

MR 19586-L

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

FOR RECORDER'S USE ONLY

Robert A. Crooks, Esq.  
 Brobeck, Phleger & Harrison  
 One Market Plaza  
 Spear Street Tower, 24th Floor  
 San Francisco, California 94105

'88 MAY 25 PM 1 01

### ASSIGNMENT OF LEASES

THIS ASSIGNMENT OF LEASES ("Assignment") is made the 24<sup>th</sup> day of May, 1988 by R. LEONARD GARRISON and LINDA B. GARRISON (together, "Borrower"), husband and wife, to and for the benefit of BRACTON CORPORATION, a Delaware corporation having an office at 100 Spear Street, 10th Floor, San Francisco, CA 94105;

### W I T N E S S E T H:

WHEREAS Borrower is the present owner and holder of the landlord's interest under the leases described in Exhibit A attached hereto (hereinafter collectively referred to as the "Leases"), which Leases demised various portions of the real property more particularly described on Exhibit B attached hereto (hereinafter referred to as the Property);

WHEREAS Lender has made a loan to Borrower in the principal sum of \$1,800,000.00 (hereinafter referred to as the Loan), which Loan, together with interest thereon, is evidenced by and payable in accordance with the provisions of the Note between Borrower and Lender of even date herewith, and is secured by the Deed of Trust between Borrower and Lender of even date herewith;

WHEREAS Lender was willing to make the Loan to Borrower only if Borrower assigned the Leases to Lender in the manner hereinafter provided as additional security for the payment of the indebtedness evidenced by the Note and secured by the Deed of Trust (hereinafter referred to as the Debt) and the observance and performance by Borrower of all

the terms, covenants and provisions of the Note, the Deed of Trust and this Assignment on Borrower's part to be observed and performed;

NOW, THEREFORE, in consideration of the making of the Loan and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Borrower hereby assigns to Lender, as security for the payment of the Debt and the observance and performance by Borrower of all of the terms, covenants and provisions of the Note, the Deed of Trust and this Assignment on Borrower's part to be observed or performed, all of Borrower's right, title and interest in and to the Leases and all of the rents, additional rents, charges, issues and profits payable under the Leases from the date hereof to the end of the respective terms of the Leases and any renewals and extensions thereof (hereinafter collectively referred to as the Rents), and Borrower hereby represents and warrants to and covenants and agrees with Lender as follows:

1. Borrower represents and warrants that as of the date hereof (i) Borrower is the owner and holder of the landlord's interest under the Leases, and (ii) Borrower has made no prior assignments of the Leases or of any portion of the Rents due and payable or to become due and payable thereunder which are presently outstanding.

2. Borrower shall, at its sole cost and expense, (i) observe and perform, or cause to be observed and performed, each and every term, covenant and provision of the Leases on the part of the landlord thereunder to be observed and performed, (ii) promptly send copies of all notices of default which Borrower shall send or receive under the Leases to Lender, (iii) enforce short of termination thereof, the observance and performance of each and every term, covenant and provision of the Leases on the part of the tenants thereunder to be observed and performed and (iv) appear in and defend any action or proceeding arising under or in any manner connected with the Leases or with the obligations and undertakings of the landlord or the tenants thereunder.

3. Borrower shall not, without the prior consent of Lender, (i) further assign or attempt to assign the Leases, or any portion of the Rents due and payable or to become due and payable thereunder, (ii) consent to any cancellation, surrender, amendment or modification of the Leases, or (iii) accept prepayments of any portion of the Rents for a period of more than one (1) month in advance.

4. This Assignment shall not be deemed or construed to impose upon Lender any duty to produce Rents from the Property or cause Lender to be responsible or liable for any waste by any lessees or any other parties, for any dangerous or defective condition of the Property, for any negligence in the management, upkeep, repair or control of the Property or for any other act or omission by any other person.

5. This Assignment shall not be deemed or construed to obligate Lender to take any action or incur any expense or perform or discharge any obligation, duty or liability under the Leases, and Borrower hereby agrees to indemnify and hold Lender harmless from and against all liability, loss or damage, including, but not limited to, reasonable attorneys' fees, which Lender may or might incur under the Leases or under or by reason of this Assignment and from and against any and all claims whatsoever which may be asserted against Lender by reason of any alleged obligation or undertaking on Lender's part to perform or discharge any of the terms, covenants or provisions contained in the Leases.

6. This Assignment is an absolute assignment and not an assignment for security only and Lender's right to the Rents is not contingent upon its possession of the Property. Subject to the provisions of this Assignment hereinafter set forth, Lender waives the right to enter the Property for the purpose of collecting the Rents, and grants Borrower the right to collect the Rents. Borrower shall hold the Rents, or an amount sufficient to discharge all current sums due on the Debt, in trust for use in the payment of the Debt. The right of Borrower to collect the Rents may be revoked by Lender upon any default by Borrower in the observance or performance of any of the terms, covenants or provisions of the Note, the Deed of Trust or this Assignment on its part to be observed or performed or upon the occurrence of any one of the events described in the Deed of Trust which would entitle Lender, at its option, to declare the Debt due (hereinafter referred to as an Event of Default), by giving notice of such revocation to Borrower. Following such notice Lender may retain and apply the Rents toward payment of the Debt in such priority and proportions as Lender, in its sole discretion, shall deem proper, or to the operation, maintenance and repair of the Property.

7. Upon the occurrence of an Event of Default, the tenants under the Leases shall, upon notice from Lender of the occurrence of such an Event of Default, thereafter



pay to Lender or to any appointed receiver the Rents due or to become due under the Leases without any obligation to determine whether or not such an Event of Default does in fact exist and Borrower shall facilitate in all reasonable ways the collection of the Rents by Lender, and will, upon the request of Lender, execute written notices to the tenants under the Leases directing said tenants to pay the Rents to Lender, which Rents may be retained and applied by Lender toward the payment of the Debt in such priority and proportions as Lender, in its sole discretion, shall deem proper, or to the operation, maintenance and repair of the Property.

8. Upon the occurrence of an Event of Default, Lender shall have the right, at its option, to enter upon and take over and assume the management, operation and maintenance of the Property and to perform all necessary and proper acts and to expend such sums out of the income of the Property as may be necessary in connection therewith, in the same manner and to the same extent as Borrower theretofore might do, including the right to effect new leases, cancel or surrender the Leases, alter, modify or amend the provisions thereof, or make concessions to the tenants thereunder, and Borrower hereby releases and waives all claims against Lender arising out of such management, operation and maintenance.

9. Nothing contained in this Assignment and no entry by Lender upon the Property as hereinabove provided, shall be construed as to constitute Lender as a "mortgagee in possession" for any purpose.

10. Nothing contained in this Assignment is intended or shall be construed to prevent Lender in the exercise of its discretion from foreclosing the Deed of Trust or otherwise enforcing the provisions thereof or of the Note or any other document or instrument evidencing, securing or guaranteeing payment of the Debt, in whole or in part, in accordance with their terms.

11. No alteration, extension, renewal, change, modification, release, amendment, compromise or cancellation, in whole or in part, of any term, covenant or provision of the Note, the Deed of Trust or any other document or instrument evidencing, securing or guaranteeing payment of the Debt, in whole or in part, shall affect this Assignment in any manner or diminish or release any of the rights of Lender hereunder.

12. Borrower hereby waives any and all legal requirements that Lender institute any action or proceeding in law or in equity against any other party, or exhaust its remedies under the Note, the Deed of Trust, or any other document or instrument evidencing, securing or guaranteeing payment of the Debt, in whole or in part, or in respect of any other security held by Lender as a condition precedent to exercising its rights and remedies under this Assignment. All remedies afforded to Lender by reason of this Assignment are separate and cumulative remedies and it is agreed that no one of such remedies whether exercised by Lender or not, shall be deemed to be in exclusion of any of the other remedies available to Lender and shall not in any manner limit or prejudice any other legal or equitable remedies which Lender may have, including, but not limited to, all rights and remedies of Lender under the Note, the Deed of Trust or any other document or instrument evidencing, securing or guaranteeing payment of the Debt, in whole or in part.

13. It is the intention of the parties hereto that any and all other leases affecting the Property or any portion thereof presently in effect or hereafter entered into by Borrower shall be covered by the provisions of this Assignment and all such leases and all of Borrower's right, title and interest in all such leases, and the rents, additional rents, charges, issues, profits and other sums payable thereunder, are hereby assigned to Lender until the end of the respective terms thereof and any renewals or extensions thereof subject to all of the terms, covenants and provisions of this Assignment. Borrower shall deliver a true and correct copy of each such lease to Lender promptly after the execution and delivery of the same. Borrower shall, upon the request of Lender, execute and deliver in recordable form all instruments which Lender may reasonably request to further evidence and confirm such assignment of each such lease.

14. This Assignment shall be binding upon Borrower, and its successors and assigns and shall inure to the benefit of Lender, and its successors and assigns.

15. This Assignment may only be modified, altered, amended, or terminated by an agreement in writing executed by the parties hereto.

16. Any notice, request, demand, statement or consent made hereunder or in connection herewith shall be in

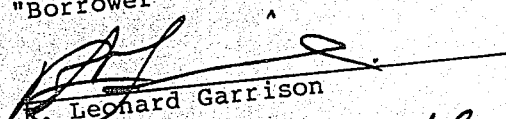
writing and shall be sent in the manner specified in the Deed of Trust.

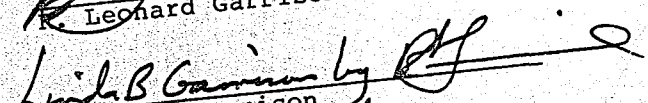
17. If any term, covenant or condition of this Assignment shall be held to be invalid, illegal or unenforceable in any respect, this Assignment shall be construed without such provision.

18. This Assignment shall be construed in accordance with the laws of the State of Oregon, except to the extent Lender has greater rights or remedies under Federal law, in which case such choice of Oregon law shall not be deemed to deprive Lender of such rights and remedies as may be available under Federal law.

IN WITNESS WHEREOF, Borrower has duly executed this Assignment the day and year first above written.

"Borrower"

  
R. Leonard Garrison

  
Linda B. Garrison  
her attorney in fact



**EXHIBIT A**

1. Cheyne Lease: that certain Agricultural Lease dated April 1, 1987 by and between Bracton Corporation and Cheyne Brothers, as amended by that First Amendment to Agricultural Lease by and between the parties dated March 17, 1987.

2. Shintaffer Agreement: that certain Livestock Pasturage Agreement dated February 14, 1988 by and between James J. Gallagher, doing business as Agency Lake Farms and Shintaffer Farms, Inc.

EXHIBIT A

K684-16-H/11May88

EXHIBIT B  
LEGAL DESCRIPTION

All that certain real property situate, lying and being in the County of Klamath, State of Oregon, more particularly described as follows:

In Township 35 South, Range 7 East of the Willamette Meridian:

In Section 19:

Lots 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20, 25, 26, 27, 28, 29, 30 and the following described tract: Starting at a point 7.85 chains West from the Section Corner Common to Sections 19, 20, 29 and 30, Township 35 South, Range 7 East of the Willamette Meridian, and running thence West 12.15 chains; thence North 20 chains to the center line of the old Dalles-California Highway; thence South 25 degrees East following the center line of the said old Dalles-California Highway 17.00 chains; thence in a Southeasterly direction also following the center of the said Dalles-California Highway 7.27 chains, more or less, to the starting point. Being a part of Lots 24 and 31 of said Section 19.

EXCEPTING from Lot 3 the following described parcel: Beginning at the intersection of the North section line of Section 19, said Township and Range and the West right of way line of State Highway 427; thence South 13 degrees 10' 28" East along the West right of way line 415.69 feet; thence North 89 degrees 36' 24" West parallel to the North section line of Section 19, 577.28 feet to Agency Lake; thence North 3 degrees 50' 07" West along the shore line of Agency Lake 405.20 feet to the North section line of Section 19; thence South 89 degrees 36' 24" East along the section line of Section 19, 509.63 feet to the point of beginning.

ALSO EXCEPTING all that portion of Lots 2, 3, 4, 5 and 8 of Section 19, Township 35 South, Range 7 East of the Willamette Meridian, lying Northerly of State Highway No. 422 and Easterly of State Highway No. 427.

In Section 30:

Lots 3, 4, 5, 6, 7, 14, 15, 16, 17, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36, 37 and the West 10 chains (660 feet) of Lots 8, 13 and 18.

EXCEPTING THEREFROM the East 250 feet of Lot 3, Section 30, Township 35 South, Range 7 East of the Willamette Meridian, in the County of Klamath, State of Oregon.



ALSO EXCEPTING a substation site 40 feet square in said Section 25, described as follows: Beginning at a point on the right hand or Westerly bank of Williamson River, and on the Easterly side or boundary of Lot 37 of Section 30, Township 35 South, Range 7 East of the Willamette Meridian, said point being situated South 89 degrees 09' West 2.7 feet and West 3,114 feet, more or less, from the Southeast corner of said Section 30; thence West 110.0 feet; thence North 88 degrees 22' West 249.4 feet; thence West 1,750.0 feet; thence North 70 degrees 00' West 7.0 feet to a point on the East boundary fence line of that certain structure known and referred to as Indian Lands Substation and from which the Southeast corner of said substation bears South 12.5 feet, being the true point of beginning; thence South 12.5 feet to the Southeast corner; thence West 40 feet; thence North 40 feet; thence East 40 feet; thence South 27.5 feet to the true point of beginning.

In Section 31:

Lot 4, EXCEPTING THEREFROM the following described parcel: Beginning at a point on the North line of said Lot 4 which bears North 89 degrees 39' 50" East a distance of 498.3 feet from the Northwest corner of said Lot 4; thence South 07 degrees 13' 10" East a distance of 336.7 feet to a point; thence South 51 degrees 05' 40" East a distance of 165.5 feet to a point; thence South 06 degrees 30' 30" East a distance of 50.5 feet to a point; thence North 80 degrees 02' 40" East a distance of 135 feet, more or less, to a point on the Westerly bank of Williamson River thence Northerly along said Westerly bank to the Northeast corner of said Lot 4; thence South 89 degrees 39' 50" West along the North line of said Lot 4 to the point of beginning.

Lots 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 27, 30, 31, 32, 33, 34, 35, 36, 37 and portion of Lots 11, 20, 21, 28, 29 and 38 in Section 31, more particularly described as follows: Beginning at the stone monument marking the section corner common to Sections 31 and 32, Township 35 South, Range 7 East of the Willamette Meridian and to Sections 5 and 6, Township 36 South, Range 7 East of the Willamette Meridian; thence South 89 degrees 33 3/4' West along the section line common to said Sections 31 and 6, 425.0 feet to a point; thence North 0 degrees 23' West 30.0 feet to an iron pipe on the Northerly right of way line of a county road as the same is presently located and constructed and the true point of beginning of this description; thence South 89 degrees 33 3/4' West along the said Northerly right of way line 868.7 feet to a point in the fence line marking the Westerly boundary of Lot 38 of said Section 31; thence North 0 degrees 33 3/4' West 1271.7 feet to the stone monument marking the Northwest corner of Lot 29 of said Section 31 (said monument being also the SE1/16 corner of said Section 31); thence North 0 degrees 25' West 1316.7 feet to the stone monument marking the Northwest corner of Lot 21 of said Section 31 (said monument being also the East 1/16 corner on the East-West centerline of said Section 31); thence North 0 degrees 19 3/4' West 1263.3 feet to an iron pin on the Westerly boundary of Lot 11 of said Section 31 and from which point the Northwest corner of said Lot 11 bears North 0 degrees 19 3/4' West 55.0 feet distant; thence South 13 degrees 14 1/2' East 3955.5 feet, more or less, to the true point of beginning.

EXCEPTING that portion in Section 31 described as follows:

Lots 12, 16, 18, 19, lying Southerly and Easterly of the center thread of Williamson River, and all of lots 22, 23, 24, 25, 26, 27, 30, 31, 32, 33, 34, 35, 36, 37 and portion of Lots 11, 20, 21, 28, 29 and 38 in Section 31, more particularly described as follows: Beginning at the stone monument marking the section corner common to Sections 31 and 32, Township 35 South, Range 7 East of the Willamette Meridian and to Sections 5 and 6, Township 36 South, Range 7 East of the Willamette Meridian; thence South 89 degrees 55 3/4' West along the section line common to said Sections 31 and 6, 423.0 feet to a point; thence North 0 degrees 25' West 30.0 feet to an iron pipe on the Northerly right of way line of a county road as the same is presently located and constructed and the true point of beginning of this description; thence South 89 degrees 55 3/4' West along the said Northerly right of way line 868.7 feet to a point in the fence line marking the Westerly boundary of Lot 38 of said Section 31; thence North 0 degrees 55 3/4' West 1271.7 feet to the stone monument marking the Northwest corner of Lot 29 of said Section 31 (said monument being also the SE1/16 corner of said Section 31); thence North 0 degrees 25' West 1316.7 feet to the stone monument marking the Northwest corner of Lot 21 of said Section 31 (said monument being also the East 1/16 corner on the East-West centerline of said Section 31); thence North 0 degrees 19 3/4' West 1263.3 feet to an iron pin on the Westerly boundary of Lot 11 of said Section 31 and from which point the Northwest corner of said Lot 11 bears North 0 degrees 19 3/4' West 55.0 feet distant; thence South 13 degrees 14 1/2' East 3953.5 feet, more or less, to the true point of beginning.

In Township 35 South, Range 7 1/2 East of the Willamette Meridian:

All of Fractional Sections 25, 26, 27, 33, 34, 35 and a portion of Section 36, lying Westerly of the center thread of Williamson River.  
All of Fractional Section 24 EXCEPT Government Lot 5; All of Fractional Section 28 lying East of the Straits which connect Upper Klamath Lake and Agency Lake.

In Township 36 South, Range 7 1/2 East of the Willamette Meridian:

All of Section 1; and All of Fractional Sections 2, 3, 4, 11 and 12 lying Northeastly and Northerly of the shore line of Klamath Lake and Westerly of the center thread of the Williamson River.

Townships 34 and 35 South, Range 7 1/2 East of the Willamette Meridian

All those portions of Sections 20, 21, 22, 26, 27, 28, 29, 33 and 34, Township 34 South, Range 7 1/2 East of the Willamette Meridian, and Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 16, 17 and 18, Township 35 South, Range 7 1/2 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at the intersection of the center line of Seven Mile Canal, as the same is now located and constructed with a line parallel with and 70.0 feet distant at right angles Southeasterly from the centerline of the Dixon and McQuiston Lower Levee as the same is now located and constructed and from which point the Southeasterly corner of Section 1, Township 34 South, Range 6 East of the Willamette Meridian, as established by Norman D. Price, U. S. Cadastral Engineer, between October 31, 1930 and June 22, 1931, bears North 52 degrees 51 1/2' West 18,650.2 feet distant, and running thence South 44 degrees 40' West along the aforementioned parallel line 7,011.7 feet; thence South 12 degrees 30' East along a line parallel with and 70.0 feet distant at right angles Northeasterly from the center line of the said Dixon and McQuiston Lower Levee, 2,622.3 feet, more or less, to a point in the section line between the said Sections 28 and 29, Township 34 South, Range 7 1/2 East of the Willamette Meridian; thence Southerly along the said section line between the said Sections 28 and 29, and Sections 32 and 33 of the same Township and Range, 7,928 feet, more or less, to the Southeasterly corner of the said Section 32; thence Southerly along the section line between the said Sections 4 and 5, Township 35 South, Range 7 1/2 East of the Willamette Meridian, 788.3 feet; thence Westerly along a line parallel with and 788.3 feet distant at right angles Southerly from the Township line between Township 34 South, Range 7 1/2 East of the Willamette Meridian and Township 35 South, Range 7 1/2 East of the Willamette Meridian, 10,560 feet, more or less, to a point in the line marking the Westerly boundary of Section 6, Township 35 South, Range 7 1/2 East of the Willamette Meridian; thence Southerly along the Westerly boundary of the said Section 6, 4,492 feet, more or less, to the Southwesterly corner of the said Section 6; thence continuing Southerly along the Westerly boundary of Section 7, 5,280 feet, more or less, to the Southwesterly corner of said Section 7; thence continuing South along the West line of Section 18 a distance of 660 feet; thence East, parallel with and 660 feet South of the North lines of Sections 18 and 17, a distance of 10,560 feet, more or less to the East line of Section 17; thence continuing East along said parallel line a distance of 1,980.0 feet to a point; thence North at right angles to said parallel line a distance of 660 feet to a point on the South line of Section 9 which is 1,980.0 feet East of the Southwest corner thereof; thence North 13 degrees 46' East a distance of 2,717.95 feet, more or less, to the center of Section 9 and the Southwest corner of Lot 2 in said Section 9; thence North 44 degrees 52' East to the Northeast corner of said Lot 2; thence continuing North 44 degrees 52' East a distance of 0.983 chains; thence North 86 degrees 54' East a distance of 81.715 chains to a point on the East line of Section 10 and on the meander line of Agency Lake; thence Northerly along the shore line of Agency Lake to its intersection with the center line of the Seven Mile Canal as the same is now located and constructed; thence North 41 degrees 02' 30" West, along said center line, a distance of 11,000 feet, more or less, to the point of beginning.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co.  
of May A.D., 19 88 at 1:01 o'clock P M., and duly recorded in Vol. M88  
of Mortgages on Page 8168

FEE \$55.00

Evelyn Bighm  
By Susantha D. Hetch County Clerk

APR 4 '88 13:09

503 882 6953

PAGE 02