

When Recorded Mail To:
Charter Oak Real Estate Fund, LLC
ATT: Lynn P. Consentino
942 Chestnut Ridge Road
Millbrook, New York 12545

9598237

9598237
12/30/2005 12:54 PM \$38.00
Book - 9237 Pg - 5473-5486
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
LANDMARK TITLE
BY: ZJM, DEPUTY - WI 14 P.

**GENERAL ASSIGNMENT AND ASSIGNMENT OF WARRANTIES AND OTHER
CONTRACT RIGHTS**

THIS GENERAL ASSIGNMENT AND ASSIGNMENT OF WARRANTIES AND OTHER CONTRACT RIGHTS ("Assignment") made as of the 27th day of December, 2005, is by MICHAEL J. VAN LEEUWEN ("Borrower"), an individual whose address is 4547 South Abinadi Road, Salt Lake City, Utah 84124, in favor CHARTER OAK REAL ESTATE FUND, LLC, a Delaware limited liability company ("Lender"), whose address is c/o Porter Capital Management, 38C Grove Street, Ridgefield, CT 06877.

WITNESSETH:

WHEREAS, Borrower has executed and delivered to Lender a Promissory Note dated of even date herewith (the "Note"), payable to the order of Lender, which Note evidences a loan made by Lender to Borrower; and

WHEREAS, the Note is secured by that certain Deed of Trust dated of even date herewith (the "Security Instrument"), from Borrower as Trustor to Lender, as Beneficiary, encumbering that certain property situated at 4547 South Abinadi Road, Salt Lake City, Utah 84124, County of Salt Lake and State of Utah as more particularly described on Exhibit A attached to the Security Instrument (the "Property"); and

WHEREAS, Lender and Borrower have entered into an Assignment of Leases and Rents dated the date hereof (the "Assignment of Leases") pursuant to which Borrower has granted to Lender a security interest in all of Borrower's right, title and interest in, to and under the Rents from the Property; and

WHEREAS, Borrower is desirous of further securing to Lender the repayment of the indebtedness evidenced by the Note and the performance of the other terms, covenants and agreements contained herein and in the Note, the Security Instrument, the Security Agreement (defined herein) and each other document evidencing, securing, guaranteeing and/or relating to the indebtedness evidenced by the Note (the Security Agreement and such other documents, as each of the foregoing may from time be amended or replaced, are herein sometimes collectively referred to as the "Loan Documents"); and

WHEREAS, pursuant to the terms of the Security Agreement ("Security Agreement"), Borrower is required to grant Lender a security interest in the Collateral (as hereinafter defined) to secure the obligations of Borrower under the Security Agreement and the other Loan Documents.

NOW, THEREFORE in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, receipt of which is hereby acknowledged, Borrower agrees as follows:

LTC #39992

BK 9237 PG 5473

1. Assignment and Grant of Security Interest. Borrower, in consideration of the Security Agreement and in connection with the Property, and in order to secure payment and performance of the Obligations (as hereinafter defined), hereby assigns, gives, grants, bargains and transfers to Lender, grants a security interest in, and pledges to Lender, upon the terms and conditions of this Agreement, all of the following described property, rights and interests whether now owned or hereafter acquired (all of which are collectively referred to herein as the "Collateral"):

(a) all right, title and interest of Borrower to all contracts, permits, licenses, security deposits, payment and performance bonds pertaining to the Property, including but not limited to engineering, architectural, and construction contracts with respect to the Property,

(b) intentionally omitted;

(c) intentionally omitted;

(d) all right, title and interest of Borrower to all air rights or transfer development rights, zoning and subdivision rights and development agreements pertaining to the Property,

(e) (i) the Accounts and all cash, checks, drafts, certificates and instruments, if any, from time to time deposited or held in the Accounts from time to time including, without limitation, all deposits or wire transfers made to the Accounts;

(ii) intentionally omitted;

(iii) all interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise payable in respect of, or in exchange for, any or all of the foregoing,

(f) All of Borrower's right, title and interest in and to the Property, including, without limitation, all Improvements (as such term is defined in the Security Agreement) and all fixtures and building materials of every kind and nature now or hereafter situated in, on, under, or about, or affixed or attached to the Land (as such term is defined in the Security Agreement) or such Improvements (which are not the property of any Lessee, utility or independent contractor), all additional lands and estates hereinafter acquired by Borrower for use in connection with the Land and the Improvements, and all lands and estates that may, from time to time, by supplemental mortgage or deed of trust or additional agreement be made subject to the lien of this Agreement and the reversion or reversions, remainder or remainders, in and to the Property, and all claims or demands either in law or in equity, in possession or expectancy, of, in and to the Property,

(g) All right, title and interest of Borrower to "UCC Collateral" and Personal

Property (as those terms are defined in the Security Agreement), including, but not limited to, all machinery, apparatus, equipment, fittings, fixtures and other property of every kind and nature whatsoever, including, without limitation, all boilers, furnaces and other heating fixtures, all refrigerating, air conditioning, heating, plumbing, and ventilation systems, all elevators, escalators, vacuum cleaning systems, switchboards, sprinkler systems, fire prevention and extinguishing apparatus, all pumps, tanks, pipes, ducts, motors, engines, compressors, generators, gas, steam, electrical and lighting fittings, all vertical and horizontal communication interconnections (including, but not limited to, those via conduit, wave guide or ceramic duct), all furniture, furnishings, appliances, ovens, dishwashers, refrigerators, and all other kitchen equipment, window shades, draperies, and carpeting, all operating supplies and all building materials, equipment and goods now or hereafter delivered to the Property intended to be installed therein, together with all replacements and substitutions thereof and additions and accessions thereto in which Borrower now has, or at any time hereafter acquires, an interest and which are now or hereafter located or situated in or upon, or affixed or attached to, or used in connection with the enjoyment, occupancy and/or operation of, all or any portion of the Property,

(h) All Leases (as such term is defined in the Security Agreement) and the Rents (as such term is defined in the Security Agreement) thereunder (it being intended by Borrower that the assignment of the Leases and Rents herein and contained in the Assignment of Leases and Rents constitutes a present, absolute assignment and not an assignment for additional security only, provided that, subject to the terms of the Assignment of Leases and Rents, Borrower shall have a revocable license to (i) modify the Leases and exercise or refrain from exercising rights of landlord subject to the terms and conditions of the Security Agreement and the other Loan Documents, and (ii) collect and receive the Rents), and all right, title and interest of Borrower to all other present and future leases, subleases and licenses and any guarantees thereof, rents, issues and profits and additional rents now or at any time hereafter covering or affecting the use or occupancy of, or the conduct of any activity upon or in all or any portion of the Property, including any amendments, modifications, extensions or renewals thereof

(i) All of Borrower's right, title and interest in and to all and singular, easements, rights-of-way or use, air rights, development rights, water, water rights and powers, water courses, sewer rights, and other rights, privileges and appurtenances to the Property now or hereafter belonging or in anyway appertaining thereto, including, without limitation, any such right, title, interest, claim and demand in, to and under any agreement granting, conveying or creating, for the benefit of the Property, any easement, right or license in any way affecting other property and in, to and under any streets, ways, alleys, passages, vaults, gores or strips of land adjoining the Property, or any parcel thereof, and all land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining the Property, to the center line thereof;

(j) All Insurance Proceeds (as such term is defined in the Security Agreement) and all other proceeds of and any unearned premiums on any insurance policies covering the Property, including, without limitation, the right to receive and

apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property or any part thereof subject to and in accordance with the terms of the Security Agreement;

(k) All Condemnation Awards (as such term is defined in the Security Agreement) and other awards heretofore made or hereafter to be made for the taking by eminent domain of the whole or any part of the Property, or any estate or easement therein, including any awards for change of grade of streets, and all rights to collect and receive the proceeds of such awards and to give proper receipts and acquittances therefor and to apply such awards subject to and in accordance with the terms of the Security Agreement;

(l) All contracts of sale with other parties now or hereafter entered into in connection with the Property or any part thereof and all right, title and interest of Borrower thereunder, including, without limitation, cash or securities deposited thereunder to secure performance of buyers of their obligations thereunder and also including the right upon the happening of an event of default thereunder to enforce the obligations of such buyers and to receive and collect the amounts deposited thereunder and any and all further amounts which may be due under such contracts of sale or due upon the consummation of such contracts of sale;

(m) All right, title and interest of Borrower in and to all agreements, or contracts with other parties (such other parties referred to in this paragraph and in paragraph 1(l) collectively hereinafter referred to as the "Contracting Parties"), now or hereafter entered into for the sale, leasing, brokerage, development, management, maintenance, sale and/or operation of the Property (or any part thereof), including all moneys due and to become due thereunder, and all permits, licenses, approvals, bonds, insurance policies, agreements, contracts, consents, and plans, specifications designs and drawings relative to the construction, rehabilitation, refurbishing and/or operation of the Improvements (collectively, with the contracts described in Section 1(l), the "Contracts");

(n) All refunds, rebates or credits in connection with a reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for assessment and/or tax reduction relating to the Property;

(o) All of Borrower's claims and rights to the payment of damages arising from any rejection of any Lease under or pursuant to the Bankruptcy Code, 11 U.S.C. §101 et seq.;

(p) All of Borrower's interest in all claims and causes of action relating directly or indirectly to the Property, whether such claims or causes of action arise in Borrower's name or are acquired by Borrower, directly or indirectly, by subrogation or otherwise;

(q) All of Borrower's interest in all proceeds, products, replacement, additions, substitutions, renewals and accessions of and to the Collateral described in the preceding clauses (a) through (p);

(r) All oil and gas or other mineral royalties and bonuses, and any other consideration of whatever form or nature received by or paid to or for the account of or benefit of Borrower or its agents or its employees from any and all sources arising from or attributable to Property, all right, title and interest of Borrower to all trademarks, copyrights, and rights to any trade names used in connection with the operation of the Property, all accounts receivable, income, revenues, earnings, rents, maintenance payments, tolls, issues, awards, products and profits derived from or originating from the Property, all tenements, hereditaments and rights of dower and courtesy, property, possession, claim or demand, either in law or in equity, of, in, and to, the Property, and any other property and rights which are, by the provisions of any other Loan Document, required to be subject to the lien hereof, and all the estate, right, title, interest and claim whatsoever, at law and in equity, which Borrower now has or may hereafter acquire in and to the aforementioned property and every part thereof, and any additional property and rights that may from time to time hereafter by installation in the Property, or by writing of any kind, or otherwise, be subjected to the lien hereof by Borrower or by anyone on its behalf; and

(s) The right, in the name of and on behalf of Borrower, to appear in and defend any action or proceeding to protect the interest of Lender in the Property,

(t) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and Condemnation Awards, and all right, title and interest of Borrower in and to all unearned premiums accrued, accruing and to accrue under any or all insurance policies obtained by Borrower;

(u) any and all warranties and guaranties relating to the Property or any fixtures, equipment or personal property owned by Borrower and located on and/or used in connection with the Property, whether now existing or hereafter arising;

(i) (v) any and all permits, licenses, certificates of use and occupancy (or their equivalent), contracts, applications and approvals issued by any governmental authority or agency, security deposits, and payment and performance bonds relating to the construction, ownership, operation and/or use of the Property, whether now existing or hereafter arising; and

(ii)

(w) To the extent not covered by subparagraphs (a) through (t) above, all Proceeds (as defined in the Uniform Commercial Code of the applicable jurisdiction ("UCC")) of any or all of the foregoing.

For purposes of this Agreement, the terms (i) "Obligations" shall mean all indebtedness, obligations and liabilities of Borrower arising under the Note, the Security Agreement and any renewals, extensions, amendments or modifications thereof, including, without limitation, all breakage costs and indemnification obligations under the Note, or any other Loan Document and any and all reasonable fees, costs or expenses incurred by Lender, pursuant to the Security Agreement and other Loan Documents, including without limitation, reasonable fees, costs and expenses incurred in connection with the administration (other than salaries of Lender's employees and other overhead expenses) and the enforcement of the Security Agreement and other Loan Documents and in connection with the collection of the Loan, whether prior to or after the institution of any action against Borrower and (ii) "Accounts" shall mean accounts designated with Lender or within a third-party financial institution to maintain real estate tax and insurance premium escrow payments.

2. Security for Obligations. This Assignment is given for the purpose of securing the payment and performance by Borrower of the Obligations.

3. Absolute Assignment. For the purposes of and subject to the terms set forth herein, this Assignment is an absolute, unconditional and presently effective assignment from Borrower to Lender of all of Borrower's rights under, in and to the Collateral, subject to the terms of the Security Agreement and other Loan Documents.

4. Borrower's Representations and Warranties. Borrower represents, warrants and covenants to and with Lender that (a) Borrower shall not make any changes in or amendments to any of the Collateral without the prior written consent of Lender; (b) Borrower shall not tender or accept a surrender or cancellation of any of the Collateral without the prior written consent of Lender where such surrender or cancellation would materially or adversely affect the Property or Lender's interest therein or Lender's security or where such surrender or cancellation would violate the terms of any Loan Document; (c) Borrower shall promptly provide to Lender copies of all changes in or amendments to the Contracts, and Borrower shall promptly notify Lender in writing of any surrender or cancellation of a Contracts; (d) except as otherwise expressly permitted by the terms of the Security Agreement, Borrower has not assigned or granted and will not assign or grant a security interest in any of the Collateral to anyone other than Lender which has not been heretofore released; (e) Borrower's interest in the Collateral is not subject to any claim, setoff, lien, deduction or encumbrance of any nature (other than the encumbrance created hereby, the encumbrance created by the Security Agreement, and those subordinate encumbrances, if any, created in connection with any junior encumbrances on the Property expressly permitted by the terms of the Security Agreement); (f) Borrower has full power and authority to make this Assignment; (g) Borrower shall make all required payments and otherwise perform its obligations under the Collateral; (h) Borrower shall give immediate notice to Lender of any notice of default served upon Borrower with respect to its obligations under any of the Collateral and, at the sole cost and expense of Borrower, shall enforce or secure the performance of each and every material obligation of any Contracting Party to be kept or performed under the Contracts; and (i) there are no defaults, or events which with the giving of notice or passage of time, or both, would constitute a default, hereunder, under the Security Agreement or any other Loan Document.

5. Rights of Secured Party. Lender, shall have with respect to the Collateral, in addition to the rights and remedies herein set forth, all of the rights and remedies available to a secured party under the UCC, as if such rights and remedies were fully set forth herein.

6. Financing Statement, Further Assurances. Simultaneously herewith, Borrower shall execute and deliver to Lender for filing a financing statement or statements, control agreement, or such other instruments and agreements as Lender may require, in connection with the Collateral, all in the form required by Lender to properly perfect Lender's security interest therein, and Borrower hereby authorizes Lender to prepare such financing statements from time to time without further authorization by Borrower to perfect and maintain perfection of the security interests granted herein, and Borrower hereby authorizes Lender to prepare such financing statements from time to time without further authorization by Borrower to perfect and maintain perfection of the security interests granted herein. Borrower agrees that at any time and from time to time, at the expense of Borrower, Borrower will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that Lender may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby (including, without limitation, any security interest in and to any Permitted Investments) or to enable Lender to exercise and enforce its rights and remedies hereunder with respect to any Collateral.

7. Borrower's Duties. Neither this Assignment nor any action or actions on the part of Lender (including, without limitation, any assumption by Lender of the rights and obligations under the Collateral pursuant to the provisions of Paragraph 8 hereof) shall relieve Borrower of any obligation under the Collateral, and Borrower shall continue to be primarily liable for all obligations thereunder, Borrower hereby agreeing to perform each and all of its obligations under the Collateral. Borrower hereby protects, defends, indemnifies and holds Lender free and harmless from and against any and all loss, cost, liability, or expense (including, but not limited to, reasonable attorneys' fees and accountants' fees) resulting from any failure of Borrower to so perform under the Collateral.

8. Default. It shall be an Event of Default hereunder upon any failure by Borrower in the performance or observance of any covenant or condition hereof and the continuance of such failure for thirty (30) days (or such shorter period of time provided under any other Loan Document) after notice of such default from Lender (provided that no such notice shall be required if not required under any other Loan Document) within which to cure the same. Upon an Event of Default hereunder, the Security Agreement or under any of the other Loan Documents, Lender may, but shall not be obligated to, assume any or all of the obligations of Borrower under any or all of the Contracts and/or exercise the rights, benefits and privileges of Borrower under any or all of the Collateral.

9. Remedies Upon Default. (i) Upon the occurrence of an Event of Default, Lender, may:

(a) without notice to Borrower, except as required by law, and at any time or from time to time, charge, set-off and otherwise apply all or any part of the Collateral

or the Idaho Collateral (as defined herein) against the Obligations or any part thereof;

(b) in its sole discretion, at any time and from time to time, exercise any and all rights and remedies available to it under this Agreement and/or the Idaho General Assignment (as defined herein), and/or as a secured party under the UCC;

(c) demand, collect, take possession of, receipt for, settle, compromise, adjust, sue for, foreclose or realize upon the Collateral or Idaho Collateral (or any portion thereof) as Lender may determine in its sole discretion; and

(d) take any other action under the Security Instrument or the Idaho Security Agreement (as defined herein) or any of the other Loan Documents or Idaho Loan Documents or under any applicable law.

(e) give notice to any or all of the Contracting Parties, either requiring the Contracting Party to continue performance under its Contract or, alternatively, terminating the Contract. This Assignment shall constitute a direction to and full authority to the Contracting Parties under the Contracts to act at Lender's written direction and otherwise perform on Lender's behalf under the Contracts, without proof of the event of default relied upon. The Contracting Parties shall be entitled to rely upon written notice from Lender that Lender has assumed all of the rights and obligations of Borrower under the applicable Contract without any inquiry into whether Borrower is in default hereunder or under the Security Agreement or any of the other Loan Documents. Such assumption of a Contract by Lender shall be evidenced by written notice from Lender to the applicable Contracting Party. Under no circumstances shall Lender be deemed by any party to have assumed Borrower's rights and obligations under a Contract unless and until such written notice is delivered to the Contracting Party in accordance with the foregoing provision.

(ii) Lender shall have the right at any time, but shall have no obligation, to take in its name or in the name of Borrower, or otherwise, such action as Lender may at any time or from time to time determine to be reasonably necessary to cure any default under the Collateral or Idaho Collateral or to protect the rights of Borrower or Lender thereunder. Lender shall incur no liability to Borrower if any action taken by Lender or in Lender's behalf in good faith pursuant to this Assignment shall prove to be in whole or in part inadequate or invalid. Borrower hereby protects, defends, indemnifies and holds Lender and its affiliated entities and each of their directors, members, shareholders, officers, employees, agents, representatives, consultants, and any other party with authority to act on behalf of Lender or its affiliated entities and any of their heirs, representatives, successors and/or assigns, free and harmless from and against any and all loss, cost, liability, or expense (including, but not limited to, attorneys fees and accountants' fees) to which Lender may be exposed, or that Lender may incur, in exercising any of its rights under this Assignment, unless caused by the intentional misconduct or gross negligence of Lender.

10. Power of Attorney. Borrower hereby irrevocably constitutes and appoints Lender its true and lawful attorney-in-fact in Borrower's name or in Lender's name, or

otherwise, to, from and after the occurrence of an Event of Default by Borrower hereunder or under the Security Agreement or any of the other Loan Documents to enforce all of the rights of Borrower under the Collateral. It is hereby recognized that the power of attorney herein granted is coupled with an interest and shall not be revocable so long as any sums are outstanding under the loan evidenced by the Note.

11. Contracts. (i) Borrower shall deliver to Lender a true, correct and complete copy of each Contract promptly after it has been executed and delivered by the parties thereto.

(ii) Notwithstanding anything to the contrary contained herein, Lender shall have no right under this Assignment to assume any Contract or to exercise any rights, benefits or privileges of Borrower under any of the other Collateral until Borrower shall be in default under the terms of this Assignment or the terms of the Security Agreement or any of the other Loan Documents and such default shall not have been cured within any applicable grace or cure period.

(iii) Borrower shall promptly obtain and deliver to Lender consents to the terms of this Assignment, in forms acceptable to Lender, from such Contracting Parties as Lender may request from time to time.

12. Rights and Duties of Lender. (i) Borrower agrees that Lender shall not have any duty as to any Collateral in its possession or control as agent therefor or bailee thereof or any income thereon or the preservation of rights against any person or otherwise with respect thereto. Lender shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which Lender accords its own property, it being understood that Lender shall not be liable or responsible for any loss or damage to any of the Collateral, or for any diminution in value thereof, by reason of the act or omission of Lender or any of its affiliates, agents, employees or bailees, except that Lender shall be liable to the extent that such loss or damage results from Lender's gross negligence or willful misconduct. Lender shall not have any liability for any loss resulting from the investment of funds in Permitted Investments in accordance with the terms and conditions of this Agreement.

(ii) Lender shall be responsible for the performance only of such duties as are specifically set forth herein, and no duty or covenant shall be implied from any provision hereof. Lender shall not be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect hereof, or to advance any of its own monies. Borrower shall indemnify and hold Lender and its employees and officers harmless from and against any loss, liability, claims, cost or damage (including, without limitation, reasonable attorneys' fees and disbursements) arising out of or incurred Lender in connection with the transactions contemplated hereby, except for Lender's liability to the extent that such loss or damage results from Lender's gross negligence or willful misconduct. The provisions of this Section 12 shall survive the termination of this Agreement.

13. Successors and Assigns. This Agreement shall be binding upon the Borrower and its successors and assigns and shall inure to the benefit of Lender and its successors and

assigns and any purchaser of any interest of Lender in the Security Agreement and the other Loan Documents.

14. Further Assurances. Borrower covenants and agrees to make, execute and deliver all such further or additional instruments as may be necessary to satisfy the intents and purposes hereof and to perfect the assignment made hereby.

15. Governing Law. This Agreement and the rights and obligations of the parties hereunder shall be governed by, and construed and interpreted in accordance with, the internal laws of the State of Utah, without regard to principles of conflict of laws.

16. Consent to Jurisdiction. Borrower hereby irrevocably submits to the jurisdiction of any Utah State or Federal court sitting in the City and County of Salt Lake over any suit, action or proceeding arising out of or relating to this Agreement, the Security Agreement or any other Loan Documents. Borrower hereby irrevocably waives, to the fullest extent permitted or not prohibited by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in such a court and any claim that any such suit, action or proceeding brought in such a court has been brought in an inconvenient forum. Borrower hereby agrees that a final judgment in any such suit, action or proceeding brought in such a court, after all appropriate appeals, shall be conclusive and binding upon it.

17. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of the same in person to the intended addressee, or by depositing the same with Federal Express or another reputable private courier service for next business day delivery to the intended addressee at its address set forth on the first page of this Agreement or at such other address as may be designated by such party as herein provided, or by depositing the same in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the intended addressee at its address set forth on the first page of this Agreement or at such other address as may be designated by such party as herein provided. All notices, demands and requests shall be effective upon such personal delivery, or one (1) business day after being deposited with the private courier service, or two (2) business days after being deposited in the United States mail as required above. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given as herein required shall be deemed to be receipt of the notice, demand or request sent. By giving to the other party hereto at least fifteen (15) days' prior written notice thereof in accordance with the provisions hereof, the parties hereto shall have the right from time to time to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America. All notices to Lender shall also be sent pursuant to the provisions of this paragraph to: Lynn P. Consentino, Attorney at Law, 942 Chestnut Ridge Road, Millbrook, New York 12545.

18. Conflicts. In case of a conflict between any provision of this Assignment, the Security Agreement and any provision of the other Loan Documents, the provision set forth in the Security Agreement shall prevail and be controlling.

19. Severability, Remedies Cumulative. Every provision of this Agreement is intended to be severable, and if any term or provision thereof shall be invalid, illegal or unenforceable for any reason, the validity, legality and enforceability of the remaining provisions thereof shall not be affected or impaired thereby, and any invalidity, illegality or unenforceability in any jurisdiction shall, at the option of Lender, not affect the validity, legality or enforceability of any such term or provision in any other jurisdiction. Each and every right, remedy and power granted to Lender or allowed to Lender by law or other agreement shall be cumulative and not exclusive of any other, and may be exercised by Lender at any time and from time to time.

20. Sale of Loan. Lender may sell, transfer and deliver the Security Agreement and the other Loan Documents to one or more investors in the secondary mortgage market. In connection with such sale, Lender may retain or assign responsibility for servicing the loan evidenced by the Note or may delegate some or all of such responsibility and/or obligations to a servicer, including, but not limited to, any subservicer or master servicer, on behalf of the investors. All references to Lender herein shall refer to and include, without limitation, any such servicer, to the extent applicable.

21. No Waiver. The obligations of Borrower are in addition to, and not in diminution of, the obligations of the Borrower under the Security Agreement and any other Loan Document. No failure on the part of Lender to exercise, and no delay in exercising, any right, remedy or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise by Lender of any right, remedy or power hereunder or under any other Loan Document preclude any other or future exercise thereof or the exercise of any other right, remedy or power. The liability of the Borrower under this Agreement shall not be limited or impaired by reason of any amendment, waiver or modification of the provisions of any Loan Document, the release or substitution of any collateral securing the Loans, any transfer of the Property or any part thereof to Lender or its nominee, any failure on the part of Lender to record or otherwise perfect any lien or security interest in any such collateral, any sale or transfer of the Property or any part thereof or any determination that any Loan Document is illegal or unenforceable.

22. Assignment. The rights and powers under this Agreement may be assigned by Lender in its sole and absolute discretion.

23. WAIVER OF TRIAL BY JURY. BORROWER HEREBY KNOWINGLY, UNCONDITIONALLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY, TO THE FULLEST EXTENT PERMITTED BY LAW, WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM BASED ON THIS AGREEMENT OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY DOCUMENT OR INSTRUMENT EXECUTED IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTION OF ANY PARTY HERETO.

FURTHER, BORROWER CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF LENDER, OR COUNSEL TO LENDER, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT LENDER WOULD NOT, IN THE

EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. BORROWER HEREBY ACKNOWLEDGES THAT LENDER HAS BEEN INDUCED TO ACCEPT THIS AGREEMENT BY, INTER ALIA, THE PROVISIONS OF THIS SECTION.

24. Appointment of Agent of Service of Process. Borrower hereby designates Michael J. Van Leeuwen ("Designee") as its Agent and attorney-in-fact to accept service of process in any action or proceeding arising under or in connection with this Agreement, the Security Agreement and the other Loan Documents. The foregoing designation is irrevocable and coupled with an interest. Borrower agrees that service made upon Designee in any lawful manner shall constitute proper and lawful service upon Borrower. Nothing in the Security Agreement or in any of the other Loan Documents or any modification, waiver, or amendment thereto, shall affect the right of Lender to serve process in any manner permitted by law or limit the right of the parties to bring proceedings against each other in the courts of any jurisdiction or jurisdictions.

25. Amendments. This Agreement may not be amended, and compliance with its terms may not be waived, orally or by course of dealing, but only by a writing signed by an officer of Lender and Borrower.

26. Entire Agreement. This Agreement contains the entire agreement and understanding between Lender and Borrower with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to the subject matter hereof.

27. Expenses. If any suit or proceeding is instituted by Lender for the enforcement of any of the provisions of this Agreement, Borrower shall pay to Lender on demand all reasonable expenses of Lender (including reasonable attorneys fees and disbursements) in connection with such suit or proceeding, and until such expenses are paid, the same shall accrue interest at the Post-Default Rate (as such term is defined in the Note). The obligations of Borrower under this paragraph shall survive any termination of the Borrower's other obligations under this Agreement.

28. Counterparts. This Agreement, if executed by more than one party, may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument. It shall not be necessary in making proof of any such counterpart to produce or account for more than one counterpart signed by the party to be charged. Any such counterpart and any amendment, modification, consent or waiver in respect thereof transmitted by fax shall be deemed to be an originally executed counterpart. Notwithstanding the foregoing in the event of a final judicial determination is made that Lender acted unreasonably or unreasonably delayed actions in any case, the Borrower shall not be obligated to pay Lender's attorneys' fees and expenses.

29. Cross Default/Cross Collateral. A. Notwithstanding anything to the contrary set forth herein in any of the Loan Documents or in any of the Idaho Loan Documents, (i) a Default, or an event, which with the giving of notice, the passage of time, or both, would constitute an Event of Default, under this Assignment or any of the other Loan Documents shall

be and be deemed to be a Default under the Idaho Loan Documents, (ii) an Event of Default under this Assignment or any of the other Loan Documents shall be and be deemed to be an Event of Default under the Idaho Loan Documents, (iii) a Default, or an event, which with the giving of notice, the passage of time, or both, would constitute an Event of Default, under any of the Idaho Loan Documents shall be and be deemed to be an Event of Default under this Assignment and the other Loan Documents, and (iv) an Event of Default under any of the Idaho Loan Documents shall be and be deemed to be an Event of Default under this Assignment and the other Loan Documents.

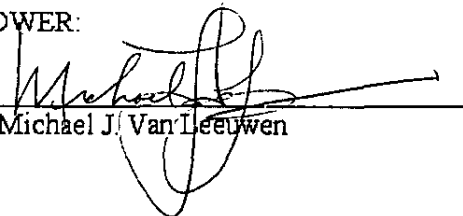
B. Upon the occurrence of Default or an Event of Default under this Assignment the Lender shall have the right, at its sole election, to exercise any and all rights under this Assignment, the Loan Documents, and/or the Idaho Loan Documents, or any of the same, either individually, together or in any order, as determined by the Lender in its sole discretion.

30. Recourse.

All of the terms and provisions of this Assignment are recourse obligations of the Borrower and not restricted by any limitation on personal liability provided in any of the other Loan Documents or limited to any collateral securing any of the obligations under this Assignment, it being the intent of the Lender to create separate obligations of the Borrower hereunder which can be enforced against the Borrower without regard to the existence of the Deed of Trust or other Loan Documents or the liens or security interests created therein.

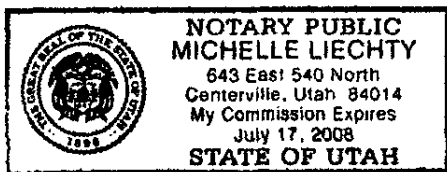
IN WITNESS WHEREOF, Borrower has executed this Agreement as of the day and year first written above.

BORROWER:


Michael J. Van Leeuwen

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me on December 29th, 2005, by Michael J. Van Leeuwen.




Notary Public

EXHIBIT A
LEGAL DESCRIPTION

PARCEL NO. 1: Tax Parcel No. 22-01-405-043

Lot 203, BALSAM RIDGE PARK PHASE II, according to the official plat thereof, filed in Book "92-4" of Plats, at Page 62 of the Official Records of the Salt Lake County Recorder.

PARCEL NO. 2:

A non-exclusive easement for ingress and egress purposes, appurtenant to Parcel 1, over the following described area:

Beginning at a point being South 0°07' West 3,635.29 feet and East 495.70 feet from the North quarter corner of Section 1, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence North 51°00' East 160.84 feet to Abinadi Road; thence Northwesterly along the arc of a 50 foot radius curve to the right, chord bears North 9°34' West 40.18 feet, a distance of 41.36 feet; thence South 51°00' West 20.00 feet; thence South 6°00" West 14.14 feet; thence South 51°00' West 150.59 feet; thence South 39°00' East 25.00 feet to the point of beginning.

PARCEL NO. 3:

A non exclusive easement for ingress, egress and incidental purposes as established and shown on the recorded plat of BALSAM RIDGE PARK PHASE II, according to the official plat thereof, filed in Book "92-4" of Plats, at Page 62 of the Official Records of the Salt Lake County Recorder.

PARCEL NO. 4: Tax Parcel No. 22-01-405-039

Beginning at the Westernmost corner of Lot 1, BALSAM RIDGE PARK PHASE 1, according to the official plat thereof on file and of record in the Salt Lake County Recorder's Office; and running thence North 39°00' West 33.00 feet; thence North 51°00' East 190.59 feet; thence South 12°18' West 52.78 feet; thence South 51°00' West 149.39 feet to the point of beginning.