

NOT 910704-111

2012-008097

Klamath County, Oregon



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Fee: \$187.00

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

Ms. Jule Rotenberg
McDermott Will & Emery, LLP
2049 Century Park East, 38th Floor
Los Angeles, CA 90067

(Space Above For Recorder's Use Only)

LINE OF CREDIT INSTRUMENT

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

by

COLUMBIA PLYWOOD CORPORATION,
a North Carolina corporation,
as Grantor,

to

CHICAGO TITLE INSURANCE COMPANY OF OREGON,
as Trustee,

for the Benefit of

GENERAL ELECTRIC CAPITAL CORPORATION,
a Delaware corporation, as Agent for and on behalf of the Lenders,
as Beneficiary,

relating to premises in:

Klamath County, Oregon

Dated as of July 24, 2012

The maturity date of the Obligations (as defined in the Credit Agreement) secured by this Deed of Trust, exclusive of any option to renew or extend such maturity date, is the earlier of (i) September 21, 2013 and (ii) any other date as provided in the Credit Agreement.

The maximum principal amount to be advanced pursuant to the Credit Agreement and the Loan Documents (as defined herein) secured by this Deed of Trust is ONE HUNDRED TWENTY MILLION AND 00/100 Dollars (\$120,000,000).

THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING IS INTENDED TO BE A FIXTURE FILING IN ACCORDANCE WITH ORS 79.0502 AND WILL BE INDEXED AS A FIXTURE FILING IN THE OFFICIAL RECORDS OF KLAMATH COUNTY, OREGON. FOR PURPOSES OF

187pmf

SUCH FIXTURE FILING, GRANTOR SHALL BE CONSIDERED "DEBTOR" AND BENEFICIARY SHALL BE CONSIDERED "SECURED PARTY."

THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING SECURES, AMONG OTHER OBLIGATIONS, A REVOLVING CREDIT FACILITY AND PROMISSORY NOTES, WHICH OBLIGATIONS PROVIDE FOR VARIABLE RATES OF INTEREST.

Unofficial
Copy

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

THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (this "Deed of Trust") is made as of July 24, 2012, by COLUMBIA PLYWOOD CORPORATION, a North Carolina corporation, with its principal office at c/o Columbia Forest Products, Inc., 7820 Thorndike Road, Greensboro, North Carolina 27409, as grantor ("Grantor"), to CHICAGO TITLE INSURANCE COMPANY OF OREGON, with its principal office at 300 Klamath Avenue, Klamath Falls, OR 97601, as trustee ("Trustee"), for the benefit of GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware corporation ("GE Capital"), with offices at 350 South Beverly Drive, Beverly Hills, California 90212, as agent for and on behalf of the Lenders (as hereinafter defined) and, in such capacity, as beneficiary and as assignee and secured party (together with any successors or assigns in such capacity, "Beneficiary").

RECITALS

WHEREAS, Grantor is the owner of that certain real property situated in Klamath County in the State of Oregon (the "State"), as more fully described in Exhibit A attached hereto and made a part hereof (the "Premises");

WHEREAS, Beneficiary and certain financial institutions (collectively, "Lenders") from time to time party to the Credit Agreement (as hereinafter defined), Grantor and certain of its affiliates (collectively, "Borrowers") have executed that certain Credit Agreement of September 19, 2008 (together with any and all renewals, amendments, modifications, supplements, restatements, extensions for any period, or increases or rearrangements thereof, the "Credit Agreement"), pursuant to which Lenders have made and may in the future make term and revolving loans and advances and other financial accommodations (collectively, the "Loans"; each a "Loan") to the Borrowers in the aggregate principal amount of One Hundred Twenty Million and No/100 Dollars (\$120,000,000), upon the terms and subject to the conditions set forth in the Credit Agreement;

WHEREAS, the Loans are evidenced by certain promissory notes (collectively, the "Notes");

WHEREAS, Grantor wishes to provide further assurance and security to Beneficiary and, as a condition to Beneficiary and Lenders executing the Credit Agreement, Beneficiary and Lenders are requiring that Grantor grant to Beneficiary a security interest in and a first lien on the Property (as hereinafter defined) to secure the Borrowers' obligations under the Credit Agreement (the Credit Agreement, this Deed of Trust, the Notes and all other documents entered into in connection with the transactions contemplated by the Credit Agreement, whether now or hereafter existing, as the same may be amended, restated, supplemented or otherwise modified from time to time, are collectively hereinafter referred to as the "Loan Documents"; provided, however, that the Loan Documents do not include the environmental indemnity agreements and the obligations under such environmental indemnity agreements are not secured by this Deed of Trust;

WHEREAS, Grantor will derive substantial direct and indirect economic benefit from the making of the Loans and other benefits to be provided under the Credit Agreement;

WHEREAS, this Deed of Trust is being given by Grantor to secure (a) the payment of all monetary obligations of Grantor arising under the Credit Agreement, the Notes, this Deed of Trust and the other Loan Documents (the "Secured Indebtedness"), and (b) the performance of all other terms, covenants, conditions, provisions, agreements and liabilities contained in the Credit Agreement, the Notes, this Deed of Trust and the other Loan Documents (together with the Secured Indebtedness, "Obligations");

WHEREAS, capitalized terms used herein without definitions shall have the meanings assigned to such terms in the Credit Agreement; and

WHEREAS, this Deed of Trust also secures the payment of and includes all amounts owing with respect to all future or further advances or re-advances of the Loans, regardless of whether proceeds of the Loans have been or shall be disbursed by Beneficiary or Lender to and for the benefit of Grantor, its successors or assigns, to the same extent as if such future advances were made on the date of the execution of this Deed of Trust. The total amount of Secured Indebtedness secured by this Deed of Trust may decrease or increase from time to time but the total unpaid principal balance so secured at any one time shall not exceed the lesser of: (i) the maximum principal sum permitted by the laws of the State in which the Premises are located; or (ii) One Hundred Twenty Million and No/100 Dollars (\$120,000,000) together with interest thereon and any and all disbursements made by Beneficiary for the payment of taxes, or insurance on the Property covered by the lien of this Deed of Trust and for reasonable attorneys' fees, loan commissions, service charges, liquidated damages, expenses and court costs incurred in the collection of any or all of such sums of money. Such further or future advances shall be considered obligatory advances and the same shall bear interest at the same rate as specified in the Credit Agreement unless such interest rate shall be modified by subsequent agreement. The parties hereby acknowledge and intend that all advances, including future advances whenever hereafter made, shall be secured by this Deed of Trust.

ARTICLE 1 THE GRANT

NOW, THEREFORE, in order to secure the payment and performance of the Obligations, direct or contingent, that may now or hereafter become owing from Grantor to Beneficiary and the Lenders, and in consideration of Ten and No/100 Dollars (\$10.00) in hand paid by Beneficiary on behalf of Lenders, to Grantor, the Recitals above stated, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally and firmly bound, Grantor hereby GRANTS, BARGAINS, SELLS, ASSIGNS, RELEASES, ALIENS, TRANSFERS, REMISES, WARRANTS, DEMISES, CONVEYS and MORTGAGES unto the TRUSTEE IN TRUST, WITH POWER OF SALE, and its successors and assigns forever (and grants to Beneficiary and its successors and assigns forever a continuing security interest in and to) the Premises described in Exhibit A, and all of its estate, right, claim and interest therein, together with all of its estate, right, claim and interest in the following described property, all of which other such property is pledged primarily on a

parity with the Premises and not secondarily (the Premises and the following described rights, interests, claims and property are collectively referred to as the "Property"):

(a) all buildings, structures and other improvements of every kind and description now or hereafter erected, situated, or placed upon the Premises (the "Improvements"), together with any and all Personal Property (as defined in **paragraph (k)** below) and all attachments now or hereafter owned by Grantor and located in or on, forming part of, attached to, used or intended to be used in connection with, or incorporated in any such Improvements, including all extensions of, additions to, betterments, renewals of, substitutions for and replacements for any of the foregoing;

(b) all estate, claim, demand, right, title and interest of Grantor now owned or hereafter acquired, including without limitation, any after-acquired title, franchise, license, remainder or reversion, in and to any and all (i) land or vaults lying within the right-of-way of any street, avenue, way, passage, highway, or alley, open or proposed, vacated or otherwise, adjoining the Premises; (ii) alleys, sidewalks, streets, avenues, strips and gores of land belonging, adjacent or pertaining to the Premises or the Improvements; (iii) storm and sanitary sewer, water, gas, electric, railway and telephone services relating to the Premises and the Improvements; (iv) development rights, air rights, water, water rights, water stock, gas, oil, minerals, coal and other substances of any kind or character underlying or relating to the Premises or any part thereof; and (v) tenements, hereditaments, easements, appurtenances, other rights, liberties, reservations, allowances and privileges relating to the Premises or the Improvements or in any way now or hereafter appertaining thereto, including homestead and any other claims at law or in equity;

(c) all crops and all trees of any size, any age and any species, whether now located in or on or hereafter planted or growing in or on the Premises, and all timber of any size, any age and any species (whether or not merchantable), whether severed or unsevered, including standing and downed timber, and stumps and cut timber remaining on the Premises (collectively the "Timber");

(d) all logs, Timber, lumber, finished or milled lumber, veneer, plywood, bark, sawdust, logging and milling waste, hog fuel, wood chips, raw materials and work in process, and all goods, inventory and other timber products, now or hereafter owned or acquired by Grantor or in which Grantor has an interest (collectively, "Forest Products"), in each case arising out of, generated by or from, or in any way related to Grantor's business operations conducted on or from the Premises;

(e) all leasehold estates and right, title and interest of Grantor in any and all leases, subleases, management agreements, arrangements, concessions or agreements, written or oral, relating to the use and occupancy of the Premises or the Improvements or any portion thereof, now or hereafter existing or entered into (collectively "Leases");

(f) all rents, issues, profits, royalties, revenue, advantages, income, avails, claims against guarantors, all cash or security deposits, advance rentals, deposits or payments given and other benefits now or hereafter derived directly or indirectly from the Premises, the

Improvements or the Timber, under the Leases or otherwise (collectively "Rents"), subject to the right, power and authority to assign, collect and apply the Rents;

(g) all right, title and interest of Grantor in and to all options to purchase or lease the Premises or the Improvements or any portion thereof or interest therein, or any other rights, interests or greater estates in the rights and properties comprising the Property now owned or hereafter acquired by Grantor;

(h) any interests, estates or other claims of every name, kind or nature, both in law and in equity, which Grantor now has or may acquire in the Premises and Improvements or other rights, interests or properties comprising the Property now owned or hereafter acquired;

(i) all rights of Grantor to any and all plans and specifications, designs, drawings and other matters prepared for any construction on the Premises or regarding the Improvements;

(j) all rights of Grantor under any contracts executed by Grantor with any provider of goods or services for or in connection with any construction undertaken on or services performed or to be performed in connection with the Premises or the Improvements;

(k) all right, title and interest of Grantor in and to all the following tangible personal property ("Personal Property") owned by Grantor and now or at any time hereafter located in, on or at the Premises or the Improvements and used or useful in connection therewith:

(i) all building materials and equipment located upon the Premises and intended for construction, reconstruction, alteration, repair or incorporation in or to the Improvements now or hereafter to be constructed thereon, whether or not yet incorporated in such Improvements, (all of which shall be deemed to be included in the Property upon delivery thereto);

(ii) all machines, machinery, fixtures, apparatus, equipment or articles used in supplying heating, gas, electricity, air-conditioning, water, light, power, plumbing, sprinkler, waste removal, refrigeration, ventilation, and all fire sprinklers, alarm systems, protection, electronic monitoring equipment and devices;

(iii) all window, structural, maintenance and cleaning equipment and rigs; and

(iv) all fixtures now or hereafter owned by Grantor and attached to or contained in and used or useful in connection with the Premises or the Improvements.

All such property owned by Grantor and placed by it on the Premises or used in connection with the operation or maintenance shall, so far as permitted by law, be deemed for the purposes of this Deed of Trust to be part of the real estate constituting and located on the Premises and covered by this Deed of Trust. As to any of the property that is not part of such real estate or does not constitute a "fixture," as such term is defined in the Uniform Commercial Code of the State (the "Code"), this Deed of Trust shall be deemed to be a security agreement under the Code for the purpose of creating hereby a security interest in property, which Grantor hereby grants to

Beneficiary as "secured party" as defined in the Code. The enumeration of any specific items of Personal Property set forth herein shall in no way exclude or be held to exclude any items of property not specifically enumerated; and

(l) all the estate, interest, right, title or other claim or demand which Grantor now has or may hereafter have or acquire with respect to (i) proceeds of insurance in effect with respect to the Property and (ii) any and all awards, claims for damages, judgments, settlements and other compensation made for or consequent upon the taking by condemnation, eminent domain or any like proceeding, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Property, including, without limitation, any awards and compensation resulting from a change of grade of streets and awards and compensation for severance damages (collectively "Awards").

TO HAVE AND TO HOLD the Property hereby mortgaged and conveyed, or so intended, together with its rents, issues and profits, unto the Trustee and unto its successors or substitutes in this trust, and unto its or their respective successors and assigns, forever, IN TRUST, WITH POWER OF SALE, for the uses and purposes herein set forth, and Grantor does hereby bind itself and its successors and assigns to WARRANT AND FOREVER DEFEND the Property unto the Trustee and unto its successors and substitutes in this trust, and unto its or their respective successors and assigns, against any and every person lawfully claiming or to claim the same or any part thereof by, through and under Grantor. Grantor hereby agrees and acknowledges that the Secured Indebtedness secured by this Deed of Trust includes a revolving loan and is intended to secure future advances; accordingly, this Deed of Trust shall not be canceled by the full and complete repayment of the Secured Indebtedness, so long as the Credit Agreement remains in full force and effect.

The Grantor hereby represents, warrants and covenants with the Beneficiary and with the purchaser at any foreclosure sale that, at the execution and delivery hereof: (a) Grantor owns the Property and has good, indefeasible estate in the Premises, in fee simple, (b) the Property is free from all encumbrances and exceptions to title (and any claim of any other person) other than Permitted Encumbrances (hereinafter referred to as the "Permitted Exceptions"), (c) Grantor has good and marketable title in and to the Property and good and lawful right to sell, mortgage and convey its interest in the Property, and (d) Grantor and its successors and assigns shall forever warrant and defend the Property against all claims and demands whatsoever.

If and when Grantor has paid and performed all of the Obligations and there exist no commitments of the Lenders under the Loan Documents which could give rise to Obligations, then this Deed of Trust and the estate, right and interest of Trustee and Beneficiary in and to the Property shall cease and shall be released by Beneficiary delivering to Trustee a request for full reconveyance and Trustee delivering to Grantor a full reconveyance of this Deed of Trust in proper recordable form, both at the cost of Grantor, but until such time this Deed of Trust shall remain in full force and effect.

ARTICLE 2 GENERAL AGREEMENTS

2.1 Payment of Indebtedness. Grantor shall pay promptly and when due all amounts owing in respect of the Obligations in the manner provided in the Credit Agreement, this Deed of Trust or the other Loan Documents.

2.2 Impositions. Grantor shall pay immediately, when first due and owing, all general taxes, special taxes, general assessments, special assessments, water charges, sewer charges, and any other charges, fees, taxes, claims, levies, expenses, liens (including mechanics' liens, materialmen's liens and similar liens) and assessments, ordinary or extraordinary, governmental or non-governmental, statutory or otherwise (all of the foregoing being herein collectively referred to as "Impositions"), that may be asserted against the Property or any part thereof or interest therein.

Grantor may, in good faith and with reasonable diligence, contest the validity or amount of any Impositions; provided, that:

(a) Grantor shall pay all such Impositions so contested under protest if such payment is required to prevent such contest from (i) having the effect of preventing the sale or forfeiture of the Property or any sub-part or interest therein, (ii) having the effect of preventing the use or occupancy of the Property, or (iii) materially increasing the amount of any Imposition by any interest, penalties or costs;

(b) Grantor shall notify Beneficiary in writing of the intention of Grantor to prosecute the contest before any Impositions have been materially increased by any interest, penalties, or costs; and

(c) Grantor shall diligently prosecute the contest of such Impositions by appropriate legal proceedings.

2.3 Payment of Impositions by Beneficiary. Upon Grantor's failure to pay the Impositions as provided above, Beneficiary is hereby authorized to make or advance, in the place and stead of Grantor, any payment relating to Impositions, unless such Imposition is then being contested by Grantor pursuant to **Section 2.2**. Beneficiary may do so according to any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy or the validity of any Impositions, lien, sale, forfeiture, or related title or claim. Beneficiary is further authorized to make or advance, in place of Grantor, unless such matter is being contested by Grantor in accordance with **Section 2.2**, any payment relating to any apparent adverse title, lien, statement of lien, encumbrance, claim, charge, or payment otherwise relating to any other purpose herein and hereby authorized (except the Permitted Exceptions), but not enumerated in this Section, whenever, in Beneficiary's reasonable judgment and discretion, such advance seems necessary or desirable to protect the full security intended to be created by this Deed of Trust. All such advances and indebtedness authorized by this Section shall constitute Secured Indebtedness and shall be repayable by Grantor upon demand with interest at the rate of interest then applicable to the Loans bearing interest at the Index Rate under the Credit Agreement (the "Default Rate").

2.4 Insurance and Insurance Proceeds. Grantor shall, at its sole expense, obtain and maintain such insurance policies as are required under the Credit Agreement. All proceeds or any award or payment in respect of any such insurance policies shall be applied in accordance with the provisions of the Credit Agreement.

2.5 Condemnation Awards. In the event of any taking of the Property or any part thereof, in or by condemnation or other eminent domain proceedings pursuant to any law, general or special, or by reason of the temporary requisition of the use or occupancy of the Property or any part thereof, by any governmental authority, civil or military (each, a "Taking"), Grantor shall immediately notify Beneficiary upon receiving notice of such Taking or commencement of proceedings therefor. All proceeds or any award or payment in respect of any Taking are hereby assigned and shall be paid to Beneficiary and Grantor shall take all steps necessary to notify the condemning authority of such assignment. Such award or payment shall be applied in accordance with the provisions of the Credit Agreement.

2.6 Restoration. In the event of a casualty loss, damage to or destruction of the Property or any part thereof, the terms and provisions of the Credit Agreement shall govern and control.

2.7 Maintenance of Property. Grantor shall:

(a) promptly repair, restore, replace or rebuild any portion of the Property which may become damaged, destroyed, altered, removed, severed, or demolished, ordinary wear and tear excepted, whether or not proceeds of insurance are available or sufficient for the purpose, with replacements at least equal in quality and condition as previously existed, free from any security interest in, encumbrances on or reservation of title thereto, except for any obsolete Personal Property which, in the judgment of Beneficiary, is no longer required in connection with the operation of the business being conducted by Grantor at the Premises;

(b) keep the Property in good condition and repair, without waste, and free from mechanics', materialmen's or like liens or claims except as permitted under the Credit Agreement; and

(c) not make any material alterations in the Property, except as permitted or not prohibited by the Credit Agreement.

2.8 Prohibited Liens and Transfers.

(a) Except as otherwise provided in the Credit Agreement, and as provided by operation of the laws of the State, Grantor shall not create, suffer, or permit to be created or filed against the Property any deed of trust lien or other lien superior or inferior to the lien created by this Deed of Trust. To the extent that any lien, privilege or other security device is created by operation of law, Grantor shall cause such security device to be released as soon as practicable after its creation. Grantor may contest any lien claim arising from any work performed, material furnished, or obligation incurred by Grantor upon furnishing Beneficiary security and indemnification reasonably satisfactory to Beneficiary for the final payment and discharge of the lien.

(b) Except as otherwise provided in the Credit Agreement or **Section 2.11** hereof, Grantor may not sell, lease or convey all or any part of the Property.

2.9 Stamp Taxes. If at any time the United States government, or any federal, state, or municipal governmental subdivision, requires Internal Revenue or other documentary stamps or levies any tax on this Deed of Trust or on the Notes, or requires payment of any tax in the nature of or comparable to the United States Interest Equalization Tax on the Secured Indebtedness, then Grantor shall pay such tax, including interest and penalties, in the required manner.

2.10 Change in Tax Laws. In the event of the enactment, after the date of this Deed of Trust, of any law of the United States of America, or any state or political subdivision thereof, (a) deducting from the value of the Premises, for the purpose of taxation, the amount of any lien thereon; (b) imposing upon Beneficiary the payment of all or any part of the taxes, assessments, charges or liens hereby required to be paid by Grantor; or (c) changing in any way the laws relating to the taxation of deeds of trust or debts secured by deeds of trust or Grantor's interest in the Property, or the manner of collection of taxes, so as to affect this Deed of Trust or the Obligations; then Grantor, upon demand by Beneficiary, and as required by law, shall pay such taxes, assessments, charges, or liens or reimburse Beneficiary therefor. If, in the opinion of counsel for Beneficiary, it would be unlawful to require Grantor to make such payment or the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then the applicable provisions of the Credit Agreement shall apply. Nothing contained in this **Section 2.10** shall be construed as obligating Grantor to pay any portion of Beneficiary's federal, state and local income tax.

2.11 Assignment of Leases and Rents. All right, title, and interest of Grantor in and to all present Leases affecting the Property and including and together with any and all future Leases, written or oral, upon all or any part of the Property and together with all of the rents, income, receipts, revenues, issues, avails and profits from or due or arising out of the Property are hereby transferred and assigned simultaneously herewith to Beneficiary as further security for the payment and performance of the Obligations. Grantor shall provide Beneficiary written notice no less than ten business days prior to entering into any future Lease for all or any portion of the Property, which such notice shall set forth in reasonable detail a summary of the contemplated terms of the Lease, including a description of the Property to be leased and the name and contact information of the proposed lessee under such Lease. Further, no later than ten business days following full execution of any such future Lease, Grantor shall provide Beneficiary a true, correct and complete copy of such Lease. Each Lease, including all future Leases shall be subordinate to this Deed of Trust, provided that, upon the request of the Grantor and the lessee under any such Lease, Beneficiary shall enter into a subordination, non-disturbance and attornment agreement (or similar agreement) with such lessee in form and substance reasonably satisfactory to Beneficiary, pursuant to which (a) Beneficiary will agree that so long as such Lease shall be in full force and effect and such lessee is not in default thereunder, Beneficiary will not disturb, pursuant to a foreclosure action or otherwise, such lessee's possession under such Lease, and (b) such lessee shall agree that if Beneficiary or any future holder of this Deed of Trust shall become the owner of the Property by reason of foreclosure of the Deed of Trust or otherwise, or if the Property shall be sold as a result of any foreclosure action or deed in lieu thereof, then such lease shall continue in full force and effect as

a direct lease between such lessee and the then owner of the Property. Although it is the intention of the parties that the assignment contained in this Section shall be a present and absolute assignment, it is expressly understood and agreed, anything to the contrary notwithstanding, that Beneficiary shall not exercise any of the rights or powers conferred upon it by this Section unless an Event of Default shall have occurred and be continuing under this Deed of Trust beyond any applicable cure period. From time to time, Grantor shall furnish Beneficiary with executed copies of each of the Leases and shall use commercially reasonable efforts to furnish Beneficiary with estoppel letters from each tenant under each of the Leases in a form reasonably satisfactory to Beneficiary within 30 days after Beneficiary's written demand.

If an Event of Default has occurred and is continuing, (a) Beneficiary shall have the rights and powers as are provided herein, (b) this Deed of Trust shall constitute a direction to each lessee under the Leases and each guarantor thereof to pay all Rents directly to Beneficiary without proof of the Event of Default, and (c) Beneficiary shall have the authority, as Grantor's attorney-in-fact (such authority being coupled with an interest and irrevocable), to sign the name of Grantor and to bind Grantor on all papers and documents relating to the operation, leasing and maintenance of the Property.

If Grantor, as lessor under any Lease, shall neglect or refuse to perform, observe and keep all of the covenants, provisions and agreements contained in such Lease, then Beneficiary may perform and comply with any such Lease covenants, agreements and provisions. All costs and expenses incurred by Beneficiary in complying with such covenants, agreements, and provisions shall constitute Secured Indebtedness and shall be payable upon demand with interest at the Default Rate.

Beneficiary shall not be obligated to perform or discharge any obligation, duty or liability under any Lease unless Beneficiary assumes the obligations of the lessor in writing thereunder, and Grantor shall and does hereby agree, except to the extent of Beneficiary's gross negligence or willful misconduct, to indemnify and hold Beneficiary harmless of and from any and all liability, loss or damage which it may or might incur under any Lease or under or by reason of their assignments and of and from any and all claims and demands whatsoever which may be asserted against it by reason of all alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in such Lease. Should Beneficiary incur any such liability, loss or damage under any Lease or under or by reason of its assignment, or in the defense of any claims or demands, the amount thereof, including reasonable costs, expenses and reasonable attorneys' fees, shall be secured hereby. Grantor shall reimburse Beneficiary therefor immediately upon demand with interest payable at the Default Rate.

2.12 Releases. Without notice and without regard to the consideration therefor, and to the existence at that time of any inferior liens, Beneficiary may release from the lien created hereby all or any part of the Property, or release from liability any person obligated to repay or perform any Obligations, without affecting the liability of any party to any of the Notes, this Deed of Trust, or any of the other Loan Documents (including without limitation any guaranty given as additional security) and without in any way affecting the priority of the lien created hereby. Beneficiary may agree with any liable party to extend the time for payment of any part or all of the Secured Indebtedness. Such agreement shall not in any way release or impair the

lien created by this Deed of Trust or reduce or modify the liability of any person or entity obligated personally to repay the Secured Indebtedness except the person released, but shall extend the lien created by this Deed of Trust as against the title of all parties having any interest, subject to the Obligations.

2.13 Further Assurances. Grantor agrees that, upon request of Beneficiary from time to time, it will, at Grantor's sole cost and expense, execute, acknowledge and deliver all such additional instruments and further assurances of title and will do or cause to be done all such further acts and things as may reasonably be necessary to fully effectuate the intent of this Deed of Trust, including without limitation, reimbursing Beneficiary for the reasonable costs of appraisals of the Property, to the extent that Beneficiary determines in good faith that such appraisals are required by any law or any governmental rule, regulation, policy, guideline or directive (whether or not having the force of law), or any interpretation thereof, including, without limitation, the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and any rules promulgated to implement such provisions. In the event that Grantor shall fail to do any of the foregoing, Beneficiary may, in its sole discretion, do so in the name of Grantor, and Grantor hereby appoints Beneficiary as its attorney-in-fact to do any of the foregoing.

2.14 Environmental Provisions. Notwithstanding any other provision set forth in this Deed of Trust, the representations, warranties, covenants and indemnities regarding "Environmental Matters" contained in Section 3.17 of the Credit Agreement or in any other Loan Document are not secured by this Deed of Trust.

ARTICLE 3 EVENTS OF DEFAULT AND REMEDIES

3.1 Events of Default. Each of the following shall constitute an event of default ("Event of Default") under this Deed of Trust:

- (a) The occurrence of an "Event of Default" as defined in the Credit Agreement; or
- (b) The failure of Grantor to perform or observe any other covenant, agreement, representation, warranty or other provision contained in this Deed of Trust within 30 days after written notice of the default from Beneficiary to Grantor.

3.2 Acceleration of Maturity. Following the occurrence and during the continuance of an Event of Default:

- (a) Beneficiary's Power of Enforcement. Beneficiary may (i) immediately elect to cause the Property to be sold, either in whole or in separate parcels, as prescribed by State law, under power of sale, which power is hereby granted to Trustee to the full extent permitted by State law, and thereupon, to make and execute or cause to be made and executed to any purchaser(s) thereof deeds of conveyance pursuant to applicable law or (ii) immediately elect to cause the foreclosure of this Deed of Trust by judicial or other action permitted by applicable law. Beneficiary may be the purchaser at any foreclosure sale. The court in which any proceeding is pending for the purpose of foreclosure of this Deed of Trust may, at once or at

any time thereafter, either before or after sale, without notice and without requiring bond, and without regard to the solvency or insolvency of any person liable for payment or performance of the Obligations, and without regard to the then value of the Property or the occupancy thereof as a homestead, appoint a receiver (to the extent permitted by applicable law) (the provisions for the appointment of a receiver and assignment of Rents being an express condition upon which the Loans are made) for the benefit of Beneficiary, with power to collect the Rents, due and to become due, during such foreclosure suit and the full statutory period of redemption (if any). The receiver, out of the Rents, when collected, may pay costs incurred in the management and operation of the Property, prior and subordinate liens, if any, and taxes, assessments, water and other utilities and insurance, then due or thereafter accruing, and may make and pay for any necessary repairs to the Property, and may pay all or any part of the Secured Indebtedness or other sums secured hereby or any deficiency decree entered in such foreclosure proceedings. Upon or at any time after the filing of a suit to foreclose this Deed of Trust, the court in which such suit is filed shall have full power to enter an order placing Beneficiary in possession of the Property with the same power granted to a receiver pursuant to this subsection and with all other rights and privileges of a beneficiary-in-possession under applicable law. Unless the context indicates to the contrary, "foreclosure" shall mean and include a judicial foreclosure and a nonjudicial trustee's sale.

(b) Beneficiary's Other Rights. Beneficiary shall have the right to take such other steps to protect and enforce its rights, whether by action, suit or proceeding at law or in equity for the specific performance of any covenant, condition or agreement contained in this Deed of Trust, or in aid of the execution of any power granted in this Deed of Trust, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Beneficiary and/or the Trustees shall elect.

3.3 Litigation Expenses. In any proceeding to foreclose the lien of this Deed of Trust or enforce any other remedy of Beneficiary under the Credit Agreement, the Notes, this Deed of Trust, or the other Loan Documents, or in any other proceeding in connection with any of the Loan Documents or any of the Property in which Beneficiary is named as a party, there shall be allowed and included, as additional indebtedness in the judgment or decree resulting all related expenses paid or incurred by or on behalf of Beneficiary. Such expenses shall include: reasonable attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, survey costs, and costs of procuring all abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and any similar data and assurances with respect to title to the Property as Beneficiary may deem reasonably necessary either to prosecute or defend in such proceeding or to evidence to bidders at any sale pursuant to such decree the true condition of the title to or value of the Premises or the Property. All foregoing expenses, and such expenses as may be incurred in the protection of any of the Property and the maintenance of the lien of this Deed of Trust, including the fees of any attorney employed by Beneficiary in any litigation affecting the Credit Agreement, the Notes, this Deed of Trust, or the Property, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding (which may be estimated as to items to be expended after entry of such judgment or decree), shall be due and payable by Grantor within 10 days of the demand therefor with interest thereon at the Default Rate.

3.4 Beneficiary's Performance of Grantor's Obligations. Following the occurrence of an Event of Default, Beneficiary, either before or after acceleration of the Obligations or the foreclosure of the lien hereof and during the period of redemption, if any, may, but shall not be required to, make any payment or perform any act herein, in the Notes, any of the Loan Documents or any document or instrument related thereto which is required of Grantor (whether or not Grantor is personally liable therefor) in any form and manner deemed expedient to Beneficiary; and Beneficiary may, but shall not be required to, make full or partial payments of principal or interest on any permitted prior deed of trust, this Deed of Trust or any encumbrances and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises, or contest any Impositions and may, but shall not be required to, complete construction, furnishing and equipping of the Improvements upon the Premises and rent, operate and manage the Premises and such Improvements and pay operating costs and expenses, including management fees, of every kind and nature in connection therewith, so that the Premises and Improvements shall be operational and usable for their intended purposes. All monies paid for any of the purposes herein authorized, and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees and any other monies advanced by Beneficiary to protect the Premises and the lien hereof, or to complete construction, furnishing and equipping or to rent, operate and manage the Premises and such Improvements or to pay any such operating costs and expenses thereof or to keep the Premises and Improvements operational and usable for their intended purposes, shall constitute Secured Indebtedness, whether or not they exceed the amount of the Notes, and shall become due and payable upon demand and with interest thereon at the Default Rate. Beneficiary, in making any payment hereby authorized: (a) for the payment of Impositions, may do so according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim or lien which may be asserted; or (c) for the completion of construction, furnishing or equipping of the Improvements or the Premises or the rental, operation or management of the Premises or the payment of operating cost and expenses thereof, may do so in such amounts and to such persons as Beneficiary may deem appropriate and may enter into such contracts therefor as Beneficiary may deem appropriate or may perform the same itself.

All advances, disbursements and expenditures (collectively "Advances") made by Beneficiary after an Event of Default, before and during foreclosure, prior to sale, and where applicable, after sale, for the following purposes, including interest thereon at the Default Rate, are hereinafter referred to as "Protective Advances", and shall be deemed to include, without limitation:

- (a) Advances pursuant to this Section 3.4;
- (b) any reasonable amount expended by Beneficiary in restoring the Property in excess of the actual or estimated proceeds of insurance or condemnation, which excess shall constitute additional Secured Indebtedness;

(c) Advances in accordance with the terms of this Deed of Trust to:
(i) protect, preserve or restore the Property; (ii) preserve the lien of this Deed of Trust or the priority thereof; or (iii) enforce this Deed of Trust;

(d) when due, installments of real estate taxes and other Impositions; other obligations authorized by this Deed of Trust; or with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, all as referred to in this **Section 3.4**;

(e) reasonable attorneys' fees and other costs incurred in connection with:
(i) the exercise of Beneficiary's rights to make Protective Advances; (ii) the foreclosure of this Deed of Trust; (iii) any other litigation or administrative proceeding relating to the Property to which Beneficiary may be or become or be threatened or contemplated to be a party, without fault on its part, including probate and bankruptcy proceedings; or (iv) in the preparation for the commencement or defense of any such suit or proceeding; including filing fees, appraisers' fees, outlays for documents and expert evidence, witness fees, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of judgment) of procuring all such abstracts of title, title charges and examinations, foreclosure minutes, title insurance policies, Torrens certificates, appraisals, and similar data and assurances with respect to title and value as Beneficiary may deem reasonably necessary either to prosecute or defend such suit or, in case of foreclosure, to evidence to bidders at any sale which may be had pursuant to the foreclosure judgment the true condition of the title to or the value of the Property;

(f) Beneficiary's reasonable fees and costs arising between the entry of judgment of foreclosure and the confirmation hearing;

(g) payment by Beneficiary of any Impositions as may be permitted by this Deed of Trust;

(h) Beneficiary's Advances of any amount required to make up a deficiency in deposits for installments of Impositions as may be permitted by this Deed of Trust;

(i) expenses deductible from proceeds of sale;

(j) reasonable expenses incurred and expenditures made by Beneficiary for any one or more of the following: (i) premiums upon casualty and liability insurance made by Beneficiary whether or not Beneficiary or a receiver is in possession, if reasonably required without regard to the limitation to maintaining insurance in effect at the time any receiver, deed of trust beneficiary or Beneficiary takes possession of the Property; (ii) expenditures in connection with restoring the Property in excess of available insurance proceeds or condemnation awards; (iii) payments required or deemed by Beneficiary to be for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; (iv) operating deficits incurred by Beneficiary as a deed of trust beneficiary or Beneficiary in possession or reimbursed by Beneficiary to any receiver; and (v) all amounts paid to any public authority for the use or occupancy of any street, alley, or public way.

All reasonable Protective Advances shall constitute Secured Indebtedness and shall become immediately due and payable without notice and with interest thereon until paid at the Default Rate. This Deed of Trust shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time the Deed of Trust is recorded.

3.5 Right of Possession. In any case in which Beneficiary has a right to institute foreclosure proceedings (whether or not the entire principal sum secured hereby becomes immediately due and payable or whether before or after the institution of foreclosure proceedings or whether before or after judgment thereunder and at all times until the confirmation of sale) and upon Beneficiary's request to the court, Grantor shall, immediately upon Beneficiary's demand, surrender to Beneficiary, and Beneficiary shall be entitled to take actual possession of the Property or any part thereof, personally or by its agent or attorneys. Beneficiary may enter upon and take and maintain possession or may apply to the court in which a foreclosure is pending to be placed in possession of all or any part of the Property, together with all documents, books, records, papers, and accounts of Grantor or the then owner of the Property relating thereto. Beneficiary may exclude Grantor, such owner, and any agents and servants from the Property. As attorney-in-fact or agent of Grantor or such owner, or in its own name Beneficiary may hold, operate, manage, and control all or any part of the Property and conduct the business thereof, either personally or by its agents. Beneficiary shall have full power to use such measures, legal or equitable, as it may deem proper or necessary to enforce the payment or security of the rents, issues, deposits, profits, and avails of the Property, including actions for recovery of rent, actions in forcible entry and detainer, and actions in distress for rent, all without notice to Grantor.

3.6 Priority of Rent Payments. Any rents, issues, deposits, profits, and avails of the Property received by Beneficiary after taking possession of the Property, or pursuant to any assignment to Beneficiary under the provisions of this Deed of Trust or any of the other Loan Documents, shall be applied as provided under applicable law or, in the case of a receivership, as the court may determine.

3.7 Appointment of Receiver. Upon, or at any time after, the filing of a complaint to foreclose this Deed of Trust, the court in which such complaint is filed shall appoint a receiver of the Property whenever Beneficiary when entitled to possession so requests. Grantor hereby consents and stipulates that Beneficiary need only provide Grantor with three Business Days' notice of Beneficiary's motion to seek court appointment of a receiver of the Property. Such receiver shall have all powers and duties prescribed by applicable law, including the power to make leases to be binding upon all parties, including the Grantor after redemption, the purchaser at a sale pursuant to a judgment of foreclosure and any person acquiring an interest in the Deed of Trust real estate after entry of a judgment of foreclosure. In addition, such receiver shall also have the following powers: (a) to extend or modify any then existing leases, which extensions and modifications may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Obligations and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Grantor and all persons whose interests in the Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption, discharge of the Deed of Trust indebtedness, satisfaction of any foreclosure

judgment, or issuance of any certificate of sale or deed to any purchaser; and (b) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during the whole of the period of receivership. The court from time to time, either before or after entry of judgment of foreclosure, may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (y) the Secured Indebtedness, or any amounts included in any judgment of foreclosure or supplemental judgment or other item for which Beneficiary is authorized to make a Protective Advance, and (z) the deficiency in case of a sale and deficiency.

3.8 Foreclosure Sale; Power of Sale.

(a) Beneficiary may bring an action in any court of competent jurisdiction to foreclose this instrument or to enforce any of the covenants and agreements hereof.

(b) Should Beneficiary elect to foreclose by exercise of the power of sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and the Notes and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

(i) Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded and given such Notice of Default and other notices as then required by law. Trustee shall, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Property at the time and place of sale fixed by it in said Notice of Sale, either as a whole, or in separate lots or parcels or items as Trustee shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Within ten (10) days following payment, Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof as to a purchaser for value relying thereon. Any person, including, without limitation, Grantor, Trustee or Beneficiary, may purchase at such sale.

(ii) After deducting all reasonable costs, fees and expenses of Trustee and of this Trust, including costs of evidence of title and reasonable counsel fees in connection with sale, Trustee shall apply the proceeds of sale in accordance with **Section 3.9** hereof.

(c) Upon any sale, whether under any power of sale hereby given or by virtue of judicial proceedings, it shall not be necessary for the Trustee or any public officer acting under execution or order of court to have physically present or constructively in his possession any of the Property.

3.9 Application of the Rents or Proceeds from Foreclosure or Sale. In any foreclosure of this Deed of Trust by judicial action, or any sale of the Property under the power of sale herein

granted, the proceeds of such foreclosure proceeding and/or sale and/or the Rents paid to Beneficiary shall, to the extent permitted by law, be applied as follows:

First: to the ratable payment of the costs and expenses of such sale, including reasonable fees and expenses incurred by Beneficiary, its agents and attorneys, and of any judicial or private proceedings in which such sale may be made, and of all other expenses, liabilities and advances made or incurred by Beneficiary and its agents and attorneys under this Deed of Trust, together with interest at the Default Rate on such costs, expenses and liabilities and on all advances made by Beneficiary from the date any such cost, expense or liability is due, owing or unpaid or any such advance is made, in each case until paid in full.

Second: to the payment of the Obligations.

Third: the surplus, if any, to be paid to whomever may be lawfully entitled to receive such surplus.

3.10 Cumulative Remedies; Delay or Omission Not a Waiver. Each remedy or right of Beneficiary shall not be exclusive of, but shall be in addition to, every other remedy or right now or hereafter existing at law or in equity. No delay in the exercise or omission to exercise any remedy or right accruing on the occurrence or existence of any Event of Default under the Credit Agreement shall impair any such remedy or right or be construed to be a waiver of any such Event of Default or acquiescence therein, nor shall it affect any subsequent Event of Default of the same or different nature. Every such remedy or right may be exercised concurrently or independently and when and as often as may be deemed expedient by Beneficiary.

3.11 Beneficiary's Remedies Against Multiple Parcels. The Obligations are, or in the future may be, also secured by other properties, lots or parcels covered by other mortgages or deeds of trust ("Other Deeds of Trust") within and/or outside the State. If this Deed of Trust or any of the Other Deeds of Trust is foreclosed upon, or if judgment is entered upon any Obligations, or if Beneficiary exercises its power of sale, execution may be made upon or Beneficiary may exercise its power of sale against any one or more of the properties, lots or parcels and not upon the others, or upon all of such properties or parcels, either together or separately, and at different times or at the same time, and execution sales or sales under the power of sale herein granted may likewise be conducted separately or concurrently, in each case at the election of Beneficiary. No event of enforcement taking place in any state other than the State shall (and no failure to prosecute any such other enforcement) in any way stay, preclude or bar enforcement of this Deed of Trust and Beneficiary may pursue any or all of Beneficiary's rights and remedies under this Deed of Trust to the maximum extent permitted by State law until the Obligations are paid and discharged in full.

3.12 No Merger. In the event of a foreclosure of this Deed of Trust, the Obligations then due Beneficiary shall not be merged into any decree of foreclosure entered by the court, and Beneficiary may concurrently or subsequently seek to foreclose one or more mortgages or deeds of trust which also secure said Obligations.

3.13 Insurance Upon Foreclosure. In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied

in the restoration of the Property shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct. In case of the foreclosure of this Deed of Trust, the court in its judgment may provide that the judgment creditor may cause a new or additional loss clause to be attached to each of said policies making the loss thereunder payable to said judgment creditor; and any such foreclosure judgment may further provide, unless the right of redemption (if any) has been waived, that in case of redemption under said judgment, pursuant to applicable law, then, and in every such case, the redemptory may cause the preceding loss clause attached to each insurance policy to be cancelled and a new loss clause to be attached thereto, making the loss thereunder payable to such redemptory. In the event of foreclosure sale, Beneficiary is hereby authorized, but not required, without the consent of Grantor, to assign or cause a receiver to assign any and all insurance policies to the purchaser at the sale, or to take such other action as Beneficiary may reasonably deem advisable, to cause the interest of such purchaser to be protected by any of the said insurance policies.

3.14 Waiver of Statutory Rights. Grantor shall not apply for or avail itself of any appraisement, valuation, redemption, stay, extension, or exemption laws, or any so-called "moratorium laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust, and Grantor hereby waives the benefit of such laws (to the extent permitted by applicable law). Grantor, for itself and all who may claim through or under it, waives any and all rights to have the Property and estates comprising the Property marshaled upon any foreclosure of the lien of this Deed of Trust, and agrees that any court having jurisdiction to foreclose such lien may order the Property sold in its entirety. Grantor further waives any and all rights of redemption from foreclosure and from sale under any order or decree of foreclosure (whether full or partial) of the lien created by this Deed of Trust, for itself and on behalf of: (a) any trust estate of which the Premises are a part, all beneficially interested persons; (b) each and every person acquiring any interest in the Property or title to the Premises subsequent to the date of this Deed of Trust; and (c) all other persons to the extent permitted by the provisions of laws of the State in which the Premises are located.

ARTICLE 4 THE TRUSTEE

4.1 Successor Trustee. In case of the absence, death, disability, refusal, or failure of the Trustee herein named to act, or for any other reason if Beneficiary shall so desire, Beneficiary is hereby authorized and empowered to name, constitute, and appoint, without any other formality than an appointment, designation in writing, and recordation, another trustee in the place and stead of the Trustee herein originally named or in the place and stead of any other trustee later substituted therefor, all of whom successively shall while so acting have all of the title, rights, powers, and authority and be charged with all of the duties that are conferred or charged upon the Trustee. Any conveyance by such substitute trustee or by any trustee later substituted therefor as aforesaid to the purchaser at any sale as herein provided shall be equally valid and effective. Any such right to appoint a successor or substitute trustee shall exist as often and whenever from any of the said causes any trustee, original or substitute, cannot or will not act hereunder.

4.2 Exculpation of Trustee. The Trustee shall have no duties and shall not be obligated to perform any acts other than those herein expressly set forth or intended. Without limitation, the Trustee shall not be responsible for the execution, acknowledgment, or validity of this Deed of Trust, or of any instrument amendatory hereof or supplemental hereto or of the Notes or of any other Obligations, or for the sufficiency of the security purported to be created hereby. The Trustee shall not incur any personal liability hereunder except for his own willful misconduct, gross negligence, or default; and the Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting any action taken or proposed to be taken by him hereunder, believed by him in good faith to be genuine. The Trustee shall be entitled to reimbursement for all expenses incurred by him in the performance of his duties, and shall be entitled to reasonable compensation for such of his services as shall be rendered.

ARTICLE 5 MISCELLANEOUS

5.1 Notices. Any notice, demand, request or other communication that Beneficiary or Grantor may desire or be required to give to the other shall be in writing and shall be mailed or delivered in the manner set forth in the Credit Agreement.

5.2 Time of Essence. Time is of the essence of this Deed of Trust.

5.3 Covenants Run with Land. All of the covenants of this Deed of Trust shall run with the land constituting the Premises.

5.4 GOVERNING LAW. THIS DEED OF TRUST SHALL BE CONSTRUED, GOVERNED AND ENFORCED ACCORDING TO THE LAWS OF THE STATE OF OREGON, AND MATTERS OF CREATION, PERFECTION, PRIORITY OR ENFORCEABILITY OF ANY AND ALL RIGHTS AND REMEDIES PROVIDED FOR HEREIN SHALL BE GOVERNED BY THE LAWS OF THE STATE OF OREGON. TO THE EXTENT THAT THIS DEED OF TRUST MAY OPERATE AS A SECURITY AGREEMENT UNDER THE CODE, BENEFICIARY SHALL HAVE ALL RIGHTS AND REMEDIES CONFERRED THEREIN FOR THE BENEFIT OF A SECURED PARTY AS SUCH TERM IS DEFINED IN THE CODE.

5.5 Rights and Remedies Cumulative. All rights and remedies in this Deed of Trust are cumulative. The holder(s) of the Notes and of every other obligation secured hereby may recover judgment, issue execution therefor, and resort to every other right or remedy available at law or in equity, without first exhausting and without affecting or impairing the security of any right or remedy.

5.6 Severability. If any provision of this Deed of Trust, or any paragraph, sentence, clause, phrase, or word, or their application, in any circumstance, is held invalid, the validity of the remainder of this Deed of Trust shall be construed as if such invalid part were never included.

5.7 Non-Waiver. Unless expressly provided in this Deed of Trust to the contrary, no consent or waiver, express or implied, by any party, to or of any breach or default by any other

party shall be deemed a consent to or waiver of the performance by such defaulting party of any other obligations or the performance by any other party of the same, or of any other, obligations.

5.8 Headings. The headings of sections and paragraphs in this Deed of Trust are for convenience or reference only and shall not be construed in any way to limit or define the content, scope, or intent of the provisions.

5.9 Grammar. As used in this Deed of Trust, the singular shall include the plural, and masculine, feminine, and neuter pronouns shall be fully interchangeable, where the context so requires.

5.10 Deed in Trust. If title to the Property or any part thereof is now or hereafter becomes vested in a trustee, any prohibition or restriction against the creation of any lien on the Property shall be construed as a similar prohibition or restriction against the creation of any lien on or security interest in the beneficial interest of such trust.

5.11 Successors and Assigns. This Deed of Trust shall be binding upon Grantor, its successors, assigns, legal representatives, and all other persons or entities claiming under or through Grantor. "Beneficiary", when used herein, shall include GE Capital, as agent for and on behalf of the Lenders, together with its successors and assigns in such capacity and its legal representatives. "Grantor," when used herein, shall include all such persons and entities and any others liable for the payment of the Secured Indebtedness, or any part thereof, or the performance of any of the other Obligations, whether or not they have executed the Notes or this Deed of Trust.

5.12 Beneficiary in Possession. Nothing contained in this Deed of Trust shall be construed as constituting Beneficiary a deed of trust beneficiary in possession in the absence of the actual taking of possession of the Property.

5.13 Compliance with Applicable Law. Anything elsewhere herein contained to the contrary notwithstanding,

(a) in the event that any provision in this Deed of Trust shall be inconsistent with any provision of applicable law, the provisions of applicable law shall take precedence over the provisions of this Deed of Trust, but shall not invalidate or render unenforceable any other provision of this Deed of Trust that can be construed in a manner consistent with applicable law;

(b) if any provision of this Deed of Trust shall grant to Beneficiary any rights or remedies upon default of Grantor which are more limited than the rights that would otherwise be vested in Beneficiary under applicable law in the absence of said provision, Beneficiary shall be vested with the rights granted under applicable law to the full extent permitted by law; and

(c) it is the intention of the parties to conform strictly to the usury laws, whether state or federal, that are applicable to the Notes or the Deed of Trust. All agreements between Grantor and Beneficiary, whether now existing or hereafter arising and whether oral or written, are hereby expressly limited so that in no contingency or event whatsoever shall the amount paid or agreed to be paid by Grantor for the use, forbearance or detention of the money loaned or to be loaned under the Notes or this Deed of Trust, or for the payment or performance

of any covenant or obligation contained herein or in the Notes, exceed the maximum amount permissible under applicable federal or state usury laws. If under any circumstances whatsoever fulfillment of any provision hereof or of the Notes, at the time performance of such provision shall be due, shall involve exceeding the limit of validity prescribed by law, then the obligation to be fulfilled shall be reduced to the limit of such validity. If under any circumstances Grantor shall have paid an amount deemed interest by applicable law, which would exceed the highest lawful rate, such amount that would be excessive interest under applicable usury laws shall be applied to the reduction of the principal amount owing in respect of the Loans and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal and any other amounts due hereunder, the excess shall be refunded to Grantor. All sums paid or agreed to be paid for the use, forbearance or detention of the principal under the Loans shall, to the extent permitted by applicable law, and to the extent necessary to preclude exceeding the limit of validity prescribed by law, be amortized, prorated, allocated and spread from the date of this Deed of Trust until payment in full of the Secured Indebtedness so that the actual rate of interest on account of such principal amounts is uniform throughout the term hereof. The terms and provisions of this subparagraph shall control and supersede every other provision of this Deed of Trust or the Notes.

5.14 Incorporation of Credit Agreement. The terms of the Credit Agreement are incorporated by reference herein as though set forth in full detail. In the event of any conflict between the terms and provisions of this Deed of Trust and any other Loan Document, the terms and provisions of such other Loan Document shall control.

5.15 Security Agreement. This Deed of Trust is hereby deemed to be as well a Security Agreement for the purpose of creating hereby a security interest securing the indebtedness secured hereby in and to the Personal Property. Without derogating any of the provisions of this Deed of Trust, Grantor by this Deed of Trust:

(a) grants to Beneficiary a security interest in all of Grantor's right, title and interest in and to all Personal Property, including, but not limited to, the items referred to above, together with all additions, accessions and substitutions and all similar property hereafter acquired and used or obtained for use on, or in connection with the Property. The Personal Property and all proceeds thereof are intended to be secured hereby; however, such intent shall never constitute an express or implied consent on the part of Beneficiary to the sale of any or all Personal Property;

(b) agrees that the security interest hereby granted by this Deed of Trust shall secure the payment and performance of the Obligations;

(c) agrees not to sell, convey, mortgage or grant a security interest in, or otherwise dispose of or encumber, any of the Personal Property or any of the Beneficiary's right, title or interest therein except as permitted by the Credit Agreement without first securing Beneficiary's written consent;

(d) agrees that upon or after the occurrence of any Event of Default under this Deed of Trust, Beneficiary shall have all rights and remedies granted by law and more particularly the Code, including, but not limited to, the right to take possession of the Personal

Property, and for this purpose may enter upon any premises on which any or all of the Personal Property is situated without being deemed guilty of trespass and without liability for damages thereby occasioned (except for damages caused by Beneficiary's gross negligence or willful misconduct), and take possession of and operate said Personal Property or remove it therefrom. Beneficiary shall have the further right to take any action it deems necessary, appropriate or desirable, at its option and in its discretion, to repair, refurbish or otherwise prepare the Personal Property for sale, lease or other use or disposition, and to sell at public or private sales or otherwise dispose of, lease or utilize the Personal Property and any part thereof in any manner authorized or permitted by law and to apply the proceeds thereof toward payment of any costs and expenses, to the extent permitted by law, thereby incurred by Beneficiary and toward payment of the Secured Indebtedness and all other indebtedness described in this Deed of Trust, in such order and manner as is provided in **Section 3.3** hereof. To the extent permitted by law, Grantor expressly waives any notice of sale or other disposition of the Personal Property and any other rights or remedies of a debtor or formalities prescribed by law relative to a sale or disposition of the Personal Property or to exercise any other right or remedy existing after default hereunder; and to the extent any notice is required and cannot be waived, Grantor agrees that if such notice is deposited for mailing, postage prepaid, certified mail or registered mail, return receipt requested, to Grantor at the address designated in the first page of this Deed of Trust at least fifteen (15) days before the time of sale or disposition, such notice shall be deemed reasonable and shall fully satisfy any requirements for giving of said notice; provided that if Grantor has furnished Beneficiary with notice of a change of address in accordance with **Section 5.1** hereof, then any such notice shall not be reasonable unless sent to the new address;

(e) agrees, to the extent permitted by law and without limiting any rights and privileges herein granted to Beneficiary, that Beneficiary may dispose of any or all of the Personal Property at the same time and place upon giving the same notice provided for in this Deed of Trust, and in the same manner as the non-judicial foreclosure sale provided under the terms and conditions of this Deed of Trust; and

(f) authorizes Beneficiary to file, in the jurisdiction where this Deed of Trust will be given effect and in any other relevant jurisdiction needed to perfect the security interest in the personal property, financing statements including amendments and continuations thereof, covering the Personal Property; and Grantor will pay the cost of filing the same.

5.16 Revolving Credit. This Deed of Trust secures all present and future loan disbursements made by the Lenders under the Notes, and all other sums from time to time owing to the Lenders by Grantor under the Loan Documents. The maximum principal amount which may be secured hereby at any one time is One Hundred Twenty Million and No/100 Dollars (\$120,000,000), plus interest thereon, and any disbursements made by Beneficiary for the payment of taxes, special assessments, or insurance on the Property or for the protection of the Property, with interest on such disbursements.

5.17 Maintenance of Encumbrance Amount. If at any time this Deed of Trust shall secure less than all of the principal amount of the Secured Indebtedness, it is expressly agreed that any repayments of the principal amount of the Secured Indebtedness shall not reduce the amount of the encumbrance of this Deed of Trust until the encumbrance amount shall equal the principal amount of the Secured Indebtedness outstanding.

5.18 Additional Provisions. The following provisions shall also constitute an integral part of this Deed of Trust. Furthermore, in the event that any prior provisions of this Deed of Trust conflict with the following provisions of this Section, the provisions of this Section shall control and shall be deemed a modification of or amendment to the section or provision at issue:

(a) Payment of Taxes and Fees. Grantor agrees to pay all transfer taxes, recordation taxes, recording fees, and any other fees required by or imposed by the State or the county in which the Premises is located in order to record this Deed of Trust in the Recorder's Office of Klamath County, Oregon.

(b) No Assumption of Obligations. In the event of a foreclosure of the Property, Beneficiary shall not assume any liability of Grantor for Grantor's violation of any environmental laws, statutes, codes, regulations, or practices and Grantor's indemnifications as contained herein and in the Credit Agreement shall survive said foreclosure.

(c) Expenses of Enforcement; Waiver. Grantor agrees to bear and pay all reasonable expenses (including reasonable attorney fees and appellate attorney fees), of or incidental to the enforcement of any provision hereof, or the enforcement, compromise, or settlement of this Deed of Trust or the Obligations, and for the curing thereof, or for defending or asserting the rights and claims of Beneficiary in respect thereof, by litigation or otherwise. All rights and remedies of Beneficiary shall be cumulative and may be exercised singly or concurrently. Notwithstanding anything herein contained to the contrary, Grantor to the extent permitted by applicable law: (i) hereby waives trial by jury; (ii) will not (A) at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any stay or execution or moratorium law, any exemption for execution of sale of the Property or any part thereof, wherever enacted, now or at any time hereafter enforced, which may affect the covenants and terms of performance of this Deed of Trust, or (B) claim, take or insist upon any benefit or advantage of any law now or hereafter enforced providing for the evaluation or appraisal of the Property, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision herein, or pursuant to the decree, judgment or order of any court of competent jurisdiction, or (C) after any such sale or sales, claim, or exercise any right under any statute heretofore or hereafter enacted to redeem the property so sold or any part thereof; (iii) hereby expressly waives all benefit or advantage of any such law or laws including but not limited to a waiver of the equity of redemption, statutory right of redemption, and any other statutory or common law right of redemption, homestead, dower, marital share and all other exemptions; and (iv) covenants not to hinder, delay or impede the execution of any power herein granted or delegated to Beneficiary, but to suffer and permit the execution of every power as though no such laws or laws had been made or enacted. Grantor, for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the Property marshaled upon any foreclosure hereof.

(d) Oregon Specific Provisions.

(i) 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 THE 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.

(ii) UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY A BENEFICIARY 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.

(iii) **WARNING:** UNLESS GRANTOR PROVIDES BENEFICIARY WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED HEREIN, 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 GRANTOR HAS OBTAINED PROPERTY COVERAGE ELSEWHERE.

GRANTOR IS RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY BENEFICIARY. THE COST OF THIS INSURANCE MAY BE ADDED TO THE OUTSTANDING OBLIGATIONS. IF THE COST IS ADDED TO THE OUTSTANDING OBLIGATIONS, THE HIGHEST INTEREST RATE APPLICABLE UNDER THE LOAN DOCUMENTS 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.

[signature and notary page follows]

IN WITNESS WHEREOF, Grantor has duly signed and delivered this Deed of Trust as of the date first above written.

"Grantor"

COLUMBIA PLYWOOD CORPORATION,
a North Carolina corporation

By: Mark Slezak

Name: Mark Slezak

Title: Assis. Vice President

STATE OF Oregon)
COUNTY OF Clatsop) SS:

ON July 24, 2011, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED Mark Slezak, PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME IN HIS/HER AUTHORIZED CAPACITY, AND THAT BY HIS/HER SIGNATURE ON THE INSTRUMENT, THE ENTITY UPON BEHALF OF WHICH HE/SHE ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.



SIGNATURE Lisa Weatherby
(SEAL)

MY COMMISSION EXPIRES: 11/20/2015

EXHIBIT A
LEGAL DESCRIPTION

A tract of land being a portion of Parcel 1 of "Land Partition 33-10", situated in the NE1/4 NE1/4 of Section 18, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at a point on the south line of said Parcel 1, from which the southwest corner of said Parcel 1 bears N89°11'12"W 271.10 feet; Thence N61°34'04"E 761.78 feet; Thence S28°25'56"E 96.54 feet to a point on the northwesterly right of way line of the Burlington Northern Railroad Spur; Thence S41°47'33"W, along the said northwesterly right of way line, 381.40 feet to its intersection with the south line of said Parcel 1; Thence N89°11'12"W, along the said south line, 461.73 feet to the point of beginning, containing 2.37 acres, more or less, with bearings based on "Land Partition 33-10" on file at the office of the Klamath County Clerk.