

After recording return to:
William L. Rodgers
Stoel Rives LLP
900 SW 5th Avenue, #2600
Portland, OR 97204

K57082

Vol M01 Page 55185

**SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT
AGREEMENT /TRUST DEED**

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THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement"), dated as of this 4th day of September, 2001, by and among **PACIFICORP POWER MARKETING, INC.**, an Oregon corporation ("Lessee"), **COLLINS PRODUCTS, LLC**, an Oregon limited liability company ("Lessor"), and **U.S. BANK NATIONAL ASSOCIATION**, formerly known as United States National Bank of Oregon ("Lender").

RECITALS

WHEREAS, Lender is the beneficiary under a deed of trust made by Lessor dated August 30, 1996, and filed in the Office of Klamath County, in Book M-96, Page 27077 (the "Deed of Trust"); and

WHEREAS, the Deed of Trust relates to that certain property owned by Lessor, located in Section 18, Township 39 South, Range 9 East, W.M., Klamath County, Oregon; and

WHEREAS, Lessee is the lessee, and Lessor is the lessor, under that certain Lease dated as of May 1, 2001 (the "Lease"), relating to a portion of the property subject to the Deed of Trust more particularly described in the attached Exhibit A (the "Property"); and

WHEREAS, Lender, Lessor and Lessee have requested of and granted to each other the agreements hereinafter stated and desire to evidence said agreements in writing.

NOW, THEREFORE, for good and valuable consideration paid by each to the other, the receipt and sufficiency of which is hereby acknowledged, Lessor, Lessee and Lender hereby agree as follows:

1. **Subordination**. The Lease is now and shall at all times continue to be, subject and subordinate in each and every respect to the lien of and security interest created by the Deed of Trust, and to any and all renewals, extensions, modifications, substitutions or replacements thereof, subject to the terms and conditions of this Agreement.

2. **Nondisturbance**. So long as Lessee is not in default, beyond any applicable cure periods provided in the Lease, in the payment of the rental reserved in the Lease, or in the observance or performance of any of the other terms, covenants, or conditions contained in the Lease that would give Lessor the right to terminate the Lease:

(a) Lessee's possession of the Property and Lessee's rights and privileges under the Lease shall not be terminated, canceled or in any way disturbed, diminished or interfered with by Lender during the term of this Lease and any extension or renewal thereof, whether or not the Deed of Trust is in default and whether or not Lender acquires Lessor's interest in the Lease by foreclosure or deed in lieu of foreclosure, or otherwise;

(b) Lender will not join Lessee as a party defendant in any action or proceeding for the purpose of terminating Lessee's interest and estate under the Lease as a result of any default under the Deed of Trust; provided, however, Lender may join Lessee in a foreclosure action if such joinder is required by applicable law for the purpose of foreclosing the Deed of Trust against Lessor, but then only for such purpose and not for the purpose of terminating the Lease; and

(c) If Lender has control of any funds or allowances owed to Lessee by Lessor, Lender shall release the funds or allowances pursuant to the terms of the Lease, as modified by this Agreement.

3. **Attornment.** If the interests of Lessor shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought by Lender in lieu of or pursuant to a foreclosure, or by any other manner, and Lender succeeds to the interest of the Lessor under the Lease, Lessee shall be bound to Lender under all of the terms, covenants, and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Lender were the Lessor under the Lease, and Lessee does hereby attorn to Lender as its Lessor, said attornment to be effective and self-operative immediately upon Lender succeeding to the interest of Lessor under the Lease without the execution of any further instruments on the part of any of the parties hereto; provided, however, that Lessee shall be under no obligation to pay rent to Lender until Lessee receives written notice from Lender that it has succeeded to the interest of the Lessor under the Lease. The parties hereto agree that the respective rights and obligations of Lessee and Lender upon such attornment, to the extent of the then remaining balance of the term of the Lease and any such extensions and renewals, shall be and are the same as now set forth therein; it being the intention of the parties for this purpose to incorporate the Lease in this Agreement by reference with the same force and effect as if set forth at length in this Agreement.

4. **Lender's Liability.** Lessee agrees with Lender that if Lender shall succeed to the interest of Lessor under the Lease, Lender shall not be (a) liable for any action or omission of any prior landlord under the Lease, or (b) subject to any offsets or defenses which Lessee might have against any prior landlord, or (c) bound by any rent or additional rent which Lessee might have paid for more than the current year to any prior landlord, or (d) bound by any security deposit which Lessee may have paid to any prior landlord, unless such deposit is transferred to Lender, or (e) bound by any amendment or modification of the Lease or any waiver of any terms of the Lease made without Lender's consent, or (f) bound by any provision in the Lease which obligates Lessor to erect or complete any building or to perform any construction work or to make any improvements to the Property, or (g) bound by any consensual or negotiated surrender, cancellation, or termination of the Lease, in whole or in part, agreed upon between Lessor and Lessee.

5. **Notice and Right to Cure.** Lessee shall provide Lender with a copy of any written notice that Lessee sends to or receives from Lessor no later than ten (10) days after transmission or receipt. In the event that Lessor shall default in the performance or observance of any of the terms, conditions or agreements in the Lease, Lessee shall give written notice thereof to Lender and Lender shall have the right (but not the obligation) to cure such default.

Lessee shall not take any action with respect to such default under the Lease, including and without limitation, any action in order to terminate, rescind or avoid the Lease or to withhold any rental thereunder, for a period of ten (10) days after receipt of such written notice thereof by Lender or ten (10) days after the last date for cure by Lessor under the terms of the Lease, whichever date is later, if such default is capable of being cured by the payment of money and for a period of thirty (30) days after receipt of such written notice thereof by Lender or thirty (30) days after the last date for cure by Lessor under the terms of the Lease, whichever date is later, with respect to any other such default; provided that in the case of any default which cannot be cured by the payment of money and cannot with diligence be cured within such thirty (30) day period because of the nature of such default or because Lender requires time to obtain possession of the Property in order to cure the default, if Lender shall proceed promptly to attempt to obtain possession of the Property, where possession is required, and to cure the same and thereafter shall prosecute the curing of such default with diligence and continuity, then the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence and continuity.

6. **Representations and Warranties of Lessor.** Lessor represents and warrants to Lessee that the Deed of Trust is the only lien on the Property and that the interest of Lessee under the Lease is not subordinate to any other lien or interest.

7. **Rental Payment.** Lessor and Lender agree that upon receipt of written notice from Lender that Lender has succeeded to the interest of Lessor under the Lease, that Lessee may pay all rental and other charges reserved under the Lease directly to Lender. Lessor and Lender further agree that any such payments shall be credited by both Lender and Lessor against Lessee's rental and other obligations under the Lease, regardless of whether Lender had the right to make such demand and regardless of any contrary demands which may be made by Lessor.

8. **Hazardous Substances.** Regardless of whether or not Lender should succeed to the interest of Lessor under the Lease: (a) Lessee agrees that Lender shall have no liability for, and shall not be required to perform, the obligations assumed by Lessor under the Lease relating to Hazardous Substances, as such term is defined in the Lease, including without limitation those obligations assumed in Sections 11.2, 11.3, and 12.3 of the Lease; (b) Lessee hereby agrees that its covenants in Section 12.4 of the Lease relating to use of Hazardous Substances are intended to benefit Lender and may be enforced by Lender; (c) Lessee agrees to provide Lender with a copy of any notice provided to Lessor under Section 12.5 of the Lease relating to Hazardous Substances; and (d) Lessee hereby agrees to indemnify, defend, and hold harmless Lender (and its directors, officers, members, employees, and agents) from and against any and all claims, damages, demands, losses, fines, penalties, liabilities, actions, lawsuits, and other proceedings, judgments and awards, and costs and expenses, including reasonable attorneys' fees, for environmental response and remediation, bodily injury, and property damage arising directly or indirectly in whole or in part out of the activities of Lessee (or any of its elected officials, officers, employees, or agents), excluding only such of the foregoing as result from or are contributed to by the negligence or willful misconduct of Lender or its directors, officers, employees, and agents. This indemnification, defense, hold harmless, and release provision shall apply to the construction, design, operation, demolition, and any removal of improvements from the Property including the remediation of any Hazardous Substance released

by Lessee on the Property; provided, however, that this provision shall not apply to Hazardous Substances existing on or under the Property as of the effective date of the Lease or which in the future might migrate to the Property through no fault of Lessee.

9. **Successors and Assigns; Binding Effect.** This Agreement shall be binding upon Lessor, its successors and assigns, shall be binding upon and inure to the benefit of Lessee, its successors, assigns and sublessees and shall be binding upon and inure to the benefit of Lender, its successors and assigns who acquire title to the Property from or through Lender.

10. **Entire Agreement.** This Agreement contains the whole agreement between the parties hereto as to the Deed of Trust and the priority thereof, herein described, and there are no agreements, written or oral, outside or separate from this Agreement, and all prior negotiations, if any, are merged into this Agreement.

11. **Insurance and Condemnation Proceeds.** The subordination of the Lease to the Deed of Trust will not be construed to give Lender, or its successors and assigns, any interest in casualty insurance maintained by Lessee or proceeds to which Lessee is entitled under the Lease, nor will it be construed to modify any of the provisions of the Lease as they apply to Lessor and Lessee or of the Lessor's and Lessee's obligations under the Lease. Lessee acknowledges and agrees that its rights, if any, with respect to the proceeds of any condemnation award relating to the land (as distinguished from the improvements thereon) which makes up the Property shall be subject and subordinate to the condemnation provisions of the Deed of Trust, including provisions which permit the application of such proceeds to the indebtedness secured by the Deed of Trust.

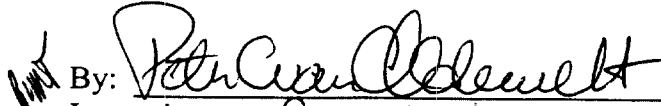
12. **Recourse.** Lessee's recourse for the recovery upon any judgment for damages against Lender on account of any default by Lender under the Lease shall be limited exclusively to Lender's interest in the Property, and neither Lender nor any of its agents, employees, representatives, officers, directors, or shareholders shall have any personal liability for any such default.

13. **Notices.** Any notices required or permitted hereunder may be given in the manner provided in Article XVII of the Lease. Lessee's addresses for notice purposes are as set forth in Article XVII of the Lease. Lender's address for notice purposes is as set forth below. All notices shall be effective upon the delivery or attempted delivery to the party's address for notice purposes (subject to any change in such address for notices that a party may make by written notice to the other).

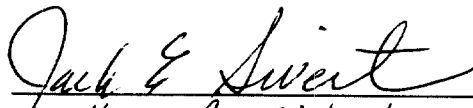
14. **Governing Law.** This Agreement will be governed and construed in accordance with the laws of the state of Oregon.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first shown above.

Lessee: PACIFICORP POWER MARKETING, INC.

By: 
Its: Vice President

Lessor: COLLINS PRODUCTS, LLC

By: 
Its: Vice President

Lender: U.S. BANK NATIONAL ASSOCIATION

By: 
Its: Vice President

Address for notice purposes:

111 S.W. Fifth Avenue, Suite 400
Portland, Oregon 97204
Attn; Sally J. Williams

EXHIBIT ALegal Description of the Real Property

A TRACT OF LAND SITUATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 39 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON. SAID PARCEL IS DESCRIBED WITH REFERENCE TO THE KLAMATH COGENERATION PLANT COORDINATE SYSTEM WHICH IS ROTATED 2°46'12" FROM THE OREGON STATE PLANE COORDINATE SYSTEM, SOUTH ZONE (NAD83/91), BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER ONE-QUARTER CORNER OF SAID SECTION 18, EVIDENCED BY A 2" IRON PIPE; THENCE SOUTH 59°14'29" WEST, 2544.82 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 00°00'00" EAST, 414.00 FEET; THENCE SOUTH 90°00'00" WEST, 401.00 FEET; THENCE NORTH 00°00'00" EAST, 444.00 FEET TO A POINT THAT BEARS SOUTH 24°27'33" WEST, 437.22 FEET FROM THE NORTHWEST CORNER OF THE KLAMATH FALLS COGENERATION PLANT SITE; THENCE SOUTH 85°44'50" EAST, 149.41 FEET; THENCE NORTH 00°00'00" EAST, 333.41 FEET; THENCE SOUTH 90°00'00" EAST, 32.45 FEET TO A POINT ON THE WEST BOUNDARY LINE OF THE KLAMATH COGENERATION PLANT SITE, THENCE ALONG SAID WEST LINE SOUTH 00°00'31" WEST, 241.15 FEET TO THE SOUTHWEST CORNER OF SAID KLAMATH COGENERATION PLANT SITE; THENCE ALONG THE SOUTHERLY LINE OF SAID KLAMATH COGENERATION PLANT SITE SOUTH 66°35'14" EAST, 69.70 FEET; THENCE LEAVING SAID SOUTHERLY BOUNDARY LINE SOUTH 00°00'00" EAST, 71.78 FEET; THENCE SOUTH 85°41'49" EAST, 156.06 FEET TO THE POINT OF BEGINNING.

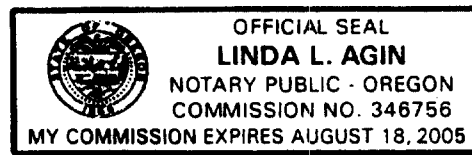
SAID PARCEL CONTAINS 4.32 ACRES, MORE OR LESS.

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STATE OF OREGON

SS.

County of Multnomah



The foregoing instrument was acknowledged before me this 14th day of September, 2001, by Peter C. van Alderwerelt, the Vice President of PACIFICORP POWER MARKETING, INC., an Oregon corporation, on its behalf.

Linda L. Agin
Notary Public for Oregon
My Commission Expires August 18, 2005

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STATE OF OREGON

SS.

County of *MULTNOMAH*



The foregoing instrument was acknowledged before me this 14th day of September, 2001, by Jack E. Sivertson, the Vice President of COLLINS PRODUCTS, LLC., an Oregon limited liability company, on its behalf.

Dianne Kerkar

Notary Public for Oregon

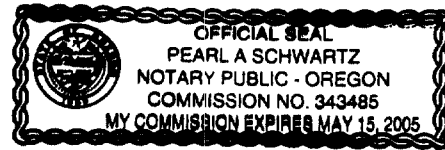
My Commission Expires November 4, 2002

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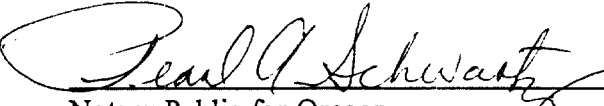
STATE OF OREGON

SS.

County of Multnomah



The foregoing instrument was acknowledged before me this 14th day of September, 2001, by Sally J. Williams, the Vice President of US BANK NATIONAL ASSOCIATION., on its behalf.


Notary Public for Oregon
My Commission Expires 05-15-05

State of Oregon, County of Klamath
Recorded 10/30/01 at 10:58 A m.
In Vol. M01 Page 55185
Linda Smith,
County Clerk Fee\$ 61.00