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Skagit County Auditor

\$77.00

8/7/2013 Page

1 of

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1:34PM

**RECORDED AT THE REQUEST OF  
AND AFTER RECORDING RETURN TO:**

Donald W. Jordan, Esq.  
Porter, Wright, Morris & Arthur LLP  
41 South High Street  
Columbus, OH 43215

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(Space above this line for Recorder's use)

**ACCOMMODATION RECORDING**

**DEED OF TRUST,  
MODIFICATION AGREEMENT**

**Grantor:** SeaWend, Ltd., dba SeaWend Ltd., L.L.C.,  
an Ohio limited liability company

**Name of Grantee (Beneficiary):** The Huntington National Bank, a national banking  
association

**Name of Trustee:** Chicago Title Insurance Company

**Legal Description:** "Tract C" per Volume 14 of Plats, Pages 126-127  
on Plat of K-Mart Commercial Park.

**Assessor's Tax Parcel ID Number:** 4532-000-003-0006

**Recording Information for**

**Deed of Trust:** Instrument No. 200304160107

**Deed of Trust Amendatory Agreement** Instrument No. 200610030148

**Deed of Trust Modification Agreement** Instrument No. 200904200163

**Deed of Trust Modification Agreement** Instrument No. 201105020061

**DEED OF TRUST  
MODIFICATION AGREEMENT**

THIS DEED OF TRUST MODIFICATION AGREEMENT (this "Agreement") is made as of December 28, 2012, by and between **SEAWEND LTD.**, dba SeaWend Ltd., L.L.C., an Ohio limited liability company ("Grantor") and **THE HUNTINGTON NATIONAL BANK**, a national banking association ("Bank").

**Recitals**

Grantor and its affiliates (collectively, the "Companies") are indebted to Bank as evidenced by: (i) a Third Amended and Restated Loan Agreement, dated December 28, 2012, by and between the Companies and Bank (the "Loan Agreement"), which supersedes a Second Amended and Restated Loan Agreement, dated as of March 19, 2010, which had superseded an Amended and Restated Loan Agreement, dated as of November 19, 2008 (together with any further amendments and/or amendments and restatements, collectively, the "Loan Agreement"); (ii) a Term Note, dated December 28, 2012, in the principal amount of \$20,000,000.00 (the "Term Note"); and (iii) a Revolving Note, dated December 28, 2012, in the maximum principal amount of \$3,000,000.00 (the "Revolving Note"). The Term Note is substitute evidence of existing term indebtedness. The Revolving Note is substitute evidence of existing revolving credit. The Term Note and the Revolving Note are referred to herein, collectively, as the "Notes".

As security for repayment of the indebtedness, Grantor executed and delivered to Chicago Title Insurance Company, as Trustee, a certain Deed of Trust, Assignment of Rents and Security Agreement, recorded as referenced on page 1, Recorder's Office of Skagit County, Washington. The Deed of Trust has been modified in an Amendatory Agreement, recorded as Instrument No. 200610030148, in a Deed of Trust Modification Agreement, recorded as Instrument No. 200904200163, and in a Deed of Trust Modification Agreement, recorded as Instrument No. 201105020061 (collectively, the "Deed of Trust"), encumbering real property legally described on page 1.

The Deed of Trust secured repayment of indebtedness owed to Bank, to Bank of America, N.A. and to Wells Fargo Bank, National Association, but the Companies' indebtedness to Bank of America, N.A. and to Wells Fargo Bank, National Association has been fully repaid. Bank was named in the Deed of Trust as agent, but now is the only Bank with indebtedness that is secured by the Deed of Trust.

Grantor and Bank agree to further modify the Deed of Trust in order to reference the Notes and Loan Agreement that currently evidence the secured indebtedness.



## Agreement

**1. Recitals.** The foregoing recitals are accurate and are made a part of this Agreement.

**2. Term Note.** All references in the Deed of Trust to "Term Note" or "Term Notes" hereafter shall mean the Term Note described in the first recital above.

**3. Revolving Note.** All references in the Deed of Trust to "Revolving Note" or "Revolving Notes" hereafter shall mean the Revolving Note described in the first recital above.

**4. Loan Agreement.** All references in the Deed of Trust to "Loan Agreement" hereafter shall mean the Loan Agreement described in the first recital above.

**5. Secured Obligations.** The grant and the description of the indebtedness and obligations, payment and performance of which are secured by the Deed of Trust, are amended and restated in their entireties as follows:

"NOW, THEREFORE, IN CONSIDERATION OF THE INDEBTEDNESS HEREIN RECITED AND IN ORDER TO SECURE TO BANK repayment of the Indebtedness (as defined below) and performance of the other obligations of Grantor to Bank and also for and in consideration of the sum of Ten Dollars (\$10.00) paid by Bank at or before the execution and delivery of these presents, the receipt thereof and legal sufficiency of which are hereby acknowledged, Grantor does hereby grant, bargain, sell, convey and assign to Trustee, its successors and assigns, **IN TRUST, WITH POWER OF SALE**, the following:

(See legal description of real property on page 1).

This Instrument is made and intended to secure payment and performance of:  
(i) the Loan Agreement, as it may be further amended or amended and restated; (ii) the Notes, together with any and all renewals, extensions or modifications thereof, and substitutions therefor, either in whole or in part; (iii) all advances, if any, made by Bank pursuant to the terms of this Instrument or the other Loan Documents (hereinafter defined); (iv) all expenses incident to the collection of the Indebtedness; (v) all other duties and obligations of Grantor and the other Companies under the Loan Agreement, the Notes, the Rate Management Agreement, this Instrument, the other Deeds of Trust and Mortgages, and the related loan documents (collectively, the 'Loan Documents'); (vi) all obligations incurred by Cedar or Grantor and/or any of the other Companies under the Rate Management Agreement or under any other agreement between Cedar, Grantor and/or the other



Companies and Bank or any affiliate of Bank, now existing or hereafter entered into, which provides for an interest rate, currency, equity, credit or commodity swap, currency, option, any combination of, or option with respect to, any of the foregoing or any similar transactions, for the purpose of hedging the Companies' exposure to fluctuations in interest rates, exchange rates, currency, stock, portfolio or loan valuations or commodity prices (including any such or similar agreement or transaction entered into by Bank or any affiliate thereof in connection with any other agreement or transaction between Bank and Grantor, Cedar and/or the other Companies); (vii) reimbursement obligations to Bank for any letters of credit now outstanding or hereafter issued for the account of Grantor, Cedar and/or any of the other Companies; and (viii) all other indebtedness now or hereafter owing by Grantor and the other Companies to Bank, however or whenever created, incurred, arising or evidenced, whether direct or indirect, primary or secondary, joint or several, absolute or contingent, and whether due or to become due, and whether from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred, and any and all renewals, extensions or modifications of such indebtedness, and substitutions for such indebtedness, either in whole or in part; all such indebtedness of Grantor and the other Companies which this Instrument is given to secure, collectively, the 'Indebtedness'."

6. **Maturity Date.** The maturity date of the latest maturing indebtedness is December 1, 2019.

7. **Loan Advances.** Paragraph 33 of the Deed of Trust is amended and restated as follows:

"This Instrument shall secure unpaid balances of loan advances which Bank is obligated to make to Grantor and/or to the Companies, after this Instrument is delivered to the Recorder for record, pursuant to the provisions of the Notes and/or the Loan Agreement, whether made after a reduction to a zero or other balance. The maximum amount of the unpaid balance of loan advances funded under the Notes or incurred under the Loan Agreement and/or the Rate Management Agreement, in the aggregate and exclusive of interest thereon and exclusive of advances under paragraph 8 to protect the Property or the lien of this Instrument, which may be outstanding at any time is Twenty-Three Million Eight Hundred Fifty-Three Thousand Six Hundred Twenty-Two Dollars (\$23,853,622.00)."

8. **Effect.** Except as specifically modified in this Agreement, the Deed of Trust continues in full force and effect as originally written. Grantor covenants to timely pay and perform its obligations to Bank and warrants to Bank that it has no claims, offsets or defenses to payment of the indebtedness and performance of the other obligations evidenced by the Notes and the Loan Agreement.

9. **Non-Agricultural.** The Properties which are the subject matter of the Deeds of Trust being modified hereunder are not used principally for agricultural purposes.



**WASHINGTON NOTICE: ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OT FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

IN WITNESS WHEREOF, Grantor and Bank have executed this Agreement.

**GRANTOR:**

SEAWEND, LTD., dba SeaWend Ltd., L.L.C.,  
an Ohio limited liability company

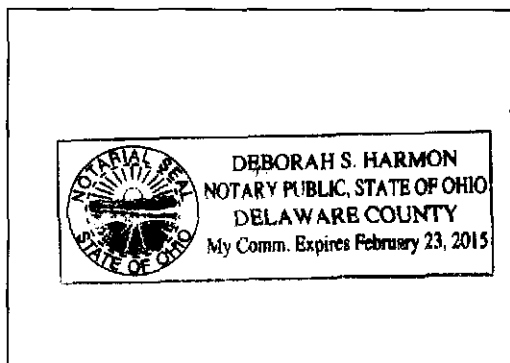
By: *James W. Evans*  
James W. Evans, President

STATE OF OHIO,  
COUNTY OF FRANKLIN, SS:

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

On this 15<sup>th</sup> day of April, 2013, before me personally appeared James W. Evans, known to me to be the President of SeaWend, Ltd., dba SeaWend Ltd., L.L.C., the limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



*Deborah S Harmon*

(Use this space for notarial seal stamp.)



**BANK:**

THE HUNTINGTON NATIONAL BANK

By: \_\_\_\_\_

Name: JOHN M. LUEHMANN

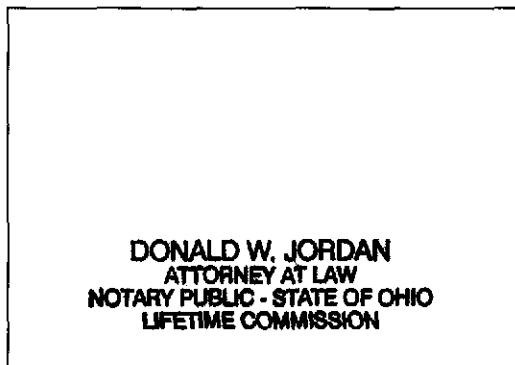
Title: Senior Vice President

STATE OF OHIO,  
COUNTY OF FRANKLIN, SS:

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

On this 11<sup>th</sup> day of April, 2013, before me personally appeared John M. Luehmann known to me to be the Senior Vice President of The Huntington National Bank, the national banking association that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said association, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Donald W. Jordan  
\_\_\_\_\_  
\_\_\_\_\_

(Use this space for notarial seal stamp.)

**THIS INSTRUMENT PREPARED BY  
AND WHEN RECORDED RETURN TO:**

Donald W. Jordan, Attorney at Law  
Porter, Wright, Morris & Arthur LLP  
41 South High Street  
Columbus, Ohio 43215

COLUMBUS/1661223v.5;--4/10/2013

