visite Vol. <u>1173</u> Fage 1502

# REAL AND CHATTEL MORTGAGE

THIS INDENTURE made as of the  $\frac{3}{M}$  day of January, 1973, by and between OREGON-WASHINGTON PLYWOOD COMPANY, a corporation organized and existing under the laws of the State of Oregon, hereinafter called Mortgagor, and MODOC VENEER CO., a corporation organized and existing under the laws of the State of Oregon, hereinafter called Mortgagee. WITNESSETH:

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Mortgagor, in consideration of the sum of \$150,000 to it in hand paid by Mortgagee, the receipt of which is hereby acknowledged, has bargained and sold and by these presents does bargain and sell unto Mortgagee, its successors and assigns, the real property described in Exhibit A attached, and the personal property described in Exhibit B attached, together with all and singular the improvements, buildings, utility lines, ponds, machinery and equipment, tenements, hereditaments and appurtenances in anywise appertaining to the real and personal property above described, and any and all improvements or additions which it may at any time during the term of this agreement be added, attached or affixed thereto or used in the operation of the busines of manufacturing veneer in the premises.

To have and hold the above described real and personal property with said appurtenances, additions and improvements unto Mortgagee, its successors and assigns forever, Mortgagor covenants that it is lawfully seized in fee simple of the legal title to the property described and that the same is free and clear of all encumbrances of every nature, and that it will warrant and forever defend the title to said property against the lawful claim and damage of all persons whomever.

This conveyance is intended as a mortgage to secure Page One - REAL AND CHATTEL MORTGAGE



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the performance of the covenants and agreements herein contained and contained in a contract of sale of even date and a promissory note executed by Mortgagor evidencing the debt of Mortgagor for the purchase price.

A true copy of said Contract and note are attached to this mortgage.

NOW, THEREFORE, these presents are upon the condition that if the Mortgagorshall pay to Mortgagee, its successors and assigns, sums of money hereinabove mentioned with interest thereon according to the tenor of the promissory note, and shall keep and perform all and singular the covenants and agreements strictly in accordance with the terms thereof then these presents shall cease and be void, but otherwise shall remain in full force and effect and may be foreclosed as herein provided or as according to law.

> Mortgagor does hereby covenant as follows: 1. That it will pay the indebtedness extended

by the promissory note promptly as the same becomes due and if default be made in payment of any installment of principal or interest or in the performance of any of the covenants, stipulations or agreements hereincontained or contained in the contract of sale, Mortgagee is authorized at its option and upon ten day's written notice to declare the entire sum secured by this mortgage due and payable and to foreclose the mortgage and sell the property in the manner hereinafter or by law provided. 2. That it will pay in less than fifteen days before

the same become delinquent all taxes, assessments, charges which may be lawfully assessed or become liens against the real and personal property and will deliver to Mortgagee receipts therefor, and will promptly pay all or discharge any other liens or encumbrances upon said real or personal property which may hereafter Page Two - REAL AND CHATTEL MORTGAGE



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act as a lien superior to this mortgage.

3. That it will keep the buildings and improvements and personal property described in good order and repair and comply with all municipal and government regulations with reference thereto and that in case any of said buildings or personal property be damaged or destroyed by any cause other than that covered by insurance, it will at its own cost immediately reconstruct and repair the same.

4. That it will not commit or suffer waste upon or with respect to said property.

5. That it will during the existence of the mortgage at its own cost keep the buildings and personal property subject to the lien of this mortgage insured against loss and damage by fire in companies satisfactory to Mortgagee in an amount not less than the debt hereby secured and will deposit with Mortgagee a certificate showing said insurance to be in force and with a loss payable clause to Mortgagee as its interest may appear; further providing, that said insurance company will provide Mortgagee with at least seven day's of intended notice of cancellation of such policy.

6. That if any of the property covered by insurance shall be damaged or destroyed with the result that any sum shall be payable to Mortgagee in accordance with the terms of said policies, the Mortgagee shall have the right at its option to retain the amount so received to apply upon the debt or permit the use of the amount in the repair or reconstruction of the property so damaged.

7. In any suit to foreclose this mortgage, the court may upon application of the plaintiff therein and without regard to the condition of the real and personal property Page Three - REAL AND CHATTEL MORTGAGE



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1505 and without notice to Mortgagor appoint a receiver to take possession of said property and collect any rents, issues and profits which shall be applied to the payment of the debt secured hereby after first deducting all proper charges and expenses attending the execution of the receiver and any taxes, insurance premiums or other charges and expenses incurred in caring for said property, but until a breach or default by the Mortgagor in the payment of the note or contract secured hereby the Mortgagor shall remain in possession of the propety and retain all rents, issues and profits.

8. In case Mortgagor shall fail or refuse to perform any of the acts herein required to be performed, Mortgagee may at its option but without any obligation on its part so to do and without waiver of such default, procure any insurance, pay any taxes or liens, make repairs, pay sums required to be paid and any expenses so incurred or paid shall be added to and become added to the debt secured hereby and shall bear interest at the rate of 10% per annum from the date of such debt until paid.

9. In the event of the institution of any suit or action to foreclose this mortgage Mortgagor agrees to pay such sum as the court may adjudge reasonable as attorney's fees in any trial or appellate court in connection therewith together with any usual, incidental costs of foreclosure such as title search, and the like.

10. Upon default of Mortgagor in any of the particulars stated herein on the note or sale agreement, Mortgagee or its agents or any officer of the law may take immediate possession without demand thereto in the premises, and to enter the premises where the property may be forcibly held if necessary, and from time to time sell and dispose thereof at public or private sale Page Four - REAL AND CHATTEL MORTGAGE

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with or without notice to Mortgagor and upon such terms and such manner as Mortgagee may determine and Mortgagee may become the purchaser of said property at such sale; out of any monies arising from the sale Mortgagee shall retain and pay all costs and expenses incurred and expenses incurred by it in searching for, taking, keeping, caring for and handling and selling such property including reasonable attorney's fees and the balance shall be applied upon the sums secured by the mortgage with the overplus if any to be paid to Mortgagor, or Mortgagee may foreclose said mortgage in any manner provided by the laws of the State of Oregon.

11. In the event of foreclosure by suit or by action the decree directing the sale may if the Mortgage shall so request direct that the personal property be offered for sale and sold at such time and price as may be so required and not necessarily at the place where the real property is offered for sale.

12. All remedies herein specified shall be considered as optional with Mortgagee and cumulative, and not as a waiver of any other right or remedy which would otherwise exist.

13. Time is of the essence of this agreement and any waiver or any provision hereof by Mortgagee shall not be considered as a waiver except as to the specific instant.

14. This title to the property described in the contract of sale may not be assigned without the prior written consent of Mortgagee.

15. In the event that Mortgagee is required to engage the services of an attorney in order to effect collection of the indebtedness secured hereby, Mortgagor agrees to pay reasonable

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attorney's fees. In the event that suit or action is brought by Mortgagee to effect the collection of the indebtedness secured hereby, Mortgagor agrees to pay such reasonable attorney's fees as may be fixed by the court.

IN WITNESS WHEREOF, Mortgagor, pursuant to resolution of its Board of Directors has caused these presents to be executed by its duly authorized Executive Vice President and its seal affixed.



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OREGON-WASHINGTON PLYWOOD COMPANY

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STATE OF OREGON County of Multnomah )

On the 31st day of January, 1973, personally appeared before me <u>Robert J. Hamann</u>, to me known, who, being duly sworn, on oath did say: That he is <u>Executive Vice President</u> of <u>OREGON-WASHINGTON PLYWOOD COMPANY</u>; a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and he acknowledged said instrument to be its voluntary act and deed.

SS

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, this the day and year first in this, my certificate, written.

Notary Public for Ore 3/26/72 My Commission Expires

Page Seven-REAL AND CHATTEL MORTGAGE

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AFTER RECORDING AFTURNTO: PIONEER NATIONAL TITLE INSURANCE COMPANY 421 S. W. STARK PORTLAND, OREGON 97204 V. GORMAN



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## CONTRACT OF SALE

THIS AGREEMENT made as of the 211 day of January, 1973, between MODOC VENEER CO., an Oregon corporation, hereinafter referred to as Seller, and OREGON-WASHINGTON PLYWOOD COMPANY, an Oregon corporation, hereinafter referred to as Purchaser,

WHEREIN IT IS MUTUALLY AGREED:

1. Seller agrees to sell and deliver to Purchaser and Purchaser agrees to buy from Seller subject to the conditions, covenants and agreements hereinafter set forth, the following assets:

- A. Real property described in Exhibit A attached.
- B. Machinery and equipment described in Exhibit B attached.
- C. Inventory of supplies described in Exhibit C attached.
- D. Deposits described in Exhibit D attached.
- E. Spur track agreement of Seller with the South Pacific Company subject to railroad approval.

2. The purchase price to be paid by the Purchaser to Seller shall be paid as follows:

The purchase price of \$300,000 shall be paid by payment in cash of the sum of \$150,000 on closing and the further sum of \$150,000 payable in weekly installments of \$1,000 each. Unpaid balances shall accrue interest at the rate of 7-1/2% per annum and shall be paid monthly on the first day of the month on all GAS unpaid average principal balances. The weekly installments Friday shall be paid on thanking of each week. All payments shall be forwarded to Seller, C/o Richard Bellis, Nordic Plywood Page One - CONTRACT OF SALE



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Co., Sutherlin, Oregon.

3. The closing date shall be a date fixed by the mutual agreement of counsel for the parties and shall take place at the office of Pioneer National Title Insurance Company, Portland, Oregon. Until such closing the business heretofore conducted by the Seller shall continue in its normal and usual course of business and for the account and risk of Seller

At closing Seller will deliver possession of the property sold hereunder and execute appropriate bills of sale, deeds, assignments and instruments of transfer covering the property sold.

Real property shall be conveyed by warranty deed and Seller shall procure a policy of title insurance upon the premises in the full amount of such purchase price, the cost of which shall be borne by the parties in equal shares.

4. Security and Preservation of the Property. Purchaser will execute to evidence the indebtedness its promissory note embodying the above terms of payment and containing the usual clauses for acceleration and attorney's fees and shall secure the indebtedness by a real and chattel mortgage in the form attached.

#### .5. Employees of Plant.

6. Taxes.

Purchaser agrees to hire all the employees of the Modoc Veneer Co. plant who are actively employed at the time of closing and to afford such employees whatever seniority rights they may have and including any accrued vacation time.

(AF All real and personal property taxes shall be prorated as of the Ph close of business on /January 31, 1973.

7. Taking of Inventories and Payment therefor. On the date of closing the parties shall jointly take an Page Two - CONTRACT OF SALE



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inventory of all logs, veneer, supplies and deposits, and price the same in accordance with their cost to Seller. Immediately within ten (10) days after / upcox the extension of such price, Purchaser will pay to Seller

in cash the full amount of the purchase price.

## 8. Notices.

All notices which may be required under the contract or the mortgage executed pursuant hereto, shall be to Seller, C/o Richard Bellis, Nordic Plywood Co., Sutherlin, Oregon, and to Purchaser, Attention Alfred H. Sachs, P. O. Box 178, Ukiah, California.

MODOC VENEER CO., an Oregon corporation

Βу President 10 1 Ву Secretary

OREGON-WASHINGTON PLYWOOD COMPANY, an Oregon corporation

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By\_\_\_\_\_ Secretary

Page Three - CONTRACT OF SALE

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1516All the machinery, equipment, tools, dies, yard equipment, trucks, mobile equipment, rail spur, and other personal property situated at the vencer plant of Modoc Veneer Company at Chiloquin, Oregon, and/or all personal property used in connection therewith, including the following:

(1)

(2)

(3)

(4)

Veneer Plant:

One Clipper, Serial No. 368 One Clipper Drive, Serial No.448 One DC Load, Serial No. T326 One DC Unload, Serial No. 2480898 One Trash Return Drive, Senal No. 4072SXM255DO One Left Tipple, Serial No. 1YT21807A1 One Tipple Drive, Scrial No. 28D4A One Burner Conveyor, Serial No. 2004 One Core Transfer Drive, Serial No. 14TKS7306 One Lathe Conveyor Drive, Serial No. 904123 One Side Conveyor, Serial No. 9MRA10202 One Block Saw Conveyor, Serial No. 77447 One Log Deck Drive, Serial No. A87341 One Block Saw Motor, Serial No. 516942243304 One Lathe, Banford complete, Serial No. VL-27 One Reliance Lathe Motor, Serial No. L44792-T1 One MG Set - Generator, Serial No. L447-93-T1 One MG Set Motor, Serial No. Y-90074A1 One Gurlinger, Serial No. 2701 One H 25 E, Serial No. BTD-7183M One Cat. 966B, Serial No. 75A4938 One International Pickup, Sorial No. SB5216324 One Summer Chipper, Serial No. 1936 One Chipper Motor, Serial No. X193887 One Norman 48 Chipper, Serial No. 48353 One Boiler, Serial No. 2320119 One Welder, Serial No. 5WC2415D One Barker, Serial No. 8388-18-60

One Burner Log Pond Together with all other veneer plant machinery, equipment and other personal property situated upon the above described premises and owned by Seller

Exhibit B



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# Portland, Oregon January 31, 1973

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The undersigned corporation, OREGON-WASHINGTON PLY-INCOD COMPANY, an Oregon corporation, promises to pay to the order of MDDOC VENDER CO., an Oregon corporation, at Sutherlin, Oregon, the sum of One Hundred Fifty Thousand Dollars (\$150,000), with interest thereon at the rate of seven and one-half percent (7-1/2%) per annum from date until paid, payable in weekly installments of not less than \$1,000 in any one payment, payable on Friday of each and every week commencing February 9, 1973, until paid in full; interest shall be paid on the first day of each month on average principal balances.

A grace period of fifteen (15) days shall be allowed. The entire sum of principal and interest due hereunder may be paid at any time without penalty. If payments are not made when due (subject to the grace period) the whole sum of both principal and interest shall become immediately due and collectible, at the option of the holder of this note. In case suit or action is instituted to collect this note or any portion thereof, Oregon-Washington Plywood Company promises and agrees to pay, in addition to the costs and disbursements provided by statute, such additional sum, in like lawful money, as the Court may adjudge reasonable, for attorneys fees to be allowed in said suit or action, and further agrees to pay any reasonable sum as attorneys fees that the holder of this note incurs in the collection of seme, or of any portion thereof, even if no suit or action is instituted thereon. OREGON-WASHINGTON PLYWOOD COMPANY

tomany Executive Vice President

STATE OF OREGON; COUNTY OF KLAMATH;

Filed for record at request of <u>Transamerica Title Ins. Co</u> this <u>9th</u> day of <u>February</u> A. D., 19.73. at <u>3:54</u> o'clock <u>p</u>. M., and duly recorded in Vol. <u>M73</u>, of <u>Mortgages</u> on Page <u>1502</u>

Fee \$30.00

\$150,000

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WM. D. MILNE, County Clerk By Lynthen Canthe