

Prepared by and return to:
David T. Wolf, Esq.
David T. Wolf, P.C.
900 Circle 75 Parkway
Suite 700
Atlanta, Georgia 30339
(770) 952-8008

IN RE: DEED OF TRUST, SECURITY AGREEMENT, FIXTURE FILING, ASSIGNMENT OF LEASES AND RENTS AND FINANCING STATEMENT DATED APRIL 24, 2001 FROM WENSTAR PROPERTIES, L.P. AND WENDELTA PARTNERS, L.P IN FAVOR OF BANK OF AMERICA, N.A., AS AGENT, AND RECORDED IN THE OFFICE OF THE CHANCERY CLERK OF DESOTO COUNTY, MISSISSIPPI IN BOOK 1319, PAGE 312.

THIRD AMENDMENT TO DEED OF TRUST, SECURITY AGREEMENT, FIXTURE FILING, ASSIGNMENT OF LEASES AND RENTS AND FINANCING STATEMENT

THIS THIRD AMENDMENT TO DEED OF TRUST, SECURITY AGREEMENT, FIXTURE FILING, ASSIGNMENT OF LEASES AND RENTS AND FINANCING STATEMENT (the "Amendment") is made and entered into effective as of this 24th day of November, 2004, by and among **WENSTAR PROPERTIES, L.P.**, a Mississippi limited partnership, **WENDELTA PARTNERS, L.P.**, a Mississippi limited partnership, the grantors hereunder (collectively the "Grantor") and **BANK OF AMERICA, N.A.**, a national banking association, acting in its capacity as Agent for the Secured Creditors (as defined in the Deed of Trust described herein) under the Credit Agreement (as described below), the beneficiary hereunder (the "Beneficiary"). Capitalized terms used but not otherwise defined in this Amendment have the meanings given them in the Credit Agreement (as herein defined) or the Deed of Trust (as herein defined).

WITNESSETH:

WHEREAS, the Grantor, Wenstar, Inc., a Mississippi corporation, ("Wenstar"), Wendelta, Inc., a Mississippi corporation ("Wendelta") (collectively, the "Borrowers"), the

Agent and the Lenders party thereto entered into that certain Credit Agreement dated as of April 26, 2001 (as amended by Amendment No. 1 dated December 6, 2002, and as further amended from time to time prior to the date hereof, the "Existing Credit Agreement"), pursuant to which such lenders agreed to provide the Borrowers with a term loan and a revolving line of credit, including a swingline subfacility, not to exceed in the aggregate principal amount outstanding at any one time of \$70,000,000;

WHEREAS, the Obligations of the Borrowers under the Existing Credit Agreement are secured, in part, by that certain Deed of Trust, Security Agreement, Fixture Filing, Assignment of Leases and Rents and Financing Statement dated as of April 24, 2001, and recorded in the Office of the Chancery Clerk of DeSoto County, Mississippi in Book 1319, Page 312, as modified by that certain First Amendment to Deed of Trust, Security Agreement, Fixture Filing, Assignment of Leases and Rents and Financing Statement dated as of December 9, 2002, and recorded in Book 1625, Page 341, as further modified by that certain Second Amendment to Deed of Trust, Security Agreement, Fixture Filing, Assignment of Leases and Rents and Financing Statement dated as of April 29, 2003, and recorded in Book 1714, Page 706 of the aforesaid Chancery Clerk's Office (as so amended, the "Original Deed of Trust") encumbering the Mortgaged Property as defined therein;

WHEREAS, on February 11, 2002, Wenstar was merged into Wendelta, with Wendelta as the surviving corporation;

WHEREAS, the Borrowers, the Beneficiary and the Lenders party thereto have amended and restated the Existing Credit Agreement in that certain Amended and Restated Credit Agreement of even date herewith (the "Amended and Restated Credit Agreement") in order to, among other things, (a) extend the maturity date of the Loans, (b) increase the maximum aggregate principal amount of the Loans outstanding at any one time to \$75,000,000, and (c) make certain other amendments to the Existing Credit Agreement as set forth therein (the Existing Credit Agreement, as amended and restated by the Amended and Restated Credit Agreement and as the Amended and Restated Credit Agreement may hereafter be amended, modified, extended, renewed, supplemented and/or amended and restated, the "Credit Agreement");

WHEREAS, as a condition to the effectiveness of the amendments set forth in the Credit Agreement, the parties are mutually desirous of amending and modifying the terms of the Original Deed of Trust to reflect such increase and amendments as hereinafter provided;

NOW, THEREFORE, for and in consideration of the foregoing recitals, the mutual covenants and agreements contained herein, and the sum of \$1.00 in hand paid, the receipt of which hereby is acknowledged, Grantor and Beneficiary hereby covenant and agree as follows:

1.

Grantor and Beneficiary approve the foregoing recitations and agree that said recitations are true and correct in all respects.

2.

Article I, Section 1.1 of the Original Deed of Trust is hereby amended as follows:

- (a) The defined term "Borrowers" is hereby amended and restated as follows:

Borrowers: Grantor and Wendelta, Inc., a Mississippi corporation, each having its principal place of business in Tennessee, and each of their successors and assigns, in its/their capacity as Borrower under the Credit Agreement. Wenstar, Inc., a Mississippi corporation, one of the initial Borrowers, merged with and into Wendelta on February 11, 2002.

- (b) The defined term "Credit Agreement" is hereby amended and restated as follows:

Credit Agreement: The Amended and Restated Credit Agreement dated as of November 24, 2004, by and among the Borrowers, the Lenders and the Agent (which is an amendment and restatement of the Credit Agreement dated as of April 26, 2001, among the Borrowers, Wenstar, Inc., the Lenders, and the Agent), which agreement is incorporated by reference in this Deed of Trust and which provides for the making of term loans and revolving credit loans (as the same may be amended, modified, extended, renewed, restated, supplemented, or amended and restated from time to time), provided, however, that references herein to sections or provisions of, schedules or exhibits to, or capitalized terms or phrases contained in the Credit Agreement shall have the respective meanings defined or provided in the Amended and Restated Credit Agreement as it exists on the date hereof, and as it may be amended, modified, extended, renewed, restated, supplemented or amended and restated from time to time.

- (c) The defined term "Equipment" is hereby amended to change the phrase "Section 109(2) of the UCC" on the second line of such definition to "Section 9-102 of the UCC".

- (d) The defined term "Secured Indebtedness" is hereby amended and restated as follows:

Secured Indebtedness: (a) The principal, interest, premium (if any) and other sums owing or payable by the Borrowers or any one of them pursuant to the Loan Documents, which includes past advances, present advances, future advances and re-advances to be incurred within the terms specified in the Credit Agreement, including without limitation, indebtedness to the Lenders under the Credit Agreement in the aggregate principal amount outstanding at any one time of Seventy-Five Million Dollars (\$75,000,000) evidenced by the Notes and the Credit Agreement; (b) any and all additional advances made by Beneficiary to protect or preserve the Mortgaged Property (as defined above) or the security title, security interest and lien hereof on the Mortgaged Property or to repair or maintain the Mortgaged Property, or to complete improvements on the Mortgaged Property (whether or not Grantor remains the owner of the Mortgaged Property at

the time of such advances and whether or not the Beneficiary or the Lenders remain the owner of the Obligations and this Deed of Trust) in accordance with the provisions hereof; and (c) any and all expenses incident to effecting the collection, performance and/or satisfaction of the Obligations secured hereby and the foreclosure hereof by action in court or by exercise of the power of sale herein contained. The Credit Agreement provides that the interest rate and payment terms of the indebtedness may be adjusted as provided therein.

3.

“Any reference to Section 2.3(b) of the Original Deed of Trust on any amendment thereto is hereby deleted”

4.

The address of the Beneficiary set forth in the introductory paragraph on page 2 of the Original Deed of Trust and the address immediately following the last notary block of the Original Deed of Trust are each hereby amended to be “Bank of America, N.A., 231 South LaSalle Street, IL1-231-08-30, Chicago, Illinois 60604, Attention: Agency Management Middle Market.” The address of the Grantor set forth in the introductory paragraph on page 2 of the Original Deed of Trust is hereby amended to be “100 Peabody Place, Suite 1100, Memphis, Tennessee 38103, Attention: Louis C. Jehl, Jr.”

5.

Section 4.6(a) of the Original Deed of Trust is hereby amended to change the address of the Beneficiary set forth at the end of Section 4.6(a) as follows:

Bank of America, N.A.
231 South LaSalle Street
IL1-231-08-30
Chicago, Illinois 60604
Attention: Agency Management Middle Market

6.

Subsections (1) through (4) of Section 8.1 of the Original Deed of Trust are hereby amended and restated by the following subsections (1) through (7) as follows:

- (1) Name and Address of Debtor: the name and address of the Grantor as set forth on the first full page hereof.
- (2) Name and Address of Secured Party: the name and address of the Beneficiary, as set forth on the first full page hereof.
- (3) Type of organization of Debtor: as set forth on the first full page hereof.

- (4) Organizational identification number of Debtor:
As to Wenstar Properties, L.P. - 673302
As to Wendelta Partners, L.P. - 613588
- (5) Description of the types (or items) of property covered by this financing statement: as set forth in Section 1.1 and this Section 8.1.
- (6) Description of real estate to which collateral is attached or upon which it is located: as set forth on Exhibit "A".
- (7) The record owner of the real estate to which the collateral is attached or upon which it is located is Grantor.

7.

Sections 10.5(a) and (b) of the Original Deed of Trust are hereby amended and restated in their entirety as follows:

- (a) if to the Grantor:

Wendelta, Inc.
100 Peabody Place
Suite 1100
Memphis, Tennessee 38103
Attention: Louis C. Jehl, Jr.
Telephone: (901) 526-5000
Telefacsimile: (901) 271-2564

with a copy to:

Krivcher Magids, PLC
5100 Poplar Avenue
Suite 2902
Memphis, Tennessee 38137
Attention: L. Don Campbell, Jr.
Telephone: (901) 682-6431
Telefacsimile: (901) 682-6453

(b) if to the Beneficiary:

Bank of America, N.A.
231 South LaSalle Street
IL1-231-08-30
Chicago, Illinois 60604
Attention: Agency Management Middle Market
Telephone: (312) 828-3935
Telefacsimile: (312) 206-8427

with a copy to:

Bank of America, N.A.
Restaurant Finance Group
600 Peachtree Street, N.E.
GA1-006-13-20
Atlanta, Georgia 30308-2214
Attention: John Huss
Telephone: (404) 607-5821
Telefacsimile: (404) 607-4075

and to:

Helms Mulliss & Wicker, PLLC
201 North Tryon Street
Charlotte, North Carolina 28202
Attention: Manley W. Roberts, Esq.
Telephone: (704) 343-2000
Telefacsimile: (704) 343-2300

with a copy to:

David T. Wolf, P.C.
900 Circle 75 Parkway
Suite 700
Atlanta, Georgia 30339
Attention: David T. Wolf
Telephone: (770) 952-8008
Telefacsimile: (770) 952-0490

8.

Article X of the Original Deed of Trust is hereby amended to add two new Sections 10.26 and 10.27 at the end of Article X as follows:

10.26 Replacement of Notes: Any one or more of the financial institutions which are or become a party to the Credit Agreement as Lenders may from time to time be replaced and, accordingly, one or more of the Notes may from time to time be replaced, in accordance with the Credit Agreement. As the indebtedness secured by this Deed of Trust shall remain the same, such replacement of the Notes shall not be construed as a novation and shall not affect, diminish or abrogate Grantor's liability under this Deed of Trust or the priority of this Deed of Trust.

10.27 Related Swap Contracts: All obligations of any Credit Party under or in respect of Swap Agreements (which are not prohibited under the terms of the Credit Agreement) to which any Lender or any Affiliate of any Lender is a party, shall be deemed to be Obligations secured hereby, and each Lender or Affiliate of a Lender party to any such Swap Agreements shall be deemed to be a Secured Creditor hereunder with respect to such Obligations; provided, however, that such obligations shall cease to be Obligations at such time, prior to the Facility Termination Date, as such Person (or Affiliate of such Person) shall cease to be a "Lender" under the Credit Agreement.

No Person who obtains the benefit of any Lien by virtue of the provisions of this Section shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Mortgaged Property (including the release or impairment of any Mortgaged Property) other than in its capacity as Lender and only to the extent expressly provided in the Loan Documents. Each Secured Creditor not a party to the Credit Agreement who obtains the benefit of this Deed of Trust by virtue of the provisions of this Section shall be deemed to have acknowledged and accepted the appointment of the Beneficiary to the terms of the Credit Agreement, and that with respect to the actions and omissions of the Beneficiary hereunder or otherwise relating hereto that do or may affect such Secured Creditor, the Beneficiary and each Agent-Related Person shall be entitled to all the rights, benefits and immunities conferred under Article XI of the Credit Agreement.

9.

(a) All references to the "Credit Agreement" in the Original Deed of Trust shall hereinafter be to the Credit Agreement as redefined in Section 2(b) above.

(b) All references to the "Deed of Trust" herein shall hereinafter be to the Original Deed of Trust as previously modified and as modified by this Amendment and as further amended, modified, renewed or replaced from time to time. All references to the "Leasehold Mortgages" in the Credit Agreement shall hereinafter include the Deed of Trust, as further amended, modified, renewed or replaced from time to time.

10.

(a) Grantor acknowledges that Grantor has no set off, counterclaim, or other defense to the rights of Beneficiary under the Deed of Trust, and Grantor hereby ratifies and affirms the Deed of Trust and its obligations thereunder. Grantor further acknowledges that there has been no default or event of default under the Deed of Trust that has not been cured and there has been

no occurrence which with the lapse of time would constitute a default or event of default under the Deed of Trust.

(b) The Grantor acknowledges that the lien of the Deed of Trust secures the Obligations as defined in the Deed of Trust.

(c) The Grantor authorizes the Beneficiary to file one or more financing statements, without the signature of Grantor, covering the Collateral.

(d) The Grantor and the Beneficiary acknowledge and agree that (i) the amendment and restatement of the Existing Credit Agreement by the Amended and Restated Credit Agreement does not constitute a novation of the Existing Credit Agreement or the indebtedness described therein; (ii) the issuance of new Notes in replacement of, and in substitution for, the promissory notes previously delivered pursuant to the Existing Credit Agreement shall not be construed as a novation and shall not affect, diminish or abrogate Grantor's liability under the Deed of Trust or the priority of the Deed of Trust; and (iii) the amendments and modifications to the Original Deed of Trust set forth in this Amendment do not constitute a novation.

(e) Except as specifically amended, extended or modified herein, all other covenants, terms and conditions of the Deed of Trust shall remain in full force and effect, and the Grantor hereby acknowledges and confirms its obligations thereunder.

(f) This Agreement shall bind and inure to the benefit of the parties hereto, and their successors and assigns.

(g) The Grantor agrees that nothing herein contained shall impair the security now held or the said Obligations, nor shall anything contained herein waive, annul, vary or affect any provision, condition, covenant or agreement contained in the Deed of Trust except as amended hereby, or affect or impair any rights, power or remedies under the Obligations, the Deed of Trust, or any of the other Loan Documents. Grantor further agrees that the Beneficiary reserves all rights and remedies it may have as against all parties liable for repayment of the indebtedness set forth above evidenced by the Obligations.

(h) This Amendment may be executed in separate counterparts by the parties hereto and all of which will constitute collectively one executed Amendment.

[SIGNATURES TO FOLLOW ON PAGE 9]

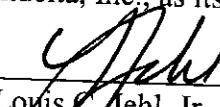
IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the dates below their respective signatures and effective as of the day and year first above written.

GRANTOR:

WENSTAR PROPERTIES, L.P.
By: Wendelta, Inc., as its General Partner

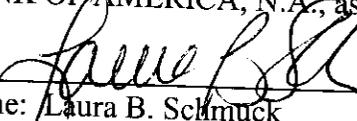
By: 
Name: Louis C. Jehl, Jr.
Title: Vice President
Date: November 23, 2004

WENDELTA PARTNERS, L.P.
By: Wendelta, Inc., as its General Partner

By: 
Name: Louis C. Jehl, Jr.
Title: Vice President
Date: November 23, 2004

BENEFICIARY:

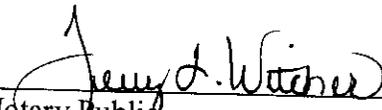
BANK OF AMERICA, N.A., as Agent

By: 
Name: Laura B. Schmuck
Title: Assistant Vice President
Date: November 19, 2004

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

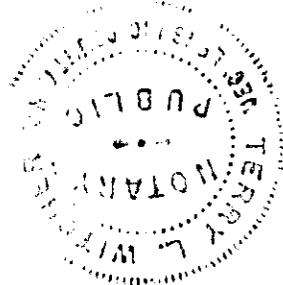
PERSONALLY appeared before me the undersigned authority in and for said County and State, on this 23rd day of November, 2004, within my jurisdiction, the within named Louis C. Jehl, Jr. who acknowledges that he is the Vice President of Wendelta, Inc., the General Partner of WENSTAR PROPERTIES, L.P. a Mississippi limited partnership, and for and on behalf of said corporation as General Partner of said limited partnership, and as the act and deed of said corporation as General Partner of said limited partnership, and for and on behalf of said limited partnership and as the act and deed of said limited partnership he executed the above and foregoing instrument, after first having been duly authorized by said corporation and limited partnership so to do.


Notary Public

My Commission Expires:

September 1, 2009

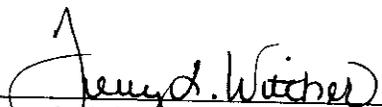
[AFFIX NOTARIAL SEAL]



STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

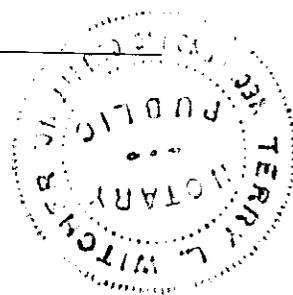
PERSONALLY appeared before me the undersigned authority in and for said County and State, on this 23rd day of November, 2004, within my jurisdiction, the within named Louis C. Jehl, Jr. who acknowledges that he is the Vice President of Wendelta, Inc., the General Partner of WENDELTA PARTNERS, L.P. a Mississippi limited partnership, and for and on behalf of said corporation as General Partner of said limited partnership, and as the act and deed of said corporation as General Partner of said limited partnership, and for and on behalf of said limited partnership and as the act and deed of said limited partnership he executed the above and foregoing instrument, after first having been duly authorized by said corporation and limited partnership so to do.


Notary Public

My Commission Expires:

September 1, 2009

[AFFIX NOTARIAL SEAL]



STATE OF ILLINOIS

COUNTY OF COOK

PERSONALLY appeared before me, the undersigned authority in and for the said county and state, on this 4 day of November, 2004, within my jurisdiction, the within named Laura B. Schmuck, who acknowledged to me that she is Assistant Vice President of Bank of America, N.A., a national banking association, and that for and on behalf of said national banking association in its capacity as Agent, and as its act and deed as Agent, he executed the above and foregoing instrument, after first having been duly authorized by said national banking association to do so.

Maria Paggao
Notary Public

My Commission Expires:

2/1/05

[AFFIX NOTARIAL SEAL]

