

Comerica Incorporated

Comerica Bank Tower  
Corporate Legal Department  
1717 Main Street, MC 9588  
Dallas, Texas 75201  
214.462.4401  
214.462.4320 Fax No.

DJ Culkar  
Senior Vice President,  
Assistant General Counsel, and  
Assistant Secretary

**Via Overnight Courier**

February 13, 2012

Office of the General Counsel  
Enforcement Division  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

FEDERAL ELECTION  
COMMISSION  
2012 FEB 14 AM 11:24  
OFFICE OF GENERAL  
COUNSEL

**Re: MUR 6523 (Wilford R. Cardon), Submission of Response and Declaration, Request for Confidential Treatment, and Reservation of Right to Designate Counsel**

Dear Sir or Madam:

On behalf of Comerica Bank, recipient of a complaint filed under the Federal Election Campaign Act of 1971 (the "Act"), regarding certain matters related to the U.S. senatorial campaign of Wilford R. Cardon, I submit the attached Response and Declaration showing that Comerica Bank has in fact made the subject extension of credit in full conformance with the Act and applicable regulations issued by the Federal Election Commission ("Commission"), specifically including 12 CFR § 110.82. In this regard and after you have performed the required preliminary legal and factual analysis of this matter, we ask that you promptly notify my office of the Commission's findings. We note for you that we have taken action to preserve all documents, records, etc. related to this matter, as required by 18 USC § 1519.

In addition, on behalf of Comerica Bank, I specifically request that this letter, attached Response and Declaration, and all other supporting documentation attached hereto, be afforded confidential treatment in accordance with 2 USC § 437g(a)(4)(B) and § 437g(a)(12)(A).

Lastly, Comerica Bank reserves its right to be represented by outside legal counsel in this matter. And, should it elect to do so, it will file the appropriate Statement of Designation of Counsel form with the Commission.

Should you have any questions in this regard, please contact me at 214.462.4401.

Very truly yours,



DJ Culkar  
Senior Vice President, Assistant General Counsel, and  
Assistant Secretary

Attachments

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FEDERAL ELECTION COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

2012 FEB 14 AM 11:24

OFFICE OF GENERAL COUNSEL

In Re:

WILFORD R. CARDON and  
COMERICA BANK  
Respondents

MUR No. 6523

RESPONSE AND DECLARATION OF  
COMERICA BANK

DJ CULKAR, based on information and belief gained through the books and records of Comerica Bank, which are maintained in the normal course of business and according to the policies and procedures of Comerica Bank, responds to those parts of the Complaint Before the Federal Election Commission, designed with MUR No. 6523 (the "Complaint"), applicable to Comerica Bank, co-respondent to the Complaint. Comerica Bank is not responding to or making any declarations regarding the other allegations in the Complaint made against Wilford R. Cardon, nor is Comerica Bank making any response or declaration on Mr. Cardon's behalf. In this regard, I declare the following under penalty of perjury:

1. I am a Senior Vice President and Assistant General Counsel for Comerica Bank, a Texas banking association, which maintains its principal place of business at 1717 Main Street, Dallas, Texas 75201.

2. On behalf of Comerica Bank, I acknowledge that Comerica Bank has received the Complaint via its registered agent Corporate Creations on January 31, 2012.

3. In the performance of my duties at Comerica Bank, I have access to certain books and records maintained by Comerica Bank in the normal course of business that are maintained pursuant to its policies and procedures.

4. After noting that the Complaint "raises questions as to whether [a certain loan made by Comerica Bank] was an improper loan under FEC Regulations" and specifically alleges that the loan was not "made in accordance with applicable banking laws and regulations...", and not otherwise made in the ordinary course of business because the value of the underlying loan collateral was misstated by the Complainant as being too low in relation to loan amount (see page 3 of Complaint), I made an inquiry of Comerica Bank's books and records related to that loan and those books and records indicate the following:

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a. On March 29, 2011, a request for credit was approved by Comerica Bank for the borrowers Boa Sorte Limited Partnership and Rio Claro, Inc. (the "Borrowers") for a revolving line of credit not to exceed

b. Contrary to the Complaint, which only notes one of the properties pledged as collateral, the loan was secured by no less than four separate real estate parcels along with the personal unlimited and unconditional guarantees of Wilford R. Cardon and Patrick Cardon, as a replacement line of credit that was part of an overall consolidation of other banking and investment relationships previously maintained at Johnson Bank, Meridian Bank, and Merrill Lynch. The collateral properties are located at and have appraised as follows:

for a total value of borrower-provide real estate collateral in the amount of \$3,685,000, all of which nominate Comerica Bank as a first lienholder. This equates to an approximate loan-to-value ratio of 70% ( $2,550,000/3,685,000=69.19\%$ ).

c. The replacement line of credit was triggered because of Mr. Wilford Cardon now being on the board at Meridian Bank and that Bank being subject to a specific cease and resist order issued by Meridian Bank's federal regulator, thereby making it impossible to renew the line or lines of certain credit at Meridian Bank, and causing the Borrowers to seek replacement financing from Comerica Bank.

d. In accordance with applicable state real property law and in compliance with 11 CFR § 100.82(e)(1)(i), Comerica Bank has perfected its security interests in the collateral

noted above by recording an appropriate and customary first-lien deed of trust with the appropriate local property records agency, as of the dates and times noted below:

i. Deed of Trust for 734 West Brooks Crossing, Christopher Creek, Arizona 85541, granted May 25, 2011, and recorded July 29, 2011 at 2:33 pm. See Attachment E.

ii. Deed of Trust for 534 Mountain Meadows Drive, Christopher Creek, Arizona 85541, granted May 25, 2011, and recorded July 29, 2011 at 2:33 pm. See Attachment F.

iii. Deed of Trust for 772 Forest Highlands, Flagstaff, Arizona 86001, granted May 25, 2011, and recorded July 29, 2011 at 4:50 pm. See Attachment G.


iv. Deed of Trust for 4040 East McLellan, Mesa, Arizona 85205, granted May 29, 2011, and recorded August 2, 2011 at 2:40 pm. See Attachment H.

for a fair market amount that is equal to or greater than the loan amount.

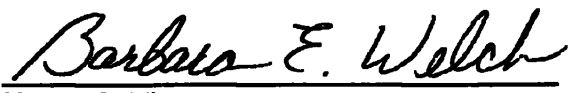
5. I acknowledge that the documents attached to the Response and Declaration, as Attachments A through H, are true and accurate copies of those found in the books and records maintained by Comerica, and for the deeds of trusts, the recording numbers, dates and times are an original reflection of the place, date and time of recording Comerica Bank's security interest in each of the collateral properties.

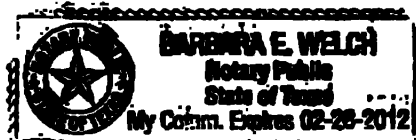
WHEREFORE, on behalf of Comerica Bank, I request that the Commission close this matter as it concerns Comerica Bank.

Dated: February 13, 2012  
Dallas, Texas

  
\_\_\_\_\_  
DJ Culkar  
Senior Vice President and Assistant  
General Counsel  
Comerica Bank

Signed and sworn before me this 13 day of February, 2012.

  
\_\_\_\_\_  
Notary Public  
My commission expires 02-28-2012



**Attachment E**

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**Deed of Trust for 734 West Brooks Crossing, Christopher Creek, Arizona 85541**

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**Comerica Bank  
One North Central Avenue  
Suite 1000  
Phoenix, AZ 85004  
Attn: Linda L. Moody**



SPACE ABOVE THIS LINE FOR RECORDER'S USE

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This [ ] is [X ] is not a construction deed of trust. If this is a construction deed of trust, then all or some portion of the funds the loan of which is secured hereby are for the purpose of construction or improving real property. This deed of trust may secure obligations which call for payment of interest at a variable interest rate.

THIS DEED OF TRUST is made this 28<sup>th</sup> day of May, 2011, among Bae Sorte Limited Partnership, an Arizona Limited Partnership herein called "Trustor", whose address is 1819 E. Southern Avenue, Suite B-10, Mesa, Arizona 85204, Comerica Bank herein called "Trustee" whose address is 75 East Trimble Road, Mail Code 4774, San Jose, California 95131 and Comerica Bank, whose address is 75 East Trimble Road, Mail Code 4774, San Jose, California 95131 herein called "Beneficiary".

Trustor irrevocably grants, transfers and assigns to Trustee, in trust and with power of sale, all of the real property in the City of Christopher Creek, County of Gill, State of Arizona, described as:

**See Exhibit "A" Suretyship Rider attached hereto and made a part hereof**

**See Exhibit "B" attached hereto and make a part hereof.**

**APN: 303-07-001Z**

Property Address: 734 West Brooks Crossing, Christopher Creek, Arizona 85541

Together with all improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents (subject however to the rights and authorities given herein to Beneficiary to collect and apply such rents), royalties, mineral, oil and gas rights and profits, water, water rights, and water assets, and all interests now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this deed of trust and all of the foregoing, together with said property (or the household estate if this deed of trust is in a leasehold) are hereby referred to as the "Property."

**1. THIS DEED OF TRUST SECURES:**

a. All of the obligations of [ ] Trustor [ ] \_\_\_\_\_, herein called "Obligor", in favor of Beneficiary or order under the terms of a (check box below and complete applicable provision(s):

[ ] Promissory note dated \_\_\_\_\_ in the original principal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_), with interest thereon at the rate specified therein, [ ] which rate may fluctuate from time to time as provided therein.

I ] Guarantee agreement dated \_\_\_\_\_ relating to the indebtedness of \_\_\_\_\_ owed to Beneficiary.

**[X] Revolving Promissory Note executed by Bon Sono Limited Partnership, an Arizona limited partnership and Rio Clear, Inc., an Illinois corporation (individually and/or collectively, "Borrower") in issue of financing, dated May 25, 2011 (the "Note"), made pursuant to that certain Business Loan Agreement by and between Borrower and Beneficiary (herein called "Agreement"). The Agreement and the Note provide, among other things, for the payment of all sums advanced by Beneficiary from time to time pursuant to the Agreement, with interest thereon at the rate specified in the Note, which rate may fluctuate from time to time as provided therein. The maximum obligation under the Note to be secured by this deed of trust at any one time is Two Million Five Hundred Fifty Thousand and No/100 Dollars (\$2,550,000.00) unless Beneficiary, with Trustor's written consent, hereafter increases this amount.**

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The security of this deed of trust shall not be affected by the termination, renewal or modification from time to time of the stationing, benchmark or measurements described herein.

b. Payment of any and all obligations and liabilities, whatsoever, whether primary, secondary, direct, indirect, fixed or contingent, whether now or hereafter due from Trustor, Obligor or any of them (or any successor in interest to Trustor or any of them) whether created directly or acquired by

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assignment if the document evidencing such obligation or liability or any other writing signed by Trustor, Obligor or any of them (or any successor in interest to Trustor or any of them) specifically provides that said obligation or liability is secured by this deed of trust.

- d. Payment of all sums to be expended by the Beneficiary or Trustee pursuant to the terms hereof.
2. TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:
- a. To keep the Property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be detached, damaged or destroyed thereon and to pay within due and certain time for labor performed and materials furnished thereon; to comply with all laws affecting the Property or requiring any alteration or improvement to be made thereon; not to commit or permit waste thereon; not in earnest, suffer or acquiesce that any said waste be committed in violation of law; to eradicate, eradicate, eradicate, eradicate, eradicate and do all other acts which bear the character of use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general.
- b. To provide, maintain and deliver to Beneficiary evidence of life and other insurance on the Property absolutely to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon indebtedness secured hereby and in such event as Beneficiary may determine, or at the option of Beneficiary, the entire amount so collected or any part thereof may be advanced to Trustor. Such application or advance shall not cure or waive any default hereunder or invalidate any suit then pending to enforce notes. Trustor shall deliver such policies or acceptable written evidence of such policies to Beneficiary upon demand. Failure to maintain the insurance required under this Deed of Trust or to deliver such policies or acceptable written evidence of the policies to Beneficiary will give Beneficiary the option to purchase insurance on behalf of Trustor. Any insurance Beneficiary procures may insure only Beneficiary's interest in the Property and may not provide any coverage for Trustor. Any costs or expenses incurred by Beneficiary in procuring such insurance will be added to the principal balance and will bear interest from the date they are advanced at the highest rate shown in the instrument or instruments containing the indebtedness secured by this Deed of Trust. Such amounts shall be payable upon demand or, at Beneficiary's option, in the form of later installments otherwise payable under such instrument or instruments.
- c. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary or Trustee to foreclose this deed of trust.
- d. To pay at least ten days before delinquency all taxes and assessments affecting the Property, including assessment of apartment water stock, all encumbrances, charges and fees, any interest, on the property or any part thereof, which appear to be prior or superior liens and all costs, fees and expenses of this deed of trust.
- e. That should Trustor fail to make any payment or do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may:
- (1) Make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes.
- (2) Appear in and defend any action or proceeding purporting to affect the security hereof or the rights or power of Beneficiary or Trustee.
- (3) Pay, purchase, contract or otherwise pay any encumbrance, charge or lien which in the judgment of either appears to be prior or to be superior hereto.
- (4) In conducting any such process, pay necessary expenses, including counsel and pay his reasonable fees.
- f. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from the date of expenditure at the highest rate of interest applicable to the indebtedness secured hereby (but not in excess of twenty-one percent (21%) per annum), or at the option of Beneficiary, such sums may be added to the principal balance of any indebtedness secured hereby and shall bear the highest rate of interest as aforesaid indebtedness (but not in excess of twenty-one percent (21%) per annum).
- g. To pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary and to execute the mortgage allowed by law at the time when said statement is demanded.
3. IT IS FURTHER AGREED THAT:
- a. Any award of damages in connection with any condemnation for public use of or injury to the Property or any part thereof is hereby assigned and shall be paid to the Beneficiary who may apply or release such monies received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.
- b. By accepting payment of any sum secured hereby under its due date, or after the filing of notice of sale and of election to sell, Beneficiary shall not waive his right to require prompt payment when due of all other sums so secured, or to declare default for failure so to pay, or to proceed with the sale under any such notice of sale and of election to sell, for any unpaid balance of said indebtedness. If Beneficiary holds any additional security for any obligation secured hereby, it may enforce the sale thereof at its option, either before, contemporaneously with, or after the sale

27120011 00:20:20 15 Page: 2 of 11  
 27120011 00:20:20 15 Received: 9: 11-4129  
 27120011 00:20:20 15 Flower: 714 Highway Highway 2  
 27120011 00:20:20 15 Mile Road, St. Louis, Missouri, Missouri  
 27120011 00:20:20 15

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- d. That upon written request of Beneficiary stating that all sums secured hereby have been paid, cancellation of any note, guarantee, Agreement or other writing evidencing the indebtedness secured hereby and performance of all obligations of the Trustor and Obligor hereunder and thereunder, and upon surrender of this deed of trust and said note, guarantee, Agreement or other evidence of indebtedness secured hereby to Trustor for cancellation and retention and upon payment of its fees, Trustee shall redeliver, without warranty, the Property then held hereunder. This deed in such circumstances of any release of funds shall be conclusive proof of the indebtedness in full. The grantor in such circumstances may be identified as "the person or persons legally entitled thereto." Five years after issuance of such cancellation, Trustee may destroy said note, guarantee, Agreement or other evidence of indebtedness and this deed of trust (unless directed in such request to retain them).
- e. Trustor hereby gives to and confers upon Beneficiary the right, power and authority during the continuance of this trust to collect the rents, issues and profits of the Property and of any personal property located thereon, and hereby absolutely and unconditionally assigns all such rents, issues and profits to Beneficiary, provided, however, that Beneficiary hereby consents to the collection and retention of such rents, issues and profits as they accrue and become payable only if Trustor or Obligor is not at such times in default with respect to payment of any indebtedness secured hereby or in the performance of any agreement hereunder. Under any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, and in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including reasonable attorneys fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine; also perform such acts of repair, cultivation, irrigation or protection, as may be necessary or proper to protect the value of the Property, also lease the same or any part thereof at such rental, term, and upon such conditions as in its judgment may desire; also prepare for harvest, market and sell any crops that may be growing upon the premises, and apply the net proceeds thereof upon the indebtedness secured hereby. The foregoing upon and taking possession of the Property, the collection of such rents issues and profits, and the application thereof as aforesaid, shall not waive or cause any default or notice of default or sale hereunder or invalidate any act done pursuant to such notice. Trustor also assigns to Trustee, as further security for the performance of the obligations secured hereby, all prepaid rents and all monies which may have been or may hereafter be deposited with said Trustor by any lessee of the premises herein described, to secure the payment of any rent, and upon default in the performance of any of the provisions hereof, Trustor agrees to deliver such rents and deposits to the Trustee. Upon appointment of a receiver, Trustor shall immediately deliver possession of all the Premises to such receiver. Whether the appointment of a receiver for the Premises by any court at the request of Beneficiary or by agreement with Trustor, nor the entering into possession of all or any part of the Premises by such receiver shall cause Beneficiary to be, or to be deemed or considered, a "mortgagee in possession" or otherwise make Beneficiary responsible for or liable in any manner with respect to the Premises or the occupancy, operation or use thereof. Beneficiary shall have the absolute and unconditional right to the appointment of a receiver in any independent and/or separate action brought by Beneficiary regardless of whether Beneficiary seeks any relief in such action other than the appointment of a receiver. If rent unpaid, Trustor waives any expense or implied requirement under common law or statute relating to notice ("A.R.B.") § 12-1211 that a receiver may be appointed only pending or after judicial relief.
- f. Upon demand by Trustor or Obligor in the performance of any payment or other obligation secured hereby or in the continuance of any agreement hereunder or if the Trustor shall sell, convey or otherwise dispose of any part thereof, or any interest therein, or shall be divested of his title, or any interest therein, in any manner or way, whether voluntary or involuntary, any indebtedness or obligation secured hereby, irrespective of the maturity date expressed in any note evidencing the same, at the option of the holder hereof, and without demand or notice, shall immediately become due and payable. If there is protest from Beneficiary an agreement or waiver resulting in the non-exercise by Beneficiary of such option in any certain instance or on any particular occasion, then in such event any privilege or option now in effect to pay said indebtedness or any part thereof prior to the date the same would be due shall be waived and shall be thereby waived and terminated.
- g. No failure or delay by Beneficiary in exercising any right, power or privilege under law, the deed of trust or any other document relating to the indebtedness shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power or privilege preclude any other or

CAROL ESTY DMS121150



n. If Trustor or any owner(s) in interest in Trustor asset, hereinafter or hereinafter any interest in the Property, whenever voluntarily or involuntarily, or if a beneficial interest in Trustor is sold or transferred, voluntarily or involuntarily and Trustor is not a natural person, the beneficiary and the transferee shall each immediately give written notice of said transfer to the Beneficiary, at its address designated on the last page of this deed.

2011-09-29 07:10:28 PM Page 4 of 4  
 07/29/2011 07:10:28 PM Receipt #: 11-4100  
 New York, NY 10011 Pioneer Title & Escrow Boardroom 2  
 410 6th Ave., 4th Floor New York, NY 10011  
 212 692 1100 Fax: 212 692 1101

120432386

- 2014-000498 DTSA Page: 5  
 07/26/2011 02:30PM Receipt #: 1-100  
 Date Paid: \$0.00 Fiscal Year: 2011  
 State Agency: K. South Carolina State Archives

y. If any provision of this deed or trust is deemed or determined to be unenforceable for any reason, the enforceability of the other provisions of this deed of trust shall not be thereby affected and all such other provisions of this deed of trust shall continue to operate in full force and effect, unchanged.

a. As used in this section, the term "hazardous substance" means any substance which has characteristics of ignitability, corrosivity, toxicity, reactivity or radioactivity or has other characteristics which render the substance dangerous to health, safety or the environment if such substance is or becomes regulated by any federal, state or local law, regulation or ordinance. The term includes, without limitation, substances listed as "hazardous material," "toxic substances," "hazardous wastes," "hazardous substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or in provisions of Arizona law, including but not limited in A.R.S. § 28-301, A.R.S. § 28-341, A.R.S. § 28-6201, A.R.S. § 32-1801 and A.R.S. § 49-821, and in the regulations adopted and publications promulgated pursuant to said laws.

c. Trustor represents and warrants that during the period of Trustor's ownership or leasehold interest in the property there has been no use, generation, manufacture, storage, disposal, release or threatened release of any hazardous substance by any person on, under or about the Property nor are there or have there been any claims of any kind asserted or threatened to be asserted by any third party relating thereto except as previously disclosed to and acknowledged by Beneficiary in writing. Trustor further represents and warrants that Trustor has no knowledge of, or reason to believe that there has been, any use, generation, manufacture, storage, disposal, release or threatened release of any hazardous substance by any person on, under or about the Property before Trustor acquired an interest in the Property or any claims of any kind asserted or threatened to be asserted by any third party relating thereto except as previously disclosed to and acknowledged by Beneficiary in writing.

e. Trustor agrees to indemnify and hold Beneficiary and its successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, expenses, response costs, penalties and expenses, including, without limitation, all costs of litigation and attorneys' fees, which Beneficiary and its successors or assigns may incur as a result of or in connection with or as a consequence of any liability or breach of any representation, warranty or agreement originated in this contract or as a consequence of any use, generation, modification, storage, disposal, release or threatened release occurring prior to Trustors' ownership or interest in the Property whether or not the same was or should have been known to Trustor.

## 5. ADDITIONAL PROVISIONS:

b. The execution of this deed of trust by any person who has a present interest in the Property shall not in itself be deemed to indicate that such person is liable to Beneficiary for any obligation described in Section 1., above. Any personal liability of such person to Beneficiary shall be determined on an independent basis (such as execution of the document or dispositive instrument evidencing the obligation described in Section 1., above). Execution of this deed of trust by any such person shall nevertheless indicate that such person's interest in the Property shall be subject to beneficiary's interest hereunder.

2001-000459 UTDR Page: 6 of 11  
07/26/2011 02:29:20 PM Enlist 0: 15-450  
Fee Paid \$22.00 Payer Title County Recorder 2  
Gila County, AZ, Santa Teresa Dalton, Recorder  
07/26/2011 02:29:20 PM Enlist 0: 15-450

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If a mailing address is set forth opposite any Trustor's signature hereto, and not otherwise, the undersigned Trustor shall be deemed to have requested that a copy of any notice of default, or of any notice of sale hereunder, be mailed to said Trustor at said address.

By signing below, Trustor Agrees to all the terms and the conditions of this Deed of Trust.

Signature of Trustor(s)

Boa Sorte Limited Partnership,  
an Arizona Limited Partnership

By: Boa Sorte, LLC,  
an Arizona Limited Liability Company,  
General Partner

By:

Wilford R. Cardon  
Manager

Mailing Address for Notices:  
1819 E. Southern Avenue, Suite B-10  
Mesa, Arizona 85204

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF Arizona }  
County of Maricopa } ss.

The foregoing instrument was acknowledged before me this 11th day of July, 2011  
by Wilford R. Cardon, as a Manager of Boa Sorte, LLC, an Arizona limited liability  
company, the general partner of Boa Sorte Limited Partnership, an Arizona limited partnership, on behalf  
of the limited partnership.

WITNESS my hand and official seal.

My commission expires



Kathleen A. Howell  
NOTARY PUBLIC



It is not necessary for Beneficiary to inquire into the power of Trustor or the officers, directors, partners or agents acting or purporting to act on behalf of Trustor, and all obligations made, created or accepted in reliance upon the professional services of such power shall be secured hereby.

If any payments of money or transfers of property made to Beneficiary, by Borrower, any guarantor, any maker or any endorser, should, for any reason, subsequently be declared to be, or in Beneficiary's counsel's good faith opinion be determined to be, fraudulent (within the meaning of any state or federal law relating to fraudulent conveyances, preferential or otherwise transfers or recoveries in whole or in part for any reason (hereinafter collectively called "voidable transfers") or were removed, rescinded or returned to the Guarantor on any guarantor (together with all costs and expenses (including attorney's fees) of Beneficiary related thereto, the sum and principal of this Deed of Trust shall automatically be repaid, reinstated and restored and shall exist as though such voidable transfer had never been made to Beneficiary. In the event Beneficiary shall have caused its interest herein to be mortgaged and subsequently be required or advised by counsel to restore or repay any such voidable transfer, the amount thereof, or any portion thereof, that undersigned shall remain liable, as provided herein, to the same extent as if this Deed of Trust had not been recovered to the undersigned.

Trustor warrants and agrees that each of the waivers set forth above are made with Trustor's full knowledge of their significance and consequences, with the understanding that events giving rise to any waiver involved not diminish, destroy or otherwise adversely affect rights which Trustor otherwise may have against Borrower, Beneficiary or others, or against collateral, and that, under the circumstances, the waivers are reasonable and not contrary to public policy as laws. If any of the waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective to the maximum extent permitted by law.

**DATED: May 25, 2011**

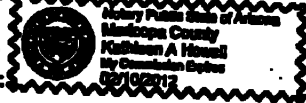
BNC

**Willard R. Carden**  
**Manager**

STATE OF Arizona  
County of Maricopa

The foregoing instrument was acknowledged before me this 11th day of July, 2011 by Wynford R. Laxon, the Manager of Boa Sports, LP corporation, on behalf of the corporation.

**WITNESS** my hand and official seal:



**My commission expires:**

Kathleen A. Howell  
NOTARY PUBLIC

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**EXHIBIT "B"**  
**Legal Description**

All that certain real property situated in the City of Christmiller Creek, County of Gila, State of Arizona described as follows:

**PARCEL NO. 1**

Parcel No. 5A, as shown on Record of Survey recorded as Survey Map No. 1166, being a portion of the Northwest quarter of Section 20, Township 11 North, Range 13 East of the Gila and Salt River Base and Meridian, Gila County, Arizona.

**PARCEL NO. 2**

An easement for ingress, egress and public utilities as created in instrument recorded February 02, 1990 in Docket 790, page 516, records of Gila County, Arizona, described as follows: An easement 20.00 foot wide located across a portion of the Southwest quarter of Section 20, Township 11 North, Range 13 East of the Gila and Salt River Base and Meridian, Gila County, Arizona, the centerline of which is described as follows:

**COMMENCING** at the West quarter corner of said Section 20;

**THENCE** North 88°51'52" East, along the mid-section line of said Section 20, 1132.52 feet to the Beginning of said centerline;

**THENCE** South 01°37'48" West 150.00 feet to the P.C. of a curve to the right, concave to the Northwest having a radius of 140.00 feet and a central angle of 92°00'00";

**THENCE** along said curve 151.49 feet to the P.R.C. of a curve to the left, concave to the Northeast, having a radius of 70.00 feet and a central angle of 174°00'00";

**THENCE** along said curve 212.58 feet to the P.R.C. of a curve to the right, concave to the Southwest, having a radius of 95.00 feet and a central angle of 145°30'00";

**THENCE** along said curve 241.25 feet to the P.R.C. of a curve to the left, concave to the Northeast, having a radius of 80.00 feet and a central angle of 91°30'00";

**THENCE** along said curve 127.76 feet to the P.R.C. of a curve to the right, concave to the Southwest, having a radius of 120.00 feet and a central angle of 49°00'00";

**THENCE** along said curve 91.11 feet to the P.R.C. of a curve to the left, concave to the Northeast, having a radius of 145.00 feet and a central angle of 421°30'00";

**THENCE** along said curve 107.55 feet to the P.R.C. of a curve to the right, concave to the Southwest, having a radius of 180.00 feet and a central angle of 47°00'00";

**THENCE** along said curve 111.55 feet;

**THENCE** South 84°22'12" East 75.00 feet to the P.C. of a curve to the left, concave to the Northeast, having a radius of 110.00 feet and a central angle of 57°00'00";

**THENCE** along said curve 158.42 feet to the P.R.C. of a curve to the left, concave to the Southwest, having a radius of 150.00 feet and a central angle of 76°00'00";

**THENCE** along said curve 205.60 feet;

**THENCE** South 10°37'48" West 200.00 feet to the P.C. of a curve to the left, concave to the Northeast, having a radius of 171.00 feet and a central angle of 49°00'00";

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THENCE along said curve 148.24 feet to the P.R.C. of a curve to the right, concave to the Northwest, having a radius of 88.00 feet and a central angle of  $137^{\circ}28'46''$ ;

THENCE along said curve 211.15 feet to a point which lies on the northerly right-of-way line of Arizona State Route 290, said point being the End of said centerline.

APN: 303-07-001Z

Property Address: 734 West Brooks Crossing, Christopher Creek, Arizona 85541



**Attachment F**

---

**Deed of Trust for 534 Mountain Meadows Drive, Christopher Creek, Arizona 85541**

12044322384

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO

Comerica Bank  
One North Central Avenue  
Suite 1000  
Phoenix, AZ 85004  
Attn: Linda L. Moody

2011-000498 DTSP Page: 1 of 11  
5/23/2011 5:38:38 PM Serial: 9: 11-498  
P.O. Box 622, Phoenix, AZ 85001  
Gila County, AZ, Gila County Recorder  
Gila County, AZ, Gila County Recorder  
Gila County, AZ, Gila County Recorder



SPACE ABOVE THIS LINE FOR RECORDERS USE

214700  
**DEED OF TRUST AND ASSIGNMENT OF RENTS AND SECURITY AGREEMENT**

This [ ] is [ X ] is not a construction deed of trust. If this is a construction deed of trust, then all or some portion of the funds the loan of which is secured hereby are for the purpose of construction or improving real property. This deed of trust may secure obligations which call for payment of interest at a variable interest rate.

THIS DEED OF TRUST is made this 25<sup>th</sup> day of May, 2011, among Cardon Family, L.L.C., an Arizona Limited Liability Company herein called "Trustor", whose address is 1819 E. Southern Avenue, Suite B-10, Mesa, Arizona 85204, Comerica Bank, herein called "Trustee" whose address is 75 East Trimble Road, Mail Code 4774, San Jose, California 95131 and Comerica Bank, whose address is 75 East Trimble Road, Mail Code 4774, San Jose, California 95131 herein called "Beneficiary".

Trustor irrevocably grants, transfers and assigns to Trustee, in trust and with power of sale, all of the real property in the City of Christopher Creek, County of Gila, State of Arizona, described as:

See Exhibit "A" Suretyship Rider attached hereto and made a part hereof.  
See Exhibit "B" attached hereto and made a part hereof.

APN: 303-07-001W

Property Address: 534 Mountain Meadows Drive, Christopher Creek, Arizona 85541

Together with all improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents (subject however to the rights and authorities given herein to Beneficiary to collect and apply such rents), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this deed of trust and all of the foregoing, together with said property (or the household estate if this deed of trust is in a leasehold) are herein referred to as the "Property."

**1. THIS DEED OF TRUST SECURES:**

a. All of the obligations of [ ] Trustor [ ] herein called "Obligor", in favor of Beneficiary or order under the terms of a (check box below and complete applicable provision(s)):

[ ] Promissory note dated \_\_\_\_\_ in the original principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), with interest thereon at the rate specified therein, [ ] which rate may fluctuate from time to time as provided therein.

[ ] Guarantee agreement dated \_\_\_\_\_ relating to the indebtedness of \_\_\_\_\_ owed to Beneficiary.

[X] Revolving Promissory Note executed by Boa Sorte Limited Partnership, an Arizona limited partnership and Rio Cima, Inc., an Arizona corporation (individually and/or collectively, "Borrower") in favor of Beneficiary, dated May 25, 2011 (the "Note"), made pursuant to that certain Business Loan Agreement by and between Borrower and Beneficiary (herein called "Agreement"). The Agreement and the Note provide, among other things, for the payment of all sums advanced by Beneficiary from time to time pursuant to the Agreement, with interest thereon at the rate specified in the Note, which rate may fluctuate from time to time as provided therein. The maximum obligation under the Note to be secured by this deed of trust at any one time is Two Million Five Hundred Fifty Thousand and No/100 Dollars (\$2,550,000.00) unless Beneficiary, with Trustor's written consent, hereafter increases this amount.

[ ] \_\_\_\_\_

The security of this deed of trust shall not be affected by the extension, renewal or modification from time to time of the obligations, instruments or agreements described above.

b. Payment of any and all obligations and liabilities, whenever, whether primary, secondary, direct, indirect, fixed or contingent, whether now or hereafter due from Trustor, Obligor or any of them (or any successor in interest to Trustor or any of them) whether created directly or acquired by assignment if the document evidencing such obligation or liability or any other writing signed by

**Trustor, Obligor or any of them (or any successor in interest to Trustor or any of them) specifically provides that said obligation or liability is secured by the deed of trust.**

**d. Payment of all sums to be expended by the Beneficiary or Trustee pursuant to the terms hereof.**

a. To keep the Property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished pertaining to comply with all laws affecting the Property as requiring any dilution or improvement to be made thereon; not to commit or permit waste thereon; not to commit, suffer or permit any act upon said property in violation of laws in California, infringe, defame, libel, slander, or do all other acts which from the character of use of the Property may be reasonably necessary, the specific enumerations hereto not excluding the general.

c. To appear in and defend any action or proceeding, or to defend any action or proceeding brought by the Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary or Trustee to foreclose this deed of trust.

e. That should Trustee fail to make any payment or do any act as herein provided, then Beneficiary or Trustee, but without obligation to do and without notice to or demand upon Trustee and without releasing Trustee from any obligation hereof, may:

(2) Appear in and defend any action or proceeding purporting to affect the security thereof or the rights or sums of proprietary or Trusts.

(4) In extending any such license, pay accounting/ registration, carrying charges and pay his reasonable fees.

g. To pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount (hereinafter in the Beneficiary set to amount for redemption claimed by law at the time when said statement is required).

**3. IT IS FURTHER AGREED THAT:**

b. By accepting payment of any sum secured hereby after its due date, or after the filing of notice of sale and of election to sell, Secured party will not be able to require prompt payment when due of all other sums so secured, or to declare default for failure to pay, or to proceed with the sale under any such notice of sale and of election to sell, for any unpaid balance of said indebtedness. If Secured party holds any additional security for any obligation secured hereby, it may enforce the sale thereof at its option, either before, contemporaneously with, or after the sale is made hereunder, and on any default of Trustor or Childor, Secured party may, at its option, offset against any indebtedness owing by it to Trustor or Childor.

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- c. Without affecting the liability of any person, including Trustor or Obligor, for the payment of any indebtedness secured hereby, or the lien of this deed of trust on the remainder of the Property for the full amount of any indebtedness unpaid, Beneficiary and Trustee are respectively empowered as follows:
- (1) Beneficiary may from time to time and without notice (a) release any person liable for the payment of any of the indebtedness, (b) amend the time or otherwise alter the terms of payment of any of the indebtedness, (c) accept additional security therefor of any kind, including deeds of trust or mortgages, (d) alter, substitute or release any of the Property securing the indebtedness.
  - (2) Trustee may, at any time, and from time to time, upon the written request of Beneficiary (a) consent to the making of any map or plat of the Property, (b) join in granting any easement or creating any restriction thereon, (c) join in any subordination or other agreement affecting this deed of trust or the lien or charge thereof or, (d) attorney-in-fact with any warranty, all or any part of the Property.
- d. That upon written request of Beneficiary stating that it has caused benefit from being paid cancellation of any note, guarantee, Agreement or other writing evidencing the indebtedness secured hereby and performance of all obligations of the Trustor and Obligor hereunder and thereunder, and upon surrender of this deed of trust and said note, guarantee, Agreement or other evidence of indebtedness secured hereby to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the Property then held hereunder. The recited in such reconveyance of any matters of facts shall be conclusive proof of the indebtedness thereof. The parties in such reconveyance may be described as "the person or persons legally entitled thereto." Five years after issuance of such reconveyance Trustee may destroy said note, guarantee, Agreement or other evidence of indebtedness (multiple deed of trust) (unless directed in such request to retain them).
- e. Trustor hereby gives to and confers upon Beneficiary the right, power and authority during the continuance of this deed to collect the rents, issues and profits of the Property and of any personal property located thereon, and hereby absolutely and unconditionally assigns all such rents, issues and profits to Beneficiary, provided, however, that Beneficiary hereby consents to the collection and retention of such rents, issues and profits as they accrue and become payable only if Trustor or Obligor is not, at such times, in default with respect to payment of any indebtedness secured hereby or in the performance of any agreement hereunder. Until any such default, Beneficiary may at any time, without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the appointment of any receiver for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, and in its own name and for or otherwise collect such rents, issues and profits including those past due and unpaid, and apply the same, less costs and expenses of collection and collection including reasonable attorneys fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine; also perform such acts of repair, cultivation, irrigation or protection, as may be necessary or proper to conserve the value of the Property; also lease the same or any part thereof for such rental, term, and upon such conditions as its judgment may dictate; also prepare for harvest, remove, and sell any crops that may be growing upon the premises, and apply the net proceeds thereof upon the indebtedness secured hereby. The entering upon and taking possession of the Property, the collection of such rents, issues and profits, and the application thereof as aforesaid shall not constitute or create any default or notice of default as aforesaid hereunder or constitute any act done pursuant to such notice. Trustor also assigns to Trustee, as further security for the performance of the obligations secured hereby, all prepaid rents and all monies which may have been or may hereafter be disbursed with said Trustor by any lessee of the premises herein described, to secure the payment of any rent, and upon default in the performance of any of the provisions hereof, Trustor agrees to deliver such rents and deposits to the Trustee. Upon appointment of a receiver, Trustor shall immediately deliver possession of all the Premises to such receiver. Neither the appointment of a receiver for the Premises by any court at the request of Beneficiary or by agreement with Trustor nor the entering into possession of all or any part of the Premises by such receiver shall cause Beneficiary to be, or to be deemed or considered, a "mortgagee in possession" or otherwise make Beneficiary responsible for or liable in any manner with respect to the Premises or the occupancy, operation or use thereof. Beneficiary shall have the absolute and unconditional right to the appointment of a receiver in any independent and/or separate action brought by Beneficiary regardless of whether Beneficiary seeks any relief in such action other than the appointment of a receiver. In that respect, Trustor waives any express or implied requirement under common law or Arizona Revised Statutes ("A.R.S.") § 12-1241 that a receiver may be appointed only voluntarily by other judicial or non-judicial relief.
- f. Upon default by Trustor or Obligor in the performance of any payment or other obligation secured hereby or in the performance of any agreement hereunder as if the Trustor shall sell, convey or alienate said property or any part thereof, convey interest therein, or shall be divorced of his title, or any interest therein, in any manner or way, whether voluntary or involuntary, any indebtedness or obligation secured hereby, irrespective of the maturity date expressed in any note evidencing the same, at the option of the holder hereof, and without demand or notice, shall immediately become due and payable. If there is procured from Beneficiary an agreement or waiver resulting in the non-exercise by Beneficiary of such option in any certain instance or on any particular occasion, then in that event any privilege or option now in effect to pay said indebtedness or any part thereof prior to the date the same would be due and payable, is thereupon and thereby waived and terminated.
- g. No failure or delay by Beneficiary in exercising any right, power or privilege herein law, the deed of trustor any other document relating to the indebtedness shall operate as a waiver or release of any such right, power or privilege or any other right, power or privilege. All rights and remedies of Beneficiary under the deed of trust, the additional security documents securing

h. Upon the occurrence of a Trustor default, and at any time when such default is outstanding, Beneficiary may, or may cause Trustee to, give such notice of default and of election to cause the Property to be sold as may be required by law or as may be necessary to cause Trustee to exercise the power of sale granted herein. Trustee shall then forward and give such notice of trustee's sale as then required by law and, after the expiration of such time as may be required by law, may sell the Property at the time and place specified in the notice of sale, as a whole or in separate parcels as directed by Beneficiary, or by Trustor to the extent required by law, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale, all in accordance with applicable law. Trustee, from time to time, may postpone or continue the sale of all or any portion of the Property by public destination at the time and place last appointed for the sale. No other notice of the postponed sale shall be required. Upon any sale, Trustee shall deliver to the purchaser the property sold, without any covenant or warranty, express or implied to the purchaser or purchasers at the sale. The trustee is not bound by any notice or title shall be conclusive as to the accuracy thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. After deducting all costs, fees and expenses of Trustee and of this trust, including costs of evidence of title in connection with the sale, the Trustee shall apply the proceeds of the sale to the payment of all debts then secured hereby, in such order and manner as may be required by the Beneficiary; the remainder, if any, to be paid to the person or persons legally entitled thereto. If Beneficiary shall elect to bring suit to foreclose this deed of trust in the manner and subject to the provisions, rights and remedies relating to the foreclosure of a mortgage loan, any such suit shall be treated as a foreclosure suit to be filed by the court as otherwise then governed in the proceedings of said action.

i. In any action by Beneficiary to remove a default judgment for any inference concerning Trustor's obligation to Beneficiary upon the foreclosure of this deed of trust or in any action to recover the obligation or obligations secured hereby, and as a material inducement to Beneficiary's entering into the transaction related to the deed of trust, Trustor acknowledges and agrees that the successful bid amount made at any judicial or non-judicial foreclosure sale, if any, shall be conclusively deemed to constitute the fair market value of the Property, that such bid amount shall be binding against Trustor in suppressing suit to determine the value of the Property and the current value of the Property and that such bid amount shall be the preferred alternative means of determining and ascertaining the fair market value of the Property. Trustor hereby waives and relinquishes any right to have the fair market value of the Property determined by a judge or jury in any action arising as a default judgment or any action on the obligation or obligations secured hereby, including, without limitation, a hearing to determine fair market value pursuant to A.R.S. § 12-1588, § 33-725, § 33-727 or § 33-814.

j. Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, debts, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the location where this deed of trust is recorded and the name and address of the new Trustee.

k. This deed of trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns; The term Beneficiary shall mean the owner and possessor, including assigns, of the note guaranteed, Agreed upon, or other evidence of indebtedness secured hereby whether or not named as Beneficiary herein. In this deed of trust, whenever the context so requires, the masculine gender includes the feminine and/or the singular, and the singular includes the plural.

l. Trustee arranges this Trust when this deed of trust, duly executed and acknowledged, is made public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

m. Any Trustor or Obligor who is a married person, expressly agrees that his or her community property and separate property shall be liable for any deficiency after the sale of the said property to the extent such Trustor or Obligor is personally obligated to pay the indebtedness secured hereby.

n. If Trustor or any successor in interest to Trustor sells, transfers or encumbers any interest in the Property, whether voluntarily or involuntarily, or if a beneficial interest in Trustor is sold or transferred, voluntarily or involuntarily and Trustee is not a named party, the Trustor and the transferee shall both irrevocably give written notice of said transfer to the Beneficiary, at its address designated on the first page of this deed of trust.

o. The pendency of any claims or liabilities as a defense to any and all obligations secured by this deed of trust is hereby waived to the full extent permitted by law.

- p. Trustor authorizes Beneficiary, without notice or demand and without affecting his liability under this deed of trust, from time to time, to:
- (1) Renew, extend, amend, decrease or increase the amount of the indebtedness, or otherwise change the time for payment of any of the indebtedness on any other term thereof;
  - (2) Renew, extend, amend, decrease or otherwise change any of the collateral security documents securing any of the indebtedness, and any notes under any other evidence of indebtedness in connection with any of the foregoing, including without limitation, increase or decrease of the rate of interest thereon;
  - (3) Accept partial payments on the indebtedness;
  - (4) Substitute, withdraw, waive, decrease, increase, release, exchange or otherwise alter any collateral security, in whole or in part, securing the indebtedness or any guarantee of the indebtedness;
  - (5) Apply any and all such collateral security and direct the sale or manner of sale thereof as Beneficiary in its sole discretion may determine;
  - (6) Release or substitute any one or more of the guarantees of the indebtedness, and otherwise deal with Obligor, Trustor, or any other guarantor as Beneficiary may elect;
  - (7) Settle or release, either by agreement on terms satisfactory to Beneficiary or by execution of law or otherwise, compound, nonprosecute, collect or otherwise liquidate any indebtedness and/or collateral security therefor in any manner; and/or consent to the transfer to any collateral security and bid and purchase at any sale; all without in any way diminishing, releasing or discharging the liability of the undersigned hereunder.
- q. Trustor waives notice of acceptance of this deed of trust, any document evidencing or relating to the indebtedness, diligence and all demands, presentments, protests, notices of protest, notices of nonpayment, notices of default and notices of the existence, creation or incurring of any new or additional indebtedness.
- r. Upon default of Obligor or Trustor in respect of any indebtedness, Beneficiary may, at its option, and without notice to the undersigned, proceed directly against the property of the undersigned under the deed of trust to collect and recover full amount of the indebtedness, or any portion thereof, and Trustor waives any right to require Beneficiary to: (a) proceed against Obligor, Trustor or any guarantor; (b) proceed against or exhaust any collateral security given to or held by Beneficiary in connection with the indebtedness; or (c) pursue any other remedy in Beneficiary's power whatsoever. Trustor further authorizes Beneficiary, without notice or demand and without affecting the liability of the undersigned hereunder to litigate by judicial or non-judicial sale execution in security given in connection with the indebtedness.
- s. Trustor waives any defense arising by means of any disclaimer or other defense of Obligor, Trustor or any guarantor or by means of the coercion from any action of any kind against Obligor. Beneficiary's rights under the deed of trust shall be enforceable without regard to the validity, regularity or enforceability of the indebtedness or any document evidencing the same, any notes or other evidence of the indebtedness, any other guarantee of the indebtedness or any collateral security documents securing any of the indebtedness. Trustor specifically agrees that the failure of Beneficiary to perfect any lien on or security interest in any property given by Obligor, Trustor or any guarantor to secure payment of the indebtedness, or the failure to record or file any document relating thereto, shall not constitute, constitute or otherwise affect Beneficiary's rights under deed of trust.
- t. Trustor shall not have any right of subrogation to any of the rights of Beneficiary against Obligor, Trustor or any guarantor, and any action by Beneficiary which may affect any right of subrogation that the undersigned may have had shall not affect or be raised by the undersigned as a defense to any rights or obligation that the undersigned owes to Beneficiary. Trustor waives any right to enforce any remedy which Beneficiary now has or may hereafter have against Obligor, Trustor or any guarantor, and waives any benefit of, and any other right to participate in, any collateral security for the indebtedness now or hereafter held by Beneficiary.
- u. Trustor assumes the responsibility for keeping himself informed of the financial condition of Obligor, Trustor or any guarantor and of all other circumstances bearing upon the debt of non-payment of the indebtedness. Beneficiary shall have no duty to advise the undersigned of information known to Beneficiary regarding such condition or any such circumstances. Beneficiary has no duty to interfere with the powers of Obligor, Trustor, or any guarantor or the officers, directors or agents thereof acting or purporting to act in its behalf and/or their behalf.
- v. None of the terms or provisions hereof may be waived, altered, modified, or amended except by an instrument in writing, duly executed by the party to be charged thereby, and the rights, obligations and liabilities hereunder shall be governed by, and shall be construed and interpreted in accordance with, the laws of the State of Arizona.
- w. To the extent not prohibited by law, the Trustor (or any of them) hereby grants to the Beneficiary a security interest under the Arizona Uniform Commercial Code in all personal property and other property of the Trustor (or any of them) held by the Beneficiary, to secure all obligations of the Trustor or Obligor to the Beneficiary provided, however, that this security interest shall not secure any indebtedness which is or hereafter becomes "consumer credit" subject to the disclosure requirements of the Truth in Lending Act and Regulation Z promulgated thereunder; both as amended from time to time.
- x. Without obtaining the prior written consent of Beneficiary, Trustor shall not consent to, or vote in favor of, the inclusion of all or any part of the Property in any Community Facilities District formed pursuant to the Community Facilities District Act, A.R.S. § 46-701, et seq., as amended from time to time. Trustor shall nevertheless give notice to Beneficiary of any action taken or taken that Trustor may receive from any municipality or other third party of any kind in respect to include all or any part of the Property in a Community Facilities District. Beneficiary shall have the right to file written objection to the inclusion of all or any part of the Property in a Community Facilities District, either in its own name or in the name of Trustor, and appear at, and participate in any hearing with respect to the formation of such district.

~~12044322400~~

**4. WITH REGARD TO HAZARDOUS SUBSTANCES, TRUSTOR AGREES:**

- 4. WITH REGARD TO HAZARDOUS SUBSTANCES, TRUSTOR AGREES:**

## 5. ADDITIONAL PROVISIONS:

- ## 5. ADDITIONAL PROVISIONS:

6. TRUSTOR, BENEFICIARY AND TRUSTEE ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED UNDER CERTAIN CIRCUMSTANCES. TO THE EXTENT PERMITTED BY LAW, EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES JURY TRIAL TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR NONPERFORMANCE OF, OR IN ANY WAY RELATED TO, THIS DEED OF TRUST OR THE INTERESTS THEREIN.

If a mailing address is not forth upon the any Trustor's signature hereto, and not otherwise, the undersigned Trustor shall be deemed to have requested that a copy of any notice of default, or of any notice of sale hereunder, be mailed to said Trustor at said address.







12044322403

## REVIVAL OF DEED OF TRUST

## UNDERSTANDING WITH RESPECT TO WAIVERS

2011-008496 DTSA Page: 8 of 11  
5/23/2011 12:32:28 PM Receipt #: 11-4188  
Fee Paid: \$22.00 Pioneer Title Recordings &  
Gila County, AZ, Eagle-Tamarillo Station, Recorder  
[REDACTED]

12044322404

Exhibit B  
Legal Description

All that certain real property situate in the City of Christopher Creek, County of Gila, State of Arizona described as follows:

PARCEL NO. 1

Parcel 1D and Tract A, as shown on Record of Survey recorded as Survey Map No. 1160, being a portion of the Northwest quarter of Section 20, Township 11 North, Range 13 East of the Gila and Salt River Base and Meridian, Gila County, Arizona.

PARCEL NO. 2

An easement for ingress, egress and public utilities as created in instrument recorded February 02, 1990 in Docket 790, Page 516, records of Gila County, Arizona, more particularly described as follows:

An easement 20.00 foot wide located across a portion of the Southwest quarter of Section 20, Township 11 North, Range 13 East of the Gila and Salt River Base and Meridian, Gila County, Arizona, the centerline of which is described as follows:

COMMENCING at the West quarter corner of said Section 20;

THENCE Niren 88° 57'38" East, along the mid-section line of said Section 20, a distance of 1132.52 feet to the beginning of said centerline;

THENCE South 01° 37'45" West, a distance of 150.00 feet to the P.C. of a curve to the right, concave to the Northwest having a radius of 140.00 feet and a central angle of 82°00'00";

THENCE along said curve, a distance of 151.48 feet to the P.R.C. of a curve to the left, concave to the Northeast, having a radius of 70.00 feet and a central angle of 174°00'00";

THENCE along said curve, a distance of 212.88 feet to the P.R.C. of a curve to the right, concave to the Southwest, having a radius of 95.00 feet and a central angle of 145°30'00";

THENCE along said curve, a distance of 241.25 feet to the P.R.C. of a curve to the left, concave to the Northeast having a radius of 80.00 feet and a central angle of 91°30'00";

THENCE along said curve, a distance of 127.75 feet to the P.R.C. of a curve to the right, concave to the Southwest, having a radius of 120.00 feet and a central angle of 45°30'00";

THENCE along said curve, a distance of 81.11 feet to the P.R.C. of a curve to the left, concave to the Northeast, having a radius of 140.00 feet and a central angle of 484°30'00";

THENCE along a curve, a distance of 107.58 feet to the P.R.C. of a curve to the right, concave to the Southwest, having a radius of 138.00 feet and a central angle of 47°00'00";

THENCE along said curve, a distance of 111.58 feet;

THENCE South 05°22'12" East, a distance of 75.08 feet to the P.C. of a curve to the left, concave to the Northeast, having a radius of 110.00 feet and a central angle 57°00'00";

THENCE along said curve, a distance of 199.48 feet to the P.R.C. of a curve to the left, concave to the Southwest, having a radius of 155.00 feet and a central angle of 76°00'00";

THENCE along said curve, a distance of 205.60 feet;

CARROLL D. BROWN, JUNIOR



12044322406

BLOTTER INFORMATION SHEET

19

PLANT DATE: \_\_\_\_\_

COUNTY: \_\_\_\_\_

NAMES TO RUN ON BLOTTER  
Last Name/Company name

ESCROW NO: 214701

DATE: \_\_\_\_\_

upin #

ET09028762

Boa 3000 1P

RECORDINGS

DATE RECORDED: 7/29/11

TIME RECORDED: 2:33

Instrument	Fee \$	Docket	Page	Cost
⑪ DOT	2011-008499			25.00
Copies				11.00

RECORDING OFFICER: \_\_\_\_\_

Complete and return to Recording Section at the Operations Center  
within 48 hours of recording.

**Attachment G**

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**Deed of Trust for 772 Forest Highlands, Flagstaff, Arizona 86001**

12044322407

Recording Requested By  
Lawyers Title of Arizona

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO

Comerica Bank  
One North Central Avenue  
Suite 1000  
Phoenix, AZ 85004  
Attn: Linda L. Moody

Official Records of Coconino County 3801718  
Candace Owens - Recorder 07/28/2011 04:50:40 PM Pgs: 8  
SIMPLIFILE LC E-RECORDING DOT \$17.00

LTA 1703928

SPACE ABOVE THIS LINE FOR RECORDERS USE

DEED OF TRUST AND ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

This [ ] is [X] is not a construction deed of trust. If this is a construction deed of trust, then all or some portion of the funds the loan of which is secured hereby are for the purpose of construction or improving real property. This deed of trust may secure obligations which call for payment of interest at a variable interest rate.

THIS DEED OF TRUST is made this 28<sup>th</sup> day of May, 2011, among Rio Clara Inc., an Arizona Corporation herein called "Trustor", whose address is 1819 E. Southern Avenue, Suite B-10, Mesa, Arizona 85204, Comerica Bank herein called "Trustee" whose address is 75 East Trimble Road, Mail Code 4774, San Jose, California 95131 and Comerica Bank, whose address is 75 East Trimble Road, Mail Code 4774, San Jose, California 95131 herein called "Beneficiary".

Trustor irrevocably grants, transfers and assigns to Trustee, in trust and with power of sale, all of the real property in the City of Flagstaff County of Coconino, State of Arizona, described as:

See Exhibit "A" Suretyship Rider attached hereto and made a part hereof

Lot 772, of AMENDED PLAT OF FOREST HIGHLANDS, UNIT 5, according to the Map recorded in Case 7 of Maps, Page 55-55F and Affidavit of Correction recorded August 11, 1997 in Docket 2011, Page 452, records of Coconino County, Arizona.

APN: 118-88-072

Property Address: 772 Fred Green, Flagstaff, Arizona

Together with all improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents (subject however to the rights and authorities given herein to Beneficiary to collect and apply such rents), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this deed of trust and all of the foregoing, together with said property (or the leasehold estate if this deed of trust is on a leasehold) are herein referred to as the "Property."

1. THIS DEED OF TRUST SECURES:

a. All of the obligations of [ ] Trustor [ ] \_\_\_\_\_, herein called "Obligor", in favor of Beneficiary or order under the terms of a (check box below and complete appropriate parentheses):

[ ] Promissory note dated \_\_\_\_\_, in the original principal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_), with interest thereon at the rate specified therein, [ ] which rate may fluctuate from time to time as provided therein.

[ ] Guarantee agreement dated \_\_\_\_\_, relating to the indebtedness of \_\_\_\_\_ owed to Beneficiary.

[X] Revolving Promissory Note executed by Boa Sofia Limited Partnership, an Arizona limited partnership and Rio Clara Inc., an Arizona corporation (individually and/or collectively, "Borrower") in favor of Beneficiary, dated May 25, 2011 (the "Note"), made pursuant to that certain Business Loan Agreement by and between Borrower and Beneficiary (herein called "Agreement"). The Agreement and the Note provide, among other things, for the payment of all sums advanced by Beneficiary from time to time pursuant to the Agreement, with interest thereon at the rate specified in the Note, which rate may fluctuate from time to time as provided therein. The maximum obligation under the Note to be secured by this deed of trust at any one time is Two Million Five Hundred Fifty Thousand and No/100 Dollars (\$2,550,000.00) unless Beneficiary, with Trustor's written consent, hereafter increases this amount.

[ ] \_\_\_\_\_

The security of this deed of trust shall not be affected by the extension, renewal or modification from time to time of the obligations, instruments or agreements described above.

b. Payment of any and all obligations and liabilities, whatsoever, whether primary, secondary, direct, indirect, fixed or contingent, whether now or hereafter due from Trustor, Obligor or any of them (or any successor in interest to Trustor or any or them) whether created directly or acquired by

assignment if the document evidencing such obligation or liability or any other writing signed by Trustor, Obligor or any of them (or any successor in interest to Trustor or any of them) specifically provides that said obligation or liability is assumed by this deed of trust.

c. Performance of such agreement of Trustor and Obligor herein contained is contained in any other agreement, instrument or other writing to which Trustor or Obligor is a party if the same is written in connection with any of the foregoing.

d. Payment of all sums to be expended by the Beneficiary or Trustee pursuant to the terms hereof.

## 2. TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

a. To keep the Property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be damaged, damaged or destroyed thereon until he pay thereon due all claims for labor performed and materials furnished thereon to supply with all laws affecting the Property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereon; not to commit, suffer or permit any act upon said property in violation of law to pollute, irrigate, fertilize, fumigate, prune and do all other acts which from the character of use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general.

b. To provide, maintain and deliver to Beneficiary evidence of fire and other insurance on the Property satisfactory to and with fees payable to Beneficiary. The amount secured under any fire or other insurance policy may be applied by Beneficiary upon indebtedness secured hereby and in such order as Beneficiary may determine or at the option of Beneficiary, the entire amount so collected or any part thereof may be released to Trustor. Such requirement or release shall not cure or waive any defect hereunder or invalidate any act done pursuant to such notice. Trustor shall deliver such policies or acceptable written evidence of such policies to Beneficiary upon demand. Failure to maintain the insurance required under this Deed of Trust or to deliver such policies or acceptable written evidence of the policies to Beneficiary will give Beneficiary the option to purchase insurance on behalf of Trustor. Any insurance Beneficiary procures may insure only Beneficiary's interest in the Property and may not provide any coverage for Trustor. Any costs or expenses incurred by Beneficiary in procuring such insurance will be added to the principal balance of the loan from the date they are advanced at the highest rate shown in the instrument or instruments evidencing the indebtedness secured by this Deed of Trust. Such amounts shall be payable upon demand or, at Beneficiary's option, in the form of larger installments otherwise payable under such instrument or instruments.

c. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary or Trustee to foreclose this deed of trust.

d. To pay at least ten days before delinquency of taxes and assessments affecting the Property, including assessments of appurtenant water rights all encumbrances, charges and liens, any interest, on the property or any part thereof, which appears to be prior or superior hereon and all costs, fees and expenses of this deed of trust.

e. That should Trustor fail to make any payment or do any act as herein provided, then Beneficiary on Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may:

(1) Make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes.

(2) Appear in and defend any action or proceeding purporting to affect the security hereof or the rights or power of Beneficiary or Trustee.

(3) Pay, postpone, extend or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereon.

(4) In exercising any such power, pay necessary attorney's charges and pay his reasonable fees.

f. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from the date of expenditure at the highest rate of interest applicable to the indebtedness secured hereby (but not in excess of twenty-one percent (21%) per annum), or at the option of Beneficiary, such sums may be added to the principal balance of any indebtedness secured hereby and shall bear the highest rate of interest as any such indebtedness (but not in excess of twenty-one percent (21%) per annum).

g. To pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby and assumed demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

## 3. IT IS FURTHER AGREED THAT:

a. Any award of damages in connection with any condemnation for public use of or injury to the Property or any part thereof is hereby assigned and shall be paid to the Beneficiary who may apply or release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

b. By accepting payment of any sum secured hereby after its due date, or after the filing of notice of sale and of disclaimer of said Beneficiary shall not waive its right to require prompt payment when due of all other sums so secured, or to declare default for failure so to pay, or to proceed with the sale under any such notice of sale and of election to sell, for any unpaid balance of said indebtedness. If Beneficiary holds any additional security for any obligation secured hereby, it may enforce the sale thereof at its option, either before or contemporaneously with, or after the sale



- is made hereunder, and on any default of Trustor or Obligor, Beneficiary may, at its option, offset against any indebtedness owing by it to Trustor or Obligor.
- c. Without affecting the liability of any person, including Trustor or Obligor, for the payment of any indebtedness secured hereby, or the lien of this deed of trust on the remainder of the Property for the full amount of any indebtedness unpaid, Beneficiary and Trustor are respectively empowered as follows:
- (1) Beneficiary may from time to time and without notice (a) release any person liable for the payment of any of the indebtedness, (b) extend the time or otherwise alter the terms of payment of any of the indebtedness, (c) accept additional security therefor of any kind, including deeds of trust or mortgages, (d) alter, substitute or release any of the Property securing the indebtedness.
  - (2) Trustor may at any time, and from time to time, upon the written request of Beneficiary (a) consent to the making of any new or plat of the Property, (b) join in granting any easement or creating any restriction thereon, (c) join in any subdivision or other agreement affecting this deed of trust or the lien or charge thereof or, (d) release without any warranty, all or any part of the Property.
- d. That upon written request of Beneficiary stating that all sums secured hereby have been paid, cancellation of any note, guarantee, Agreement or other writing evidencing the indebtedness secured hereby and performance of all obligations of the Trustor and Obligor hereunder and thereunder, and upon surrender of this deed of trust and said note, guarantee, Agreement or other evidence of indebtedness secured hereby to Trustor for cancellation and retention and upon payment of its fees, Trustor shall convey, without warranty, the Property then held hereunder. The policy in such reconveyance of any balance of taxes shall be conclusive proof of the truthfulness thereof. The granting in such reconveyance may be described as "the person or persons legally entitled thereto." Five years after issuance of such reconveyance, Trustor may destroy said note, guarantee, Agreement or other evidence of indebtedness and this deed of trust (unless directed in such request to retain them).
- e. Trustor hereby gives to and confers upon Beneficiary the right, power and authority during the continuance of this trust to collect the rents, issues and profits of the Property and of any personal property located thereon, and hereby absolutely and unconditionally assigns all such rents, issues and profits to Beneficiary, provided, however, that Beneficiary hereby consents to the collection and retention of such rents, issues and profits as they accrue and become payable only if Trustor or Obligor is, at such times, in default in respect to payment of any indebtedness secured hereby or in the performance of any agreement hereunder. Under any such default, Beneficiary may at any time, without notice, either in person, by agent, or by a trustee to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, and in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine; also perform such acts of repair, renovation, litigation or partition, as may be necessary or proper to enhance the value of the Property and take thereon or any part thereof for such rental, term, and upon such conditions as its judgment may dictate; also prepare for harvest, remove, and sell any crops that may be growing upon the premises, and apply the net proceeds thereof upon the indebtedness secured hereby. The entering upon and taking possession of the Property, the collection of such rents, issues and profits, and the application thereof as aforesaid, shall not waive or cure any default or notice of default or sale hereunder or invalidate any act done pursuant to such notice. Trustor also assigns to Trustee, as further security for the performance of the obligations secured hereby, all prepaid rents and all monies which may have been or may hereafter be deposited with said Trustor by any lessee of the premises herein described, to secure the payment of any rent, and upon default in the performance of any of the premises herein, Trustor agrees to deliver such rents and proceeds to the Trustee. Upon appointment of a receiver, Trustor shall immediately deliver possession of all the Premises in such receiver. Neither the appointment of a receiver for the Premises by any court at the request of Beneficiary or by agreement with Trustor, nor the entering into possession of all or any part of the Premises by such receiver shall cause Beneficiary to be, or to be deemed or considered, a "mortgagee in possession" or otherwise make Beneficiary responsible for or liable in any manner with respect to the Premises or the occupancy, operation or use thereof. Beneficiary shall have the absolute and unconditional right to the appointment of a receiver in any independent action or suits brought by Beneficiary regardless of whether Beneficiary seeks any relief in such action other than the appointment of a receiver. In that respect, Trustor waives any expense or delay in enforcement under common law or statutory law or statute (A.R.S.) § 12-1241 that a receiver may be appointed only as a matter of other judicial or non-judicial relief.
- f. Upon default by Trustor or Obligor in the performance of any payment or other obligation secured hereby or in the performance of any agreement hereunder or if the Trustor shall sell, convey or alienate said property or any part thereof, or any interest therein, or shall be divorced of his title, or any interest therein, in any manner or way, whether voluntary or involuntary, any indebtedness or obligation secured hereby, irrespective of the maturity dates expressed in any note evidencing the same, at the option of the holder thereof, and without demand or notice, shall immediately become due and payable. If there is procured from Beneficiary an agreement or waiver resulting in the non-exercise by Beneficiary of such option in any certain instance or on any particular occasion, then in that event any privilege or option now in effect today and indebtedness or any part thereof due to include the same would be delinquent if not paid, is thereupon and thereby waived and terminated.
- g. No failure or delay by Beneficiary in exercising any right, power or privilege under law, this deed of trust or any other document relating to the indebtedness shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power or privilege preclude any other or

further exercise of such right, power or privilege or any other right, power or privilege. All rights and remedies of Beneficiary under this deed of trust, the combined remedy provisions seeking the indefeasibility or non-occurrence of the indefeasibility, and any or all other remedies of the indefeasibility interest pursuant to any of the foregoing shall be cumulative and may be exercised singly or concurrently, and are not exclusive of any other right or remedy permitted by law or in equity. Beneficiary may rescind any notice before Trustee's sale by executing a notice of rescission and recording the same. The recording of such notice shall also constitute a cancellation of any prior declaration of default and demand for sale, and of any acceleration of maturity of indebtedness directed by any prior declaration or notice of sale. The exercise by Beneficiary of the right of rescission shall not constitute a waiver of any default then existing or subsequently occurring, nor impair the right of the Beneficiary to execute other instruments of default and demand for sale, or notice of sale and of demand to cause the Property to be sold, nor otherwise affect the sale or deed of trust, or any of the rights, obligations or remedies of the Beneficiary as Trustee hereunder.

- h. Upon the occurrence of a Trustee default, and at any time while such default is continuing, Beneficiary may, or may cause Trustee to, give such notice of default and of election to cause the Property to be sold as may be required by law or as may be necessary to cause Trustee to exercise the power of sale granted herein. Trustee shall then record and give such notice of trustee's sale as then required by law and, after the expiration of such time as may be required by law, may sell the Property at the time and place specified in the notice of sale, as a whole or in separate parcels as directed by Beneficiary, or by Trustee to the extent required by law, at public auction to the highest bidder for cash in legal money at the latest three business days prior to sale, all in accordance with applicable law. Trustee, from time to time, may postpone cancellation of the sale of all or any portion of the Property by public declaration at the time and place last appointed for the sale. No other notice of the postponed sale shall be required. Upon any sale, Trustee shall deliver its deed conveying the property sold, without any covenant or warranty, express or implied, to the purchaser or purchasers at the sale. The recitals in such deed of any matters or facts shall be conclusive as to the accuracy thereof. Any person, including Trustee, Trustee or Beneficiary, may purchase at the sale. After deducting all costs, fees and expenses of Trustee and of this trust, including costs of evidence of title in connection with the sale, the Trustee shall apply the proceeds of the sale to the payment of as soon then secured hereby. If such cash and surplus as may be required by the Beneficiary, the remainder, if any, to be paid to the person or persons legally entitled thereto. If Beneficiary shall elect to bring suit in foreclosure this deed of trust in the manner and subject to the provisions, right and remedy relating to the foreclosure of a mortgage, Beneficiary shall be entitled to reasonable fees to be fixed by the court as attorney's fees expended in the prosecution of said action.
- i. In any action by Beneficiary to recover a deficiency judgment for any balance due under Trustee's obligation to Beneficiary upon the foreclosure of this deed of trust or in any action to recover the obligation or obligations secured hereby, and as a material inducement to Beneficiary's entering into the transaction related to this deed of trust, Trustee acknowledges and agrees that the successful bid amount made at any public or nonpublic foreclosure sale, if any, shall be conclusively deemed to constitute the fair market value of the Property, that such bid amount shall be binding against Trustee in any proceeding seeking to determine or ascertain the fair market value of the Property and that such bid amount shall be the preferred alternative means of determining and establishing the fair market value of the Property. Trustee hereby waives and relinquishes any right to have the fair market value of the Property determined by a judge or jury in any action seeking a deficiency judgment or any action on the obligation or obligations secured hereby, including, without limitation, a hearing to determine fair market value pursuant to A.R.S. § 12-1504, § 33-729, § 36-707 or § 33-814.
- j. Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time by instrument in writing, authorize a successor or successors to any Trustee named herein or selling thereunder, various instruments, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper qualification of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, debts, powers and duties. Said instrument must contain the name of the original Trustee, Trustee and Beneficiary hereunder, the location where this deed of trust is recorded and the name and address of the new Trustee.
- k. This deed of trust applies to, binds to the benefit of, and binds all parties hereto, their heirs, legal heirs, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the current and holder, including pledgees, assignees, successors, Assignments, or other evidence of indebtedness, whether or not named in Beneficiary herein. In this deed of trust, whenever the context so requires, the masculine gender includes the feminine and/or the neuter, and the singular number includes the plural.
- l. Trustee accepts this Trust when this deed of trust, duly executed and acknowledged, is made public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any subsequent deed of trust or of any action or proceeding in which Trustee, Beneficiary or Trustee shall be a party wronged by Trustee.
- m. Any Trustee or Obligor who is a married person expressly agrees that he or her community property and separate property shall be liable for any deficiency after the sale of the sale property to the extent such Trustee or Obligor is personally obligated to pay the indebtedness secured hereby.
- n. If Trustee assigns ownership in interest in Trustee's unit, business or ownership any interest in the Property, whether voluntarily or involuntarily, or if a beneficial interest in Trustee is sold or transferred, voluntarily or involuntarily and Trustee is not a natural person, the transferee and the transferee shall each immediately give written notice of said transfer to the Beneficiary, at the address designated on the first page of this deed of trust.

- o. The pleading of any statute of limitations as a defense to any and all obligations secured by this deed of trust is hereby waived to the full extent permitted by law.
- p. Trustee **unmistaken Beneficiary**, without limitation or derogation and without affecting his liability under this deed of trust, from time to time, to:
- (1) Renew, amend, accelerate, decrease or increase the amount of the indebtedness, or otherwise change the time for payment of any of the indebtedness or any other term thereof;
  - (2) Renew, extend, accelerate, terminate or otherwise modify any of the collateral security documents securing any of the indebtedness, and any notes and/or any other evidence of indebtedness in connection with any of the foregoing, including, without limitation, increase or decrease of the rate of interest thereon;
  - (3) Acceptance of payment on the indebtedness;
  - (4) Substitute, withdraw, waive, diminish, increase, release, exchange or otherwise alter any collateral security, in whole or in part, securing the indebtedness or any guarantee of the indebtedness;
  - (5) Apply any and all such collateral security and direct the order or manner of sale thereof as Beneficiary in its sole discretion may determine;
  - (6) Release or substitute any one or more of the guarantors of the indebtedness, and otherwise deal with Creditor, Trustor, or any other guarantor as Beneficiary may elect;
  - (7) Settle or release, either by agreement on terms satisfactory to Beneficiary or by operation of law or otherwise, compound, compromise, submit or otherwise liquidate any indebtedness and/or collateral security thereto in any manner; and/or submit to the issuer in any collateral security and all and portions at any time, all without in any way constituting, releasing or discharging the liability of the obligor hereunder.
- q. Trustor waives notice of assignment of the deed of trust, any document evidencing or relating to the indebtedness; diligence and all demands, proceedings, protests, notices of protest; notices of nonperformance; notices of dishonor; and notices of the existence, cessation or incurring of any new or additional indebtedness.
- r. Upon default of Obligor or Trustor in respect of any indebtedness, Beneficiary may, at its option, and without notice to the undersigned, proceed directly against the property of the undersigned under the deed of trust to collect and recover full amount of the indebtedness; or any portion thereof; and Trustor waives any right to require Beneficiary to: (a) proceed against Obligor, Trustor or any guarantor; (b) proceed against or submit any collateral security given to or held by Beneficiary in connection with the indebtedness; or (c) pursue any other remedy in Beneficiary's power whatsoever. Trustor further authorizes Beneficiary, without notice or demand and without affecting the liability of the undersigned hereunder, to foreclose by judicial or non-judicial sale any collateral security given to secure the indebtedness.
- s. Trustor waives any defense arising by reason of any disability or other defense of Obligor, Trustor or any guarantor or by reason of the cessation from any action of any kind against Obligor. Beneficiary's rights under the deed of trust shall be enforceable without regard to the validity, regularity or enforceability of the indebtedness or any document operating the same, any notes or other evidence of the indebtedness, any other guarantee of the indebtedness or any collateral security documents securing any of the indebtedness. Trustor specifically agrees that the failure of Beneficiary to perfect any lien on its security interest in any property given as Obligor Trustor or any guarantor to secure payment of the indebtedness, or the failure to record or file the said document relating thereto, shall not terminate, diminish or otherwise affect Beneficiary's rights under deed of trust.
- t. Trustor shall not have any right of subrogation to any of the rights of Beneficiary against Obligor, Trustor or any guarantor, and any action by Beneficiary which may affect any right of subrogation that the undersigned may have shall not affect or be aided by the undersigned as a defense to any rights or obligations that the undersigned owes to Beneficiary. Trustor waives any right to enforce any remedy which Beneficiary now has or may hereafter have against Obligor, Trustor or any guarantor and waives any benefit of, and any other right to participate in, any collateral security for the indebtedness now or hereafter held by Beneficiary.
- u. Trustor assumes the responsibility for keeping himself informed of the financial condition of Obligor, Trustor or any guarantor and of all other circumstances bearing upon the risk of non-payment of the indebtedness. Beneficiary shall have no duty to advise the undersigned of information known to Beneficiary regarding such condition or any such circumstance. Beneficiary has no duty to require has the powers of Obligor, Trustor, or any guarantor or the children, directors or agents thereof acting or purporting to act in his behalf and/or their behalf.
- v. None of the terms or provisions hereof may be revised, amended, modified, or amended except by an instrument in writing duly executed by the party to be changed thereby, and the rights, obligations and liabilities hereunder shall be governed by, and shall not be construed and interpreted in accordance with, the laws of the state of Arizona.
- w. To the extent not prohibited by law, the Trustor (or any of them) hereby grants to the Beneficiary a security interest under the Arizona Uniform Commercial Code in all deposit accounts and other property of the Trustor (or any of them) held by the Beneficiary, to secure all obligations of the Trustor or Obligor to the Beneficiary; provided, however, that this security interest shall not secure any indebtedness which is or hereafter becomes "consumer credit" subject to the disclosure requirements of the Truth in Lending Act and Regulation Z promulgated thereunder, both as amended from time to time.
- x. Without affecting the prior written consent of Beneficiary, Trustor shall not consent to, or vote in favor of, the inclusion of all or any part of the Property in any Community Facilities District formed pursuant to the Community Facilities District Act, A.R.S. § 46-704, et seq., as amended from time to time. Trustor shall immediately give notice to Beneficiary of any notification or notice that Trustor may receive from any municipality or other third party of any intent or proposal to include all or any part of the Property in a Community Facilities District. Beneficiary shall have the right to file a written objection to the inclusion of all or any part of the Property in a Community

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Facilities District, either in its own name or in the name of Trustor, and appear at, and participate in any hearing with respect to the formation of such district.

- y. If any provision of this deed of trust is deemed or determined to be unenforceable for any reason, the enforceability of the other provisions of this deed of trust shall not be thereby affected and all such other provisions of this deed of trust shall otherwise remain in full force and effect, unchanged.

#### 4. WITH REGARD TO HAZARDOUS SUBSTANCES, TRUSTOR AGREES:

- a. As used in this section, the term "hazardous substance" means any substance which has characteristics of ignitability, corrosivity, toxicity, reactivity or radioactivity or has other characteristics which render the substance dangerous to health, safety or the environment if such substance is so known or regulated by any federal, state or local law, regulation or ordinance. The term "hazardous substance" includes, without limitation, substances defined as "hazardous material," "hazardous waste," "hazardous materials" or "hazardous substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Hazard Materials Transportation Act, 49 U.S.C. Section 1601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 9601, et seq., or in provisions of Arizona law, including but not limited to A.R.S. § 28-301, A.R.S. § 28-341, A.R.S. § 28-6201, A.R.S. § 32-1901 and A.R.S. § 49-1221, and in the regulations adopted and publications promulgated pursuant to said laws.
- b. As used in this section, the terms "dispose", "release" and "threatened release" shall have the definitions assigned to them in CERCLA.
- c. Trustor represents and warrants that during the period of Trustor's ownership or leasehold interest in the Property there has been no use, generation, manufacture, storage, disposal, release or threatened release of any hazardous substance by any person on, under or about the Property nor are there or have there been any claims of any kind asserted or threatened to be asserted by any third party relating thereto except as previously disclosed to and acknowledged by Beneficiary in writing. Trustor further represents and warrants that Trustor has no knowledge of, or reason to believe that there has been, any use, generation, manufacture, storage, disposal, release or threatened release of any hazardous substance by any person on, under or about the Property unless Trustor acquired said interest in the Property or any claims of any kind asserted or threatened to be asserted by any third party relating thereto except as previously disclosed to and acknowledged by Beneficiary in writing.
- d. Trustor represents and warrants that neither he nor any agent, contractor, tenant or other authorized user of the Property shall use, generate, manufacture, store, dispose, release any hazardous substance on, under or about the Property except as first disclosed to and acknowledged by Beneficiary in writing and that any such activity shall be conducted in compliance with all applicable federal, state or local laws, regulations or ordinances, including, without limitation, the provisions of the federal, state and local laws, regulations, ordinances and publications described in the first paragraph of this section.
- e. Trustor agrees to indemnify and hold Beneficiary and its successors or assigns harmless from and against all claims, damages, demands, liabilities, expenses, reasonable costs, penalties and expenses, including without limitation, all costs of litigation and attorney's fees, which Beneficiary and its successors or assigns may directly or indirectly sustain or suffer as a consequence of any inaccuracy or breach of any representation, warranty or agreement contained in this section, or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Trustor's ownership or interest in the Property whether or not the same was or should have been known to Trustor.
- f. The provisions of this section shall not be affected by the acquisition by Beneficiary or its successors or assigns of any ownership or other interest in the Property beyond Beneficiary's security interest in the Property at and under this deed of trust, whether or not such acquisition is pursuant to the provisions of this deed of trust or as a merger of the interest of the Beneficiary or its successor and assigns in the Property.

#### 5. ADDITIONAL PROVISIONS:

- a. The execution of this deed of trust by any person who has no present interest in the Property shall not be deemed to indicate that such an interest presently exists. Rather, execution of this deed of trust by such a person shall constitute such person's agreement that if such person hereafter acquires an interest in the Property, such interest shall be subject to Beneficiary's interest hereunder.
- b. The execution of this deed of trust by any person who has a present interest in the Property shall not in itself be deemed to indicate that such person is liable to Beneficiary for any obligation described in Section 1., above. Any personal liability of such person to Beneficiary shall be determined on an independent basis (such as execution of the document or documents evidencing the obligation described in Section 1., above). Execution of this deed of trust by any such person shall nevertheless indicate that such person's interest in the Property shall be subject to Beneficiary's interest hereunder.

6. TRUSTOR, BENEFICIARY AND THEIR RESPECTIVE REPRESENTATIVES HEREBY AGREE THAT THE DEED TO FINAL JURY IS A CONVENTIONAL ONE, BUT THAT IF THERE BE ANY DISPUTE OR DISSENT AMONG THE PARTIES, TO THE EXTENT PERMITTED BY LAW, EACH PARTY, AFTER CONSULTING (OR HAVING BEEN THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THE BEST INTERESTS THEREOF, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR NONPERFORMANCE OF, OR IN ANY WAY RELATED TO, THIS DEED OF TRUST OR THE INDEBTEDNESS.

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If a mailing address is set forth opposite any Trustor's signature hereto, and not otherwise, the undersigned Trustee shall be deemed to have requested that a copy of any notice of default, or of any notice of sale hereunder, be mailed to said Trustor at said address.

By signing below, Trustor Agrees to all the terms and the conditions of this Deed of Trust.

Signature of Trustor(s)

Rio Claro, Inc.,  
an Arizona Corporation

By:   
Its: Wilford R. Cardon  
President

Mailing Address for Notices:  
1819 E. Southern Avenue, Suite B-10  
Mesa, Arizona 85204

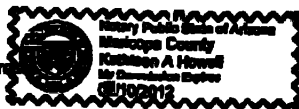
CERTIFICATE OF ACKNOWLEDGMENT

STATE OF Arizona }  
County of Mazicopa } ss.

The foregoing instrument was acknowledged before me this 11th day of July, 2011  
by Wilford R. Cardon, the President of Rio Claro, Inc., an Arizona corporation, on behalf  
of the corporation.

WITNESS my hand and official seal.

My commission expires



Kathleen A. Howell  
NOTARY PUBLIC

SEAL

**RIDER TO THAT CERTAIN DEED OF TRUST DATED AS OF May 25, 2011.**

## WARRANTS

## WORKERS

Trustor releases any defenses arising by reason of: (1) the incapacity, lack of authority, death or disability or other defense of Borrower or any other person, including, but not limited to, the insolvency or bankruptcy of Borrower, or any other person, or any act in connection with any such bankruptcy proceedings, or the failure of beneficiary to file or enforce a claim against the estate (in administration, bankruptcy, or any other proceeding) of Borrower or any other person; (2) the cessation from any cause whatsoever, other than payment in full, of the obligations of Borrower or any other person; (3) the application by Borrower of the proceeds of any obligation secured hereby for purposes other than the purposes represented by Borrower to beneficiary or intended or understood by Beneficiary or Trustor; (4) any act or omission by Beneficiary with directly or indirectly results in its withdrawing or release of Borrower, any other person, any obligations secured hereby, or any collateral by operation of law or equity or otherwise; or (5) any satisfaction of any obligation secured hereby, in any form whatsoever including, without limitation, the payment, assignment, consolidation or other change in time for payment of such obligations, increase or decrease of the rate of interest thereon, or other change in the terms of such obligations or new debt thereof.

Truster hereby waives any claim involving any reason of any claim or defense based upon an election of remedies by beneficiary or other relief doctrine, which, in any manner, impairs, affects, reduces, releases, destroys and/or extinguishes Trustor's subrogation rights, rights to proceed against Borrower for reimbursement, and/or other rights of Trustor to proceed against Borrower, against any other guarantor, or against any other person or security including, but not limited to, any defense based upon an election of remedies by Beneficiary under all the provisions of the Arizona Revised Statutes. As an illustration, without limiting the foregoing, Trustor waives and relinquishes all rights, remedies, and defenses that Trustor may never: (1) under any law which may limit the amount of a deficiency judgment based on any obligation secured hereby; (2) under any bar to deficiency judgments; (3) any requirement of law that Beneficiary exhaust one or any other security for the obligations secured hereby before proceeding against Trustor; (4) under any law which may prohibit Beneficiary from enforcing its rights and remedies against Trustor by such a private trustee's sale and an action in court; (5) under any law which requires that a court action to enforce Beneficiary's rights be an action to foreclose (the Debt of Trust; and (6) by reason of an election of remedies by beneficiary, impairment and limited to the exercise of nonperfected judicial remedies against Trustor or any guarantor, any such consequences of the real or personal property, or any other security for the obligations secured hereby or for any guarantor beneficiary who is not an owner or against Beneficiary any deficiency, whatsoever, in any manner, impairs, affects, reduces, releases, destroys, and/or extinguishes Trustor's subrogation rights, rights to proceed against Borrower for reimbursement and/or other rights of Trustor to proceed against Borrower, any guarantor, or against any other person or security including, without limitation, any law of rights that Trustor may suffer in connection with any anti-deficiency law or any other law relating, qualifying or discharging individuals of or remedies against Borrower or any other person. Trustor agrees that if all or a portion, of the obligations secured hereby (or any security thereof) are at any time secured by any other deed of trust or other interest in real property, Beneficiary, in its sole discretion and without notice or demand and without affecting the security of this Deed of Trust, may exercise all its rights and remedies against Borrower or any guarantor, Borrower's or any guarantor's real and personal property, and any other security for the obligations insured hereby or for any guarantor thereof in manner under or under its own initiative (any deficiency, including other deficiencies, deficiencies foreclosed either real and personal property, without limiting the generally other foregoing or any other provision herein, Trustor hereby expressly agrees in and to all hereto that notwithstanding its election in Trustor under Arizona Rules of Civil Procedure 77(f) and Arizona Revised Statutes Section 12-1461 et. seq. and 12-1595 (as such sections may be amended or reclassified from time to time), and Arizona Revised Statutes Sections 33-725, 33-728, 33-730 and 33-816 (as such sections may be amended or reclassified from time to time). Trustor hereby acknowledges and understands that beneficiary may obtain a judgment against Trustor for the entire obligation or any deficiency balance thereof upon foreclosure of the real or personal property without regard to the real market value of the property, the method of foreclosure or the fact that the obligation arises from a purchase money transaction.

**CARDIO-PULMONARY RECOVERY**

**WAIVER OF AUTHENTICATION OF VALIDITY OF ACTS OF CORPORATION, PARTNERSHIP OR TRUST**

It is not necessary for Beneficiary to inquire into the power of Trustor or the officers, directors, partners or agents acting or purporting to act on behalf of Trustor, and all obligations made, created or accepted in reliance upon the professed exercise of such power shall be secured hereby.

**REVIVAL OF DEED OF TRUST**

If any payments of money or transfers of property made to Beneficiary, by Borrower, any guarantor, any maker or any endorser, should, for any reason, subsequently be declared to be, or in Beneficiary's counsel's good faith opinion be determined to be, fraudulent (within the meaning of any state or federal law relating to fraudulent conveyances), preferential or otherwise voidable or unenforceable in whole or in part for any reason (hereinafter collectively called "Voidable Transfer") on any amount repaid or tendered to Borrower or any guarantor together with all costs and expenses (including attorney's fees) of Beneficiary related thereto, the lien and priority of this Deed of Trust shall automatically be revived, reinstated and restored and shall exist as though such voidable transfer had never been made to Beneficiary. In the event Beneficiary shall have caused its interest herein to be recovered and subsequently be required or advised by counsel to restore or repay any such voidable transfer, the amount thereof, or any portion thereof, the undersigned shall remain liable, as provided herein, to the same extent as if this Deed of Trust had not been recovered to the undersigned.

**UNDERSTANDING WITH RESPECT TO WAIVERS**

Trustor warrants and agrees that each of the waivers set forth above are made with Trustor's full knowledge of their significance and consequences, with the understanding that events giving rise to any defense waived may diminish, destroy or otherwise adversely affect rights which Trustor otherwise may have against Borrower, Beneficiary or others, or against collateral, and that, under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any of the waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective to the maximum extent permitted by law.

Each Trustor acknowledges that it has read all of the provisions of this Suretyship Policy to Deed of Trust and each Trustor agrees to its terms.

TRUSTOR(S):

DATED: May 25, 2011

Rio Claro, Inc.,  
an Arizona Corporation

By:

  
Wilford R. Cardon  
President

Its:

**CERTIFICATE OF ACKNOWLEDGMENT**

STATE OF Arizona }  
County of Maricopa } ss.

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of July, 2011  
by Wilford R. Cardon, the President of Rio Claro, Inc., an Arizona corporation, on behalf of the corporation.

WITNESS my hand and official seal.

My commission expires:



  
Kaphlan A. Houser  
NOTARY PUBLIC

**SEAL**

12044322416

**Attachment H**

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**Deed of Trust for 4040 East McLellan, Mesa, Arizona 85205**

12044322417



# FIDELITY NATIONAL TITLE

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO

Comerica Bank  
One Ninth Central Avenue  
Suite 1000  
Phoenix, AZ 85004  
Attn: Linda L. Moody

OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL  
20110842530 09/02/2011 02:40  
10013779-12-2-2-  
ELECTRONIC RECORDING

FT10013779

2/2

SPACE ABOVE THIS LINE FOR RECORDERS USE

## DEED OF TRUST AND ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

This [ ] is [X] is not a construction deed of trust. If this is a construction deed of trust, then all or some portion of the funds the loan of which is secured hereby are for the purpose of construction or improving real property. This deed of trust may secure obligations which call for payment of interest at a variable interest rate.

THIS DEED OF TRUST is made this 25<sup>th</sup> day of May, 2011, among Ben Soles Limited Partnership, an Arizona limited partnership, Rio Clara, Inc., an Arizona corporation and Cardon Family, L.L.C., an Arizona Limited Liability Company herein collectively called "Trustor", whose address is 1819 E. Southern Avenue, Suite B-10, Mesa, Arizona 85204, Comerica Bank, herein called "Trustee" whose address is 75 East Trimble Road, Mail Code 4774, San Jose, California 95131 and Comerica Bank, whose address is 75 East Trimble Road, Mail Code 4774, San Jose, California 95131 herein called "Beneficiary".

Trustor irrevocably grants, transfers and assigns to Trustee, in trust and with power of sale, all of the real property in the City of Mesa, County of Maricopa, State of Arizona, described as:

See Exhibit "A" Suretyship Rider attached hereto and made a part hereof.  
See Exhibit "B" attached hereto and made a part hereof.

APN: 308-07-001W

Property Address: 4040 E. McLellan Road, Unit 8, Mesa, Arizona 85205-2105

Together with all improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents (subject however to the rights and authorities given herein to Beneficiary to collect and apply such rents), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this deed of trust and all of the foregoing, together with said property (or the beneficial estate if this deed of trust is an installment) are herein referred to as the "Property."

### 1. THIS DEED OF TRUST SECURES:

a. All of the obligations of [ ] Trustor [ ] \_\_\_\_\_, herein called "Obligor", in favor of Beneficiary or order under the terms of a (check box below and complete applicable provision(s)):

[ ] Promissory note dated \_\_\_\_\_ in the original principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), with interest thereon at the rate specified therein, [ ] which rate may fluctuate from time to time as provided therein.

[ ] Guarantee agreement dated \_\_\_\_\_ relating to the indebtedness of \_\_\_\_\_ owed to Beneficiary.

[X] Revolving Preliminary Note executed by Ben Soles Limited Partnership, an Arizona limited partnership and Rio Clara, Inc., an Arizona corporation (individually and/or collectively, "Borrower") in favor of Beneficiary, dated May 25, 2011 (the "Note"), made pursuant to that certain Business Loan Agreement by and between Borrower and Beneficiary (herein called "Agreement"). The Agreement and the Note provide, among other things, for the payment of all sums advanced by Beneficiary from time to time pursuant to the Agreement, with interest thereon at the rate specified in the Note, which rate may fluctuate from time to time as provided therein. The maximum obligation under the Note to be secured by this deed of trust at any one time is Two Million Five Hundred Fifty Thousand and No/100 Dollars (\$2,550,000.00) unless Beneficiary, with Trustor's written consent, hereafter increases this amount.

[ ]

The security of this deed of trust shall not be affected by the extension, renewal or modification from time to time of the obligations, instruments or agreements described above.

b. Payment of any and all obligations and liabilities, whatsoever, whether primary, secondary, direct, indirect, fixed or contingent, whether now or hereafter due from Trustor, Obligor or any of them (or any successor in interest to Trustor or any or them) whether created directly or acquired by assignment if the document evidencing such obligation or liability or any other writing signed by

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Trustor, Obligor or any of them (or any successor in interest to Trustor or any of them) specifically provides that said obligation of liability is secured by this deed of trust.

- c. Performance of each agreement of Trustor and Obligor herein contained or contained in any other agreement, instrument or other writing to which Trustor or Obligor is a party if the same is written in connection with any of the foregoing.
  - d. Payment of all sums to be expended by the Beneficiary or Trustee pursuant to the terms hereof.
2. TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:
- a. To keep the Property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all sums for labor performed and materials furnished therefor; to comply with all laws existing time the Property as requiring any alterations or improvements to be made thereon; not to commit or permit waste thereon; not to commit or permit any act upon said property in violation of law; to maintain, irrigate, fertilize, fumigate, plow and do all other acts which from the character of use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general.
  - b. To provide, maintain and deliver to Beneficiary evidence of fire and other insurance on the Property satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary, the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default hereunder or constitute any act which amounts to such release. Trustor shall deliver such policies or acceptable written evidence of such policies to Beneficiary upon demand. Failure to maintain the insurance required under this Deed of Trust or to deliver such policies or acceptable written evidence of the policies to Beneficiary will give Beneficiary the option to purchase insurance on behalf of Trustor. Any insurance Beneficiary procures may insure only Beneficiary's interest in the Property and may not provide any coverage for Trustor. Any costs or expenses incurred by Beneficiary in procuring such insurance will be added to the principal balance and will bear interest from the date they are advanced at the highest rate shown in the instrument or instruments constituting the indebtedness secured by this Deed of Trust. Such amounts shall be payable upon demand or, at Beneficiary's option, in the form of regular installments otherwise payable under such instrument or instruments.
  - c. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary or Trustee to foreclose this deed of trust.
  - d. To pay at least ten days before delinquency all taxes and assessments affecting the Property, including assessments of apportioned water stock, all encumbrances, charges and liens, any interest, on the property or any part thereof, which appear to be prior or superior hereto and all costs, fees and expenses of this deed of trust.
  - e. That should Trustor fail to make any payment or do any act as herein provided, then Beneficiary or Trustee, but without obligation as to do so without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may:
    - (1) Make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes.
    - (2) Appear in and defend any action or proceeding purporting to affect the security hereof or the rights or power of Beneficiary or Trustee.
    - (3) Pay, purchase, contract or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or to be superior hereto.
    - (4) In executing any such contract, pay necessary expenses, including counsel and pay his reasonable fees.
  - f. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from the date of expending at the highest rate of interest applicable to the indebtedness secured hereby (but not in excess of twenty-one percent (21%) per annum), or at the option of Beneficiary, such sums may be added to the principal balance of any indebtedness secured hereby and shall bear the highest rate of interest as any such indebtedness (but not in excess of twenty-one percent (21%) per annum).
  - g. To pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum amount by law at the time when said statement is demanded.

3. IT IS FURTHER AGREED THAT:

- a. Any award of damages in connection with any condemnation for public use of or injury to the Property or any part thereof is hereby assigned and shall be paid to the Beneficiary who may apply or release such monies received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.
- b. By accepting payment of any sum secured hereby after its due date, or after the filing of notice of sale and of election to sell, Beneficiary shall not waive his right to require prompt payment when due of all other sums so secured, or to declare default for failure so to pay, or to proceed with the sale under any such notice of sale and of election to sell, for any unpaid balance of said indebtedness. If Beneficiary holds any additional security for any obligation secured hereby, it may enforce the same through all its claims, either before, contemporaneously with, or after the sale is made hereunder, and as any default of Trustor or Obligor, Beneficiary may, at its option, offset against any indebtedness owing by it to Trustor or Obligor.

- c. Without affecting the liability of any person, including Trustor or Obligor, for the payment of any indebtedness secured hereby, or the lien of this deed of trust on the remainder of the Property for the full amount of any indebtedness unpaid, Beneficiary and Trustee are respectively empowered as follows:
- (1) Beneficiary may from time to time and without notice (a) release any person liable for the payment of any of the indebtedness, (b) extend the time or otherwise alter the terms of payment of any of the indebtedness, (c) accept additional security therefor of any kind, including deeds of trust or mortgages, (d) alter, substitute or release any of the Property securing the indebtedness.
  - (2) Trustee may, at any time, and from time to time, upon the written request of Beneficiary (a) consent to the making of any map or plat of the Property, (b) join in granting any easement or creating any restriction thereon, (c) join in any subordination or other agreement affecting this deed of trust or the lien or charge stated on, (d) reconvey without any warranty, all or any part of the Property.
- d. That upon written request of Beneficiary stating that all sums secured hereby have been paid, cancellation of any note, guarantee, Agreement or other writing evidencing the indebtedness secured hereby and performance of all obligations of the Trustor and Obligor hereunder and thereunder, and upon surrender of this deed of trust and said note, guarantee, Agreement or other evidence of indebtedness secured hereby to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the Property then held hereunder. The recital in such reconveyance of any nullity of facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto." Five years after issuance of such reconveyance, Trustee may destroy said note, guarantee, Agreement or other evidence of indebtedness and this deed of trust (unless retained in such request to retain them).
- e. Trustor hereby gives to and confers upon Beneficiary the right, power and authority during the continuance of this trust to collect the rents, issues and profits of the Property and of any personal property located thereon, and hereby absolutely and unconditionally assigns all such rents, issues and profits to Beneficiary, provided, however, that Beneficiary hereby consents to the collection and retention of such rents, issues and profits as they accrue and become payable only if Trustor or Obligor is not, at such times, in default with respect to payment of any indebtedness secured hereby or in the performance of any agreement hereunder. Under any such default, Beneficiary may at any time, without notice, either in person, its agent, or by a receiver to be appointed by a court, and without regard to the satisfaction of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, and in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of collection and collection including reasonable attorneys fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine; also perform such acts of repair, cultivation, irrigation or protection, as may be necessary or proper to conserve the value of the Property; also lease the same or any part thereof for such rental, term, and upon such conditions as its judgment may dictate; also prepare for harvest, remove and sell any crops that may be growing upon the premises, and apply the net proceeds thereof upon the indebtedness secured hereby. The entering upon and taking possession of the Property, the collection of such rents, issues and profits, and the application thereof as aforesaid, shall not waive or cure any default or notice of default or sale hereunder or invalidate any action pursuant to such action. Trustor also assigns to Trustee, as further security for the performance of the obligations secured hereby, all prepaid rents and all monies which may have been or may hereafter be deposited with said Trustor by any lessee of the premises herein described, to secure the payment of any rent, and upon default in the performance of any of the provisions hereof, Trustor agrees to deliver such rents and deposits to the Trustee. Upon appointment of a receiver, Trustor shall immediately deliver possession of all the Premises to such receiver. Neither the appointment of a receiver for the Premises by any court at the request of Beneficiary or by agreement with Trustee, nor the entering into possession of all or any part of the Premises by such receiver shall cause Beneficiary to be, or to be deemed or considered, or "deprived" its possession" or otherwise make Beneficiary responsible for or liable in any manner with respect to the Premises for the occupying, operating or use thereof. Beneficiary shall have the absolute and unconditional right to the appointment of a receiver in any independent and/or separate action brought by Beneficiary regardless of whether Beneficiary seeks any relief in such action other than the appointment of a receiver. In that respect, Trustor waives any express or implied requirement under common law or Arizona Revised Statutes ("A.R.S.") § 12-1241 that a receiver may be appointed only ancillary to other judicial or non-judicial relief.
- f. Upon default by Trustor or Obligor in the performance of any payment or other obligation secured hereby or in the performance of any agreement hereunder or if the Trustor shall sell, convey or alienate said property or any part thereof, or any interest therein, or shall be declared of his mind, or any interest therein, in any manner or way, whether voluntary or involuntary, any indebtedness or obligation secured hereby, irrespective of the maturity dates expressed in any note evidencing the same, at the option of the holder thereof, and without demand or notice, shall immediately become due and payable. If there is procured from Beneficiary an agreement or waiver resulting in the non-exercise by Beneficiary of such option in any certain instance or on any particular occasion, then in that event any privilege or option now in effect to pay said indebtedness or any part thereof prior to the date the same would be delinquent if not paid, is thereupon and thereby waived and terminated.
- g. No failure or delay by Beneficiary in exercising any right, power or privilege under law, the deed of trust or any other document relating to the indebtedness shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise of same right, power or privilege or any other right, power or privilege. All rights and remedies of Beneficiary under the deed of trust, the attached security documents securing

the indebtedness or any guaranty of the indebtedness, and any notes or other evidence of the indebtedness issued pursuant to any of the foregoing shall be cumulative and may be exercised singly or successively, and are not exclusive of any other right or remedy permitted by law or in equity. Beneficiary may exercise any notice before Trustee's sale by resending a notice of rescission and revoking the same. The acceleration of such notice shall constitute a cancellation of any prior declaration of default and demand for sale, and of any acceleration of maturity of indebtedness effected by any prior declaration or notice of sale. The exercise by Beneficiary of the right of rescission shall not constitute a waiver of any default then existing or subsequently occurring, nor impair the right of the Beneficiary to execute other declarations of default and demand for sale, or notices of sale and of election to cause the Property to be sold, nor otherwise affect the note or deed of trust, or any of the rights, obligations or remedies of the Beneficiary or Trustee hereunder.

- h. Upon the occurrence of a Trustor default, and at any time when such default is continuing, Beneficiary may, or may cause Trustee to, give such notice of default and of election to cause the Property to be sold as may be required by law or as may be necessary in cause Trustee to exercise the power of sale granted herein. Trustee shall then record and also mail notice of trustee's sale as then required by law and, after the expiration of such time as may be required by law, may sell the Property at the time and place specified in the notice of sale, as a whole or in separate parcels as directed by Beneficiary, or by Trustor to the extent required by law, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale, all in accordance with applicable law. Trustee, from time to time, may postpone or continue the sale of all or any portion of the Property by public declaration at the time and place last appointed for the sale. In such notice of the postponed sale shall be a quorum. Upon any sale, Trustee shall deliver to each conveyer the property sold, without any covenant or warranty, express or implied, to the purchaser or purchasers at the sale. The results in each deed of any matters or facts shall be conclusive as to the accuracy thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. After deducting all costs, fees and expenses of Trustee and of this trust, including costs of evidence of title in connection with the sale, the Trustee shall apply the proceeds of the sale to the payment of all sums then secured hereby, in such order and manner as may be required by the Beneficiary; the remainder, if any, to be paid to the person or persons legally entitled thereto. If Beneficiary shall elect to bring suit to foreclose this deed of trust in the manner and subject to the provisions, right and remedies relating to the foreclosure of a mortgage, Beneficiary shall be entitled to a reasonable sum to be fixed by the court an amount for fees and costs in the prosecution of foreclosure.
- i. In any judgment by Beneficiary to recover a deficiency judgment for any balance due under Trustor's obligation to Beneficiary upon the termination of this deed of trust as in any action increases its obligation or obligations secured hereby, and as a material inducement to Beneficiary's entering into the transaction related to this deed of trust, Trustor acknowledges and agrees that the successful bid amount made at any judicial or non-judicial foreclosure sale, if any, shall be conclusively deemed to constitute the fair market value of the Property, that such bid amount shall be binding against Trustor in any proceeding seeking to determine or ascertain the fair market value of the Property and that such bid amount shall be the preferred alternative means of determining and establishing the fair market value of the Property. Trustor hereby waives and relinquishes any right to issue the fair market value of the Property determined by a judge or jury in any action seeking a deficiency judgment on any action seeking satisfaction or obligations secured hereby, including, without limitation, a hearing to determine fair market value pursuant to A.R.S. § 12-156B, § 33-725, § 33-727 or § 38-814.
- j. Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without renunciation from the Trustee predecessor, succeed to all its title, estate, claim, powers and duties. Said instrument shall contain the name of the original Trustor, Trustee and Beneficiary hereunder, the location where this deed of trust is recorded and the name and address of the new Trustee.
- k. This deed of trust applies to, inure to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the note, guarantee, Agreement, or other evidence of indebtedness secured hereby, whether or not named as Beneficiary herein. In this deed of trust, whenever the context so requires, the masculine gender includes the feminine and/or the neuter, and the singular number includes the plural.
- l. Trustee excepts this Trust when this deed of trust, duly executed and acknowledged, is made public record as provided by law. Trustee is not obligated to notify any party herein of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless required by Trustor.
- m. Any Trustor or Obligor who is a married person expressly agrees that his or her community property and separate property shall be liable for any deficiency after the sale of the said property to the extent such Trustor or Obligor is personally obligated to pay the indebtedness secured hereby.
- n. If Trustor or any successor in interest to Trustor sells, transfers or encumbers any interest in the Property, whether voluntarily or involuntarily, or if a Beneficiary's interest in Trustee is sold or transferred, voluntarily or involuntarily and Trustor is not a natural person, the Transferor and the transferee shall each immediately give written notice of said transfer to the Beneficiary, at its address designated on the first page of this deed of trust.
- o. The pleading of any statute of limitations as a defense to any and all obligations so made by this deed of trust is hereby waived to the full extent permitted by law.

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- p. Trustor authorizes Beneficiary, without notice or demand and without affecting his liability under this deed of trust, from time to time, to:
- (1) Renew, extend, amend, decrease or increase the amount of the indebtedness, or otherwise change the time for payment of any of the indebtedness or any other term thereof;
  - (2) Renew, extend, amend, decrease, increase or otherwise modify any of the collateral security documents securing any of the indebtedness, and any notes and/or any other evidence of indebtedness in connection with any of the foregoing, including, without limitation, increase or decrease of the rate of interest thereon;
  - (3) Accept partial payments on the indebtedness;
  - (4) Substitute, withdraw, waive, decrease, increase, release, exchange or otherwise alter any collateral security, in whole or in part, securing the indebtedness or any guarantee of the indebtedness;
  - (5) Apply any and all such collateral security and direct the order or manner of sale thereof as Beneficiary in its sole discretion may determine;
  - (6) Release or subordinate any one or more of the guarantees of the indebtedness, and otherwise deal with Collateral, Transfer, or any other guarantee as Beneficiary may elect;
  - (7) Settle or release, either by agreement on terms satisfactory to Beneficiary or by operation of law or otherwise, compound, compromise, collect or otherwise liquidate any indebtedness and/or collateral security therefor in any manner; and/or consent to the transfer to any collateral security and bid and purchase at any sale; all without in any way diminishing, releasing or discharging the liability of the undersigned hereunder.
- q. Trustor waives: notice of acceptance of the deed of trust, any document evidencing or relating to the indebtedness; discharges and all demands, promises, notes, notices of payment, notices of nonpayment; notices of assignment and notice of the existence, assignment or incurring of any new or additional indebtedness.
- r. Upon default of Obligor or Trustor in payment of any indebtedness, Beneficiary may, at its option, and without notice to the undersigned, proceed directly against the property of the undersigned under the deed of trust to collect and recover full amount of the indebtedness, or any portion thereof, and Trustor waives any right to require Beneficiary to: (a) proceed against Obligor, Trustor or any guarantor; (b) proceed against or release any collateral security given to or held by Beneficiary in connection with the indebtedness; or (c) pursue any other remedy in Beneficiary's power whatsoever. Trustor further authorizes Beneficiary, without notice or demand and without affecting its liability of the undersigned hereunder, to foreclose by judicial or non-judicial sale any collateral security given to secure the indebtedness.
- s. Trustor waives any defense arising by reason of any disability or other defense of Obligor, Trustor or any guarantor or by reason of the cessation from any action of any kind against Obligor. Beneficiary's rights under the deed of trust shall be enforceable without regard to the validity, regularity or enforceability of the indebtedness or any document evidencing the same, any notes or other evidence of the indebtedness, any other guarantee of the indebtedness or any collateral security documents securing any of the indebtedness. Trustor specifically agrees that the failure of Beneficiary to perfect any lien or security interest in any property given by Obligor, Trustor or any guarantor to secure payment of the indebtedness, or the failure to record or file any document relating thereto, shall not terminate, diminish or otherwise affect Beneficiary's rights under these covenants.
- t. Trustor shall not have any right of subrogation to any of the rights of Beneficiary against Obligor, Trustor or any guarantor, and any action by Beneficiary which may affect any right of subrogation that the undersigned may have had shall not affect or be aided by the undersigned as a defense to any rights or obligation that the undersigned owes to Beneficiary. Trustor waives any right to enforce any remedy which Beneficiary now has or may hereafter have against Obligor, Trustor or any guarantor, and waives any benefit of, and any other right to participate in, any collateral security for the indebtedness now or hereafter held by Beneficiary.
- u. Trustor assumes the responsibility for keeping himself informed of the financial condition of Obligor, Trustor or any guarantor and of all third circumstances bearing upon the full or non-payment of the indebtedness. Beneficiary shall have no duty to advise the undersigned of information known to Beneficiary relating to such conditions or any such circumstances. Beneficiary has no duty to inquire into the powers of Obligor, Trustor, or any guarantor or the officers, directors or agents thereof acting or purporting to act in its behalf and/or their behalf.
- v. None of the terms or provisions hereof may be waived, altered, modified, or amended except by an instrument in writing, duly executed by the party to be charged thereby, and the rights, obligations and liabilities hereunder shall be governed by, and shall be construed and interpreted in accordance with the laws of the State of Arizona.
- w. To the extent not prohibited by law, the Trustor (or any of them) hereby grants to the Beneficiary a security interest under the Arizona Uniform Commercial Code in all deposit accounts and other property of the Trustor (or any of them) held by the Beneficiary, to secure all obligations of the Trustor or Obligor to the Beneficiary provided, however, that this security interest shall not secure any indebtedness which is or hereafter becomes "consumer credit" subject to the disclosure requirements of the Truth in Lending Act and Regulation Z promulgated thereunder, both as amended from time to time.
- x. Without obtaining the prior written consent of Beneficiary, Trustor shall not consent to, or vote in favor of, the inclusion of all or any part of the Premises in any Community Facilities District formed pursuant to the Community Facilities District Act, A.R.S. § 48-701, et seq., as amended from time to time. Trustor shall immediately give notice to Beneficiary of any notification or advice that Trustor may receive from any municipality or other third party of any intent or proposal to include all or any part of the Property in a Community Facilities District. Beneficiary shall have the right to file a written objection to the inclusion of all or any part of the Property in a Community Facilities District, either in its own name or in the name of Trustor, and appear at, and participate in any hearing with respect to the formation of such district.

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- y. If any provision of this deed of trust is deemed or determined to be unenforceable for any reason, the enforceability of the other provisions of this deed of trust shall not be thereby affected and all such other provisions of this deed of trust shall otherwise remain in full force and effect, unchanged.
4. WITH REGARD TO HAZARDOUS SUBSTANCES, TRUSTOR AGREES:
- As used in this section, the term "hazardous substance" means any substance which has characteristics of ignitability, corrosivity, toxicity, reactivity or radioactivity or has other characteristics which render the substance dangerous to health, safety or the environment if such substance is or becomes regulated by any federal, state or local law, regulation or ordinance. The term includes, without limitation, substances defined as "hazardous materials," "hazardous substances," "hazardous wastes," "hazardous substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Hazardous Materials Transportation Act 49 U.S.C. Section 1601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 9601, et seq., or in provisions of Arizona law, including but not limited to A.R.S. § 26-201, A.R.S. § 26-341, A.R.S. § 28-5201, A.R.S. § 32-1801 and A.R.S. § 49-921, and in the regulations adopted and publications promulgated pursuant to said laws.
  - As used in this section, the terms "disposal", "release" and "threatened release" shall have the definitions assigned to them in CERCLA.
  - Trustor represents and warrants that during the period of Trustor's ownership or leasehold interest in the property there has been no use, generation, manufacture, storage, disposal, release or threatened release of any hazardous substance by any person on, under or about the Property and that Trustor has no knowledge of any claim of any kind asserted or threatened to be asserted by any third party relating thereto except as previously disclosed to and acknowledged by Beneficiary in writing. Trustor further represents and warrants that Trustor has no knowledge of, or reason to believe that there has been, any use, generation, manufacture, storage, disposal, release or threatened release of any hazardous substance by any person on, under or about the Property before Trustor acquired an interest in the Property or any claim of any kind asserted or threatened to be asserted by any third party relating thereto except as previously disclosed to and acknowledged by Beneficiary in writing.
  - Trustor represents, warrants and agrees that neither he nor any agent, contractor, tenant or other authorized user of the Property shall use, generate, manufacture, store, dispose or release any hazardous substance on, under or about the Property except as is disclosed in and acknowledged by Beneficiary in writing and that any such activity shall be conducted in compliance with all applicable federal, state or local laws, regulations or ordinances, including, without limitation, the provisions of the federal, state and local laws, regulations, ordinances and publications described in the first paragraph of this section.
  - Trustor agrees to indemnify and hold Beneficiary and its successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, response costs, penalties and expenses, including, without limitation, all costs of litigation and attorneys' fees, which Beneficiary and its successors or assigns may directly or indirectly sustain or suffer as a consequence of any hazardous or health of any representation, warranty or agreement contained in this deed of trust, or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Trustor's ownership or interest in the Property whether or not the same was or should have been known to Trustor.
  - The provisions of this section shall not be affected by the acquisition by Beneficiary or its successors or assigns of any ownership or other interest in the Property beyond Beneficiary's security interest in the Property created under this deed of trust, whether or not such acquisition is pursuant to the foreclosure of this deed of trust or a merger of the interest of the Beneficiary or its successor and designs in the Property.
5. ADDITIONAL PROVISIONS:
- The execution of this deed of trust by any person who has no present interest in the Property shall not be deemed to indicate that such an interest presently exists. Rather, execution of this deed of trust by such a person shall constitute such person's agreement that if such person hereafter acquires an interest in the Property, such interest shall be subject to Beneficiary's interest hereunder.
  - The execution of this deed of trust by any person who has a present interest in the Property shall not in itself be deemed to indicate that such person is liable to Beneficiary for any obligation described in Section 1., above. Any person's liability of such person to Beneficiary shall be determined on an independent basis (such as execution of the document or documents evidencing the obligation described in Section 1., above). Execution of this deed of trust by any such person shall nevertheless indicate that such person's interest in the Property shall be subject to Beneficiary's interest hereunder.
6. TRUSTOR, BENEFICIARY AND TRUSTEE ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED UNDER CERTAIN CIRCUMSTANCES. TO THE EXTENT PERMITTED BY LAW, EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS DEED OF TRUST OR THE INDEBTEDNESS.

If a mailing address is set forth opposite any Trustor's signature hereto, and not otherwise, this undersigned Trustor shall be deemed to have requested that a copy of any notice of default, or of any notice of sale hereunder, be mailed to said Trustor at said address.

By signing below, Trustor Agrees to all the terms and the conditions of this Deed of Trust.

Signature of Trustor(s)

Boa Sorte Limited Partnership,  
an Arizona Limited Partnership

By: Boa Sorte, LLC,  
an Arizona Limited Liability Company,  
General Partner

By:   
\_\_\_\_\_  
Its: Wilford R. Cardon  
Manager

Rio Claro, Inc.,  
an Arizona Corporation

By:   
\_\_\_\_\_  
Its: Wilford R. Cardon  
President

Cardon Family, L.L.C.,  
an Arizona Limited Liability Company

By:   
\_\_\_\_\_  
Its: Wilford R. Cardon  
Manager

Mailing Address for Notices:  
1819 E. Southern Avenue, Suite B-10  
Mesa, Arizona 85204

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CERTIFICATE OF ACKNOWLEDGMENT

STATE OF Arizona }  
County of Maricopa } ss.

The foregoing instrument was acknowledged before me this 11th day of July, 2011  
by Wilford R. Cardon, as a Manager of Boe Sorte, LLC, an Arizona limited liability  
company, the general partner of Boe Sorte Limited Partnership, an Arizona limited partnership, on behalf  
of the limited partnership.

WITNESS my hand and official seal.

My commission expires:



Kathleen A. Howell  
NOTARY PUBLIC

STATE OF Arizona }  
County of Maricopa } ss.

The foregoing instrument was acknowledged before me this 11th day of July, 2011  
by Wilford R. Cardon, the President of Rio Cisro, Inc., an Arizona corporation, on behalf  
of the corporation.

WITNESS my hand and official seal.

My commission expires:



Kathleen A. Howell  
NOTARY PUBLIC

STATE OF Arizona }  
County of Maricopa } ss.

The foregoing instrument was acknowledged before me this 11th day of July, 2011  
by Wilford R. Cardon, as Manager of Cardon Family, L.L.C., an Arizona limited liability  
company, on behalf of the limited liability company.

WITNESS my hand and official seal.

My commission expires:



Kathleen A. Howell  
NOTARY PUBLIC

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EXECUTED BY Boa Sorte Limited Partnership, an Arizona Limited Partnership, Río Claro, Inc., an Arizona corporation and Cardon Family, L.L.C., an Arizona limited liability company AS TRUSTORS AND NAMING Comerica Bank AS TRUSTEE AND Comerica Bank AS BENEFICIARY (Beneficiary) (Deed of Trust) ON THE PROPERTY DESCRIBED IN THE DEED OF TRUST (Property), WHEN DESCRIPTION IS INCORPORATED HEREIN BY THIS REFERENCE. THIS RIDER IS INCORPORATED INTO AND SHALL BE DEEMED TO AMEND AND SUPPLEMENT THE DEED OF TRUST.

Trustor acknowledges that this Deed of Trust secures indebtedness of Bon Sorte Limited Partnership, an Arizona Limited Partnership and Rio Claro, Inc., an Arizona Corporation ("Borrower"), an entity other than Trustor. Trustor warrants that: (1) this Deed of Trust is executed at Borrower's request; (2) this Deed of Trust complies with any agreements between Trustor and Borrower regarding Trustor's execution hereof; (3) Trustor has not and will not, without prior written consent of Beneficiary, sell, lease, assign, encumber, hypothecate, transfer or otherwise dispose of the property ~~entirely interest free~~; (4) Beneficiary has made no representation to Trustor as to the ~~value~~ ~~worthlessness~~ of Borrower; and (5) Trustor has submitted adequate warrants of assignment from Borrower, ~~in a continuing basis~~ ~~to~~ ~~submit~~ ~~and~~ ~~other~~ ~~information~~ ~~pertaining~~ ~~to~~ ~~Borrower's~~ ~~financial~~ ~~condition~~. Trustor agrees to keep continuously informed from its independent sources, of any facts, events or circumstances which might in any way affect Trustor's title ~~interests~~ ~~and~~ ~~Trustor~~ ~~during~~ ~~agrees~~ ~~that~~ ~~Beneficiary~~ ~~shall~~ ~~have~~ ~~no~~ ~~obligation~~ ~~to~~ ~~disclose~~ ~~to~~ ~~Trustor~~ ~~information~~ ~~of~~ ~~materialization~~ ~~in~~ ~~the~~ ~~course~~ ~~of~~ ~~Beneficiary's~~ ~~relationship~~ ~~with~~ ~~Borrower~~.

Trunkor waives any right to require Beneficiary to: (1) proceed against any person, including Borrower or any guarantor; (2) proceed against, or exhaust any collateral held from, Borrower or any other person; (3) pursue any other remedy in Beneficiary's power; or (4) make any presentment, demand for performance, or give any notice of nonpayment, protest, notice of protest or notice of dishonor in connection with any obligation or evidence of indebtedness held by Beneficiary as security, in connection with any obligation or evidence of indebtedness that constitutes or relates to a part of the obligation secured by this Trust or Trusts, or in connection with the creation of new or additional obligations.

Trustor waives all rights which Trustor may have, under any requirement of law or equity, that Beneficiary exhaust any other security for the obligations secured hereby before proceeding under this Deed of Trust.

Trustor warrants and releases any and all rights of subrogation, reimbursement, tracing or contribution which it may now or hereafter have against (1) however, any guarantor or any person who now or hereafter has direct or contingent liability (whether by contract, at law or in equity) for all or any portion of the obligations secured hereby; or (2) against any property which now or hereafter becomes collateral security for the obligations secured hereby. If events do indeed arise under and release is unnecessary, Trustor hereby agrees that all such rights of subrogation, reimbursement, indemnity and contribution shall be junior and subordinate to the right of Beneficiary to obtain payment and performance of the obligations secured hereby and to all rights of Beneficiary in and to any property which now or hereafter comes as collateral security for such obligations.

WAIVER OF AUTHENTICATION OF VALIDITY OF ACTS OF CORPORATION, PARTNERSHIP OR TRUST

It is not necessary for Beneficiary to inquire into the power of Trustor or the officers, directors, partners or agents acting or purporting to act on behalf of Trustor, and all obligations made, created or accepted in reliance upon the professed exercise of such power shall be secured hereby.

REVIVAL OF DEED OF TRUST

If any payments of money or transfers of property made to Beneficiary, by Borrower, any guarantor, any maker or any endorser, should, for any reason, subsequently be declared to be, or in Beneficiary's counsel's good faith opinion be determined to be, fraudulent (within the meaning of any state or federal law relating to fraudulent conveyances), preferential or otherwise voidable as recoverable in whole or in part for any reason (hereinafter collectively called "Voidable Transfer") or any amount repaid or returned to Borrower or any guarantor together with all costs and expenses (including attorney's fees) of Beneficiary related thereto, the full and priority of this Deed of Trust shall automatically be revived, reinstated and renewed and shall exist as though such voidable transfer had never been made to Beneficiary. In the event Beneficiary shall have caused its interest herein to be reconveyed and subsequently be required or advised by counsel to restore or repay any such voidable transfer, the amount thereof, or any portion thereof, the undersigned shall remain liable, as provided herein, to the same extent as if this Deed of Trust had not been reconveyed to the undersigned.

UNDERSTANDING WITH RESPECT TO WAIVERS

Trustor warrants and agrees that each of the waivers set forth above are made with Trustor's full knowledge of their significance and consequences, with the understanding that events giving rise to any defense waived may diminish, destroy or otherwise adversely affect rights which Trustor otherwise may have against Borrower, Beneficiary or others, or against collateral, and that, under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any of the waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective to the maximum extent permitted by law.

Each Trustor acknowledges that it has read all of the provisions of this Suretyship Rider to Deed of Trust and each Trustor agrees to its terms.

TRUSTOR(S):

DATED: May 25, 2011

Boa Sorte Limited Partnership,  
an Arizona Limited Partnership

By: Boa Sorte, L.L.C.,  
an Arizona Limited Liability Company,  
General Partner

By:   
Wilford R. Cardon  
Its: Manager

Rio Claro, Inc.,  
an Arizona Corporation

By:   
Wilford R. Cardon  
Its: President

Cardon Family, L.L.C.,  
an Arizona Limited Liability Company

By:   
Wilford R. Cardon  
Its: Manager

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF Arizona )  
County of Maricopa ) ss.

The foregoing instrument was acknowledged before me this 11th day of July, 2011  
by Wilford R. Cardon, as a Manager of Boa Sorte, LLC, an Arizona limited liability company, the general partner of Boa  
Sorte Limited Partnership, an Arizona limited partnership, on behalf of the limited partnership.

WITNESS my hand and official seal.



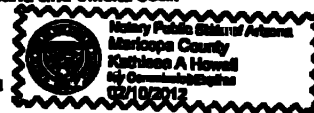
Kathleen A. Howell  
NOTARY PUBLIC

My commission expires:

STATE OF Arizona )  
County of Maricopa ) ss.

The foregoing instrument was acknowledged before me this 11th day of July, 2011  
by Wilford R. Cardon, the President of Rio Claro, Inc., an Arizona corporation, on behalf of the corporation.

WITNESS my hand and official seal.



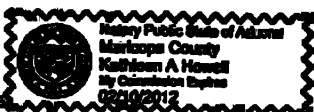
Kathleen A. Howell  
NOTARY PUBLIC

My commission expires:

STATE OF Arizona )  
County of Maricopa ) ss.

The foregoing instrument was acknowledged before me this 11th day of July, 2011  
by Wilford R. Cardon, as Manager of Cardon Family, L.L.C., an Arizona limited liability company, on behalf of the limited  
liability company.

WITNESS my hand and official seal.



Kathleen A. Howell  
NOTARY PUBLIC

My commission expires:

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**Exhibit B**  
**Legal Description**

All that certain real property situate in the City of Mesa, County of Maricopa, State of Arizona described as follows:

Lot 8, LOS ESTADOS, according to Book 410 of Maps, Page 18, records of Maricopa County, Arizona.

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