

AFTER RECORDING RETURN TO:

UNTIL A CHANGE IS REQUESTED,  
ALL TAX STATEMENTS SHALL BE SENT TO:

Greg Fullem  
Schwabe, Williamson & Wyatt  
1211 SW Fifth Avenue, Suite 1500  
Portland, OR 97204

Oregon International Port of Coos Bay  
P.O. Box 1215  
Coos Bay, OR 97420

CONSIDERATION: \$3,283,980.00

**QUIT CLAIM DEED  
(Douglas County)**

**KNOW ALL MEN BY THESE PRESENTS**, That **Central Oregon & Pacific Railroad, Inc.**, a Delaware corporation, hereinafter called "Grantor," for and in consideration of the dollar amount specified hereinafter and other good and valuable consideration, the receipt whereof is hereby acknowledged by Grantor, does hereby release and quitclaim unto **Oregon International Port of Coos Bay**, an instrumentality of the State of Oregon, hereinafter called "Grantee," all of its right, title and interest, if any, in and to that certain railroad corridor real property located in Douglas County, Oregon and running between the common boundary of Douglas and Coos Counties, OR (Mile Post 749.085+) and the common boundary of Douglas and Lane Counties, OR (Mile Post 727.045+) which property is more specifically described in Exhibit A attached hereto and made a part hereof, hereinafter referred to as the "Premises".

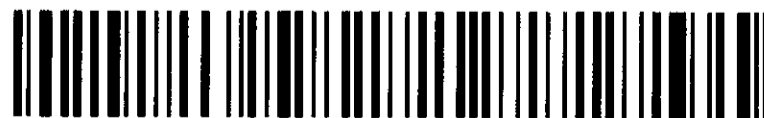
**TOGETHER WITH** all of its right, title and interest, if any, in and to the structures, improvements, fixtures and appurtenances, including, but not limited to, all tracks, rail, ties, ballast, roadbed, switches, bridges, culverts, signals, and other track material (including sidings) on the Premises;

**TOGETHER WITH** all of its right, title and interest, if any, in and to those timber rights with respect to the property described in Exhibit A that were conveyed by RailTex Logistics, Inc. to Central Oregon & Pacific Railroad, Inc. by Timber Quitclaim Deed dated March 5, 2009 and recorded in Book \_\_\_\_\_, Page \_\_\_\_\_ of the Douglas County Official Records at Document No. 2009-005313

**SUBJECT TO** any existing encumbrances which may or may not be revealed by an inspection of the Premises, all existing roads and public utilities; reservations, exceptions, easements, restrictions, existing licenses and other occupancies of the property, both of record

DOUGLAS COUNTY OFFICIAL RECORDS  
BARBARA E. NIELSEN, COUNTY CLERK

2009-005321



\$71.00

00240375200900053210100105

03/13/2009 09:54:10 AM

DEED-QCD Cnt=1 Stn=18 RECORDINGDESK  
\$50.00 \$11.00 \$10.00

TICOR TITLE  
22-57567

and not of record; any applicable laws; taxes and assessments, both general and special, which become due and payable after the date of conveyance and which Grantee assumes and agrees to pay.

**AND, FURTHER SUBJECT TO** those exceptions and reservations made by Southern Pacific Transportation Company in its deed to Grantor dated December 31, 1994 which was recorded in Douglas County Official Records at Document No. 95 00007.

**TO HAVE AND TO HOLD** the same unto Grantee and Grantee's heirs, successors and assigns forever.

**THIS CONVEYANCE** is made on an "AS IS, WHERE IS" basis, without any warranties or representations of any kind or nature whatsoever, express or implied, concerning the condition of title of said Premises, any improvements or other constructions that may be situated thereon, and/or environmental conditions on or affecting the Premises, and Grantee hereby specifically waives any implied warranties (if any) provided by Oregon law. Grantee accepts the Premises in "as is" condition as of the date of this conveyance. Grantee acknowledges that the provisions of this paragraph and the condition of the Premises have been considered as part of the consideration for this conveyance.

The above covenants shall run with the title to the Premises conveyed, and bind upon the Grantee, Grantee's heirs, legal representatives and assigns, or corporate successors and assigns, and anyone claiming title to or holding Premises through Grantee.

The true and actual consideration paid for the transfer, stated in terms of dollars is **\$3,283,980.**


In construing this Deed and where the context so requires, the singular includes the plural, and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and individuals.

**THIS INSTRUMENT WILL 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 APPROVED USES. [ORS 93.040(1)]**

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSERRING TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 THROUGH 195.336, AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING 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 VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 THROUGH 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

IN WITNESS WHEREOF, the said **Central Oregon & Pacific Railroad, Inc.** has hereunto set its seal, this 9<sup>th</sup> day of March 2009.

**CENTRAL OREGON & PACIFIC RAILROAD, INC.**, a Delaware corporation

By:   
Paul A. Lundberg  
Vice President

(Notary on following page)

STATE OF FLORIDA

COUNTY OF Duval

)  
) SS:  
)

Before me, the undersigned, a Notary Public in and for said County, this 9<sup>th</sup> day of March 2009, came Paul Lundberg, Vice President, on behalf of **Central Oregon & Pacific Railroad, Inc.**, and acknowledged the execution of the foregoing instrument.

Sherry C. Jones

Printed Name: Sherry C. Jones

My Commission Expires:

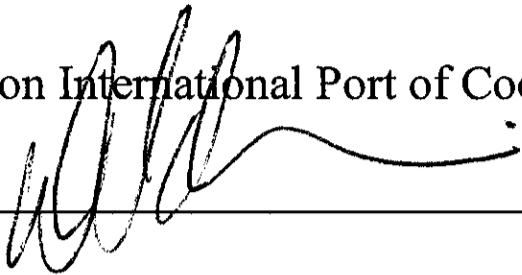
Residing in St Johns County, FL



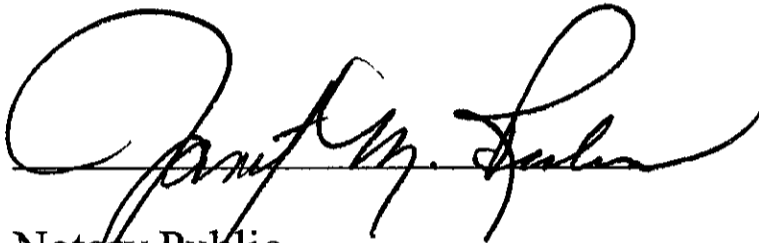
SHERRY C. JONES  
Notary Public, State of Florida  
My Comm. Expires Jan. 22, 2010  
Comm. No. DD 505409

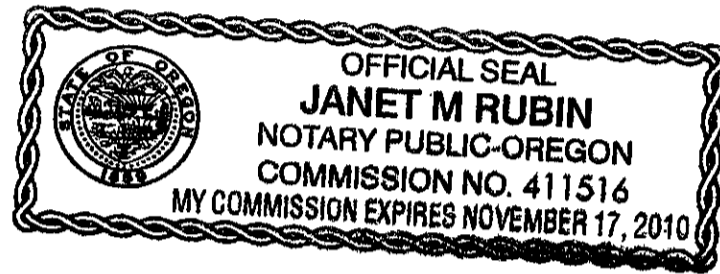
ACCEPTANCE PURSUANT TO ORS 93.808

Pursuant to ORS 93.808, this conveyance is hereby approved and accepted by the Oregon International Port of Coos Bay on this 12 day of March 2009.

Oregon International Port of Coos Bay  
By: 

Sworn and subscribed before me  
this 12 day of March, 2009

  
Notary Public



## Exhibit A

That certain real property conveyed by deed dated by December 31, 1994 from Southern Pacific Transportation Company to Central Oregon & Pacific Railroad, Inc. which was recorded in Douglas County Official Records at Document No. 95 00007, less and excepting the following properties:

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to James Bunch which was recorded in Douglas County Official Records at Document No. 2006-009676:**

A parcel of land lying in the Southeast quarter of the Northwest quarter of Section 35, Township 21 South, Range 12 West, W.M., Douglas County, Oregon, more particularly described as follows:

Commencing at the point of intersection of the Westerly right of way of East Railroad Avenue and the Northerly right of way of Second Street, thence along said Westerly right of way of East Railroad Avenue, South 37°04'00" West 3.05 feet to the center of a concrete flood wall; thence continuing South 37°04'00" West 156.95 feet to a 5/8" iron rod set per Douglas County Survey M148-49 on the Westerly right of way of East Railroad Avenue and the TRUE POINT OF BEGINNING; thence leaving said right of way, North 52° 56'00" West 107.98 feet to a 5/8" iron rod set per M148-49; thence continuing North 52° 56'00" West 10.00 feet to a point lying 30.00 feet perpendicular from the existing railroad centerline; thence along a line parallel to and at a uniform distance of 30.00 feet from the existing railroad centerline, South 37°28'26" West 57.81 feet to a point on the Northeasterly boundary of that parcel described as Parcel 1 per Deed Instrument No. 97-12878, deed records of Douglas County, Oregon, said point lying South 52°42'12" East 9.97 feet from a 5/8" iron rod set per Douglas County Survey M124-55; thence along said Northeasterly boundary, South 52°24'12" East 119.86 feet to a 5/8 iron rod set per said M124-55 on the Westerly right of way line of East Railroad Avenue; thence North 35°37'27" East 58.30 feet to the point of beginning.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to James and Patricia Hatcher which was recorded in Douglas County Official Records at Document No. 2007-006217:**

A portion of the Central Oregon and Pacific Railroad right-of-way which lies in the SW ¼ of the SW ¼ of Section 35, Township 21 South, Range 12 West, W.M., Douglas County, Oregon Described as follows: Beginning at a point which is S 05°35'38"E, 1834.00 feet from the W ¼ corner of said section 35; thence S 87°54'00"E, 130 feet to a 5/8" iron rod; thence along the east boundary of said railroad right-of-way on a curve left having a long chord of S09°20'15"E, 320.45 feet to a 5/8" rebar; thence continuing on said curve left S 22°10'17"E, chord distance 71.83 feet to a 5/8" rebar; thence S 65°44'43"W along said railroad right-of-way for 75.02 feet to a 5/8" rebar; thence S 65°44'43"W along said railroad right-of-way for 75.02 feet to a 5/8" rebar, thence S 65°44'43"W, 55.00 feet to a 5/8" rebar; thence along a curve right with a long chord of N11°35'46"W, 450.09 feet to the point of beginning. Said parcel contains 1.26 acres.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to James and Patricia Hatcher which was recorded in Douglas County Official Records at Document No. 2005-026007 on October 14, 2005:**

A parcel of land lying in the Southwest 1/4 of the Northwest 1/4 of Section 35, Township 21 South, Range 12 West, W.M., Douglas County, Oregon, more particularly described as follows:

Commencing at the point of intersection of the Westerly right-of-way of East Railroad Avenue and the Northerly right-of-way of Second Street, thence along said Westerly right-of-way of East Railroad Avenue, South 37°04'00" West 3.05 feet to the center of a concrete flood wall and the TRUE POINT OF BEGINNING;

Thence continuing South 37°04'00" West 4.00 feet to a 5/8" iron rod;

Thence continuing South 37°04'00" West 152.95 feet to a 5/8" iron rod;

Thence leaving said right-of-way, North 52°56'00" West 107.98 feet to a 5/8" iron rod, said point lying 40.00 feet perpendicular from the existing railroad centerline;

Thence along a line parallel to and 40.00 feet perpendicular from the existing railroad centerline, North 37°28'26" East 165.56 feet to a 5/8" iron rod;

Thence continuing North 37°28'26" East 1.00 foot to the prolongation of the centerline of said concrete flood wall;

Thence South 47°47'31" East 1.50 feet to the end of said wall;

Thence along said wall, South 47°47'31" East 105.72 feet to the point of beginning.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Mortimer Villa which was recorded in Douglas County Official Records at Document No. 2006-007737 on March 24, 2006:**

All of that parcel described pursuant to Deed Vol. 73 Pg. 239, Deed Records of Douglas County, Oregon, and more particularly described as follows:

Beginning at a 5/8" iron rod at the intersection of the North line of the Northwest 1/4 of the Southeast 1/4 of Section 14, Township 22 South, Range 12 West, W.M., Douglas County, Oregon, and a line measured Northwesterly 75 feet perpendicular from the existing railroad centerline (said railroad formerly described as Willamette-Pacific Railroad's "B" line) and said iron rod also lying South 89°33'42" East 813.07 feet from an iron pipe with a brass cap marking the Center 1/4 corner of said Section 14;

Thence in Southwesterly direction, along a line parallel to and at a uniform distance of 75 feet from said railroad centerline, 1110.72 feet, more or less, to a 5/8" iron rod on the West line of said Northwest 1/4;

Thence along the West line of said Northwest 1/4, North 00°02'19" East 761.03 feet to said Center 1/4 corner;

Thence along the North line of said Northwest 1/4, South 89°33'42" East 813.07 feet to the point of beginning.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Sharp Logging which was recorded in Douglas County Official Records at Document No. 2006-6982 on March 16, 2006:**

Commencing at a point located 1457.00 feet East from the West ¼ corner of Section 35, Township 21 South, Range 12 West, W.M., Douglas County, Oregon, said point also being located on the Southerly right-of-way line of Central Oregon and Pacific Railroad Company's railroad, thence North 38 °03'00" East 9.41 feet along said Southerly right of-way to the most Southerly point of that parcel described as Parcel 1 per Deed Inst. #97-12878, Deed Records of Douglas County, Oregon, and the TRUE POINT OF BEGINNING;

Thence along the Southwesterly boundary of said Parcel 1, North 51°57'00" West 125.00 feet to a point lying 25 feet from said railroad's centerline;

Thence along a line 25 feet from and parallel with said centerline, South 38 °03'00" West 185.00 feet;

Thence South 51°57'00" East 125.00 feet to a point on said Southerly right-of-way;

Thence along said Southerly right-of-way, North 38°03'00" East 185.00 feet to the point of beginning.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Jeff Unger:**

A parcel of land located in the SE ¼ of the NW ¼ of Section 35, Township 21 South, Range 12 West of the Willamette Meridian, Douglas County, Oregon, as described in that certain Bargain & Sale Deed by Central Oregon & Pacific Railroad Company, Inc. to Jeff Unger, dated April 29, 1996 and recorded on October 30, 1996 at Document Number 96-22624, Book 1439, Page 574.



**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Jeff Unger:**

A parcel of land located in the SW ¼ and the SE ¼ of the NW ¼ of Section 35 Township 21 South Range 12 West of the Willamette Meridian, Douglas County, Oregon, as described in that certain Bargain & Sale Deed by Central Oregon & Pacific Railroad Company, Inc. to Jeff Unger, dated April 29, 1996, and recorded on May 16, 1996 in the Douglas County Public Records at Document 96-010455, Book 1410, Page 411.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Jeff Unger:**

A parcel of land located in the SE ¼ and the NW ¼ of Section 35, Township 21 South, Range 12 West of the Willamette Meridian, Douglas County, Oregon, as described in that certain Quit Claim Deed by Central Oregon & Pacific Railroad Company, Inc. to Jeff Unger, dated July 11, 1997, and recorded on July 28, 1997 in the Douglas County Public Records at Document 97-15354, Book 1484, Page 862 on July 28, 1997.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Jeff Unger:**

A parcel of land located in the East ½ of Section 35, Township 21 South, Range 12 West of the Willamette Meridian, Douglas County, Oregon, as described in that certain Bargain and Sale Deed by Central Oregon & Pacific Railroad Company, Inc. o Jeff Unger, dated March 27, 1997 and recorded on April 25, 1997 at Document Number 97 – 08789, Book 1468, Page 801.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Gary and Karin Waggoner which was recorded in Douglas County Official Records at Document No. 2006-016356 on June 30, 2006:**

Beginning at a 5/8" iron rod at the intersection of the South line of Parcel 3, Partition Plat 1999-71, Douglas County Survey Records, and a line parallel to and 75 feet Westerly of the existing rail centerline, said iron rod bearing North 70°22'23" East 67.41 feet from a 5/8" iron rod marking the Southwest corner of said Parcel 3;

Thence Southeasterly along a line parallel to and 75 feet from said rail centerline, 299.50 feet along a 1238.54 foot radius curve to the left, the long chord of which bears South 29°21'45" East 298.77 feet, to a 5/8" iron rod;

Thence North 70°22'33" East 57.53 feet to a 5/8" iron rod, said iron rod lying Westerly 20 feet measured perpendicularly from said rail centerline;

Thence Northwesterly along a line parallel to and 20 feet from said rail centerline, 300.00 feet along a 1183.54 foot radius curve to the right, the long chord of which bears North 29°49'38" West 299.20 feet, to a point on the South line of said Parcel 3;

Thence South 70°22'23" West 55.07 feet to the point of beginning.

**WHEN RECORDED RETURN TO:  
OREGON ECONOMIC AND COMMUNITY  
DEVELOPMENT DEPARTMENT  
775 Summer Street NE, Suite 200  
Salem, OR 97301-1280**

000132  
AFTER RECORDING  
RETURN TO  
Ticor Title Insurance  
300 West Anderson Ave - Box 1075  
Coos Bay, OR 97420-0233

No. L09007

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

Grantor: Oregon International Port of Coos Bay, having its office at 125 Central Street, Suite 300, Coos Bay, OR 97420.

Trustee: Ticor Title

Beneficiary: State of Oregon acting by and through its Economic and Community Development Department, having its office at 775 Summer Street NE, Suite 200, Salem, OR 97301-1280.

The tax account numbers for the real property subject to this instrument are set forth in the attached Exhibit B.

THIS TRUST DEED, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING (this "Trust Deed") is made on March 12, 2009, by the OREGON INTERNATIONAL PORT OF COOS BAY, whose address is 125 Central Street, Suite 300, PO Box 1215, Coos Bay, OR 97420, as grantor ("Grantor"), to Ticor Title, having its office at P.O. Box 1075, Coos Bay, OR ("Trustee"), for the benefit of the State of Oregon acting by and through its Economic and Community Development Department, having its office at 775 Summer Street NE, Suite 200, Salem, OR 97301-1280 ("Beneficiary").

WHEREAS, Beneficiary has offered to make two loans to the Oregon International Port of Coos Bay ("Borrower") in the sums of \$7,200,773.00 and \$5,415,214, which loans are to be evidenced by promissory notes of even date with this Trust Deed. The loans, if not sooner paid, are due and payable in full on February 18, 2011 and December 1, 2034, respectively. (The promissory notes as modified, supplemented, extended, renewed, or replaced from time to time are referred to below as collectively and individually without distinction as the "Note"); and

WHEREAS, as a condition to the making of the loan to Borrower, Beneficiary has required, and Grantor has agreed to execute and deliver, this Trust Deed.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and for the purpose of securing the Obligations described in Section 1.1 below, Grantor irrevocably grants, bargains, sells, conveys, assigns, and transfers to Trustee in trust for the benefit and security of the Beneficiary, with power of sale and right of entry and possession, all of Grantor's right, title, and interest in and to the real property located in Coos County, Oregon, and more particularly described in Exhibit A attached to this Trust Deed and incorporated in it (the "Property");

TOGETHER WITH all interests, estates, and rights that Grantor now has or may acquire in (1) the Property, (2) any and all options, agreements, and contracts for the purchase or sale of all or any part or parts of the Property or interests in the Property and all proceeds of them, (3) all easements, rights-of-way, and rights used in connection with the Property or as a means of access to the Property, and (4) all tenements, hereditaments, and appurtenances in any manner belonging, relating, or appertaining to the Property; and

TOGETHER WITH all interests, estates, and rights of Grantor, now owned or hereafter acquired, in and to any land lying within any streets, sidewalks, alleys, strips, and gores adjacent to or used in connection with them; and

Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Coos.doc

COOS COUNTY CLERK, OREGON TOTAL \$136.00  
TERRI L. TURI, CCC, COUNTY CLERK

03/13/2009  
09:50AM

Page 1 of 16  
#2009-2235  
1 OF 19

TOGETHER WITH all rights, titles, and interests of Grantor, now owned or hereafter acquired, in and to any and all buildings and other improvements of every nature now or hereafter located on the Property and all fixtures, machinery, equipment, and other personal property located on the Property or attached to, contained in, or used in any such buildings and other improvements, and all appurtenances and additions to and substitutions and replacements of the Property (all of the foregoing being collectively referred to below as the "Improvements"); and

TOGETHER WITH any and all mineral, oil and gas rights, air rights, development rights, water rights, water stock, and water service contracts, drainage rights, zoning rights, and other similar rights or interests that benefit or are appurtenant to the Property or the Improvements or both, and any of their proceeds; and

TOGETHER WITH all present and future rights in and to the trade name by which all or any portion of the Property and the Improvements are known; all books and records relating to the use and operation of all or any portion of the Property and Improvements; all right, title, and interest of Grantor in, to, and under all present and future plans, specifications, and contracts relating to the design, construction, management, or inspection of any Improvements; all rights, titles, and interests of Grantor in and to all present and future licenses, permits, approvals, and agreements with or from any municipal corporation, county, state, or other governmental or quasi-governmental entity or agency relating to the development, improvement, division, or use of all or any portion of the Property or Improvements to the extent that the trade names, licenses, permits, approvals, and agreements are assignable by law; and all other general intangibles relating to the Property, the Improvements, or their use and operation; and

TOGETHER WITH all rights of Grantor in and to any escrow or withhold agreements, title insurance, surety bonds, warranties, management contracts, construction contracts, leasing and sales agreements, and service contracts that are in any way relevant to the ownership, development, improvement, management, construction, sale, or use of all or any portion of the Property or any of the Improvements; and

TOGETHER WITH Grantor's rights under any payment, performance, or other bond in connection with the construction of any Improvements, and all construction materials, supplies, equipment, and other personal property delivered to the Property or intended to be used in connection with the construction of any Improvements; and

TOGETHER WITH all rights, interests, and claims that Grantor now has or may acquire with respect to any damage to or taking of all or any part of the Property or the Improvements, including without limitation any and all proceeds of insurance in effect with respect to the Improvements, any and all awards made for taking by eminent domain or by any proceeding or purchase in lieu thereof, of the whole or any part of the Property or the Improvements, and any and all awards resulting from any other damage to the Property or the Improvements.

All of the above is sometimes referred to below as the "Trust Property."

TO HAVE AND TO HOLD the Trust Property to Trustee and its successors and assigns for the benefit of Beneficiary and its successors and assigns, forever.

**PROVIDED ALWAYS,** that if all the Obligations (as defined in Section 1.1 below) are paid, performed, and satisfied in full, then the lien and estate granted by this Trust Deed will be reconveyed.

This Trust Deed, the Note, and all other agreements or instruments executed by Grantor or Borrower at any time in connection with them, as they may be amended or supplemented from time to time, are sometimes collectively referred to below as the "Loan Documents."

TO PROTECT THE SECURITY OF THIS TRUST DEED, GRANTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Coos.doc

COOS COUNTY CLERK, OREGON TOTAL \$136.00  
TERRI L. TURI, CCC, COUNTY CLERK

03/13/2009  
09:50AM

Page 2 of 16  
#2009-2235  
2 OF 19

**ARTICLE I**  
**PARTICULAR COVENANTS AND WARRANTIES OF GRANTOR**

**1.1 Obligations Secured.** This Trust Deed secures the following, collectively referred to as the "Obligations":

(1) The payment of all indebtedness, including but not limited to principal and interest, and the performance of all covenants and obligations of Borrower, under the Note, whether such payment and performance is now due or becomes due in the future;

(2) The payment and performance of all covenants and obligations in this Trust Deed, in the other Loan Documents, and in all other security agreements, notes, agreements, and undertakings now existing or hereafter executed by Grantor or Borrower with or for the benefit of Beneficiary; and

(3) The payment and performance of any and all other indebtedness and obligations of Grantor or Borrower to Beneficiary of any nature whatsoever, whether direct or indirect, primary or secondary, joint or several, liquidated or unliquidated, whenever and however arising, and whether or not reflected in a written agreement or instrument.

**1.2 Payment of Indebtedness and Performance of Covenants.** Grantor will duly and punctually pay and perform all of the Obligations.

**1.3 Property.** Grantor warrants that it holds good and merchantable title to the Property and the Improvements, free and clear of all liens, encumbrances, reservations, restrictions, easements, and adverse claims except those specifically listed in Exhibit C. Grantor covenants that it will forever defend Beneficiary's and Trustee's rights under this Trust Deed against the adverse claims and demands of all persons, except those listed in Exhibit C.

**1.4 Further Assurances, Filing, Refiling, Etc.**

(1) Grantor will execute, acknowledge, and deliver, from time to time, any further instruments that Beneficiary or Trustee may require to accomplish the purposes of this Trust Deed.

(2) Immediately on the execution and delivery of this Trust Deed, and thereafter from time to time, Grantor will cause this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and each instrument of further assurance, to be recorded and rerecorded in the manner and in the places that may be required by any present or future law in order to perfect, and continue perfected, the lien and estate of this Trust Deed.

(3) Grantor will pay all filing and recording fees, and all expenses incident to the execution, filing, recording, and acknowledgment of this Trust Deed; any security agreement, mortgage, or deed of trust supplemental to this Trust Deed and any instrument of further assurance; and all federal, state, county, and municipal taxes, assessments, and charges arising out of or in connection with the execution, delivery, filing, and recording of this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and any instrument of further assurance.

**1.5 Compliance with Laws.** Grantor further represents, warrants, and covenants that:

(1) To the best of Grantor's knowledge, the Property, if developed, has been developed, and all Improvements, if any, have been constructed and maintained, in full compliance with all applicable laws, statutes, ordinances, regulations, and codes of all federal, state, and local governments (collectively "Laws"), and all covenants, conditions, easements, and restrictions affecting the Property (collectively, "Covenants"); and

(2) Grantor will cause the Property and its operations on the Property to comply at all times hereafter, in all material respects, with all applicable Laws and Covenants.

Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Coos.doc

COOS COUNTY CLERK, OREGON TOTAL \$136.00  
TERRI L. TURI, CCC, COUNTY CLERK

03/13/2009  
09:50AM

Page 3 of 16  
#2009-2235  
3 OF 19

## 1.6 Definitions, Environmental Covenants, Warranties, and Compliance

(1) For purposes of this section, "Environmental Law" means any federal, state, or local law, statute, ordinance, or regulation pertaining to Hazardous Substances, health, industrial hygiene, or environmental conditions, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 USC §§9601-9675, and the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended, 42 USC §§6901-6992.

(2) For the purposes of this section, "Hazardous Substance" includes without limitation any material, substance, or waste that is or becomes regulated or that is or becomes classified as hazardous, dangerous, or toxic under any federal, state, or local statute, ordinance, rule, regulation, or law.

(3) Grantor will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under, or about the Property or the Property's groundwater, or transport to or from the Property, any Hazardous Substance and will not permit any other person to do so, except for any Hazardous Substances that may be used in the ordinary course of Grantor's business and in compliance with all Environmental Laws, including but not limited to those relating to licensure, notice, and recordkeeping.

(4) Grantor will keep and maintain the Property in compliance with, and will not cause or permit all or any portion of the Property, including groundwater, to be in violation of any Environmental Law.

(5) Grantor will give prompt written notice to Beneficiary of:

(a) Any proceeding, inquiry, or notice by or from any governmental authority with respect to any alleged violation of any Environmental Law or the presence of any Hazardous Substance on the Property or the migration of any Hazardous Substance from or to other premises;

(b) All known claims made or threatened by any person against Grantor or with respect to the Property or Improvements relating to any loss or injury resulting from any Hazardous Substance or the violation of any Environmental Law;

(c) The existence of any known Hazardous Substance on or about all or any portion of the Property; or

(d) Grantor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could in Grantor's judgment cause any restrictions on the ownership, occupancy, transferability, or use of the Property under any Environmental Law.

(6) Grantor will promptly provide to Beneficiary copies of all reports, documents, and notices provided to or received from any agency administering any Environmental Laws. Beneficiary will have the right to join and participate, in its own name if it so elects, in any legal proceeding or action initiated with respect to the Property or Improvements in connection with any Environmental Law and to have its attorney fees in connection with such an action paid by Grantor, if Beneficiary determines that such participation is reasonably necessary to protect its interest in the Trust Property.

(7) If at any time Beneficiary has reason to believe that any release, discharge, or disposal of any Hazardous Substance affecting the Property or Improvements has occurred or is threatened, or if Beneficiary has reason to believe that a violation of an Environmental Law has occurred or may occur with respect to the Property or Improvements, Beneficiary may require Grantor to obtain or may itself obtain, at Grantors' expense, an environmental assessment of such condition or threatened condition by a qualified environmental consultant. Grantor shall promptly provide to Beneficiary a complete copy of any environmental assessment obtained by Grantor.

Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Coos.doc

COOS COUNTY CLERK, OREGON TOTAL \$136.00  
TERRI L. TURI, CCC, COUNTY CLERK

03/13/2009  
09:50AM

Page 4 of 16  
#2009-2235  
4 OF 19

(8) If any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature (the "Remedial Work") is required under any applicable Environmental Law, by any judicial order, or by any governmental agency or person because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a Hazardous Substance on, under, or about all or any portion of the Property, or the contamination (whether currently existing or occurring after the date of this Trust Deed) of the buildings, facilities, soil, groundwater, surface water, air, or other elements on or under any other property as a result of Hazardous Substances emanating from the Property, Grantor will, within 30 days after written demand by Beneficiary for Grantor's performance under this provision (or such shorter period of time as may be required under any applicable law, regulation, order, or agreement), commence and thereafter diligently prosecute to completion, all such Remedial Work. Grantor will pay all costs and expenses of that Remedial Work, including, without limitation, Beneficiary's reasonable attorney fees and costs incurred in connection with monitoring or reviewing the legal aspects of the Remedial Work. If Grantor fails to timely commence, or cause to be commenced, the Remedial Work, Beneficiary may, but will not be required to, cause the Remedial Work to be performed. In that event, all costs and expenses incurred in connection with the Remedial Work will become part of the Obligations secured by this Trust Deed and will bear interest until paid at the rate of five percent (5%) per annum.

(9) Grantor will hold Beneficiary and its directors, officers, employees, agents, successors, and assigns, harmless from, will indemnify them for, and will defend them against any and all losses, damages, liens, costs, expenses, and liabilities directly or indirectly arising out of or attributable to any violation of any Environmental Law, any breach of Grantor's warranties in this Section 1.6, or the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a Hazardous Substance on, under, or about the Property, including without limitation the costs of any required repair, cleanup, containment, or detoxification of the Property, the preparation and implementation of any closure, remedial or other required plans, attorney fees and costs (including but not limited to those incurred in any proceeding and in any review or appeal), fees, penalties, and fines.

(10) Grantor represents and warrants to Beneficiary that:

(a) Neither the Property, to the best of Grantor's knowledge, nor Grantor is in violation of or subject to any existing, pending, or threatened investigation by any governmental authority under any Environmental Law.

(b) Grantor has not and is not required by any Environmental Law to obtain any permit or license other than those it has obtained, or will obtain, to construct or use the Improvements.

(c) To the best of Grantor's knowledge, no Hazardous Substance has ever been used, generated, manufactured, produced, stored, released, discharged, or disposed of on, under, or about the Property in violation of any Environmental Law, except as previously disclosed to Beneficiary.

(11) All representations, warranties, and covenants in this Section 1.6 will survive the satisfaction of the Obligations, the reconveyance of the Trust Property, or the foreclosure of this Trust Deed by any means.

**1.7 Maintenance and Improvements.** Grantor will not permit all or any part of the Improvements to be removed, demolished, or materially altered without Beneficiary's prior written consent, except for those Improvements that become obsolete in the usual conduct of Grantor's business and as long as the removal or material alteration of the obsolete Improvements does not materially detract from the operation of Grantor's business and as long as all obsolete Improvements that are demolished or removed are promptly replaced with Improvements of like value and quality. Grantor will maintain every portion of the Property and Improvements in good repair, working order, and condition, except for reasonable wear

Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Coos.doc

COOS COUNTY CLERK, OREGON TOTAL \$136.00  
TERRI L. TURI, CCC, COUNTY CLERK

Page 5 of 16  
#2009-2235  
03/13/2009 09:50AM 5 OF 19

and tear, and will at Beneficiary's election restore, replace, or rebuild all or any part of the Improvements now or hereafter damaged or destroyed by any casualty (whether or not insured against or insurable) or affected by any Condemnation (as defined in Section 1.16 below). Grantor shall have a reasonable period of time to repair and rehabilitate any Improvements that are not currently in good repair or operating condition. Grantor will not commit, permit, or suffer any waste, strip, or deterioration of the Trust Property.

**1.8 Liens.** Grantor will pay when due all claims for labor, materials, or supplies that if unpaid might become a lien on all or any portion of the Trust Property. Grantor will not create, or suffer, or permit to be created, any mortgage, deed of trust, lien, security interest, charge, or encumbrance on the Trust Property prior to, on a parity with, or subordinate to the lien of this Trust Deed, except as specifically provided in Exhibit C, or except as consented to in writing by Beneficiary.

### **1.9 Impositions**

(1) Grantor will pay or cause to be paid, when due and before any fine, penalty, interest, or cost attaches, all taxes, assessments, fees, levies, and all other governmental and nongovernmental charges of every nature now or hereafter assessed or levied against any part of the Trust Property (including, without limitation, levies or charges resulting from Covenants), or on the lien or estate of Beneficiary or Trustee (collectively, the "Impositions"); however, if by law any such Imposition may be paid in installments, whether or not interest will accrue on the unpaid balance, Grantor may pay the same in installments, together with accrued interest on the unpaid balance, as the same become due, before any fine, penalty, interest or cost attaches.

(2) Grantor may, at its expense and after prior notice to Beneficiary, contest by appropriate legal, administrative, or other proceedings conducted in good faith and with due diligence, the amount, validity, or application, in whole or in part, of any Imposition or lien on the Trust Property or any claim of any laborer, materialman, supplier, or vendor or lien, and may withhold payment of the same pending completion of the proceedings if permitted by law, provided that (a) such proceedings will suspend collection from the Trust Property; (b) no part of or interest in the Trust Property will be sold, forfeited, or lost if Grantor pays the amount or satisfies the condition being contested, and Grantor would have the opportunity to do so in the event of Grantor's failure to prevail in the contest; (c) neither Beneficiary nor Trustee will, by virtue of the permitted contest, be exposed to any risk of liability for which Grantor has not furnished additional security as provided in clause (d) below; and (d) Grantor furnishes to Beneficiary cash, corporate surety bond, or other additional security in respect of the claim being contested or the loss or damage that may result from Grantor's failure to prevail in the contest in an amount sufficient to discharge the Imposition and all interest, costs, attorney fees, and other charges that may accrue in connection with the Imposition. Grantor will promptly satisfy any final judgment.

(3) Grantor will furnish to Beneficiary, promptly upon request, satisfactory evidence of the payment of all Impositions. Beneficiary is hereby authorized to request and receive from the responsible governmental and nongovernmental personnel written statements with respect to the accrual and payment of all Impositions.

**1.10 Books and Records and Inspection of the Property.** Grantor will keep complete and accurate records and books of account with respect to the Trust Property and its operation in accordance with generally accepted accounting principles consistently applied. Grantor will permit Trustee, Beneficiary, and their authorized representatives to enter and inspect the Property and the Improvements, and to examine and make copies or extracts of the records and books of account of the Grantor with respect to the Property and the Improvements, all at any reasonable times as Beneficiary or Trustee may choose.

Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Coos.doc

COOS COUNTY CLERK, OREGON TOTAL \$136.00  
TERRI L. TURI, CCC, COUNTY CLERK

03/13/2009  
09:50AM

Page 6 of 16  
#2009-2235  
6 OF 19



**1.11 Limitations on Use.** Grantor will not initiate, join in, or consent to any rezoning or replatting of the Property or any change in any covenant or other public or private restrictions limiting or defining the uses that may be made of all or any part of the Property and the Improvements without the prior written consent of Beneficiary.

**1.12 Insurance**

(1) *Property and Other Insurance.* Grantor will obtain and maintain in full force and effect during the term of this Trust Deed: (a) Special Form property insurance together with endorsements for replacement cost, inflation adjustment, malicious mischief, and sprinkler damage coverages, all in amounts not less than the full replacement cost of all Improvements, without reduction for coinsurance; (b) comprehensive general liability insurance, including liabilities assumed under contract, with limits, coverages, and risks insured acceptable to Beneficiary, and in no event less than \$1 million combined single-limit coverage; and (c) unless Beneficiary otherwise agrees in writing, rent loss or business interruption insurance in an amount no less than the total annual rents provided for in all leases for the Trust Property. In addition, Grantor will obtain and maintain all other insurance coverages designated by Beneficiary, which at the time are commonly carried for similar property, in any amounts that Beneficiary may require.

(2) *Insurance Companies and Policies.* All insurance must (a) be written by a company or companies reasonably acceptable to Beneficiary with a rating of A-, VIII or better as provided in BEST'S KEY RATING GUIDE-PROPERTY/CASUALTY (A.M. Best & Co., 2007); (b) contain a long-form mortgagee clause in favor of Beneficiary with loss proceeds under any policy payable to Beneficiary, subject to the terms of this Trust Deed and the rights of any superior mortgagee or trust deed beneficiary or as provided in Section 5.10 below; (c) require 30 days' prior written notice to Beneficiary of cancellation or reduction in coverage; (d) contain waivers of subrogation and endorsements that no act or negligence of Grantor or any occupant, and no occupancy or use of the Property for purposes more hazardous than permitted by the terms of the policy, will affect the validity or enforceability of such insurance as against Beneficiary; (e) be in full force and effect on the date of this Trust Deed; and (f) be accompanied by proof of premiums paid for the current policy year. Beneficiary must be named as an additional insured on all liability policies. Grantor will forward to Beneficiary, on request, certificates executed by the insurer or its agent evidencing the coverages required under this Trust Deed and copies of all policies. If a blanket policy is issued, a certified copy of the policy must be furnished together with a certificate indicating that the Trust Property and Beneficiary are insured under that policy in the proper designated amount.

(3) *Assignments of Policies on Foreclosure.* In the event of foreclosure of the lien of this Trust Deed or other transfer of title, or assignment of the Trust Property in whole or in part, all right, title, and interest of Grantor in and to all policies of insurance procured under Section 1.12 will inure to the benefit of and pass to the successors in interest of Grantor or the purchaser or grantee of all or any part of the Trust Property.

(4) *Notice and Proof of Loss.* After the occurrence of any casualty to the Property, whether or not required to be insured against as provided in this Trust Deed, Grantor will give prompt written notice of the casualty to Beneficiary, specifically describing the nature and cause of the casualty and the extent of the damage or destruction to the Trust Property. Beneficiary may make proof of loss if it is not made promptly and to Beneficiary's satisfaction by Grantor.

(5) *Restoration and Use of Proceeds.* Subject to the rights of any superior mortgagee or trust deed beneficiary as provided in Section 5.10 below, Grantor assigns to Beneficiary all insurance proceeds that Grantor may be entitled to receive with respect to any casualty. Beneficiary may, at its sole option, apply the insurance proceeds to the reduction of the Obligations in any order that Beneficiary may determine, whether or not the obligations are then due, or apply all or any portion of the insurance proceeds to the cost of restoring and rebuilding the portion of the Trust Property that was damaged or destroyed. If Beneficiary elects to apply the insurance proceeds to rebuilding and restoration, Beneficiary will be entitled to hold the proceeds, and the proceeds will be released only on the terms and conditions that Beneficiary may require in its sole discretion, including but not limited to prior approval of plans and release or waiver of construction liens. No proceeds will be released if an event of default under this Trust Deed has occurred.

### 1.13 Actions to Protect Trust Property; Reserves

(1) If Grantor fails to obtain the insurance required by Section 1.12, fails to make the payments required by Section 1.9 (other than payments that Grantors is contesting in accordance with Section 1.9(2)), or fails to perform or observe any of its other covenants or agreements under this Trust Deed, Beneficiary may, without obligation to do so, obtain or pay the same or take other action that it deems appropriate to remedy such failure. All sums, including reasonable attorney fees, so expended or expended to maintain the lien or estate of this Trust Deed or its priority, or to protect or enforce any of Beneficiary's rights, or to recover any indebtedness secured by this Trust Deed, will be a lien on the Trust Property, will be secured by this Trust Deed, and will be paid by Grantor on demand, together with interest at the rate provided in the Note. No payment or other action by Beneficiary under this section will impair any other right or remedy available to Beneficiary or constitute a waiver of any default. The following notice is provided pursuant to ORS 746.201(1):

#### WARNING:

Unless Grantor provides Beneficiary with evidence of the insurance coverage as required by this Trust Deed, 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 collateral becomes damaged, the coverage Beneficiary purchases may not pay any claim Grantor make or any claim made against Grantor. Grantor may later cancel this coverage by providing evidence that Grantor has obtained property coverage elsewhere.

Grantor are responsible for the cost of any insurance purchased by Beneficiary. The cost of this insurance may be added to the Obligations secured by this Trust Deed. If the cost is added to the Obligations secured by this Trust Deed, the interest rate of five percent (5%) per annum 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 its own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

(2) If Grantor fails to promptly perform any of its obligations under Section 1.9 or 1.12 of this Trust Deed, Beneficiary may require Grantor thereafter to pay and maintain with Beneficiary reserves for payment of such obligations. In that event, Grantor will pay to Beneficiary each month a sum estimated by Beneficiary to be sufficient to produce, at least 20 days before due, an amount equal to the Impositions and/or insurance premiums. If the sums so paid are insufficient to satisfy any Imposition or insurance premium when due, Grantor will pay any deficiency to Beneficiary on demand. The reserves may be commingled with Beneficiary's other funds, and Beneficiary will not be required to pay interest to Grantor on those reserves. Beneficiary will not hold the reserve in trust for Grantors, and Beneficiary will not be the agent of Grantor for payment of the taxes and assessments required to be paid by Grantor.

Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Coos.doc

COOS COUNTY CLERK, OREGON TOTAL \$136.00  
TERRI L. TURI, CCC, COUNTY CLERK

03/13/2009  
09:50AM

Page 8 of 16  
#2009-2235  
8 OF 19

**1.14 Estoppel Certificates.** Within five days of Beneficiary's request, Grantor will give Trustee and Beneficiary a written statement, duly acknowledged, of the amount of the Obligations secured by this Trust Deed and whether any offsets or defenses exist against the Obligations. If Grantor fails to provide this statement within the time allowed, Beneficiary will be authorized, as Grantor's attorney-in-fact, to execute and deliver the statement. On request, Grantor will also use its best efforts to obtain and deliver to Beneficiary a written certificate from each lessee of all or any portion of the Property that its lease is in effect, that there are no defaults by the lessor under the lease, and that rent is not paid more than 30 days in advance.

**1.15 Financial Information.** Grantor will promptly provide to Beneficiary any and all financial information required to be provided by any of the Loan Documents or that Beneficiary may reasonably request from time to time.

**1.16 Condemnation**

(1) If any part of or interest in the Trust Property is taken or damaged by reason of any public improvement, eminent domain, condemnation proceeding, or in any similar manner (a "Condemnation"), or if Grantor receives any notice or other information regarding such action, Grantor will give immediate notice of the action to Beneficiary.

(2) Subject to the rights of any superior mortgagee or trust deed beneficiary as provided in Section 5.10 below, Beneficiary will be entitled to all compensation, awards, and other payments or relief ("Condemnation Proceeds") up to the full amount of the Obligations, and will be entitled, at its option, to commence, appear in, and prosecute any Condemnation proceeding in its own or Grantor's name and make any compromise or settlement in connection with such Condemnation. If the Trust Property is taken in its entirety by Condemnation, all Obligations secured by this Trust Deed, at Beneficiary's election, will become immediately due and collectible.

(3) Beneficiary may, at its sole option, apply the Condemnation Proceeds to the reduction of the Obligations in any order that Beneficiary may determine, or apply all or any portion of the Condemnation Proceeds to the cost of restoring and improving the remaining Trust Property. If Beneficiary elects to apply the Condemnation Proceeds to restoration and improvement, the proceeds will be held by Beneficiary and will be released only on any terms and conditions that Beneficiary may require in its sole discretion, including but not limited to prior approval of plans and release or waiver of liens. No Condemnation Proceeds will be released if an event of default under this Trust Deed has occurred.

**ARTICLE II  
ASSIGNMENT OF LEASES, RENTS, ISSUES, AND PROFITS**

**2.1 Assignment.** Grantor assigns and transfers to Beneficiary (1) all leases, subleases, licenses, rental contracts, and other agreements, whether now existing or hereafter arising, and relating to the occupancy or use of all or any portion of the Trust Property, including all modifications, extensions, and renewals of them (the "Leases"), and (2) all rents, revenues, issues, profits, income, proceeds, and benefits derived from the Trust Property and the lease, rental, or license of all or any portion of them, including but not limited to lease and security deposits (collectively, the "Rents"). This assignment is intended by Grantor and Beneficiary to create a present and unconditional assignment to Beneficiary, subject only to the license set forth in Section 2.4 below.

Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Coos.doc

COOS COUNTY CLERK, OREGON TOTAL \$136.00  
TERRI L. TURI, CCC, COUNTY CLERK

03/13/2009  
09:50AM

Page 9 of 16  
#2009-2235  
9 OF 19

**2.2 Rights of Beneficiary.** Subject to the provisions of Section 2.4 below giving Grantor a revocable, limited license, Beneficiary will have the right, power, and authority to:

(1) Notify any and all tenants, renters, licensees, and other obligors under any of the Leases that the same have been assigned to Beneficiary and that all Rents are to be paid directly to Beneficiary, whether or not Beneficiary has foreclosed or commenced foreclosure proceedings against the Trust Property, and whether or not Beneficiary has taken possession of the Trust Property;

(2) Discount, settle, compromise, release, or extend the time for payment of, any amounts owing under any of the Leases and any Rents, in whole or in part, on terms acceptable to Beneficiary;

(3) Collect and enforce payment of Rents and all provisions of the Leases, and to prosecute any action or proceeding, in the name of Grantor or Beneficiary, with respect to any and all Leases and Rents; and

(4) Exercise any and all other rights and remedies of the lessor in connection with any of the Leases and Rents.

**2.3 Application of Receipts.** Beneficiary will have the right, power, and authority to use and apply any Rents received under this Trust Deed (1) for the payment of any and all costs and expenses incurred in connection with enforcing or defending the terms of this assignment or the rights of Beneficiary, and in collecting any Rents; and (2) for the operation and maintenance of the Trust Property and the payment of all costs and expenses in connection therewith, including but not limited to the payment of utilities, taxes, assessments, governmental charges, and insurance. After the payment of all such costs and expenses, and after Beneficiary has set up any reserves that it deems necessary in its sole discretion for the proper management of the Trust Property, Beneficiary will apply all remaining Rents collected and received by it to the reduction of the Obligations in any order that Beneficiary may determine. Beneficiary's exercise or failure to exercise any of the rights or powers granted in this assignment will not constitute a waiver of any default under this Trust Deed, the Note, or any of the other Loan Documents.

**2.4 License.** Beneficiary hereby grants to Grantor a revocable license to collect and receive the Rents. This license may be revoked by Beneficiary, without notice to Grantor, on the occurrence of any event of default under this Trust Deed, including any default by Grantor of its covenants in this Article II. Unless and until the license is revoked, Grantor agrees to apply the proceeds of Rents to the payment of the Obligations and to the payment of taxes, assessments, governmental charges, insurance premiums, and other obligations in connection with the Trust Property, and to the maintenance of the Trust Property, before using the proceeds for any other purpose. Grantor agrees to (1) observe and perform every obligation of Grantor under the Leases, (2) enforce or secure at its expense the performance of every obligation to be performed by any lessee or other party under the Leases, (3) promptly give notice to Beneficiary of any default by any such lessee or other party under any of the Leases, and promptly provide Beneficiary with a copy of any notice of default given to any such lessee or other party, (4) not collect any Rents more than 30 days in advance of the time when they become due, or anticipate any other payments under the Leases, except for bona fide security deposits not in excess of an amount equal to two months' rent, (5) not further assign or hypothecate any of the Leases or Rents, (6) except with Beneficiary's prior written consent, not waive, release, or in any other manner discharge any lessee or other party from any of its obligations under any of the Leases, (7) except with Beneficiary's prior written consent, not modify or amend any of the Leases, (8) except with Beneficiary's prior written consent, not cancel, terminate, or accept surrender of any of the Leases unless Grantor has entered into a Lease for the space to be vacated on terms at least as favorable to Grantor, commencing within 30 days after such cancellation, termination, or surrender, (9) obtain Beneficiary's prior written approval on the form and content of all future leases and any modifications of any present or future leases, (10) deliver copies of all present and future leases to Beneficiary promptly, and

Trust Deed (No. L09007)

(11) appear in and defend, at Grantor's sole cost and expense, any action or proceeding arising out of or in connection with the Leases or the Rents. If any Lease is rejected in any proceeding under the federal Bankruptcy Code or any other federal, state, or local statute, no damage settlement may be made without the prior written consent of Beneficiary. Grantor will request that any check in payment of damages for rejection or termination of any such Lease be made payable to both Grantor and Beneficiary. Grantor hereby assigns any such payment to Beneficiary.

**2.5 Limitation of Beneficiary's Obligations.** Notwithstanding the assignment provided for in this Article II, Beneficiary will not be obligated to perform or discharge, and Beneficiary does not undertake to perform or discharge, any obligation or liability with respect to the Leases or the Rents. This assignment will not operate to place responsibility for the control, care, maintenance, or repair of the Trust Property on Beneficiary, or to make Beneficiary responsible for any condition of the Property. Beneficiary will be accountable to Grantor only for the sums actually collected and received by Beneficiary under to this assignment. Grantor will hold Beneficiary fully harmless from, indemnify Beneficiary for, and defend Beneficiary against any and all claims, demands, liabilities, losses, damages, and expenses, including attorney fees, arising out of any of the Leases, with respect to any of the Rents, or in connection with any claim that may be asserted against Beneficiary on account of this assignment or any obligation or undertaking alleged to arise therefrom.

**2.6 Termination.** The assignment provided for in this Article II will continue in full force and effect until all the Obligations have been fully paid and satisfied. At such time, this assignment and the authority and powers herein granted by Grantor to Beneficiary will cease and terminate.

**2.7 Attorney-in-Fact.** Grantor irrevocably constitutes and appoints Beneficiary, and each of its officers, as its true and lawfully attorney-in-fact, with power of substitution, to undertake and execute any and all of the rights, powers, and authorities described in this Article II with the same force and effect as if undertaken or performed by Grantor, and Grantor ratifies and confirms any and all such actions that may be taken or omitted to be taken by Beneficiary, its employees, agents, and attorneys.

### ARTICLE III SECURITY AGREEMENT AND FIXTURE FILING

To secure the Obligations, Grantor grants to Beneficiary a security interest in the following: (1) the Trust Property to the extent that it is not encumbered by this Trust Deed as a real estate lien; (2) all personal property that is used or will be used in the construction of any Improvements on the Trust Property; (3) all personal property that is now or will hereafter be placed on or in the Trust Property or Improvements; (4) all personal property that is derived from or used in connection with the use, occupancy, or enjoyment of the Trust Property; (5) all property defined in Oregon's version of the Uniform Commercial Code ("UCC"), as accounts, equipment, fixtures, and general intangibles, to the extent that they are used at, or arise in connection with the ownership, maintenance, or operation of, the Trust Property; (6) all causes of action, claims, security deposits, advance rental payments, utility deposits, refunds of fees or deposits paid to any governmental authority, refunds of taxes, and refunds of insurance premiums relating to the Trust Property; (7) all options, agreements, and contracts for the purchase or sale of all or any part or parts of the Trust Property or interests in the Trust Property; and (8) all present and future attachments, accessions, amendments, replacements, additions, products, and proceeds of every nature of the foregoing. This Trust Deed constitutes a security agreement and a "fixture filing" under the UCC regarding secured transactions. The mailing address of Grantor and the address of Beneficiary from which information may be obtained are set forth at the outset of this Trust Deed. The organizational identification number of Grantor is 93-6001830. Grantor authorizes Beneficiary to file with all applicable governmental entities financing statements and continuation statements evidencing the security interest granted herein.

Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Coos.doc

COOS COUNTY CLERK, OREGON TOTAL \$136.00  
TERRI L. TURI, CCC, COUNTY CLERK

03/13/2009  
09:50AM

Page 11 of 16  
#2009-2235  
11 OF 19

**ARTICLE IV  
EVENTS OF DEFAULT AND REMEDIES**

**4.1 Events of Default.** Each of the following events will constitute an event of default under this Trust Deed and under each of the other Loan Documents:

(1) *Nonpayment.* Failure of Grantor or Borrower to pay any of the Obligations on or before the due date or within any applicable grace period.

(2) *Breach of Other Covenants.* Failure of Grantor or Borrower to perform or abide by any other covenant included in the Obligations, including without limitation those covenants in the Note, this Trust Deed, or any other Loan Document.

(3) *Misinformation.* Falsity when made in any material respect of any representation, warranty, or information furnished by Grantor or its agents to Beneficiary in or in connection with any of the Obligations.

(4) *Other Default.* The occurrence of any other event of default under the Note or any of the other Obligations.

(5) *Other Indebtedness, Secondary Financing.* Grantor's default beyond the applicable grace periods in the payment of any other indebtedness owed by Grantor to any person, if the indebtedness is secured by all or any portion of the Trust Property.

(6) *Bankruptcy.* The occurrence of any of the following with respect to Grantor, Borrower, any guarantor of the Obligations, or the then-owner of the Trust Property: (a) 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 Trust Property.

(7) *Transfer; Due-on-Sale; Due-on-Encumbrance.* Any sale, gift, conveyance, contract for conveyance, transfer, assignment, encumbrance, pledge, or grant of a security interest in all or any part of the Trust Property, or any interest therein, either voluntarily, involuntarily, or by the operation of law (a "Transfer"), without Beneficiary's prior written consent, will constitute an event of default. For the purpose of clarification, and without limiting the generality of the foregoing, the occurrence at any time of any sale, conveyance, assignment, or other transfer of, or the grant of a pledge of or security interest in, any shares of the capital stock, membership or partnership or other beneficial interest in or of Grantor will be deemed to be a Transfer in violation of this subsection (7). The provisions of this subsection (7) will apply to each and every Transfer, regardless of whether or not Beneficiary has consented or waived its rights in connection with any previous Transfer. Beneficiary may attach any conditions to its consent under this subsection (7) that Beneficiary may determine in its sole discretion, including without limitation an increase in the interest rate or the payment of transfer or assumption fees, and the payment of administrative and legal fees and costs incurred by Beneficiary.

**4.2 Remedies in Case of Default.** If an Event of Default occurs, Beneficiary or Trustee may exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available by law, in equity, or otherwise:

(1) *Acceleration.* Beneficiary may declare all or any portion of the Obligations immediately due and payable.

Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Coos.doc

COOS COUNTY CLERK, OREGON      TOTAL \$156.00  
TERRI L. TURI, CCC, COUNTY CLERK

05/15/2009  
09:50AM

Page 12 of 16  
#2009-2235  
12 OF 19

(2) *Receiver.* Beneficiary may have a receiver appointed for the Trust Property. Beneficiary will be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Trust Property exceeds the amount of the indebtedness secured by this Trust Deed. Employment by Trustee or Beneficiary will not disqualify a person from serving as receiver. Grantor consents to the appointment of a receiver at Beneficiary's option and waives any and all defenses to such an appointment.

(3) *Possession.* Beneficiary may, either through a receiver or as lender-in-possession, enter and take possession of all or any part of the Trust Property and use, operate, manage, and control it as Beneficiary shall deem appropriate in its sole discretion. Upon request after an Event of Default, Grantor will peacefully relinquish possession and control of the Trust Property to Beneficiary or any receiver appointed under this Trust Deed.

(4) *Rents.* Beneficiary may revoke Grantor's right to collect the Rents, and may, either itself or through a receiver, collect the Rents. Beneficiary will not be deemed to be in possession of the Property solely by reason of exercise of the rights contained in this subsection (4). If Beneficiary collects the Rents under this subsection (4), Grantor hereby irrevocably appoints Beneficiary as Grantor's attorney-in-fact, with power of substitution, to endorse instruments received in payment of the Rents in the name of Grantor and to negotiate such instruments and collect their proceeds. After payment of all Obligations, any remaining amounts will be paid to Grantor and this power will terminate.

(5) *Power of Sale.* Beneficiary may direct Trustee, and Trustee will be empowered, to foreclose this Trust Deed by advertisement and sale under applicable law.

(6) *Foreclosure.* Beneficiary may judicially foreclose this Trust Deed and obtain a judgment foreclosing Grantor's interest in all or any part of the Property and giving Beneficiary the right to collect any deficiency remaining due after disposition of the Trust Property.

(7) *Abandonment.* Beneficiary may abandon all or any portion of the Trust Property by written notice to Grantor.

**4.3 Sale.** In any sale under this Trust Deed or pursuant to any judgment, the Trust Property, to the extent permitted by law, may be sold as an entirety or in one or more parcels and in any order that Beneficiary may choose, without regard to the right of Grantor, Borrower, any person claiming under Grantor or Borrower, or any guarantor or surety to the marshalling of assets. The purchaser at any such sale will take title to the Trust Property or the part of it so sold, free and clear of Grantor's estate, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Beneficiary and its officers, agents, and employees, may purchase at any such sale. Beneficiary and each of its officers are irrevocably appointed Grantor's attorney-in-fact, with power of substitution, to make all appropriate transfers and deliveries of the Trust Property or any portions of it so sold and, for that purpose, Beneficiary and its officers may execute all appropriate instruments of transfer. Nevertheless, Grantor will ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to Beneficiary or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Beneficiary, for that purpose.

**4.4 Cumulative Remedies.** All remedies under this Trust Deed are cumulative and not exclusive. Any election to pursue one remedy will not preclude the exercise of any other remedy. An election by Beneficiary to cure under Section 1.13 will not constitute a waiver of the default or of any of the remedies provided in this Trust Deed. No delay or omission in exercising any right or remedy shall impair the full exercise of that or any other right or remedy or constitute a waiver of the default.

Trust Deed (No. L09007)

**4.5 Receiver or Trustee-in-Possession.** On taking possession of all or any part of the Trust Property, Trustee, Beneficiary, or a receiver may, to the extent permitted by law:

(1) *Management.* Use, operate, manage, control, and conduct business with the Trust Property and make expenditures for any purpose and for any maintenance and improvements that it deems reasonably necessary.

(2) *Rents and Revenues.* Collect all rents, revenues, income, issues, and profits from the Trust Property and apply those sums to the reasonable expenses of use, operation, management, maintenance, and improvements.

(3) *Construction.* At its option, complete any construction in progress on the Property and, in that connection, pay bills, borrow funds, employ contractors, and make any changes in plans and specifications as it deems appropriate.

(4) *Additional Indebtedness.* If the revenues produced by the Trust Property are insufficient to pay expenses, Beneficiary, Trustee, or the receiver may borrow or advance such sums upon any terms that it deems reasonably necessary for the purposes stated in this section. All advances will bear interest, unless otherwise provided, at the rate of five percent (5%) per annum, and repayment of those sums will be secured by this Trust Deed.

**4.6 Application of Proceeds.** All proceeds realized from the exercise of the rights and remedies under Section 4 will be applied as follows:

(1) *Costs and Expenses.* To pay all costs of exercising such rights and remedies, including the costs of maintaining and preserving the Trust Property, the costs and expenses of any receiver or lender-in-possession, the costs of any sale, and the costs and expenses provided for in Section 5.7 below.

(2) *Indebtedness.* To pay all Obligations, in any order that Beneficiary may determine in its sole discretion.

(3) *Surplus.* The surplus, if any, remaining after satisfaction of all the Obligations will be paid to the clerk of the court in the case of a judicial foreclosure proceeding, otherwise to the person or persons legally entitled to the surplus.

**4.7 Deficiency.** No sale or other disposition of all or any part of the Trust Property pursuant to Section 4 will be deemed to relieve Grantor or Borrower 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 Trust Property are insufficient to cover the costs and expenses of such realization and the payment in full of the Obligations, Grantor and Borrower will remain liable for any deficiency to the fullest extent permitted by law.

**4.8 Waiver of Stay, Extension, Moratorium, and Valuation Laws.** To the fullest extent permitted by law, Grantor waives the benefit of any existing or future stay, extension, or moratorium law that may affect observance or performance of the provisions of this Trust Deed and any existing or future law providing for the valuation or appraisal of the Trust Property before any sale.

## ARTICLE V GENERAL PROVISIONS

**5.1 Time is of the Essence.** Time is of the essence with respect to all covenants and obligations of Grantor under this Trust Deed.

Trust Deed (No. L09007)

Contract Services/L09007 Part of Coos Bay Trust Deed Coos.doc  
COOS COUNTY CLERK, OREGON TOTAL \$136.00  
TERRI L. TURI, CCC, COUNTY CLERK

Page 14 of 16  
#2009-2235  
03/13/2009 09:50AM 14 OF 19



**5.2 Reconveyance by Trustee.** At any time on the request of Beneficiary, payment of Trustee's fees, if any, and presentation of this Trust Deed, without affecting liability of any persons for the payment of the Obligations, Trustee may reconvey, without warranty, all or any part of the Trust Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any facts shall be conclusive proof of the truthfulness of them.

**5.3 Notice.** Except as otherwise provided in this Trust Deed, all notices pertaining to this Trust Deed must be in writing and may be delivered by hand, or mailed by first class, registered, or certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at its address set forth at the outset of this Trust Deed. Any party may change its address for receiving notices from time to time by notice to the other parties. Notices given by mail in accordance with this section will be deemed to have been given on the date of mailing; notices given by hand will be deemed to have been given when actually received.

**5.4 Substitute Trustee.** Beneficiary may at any time substitute one or more trustees to execute the trust created by this Trust Deed, and the new trustee or trustees will succeed to all the powers and duties of the prior trustee or trustees.

**5.5 Trust Deed Binding on Successors and Assigns.** This Trust Deed is binding upon and inures to the benefit of the successors and assigns of Grantor, Trustee, and Beneficiary. If the Trust Property or any portion of it becomes vested in any person other than Grantor, Beneficiary will have the right to deal with the successor regarding this Trust Deed, the Trust Property, and the Obligations in any manner that Beneficiary deems appropriate in its sole discretion, without notice to or approval by Grantors and without impairing the liability of Grantor or the Borrower for the Obligations.

**5.6 Indemnity.** Grantor will hold Beneficiary and Trustee and their respective directors, officers, employees, agents, and attorneys, harmless from and indemnify them for any and all claims, demands, damages, liabilities, and expenses, including but not limited to attorney fees and court costs, arising out of or in connection with Trustee's or Beneficiary's interest under this Trust Deed, except that Grantor will not be liable for acts performed by Beneficiary or Trustee in violation of applicable law.

**5.7 Expenses and Attorney Fees.** If Beneficiary refers any of the Obligations to an attorney for collection or seeks legal advice following a default; if Beneficiary is the prevailing party in any litigation instituted in connection with any of the Obligations; or if Beneficiary or any other person initiates any judicial or nonjudicial action, suit, or proceeding in connection with any of the Obligations or the Trust 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 Beneficiary employs an attorney 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 Beneficiary's interests, then in any such event Grantor must pay reasonable attorney fees, costs, and expenses incurred by Beneficiary or its attorney 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 Trust Deed and, if not paid upon demand, will bear interest at the rate of five percent (5%) per annum.

**5.8 Applicable Law.** The Trust Deed and the validity, interpretation, performance, and enforcement of the Trust Deed will be governed by Oregon law.

**5.9 Captions.** The captions to the sections and subsections of this Trust Deed are included only for the convenience of the parties and do not define, diminish, or enlarge the rights of the parties or affect the construction or interpretation of any portion of this Trust Deed.

Trust Deed (No. L09007)

**5.10 Rights of Prior Mortgagee.** If all or any portion of the Trust Property is subject to a superior mortgage or trust deed specifically permitted under Exhibit C, the rights of Beneficiary with respect to insurance and Condemnation Proceeds as provided in Sections 1.12 and 1.26, and all other rights granted under this Trust Deed that have also been granted to such a superior mortgagee or trust deed beneficiary, will be subject to the rights of the superior mortgagee or trust deed beneficiary. Grantor hereby authorizes all such superior mortgagees and beneficiaries, on satisfaction of the indebtedness secured by their mortgage or trust deed, to remit all remaining insurance or Condemnation Proceeds and all other sums held by them to Beneficiary to be applied in accordance with this Trust Deed.

**5.11 "Person" Defined.** As used in this Trust Deed, the word "person" means any natural person, partnership, trust, corporation, or other legal entity of any nature.

**5.12 Severability.** If any provision of this Trust Deed is held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provisions of this Trust Deed, and the other provisions will be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Trust Deed.

**5.13 Entire Agreement.** This Trust Deed contains the entire agreement of the parties with respect to the Trust Property. No prior agreement, statement, or promise made by any party to this Trust Deed that is not contained in this Trust Deed will be binding or valid.

**5.14 Commercial Property.** Grantor covenants and warrants that the Property and Improvements are used by Grantor exclusively for business and commercial purposes. Grantor also covenants and warrants that the Property and Improvements are not now, and at no time in the future will be, occupied as the principal residence of Grantor, Grantor's spouse, or Grantor's minor or dependent child.

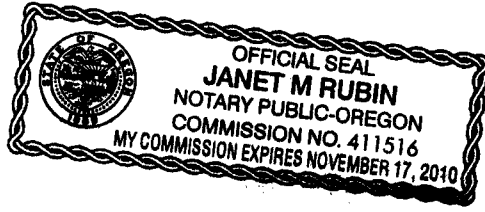
**5.15 Standard for Discretion.** If this Trust Deed is silent on the standard for any consent, approval, determination, or similar discretionary action, the standard will be good faith, fairness, or reasonableness.

GRANTOR:  
OREGON INTERNATIONAL PORT OF COOS BAY  
By: [Signature]  
Name: DAVID KRONSTEINER  
& Title  
(print): Commission President

STATE OF Oregon )  
County of Coos ) ss.

The foregoing instrument was acknowledged before me this 12 day of March, 2009, by David Kronsteiner, the Commission President of the Oregon International Port of Coos Bay, on behalf of said port.

Notary Public for [Signature]  
My commission expires: 11-17-2010



Trust Deed (No. L09007)

**EXHIBIT A**

Legal Description of Property

COOS COUNTY, OREGON

That certain real property conveyed by deed dated by December 31, 1994 from Southern Pacific Transportation Company to Central Oregon & Pacific Railroad, Inc. which was recorded in Coos County Official Records at Document No. 95 01 0171, less and excepting the following properties:

Less and excepting that certain land located in Lakeside, Coos County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Winters, et al, and described as follows:

**LOCATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 23 SOUTH - RANGE 12 WEST, W.M., COOS COUNTY, OREGON:**

**DESCRIBED AS FOLLOWS:**

**BEGINNING AT A POINT LOCATED ON THE SOUTHERLY LINE OF THE SOUTHERN PACIFIC RAILROAD, NORTH 71°54'00" EAST A DISTANCE OF 216.45 FEET FROM THE POINT OF INTERSECTION OF THE WESTERLY LINE OF NORTH 14<sup>TH</sup> STREET, EXTENDED NORTHERLY, AND THE SOUTHERLY LINE OF THE SOUTHERN PACIFIC RAILROAD, SAID POINT OF BEGINNING BEING FURTHER REFERENCED AS THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF PROPERTY AS DESCRIBED IN A QUITCLAIM DEED PER RECORDERS NUMBER 2004-6996, RECORDS OF COOS COUNTY, OREGON; THENCE, ALONG THE SOUTHERLY LINE OF SAID SOUTHERN PACIFIC RAILROAD, SOUTH 71°54'00" WEST A DISTANCE OF 216.45 FEET; THENCE, NORTH 18°06'00" WEST A DISTANCE OF 25.00 FEET; THENCE, NORTH 71°54'00" EAST A DISTANCE OF 625.76 FEET; THENCE, SOUTH 18°06'00" EAST A DISTANCE OF 25.00 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID SOUTHERN PACIFIC RAILROAD; THENCE, ALONG SAID SOUTHERLY LINE, SOUTH 71°54'00" WEST A DISTANCE OF 410.76 FEET TO THE POINT OF BEGINNING.**

And, less and excepting that certain land located in Lakeside, Coos County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Curtis and Cheryl Hoyle, and described as follows:

**BEGINNING AT A POINT LOCATED ON THE SOUTHERLY LINE OF THE SOUTHERN PACIFIC RAILROAD, NORTH 71°54'00" EAST A DISTANCE OF 216.45 FEET FROM THE POINT OF INTERSECTION OF THE WESTERLY LINE OF NORTH 14<sup>TH</sup> STREET, EXTENDED NORTHERLY, AND THE SOUTHERLY LINE OF THE SOUTHERN PACIFIC RAILROAD, SAID POINT OF BEGINNING BEING FURTHER REFERENCED AS THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF PROPERTY AS DESCRIBED IN A QUITCLAIM DEED PER RECORDERS NUMBER 2004-6996, RECORDS OF COOS COUNTY, OREGON; THENCE, ALONG THE SOUTHERLY LINE OF SAID SOUTHERN PACIFIC RAILROAD, SOUTH 71°54'00" WEST A DISTANCE OF 216.45 FEET; THENCE, NORTH 18°06'00" WEST A DISTANCE OF 25.00 FEET; THENCE, NORTH 71°54'00" EAST A DISTANCE OF 625.76 FEET; THENCE, SOUTH 18°06'00" EAST A DISTANCE OF 25.00 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID SOUTHERN PACIFIC RAILROAD; THENCE, ALONG SAID SOUTHERLY LINE, SOUTH 71°54'00" WEST A DISTANCE OF 290.32 FEET TO THE TERMINUS.**

Exhibit A - Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Coos.doc

COOS COUNTY CLERK, OREGON TOTAL \$136.00  
TERRI L. TURI, CCC, COUNTY CLERK

03/13/2009  
09:50AM

Page 1 of 1  
#2009-2235  
17 OF 19

**EXHIBIT B**  
Tax Account Numbers

~~Unofficial Copy~~

Exhibit B - Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Coos.doc  
COOS COUNTY CLERK, OREGON TOTAL \$136.00  
TERRI L. TURI, CCC, COUNTY CLERK

03/13/2009  
09:50AM

Page 1 of 1  
#2009-2235  
18 OF 19

## EXHIBIT C

### Permitted Liens (Section 1.3)

The Trust Property, as more particularly described in Exhibit A, may be subject to liens, claims, charges and encumbrances, in addition to the encumbrances created by this Trust Deed or specifically set forth in Exhibits A, as a result of the manner in which the Grantor acquired title to the Trust Property. By the terms of the order of the Surface Transportation Board (the "STB") in the matter of STB Finance Docket No. 35160 dated October 31, 2008 ("STB Order"), the Borrower was required to accept a conveyance of the Trust Property from Central Oregon & Pacific Railroad ("CORP") by quitclaim deeds. Pursuant to the terms of the Asset Purchase Agreement dated March 12, 2009 entered into between the Grantor and CORP for the purpose of implementing the STB Order:

1. CORP expressly disclaimed all warranties of title or interest with respect to the Trust Property.
2. CORP expressly asserted that it made no representations regarding the quality of title held by CORP in the Trust Property.
3. CORP conveyed the Trust Property to the Grantor, subject to "Permitted Encumbrances", which was defined as including any:
  - (i) liens for Taxes, assessments, levies, fees and other governmental charges not yet due or which, if due and unpaid, are being contested in good faith,
  - (ii) all utility easements, licenses or permits crossing any portion of the Subject Line of a type granted by railroads in the ordinary course of business or normally pertaining to railroad properties,
  - (iii) all road crossing agreements or rights of use with or by Governmental Authorities or private parties of a type granted by railroads in the ordinary course of business or normally pertaining to railroad properties,
  - (iv) all leases and tenancy agreements existing as of the Closing Date,
  - (v) rights of reverter, rights of entry and equitable interests,
  - (vi) easements, licenses, permits, rights of way or similar rights of others, and defects in title, adverse rights, Encumbrances and exceptions which would be disclosed by a survey,
  - (vii) gaps in title or continuity of title to the Acquired Assets, and
  - (viii) liens and easements due to zoning and/or subdivision laws or regulations.

Exhibit C - Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Coos.doc  
COOS COUNTY CLERK, OREGON TOTAL \$136.00  
TERRI L. TURI, CCC, COUNTY CLERK

Page 1 of 1  
03/13/2009 #2009-2235  
09:50AM 19 OF 19

Division of Chief Deputy Clerk  
Lane County Deeds and Records

2009-012695



\$161.00

01058285200900126950250258

03/13/2009 09:56:53 AM

RPR-DTR Cnt=4 Stn=6 CASHIER 07

\$15.00 \$125.00 \$10.00 \$11.00

WHEN RECORDED RETURN TO:  
OREGON ECONOMIC AND COMMUNITY  
DEVELOPMENT DEPARTMENT  
775 Summer Street NE, Suite 200  
Salem, OR 97301-1280

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

Grantor: Oregon International Port of Coos Bay, having its office at 125 Central Street, Suite 300,  
Coos Bay, OR 97420.

Trustee: Ticor Title

Beneficiary: State of Oregon acting by and through its Economic and Community Development  
Department, having its office at 775 Summer Street NE, Suite 200, Salem, OR 97301-1280.

The tax account numbers for the real property subject to this instrument are set forth in the attached  
Exhibit B.

THIS TRUST DEED, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS,  
AND FIXTURE FILING (this "Trust Deed") is made on March 18, 2009, by the OREGON  
INTERNATIONAL PORT OF COOS BAY, whose address is 125 Central Street, Suite 300, PO Box 1215,  
Coos Bay, OR 97420, as grantor ("Grantor") to Ticor Title, having its office at  
P.O. Box 1075, Coos Bay, OR 97420 ("Trustee"), for the benefit of the State of Oregon acting by and through  
its Economic and Community Development Department, having its office at 775 Summer Street NE,  
Suite 200, Salem, OR 97301-1280 ("Beneficiary").

WHEREAS, Beneficiary has offered to make two loans to the Oregon International Port of Coos Bay  
("Borrower") in the sums of \$7,200,773.00 and \$5,415,214, which loans are to be evidenced by promissory  
notes of even date with this Trust Deed. The loans, if not sooner paid, are due and payable in full on  
February 18, 2011 and December 1, 2034, respectively. (The promissory notes as modified, supplemented,  
extended, renewed, or replaced from time to time are referred to below as collectively and individually  
without distinction as the "Note"); and

WHEREAS, as a condition to the making of the loan to Borrower, Beneficiary has required, and  
Grantor has agreed to execute and deliver, this Trust Deed.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby  
acknowledged, and for the purpose of securing the Obligations described in Section 1.1 below, Grantor  
irrevocably grants, bargains, sells, conveys, assigns, and transfers to Trustee in trust for the benefit and  
security of the Beneficiary, with power of sale and right of entry and possession, all of Grantor's right, title,  
and interest in and to the real property located in Lane County, Oregon, and more particularly described in  
Exhibit A attached to this Trust Deed and incorporated in it (the "Property");

TOGETHER WITH all interests, estates, and rights that Grantor now has or may acquire in (1) the  
Property, (2) any and all options, agreements, and contracts for the purchase or sale of all or any part or parts  
of the Property or interests in the Property and all proceeds of them, (3) all easements, rights-of-way, and  
rights used in connection with the Property or as a means of access to the Property, and (4) all tenements,  
hereditaments, and appurtenances in any manner belonging, relating, or appertaining to the Property; and

TOGETHER WITH all interests, estates, and rights of Grantor, now owned or hereafter acquired, in  
and to any land lying within any streets, sidewalks, alleys, strips, and gores adjacent to or used in connection  
with them; and

Trust Deed (No. L09007)

Contract Services/L09007 Port of Coos Bay Trust Deed Lane.doc

This instrument filed for recording by  
Fidelity National Title Company as an  
accommodation only. It has not been  
examined as to its execution or as to  
its effect upon the title.

TOGETHER WITH all rights, titles, and interests of Grantor, now owned or hereafter acquired, in and to any and all buildings and other improvements of every nature now or hereafter located on the Property and all fixtures, machinery, equipment, and other personal property located on the Property or attached to, contained in, or used in any such buildings and other improvements, and all appurtenances and additions to and substitutions and replacements of the Property (all of the foregoing being collectively referred to below as the "Improvements"); and

TOGETHER WITH any and all mineral, oil and gas rights, air rights, development rights, water rights, water stock, and water service contracts, drainage rights, zoning rights, and other similar rights or interests that benefit or are appurtenant to the Property or the Improvements or both, and any of their proceeds; and

TOGETHER WITH all present and future rights in and to the trade name by which all or any portion of the Property and the Improvements are known; all books and records relating to the use and operation of all or any portion of the Property and Improvements; all right, title, and interest of Grantor in, to, and under all present and future plans, specifications, and contracts relating to the design, construction, management, or inspection of any Improvements; all rights, titles, and interests of Grantor in and to all present and future licenses, permits, approvals, and agreements with or from any municipal corporation, county, state, or other governmental or quasi-governmental entity or agency relating to the development, improvement, division, or use of all or any portion of the Property or Improvements to the extent that the trade names, licenses, permits, approvals, and agreements are assignable by law; and all other general intangibles relating to the Property, the Improvements, or their use and operation; and

TOGETHER WITH all rights of Grantor in and to any escrow or withhold agreements, title insurance, surety bonds, warranties, management contracts, construction contracts, leasing and sales agreements, and service contracts that are in any way relevant to the ownership, development, improvement, management, construction, sale, or use of all or any portion of the Property or any of the Improvements; and

TOGETHER WITH Grantor's rights under any payment, performance, or other bond in connection with the construction of any Improvements, and all construction materials, supplies, equipment, and other personal property delivered to the Property or intended to be used in connection with the construction of any Improvements; and

TOGETHER WITH all rights, interests, and claims that Grantor now has or may acquire with respect to any damage to or taking of all or any part of the Property or the Improvements, including without limitation any and all proceeds of insurance in effect with respect to the Improvements, any and all awards made for taking by eminent domain or by any proceeding or purchase in lieu thereof, of the whole or any part of the Property or the Improvements, and any and all awards resulting from any other damage to the Property or the Improvements.

All of the above is sometimes referred to below as the "Trust Property."

TO HAVE AND TO HOLD the Trust Property to Trustee and its successors and assigns for the benefit of Beneficiary and its successors and assigns, forever.

PROVIDED ALWAYS, that if all the Obligations (as defined in Section 1.1 below) are paid, performed, and satisfied in full, then the lien and estate granted by this Trust Deed will be reconveyed.

This Trust Deed, the Note, and all other agreements or instruments executed by Grantor or Borrower at any time in connection with them, as they may be amended or supplemented from time to time, are sometimes collectively referred to below as the "Loan Documents."

TO PROTECT THE SECURITY OF THIS TRUST DEED, GRANTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

Trust Deed (No. L09007)



**ARTICLE I**  
**PARTICULAR COVENANTS AND WARRANTIES OF GRANTOR**

**1.1 Obligations Secured.** This Trust Deed secures the following, collectively referred to as the "Obligations":

(1) The payment of all indebtedness, including but not limited to principal and interest, and the performance of all covenants and obligations of Borrower, under the Note, whether such payment and performance is now due or becomes due in the future;

(2) The payment and performance of all covenants and obligations in this Trust Deed, in the other Loan Documents, and in all other security agreements, notes, agreements, and undertakings now existing or hereafter executed by Grantor or Borrower with or for the benefit of Beneficiary; and

(3) The payment and performance of any and all other indebtedness and obligations of Grantor or Borrower to Beneficiary of any nature whatsoever, whether direct or indirect, primary or secondary, joint or several, liquidated or unliquidated, whenever and however arising, and whether or not reflected in a written agreement or instrument.

**1.2 Payment of Indebtedness and Performance of Covenants.** Grantor will duly and punctually pay and perform all of the Obligations.

**1.3 Property.** Grantor warrants that it holds good and merchantable title to the Property and the Improvements, free and clear of all liens, encumbrances, reservations, restrictions, easements, and adverse claims except those specifically listed in Exhibit C. Grantor covenants that it will forever defend Beneficiary's and Trustee's rights under this Trust Deed against the adverse claims and demands of all persons, except those listed in Exhibit C.

**1.4 Further Assurances, Filing, Refiling, Etc.**

(1) Grantor will execute, acknowledge, and deliver, from time to time, any further instruments that Beneficiary or Trustee may require to accomplish the purposes of this Trust Deed.

(2) Immediately on the execution and delivery of this Trust Deed, and thereafter from time to time, Grantor will cause this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and each instrument of further assurance, to be recorded and rerecorded in the manner and in the places that may be required by any present or future law in order to perfect, and continue perfected, the lien and estate of this Trust Deed.

(3) Grantor will pay all filing and recording fees, and all expenses incident to the execution, filing, recording, and acknowledgment of this Trust Deed; any security agreement, mortgage, or deed of trust supplemental to this Trust Deed and any instrument of further assurance; and all federal, state, county, and municipal taxes, assessments, and charges arising out of or in connection with the execution, delivery, filing, and recording of this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and any instrument of further assurance.

**1.5 Compliance with Laws.** Grantor further represents, warrants, and covenants that:

(1) To the best of Grantor's knowledge, the Property, if developed, has been developed, and all Improvements, if any, have been constructed and maintained, in full compliance with all applicable laws, statutes, ordinances, regulations, and codes of all federal, state, and local governments (collectively "Laws"), and all covenants, conditions, easements, and restrictions affecting the Property (collectively, "Covenants"); and

(2) Grantor will cause the Property and its operations on the Property to comply at all times hereafter, in all material respects, with all applicable Laws and Covenants.

## 1.6 Definitions, Environmental Covenants, Warranties, and Compliance

(1) For purposes of this section, "Environmental Law" means any federal, state, or local law, statute, ordinance, or regulation pertaining to Hazardous Substances, health, industrial hygiene, or environmental conditions, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 USC §§9601-9675, and the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended, 42 USC §§6901-6992.

(2) For the purposes of this section, "Hazardous Substance" includes without limitation any material, substance, or waste that is or becomes regulated or that is or becomes classified as hazardous, dangerous, or toxic under any federal, state, or local statute, ordinance, rule, regulation, or law.

(3) Grantor will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under, or about the Property or the Property's groundwater, or transport to or from the Property, any Hazardous Substance and will not permit any other person to do so, except for any Hazardous Substances that may be used in the ordinary course of Grantor's business and in compliance with all Environmental Laws, including but not limited to those relating to licensure, notice, and recordkeeping.

(4) Grantor will keep and maintain the Property in compliance with, and will not cause or permit all or any portion of the Property, including groundwater, to be in violation of any Environmental Law.

(5) Grantor will give prompt written notice to Beneficiary of:

(a) Any proceeding, inquiry, or notice by or from any governmental authority with respect to any alleged violation of any Environmental Law or the presence of any Hazardous Substance on the Property or the migration of any Hazardous Substance from or to other premises;

(b) All known claims made or threatened by any person against Grantor or with respect to the Property or Improvements relating to any loss or injury resulting from any Hazardous Substance or the violation of any Environmental Law;

(c) The existence of any known Hazardous Substance on or about all or any portion of the Property; or

(d) Grantor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could in Grantor's judgment cause any restrictions on the ownership, occupancy, transferability, or use of the Property under any Environmental Law.

(6) Grantor will promptly provide to Beneficiary copies of all reports, documents, and notices provided to or received from any agency administering any Environmental Laws. Beneficiary will have the right to join and participate, in its own name if it so elects, in any legal proceeding or action initiated with respect to the Property or Improvements in connection with any Environmental Law and to have its attorney fees in connection with such an action paid by Grantor, if Beneficiary determines that such participation is reasonably necessary to protect its interest in the Trust Property.

(7) If at any time Beneficiary has reason to believe that any release, discharge, or disposal of any Hazardous Substance affecting the Property or Improvements has occurred or is threatened, or if Beneficiary has reason to believe that a violation of an Environmental Law has occurred or may occur with respect to the Property or Improvements, Beneficiary may require Grantor to obtain or may itself obtain, at Grantors' expense, an environmental assessment of such condition or threatened condition by a qualified environmental consultant. Grantor shall promptly provide to Beneficiary a complete copy of any environmental assessment obtained by Grantor.

(8) If any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature (the "Remedial Work") is required under any applicable Environmental Law, by any judicial order, or by any governmental agency or person because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a Hazardous Substance on, under, or about all or any portion of the Property, or the contamination (whether currently existing or occurring after the date of this Trust Deed) of the buildings, facilities, soil, groundwater, surface water, air, or other elements on or under any other property as a result of Hazardous Substances emanating from the Property, Grantor will, within 30 days after written demand by Beneficiary for Grantor's performance under this provision (or such shorter period of time as may be required under any applicable law, regulation, order, or agreement), commence and thereafter diligently prosecute to completion, all such Remedial Work. Grantor will pay all costs and expenses of that Remedial Work, including, without limitation, Beneficiary's reasonable attorney fees and costs incurred in connection with monitoring or reviewing the legal aspects of the Remedial Work. If Grantor fails to timely commence, or cause to be commenced, the Remedial Work, Beneficiary may, but will not be required to, cause the Remedial Work to be performed. In that event, all costs and expenses incurred in connection with the Remedial Work will become part of the Obligations secured by this Trust Deed and will bear interest until paid at the rate of five percent (5%) per annum.

(9) Grantor will hold Beneficiary and its directors, officers, employees, agents, successors, and assigns, harmless from, will indemnify them for, and will defend them against any and all losses, damages, liens, costs, expenses, and liabilities directly or indirectly arising out of or attributable to any violation of any Environmental Law, any breach of Grantor's warranties in this Section 1.6, or the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a Hazardous Substance on, under, or about the Property, including without limitation the costs of any required repair, cleanup, containment, or detoxification of the Property, the preparation and implementation of any closure, remedial or other required plans, attorney fees and costs (including but not limited to those incurred in any proceeding and in any review or appeal), fees, penalties, and fines.

(10) Grantor represents and warrants to Beneficiary that:

(a) Neither the Property, to the best of Grantor's knowledge, nor Grantor is in violation of or subject to any existing, pending, or threatened investigation by any governmental authority under any Environmental Law.

(b) Grantor has not and is not required by any Environmental Law to obtain any permit or license other than those it has obtained, or will obtain, to construct or use the Improvements.

(c) To the best of Grantor's knowledge, no Hazardous Substance has ever been used, generated, manufactured, produced, stored, released, discharged, or disposed of on, under, or about the Property in violation of any Environmental Law, except as previously disclosed to Beneficiary.

(11) All representations, warranties, and covenants in this Section 1.6 will survive the satisfaction of the Obligations, the reconveyance of the Trust Property, or the foreclosure of this Trust Deed by any means.

**1.7 Maintenance and Improvements.** Grantor will not permit all or any part of the Improvements to be removed, demolished, or materially altered without Beneficiary's prior written consent, except for those Improvements that become obsolete in the usual conduct of Grantor's business and as long as the removal or material alteration of the obsolete Improvements does not materially detract from the operation of Grantor's business and as long as all obsolete Improvements that are demolished or removed are promptly replaced with Improvements of like value and quality. Grantor will maintain every portion of the Property and Improvements in good repair, working order, and condition, except for reasonable wear

and tear, and will at Beneficiary's election restore, replace, or rebuild all or any part of the Improvements now or hereafter damaged or destroyed by any casualty (whether or not insured against or insurable) or affected by any Condemnation (as defined in Section 1.16 below). Grantor shall have a reasonable period of time to repair and rehabilitate any Improvements that are not currently in good repair or operating condition. Grantor will not commit, permit, or suffer any waste, strip, or deterioration of the Trust Property.

**1.8 Liens.** Grantor will pay when due all claims for labor, materials, or supplies that if unpaid might become a lien on all or any portion of the Trust Property. Grantor will not create, or suffer, or permit to be created, any mortgage, deed of trust, lien, security interest, charge, or encumbrance on the Trust Property prior to, on a parity with, or subordinate to the lien of this Trust Deed, except as specifically provided in Exhibit C, or except as consented to in writing by Beneficiary.

**1.9 Impositions**

(1) Grantor will pay or cause to be paid, when due and before any fine, penalty, interest, or cost attaches, all taxes, assessments, fees, levies, and all other governmental and nongovernmental charges of every nature now or hereafter assessed or levied against any part of the Trust Property (including, without limitation, levies or charges resulting from Covenants), or on the lien or estate of Beneficiary or Trustee (collectively, the "Impositions"); however, if by law any such Imposition may be paid in installments, whether or not interest will accrue on the unpaid balance, Grantor may pay the same in installments, together with accrued interest on the unpaid balance, as the same become due, before any fine, penalty, interest or cost attaches.

(2) Grantor may, at its expense and after prior notice to Beneficiary, contest by appropriate legal, administrative, or other proceedings conducted in good faith and with due diligence, the amount, validity, or application, in whole or in part, of any Imposition or lien on the Trust Property or any claim of any laborer, materialman, supplier, or vendor or lien, and may withhold payment of the same pending completion of the proceedings if permitted by law, provided that (a) such proceedings will suspend collection from the Trust Property; (b) no part of or interest in the Trust Property will be sold, forfeited, or lost if Grantor pays the amount or satisfies the condition being contested, and Grantor would have the opportunity to do so in the event of Grantor's failure to prevail in the contest; (c) neither Beneficiary nor Trustee will, by virtue of the permitted contest, be exposed to any risk of liability for which Grantor has not furnished additional security as provided in clause (d) below; and (d) Grantor furnishes to Beneficiary cash, corporate surety bond, or other additional security in respect of the claim being contested or the loss or damage that may result from Grantor's failure to prevail in the contest in an amount sufficient to discharge the Imposition and all interest, costs, attorney fees, and other charges that may accrue in connection with the Imposition. Grantor will promptly satisfy any final judgment.

(3) Grantor will furnish to Beneficiary, promptly upon request, satisfactory evidence of the payment of all Impositions. Beneficiary is hereby authorized to request and receive from the responsible governmental and nongovernmental personnel written statements with respect to the accrual and payment of all Impositions.

**1.10 Books and Records and Inspection of the Property.** Grantor will keep complete and accurate records and books of account with respect to the Trust Property and its operation in accordance with generally accepted accounting principles consistently applied. Grantor will permit Trustee, Beneficiary, and their authorized representatives to enter and inspect the Property and the Improvements, and to examine and make copies or extracts of the records and books of account of the Grantor with respect to the Property and the Improvements, all at any reasonable times as Beneficiary or Trustee may choose.

**1.11 Limitations on Use.** Grantor will not initiate, join in, or consent to any rezoning or replatting of the Property or any change in any covenant or other public or private restrictions limiting or defining the uses that may be made of all or any part of the Property and the Improvements without the prior written consent of Beneficiary.

**1.12 Insurance**

(1) *Property and Other Insurance.* Grantor will obtain and maintain in full force and effect during the term of this Trust Deed: (a) Special Form property insurance together with endorsements for replacement cost, inflation adjustment, malicious mischief, and sprinkler damage coverages, all in amounts not less than the full replacement cost of all Improvements, without reduction for coinsurance; (b) comprehensive general liability insurance, including liabilities assumed under contract, with limits, coverages, and risks insured acceptable to Beneficiary, and in no event less than \$1 million combined single-limit coverage; and (c) unless Beneficiary otherwise agrees in writing, rent loss or business interruption insurance in an amount no less than the total annual rents provided for in all leases for the Trust Property. In addition, Grantor will obtain and maintain all other insurance coverages designated by Beneficiary, which at the time are commonly carried for similar property, in any amounts that Beneficiary may require.

(2) *Insurance Companies and Policies.* All insurance must (a) be written by a company or companies reasonably acceptable to Beneficiary with a rating of A-, VIII or better as provided in BEST'S KEY RATING GUIDE-PROPERTY/CASUALTY (A.M. Best & Co., 2007); (b) contain a long-form mortgagee clause in favor of Beneficiary with loss proceeds under any policy payable to Beneficiary, subject to the terms of this Trust Deed and the rights of any superior mortgagee or trust deed beneficiary or as provided in Section 5.10 below; (c) require 30 days' prior written notice to Beneficiary of cancellation or reduction in coverage; (d) contain waivers of subrogation and endorsements that no act or negligence of Grantor or any occupant, and no occupancy or use of the Property for purposes more hazardous than permitted by the terms of the policy, will affect the validity or enforceability of such insurance as against Beneficiary; (e) be in full force and effect on the date of this Trust Deed; and (f) be accompanied by proof of premiums paid for the current policy year. Beneficiary must be named as an additional insured on all liability policies. Grantor will forward to Beneficiary, on request, certificates executed by the insurer or its agent evidencing the coverages required under this Trust Deed and copies of all policies. If a blanket policy is issued, a certified copy of the policy must be furnished together with a certificate indicating that the Trust Property and Beneficiary are insured under that policy in the proper designated amount.

(3) *Assignments of Policies on Foreclosure.* In the event of foreclosure of the lien of this Trust Deed or other transfer of title, or assignment of the Trust Property in whole or in part, all right, title, and interest of Grantor in and to all policies of insurance procured under Section 1.12 will inure to the benefit of and pass to the successors in interest of Grantor or the purchaser or grantee of all or any part of the Trust Property.

(4) *Notice and Proof of Loss.* After the occurrence of any casualty to the Property, whether or not required to be insured against as provided in this Trust Deed, Grantor will give prompt written notice of the casualty to Beneficiary, specifically describing the nature and cause of the casualty and the extent of the damage or destruction to the Trust Property. Beneficiary may make proof of loss if it is not made promptly and to Beneficiary's satisfaction by Grantor.

(5) *Restoration and Use of Proceeds.* Subject to the rights of any superior mortgagee or trust deed beneficiary as provided in Section 5.10 below, Grantor assigns to Beneficiary all insurance proceeds that Grantor may be entitled to receive with respect to any casualty. Beneficiary may, at its sole option, apply the insurance proceeds to the reduction of the Obligations in any order that Beneficiary may determine, whether or not the obligations are then due, or apply all or any portion of the insurance proceeds to the cost of restoring and rebuilding the portion of the Trust Property that was damaged or destroyed. If Beneficiary elects to apply the insurance proceeds to rebuilding and restoration, Beneficiary will be entitled to hold the proceeds, and the proceeds will be released only on the terms and conditions that Beneficiary may require in its sole discretion, including but not limited to prior approval of plans and release or waiver of construction liens. No proceeds will be released if an event of default under this Trust Deed has occurred.

### **1.13 Actions to Protect Trust Property; Reserves**

(1) If Grantor fails to obtain the insurance required by Section 1.12, fails to make the payments required by Section 1.9 (other than payments that Grantors is contesting in accordance with Section 1.9(2)), or fails to perform or observe any of its other covenants or agreements under this Trust Deed, Beneficiary may, without obligation to do so, obtain or pay the same or take other action that it deems appropriate to remedy such failure. All sums, including reasonable attorney fees, so expended or expended to maintain the lien or estate of this Trust Deed or its priority, or to protect or enforce any of Beneficiary's rights, or to recover any indebtedness secured by this Trust Deed, will be a lien on the Trust Property, will be secured by this Trust Deed, and will be paid by Grantor on demand, together with interest at the rate provided in the Note. No payment or other action by Beneficiary under this section will impair any other right or remedy available to Beneficiary or constitute a waiver of any default. The following notice is provided pursuant to ORS 746.201(1):

#### **WARNING:**

**Unless Grantor provides Beneficiary with evidence of the insurance coverage as required by this Trust Deed, 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 collateral becomes damaged, the coverage Beneficiary purchases may not pay any claim Grantor make or any claim made against Grantor. Grantor may later cancel this coverage by providing evidence that Grantor has obtained property coverage elsewhere.**

**Grantor are responsible for the cost of any insurance purchased by Beneficiary. The cost of this insurance may be added to the Obligations secured by this Trust Deed. If the cost is added to the Obligations secured by this Trust Deed, the interest rate of five percent (5%) per annum 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 its own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.**

(2) If Grantor fails to promptly perform any of its obligations under Section 1.9 or 1.12 of this Trust Deed, Beneficiary may require Grantor thereafter to pay and maintain with Beneficiary reserves for payment of such obligations. In that event, Grantor will pay to Beneficiary each month a sum estimated by Beneficiary to be sufficient to produce, at least 20 days before due, an amount equal to the Impositions and/or insurance premiums. If the sums so paid are insufficient to satisfy any Imposition or insurance premium when due, Grantor will pay any deficiency to Beneficiary on demand. The reserves may be commingled with Beneficiary's other funds, and Beneficiary will not be required to pay interest to Grantor on those reserves. Beneficiary will not hold the reserve in trust for Grantors, and Beneficiary will not be the agent of Grantor for payment of the taxes and assessments required to be paid by Grantor.

**1.14 Estoppel Certificates.** Within five days of Beneficiary's request, Grantor will give Trustee and Beneficiary a written statement, duly acknowledged, of the amount of the Obligations secured by this Trust Deed and whether any offsets or defenses exist against the Obligations. If Grantor fails to provide this statement within the time allowed, Beneficiary will be authorized, as Grantor's attorney-in-fact, to execute and deliver the statement. On request, Grantor will also use its best efforts to obtain and deliver to Beneficiary a written certificate from each lessee of all or any portion of the Property that its lease is in effect, that there are no defaults by the lessor under the lease, and that rent is not paid more than 30 days in advance.

**1.15 Financial Information.** Grantor will promptly provide to Beneficiary any and all financial information required to be provided by any of the Loan Documents or that Beneficiary may reasonably request from time to time.

**1.16 Condemnation**

(1) If any part of or interest in the Trust Property is taken or damaged by reason of any public improvement, eminent domain, condemnation proceeding, or in any similar manner (a "Condemnation"), or if Grantor receives any notice or other information regarding such action, Grantor will give immediate notice of the action to Beneficiary.

(2) Subject to the rights of any superior mortgagee or trust deed beneficiary as provided in Section 5.10 below, Beneficiary will be entitled to all compensation, awards, and other payments or relief ("Condemnation Proceeds") up to the full amount of the Obligations, and will be entitled, at its option, to commence, appear in, and prosecute any Condemnation proceeding in its own or Grantor's name and make any compromise or settlement in connection with such Condemnation. If the Trust Property is taken in its entirety by Condemnation, all Obligations secured by this Trust Deed, at Beneficiary's election, will become immediately due and collectible.

(3) Beneficiary may, at its sole option, apply the Condemnation Proceeds to the reduction of the Obligations in any order that Beneficiary may determine, or apply all or any portion of the Condemnation Proceeds to the cost of restoring and improving the remaining Trust Property. If Beneficiary elects to apply the Condemnation Proceeds to restoration and improvement, the proceeds will be held by Beneficiary and will be released only on any terms and conditions that Beneficiary may require in its sole discretion, including but not limited to prior approval of plans and release or waiver of liens. No Condemnation Proceeds will be released if an event of default under this Trust Deed has occurred.

**ARTICLE II  
ASSIGNMENT OF LEASES, RENTS, ISSUES, AND PROFITS**

**2.1 Assignment.** Grantor assigns and transfers to Beneficiary (1) all leases, subleases, licenses, rental contracts, and other agreements, whether now existing or hereafter arising, and relating to the occupancy or use of all or any portion of the Trust Property, including all modifications, extensions, and renewals of them (the "Leases"), and (2) all rents, revenues, issues, profits, income, proceeds, and benefits derived from the Trust Property and the lease, rental, or license of all or any portion of them, including but not limited to lease and security deposits (collectively, the "Rents"). This assignment is intended by Grantor and Beneficiary to create a present and unconditional assignment to Beneficiary, subject only to the license set forth in Section 2.4 below.

**2.2 Rights of Beneficiary.** Subject to the provisions of Section 2.4 below giving Grantor a revocable, limited license, Beneficiary will have the right, power, and authority to:

(1) Notify any and all tenants, renters, licensees, and other obligors under any of the Leases that the same have been assigned to Beneficiary and that all Rents are to be paid directly to Beneficiary, whether or not Beneficiary has foreclosed or commenced foreclosure proceedings against the Trust Property, and whether or not Beneficiary has taken possession of the Trust Property;

(2) Discount, settle, compromise, release, or extend the time for payment of, any amounts owing under any of the Leases and any Rents, in whole or in part, on terms acceptable to Beneficiary;

(3) Collect and enforce payment of Rents and all provisions of the Leases, and to prosecute any action or proceeding, in the name of Grantor or Beneficiary, with respect to any and all Leases and Rents; and

(4) Exercise any and all other rights and remedies of the lessor in connection with any of the Leases and Rents.

**2.3 Application of Receipts.** Beneficiary will have the right, power, and authority to use and apply any Rents received under this Trust Deed (1) for the payment of any and all costs and expenses incurred in connection with enforcing or defending the terms of this assignment or the rights of Beneficiary, and in collecting any Rents; and (2) for the operation and maintenance of the Trust Property and the payment of all costs and expenses in connection therewith, including but not limited to the payment of utilities, taxes, assessments, governmental charges, and insurance. After the payment of all such costs and expenses, and after Beneficiary has set up any reserves that it deems necessary in its sole discretion for the proper management of the Trust Property, Beneficiary will apply all remaining Rents collected and received by it to the reduction of the Obligations in any order that Beneficiary may determine. Beneficiary's exercise or failure to exercise any of the rights or powers granted in this assignment will not constitute a waiver of any default under this Trust Deed, the Note, or any of the other Loan Documents.

**2.4 License.** Beneficiary hereby grants to Grantor a revocable license to collect and receive the Rents. This license may be revoked by Beneficiary, without notice to Grantor, on the occurrence of any event of default under this Trust Deed, including any default by Grantor of its covenants in this Article II. Unless and until the license is revoked, Grantor agrees to apply the proceeds of Rents to the payment of the Obligations and to the payment of taxes, assessments, governmental charges, insurance premiums, and other obligations in connection with the Trust Property, and to the maintenance of the Trust Property, before using the proceeds for any other purpose. Grantor agrees to (1) observe and perform every obligation of Grantor under the Leases, (2) enforce or secure at its expense the performance of every obligation to be performed by any lessee or other party under the Leases, (3) promptly give notice to Beneficiary of any default by any such lessee or other party under any of the Leases, and promptly provide Beneficiary with a copy of any notice of default given to any such lessee or other party, (4) not collect any Rents more than 30 days in advance of the time when they become due, or anticipate any other payments under the Leases, except for bona fide security deposits not in excess of an amount equal to two months' rent, (5) not further assign or hypothecate any of the Leases or Rents, (6) except with Beneficiary's prior written consent, not waive, release, or in any other manner discharge any lessee or other party from any of its obligations under any of the Leases, (7) except with Beneficiary's prior written consent, not modify or amend any of the Leases, (8) except with Beneficiary's prior written consent, not cancel, terminate, or accept surrender of any of the Leases unless Grantor has entered into a Lease for the space to be vacated on terms at least as favorable to Grantor, commencing within 30 days after such cancellation, termination, or surrender, (9) obtain Beneficiary's prior written approval on the form and content of all future leases and any modifications of any present or future leases, (10) deliver copies of all present and future leases to Beneficiary promptly, and



(11) appear in and defend, at Grantor's sole cost and expense, any action or proceeding arising out of or in connection with the Leases or the Rents. If any Lease is rejected in any proceeding under the federal Bankruptcy Code or any other federal, state, or local statute, no damage settlement may be made without the prior written consent of Beneficiary. Grantor will request that any check in payment of damages for rejection or termination of any such Lease be made payable to both Grantor and Beneficiary. Grantor hereby assigns any such payment to Beneficiary.

**2.5 Limitation of Beneficiary's Obligations.** Notwithstanding the assignment provided for in this Article II, Beneficiary will not be obligated to perform or discharge, and Beneficiary does not undertake to perform or discharge, any obligation or liability with respect to the Leases or the Rents. This assignment will not operate to place responsibility for the control, care, maintenance, or repair of the Trust Property on Beneficiary, or to make Beneficiary responsible for any condition of the Property. Beneficiary will be accountable to Grantor only for the sums actually collected and received by Beneficiary under to this assignment. Grantor will hold Beneficiary fully harmless from, indemnify Beneficiary for, and defend Beneficiary against any and all claims, demands, liabilities, losses, damages, and expenses, including attorney fees, arising out of any of the Leases, with respect to any of the Rents, or in connection with any claim that may be asserted against Beneficiary on account of this assignment or any obligation or undertaking alleged to arise therefrom.

**2.6 Termination.** The assignment provided for in this Article II will continue in full force and effect until all the Obligations have been fully paid and satisfied. At such time, this assignment and the authority and powers herein granted by Grantor to Beneficiary will cease and terminate.

**2.7 Attorney-in-Fact.** Grantor irrevocably constitutes and appoints Beneficiary, and each of its officers, as its true and lawfully attorney-in-fact, with power of substitution, to undertake and execute any and all of the rights, powers, and authorities described in this Article II with the same force and effect as if undertaken or performed by Grantor, and Grantor ratifies and confirms any and all such actions that may be taken or omitted to be taken by Beneficiary, its employees, agents, and attorneys.

### **ARTICLE III SECURITY AGREEMENT AND FIXTURE FILING**

To secure the Obligations, Grantor grants to Beneficiary a security interest in the following: (1) the Trust Property to the extent that it is not encumbered by this Trust Deed as a real estate lien; (2) all personal property that is used or will be used in the construction of any Improvements on the Trust Property; (3) all personal property that is now or will hereafter be placed on or in the Trust Property or Improvements; (4) all personal property that is derived from or used in connection with the use, occupancy, or enjoyment of the Trust Property; (5) all property defined in Oregon's version of the Uniform Commercial Code ("UCC"), as accounts, equipment, fixtures, and general intangibles, to the extent that they are used at, or arise in connection with the ownership, maintenance, or operation of, the Trust Property; (6) all causes of action, claims, security deposits, advance rental payments, utility deposits, refunds of fees or deposits paid to any governmental authority, refunds of taxes, and refunds of insurance premiums relating to the Trust Property; (7) all options, agreements, and contracts for the purchase or sale of all or any part or parts of the Trust Property or interests in the Trust Property; and (8) all present and future attachments, accessions, amendments, replacements, additions, products, and proceeds of every nature of the foregoing. This Trust Deed constitutes a security agreement and a "fixture filing" under the UCC regarding secured transactions. The mailing address of Grantor and the address of Beneficiary from which information may be obtained are set forth at the outset of this Trust Deed. The organizational identification number of Grantor is 93-6001830. Grantor authorizes Beneficiary to file with all applicable governmental entities financing statements and continuation statements evidencing the security interest granted herein.

**ARTICLE IV  
EVENTS OF DEFAULT AND REMEDIES**

**4.1 Events of Default.** Each of the following events will constitute an event of default under this Trust Deed and under each of the other Loan Documents:

(1) *Nonpayment.* Failure of Grantor or Borrower to pay any of the Obligations on or before the due date or within any applicable grace period.

(2) *Breach of Other Covenants.* Failure of Grantor or Borrower to perform or abide by any other covenant included in the Obligations, including without limitation those covenants in the Note, this Trust Deed, or any other Loan Document.

(3) *Misinformation.* Falsity when made in any material respect of any representation, warranty, or information furnished by Grantor or its agents to Beneficiary in or in connection with any of the Obligations.

(4) *Other Default.* The occurrence of any other event of default under the Note or any of the other Obligations.

(5) *Other Indebtedness, Secondary Financing.* Grantor's default beyond the applicable grace periods in the payment of any other indebtedness owed by Grantor to any person, if the indebtedness is secured by all or any portion of the Trust Property.

(6) *Bankruptcy.* The occurrence of any of the following with respect to Grantor, Borrower, any guarantor of the Obligations, or the then-owner of the Trust Property: (a) 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 Trust Property.

(7) *Transfer; Due-on-Sale; Due-on-Encumbrance.* Any sale, gift, conveyance, contract for conveyance, transfer, assignment, encumbrance, pledge, or grant of a security interest in all or any part of the Trust Property, or any interest therein, either voluntarily, involuntarily, or by the operation of law (a "Transfer"), without Beneficiary's prior written consent, will constitute an event of default. For the purpose of clarification, and without limiting the generality of the foregoing, the occurrence at any time of any sale, conveyance, assignment, or other transfer of, or the grant of a pledge of or security interest in, any shares of the capital stock, membership or partnership or other beneficial interest in or of Grantor will be deemed to be a Transfer in violation of this subsection (7). The provisions of this subsection (7) will apply to each and every Transfer, regardless of whether or not Beneficiary has consented or waived its rights in connection with any previous Transfer. Beneficiary may attach any conditions to its consent under this subsection (7) that Beneficiary may determine in its sole discretion, including without limitation an increase in the interest rate or the payment of transfer or assumption fees, and the payment of administrative and legal fees and costs incurred by Beneficiary.

**4.2 Remedies in Case of Default.** If an Event of Default occurs, Beneficiary or Trustee may exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available by law, in equity, or otherwise:

(1) *Acceleration.* Beneficiary may declare all or any portion of the Obligations immediately due and payable.

(2) *Receiver.* Beneficiary may have a receiver appointed for the Trust Property. Beneficiary will be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Trust Property exceeds the amount of the indebtedness secured by this Trust Deed. Employment by Trustee or Beneficiary will not disqualify a person from serving as receiver. Grantor consents to the appointment of a receiver at Beneficiary's option and waives any and all defenses to such an appointment.

(3) *Possession.* Beneficiary may, either through a receiver or as lender-in-possession, enter and take possession of all or any part of the Trust Property and use, operate, manage, and control it as Beneficiary shall deem appropriate in its sole discretion. Upon request after an Event of Default, Grantor will peacefully relinquish possession and control of the Trust Property to Beneficiary or any receiver appointed under this Trust Deed.

(4) *Rents.* Beneficiary may revoke Grantor's right to collect the Rents, and may, either itself or through a receiver, collect the Rents. Beneficiary will not be deemed to be in possession of the Property solely by reason of exercise of the rights contained in this subsection (4). If Beneficiary collects the Rents under this subsection (4), Grantor hereby irrevocably appoints Beneficiary as Grantor's attorney-in-fact, with power of substitution, to endorse instruments received in payment of the Rents in the name of Grantor and to negotiate such instruments and collect their proceeds. After payment of all Obligations, any remaining amounts will be paid to Grantor and this power will terminate.

(5) *Power of Sale.* Beneficiary may direct Trustee, and Trustee will be empowered, to foreclose this Trust Deed by advertisement and sale under applicable law.

(6) *Foreclosure.* Beneficiary may judicially foreclose this Trust Deed and obtain a judgment foreclosing Grantor's interest in all or any part of the Property and giving Beneficiary the right to collect any deficiency remaining due after disposition of the Trust Property.

(7) *Abandonment.* Beneficiary may abandon all or any portion of the Trust Property by written notice to Grantor.

**4.3 Sale.** In any sale under this Trust Deed or pursuant to any judgment, the Trust Property, to the extent permitted by law, may be sold as an entirety or in one or more parcels and in any order that Beneficiary may choose, without regard to the right of Grantor, Borrower, any person claiming under Grantor or Borrower, or any guarantor or surety to the marshalling of assets. The purchaser at any such sale will take title to the Trust Property or the part of it so sold, free and clear of Grantor's estate, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Beneficiary and its officers, agents, and employees, may purchase at any such sale. Beneficiary and each of its officers are irrevocably appointed Grantor's attorney-in-fact, with power of substitution, to make all appropriate transfers and deliveries of the Trust Property or any portions of it so sold and, for that purpose, Beneficiary and its officers may execute all appropriate instruments of transfer. Nevertheless, Grantor will ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to Beneficiary or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Beneficiary, for that purpose.

**4.4 Cumulative Remedies.** All remedies under this Trust Deed are cumulative and not exclusive. Any election to pursue one remedy will not preclude the exercise of any other remedy. An election by Beneficiary to cure under Section 1.13 will not constitute a waiver of the default or of any of the remedies provided in this Trust Deed. No delay or omission in exercising any right or remedy shall impair the full exercise of that or any other right or remedy or constitute a waiver of the default.

**4.5 Receiver or Trustee-in-Possession.** On taking possession of all or any part of the Trust Property, Trustee, Beneficiary, or a receiver may, to the extent permitted by law:

(1) *Management.* Use, operate, manage, control, and conduct business with the Trust Property and make expenditures for any purpose and for any maintenance and improvements that it deems reasonably necessary.

(2) *Rents and Revenues.* Collect all rents, revenues, income, issues, and profits from the Trust Property and apply those sums to the reasonable expenses of use, operation, management, maintenance, and improvements.

(3) *Construction.* At its option, complete any construction in progress on the Property and, in that connection, pay bills, borrow funds, employ contractors, and make any changes in plans and specifications as it deems appropriate.

(4) *Additional Indebtedness.* If the revenues produced by the Trust Property are insufficient to pay expenses, Beneficiary, Trustee, or the receiver may borrow or advance such sums upon any terms that it deems reasonably necessary for the purposes stated in this section. All advances will bear interest, unless otherwise provided, at the rate of five percent (5%) per annum, and repayment of those sums will be secured by this Trust Deed.

**4.6 Application of Proceeds.** All proceeds realized from the exercise of the rights and remedies under Section 4 will be applied as follows:

(1) *Costs and Expenses.* To pay all costs of exercising such rights and remedies, including the costs of maintaining and preserving the Trust Property, the costs and expenses of any receiver or lender-in-possession, the costs of any sale, and the costs and expenses provided for in Section 5.7 below.

(2) *Indebtedness.* To pay all Obligations, in any order that Beneficiary may determine in its sole discretion.

(3) *Surplus.* The surplus, if any, remaining after satisfaction of all the Obligations will be paid to the clerk of the court in the case of a judicial foreclosure proceeding, otherwise to the person or persons legally entitled to the surplus.

**4.7 Deficiency.** No sale or other disposition of all or any part of the Trust Property pursuant to Section 4 will be deemed to relieve Grantor or Borrower 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 Trust Property are insufficient to cover the costs and expenses of such realization and the payment in full of the Obligations, Grantor and Borrower will remain liable for any deficiency to the fullest extent permitted by law.

**4.8 Waiver of Stay, Extension, Moratorium, and Valuation Laws.** To the fullest extent permitted by law, Grantor waives the benefit of any existing or future stay, extension, or moratorium law that may affect observance or performance of the provisions of this Trust Deed and any existing or future law providing for the valuation or appraisal of the Trust Property before any sale.

## ARTICLE V GENERAL PROVISIONS

**5.1 Time is of the Essence.** Time is of the essence with respect to all covenants and obligations of Grantor under this Trust Deed.

**5.2 Reconveyance by Trustee.** At any time on the request of Beneficiary, payment of Trustee's fees, if any, and presentation of this Trust Deed, without affecting liability of any persons for the payment of the Obligations, Trustee may reconvey, without warranty, all or any part of the Trust Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any facts shall be conclusive proof of the truthfulness of them.

**5.3 Notice.** Except as otherwise provided in this Trust Deed, all notices pertaining to this Trust Deed must be in writing and may be delivered by hand, or mailed by first class, registered, or certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at its address set forth at the outset of this Trust Deed. Any party may change its address for receiving notices from time to time by notice to the other parties. Notices given by mail in accordance with this section will be deemed to have been given on the date of mailing; notices given by hand will be deemed to have been given when actually received.

**5.4 Substitute Trustee.** Beneficiary may at any time substitute one or more trustees to execute the trust created by this Trust Deed, and the new trustee or trustees will succeed to all the powers and duties of the prior trustee or trustees.

**5.5 Trust Deed Binding on Successors and Assigns.** This Trust Deed is binding upon and inures to the benefit of the successors and assigns of Grantor, Trustee, and Beneficiary. If the Trust Property or any portion of it becomes vested in any person other than Grantor, Beneficiary will have the right to deal with the successor regarding this Trust Deed, the Trust Property, and the Obligations in any manner that Beneficiary deems appropriate in its sole discretion, without notice to or approval by Grantors and without impairing the liability of Grantor or the Borrower for the Obligations.

**5.6 Indemnity.** Grantor will hold Beneficiary and Trustee and their respective directors, officers, employees, agents, and attorneys, harmless from and indemnify them for any and all claims, demands, damages, liabilities, and expenses, including but not limited to attorney fees and court costs, arising out of or in connection with Trustee's or Beneficiary's interest under this Trust Deed, except that Grantor will not be liable for acts performed by Beneficiary or Trustee in violation of applicable law.

**5.7 Expenses and Attorney Fees.** If Beneficiary refers any of the Obligations to an attorney for collection or seeks legal advice following a default; if Beneficiary is the prevailing party in any litigation instituted in connection with any of the Obligations; or if Beneficiary or any other person initiates any judicial or nonjudicial action, suit, or proceeding in connection with any of the Obligations or the Trust 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 Beneficiary employs an attorney 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 Beneficiary's interests, then in any such event Grantor must pay reasonable attorney fees, costs, and expenses incurred by Beneficiary or its attorney 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 Trust Deed and, if not paid upon demand, will bear interest at the rate of five percent (5%) per annum.

**5.8 Applicable Law.** The Trust Deed and the validity, interpretation, performance, and enforcement of the Trust Deed will be governed by Oregon law.

**5.9 Captions.** The captions to the sections and subsections of this Trust Deed are included only for the convenience of the parties and do not define, diminish, or enlarge the rights of the parties or affect the construction or interpretation of any portion of this Trust Deed.

**5.10 Rights of Prior Mortgage.** If all or any portion of the Trust Property is subject to a superior mortgage or trust deed specifically permitted under Exhibit C, the rights of Beneficiary with respect to insurance and Condemnation Proceeds as provided in Sections 1.12 and 1.26, and all other rights granted under this Trust Deed that have also been granted to such a superior mortgagee or trust deed beneficiary, will be subject to the rights of the superior mortgagee or trust deed beneficiary. Grantor hereby authorizes all such superior mortgagees and beneficiaries, on satisfaction of the indebtedness secured by their mortgage or trust deed, to remit all remaining insurance or Condemnation Proceeds and all other sums held by them to Beneficiary to be applied in accordance with this Trust Deed.

**5.11 "Person" Defined.** As used in this Trust Deed, the word "person" means any natural person, partnership, trust, corporation, or other legal entity of any nature.

**5.12 Severability.** If any provision of this Trust Deed is held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provisions of this Trust Deed, and the other provisions will be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Trust Deed.

**5.13 Entire Agreement.** This Trust Deed contains the entire agreement of the parties with respect to the Trust Property. No prior agreement, statement, or promise made by any party to this Trust Deed that is not contained in this Trust Deed will be binding or valid.

**5.14 Commercial Property.** Grantor covenants and warrants that the Property and Improvements are used by Grantor exclusively for business and commercial purposes. Grantor also covenants and warrants that the Property and Improvements are not now, and at no time in the future will be, occupied as the principal residence of Grantor, Grantor's spouse, or Grantor's minor or dependent child.

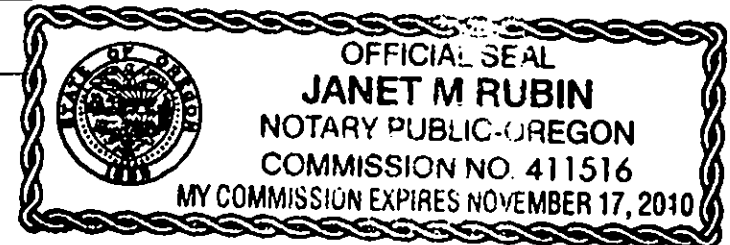
**5.15 Standard for Discretion.** If this Trust Deed is silent on the standard for any consent, approval, determination, or similar discretionary action, the standard will be good faith, fairness, or reasonableness.

GRANTOR:  
OREGON INTERNATIONAL PORT OF COOS BAY  
By: [Signature]  
Name DAVID KRONSTEINER  
& Title  
(print): Commission Resident

STATE OF Oregon )  
County of Coos ) ss.

The foregoing instrument was acknowledged before me this 12 day of MARCH, 2009, by DAVID KRONSTEINER, the Commission Resident of the Oregon International Port of Coos Bay, on behalf of said port.

Notary Public for [Signature]  
My commission expires 11-17-2010



**EXHIBIT A**  
Legal Description of Property  
LANE COUNTY, OREGON

That certain real property conveyed by deed dated by December 31, 1994 from Southern Pacific Transportation Company to Central Oregon & Pacific Railroad, Inc. which was recorded in Lane County Official Records at Document No. 95 00 017, less and excepting the following properties:

Less and excepting that certain land located in Cushman, Lane County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to SuHui Dietrich:

**Parcel 1**

A parcel of land in Government Lot 11 of Section 19, Township 18 South, Range 11 West of the Willamette Meridian, Lane County, Oregon, more particularly described as follows:

Beginning at a point 50 feet South of when measured at right angles to Engineers Station 7+00 of the "G" centerline of the Central Oregon and Pacific Railroad Companies spur track from which the Brass Cap marking the Meander Corner on the North Bank of the Siuslaw River on the Section Line Common to Sections 19 and 20 bears North 71° 13' 56" East 292.76 feet; Thence North 31° 55' 00" West 2.63 feet to a PK Nail with Washer marking a line that is 30.0 feet Southerly of and parallel with the centerline of State Highway 126; Thence South 58° 05' 00" West along said line 173.28 feet to a PK Nail with Washer; Thence South 31° 55' 00" East 20.00 feet to a 5/8 inch rebar with cap marking a line that is 50 feet Southerly of and parallel with the centerline of said Highway 126; Thence South 58° 05' 00" West along said line 90.00 feet to a 5/8 inch rebar with cap on the Northerly bank of the Siuslaw River; Thence continuing along said line South 58° 05' 00" West 80 feet more or less to the Mean Low Water line of said Siuslaw River; Thence Northeasterly along said Mean Low Water Line 366 feet more or less to a point that is South 41° 47' 45" East from the Point of Beginning; Thence North 41° 47' 45" West 83 feet more or less to a 5/8 inch rebar with cap marking a line that is 40.00 feet Southerly of and parallel with the centerline of said Highway 126; Thence South 58° 05' 00" West along said line 1.28 feet to a 5/8 inch rebar with cap; Thence North 31° 55' 00" West 7.37 feet to the Point of Beginning.

Containing 0.36 acres more or less.

This description is based on the centerline of State Highway 126 as bearing South 58° 05' 00" West per Oregon State Highway District survey maps.

**Parcel 2**

A parcel of land in Government Lot 11 of Section 19, Township 18 South, Range 11 West of the Willamette Meridian, Lane County, Oregon, more particularly described as follows:

Beginning at a 5/8 inch rebar with cap on a line that is 50.00 feet at right angles to and Westerly of the centerline of the Central Oregon and Pacific Railroad Companies "B" centerline of the constructed main line railroad, from which the Brass Cap marking the Meander corner on the North Bank of the Siuslaw River on the Section line common to Section 19 and 20 bears North 67° 56' 31" East 52.46 feet; Thence Northerly along said line 62.82 feet more or less to a 5/8 inch rebar with cap at the intersection with the Southerly Right of Way line of State Highway 126; Thence North 58° 05' 00" East along said line 32.25 feet to a 5/8 inch rebar with cap marking the intersection with a line that is 25.00 feet at right angles to said Railroad constructed main line; Thence Southerly along said 25.00 foot line 84.31 feet to a 5/8 inch rebar with cap; Thence South 19° 15' 22" East 34 feet more or less to the Mean Low Water Line of the Siuslaw River; Thence along said line Westerly 43 feet more or less to a point that is South 03° 46' 12" East 54 feet more or less to the Point of Beginning.

Exhibit A - Trust Deed (No. L09007)

Containing 0.08 acres more or less.

This description is based on the centerline of State Highway 126 as bearing South 58° 05' 00" West per Oregon State Highway District survey maps.

The Westerly line of this Parcel of land is being Property Line Adjusted with the Easterly lie of that Parcel of land described on Recorders Reception No. 2002-050046, Lane County Oregon Official Records to comply with the requirements of Lane County Oregon Land Use Regulations and provisions of O.R.S. 92.190(4). The two Parcels shall therefore be sold as one unit of land until approval has been granted by the governing body to do otherwise. The adjusted line is underlined on the above description.

Less and excepting that certain land located in Cushman, Lane County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Ken Yuen:

A parcel of land in Government Lot 6 of Section 20, Township 18 South, Range 11 West of the Willamette Meridian, Lane County, Oregon, more particularly described as that certain parcel of land bounded on the North by the Southerly line of Siuslaw Highway No. 36, which Southerly line lies forty feet Southerly of the highway centerline having a bearing of South 58°05' West, according to a survey for C.M. Miller dated May 5, 1971, filed in the Office of the Lane County Surveyor, and further bounded on the East by the Westerly line of that certain parcel described as Parcel I in deed recorded on November 16, 2006 as Instrument No. 2006-082603, records of Lane County, Oregon; and further bounded on the East by those tide lands described as Parcel II in said deed recorded on November 16, 2006 as Instrument NO. 2006-082603 of said records; and further bounded on the South by the meander line of mean low water on the North bank of the Siuslaw River; and further bounded on the West by the Easterly line of the Southern Pacific Railroad right of way.

Less and excepting that certain land located in Cushman, Lane County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Kay Mary and Larry M. Larson:

Property located in Lane County, Oregon as described in that certain Property Line Adjustment Deed from the Central Oregon & Pacific Railroad, Inc. to Kay Mary Larson and Larry M. Larson, dated May, 2001 and more particularly described in Exhibits A and B attached hereto:

A parcel of land lying in the northeast one-quarter of Section 36, Township 17 South Range 6 West of the Willamette Meridian and is based on that Property Line Adjustment survey and map for Kay M. Larson dated March 28, 2001 by Charles W. Guile & Associates, Co., the said parcel being described as follows: Beginning at the Brass Cap monument marking the Northeast corner of Section 36, Township 17 South, Range 6 West of the Willamette Meridian; thence South 1382.89 feet; thence West 1839.48 feet to a found existing 5/8 inch iron rod monument with plastic cap marked "Stemm 715", said point being the TRUE POINT OF BEGINNING; thence South 85° 21' 32" West 411.71 feet to a 5/8 inch iron rod on the southerly extension of the monument east line of that strip of land dedicated to the City of Veneta in Reel 1391R, Reception No. 8607791, Lane County Oregon Deed Records, in Lane County, Oregon; thence along the said southerly extension North 0° 08' 07" East 100.35 feet to a found existing 5/8 inch iron rod monument with plastic cap marked "Guile 472"; thence North 85° 21' 32" East 411.47 feet to a 5/8 inch iron rod; thence South 100.33 feet to the TRUE POINT OF BEGINNING, containing 0.94 acres, in Veneta, Lane County, Oregon.



Parcel 1

Commencing at a point which is the intersection of the Westerly margin of Territorial Highway being 140.00 feet Westerly from the centerline of said highway and the Northerly right of way line of the Willamette Pacific Railroad (now known as Southern Pacific Railroad), said intersection point being 1143.35 feet South and 181.49 feet West from the Northeast corner of Section 36, Township 17 South, Range 6 West of the Willamette Meridian; run thence Westerly along said Northerly railroad right of way line to a point bearing South of Engineers Centerline Station 424+00 P.O.T. (Relocated Veneta-Noti-East Unit-Eugene to Florence Highway), said point being the Southwest corner of that parcel of land conveyed to Glenn Bruce Watters, John Scott Watters and David Wayne Watters by deed recorded November 21, 1986, Reception No 8647373, Lane County Official Records, and the point of beginning of the parcel herein described; from the point of beginning thence continue Westerly along the Northerly right of way line of said railroad to the Southeast corner of that parcel of land conveyed to the City of Veneta by deed recorded March 4, 1986, Reception No. 8607791, Lane County Official Records; thence Northerly along the East line of said City of Veneta parcel, said line being 40.0 feet Easterly from, when measured perpendicular to and parallel with, the parcel centerline as described in the last above mentioned deed, 300 feet, more or less, to a point on the Southerly margin of the Relocated Eugene to Florence Highway; thence Easterly along said Southerly highway margin to a point bearing South from the foregoing described Engineers Centerline Station 424+00 P.O.T., said point being the Northwest corner of the parcel of land described in the above mentioned Deed No. 8647373; thence South to the point of beginning, in Veneta, Lane County, Oregon.

AND

Parcel 2

A parcel of land lying in the northeast one-quarter of Section 36, Township 17 South Range 6 West of the Willamette Meridian and is based on that Property Line Adjustment survey and map for Kay M. Larson dated March 28, 2001 by Charles W. Guile & Associates, Co., the said parcel being described as follows: Beginning at the Brass Cap monument marking the Northeast corner of Section 36, Township 17 South, Range 6 West of the Willamette Meridian; thence South 1382.89 feet; thence West 1839.48 feet to a found existing 5/8 inch iron rod monument with plastic cap marked "Stemm 715", said point being the TRUE POINT OF BEGINNING; thence South 85° 21' 32" West 411.71 feet to a 5/8 inch iron rod on the southerly extension of the monument east line of that strip of land dedicated to the City of Veneta in Reel 1391R, Reception No. 8607791, Lane County Oregon Deed Records, in Lane County, Oregon; thence along the said southerly extension North 0° 08' 07" East 100.35 feet to a found existing 5/8 inch iron rod monument with plastic cap marked "Guile 472"; thence North 85° 21' 32" East 411.47 feet to a 5/8 inch iron rod; thence South 100.33 feet to the TRUE POINT OF BEGINNING, containing 0.94 acres, in Veneta, Lane County, Oregon.

Less and excepting that certain land located in Cushman, Lane County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation:

A parcel of land in Section 36, Township 17 South, Range 6 West of the Willamette Meridian, being more particularly described as follows:

Beginning at the intersection of the westerly right-of-way line of Territorial Highway with the northerly line of the Central Oregon and Pacific Railroad right-of-way (formerly the Willamette Pacific Railroad's right-of-way), said point being 1160.58 feet South and 180.82 feet West from the Northeast corner of said Section 36, and run thence along the westerly right-of-way line of said Territorial Highway, parallel with and 140.0 feet westerly from, when measured perpendicular to the centerline thereof, along the arc of a highway curve to the right having a radius of 2724.79 feet, the long chord of which bears South 6°37'18" East, 100.33 feet, a distance of 100.34 feet to a point 50.00 feet northerly from when measured perpendicular to the centerline of the Central Oregon and Pacific Railroad right-of-way; thence westerly along a line parallel with and 50.00 feet northerly from when measured perpendicular to said last mentioned centerline as follows: along the arc of a railroad curve to the left having a radius of 11,509.19 feet, the long chord of which bears South 86°42'36" West, 542.74 feet, a distance of 542.80 feet, and South 85°21'32" West, 1131.95 feet to a point bearing South 0°00'00" West from said Engineer's Centerline Station 424+00 P.O.T., Relocated Veneta-Noti-East Unit, Eugene to Florence Highway; thence leaving said parallel line run North 0°00'00" East, 436.26 feet to a point on the Southerly right-of-way line of said relocated highway; thence along said southerly right-of-way line North 80°00'32" East, 13.60 feet to a point opposite and 100.0 feet distant from said Station 424+00 P.O.T.; thence continue along said southerly right-of-way line, parallel with and 100.0 feet southerly from, when measured perpendicular to, the centerline of said relocated highway as conveyed to the State of Oregon, by and through its State Highway Commission, by deed recorded in Reel 538R, Reception No. 52569, Lane County Official Records, North 82°17'58" East, 1420.00 feet to a point opposite Engineer's Centerline Station 438+20 P.O.T., thence leaving said southerly right-of-way line run South 7°42'02" East, 267.08 feet; thence North 82°17'58" East, 175.98 feet, more or less, to a point on the westerly right-of-way line of said Territorial Highway; thence southerly along said westerly right-of-way line, parallel with and 140.0 feet westerly from, when measured perpendicular to, the centerline of said highway as follows: along the arc of off-set spiral curve to the right (centerline length of 200.00 feet,  $S = 2°00'00"$ ,  $a = 1.00$ ) a distance of 76.06 feet to a point opposite Engineer's Centerline Station "TH" 1108+20.8 P.S.C., and along the arc of a highway curve to the right having a radius of 2724.79 feet, the long chord of which bears South 8°38'27" East, 91.69 feet, a distance of 91.70 feet to the Point of Beginning, in Lane County, Oregon.

Less and excepting that certain land located in Cushman, Lane County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation:

Beginning at the Southwest corner of Section 29, Township 17 South, Range 6 West of the Willamette Meridian; thence North  $89^{\circ}47'07''$  East, along the South line of said Section 29, a distance of 860.05 feet to a  $5/8''$  iron rod on the East line of Vaughn-Noti Road, said point being the true point of beginning; thence continuing on the South line of said Section 29, North  $89^{\circ}47'07''$  East, 470.05 feet to a  $3/4''$  iron pipe on the West line of Sailor Road; thence North  $00^{\circ}24'37''$ W, along the West line of Sailor Road, a distance of 165.76 feet to a  $5/8''$  iron rod; thence South  $89^{\circ}40'49''$  West, 352.55 feet to a  $5/8''$  iron rod on the East line of Vaughn-Noti Road; thence along the arc of a 746.20 foot radius curve to the right (the long chord of which bears South  $35^{\circ}05'32''$  West, 202.32 feet), a distance of 202.95 feet to the true point of beginning, containing 1.54 acres of land, more or less.

ALSO: All that portion of Sailor Road which inured to the Central Oregon & Pacific Railroad, Inc. by Vacation Order No. 04-9-1-10, as recorded in Document No. 2004-070491 of the Lane County Deed Records, which is bounded on the South by the South line of Section 29, Township 17 South, Range 6 West of the Willamette Meridian, and on the North by the Easterly extension of the above described tract.

Less and excepting that certain land located in Cushman, Lane County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation:

PARCEL I

Beginning at the Southwest corner of Section 29, Township 17 South, Range 6 West of the Willamette Meridian; thence N89°47'07"E, along the South line of said Section 29, a distance of 1330.10 feet to a 3/4" iron pipe on the West line of Sailor Road; thence N00°24'38"W, along the West line of Sailor Road, a distance of 215.75 feet to a 5/8" iron rod, said point being the true point of beginning; thence, continuing along the West line of Sailor Road, N00°24'38"W, 375.12 feet to a 5/8" iron rod on the South line of State Highway No. 126; thence S87°15'49"W, along the South line of said Highway, a distance of 198.06 feet to a 5/8" iron rod on the East line of Vaughn-Noti Road; thence along the East line of said Road the following courses: S18°56'08"W, 335.68 feet to a 5/8" iron rod, and along the arc of a 746.20 foot radius curve to the right (the long chord of which bears S20°59'28"W, 53.53 feet), a distance of 53.54 feet to a 5/8" iron rod; thence N89°40'49"E, 328.63 feet to the true point of beginning, containing 2.23 acres of land, more or less.

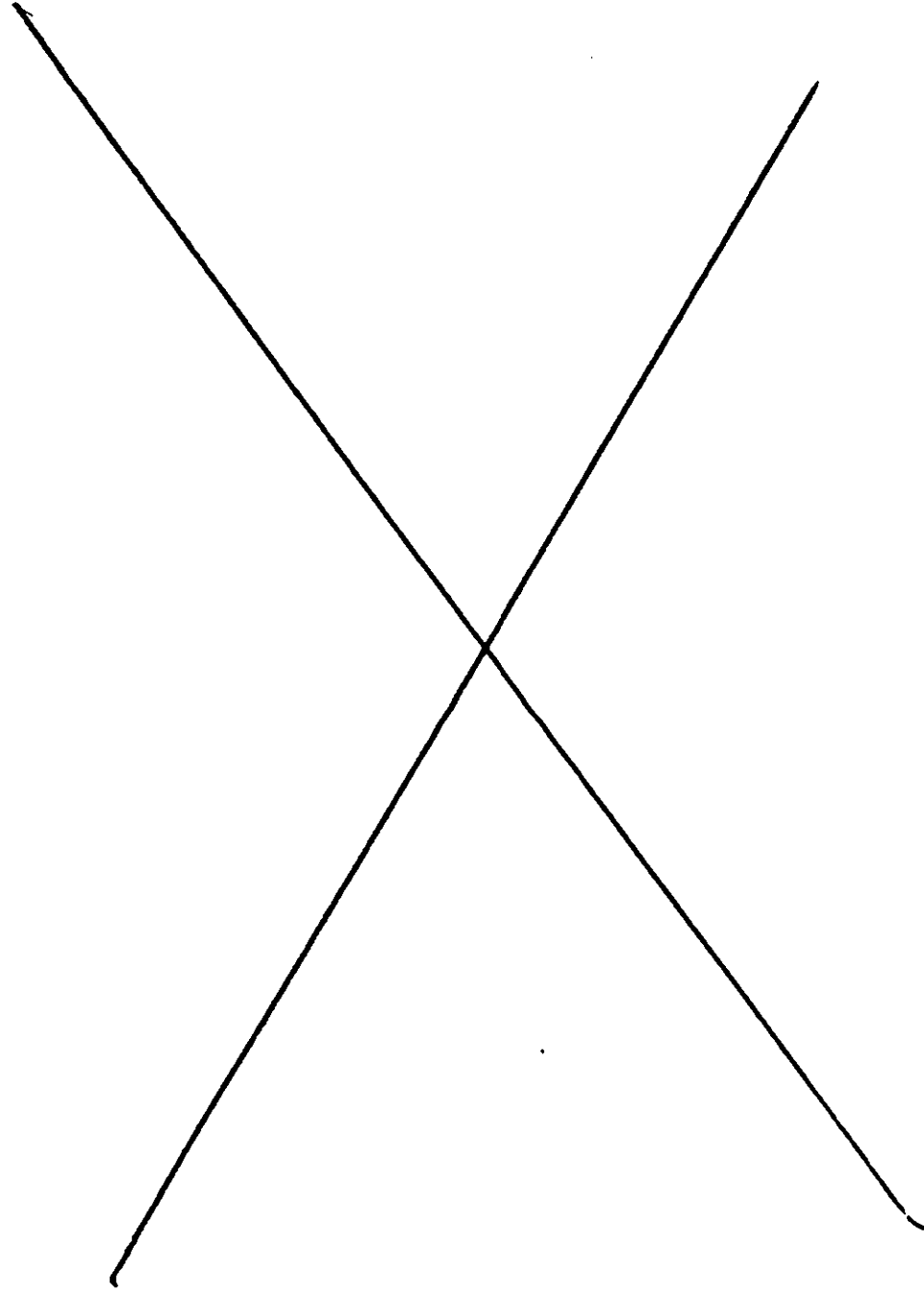
PARCEL II

Beginning at the Southwest corner of Section 29, Township 17 South, Range 6 West of the Willamette Meridian; thence N89°47'07"E, along the South line of said Section 29, a distance of 1390.10 feet to a 3/4" iron pipe on the East line of Sailor Road, said point being the true point of beginning; thence continuing along the South line of said Section 29, N89°47'07"E, 788.95 feet to a 5/8" iron rod on the Southerly line of the Central Oregon & Pacific Railroad right-of-way, said point being 100.00 feet distant (measured at right angles to the centerline) from the centerline of the existing railroad tracks; thence along the arc of a 2764.93 foot radius curve to the right (the long chord of which bears S66°01'25"E, 906.54 feet), a distance of 910.60 feet to a 5/8" iron rod; thence N33°24'42"E, 75.00 feet to a 5/8" iron rod; thence along the arc of a 2839.93 foot radius curve to the left (the long chord of which bears N73°46'00"W, 1677.55 feet), a distance of 1702.86 feet to a 5/8" iron rod; thence S89°40'49"W, 49.09 feet to the East line of Sailor Road; thence S00°24'38"E, 165.87 feet to the true point of beginning, containing 4.14 acres of land, more or less.

PARCEL III

Beginning at the Southwest corner of Section 29, Township 17 South, Range 6 West of the Willamette Meridian; thence N89°47'07"E, along the South line of said Section 29, a distance of 1390.10 feet to a 3/4" iron pipe on the East line of Sailor Road; thence N00°24'38"W, along the East line of Sailor Road, a distance of 215.86 feet to a 5/8" iron rod, said point being the true point of beginning; thence N89°40'49"E, 48.62 feet to a 5/8" iron rod; thence along the arc of a 2889.93 foot radius curve to the right (the long chord of which bears S73°46'00"E, 1707.08 feet), a distance of 1732.84 feet to a 5/8" iron rod; thence N33°24'42"E, 75.00 feet to a 5/8" iron rod on the Northerly line of the Central Oregon & Pacific Railroad right-of-way, said point being 100.00 feet distant (measured at right angles to the centerline) from the centerline of the existing railroad tracks; thence along the arc of a 2964.93 foot radius curve to the left (the long chord of which bears N73°46'00"W, 1751.38 feet), a distance of 1777.82 feet; thence S89°40'49"W, 47.92 feet to the East line of Sailor Road; thence S00°24'38"E, 75.00 feet to the true point of beginning, containing 3.11 acres of land, more or less.

**EXHIBIT B**  
Tax Account Numbers



## EXHIBIT C

### Permitted Liens (Section 1.3)

The Trust Property, as more particularly described in Exhibit A, may be subject to liens, claims, charges and encumbrances, in addition to the encumbrances created by this Trust Deed or specifically set forth in Exhibits A, as a result of the manner in which the Grantor acquired title to the Trust Property. By the terms of the order of the Surface Transportation Board (the "STB") in the matter of STB Finance Docket No. 35160 dated October 31, 2008 ("STB Order"), the Borrower was required to accept a conveyance of the Trust Property from Central Oregon & Pacific Railroad ("CORP") by quitclaim deeds. Pursuant to the terms of the Asset Purchase Agreement dated \_\_\_\_\_, entered into between the Grantor and CORP for the purpose of implementing the STB Order:

1. CORP expressly disclaimed all warranties of title or interest with respect to the Trust Property.
2. CORP expressly asserted that it made no representations regarding the quality of title held by CORP in the Trust Property.
3. CORP conveyed the Trust Property to the Grantor, subject to "Permitted Encumbrances", which was defined as including any:
  - (i) liens for Taxes, assessments, levies, fees and other governmental charges not yet due or which, if due and unpaid, are being contested in good faith,
  - (ii) all utility easements, licenses or permits crossing any portion of the Subject Line of a type granted by railroads in the ordinary course of business or normally pertaining to railroad properties,
  - (iii) all road crossing agreements or rights of use with or by Governmental Authorities or private parties of a type granted by railroads in the ordinary course of business or normally pertaining to railroad properties,
  - (iv) all leases and tenancy agreements existing as of the Closing Date,
  - (v) rights of reverter, rights of entry and equitable interests,
  - (vi) easements, licenses, permits, rights of way or similar rights of others, and defects in title, adverse rights, Encumbrances and exceptions which would be disclosed by a survey,
  - (vii) gaps in title or continuity of title to the Acquired Assets, and
  - (viii) liens and easements due to zoning and/or subdivision laws or regulations.

DOUGLAS COUNTY OFFICIAL RECORDS  
BARBARA E. NIELSEN, COUNTY CLERK

2009-005322



\$141.00

00240377200900053220220222

03/13/2009 09:54:10 AM

MTG-DOT Cnt=3 Stn=18 RECORDINGDESK  
\$110.00 \$10.00 \$11.00 \$10.00

## DOUGLAS COUNTY CLERK



# CERTIFICATE PAGE

**DO NOT REMOVE THIS PAGE FROM ORIGINAL  
DOCUMENT**

**THIS PAGE MUST BE INCLUDED IF DOCUMENT IS RE-RECORDED**

**WHEN RECORDED RETURN TO:  
OREGON ECONOMIC AND COMMUNITY  
DEVELOPMENT DEPARTMENT  
775 Summer Street NE, Suite 200  
Salem, OR 97301-1280**

**No. L09007**

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

Grantor: Oregon International Port of Coos Bay, having its office at 125 Central Street, Suite 300, Coos Bay, OR 97420.

Trustee: Ticor Title

Beneficiary: State of Oregon acting by and through its Economic and Community Development Department, having its office at 775 Summer Street NE, Suite 200, Salem, OR 97301-1280.

The tax account numbers for the real property subject to this instrument are set forth in the attached Exhibit B.

THIS TRUST DEED, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING (this "Trust Deed") is made on March 12, 2009, by the OREGON INTERNATIONAL PORT OF COOS BAY, whose address is 125 Central Street, Suite 300, PO Box 1215, Coos Bay, OR 97420, as grantor ("Grantor"), to TICOR TITLE, having its office at P.O. Box 1075, Coos Bay, OR ("Trustee"), for the benefit of the State of Oregon acting by and through its Economic and Community Development Department, having its office at 775 Summer Street NE, Suite 200, Salem, OR 97301-1280 ("Beneficiary").

WHEREAS, Beneficiary has offered to make two loans to the Oregon International Port of Coos Bay ("Borrower") in the sums of \$7,200,773.00 and \$5,415,214, which loans are to be evidenced by promissory notes of even date with this Trust Deed. The loans, if not sooner paid, are due and payable in full on February 18, 2011 and December 1, 2034, respectively. (The promissory notes as modified, supplemented, extended, renewed, or replaced from time to time are referred to below as collectively and individually without distinction as the "Note"); and

WHEREAS, as a condition to the making of the loan to Borrower, Beneficiary has required, and Grantor has agreed to execute and deliver, this Trust Deed.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and for the purpose of securing the Obligations described in Section 1.1 below, Grantor irrevocably grants, bargains, sells, conveys, assigns, and transfers to Trustee in trust for the benefit and security of the Beneficiary, with power of sale and right of entry and possession, all of Grantor's right, title, and interest in and to the real property located in Douglas County, Oregon, and more particularly described in Exhibit A attached to this Trust Deed and incorporated in it (the "Property");

TOGETHER WITH all interests, estates, and rights that Grantor now has or may acquire in (1) the Property, (2) any and all options, agreements, and contracts for the purchase or sale of all or any part or parts of the Property or interests in the Property and all proceeds of them, (3) all easements, rights-of-way, and rights used in connection with the Property or as a means of access to the Property, and (4) all tenements, hereditaments, and appurtenances in any manner belonging, relating, or appertaining to the Property; and

TOGETHER WITH all interests, estates, and rights of Grantor, now owned or hereafter acquired, in and to any land lying within any streets, sidewalks, alleys, strips, and gores adjacent to or used in connection with them; and

Trust Deed (No. L09007)

22-57567  
TICOR TITLE



TOGETHER WITH all rights, titles, and interests of Grantor, now owned or hereafter acquired, in and to any and all buildings and other improvements of every nature now or hereafter located on the Property and all fixtures, machinery, equipment, and other personal property located on the Property or attached to, contained in, or used in any such buildings and other improvements, and all appurtenances and additions to and substitutions and replacements of the Property (all of the foregoing being collectively referred to below as the "Improvements"); and

TOGETHER WITH any and all mineral, oil and gas rights, air rights, development rights, water rights, water stock, and water service contracts, drainage rights, zoning rights, and other similar rights or interests that benefit or are appurtenant to the Property or the Improvements or both, and any of their proceeds; and

TOGETHER WITH all present and future rights in and to the trade name by which all or any portion of the Property and the Improvements are known; all books and records relating to the use and operation of all or any portion of the Property and Improvements; all right, title, and interest of Grantor in, to, and under all present and future plans, specifications, and contracts relating to the design, construction, management, or inspection of any Improvements; all rights, titles, and interests of Grantor in and to all present and future licenses, permits, approvals, and agreements with or from any municipal corporation, county, state, or other governmental or quasi-governmental entity or agency relating to the development, improvement, division, or use of all or any portion of the Property or Improvements to the extent that the trade names, licenses, permits, approvals, and agreements are assignable by law; and all other general intangibles relating to the Property, the Improvements, or their use and operation; and

TOGETHER WITH all rights of Grantor in and to any escrow or withhold agreements, title insurance, surety bonds, warranties, management contracts, construction contracts, leasing and sales agreements, and service contracts that are in any way relevant to the ownership, development, improvement, management, construction, sale, or use of all or any portion of the Property or any of the Improvements; and

TOGETHER WITH Grantor's rights under any payment, performance, or other bond in connection with the construction of any Improvements, and all construction materials, supplies, equipment, and other personal property delivered to the Property or intended to be used in connection with the construction of any Improvements; and

TOGETHER WITH all rights, interests, and claims that Grantor now has or may acquire with respect to any damage to or taking of all or any part of the Property or the Improvements, including without limitation any and all proceeds of insurance in effect with respect to the Improvements, any and all awards made for taking by eminent domain or by any proceeding or purchase in lieu thereof, of the whole or any part of the Property or the Improvements, and any and all awards resulting from any other damage to the Property or the Improvements.

All of the above is sometimes referred to below as the "Trust Property."

TO HAVE AND TO HOLD the Trust Property to Trustee and its successors and assigns for the benefit of Beneficiary and its successors and assigns, forever.

PROVIDED ALWAYS, that if all the Obligations (as defined in Section 1.1 below) are paid, performed, and satisfied in full, then the lien and estate granted by this Trust Deed will be reconveyed.

This Trust Deed, the Note, and all other agreements or instruments executed by Grantor or Borrower at any time in connection with them, as they may be amended or supplemented from time to time, are sometimes collectively referred to below as the "Loan Documents."

TO PROTECT THE SECURITY OF THIS TRUST DEED, GRANTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

Trust Deed (No. L09007)

**ARTICLE I**  
**PARTICULAR COVENANTS AND WARRANTIES OF GRANTOR**

**1.1 Obligations Secured.** This Trust Deed secures the following, collectively referred to as the "Obligations":

(1) The payment of all indebtedness, including but not limited to principal and interest, and the performance of all covenants and obligations of Borrower, under the Note, whether such payment and performance is now due or becomes due in the future;

(2) The payment and performance of all covenants and obligations in this Trust Deed, in the other Loan Documents, and in all other security agreements, notes, agreements, and undertakings now existing or hereafter executed by Grantor or Borrower with or for the benefit of Beneficiary; and

(3) The payment and performance of any and all other indebtedness and obligations of Grantor or Borrower to Beneficiary of any nature whatsoever, whether direct or indirect, primary or secondary, joint or several, liquidated or unliquidated, whenever and however arising, and whether or not reflected in a written agreement or instrument.

**1.2 Payment of Indebtedness and Performance of Covenants.** Grantor will duly and punctually pay and perform all of the Obligations.

**1.3 Property.** Grantor warrants that it holds good and merchantable title to the Property and the Improvements, free and clear of all liens, encumbrances, reservations, restrictions, easements, and adverse claims except those specifically listed in Exhibit C. Grantor covenants that it will forever defend Beneficiary's and Trustee's rights under this Trust Deed against the adverse claims and demands of all persons, except those listed in Exhibit C.

**1.4 Further Assurances, Filing, Refiling, Etc.**

(1) Grantor will execute, acknowledge, and deliver, from time to time, any further instruments that Beneficiary or Trustee may require to accomplish the purposes of this Trust Deed.

(2) Immediately on the execution and delivery of this Trust Deed, and thereafter from time to time, Grantor will cause this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and each instrument of further assurance, to be recorded and rerecorded in the manner and in the places that may be required by any present or future law in order to perfect, and continue perfected, the lien and estate of this Trust Deed.

(3) Grantor will pay all filing and recording fees, and all expenses incident to the execution, filing, recording, and acknowledgment of this Trust Deed; any security agreement, mortgage, or deed of trust supplemental to this Trust Deed and any instrument of further assurance; and all federal, state, county, and municipal taxes, assessments, and charges arising out of or in connection with the execution, delivery, filing, and recording of this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and any instrument of further assurance.

**1.5 Compliance with Laws.** Grantor further represents, warrants, and covenants that:

(1) To the best of Grantor's knowledge, the Property, if developed, has been developed, and all Improvements, if any, have been constructed and maintained, in full compliance with all applicable laws, statutes, ordinances, regulations, and codes of all federal, state, and local governments (collectively "Laws"), and all covenants, conditions, easements, and restrictions affecting the Property (collectively, "Covenants"); and

(2) Grantor will cause the Property and its operations on the Property to comply at all times hereafter, in all material respects, with all applicable Laws and Covenants.

## 1.6 Definitions, Environmental Covenants, Warranties, and Compliance

(1) For purposes of this section, "Environmental Law" means any federal, state, or local law, statute, ordinance, or regulation pertaining to Hazardous Substances, health, industrial hygiene, or environmental conditions, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 USC §§9601-9675, and the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended, 42 USC §§6901-6992.

(2) For the purposes of this section, "Hazardous Substance" includes without limitation any material, substance, or waste that is or becomes regulated or that is or becomes classified as hazardous, dangerous, or toxic under any federal, state, or local statute, ordinance, rule, regulation, or law.

(3) Grantor will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under, or about the Property or the Property's groundwater, or transport to or from the Property, any Hazardous Substance and will not permit any other person to do so, except for any Hazardous Substances that may be used in the ordinary course of Grantor's business and in compliance with all Environmental Laws, including but not limited to those relating to licensure, notice, and recordkeeping.

(4) Grantor will keep and maintain the Property in compliance with, and will not cause or permit all or any portion of the Property, including groundwater, to be in violation of any Environmental Law.

(5) Grantor will give prompt written notice to Beneficiary of:

(a) Any proceeding, inquiry, or notice by or from any governmental authority with respect to any alleged violation of any Environmental Law or the presence of any Hazardous Substance on the Property or the migration of any Hazardous Substance from or to other premises;

(b) All known claims made or threatened by any person against Grantor or with respect to the Property or Improvements relating to any loss or injury resulting from any Hazardous Substance or the violation of any Environmental Law;

(c) The existence of any known Hazardous Substance on or about all or any portion of the Property; or

(d) Grantor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could in Grantor's judgment cause any restrictions on the ownership, occupancy, transferability, or use of the Property under any Environmental Law.

(6) Grantor will promptly provide to Beneficiary copies of all reports, documents, and notices provided to or received from any agency administering any Environmental Laws. Beneficiary will have the right to join and participate, in its own name if it so elects, in any legal proceeding or action initiated with respect to the Property or Improvements in connection with any Environmental Law and to have its attorney fees in connection with such an action paid by Grantor, if Beneficiary determines that such participation is reasonably necessary to protect its interest in the Trust Property.

(7) If at any time Beneficiary has reason to believe that any release, discharge, or disposal of any Hazardous Substance affecting the Property or Improvements has occurred or is threatened, or if Beneficiary has reason to believe that a violation of an Environmental Law has occurred or may occur with respect to the Property or Improvements, Beneficiary may require Grantor to obtain or may itself obtain, at Grantors' expense, an environmental assessment of such condition or threatened condition by a qualified environmental consultant. Grantor shall promptly provide to Beneficiary a complete copy of any environmental assessment obtained by Grantor.

(8) If any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature (the "Remedial Work") is required under any applicable Environmental Law, by any judicial order, or by any governmental agency or person because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a Hazardous Substance on, under, or about all or any portion of the Property, or the contamination (whether currently existing or occurring after the date of this Trust Deed) of the buildings, facilities, soil, groundwater, surface water, air, or other elements on or under any other property as a result of Hazardous Substances emanating from the Property, Grantor will, within 30 days after written demand by Beneficiary for Grantor's performance under this provision (or such shorter period of time as may be required under any applicable law, regulation, order, or agreement), commence and thereafter diligently prosecute to completion, all such Remedial Work. Grantor will pay all costs and expenses of that Remedial Work, including, without limitation, Beneficiary's reasonable attorney fees and costs incurred in connection with monitoring or reviewing the legal aspects of the Remedial Work. If Grantor fails to timely commence, or cause to be commenced, the Remedial Work, Beneficiary may, but will not be required to, cause the Remedial Work to be performed. In that event, all costs and expenses incurred in connection with the Remedial Work will become part of the Obligations secured by this Trust Deed and will bear interest until paid at the rate of five percent (5%) per annum.

(9) Grantor will hold Beneficiary and its directors, officers, employees, agents, successors, and assigns, harmless from, will indemnify them for, and will defend them against any and all losses, damages, liens, costs, expenses, and liabilities directly or indirectly arising out of or attributable to any violation of any Environmental Law, any breach of Grantor's warranties in this Section 1.6, or the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a Hazardous Substance on, under, or about the Property, including without limitation the costs of any required repair, cleanup, containment, or detoxification of the Property, the preparation and implementation of any closure, remedial or other required plans, attorney fees and costs (including but not limited to those incurred in any proceeding and in any review or appeal), fees, penalties, and fines.

(10) Grantor represents and warrants to Beneficiary that:

(a) Neither the Property, to the best of Grantor's knowledge, nor Grantor is in violation of or subject to any existing, pending, or threatened investigation by any governmental authority under any Environmental Law.

(b) Grantor has not and is not required by any Environmental Law to obtain any permit or license other than those it has obtained, or will obtain, to construct or use the Improvements.

(c) To the best of Grantor's knowledge, no Hazardous Substance has ever been used, generated, manufactured, produced, stored, released, discharged, or disposed of on, under, or about the Property in violation of any Environmental Law, except as previously disclosed to Beneficiary.

(11) All representations, warranties, and covenants in this Section 1.6 will survive the satisfaction of the Obligations, the reconveyance of the Trust Property, or the foreclosure of this Trust Deed by any means.

**1.7 Maintenance and Improvements.** Grantor will not permit all or any part of the Improvements to be removed, demolished, or materially altered without Beneficiary's prior written consent, except for those Improvements that become obsolete in the usual conduct of Grantor's business and as long as the removal or material alteration of the obsolete Improvements does not materially detract from the operation of Grantor's business and as long as all obsolete Improvements that are demolished or removed are promptly replaced with Improvements of like value and quality. Grantor will maintain every portion of the Property and Improvements in good repair, working order, and condition, except for reasonable wear

and tear, and will at Beneficiary's election restore, replace, or rebuild all or any part of the Improvements now or hereafter damaged or destroyed by any casualty (whether or not insured against or insurable) or affected by any Condemnation (as defined in Section 1.16 below). Grantor shall have a reasonable period of time to repair and rehabilitate any Improvements that are not currently in good repair or operating condition. Grantor will not commit, permit, or suffer any waste, strip, or deterioration of the Trust Property.

**1.8 Liens.** Grantor will pay when due all claims for labor, materials, or supplies that if unpaid might become a lien on all or any portion of the Trust Property. Grantor will not create, or suffer, or permit to be created, any mortgage, deed of trust, lien, security interest, charge, or encumbrance on the Trust Property prior to, on a parity with, or subordinate to the lien of this Trust Deed, except as specifically provided in Exhibit C, or except as consented to in writing by Beneficiary.

### **1.9 Impositions**

(1) Grantor will pay or cause to be paid, when due and before any fine, penalty, interest, or cost attaches, all taxes, assessments, fees, levies, and all other governmental and nongovernmental charges of every nature now or hereafter assessed or levied against any part of the Trust Property (including, without limitation, levies or charges resulting from Covenants), or on the lien or estate of Beneficiary or Trustee (collectively, the "Impositions"); however, if by law any such Imposition may be paid in installments, whether or not interest will accrue on the unpaid balance, Grantor may pay the same in installments, together with accrued interest on the unpaid balance, as the same become due, before any fine, penalty, interest or cost attaches.

(2) Grantor may, at its expense and after prior notice to Beneficiary, contest by appropriate legal, administrative, or other proceedings conducted in good faith and with due diligence, the amount, validity, or application, in whole or in part, of any Imposition or lien on the Trust Property or any claim of any laborer, materialman, supplier, or vendor or lien, and may withhold payment of the same pending completion of the proceedings if permitted by law, provided that (a) such proceedings will suspend collection from the Trust Property; (b) no part of or interest in the Trust Property will be sold, forfeited, or lost if Grantor pays the amount or satisfies the condition being contested, and Grantor would have the opportunity to do so in the event of Grantor's failure to prevail in the contest; (c) neither Beneficiary nor Trustee will, by virtue of the permitted contest, be exposed to any risk of liability for which Grantor has not furnished additional security as provided in clause (d) below; and (d) Grantor furnishes to Beneficiary cash, corporate surety bond, or other additional security in respect of the claim being contested or the loss or damage that may result from Grantor's failure to prevail in the contest in an amount sufficient to discharge the Imposition and all interest, costs, attorney fees, and other charges that may accrue in connection with the Imposition. Grantor will promptly satisfy any final judgment.

(3) Grantor will furnish to Beneficiary, promptly upon request, satisfactory evidence of the payment of all Impositions. Beneficiary is hereby authorized to request and receive from the responsible governmental and nongovernmental personnel written statements with respect to the accrual and payment of all Impositions.

**1.10 Books and Records and Inspection of the Property.** Grantor will keep complete and accurate records and books of account with respect to the Trust Property and its operation in accordance with generally accepted accounting principles consistently applied. Grantor will permit Trustee, Beneficiary, and their authorized representatives to enter and inspect the Property and the Improvements, and to examine and make copies or extracts of the records and books of account of the Grantor with respect to the Property and the Improvements, all at any reasonable times as Beneficiary or Trustee may choose.

**1.11 Limitations on Use.** Grantor will not initiate, join in, or consent to any rezoning or replatting of the Property or any change in any covenant or other public or private restrictions limiting or defining the uses that may be made of all or any part of the Property and the Improvements without the prior written consent of Beneficiary.

**1.12 Insurance**

(1) *Property and Other Insurance.* Grantor will obtain and maintain in full force and effect during the term of this Trust Deed: (a) Special Form property insurance together with endorsements for replacement cost, inflation adjustment, malicious mischief, and sprinkler damage coverages, all in amounts not less than the full replacement cost of all Improvements, without reduction for coinsurance; (b) comprehensive general liability insurance, including liabilities assumed under contract, with limits, coverages, and risks insured acceptable to Beneficiary, and in no event less than \$1 million combined single-limit coverage; and (c) unless Beneficiary otherwise agrees in writing, rent loss or business interruption insurance in an amount no less than the total annual rents provided for in all leases for the Trust Property. In addition, Grantor will obtain and maintain all other insurance coverages designated by Beneficiary, which at the time are commonly carried for similar property, in any amounts that Beneficiary may require.

(2) *Insurance Companies and Policies.* All insurance must (a) be written by a company or companies reasonably acceptable to Beneficiary with a rating of A-, VIII or better as provided in BEST'S KEY RATING GUIDE-PROPERTY/CASUALTY (A.M. Best & Co., 2007); (b) contain a long-form mortgagee clause in favor of Beneficiary with loss proceeds under any policy payable to Beneficiary, subject to the terms of this Trust Deed and the rights of any superior mortgagee or trust deed beneficiary or as provided in Section 5.10 below; (c) require 30 days' prior written notice to Beneficiary of cancellation or reduction in coverage; (d) contain waivers of subrogation and endorsements that no act or negligence of Grantor or any occupant, and no occupancy or use of the Property for purposes more hazardous than permitted by the terms of the policy, will affect the validity or enforceability of such insurance as against Beneficiary; (e) be in full force and effect on the date of this Trust Deed; and (f) be accompanied by proof of premiums paid for the current policy year. Beneficiary must be named as an additional insured on all liability policies. Grantor will forward to Beneficiary, on request, certificates executed by the insurer or its agent evidencing the coverages required under this Trust Deed and copies of all policies. If a blanket policy is issued, a certified copy of the policy must be furnished together with a certificate indicating that the Trust Property and Beneficiary are insured under that policy in the proper designated amount.

(3) *Assignments of Policies on Foreclosure.* In the event of foreclosure of the lien of this Trust Deed or other transfer of title, or assignment of the Trust Property in whole or in part, all right, title, and interest of Grantor in and to all policies of insurance procured under Section 1.12 will inure to the benefit of and pass to the successors in interest of Grantor or the purchaser or grantee of all or any part of the Trust Property.

(4) *Notice and Proof of Loss.* After the occurrence of any casualty to the Property, whether or not required to be insured against as provided in this Trust Deed, Grantor will give prompt written notice of the casualty to Beneficiary, specifically describing the nature and cause of the casualty and the extent of the damage or destruction to the Trust Property. Beneficiary may make proof of loss if it is not made promptly and to Beneficiary's satisfaction by Grantor.

(5) *Restoration and Use of Proceeds.* Subject to the rights of any superior mortgagee or trust deed beneficiary as provided in Section 5.10 below, Grantor assigns to Beneficiary all insurance proceeds that Grantor may be entitled to receive with respect to any casualty. Beneficiary may, at its sole option, apply the insurance proceeds to the reduction of the Obligations in any order that Beneficiary may determine, whether or not the obligations are then due, or apply all or any portion of the insurance proceeds to the cost of restoring and rebuilding the portion of the Trust Property that was damaged or destroyed. If Beneficiary elects to apply the insurance proceeds to rebuilding and restoration, Beneficiary will be entitled to hold the proceeds, and the proceeds will be released only on the terms and conditions that Beneficiary may require in its sole discretion, including but not limited to prior approval of plans and release or waiver of construction liens. No proceeds will be released if an event of default under this Trust Deed has occurred.

### **1.13 Actions to Protect Trust Property; Reserves**

(1) If Grantor fails to obtain the insurance required by Section 1.12, fails to make the payments required by Section 1.9 (other than payments that Grantors is contesting in accordance with Section 1.9(2)), or fails to perform or observe any of its other covenants or agreements under this Trust Deed, Beneficiary may, without obligation to do so, obtain or pay the same or take other action that it deems appropriate to remedy such failure. All sums, including reasonable attorney fees, so expended or expended to maintain the lien or estate of this Trust Deed or its priority, or to protect or enforce any of Beneficiary's rights, or to recover any indebtedness secured by this Trust Deed, will be a lien on the Trust Property, will be secured by this Trust Deed, and will be paid by Grantor on demand, together with interest at the rate provided in the Note. No payment or other action by Beneficiary under this section will impair any other right or remedy available to Beneficiary or constitute a waiver of any default. The following notice is provided pursuant to ORS 746.201(1):

#### **WARNING:**

**Unless Grantor provides Beneficiary with evidence of the insurance coverage as required by this Trust Deed, 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 collateral becomes damaged, the coverage Beneficiary purchases may not pay any claim Grantor make or any claim made against Grantor. Grantor may later cancel this coverage by providing evidence that Grantor has obtained property coverage elsewhere.**

**Grantor are responsible for the cost of any insurance purchased by Beneficiary. The cost of this insurance may be added to the Obligations secured by this Trust Deed. If the cost is added to the Obligations secured by this Trust Deed, the interest rate of five percent (5%) per annum 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 its own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.**

(2) If Grantor fails to promptly perform any of its obligations under Section 1.9 or 1.12 of this Trust Deed, Beneficiary may require Grantor thereafter to pay and maintain with Beneficiary reserves for payment of such obligations. In that event, Grantor will pay to Beneficiary each month a sum estimated by Beneficiary to be sufficient to produce, at least 20 days before due, an amount equal to the Impositions and/or insurance premiums. If the sums so paid are insufficient to satisfy any Imposition or insurance premium when due, Grantor will pay any deficiency to Beneficiary on demand. The reserves may be commingled with Beneficiary's other funds, and Beneficiary will not be required to pay interest to Grantor on those reserves. Beneficiary will not hold the reserve in trust for Grantors, and Beneficiary will not be the agent of Grantor for payment of the taxes and assessments required to be paid by Grantor.

**1.14 Estoppel Certificates.** Within five days of Beneficiary's request, Grantor will give Trustee and Beneficiary a written statement, duly acknowledged, of the amount of the Obligations secured by this Trust Deed and whether any offsets or defenses exist against the Obligations. If Grantor fails to provide this statement within the time allowed, Beneficiary will be authorized, as Grantor's attorney-in-fact, to execute and deliver the statement. On request, Grantor will also use its best efforts to obtain and deliver to Beneficiary a written certificate from each lessee of all or any portion of the Property that its lease is in effect, that there are no defaults by the lessor under the lease, and that rent is not paid more than 30 days in advance.

**1.15 Financial Information.** Grantor will promptly provide to Beneficiary any and all financial information required to be provided by any of the Loan Documents or that Beneficiary may reasonably request from time to time.

**1.16 Condemnation**

(1) If any part of or interest in the Trust Property is taken or damaged by reason of any public improvement, eminent domain, condemnation proceeding, or in any similar manner (a "Condemnation"), or if Grantor receives any notice or other information regarding such action, Grantor will give immediate notice of the action to Beneficiary.

(2) Subject to the rights of any superior mortgagee or trust deed beneficiary as provided in Section 5.10 below, Beneficiary will be entitled to all compensation, awards, and other payments or relief ("Condemnation Proceeds") up to the full amount of the Obligations, and will be entitled, at its option, to commence, appear in, and prosecute any Condemnation proceeding in its own or Grantor's name and make any compromise or settlement in connection with such Condemnation. If the Trust Property is taken in its entirety by Condemnation, all Obligations secured by this Trust Deed, at Beneficiary's election, will become immediately due and collectible.

(3) Beneficiary may, at its sole option, apply the Condemnation Proceeds to the reduction of the Obligations in any order that Beneficiary may determine, or apply all or any portion of the Condemnation Proceeds to the cost of restoring and improving the remaining Trust Property. If Beneficiary elects to apply the Condemnation Proceeds to restoration and improvement, the proceeds will be held by Beneficiary and will be released only on any terms and conditions that Beneficiary may require in its sole discretion, including but not limited to prior approval of plans and release or waiver of liens. No Condemnation Proceeds will be released if an event of default under this Trust Deed has occurred.

**ARTICLE II**  
**ASSIGNMENT OF LEASES, RENTS, ISSUES, AND PROFITS**

**2.1 Assignment.** Grantor assigns and transfers to Beneficiary (1) all leases, subleases, licenses, rental contracts, and other agreements, whether now existing or hereafter arising, and relating to the occupancy or use of all or any portion of the Trust Property, including all modifications, extensions, and renewals of them (the "Leases"), and (2) all rents, revenues, issues, profits, income, proceeds, and benefits derived from the Trust Property and the lease, rental, or license of all or any portion of them, including but not limited to lease and security deposits (collectively, the "Rents"). This assignment is intended by Grantor and Beneficiary to create a present and unconditional assignment to Beneficiary, subject only to the license set forth in Section 2.4 below.



**2.2 Rights of Beneficiary.** Subject to the provisions of Section 2.4 below giving Grantor a revocable, limited license, Beneficiary will have the right, power, and authority to:

(1) Notify any and all tenants, renters, licensees, and other obligors under any of the Leases that the same have been assigned to Beneficiary and that all Rents are to be paid directly to Beneficiary, whether or not Beneficiary has foreclosed or commenced foreclosure proceedings against the Trust Property, and whether or not Beneficiary has taken possession of the Trust Property;

(2) Discount, settle, compromise, release, or extend the time for payment of, any amounts owing under any of the Leases and any Rents, in whole or in part, on terms acceptable to Beneficiary;

(3) Collect and enforce payment of Rents and all provisions of the Leases, and to prosecute any action or proceeding, in the name of Grantor or Beneficiary, with respect to any and all Leases and Rents; and

(4) Exercise any and all other rights and remedies of the lessor in connection with any of the Leases and Rents.

**2.3 Application of Receipts.** Beneficiary will have the right, power, and authority to use and apply any Rents received under this Trust Deed (1) for the payment of any and all costs and expenses incurred in connection with enforcing or defending the terms of this assignment or the rights of Beneficiary, and in collecting any Rents; and (2) for the operation and maintenance of the Trust Property and the payment of all costs and expenses in connection therewith, including but not limited to the payment of utilities, taxes, assessments, governmental charges, and insurance. After the payment of all such costs and expenses, and after Beneficiary has set up any reserves that it deems necessary in its sole discretion for the proper management of the Trust Property, Beneficiary will apply all remaining Rents collected and received by it to the reduction of the Obligations in any order that Beneficiary may determine. Beneficiary's exercise or failure to exercise any of the rights or powers granted in this assignment will not constitute a waiver of any default under this Trust Deed, the Note, or any of the other Loan Documents.

**2.4 License.** Beneficiary hereby grants to Grantor a revocable license to collect and receive the Rents. This license may be revoked by Beneficiary, without notice to Grantor, on the occurrence of any event of default under this Trust Deed, including any default by Grantor of its covenants in this Article II. Unless and until the license is revoked, Grantor agrees to apply the proceeds of Rents to the payment of the Obligations and to the payment of taxes, assessments, governmental charges, insurance premiums, and other obligations in connection with the Trust Property, and to the maintenance of the Trust Property, before using the proceeds for any other purpose. Grantor agrees to (1) observe and perform every obligation of Grantor under the Leases, (2) enforce or secure at its expense the performance of every obligation to be performed by any lessee or other party under the Leases, (3) promptly give notice to Beneficiary of any default by any such lessee or other party under any of the Leases, and promptly provide Beneficiary with a copy of any notice of default given to any such lessee or other party, (4) not collect any Rents more than 30 days in advance of the time when they become due, or anticipate any other payments under the Leases, except for bona fide security deposits not in excess of an amount equal to two months' rent, (5) not further assign or hypothecate any of the Leases or Rents, (6) except with Beneficiary's prior written consent, not waive, release, or in any other manner discharge any lessee or other party from any of its obligations under any of the Leases, (7) except with Beneficiary's prior written consent, not modify or amend any of the Leases, (8) except with Beneficiary's prior written consent, not cancel, terminate, or accept surrender of any of the Leases unless Grantor has entered into a Lease for the space to be vacated on terms at least as favorable to Grantor, commencing within 30 days after such cancellation, termination, or surrender, (9) obtain Beneficiary's prior written approval on the form and content of all future leases and any modifications of any present or future leases, (10) deliver copies of all present and future leases to Beneficiary promptly, and

(11) appear in and defend, at Grantor's sole cost and expense, any action or proceeding arising out of or in connection with the Leases or the Rents. If any Lease is rejected in any proceeding under the federal Bankruptcy Code or any other federal, state, or local statute, no damage settlement may be made without the prior written consent of Beneficiary. Grantor will request that any check in payment of damages for rejection or termination of any such Lease be made payable to both Grantor and Beneficiary. Grantor hereby assigns any such payment to Beneficiary.

**2.5 Limitation of Beneficiary's Obligations.** Notwithstanding the assignment provided for in this Article II, Beneficiary will not be obligated to perform or discharge, and Beneficiary does not undertake to perform or discharge, any obligation or liability with respect to the Leases or the Rents. This assignment will not operate to place responsibility for the control, care, maintenance, or repair of the Trust Property on Beneficiary, or to make Beneficiary responsible for any condition of the Property. Beneficiary will be accountable to Grantor only for the sums actually collected and received by Beneficiary under to this assignment. Grantor will hold Beneficiary fully harmless from, indemnify Beneficiary for, and defend Beneficiary against any and all claims, demands, liabilities, losses, damages, and expenses, including attorney fees, arising out of any of the Leases, with respect to any of the Rents, or in connection with any claim that may be asserted against Beneficiary on account of this assignment or any obligation or undertaking alleged to arise therefrom.

**2.6 Termination.** The assignment provided for in this Article II will continue in full force and effect until all the Obligations have been fully paid and satisfied. At such time, this assignment and the authority and powers herein granted by Grantor to Beneficiary will cease and terminate.

**2.7 Attorney-in-Fact.** Grantor irrevocably constitutes and appoints Beneficiary, and each of its officers, as its true and lawfully attorney-in-fact, with power of substitution, to undertake and execute any and all of the rights, powers, and authorities described in this Article II with the same force and effect as if undertaken or performed by Grantor, and Grantor ratifies and confirms any and all such actions that may be taken or omitted to be taken by Beneficiary, its employees, agents, and attorneys.

### **ARTICLE III SECURITY AGREEMENT AND FIXTURE FILING**

To secure the Obligations, Grantor grants to Beneficiary a security interest in the following: (1) the Trust Property to the extent that it is not encumbered by this Trust Deed as a real estate lien; (2) all personal property that is used or will be used in the construction of any Improvements on the Trust Property; (3) all personal property that is now or will hereafter be placed on or in the Trust Property or Improvements; (4) all personal property that is derived from or used in connection with the use, occupancy, or enjoyment of the Trust Property; (5) all property defined in Oregon's version of the Uniform Commercial Code ("UCC"), as accounts, equipment, fixtures, and general intangibles, to the extent that they are used at, or arise in connection with the ownership, maintenance, or operation of, the Trust Property; (6) all causes of action, claims, security deposits, advance rental payments, utility deposits, refunds of fees or deposits paid to any governmental authority, refunds of taxes, and refunds of insurance premiums relating to the Trust Property; (7) all options, agreements, and contracts for the purchase or sale of all or any part or parts of the Trust Property or interests in the Trust Property; and (8) all present and future attachments, accessions, amendments, replacements, additions, products, and proceeds of every nature of the foregoing. This Trust Deed constitutes a security agreement and a "fixture filing" under the UCC regarding secured transactions. The mailing address of Grantor and the address of Beneficiary from which information may be obtained are set forth at the outset of this Trust Deed. The organizational identification number of Grantor is 93-6001830. Grantor authorizes Beneficiary to file with all applicable governmental entities financing statements and continuation statements evidencing the security interest granted herein.

**ARTICLE IV**  
**EVENTS OF DEFAULT AND REMEDIES**

**4.1 Events of Default.** Each of the following events will constitute an event of default under this Trust Deed and under each of the other Loan Documents:

(1) *Nonpayment.* Failure of Grantor or Borrower to pay any of the Obligations on or before the due date or within any applicable grace period.

(2) *Breach of Other Covenants.* Failure of Grantor or Borrower to perform or abide by any other covenant included in the Obligations, including without limitation those covenants in the Note, this Trust Deed, or any other Loan Document.

(3) *Misinformation.* Falsity when made in any material respect of any representation, warranty, or information furnished by Grantor or its agents to Beneficiary in or in connection with any of the Obligations.

(4) *Other Default.* The occurrence of any other event of default under the Note or any of the other Obligations.

(5) *Other Indebtedness, Secondary Financing.* Grantor's default beyond the applicable grace periods in the payment of any other indebtedness owed by Grantor to any person, if the indebtedness is secured by all or any portion of the Trust Property.

(6) *Bankruptcy.* The occurrence of any of the following with respect to Grantor, Borrower, any guarantor of the Obligations, or the then-owner of the Trust Property: (a) 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 Trust Property.

(7) *Transfer; Due-on-Sale; Due-on-Encumbrance.* Any sale, gift, conveyance, contract for conveyance, transfer, assignment, encumbrance, pledge, or grant of a security interest in all or any part of the Trust Property, or any interest therein, either voluntarily, involuntarily, or by the operation of law (a "Transfer"), without Beneficiary's prior written consent, will constitute an event of default. For the purpose of clarification, and without limiting the generality of the foregoing, the occurrence at any time of any sale, conveyance, assignment, or other transfer of, or the grant of a pledge of or security interest in, any shares of the capital stock, membership or partnership or other beneficial interest in or of Grantor will be deemed to be a Transfer in violation of this subsection (7). The provisions of this subsection (7) will apply to each and every Transfer, regardless of whether or not Beneficiary has consented or waived its rights in connection with any previous Transfer. Beneficiary may attach any conditions to its consent under this subsection (7) that Beneficiary may determine in its sole discretion, including without limitation an increase in the interest rate or the payment of transfer or assumption fees, and the payment of administrative and legal fees and costs incurred by Beneficiary.

**4.2 Remedies in Case of Default.** If an Event of Default occurs, Beneficiary or Trustee may exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available by law, in equity, or otherwise:

(1) *Acceleration.* Beneficiary may declare all or any portion of the Obligations immediately due and payable.

(2) *Receiver.* Beneficiary may have a receiver appointed for the Trust Property. Beneficiary will be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Trust Property exceeds the amount of the indebtedness secured by this Trust Deed. Employment by Trustee or Beneficiary will not disqualify a person from serving as receiver. Grantor consents to the appointment of a receiver at Beneficiary's option and waives any and all defenses to such an appointment.

(3) *Possession.* Beneficiary may, either through a receiver or as lender-in-possession, enter and take possession of all or any part of the Trust Property and use, operate, manage, and control it as Beneficiary shall deem appropriate in its sole discretion. Upon request after an Event of Default, Grantor will peacefully relinquish possession and control of the Trust Property to Beneficiary or any receiver appointed under this Trust Deed.

(4) *Rents.* Beneficiary may revoke Grantor's right to collect the Rents, and may, either itself or through a receiver, collect the Rents. Beneficiary will not be deemed to be in possession of the Property solely by reason of exercise of the rights contained in this subsection (4). If Beneficiary collects the Rents under this subsection (4), Grantor hereby irrevocably appoints Beneficiary as Grantor's attorney-in-fact, with power of substitution, to endorse instruments received in payment of the Rents in the name of Grantor and to negotiate such instruments and collect their proceeds. After payment of all Obligations, any remaining amounts will be paid to Grantor and this power will terminate.

(5) *Power of Sale.* Beneficiary may direct Trustee, and Trustee will be empowered, to foreclose this Trust Deed by advertisement and sale under applicable law.

(6) *Foreclosure.* Beneficiary may judicially foreclose this Trust Deed and obtain a judgment foreclosing Grantor's interest in all or any part of the Property and giving Beneficiary the right to collect any deficiency remaining due after disposition of the Trust Property.

(7) *Abandonment.* Beneficiary may abandon all or any portion of the Trust Property by written notice to Grantor.

**4.3 Sale.** In any sale under this Trust Deed or pursuant to any judgment, the Trust Property, to the extent permitted by law, may be sold as an entirety or in one or more parcels and in any order that Beneficiary may choose, without regard to the right of Grantor, Borrower, any person claiming under Grantor or Borrower, or any guarantor or surety to the marshalling of assets. The purchaser at any such sale will take title to the Trust Property or the part of it so sold, free and clear of Grantor's estate, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Beneficiary and its officers, agents, and employees, may purchase at any such sale. Beneficiary and each of its officers are irrevocably appointed Grantor's attorney-in-fact, with power of substitution, to make all appropriate transfers and deliveries of the Trust Property or any portions of it so sold and, for that purpose, Beneficiary and its officers may execute all appropriate instruments of transfer. Nevertheless, Grantor will ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to Beneficiary or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Beneficiary, for that purpose.

**4.4 Cumulative Remedies.** All remedies under this Trust Deed are cumulative and not exclusive. Any election to pursue one remedy will not preclude the exercise of any other remedy. An election by Beneficiary to cure under Section 1.13 will not constitute a waiver of the default or of any of the remedies provided in this Trust Deed. No delay or omission in exercising any right or remedy shall impair the full exercise of that or any other right or remedy or constitute a waiver of the default.

**4.5 Receiver or Trustee-in-Possession.** On taking possession of all or any part of the Trust Property, Trustee, Beneficiary, or a receiver may, to the extent permitted by law:

(1) *Management.* Use, operate, manage, control, and conduct business with the Trust Property and make expenditures for any purpose and for any maintenance and improvements that it deems reasonably necessary.

(2) *Rents and Revenues.* Collect all rents, revenues, income, issues, and profits from the Trust Property and apply those sums to the reasonable expenses of use, operation, management, maintenance, and improvements.

(3) *Construction.* At its option, complete any construction in progress on the Property and, in that connection, pay bills, borrow funds, employ contractors, and make any changes in plans and specifications as it deems appropriate.

(4) *Additional Indebtedness.* If the revenues produced by the Trust Property are insufficient to pay expenses, Beneficiary, Trustee, or the receiver may borrow or advance such sums upon any terms that it deems reasonably necessary for the purposes stated in this section. All advances will bear interest, unless otherwise provided, at the rate of five percent (5%) per annum, and repayment of those sums will be secured by this Trust Deed.

**4.6 Application of Proceeds.** All proceeds realized from the exercise of the rights and remedies under Section 4 will be applied as follows:

(1) *Costs and Expenses.* To pay all costs of exercising such rights and remedies, including the costs of maintaining and preserving the Trust Property, the costs and expenses of any receiver or lender-in-possession, the costs of any sale, and the costs and expenses provided for in Section 5.7 below.

(2) *Indebtedness.* To pay all Obligations, in any order that Beneficiary may determine in its sole discretion.

(3) *Surplus.* The surplus, if any, remaining after satisfaction of all the Obligations will be paid to the clerk of the court in the case of a judicial foreclosure proceeding, otherwise to the person or persons legally entitled to the surplus.

**4.7 Deficiency.** No sale or other disposition of all or any part of the Trust Property pursuant to Section 4 will be deemed to relieve Grantor or Borrower 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 Trust Property are insufficient to cover the costs and expenses of such realization and the payment in full of the Obligations, Grantor and Borrower will remain liable for any deficiency to the fullest extent permitted by law.

**4.8 Waiver of Stay, Extension, Moratorium, and Valuation Laws.** To the fullest extent permitted by law, Grantor waives the benefit of any existing or future stay, extension, or moratorium law that may affect observance or performance of the provisions of this Trust Deed and any existing or future law providing for the valuation or appraisal of the Trust Property before any sale.

## ARTICLE V GENERAL PROVISIONS

**5.1 Time is of the Essence.** Time is of the essence with respect to all covenants and obligations of Grantor under this Trust Deed.

**5.2 Reconveyance by Trustee.** At any time on the request of Beneficiary, payment of Trustee's fees, if any, and presentation of this Trust Deed, without affecting liability of any persons for the payment of the Obligations, Trustee may reconvey, without warranty, all or any part of the Trust Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any facts shall be conclusive proof of the truthfulness of them.

**5.3 Notice.** Except as otherwise provided in this Trust Deed, all notices pertaining to this Trust Deed must be in writing and may be delivered by hand, or mailed by first class, registered, or certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at its address set forth at the outset of this Trust Deed. Any party may change its address for receiving notices from time to time by notice to the other parties. Notices given by mail in accordance with this section will be deemed to have been given on the date of mailing; notices given by hand will be deemed to have been given when actually received.

**5.4 Substitute Trustee.** Beneficiary may at any time substitute one or more trustees to execute the trust created by this Trust Deed, and the new trustee or trustees will succeed to all the powers and duties of the prior trustee or trustees.

**5.5 Trust Deed Binding on Successors and Assigns.** This Trust Deed is binding upon and inures to the benefit of the successors and assigns of Grantor, Trustee, and Beneficiary. If the Trust Property or any portion of it becomes vested in any person other than Grantor, Beneficiary will have the right to deal with the successor regarding this Trust Deed, the Trust Property, and the Obligations in any manner that Beneficiary deems appropriate in its sole discretion, without notice to or approval by Grantors and without impairing the liability of Grantor or the Borrower for the Obligations.

**5.6 Indemnity.** Grantor will hold Beneficiary and Trustee and their respective directors, officers, employees, agents, and attorneys, harmless from and indemnify them for any and all claims, demands, damages, liabilities, and expenses, including but not limited to attorney fees and court costs, arising out of or in connection with Trustee's or Beneficiary's interest under this Trust Deed, except that Grantor will not be liable for acts performed by Beneficiary or Trustee in violation of applicable law.

**5.7 Expenses and Attorney Fees.** If Beneficiary refers any of the Obligations to an attorney for collection or seeks legal advice following a default; if Beneficiary is the prevailing party in any litigation instituted in connection with any of the Obligations; or if Beneficiary or any other person initiates any judicial or nonjudicial action, suit, or proceeding in connection with any of the Obligations or the Trust 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 Beneficiary employs an attorney 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 Beneficiary's interests, then in any such event Grantor must pay reasonable attorney fees, costs, and expenses incurred by Beneficiary or its attorney 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 Trust Deed and, if not paid upon demand, will bear interest at the rate of five percent (5%) per annum.

**5.8 Applicable Law.** The Trust Deed and the validity, interpretation, performance, and enforcement of the Trust Deed will be governed by Oregon law.

**5.9 Captions.** The captions to the sections and subsections of this Trust Deed are included only for the convenience of the parties and do not define, diminish, or enlarge the rights of the parties or affect the construction or interpretation of any portion of this Trust Deed.

**5.10 Rights of Prior Mortgagee.** If all or any portion of the Trust Property is subject to a superior mortgage or trust deed specifically permitted under Exhibit C, the rights of Beneficiary with respect to insurance and Condemnation Proceeds as provided in Sections 1.12 and 1.26, and all other rights granted under this Trust Deed that have also been granted to such a superior mortgagee or trust deed beneficiary, will be subject to the rights of the superior mortgagee or trust deed beneficiary. Grantor hereby authorizes all such superior mortgagees and beneficiaries, on satisfaction of the indebtedness secured by their mortgage or trust deed, to remit all remaining insurance or Condemnation Proceeds and all other sums held by them to Beneficiary to be applied in accordance with this Trust Deed.

**5.11 "Person" Defined.** As used in this Trust Deed, the word "person" means any natural person, partnership, trust, corporation, or other legal entity of any nature.

**5.12 Severability.** If any provision of this Trust Deed is held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provisions of this Trust Deed, and the other provisions will be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Trust Deed.

**5.13 Entire Agreement.** This Trust Deed contains the entire agreement of the parties with respect to the Trust Property. No prior agreement, statement, or promise made by any party to this Trust Deed that is not contained in this Trust Deed will be binding or valid.

**5.14 Commercial Property.** Grantor covenants and warrants that the Property and Improvements are used by Grantor exclusively for business and commercial purposes. Grantor also covenants and warrants that the Property and Improvements are not now, and at no time in the future will be, occupied as the principal residence of Grantor, Grantor's spouse, or Grantor's minor or dependent child.

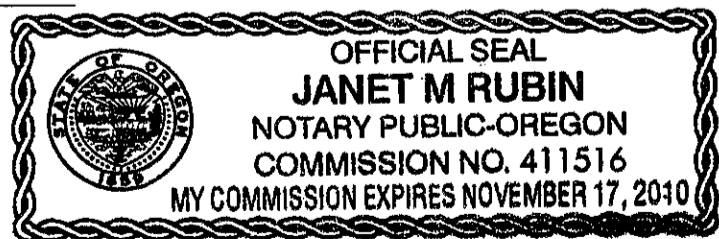
**5.15 Standard for Discretion.** If this Trust Deed is silent on the standard for any consent, approval, determination, or similar discretionary action, the standard will be good faith, fairness, or reasonableness.

GRANTOR:  
OREGON INTERNATIONAL PORT OF COOS BAY  
By: [Signature]  
Name DAVID KRONSTEINER  
& Title  
(print): Commission President

STATE OF Oregon )  
County of Coos ) ss.

The foregoing instrument was acknowledged before me this 12 day of MARCH, 2009, by DAVID KRONSTEINER, the Commission President of the Oregon International Port of Coos Bay, on behalf of said port.

Notary Public for [Signature]  
My commission expires: 11-17-2010



**EXHIBIT A**  
Legal Description of Property  
DOUGLAS COUNTY, OREGON

That certain real property conveyed by deed dated by December 31, 1994 from Southern Pacific Transportation Company to Central Oregon & Pacific Railroad, Inc. which was recorded in Douglas County Official Records at Document No. 95 00007, less and excepting the following properties:

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to James Bunch:**

A parcel of land lying in the Southeast quarter of the Northwest quarter of Section 35, Township 21 South, Range 12 West, W.M., Douglas County, Oregon, more particularly described as follows:

Commencing at the point of intersection of the Westerly right of way of East Railroad Avenue and the Northerly right of way of Second Street, thence along said Westerly right of way of East Railroad Avenue, South 37°04'00" West 3.05 feet to the center of a concrete flood wall; thence continuing South 37°04'00" West 156.95 feet to a 5/8" iron rod set per Douglas County Survey M148-49 on the Westerly right of way of East Railroad Avenue and the TRUE POINT OF BEGINNING; thence leaving said right of way, North 52° 56'00" West 107.98 feet to a 5/8" iron rod set per M148-49; thence continuing North 52° 56'00" West 10.00 feet to a point lying 30.00 feet perpendicular from the existing railroad centerline; thence along a line parallel to and at a uniform distance of 30.00 feet from the existing railroad centerline, South 37°28'26" West 57.81 feet to a point on the Northeasterly boundary of that parcel described as Parcel 1 per Deed Instrument No. 97-12878, deed records of Douglas County, Oregon, said point lying South 52°42'12" East 9.97 feet from a 5/8" iron rod set per Douglas County Survey M124-55; thence along said Northeasterly boundary, South 52°24'12" East 119.86 feet to a 5/8" iron rod set per said M124-55 on the Westerly right of way line of East Railroad Avenue; thence North 35°37'27" East 58.30 feet to the point of beginning.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to James and Patricia Hatcher:**

A portion of the Central Oregon and Pacific Railroad right-of-way which lies in the SW ¼ of the SW ¼ of Section 35, Township 21 South, Range 12 West, W.M., Douglas County, Oregon Described as follows: Beginning at a point which is S 05°35'38"E, 1834.00 feet from the W ¼ corner of said section 35; thence S 87°54'00"E, 130 feet to a 5/8" iron rod; thence along the east boundary of said railroad right-of-way on a curve left having a long chord of S09°20'15"E, 320.45 feet to a 5/8" rebar; thence continuing on said curve left S 22°10'17"E, chord distance 71.83 feet to a 5/8" rebar; thence S 65°44'43"W along said railroad right-of-way for 75.02 feet to a 5/8" rebar; thence S 65°44'43"W along said railroad right-of-way for 75.02 feet to a 5/8" rebar, thence S 65°44'43"W, 55.00 feet to a 5/8" rebar; thence along a curve right with a long chord of N11°35'46"W, 450.09 feet to the point of beginning. Said parcel contains 1.26 acres.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to James and Patricia Hatcher:**

A parcel of land lying in the Southwest 1/4 of the Northwest 1/4 of Section 35, Township 21 South, Range 12 West, W.M., Douglas County, Oregon, more particularly described as follows:

Commencing at the point of intersection of the Westerly right-of-way of East Railroad Avenue and the Northerly right-of-way of Second Street, thence along said Westerly right-of-way of East Railroad Avenue, South 37°04'00" West 3.05 feet to the center of a concrete flood wall and the TRUE POINT OF BEGINNING;



Thence continuing South 37°04'00" West 4.00 feet to a 5/8" iron rod;

Thence continuing South 37°04'00" West 152.95 feet to a 5/8" iron rod;

Thence leaving said right-of-way, North 52°56'00" West 107.98 feet to a 5/8" iron rod, said point lying 40.00 feet perpendicular from the existing railroad centerline;

Thence along a line parallel to and 40.00 feet perpendicular from the existing railroad centerline, North 37°28'26" East 165.56 feet to a 5/8" iron rod;

Thence continuing North 37°28'26" East 1.00 foot to the prolongation of the centerline of said concrete flood wall;

Thence South 47°47'31" East 1.50 feet to the end of said wall;

Thence along said wall, South 47°47'31" East 105.72 feet to the point of beginning.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Mortimer Villa:**

All of that parcel described pursuant to Deed Vol. 73 Pg. 239, Deed Records of Douglas County, Oregon, and more particularly described as follows:

Beginning at a 5/8" iron rod at the intersection of the North line of the Northwest 1/4 of the Southeast 1/4 of Section 14, Township 22 South, Range 12 West, W.M., Douglas County, Oregon, and a line measured Northwesterly 75 feet perpendicular from the existing railroad centerline (said railroad formerly described as Willamette-Pacific Railroad's "B" line) and said iron rod also lying South 89°33'42" East 813.07 feet from an iron pipe with a brass cap marking the Center 1/4 corner of said Section 14;

Thence in Southwesterly direction, along a line parallel to and at a uniform distance of 75 feet from said railroad centerline, 1110.72 feet, more or less, to a 5/8" iron rod on the West line of said Northwest 1/4;

Thence along the West line of said Northwest 1/4, North 00°02'19" East 761.03 feet to said Center 1/4 corner;

Thence along the North line of said Northwest 1/4, South 89°33'42" East 813.07 feet to the point of beginning.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Sharp Logging:**

Commencing at a point located 1457.00 feet East from the West 1/4 corner of Section 35, Township 21 South, Range 12 West, W.M., Douglas County, Oregon, said point also being located on the Southerly right-of-way line of Central Oregon and Pacific Railroad Company's railroad, thence North 38°03'00" East 9.41 feet along said Southerly right of-way to the most Southerly point of that parcel described as Parcel 1 per Deed Inst. #97-12878, Deed Records of Douglas County, Oregon, and the TRUE POINT OF BEGINNING;

Thence along the Southwesterly boundary of said Parcel 1, North 51°57'00" West 125.00 feet to a point lying 25 feet from said railroad's centerline;

Thence along a line 25 feet from and parallel with said centerline, South 38°03'00" West 185.00 feet;

Thence South 51°57'00" East 125.00 feet to a point on said Southerly right-of-way;

Thence along said Southerly right-of-way, North 38°03'00" East 185.00 feet to the point of beginning.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Jeff Unger:**

A parcel of land located in the SE ¼ of the NW ¼ of Section 35, Township 21 South, Range 12 West of the Willamette Meridian, Douglas County, Oregon, as described in that certain Quit Claim Deed by Central Oregon & Pacific Railroad Company, Inc. to Jeff Unger, dated April 29, 1996 and recorded in Book 1439, Page 572.

A parcel of land located in the SW ¼ and the SE ¼ of the NW ¼ of Section 35 Township 21 South Range 12 West of the Willamette Meridian, Douglas County, Oregon, as described in that certain Quit Claim Deed by Central Oregon & Pacific Railroad Company, Inc. to Jeff Unger, dated April 29, 1996, and recorded in Book 1410, Page 411.

A parcel of land located in the SE ¼ and the NW ¼ of Section 35, Township 21 South, Range 12 West of the Willamette Meridian, Douglas County, Oregon, as described in that certain Quit Claim Deed by Central Oregon & Pacific Railroad Company, Inc. to Jeff Unger, dated July 11, 1997, and recorded in Book 1484, Page 862.

**Less and excepting that certain land located in Reedsport, Douglas County, Oregon sold by Central Oregon & Pacific Railroad, Inc., a Delaware Corporation to Gary and Karin Waggoner:**

Beginning at a 5/8" iron rod at the intersection of the South line of Parcel 3, Partition Plat 1999-71, Douglas County Survey Records, and a line parallel to and 75 feet Westerly of the existing rail centerline, said iron rod bearing North 70°22'23" East 67.41 feet from a 5/8" iron rod marking the Southwest corner of said Parcel 3;

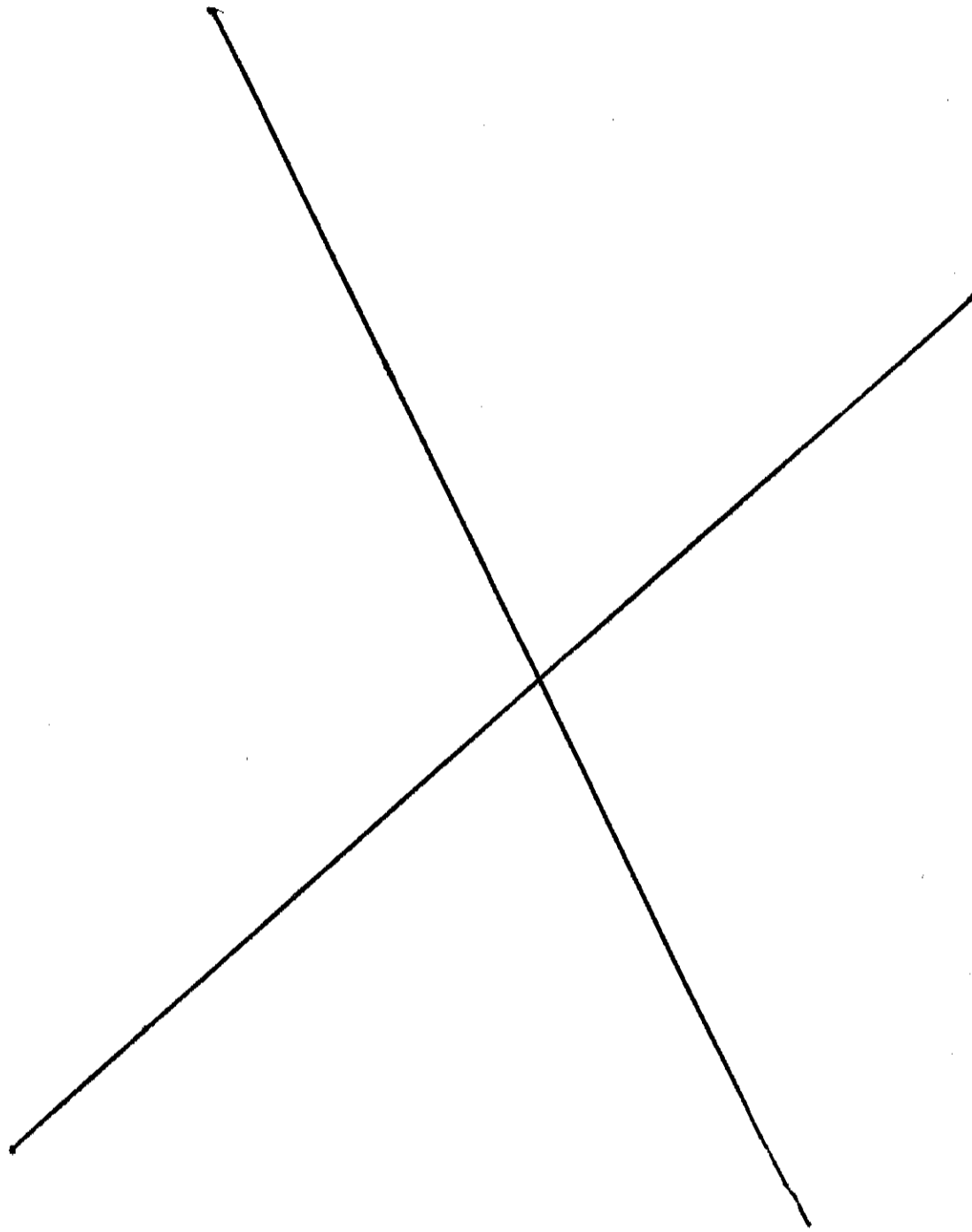
Thence Southeasterly along a line parallel to and 75 feet from said rail centerline, 299.50 feet along a 1238.54 foot radius curve to the left, the long chord of which bears South 29°21'45" East 298.77 feet, to a 5/8" iron rod;

Thence North 70°22'33" East 57.53 feet to a 5/8" iron rod, said iron rod lying Westerly 20 feet measured perpendicularly from said rail centerline;

Thence Northwesterly along a line parallel to and 20 feet from said rail centerline, 300.00 feet along a 1183.54 foot radius curve to the right, the long chord of which bears North 29°49'38" West 299.20 feet, to a point on the South line of said Parcel 3;

Thence South 70°22'23" West 55.07 feet to the point of beginning.

**EXHIBIT B**  
Tax Account Numbers



## EXHIBIT C

### Permitted Liens (Section 1.3)

The Trust Property, as more particularly described in Exhibit A, may be subject to liens, claims, charges and encumbrances, in addition to the encumbrances created by this Trust Deed or specifically set forth in Exhibits A, as a result of the manner in which the Grantor acquired title to the Trust Property. By the terms of the order of the Surface Transportation Board (the "STB") in the matter of STB Finance Docket No. 35160 dated October 31, 2008 ("STB Order"), the Borrower was required to accept a conveyance of the Trust Property from Central Oregon & Pacific Railroad ("CORP") by quitclaim deeds. Pursuant to the terms of the Asset Purchase Agreement dated 3/2/09, entered into between the Grantor and CORP for the purpose of implementing the STB Order:

1. CORP expressly disclaimed all warranties of title or interest with respect to the Trust Property.
2. CORP expressly asserted that it made no representations regarding the quality of title held by CORP in the Trust Property.
3. CORP conveyed the Trust Property to the Grantor, subject to "Permitted Encumbrances", which was defined as including any:
  - (i) liens for Taxes, assessments, levies, fees and other governmental charges not yet due or which, if due and unpaid, are being contested in good faith,
  - (ii) all utility easements, licenses or permits crossing any portion of the Subject Line of a type granted by railroads in the ordinary course of business or normally pertaining to railroad properties,
  - (iii) all road crossing agreements or rights of use with or by Governmental Authorities or private parties of a type granted by railroads in the ordinary course of business or normally pertaining to railroad properties,
  - (iv) all leases and tenancy agreements existing as of the Closing Date,
  - (v) rights of reverter, rights of entry and equitable interests,
  - (vi) easements, licenses, permits, rights or way or similar rights of others, and defects in title, adverse rights, Encumbrances and exceptions which would be disclosed by a survey,
  - (vii) gaps in title or continuity of title to the Acquired Assets, and
  - (viii) liens and easements due to zoning and/or subdivision laws or regulations.