

When Recorded Return To:

Brian D. Cunningham, Esq.  
SNELL & WILMER, L.L.P.  
15 West South Temple, Suite 1200  
Salt Lake City, Utah 84101

ODP-1001; ODP-1005, 1011, 1012, 1013, 1014, 1015  
1002  
1003  
1004  
**NEGATIVE PLEDGE AGREEMENT**

This Negative Pledge Agreement ("*Agreement*") is entered into as of July 23, 2009, between HRAF HOLDINGS, LLC, a Utah limited liability company (the "*Company*"), and BANK OF AMERICA, N.A., a national banking association ("*Lender*").

RECITALS

A. The Company is solely owned by HARBOR REAL ASSET FUND LP, a Delaware limited partnership ("*Borrower*").

B. Lender has previously extended to Borrower a revolving line of credit (the "*Loan*") in the maximum principal amount of up to Fifteen Million and No/100 Dollars (\$15,000,000.00) pursuant to a Credit Agreement, dated September 12, 2006 (as subsequently modified and amended, the "*Loan Agreement*" and together with any and all other documents executed in connection with or evidencing the Loan, the "*Loan Documents*").

C. The Loan was extended to Borrower so that Borrower could in turn provide financing to third-party borrowers ("*Borrower's Debtors*"), which were to be evidenced by promissory notes (individually and collectively, as the context requires, the "*Debtor Notes*") and secured by deeds of trust, deeds to secure debt, mortgages or similar real property security instruments encumbering real property (individually and collectively, as the context requires, the "*Encumbered Property*") owned by the Borrower's Debtors.

D. Certain of Borrower's Debtors have defaulted under the applicable Debtor Notes and Borrower contemplates that additional individuals and entities making up Borrower's Debtors will also default under their respective Debtor Notes. As a result, Borrower has initiated non-judicial foreclosure proceedings against a portion of the Encumbered Property and contemplates initiating additional foreclosure actions against other parcels of real property making up the Encumbered Property (collectively, "*Foreclosure Actions*"). Borrower was the high bidder at a portion of the Foreclosure Actions and as a result acquired fee title to certain parcels making up the Encumbered Property (collectively, the "*REO Property*").

E. Borrower has formed the Company to hold fee title to the REO Property, including certain real property located in Wasatch County, State of Utah as more particularly described on Exhibit A attached hereto (the "*Property*").

F. Pursuant to that certain Forbearance Agreement dated July 23, 2009, the Company has agreed not to directly or indirectly encumber or sell the Property without the prior written consent of Lender and to execute and deliver this Agreement providing a "negative pledge" on the Property, as more particularly set forth below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree:

1. Negative Pledge. Unless and until the Loan and Note are indefeasibly paid in full or until the Company has obtained the written consent of Lender, the Company agrees not to:

SL38158VW Accamation Recording

(a) create, grant, incur, assume, consent to, engage in, or suffer to exist, any Lien (hereinafter defined), whether voluntary or involuntary, against the Property or any right or interest therein or appurtenant thereto, nor

(b) create, grant, incur, assume, consent to, engage in, or suffer to exist, any Transfer.

2. Definitions. As used herein the following terms shall have the following meanings. All terms used herein without definition shall have the meanings given to such terms in the Loan Agreement.

(a) "Lien" means: (i) mortgage, deed of trust, pledge, lien, security interest, hypothecation, assignment, or other preferential arrangement, charge, or encumbrance, (ii) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any such asset, and (c) any purchase option, right of first refusal or similar right of any third party;

(b) "Transfer" means (i) any sale, transfer, conveyance, hypothecation, encumbrance, lease or vesting of the Property or any part thereof or interest therein to or in any Person, whether voluntary, involuntary, by operation of law, or otherwise; or (ii) any sale, transfer, assignment, conveyance, hypothecation, encumbrance or vesting of any membership interest in the Company.

(c) "Person" means any natural person, any unincorporated association, any corporation, any partnership, any joint venture, any limited liability company, any trust, any other legal entity, or any governmental authority.

3. Current Lien Status Representation. The Company represents and warrants that as of the date of execution and delivery of this Agreement, the Property is not subject to any Lien.

4. Default. The failure by the Company to comply with this Agreement shall constitute an Event of Default under the Loan Agreement and all other Loan Documents. If the Company fails to comply with this Agreement, Lender may exercise all of its rights and remedies under the Loan Agreement and other Loan Documents or which may otherwise be available in law or in equity.

5. Governing Law. This Agreement is governed by and shall be construed in accordance with the laws of the State of Utah, except to the extent required by conflicts of law rules applying to real property.

6. Consent to Jurisdiction; Venue. The Company hereby irrevocably submits to the non-exclusive jurisdiction of any United States Federal or Utah State court having proper venue sitting in Salt Lake City, Utah, and also consents to service of process by any means authorized by Utah or Federal law, in any action or proceeding arising out of or relating to this Agreement and the Company irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in any such court and irrevocably waives any objection it may now or hereafter have as to the venue of any such suit, action or proceeding brought in such a court or that such court is an inconvenient forum. With respect to the exercise of any remedy by Lender, the Company further irrevocably submits to the non-exclusive jurisdiction of any United States Federal or Utah State court having proper venue sitting in Salt Lake County, State of Utah, and also consents to service of process by any means authorized by Utah or Federal law, in any action or proceeding arising out of or relating to this Agreement and the exercise of any remedy by Lender and the Company hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in any such court and irrevocably waives any objection it may now or hereafter have as to the venue of any such suit, action or proceeding brought in such a court or that such court is an inconvenient forum. Any judicial proceeding by the Company against Lender or any affiliate of Lender involving, directly or indirectly, any matter in any way arising out of, related to, or connected with any Loan Document shall be brought only in a court in Salt Lake City, Utah.

7. Successor Interest. The terms of this Agreement shall run with the Property and shall be binding upon the Company and upon the Company's successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

8. Survival. The representations, warranties, and covenants of the Company herein shall survive the execution and delivery of the Loan Documents and the making of the Loan.

9. General Provisions. Lender may delay or forego enforcing any of its rights and remedies under this Agreement without losing them. The Company will pay all costs and expenses of Lender in enforcing this Agreement. The Company shall defend, indemnify and hold harmless Lender for, from and against any claims, damages, losses, judgments, costs and expenses arising from or related to this Agreement.

10. Counterparts. This Agreement may be executed in any number of counterparts each of which shall be deemed an original, but all such counterparts together shall constitute but one agreement. The Company and Lender agree and acknowledge that facsimile signature pages will be acceptable and shall be conclusive evidence of execution of any Loan Document, resolution or other agreement relating to the Loan.

11. Change, Discharge, Termination, or Waiver. No provision of this Agreement may be changed, discharged, terminated, or waived except in writing signed by the party against whom enforcement of the change, discharge, termination, or waiver is sought. No failure on the part of Lender to exercise, and no delay by Lender in exercising, any right or remedy hereunder or under the law shall operate as a waiver thereof.

12. Recordation. The Company agrees that Lender may record this Agreement at Lender's sole option in the public office for recording of deeds and mortgages in which any portion of the Property is located. Notice is given that this Agreement does not create a Lien and that if recorded the sole purpose is to give notice to third parties of Lender's rights.

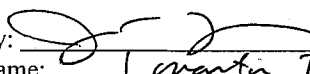
[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Lender and the Company have caused this Agreement to be duly executed and delivered as of the date first above written.

**HRAF HOLDINGS, LLC**  
a Utah limited liability company

By: **HARBOR REAL ASSET FUND LP**  
a Delaware limited partnership, its Sole Member

By: **HARBOR CAPITAL PARTNERS LLC**  
a Delaware limited liability company, its  
General Partner

By:   
Name: J. Ivanita Tol  
Title: \_\_\_\_\_

*"Company"*

**BANK OF AMERICA, N.A.**  
a national banking association

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*"Lender"*

IN WITNESS WHEREOF, Lender and the Company have caused this Agreement to be duly executed and delivered as of the date first above written.

**HRAF HOLDINGS, LLC**  
a Utah limited liability company

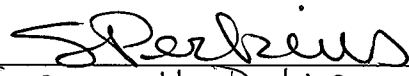
By: **HARBOR REAL ASSET FUND LP**  
a Delaware limited partnership, its Sole Member

By: **HARBOR CAPITAL PARTNERS LLC**  
a Delaware limited liability company, its  
General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*"Company"*

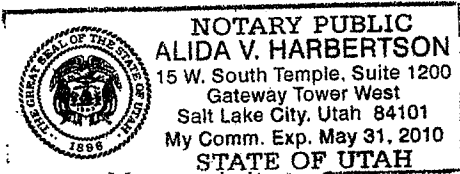
**BANK OF AMERICA, N.A.**  
a national banking association

By:   
Name: Susanne M. Perkins  
Title: Vice President

*"Lender"*

STATE OF Utah )  
 ) SS.  
COUNTY OF Salt Lake )

On this July 23, 2009, before me personally appeared J. Martin Tate, the Gen'l Counsel of HARBOR CAPITAL PARTNERS LLC, a Delaware limited liability company and the General Partner of HARBOR REAL ASSET FUND LP, a Delaware limited partnership and the sole Member of HRAF HOLDINGS, LLC, a Utah limited liability company, on behalf of such company.



Alida V Harbertson

Name:  
Notary Public, State of Utah

My commission expires:  
5-31-2010

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_, 2009, before me personally appeared \_\_\_\_\_, a \_\_\_\_\_ of BANK OF AMERICA, N.A., a national banking association, on behalf of such association.

\_\_\_\_\_  
Name:  
Notary Public, State of Utah

My commission expires:

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

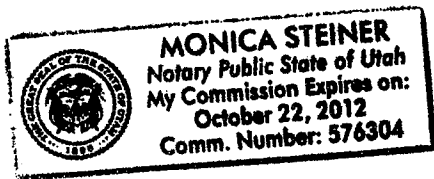
On this \_\_\_\_\_, 2009, before me personally appeared \_\_\_\_\_, the \_\_\_\_\_ of HARBOR CAPITAL PARTNERS LLC, a Delaware limited liability company and the General Partner of HARBOR REAL ASSET FUND LP, a Delaware limited partnership and the sole Member of HRAF HOLDINGS, LLC, a Utah limited liability company, on behalf of such company.

\_\_\_\_\_  
Name:  
Notary Public, State of Utah

My commission expires:

STATE OF UTAH )  
 ) SS.  
COUNTY OF SALT LAKE )

On this July 14, 2009, before me personally appeared Susanne M. Perkins Vice President of BANK OF AMERICA, N.A., a national banking association, on behalf of such association.



Monica Steiner  
\_\_\_\_\_  
Name:  
Notary Public, State of Utah

My commission expires:

EXHIBIT A

LEGAL DESCRIPTION

All of that certain parcel of land situate at Wasatch County, State of Utah, described as follows:

Lots 1, 2, 3, 4, 5, 11, 12, 13, 14 and 15, DEER CANYON PRESERVE, PHASE 1, according to the plat thereof as recorded in the office of the WASATCH County Recorder.

Tax Serial Nos. ODP-1001; ODP-1002; ODP-1003; ODP-1004; ODP-1005; ODP-1011; ODP-1012; ODP-1013; ODP-1014; ODP-1015