

Filed at Request of:

JASON W. LEE, Esq.
POLSINELLI SHALTON WELTE SUELTHAUS PC
700 W. 47th Street, Suite 1000
Kansas City, Missouri 64112



200409300144
Skagit County Auditor

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DOCUMENT TITLE	SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT
REFERENCE NO. OF DOCUMENTS ASSIGNED/ RELEASED	200409300089
GRANTOR	Northwest Restaurants, Inc.
GRANTEE	Bridger Commercial Funding, LLC
LEGAL DESCRIPTION	Lots 1-8 Block 46, Except the South 21 feet of Lots 1-5 Block 46
ASSESSOR'S PARCEL NO.	P55158

113082-PA

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT, made and entered into as of September 28, 2004, by and between NORTHWEST RESTAURANTS, INC., a Washington corporation ("**Tenant**") and BRIDGER COMMERCIAL FUNDING LLC, a Missouri limited liability company ("**Lender**").

A. Lender has agreed to make a mortgage loan ("**Loan**") in the amount of \$2,150,000.00 to be secured by a deed of trust or mortgage ("**Deed of Trust**") on the real property legally described in **Exhibit A** attached hereto and the improvements thereon the ("**Project**"), which property is owned by the landlord under the "**Lease**" (as defined below in Recital "B") ("**Owner**"); *Recorded 9/30/03 Auditors # 200409300089

B. Tenant is the present lessee under a lease dated December 7, 1998 made by Owner, as landlord, demising a portion of the Project and other property (said lease and all amendments thereto being referred to as the "**Lease**");

C. The Loan terms require that Tenant subordinate the Lease and its interest in the Project in all respects to the lien of the Deed of Trust and that Tenant attorn to Lender; and

D. In return, Lender is agreeable to not disturbing Tenant's possession of the portion of the Premises covered by the Lease ("**Demised Premises**"), so long as Tenant is not in default under the Lease.

NOW, THEREFORE, the parties hereby agree as follows:

1. **Subordination.** The Lease, and the rights of Tenant in, to and under the Lease and the Demised Premises, are hereby subjected and subordinated to the lien of the Deed of Trust, it being understood and agreed that the foregoing subordination shall apply to any and all increases, renewals, modifications, extensions, substitutions, replacements and/or consolidations of the Deed of Trust, provided that any and all such increases, renewals,

modifications, extensions, substitutions, replacements and/or consolidations shall nevertheless be subject to the terms of this Agreement.

2. Tenant Not to Be Disturbed. So long as Tenant is not in default in the payment of rent or of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed (beyond any period given Tenant in the Lease to cure such default) and Tenant attorns to Lender as provided herein, (a) Tenant's possession of the Demised Premises shall not be diminished or interfered with by Lender, and (b) Lender will not join Tenant as a party defendant in any action or proceeding foreclosing the Deed of Trust unless such joinder is necessary to foreclose the Deed of Trust and then only for such purpose and not for the purpose of terminating the Lease.

3. Tenant to Attorn To Lender. If Lender shall become the owner of the Premises or the Premises shall be sold by reason of foreclosure or other proceedings brought to enforce the Deed of Trust or the Premises shall be transferred by deed in lieu of foreclosure, the Lease shall continue in full force and effect as a direct Lease between the then owner of the Premises, who shall succeed to the rights and duties of Owner and Tenant. Tenant shall attorn to Lender or any other such owner as its landlord, said attornment to be effective and self-operative without the execution of any further instruments. Tenant hereby waives the provisions of any statute or rule of law, now or hereafter in effect, which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect the Lease and the obligations of Tenant thereunder as a result of any such foreclosure or deed-in-lieu of foreclosure.

4. Notice of Discharge. Owner shall give notice to Tenant of the reconveyance or other release of the Deed of Trust within 30 days of the date the reconveyance or other release is recorded.

5. Limitations. Lender (and any successor or assign of Lender) shall not be (i) liable for any act or omission of Lessor or any predecessor-in-interest for which Lender has not received notice and opportunity to cure pursuant to Section 6 below, (ii) subject to any offsets, counterclaims or defenses which Tenant may have against Lessor or any predecessor-in-interest, except for any offsets or defenses that may continue (provided Lender has received notice and opportunity to cure pursuant to Section 6 below) or that may arise during Lender's ownership of the Demised Premises, (iii) liable for any security deposit or payment of rent (for more than one (1) month in advance of the date due under the Lease) made by Tenant to Lessor or predecessor-in-interest, except to the extent actually received by Lender or (iv) obligated to expand the Project, construct additional improvements or otherwise expend funds which are capital in nature except for items or ordinary maintenance and repair. Notwithstanding any term of the Lease, upon foreclosure of the Deed of Trust, or acceptance of a deed in lieu thereof or other similar transfer, any environmental/hazardous materials indemnity and/or reimbursement provisions under the Lease shall not be applicable to, or enforceable against, Lender, any successor in interest to or assigns of Lender and/or any purchaser at foreclosure and any transferee thereof. If Lender shall become the owner of the Project or the Project shall be sold by reason of foreclosure or other proceedings brought to enforce the Deed of Trust or the Project shall be conveyed by deed-in-lieu of foreclosure, Tenant agrees that, notwithstanding anything to the contrary contained in the Lease, after such foreclosure sale or conveyance by deed-in-lieu of foreclosure, Lender shall have no personal liability to tenant under the Lease and Tenant shall look solely to the estate and property of the landlord in the Project, to the net proceeds of sale thereof or the rentals received therefrom, for the satisfaction of Tenant's remedies for the collection of a judgment or other judicial process requiring the payment of money by the landlord in the event



landlord with respect to any of the terms, covenants, and conditions of the Lease to be observed or performed by the landlord and any other obligation of the landlord created by or under this Lease, and no other property or assets of the landlord or of its partners, officers, beneficiaries, co-tenants, shareholders, or principals (as the case may be) shall be subject to levy, execution or other enforcement procedures for the satisfaction of Tenant's remedies. The term "**landlord**" as used herein shall be limited to mean and include only the owner or owners at the time in question of the landlord's interest in the Lease, which term shall include Lender in the event Lender acquires title to the Project. Further, in the event of any transfer by Lender of the landlord's interest in this Lease, Lender (and in the case of any subsequent transfers or conveyances, the then assignor), including each of its partners, officers, beneficiaries, co-tenants, shareholders or principals (as the case may be) shall be automatically freed and released, from and after the date of such transfer or conveyance, of all liability for the performance of any covenants and agreements which accrue subsequent to the date of such transfer of Lender's interest.

6. Notice And Cure Rights. Tenant agrees with Lender that from and after the date hereof, Tenant will not terminate or seek to terminate the Lease by reason of any act or omission of the lessor thereunder or for any other reason until Tenant shall have given written notice, by registered or certified mail, return receipt requested, of said act or omission to Lender, which notice shall be addressed to BRIDGER COMMERCIAL FUNDING LLC, 100 Shoreline Highway, Suite 100B, Mill Valley, CA 94941; and until a period of time equal to the greater of: (a) the time allowed Tenant under the Lease, or (b) thirty (30) days, shall have elapsed following the giving of such notice, during which period Lender shall have the right, but not be obligated, to remedy such act, omission or other matter.

7. Miscellaneous. This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon and shall inure to the benefit of the parties hereto and their representatives, successors and assigns. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto or their respective successors in interest. The term "**Lender**" as used throughout this Agreement includes any successor or assign of Lender and any holder(s) of any interest in the indebtedness secured by the Deed of Trust. This Agreement and the rights and duties of the parties hereunder shall be governed for all purposes by the law of the State of Washington and the law of the United States applicable to transactions within such state. This Agreement may be executed in multiple counterparts, and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be one and the same instrument with the same signature as if all parties to this Agreement had signed the same signature page.

8. Tenant Certifications. Tenant certifies to Lender, to Tenant's best knowledge, that:

8.1 (a) The Lease is unmodified except by Addendum to Lease dated July 29, 1999, and as modified is in full force and effect; (b.) no rent under the Lease as modified has been paid more than thirty (30) days in advance of its due date and no security or deposits as security has been made thereunder; (c.) there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord under the Lease, as modified; (d.) the commencement date for the payment of rents was October 31, 1999, and the term of the Lease terminates on October 31, 2019; (d.) the Tenant has one option to extend the term of the Lease pursuant to Section 2.4 of the Lease; (e.) Tenant has the first right of refusal for the purchase of the property.



Premises pursuant to Section 7 of the Addendum to Lease dated July 26, 1999; (f.) the current base fixed rent pursuant to the Addendum of Lease dated July 26, 1999, is \$5,666.66 and the next fixed rent adjustment to \$6,233.33 is set to occur with the rent payment due November 1, 2004.

8.2 (a) The term of the Lease commenced on October 31, 1999, and the term of the Lease terminates on October 31, 2019, (b) the Lease contains the following option(s) to extend the Lease term: one option to extend the term of the Lease for a period and at a rental rate agreeable to Owner and Tenant pursuant to Section 2.4 of the Lease, (c) the Lease contains the following option(s) to purchase all or any portion of the Demised Premises: Tenant has a right of first refusal for the purchase of the Demised Premises pursuant to Section 7 of the Addendum to Lease dated July 26, 1999, and (d) the square footage of the Demised Premises is 24,000.

8.3 (a) The Demised Premises consists of 24,000 square feet of net leasable space, (b) base fixed rent is currently \$5,666.66 per month, (c) the monthly property tax charges currently are \$721.17, and (d) the next increase in the fixed rent payment is set to occur on November 1, 2009.

8.4 (a) Tenant agrees not to subordinate the Lease to any second mortgage or deed of trust without Lender's consent, and (b) Tenant has not received notice of any assignment, hypothecation, mortgage, or pledge of Owner's interest in the Lease or the rents or other amounts payable thereunder.

[Signatures continued on the following page.]



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IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above written.

LENDER:

BRIDGER COMMERCIAL FUNDING LLC,
a Missouri limited liability company

By: Name: JAMES G. SMITHTitle: SVP**TENANT:**

NORTHWEST RESTAURANTS, INC.,
A Washington corporation

By: Name: BRETT C. SIBERTTitle: VICE PRESIDENT

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IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above written.

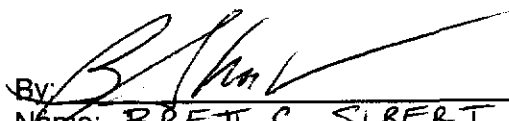
LENDER:

BRIDGER COMMERCIAL FUNDING LLC,
a Missouri limited liability company

By: _____
Name: _____
Title: _____

TENANT:

NORTHWEST RESTAURANTS, INC.,
A Washington corporation

By: 
Name: BRETT C. SIBERT
Title: VICE PRESIDENT



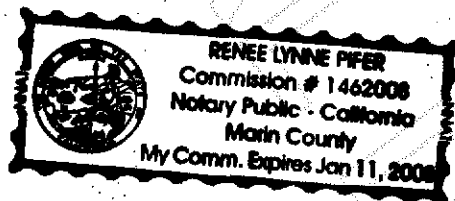
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STATE OF CALIFORNIA)
COUNTY OF MARIN)
CITY OF MILL VALLEY)

On SEPT 29th 2004 before me, the undersigned, a Notary Public in and for said State, personally appeared JAMES G. SMITH personally known to me, to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Renee L. Pifer
Signature of Notary



CAPACITY CLAIMED BY
SIGNER:

Corporate Officer:

SVP

Title

SIGNER IS
REPRESENTING:
Name of entity:

Bridger Commercial
Funding LLC, a Missouri
limited liability company



STATE OF WASHINGTON)

COUNTY OF King)

ss.

THIS IS TO CERTIFY that on 9/28/04, before me, a Notary public in and for the State of Washington, duly commissioned and sworn, came Brett C. Sibers, personally known or having presented satisfactory evidence to be the Vice President of Northwest Restaurants, Inc., the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument on behalf of said corporation.

WITNESS MY HAND and official seal the day and year in this certificate first above written.

Print Name:

ROBERT A. MILTON

Notary Public in and for the State of Washington, residing at

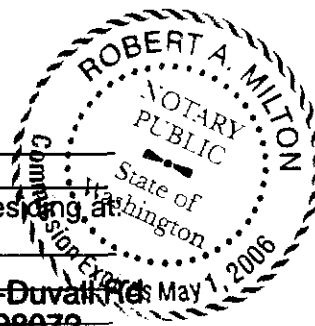
POSTNET

My Commission Expires:

14136 NE Woodinville-Duvall Rd

Woodinville, WA 98072

5-1-06



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EXHIBIT A

THE LAND REFERRED TO IS IN SKAGIT COUNTY, WASHINGTON, AND IS DESCRIBED AS FOLLOWS:

Lots 1 through 8 inclusive, in Block 46, Map of the City of Anacortes as recorded in Volume 2 of plats, pages 4 through 7, records of Skagit County Washington. Less the South 21 feet of Lots 1 through 5 thereof, in Block 46, of said Map of the City of Anacortes. Subject to any and all easements and restrictions of record.



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