

OFFICIAL RECORD

Requested By:
STEWART TITLE

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

PACIFIC CAPITAL BANK, N.A.
c/o Loan Services
PO Box 60654
Santa Barbara, California 93160-0654
1004549 TO
Assessor's Parcel No(s). 1220-03-311-049, 048

Douglas County - NV
Werner Christen - Recorder
Page: 1 Of 21 Fee: 34.00
BK-0608 PG- 4675 RPTT: 0.00



ASSUMPTION AGREEMENT

This Assumption Agreement ("Agreement") is made and entered into as of the 27th day of May, 2008, by and among PACIFIC CAPITAL BANK, N.A., a national banking association, doing business as Santa Barbara Bank & Trust ("Lender"), on the one hand, and SYNCON HOMES, a Nevada corporation ("Original Borrower"), LEO A. HANLY, an individual ("Guarantor"), and ARBOR GARDENS IV, LLC, a Nevada limited liability company ("New Borrower"), on the other hand, with reference to the following facts:

RECITALS

A. Lender has heretofore extended a revolving loan to Original Borrower in the maximum principal amount of \$4,000,000.00, known as Lender's Loan Number 809855 ("Loan"), evidenced and/or secured by, without limitation, the following agreements, notes, instruments and/or documents:

1. Loan Agreement dated October 30, 2006, by and between Original Borrower and Lender ("Loan Agreement");
2. Amended and Restated Revolving Term Note dated October 30, 2006, in the principal face amount of \$4,000,000.00, by Original Borrower to and in favor of Lender ("Note");
3. Deed of Trust dated June 13, 2002, and recorded on June 18, 2002, as Instrument No. 545000, of Official Records, Douglas County, Nevada (as the same has been or will be amended and/or modified from time to time by, without limitation, (i) that certain Modification of Deed of Trust dated July 27, 2002, and recorded on August 7, 2002, as Instrument No. 0548907, Official Records of Douglas County, Nevada, (ii) that certain Modification of Deed of Trust dated July 1, 2003, and recorded on September 12, 2003, as Instrument No. 0589761, Official Records of Douglas County, Nevada, and (iii) that certain Modification of Deed of Trust dated September 29, 2005, and recorded on October 26, 2005, as Instrument No. 0659024, Official Records of Douglas County, Nevada, hereinafter referred to collectively as the "Deed of Trust"), executed by Original Borrower, as trustor, for the benefit of Lender, encumbering the real property more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"); and

4. Extension Agreement dated December 5, 2007, by and between Original Borrower and Lender ("Extension").

B. Payment and performance of Original Borrower's indebtedness to Lender under and/or in connection with the Loan was and is guaranteed to Lender pursuant to, without limitation, that certain Unlimited Guaranty dated December 5, 2007, executed by Guarantor, in favor of Lender ("Guaranty").

C. The Loan Agreement, the Note, the Deed of Trust, the Extension, the Guaranty, as each are supplemented, modified, and amended by the Forbearance Agreement (as herein defined) and the other documents executed by Original Borrower and/or Guarantor in connection with any of the foregoing, together with any extensions, modifications or amendments thereto or restatements thereof, will at times hereinafter be referred to collectively as the "Loan Documents."

D. The Property and any and all other real or personal property in which Lender holds a security interest or other interest pursuant to any of the Loan Documents will sometimes be referred to collectively as the "Collateral".

E. Pursuant to, without limitation, the Loan Agreement and the Deed of Trust, no interest in the Property may be conveyed or transferred unless Lender consents thereto. Original Borrower and New Borrower have each requested that Lender consent to a transfer of all of Original Borrower's right, title and interest in and to the Property to New Borrower (the "Transfer"), and that Lender permit New Borrower to assume the indebtedness and obligations of Original Borrower and become a co-borrower with Original Borrower under the Loan Agreement, the Note, the Deed of Trust, and the Loan Documents.

F. Lender is willing to consent to the Transfer and to allow New Borrower to assume the Loan Agreement, Note, Deed of Trust (each to the extent modified by the Forbearance Agreement and/or the documents executed concurrently therewith), and the indebtedness and obligations under the Loan Documents executed by Original Borrower, and to make New Borrower a co-borrower with Original Borrower, subject to the terms and conditions set forth in this Agreement.

G. Concurrently herewith, Lender, Original Borrower, Guarantor, and certain other parties named therein are entering into that certain Forbearance Agreement and Release of even date herewith ("Forbearance Agreement") in connection with the Loan and certain other loans made by Lender to Original Borrower and certain affiliates of Original Borrower. It is a condition precedent to the effectiveness of Lender's obligations under the Forbearance Agreement that Original Borrower, Guarantor and New Borrower enter into and execute this Assumption Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Recitals and Definitions.

The Recitals are incorporated herein by this reference, and the parties agree that the facts recited above are true and correct. All capitalized terms not specifically defined herein shall have the meaning ascribed to them in the Loan Agreement. Except as provided herein, all of the terms, conditions, and provisions of the Loan Documents shall remain in full force. In the event of any conflict or inconsistency between the terms, conditions, and provisions of this Agreement and the Loan Documents, the terms, conditions, and provisions of this Agreement shall prevail.

2. Acknowledgment of Balance Owning.

a. Original Borrower, Guarantor and New Borrower each acknowledge, confirm and agree that as of May 8, 2008, the total principal amount owing to Lender on the Note is Zero and No/100 Dollars (\$0.00). Original Borrower, Guarantor and New Borrower are each obligated to pay to Lender any and all fees, costs and/or expenses (including, without limitation, reasonable attorneys' fees) now or hereafter incurred by Lender in connection with the Loans, as set forth in the Loan Documents and/or this Agreement.

b. Original Borrower and New Borrower each further acknowledge, confirm and agree that a portion of the Loan proceeds remain undisbursed, and that Lender's agreement to disburse all or any portion of those undisbursed Loan proceeds is subject to satisfaction of all of the terms and conditions to disbursement set forth in the Forbearance Agreement. Except as set forth in the preceding sentence, Lender has no obligation to disburse any further proceeds or any other amounts under or in connection with the Loan or any of the Loan Documents.

c. Original Borrower, Guarantor and New Borrower, and each of them, have no valid offset or defense to their respective indebtedness and obligations under the Loan Documents, nor do Original Borrower, Guarantor, and New Borrower, or any of them, have any valid claim or claims against Lender.

3. Assumption of Liability under the Loan Documents.

a. New Borrower hereby assumes and agrees to pay the indebtedness and obligations represented by the Loan Documents and agrees, for the benefit of Lender and its successors and assigns, to be bound by, observe and perform, all past (to the extent unsatisfied), present and future liabilities, indebtedness, terms, provisions, covenants and obligations of Original Borrower under the Loan Agreement, Note, Deed of Trust (each as supplemented, modified and amended by the Forbearance Agreement and the documents executed concurrently therewith), and any and all other Loan Documents executed by Original Borrower (as supplemented, modified and amended by the Forbearance Agreement), and all indemnities and guaranties with respect to the Property, and New Borrower agrees that it will be bound by all of such terms and provisions, promptly pay all such liabilities and indebtedness and promptly

observe and perform all such covenants and obligations, with the same force and effect as if New Borrower had originally executed and delivered the Loan Documents concurrently with Original Borrower, however, effective as of the date of this Agreement, and in each case, as supplemented, modified, and amended by the Forbearance Agreement (collectively, the "Assumed Obligations").

b. New Borrower acknowledges that the Property and any and all other Collateral for the Note are and shall remain subject to the security interests and/or other interests created by the Loan Documents; and acknowledges and agrees to be bound by all of the conditions and covenants contained in the Loan Documents. New Borrower also agrees that the security interests and other interests created by the Loan Documents shall secure payment and performance of the Assumed Obligations (except for any obligations, indemnities or indebtedness owing to Lender under any agreement that indicates it is not so secured). New Borrower also agrees that any interests in any Collateral that are absolutely assigned to Lender pursuant to any of the Loan Documents shall remain absolutely assigned to Lender.

c. This Agreement is, in part, a reaffirmation of the obligations of Original Borrower to Lender and is not to be construed as a release or modification of any of the terms, conditions, warranties, waivers, or other rights set forth in the Loan Documents, as to Original Borrower, except to the extent that the same have been waived, modified or amended in the Forbearance Agreement. Original Borrower and Guarantor, in consideration of Lender's agreement to consent to the assumption of the Loan Documents by New Borrower as provided herein, hereby each reaffirm all of their respective obligations to Lender, as set forth in the Loan Documents.

d. Subject to the terms and conditions set forth in this Agreement, including without limitation, the conditions precedent set forth in Section 7 below, and except as expressly provided herein, Lender hereby consents to the Transfer and (ii) waives any default or breach arising from such Transfer. This consent and waiver shall not be deemed a waiver of any right to require consent to any other or future transactions.

4. No Further Encumbrances or Other Advances.

a. Except as specifically provided in this Agreement or the Loan Documents, New Borrower will not, without Lender's prior written consent, sell, transfer, or convey any interest in the Property, or create, incur, assume, or suffer to exist any mortgage, pledge, lien, security interest, or other charge or encumbrance of any nature upon or with respect to any security, including, but not limited to, the Property and the other Collateral for the obligations of Original Borrower and/or New Borrower hereunder or under the Loan Documents, or assign or otherwise convey any right to receive the income, revenues, royalties, or any other right to receive payment.

b. Except as expressly provided in the Forbearance Agreement, the parties acknowledge and agree that Lender shall not and has no obligation to advance, provide, or loan any further or additional monies or credit to either Original Borrower or New Borrower.

5. Limitation of Consent.

Lender's consent set forth in this Agreement is strictly limited to the Transfer of the Property from Original Borrower to New Borrower and this Agreement shall not constitute a waiver or modification of any requirement of obtaining Lender's consent to any future transfer of the Property or any portion thereof or interest therein, nor shall it constitute a modification of the terms, provisions, or requirements in the Loan Documents in any respect except as expressly provided herein.

New Borrower specifically acknowledges that:

a. any transfer of the Property or any portion thereof or interest therein by New Borrower without Lender's prior written consent shall entitle Lender to accelerate the Note balance and foreclose the Deed of Trust as provided therein; and

b. Lender's consent to this Agreement shall not be deemed to be consent by Lender to New Borrower encumbering the Property with any junior or other financing.

6. No Representations of Lender.

New Borrower recognizes and agrees that Lender has made no representation or warranty, either express or implied, regarding the Property and has no responsibility whatsoever with respect to the Property, the condition of the Property or the use, occupancy, or status of the Property. To the extent New Borrower has any claims which in any manner relate to the Property, the condition of the Property, or the use, occupancy, or status of the Property, the same shall not be asserted against Lender, or its agents, employees, professional consultants, attorneys, accountants, affiliated entities, successors or assigns, or asserted as a defense to any of the Loan Documents.

7. Conditions Precedent.

In addition to all other conditions of the effectiveness of this Agreement, the effectiveness of this Agreement and the obligations of Lender under this Agreement are expressly conditioned upon the following having occurred or Lender having received all of the following documents, or other instruments in form and content satisfactory to Lender in its sole opinion and judgment and suitable for filing or recording as required:

a. This Agreement fully executed by Original Borrower, New Borrower, Guarantor, and Lender;

b. The Forbearance Agreement, fully executed by Original Borrower, Guarantor, and the other parties named therein;

c. Payment in full of all title insurance premiums and recording charges, and all fees and costs incurred by Lender in connection with the negotiation and preparation of this Agreement and all other documents and instruments related thereto, including, but not limited to, attorneys' fees;

- d. Such related documents from New Borrower as Lender may request;
- e. One or more UCC-1 Financing Statements, UCC-2 Amendments to Financing Statements or related documents by New Borrower;
- f. No suit, action, or other proceeding shall be pending or threatened which seeks to restrain or prohibit the consummation of the transactions contemplated by this Agreement, or to obtain damages or other relief in connection therewith;
- g. Lender's liens, security interests and other interests in the Property and all other Collateral shall have been perfected by such means as are required or permitted under applicable Laws, and shall be and remain a first priority perfected lien and security interest in and to the Property and all such other Collateral;
- h. Except for the Existing Defaults (as defined in the Forbearance Agreement), no breach of any warranty or representation by Original Borrower or New Borrower to Lender shall have occurred;
- i. Except for the Existing Defaults, no event or circumstance shall have occurred and be continuing which constitutes, or would upon the giving of notice or passage of time, constitute an event of default, default, breach of covenant or agreement or failure of any condition of this Agreement or any of the Loan Documents;
- j. Lender shall have received such endorsements as Lender shall request to Lender's policy of title insurance insuring Lender's interest in the Property (the "Title Policy"), including, without limitation, an endorsement which shall insure that fee title to the Property is vested in New Borrower, that the lien and priority of the Deed of Trust is not impaired by the Transfer and/or the transactions contemplated hereby, and that the lien of the Deed of Trust is not subject to any lien, encumbrance or other matter other than those set forth in the Title Policy on the date originally issued and nondelinquent real property taxes for the current tax year;
- k. New Borrower shall have delivered to Lender insurance policies and certifications satisfying such insurance coverages as Lender shall require, in its sole opinion and judgment, naming Lender as the additional insured, containing a standard mortgagee clause, and showing evidence of payment of the annual premium therefor; and
- l. Such additional assignments, agreements, certificates, reports, approvals, instruments, documents, financing statements, consents, and opinions as Lender may request.

8. Representations and Warranties of Original Borrower and Guarantor.

Original Borrower and Guarantor represent and warrant to Lender, and acknowledges that Lender is relying thereon, as follows:

- a. Lender has a duly perfected first-priority lien on the Property and other Collateral for the Note, subject only to the exceptions set forth in the Title Policy on the date originally issued and nondelinquent real property taxes for the current tax year, and there will be

no other liens, encumbrances, or charges on the Property or other such Collateral except to or by Lender.

b. All present and future leases of the Property, and all present and future rents, revenues, income, issues, royalties and profits of the Property, have been absolutely assigned to Lender and Lender holds and owns all right, title and interest therein.

c. This Agreement and the documents and instruments executed in connection herewith constitute legal, valid, and binding obligations of Original Borrower to Lender.

d. Except for the Lawsuits (as defined in the Forbearance Agreement), there are no actions, suits, or proceedings pending or, to the knowledge of Original Borrower or Guarantor, threatened against or affecting Original Borrower or Guarantor in relation to its obligations to Lender, or involving the validity or enforceability of this Agreement, the Loan Documents, or any other documents executed in connection herewith or therewith.

e. Except for the Existing Defaults, no event or circumstance has occurred which constitutes, or would upon the giving of notice or passage of time, constitute an event of default, default, breach of covenant or agreement or failure of any condition of this Agreement or any of the Loan Documents.

f. The execution and delivery of this Agreement by Original Borrower and Guarantor, and the performance by Original Borrower and Guarantor of all their respective obligations hereunder do not and will not result in a breach of or constitute a default under, or cause or permit the acceleration of any obligation owed or required under, any other agreement, lease, or instrument to which Original Borrower or Guarantor is a party or by which Original Borrower, Guarantor, or its or their properties are bound or affected.

g. Except for the Existing Defaults, neither Original Borrower nor Guarantor is in default under, or in violation of any law, order, writ, judgment, injunction, decree, determination, or award, or under any obligation, agreement, instrument, loan, or indenture, whether to Lender or otherwise, or any lease, that would affect the ability of Original Borrower or Guarantor to perform their respective obligations hereunder.

h. Except as expressly provided herein, all security interests and other interests given by Original Borrower remain in full force and effect, and Original Borrower consents to each and every transaction, condition, term, and provision contained in this Agreement.

i. The security interests and other interests of Lender in the Property and the other Collateral are valid, binding, and enforceable, in accordance with the terms of this Agreement and the Loan Documents.

j. In addition to all other covenants given by Original Borrower in this Agreement, in the documents and instruments executed in connection herewith, and in the Loan Documents, Original Borrower will, so long as any obligations to Lender remain outstanding:

(1) Execute any and all documents as Lender may reasonably request in connection with this Agreement.

(2) Cooperate fully with Lender during the term of this Agreement with respect to this Agreement, the Loan Documents, and the documents executed in connection with this Agreement.

(3) At its own cost and expense, appear and defend any action or proceeding that may affect Lender's security interests or other interests in the Property and/or the other Collateral for any of the obligations referred to in this Agreement and the Loan Documents; provided, however, Lender shall not be restricted from also appearing and defending any action or proceeding that may affect Lender's security interests or other interests in the Property and/or the other Collateral.

9. Representations and Warranties of New Borrower.

New Borrower represents and warrants to Lender, and acknowledges that Lender is relying thereon, as follows:

a. Lender has a duly perfected first-priority lien on the Property and other Collateral for the Note, subject only to the exceptions set forth in the Title Policy on the date originally issued and nondelinquent real property taxes for the current tax year, and there will be no other liens, encumbrances, or charges on the Property or other such Collateral except to or by Lender.

b. All present and future leases of the Property, and all present and future rents, revenues, income, issues, royalties and profits of the Property, have been absolutely assigned to Lender and Lender holds and owns all right, title and interest therein.

c. This Agreement and the documents and instruments executed in connection herewith constitute legal, valid, and binding obligations of New Borrower to Lender.

d. There are no actions, suits, or proceedings pending or, to the knowledge of New Borrower threatened against or affecting New Borrower in relation to their obligations to Lender, or involving the validity or enforceability of this Agreement, the Loan Documents, or any other documents executed in connection herewith or therewith.

e. Except for the Existing Defaults, no event or circumstance has occurred which constitutes, or would upon the giving of notice or passage of time, constitute an event of default, default, breach of covenant or agreement or failure of any condition of this Agreement or any of the Loan Documents.

f. The execution and delivery of this Agreement by New Borrower and the performance by New Borrower of all its obligations hereunder do not and will not result in a breach of or constitute a default under, or cause or permit the acceleration of any obligation owed or required under, any other agreement, lease, or instrument to which New Borrower is a party or by which New Borrower or its properties are bound or affected.



g. Except for the Existing Defaults, New Borrower is not in default under, or in violation of any Law, order, writ, judgment, injunction, decree, determination, or award, or under any obligation, agreement, instrument, loan, or indenture, whether to Lender or otherwise, or any lease, that would affect the ability of New Borrower to perform its obligations hereunder, including, but not limited to, the ability of New Borrower to repay the outstanding indebtedness under this Agreement and/or under the Loan Documents.

h. Except as expressly provided herein, all security interests and other interests given by Original Borrower remain in full force and effect.

i. The security interests and other interests of Lender in the Property and the other Collateral are valid, binding, and enforceable, in accordance with the terms of this Agreement and the Loan Documents.

j. In addition to all other covenants given by New Borrower in this Agreement, in the documents and instruments executed in connection herewith, and in the Loan Documents, New Borrower will, so long as any obligations to Lender remain outstanding:

(1) Execute any and all documents as Lender may reasonably request in connection with this Agreement.

(2) Cooperate fully with Lender during the term of this Agreement with respect to this Agreement, the Forbearance Agreement, and the other Loan Documents, and the documents executed in connection with this Agreement and/or the Forbearance Agreement.

(3) At its own cost and expense, appear and defend any action or proceeding that may affect Lender's security interests or other interests in the Property and/or the other Collateral for any of the obligations referred to in this Agreement and the Loan Documents; provided, however, Lender shall not be restricted from also appearing and defending any action or proceeding that may affect Lender's security interests or other interests in the Property and/or the other Collateral.

10. Waiver and Release.

Original Borrower, New Borrower and Guarantor hereby unconditionally waive and release any and all claims, damages costs, liabilities, actions or suits either has or may have, whether known or unknown, against Lender, its officers, agents, directors, employees, shareholders, successors or assigns, in each case to the extent arising out of or in connection with the Loan Documents, the debt evidenced thereby, the Collateral or the handling, course of conduct, closing or servicing of the Loan.

a. Original Borrower, New Borrower and Guarantor acknowledge that this waiver and release is voluntary and without any duress or undue influence, and is given as part of the consideration for Lender's accommodation of Original Borrower's, New Borrower's and Guarantor's request for an assumption of the Loan.

b. Original Borrower, New Borrower, and Guarantor each waive all rights under Section 1542 of the Civil Code of the State of California, which each understands provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

c. Original Borrower, New Borrower, and Guarantor each expressly acknowledge that either or both of them may hereafter discover facts different from, or in addition to, those which either or both of them now believe to be true with respect to the release of claims. Original Borrower, New Borrower, and Guarantor each agree that the foregoing release shall be and remain effective in all respects notwithstanding such different or additional facts.

11. [Intentionally Deleted.]
12. Modification of Loan Documents.

This Agreement and any other documents and instruments executed in connection herewith shall each constitute “Loan Documents”. In addition to any other modifications of any Loan Documents provided under this Agreement, all references in the Loan Agreement, Note, Forbearance Agreement, the Deed of Trust and each of the other Loan Documents are hereby modified so that all references to Original Borrower therein shall be construed to mean New Borrower and Original Borrower, individually and collectively.

13. No Joint Venture, Management, and Control.

Notwithstanding any provision of this Agreement among the parties hereto:

a. Lender is not and shall not be construed to be a partner, joint venturer, alter ego, manager, controlling person, or other business associate or participant of any kind of Original Borrower, New Borrower, Guarantor or any other person or entity;

b. Lender shall not be deemed responsible to perform or participate in any acts, omissions, or decisions of Original Borrower, New Borrower, Guarantor, or any of them; and

c. Neither Original Borrower, New Borrower, nor Guarantor have any claims, causes of action, or defenses to their obligations to Lender based on any allegations of management or control exercised by Lender. Original Borrower, New Borrower, and Guarantor each acknowledge and agree that Lender does not manage or control them in any way.

14. Joint and Several Liability.

In accordance with this Agreement, New Borrower and Original Borrower each agree that they are jointly and severally liable to Lender for the payment and performance of all obligations arising under both this Agreement and the Loan Documents, and that such liability is independent. Lender may bring an action against New Borrower and Original Borrower, or either of them, pursuant to this Agreement or the Loan Documents, regardless of whether an action is brought against any other person or entity.

a. New Borrower and Original Borrower, and each of them, waive any right to assert against Lender any defense, setoff, counterclaim or claim which such party may have against Lender, the other party or any other person or entity liable to Lender for the obligations of New Borrower and Original Borrower, or each of them, under this Agreement and under the Loan Documents.

b. New Borrower and Original Borrower, and each of them, agree that each party is solely responsible for keeping itself informed as to the financial condition of the Property, the financial condition, acts or omissions of the other party and of all circumstances which bear upon the risk of nonpayment. New Borrower and Original Borrower, and each of them, waive any right each party may have to require Lender to disclose to such party any information which Lender may now or hereafter acquire concerning the financial condition, acts or omissions of the other party or any other person or entity.

c. New Borrower and Original Borrower, and each of them, waive all rights to notices of default or nonperformance by the other party under this Agreement or the Loan Documents or to any other person or entity. New Borrower and Original Borrower, and each of them, waive all rights to notices of the existence or the creation of new indebtedness by the other party or any other person or entity.

d. New Borrower and Original Borrower, and each of them, represent and warrant to Lender that each will derive benefit, directly and indirectly, from the collective administration and availability of the Loan under this Agreement and under the Loan documents. New Borrower and Original Borrower, and each of them, agree that Lender will not be required to inquire as to the disposition by either party or any other person or entity of funds previously disbursed by Lender in accordance with the Loan Documents.

e. Until all obligations of the New Borrower and Original Borrower, and each of them, to Lender under this Agreement and under the Loan Documents have been paid in full, New Borrower and Original Borrower, and each of them, waive any right of subrogation, reimbursement, indemnification and contribution (contractual, statutory or otherwise) including without limitation, any claim or right of subrogation under the Bankruptcy Code (Title 11, United States Code) or any successor statute, which New Borrower and Original Borrower, or either of them, may now or hereafter have against the other party or any other person or entity with respect to the indebtedness incurred under this Agreement or under the Loan Documents. New Borrower and Original Borrower, and each of them, waive any right to enforce any remedy which Lender now has or may hereafter have against the other party or any other person or

entity, and waive any benefit of, and any right to participate in, any security or collateral now or hereafter held by Lender.

f. New Borrower and Original Borrower, and each of them, unconditionally and irrevocably waive any rights and defenses that New Borrower and Original Borrower, or either of them, may have because the Loan is secured by real property. This means, among other things:

(1) Lender may collect from New Borrower and Original Borrower, or either of them (including enforcing the Deed of Trust against such party's interest in the Property), individually and without foreclosing on any real or personal property collateral pledged by the other party.

(2) If Lender forecloses on any real property collateral pledged by New Borrower and Original Borrower, or either of them:

(i) The amount of the Loan may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.

(ii) Lender may collect from New Borrower and Original Borrower, or either of them (including enforcing the Deed of Trust against such party's interest), individually, even if Lender, by foreclosing on the real property collateral pledged by the other party, has destroyed any right such party may have to collect from the other party.

g. This Section 14 is an unconditional and irrevocable waiver of any rights and defenses New Borrower and Original Borrower, and each of them, may have because the Loan is secured by real property.

h. New Borrower and Original Borrower, and each of them, hereby waive any election of remedies by Lender that impairs any subrogation or other right of such party to proceed against the other party or any other person or entity, including any loss of rights resulting from any anti-deficiency law relating to non-judicial foreclosures of real property or other laws limiting, qualifying or discharging obligations or remedies.

15. Miscellaneous.

a. Not a Novation. This Agreement is not a novation, nor is it to be construed as a release or modification of any of the terms, conditions, warranties, waivers, or rights set forth in the Loan Documents, except as set forth herein.

b. Acknowledgment of Waiver.

(1) Original Borrower, New Borrower, and Guarantor each represent and warrant that all of the waivers, warranties, and promises set forth in this Agreement are made

after consultation with legal counsel of their choosing and with an understanding of their significance and consequence and that they are reasonable.

(2) Original Borrower, New Borrower, and Guarantor each further represent and warrant as follows:

(i) They have received, or have had the opportunity to receive, independent legal advice from attorneys of their choice with respect to the advisability of executing this Agreement, and prior to the execution of this Agreement their attorneys reviewed this Agreement and discussed the Agreement with them and they have made all desired changes;

(ii) Except as expressly stated in this Agreement, neither Lender nor any other person or entity has made any statement or representation to Original Borrower, New Borrower, Guarantor or any of them, regarding any facts relied upon by them;

(iii) Original Borrower, New Borrower, and Guarantor each do not rely upon any statement, representation, or promise of Lender or any other person or entity in executing this Agreement except as expressly stated in this Agreement; and

(iv) The terms of this Agreement are contractual and not a mere recital.

c. Survival of Warranties. All agreements, representations, and warranties made herein shall survive the execution and delivery of this Agreement.

d. Failure of Indulgence Not Waiver. No failure or delay on the part of Lender in the exercise of any right, power, or privilege hereunder or under the documents or instruments referred to herein shall operate as a waiver thereof, and no single or partial exercise of any such power, right, or privilege shall preclude a further exercise of any right, power, or privilege.

e. Applicable Law. This Agreement and the Loan Documents, and the rights and obligations of the parties hereto and thereto shall be governed by and construed in accordance with the laws of the State of California. Original Borrower, New Borrower, and Guarantor each waive any objection to jurisdiction and venue of any action instituted against either of them as provided herein and agree not to assert any defense based on lack of jurisdiction or venue.

f. Assignability. This Agreement shall be binding upon and inure to the benefit of Lender, Original Borrower, New Borrower and Guarantor, and their respective successors and assigns, except that the respective rights of Original Borrower, New Borrower and Guarantor hereunder are not assignable without the prior written consent of Lender, which consent Lender may give or withhold in its sole and absolute opinion and judgment.

g. Expenses and Fees.

(1) New Borrower, Original Borrower, and Guarantor each shall reimburse Lender for all fees and costs incurred in connection with the negotiation, preparation, execution and effectuation of this Agreement including, but not limited to, attorneys' fees, title insurance premiums, and recording charges.

(2) In the event that Lender employs attorneys to remedy or obtain relief from, or arising out of, a breach or default under this Agreement, the documents and instruments executed in connection herewith, or the Loan Documents, any of the terms, covenants, provisions and all conditions hereof or thereof, or any of the matters referred to herein or therein or in connection with any bankruptcy proceeding, Lender shall be entitled to be reimbursed by New Borrower, Original Borrower, and Guarantor for all of its attorneys' fees, whether or not suit is filed and including, without limitation, those incurred in each and every action, suit, or proceeding, including any and all appeals and petitions therefrom and all fees and costs incurred by Lender.

h. Modifications and Amendments. This Agreement may be modified or amended only by written agreement duly executed by the party to be charged.

i. Integration. This Agreement, the Loan Documents, and the documents and instruments executed in connection herewith constitute a single, integrated written contract expressing the entire agreement of the parties hereto relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any party hereto with respect to the subject matter hereof, except as specifically set forth in this Agreement and the documents and instruments executed in connection with this Agreement.

j. Severability. If any provision of this Agreement is found to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, such provisions shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by severance from this Agreement.

k. Time of Essence. The parties hereto expressly acknowledge and agree that time is of the essence and that all deadlines and time periods provided for under this Agreement are ABSOLUTE AND FINAL.

l. Notices. All notices, requests, demands, directions and other communications provided for hereunder and under any other Loan Document (a "Notice"), must be in writing and must be mailed, delivered or sent by facsimile or other form of electronic written communication to the appropriate party at its respective address set forth below or, as to any party, at any other address as may be designated by it in a written notice sent to the other parties in accordance with this Section.



Any notice given by facsimile or other form of electronic written communication must be confirmed within forty-eight (48) hours by letter mailed or delivered to the appropriate party at its respective address. If any notice is given by mail, it will be effective three (3) calendar days after being deposited in the mails with first-class or air mail postage prepaid; if given by facsimile or other form of electronic written communication, when sent; or if given by personal delivery, when delivered.

Such notices will be given as follows:

To Lender:

PACIFIC CAPITAL BANK, N.A.
c/o Loan Services
20 E. Carillo Street, 2nd Floor
Santa Barbara, California 93101

To Original Borrower:

SYNCON HOMES
990 Ironwood Drive
Minden, Nevada 89423
Attn: Mr. Leo A. Hanly

To New Borrower:

ARBOR GARDENS IV, LLC
990 Ironwood Drive
Minden, Nevada 89423
Attn: Mr. Leo A. Hanly

To Guarantor:

LEO A. HANLY
990 Ironwood Drive
Minden, Nevada 89423

m. Execution in Counterpart. This Agreement may be executed and delivered in two or more counterparts, each of which, when so executed and delivered, shall be an original, and such counterparts together shall constitute but one and the same instrument and Agreement, and the Agreement shall not be binding on any party until all parties have executed it.

n. Final and Binding Agreement. This Agreement and the releases contained herein are intended to be final and binding among the parties hereto, and each party expressly relies on the finality of this Agreement as a substantial, material factor inducing that party's execution of this Agreement. Each of the parties hereto has the full right and authority to enter into this Agreement, and the officer, member, manager, partner, agent, or other representative

executing this Agreement on behalf of any party has the full right and authority to fully commit and bind it to this Agreement.

o. No Other Parties Intended. Nothing contained in this Agreement is intended, nor shall it be construed or deemed, to confer any rights, powers, or privileges on any person, firm, partnership, corporation, or other entity not an express party hereto, a successor-in-interest, assign, or a party released under this Agreement.

p. Section Headings Not Effective. Section headings used in this Agreement are for convenience only and shall not affect the construction of this Agreement.

q. Neutral Interpretation. This Agreement constitutes the product of the negotiation of the parties hereto and the enforcement hereof shall be interpreted in a neutral manner, and not more strongly for or against any party based upon the source of the draftsmanship hereof.

r. Construction of Agreement. Whenever the context so requires, the masculine gender shall include the feminine or neuter and the singular number shall include the plural, and vice versa. Unless the context of this Agreement clearly requires otherwise, the term "or" includes the inclusive meaning represented by the phrase "and/or."


s. Effectiveness of Agreement. In addition to any other conditions to the effectiveness and enforceability of this Agreement set forth in this Agreement, this Agreement shall not be effective and enforceable unless and until it is executed by Lender.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year set forth above.

ORIGINAL BORROWER:


SYNCON HOMES,
a Nevada corporation

By: 
Name: Michael Lemke
Its: President


NEW BORROWER:

ARBOR GARDENS IV, LLC,
a Nevada limited liability company

By: Syncon Homes,
a Nevada corporation
Its: Manager

By: 
Name: Michael Lemke
Title: President

GUARANTOR:


LEO A. HANLY, an individual

LENDER:

PACIFIC CAPITAL BANK, N.A.,
a national banking association,
doing business as Santa Barbara Bank & Trust

By: Tom Mortensen
Name: Tom Mortensen
Title: VP

[ALL SIGNATURES MUST BE ACKNOWLEDGED]

STATE OF Nevada)
) SS
COUNTY OF Douglas)

On May 29, 2008, before me, Judith A Lyons, a Notary Public, personally appeared Michael Lemker, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Nevada that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



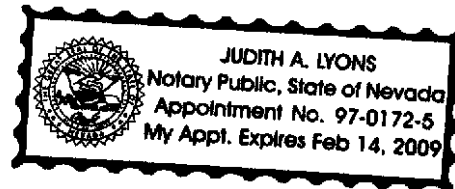
Judith A Lyons
Notary Public

STATE OF Nevada)
) SS
COUNTY OF Douglas)

On May 29, 2008, before me, Judith A Lyons, a Notary Public, personally appeared Michael Lemke, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Nevada that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Judith A Lyons
Notary Public

STATE OF Nevada)
)
COUNTY OF Douglas) SS

On May 29, 2008, before me, Judith A Lyons, a Notary Public, personally appeared Leo A. Hanly, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Nevada that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



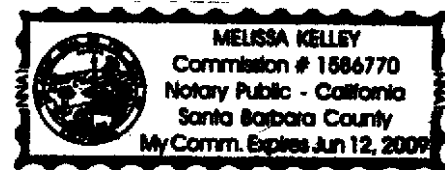
Judith A Lyons
Notary Public

STATE OF California)
)
COUNTY OF Santa Barbara) SS

On May 30, 2008, before me, Melissa Kelley, a Notary Public, personally appeared Tom Mortensen, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Melissa Kelley
Notary Public

EXHIBIT "A"
LEGAL DESCRIPTION

The land referred to herein is situated in the State of Nevada, County of Douglas, described as follows:

ADJUSTED LOT 18, BLOCK "C"

A parcel of land located within a portion of the Southwest one quarter (SW 1/4) of Section 3, Township 12 North, Range 20 East, Mount Diablo Meridian, more particularly described as follows:

Commencing at the most westerly corner of Lot 18, Block "C", as shown on Arbor Gardens Phase 4 recorded October 17, 2005 in the office of Recorder, Douglas County, Nevada as Document No. 657923, the POINT OF BEGINNING;
thence along the north line of said Lot 18, North 72°11'03" East, 268.43 feet; thence South 17°48'57" East, 35.56 feet to a 2 ½" Aluminum cap marked "PLS 18135, 2007" on 5/8" rebar;
thence, South 03°23'07" West, 63.92 feet, passing through a 2 ½" Aluminum cap marked "PLS 18135, 2007" on 5/8" rebar, to the south line of said Lot 18; thence along said south line North 86°36'53" West, 263.12 feet to the POINT OF BEGINNING.

The Basis of Bearing of this description is the line between the centerline monuments of Pin Oak Drive as shown on Arbor Gardens Phase 4 recorded October 17, 2005 in the office of Recorder, Douglas County, Nevada as Document No. 657923.

APN 1220-03-311-049

ADJUSTED LOT 19, BLOCK "C"

A parcel of land located within a portion of the Southwest one-quarter (SW ¼) of Section 3, Township 12 North, Range 20 East, Mount Diablo Meridian, more particularly described as follows:

Commencing at the most westerly corner of Lot 18, Block "C", as shown on Arbor Gardens Phase 4 recorded October 17, 2005 in the office of Recorder, Douglas County, Nevada as Document No. 657923;

Thence along the north line of said Lot 18, North 72°11'03" East, 268.43 feet to the POINT OF BEGINNING;
thence continuing along the north line of said Lot 18 and Lot 19, North 72°11'03" East, 60.00 feet; thence South 17°48'57" East, 127.40 feet, to the south line of said Lot 19; thence North 86°36'53" West, 89.15 feet; thence North 03°23'07" East, 63.92 feet, passing through a 2 ½" Aluminum cap marked "PLS 18135, 2007" to a 2 ½" Aluminum cap marked "PLS 18135, 2007";
thence North 17°48'57" West, 35.56 feet to the POINT OF BEGINNING.

The Basis of Bearing of this description is the line between the centerline monuments of Pin Oak Drive as shown on Arbor Gardens Phase 4 recorded October 17, 2005 in the office of Recorder, Douglas County, Nevada as Document No. 657923.

APN 1220-03-311-048

"In Compliance with Nevada Revised Statute 111.312, the herein above legal description was taken from instrument recorded August 7, 2007, Book 0807, Page 2224, as file No. 707132, recorded in the official records of Douglas, State of Nevada."

COPY

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