT, CONSENT AND SUBORDINATION OF MANAGEMENT AGREEMENT between Cottonwood Newport Three, L.L.C., as "Borrower", and Wells Fargo Bank, National Association, as "Lender", dated as of February 10, 2012.

All the certain real property located in the County of Summit, State of Utah, described as follows:

Parcel 1

All of Lot P-1, **Newpark Parcel P Subdivision**, according to the official plat thereof, recorded February 21, 2012 as Entry No. 939829 of the official records in the office of the Summit County Recorder.

Parcel 2

Together with those certain easement rights in and to Common Parcel 1, Parcel Q, Lot T-1, and Lot V-2, as created by that certain Amended and Restated Easement and Maintenance Agreement recorded February 23, 2012 as Entry No. 939970 in Book 2116 at Page 1444 of the official records in the office of the Summit County Recorder, reference to which is hereby made for the particulars.

Summit County Tax Serial No's: NPRK-P-1, NPRK-Q-AM, NPRK-T-1-AM, and NPRK-V-2-2AM.

EXHIBIT B
MANAGEMENT AGREEMENT

PROPERTY MANAGEMENT AGREEMENT

THIS PROPERTY MANAGEMENT AGREEMENT (the "Agreement") is made as of February 8, 2012, by and between Cottonwood Newpark Three, L.L.C. ("Owner"), and Cottonwood Partners Management, Ltd. (DBA Cottonwood Management Services) ("Manager").

RECITALS:

A. The Owner is the owner of that certain office building located at 1389 Center Drive, Park City, Utah, and more particularly described in Exhibit "A", attached to and incorporated by this reference to the Agreement (the "Property").

B. Manager is in the business of managing real property, including commercial office buildings similar to the Property, and is fully capable of managing the property.

C. The Owner desires to secure the services of Manager for the management, operation and maintenance of the Property and Manager desires to provide such services to the Owner upon the terms and conditions and for the consideration set forth in this Agreement.

NOW, THEREFORE, incorporating the Recitals set forth above, and in consideration of the mutual promises and covenants set forth below, Owner and Manager agree as follows:

ARTICLE I

TERM

1.1 Term. Manager shall be the exclusive manager of the Property upon the terms and conditions stated in this Agreement, for a term of one (1) year beginning on March 1, 2012, and ending on February 29, 2013 (the "Term"), unless earlier terminated by Owner or Manager as provided in Article VI of this Agreement. This Agreement, if not earlier terminated as provided herein, shall continue thereafter for successive periods of one (1) year.

1.2 Start Date. The initial management Start Date of this agreement shall be the date the "Certificate of Occupancy" is issued by Summit County or a date mutually agreed upon by the Owner and Manager, whichever is first.

ARTICLE II

COMPENSATION

2.1 **Management Fees.** Owner shall pay Manager the fees described in Exhibit "B", attached to and incorporated by this reference to this Agreement, for the services to be rendered to Owner during the Term. In the event services are rendered by Manager for a portion of any given month, the monthly sum specified in Exhibit "B" shall be prorated, and Manager shall receive payments for only that portion of any such month as it renders services.

2.2 **Reimbursement for Expenses.** Owner agrees to reimburse Manager for all expenses incurred by manager on behalf of Owner for the management of the Property. Such expenses may include, but are not limited to (i) salaries, compensation and fringe benefits of personnel employed by Manager at the Property, including on-site management personnel, maintenance personnel and office overhead including payroll taxes; (ii) all costs of borrowed money, taxes and assessments on the Property and other taxes applicable to Owner; (iii) all legal, audit, accounting, consulting and Property related travel expenses normally required for property management, and (iv) all expenses for the maintenance, control, operation and management of the Property. In the event that at any time there are insufficient funds available in the custody of Manager from the current collections to pay such expenses, Owner agrees to supply Manager immediately with funds required to make such payments.

ARTICLE III

AUTHORITY AND RESPONSIBILITIES OF MANAGER

3.1 **General.** Manager shall use its diligent efforts, in the name and at the expense of Owner, to operate, manage and maintain the Property as an independent contractor for Owner in accordance with sound property management practices. Except as may be otherwise provided in this Agreement, Manager shall operate, manage and maintain the Property in a manner normally associated with the management and operation of similar realty in the market area in which the Property is situated.

3.2 **Employees and Contractors.** Manager shall at times have in its employ or under contract employees to enable it to manage, operate and maintain the Property. All matters pertaining to the employment, supervision, compensation, promotion and discharge of such persons shall be the responsibility of Manager. Manager shall in all respects be the employer or contractor of such persons, but Owner may require that any particular person(s) be removed from duty with respect to the Property if Owner reasonably deems such person(s) to be incompetent, careless, insubordinate or otherwise objectionable.

3.2b) Manager shall use its diligent efforts to comply with all applicable laws and regulations relating to worker's compensation, social security, unemployment insurance, hours of labor, wages, working conditions and other

employer-employee related matters of which it is aware. The expense of such employees and contractors shall be borne by Owner. The above identified employment expenses are chargeable to the Operating Accounts (as defined in Section 4.2) by Manager.

3.2.2 Manager shall use its diligent efforts to execute and file all forms, reports and returns required under federal, state, city or municipality law to be executed and filed in connection with unemployment insurance, workmen's compensation insurance, disability benefits, social security and other similar taxes and premiums now in effect or hereafter imposed relating to the employment of personnel required for the management, operation and maintenance of the Property of which it is aware. In connection therewith, Owner agrees to execute and promptly deliver such powers of attorney or appointments necessary to permit Manager to make such filings.

3.2.3 It is also understood and agreed that Manager may utilize on the Property the services of various employees who also work on other similar projects of Manager. For administrative convenience and efficiency, such employees or employees providing services exclusively for Owner's building will be paid on a single payroll. Manager shall charge Owner the portion of the salary directly attributed to services performed for the Property, plus the employer's pro rata share of FICA taxes, state and federal unemployment assessments, and workmen's compensation premiums or assessments, which may be payable based on the gross pay and other taxable income of employee. In addition, Owner agrees to pay Manager a fee which shall be equal to 5% gross salary attributed to services performed for preparation and processing of payroll records, checks and all payroll reports required by any state or federal agency. Manager shall preserve all records supporting the basis for such charge to Owner, and shall submit same to Owner upon request.

3.3 Enforcement of Leases. Manager shall use diligent efforts, in the name and at the expense of Owner, to collect all rents and lease payments and all other charges, including operating expense pass-throughs, parking fees and taxes, which may be due from the tenants. Manager shall deposit such collections in the Operating Accounts (as defined in Section 4.2). Manager shall maintain records of all cash receipts and an itemized list of delinquencies, and shall send appropriate notices of delinquency and apply late charges according to the provisions of the tenants' leases. Manager will take such actions, legal or otherwise (including the employment of attorneys), as Owner's attorney-in-fact to carry out such actions, delinquent monthly assessments, and other charges and for the dispossession of tenants. Any expenses incurred by Manager under this Section, including such legal expenses as authorized shall be borne by Owner. Manager shall be additionally compensated for dispossession of tenants in accordance with Section II.A of Exhibit "B" to this Agreement. Except as stated above, Manager shall have no responsibility for collection of delinquent rent or other charges and for the dispossession of tenants.

3.3.1 Manager may compromise, settle, establish or waive rents, or grant extensions of time for payment thereof, according to the written policies of Owner and all in the name of Owner, as Manager may reasonably deem expedient under all of the circumstances.

3.3.2 At Owner's written direction, Manager is hereby authorized to execute lease agreements with tenants, provided such agreements conform in form and substance to the leasing guidelines for the Property established by Owner and communicated in writing to Manager.

3.3.3 Manager shall prepare appropriate schedules for pass-throughs of Property operating expenses to tenants according to the provisions in the tenants' leases. With Owner consultation and approval, Manager shall provide tenants appropriate notice as required in tenants' leases and make adjustments as required to tenants' bills.

3.4 Compliance with Laws

3.4.1 Notification of Violation. Manager shall promptly notify Owner of any alleged violation of any laws, rules, regulations, requirements, orders, notices, determinations, ordinances or otherwise (collectively, "Laws") of any federal, state, city or municipality authority after becoming aware of the same.

3.4.2 Compliance. Manager shall undertake such action as specifically requested to bring the Property into compliance with such Laws as set forth in the written request by the Owner.

3.5 Maintenance and Repairs. Manager shall use its diligent efforts, in the name and at the expense of Owner, to maintain, or cause to be maintained, in good condition and repair the Property and its common areas, external and internal, including, without limitation, sidewalks, signs, mechanical, electrical and other systems, parking lots and landscaping. Manager shall, in the name and at the expense of Owner, make or cause to be made such ordinary repairs and alterations as Manager may deem advisable or necessary, subject to and within the limitations of the Operating Budget (as defined in Section 4.1) unless otherwise approved in writing, in advance by Owner.

3.5.1 Contracts. Manager shall attempt to obtain competitive and responsible bids before the award of each and every order or service contract that is of a material amount. When taking bids or issuing purchase orders, Manager shall, at times act on behalf of Owner, and shall be under a duty to use its good faith efforts to secure for and on behalf of Owner any discounts, commissions or rebates obtained or obtainable as a result of making such contracts or placing such orders. All contracts and orders shall be made in the name of and at the expense of the property and Owner.

3.5.2 Emergency. Notwithstanding anything to the contrary contained in Section 3.5.1, in the event of an emergency, Manager shall take such action as is prudent under the circumstances and shall be reimbursed for any expense incurred in such action, even if not in the Operating Budget (as defined in Section 4.1), so long as Manager attempts to consult with Owner in advance and, in any event, notifies Owner within twenty-four (24) hours of taking such action or as promptly as practical under the circumstances and explaining the reasons for such action.

3.6 Liability. Owner releases Manager from all liability whatsoever for any acts or omissions of Owner or any previous owners of the Property, or any previous management or other property manager of either. As provided in Section 3.3, Manager shall use its best efforts to collect all rent owed by tenants to Owner, however, Manager assumes no liability for, and is released by Owner from, any failure of or default by any tenant in the payment of any rent or other charges due Owner or in the performance of any obligations owed by any tenant in the payment of any rent or other charges due Owner or in the performance of any obligations owed by any tenant to Owner pursuant to any lease or otherwise. Manager assumes no liability for, and is released by Owner from, previously known or unknown violations of environmental or other regulations which may become known during the Term. Any such regulatory violations or hazards discovered by Manager shall be brought to the immediate attention of Owner. Without limiting the generality of the foregoing, Manager shall have no liability to Owner for any damage, injury, loss of profits, business interruption or other direct or consequential damage, except to the extent proximately caused by Manager's willful act, fraud, or gross negligence.

3.7 Modifications. Notwithstanding any other provisions therein to the contrary, Owner and Manager reserve the right, upon their mutual agreement (which agreement shall be in writing), to make such changes in the scope or nature of the duties and obligations of Manager under this Agreement as they may deem proper. If any such change causes an increase in the cost to Manager to perform its obligations, an equitable adjustment shall be made in the monthly fee to be paid Manager as provided in this Agreement.

ARTICLE IV

ACCOUNTING AND FINANCIAL MATTERS

4.1 Operating Budget. Manager shall prepare an annual operating budget in consultation with Owner for the management and operation of the Property for the forthcoming fiscal year. Owner and Manager shall have the right from time to time during each calendar year to submit revised budgets to the other. In such event, the other party shall approve the revisions or provide its own revisions to be accepted as Owner and Manager deem proper. If Owner and Manager fail to agree upon a proposed revised budget, Owner shall determine the budget to apply. Manager shall use diligence to ensure that the various elements of costs actually incurred in maintaining and operating the Property do not exceed the corresponding amounts established by the approved budgets.

4.1.1 Notwithstanding the above, the Manager may, on behalf of the Owner and without its prior consent, expend any reasonable amount, or incur a contractual obligation in any reasonable amount, required to deal with emergency conditions which may involve a danger to life or property or may threaten the safety of the Property or its occupants or may threaten the suspension of any necessary service to the Property.

4.2 Operating Accounts. Manager shall establish and maintain in the name of Cottonwood Newport Three, L.L.C. a checking account and such other accounts as Owner may reasonably require, with a state or national bank of Manager's choice whose deposits are insured by the FDIC. All amounts received by Manager in connection with the management and operation of the Property shall be deposited by Manager into the Operating Accounts. All disbursements in connection with the management, operation and maintenance of the Property shall be from the Operating Accounts. Manager shall cause to be paid from the Operating Accounts, on a timely basis: (1) premiums for all fire and other insurance coverage required under this Agreement to be maintained by Manager, (2) all mortgages, property taxes and assessments according to Owner's specifications, and (3) all sums otherwise due and payable by the Property as operating expenses authorized to be incurred under the terms of this Agreement and the Operating Budget, including the amounts provided to be paid Manager for its services under this Agreement.

4.3 Books and Records. In consultation with Owner, Manager shall establish standard books, records and procedures for all matters pertaining to the Property, including but not limited to, all revenues, expenditures, service contracts and leases. Such books and records shall be kept at the office of Manager, or at such other place Owner and Manager shall agree. Manager shall keep accurate and complete books and accounts showing operations and transaction relating to the Property. Such books shall include a detailed record of all tenant collections and security deposits and (provided Owner furnishes appropriate information to Manager) the assets, liabilities and financial conditions of the Property.

4.3.1 Owner shall, during regular business hours, have access to inspect and audit such books and records. Any such audit shall be at Owner's expense, by such independent accountants as Owner may select.

4.4 Accounting and Management Reports. On or before the 20th day of each month, Manager shall provide Owner with the following financial and management reports for the preceding month. If Owner requests additional reports, Manager agrees to use its best efforts to provide such other reports at Owner's expense.

4.4.1 Key Information Summary.

4.4.2 Narrative regarding material changes in Property and explanation of variances.

4.4.3 Accrual Basis Financial Statements (month and year-to-date actual versus budget).

4.4.4 Accrual General Ledger and General Journal.

4.4.5 Rent Roll.

4.4.6 Report Showing Delinquent and Prepaid Rent, by Tenant (with explanation).

4.4.7 Disbursement Listing/Check Register.

4.4.8 Monthly Analysis of Security Deposits on Hand/Monthly Security Deposit Transactions.

4.4.9 Balance Sheet.

4.4.10 Bank Statement for Operating Account.

4.4.11 Reconciliation of the Operating Account.

4.4.12 Lease Status Report.

4.4.13 Capital Projects/Disbursements Report

4.5 Payment. The parties hereto expressly agree that all services to be performed as an independent contractor of the Owner, and all obligations or expenses incurred under this Agreement shall be for the account of, on behalf of and at the expense of the Owner.

4.5.1 Owner agrees to establish a permanent Operating Reserve Account with Manager in the amount of Five Hundred Dollars (\$500.00).

4.5.2 Manager shall not be obligated to incur any liability or obligation for or on account of the Owner or to pay any sums under this Agreement except out of the Property's Operating Reserve Account.

4.5.3 Manager shall not be required to advance any monies for the care or management of the Property and Owner agrees to advance all monies necessary therefor. If Manager shall elect to advance any money in connection with the Property, Owner agrees to reimburse Manager immediately, and hereby authorizes Manager to deduct such advances from any monies due Owner.

4.5.4 Manager shall upon instruction from Owner, impound reserves each month for payment of real estate taxes, insurance or any other special or capital expenditure.

ARTICLE V

INSURANCE AND INDEMNIFICATION

5.1 Indemnification. Owner shall (i) indemnify, defend, hold and save Manager free and harmless from any and all claims for costs, damages, demands, actions, or injuries to persons or property, including reasonable attorneys' fees and costs, by reason of any cause whatsoever either in and about the Property or elsewhere incurred by or asserted against Manager in connection or arising out of this Agreement or when acting under the express or implied directions of Owner; or resulting from the violation of any environmental or other regulation; or due to Owner's failure or refusal to comply with or abide by any rule, order, determination, ordinance or law of any Federal, State or Municipal Authority; or otherwise resulting from the acts or omissions of Owner, (ii) reimburse Manager upon demand for any monies which Manager is required to pay for any reason, under this Agreement or in connection with or as an expense in defense of, any claim or civil action, proceeding, charge or prosecution made, instituted or maintained against Owner or Manager, jointly or severally, affecting or due to the conditions or use of the Property, or acts or omissions of Manager or employees of Owner or Manager, or arising out of or based upon any law, regulation, requirement, contract or award relating to the hours of employment, working conditions, wages or compensation of employees or former employees of Owner, or otherwise, (iii) defend promptly and diligently, at Owner's sole expense, any claim, action or proceeding brought against Owner or Manager jointly or severally, arising out of or connected with any of the foregoing, and to hold harmless and fully indemnify Manager from any judgment, loss, expense or settlement on account thereof. The foregoing provisions of this Section 5.1 shall survive the termination of this Agreement, but this shall not be construed to mean that Owner's liability does not survive as to other provisions of this Agreement. Nothing contained in this Section 5.1 shall relieve Manager from responsibility to Owner for the gross negligence, willful misconduct or intentional wrongdoing of Manager, its employees or agents.

5.2 Approval of Insurance Companies. All insurance required to be carried by Owner or Manager shall be written with companies with a rating and financial size of not less than "A" in the most current available "A.M. Best's Insurance Reports" and licensed to do business in the State of Utah, unless otherwise approved by Owner.

5.3 Owner's Insurance Responsibility: Owner shall maintain during the Term, and any extensions thereof, the following insurance coverages (specifically insuring the indemnity provisions contained in Section 5.1) at Owner's sole cost:

5.3.1 All-risk Property Damage Insurance and Loss of Rents Insurance coverage on the property;

5.3.2 Comprehensive General Liability Insurance coverage (including, without limitation, blanket contractual and personal injury liability), in an amount agreed to by Owner and Manager.

5.3.3 Notwithstanding anything to the contrary in this Agreement, Owner's Comprehensive General Liability Insurance coverage referred to in Section 5.4.2 above shall provide that it is primary with respect to personal injury and property damage claims covered by Owner's comprehensive general liability insurance policies carried pursuant to Section 5.4.2 above and Owner shall provide to Manager a certificate of Owner's insurance coverage within thirty (30) days of this Agreement.

The policies will provide that notice of default or cancellation shall be sent to Manager and shall require a minimum of sixty (60) days written notice before any cancellation of, or changes to said policies.

ARTICLE VI

TERMINATION

6.1 **Termination of Agreement.** This Agreement may be terminated by either party at any time upon thirty (30) days written notice to the other party of such termination.

6.2 **Bankruptcy.** In the event a petition in bankruptcy, reorganization or rearrangement is filed by or against either Owner or Manager, or in the event that either party shall make an assignment for the benefit of creditors or take advantage of any insolvency act, the other party may terminate this Agreement upon ten (10) days written notice.

6.3 **Obligations Upon Termination.** Upon termination of this Agreement, Owner shall promptly pay to Manager as soon as the same is determinable after the effective date of termination, any amounts due to Manager upon the terms of this Agreement prior to termination. Upon termination, Manager shall deliver to Owner all books, records, permits, plans, leases, licenses, contracts and other documents pertaining to the Property or its operation, all insurance policies, and all bills of sale or other documents evidencing title or rights of Owner, which are necessary or desirable for the ownership and operation of the Property. Manager shall assign unexpired service and supply contracts to Owner or to a party designated by Owner. Manager agrees to do all other things reasonably necessary to cause an orderly transition of the operation and management of the Property without detriment to the interests of Owner. During the one-year prior following termination of this Agreement, Manager shall be given reasonable access to the books and records of the Property relating to the period during which this Agreement was in force and shall have the right to copy such books and records at Manager's expense.

6.4 **Rights Which Survive Termination.** Termination of this Agreement shall in no event terminate or prejudice any right arising out of or accruing in connection with the terms of this Agreement attributable to events and circumstances occurring prior to termination of this Agreement, or all rights and obligations specified in this Agreement to survive such termination, including but not limited to Section 5.1, which requires Owner to insure and indemnify Manager hereunder.

ARTICLE VII

DEFAULT

Manager shall not be in default under any of the provisions of this Agreement unless Owner provides written notice of such default to Manager, and said default thereafter remains uncorrected for a period of not less than twenty (20) days. In the event such default may not be corrected within twenty (20) days, Manager satisfies this Article if Manager takes appropriate corrective measures to cure the default and such default is corrected within a reasonable time thereafter.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

8.1 **Headings.** The headings used herein are for convenience only and shall not be used in construing the provisions hereof.

8.2 **Notice.** All notices required or permitted to be given to the parties shall be either personally delivered (including by courier service), or mailed postage prepaid, or by facsimile, to the following addresses for the respective parties shown below. Either party may change the address at which it desires to receive notice upon giving written notice of the new address to the other party, directed to the following:

FOR THE OWNER: John F. West
c/o Cottonwood Newpark Three, D.L.C.
2855 E. Cottonwood Parkway, #560
Salt Lake City, Utah 84121

FOR THE MANAGER: Reid T. Brinton
Cottonwood Management Services
2855 E. Cottonwood Parkway, #560
Salt Lake City, Utah 84121

Telephone: 801-365-6200
Facsimile: 801-365-6201

8.3 **Relationship of the Parties.** Manager is an independent contractor retained by Owner pursuant to the terms of this Agreement. Neither anything contained in this Agreement nor shall any acts of the parties to this Agreement be deemed or construed to create the relationship of principal and agent, employer and employee, or a partnership or joint venture, between the parties.

8.4 **Entire Agreement.** This Agreement represents the entire agreement between the parties with respect to the matters set forth, and supersedes all other or prior agreements, representations and covenants. Amendments to this Agreement must be in writing and signed by each party or its duly authorized officer.

8.5 **Assignment.** Owner shall have the right to assign its rights hereunder to a third party, provided that such third party assumes Owner's obligations hereunder. In the event of any such assignment by Owner, the assigning Owner shall be released from all obligations under this Agreement, except for obligations already accrued as of the date of the assignment. Manager shall not assign its rights or duties hereunder without the prior written consent of Owner, and any

such assignment without such consent shall be void and of no effect and shall constitute a default hereunder.

8.6 Successors and Assigns. Subject to the foregoing limitations concerning assignment, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

8.7 Attorneys' Fees. In the event any controversy, claim or action is instituted respecting this Agreement, the prevailing party shall be entitled to recover from the other party its reasonable attorney's fees as determined by the court, whether or not such controversy is litigated or prosecuted to judgment.

8.8 Time of the Essence. Time is of the essence in this Agreement.

8.9 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Utah.

8.10 No Advertising. No publication, announcement or advertisement of Owner's name in connection with the Property shall be made by Manager, except in connection with agreements entered into by Manager in Owner's name as expressly provided for in this Agreement or as may be required by applicable law.

8.11 Severability. In the event that any provision in this Agreement shall be deemed invalid, unenforceable or illegal for any reason whatsoever, the remainder of this Agreement shall not be affected and shall be enforced to the greatest extent permitted by law, provided however that such invalidity, unenforceability or illegality does not destroy the basis of the bargain between the parties.

8.12 Further Acts. Owner and Manager shall execute such other documents and perform such other acts as may be reasonably necessary or helpful to carry out the purposes of this Agreement.

8.13 Authority. Each individual signing this Agreement on behalf of a legal entity represents that he or she holds the office and/or position in such legal entity respectively indicated hereinafter for him or her, and has full right and power and has been duly and legally authorized to act on behalf of such legal entity in executing and entering into this Agreement.

8.14 Duplicate Originals; Counterparts. This Agreement may be executed in any number of duplicate originals, all of which shall be of equal legal force and effect. Additionally, this Agreement may be executed in counterparts, but shall become effective only after a counterpart of this Agreement has been executed by each party; all said counterparts, when taken together, shall constitute the entire single Agreement between the parties.

MADE AND EXECUTED as of the day and year first above written.

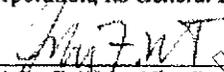
"Owner"

**COTTONWOOD NEWPARK THREE,
L.L.C., a Delaware limited liability
company, by,**

**CPM NEWPARK, L.C., a Utah limited
liability company, its Manager, by**

**COTTONWOOD PARTNERS
MANAGEMENT, LTD., a Utah limited
partnership, its Manager, by**

**COTNET MANAGEMENT, INC., a
Utah corporation, its General Partner**

By: 
John F. West, Vice President

"Manager"

**COTTONWOOD PARTNERS
MANAGEMENT, LTD., (dba
Cottonwood Management Services), a
Utah limited partnership**

By: 
Reid T. Brinton, President
Cottonwood Management Services

EXHIBIT A

LEGAL DESCRIPTION

Address: 1389 Center Drive, Park City, Utah 84098

The following described real property is located in Summit County, Utah:

Parcel P:

Summit County Tax Serial Number: NPRK-P

**PARCEL P NEW PARK MASTER DEVELOPMENT PARCEL PLAT SUBDIVISION;
ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY
RECORDERS OFFICE CONT 0.48 AC TOGETHER WITH PROPORTIONATE INT
IN THE COMMON AREA (LESS 380 SQ FT NEWPARK PARCEL V SUBDIVISION
2ND AMENDED) BAL 0.47 AC M/L 1526-1270**

EXHIBIT B

**SCHEDULE OF CONSIDERATION FOR SERVICES
AS REFERENCED IN SECTION 2.1 OF THE AGREEMENT**

I. **Monthly Management Fee:** One thousand five hundred and no/1000 Dollars (\$1,500.00) per month of three percent (3%) of gross revenues, whichever is greater. Without limitation, any payment of money by a tenant to Owner in consideration for, or in conjunction with a rental deposit, tenant expense reimbursements for utility costs which have been derived by a sub-meter on the Property, property insurance loss proceeds, lease termination fees or proceeds received by Owner in connection with the sale of any portion of the Property shall be excluded from Gross Monthly Collections.

II. **Additional Fees**

A. **Eviction Service:** Generally, any eviction process will be handled by an attorney representing Owner. However, should Owner request Manager to file eviction papers with a court and be required to make any court appearances, Owner shall pay Manager the rate of sixty five Dollars (\$65.00) per hour for actual time spent in providing such special services.

B. **Construction Management Fee:** Should Manager be requested to perform construction management services for capital items or Tenant Improvements, the following schedule will apply:

Under \$5,000	-	No Charge
\$5,000 to \$300,000	-	5% of costs
over \$300,000	-	3% of costs

Note: The management fee, as stated in Section I above, reflects the regular duties and responsibilities of Manager which are covered in Article IV. In the event Owner may require any other services, such other services are considered additional, shall be negotiated on a case-by-case basis and shall be the subject of a separate written agreement.