

CHICAGO TITLE
420039725Document Title:

Collateral Assignment of Sublease and Rents For Security Purpose

Reference Number : 129013181Grantor(s):

1. Skagit Valley Fuel, LLC

2.

☐ additional grantor names on page ____Grantee(s):

1. Mountain Pacific Bank

2.

☐ additional grantee names on page ____Abbreviated legal description:

Ptn NW NE, SEC 19, T 33 N, R 4 EWM

☐ full legal on page(s) ____Assessor Parcel / Tax ID Number:

330419-0-067-0105/330419-0-067-0006

☐ additional tax parcel number(s) on page ____

**COLLATERAL ASSIGNMENT OF SUBLEASE AND RENTS
FOR SECURITY PURPOSES**

THIS COLLATERAL ASSIGNMENT OF SUBLEASE AND RENTS FOR SECURITY PURPOSES (the "Agreement") is entered into this 13TH day of FEBRUARY, 2020, by and among Mountain Pacific Bank (the "Lender"), Skagit Valley Fuel, LLC, a Washington limited liability company (the "Borrower"), and Diedrich Espresso, LLC, a Washington limited liability company (the "Tenant").

RECITALS

- A. Lochin, Inc. (the "Seller") is a party to that certain lease dated February 8, 1999 and subsequently assigned to and assumed by Seller on October 4, 2006 (the "Lease"), in which Seller has leased the Property, as defined below, from Gary and Sandy Stewart (collectively, the "Landlord").
- B. Tenant is a party to that certain lease dated February 2, 2016, and subsequently extended on January 25, 2019 (the "Sublease"), in which Tenant has subleased a portion of the Property (the "Premise") from the Seller. The legal description of the Premise is attached hereto as Exhibit A.
- C. Borrower has agreed to purchase from the Seller, the business assets known as Conway Foods and 76 Gas Station, including the Seller's interest in the Sublease, all of which is located at 18707 Main St. Conway WA 98238 (the "Property").
- D. "The Loan secured by this lien was made under a United States Small Business Administration (SBA) nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under DBA regulations:
 - a) When SBA is the holder of the Note, this Document and all documents evidencing or securing this Loan will be construed in accordance with federal law.
 - b) Lender or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No Borrower or Guarantor may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to this Loan.Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument."
- E. Lender has agreed to lend to Borrower the sum of \$1,583,500.00 (the "Loan") to facilitate the purchase the Property.

- F. At closing, the Sublease and the Seller's interest in the Sublease will be assigned to Borrower.
- G. To induce Lender to lend to the Borrower, Borrower hereby agrees with Lender and Tenant as follows.

ASSIGNMENT

1. **Collateral Assignment of Sublease and Rents for Security.** Borrowers hereby grants, transfers and assigns (the "Assignment") to Lender, and the successors and assigns of Lender, all of the right, title and interest of Borrower in the Sublease. This Assignment includes all rents, additional rents, revenues, income, issues and profits arising from the Sublease and renewals and replacements thereof and any cash or security deposited in connection therewith (collectively, the "Rents") This Assignment is made as additional security for, among other things, Borrower's repayment of the Loan and the prompt performance of all of Borrowers' obligations to Lender under the Loan Documents. The term "Loan Document" shall mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Loan.
2. **Assignment for Security Only.** Lender agrees that so long as there shall be no default by Borrower under the Loan Documents, Borrower may exercise all rights granted under the Sublease, including, but not limited to, the receipt of the Rents.
3. **Cancellation of Assignment.** Upon Borrowers' full payment of the Loan and the performance by Borrower of all the terms and conditions of the Loan Documents, this Assignment shall become and be null and void and of no further effect.
4. **Consent of Tenant.** Tenant consents to the Assignment and hereby agrees to continue to be bound by all the terms, covenants, and conditions of the Sublease. If Borrower defaults under the Loan, Lender may reassign all of the right, title and interest of Borrower in the Sublease to any party the Lender, in its sole discretion, chooses, and Tenant consents to such reassignment. Whether or not Lender reassigns the Sublease after Borrower's default, the Tenant shall remain fully liable for all obligations under the Sublease including, but not limited to, payment of the Rents.
5. **Notice to Tenant.** Tenant shall, and Borrower hereby agrees to authorize and direct any future lessees or occupants of the Premise to, pay over to Lender or to such other party as Lender directs all Rents and all sums due under upon receipt from Lender of written notice to the effect that Borrower is in default, and to continue so to do until otherwise notified by Lender.
6. **Borrowers Responsibilities.**
 - a. When any lease expires or terminates, or as any new lease is made, the Borrower shall notify the Lender in order that at all times the Lender shall have a current list of all leases affecting the Property or Premise. All subsequent leases shall be and are hereby made subject to all of the terms of this Assignment.

b. The Borrower shall, at its sole cost and expense, perform every obligation of the landlord and shall enforce, short of termination, every obligation of and any default against the tenant in every lease. The Borrower will promptly notify the Lender if the Borrower transmits or receives any notice of default under any lease, or of any change in the occupancy of the Property or Premise, and shall forward a complete copy of such notice to the Lender.

c. The Borrower will not take any action which would cause any lease to cease to be in full force and effect, and will not, except with the prior written consent of the Lender: (1) cancel or terminate any lease, or consent to any cancellation, termination or surrender thereof; (2) amend, modify or subordinate any lease; (3) enter into any new lease; (4) waive any default under or breach of any lease; (5) consent to any prepayment or discount of rent or advance rent under any lease; or (6) take any other action in connection with any lease which may impair or jeopardize the validity of such lease or the Lender's interest therein. The Lender shall have the right to review and reasonably refuse written consent to any of the above proposed actions of the Borrower based upon the substance of the proposed transaction, the creditworthiness of the Borrower or the tenant, the financial condition of the Property, Premise, or otherwise.

7. **Default.** After a default by Borrower in the payment of the Loan or of any of Borrowers' obligations under the Loan Documents, and the failure of Borrower to cure such default within the time period provided in any Loan Documents, then Lender may enter upon, take possession of and operate the Property, either in person or by agent, with or without bringing any action or proceeding or having a receiver appointed by a court. In such an event, Lender may do anything to protect the security thereof until the Loans is fully paid, and Borrowers' interest in the Sublease shall be deemed immediately and automatically vested in Lender.

8. **Amendment and/or Modification.** Neither this Assignment nor any term or provision hereof, may be changed, waived, discharged, amended, or modified orally, or in any manner other than by an instrument in writing signed by all of the parties hereto.

9. **Binding Effect.** Subject to provisions hereof regarding the assignment of this Assignment, if any, this Assignment shall be binding upon and inure to the benefit of the respective parties, and their legal representatives, successors, assigns and heirs.

10. **Documents.** Each party to this Assignment shall perform any and all acts and execute and deliver any and all documents as may be necessary and proper under the circumstances in order to accomplish the intent and purpose of this Assignment and to carry out its provisions.

11. **Waiver of Breach.** The failure of any party hereto to insist upon strict performance of any of the covenants and agreements herein contained, or to exercise any option or right herein conferred, in any one or more instances, shall not be construed to be a waiver or relinquishment of performance of any covenant or agreement, or of any such option or right, but the same shall be and remain in full force and effect.

13. **Specific Performance.** If any party shall default in its obligations under this Assignment, the parties each acknowledge that it would be extremely difficult to measure the resulting damages. Accordingly, any nondefaulting party, in addition to any other rights or remedies, shall be entitled to restraint by injunction of a violation, or attempted or threatened violation, of any obligation or provision of this Assignment, or to a decree specifically compelling performance of any such obligation or provision. In such event, all parties hereto each expressly waive any defense that a remedy in damages or at law would be adequate.

14. **Attorney's Fees.** If Lender brings an action to enforce the provisions of this Assignment, or otherwise hires an attorney to enforce the provisions of this Assignment, with or without suit, Borrower shall pay Lender all attorney's fees and costs incurred by Lender at the trial and appellate levels and in any bankruptcy or insolvency proceeding.

15. **Law.** This Assignment shall be governed by, construed and enforced in accordance with the internal laws of the state of Washington, without giving effect to principles and provisions thereof relating to conflict or choice of laws irrespective of the fact that any one of the parties is now or may become a resident of a different state. Venue for any action under this Assignment shall lie in Snohomish County, Washington.

16. **Counterparts.** This Assignment may be executed in multiple counterparts, each of which shall be an original and together shall be one document.

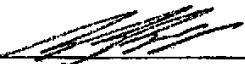
[Signature Page to Follow]

DATED effective the day and date first set forth above.

LENDER:
Mountain Pacific Bank


By: Laurie Carpenter
Its: SBA Loan Officer

BORROWER:
Skagit Valley Fuel, LLC

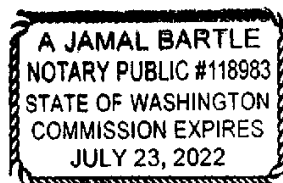

By: GURSEWAK BRAR
Its: Manager


TENANT:
Diedrich Espresso, LLC

By: _____
Its: Manager

STATE OF WASHINGTON)
COUNTY OF Snohomish) ss.

On this 12 day of February, 2020, I certify that I know or have satisfactory evidence that **Laurie Carpenter** signed this document as SBA Loan Officer of Mountain Pacific Bank and that he signed this instrument and acknowledged it to be the free and voluntary act of the _____, for the uses and purposes mentioned in the said foregoing instrument.




Printed name: A. Jamal Bartle
NOTARY PUBLIC in and for the State of Washington
Residing at Everett, Washington
My Commission Expires: 7/23/22

DATED effective the day and date first set forth above.

LENDER:
Mountain Pacific Bank

BORROWER:
Skagit Valley Fuel, LLC

By: Laurie Carpenter
Its: SBA Loan Officer

By: GURSEWAK BEAR
Its: Manager

TENANT:
Diedrich Espresso, LLC

By: Jasmine Wilson
Its: Manager

STATE OF WASHINGTON)
COUNTY OF Snohomish) ss.

On this 11 day of March, 2020, I certify that I know or have satisfactory evidence that Laurie Carpenter signed this document as SBA Loan Officer of Mountain Pacific Bank and that he signed this instrument and acknowledged it to be the free and voluntary act of the _____, for the uses and purposes mentioned in the said foregoing instrument.

Printed name: _____
NOTARY PUBLIC in and for the State of Washington
Residing at _____, Washington
My Commission Expires: _____

STATE OF WASHINGTON)
) ss.
 COUNTY OF Kang)

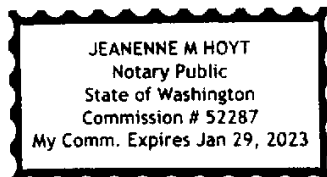
On this 12 day of Feb., 2020, I certify that I know or have satisfactory evidence that purse the signed this document as Manager of Skagit Valley Fuel, LLC and that he/she signed this instrument and acknowledged it to be the free and voluntary act of the _____, for the uses and purposes mentioned in the said foregoing instrument.



Printed name: Jeong Ju Jun
 NOTARY PUBLIC in and for the State of Washington
 Residing at Issaquah, Washington
 My Commission Expires: 09-08-20

STATE OF WASHINGTON)
) ss.
 COUNTY OF Shobomish)

On this 11 day of March, 2020, I certify that I know or have satisfactory evidence that Jeanne Wilson signed this document as Manager of Diedrich Espresso, LLC and that he/she signed this instrument and acknowledged it to be the free and voluntary act of the _____, for the uses and purposes mentioned in the said foregoing instrument.



Printed name: Jeanne M Hoyt
 NOTARY PUBLIC in and for the State of Washington
 Residing at Marysville, Washington
 My Commission Expires: 1-29-2023