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2012-013959

Klamath County, Oregon

12/14/2012 02:39:07 PM

Fee: \$197.00

LINE OF CREDIT INSTRUMENT

**MORTGAGE, SECURITY AGREEMENT,
ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING**

THIS LINE OF CREDIT INSTRUMENT, MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING (this "Mortgage") is made as of this 12th day of December, 2012 by **BEACON HILL LAND, LLC**, an Oregon limited liability company, whose address is 2105 NW 435th Avenue, Portland, Oregon 97229 ("Mortgagor"), for the benefit of **UNITED FARM FAMILY MUTUAL INSURANCE COMPANY**, an Indiana corporation, whose address is 225 S. East Street, Indianapolis, Indiana 46202 ("Mortgagee").

WITNESSETH:

WHEREAS, Mortgagee has agreed to make a certain loan to Mortgagor (the "Loan") evidenced by a certain Promissory Note in the original principal amount of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) dated as of even date herewith, executed by Mortgagor to the order of Mortgagee and having a maturity date of January 1, 2023 (the "Note");

WHEREAS, Mortgagee has conditioned its making of the Loan upon Mortgagor granting this mortgage and security interest in certain real estate which Mortgagor owns and which is located in Klamath County, Oregon, more particularly described in the attached Exhibit A (the "Real Estate"), the improvements thereon and the property used in connection therewith;

WHEREAS, the Note, this Mortgage and any and all other agreements or other documents delivered by Mortgagor in connection with the Loan to Mortgagee and all renewals, extensions and replacements thereof are collectively referred to as the "Loan Documents", and all of the indebtedness and obligations of Mortgagor in connection with the Loan arising under the Loan Documents are collectively referred to as "Mortgagor's Obligations"; and

WHEREAS, Mortgagor desires to secure the prompt payment and performance of Mortgagor's Obligations.

WHEREAS, the terms and conditions of the Commitment Letter between Mortgagor and Mortgagee, dated August 21, 2012 and signed by Mortgagor on September 4, 2012, as modified by a Conditional Acceptance Letter executed by Mortgagor on September 4, 2012, in the attached Exhibit B are incorporated herein by reference, provided that, in the event of any inconsistency, the terms of this Mortgage shall control.

NOW THEREFORE, in consideration of the Recitals which are hereby incorporated into and shall be deemed part of this Mortgage agreement and to secure the prompt payment and performance of all of Mortgagor's Obligations, Mortgagor hereby MORTGAGES and

WARRANTS unto Mortgagee, its successors and assigns, all of Mortgagor's present and future title, right and interest in and to the Real Estate, together with all tenements, hereditaments, appurtenances, easements, rights-of-way and rights appertaining thereto or used in connection therewith, together with all rights, title and interests of Mortgagor, now existing or hereafter arising, in and to:

- (i) All rights, privileges, interests, tenements, hereditaments, easements and appurtenances in any way now or hereafter benefitting, belonging or appertaining to all or any of the Real Estate, including (without limiting the generality of the foregoing) all land lying within any roadway and strips adjoining all or any of the Real Estate, all minerals, oil, gas and other hydrocarbon substances thereon or therein and all air rights and water rights (collectively, the "Easements and Appurtenances");
- (ii) All buildings, structures and other improvements of every kind and description now or hereafter erected, constructed or placed on the Real Estate, together with all fixtures, equipment, machinery, apparatus, furniture, furnishings and other articles of personal property owned by Mortgagor now or hereafter located in or upon, attached to or regularly used or intended to be regularly used in connection with the Real Estate, and all replacements thereof, including all components thereof, whether real or personal property (collectively, the "Improvements");
- (iii) All extensions, improvements, betterments, substitutes, replacements, renewals, additions and appurtenances of or to the Easements and Appurtenances and of or to the Improvements (collectively, the "Additions");
- (iv) All rents, issues, proceeds, income, profits and security and other tenant deposits of the Real Estate, the Easements and Appurtenances, the Additions and the Improvements, including all leases and subleases of all or any of such property (collectively, the "Rents"); and
- (v) All awards, payments and proceeds of conversion, whether voluntary or involuntary, of any of the Real Estate, Easements and Appurtenances, Improvements, Additions and Rents, including (without limitation) all insurance, condemnation and tort claims, rent claims and other obligations dischargeable in cash or cash equivalent (collectively, the "Proceeds");

all of which shall be considered mortgaged by this Mortgage and shall be hereinafter collectively referred to as the "Property". Notwithstanding anything herein or in any other Loan Document to the contrary, the term "Property" shall not be construed to include any real or personal property other than the Real Estate and any real and/or personal property related to the Real Estate, as more particularly described in this Section.

AND, Mortgagor, for itself and its successors and assigns, hereby further covenants with Mortgagee as follows:

1. **Representations and Warranties of Mortgagor.**

(a) Mortgagor represents and warrants that (i) Mortgagor has a valid and indefeasible title in fee simple to the Property and has a good and legal right to mortgage the Property and (ii) the Property is and shall remain free from all liens and encumbrances, except only the lien of current real estate taxes not delinquent, the matters set forth in Exhibit B attached hereto and incorporated herein by reference, and any liens and encumbrances in favor of Mortgagee (the "Permitted Exceptions"), and Mortgagor will warrant and defend Mortgagor's rights, title and interests of, in and to the Property against all claims made thereon.

(b) The financial statements of Mortgagor and the members of Mortgagor, heretofore furnished by Mortgagor to Mortgagee (the "Financial Statements"), correctly and fairly present the financial condition of Mortgagor and its members as at the date thereof and for the periods shown and covered thereby. Neither the members of Mortgagor nor Mortgagor have any material liabilities, direct, contingent or otherwise, not shown on the Financial Statements, and there has been no material adverse change in their assets or condition (financial or otherwise) since the date of the Financial Statements. Mortgagor and its members agree to promptly inform Mortgagee of any material adverse change in the assets or condition (financial or otherwise) of Mortgagor or its members since the date of the Financial Statements and to provide unaudited financial statements prepared on an income tax basis and underlying statement of assets and liabilities and actual cash income and expenses for Mortgagor and its members within one hundred twenty (120) days of the end of each calendar year.

2. **Affirmative Covenants of Mortgagor.** Until the entire indebtedness secured by this Mortgage is fully paid and all of Mortgagor's Obligations are fully satisfied, Mortgagor, for itself and its successors and assigns, agrees as follows:

(a) **Payment of Indebtedness.** Mortgagor shall pay promptly when the same shall become due and payable (i) the accrued interest on and the outstanding principal balance of the Note and (ii) all other of Mortgagor's Obligations, all without relief from valuation or appraisal laws.

(b) **Damage or Destruction.** If all or a portion of the Property or the Improvements are damaged or destroyed by fire or other casualty, then Mortgagor shall notify Mortgagee immediately. Mortgagor hereby authorizes Mortgagee, in conjunction with Mortgagor, to (i) make proof of loss, (ii) adjust, compromise and settle any claim under insurance policies covering the damage or destruction, (iii) prosecute any action arising from such insurance policies, and (iv) collect and receive insurance proceeds and deduct from such proceeds all costs incurred by Mortgagee in connection with collecting the proceeds. Mortgagee, at its option, may require Mortgagor to collect the insurance proceeds at Mortgagor's cost and expense and/or take any act or prosecute any action necessary or appropriate to collect the insurance proceeds. If no Event of Default (as hereinafter defined or as defined in any other Loan Document) has occurred and if no condition exists which, with the passage of time or the giving of notice, would constitute an Event of Default, then any insurance proceeds collected by Mortgagee or Mortgagor as a result of the damage to or destruction of the Property or the Improvements (less the

costs, if any, incurred by Mortgagee in connection with the collection of the insurance proceeds) shall be used to pay the cost of repairing, rebuilding and restoring the Property and the Improvements. If an Event of Default has occurred or if a condition exists which, with the passage of time or the giving of notice, would constitute an Event of Default, then such insurance proceeds, at the option of Mortgagee, shall be (i) applied in reduction of the indebtedness secured hereby, whether or not then due and payable, or (ii) held by Mortgagee and used to reimburse Mortgagor for the cost of repairing, rebuilding and restoring the Property and the Improvements. Regardless of the cause of any damage to or destruction of the Property or the Improvements or the availability of insurance proceeds, Mortgagor shall (i) repair, restore and rebuild the Property and the Improvements which are damaged or destroyed at Mortgagor's cost and expense, or (ii) pay in full all indebtedness secured hereby and discharge all other Mortgagor's Obligations. Mortgagor shall commence the repair, rebuilding and restoration of the Improvements promptly after the occurrence of the damage or destruction, and shall complete such repair, rebuilding and restoration diligently and in accordance with plans and specifications approved in writing by Mortgagee.

(c) Condemnation. Mortgagor hereby assigns to Mortgagee any award or payment to which Mortgagor has any claim or right in respect of any condemnation of all or any portion of the Property. The conditions, terms and provisions of subsection 2(b) hereof respecting insurance proceeds from damage or destruction of the Property shall govern and control both (i) the application and use of the proceeds of any such award or payment and (ii) the obligation of Mortgagor to repair, restore and rebuild the remaining Property or repair, restore and rebuild any portion of the Property damaged as a result of such condemnation. A condemnation shall include any taking by any governmental authority or any conveyance in lieu thereof.

(d) Priority of Lien. This Mortgage shall be maintained as a valid first and prior mortgage lien and security interest on and in the Property, subject only to the Permitted Exceptions.

(e) Taxes and Utilities. Mortgagor will pay all taxes, assessments and utility charges incurred in connection with the Property and maintain all utility services available for use at the Property. Mortgagor will not permit to exist any condition, event or fact which could allow or serve as a basis or justification for any such person to avoid such performance.

(f) Insurance. Mortgagor shall maintain or cause to be maintained hazard, liability, flood insurance, and other insurance as required by Mortgagee insuring the Property, all in such amounts, under such forms of policies, upon such terms and for such periods of coverage as Mortgagee may reasonably require. All such policies shall jointly insure Mortgagor and Mortgagee, and shall provide that losses will be payable to Mortgagor and Mortgagee, as their interests appear, and that Mortgagee shall receive at least thirty (30) days' written notice prior to cancellation or material change in coverage.

(g) Reserve For Taxes and Insurance. Commencing upon the occurrence of an Event of Default, Mortgagor shall deposit in escrow with Mortgagee on each installment payment due date under the Note, an amount equal to one-twelfth (1/12) of the total amount reasonably estimated by Mortgagee to be required to pay when due all real estate taxes and assessments on the Real Estate and/or the annual insurance premium. Any interest earned on such funds shall be the property of Mortgagee. No trust shall be created by the establishment of such escrow, and such funds may be commingled with other funds of Mortgagee. In the event that funds in the escrow account are insufficient to pay such amounts thirty (30) days in advance of the due date of payment, Mortgagor shall immediately pay to Mortgagee such deficient amounts. Any notice of assessment or reassessment shall be immediately provided by Mortgagor to Mortgagee, and the monthly escrow payment will be adjusted accordingly.

3. Negative Covenants of Mortgagor. Until the entire indebtedness secured by this Mortgage is fully paid and all of Mortgagor's Obligations are fully satisfied, Mortgagor, for itself and its successors and assigns, agrees as follows:

(a) Encumbrance of the Property. Except for the Permitted Exceptions, Mortgagor shall not cause, permit or suffer the creation or existence of any lien, encumbrance, cross-collateralization agreement, security interest or other charge upon, against or affecting the Property, any portion thereof or the rents, issues and profits therefrom, whether such lien, encumbrance, cross-collateralization agreement, security interest or other charge is prior to, upon a parity with or junior to this Mortgage or the security interest of Mortgagee created pursuant to the security agreement set forth in Section 5 hereof without the prior written consent of Mortgagee.

(b) Deterioration of the Property. Mortgagor shall not commit, cause, permit or suffer waste or physical deterioration of the Property.

(c) Violation of Laws. Mortgagor shall not violate or permit violation of any law, code, ordinance, regulation, order or requirement, including those relating to environmental matters, of any city, county, state, federal or other governmental authority concerning the Property.

4. Assignment of Rents and Leases.

(a) Assignment. Mortgagor hereby transfers and assigns to Mortgagee as further security for the payment of Mortgagor's Obligations: (i) all present and future leases granted by Mortgagor covering all or any portion of the Property, (ii) all agreements for use or occupancy of any portion of the Property, (iii) all present and future ground leases for use or occupancy of any portion of the Property, (iv) any and all guarantees of the performance of any lessee under any lease of all or any portion of the Property, (v) any extensions, amendments, modifications, supplements or replacements to any lease of all or any portion of the Property (including any guaranty or other item included in this definition of "Leases") and any and all further leases and subleases, lettings or agreements of all or any portion of the Property (all of the foregoing, the "Leases"), and (vi) all rents and other sums of money due or becoming due to Mortgagor under

any of the Leases now due or which may hereinafter become due and payable (the "Assignment"). The rights assigned hereunder include but are not limited to all of Mortgagor's rights (a) to make material modifications of the Leases; (b) to terminate or to accept the surrender thereof; (c) to waive or release the lessees from the observance or performance by the lessees of any material covenant or condition of the Leases; and (d) to give any consent to any assignment of the Leases or any sublease of any part of the Property. As used herein, the term "Rents" shall include all Leases, including guaranties of tenant performance thereof, all insurance proceeds regarding rental loss coverage and business interruption coverage as to the Leases and all judgments or settlements of claims in favor of Mortgagor and arising out of the Leases in any court proceeding, including any bankruptcy, reorganization, insolvency or debtor proceeding or case or otherwise.

(b) Representations, Warranties and Covenants of Mortgagor. Mortgagor represents to and covenants with Mortgagee as follows:

- (i) Mortgagor has full right and title to assign the Leases and the Rents.
- (ii) No other assignment of any interest in the Leases and Rents has been made by Mortgagor, and Mortgagor will not hereafter, without Mortgagee's prior written consent, make any such assignment, whether absolute or as security for any indebtedness.
- (iii) Mortgagor will not subordinate any Leases or right to receive Rents to any encumbrance or permit or agree to such subordination without Mortgagee's prior written consent.
- (iv) Mortgagor shall observe and perform all the obligations imposed upon the lessor under the Leases and not do or permit to be done anything to impair the security thereof. Mortgagee shall have the right, but not the obligation, to cure any default by Mortgagor under any of the terms of the Leases on Mortgagor's behalf. Any such expenditures made by Mortgagee, with interest thereon at the default rate as set forth in the Note (the "Default Rate"), shall be immediately due and payable and shall become part of the debt evidenced by the Note and secured hereby.
- (v) Mortgagor has not accepted any advance rental payments under the Leases other than security and other tenant deposits. Mortgagor will not accept rent under the Leases more than one (1) month in advance of the time when due (except for security deposits in amounts not to exceed one month's rent).
- (vi) Mortgagor will not cancel, surrender or terminate any Lease; change, alter or modify the same except in the ordinary course of business; consent to the release of any party liable thereunder or to the assignment of the tenant's interest therein; or consent to the subletting under any Lease

having an unexpired term of more than one (1) year, whether or not in accordance with its terms, except in the ordinary course of business.

- (vii) Mortgagor will not permit a transfer of the Real Estate demised thereby or of any interest therein so as to effect in any way a merger of the estates and rights of, or a termination or diminution of the obligations of, any lessee thereunder, except in the ordinary course of business.
- (viii) Mortgagor will furnish Mortgagee with executed copies of the Leases.
- (ix) All proposed Leases shall be subject to the prior written approval of Mortgagee, which approval shall not be unreasonably withheld, conditioned or delayed.
- (x) At Mortgagee's request, Mortgagor will transfer to Mortgagee subsequent Leases.
- (xi) Mortgagor will, at Mortgagor's expense, execute and deliver at the request of Mortgagee all such further assurances and assignments as Mortgagee may from time to time require.

(c) Rights of Mortgagee. Upon or at any time after an Event of Default, Mortgagee, without in any way waiving such Event of Default, may, at its option, without notice and without regard to the adequacy of the security for Mortgagor's Obligations, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, take possession of the Real Estate and possess, manage, lease and operate them on such terms and for such period of time as Mortgagee may deem proper and either with or without taking possession of the Real Estate in its own name, demand, sue for or otherwise collect and receive all Rents, including those past due and unpaid with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Mortgagee, and to apply Rents to the payment of: (a) all expenses of managing the Real Estate, including, without being limited thereto, the salaries, fees and wages of a managing agent and such other employees as Mortgagee may deem necessary or desirable, and all expenses of operating and maintaining the Real Estate, including, without being limited thereto, all taxes, charges, claims, assessments, water rents, sewer rents and any other liens, and premiums for all insurance which Mortgagee may deem necessary or desirable, and the cost of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the Real Estate; and (b) Mortgagor's Obligations, together with all costs and attorneys' and paralegals' fees, in such order or priority as to any of the items mentioned in this subsection as Mortgagee in its sole discretion may determine, any statute, law, custom or use to the contrary notwithstanding. The exercise by Mortgagee of the option granted it in this subsection and the collection of Rents and the application thereof as herein provided shall not be considered a waiver of any Event of Default. Mortgagee may take or release other security for the payment of Mortgagor's Obligations, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the satisfaction of Mortgagor's Obligations without prejudice to any of its rights under this Mortgage.

(d) Indemnification. Mortgagee shall not be liable for any loss sustained by Mortgagor resulting from Mortgagee's failure to let the Real Estate after an Event of Default or from any other act or omission of Mortgagee in managing the Real Estate after an Event of Default unless such loss is caused by the willful misconduct and bad faith of Mortgagee, nor shall Mortgagee be obligated to perform or discharge nor does Mortgagee hereby undertake to perform or discharge any obligation, duty or liability under any assigned Leases or under or by reason of this Mortgage, and Mortgagor shall indemnify Mortgagee for, and hold Mortgagee harmless from, any and all liability, loss, or damage which may or might be incurred under any assigned Leases or under or by reason of this Mortgage, and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any assigned Leases, except that Mortgagor shall not be liable for any liability, loss, damage claims, or demands arising out of any act or omission of Mortgagee or its agents occurring after Mortgagee has taken actual possession of the Real Estate. Should Mortgagee incur any such liability under any assigned Leases or under or by reason of this Mortgage or in defense of any such claim or demand, the amount thereof, including costs, expenses, and reasonable attorneys' and paralegals' fees, shall be secured hereby and Mortgagor shall reimburse Mortgagee therefor immediately upon demand, and upon the failure of Mortgagor so to do, Mortgagee may, at its option, declare the Note immediately due. This Mortgage shall not operate to place responsibility for (i) the control, care, management or repair of the Real Estate, or (ii) the carrying out of any of the terms and conditions in any assigned Leases upon Mortgagee, nor shall it operate to make Mortgagee responsible or liable for (a) any waste committed on the Real Estate by any parties occupying or using the Real Estate, (b) any dangerous or defective condition of the Real Estate, or (c) any negligence in the management, upkeep, repair or control of the Real Estate resulting in loss, injury or death to any tenant, occupant, licensee, employee or stranger.

(e) Rent. Mortgagor hereby authorizes and directs each tenant or occupant of the Real Estate upon receipt of written notice from Mortgagee to the effect that Mortgagee is then the holder of the Loan Documents and that an Event of Default exists thereunder or under this Mortgage to pay over to Mortgagee all Rents and to continue to do so until otherwise notified by Mortgagee. Mortgagor will facilitate in all reasonable ways Mortgagee's collection of Rents and upon request will execute a written notice to each tenant or occupant directing payment to Mortgagee. Notwithstanding the foregoing, it is understood and agreed that Mortgagee shall not exercise its rights and powers under this Assignment until after an Event of Default occurs, in each case after the expiration of any applicable grace period, and Mortgagor shall have a license to collect Rents from the Real Estate in the absence of such an Event of Default and the expiration of any such grace period. Upon payment in full of Mortgagor's Obligations, this Assignment shall become void, but any person may, and is hereby authorized to, rely on the affidavit, certificate, letter, or statement of any officer, agent, or attorney of Mortgagee showing any part of Mortgagor's Obligations to remain unpaid.

5. Security Agreement; Fixture Filing.

(a) Security Agreement. This instrument is intended to be a security agreement pursuant to Chapter 79 of the Uniform Commercial Code of the State of Oregon (the "UCC") for any of the items specified above as part of the Property which may be subject to a security interest pursuant to the applicable version of the UCC, and Mortgagor hereby grants Mortgagee a security interest in such items to secure the payment and performance of Mortgagor's Obligations. All terms defined in the UCC and used herein shall have the same definitions herein as specified in the UCC.

(b) Filings. Mortgagor agrees that this instrument, or a reproduction thereof, may be filed in the real estate records or other appropriate index as a financing statement for any of the items specified above (including fixtures) as part of the Property, and authorizes Mortgagee to make any such filings Mortgagee deems necessary or proper. Mortgagor's execution of this Mortgage constitutes an authentication pursuant to the UCC of the security agreement contained herein, thereby authorizing Mortgagee to file and record such financing statements, amendments and other UCC forms as may be necessary or appropriate to establish and maintain the priority of its lien and security interests created under this Mortgage. Any reproduction of this instrument or of any other security agreement or financing statement (meeting the requirements of the UCC) will be sufficient as a financing statement. Mortgagor agrees to execute and deliver to Mortgagee upon request, any financing statements (other than financing statements such as those currently prescribed by the UCC, which are not required to be executed by the debtor or secured party), as well as extensions, renewals and amendments thereof, and reproductions of this instrument in such form as may be required by law or reasonably required by Mortgagee to perfect a security interest with respect to said items. Mortgagor will pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and will pay all reasonable costs and expenses of any record searches for financing statements Mortgagee may reasonably require.

(c) Other Actions. Further to ensure the attachment, perfection and first priority of, and the ability of Mortgagee to enforce, Mortgagee's security interest in the Property, Mortgagor agrees, in each case at Mortgagor's own expense, to take the following actions with respect to the following types of Property:

- (i) Promissory Notes and Tangible Chattel Paper. If Mortgagor shall at any time hold or acquire any promissory notes or tangible chattel paper (other than personal checks received under the Leases in the ordinary course of business), Mortgagor shall forthwith endorse, assign and deliver the same to Mortgagee, accompanied by such instruments of transfer or assignment duly executed in blank as Mortgagee may from time to time specify.
- (ii) Deposit Accounts. For each deposit account that Mortgagor at any time opens or maintains, Mortgagor shall, at Mortgagee's request and option, pursuant to an agreement in form and substance satisfactory to Mortgagee, either (a) cause the depository bank to agree to comply at any time with instructions from Mortgagee to such depository bank time directing the disposition of funds from time to time credited to such deposit account, without further consent of Mortgagor, or (b) arrange for Mortgagee to

become the customer of the depository bank with respect to the deposit account, with Mortgagor being permitted only with the consent of Mortgagee, to exercise rights to withdraw funds from such deposit account. Mortgagee agrees with Mortgagor that Mortgagee shall not give any such instructions or withhold any withdrawal rights from Mortgagor, unless an Event of Default has occurred and is continuing, or, after giving effect to any withdrawal not otherwise permitted by the Loan Documents, would occur. The provisions of this subsection shall not apply to (i) any deposit account for which Mortgagor, the depository bank and Mortgagee have entered into a cash property agreement specially negotiated among Mortgagor, the depository bank and Mortgagee for the specific purpose set forth therein, (ii) deposit accounts for which Mortgagee is the depository and (iii) deposit accounts specially and exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of Mortgagor's salaried employees.

- (iii) Investment Property. If Mortgagor shall at any time hold or acquire any certificated securities, Mortgagor shall forthwith endorse, assign and deliver the same to Mortgagee, accompanied by such instruments of transfer or assignment duly executed in blank as Mortgagee may from time to time specify. If any securities now or hereafter acquired by Mortgagor are uncertificated and are issued to Mortgagor or its nominee directly by the issuer thereof, Mortgagor shall immediately notify Mortgagee thereof and, at Mortgagee's request and option, pursuant to an agreement in form and substance satisfactory to Mortgagee, either (a) cause the issuer to agree to comply with instructions from Mortgagee as to such securities, without further consent of Mortgagor or such nominee, or (b) arrange for Mortgagee to become the registered owner of the securities. If any securities, whether certificated or uncertificated, or other investment property now or hereafter acquired by Mortgagor are held by Mortgagor or its nominee through a securities intermediary or commodity intermediary, Mortgagor shall immediately notify Mortgagee thereof and, at Mortgagee's request and option, pursuant to an agreement in form and substance satisfactory to Mortgagee, either (i) cause such securities intermediary or (as the case may be) commodity intermediary to agree to comply with entitlement orders or other instructions from Mortgagee to such securities intermediary as to such securities or other investment property, or (as the case may be) to apply any value distributed on account of any commodity contract as directed by Mortgagee to such commodity intermediary, in each case without further consent of Mortgagor or such nominee, or (ii) in the case of financial assets or other investment property held through a securities intermediary, arrange for Mortgagee to become the entitlement holder with respect to such investment property, with Mortgagor being permitted, only with the consent of Mortgagee, to exercise rights to withdraw or otherwise deal with such investment property. Mortgagee agrees with Mortgagor that Mortgagee shall not give

any such entitlement orders or instructions or directions to any such issuer, securities intermediary or commodity intermediary, and shall not withhold its consent to the exercise of any withdrawal or dealing rights by Mortgagor, unless an Event of Default has occurred and is continuing, or, after giving effect to any such investment and withdrawal rights not otherwise permitted by the Loan Documents, would occur. The provisions of this subsection shall not apply to any financial assets credited to a securities account for which Mortgagee is the securities intermediary.

- (iv) Property in Possession of a Bailee. If any goods are at any time in the possession of a bailee, Mortgagor shall promptly notify Mortgagee thereof and, if requested by Mortgagee, shall promptly obtain an acknowledgment from the bailee, in form and substance satisfactory to Mortgagee, that the bailee holds such Property for the benefit of Mortgagee and shall act upon the instructions of Mortgagee without further consent of Mortgagor. Mortgagee agrees with Mortgagor that Mortgagee shall not give any such instructions unless an Event of Default has occurred and is continuing or would occur after taking into account any action by Mortgagor with respect to the bailee.
- (v) Electronic Chattel Paper and Transferable Records. If Mortgagor at any time holds or acquires an interest in any electronic chattel paper or any "transferable record," as that term is defined in Section 201 of the Federal Electronic Signatures in Global and National Commerce Act, or in Section 16 of the Uniform Electronic Transactions Act as in effect in any relevant jurisdiction, Mortgagor shall promptly notify Mortgagee thereof and, at the request of Mortgagee, shall take such action as Mortgagee may reasonably request to vest in Mortgagee control, under Chapter 79.0105 of the UCC, of such electronic chattel paper or control under Section 201 of the federal Electronic Signatures in Global and National Commerce Act or, as the case may be, Section 16 of the Uniform Electronic Transactions Act, as so in effect in such Jurisdiction, of such transferable record. Mortgagee agrees with Mortgagor that Mortgagee will arrange, pursuant to procedures satisfactory to Mortgagee and so long as such procedures will not result in Mortgagee's loss of control, for Mortgagor to make alterations to the electronic chattel paper or transferable record permitted under Section 79.0105 of the UCC or, as the case may be, Section 201 of the federal Electronic Signatures in Global and National Commerce Act or Section 16 of the Uniform Electronic Transactions Act for a party in control to make without loss of control, unless an Event of Default has occurred and is continuing or would occur after taking into account any action by Mortgagor with respect to such electronic chattel paper or transferable record.
- (vi) Letter-of-Credit Rights. If Mortgagor is at any time a beneficiary under a letter of credit now or hereafter issued in favor of Mortgagor, Mortgagor

shall promptly notify Mortgagee thereof, and at the request and option of Mortgagee, Mortgagor shall, pursuant to an agreement in form and substance satisfactory to Mortgagee, either (i) arrange for the issuer and any confirmer of such letter of credit to consent to an assignment to Mortgagee of the proceeds of any drawing under the letter of credit or (ii) arrange for Mortgagee to become the transferee beneficiary of the letter of credit, with Mortgagee agreeing, in each case, that the proceeds of any drawing under the letter to credit are to be applied as provided in the Loan Documents.

(vii) Commercial Tort Claims. If Mortgagor shall at any time hold or acquire a commercial tort claim, Mortgagor shall immediately notify Mortgagee in a writing signed by Mortgagor of the brief details thereof and grant to Mortgagee in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Mortgage, with such writing to be in form and substance satisfactory to Mortgagee.

(viii) Other Actions as to any and all Property. Mortgagor further agrees to take any other action reasonably requested by Mortgagee to insure the attachment, perfection and first priority of, and the ability of Mortgagee to enforce, Mortgagee's security interest in any and all of the Property including, without limitation, (a) executing, delivering and, where appropriate, filing financing statements and amendments relating thereto under the UCC, to the extent, if any, that Mortgagor's signature thereon is required therefore, (b) causing Mortgagee's name to be noted as secured party on any certificate of title for a titled good if such notation is a condition to attachment, perfection or priority of, or ability of Mortgagee to enforce, Mortgagee's security interest in such Property, (c) complying with any provision of any statute, regulation or treaty of the United States as to any Property if compliance with such provision is a condition to attachment, perfection or priority of, or ability of Mortgagee to enforce, Mortgagee's security interest in such Property, (d) obtaining governmental and other third party consents and approvals, including without limitation any consent of any licensor, lessor or other person obligated on Property, (e) obtaining waivers from mortgagees and landlords in form and substance satisfactory to Mortgagee and (f) taking all actions required by any earlier versions of the Uniform Commercial Code or by other law, as applicable in any relevant Uniform Commercial Code jurisdiction, or by other law as applicable in any foreign jurisdiction.

(d) Representations and Warranties Concerning Property, Etc. Mortgagor further represents and warrants to Mortgagee as follows: (a) Mortgagor is the owner of or has other rights in or power to transfer the Property as contemplated by this Mortgage, free from any adverse lien, security interest or other encumbrance, except for the security interest created by this Mortgage and other liens and encumbrances permitted by the Loan Documents, (b) none of the Property constitutes, or is the proceeds of, "farm products" as defined in Chapter 79.0102 of

the UCC, (c) none of the account debtors or other persons obligated on any of the Property is a governmental authority subject to the Federal Assignment of Claims Act or like federal, state or local statute or rule in respect of such Property, (d) Mortgagor holds no commercial tort claim except as described in writing to Mortgagee prior to the date hereof, (e) Mortgagor has at all times operated its business in compliance with all applicable provisions of the federal Fair Labor Standards Act, as amended, and with all applicable provisions of federal, state and local statutes and ordinances dealing with the control, shipment, storage or disposal of hazardous materials or substances, (f) the tangible property is stored at only those properties identified in this Mortgage; and (g) all other information set forth herein pertaining to the Property is accurate and complete.

(e) Mortgagee's Obligations and Duties. Notwithstanding anything herein to the contrary, Mortgagor shall remain liable under each contract or agreement comprised in the Property to be observed or performed by Mortgagor thereunder. Mortgagee shall not have any obligation or liability under any such contract or agreement by reason of or arising out of this Mortgage or the receipt by Mortgagee of any payment relating to any of the Property, nor shall Mortgagee be obligated in any manner to perform any of the obligations of Mortgagor under or pursuant to any such contract or agreement, to make inquiry as to the nature or sufficiency of any payment received by Mortgagee in respect of the Property or as to the sufficiency of any performance by any party under any such contract or agreement, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to Mortgagee or to which Mortgagee may be entitled at any time or times. Mortgagee's sole duty with respect to the custody, safe keeping and physical preservation of the Property in its possession, under Chapter 79.0207 of the UCC or otherwise, shall be to deal with such Property in the same manner as Mortgagee deals with similar property for its own account.

(f) Securities and Deposits. Mortgagee may at any time following and during the continuance of an Event of Default, at its option, transfer to itself or any nominee any securities constituting Property, receive any income thereon and hold such income as additional Property or apply it to Mortgagor's Obligations. Whether or not any Mortgagor's Obligations are due, Mortgagee may, following and during the continuance of Event of Default, demand, sue for, collect, or make any settlement or compromise which it deems desirable with respect to the Property. Regardless of the adequacy of Property or any other security for Mortgagor's Obligations, any deposits or other sums at any time credited by or due from Mortgagee to Mortgagor may at any time be applied to or set off against any of Mortgagor's Obligations then due and owing.

(g) Proceeds of Dispositions; Expenses. Mortgagor shall pay to Mortgagee on demand any and all expenses, including reasonable attorneys' fees and disbursements, incurred or paid by Mortgagee in protecting, preserving or enforcing Mortgagee's rights under or in respect of any of Mortgagor's Obligations or any of the Property. After deducting all of said expenses, the residue of any proceeds of collection or sale of Mortgagor's Obligations or Property shall, to the extent actually received in cash, be applied to the payment of Mortgagor's Obligations in such order or preference as Mortgagee may determine, proper allowance and provision being made for any Mortgagor's Obligations not then due. Upon the final payment and satisfaction in full of all of Mortgagor's Obligations and after making any payments required by Chapters 79.0608(1)(a)(C) or 79.0615(1)(c) of the UCC, any excess shall be returned to

Mortgagor, and Mortgagor shall remain liable for any deficiency in the payment of Mortgagor's Obligations.

(h) Ordinary Course Activities. Notwithstanding any provision in this Mortgage to the contrary and so long as an Event of Default has not occurred and is ongoing, Mortgagor may use and apply any monies received in connection to the ownership and/or operation of the Property in the ordinary course of its business, free and clear of any right, claim, title or interest of Mortgagee whatsoever.

6. Events of Default. The term "Event of Default," as used herein, shall mean the occurrence, from time to time, of any one or more of the following:

(a) Non-payment of Monetary Obligations. If Mortgagor shall default in the payment when due of principal or interest or any other monetary obligation of Mortgagor under this Mortgage, the Note or any other Loan Document, unless cured within ten (10) days.

(b) Breach of Covenants. If Mortgagor shall default in the due observance or performance of any covenant, agreement, condition, term or provision of this Mortgage and such default shall continue uncured for thirty (30) days after Mortgagee provides Mortgagor with written notice of such default, provided that no such notice or cure period shall be applicable to any default as to the covenants contained in Sections 2(f), 8 or 12(q) hereof. Notwithstanding the foregoing, if such default cannot reasonably be cured within thirty (30) days and Mortgagor has commenced and is diligently pursuing such cure to Mortgagee's satisfaction, then the cure period provided to Mortgagor pursuant to this section shall be extended for such reasonable time as is necessary for Mortgagor to cure such default.

(c) Representations and Warranties. Any of the representations, warranties or statements of Mortgagor set forth in this Mortgage or any other Loan Document shall be untrue or incorrect in any material respect.

(d) Default under Other Loan Documents. Default in due performance or observance of any other Mortgagor's Obligations or covenant, agreement, condition, term or provision of any other Loan Document, it being expressly recognized by Mortgagor that this Mortgage is security for the performance of each and every such obligation, covenant, agreement, contract, term or provision relating to the Loan.

(e) Default under Leases. Any material default by Mortgagor under any of the terms of the Leases, unless Mortgagor is contesting such default in good faith.

(f) Assignment or Encumbrance. Except as permitted under Section 8 hereof, the sale, transfer, assignment, alienation, pledge or encumbrance (including any secondary financing or cross collateralization agreements) affecting the Property made by Mortgagor, or any assignment of the membership interests of Mortgagor, without the prior written consent of Mortgagee, which consent may be granted or withheld in Mortgagee's sole and absolute discretion.

(g) Death of an Indemnitor. The death of any indemnitor of all or any portion of Mortgagor's Obligations, unless Mortgagor provides to Mortgagee a replacement indemnitor or indemnitors who, in Mortgagor's reasonable discretion, are of equal creditworthiness and liquidity and execute an indemnity or indemnities upon the same terms and conditions as the existing indemnity agreement.

(h) Bankruptcy. The occurrence of any of the following with respect to Mortgagor, any guarantor of the Obligations, or the then-owner of the Mortgaged Property: (a) the appointment of a receiver, liquidator, or trustee for any such party or any of its properties; (b) adjudication as a bankrupt or insolvent; (c) the filing of any petition by or against any such party under any state or federal bankruptcy, reorganization, moratorium, or insolvency law; (d) the institution of any proceeding for dissolution or liquidation; (e) the inability to pay debts when due; (f) any general assignment for the benefit of creditors; or (g) abandonment of the Mortgaged Property. Notwithstanding the foregoing, in the event of an involuntary petition filed against Mortgagor, Mortgagor shall have ninety (90) days from the date of filing to remove such petition.

7. Remedies on Default and other Default Provisions.

(a) Remedies Upon Default. Upon the occurrence of an Event of Default, or at any time thereafter during the continuance of such Event of Default, Mortgagee may exercise any or all of the following remedies:

(i) Acceleration of Indebtedness. Mortgagee shall be entitled to declare (i) the entire unpaid balance of principal and interest of the Note, (ii) the entire unpaid balance of all other of Mortgagor's Obligations, and (iii) all other amounts due and payable by Mortgagor pursuant to this Mortgage or the other Loan Documents to be immediately due and payable, without prior notice to Mortgagor, presentation, demand, protest, notice of protest or other notice of dishonor of any kind, all of which are hereby expressly waived.

(ii) Sale on Foreclosure. Mortgagee may judicially foreclose this Mortgage and obtain a judgment foreclosing Mortgagor's interest in all or any part of the Property and giving Mortgagee the right to collect any deficiency remaining due after disposition of the Mortgaged Property. Mortgagee shall be entitled to have this Mortgage and all interest or equity of Mortgagor and of all parties claiming under or through Mortgagor foreclosed and to have the Property sold according to law.

(iii) Right to Receiver. Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed shall, upon petition by Mortgagee, appoint a receiver for the Property in accordance with the Act. To the extent permitted by applicable law, such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the value of the Property whether the same shall be then occupied as a homestead or not and Mortgagee hereunder or any other holder of the Note may be appointed as such receiver. Such receiver shall have power to collect the Rents (i) during the pendency of such foreclosure suit, (ii) in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, and (iii) during any

further times when Mortgagor, but for the intervention of such receiver, would be entitled to collect such Rents. Such receiver also shall have all other powers and rights that may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during said period, including, to the extent permitted by law, the right to lease all or any portion of the Property for a term that extends beyond the time of such receiver's possession without obtaining prior court approval of such lease. The court from time to time may authorize the application of the net income received by the receiver in payment of Mortgagor's Obligations, or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien.

(iv) Mortgagee's Right of Possession in Case of Default. At any time after an Event of Default has occurred, Mortgagor shall, upon demand of Mortgagee, surrender to Mortgagee possession of the Property. Mortgagee, in its discretion, may, with process of law, enter upon and take and maintain possession of all or any part of the Property, together with all documents, books, records, papers and accounts relating thereto, and may exclude Mortgagor and its employees, agents or servants therefrom, and Mortgagee may then hold, operate, manage and control the Property, either personally or by its agents. Mortgagee shall have full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of Rents, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent. Without limiting the generality of the foregoing, Mortgagee shall have full power to: (1) cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; (2) elect to disaffirm any lease or sublease which is then subordinate to the lien hereof; (3) extend or modify any then existing leases and to enter into new leases, which extensions, modifications and leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Maturity Date 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 Mortgagor 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 from sale, discharge of Mortgagor's Obligations, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser; (4) make any repairs, renewals, replacements, alterations, additions, betterments and improvements to the Property as Mortgagee deems are necessary; (5) insure and reinsure the Property and all risks incidental to Mortgagee's possession, operation and management thereof; and (6) receive all of such Rents.

(v) Application of Income Received by Mortgagee. Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it, shall have full power to use and apply the Rents to the payment of or on account of the following, in such order as Mortgagee may determine: (1) to the payment of the operating expenses of the Property, including cost of management and leasing thereof (which shall include compensation to Mortgagee and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized; (2) to the payment of taxes and special assessments now due or which may hereafter become due on the Property; and (3) to the payment of Mortgagor's Obligations, including any deficiency which may result from any foreclosure sale.

(vi) Fixtures and Personal Property. With respect to any Improvements and other personal property subject to a security interest in favor of Mortgagee, Mortgagee may exercise any and all of the rights and remedies of a secured party under the Uniform Commercial Code.

(vii)

(b) Other Default Provisions

(i) Remedies under Loan Documents or Applicable Law. Mortgagee shall be entitled to exercise any remedy under any other Loan Document or as may be available under law, in addition to or in lieu of the other remedies set forth in this Section 7.

(ii) Application of Proceeds. All proceeds realized from the exercise of the rights and remedies will be applied in the following order: (1) to pay all charges, costs and expenses of the sale and to reimburse Mortgagee for all amounts advanced by Mortgagee to pay taxes, insurance premiums, environmental assessments, title insurance and survey costs, brokerage fees, attorneys' and paralegals' fees, and all other costs of operating, maintaining and selling the Property, together with interest thereon at the Default Rate to the date of sale; (2), to pay all accrued interest on Mortgagor's Obligation; (3) to pay the entire outstanding principal balance of Mortgagor's Obligations; (4), to pay and obtain releases of all liens and encumbrances against the Property; and (5), to pay the remainder of the sale proceeds, if any, to Mortgagor upon the delivery and surrender of the Property to the purchaser or as otherwise required by Oregon law.

(iii) Purchase by Mortgagee. In the case of any sale of the Property pursuant to any judgment or decree of any court at public auction or otherwise, Mortgagee may become the purchaser, and for the purposes of making settlement for or payment of the purchase price, shall be entitled to deliver over and use the Note and any claims for the debt in order that there may be credited as paid on the purchase price the amount of the debt.

(iv) Expenses. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publications costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Property. All expenditures and expenses of the nature mentioned in this subsection and such other expenses and fees as may be incurred in the enforcement of Mortgagor's Obligations, the protection of the Property and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceeding affecting

this Mortgage, the Note or the Property, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threaten suit or proceeding shall be immediately due and payable by Mortgagor, with interest thereon until paid at the Default Rate and shall be secured by this Mortgage.

(v) Protection of Security. Mortgagee may disburse any sums and take any actions that Mortgagee deems to be necessary or appropriate in its sole discretion to protect Mortgagee's interest or the security given or intended to be given hereunder. All such sums disbursed by Mortgagee and all costs and expenses incurred by Mortgagee in connection with protecting Mortgagee's interest or the security given or intended to be given hereunder (including without limitation reasonable attorneys' and paralegals' fees and court costs), together with interest thereon at the Default Rate, shall (i) constitute additional indebtedness secured by this Mortgage and (ii) be paid by Mortgagor to Mortgagee.

(vi) Deficiency. No sale or other disposition of all or any part of the Mortgaged Property pursuant this Section will be deemed to relieve Mortgagor of any of the Obligations, except to the extent that the proceeds are applied to the payment of the Obligations. If the proceeds of a sale, a collection, or other realization of or on the Mortgaged Property are insufficient to cover the costs and expenses of such realization and the payment in full of the Obligations, Mortgagor will remain liable for any deficiency to the fullest extent permitted by law.

(vii) Sale of Personal Property. Mortgagee may, without notice to or demand upon Mortgagor, declare this Mortgage to be in default, and Mortgagee shall thereafter have in any jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the UCC or the Uniform Commercial Code of any jurisdiction in which Property is located, including, without limitation, the right to take possession of the Property, and for that purpose Mortgagee may, so far as Mortgagor can give authority therefore, enter upon any premises on which the Property may be situated and remove the same there from. Mortgagee may in its discretion require Mortgagor to assemble all or any part of the Property at such location or locations within the jurisdictions of Mortgagor's principal office(s) or at such other locations as Mortgagee may reasonably designate. Unless the Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Mortgagee shall give to Mortgagor at least ten (10) Business Days' prior written notice of the time and place of any public sale of Property or of the time after which any private sale or any other intended disposition is to be made. Mortgagor hereby acknowledges that ten (10) Business Days' prior written notice of such sale or sales shall be reasonable notice. In addition, to the extent permitted by law, Mortgagor waives any and all rights that it may have to a judicial hearing in advance of the enforcement of any of Mortgagee's rights hereunder, including, without limitation, its right following an Event of Default to take immediate possession of the Property and to exercise its rights with respect thereto.

(viii) Rights Cumulative. Each right, power and remedy herein conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing under any of the Loan Documents or at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Mortgagee, and the exercise or the beginning of the exercise of one right, power or remedy shall not be waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

(ix) Standards for Exercising Remedies. To the extent that applicable law imposes duties on Mortgagee to exercise remedies in a commercially reasonable manner, Mortgagor acknowledges and agrees that it is not commercially unreasonable for Mortgagee (a) to fail to incur expenses reasonably deemed significant by Mortgagee to prepare Property for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) to fail to obtain third party consents for access to Property to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Property to be collected or disposed of, (c) to fail to exercise collection remedies against account debtors or other persons obligated on Property or to remove liens or encumbrances on or any adverse claims against Property, (d) to exercise collection remedies against account debtors and other persons obligated on Property directly or through the use of collection agencies and other collection specialists, (e) to advertise dispositions of Property through publications or media of general circulation, whether or not the Property is of a specialized nature, (f) to contact other persons, whether or not in the same business as Mortgagor, for expressions of interest in acquiring all or any portion of the Property, (g) to hire one or more professional auctioneers to assist in the disposition of Property, whether or not the Property is of a specialized nature, (h) to dispose of Property by utilizing Internet sites that provide for the auction of assets of the types included in the Property or that have the reasonable capability of doing so, or that match buyers and sellers of assets, (i) to dispose of assets in wholesale rather than retail markets, (j) to disclaim disposition warranties, (k) to purchase insurance or credit enhancements to insure Mortgagee against risks of loss, collection or disposition of Property or to provide to Mortgagee a guaranteed return from the collection or disposition of Property, or (l) to the extent deemed appropriate by Mortgagee, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist Mortgagee in the collection or disposition of any of the Property. Mortgagor acknowledges that the purpose of this subsection is to provide non-exhaustive indications of what actions or omissions by Mortgagee would not be commercially unreasonable in Mortgagee's exercise of remedies against the Property and that other actions or omissions by Mortgagee shall not be deemed commercially unreasonable solely on account of not being indicated in this subsection. Without limitation upon the foregoing, nothing contained in this subsection shall be construed to grant any rights to Mortgagor or to impose any duties on Mortgagee that would not have been granted or imposed by this Mortgage or by applicable law in the absence of this subsection.

8. **Assumption and Assignment.** Notwithstanding any other provision of any Loan Document, the outstanding principal balance of the Loan and all accrued, unpaid interest thereon shall be due and payable upon the sale, assignment, conveyance, transfer, lien, pledge, mortgage, encumbrance or alienation by Mortgagor of any part of or interest in the Property, except that:

(a) Mortgagor shall have a one-time right during the term of the Loan to sell or transfer its entire ownership interest in the Property and assign Mortgagor's Obligations under the Loan Documents, subject to the following terms and conditions:

- (i) Mortgagor shall provide at least thirty (30) days prior written notice to Mortgagee of the proposed transfer;
- (ii) Mortgagee shall have approved, in its reasonable discretion, the creditworthiness and management ability of the proposed transferee and the proposed replacement indemnitors or guarantors;
- (iii) Mortgagee shall receive an assumption fee of one and one quarter percent (1.25%) of the outstanding Mortgagor's Obligations at the time of such conveyance (the "Assumption Fee") along with payment of all fees and expenses (including reasonable attorneys' fees) incurred by Mortgagee in connection with such transfer; and
- (iv) There shall be no Event of Default or occurrence which, with the passage of time or the giving of notice, would constitute an Event of Default at the time of the transfer.

Notwithstanding the foregoing, Mortgagor may transfer its entire ownership interest in the Property and assign Mortgagor's Obligations under the Loan Documents to (1) an entity owned or controlled by the current members of Mortgagor or (2) another person or entity for estate planning or tax purposes, including without limitation transfers by will, devise or made to family trusts, *provided* that such Transferee assumes Mortgagor's Obligations under the Loan Documents and that the conditions set forth in subsection (a)(i)-(iv) of this Section 8 have been satisfied.

In the event that all of the foregoing terms and conditions are met, Mortgagee shall consent to such transfer and to an assumption of Mortgagor's Obligations under the Loan Documents. The right of assignment is personal to Mortgagor. Except as otherwise permitted, an assignment of any interest in Mortgagor shall constitute an assignment within the meaning of this Section. Contemporaneously with the assumption, all Mortgagor's Obligations will be paid through and including the date of the assumption, and Mortgagor, guarantors and indemnitors will be released from further liability.

9. **Method of Taxation.** If any law of the State of Oregon passed after the date of this Mortgage (i) deducts from the value of land for the purposes of taxation any lien thereon and

imposes upon Mortgagee a tax in lieu thereof, (ii) provides or changes in any way the laws respecting the taxation of mortgages or the notes or debts secured by mortgages for State or local purposes or (iii) changes the manner of the collection of any such taxes, and the law affects this Mortgage, the other Loan Documents or the indebtedness secured hereby, then Mortgagee shall have the right to require payment of the Note and any other of Mortgagor's Obligations affected thereby on the date thirty (30) days after Mortgagee demands payment, unless Mortgagor has lawfully paid or satisfied such tax or other financial burden imposed on Mortgagee without violation of usury or other laws. If any stamp tax, recording tax or similar tax or imposition is hereafter claimed by any governmental authority to be due and payable on or in respect of the Loan Documents, then Mortgagor shall promptly pay and discharge the same on demand. No condition, term or provision of this Section shall require Mortgagor to pay any income tax or any other tax now imposed on Mortgagee or any income tax hereafter imposed on Mortgagee.

10. **Environmental Indemnity.** Mortgagor agrees to protect, defend (with counsel reasonably acceptable to Mortgagee and at Mortgagor's sole cost), indemnify and hold Mortgagee and Mortgagee's affiliates, shareholders, directors, officers, employees, and agents free and harmless from and against all losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, costs, judgments, suits, proceedings, damages (including consequential damages), expenses of any kind or nature whatsoever (including attorneys', paralegals' and experts' fees, fees for environmental audits and disbursements and expenses incurred in investigating, defending against or prosecuting any litigation, claim or proceeding) which may at any time be imposed upon, incurred by or asserted or awarded against Mortgagee or any of them in connection with or arising from or out of:

(a) Any Hazardous Material, as that term is defined in the Borrower's Certificate executed by Mortgagor in favor of Mortgagee of even date herewith (the "Borrower's Certificate"), on, in, under or upon all or any portion of the Property, or the groundwater;

(b) Any misrepresentation, inaccuracy or breach of any warranty, covenant or agreement contained or referred to in this Section 10;

(c) Any violation or claim of violation by Mortgagor of any Environmental Law, as that term is defined in the Borrower's Certificate; or

(d) The imposition of any lien for the recovery of any costs for the cleanup, release or threatened release of Hazardous Material.

To the extent permitted by applicable law, the foregoing representations, warranties, covenants, agreements and indemnification shall survive repayment of the Note or any transfer of the Property by foreclosure or by a deed in lieu of foreclosure. Mortgagor, its successors and assigns, hereby waive, release and agree not to make any claim or bring any cost recovery action against Mortgagee under CERCLA or any state equivalent, or any similar law now existing or hereafter enacted, except for matters resulting solely from the acts of Mortgagee. It is expressly understood and agreed that to the extent that Mortgagee is strictly liable under any such law, regulation, ordinance or requirement, Mortgagor's obligation to Mortgagee under the foregoing

indemnity shall likewise be without regard to fault on the part of Mortgagor with respect to the violation or condition which results in liability to Mortgagee.

11. **Limitation of Liability.** Except for those matters set forth below, the liability of Mortgagor for the repayment of the indebtedness evidenced by the Note and the performance of obligations under this Mortgage and the other Loan Documents shall be limited to the security given by Mortgagor for the Note and Mortgagor's Obligations under the Loan Documents. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, and notwithstanding any delay by Mortgagee in exercising any right, power or remedy in connection with any Event of Default, Mortgagor and Patrick Brown shall be personally liable beyond their interest in the security granted to Mortgagee, to the extent of (a) any funds received by Mortgagor as security deposits under any Leases; (b) following an Event of Default, any rent received by Mortgagor from Leases; (c) any rent with respect to the Property prepaid in excess of one (1) month; (d) all condemnation awards and payments in lieu thereof and all insurance proceeds received by Mortgagor; (e) the cost to repair the Property as a result of a casualty; (f) any liability, damage, cost or expense incurred by Mortgagor as a result of any fraud or misrepresentation or bad faith by Mortgagor or Patrick Brown; (g) any liability, damage, cost or expense incurred by Mortgagee with respect to the Property in connection with any hazardous substance, solid waste or any other substance or material regulated by any federal, state or local law, statute, regulation, ordinance, code or order relating to environmental quality; (h) any sums advanced by Mortgagee for the protection, repair or maintenance of the Property, including, without limitation, any fees and expenses of Mortgagee payable by Mortgagor under any Loan Document; (i) any unpaid real estate taxes or assessments on the Property which Mortgagor has failed to pay when due; (j) any liability, damage, cost or expense incurred by Mortgagee as a result of cancellation of insurance; (k) commission of waste; (l) any liability, damage, cost or expense incurred by Mortgagee as a result of the failure to provide Mortgagee with subordination, non-disturbance and attornment agreements in form satisfactory to Mortgagee from tenants and subtenants of the Property that execute Leases on or after the date hereof, including without limitation, new leases, amendments, assignments and subleases; (m) any liability, damage, cost or expense incurred by Mortgagee as a result of any amendments of any Lease without Mortgagee's prior consent; (n) seizure or forfeiture of all or any portion of the Property or Mortgagee's interest therein pursuant to federal, state or local law without Mortgagee's written consent; (o) all costs of collection, including attorneys' fees, incurred by Mortgagee in connection with any of the items identified in this Section; (p) any liability, damage, cost or expense incurred by Mortgagee as a result of First American Title Company of Oregon pursuing specific performance or other equitable remedies under its lease; and (q) any liability, damage, cost or expense incurred by Mortgagee as a result of the failure of Basin Mediactive, LLC or Educational Media Foundation to execute a Subordination Non-Disturbance and Attornment Agreement and an Estoppel in favor of Mortgagee in a form satisfactory to Mortgagee in Mortgagee's sole discretion. Nothing contained herein shall limit or affect Mortgagee's rights under any indemnity agreement or any guaranty or other collateral which may now or hereafter be given in connection with the Loan.

Notwithstanding the foregoing provisions, the agreement of Mortgagee not to pursue recourse liability as set forth above SHALL BECOME NULL AND VOID and shall be of no further force and effect in the event of:

- (1) a violation of the restrictions on transfer set forth in this Mortgage; or
- (2) if the Property or any part thereof shall become an asset in a voluntary bankruptcy or insolvency proceeding.

12. **Miscellaneous Provisions.**

(a) **Failure of Sale.** If the Property is advertised for sale, as provided in this Mortgage, and not sold, then Mortgagor shall pay the proper and reasonable costs incurred by Mortgagee in connection with the proposed sale, and such amounts shall constitute additional indebtedness secured by this Mortgage and shall bear interest at the Default Rate.

(b) **Time Is of the Essence.** Time is of the essence with respect to all covenants and obligations of Mortgagor under this Mortgage.

(c) **Separate Sales.** Any real estate or any interest or estate therein sold pursuant to any writ of execution issued on a judgment obtained by virtue of the Loan Documents, or pursuant to any other judicial proceedings under this Mortgage, may be sold in one parcel, as an entirety, or in several parcels, and in such manner or order as Mortgagee may elect, in its reasonable discretion.

(d) **Waiver.** To the full extent that is lawful, Mortgagor hereby waives and releases and agrees that it will not insist upon, plead or in any way take advantage of (i) any benefit that might accrue to Mortgagor by virtue of any present or future law exempting all or any portion of the Property or the proceeds thereof from any sale, attachment, or levy or sale on execution, (ii) any present or future law providing for any appraisement, valuation, stay of execution, redemption, moratorium or extension of time for payment, and (iii) any right to a marshalling of assets. Without limiting the generality of the foregoing, Mortgagor hereby expressly waives any and all rights of redemption from sale on behalf of Mortgagor and all persons whom it may legally bind who hereafter acquire any interest in the Property.

(e) **Consent to Jurisdiction.** Mortgagor irrevocably (i) agrees that Mortgagee may (and Mortgagor shall) bring any suit, action or other legal proceedings arising out of this Mortgage, Mortgagor's Obligations or any other transactions or matters contemplated hereby in the state courts located in the county in which the Real Estate is located or the federal courts whose venue includes the county in which the Real Estate is located; (ii) consents to the jurisdiction of each such court in any such suit, action or proceeding; and (iii) waives its right to trial by jury.

(f) **Expenses and Attorney Fees.** If Mortgagee refers any of the obligations to a lawyer for collection or seeks legal advice after a default, if Mortgagee is the prevailing party in any litigation instituted in connection with any of the obligations, or if Mortgagee or any other person initiates any judicial or nonjudicial action, suit, or proceeding in connection with any of the obligations or the Mortgaged Property (including but not limited to proceedings under federal bankruptcy law, eminent domain, under probate proceedings, or in connection with any state or

federal tax lien), and Mortgagee employs a lawyer to appear in any such action, suit, or proceeding or to reclaim, seek relief from a judicial or statutory stay, sequester, protect, preserve, or enforce Mortgagee's interests, then in any such event Mortgagor must pay reasonable attorney fees, costs, and expenses incurred by Mortgagee or its lawyer in connection with the above-mentioned events or any appeals related to them, including but not limited to costs incurred in searching records, the cost of title reports, and the cost of surveyors' reports. Those amounts will be secured by this Mortgage and, if not paid on demand, will bear interest at the rate specified in the Note.

(g) Choice of Law. Except where preempted by the laws and regulations of the United States, the parties intend for this Mortgage and the validity, interpretation, performance, and enforcement of the Mortgage to be governed by the substantive laws of the laws of the state in which the Real Estate is located.

(h) Notices. All notices and demands under any Loan Document shall be in writing and shall be deemed to be delivered only when (i) actually received or (ii) deposited in the United States mail (certified or registered mail, postage prepaid, return receipt requested) and addressed to Mortgagor or Mortgagee as follows:

Mortgagor: Beacon Hill Land, LLC
2105 NW 435th Ave.
Portland, Oregon 97229

Mortgagee: United Farm Family Mutual Insurance Company
225 S. East Street
Indianapolis, Indiana 46202
Attn: Director, Investments

or to any other address Mortgagee or Mortgagor may designate from time to time by written notice.

(i) Modification of Mortgage. A modification, amendment or waiver of any provision of this Mortgage or any other of the Loan Documents shall be effective only if the modification, amendment or waiver is set forth in a written instrument executed by the party against whom enforcement is sought and, with respect to this Mortgage, recorded with the Office of the Recorder of Klamath County, Oregon, and any such waiver shall be effective only for the specific purpose and in the specific instance for which Mortgagee and Mortgagor granted the waiver.

(j) No Waiver; Remedies Cumulative. Neither failure nor delay on the part of Mortgagee in exercising any right, power or privilege under this Mortgage or any of the other Loan Documents shall operate as a waiver of such right, power or privilege, and no single or partial exercise by Mortgagee of any such right, power or privilege shall preclude any further exercise thereof or the exercise of any other right, power or privilege. No notice to or demand on Mortgagor shall (i) entitle Mortgagor to any notices or demands in any circumstances, or (ii) constitute a waiver of Mortgagee's rights or powers to take any action in any circumstances

without notice or demand. No remedy conferred in this Mortgage or in any of the other Loan Documents upon Mortgagee is intended to be exclusive of any other remedy and each shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise.

(k) Successors and Assigns. All the terms and provisions of this Mortgage shall be binding upon and inure to the benefit of Mortgagee and Mortgagor and their respective heirs, successors, assigns and legal representatives. Whenever this Mortgage refers to Mortgagee or Mortgagor, such reference shall be deemed to include their respective heirs, successors, assigns and legal representatives.

(l) Survival. All covenants, agreements, representations, and warranties made in this Mortgage shall (i) survive the delivery of the Loan Documents to Mortgagee, and (ii) continue in full force and effect until the indebtedness secured by this Mortgage is fully paid and all of Mortgagor's Obligations are fully satisfied.

(m) Severability. In the event that one or more of the conditions, terms or provisions of this Mortgage or any of the other Loan Documents is determined to be invalid, illegal or unenforceable in any respect, then the validity, legality or enforceability of the remaining conditions, terms and provisions of this Mortgage and the other Loan Documents shall not be affected or impaired thereby.

(n) Section Headings/Construction. The section headings used in this Mortgage are for convenience only and shall not be construed to modify, enlarge or limit the substance of the conditions, terms and provisions of this Mortgage. Each covenant and agreement made in this Mortgage shall be construed as being independent of each other covenant and agreement set forth herein, and compliance with any one covenant or agreement shall not be deemed to excuse compliance with any or all other covenants and agreements.

(o) Future Advances. This Mortgage secures future obligations and advancements up to a maximum amount of One Million and 00/100 Dollars (\$1,000,000.00) and all future modifications, extensions and renewals of any indebtedness or obligations secured by this Mortgage.

(p) Mortgagee not Joint Venturer or Partner. Mortgagor and Mortgagee acknowledge and agree that in no event shall Mortgagee be deemed to be a partner or joint venturer with Mortgagor. Without limitation of the foregoing, Mortgagee shall not be deemed to be such a partner or joint venturer on account of its becoming a Mortgagee in possession or exercising any rights pursuant to this Mortgage or pursuant to any other instrument or document evidencing or securing any of Mortgagor's Obligations secured hereby, or otherwise.

(q) Care by Mortgagee. Mortgagee shall be deemed to have exercised reasonable care in the custody and preservation of any of the Property in its possession if it takes such action for that purpose as Mortgagor requests in writing, but failure of Mortgagee to comply with any such request shall not be deemed to be (or to be evidence of) a failure to exercise reasonable care, and no failure of Mortgagee to preserve or protect any rights with respect to such Property

against prior parties, or to do any act with respect to the preservation of such Property not so requested by Mortgagor, shall be deemed a failure to exercise reasonable care in the custody or preservation of such Property.

(r) Indemnity. Mortgagor shall indemnify, defend and hold harmless Mortgagee from and against, and, upon demand, reimburse Mortgagee for, all claims, demands, liabilities, losses, damages, judgments, penalties, costs and expenses, including, without limitation, attorneys' and paralegals' fees and disbursements, which may be imposed upon, asserted against or incurred or paid by Mortgagee by reason of, on account of or in connection with any bodily injury or death or property damage occurring in, upon or in the vicinity of the Property through any cause whatsoever, or asserted against Mortgagee on account of any act performed or omitted to be performed under the Loan Documents or on account of any transaction arising out of or in any way connected with the Property or the Loan Documents, except as a result of the willful misconduct or gross negligence of Mortgagee.

(s) Legal Existence. Mortgagor agrees that so long as any of its obligations hereunder, or under any of the Loan Documents, remain unsatisfied, it will not dissolve or liquidate (in whole or in part) its existence, that it will maintain its existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into a corporation, limited liability company, partnership, or other entity, without the prior express written consent of Mortgagee.

(t) Subrogation. To the extent that Mortgagee, on or after the date hereof, pays any sum due under any provision of law or any instrument or document creating any lien prior or superior to the lien of this Mortgage, or Mortgagor or any other person pays any such sum with the proceeds of any loan under Mortgagor's Obligations, Mortgagee shall have and be entitled to a lien on the Property equal in priority to the lien discharged, and Mortgagee shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence and benefit Mortgagee in securing Mortgagor's Obligations. Mortgagee shall be subrogated, notwithstanding their release of record, to any lien under any mortgage or deed of trust, superior titles, vendors' liens, mechanics' liens, and any other liens, charges, encumbrances, rights and equities on the Property, to the extent that any obligation under any thereof is paid or discharged with proceeds of disbursements or advances under the Note or of other Mortgagor's Obligations secured hereby.

(u) Entire Agreement. This Mortgage and its corresponding Exhibits contains the entire agreement of the parties with respect to the Mortgaged Property. No prior agreement, statement, or promise made by any party to this Mortgage that is not contained in this Mortgage will be binding or valid.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Mortgagor, for itself and its successors and assigns, has executed this Line of Credit Instrument, Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing, on the date indicated above.

"MORTGAGOR"

BEACON HILL LAND, LLC,
an Oregon limited liability company

By: [Signature]
MANAGER

STATE OF OR
COUNTY OF Wasco) SS:

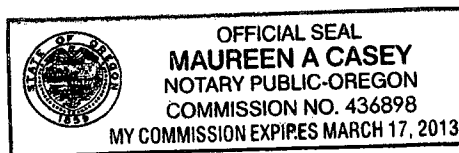
Before me, a Notary Public in and for said County and State, personally appeared Patrick Brown the Manager of Beacon Hill Land, LLC, who, being first duly sworn, acknowledged the execution of the above and foregoing instrument for and on behalf of such entity.

Witness my hand and Notarial Seal this 12 day of DEC, 2012.

My Commission Expires:

3-17-2013
Resident of Wasco County

[Signature]
MAUREEN A CASEY Notary Public
(Printed)



This instrument prepared by (and return recorded instrument to): Keith A. Bice, Bingham Greenebaum Doll LLP, 2700 Market Tower, 10 West Market Street, Indianapolis, IN 46204, (317) 635-8900, with the advice and counsel of J. Richardd Urrutia, Williams Kastner, 888 SW Fifth Avenue, Suite 600, Portland, Oregon 97204, (503) 944-6939.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Keith A. Bice, Attorney at Law.

EXHIBIT A

LEGAL DESCRIPTION OF THE REAL ESTATE

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

PARCEL 1:

Lot 5 Block 36, ORIGINAL TOWN OF KLAMATH FALLS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. EXCEPTING THEREFROM the Southeasterly 8 feet for alley.

PARCEL 2:

One foot strip off of the easterly side of Lot 5, all of the Westerly half of Lot 6, the West half of the East half of Lot 6, and being 50 feet and 10 1/2 inches on Main Street and 120 feet deep in Block 36 in the City of Klamath Falls (being the Original Town of Linkville), as shown on the duly recorded Plat thereof (said grant being further described in Vol. 37, Deed records, at page 131); also an undivided one-half (1/2) interest in and to a seventeen (17) inches off of the Westerly side of the East Half of the East Half (E. 1/2 of E. 1/2) of Lot 6, Block 36, Town of Linkville (now the City of Klamath Falls), and also the right to the use of that certain stairway which now leads to the second floor of the building located and situated on the East 1/2 of the East 1/2 of said Lot 6, in Block 36 (described in Vol. 36, Deed records, at page 213.)

PARCEL 3:

Lots 6, 7 and 8 in Block 85 Klamath Addition to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Tax Parcel Number: R476318 and R476327 and R477068

EXHIBIT B

PERMITTED EXCEPTIONS

1. Real estate taxes and assessments which are a lien, but which are not yet billed, or are billed but are not yet due and payable as of the date of closing and any assessments not shown on the public record.
2. Easements, covenants, restrictions, agreements and/or reservations of record.
3. Any laws, regulations or ordinances (including, but not limited to, zoning, building and environmental matters) as to the use, occupancy, subdivision or improvement of the Property adopted or imposed by any governmental agency, which are now or hereafter in effect relating to the Property.
4. Any other matters set forth in the Commitment No. 7021-1914426 issued by First American Title Company of Oregon, dated July 2, 2012, as amended as of the date hereof.
5. Any encumbrance created in favor of Mortgagee pursuant to the Loan Documents.