

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
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<b>NATURE OF CONVEYANCE:</b>	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL
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<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Surface Joint Venture d/b/a US Stone		08/06/2001	JOINT VENTURE: TEXAS

<b>RECEIVING PARTY DATA</b>	
<b>Name:</b>	Etura Acquisition LLC
<b>Street Address:</b>	100 South Third Street
<b>City:</b>	Columbus
<b>State/Country:</b>	OHIO
<b>Postal Code:</b>	43215
<b>Entity Type:</b>	Limited Liability Company: OHIO

<b>PROPERTY NUMBERS Total: 3</b>		
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>
Registration Number:	2724548	AVANZA
Registration Number:	2606076	US STONE
Registration Number:	2460572	STONE MADE BETTER

<b>CORRESPONDENCE DATA</b>	
<b>Fax Number:</b>	(614)227-2390 <i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>
<b>Phone:</b>	(614) 227-8823
<b>Email:</b>	trademarks@bricker.com
<b>Correspondent Name:</b>	Maria E. Spencer, Esq.
<b>Address Line 1:</b>	100 South Third Street
<b>Address Line 4:</b>	Columbus, OHIO 43215

<b>NAME OF SUBMITTER:</b>	Maria E. Spencer
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<b>Signature:</b>	/Maria E. Spencer/
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**CH \$90.00 2724548**

Date:

01/13/2005

**Total Attachments: 5**

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# ASSIGNMENT AND ASSUMPTION AGREEMENT

**ASSIGNMENT AND ASSUMPTION AGREEMENT**, dated as of August 6, 2001, between Etura Acquisition LLC, an Ohio limited liability company ("Buyer") and Surface Joint Venture dba US Stone, a Texas general partnership ("Seller").

## Recital:

**WHEREAS**, Buyer and Seller have concurrently herewith consummated the purchase by Buyer of the Purchased Assets (described below) pursuant to the terms and conditions of the Asset Purchase Agreement dated August 6, 2001, between Buyer and Seller (the "Asset Purchase Agreement"; terms defined in the Asset Purchase Agreement and not otherwise defined herein shall have the meaning attributed to such terms in the Asset Purchase Agreement);

**WHEREAS**, pursuant to the Asset Purchase Agreement, the Purchased Assets are to be transferred to Buyer by Seller at the Closing; and

**WHEREAS**, pursuant to the Asset Purchase Agreement, Buyer has agreed to assume certain liabilities and obligations of Seller with respect to certain Purchased Assets;

## Statement of Agreement

**NOW, THEREFORE**, pursuant to the terms of the Asset Purchase Agreement and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller agree as follows:

1. **Assignment.** Seller does hereby sell, transfer, convey, assign and deliver to Buyer all of Seller's right, title and interest in, to and under the following assets used or useful in the operation of the Business (collectively, the "Purchased Assets"), except for Excluded Assets, subject to the terms set forth in the Asset Purchase Agreement:

(a) **Intellectual Property.** All trade secrets, marks, confidential or proprietary information, and intellectual property and good will associated therewith, licenses and sublicenses granted and obtained with respect thereto, and rights thereunder, remedies against infringements, thereof, and right to protection of interests therein, including but not limited to:

- (1) The novel and proprietary processes designed for the fabrication of engineered stone into surfacing products as well as uses of the processes for other formulations;
- (2) Know-how, ideas, development information, technical data, formulas, compositions, and inventions;
- (3) Trademarks, service marks, trade dress, logos, trade names, and corporate names ("Marks"), including but not limited to those Marks identified in Schedule 1 together with the goodwill of Seller's business symbolized by such Marks, all claims, demands, and rights of action based upon both statutory and common law, that Seller has or might have in connection with the Marks together with the right to prosecute such claims, demands, and rights of action including future infringement claims and registrations and applications for registration for the Marks, and other similar designations;
- (4) Copyrights and registrations and applications for registration thereof, mask works, works

of authorship, and other works subject to copyright;

- (5) Computer software, programs, data, calculations, instructions or other intellectual property and embodiments thereof of any media, including electro magnetic, and in any form, including source code and object code;
  - (6) Trade secrets and confidential information, manufacturing and production processes and techniques, research and development information, and related drawings, specifications, designs, plans, proposals, and technical data;
  - (7) Financial, marketing, and business data, pricing and cost information, business and marketing plans, customer and supplier lists, and business information;
  - (8) Other proprietary rights or moral rights; and
  - (9) All copies and tangible embodiments thereof (in whatever form or of whatever medium), including both the expressions thereof as well as the ideas expressed therein;
- (b) **Contracts.** All contracts or agreements of any kind relating to Seller's operation of the Business and to which Seller is a party, as set forth in Schedule 2 attached hereto, including without limitation, all agreements with suppliers and customers, leases or subleases of personal property or equipment, confidentiality or non-competition agreements, indentures, mortgages, instruments, security interests, guaranties, and other agreements concerning indebtedness or other agreements of any kind, and all rights thereunder (the "Contracts"); and
- (c) **Other Purchased Assets.** All other assets (except for Excluded Assets) such as cash, accounts, notes and other receivables, current assets and other assets, tangible or intangible, including goodwill and all other or additional privileges, rights, interests, properties and assets of Seller of every kind and description and wherever located that are used or useful in the conduct of the Business as presently being conducted.

2. **Assumption.** Buyer does hereby accept all the right, title and interest of Seller in, to and under all of said Purchased Assets, subject to the terms of the Asset Purchase Agreement, and Buyer assumes and agrees to discharge, perform and satisfy promptly and fully when due all of the following liabilities (collectively, the "Assumed Liabilities"):

- (a) All of the Liabilities and obligations with respect to, arising out of, or relating to, the ownership, possession or use of the Purchased Assets, but in each case only to the extent arising on or after the Closing Date;
- (b) All Liabilities and obligations of the Business arising under the Contracts which by the terms thereof are to be observed or performed, in each case at any time on or after the Closing Date and which have been expressly assumed by Buyer, but excluding obligations and Liabilities arising out of any breach or default by Seller under any Contracts prior to Closing Date as that term is defined in the Asset Purchase Agreement; and
- (c) All Liabilities and obligations of the Business expressly identified on Schedule 3 attached hereto and incorporated herein.

3. **Additional Actions.** Each of the parties hereto hereby agrees to take or cause to be taken such further action, and to execute, deliver and file, or cause to be executed, delivered and filed such further documents and instruments as may be necessary or as may be reasonably required in order to effectuate fully the purposes, terms and conditions of this Assignment and Assumption Agreement, including obtaining an instrument from appropriate parties releasing Seller from its obligations under the Contracts assumed by Buyer pursuant to Section 1(b).

4. **Binding Effect.** This Assignment and Assumption Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. This Assignment and Assumption Agreement shall in no way expand the rights or remedies of any third party against Buyer or Seller as compared to the rights or remedies which such third party would have had against Buyer or Seller if this Assignment and Assumption Agreement had not been executed by the parties. Without limiting the generality of the preceding sentence, this Assignment and Assumption Agreement shall not create any third party beneficiary rights nor restrain or limit Buyer or Seller from contesting or asserting defenses against any third parties.

5. **Integration with Asset Purchase Agreement.** Nothing in this instrument is intended to modify the terms and provisions of the Asset Purchase Agreement. All of the representations, warranties, covenants and indemnifications of Buyer and Seller contained in the Asset Purchase Agreement shall survive the delivery of this instrument and the Closing of the transactions referred to in this Assignment and Assumption Agreement to the extent provided in the Asset Purchase Agreement, and none of said representations, warranties, covenants and indemnifications shall merge into this instrument. Nothing herein contained shall be deemed or construed as an assumption by Buyer of, or to impose upon Buyer, any obligations of Seller under any property right herein assigned, transferred and set over by Seller to Buyer which Buyer is not expressly required to assume by the Asset Purchase Agreement.

6. **Governing Law.** This Assignment and Assumption Agreement shall be construed in accordance with and governed by the internal laws of the State of Delaware.

7. **Counterpart.** This Assignment and Assumption Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**The Next Provision of This Agreement Is Headed "Signatures" That Intentionally Begins On A Separate Page**

## Signatures

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date first set forth above.

**Surface Joint Venture dba US Stone**

By: Robert Galt

Its: Partner

**Etura Acquisition LLC**

By its Sole Member, Etura Premier, LLC

By Its Manager, Walkington, Inc.

By: [Signature]

Its: CHAIRMAN

State of Texas

County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 2001, before me personally appeared the foregoing individual, being duly sworn that he is \_\_\_\_\_ of Surface Joint Venture, a Texas joint venture, and that such instrument was signed on behalf of the joint venture by authority of its members, and acknowledged such instrument to be free act and deed of the joint venture.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
County, State of Texas  
My Commission Expires \_\_\_\_\_

**Schedule 1  
Marks**

**ASSIGNOR:** Surface Joint Venture

**ASSIGNEE:** Etura Acquisition LLC

<b>MARK</b>	<b>SERIAL NUMBER</b>	<b>REGISTRATION NUMBER</b>
<b>AVANZA</b>	<b>75/631738</b>	<b>N/A</b>
<b>US STONE</b>	<b>75/631739</b>	<b>N/A</b>
<b>STONE MADE BETTER</b>	<b>75/822443</b>	<b>2,460,572</b>