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2011-013843

Klamath County, Oregon



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Prepared By and Return To:

FOR RECORDER'S USE ONLY:

McGuireWoods LLP
(Melissa S. Gilbert)
201 North Tryon Street
Charlotte, North Carolina 28202

AMENDMENT TO ASSIGNMENT OF LEASES AND RENTS

BY:

JWTR OREGON, LLC, an Oregon limited liability company, whose principal place of business is 6400 Highway 66, Klamath Falls, Oregon 97601 (the "Assignor"), and

GENERAL ELECTRIC CAPITAL CORPORATION, together with its successors and assigns, any other lenders under the Credit Agreement described below and the other Secured Parties (as defined in the Credit Agreement), whose address for all purposes hereunder is 201 Merritt 7, Norwalk, CT 06851, Attn: Account Manager (the "Assignee")

THIS AGREEMENT AMENDS THAT CERTAIN ASSIGNMENT OF LEASES AND RENTS RECORDED WITH THE COUNTY CLERK FOR KLAMATH COUNTY, OREGON ON MARCH 4, 2010 AS INSTRUMENT NUMBER 2010-002920, AND ALSO RECORDED WITH THE COUNTY CLERK FOR JACKSON COUNTY, OREGON, ON MARCH 4, 2010 AS INSTRUMENT NUMBER 2010-007266 AND WITH THE COUNTY CLERK FOR LAKE COUNTY, OREGON, ON MARCH 4, 2010 AS INSTRUMENT NUMBER M0700133.

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AMENDMENT TO ASSIGNMENT OF LEASES AND RENTS

RECORDED AS INSTRUMENT NUMBER 2010-002919

KLAMATH COUNTY, OREGON, AS INSTRUMENT NUMBER 2010-007266 JACKSON COUNTY, OREGON and AS INSTRUMENT NUMBER M0700133 LAKE COUNTY, OREGON.

THIS AMENDMENT TO ASSIGNMENT OF LEASES AND RENTS (this "Agreement"), made effective as of the 1st day of November 2011, by JWTR OREGON, LLC, an Oregon limited liability company, whose principal place of business is 6400 Highway 66, Klamath Falls, Oregon 97601 (the "Assignor"), to **GENERAL ELECTRIC CAPITAL CORPORATION**, together with its successors and assigns, any other lenders under the Credit Agreement described below and the other Secured Parties (as defined in the Credit Agreement), whose address for all purposes hereunder is 201 Merritt 7, Norwalk, CT 06851, Attn: Account Manager- JWTR (herein individually and collectively called "Assignee").

W I T N E S S E T H:

WHEREAS, reference is made to that certain Credit Agreement dated as of March 4, 2010, as amended by (i) that certain First Amendment to Credit Agreement dated as of August 23, 2010, (ii) that certain Second Amendment and Waiver to Credit Agreement dated as of November 15, 2010, (iii) that certain Third Amendment and Waiver to Credit Agreement dated as of January 1, 2011 and (iv) that certain Waiver, Fourth Amendment and Consent to Credit Agreement dated on or about the date hereof (as it may hereafter be amended, supplemented, assigned, modified and/or restated, the "Credit Agreement"), by and among Assignor, as "Borrower", the other Loan Parties signatory thereto and Assignee as Lender (as each is defined in the Credit Agreement);

WHEREAS, to secure the Secured Indebtedness under the Credit Agreement, Assignor executed and delivered to Assignee that certain Assignment of Leases and Rents dated, made effective and recorded as of March 4, 2010 as Instrument Number 2010-002920 in the County Clerk's Office of Klamath County, Oregon, as Instrument Number 2010-007266 in the County Clerk's Office of Jackson County and as Instrument Number M0700133 in the County Clerk's Office of Lake County, Oregon (as so amended and restated, the "Original Assignment") (all capitalized terms used herein without definition shall have the respective meanings given to them in the Original Assignment); and

WHEREAS, Assignor intended to include certain tracts of real property in the collateral encumbered by the Original Assignment that was unintentionally omitted from the Original Assignment; and in order to remedy this oversight, the Assignor has granted, executed and delivered this Agreement to modify the Original Assignment as herein provided.

NOW, THEREFORE, in consideration of the premises, the sum of Ten and No/100 Dollars (\$10.00) and of other good and valuable consideration, the receipt and sufficiency of

which are hereby acknowledged and to secure the payment and performance of the Secured Indebtedness, Assignor and Assignee hereby agree as follows:

1. **Modifications to Assignment.** The Original Assignment shall be, and the same hereby is, modified and amended to provide as follows:

(a) Subject to the terms of the Original Assignment, as modified hereby, Assignor unconditionally and absolutely assigns to Lender all of Assignor's right, title and interest in and to the Leases, the Rents and the Bankruptcy Claims associated with the Additional Real Property (as hereinafter defined).

(b) Exhibit A to the Original Assignment is hereby modified to include, in addition to and not in substitution of the property presently described therein those tracts, pieces and parcels of land of which Assignor is now seized and in possession, which are described on Schedule 1 attached hereto and incorporated herein by reference (the "Additional Real Property").

2. **References to Assignment.** All references to the "Assignment" herein shall be to the Original Assignment as modified by this Agreement and as further amended, modified, restated, supplemented, extended or renewed from time to time. All references to the "Assignment of Leases and Rents" in the Credit Agreement shall include the Assignment as amended hereby. All references to the Property in the Credit Agreement or any other Loan Document shall mean the Property including the additional collateral in which a security interest is granted pursuant to Section 1 above.

3. **Miscellaneous.**

(a) The Assignor acknowledges that the Assignor, as of the date of this Agreement, has no set off, counterclaim, or other defense to the rights of the Assignee under the Assignment, and the Assignor hereby ratifies and affirms the Assignment and its obligations thereunder. The Assignor further acknowledges that, as of the date of this Agreement, there has been no default or event of default under the Assignment that has not been cured and there has been no occurrence which with the lapse of time would constitute a default or event of default under the Assignment.

(b) The Assignor acknowledges that the lien of the Assignment secures the Secured Indebtedness, including without limitation the Obligations, both as defined in the Assignment.

(c) Except as specifically amended, extended or modified herein, all other covenants, terms and conditions of the Original Assignment shall remain in full force and effect, and the Assignor hereby acknowledges and confirms its obligations thereunder.

(d) This Agreement shall bind and inure to the benefit of the parties hereto, and their successors and assigns.

(e) The Assignor agrees that nothing herein contained shall impair the security now held or the said Secured Indebtedness, nor shall anything contained herein

waive, annul, vary or affect any provision, condition, covenant or agreement contained in the Original Assignment except as amended hereby, or affect or impair any priority, security, rights, power or remedies under the Secured Indebtedness, the Original Assignment, or any of the Loan Documents. The Assignor further agrees that the Assignee reserves all rights and remedies it may have as against all parties liable for repayment of the indebtedness set forth above evidenced by the Secured Indebtedness.

(f) The recitals on pages 1 and 2 of this Agreement and the statements on the face page of this Agreement are incorporated in and made a part of this Agreement.

(g) This Agreement shall be governed by, and construed and enforced in accordance with the laws of Oregon.

UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY ASSIGNEE AFTER OCTOBER 3, 1989 CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY ASSIGNEE TO BE ENFORCEABLE.

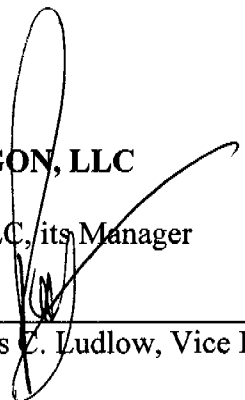
This Agreement may be executed in separate counterparts by the parties hereto and all of which will constitute collectively one executed Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal of and the day and year first written above.

ASSIGNOR:

JWTR OREGON, LLC

By: JWTR, LLC, its Manager

By: 
Thomas C. Ludlow, Vice President

ASSIGNEE:

**General Electric Capital Corporation, as
Assignee**

By: 

Name: David L'Homme

Title: Duly Authorized Signatory

State of Oregon

County of Kearney

I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Thomas A. Ludlow



(Official Seal)

Catherine Marie Chapel
Notary Public Official Signature

Print or Type Name: Catherine Marie Chapel

My Commission Expires: May 7, 2012

State of Connecticut

County of Fairfield

I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **David L'Homme**

Mary E. Procaccini
Notary Public Official Signature

Print or Type Name: **MARY E. PROCACCINI**
NOTARY PUBLIC
MY COMMISSION EXPIRES APR. 30, 2015

(Official Seal)

My Commission Expires: _____

SCHEDULE 1
LEGAL DESCRIPTION

PARCEL 1 (ELLINGSON 17):

Government Lot 30 in Section 9, Township 35 South, Range 7 East of the Willamette Meridian,
Klamath County, Oregon

PARCEL 2 (ANTELOPE):

Section 1 - Government Lots 1, 2, 3 and 4, S1/2 N1/2, S1/2
Section 2 - Government Lots 1, 2, 3 and 4, S1/2 N1/2, S1/2
Section 3 - Government Lots 1, 2, 3 and 4, S1/2 N1/2, S1/2
Section 5 - S1/2 NE1/4
Section 6 - Government Lots 4, 5, 6 and 7, SE1/4 NW1/4, SE1/4 SE1/4, W1/2 SE1/4, E1/2
SW1/4
Section 7 - Government Lots 1, 2, 3 and 4, E1/2 W1/2, E1/2
Section 8 - W1/2 W1/2, E1/2 SW1/4
Section 10 - E1/2 E1/2, NW1/4 NE1/4
Section 11 - All
Section 12 - All
Section 13 - All
Section 14 - All
Section 17 - W1/2, SE1/4
Section 18 - Government Lots 1, 2, 3 and 4, E1/2 W1/2, E1/2
Section 19 - Government Lots 1, 2, 3 and 4, E1/2 W1/2, E1/2
Section 20 - W1/2 W1/2, N1/2 NE1/4
Section 23 - N1/2 NE1/4
Section 24 - NW1/4 NW1/4, E1/2 NW1/4, NE1/4
Section 28 - SE1/4 SW1/4
Section 29 - SW1/4 SE1/4, S1/2 NW1/4, NW1/4 NW1/4
Section 30 - Government Lots 1, 2, 3 and 4, E1/2 W1/2, E1/2
Section 31 - Government Lots 1, 2, 3 and 4, E1/2 W1/2, E1/2
Section 32 - All
Section 33 - All
Section 34 - NE1/4, SE1/4 NW1/4, N1/2 SW1/4, SE1/4 SW1/4, SE1/4
Section 35 - SE1/4 SE1/4
Section 36 - All

All being in Township 28 South, Range 11 East of the Willamette Meridian, Klamath County,
Oregon.

(Legal Description Continued)

PARCEL 3 (ANTELOPE):

Section 1 - Government Lots 1, 2, 3 and 4, S1/2 N1/2, S1/2

Section 2 - Government Lots 1 and 2, S1/2 NE1/4, SE1/4 NW1/4, S1/2

Section 3 - Government Lots 1 and 2, SE1/4 NE1/4, E1/2 SE1/4,
SW1/4 SE1/4, SW1/4

Section 4 - Government Lots 2, 3 and 4, SW1/4 NE1/4, S1/2 SE1/4, SW1/4, S1/2 NW1/4

Section 5 - Government Lots 1, 2, 3 and 4, S1/2 N1/2, S1/2

Section 6 - Government Lots 1, 2, 3, 4, 5, 6 and 7, S1/2 NE1/4, SE1/4,
E1/2 SW1/4, SE1/4 NW1/4

All being in Township 29 South, Range 11 East of the Willamette Meridian, Klamath County,
Oregon.

PARCEL 4 (ANTELOPE):

Section 1 - Government Lots 1 and 2, S1/2 NE1/4

All being in Township 29 South, Range 10 East of the Willamette Meridian, Klamath County,
Oregon.

PARCEL 5 (RICHARD SMITH):

The NE1/4 and the NE1/4 NW1/4 of Section 17, Township 40 South, Range 13 East of the
Willamette Meridian, Klamath County, Oregon.