

When recorded return to:
Quick Data Services, Incorporated
50 West 3900 South, Suite 2B
Salt Lake City, Utah 84107

Ent 498005 Bk 772 Pg 329 - 350
Date: 31-MAY-2011 3:27:27PM
Fee: \$54.00 Check
Filed By: TL
JOHN ALAN CORTES, Recorder
GRAND COUNTY CORPORATION
For: QUICK DATA SERVICES INC

Charlotte, North Carolina 28202-4003

WHEN RECORDED RETURN TO:
OLD REPUBLIC TITLE
ATTN: POST CLOSING
530 SOUTH MAIN STREET
SUITE 1031
AKRON, OH 44311

01-1108999-02R

Space above this line for Recorder's use

**DEED OF TRUST, SECURITY AGREEMENT, FIXTURE FILING FINANCING
STATEMENT AND ASSIGNMENT OF RENTS, LEASES, INCOME AND PROFITS
(Fee Simple)**

From

**HOLLAND REAL ESTATE, LLC
("TRUSTOR")**

In favor of:

**OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
("TRUSTEE")**

For the Benefit of:

**BANK OF AMERICA, N.A., as Administrative Agent
("BENEFICIARY")**

This document is to be recorded in the following county:

	Store #	Address	County	State	Prop. Type
1	283	260 N. Main St, Moab, UT	Grand	UT	Fee

**DEED OF TRUST, SECURITY AGREEMENT, FIXTURE FILING FINANCING
STATEMENT AND ASSIGNMENT OF RENTS, LEASES, INCOME AND PROFITS
(Fee Simple)**

THIS DEED OF TRUST, SECURITY AGREEMENT, FIXTURE FILING FINANCING STATEMENT AND ASSIGNMENT OF RENTS, LEASES, INCOME AND PROFITS (Fee Simple) (this "Deed" or this "Deed of Trust") is made this 29th day of April, 2011, by and between HOLLAND REAL ESTATE, LLC, a Colorado limited liability company, as Trustor (hereinafter called "Trustor"), whose address is 1515 N. Academy Boulevard, Suite 400, Colorado Springs, CO 80909, and OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY (hereinafter called "Trustee"), whose address is 9980 South 300 West, Suite 200, Sandy, Utah 84070, for the benefit of BANK OF AMERICA, N.A., a national banking association organized and existing under the laws of the United States of America, as Administrative Agent, whose mailing address is 600 Peachtree Street NE, GA1-006-13-20, Atlanta, Georgia 30308 (hereinafter called "Beneficiary").

W I T N E S S E T H:

WHEREAS, Trustor is indebted to Beneficiary and the other holders of the Obligations (as defined in the Credit Agreement (defined below)) (collectively, the "Loan") pursuant to the terms and conditions of (i) that certain Credit Agreement, dated of even date herewith, by and among Trustor, WENDY'S OF COLORADO SPRINGS, INC., a Colorado corporation, TRIWEST RESTAURANTS, LLC, an Arizona limited liability company, HOLLAND BUERK ENTERPRISES, INC., an Ohio corporation, GREAT WESTERN RESTAURANTS, INC., a Colorado corporation, and GC POWERS, LLC, a Colorado limited liability company, as borrowers ("Borrowers"), Guarantors, Beneficiary and the Lenders party thereto (as amended, restated, consolidated or otherwise modified from time to time, the "Credit Agreement") (capitalized terms used herein shall have the meanings ascribed to them in the Credit Agreement, unless otherwise defined herein), (ii) the Notes and (iii) the other Loan Documents; and

WHEREAS, Beneficiary has required and Trustor has agreed to execute and deliver this Deed of Trust in consideration of Beneficiary and the other Lenders making the Loan to Trustor in order to secure the Indebtedness (as hereinafter defined).

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) in hand paid, the Loan evidenced by the Credit Agreement, the Notes and the other Loan Documents and the mutual covenants herein contained, and for good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, in order to secure the Indebtedness, Trustor hereby irrevocably grants, transfers, assigns, mortgages, bargains, sells and conveys to Trustee, IN TRUST FOREVER, WITH ALL POWERS OF SALE AND STATUTORY RIGHTS, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, the following:

Ent 498005 Bk 0772 Pg 0330

ALL OF Trustor's fee simple right, title and interest in and to ALL THOSE TRACTS OR PARCELS OF LAND lying and being in the State of Utah and located at the address set forth on Page 1 of this Deed, and being more particularly described on Exhibit "A", attached hereto and incorporated herein by reference (hereinafter called the "Property");

TOGETHER WITH: (i) all buildings, structures and other improvements now or hereafter located on the Property or on any part or parcel of the Property (hereinafter called the "Improvements"); (ii) all and singular the tenements, hereditaments, easements and appurtenances belonging to the Property or in anywise appertaining to the Property, and the reversion or reversions, remainder or remainders thereof; (iii) all leases, including, without limitation, the Leases, undertakings to lease, contracts to rent, usufructs and other agreements for use, occupancy or possession now or hereafter in force with respect to the Property or any part or parcel of the Property or any of the Improvements, and any and all other agreements, contracts, licenses, permits and arrangements now or hereafter affecting the Property or any part or parcel of the Property or any of the Improvements, whether written or oral and whether now or hereafter made or executed and delivered (hereinafter collectively called the "Leases"); (iv) all rents, issues, income, revenues and profits now or hereafter accruing from, and all accounts and contract rights, and all right, title, interest and estate of Trustor in and to all rents, subrents, issues, royalties, income and profits of and from the Property, the Improvements, or any portion of the Property or the Improvements now or hereafter arising in connection with, the Property or any part or parcel of the Property or any of the Improvements, including without limitation all rents, issues, income, revenues and profits accruing from, and all accounts and contract rights arising in connection with, the Leases, together with all monies and proceeds now or hereafter due or payable with respect thereto or on account thereof, and all security deposits, damage deposits and other funds paid by any lessee, sublessee, tenant, subtenant, licensee, permittee or other obligee under any of the Leases, whether paid in a lump sum or installments, with the intention of creating in favor of Beneficiary a presently effective security interest in all accrued and unaccrued rents arising from the Property, which security interest is separate and distinct (all of which are hereinafter collectively called the "Rents"); (v) all minerals, flowers, crops, trees, timber, shrubbery and other emblements now or hereafter located on the Property or under the Property or on or under any part or parcel of the Property; (vi) all estates, rights, title and interest in the Property, or in any part or parcel of the Property; (vii) all equipment, machinery, apparatus, fittings, furniture, furnishings and personal property of every kind or description whatsoever now or hereafter located on the Property or on any part or parcel of the Property or in or on any of the Improvements, and used in connection with the operation or maintenance of the Property or any of the Improvements, all accessions and additions to and replacements of the foregoing and all proceeds (direct and remote) of the foregoing, including without limitation all plumbing, heating, lighting, ventilating, refrigerating, water-heating, incinerating, air-conditioning and heating, and sprinkling equipment and systems, and all screens, awnings and signs, and all goods, inventory, supplies, furnishings, construction materials, equipment, machinery, appliances and other tangible personal property and fixtures located in or upon the Property or the Improvement and used or useable in connection therewith, or to be used in the construction, reconstruction, remodeling, or repair of any of the Improvements now or hereafter located upon the Property, together with all architectural, development, construction and construction cost guarantee contracts entered into in connection with the improvement of the Property, all plans and

specifications and building permits relating to the improvement of the Property, and all parts, accessories, and accessories to each and all of the foregoing and all renewals and replacements thereof; (viii) all fixtures (including all trade, domestic and ornamental fixtures) now or hereafter on the Property or on any part or parcel of the Property or in or on any of the Improvements, whether actually or constructively attached or affixed, including without limitation all plumbing, heating, lighting, ventilating, refrigerating, water-heating, incinerating, air-conditioning and heating, and sprinkling fixtures, and all screens, awnings and signs which are fixtures; (ix) all building materials, supplies, goods, machinery and equipment delivered to the Property and placed on the Property for the purpose of being affixed to or installed or incorporated or otherwise used in or on the Property or any part or parcel of the Property or any of the Improvements, and all accessions and additions to and replacements of the foregoing and all proceeds (direct or remote) of the foregoing; (x) all payments, awards, judgments and settlements (including interest thereon) to which Trustor may be or become entitled as a result of the exercise of the right of eminent domain with respect to the Property or any part or parcel of the Property or any of the Improvements; (xi) all waters, watercourses, and water rights (whether now owned or hereafter acquired by Trustor and whether arising by virtue of land ownership, contract or otherwise), of any kind and nature, relating to or in any way appurtenant or appertaining to the Property or to any portion of the Property, and all shares of stock of water companies, if any, owned by Trustor that benefit the Property in any way; and (xii) all policies of insurance which insure against loss or damage to any property described above and all proceeds from and payments under such policies. The Property and all of the foregoing are hereinafter sometimes collectively called the "Premises".

TO HAVE AND TO HOLD the Premises to the only proper use, benefit and behoof of Beneficiary, IN FEE SIMPLE FOREVER.

TRUSTOR WARRANTS that Trustor has good and marketable fee title to the Premises that Trustor is lawfully seized and possessed of the Premises, that Trustor has the right to convey the Premises, that the Premises are unencumbered except for those encumbrances permitted by the Credit Agreement, and that Trustor shall forever warrant and defend the fee simple title to the Premises unto Beneficiary against the claims of all persons whomsoever.

This Deed is made and intended to secure payment and performance of: (i) any and all indebtedness of Borrowers to Beneficiary and/or the other Lenders evidenced by the Notes; (ii) any and all renewals, extension or extensions, modification or modifications of the Notes, and substitution or substitutions for the Notes, either in whole or in part; (iii) all advances, if any, made by Beneficiary pursuant to the terms of this Deed of Trust; (iv) all expenses incident to the collection of the indebtedness secured by this Deed of Trust; (v) all duties and obligations of Trustor under this Deed of Trust; (vi) all Obligations (as defined in the Credit Agreement); and (vii) all indebtedness now or hereafter owing by any Loan Party to Beneficiary, any Lender or an Affiliate of any Lender, however or whenever created, incurred, arising or evidenced, whether direct or indirect, primary or secondary, joint or several, absolute or contingent, or 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 renewal or renewals, extension or extensions, modification or modifications of said indebtedness, and substitution or substitutions

for said indebtedness, either in whole or in part, including, without limitation, all obligations incurred by any Loan Party under any agreement with Beneficiary, any Lender or an Affiliate of any Lender, 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 Trustor's 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 Beneficiary, any Lender or an Affiliate of any Lender in connection with any other agreement or transaction between Beneficiary, any Lender or an Affiliate of any Lender and any Loan Party), all of which obligations and indebtedness for which this Deed of Trust is given to secure are hereinafter sometimes collectively called the "Indebtedness". The foregoing Indebtedness includes all interest on the principal portion thereof and all charges, prepayment premiums, reimbursements and other payments of any kind provided for in the Loan Documents. The maximum amount of Indebtedness secured hereby shall be Forty-Five Million and No/100 Dollars (\$45,000,000.00), plus interest thereon, unpaid balances of advances made with respect to the Premises for the payment of taxes, assessments, insurance premiums, costs incurred for the protection of the Premises and all other costs which Beneficiary is authorized by this Deed of Trust or any other of the Loan Documents to pay on Trustor's behalf, all of which shall be secured by this Deed of Trust.

ARTICLE I COVENANTS OF TRUSTOR

Section 1.01. Junior Encumbrances. Without the prior written consent of Beneficiary, which consent Beneficiary may give, deny or condition in its reasonable discretion, Trustor shall not create or permit to exist any liens or encumbrances on the Premises which are junior and inferior in terms of priority to this Deed of Trust.

Section 1.02. Payments by Trustor. Trustor shall pay, when due and payable: (i) the Indebtedness in accordance with the terms and conditions of the instruments evidencing the same; (ii) all taxes, all assessments, general or special, and all other charges levied or imposed upon or assessed or placed or made against the Premises, this Deed of Trust, the Notes or the Indebtedness or any interest of Beneficiary in the Premises, this Deed of Trust, the Notes or the Indebtedness; (iii) premiums on policies of fire and casualty insurance covering the Premises required by this Deed of Trust or now or hereafter required by Beneficiary; (iv) premiums on all life insurance policies now or hereafter pledged as collateral for the Indebtedness or any part thereof; (v) premiums on all liability, rental, rental value, business interruption mortgage and flood insurance policies required by this Deed of Trust or now or hereafter required by Beneficiary in connection with the Premises or the Indebtedness or any part of either; and (vi) all ground rents, lease rentals and other payments respecting the Premises payable by Trustor. Trustor shall promptly deliver to Beneficiary, upon request by Beneficiary, receipts showing payment in full of all of the foregoing items, other than the Indebtedness. In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws in force governing

the taxation of the Indebtedness or the manner of collecting such taxes so as to adversely affect Beneficiary, Trustor will promptly pay any such tax on or before the date it is due if, in the opinion of counsel for Beneficiary, Beneficiary is not prohibited by any such law, order, rule or regulation from requiring such payment by Trustor. If, in the opinion of counsel for Beneficiary, Beneficiary is prohibited by any such law, order, rule or regulation from requiring such payment by Trustor, then, at Beneficiary's option, Trustor shall be in default under this Deed of Trust as if an event of default had occurred, and Beneficiary may exercise any or all of the rights and remedies Beneficiary has upon the occurrence of a default under this Deed of Trust.

Section 1.03. Beneficiary's Acts on Behalf of Trustor. In the event Trustor shall either fail or refuse to pay or cause to be paid, as the same shall become due and payable, any item (including all items specified in Section 1.02 hereof) which Trustor is required to pay hereunder or which Trustor may pay to cure a default under this Deed of Trust, or in the event Trustor shall either fail or refuse to do or perform any act which Trustor is obligated to do or perform under this Deed of Trust or which Trustor may do or perform to cure a default under this Deed of Trust, or in the event Beneficiary shall be required, or shall find it necessary or desirable in Beneficiary's discretion, to defend, enforce or protect any of the rights and benefits accruing to Beneficiary under any provision of this Deed of Trust (including, without limitation, Beneficiary's interest in the Premises, insurance and condemnation proceeds and the Rents,) then Beneficiary, at Beneficiary's option, may make such payment or do or perform such act on behalf of Trustor, or proceed in any manner to defend, enforce or protect any such rights and benefits. All such payments made by Beneficiary and all reasonable costs and expenses incurred by Beneficiary in doing or performing all such acts shall be and shall become part of the Indebtedness and shall bear interest at the rate per annum two (2) percentage points in excess of the highest rate of interest then being charged with respect to any portion of the Indebtedness from the date paid or incurred by Beneficiary, and the interest thereon shall also be part of the Indebtedness.

Section 1.04. Further Assurances. Trustor shall at any time, and from time to time, upon request by Beneficiary, make, execute and deliver, or cause to be made, executed and delivered, any and all other and further instruments, documents, certificates, agreements, letters, representations and other writings as may be necessary or desirable, in the opinion of Beneficiary, in order to effectuate, complete, correct, perfect or continue and preserve the liability and obligation of Trustor for payment of the Indebtedness and the lien, security interest and security title of Beneficiary under this Deed of Trust. Trustor shall, upon request by Beneficiary, certify in writing to Beneficiary, or to any proposed assignee of this Deed of Trust, the amount of principal and interest then owing on the Indebtedness and whether or not any setoffs or defenses exist against all or any part of the Indebtedness.

Section 1.05. Rents and Leases. Trustor shall fully and faithfully perform all of its duties and obligations under the Leases and observe, satisfy and comply with all of the terms, covenants, conditions, agreements, requirements, restrictions and provisions of the Leases, and do all acts otherwise necessary to maintain and preserve the Rents and prevent any diminishment or impairment of the value of the Leases or the Rents or the interest of Trustor or Beneficiary therein or thereunder. Without the prior written consent of Beneficiary, Trustor shall not further

assign the Rents or the Leases, shall not terminate, alter, modify, or amend in any respect, or accept the surrender of, any of the Leases, and shall not collect Rents for more than one (1) month in advance. Trustor shall procure and deliver to Beneficiary upon request estoppel letters or certificates from each lessee, tenant, occupant in possession and other user of the Premises or any part thereof, as required by and in form and substance satisfactory to Beneficiary, and shall deliver to Beneficiary a recordable assignment of all of Trustor's interest in all Leases, which assignment shall be in form and substance satisfactory to Beneficiary, together with proof of due service of a copy of such assignment on each lessee, tenant, occupant in possession or other user of the Premises or any part thereof.

Section 1.06. Maintenance and Repair. In accordance with the terms of the Leases, Trustor shall maintain the Premises in good condition and repair, shall not commit or suffer any actual or threatened waste to the Premises, and shall comply with, or cause to be complied with, all statutes, ordinances, rules, regulations and directives of any governmental authority (hereinafter called "Laws") relating to the Premises or any part thereof or the use or occupancy of the Premises or any part thereof. No part of the Premises, including but not limited to any of the Improvements, shall be removed, demolished or materially altered without the prior written consent of Beneficiary; provided however, Trustor may make those changes required to be made under the Franchise Agreement (as such term is defined in the Credit Agreement) without Beneficiary's prior written consent so long as Trustor notifies Beneficiary of all such proposed changes. If at any time during the continuance of the Indebtedness any addition, alteration, change, repair, reconstruction or other work on the Premises, of any nature, structural or otherwise, becomes necessary or desirable because of damage to or destruction of the Premises or any part thereof, the entire expense thereof, regardless of when the same shall be incurred or become due, shall be the sole obligation and responsibility of Trustor, and Trustor shall pay the entire expense thereof promptly when due. Trustor shall not initiate, join in, consent to or acquiesce in any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the use which may be made of the Premises or any part thereof.

Section 1.07. Insurance. Trustor shall keep the Premises insured against loss or damage by fire and such other casualties and risks as the Beneficiary may require from time to time. The insurance maintained by Trustor may, at Beneficiary's option, include rental, rental value and business interruption insurance. Such policies shall be written by such companies, in such amounts and under such forms of policies as Beneficiary may approve. Such policies shall insure Beneficiary's interest in the Premises, name Beneficiary as an insured party thereunder, provide that losses thereunder shall be payable to Beneficiary pursuant to such forms of loss payable clauses as Beneficiary may approve and provide that no cancellation or reduction in coverage shall be effective unless the insurer first gives Beneficiary thirty (30) days prior written notice. Irrespective of the insurance required and approved by Beneficiary hereunder, the security interest of Beneficiary hereunder shall cover all policies of insurance which insure against loss or damage to the Premises, and the proceeds from any and all such policies. Trustor shall also procure and maintain general comprehensive public liability insurance coverage with such companies, in such amounts and under such forms of policies as Beneficiary may approve, naming Beneficiary as an additional insured thereunder and providing that no cancellation or

reduction in coverage thereunder shall be effective unless the insurer first gives Beneficiary thirty (30) days prior written notice. Forthwith upon the issuance of all such policies, Trustor shall deliver the same to Beneficiary together with evidence satisfactory to Beneficiary that the premiums have been paid. Within fifteen (15) days prior to the expiration date of each such policy, Trustor shall deliver to Beneficiary a renewal policy together with evidence satisfactory to Beneficiary that the premium therefor has been paid. In the event of a foreclosure and sale by Beneficiary of the Premises, the purchaser of the Premises shall succeed to all rights of Trustor in and to such policies, including the right to the refund of unearned premiums and to dividends thereunder, and Beneficiary may, at Beneficiary's election, assign and deliver the policies to such purchaser without any warranty or representation, express or implied, and without recourse. In the event of damage to or destruction of the Premises or any part thereof, Beneficiary may adjust, settle or compromise claims under such policies, and the proceeds therefrom shall be paid to Beneficiary. Beneficiary, at Beneficiary's option and in Beneficiary's sole discretion, may either (i) apply the proceeds or any part thereof to payment of the Indebtedness, in such order as Beneficiary may determine, or (ii) require Trustor to repair, replace or reconstruct the Premises or any part thereof and disburse the proceeds to Trustor to be applied against the reasonable costs and expenses thereof as incurred or paid by Trustor, pursuant to a disbursement procedure, and under such other terms and conditions, as shall be acceptable to Beneficiary; provided, however, if Trustor is not in default, or with notice, the passage of time or both would be in default, under this Deed of Trust or any other document or agreement with Trustor, then Beneficiary shall elect option (ii) above.

Section 1.08. Inventory of Personal Property. Upon request of Beneficiary, Trustor shall deliver to Beneficiary an inventory describing and showing the make, model, serial number and location of all fixtures and personal property used in the management, maintenance and operation of the Premises with a certification by Trustor that said inventory is a true and complete schedule of such fixtures and personal property used in the management, maintenance and operation of the Premises and that such items specified in the inventory constitute all of the fixtures and personal property required in the management, maintenance and operation of the Premises, and that such items are owned by Trustor free and clear of any security interests, liens, conditional sales contracts or title retention arrangements, other than the lien and security interest of this Deed of Trust.

Section 1.09. Condemnation. Notwithstanding any injury or damage to, or loss of, the Premises or any part thereof as a result of the exercise of the right of eminent domain, Trustor shall continue to pay the Indebtedness. All sums paid or payable to Trustor by reason of any injury or damage to, or loss of, the Premises or any part thereof as a result of the exercise of the right of eminent domain shall be delivered to Beneficiary and Beneficiary, at Beneficiary's option and at Beneficiary's sole discretion, may either (i) apply the sum or any part thereof to payment of the Indebtedness, in such order as Beneficiary may determine, or (ii) require Trustor to repair, replace or reconstruct the Premises or any part thereof and disburse such sums to Trustor to be applied against the reasonable costs and expenses thereof as incurred or paid by Trustor pursuant to a disbursement procedure, and under such other terms and conditions, as shall be acceptable to Beneficiary.

Section 1.10. Financial Information. Trustor shall comply in all respects with the terms and conditions governing the delivery of financial information set forth in the Credit Agreement, including, without limitation, Section 7.03 and 7.04 thereof.

Section 1.11. Inspection. Trustor shall permit any person designated by Beneficiary to visit and inspect the Premises, to examine the books of account and other records of Trustor with respect to the Premises, and to discuss the affairs, finances and accounts of Trustor with and to be advised as to the same by Trustor or a knowledgeable and duly authorized representative of Trustor, all at such reasonable times and intervals as Beneficiary may desire.

Section 1.12. Restriction on Transfer. Except in accordance with the release provisions set forth in Section 11.20 of the Credit Agreement, without the prior written consent of Beneficiary thereto (which consent may be granted or withheld at Beneficiary's reasonable discretion) and the recordation of such consent in the public deed records of the County in which the Premises or any part thereof is located, prior to the cancellation, satisfaction and release by Beneficiary of this Deed of Trust, neither Trustor nor any party comprising Trustor shall grant, bargain, sell, convey, transfer, assign or exchange all or any portion of the Premises or the interest of Trustor or such other party in the Premises. For the purposes of this Section 1.12, any of the following shall constitute a transfer or conveyance of the Premises proscribed hereby: (i) in the event Trustor or any party comprising Trustor shall be a corporation or limited liability company, if any amount of any class of stock or membership interest in Trustor or such party comprising Trustor shall be granted, bargained, sold, conveyed, transferred, assigned or exchanged after the execution and delivery of this Deed of Trust and, after such transaction, more than fifty percent (50%) of such class of stock or membership interest shall be owned by a party or parties other than the party or parties owning such stock as of the date of the execution and delivery of this Deed of Trust; and (ii) in the event Trustor or any party comprising Trustor shall be a general partnership or a limited partnership, (A) if any general partnership interest in Trustor or such party comprising Trustor shall be granted, bargained, sold, conveyed, transferred, assigned or exchanged after the execution and delivery of this Deed of Trust, or (B) if any amount of any class of limited partnership interests in Trustor or such party comprising Trustor shall be granted, bargained, sold, conveyed, transferred, assigned or exchanged after the execution and delivery of this Deed of Trust and, after such transaction, more than fifty percent (50%) of such class of limited partnership interests shall be owned by a party or parties other than the party or parties owning such limited partnership interests as of the date of the execution and delivery of this Deed of Trust. The foregoing proscription shall apply to any such sale, conveyance, transfer, assignment or exchange, whether made with or without consideration, and whether arising voluntarily or involuntarily, by reason of merger, consolidation or reorganization, by operation of law, or otherwise; provided, however, that any transfer or conveyance of an ownership interest in Trustor by reason of death of any existing member or shareholder of Trustor shall not be considered a transfer or conveyance for purposes of this Section 1.12.

Section 1.13. Escrow Deposit. If Trustor shall be in default hereunder, in order to further secure the payment of the taxes, special assessments and insurance premiums payable with respect to the Premises, upon request therefor by Beneficiary, Trustor shall deposit with Beneficiary, on the due date of each monthly installment due under the Notes, a sum which, in

the estimation of Beneficiary, shall be equal to one-twelfth (1/12) of the amount of annual taxes, special assessments and casualty insurance premiums payable with respect to the Premises. The deposit shall be held by Beneficiary, free of interest, and free of any liens or claims on the part of creditors of Trustor and as part of the security of Beneficiary, and shall be used by Beneficiary to pay current taxes, special assessments and casualty insurance premiums on the Premises as the same accrue and are payable. The deposit shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of Beneficiary. If such deposits are insufficient to pay such taxes, special assessments and casualty insurance premiums in full as the same become payable, Trustor shall deposit with Beneficiary such additional sum or sums as may be required in order for Beneficiary to pay such taxes, special assessments and casualty insurance premiums in full. Upon any default hereunder, Beneficiary, at Beneficiary's option, may apply said deposit, or any part thereof, to the payment of the Indebtedness in such order as Beneficiary may determine. Upon the payment in full of the Indebtedness and the cancellation and satisfaction of record of this Deed of Trust, Beneficiary shall refund to Trustor any such sums then on deposit with Beneficiary. The term "taxes" as used in this paragraph shall include real property ad valorem taxes, sanitary taxes, personal property ad valorem taxes and any other tax which may or become a lien against the Premises.

Section 1.14. Subrogation. Beneficiary shall be subrogated to all right, title, equity, liens and claims of all persons to whom Beneficiary has paid or pays money in settlement of claims, liens, encumbrances or charges or in the acquisition of any right or title for Beneficiary's benefit under this Deed of Trust or for the benefit and account of Trustor.

Section 1.15. Flood Insurance. Trustor represents and certifies to Beneficiary that no part of the Premises lies within a "special flood hazard area" as defined and specified by the United States Department of Housing and Urban Development pursuant to the Flood Disaster Protection Act of 1973. In the event Beneficiary determines that the rules or regulations of the Federal Reserve Board, the Comptroller of the Currency or any other governing agency licensing or regulating the operations of Beneficiary require that flood insurance coverage be obtained for the Premises or any part thereof in order for Beneficiary to comply with such rules or regulations or with the Flood Disaster Protection Act of 1973 as then in effect, then Trustor, upon receiving written notice from Beneficiary of such determination: (i) shall promptly purchase and pay the premiums for such flood insurance policies as Beneficiary deems required by such agency or agencies and so that Beneficiary shall be deemed in compliance with the rules and regulations of such agency or agencies and with the Flood Disaster Protection Act of 1973 as then in effect; and (ii) shall deliver such policies to Beneficiary together with evidence satisfactory to Beneficiary that the premiums therefor have been paid. Such policies of flood insurance shall be in a form satisfactory to Beneficiary, shall name Beneficiary as an insured thereunder, shall provide that losses thereunder be payable to Beneficiary pursuant to such forms of loss payable clause as Beneficiary may approve, shall be for an amount at least equal to the Indebtedness or the maximum limit of coverage made available with respect to the Premises under the National Flood Insurance Act of 1968, as amended, whichever is less, and shall be noncancellable as to Beneficiary except upon thirty (30) days prior written notice given by the insurer to Beneficiary. Within fifteen (15) days prior to the expiration date of each such flood insurance policy, Trustor

shall deliver to Beneficiary a renewal policy or endorsement together with evidence satisfactory to Beneficiary that the premium therefor has been paid.

Section 1.16. Hazardous Materials Covenants. (a) Trustor hereby represents and warrants to and for the benefit of Beneficiary that the Premises will not be used or operated in any manner that will result in the storage, use, treatment, manufacture or disposal of any Hazardous Materials (hereinafter defined) upon the Premises or any portion thereof or which will result in Hazardous Materials Contamination (hereinafter defined). For purposes hereof, the term "Hazardous Materials" shall mean and refer to (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), as amended from time to time, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.) ("CERCLA"), as amended from time to time, and regulations promulgated thereunder; (iii) asbestos; (iv) polychlorinated biphenyls; (v) any substance the presence of which on the Premises is prohibited by any Laws or by any other legal requirements affecting the Premises; (vi) petroleum based materials; and (vii) any other substance which is defined as hazardous, toxic, infectious or radioactive by any Laws or by any other legal requirements affecting the Premises. The term "Hazardous Materials Contamination" shall mean and refer to the unlawful contamination of the Premises, soil, surface water, ground water, air, or other elements on, or of, the buildings, facilities, soil, surface water, ground water, air, or other elements on, or of, any other property as a result of Hazardous Materials at any time emanating from the Premises.

(b) In addition to and without limiting the generality of any other provisions of this Deed of Trust, Trustor shall and hereby does indemnify and hold Beneficiary harmless from and against any and all losses, damages, expenses, fees, claims, demands, causes of action, judgments, costs, and liabilities, including, but not limited to, reasonable attorneys' fees and costs of litigation, and costs and expenses of response, remedial and corrective work and other clean up activities, arising out of or in any manner connected with (i) the "release" or "threatened release" (as those terms are defined in CERCLA and the rules and regulations promulgated thereunder, as from time to time amended) by Trustor or Trustor's employees, agents, delegees, invitees, licensees, concessionaires, lessees, tenants, contractors or representatives, of any Hazardous Materials, or (ii) an occurrence of Hazardous Materials Contamination, arising out of or in any manner connected with the use or occupancy of the Premises; provided however, the Trustor shall not be obligated to indemnify the Beneficiary from claims or damages asserted against the Beneficiary if the circumstances giving rise to such claims arose subsequent to satisfaction in full of the Trustor's obligation under the Notes. The provisions of this Section 1.16 shall survive any payment or satisfaction of the Indebtedness and any acquisition of the Premises by Beneficiary pursuant to the power of sale contained in this Deed of Trust, by conveyance in lieu of foreclosure or otherwise; and such provisions shall remain in full force and effect as long as the possibility exists that Beneficiary may suffer or incur any such losses, damages, expenses, fees, claims, demands, causes of action, judgments, costs and liabilities.

ARTICLE II
EVENTS OF DEFAULT

The following shall constitute events of default by Trustor hereunder:

Section 2.01. Payment of Indebtedness. If Borrowers should fail to pay the Indebtedness or any part thereof within five (5) business days of the date when and as the same shall become due and payable, or if Borrowers, or Guarantor shall fail to pay any amounts owed to Beneficiary within five (5) business days of the date when and as the same shall become due and payable, in either instance, whether at the due date thereof or at a date fixed for prepayment or at a date fixed by reason of acceleration of the due date thereof or otherwise, and such failure continues beyond the grace or cure periods, if any, provided for in the applicable instrument.

Section 2.02. Other Payments and Terms. If Trustor should fail to make any payment (other than on the Indebtedness) required hereunder, or if Trustor should fail fully and completely to perform its duties and obligations under, or should violate or breach or fail fully and completely to observe, satisfy or comply with any of the terms, covenants, conditions, agreements, requirements, restrictions or provisions set forth in, this Deed of Trust (and if such non-monetary failure, breach or violation shall not have been cured within thirty (30) days of such failure, or if such breach cannot be cured within such thirty (30) days, than for such period of time necessary to cure the same so long as Trustor has commenced such cure and is diligently pursuing the same to completion within such thirty (30) day period, but in no event beyond sixty (60) days), or any other instrument, document, agreement, letter or other writing now or hereafter evidencing or securing the Indebtedness or any portion thereof, or heretofore, concurrently herewith or in the future executed by Trustor in favor of Beneficiary in connection with any transaction which resulted in the Indebtedness or any part thereof, including, without limiting the generality of the foregoing, the Credit Agreement, the Notes and the other Loan Documents (and if such failure, breach or violation shall not have been cured within the periods, if any, provided therein).

Section 2.03. False Statements. If any certificate, representation, warranty, statement or other writing made herein or furnished to Beneficiary by or on behalf of Borrowers or Guarantors in connection with any transaction which resulted in the Indebtedness or any part thereof should be false, untrue, incomplete or misleading in any material respect as of the date made; provided, however, Borrowers or Guarantors shall be given five (5) business days following written notice to change such facts or circumstances so that the statements made shall be true, correct and complete.

Section 2.04. Taking. Any taking of any part of the Premises in any eminent domain, condemnation or similar proceeding or the pendency of such proceeding which, in Beneficiary's reasonable judgment, materially affects the value or intended use of the Premises.

Section 2.05. Seizure or Levy. If the Premises or any part thereof should be seized or levied upon under legal process or a receiver should be appointed for the Premises or any part thereof.

Section 2.06. Liens. If any Federal tax lien or any claim of lien for labor or services performed or rendered or alleged to have been performed or rendered, or for materials supplied or furnished or alleged to have been supplied or furnished, or for architectural or engineering services performed or rendered or alleged to have been performed or rendered, in connection with the improvement of or with respect to the Premises should be filed of record against Trustor or the Premises and not be removed from record by payment or posting of bond within thirty (30) days from the date of such filing.

Section 2.07. Priority Claim. If any claim of priority over this Deed of Trust should be asserted in any legal or equitable proceeding, and not be dismissed with prejudice within sixty (60) days after the filing thereof.

Section 2.08. Insolvency or Bankruptcy. Any Borrower or any Guarantor institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undischarged or unstayed for sixty calendar days, or an order for relief is entered in any such proceeding.

Section 2.09. Judgments. A judgment or order for the payment of money (not adequately covered by insurance as to which the insurance company has acknowledged coverage) shall be entered against any Borrower by any court or other tribunal which exceeds (individually or together with all other such judgments or orders entered against any Borrower since the date hereof) \$100,000.00, or which shall otherwise have a material adverse effect on any Borrower, and such judgment or order shall continue for a period of thirty (30) days without being stayed or dismissed through appropriate appellate proceedings.

Section 2.10. Dissolution or Liquidation. Should any Borrower, if a corporation or company, be liquidated or dissolved or its articles of incorporation or organization expire or be revoked, or, if a partnership or business association, be dissolved or partitioned, or, if a trust, be terminated or expire.

Section 2.11 Provisions Regarding the Leases. Should Trustor (i) cancel, modify, alter or amend the Leases without the prior written consent of Beneficiary, which consent Beneficiary may withhold or condition in its reasonable discretion, or (ii) fail to maintain the Leases in full force and effect.

Section 2.12 Loan Documents. An Event of Default (as defined therein) shall occur under any of the other Loan Documents.

ARTICLE III
REMEDIES AND POWER OF SALE

Upon the occurrence of an event of default, Trustor shall be in default hereunder. If Trustor shall be in default hereunder, Beneficiary may, at its option and election and without notice to Trustor, do any one or more of the following:

Section 3.01. **Acceleration of Indebtedness.** Beneficiary may immediately declare all or any portion of the Indebtedness to be immediately due and payable, whereupon the same shall be and shall become due and payable forthwith without presentment, demand, protest or notice of any kind, all of which are expressly waived by Trustor.

Section 3.02. **Entry and Possession.** Beneficiary may enter upon the Premises or any part thereof and take possession thereof, excluding therefrom Trustor and all agents, employees and representatives of Trustor; employ a manager of the Premises or any part thereof; hold, store, use, operate, manage, control, maintain and lease the Premises or any part thereof; conduct business thereon; make all necessary and appropriate repairs, renewals and replacements; insure or keep the Premises insured; and carry out or enter into agreements of any kind with respect to the Premises.

Section 3.03. **Collection of Rents.** Beneficiary may collect and receive all Rents, and apply the same to the Indebtedness, after deducting therefrom all costs, charges and expenses of taking, holding, managing and operating the Premises, including the reasonable fees and expenses of Beneficiary's attorneys and agents. Without limiting the foregoing, Beneficiary shall have all remedies granted to an "assignee" under the Utah Uniform Assignment of Rents Act, Utah Code Ann. §57-26-101 et seq.

Section 3.04. **Payments.** Beneficiary may pay any sum or sums deemed necessary or appropriate by Beneficiary to protect the Premises or any part thereof or Beneficiary's interest therein.

Section 3.05. **Other Remedies.** Beneficiary may exercise all rights and remedies contained in any other instrument, document, agreement or other writing now or hereafter evidencing or securing the Indebtedness or any part thereof, or heretofore, concurrently herewith or in the future executed by Trustor in favor of Beneficiary in connection with any transaction resulting in the Indebtedness or any part thereof, including, without limiting the generality of the foregoing, the Credit Agreement, the Notes and the other Loan Documents.

Section 3.06. **Appointment of Receiver; Lender in Possession.** Beneficiary or the holder of the Trustee's certificate of purchase shall be entitled to a receiver for the Property after acceleration, and shall also be so entitled during the time covered by foreclosure proceedings and the period of redemption, if any; and shall be entitled thereto as a matter of right without regard to the solvency or insolvency of Trustor or of the then owner of the Property, and without regard

to the value thereof. Such receiver may be appointed by any Court of competent jurisdiction ex parte application and without notice - notice being hereby expressly waived.

Section 3.07. UCC Remedies. With respect to the personal property and fixtures in which a security interest is herein granted, at Beneficiary's option, Beneficiary may exercise any or all of the rights accruing to a secured party under this instrument, the Utah Uniform Commercial Code, and any other applicable law. Trustor shall, if Beneficiary requests, assemble all such personal property and make it available to Beneficiary at a place or places, to be designated by Beneficiary, which shall be reasonably convenient to Trustor and Beneficiary. Any notice required to be given by Beneficiary of a public or private sale, lease or other disposition of the personal property or any other intended action by Beneficiary may be personally delivered to Trustor or may be deposited in the United States mail with postage prepaid duly addressed to Trustor at the address shown in the paragraph herein captioned "Notices", or at any other address theretofore designated by Trustor in writing to Beneficiary, at least five (5) business days prior to such proposed action, and shall constitute reasonable and fair notice to Trustor of any such action.

A CARBON, PHOTOGRAPH OR OTHER REPRODUCTION OF THIS DEED OF TRUST OR ANY FINANCING STATEMENT RELATING TO THIS DEED OF TRUST SHALL BE SUFFICIENT AS A FINANCING STATEMENT. THIS DEED OF TRUST IS EFFECTIVE AND SHALL BE EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING WITH RESPECT TO ALL GOODS WHICH ARE OR ARE TO BECOME FIXTURES INCLUDED WITHIN THE PROPERTY AND IS TO BE FILED FOR RECORD IN THE REAL ESTATE RECORDS OF THE COUNTY WHERE THE PROPERTY IS SITUATED. THE MAILING ADDRESS OF BENEFICIARY AND THE ADDRESS OF TRUSTOR FROM WHICH INFORMATION CONCERNING THE SECURITY INTEREST MAY BE OBTAINED ARE SET FORTH ON THE FIRST PAGE HEREOF.

To the extent of the existence of any personal property encumbered by this Deed of Trust, this Deed of Trust constitutes both (i) a security agreement intended to create a security interest in such personal property in favor of Beneficiary; and (ii) a financing statement filed as a fixture filing in the real estate records of the County Recorder in the county in which the Property is located with respect to any and all fixtures included within the personal property with respect to any goods or other personal property that may now be or hereafter become such fixtures. This Deed of Trust shall be self-operative with respect to such personal property, but Trustor agrees to and shall, upon the request of Beneficiary, execute and deliver to Beneficiary, in form and content satisfactory to Beneficiary, such financing statements, descriptions of property and such further assurances as Beneficiary, in its sole discretion, may from time to time consider necessary or desirable to create, perfect, continue and preserve the lien and encumbrances hereof and the security interest granted herein upon and in the personal property specifically described herein, or generally described and intended to be the subject of the security interest, lien and encumbrance hereby created, granted and conveyed. Beneficiary, at the expense of Trustor, may cause such statements, descriptions and assurances as provided in this Deed of Trust to be recorded and re-recorded, filed and refiled, at such times and in such places as may be required or permitted by

law to so create, perfect and preserve the lien and encumbrance hereof upon all of the personal property.

Section 3.08. Power of Sale. Trustor's breach of any covenant or agreement of Trustor in this Deed of Trust, or upon any default in a prior lien upon the Property, at Beneficiary's option, all sums secured by this Deed of Trust shall be immediately due and payable. To exercise this option, Beneficiary may invoke the power of sale and any other remedies permitted by law. Beneficiary shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this Deed of Trust, including but not limited to, reasonable attorney's fees.

If Beneficiary invokes the power of sale, Beneficiary shall give a written notice of default to Trustee of such election in preparation for a private sale foreclosure pursuant to the provisions of Utah Code Ann. §57-1-1 et seq. Trustee shall give such notice to Trustor of Trustor's rights as is provided by law. Trustee shall record and mail copies of such notice of default as required by law. If Trustor does not pay off the Indebtedness during the time periods allowed by applicable Utah law, Trustee shall be entitled to proceed with a private sale foreclosure of this Deed of Trust as allowed by Utah Code Ann. §57-1-1 et seq. At any private foreclosure sale of the Property, Trustee shall be entitled to sell the Property at public auction to the highest bidder for cash at the time and place and in the manner permitted by Utah Code Ann. §57-1-1 et seq. in one or more parcels as Trustee may think best and in such order as Trustee may determine. Beneficiary's designee may purchase the Property at any sale. It shall not be obligatory upon the purchaser at any such sale to see the application of the purchase money.

The proceeds of each sale by Trustee hereunder shall be applied first to the costs and expenses of the sale and of all proceedings in connection therewith (including without limitation the actual fees and expenses of the Trustee's and Beneficiary's attorneys in connection therewith) then to the payment of the balance of the Indebtedness, and the remainder, if any, shall be paid to Trustor or to the parties entitled thereto by law. If the proceeds of any sale are not sufficient to pay the Indebtedness in full, Beneficiary shall determine, at Beneficiary's option and in Beneficiary's discretion, the portions of the Indebtedness to which the proceeds (after deducting therefrom the costs and expenses of the sale and all proceedings in connection therewith) shall be applied and in what order the proceeds shall be so applied. Trustor covenants and agrees that, in the event of any sale pursuant to the agency and power herein granted, Trustor shall be and become a tenant holding over and shall deliver possession of the Premises, or the part thereof or interest therein sold, to the purchaser or purchasers at the sale or be summarily dispossessed in accordance with the provisions of law applicable to tenants holding over.

All of the foregoing rights and remedies are cumulative of and in addition to, and not restrictive of or in lieu of, any right or remedy provided for by statute, or now or hereafter existing at law or in equity. Beneficiary may, at Beneficiary's election and at Beneficiary's sole discretion, exercise each and every such right and remedy concurrently or separately or in any combination. If any provision of this Article III conflicts with any provision of applicable Utah law, Utah law shall govern.

ARTICLE IV
ADDITIONAL PROVISIONS

The following terms and conditions shall constitute additional covenants and agreements by Trustor:

Section 4.01. Non-Residential Status of Premises. Trustor represents and warrants to Beneficiary that neither all of the Premises nor any part thereof is to be used as a dwelling place by Trustor at the time this Deed of Trust is entered into.

Section 4.02. Release. Upon payment of all sums secured by this Deed of Trust and in accordance with the terms of the Credit Agreement, Beneficiary shall cause Trustee to release this Deed of Trust and shall produce for Trustee the Notes. Trustor shall pay all costs of recordation and shall pay the statutory Trustee's fees. If Beneficiary shall not produce the Notes as aforesaid, then Beneficiary, upon notice in accordance with Section 4.07 from Trustor to Beneficiary, shall obtain, at Beneficiary's expense, and file any lost instrument bond required by Trustee or pay the cost thereof to effect the release of this Deed of Trust.

Section 4.03. Applicable Law. This Deed of Trust shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of Utah.

Section 4.04. Forbearance. Beneficiary shall not be deemed to waive any of Beneficiary's rights or remedies under this Deed of Trust unless such waiver be express in writing and signed by or on behalf of Beneficiary. No delay, omission or forbearance by Beneficiary in exercising any of Beneficiary's rights or remedies shall operate as a waiver of such rights or remedies. A waiver in writing on one occasion shall not be construed as a waiver of any right or any remedy on any future occasion.

Section 4.05. Time. Time is and shall be the essence of this Deed of Trust and the covenants and agreements by Trustor.

Section 4.06. Captions. Any captions or headings preceding the text of separate sections, paragraphs and sub-paragraphs hereof are solely for reference purposes and shall not affect the meaning, construction, interpretation or effect of the text.

Section 4.07. Notices. All notices, requests, demands and other communications under this Deed of Trust or the Notes shall be in writing and shall be deemed to have been duly given: (i) to Trustor when personally delivered to any office of Trustor, (ii) to Beneficiary when personally delivered to an officer of Beneficiary authorized to receive such notices or (iii) five (5) days after deposited in the United States Mail, certified mail with return receipt requested and with all postage prepaid, addressed as follows:

- (a) To Beneficiary: Bank of America, N.A.
Restaurant Finance Group
600 Peachtree Street NE

GA1-006-13-20
Atlanta, Georgia 30308
Attention: John Coppedge

with a copy to: Thomas L. Mitchell, Esq.
Moore & Van Allen PLLC
100 North Tryon Street, Suite 4700
Charlotte, North Carolina 28202-4003

(b) To Trustor: Holland Real Estate, LLC
1515 N. Academy Boulevard, Suite 400
Colorado Springs, CO 80909
Attention: Thomas Reinhard

with a copy to: Michael C. Cook, Esq.
Michael C. Cook, P.C.
511 North Tejon Street, Suite 200
Colorado Springs, CO 80903


Either party may, by written notice to the other, designate a different address for receiving notices hereunder; provided, however, that no change in Trustor's address for receiving notices hereunder shall be effective until Beneficiary has actually received notice thereof. The foregoing address of Trustor constitutes the mailing address of the debtor, and the foregoing address of Beneficiary constitutes an address of the secured party from which information concerning the security interest may be obtained.

Section 4.08. Severability. Wherever possible, each provision of this Deed of Trust shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Deed of Trust shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Deed of Trust.

Section 4.09. Definitions. The word "Trustor" as used herein shall include the heirs, legal representatives, successors and assigns of Trustor as if so specified at length throughout this Deed of Trust, and all covenants, agreements, duties, obligations, liabilities and responsibilities of Trustor shall be binding upon and enforceable against the heirs, legal representatives, successors and assigns of Trustor. The word "Trustor" as used herein shall also include all parties executing this Deed of Trust as Trustor, and each of them, who shall be jointly and severally liable under this Deed of Trust, should more than one Trustor execute this Deed of Trust; and shall include the masculine and feminine genders, regardless of the gender of Trustor or any of them, and shall include partnerships, limited liability companies, corporations and other legal entities. The word "Beneficiary" as used herein shall include the transferees, successors, legal representatives and assigns of Beneficiary as if so specified at length throughout this Deed of Trust, and all rights of Beneficiary under this Deed of Trust shall inure to the benefit of the transferees, successors, legal representatives and assigns of Beneficiary.

Section 4.10. WAIVERS. EXCEPT AS PROVIDED BY UTAH LAW, TRUSTOR HEREBY EXPRESSLY WAIVES ANY RIGHT TRUSTOR MAY HAVE UNDER THE CONSTITUTION OF THE STATE OF UTAH OR THE CONSTITUTION OF THE UNITED STATES OF AMERICA TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED TO BENEFICIARY BY THIS DEED OF TRUST, AND WAIVES TRUSTOR'S RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE UNDER POWER DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS DEED OF TRUST ON THE GROUND (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITHOUT PRIOR NOTICE OR JUDICIAL HEARING OR BOTH. TRUSTOR FURTHER HEREBY EXPRESSLY WAIVES ALL HOMESTEAD EXEMPTION RIGHTS, IF ANY, WHICH TRUSTOR OR TRUSTOR'S FAMILY MAY HAVE PURSUANT TO THE CONSTITUTION OF THE UNITED STATES, THE STATE OF UTAH OR ANY OTHER STATE OF THE UNITED STATES, IN AND TO THE PREMISES AS AGAINST THE COLLECTION OF THE INDEBTEDNESS, OR ANY PART THEREOF. ALL WAIVERS BY TRUSTOR IN THIS PARAGRAPH HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY BY TRUSTOR, AFTER TRUSTOR HAS BEEN AFFORDED AN OPPORTUNITY TO BE INFORMED BY COUNSEL OF TRUSTOR'S CHOICE AS TO POSSIBLE ALTERNATIVE RIGHTS. TRUSTOR'S EXECUTION OF THIS DEED OF TRUST SHALL BE CONCLUSIVE EVIDENCE OF THE WAIVER AND THAT SUCH WAIVER HAS BEEN VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY MADE.

IN ADDITION, TRUSTOR HEREBY WAIVES ANY RIGHT IT MAY HAVE TO JURY TRIAL IN ANY ACTION RELATED TO THIS DEED OF TRUST AND FURTHER WAIVES ANY RIGHT TO INTERPOSE ANY COUNTERCLAIM RELATED TO THIS DEED OF TRUST IN ANY SUCH ACTION.



Initials

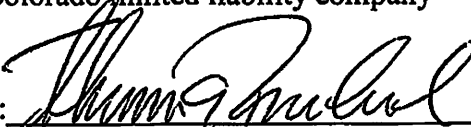
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Ent 498005 Bk 0772 Pg 0347

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust under seal and Trustor has delivered this Deed of Trust to Beneficiary, all the day and year first written above.

TRUSTOR:

HOLLAND REAL ESTATE, LLC,
a Colorado limited liability company

By: 
Thomas J. Reinhard, Manager

[COMPANY SEAL]

STATE OF COLORADO
COUNTY OF EL PASO

On this 29th day of April, 2011, Thomas J. Reinhard personally appeared before me Alfred H. Burgess, II, who being by me duly sworn and affirmed, did say that he is the Manager of Holland Real Estate, LLC, a Colorado limited liability company and that said instrument was signed in behalf of said limited liability company by authority of its articles of organization and said Thomas J. Reinhard acknowledged to me that said limited liability company has executed the same.

SEAL


My Commission Expires: 4-14-2013

ALFRED H. BURGESS II
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires .

Ent 498005 Bk 0772 Pg 0348

EXHIBIT "A"

[Property Description]

Ent 498005 Bk 0772 Pg 0349

SITUATE IN THE COUNTY OF GRAND, STATE OF UTAH:

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.

LESS THE FOLLOWING:

A PARCEL OF LAND IN THE NW 1/4 NE 1/4 SECTION 1, T26S, R21E, SLB&M, GRAND COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH BEARS N 45 DEG. 14' W 452.4 FT. FROM THE CENTERLINE MONUMENT AT THE INTERSECTION OF 200 NORTH AND 100 EAST STREETS, AND PROCEEDING THENCE WEST 8.7 FT. TO A CORNER, THENCE N 0 DEG. 17' E 56.1 FT., THENCE S 89 DEG. 54' E 8.7 FT., THENCE S 0 DEG. 17' W 56.1 FT. TO THE POINT OF BEGINNING.

BEARINGS ARE BASED ON THE WEST LINE OF WENDY'S SURVEY DATED 7-95 (BEARING = N 0 DEG. 17' E).

ALSO LESS THE FOLLOWING:

DESCRIPTION OF A PARCEL OF LAND IN SECTION 1, T26S, R21E, SLM, MOAB CITY, GRAND COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST R-O-W OF MAIN STREET, SAID POINT BEARS N 0 DEG. 17' E FT. 230.0 FT. FROM THE NW CORNER OF BLOCK 24 OF THE MOAB TOWNSITE, SECTION 1, T26S, R21E, SLM, AND PROCEEDING THENCE WITH THE EAST R-O-W OF MAIN STREET N 0 DEG. 17' E 2.3 FT., THENCE S 89 DEG. 33' E 81.0 Ft, THENCE S 0 DEG. 17' W 2.3 FT., THENCE. N 89 DEG. 33' W 81.0 FT. TO THE POINT OF BEGINNING.