

2008-012976

Klamath County, Oregon



00053349200800129760220229

09/17/2008 11:48:36 AM

Fee: \$136.00

Recording Requested By and  
After Recording Return To:

Sheppard, Mullin, Richter & Hampton LLP  
333 S. Hope Street, 48<sup>th</sup> Floor  
Los Angeles, California 90071  
Attention: Richard C. Pugh, Jr., Esq.

1st 34 9106

**LINE OF CREDIT DEED OF TRUST,  
ASSIGNMENT OF RENTS AND FIXTURE FILING  
Cover Sheet**

DATE: September 15, 2008

BORROWER: Peterson Machinery Co., an Oregon corporation ✓

BORROWER'S  
ADDRESS: 955 Marina Blvd., San Leandro, CA 94577

TRUSTEE: First American Title Insurance Company of Oregon ✓

TRUSTEE'S  
ADDRESS: 395 SW Bluff Drive, Suite 100, Bend, OR 97702

BENEFICIARY: Wells Fargo Equipment Finance, Inc., as Agent ✓

BENEFICIARY'S  
ADDRESS: 1540 West Fountainhead Parkway, Tempe, Arizona 85282

MAXIMUM  
PRINCIPAL  
AMOUNT TO BE  
ADVANCED: \$19,729,000 ✓

MATURITY DATE: August 31, 2011

COUNTY: Klamath County

STATE: Oregon

RECORD OWNER  
OF LAND: Peterson Machinery Co., an Oregon corporation

F-136-

**LINE OF CREDIT DEED OF TRUST,  
ASSIGNMENT OF RENTS AND FIXTURE FILING**

This LINE OF CREDIT DEED OF TRUST, ASSIGNMENT OF RENTS AND FIXTURE FILING (this "**Deed of Trust**") is made as of September 15, 2008, by PETERSON MACHINERY CO., an Oregon corporation ("**Grantor**"), whose address is 955 Marina Blvd., San Leandro, CA 94577, to FIRST AMERICAN TITLE INSURANCE COMPANY OF OREGON ("**Trustee**"), whose address is 395 SW Bluff Drive, Suite 100, Bend, OR 97702, for the benefit of WELLS FARGO EQUIPMENT FINANCE, INC., as Agent for the Lenders referred to below ("**Beneficiary**"), whose address is 1540 West Fountainhead Parkway, Tempe, Arizona 85282.

**RECITALS**

A. Pursuant to that certain Credit Agreement dated as of September 15, 2008 among Peterson Holding Company, a California corporation ("**Peterson Holding**"), Peterson Tractor Co., a California corporation ("**Peterson Tractor**"), Peterson Power Systems, Inc., a California corporation ("**Peterson Power**"), Grantor and Norcal Rental Group, LLC, a California limited liability company ("**Norcal**" and together with Peterson Holding, Peterson Tractor, Peterson Power and Grantor, each a "**Borrower**" and collectively the "**Borrowers**"), Beneficiary as "**Agent**" for the Lenders party thereto, and the Lenders party thereto (as amended, modified and/or supplemented from time to time, the "**Credit Agreement**"), the Lenders have agreed, subject to the terms thereof and hereof, to provide senior secured revolving loans to the Borrowers in an aggregate principal amount not to exceed \$279,729,000, as more particularly described therein (collectively, the "**Loan**"). The obligations of Borrowers with respect to loans in an aggregate principal amount not to exceed \$19,729,000 made under the "**Revolver B Commitments**" described in the Credit Agreement are secured by, among other things, this Deed of Trust. The Credit Agreement, this Deed of Trust and the other instruments and documents executed by Borrowers in connection with the Loan are referred to collectively in this Deed of Trust as the "**Loan Documents**." Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Credit Agreement.

B. This Deed of Trust is executed, acknowledged, and delivered by Grantor to secure and enforce the following obligations of Grantor: (i) the payment of all amounts owing by Borrowers under the Revolver B Commitments (as defined in the Credit Agreement), including, without limitation, principal in the aggregate amount of up to \$19,729,000, together with all interest thereon and other amounts, if any, due with respect thereto in accordance with the terms of the Credit Agreement, this Deed of Trust, and the other Loan Documents, together with any modifications, renewals, extensions or replacements of any of the foregoing, as well as the payment of any additional indebtedness accruing to Beneficiary on account of any future payments, advances or expenditures made by Beneficiary with respect to the Revolver B Commitments (as defined in the Credit Agreement) pursuant to any of the foregoing, (ii) the payment and performance of each and every other covenant, condition, and agreement contained in the Credit Agreement related to the Revolver B Commitments (as defined in the Credit Agreement) and this Deed of Trust together with any modifications, renewals, extensions or replacements of any of the foregoing. All payment obligations of Borrowers to Beneficiary

identified in clause (i) above are hereinafter sometimes collectively referred to as the "**Indebtedness**," and all other obligations of the Borrowers to Beneficiary identified in clause (ii) above are hereinafter sometimes collectively referred to as the "**Obligations**." The obligations and liabilities of the Borrowers pursuant to the Environmental Indemnity Agreement dated as of even date herewith and executed by the Borrowers in favor of the Beneficiary are specifically not secured by this Deed of Trust.

NOW, THEREFORE, TO SECURE the repayment of the Indebtedness and the performance of the Obligations, Grantor has executed this Deed of Trust and does hereby mortgage, convey, assign, warrant, transfer, pledge and grant a security interest in, with the power of sale, to Beneficiary, its successors and permitted assigns, pursuant to the Credit Agreement, the following described property and all proceeds thereof, (which property is hereinafter sometimes collectively referred to as the "**Property**");

A. The real estate described on Exhibit A attached hereto (the "**Land**"); together with

B. All buildings, landscaping and other improvements now or hereafter located on or appurtenant to the Land, including without limitation the Fixtures (as defined below) (collectively, the "**Improvements**"); together with

C. All easements, rights-of-way, licenses and other rights now or hereafter used in connection with the Property or as a means of access thereto, including without limitation: water and water rights, and shares of stock evidencing the same; trackage agreement rights; rights to use common drive entries; rights relating to land within the right-of-way of adjoining streets; rights in or to sidewalks, alleys and strips and gores of land adjoining or used in connection with the Property; air rights; development rights and credits; and tenements, hereditaments and other appurtenances of and to the Property; together with

D. All fixtures and equipment now or hereafter located on, attached to, installed in or used in connection with the Property (collectively, the "**Fixtures**"), including without limitation all partitions, generators, screens, awnings, boilers, furnaces, pipes, plumbing, elevators, cleaning, call and sprinkler systems, fire extinguishing machinery and equipment, water tanks, heating, ventilating, air conditioning and air cooling machinery and equipment, gas and electric machinery and equipment, and other appliances, machinery and equipment and fixtures of every nature, all of which shall remain real property; together with

E. All oil, gas and other mineral rights relating to the Property, and all royalty, leasehold and other rights pertaining thereto; together with

F. All of Grantor's right, title and interest as landlord or tenant in and to all leases and subleases relating to any portion of the Property, including without limitation all advance rentals and deposits (but not including the Rents, as defined and separately assigned in Section 8 hereof); together with

G. All deposits made with and other security given to utility companies by Grantor in connection with the Property, and all claims in law and equity that relate to the Property; together with

H. All greater right, title and interest hereafter acquired by Grantor in or to the Property, and all options relating to such property (whether Grantor is optionor or optionee); together with

I. All building materials, equipment, work in process or other personal property of any kind, whether stored on the Land or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Land or Improvements; together with

J. All rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, cost savings, payments and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) or deposited by Grantor with third parties (including all utility deposits), contract rights, development and use rights, governmental permits and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, chattel paper, instruments, documents, notes, drafts, letters of credit (other than letters of credit in favor of Beneficiary), letter of credit rights (whether or not the letter of credit is evidenced by a writing), supporting obligations, and general intangibles, including payment intangibles (whether any of the foregoing are tangible or electronic), which arise from or relate to construction on the Land or to any business now or later to be conducted on it, or to the Land and Improvements generally; together with

K. All proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, Improvements or the other property described above into cash or liquidated claims, including all proceeds of any insurance policies, present and future, payable because of loss sustained to all or part of any Property, whether or not such insurance policies are required by Beneficiary, and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Land, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud or concealment of a material fact; together with

L. All books and records and all recorded data of any kind or nature (regardless of the medium of recording) pertaining to any and all of the property described above, including records relating to tenants under any leases, and the qualification of such tenants, and all certificates, vouchers, and other documents in any way related thereto, including all computer-readable memory and any computer hardware or software necessary to access and process such memory; together with

M. All software embedded within or used in connection with any of the property described above; together with

N. All products, accounts, and proceeds (cash or non-cash) of, additions and accretions to, substitutions, renewals and replacements for, and changes in any of the property described above, including all proceeds of any voluntary or involuntary disposition or claim respecting any such property (arising out of any judgment, condemnation or award, or otherwise arising) and all supporting obligations ancillary to or arising in connection therewith, and all goods, accounts, instruments, documents, promissory notes, chattel paper, deposit accounts, supporting obligations, and general intangibles (including payment intangibles) (whether any of the foregoing are tangible or electronic), wherever located, acquired with cash proceeds of any of the foregoing or its proceeds; together with

O. Any and all after-acquired right, title or interest of Grantor in and to any property of the types described in the preceding granting clauses.

TO HAVE AND TO HOLD the Property and all parts thereof together with the rents, issues, profits and proceeds thereof, unto Beneficiary to its own proper use, benefit, and advantage forever, subject, however, to the terms, covenants, and conditions herein.

Grantor covenants and agrees with Beneficiary as follows:

1. **Payment of Indebtedness; Performance of Obligations.** Grantor shall promptly pay when due the Indebtedness and shall promptly perform all Obligations when due to be performed.

2. **Taxes and Other Obligations.** Grantor shall pay, when due, and before any interest, collection fees or penalties shall accrue, all taxes, assessments, fines, impositions and other charges and obligations, which may become a lien on or charge against the Property (collectively, "**Charges**"). Grantor shall have the right to contest, in good faith by appropriate proceedings, the amount or validity of any such Charges, so long as: (a) Grantor has given prior written notice to Beneficiary of Grantor's intent to so contest or object to any such Charges; (b) such contest stays the enforcement or collection of the Charges or any lien created; and (c) Grantor has (i) obtained an endorsement, in form and substance reasonably satisfactory to Beneficiary, to the loan policy of title insurance issued to Beneficiary insuring over any such lien, or if no such loan policy shall have been issued, and (ii) deposited with Beneficiary a bond or other security reasonably satisfactory to Beneficiary in the amount of 150% of the amount of such contested Charges. Should Grantor fail to make any of such payments required hereunder, Beneficiary may, at its option and at the expense of Grantor, after written notice to Grantor, pay the amounts due for the account of Grantor. Upon the request of Beneficiary, Grantor shall promptly furnish to Beneficiary copies of all notices of amounts due and receipts evidencing payment. Grantor shall promptly notify Beneficiary of any lien on all or any part of the Property and shall promptly discharge any unpermitted lien or encumbrance.

3. **Reserves for Taxes.** After the occurrence and during the continuance of an Event of Default, at the time of and in addition to the installments of principal and interest due under the Credit Agreement, Beneficiary may request that, and if Beneficiary so requests, Grantor shall pay to Beneficiary a sum equal to one-twelfth (1/12) of the amount estimated by Beneficiary to be sufficient to pay, at least thirty (30) days before they become due and payable,

all taxes, assessments and other similar charges levied against the Property (collectively, the "Taxes"). In such event, Grantor further agrees to cause all bills, statements or other documents relating to such Taxes to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements or other documents, and providing Grantor has deposited sufficient amounts with Beneficiary pursuant to this Section 3, Beneficiary shall timely pay such amounts as may be due thereunder out of the amounts so deposited with Beneficiary. These sums shall be put in an interest bearing account, which will be a separate trust account, with all interest earned to be credited to Grantor. If at any time and for any reason (other than the negligence or willful misconduct of Beneficiary) the amounts so deposited with Beneficiary are or will be insufficient to pay such amounts as may then or subsequently be due within the next twelve months, Grantor shall, within ten (10) days thereof, deposit with Beneficiary an amount equal to such deficiency. Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a Trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this Section 3. Beneficiary may commingle amounts deposited pursuant to this Section 3 with its own funds. Beneficiary may reserve for future payment of Taxes such portion of the amounts so deposited by Grantor, as Beneficiary may in its absolute discretion deem proper. Should Grantor fail to deposit with Beneficiary (exclusive of that portion of said payments which has been applied by Beneficiary upon any Indebtedness) sums sufficient fully to pay such Taxes at least fifteen (15) days before delinquency thereof, Beneficiary may, at Beneficiary's election, but without any obligation so to do, advance any amount required to make up the deficiency, which advances, if any, shall be secured hereby and shall be repayable to Beneficiary as herein elsewhere provided. On the maturity date of the Indebtedness, the monies then remaining on deposit with Beneficiary or its agent (including any accrued interest thereon) shall, at Beneficiary's option, be applied against the Indebtedness, and the balance if any returned to Grantor. The obligation of Grantor to pay the Taxes is not affected or modified by the provisions of this paragraph.

4. **Insurance and Condemnation.**

(a) **Insurance.**

(i) **Policies Required.** Grantor shall at all times maintain at Grantor's sole expense, with insurers reasonably approved by Beneficiary, the following policies of insurance in form and substance reasonably satisfactory to Beneficiary:

(A) All insurance required by law from time to time with respect to the ownership or operation of the Property, including without limitation workers' compensation and employer's liability insurance.

(B) Fire and hazard "all risk" insurance covering 100% of the replacement cost of the Improvements in the event of fire, lightning, windstorm, earthquake, vandalism, malicious mischief and all other risks normally covered by "all risk" coverage policies in the area where the Property is located (including loss by flood if the Property is in an area designated as subject to the danger of flood).

(C) Commercial general liability insurance in amounts reasonably required by Beneficiary from time to time.

(D) All other insurance reasonably required by Beneficiary from time to time.

All such insurance shall provide that it may not be cancelled or materially modified without 30 days' prior written notice to Beneficiary. The policies required under this Section shall include a "lender's loss payable endorsement" (Form 438BFU) in form and substance satisfactory to Beneficiary, assuring Beneficiary that all proceeds, to the extent of the outstanding balance of the Obligations, shall be paid to Beneficiary as encumbrancer. Beneficiary shall be an additional named insured on the liability insurance policies. No such insurance shall include deductible amounts to which Beneficiary has not previously consented in writing. Certificates of insurance for the above policies (and/or original policies, if required by Beneficiary) shall be delivered to Beneficiary from time to time upon demand. All policies insuring against damage to the Improvements shall contain an agreed value clause sufficient to eliminate any risk of co-insurance. No less than 30 days prior to the expiration of each policy, Grantor shall deliver to Beneficiary evidence of renewal or replacement of such policy reasonably satisfactory to Beneficiary.

(ii) Claims. Grantor shall give Beneficiary immediate notice of any casualty to any portion of the Property, whether or not covered by insurance. If covered, Grantor hereby authorizes Beneficiary, if Beneficiary so elects, to make proof of loss, to appear in and prosecute any action arising from any applicable policy and, while any Event of Default remains uncured, to settle, adjust or compromise any claim under any such policy, and Grantor hereby irrevocably appoints Beneficiary its true and lawful attorney-in-fact for all such purposes. Grantor shall not settle, adjust or compromise any such claim without the reasonable prior written approval of Beneficiary. Nothing in this Section is intended to prohibit Grantor from participating if Beneficiary elects to pursue any such claim.

(iii) Delivery of Proceeds to Beneficiary. In the event that, notwithstanding the "lender's loss payable endorsement" requirement set forth above, the proceeds of any casualty insurance policy described herein are paid to Grantor, Grantor shall deliver such proceeds, to the extent of the outstanding balance of the Obligations, to Beneficiary immediately upon receipt.

(iv) Application of Casualty Insurance Proceeds. Any proceeds collected (the "**Proceeds**") under any casualty insurance policy described in this Deed of Trust shall be disbursed to Grantor as provided below, but only upon fulfillment of each of the following conditions (the "**Restoration Conditions**") within 90 days following the occurrence of the damage for which the Proceeds are collected:

(A) Grantor shall demonstrate to Beneficiary's reasonable satisfaction that the Proceeds (together with amounts delivered by Grantor pursuant to subsection (B) immediately below) will be adequate to repair the

Improvements and to restore the fair market value of the Property, within a time period reasonably acceptable to Beneficiary, to at least the value it had immediately prior to sustaining the damage. Such demonstration shall include delivery to Beneficiary of plans and specifications reasonably satisfactory to Beneficiary and a construction contract in form and content, and with a contractor, reasonably satisfactory to Beneficiary.

(B) To the extent that the Proceeds are insufficient to accomplish the restoration required above, Grantor shall deliver to Beneficiary funds (the "**Shortfall Funds**") in the amount of such shortfall, which funds shall be assigned to Beneficiary as security for Grantor's obligations hereunder and held and disbursed in the same manner as the Proceeds.

(C) Grantor shall execute such documents as Beneficiary requires to evidence and secure Grantor's obligation to use all amounts disbursed for the diligent restoration of the Property.

(D) No Event of Default (other than defaults relating to the casualty) shall remain uncured.

Any Proceeds and Shortfall Funds to be disbursed to Grantor shall be held by Beneficiary and disbursed in accordance with customary construction lending practices. Any amounts remaining undisbursed following completion of such restoration shall be returned to Grantor up to the amount of any Shortfall Funds deposited by Grantor, and any other amounts remaining shall either be paid to Grantor or applied by Beneficiary against the Obligations, as Beneficiary elects in its absolute discretion.

In the event that Grantor fails to fulfill the Restoration Conditions within 90 days following the date on which the damage occurs, Beneficiary may, in its sole discretion, choose to apply the Proceeds against the Obligations, and the selection of which Obligations to apply the Proceeds against shall be made by Beneficiary in its absolute discretion.

(v) Restoration. Nothing in this Section shall be construed to excuse Grantor from repairing and restoring all damage to the Property, regardless of whether insurance proceeds are available or sufficient.

(vi) Assignment of Policies Upon Foreclosure. In the event of foreclosure of this Deed of Trust or other assignment of the Property in extinguishment of any Obligations, all policies of insurance required hereunder and any related unearned premiums shall, without further action, be assigned to the successor-in-interest to Grantor with respect to the Property, and Grantor hereby irrevocably appoints Beneficiary as its true and lawful attorney-in-fact to execute all documents necessary to effect any such transfer.

(vii) Waiver of Subrogation. Grantor hereby waives all right to recover against Beneficiary (or any officer, employee, agent or representative of Beneficiary) for any loss incurred by Grantor from any cause insured against; provided,



however, that this waiver of subrogation shall not be effective with respect to any insurance policy if the coverage thereunder would be materially reduced or impaired as a result. Grantor shall use its best efforts to obtain only policies which permit the foregoing waiver of subrogation.

(viii) **WARNING: UNLESS GRANTOR PROVIDES BENEFICIARY WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY THE LOAN DOCUMENTS, BENEFICIARY MAY PURCHASE INSURANCE AT GRANTOR'S EXPENSE TO PROTECT BENEFICIARY'S INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT GRANTOR'S INTEREST. IF THE PROPERTY BECOMES DAMAGED, THE COVERAGE BENEFICIARY PURCHASES MAY NOT PAY ANY CLAIM GRANTOR MAKES OR ANY CLAIM MADE AGAINST GRANTOR. GRANTOR MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT THE GRANTOR HAS OBTAINED PROPERTY COVERAGE AS REQUIRED BY THE LOAN DOCUMENTS ELSEWHERE.**

**GRANTOR IS RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY BENEFICIARY. THE COST OF THIS INSURANCE MAY BE ADDED TO GRANTOR'S INDEBTEDNESS. IF THE COST IS ADDED TO GRANTOR'S INDEBTEDNESS, THE INTEREST RATE ON THE UNDERLYING INDEBTEDNESS WILL APPLY TO THIS ADDED AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE GRANTOR'S PRIOR COVERAGE LAPSED OR THE DATE GRANTOR FAILED TO PROVIDE PROOF OF COVERAGE.**

**THE COVERAGE BENEFICIARY PURCHASES MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE GRANTOR CAN OBTAIN ON GRANTOR'S OWN AND MAY NOT SATISFY ANY NEED FOR PROPERTY DAMAGE COVERAGE OR ANY MANDATORY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.**

(b) Condemnation.

(i) Grantor shall within five (5) business days of its receipt of notice thereof, notify Beneficiary of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Grantor shall, after consultation with and subject to Beneficiary's reasonable approval, appear in and prosecute any such action or proceeding, if required by Beneficiary. Upon Grantor's failure to act in accordance with Beneficiary's prior approval, Grantor authorizes Beneficiary, at Beneficiary's option, after notice to Grantor as attorney-in-fact for Grantor (such appointment as attorney-in-fact is coupled with an interest), to commence, appear in and prosecute, in Beneficiary's or Grantor's name, any action or proceeding relating to any condemnation or other taking of the Property, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Beneficiary and in accordance with the provisions of Section 4(b)(ii) below. Beneficiary is authorized (but is under no obligation) to collect any such proceeds.

(ii) Beneficiary may, in its sole discretion, elect to (a) apply the net proceeds of any condemnation award (after deduction of Beneficiary's reasonable costs and expenses, if any, in collecting the same) in reduction of the Indebtedness in such order and manner as Beneficiary may elect, whether due or not or (b) make the proceeds available to Grantor for the restoration or repair of the Property. If the net proceeds of the condemnation award are made available to Grantor for restoration or repair, the net proceeds of the condemnation award shall be disbursed upon satisfaction of and in accordance with the terms and conditions set forth in Section 4 (a) above for the application of casualty insurance proceeds (including requirements with respect to Grantor's deposit of Shortfall Funds). Beneficiary is authorized (but is under no obligation) to collect any such proceeds.

5. **Preservation and Maintenance of Property.** Grantor shall: (a) not commit waste or permit impairment or deterioration of the Property (other than normal wear and tear); (b) not abandon the Property; (c) keep the Property in good repair and restore or repair promptly, in a good and workmanlike manner, all or any part of the Property to the equivalent of its original condition, or such other condition as Beneficiary may approve in writing, upon any damage or loss thereto; (d) comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property; and (e) give notice in writing to Beneficiary of and, unless otherwise directed in writing by Beneficiary, appear in and defend any action or proceeding purporting to affect the Property, the security granted by the Loan Documents or the rights or powers of Beneficiary. Neither Grantor nor any tenant or other person shall remove, demolish or alter any Improvement on the Land except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind.

6. **Protection of Beneficiary's Security.** If (a) an Event of Default has occurred and is continuing, (b) any action or proceeding is commenced which affects or is reasonably likely to adversely affect the Property or Beneficiary's interest therein, including any loss, damage, cost, expense or liability incurred by Beneficiary with respect to (i) any environmental

matters relating to the Property or (ii) the preparation of the commencement or defense of any action or proceeding or any threatened action or proceeding affecting the Loan Documents or the Property, then Beneficiary, at Beneficiary's option, may make such appearances, disburse such sums and take such action as Beneficiary deems necessary, in its sole discretion, to protect the Property or Beneficiary's interest therein, including entry upon the Property to take such actions as Beneficiary determines appropriate to preserve, protect or restore the Property. Any amounts disbursed by Beneficiary pursuant to this Section 6 (including attorneys' fees, costs and expenses), together with interest thereon at the interest rate set forth in the Credit Agreement from the date of disbursement, shall become additional Indebtedness of Grantor secured by the lien of this Deed of Trust and shall be due and payable on demand. Nothing contained in this Section 6 shall require Beneficiary to incur any expense or take any action hereunder.

7. **Actions.** Grantor shall warrant title and appear in and defend any claim or any action or other proceeding purporting to affect title or other interests relating to any part of the Property, the security of this Deed of Trust or the rights of Beneficiary, and give Beneficiary prompt written notice of any such claim, action or proceeding. Beneficiary may, at the expense of Grantor, appear in and defend any such claim, action or proceeding and any claim, action or other proceeding asserted or brought against Beneficiary in connection with, or relating to, any part of the Property or this Deed of Trust.

8. **Assignment of Rents and Profits.**

(a) **Absolute Assignment.** Grantor hereby absolutely and irrevocably assigns to Beneficiary all of its right, title and interest in and to all rents, issues, profits, royalties, income and other proceeds and similar benefits derived from the Property (collectively, the "**Rents**"), and hereby irrevocably appoints Beneficiary its true and lawful attorney in fact, at Beneficiary's option at any time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, either in Grantor's name or in Beneficiary's name, for all Rents.

(b) **License to Collect.** Notwithstanding the foregoing assignment of the Rents, so long as no Event of Default (as defined below) has occurred and is continuing, Grantor shall have a license to collect all Rents (but no more than one month in advance), and to retain and enjoy the same.

(c) **Collection and Application of Rents by Beneficiary.** While any Event of Default remains uncured, (i) Grantor's license to collect the Rents shall automatically terminate, without notice, (ii) Beneficiary may at any time, without notice, in person, by agent or by court appointed receiver, and without regard to the adequacy of any security for the Indebtedness or the Obligations, enter upon any portion of the Property and/or, with or without taking possession thereof, in its own name sue for or otherwise collect the Rents (including past due amounts), and (iii) promptly following demand by Beneficiary therefor, Grantor shall deliver to Beneficiary all prepaid Rents, deposits relating to Rents, and all other Rents then held by or thereafter collected by Grantor. All Rents collected by or delivered to Beneficiary may only be applied by Beneficiary against the Indebtedness or the Obligations, in such order as Beneficiary shall determine in its absolute discretion. No application of Rents against any Indebtedness or Obligation or other action taken by Beneficiary under this Section shall be deemed to cure or waive any Event of Default, or

to invalidate any other action taken in response to such default, or to make Beneficiary a mortgagee-in-possession of the Property.

(d) Further Assignments. Upon demand by Beneficiary from time to time, Grantor shall promptly execute and deliver to Beneficiary, in form and substance reasonably satisfactory to Beneficiary, recordable assignments of Grantor's interest in any leases, subleases, contracts, licenses, permits and other documents and agreements to which Rents relate; provided, however, that no such assignment shall be construed to impose upon Beneficiary any obligation with respect thereto.

(e) Termination. The assignment of the Rents to Beneficiary hereunder shall terminate and be of no further force and effect following the satisfaction in full of all Indebtedness and Obligations.

(f) Assigned Leases. Except as otherwise agreed in writing by Beneficiary from time to time, the following shall apply to each lease and sublease (collectively, the "**Assigned Leases**") with respect to which any portion of the landlord's interest is assigned to Beneficiary under this Deed of Trust:

(i) Grantor shall promptly perform all of its obligations as landlord under each Assigned Lease, and shall immediately notify Beneficiary in writing of any notice of default received by Grantor from the tenant thereunder.

(ii) Grantor shall diligently enforce the performance of all of the obligations of the tenant under each Assigned Lease; shall not waive any default or waive, release or discharge any such tenant of or from any such obligation.

(iii) Grantor shall not collect the Rents (or any other amounts) due under any Assigned Lease more than one month in advance of the date due.

(iv) Grantor hereby irrevocably authorizes and directs the tenants under all Assigned Leases to pay all amounts owing to Grantor thereunder to Beneficiary following receipt of any written notice from Beneficiary which states that an Event of Default remains uncured and that all such amounts are to be paid to Beneficiary. Grantor further authorizes and directs all such tenants to pay all such amounts to Beneficiary without any right or obligation to inquire as to the validity of Beneficiary's notice and regardless of the fact that Grantor has notified any such tenant(s) that Beneficiary's notice is invalid or has then directed any such tenant(s) not to pay such amounts to Beneficiary.

(v) Upon the foreclosure of this Deed of Trust, no Assigned Lease shall be destroyed or terminated by application of the doctrine of merger or as a matter of law unless Beneficiary or any purchaser at such foreclosure sale so elects. No act by or on behalf of Beneficiary or any such purchaser shall constitute a termination of any Assigned Lease unless Beneficiary or such purchaser gives written notice thereof to the applicable tenant or subtenant.

(vi) Grantor hereby represents and warrants to Beneficiary, with respect to each Assigned Lease that is presently in effect (collectively, the "**Current Assigned Leases**"), (a) that Grantor has delivered to Beneficiary a true and complete copy of (i) each Current Assigned Lease, together with all modifications; and (ii) the rent rolls with respect to all Current Assigned Leases; (b) that Grantor has not accepted any payment of rent (or other charge) under any Current Assigned Lease that is not due until on or after the 30th day following the execution hereof; and (c) that, to the best of Grantor's knowledge, no material default by Grantor or any other person under any Current Assigned Lease remains uncured.

9. **Fixture Filing.** This Deed of Trust encumbers, and Grantor hereby grants Beneficiary a security interest in, all personal property of any kind whatsoever which is now or becomes a "fixture" on the Property, for purposes of securing payment of the Indebtedness and performance of the Obligations. For the purposes of this paragraph, "fixtures" shall include all articles of personal property, furniture and equipment, which are so related to the Property such that an interest arises in them under the real estate laws of the State of Oregon. Grantor hereby authorizes Beneficiary to file and record such financing statements and amendments and continuation statements thereto as necessary to reflect the interests of Beneficiary created hereunder. In addition, Grantor acknowledges that this Deed of Trust also constitutes a fixture filing between Grantor as Debtor and Beneficiary as Secured Party, as defined in the Oregon Uniform Commercial Code. To this end, Grantor acknowledges (i) that this Deed of Trust covers goods which are or are to become fixtures on the Property, (ii) this Deed of Trust is to be recorded in the real estate records, (iii) Grantor is the record owner of the Property, and (iv) products of any fixtures are also covered. For purposes of this Financing Statement, the respective addresses of the Grantor and Beneficiary for the giving of any notice under or in connection with this Deed of Trust is as first stated above. The mailing address of the Beneficiary is as stated above.

10. **Transfers of the Property or Interest in Grantor.** Grantor shall not (a) cause or permit the merger or consolidation of Grantor, or (b) sell, transfer, convey or otherwise dispose of (i) all or any part of the Property, or any interest therein, or (ii) any direct ownership interest in Grantor (including any interest in the profits, losses or cash distributions in any way relating to the Property or Grantor).

11. **No Additional Liens, Encumbrances or Indebtedness.** Grantor covenants not to execute any deed of trust, security agreement, assignment of leases and rents or other agreement granting a lien (except the liens granted to Beneficiary by the Loan Documents) against or encumbrance on the Property or take or fail to take any other action which would result in a lien against the Property or the interest of Grantor in the Property without the prior written consent of Beneficiary; provided, however, Grantor may in good faith, by appropriate proceeding, contest the validity or amount of any asserted lien and, pending such contest, Grantor shall not be deemed to be in default hereunder if Grantor shall first obtain an endorsement, in form and substance satisfactory to Beneficiary to the loan policy of title insurance issued to Beneficiary insuring over such lien, or, if no such loan policy shall have been issued, then Grantor shall deposit with Beneficiary a bond or other security satisfactory to

Beneficiary in the amount of 150% of the amount of such lien to assure payment of the same as and when due.

12. **Grantor and Lien Not Released.** Without affecting the liability of Grantor or any other person liable for the payment of the Indebtedness or the performance of any Obligations, and without affecting the lien or charge of this Deed of Trust as security for the payment of the Indebtedness, Beneficiary may, from time to time and without notice to any junior lien holder or holder of any right or other interest in and to the Property: (a) release any person so liable; (b) waive or modify any provision of this Deed of Trust or the other Loan Documents or grant other indulgences; (c) release all or any part of the Property; (d) take additional security for any obligation herein mentioned; (e) subordinate the lien or charge of this Deed of Trust; (f) consent to the granting of any easement; or (g) consent to any map or plan of the Property.

13. **Events of Default; Acceleration of Indebtedness.** The occurrence of an Event of Default, as defined under the Credit Agreement, shall constitute an "Event of Default" under this Deed of Trust. Upon the occurrence and during continuation of an Event of Default, at the option of Beneficiary in accordance with the terms of the Credit Agreement, the Indebtedness shall become immediately due and payable without notice to Grantor, and Beneficiary shall be entitled to all of the rights and remedies provided in the Loan Documents or at law or in equity. Each remedy provided in the Loan Documents is distinct and cumulative to all other rights or remedies under the Loan Documents or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

14. **Remedies; Entry; Foreclosure.**

(a) Upon the occurrence and during the continuance of an Event of Default, in addition to all other powers, rights and remedies herein granted or by law or at equity conferred, Beneficiary shall have all of the rights and remedies of a mortgagee with respect to all of the Property; and in addition Trustee shall have all of the rights and remedies of a mortgagee and Trustee under a deed of trust granted, conferred or permitted by applicable law, and Beneficiary shall have all of the rights of a Beneficiary thereunder.

(b) Upon the occurrence and during the continuation of an Event of Default, Grantor, upon demand of Beneficiary, shall forthwith surrender to Beneficiary the actual possession of the Property, or to the extent permitted by law, Beneficiary or a receiver appointed by a court of competent jurisdiction, may enter and take possession of all or any part of the Property, and may exclude Grantor and its agents and employees wholly therefrom, and may have joint access with Grantor to the books, papers and accounts of Grantor. If Grantor shall for any reason fail to surrender or deliver the Property or any part thereof after such demand by Beneficiary, Beneficiary or such receiver may obtain a judgment or decree conferring on Beneficiary or such receiver, the right to immediate possession of the Property or requiring the delivery of the Property to Beneficiary or such receiver, and Grantor specifically consents to the entry of such judgment or decree. Upon every such entering upon or taking of possession, Beneficiary or such receiver may hold, store, use, operate, manage and control the Property and conduct the business thereof, and Beneficiary or such receiver may take any action required by

applicable law or which Beneficiary or such receiver believes necessary to enforce compliance with the environmental provisions contained herein or in the other Loan Documents, and negotiate with governmental authorities with respect to the Property's environmental compliance and remedial measures in connection therewith. Beneficiary and such receiver and their representatives shall have no liability for any loss, damage, injury, cost or expense resulting from any action or omission, which was taken or omitted in good faith.

(c) When the Indebtedness or any part thereof shall become due, whether by acceleration or otherwise, Beneficiary may, either with or without entry or taking possession as herein provided or otherwise, proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy to: (i) enforce payment of the Credit Agreement or the performance of any term, covenant, condition or agreement of Grantor under any of the Loan Documents; (ii) foreclose the lien hereof for the Indebtedness or part thereof and sell the Property as an entirety or otherwise, as Beneficiary may determine; and (iii) pursue any other right or remedy available to it under or by the law and decisions of the State in which the Land is located. Notwithstanding any statute or rule of law to the contrary, the failure to join any tenant or tenants of the Property as party defendant or defendants in any foreclosure action or the failure of any such order or judgment to foreclose their rights shall not be asserted by Grantor as a defense in any civil action instituted to collect the Indebtedness, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Property.

Upon any foreclosure sale, Beneficiary may bid for and purchase the Property and shall be entitled to apply all or any part of the Indebtedness as a credit to the purchase price.

15. **Appointment of Receiver or Mortgagee in Possession.** If an Event of Default is continuing or if Beneficiary shall have accelerated the Indebtedness, Beneficiary, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right, without notice, and without regard to the occupancy or value of any security for the Indebtedness or the insolvency of any party bound for its payment, to the appointment, at its option, of itself as mortgagee in possession, or of a receiver to take possession of and to operate the Property, and to collect and apply the Rents.

16. **Expenditures and Expenses.** In any action to foreclose the lien hereof or otherwise enforce Beneficiary's rights and remedies hereunder, there shall be allowed and included as additional Indebtedness all costs, expenses and fees which may be paid or incurred by or on behalf of Beneficiary. All such costs, expenses and fees as may be incurred by Beneficiary in the protection of the Property and the maintenance of the lien of this Deed of Trust, including, attorneys' fees and costs in any litigation or proceeding affecting this Deed of Trust and the other Loan Documents, including probate, appellate, and bankruptcy proceedings and any post-judgment proceedings to collect or enforce any judgment or order relating to this Deed of Trust or the other Loan Documents or in preparation for the commencement or defense of any action or proceeding, shall be immediately due and payable to Beneficiary, with interest thereon at the rate set forth in the Credit Agreement, and shall be secured by this Deed of Trust.

17. **Application of Proceeds of Foreclosure Sale.** The proceeds of any foreclosure sale of the Property shall be distributed and applied in the following order of priority:

(a) first, all fees and costs of Beneficiary and Trustee, including costs of evidence of title in connection with any such sale, (b) second, all amounts expended under the terms hereof and not then repaid, with accrued interest; (c) third, all other amounts then secured hereby; and (d) the remainder, if any, to the person(s) legally entitled thereto. To the extent permitted by applicable law, Grantor waives all claims, damages, and demands against Beneficiary arising out of the disposition, repossession or retention of the Property.

18. **Future Advances.** This Deed of Trust is given to secure not only the existing Indebtedness, but also future advances (whether such advances are obligatory or are made at the option of Beneficiary, or otherwise) made by Beneficiary under the Credit Agreement or this Deed of Trust, to the same extent as if such future advances were made on the date of the execution of this Deed of Trust.

19. **Waiver of Statute of Limitations.** Grantor hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien created by any of the Loan Documents or to any action brought to enforce the Credit Agreement, or any other obligation secured by any of the Loan Documents.

20. **Governing Law.** This Deed of Trust shall be governed by, and construed and enforced in accordance with, the internal laws of the State of Oregon.

21. **Severability.** The invalidity, illegality or unenforceability of any provision of this Deed of Trust shall not affect or impair the validity, legality or enforceability of the remainder of this Deed of Trust, and to this end, the provisions of this Deed of Trust are declared to be severable.

22. **Marshalling.** Beneficiary shall not be required to marshal any present or future collateral security (including, but not limited to, other real property which may secure payment of the Indebtedness) for, or other assurances of payment of, the Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights and remedies hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights and remedies, however existing or arising. To the extent that it lawfully may, Grantor hereby agrees that it will not invoke any law relating to the marshalling of collateral which might cause delay in or impede the enforcement of Beneficiary's rights and remedies under this Deed of Trust or under any of the Loan Documents, and, to the extent that it lawfully may, Grantor hereby irrevocably waives the benefits of all such laws.

23. **Notice.** Notices shall be given under this Deed of Trust in conformity with the terms and conditions of the Credit Agreement and in conformity with applicable law.

24. **Successors and Assigns Bound; Agents; Captions.** The covenants and agreements contained in the Loan Documents shall bind, and the rights thereunder shall inure to, the respective successors and permitted assigns of Beneficiary and Grantor, subject to the provisions of Section 10 hereof. In exercising any rights under the Loan Documents or taking any actions provided for therein, Beneficiary may act through its employees, agents or



independent contractors as authorized by Beneficiary. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

25. **Release.** Upon payment of all Indebtedness and performance of all Obligations, Beneficiary shall release this Deed of Trust, and Beneficiary shall execute and deliver to Grantor such other documents as Grantor may reasonably request to effect or evidence the release of the liens created hereby in favor of Beneficiary. Grantor shall be responsible for any filings and shall pay Beneficiary's reasonable costs incurred in releasing this Deed of Trust and any financing statements related hereto.

26. **Jury Trial Waiver.** GRANTOR WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS DEED OF TRUST, ANY RIGHTS, REMEDIES, OBLIGATIONS, OR DUTIES HEREUNDER, OR THE PERFORMANCE OR ENFORCEMENT HEREOF OR THEREOF. Except as prohibited by law, Grantor waives any right which it may have to claim or recover in any litigation referred to in the preceding sentence any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages. Grantor (i) certifies that neither Beneficiary nor any representative, agent or attorney of Beneficiary has represented, expressly or otherwise, that Beneficiary would not, in the event of litigation, seek to enforce the foregoing waivers or other waivers contained in this Deed of Trust, and (ii) acknowledges that, in entering into the Credit Agreement and the other Loan Documents, Beneficiary is relying upon, among other things, the waivers and certifications contained in this Section 26.

27. **ORS 93.040 Warning.** The following notice is provided pursuant to ORS 93.040: **BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.**

28. **Non-residential Deed of Trust.** Grantor represents and warrants that this Deed of Trust is not and will continue to not be a "Residential Trust Deed" as defined in ORS 86.705(3).

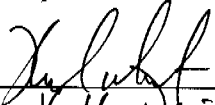
29. **Statute of Frauds Notice.** The following notice is made pursuant to ORS 41.580(1)(h), (2) and (3): **UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY A LENDER CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE GRANTOR'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY THE BENEFICIARY TO BE ENFORCEABLE.**

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Grantor has caused this Deed of Trust to be executed by its duly authorized representative as of the date first set forth above.

**GRANTOR:**

**PETERSON MACHINERY CO.,**  
an Oregon corporation

By:   
Name: Keith Davidge  
Title: CFO

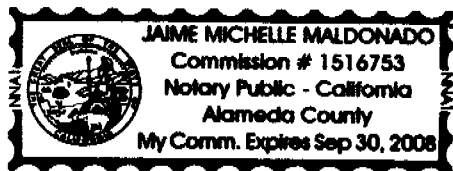
# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Alameda

On 9-10-08 before me, Jaime Michelle Maldonado, Notary Public

personally appeared Keith Dawidge



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.

Signature [Signature]  
Signature of Notary Public

Place Notary Seal Above

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document: PMCO Deed of Trust - Klamath Falls Stone

Document Date: 9-10-08 Number of Pages: 20 pages including this one

Signer(s) Other Than Named Above: NONE

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer's Name: Keith Dawidge

- ☒ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

## EXHIBIT A

### LEGAL DESCRIPTION

Real Property in the County of Klamath, State of Oregon, described as follows:

A TRACT OF LAND IN SECTION 33, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, BEING A PORTION OF PARCELS 1 AND 2 AS DESCRIBED IN AND CONVEYED BY EWAUNA BOX COMPANY TO WEYERHAEUSER TIMBER COMPANY BY A DEED DATED NOVEMBER 30, 1948 AND RECORDED IN VOLUME 227 PAGE 47, RECORDS OF KLAMATH COUNTY, OREGON, THE SAID TRACT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT ON THE SOUTHWESTERLY LINE OF SOUTH SIXTH STREET, IN THE CITY OF KLAMATH FALLS, OREGON, WHICH BEARS NORTH 55° 22' WEST, A DISTANCE OF 1028.22 FEET ALONG SAID SOUTHWESTERLY LINE FROM AN IRON PIN WHICH MARKS THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SOUTH SIXTH STREET AND THE WESTERLY LINE OF THE CENTRAL PACIFIC RAILWAY COMPANY, WHICH POINT LIES NORTH 74°07' WEST, A DISTANCE OF 186.73 FEET AND SOUTH 55°22' EAST, A DISTANCE OF 390.32 FEET FROM THE INTERSECTION OF THE EASTERLY LINE OF BROAD STREET AND THE NORTHEASTERLY LINE OF SOUTH SIXTH STREET, AND BEING THE NORTHWESTERLY CORNER OF SAID ABOVE MENTIONED PARCEL 1;

THENCE SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 487.68 FEET ; A DISTANCE OF 60.71 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 27° 17'50" EAST (STATE HIGHWAY DEED BEARING SOUTH 27°42'20" EAST) A DISTANCE OF 122.44 FEET;

THENCE SOUTH 3°52'00" EAST (STATE HIGHWAY DEED BEARING SOUTH 4°16'30" EAST) A DISTANCE OF 252.00 FEET;

THENCE SOUTH 34°38' WEST, A DISTANCE OF 565.19 FEET MORE OR LESS TO A POINT ON THE SOUTHERLY BOUNDARY OF ABOVE MENTIONED PARCEL 2;

THENCE NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 467.68 FEET, A DISTANCE OF 55.58 FEET THROUGH AN ANGLE OF 6°48'33" (THE LONG CHORD OF THIS CURVE BEING 55.55 FEET AND BEARS NORTH 15°09'46" WEST);

THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 686.05 FEET, A DISTANCE OF 519.76 FEET THROUGH AN ANGLE OF 43°24'30" (THE LONG CHORD OF THIS CURVE BEING 507.43 FEET LONG AND BEARS NORTH 9° 56'45" EAST TO THE NORTHWESTERLY CORNER OF THE ABOVE MENTIONED PARCEL 2;

THENCE CONTINUING ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A RADIUS OF 686.05 FEET, A DISTANCE OF 33.93 FEET THROUGH AN ANGLE OF 2°50' (THE LONG CHORD OF THIS CURVE BEING 33.93 FEET LONG AND BEARS NORTH 33°13' EAST); THENCE NORTH 34°38' EAST A DISTANCE OF 211.60 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 487.68 FEET, A DISTANCE OF 77.22 FEET THROUGH AN ANGLE OF 8°56'32" (THE LONG CHORD OF THIS CURVE BEING 76.32 FEET LONG AND BEARS NORTH 30°08'44" EAST) TO THE TRUE POINT OF BEGINNING, EXCEPTING ANY PART TAKEN FOR STREET.

ALSO A TRACT OF LAND IN SECTION 33, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, BEING A PORTION OF PARCELS 1 AND 2 AS DESCRIBED AND CONVEYED BY EWAUNA BOX COMPANY TO WEYERHAEUSER TIMBER COMPANY BY A DEED DATED NOVEMBER 30, 1948, AND RECORDED IN VOLUME 227 PAGE 47, RECORDS OF KLAMATH COUNTY, OREGON, THE SAID TRACT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT ON THE SOUTHWESTERLY LINE OF SOUTH SIXTH STREET, IN THE CITY OF KLAMATH FALLS, OREGON, WHICH BEARS NORTH 55°22' WEST, A DISTANCE OF 1028.22 FEET ALONG SAID SOUTHWESTERLY LINE FROM AN IRON PIN WHICH MARKS THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SOUTH SIXTH STREET AND THE WESTERLY LINE OF THE CENTRAL PACIFIC RAILROAD COMPANY, WHICH POINT LIES NORTH 74°07' WEST, A DISTANCE OF 186.73 FEET AND SOUTH 55°22' EAST, A DISTANCE OF 390.32 FEET FROM THE INTERSECTION OF THE EASTERLY LINE OF BROAD STREET AND THE NORTHEASTERLY LINE OF SOUTH SIXTH STREET, AND BEING THE NORTHWESTERLY CORNER OF SAID ABOVE MENTIONED PARCEL 1;  
THENCE SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 487.68 FEET; A DISTANCE OF 60.71 FEET;  
THENCE SOUTH 27°17'50" EAST (STATE HIGHWAY DEED BEARING SOUTH 27°42'20" EAST) A DISTANCE OF 122.44 FEET;  
THENCE SOUTH 3°52'00" EAST (STATE HIGHWAY DEED BEARING SOUTH 4°16'30" EAST), A DISTANCE OF 252.00 FEET;  
THENCE SOUTH 34°38' WEST 15.00 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE SOUTH 55°22' EAST (STATE HIGHWAY DEED BEARING SOUTH 55°46'30" EAST) A DISTANCE OF 150.00 FEET;  
THENCE SOUTH 34°28' WEST A DISTANCE OF 640.36 FEET, MORE OR LESS TO A POINT ON THE SOUTHERLY BOUNDARY OF THE ABOVE-MENTIONED PARCEL 2;  
THENCE NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE RADIUS IS 467.68 FEET, A DISTANCE OF 168.68 FEET (THE LONG CHORD OF THIS CURVE BEING 167.77 FEET LONG AND BEARS NORTH 28°45'02" WEST);  
THENCE NORTH 34°38' EAST A DISTANCE OF 565.19 FEET, MORE OR LESS TO POINT OF BEGINNING, EXCEPTING ANY PART TAKEN FOR STREET.