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Marlene Masher
Recorder of Grand County JAC

ASSIGNMENT OF RIGHTS IN LEASE

THIS ASSIGNMENT OF RIGHTS IN LEASE (this "Assignment") is made as of the 24th day of July, 1995, by WENDY'S OF COLORADO SPRINGS, INC., a Colorado corporation ("Assignor"), to SANWA BUSINESS CREDIT CORPORATION, a Delaware corporation ("Lender").

WITNESSETH:

WHEREAS, Lender, Assignor and Richard W. Holland ("Holland") have entered into that certain Loan and Security Agreement dated as of July 24, 1995, as amended from time to time (the "Loan Agreement"), which Loan Agreement evidences and describes loans, advances and/or other financial accommodations which have been made by Lender to or for the benefit of Assignor and Holland and which may now and hereafter be made by Lender to or for the benefit of Assignor and Holland (Assignor and Holland are sometimes hereinafter referred to collectively as the "Borrowers"); and

WHEREAS, each Borrower has executed and delivered to Lender, or from time to time hereafter may execute and deliver to Lender, certain installment notes (the "Notes") and other "Loan Documents" (as defined in the Loan Agreement); and

WHEREAS, Assignor has entered into a lease with Holland (sometimes hereinafter referred to as "Lessor") for occupancy of the premises known as 260 North Main Street, Moab, Utah (the "Property"), which Property is legally described on Exhibit A attached hereto (which lease, together with all of Assignor's rights and remedies thereunder, is hereinafter referred to as the "Lease"); and

WHEREAS, as a condition of Lender's entering into the Loan Agreement and as security for the payment of all indebtedness and all other liabilities of each Borrower under the Notes and the other Loan Documents and for the payment or other satisfaction of all other indebtedness or other liabilities of either Borrower to Lender, whether under the Loan Agreement, the Notes or the other Loan Documents (collectively, "Borrowers' Liabilities"), Lender is requiring this Assignment.

THIS INSTRUMENT PREPARED BY AND AFTER
RECORDING SHOULD BE RETURNED TO:

TONI PRESTIGIACOMO, ESQ.
SANWA BUSINESS CREDIT CORPORATION
ONE SOUTH WACKER DRIVE
SUITE 3700
CHICAGO, ILLINOIS 60606

NOW, THEREFORE, for and in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Definitions.** All capitalized terms used but not otherwise defined in this Assignment that are defined in the Loan Agreement shall have the meanings ascribed to such terms in the Loan Agreement, the applicable provisions of which Loan Agreement are incorporated herein.

2. **The Assignment.** In order to induce Lender to enter into the Loan Agreement and as additional security for the payment of Borrowers' Liabilities and for the performance and observance of all the agreements contained herein and in the Loan Agreement, the Notes and the other Loan Documents, Assignor does hereby assign, set over and transfer to Lender, and its successors and assigns upon the terms and conditions hereinafter contained, and grants to Lender a continuing security interest in, the Lease, together with all the right, title and interest of Assignor therein and thereto, to have and to hold the same unto Lender, its successors and assigns forever, or for such shorter period as hereinafter may be indicated, as additional security for the payment of Borrowers' Liabilities and for the performance and observance of all the agreements contained herein and in the Loan Agreement, the Notes and the other Loan Documents.

3. **Warranties, Representations and Covenants.** Assignor hereby covenants, represents, warrants and agrees as follows:

a) The Lease is, to the best of Assignor's knowledge, in full force and effect, and represent the valid and binding obligation of Assignor enforceable in accordance with its terms except as limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditor's rights generally, and have not been amended or modified in any material respect except as described herein or therein, Assignor is the lessee under the Lease hereby assigned, is the sole owner of the entire interest of the lessee under the Lease and has good right and authority to collaterally assign its interest in the same, and no other person, firm or corporation has any right, title or interest therein except as expressly set forth herein, and Assignor has not previously sold, assigned, transferred, mortgaged, pledged, granted a security interest in or otherwise encumbered its interest in the Lease to any other person or entity.

b) A true, correct and complete copy of the Lease, including all material amendments thereto and assignments thereof, have been delivered to Lender, and such Lease represents the entire agreement between the parties thereto with respect to such leasing.

c) Neither Assignor nor, to the best of Assignor's knowledge, Lessor has performed any act or executed any other instruments which might prevent Lender from operating under any of the terms and conditions of this Assignment or which would limit Lender in such operation, subject to the provisions of the Lease.

d) Lender shall have the right to verify the validity, amount of or any other matter relating to the Lease, by mail, telephone, telegraph or otherwise, all in accordance with the terms and conditions of the Lease.

e) Assignor shall: (i) inform Lender, in writing, of any assertion of any material claims, offsets or counterclaims under the Lease; and (ii) furnish to and inform Lender of all material adverse information relating to or affecting the Lease.

f) Assignor has and shall observe, perform and discharge, duly and punctually, all and singular the obligations, terms, covenants, conditions and warranties of the Lease, on the part of Assignor to be kept, observed and performed, and shall give prompt notice to Lender of any failure on the part of Assignor to observe, perform and discharge same, and shall appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Lease or the obligations, duties or liabilities of Assignor and/or Lessor thereunder, and, upon request by Lender, will do so in the name and behalf of Lender but at the expense of Assignor, and shall pay all costs and expenses of Lender, including reasonable attorneys' fees in any action or proceeding in which Lender may appear.

g) No breach, default or event of default by Assignor has occurred under the Lease which has not been cured and no event or circumstance now exists which, with the passage of time or the giving of notice or both, would constitute a breach, default or event of default under the Lease.

h) Assignor hereby agrees that Lender shall not be liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about any Property, except any of the foregoing which result from the gross negligence and/or willful misconduct of Lender while in possession of, or otherwise while on or about, any Property, and shall not be deemed to have assumed any obligation, duty or liability under the Lease by reason of this Assignment.

i) Assignor hereby agrees to indemnify and hold Lender, and its officers, directors, agents and/or representatives harmless of, from and against any and all liability, loss, damage or expense which Lender may incur by reason of this Assignment, except any of the foregoing which result from the gross negligence or willful misconduct of Lender. Should Lender incur any such liability, loss, damage or expense, the amount thereof (including reasonable attorneys' fees) shall be payable by Assignor.

j) The failure of Lender to avail itself of any of the terms, covenants and conditions of this Assignment for any period of time or at any time or times, shall not be construed or deemed to be a waiver by Lender of any of its rights and remedies hereunder. The rights and remedies of Lender under this Assignment are and shall be cumulative and in addition to any and all rights and remedies available to Lender under the Loan Agreement, the Notes and the other Loan Documents.

k) Upon final payment in full of all of Borrowers' Liabilities, this Assignment shall be terminated and shall be of no further effect, and Lender shall, upon demand by Assignor, execute a release to be filed of record at Assignor's sole cost and expense.

4. Notices. Assignor promptly shall: (a) notify Lender of any breach, default or event of default or claim of breach, default or event of default by any party to the Lease of which Assignor has become aware; (b) notify Lender in writing of the receipt by Assignor of any notice from the Lessor (i) noting or claiming any breach, default or event of default by Assignor under the Lease, and (ii) of termination of the Lease or intention to re-enter or the commencement of a dispossession proceeding, and promptly cause a copy of each such notice received by Assignor to be delivered to Lender; and (c) execute and deliver to Lender upon Lender's request therefor, such instruments as may be required to permit Lender to cure any breach, default or event of default under the Lease or permit Lender to take such other action required to enable Lender to cure or remedy said breach, default or event of default and preserve the interest of Lender in the Lease.

5. Transfers, Modification, Surrender, Etc. Assignor shall not sell, assign, pledge, transfer, mortgage, grant a security interest in or otherwise encumber the Lease or Assignor's interest therein. Assignor shall not terminate, cancel, subordinate, amend, supplement, extend or otherwise modify or surrender the Lease or the terms thereof or agree to any termination, cancellation, surrender, subordination, compromise or settlement or material amendment, supplement or other modification of any kind or nature of or with respect to the Lease or the terms thereof without Lender's prior written consent, which consent will not be unreasonably withheld.

6. Power of Attorney. Assignor further irrevocably appoints Lender as Assignor's attorney in fact to exercise, upon an Event of Default hereunder, any or all of Assignor's rights in, to, and under the Lease and to do any or all other acts, in Assignor's name or in Lender's own name, that Assignor could do under the Lease, with the same force and effect as if this Assignment had not been made; provided, however, Assignor shall have no liability on account of any negligence or willful misconduct of Lender in the exercise of said power of attorney hereby granted. Third parties shall be entitled to rely on Lender's representation that an Event of Default has occurred empowering Lender to exercise its rights and remedies contained herein.

7. Event of Default. The occurrence of a breach, default or event of default by Assignor under this Assignment, which has not been cured within any applicable cure period therefor or the occurrence of an Event of Default (as defined thereunder) under the Loan Agreement shall constitute an Event of Default ("Event of Default") hereunder. Where there is a failure by Assignor to satisfy, perform, observe or comply with any term, provision, covenant or agreement contained herein, and no applicable cure period is stated with respect thereto, then such failure to satisfy, perform, observe or comply with any term, provision, covenant or agreement contained herein shall not be a breach, default or event of default unless such failure shall continue for a period of five (5) days after notice thereof shall have been given to Assignor by Lender, provided, that if such satisfactory performance, observance or compliance, by its nature, requires more than five (5) days to complete, and Grantor shall have begun such cure of the default within said five (5) days and is diligently pursuing such cure in good faith, the period of five (5) days shall be extended to a period of time, not in any event to exceed an additional ten (10) days, provided,

further, that no extension of the cure period shall be permitted if such breach, default or event of default materially impairs or threatens to materially impair, in any manner, in Lender's reasonable opinion, Lender's security under this Assignment.

8. **Exercise of Rights.** Lender hereby confers upon Assignor a license to possess and operate the Property and to exercise the rights and remedies provided to Assignor under the Lease until the occurrence of an Event of Default and after any cure thereof. Although it is the intent of the parties that this Assignment is a present Assignment, it is expressly understood and agreed, notwithstanding anything to the contrary herein contained, that Lender shall not exercise any of the rights and powers conferred upon it hereunder unless and until there shall have occurred an Event of Default hereunder. Assignor agrees, by executing this Assignment, that Lender does not assume any obligations of Assignor under the Lease unless and until Lender shall exercise its rights and remedies hereunder and take possession of the Property. Upon the occurrence of an Event of Default hereunder and during the continuance thereof, Lender, in its sole election and in its sole discretion, may do any one or more of the following, subject to the terms and conditions contained in the Lease:

- (a) Enter upon, take possession of, manage and operate the Property or any part thereof pursuant to the terms and conditions of the Lease, and Assignor agrees to surrender possession of the same to Lender.
- (b) Foreclose this instrument as an assignment of an interest in real property in any court of competent jurisdiction.
- (c) Exercise any and all rights and remedies afforded to Lender under the Loan Agreement, the Notes and the other Loan Documents and the Uniform Commercial Code and any and/all other applicable provisions of law, including the right to sell Assignor's interest in each Lease at a public or private sale.

In addition to the foregoing, and notwithstanding anything to the contrary in the other provisions of this Assignment or in the Loan Agreement, the Notes and the other Loan Documents, in the event of the occurrence of a breach, default or event of default by Assignor under the Lease which has not been cured within any applicable cure period therefor, Lender may, but shall not be required to, cure said breach, default or event of default under the Lease within the curative times provided in said Lease.

9. **Nature of Remedies.** The rights and remedies of Lender hereunder are cumulative and are in addition to, and not in lieu of, any rights and remedies that Lender may have under the Loan Agreements, the Notes or any of the other Loan Documents, or at law or in equity, which rights and remedies may be exercised by Lender either prior to, simultaneously with, or subsequent to any action taken hereunder. The rights and remedies of Lender may be exercised from time to time and as often as such exercise is deemed expedient and the failure of Lender to avail itself of any of the terms, provisions and conditions of this Assignment for any period of time, at any time or times, shall not be construed or deemed to be a waiver of any rights under the terms hereof.

10. Notices. All notices, demands and requests given or required to be given by any party hereto shall be in writing, and shall be deemed to have been validly served, given or delivered (a) three (3) Business Days following deposit in the United States certified mails, return receipt requested, with proper postage prepaid, and addressed to the party to be notified; (b) upon delivery thereof if delivered by hand to the party to be notified; or (c) on the Business Day after delivery to a reputable overnight courier. In each case, such notification shall be addressed as follows:

TO LENDER: Sanwa Business Credit Corporation
One South Wacker Drive
Chicago, Illinois 60606
Attention: Credit Manager
Specialized Industries Dept.

TO ASSIGNOR: Wendy's of Colorado Springs, Inc.
1515 North Academy Boulevard, Suite 400
Colorado Springs, Colorado 80909
Attention: Richard W. Holland

11. Interpretation and Definitions. The captions and headings contained herein are for convenience only and are not intended, nor shall they be considered, to limit in any way the provisions hereof. Whenever herein the context so requires, the singular number shall be deemed to include the plural and visa versa and any gender herein shall be deemed to include the masculine, feminine or neuter.

12. Separability. Each provision of this Assignment shall be deemed to be separable, and if for any reason any one or more of the provisions hereof is determined to be invalid under any law or decision now or hereafter existing, such invalidity shall not impair the operation or effect of any other provisions hereof.

13. Successors and Assigns. Whenever the term "Assignor" is used herein, it is hereby understood that the same includes and shall be binding on successors, assigns and legal representatives of Assignor, including successors by consolidation, and any party or parties holding title by, through or under Assignor. This Assignment shall be assignable by Lender and all of the representations, warranties, covenants, agreements, rights, powers, privileges and immunities herein contained or granted and assigned to Lender hereunder shall also inure to its successors, assigns and legal representatives, including all holders, from time to time, of the Notes.

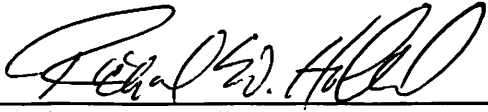
14. Governing Law. This Assignment shall be governed and controlled in all respects by the internal laws and decisions of the State of Illinois without reference to principles of choice of law, except to the extent that it is mandatory that the laws of the state in which the Property is located apply to the creation, priority, perfection and maintenance of the lien and security interest hereof and to the enforcement of the foreclosure remedies of Lender and any of their successors and assigns.

15. Effectiveness. Notwithstanding any other provision of this Assignment to the contrary, this Assignment shall be of no force or effect and shall be void ab initio with respect to the Lease if (i) said Lease prohibits the provisions and effect of this Assignment and there is a reasonable probability said provisions are enforceable, and (ii) the Lessor under said Lease attempts to claim a default or terminate said Lease as a result of the execution, delivery or enforcement of this Assignment. Except as set forth above with respect to the Lease described in the preceding sentence, this Assignment shall remain in full force and effect.

IN WITNESS WHEREOF, this Assignment has been duly executed the day and year first above written.



WENDY'S OF COLORADO SPRINGS, INC.,
a Colorado corporation

By: 
Name: Richard W. Holland
Its: President

STATE OF ILLINOIS

)

) SS:

COUNTY OF COOK

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I, CHRISTINE SCHOENLE, notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Richard W. Holland personally known to me to be the President of WENDY'S OF COLORADO SPRINGS, INC., a Colorado corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such he signed and delivered the said instrument pursuant to authority, as his free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 24th day of July, 1995.

Christine Schoenle

Notary Public

[SEAL]

My Commission Expires:



EXHIBIT A TO ASSIGNMENT OF RIGHTS IN LEASE

LEGAL DESCRIPTION

260 W. Main Street,
Moab, Utah

The land is situated in the State of Utah, County of GRAND, and is described as follows:

Beginning at a corner on the East R-O-W of Main Street (Highway 191), said corner bears North 0 deg. 17' East 230.0 feet from the Northwest corner of Block 24 of the MOAB TOWNSITE, and proceeding thence with said R-O-W North 0 deg. 17' East 192.6 feet (record = 192.75 feet) to a corner, thence South 89 deg. 54' East (record = East) 188.75 feet to a corner, thence South 0 deg. 17' West 324.0 feet to a corner on the North R-O-W of 200 North Street, thence with said R-O-W North 89 deg. 47' West 107.75 feet to a corner, thence North 0 deg. 17' East 130.7 feet to a corner, thence North 89 deg. 33' West 81.0 feet to the point of beginning.