

2010-011277

Klamath County, Oregon



00090655201000112770110115

09/23/2010 09:11:00 AM

Fee: \$102.00

This Instrument Prepared By and Return To:
HUSCH BLACKWELL SANDERS LLP
736 Georgia Avenue, Suite 300
Chattanooga, Tennessee 37402
Attn: James D. Henderson, Esq.

Consideration: \$300,000.00

**TRUST DEED, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

THIS TRUST DEED, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Trust Deed"), made and entered into as of this 7th day of SEPTEMBER 2010, by **JOANNA L. JUSTUS and GLENN G. JUSTUS**, having an address of 2040 Lakeshore Drive, Klamath Falls, Oregon 97601 ("Grantor"), to **FIDELITY NATIONAL TITLE INSURANCE COMPANY**, a title insurance company authorized to insure title to real property in Oregon, with offices at 900 SW 5th Avenue, Portland, Oregon 97204 ("Trustee"), for the benefit of **GE COMMERCIAL DISTRIBUTION FINANCE CORPORATION**, with offices at 5595 Trillium Boulevard, Hoffman Estates, IL 60192 ("Beneficiary").

WITNESSETH THAT: For and in consideration of the above stated sum and other good and valuable considerations, the receipt and legal sufficiency of all of which are hereby acknowledged, Grantor does by these presents grant, bargain, sell and convey unto Trustee and his successors in trust forever, with power of sale, all right, title and interest of the Grantor in, under and related to the following described property situated in Klamath County, Oregon more particularly described as follows (the "Premises"):

See Exhibit "A" attached hereto and made a part hereof for legal description of the Premises.

TOGETHER with all the estate, right, title, interest, claim and demand whatsoever of Grantor of, in and to the Premises and every part and parcel, including fee simple thereof if and when acquired by Grantor;

TOGETHER with all buildings, structures and other improvements now or hereafter located on and/or within the Premises or any part or parcel thereof;

TOGETHER with all and singular the tenements, hereditaments, easements, privileges and appurtenances thereunto belonging or in anyway appertaining, including any after-acquired property similar to that herein conveyed which may be subsequently acquired by the Grantor and used by it in connection with the Premises, and including without limitation, all right, title and interest of Grantor in and to any and all streets, roads and rights-of-way, open or proposed, public or private, adjoining or crossing the Premises;

TOGETHER with all machinery, apparatus, building materials, equipment, fixtures, fittings, and built-in appliances of every kind and nature owned by Grantor and now or hereafter located in, upon, on or under the Premises or any part thereof and used or usable in connection with any present or future

operation thereof, together with all additions thereto, replacements thereof, substitutions therefor, and proceeds from a permitted sale thereof, all of which property shall to the extent permitted by applicable law be considered as annexed to or forming a part of the Premises and all of which property, whether real or personal, shall form a portion of the security for the Obligations (as hereinafter defined) secured by this Trust Deed;

TOGETHER with all right, title and interest of Grantor, from time to time, in and to any and all leases and options to lease or purchase covering the Premises, now belonging or hereafter acquired or added thereto;

TOGETHER with all rents, security deposits, guarantees, proceeds and profits which shall hereafter be realized, become due, or be paid in connection with the operation and use of the Premises:

TOGETHER with all the estates, interests, rights, titles, other claims or demands, including claims or demands with respect to the proceeds of, and refunds of premiums on, insurance in effect with respect thereto, which Grantor now has or may hereafter acquire, and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Premises, including any awards resulting from a change of grade of streets and awards for severance damages;

TOGETHER with all of Grantor's documents, instruments, accounts, general tangibles and equipment relating to the Premises or the construction of the improvements now or hereafter located on the Premises, including, but not limited to, any and all construction contracts, development contracts, architectural contracts, engineering contracts, plans, specifications, drawings, surveys, bonds, licenses, permits and other governmental approvals;

TOGETHER with all proceeds and products of any and all of the foregoing.

(The Premises and related real and personal property described above are sometimes collectively referred to herein as the "Property.")

TO HAVE AND TO HOLD the same to Trustee and its successors and assigns, in trust forever.

Grantor covenants to and with Trustee and Beneficiary that it is lawfully seized and possessed of the Property, has good right and lawful authority to transfer and convey the same, that the title thereto is free and clear of all easements, restrictions, taxes, liens and encumbrances whatsoever, and that Grantor will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.

This conveyance is made in trust for the following purposes and not otherwise: To secure the faithful and full performance of all covenants and agreements, including the payment of money, contained in (a) this Trust Deed, (b) that certain Forbearance Agreement and Release dated March 22, 2010, executed by the Grantors herein (the "Forbearance Agreement"); (c) those certain Guaranties dated November 1, 2005, executed by the Grantors herein (the "Guaranties") and (c) that certain Inventory Financing Agreement dated November 1, 2005, between Justus Homes, Inc. and the Beneficiary herein (the "IFA") (this Trust Deed, the Forbearance Agreement, the Guaranties and the IFA are hereinafter referred to collectively as the "Loan Documents"); and (e) all other amounts or other obligations now or from time to time hereafter owing from Grantor or Debtor to Beneficiary (the foregoing covenants, agreements, conditions, sums, interest and other obligations and liabilities are hereinafter referred to collectively as the "Obligations"). This conveyance secures not only existing obligations or advances,

made contemporaneously with Grantor's execution hereof, but also future advances, whether obligatory or optional or both, and whether made under the Loan Documents or otherwise and regardless of the class thereof.

This Trust Deed is also a security agreement and fixture filing pursuant to the Oregon Uniform Commercial Code, as from time to time amended (the "Code").

Grantor hereby further represents, warrants, covenants and agrees to and with Trustee and Beneficiary as follows:

1. Grantor will operate its business and maintain the Property in accordance with all applicable laws, rules, regulations and ordinances.

2. The principal and interest of all monetary Obligations contained in the Loan Documents and secured hereby will be promptly paid when due in accordance with the terms of the Loan Documents.

3. Grantor will (a) pay promptly when due all taxes, fees and assessments lawfully levied or assessed against the Property, including such as may be levied upon the interest of Beneficiary or Trustee in the Property or upon the Loan Documents, and (b) promptly satisfy or bond all liens, general or special, of every character, including, without limitation, mechanic's, and laborer's liens. If it shall become necessary for Beneficiary to bring or defend any action to protect or establish any of its rights hereunder, Grantor will pay, in addition to costs and expenses allowed by law, the reasonable costs of bringing or defending such action, including reasonable attorney's fees, expenses and court costs, as provided in the Loan Agreement.

4. Grantor, at Grantor's sole cost and expense, shall insure the Property against loss or damage thereto and shall keep in effect commercial general liability insurance against claims for bodily injury, death or property damage. The policies of insurance required by this section shall be in companies, forms and amounts, and for such periods, as shall be customary for property similar in use, location and condition to the Property, or as Beneficiary shall otherwise require from time to time. All commercial general liability insurance shall name Beneficiary as an additional insured and all property insurance shall contain a standard mortgagee endorsement in form and substance satisfactory to Beneficiary. Upon request by Beneficiary, Grantor shall promptly furnish evidence of satisfactory insurance on the Property and that Grantor has otherwise complied with the provisions of this section.

5. Grantor shall put, keep and maintain the Property in good and lawful order, condition and repair, excepting ordinary wear and tear. Grantor shall make or cause to be made, as and when the same shall become necessary, all structural and non-structural repairs, whether exterior or interior, ordinary or extraordinary, foreseen or unforeseen. Grantor shall not commit or suffer any waste of the Property without the prior written consent of Beneficiary. Beneficiary and Trustee, and their respective agents, contractors and representatives, may enter upon and inspect the Property for any purposes at all times until this Trust Deed is released. Unless required by applicable law or unless Beneficiary has otherwise agreed in writing Grantor shall not undertake any material changes to the Property.

6. Grantor shall protect, indemnify, hold harmless and defend Beneficiary from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, attorneys' fees and expenses) imposed upon, incurred by or asserted against Beneficiary by reason of (a) ownership of an interest in the Property, (b) any accident or injury to or death of persons or loss of or damage to or loss of the use of property occurring on or about the

Property, (c) any use, non-use or condition of the Property, (d) any failure on the part of Grantor to perform or comply with any of the terms of this Trust Deed or the other Loan Documents, (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Property made or suffered to be made by or on behalf of Grantor, (f) any negligence or other tortious act on the part of Grantor or any of Grantor's agents, contractors, lessees, licensees or invitees, or (g) any work in connection with any alterations, changes, new construction or demolition of the Property; irrespective of whether any such liabilities, obligations, claims, damages, penalties, causes of actions, costs or expenses are, caused by, or otherwise arise out of, in whole or in part, Beneficiary's negligence or other tortious conduct, whether active or passive. All amounts payable to Beneficiary under this section shall be payable on demand and shall be deemed Obligations secured by this Trust Deed. All of Grantor's obligations under this section shall survive the foreclosure, release or other termination of this Trust Deed and the satisfaction of the Obligations.

7. With respect to the Property, Grantor shall at all times comply in all respects with all applicable laws (whether statutory, common law or otherwise), rules, regulations, orders, permits, licenses, ordinances, judgments or decrees of all governmental authorities (whether federal, state, local or otherwise), including, without limitation, all laws regarding public health or welfare, environmental protection, water or air pollution, composition of products, underground storage tanks, toxic substances or chemicals, solid and special wastes, hazardous wastes, substances, material or chemicals, waste, used, or recycled oil, asbestos, occupational health and safety, nuisances, trespass, and negligence. Beneficiary shall not assume or be deemed to assume any responsibility, liability, or obligation with respect to compliance with any federal, state, or local environmental law, rule, regulation, order, permit, license, ordinance, judgment or decree; provided, however, that in the event of the imposition or assumption for any reason whatsoever of any such responsibility, liability, or obligation, Grantor agrees to indemnify and hold Beneficiary harmless from and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements, of any kind or nature whatsoever, including without limitation, attorneys' and experts' fees, which may be imposed on, incurred by or asserted against Beneficiary in any way relating to or arising from the Obligations, this Trust Deed, the other Loan Documents and/or the Property. All of Grantor's obligations under this section shall survive the foreclosure, release or other termination of this Trust Deed and the satisfaction of the Obligations.

8. In the event any taxes, assessments, charges, claims, liens, insurance premiums, fees, costs, expenses, or other sums required hereunder to be paid by Grantor are not paid promptly by Grantor when due and such failure (other than an insurance premium which, at Beneficiary's option, may be paid at any time if past due) continues for more than twenty (20) days after written notice thereof from Beneficiary to Grantor, Beneficiary, at Beneficiary's option, may pay them, and when so paid such sums shall become immediately due and payable by Grantor to Beneficiary and shall become a part of the Obligations secured hereby and shall bear interest at the rate of 10% per annum (or the maximum rate allowed by law, if less) until paid, and this Trust Deed shall be security for the payment thereof and Beneficiary may recover the same from Grantor together with a reasonable attorney's fee for collection thereof.

9. All judgments, decrees, damages, insurance claims and/or proceeds and other awards for injury, loss, destruction, casualty, fire or other damage to the Property and all awards pursuant to proceedings for condemnation and/or taking thereof shall be applied, at Beneficiary's election, to (a) the restoration or repair of the Property; or (b) to payment of the Obligations secured hereby.

10. Grantor hereby grants to Beneficiary, as further security for the Obligations, a security interest in all personal property of Grantor now or hereafter located on or about the Premises or the

improvements thereon, or which otherwise relate to the Property or Grantor's use of the Property in any respect, including, without limitation, all of Grantor's presently owned or hereafter acquired (a) goods, chattels, furniture, fixtures, equipment, machinery, parts and tools, together with all additions, attachments, accessories, accessions and repairs thereto, (b) building materials and supplies, (c) inventory, (d) accounts, chattel paper, instruments and general intangibles, (e) all Property which constitutes fixtures or personal property, and (f) all proceeds, products, replacements, additions and substitutions of the foregoing property (all of the foregoing property described in the immediately preceding subclauses (a) through (f) being referred to herein as the "Personalty"). The parties intend that this instrument shall constitute both a security agreement and a fixture financing statement within the meaning of the Code with respect to all of Grantor's right, title and interest, whether now owned or existing or hereafter acquired or arising, in all Property and Personalty which constitutes fixtures and personal property, and that a security interest shall attach thereto, and to all products and proceeds thereof, for the benefit of Beneficiary to secure the Obligations.

11. Grantor hereby presently assigns to Beneficiary all of Grantor's right, title and interest in and to any leases with respect to the Property, and all rents, issues and profits of the Property. This assignment shall be an absolute assignment, subject to the license herein granted to Grantor, and shall continue in effect until the Obligations are fully paid and performed. Beneficiary hereby grants a revocable license to Grantor to collect and use such rents, issues and profits; provided, however, that the foregoing license shall be automatically revoked, without any action on Beneficiary's part, upon the occurrence of an Event of Default. Beneficiary may exercise Beneficiary's rights from time to time under this section without first commencing foreclosure proceedings against the Property if Beneficiary so elects. Any such election by Beneficiary to exercise Beneficiary's rights from time to time under this section shall not prohibit Beneficiary from simultaneously or thereafter foreclosing upon the Property or exercising any other rights available to Beneficiary hereunder or at law.

12. The Obligations shall become immediately due and payable in full at the option of Beneficiary upon the occurrence of any one or more of the following (each being an "Event of Default"):

- (a) Grantor shall fail to pay or perform any of its obligations under any of the Loan Documents in accordance with its terms;
- (b) any representation or warranty of Grantor to Beneficiary set forth herein shall be incorrect, incomplete or misleading in any material respect as of the date hereof, or any such representation or warranty shall become incorrect, incomplete or misleading in any material respect and Grantor shall fail to give Beneficiary prompt notice thereof;
- (c) except in the ordinary course of business, Grantor shall sell, convey, alienate, assign, mortgage, pledge or otherwise transfer the Property, or any part thereof or interest therein, in any manner, whether voluntary, involuntary, by operation of law or otherwise, or Grantor shall enter into any agreement, written or oral, to so sell, convey, alienate, assign, mortgage, pledge or otherwise transfer the Property, or any part thereof or interest therein;
- (d) there shall occur any default or an event of default (however defined or described) under any other Trust Deed, mortgage or like real property security instrument which encumbers the Property, or under any document evidencing any obligation secured thereby, or any foreclosure or similar proceeding shall commence with respect to the Property;
- (e) Grantor shall deliver to Beneficiary any notice purporting to terminate, or Grantor shall take any other action purporting to terminate, the operation of this Trust Deed as security for any future advances or future obligations;
- (f) Grantor shall cease to be solvent or shall suffer the appointment of a receiver, trustee, custodian or similar fiduciary, or shall make an assignment for the benefit of creditors, or any petition for an order for relief shall be filed by or against Grantor under the U.S. Bankruptcy Code;
- (g) the filing of any action to condemn, acquire by eminent domain or otherwise take any part of the Property; or
- (h) the occurrence of any default or event of default (however defined or described) in any of the other Loan Documents.

Whenever Beneficiary is given the option to accelerate

the maturity of all or any part of the Obligations, Beneficiary may, to the extent permitted by law, do so without presentment, protest, notice to or demand upon Grantor, all of which are waived by Grantor.

13. After the occurrence of an Event of Default and at the request of Beneficiary, Trustee shall proceed to foreclose on and sell the Property, either in mass, in parcels or in any other part or parts thereof, in Beneficiary's sole determination, in accordance with Chapter 86, Title 9 of the *Oregon Revised Statutes*. To the fullest extent allowed by law, Beneficiary may foreclose or otherwise realize upon, and Trustee may sell, one parcel or any other part or parts of the Property, on one or more occasions, without releasing this Trust Deed, or precluding the further foreclosure or other realization hereunder of any other parcels or other parts of the Property not so foreclosed or realized upon. Beneficiary or any assignee hereof shall have the right to bid at and become purchaser at any foreclosure sale, applying against the purchase price all or a part of any Obligations then due and owing. Upon any trustee's sale, Trustee shall execute and deliver a deed or deeds of conveyance of the Property sold to the purchasers thereof, and any statement or recital or fact in such deed shall be prima facie evidence of the truth of such statement or recital, and Trustee shall receive the proceeds of such sale, out of which Trustee shall pay the following amounts in the following order of payment: first, the costs and expenses of selling the Property including, without limitation, publication, survey, title and abstract costs and other expenses, and compensation to Trustee and to any attorneys employed by Trustee or Beneficiary for their services and expenses; second, to Beneficiary, upon the usual vouchers therefor, all monies paid for insurance, taxes, lien claims, and any other costs and expenses advanced or incurred by Beneficiary to preserve or protect the Property, and interest on any of the foregoing to the extent permitted herein and allowed under applicable law; third, to Beneficiary, the amount of the outstanding Obligations together with the interest thereon; fourth, the amount due on junior encumbrances, if any, with interest; fifth, the remainder of such proceeds, if any, shall be paid to Grantor.

14. From time to time, Beneficiary, in Beneficiary's sole discretion, may elect to replace Trustee, or any substitute trustee, with another qualified person or entity who shall then become the trustee hereunder with all of the rights and duties of Trustee. Such replacement may be made by Beneficiary without giving notice to or obtaining the consent of Grantor or any other person; and may be effectuated by a written declaration of the appointment of a new trustee signed by Beneficiary, or as otherwise permitted by law.

15. If the Obligations secured hereby, or any part thereof, are now or hereafter further secured by Beneficiary by chattel mortgages, other deeds of trust, security interests, pledges, contracts of guaranty, assignments of leases, or other securities, Beneficiary may at its option exhaust any one or more of said securities and the security hereunder either concurrently or independently, and in such order as it may determine, and Beneficiary shall not be required to marshal assets.

16. The giving of bond, making of oath or filing of inventory by the Trustee herein, or its successors, is hereby expressly waived.

17. In the event acceleration of payment of the unpaid portion of the debt secured hereby is declared, but Beneficiary elects not to pursue its remedies at law or in equity, the actions or omissions of Beneficiary shall not operate to waive the right of Beneficiary again to declare an Event of Default for the same or a different reason. No waiver of any terms or provisions of this Trust Deed shall be valid unless such waiver is in writing.

18. To the fullest extent allowed by law, Grantor hereby waives the benefit of all laws now existing or that hereafter may be enacted providing for (a) any appraisal before sale of any portion of

the Property, and (b) in any way extending the time for the enforcement of the collection under the Loan Documents, the debt evidenced thereby or any other Obligations secured hereby or creating or extending a period of redemption from any sale made in collecting any of such Obligations. To the full extent Grantor may do so, Grantor agrees that Grantor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisement, valuation, stay, extension or redemption, and Grantor, for Grantor, Grantor's heirs, devisees, representatives, successors and assigns, and for any and all persons ever claiming any interest in the Property by or through the Grantor, to the extent permitted by law, hereby waives and releases all rights of redemption, homestead, dower, valuation, appraisement, stay of execution, notice of election to mature or declare due the whole of the secured Obligations, and marshalling in the event of foreclosure of the liens hereby created.

19. Within 30 days after the full payment and performance of the Obligations, Beneficiary shall deliver written request to the Trustee to reconvey the Property to Grantor; and within 30 days after receiving such request, the Trustee shall reconvey the Property to Grantor

20. Any amendment to or modification of this Trust Deed must be made in writing by and between Grantor and Beneficiary but without the necessity of joinder therein by the Trustee.

21. The terms used to designate the parties hereto shall be deemed to include their respective heirs, representatives, successors and assigns; the term "Beneficiary" shall also include any lawful owner, holder or pledgee of any of the Obligations or Loan Documents; and the obligations of Grantor hereunder, if there be more than one Grantor, shall be both joint and several. Whenever Grantor and Beneficiary are herein referred to, such reference shall be construed as applying in the singular or plural number, and in the masculine, feminine or neuter gender, whichever is properly applicable. This Trust Deed may be assigned by Beneficiary at any time.

22. Every right and remedy provided in this Trust Deed shall be cumulative with every other right or remedy of Beneficiary, whether granted herein or conferred by law, and may be enforced independently or concurrently therewith, and no acceptance of the performance of any obligation as to which Grantor shall be in default, or waiver of performance of any obligation, shall be construed as a waiver of the same or of any other Event of Default then, theretofore or thereafter existing.

23. In the event of the enactment of any law deducting from the value of the Property any mortgage lien thereon, or imposing upon Beneficiary or Grantor the payment of all or part of the taxes, charges or assessments previously paid by Grantor pursuant to this Trust Deed, or changing the law relating to or increasing the rates of the taxation of mortgages, debts secured by mortgages or Beneficiary's interest in the Property so as to impose new incidents of tax on Beneficiary, then to the extent not prohibited by applicable law, Grantor shall pay such taxes or assessments or shall reimburse Beneficiary therefor.

24. This Trust Deed shall be governed by the laws of the State of Oregon except to the extent that privileges are given to Beneficiary under federal law. Whenever possible, each provision of this Trust Deed shall be interpreted in such manner as to be effective and valid, but in the event any such provision should be held invalid or unenforceable, the remaining provisions shall not be affected thereby.

25. Whenever Grantor, Beneficiary, or Trustee shall desire, or are required to give or serve any notice, demand, request or other communication with respect to this Trust Deed, each such notice, demand, request or other communication shall be in writing and shall be effective only if the same is delivered by personal service or mailed by certified or registered mail, postage prepaid, return receipt

requested, or delivered by a nationally recognized overnight courier service, addressed to the respective addresses set forth on the first page hereof. Notice to any permitted assignee hereunder shall be sent to the address directed by such assignee, or by telecopy with written confirmation sent first class United States Mail, postage prepaid, to the address set forth on page 1 of this Trust Deed. Any party may at any time change its address for such notices by delivering or mailing to the other parties hereto, as aforesaid, a notice of such change. All such notices, demands, requests and other communications shall be effective when personally delivered or when deposited in the mails or delivered to an overnight courier service, addressed as aforesaid or when received or sent by telefacsimile.

26. (a) If Beneficiary is made a party defendant to any proceeding or litigation concerning this Trust Deed or the Property or any part thereof or interest therein, or the occupancy thereof by Grantor, Grantor shall defend, indemnify and hold harmless Beneficiary from any and all liability, including reasonable attorneys' fees, court costs and expenses incurred by Beneficiary in any such proceeding or litigation, regardless of whether such proceeding or litigation is prosecuted to judgment and regardless of the basis of any such proceeding or litigation except to the extent as such proceeding or litigation is predicated upon the gross negligence or willful misconduct of Beneficiary. If Trustee is made a party defendant to any proceeding or litigation concerning this Trust Deed or any part thereof or interest therein, or the occupancy thereof by Grantor, and such proceeding or litigation is not based on gross negligence or willful misconduct of Trustee, then Grantor shall indemnify, defend and hold harmless Trustee from all liability by reason of said proceedings or litigation, including reasonable attorneys' fees, court costs and expenses incurred by Trustee in any such litigation, whether or not any such litigation is prosecuted to judgment. If Beneficiary or Trustee commences an action against Grantor to enforce any of the terms hereof or because of the breach by Grantor of any of the terms hereof, or for the recovery of any sum secured hereby, Grantor shall pay to Beneficiary or Trustee, reasonable attorneys' fees, court costs and expenses, and the right to such attorneys' fees, court costs and expenses shall be deemed to have accrued on the commencement of such action (but shall include attorneys' fees, court costs and expenses incurred by Beneficiary or Trustee prior to the commencement of such action), and shall be enforceable whether or not such action is prosecuted to judgment. If Grantor breaches any term of this Trust Deed, Beneficiary or Trustee may employ an attorney or attorneys to protect Trustee's and/or Beneficiary's interests hereunder, and in the event of such employment following any breach by Grantor, Grantor shall pay Beneficiary and/or Trustee reasonable attorneys' fees, court costs and expenses incurred by Trustee and/or Beneficiary whether or not an action is actually commenced against Grantor by reason of such breach.

(b) Grantor waives any and all right to claim or recover against Trustee and/or Beneficiary, their officers, employees, agents and representatives, for loss of or damage to Grantor, the Property, Grantor's property or the property of others under Grantor's control unless due to the gross negligence or intentional misconduct of the Trustee or Beneficiary.

(c) All sums payable by Grantor hereunder shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Grantor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Property or any part thereof; (ii) any restriction or prevention of or interference with any use of the Property or any part thereof; (iii) any title defect or encumbrance or any eviction from the Property or any part thereof by title paramount or otherwise; or (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Grantor or a guarantor of the Obligations secured hereunder or other entity providing credit support for the Obligations secured hereby including, but not limited to Guarantor, or any

action taken with respect to this Trust Deed by any trustee or receiver of Beneficiary, or by any court, in any such proceeding, whether or not Grantor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, Grantor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Grantor.


27. TO THE MAXIMUM EXTENT THEY MAY LEGALLY DO SO, GRANTOR, TRUSTEE AND BENEFICIARY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, CAUSE OF ACTION OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS TRUST DEED OR IN ANY WAY CONNECTED WITH OR RELATED TO OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS TRUST DEED OR THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING AND IRRESPECTIVE OF WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. TO THE EXTENT THEY MAY LEGALLY DO SO, GRANTOR, TRUSTEE AND BENEFICIARY HEREBY AGREE THAT ANY SUCH CLAIM, DEMAND, ACTION, CAUSE OF ACTION, OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT GRANTOR, TRUSTEE OR BENEFICIARY MAY FILE AN ORIGINAL COUNTERPART OR COPY OF THIS TRUST DEED WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF GRANTOR, TRUSTEE OR BENEFICIARY TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

28. Time is of the essence of this Trust Deed.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Grantor has caused this Trust Deed to be executed as of the day and year first above written.

GRANTOR:

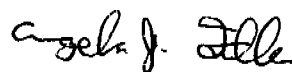

JOANNA L. JUSTUS


GLENN G. JUSTUS

STATE OF OREGON)
) ss.
COUNTY OF Klamath)

This instrument was acknowledged before me on September 7, 2010, by
JOANNA L. JUSTUS.





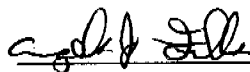
Notary Public

My Commission Expires: 4/3/14

[SEAL]

STATE OF OREGON)
) ss.
COUNTY OF Klamath)

This instrument was acknowledged before me on September 7, 2010, by
GLENN G. JUSTUS.



Notary Public

My Commission Expires: 4/3/14

[SEAL]



EXHIBIT "A"

Legal Description

Parcel 1 of Land Partition 11-95 situated in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 1, Township 39 South, Range 9 East, Willamette Meridian, Klamath County, Oregon.

Being the same property conveyed to Joanna L. Justus and Glenn G. Justus by Warranty Deed recorded October 12, 1998, as Document Number 67762 in Volume M98, Page 37413, in the office of the County Clerk of Klamath County, Oregon.