



201212200064
Skagit County Auditor

12/20/2012 Page 1 of 9 1:30PM

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ASSIGNMENT OF LESSEE'S INTEREST IN LEASE

Assignor: NORTHWEST RESTAURANTS, INC.

Assignee: BANK OF AMERICA, NA., as Administrative Agent

Reference NO.: 201212130137

2003 Riverside Drive
Mt Vernon, WA
Store No. E080-009 (f/k/a No. 63)

ASSIGNMENT OF LESSEE'S INTEREST IN LEASE

THIS ASSIGNMENT OF LESSEE'S INTEREST IN LEASE (the "Assignment") is made as of this 19th day of December, 2012 by **NORTHWEST RESTAURANTS, INC.**, a Washington corporation, having an address of 18815 139th Avenue NE, Suite C, Woodinville, WA 98072 (hereinafter called "Assignor") for the benefit of **BANK OF AMERICA, N.A.**, a national banking association organized and existing under the laws of the United States of America, as Administrative Agent on behalf of itself, the Lenders and the other Secured Parties (hereinafter referred to as the "Administrative Agent" or the "Assignee", in each case, which term shall include each of its successors and assigns), having an address of Bank of America, N.A., Mail Code: NC1-002-15-36, 101 South Tryon Street, Charlotte, NC 28255-0001, Attention: Priscilla Baker, Agency Officer. *All terms used but not otherwise defined herein shall have the meanings given thereto in the Credit Agreement (defined below).*

WITNESSETH:

WHEREAS, Assignor entered into that certain lease (as amended from time to time, being hereinafter referred to as the "Lease") described on Schedule 1 attached hereto, by and between Assignor as tenant and the Landlord described on Schedule 1, pertaining to the premises described on Schedule 1 (the "Premises").

WHEREAS, Assignor, Northwest Restaurants Oregon, Inc., an Oregon corporation ("NWRO"), Coastal Plains Restaurants, LLC, a North Carolina limited liability company ("CPR"), Plains Coastal Properties, LLC, a North Carolina limited liability company ("PCP"), and Spokane, Inc., a Washington corporation ("Spokane") (Assignor, NWRO, CPR, PCP, and Spokane, together with their respective successors and assigns, are sometimes hereinafter collectively called "Borrower" or "Borrowers"), Administrative Agent and those certain lenders party from time to time thereto entered into that certain Credit Agreement dated as of July 19, 2007 (as amended, restated, supplemented or otherwise modified prior to the date hereof, the "Existing Credit Agreement"); and

WHEREAS, the Borrowers, the lenders from time to time party thereto (the "Lenders") and Bank of America, N.A., as Administrative Agent and Swing Line Lender entered into that certain Amended and Restated Credit Agreement dated as of October 30, 2012 to amend and restate the Existing Credit Agreement (the Existing Credit Agreement, as amended and restated by the Amended and Restated Credit Agreement and as it may hereafter be amended, modified, supplemented or amended and restated from time to time, the "Credit Agreement") which amendments are set forth therein and include, without limitation, an extension of the maturity date (the "Amendment and Restatement"); and

WHEREAS, pursuant to the terms of the Credit Agreement, Administrative Agent has requested, and Assignor has agreed to execute and deliver, this Assignment;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and undertakings herein specified and other good and valuable consideration, all of which is hereby



mutually acknowledged, and in order to effectuate the desires of the Assignor along with the Borrowers, the Assignor hereby agrees as follows:

1. Assignment. To secure (i) the payment of principal of, and accrued interest on, the Notes and (ii) the performance of all other obligations of the Borrowers set forth in the Credit Agreement, the other Loan Documents executed in connection therewith, the Secured Hedge Agreements and/or the Secured Cash Management Agreements (the Credit Agreement, the Loan Documents, the Secured Hedge Agreements and Secured Cash Management Agreements, collectively, the "Transaction Documents"), Assignor hereby presently, irrevocably, absolutely and unconditionally grants, sells, assigns, transfers, sets over and delivers unto Assignee, its successors and assigns, upon the terms and conditions hereinafter contained, and grants to Administrative Agent for the benefit of the Secured Parties a continuing security interest in, all right, title and interest of Assignor in, to and under the Lease (including without limitation all renewal options, purchase options and any other options) and in and to Assignor's interest in and to the Premises.

2. Representations and Warranties. To induce the Assignee to accept this Assignment, Assignor hereby represents and warrants to the Assignee that:

(a) Assignor has full power and authority to assign the Lease. Assignor has not executed any prior deed of trust conveying any of Assignor's interest in the Premises or any assignment of any of its rights under the Lease to any person other than the Assignee;

(b) The Lease is valid, enforceable and in full force and effect, and has not been amended or modified in any material respect except as described herein; and

(c) No default exists under the Lease.

3. Affirmative Covenants. Assignor hereby covenants, promises and agrees that it shall:

(a) Observe, fulfill and perform each and every condition, covenant and provision of the Lease which is required to be fulfilled or performed by Assignor; and

(b) Give prompt notice to Administrative Agent of any notice or claim of a breach, default or event of default under the Lease given or received by Assignor, together with a true copy of such notice and any supporting materials and execute and deliver to Administrative Agent upon Administrative Agent's request therefor, such instruments as may be required to permit Administrative Agent to cure any breach, default or event of default under the Lease or permit Agent to take such other action required to enable Administrative Agent to cure or remedy said breach, default or event of default and preserve the interest of Administrative Agent in the Lease.

4. Negative Covenants. Assignor shall not, without the prior written consent of Assignee:



(a) Cause, by its acts or omissions, the term of the Lease to be terminated or surrender the Lease or the Premises;

(b) Waive or release any landlord from any obligations or conditions to be performed by that landlord under the Lease;

(c) Pledge, transfer, mortgage or otherwise encumber or assign the Lease; or

(d) Materially modify or alter the terms of the Lease.

5. Indemnification. The Assignee shall not be obligated to perform or discharge any obligation of Assignor under the Lease, or under or by reason of this Assignment, unless the Assignee exercises its rights under Section 7 hereunder and takes possession of the Premises. Assignor hereby agrees to indemnify and defend the Assignee against and hold the Assignee harmless from (i) any and all liability, loss or damage which the Assignee may incur under the terms of the Lease or this Assignment and (ii) any and all claims and demands whatsoever which may be asserted against the Assignee by reason of any alleged obligation on the Assignee's part to perform any obligation under the Lease, including any obligations of the Assignee incurred by reason of the exercise of any right or remedy set forth in Section 7 hereof. Should the Assignee incur any such liability, loss or damage under the Lease or this Assignment, or in defense against any such claims or demands, the amount thereof, including costs, expenses and reasonable attorney's fees shall be added to the obligations secured hereby and Assignor shall reimburse the Assignee therefor, immediately upon demand. Nothing herein shall obligate Assignor to indemnify or defend the Assignee with respect to its own gross negligence, bad faith or willful misconduct.

6. Rights and Privileges. Prior to an Event of Default, Assignor shall retain all rights and privileges of tenant which arise from or out of the Lease, including but not limited to the use and enjoyment of the Premises and the right to the profits arising from the use of the Premises.

7. Event of Default. The occurrence of an Event of Default under the Credit Agreement shall constitute an Event of Default ("Event of Default") hereunder. After an Event of Default has occurred and is continuing, Assignee, as agent, at its option, without notice may do one or more of the following (i) assume the role of tenant under the Lease, (ii) enter upon and, as tenant, take possession of and operate the Premises, (iii) surrender the Lease, (iv) make any alterations, renovations, repairs and replacements to the Premises in accordance with the Lease, (v) sublease or assign its rights and remedies hereunder, (vi) bring or defend any suit in connection with the Premises in accordance with the Lease in its own name or in the name of Assignor, (vii) foreclose this instrument as an assignment of an interest in real property in any court of competent jurisdiction or (viii) exercise any and all rights and remedies afforded to Administrative Agent under the Transaction Documents and the Uniform Commercial Code and any and all other applicable provisions of law, including the right to sell Assignor's interest in the Lease at a public or private sale.



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

9. No Mortgagee-in-Possession. It is understood and agreed that neither the assignment of the Lease to Assignee for the benefit of itself and the Secured Parties nor the exercise by Assignee of any of its rights or remedies under this Assignment shall be deemed to make Assignee or any Secured Party a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Lease or the Premises or the use, occupancy, enjoyment or operation of all or any portion thereof, unless and until Assignee, in person or by its agent, assumes actual possession thereof, nor shall appointment of a receiver by any court at the request of Assignee or by agreement with Assignor or the entering into possession of the Premises or any part thereof by such receiver be deemed to make Assignee a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Lease, the Premises or the use, occupancy, enjoyment or operation of all or any portion thereof.

10. Termination. Upon the satisfaction of the conditions set forth in the Credit Agreement for release of this Assignment, this Assignment shall be terminated and shall be of no further effect, and Administrative Agent shall, upon demand by Assignor, execute a release to be filed of record at Assignor's sole cost and expense.

11. Assigns. This Assignment and all representations, warranties, powers and rights herein contained or resulting herefrom are binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns; provided, that the Assignor may not assign its rights or obligations under this Assignment without the prior written consent of Assignee. This Assignment shall be assignable by Administrative Agent and all of the representations, warranties, covenants, agreements, rights, powers, privileges and immunities herein contained or granted and assigned to Administrative Agent hereunder shall also inure to its successors, assigns and legal representatives.

12. Governing Law. This Assignment shall be governed by, and construed in accordance with, the laws of the State in which the Premises is located.

13. Terms Defined. Terms used herein and not defined herein have their respective defined meanings as set forth in the Credit Agreement. The term "Assignee" shall include Administrative Agent, on behalf of itself, the Lenders and the other Secured Parties.

14. Secured Hedge Agreements; and Secured Cash Management Agreements. No Person who obtains the benefit of any lien by virtue of the provisions of this Assignment 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 Premises (including the release or impairment of any Premises) other than in its capacity as Lender and only to the extent expressly provided in the Loan Documents. Each Secured Party not a party to the Credit Agreement who obtains the benefit of this Assignment shall be deemed to have acknowledged and accepted the appointment of Administrative Agent pursuant to the terms of the Credit Agreement, and that with respect to the actions and omissions of Administrative Agent hereunder or otherwise relating hereto that do or may affect such Secured Party, Administrative Agent and its Related Parties shall be entitled to all the rights, benefits and immunities conferred under Article IX of the Credit Agreement.


[Signatures on following page.]



IN WITNESS WHEREOF, Assignor, by its duly authorized officer, has executed and delivered this Assignment under seal as of the date set forth above.

ASSIGNOR:

NORTHWEST RESTAURANTS, INC.

By: 

Samuel L. Sibert

Secretary/Treasurer/Chief Executive Officer

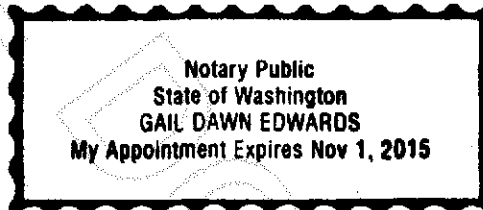
[CORPORATE SEAL]



STATE OF WASHINGTON)
) SS.
COUNTY OF KING)

On this 19th day of December, 2012, before me personally appeared Samuel L. Sibert, who being duly sworn, stated that he is the Secretary/Treasurer/Chief Executive Officer of NORTHWEST RESTAURANTS, INC., a Washington corporation, and acknowledged the foregoing instrument to be the voluntary act and deed of the corporation, executed by authority of its board of directors.

Gail Dawn Edwards
Notary Public for Washington
My Commission Expires: 11/1/15
County of Residence: Snohomish



201212200064

Skagit County Auditor

Store No. E080-009 (f/k/a No. 63)
2003 Riverside Drive
Mt. Vernon, WA 98273

SCHEDULE 1

That certain Land and Building Lease Agreement dated December 7, 2012 by and between Don & Carol Tanklage dba Tanklage Properties, as Landlord, and Northwest Restaurants, Inc., a Washington corporation, as Tenant, as the same may have been or may hereafter be amended. A Memorandum of Lease by and between Landlord and Tenant was recorded as Instrument Number 201212130137 in the Recorder's Office of Skagit County, Washington.

The Legal Description of the Premises is described as follows:

LOT 2, BINDING SITE PLAN NO. MV-1-99, APPROVED MAY 13, 2002, AND RECORDED MAY 31, 2002, UNDER AUDITOR'S FILE NO. 200205310140, BEING A PORTION OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 18, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., IN THE COUNTY OF SKAGIT AND STATE OF WASHINGTON.

(PARCEL NO. P119198/8039-000-002-0000)

(ABBREVIATED LEGAL: LOT 2 CITY OF MOUNT VERNON BSP NO. MV-1-99)



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