

Prepared By and Return To:
McGuireWoods LLP
(Ryan P. Thompson)
201 North Tryon Street
Charlotte, North Carolina 28202

Document Title: **Second Amendment to Amended and Restated Washington
Deed of Trust, Assignment of Rents and Leases, Security
Agreement and Fixture Filing (Leasehold)**

Reference Number(s) of
Documents Amended or
Assigned: **Instrument Number 201210310002
Instrument Number 201809270041**

Grantor(s): **Northwest Restaurants, Inc.
Northwest Restaurants Oregon, Inc.**

Grantee(s): **Bank of America, N.A., as Administrative Agent**

Legal Description,
Abbreviated Form: **Lots 1-8 & 16-20, TGW, vacated alley, Blk. 46, Ana.**

Assessor's Property Tax
Parcel/Account Number(s): **P55158**

Street Address(es)
(for reference only): **1702 Commercial Ave, Anacortes, WA 98221**

Trustee: **Chicago Title Company**

**SECOND AMENDMENT TO AMENDED AND RESTATED WASHINGTON DEED OF TRUST,
ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT
AND FIXTURE FILING (LEASEHOLD)**

THIS SECOND AMENDMENT TO AMENDED AND RESTATED WASHINGTON DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING (LEASEHOLD) (this "Agreement") is made this ____ day of June, 2021, by and among **NORTHWEST RESTAURANTS, INC.**, a Washington corporation ("NRI") and **NORTHWEST RESTAURANTS OREGON, INC.**, an Oregon corporation, each having an address of 18815 139th Avenue NE, Suite C, Woodinville, WA 98072 (collectively, the "Grantor") and **BANK OF AMERICA, N.A.**, a national banking association, in its capacity as Administrative Agent for the Secured Parties (as hereinafter defined) under the Credit Agreement (as hereinafter defined) (in such capacity and together with any successor Administrative Agent under the Credit Agreement and such Administrative Agent's successors, "Agent"), having an address of Bank of America, N.A., Mail Code: NC1-026-06-03, 900 West Trade Street, 6th Floor, Charlotte, NC 28255-0001, Attention: Agency Management/Erik Truette. Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement as hereinafter defined.

WITNESSETH:

WHEREAS, Grantor, Coastal Plains Restaurants, LLC, a North Carolina limited liability company, Plains Coastal Properties, LLC, a North Carolina limited liability company, and Golden Spike Restaurants, LLC, a Utah limited liability company (collectively, the "Existing Borrowers"), the lenders party thereto, and Bank of America, N.A., as Administrative Agent thereunder, are parties to that certain Third Amended and Restated Credit Agreement, dated as of September 18, 2018, which was an amendment and restatement of that certain Second Amended and Restated Credit Agreement dated as of January 21, 2015, which was an amendment and restatement of that certain Amended and Restated Credit Agreement dated as of October 30, 2012, which was an amendment and restatement of that certain Credit Agreement dated as of July 19, 2007 (as amended prior to the date hereof, the "Existing Credit Agreement");

WHEREAS, to secure the obligations under the Existing Credit Agreement, Grantor executed and delivered to the Agent that certain Amended and Restated Washington Deed of Trust, Assignment of Rents and Leases and Security Agreement (Leasehold) dated as of October 30, 2012 and recorded in the Recorder's Office for Skagit County, Washington as **Instrument Number 201210310002**, covering Grantor's interest in the Land described therein and on Exhibit A attached hereto (as amended by that certain First Amendment to Amended and Restated Washington Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (Leasehold), dated as of September 18, 2018 and recorded in the Recorder's Office for Skagit County, Washington as **Instrument Number 201809270041** (the "First Amendment"), (the "Existing Deed of Trust"), which amended and restated that certain Washington Deed of Trust, Assignment of Rents and Leases and Security Agreement (Leasehold) dated as of July 19, 2007 and recorded in the aforesaid Recorder's Office as **Instrument Number 200707310160**;

WHEREAS, Existing Borrowers, Border Foods of Montana, LLC, a Montana limited liability company, and Marvin Development of Montana, LLC, a Montana limited liability company (collectively, 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 have entered into that certain Fourth Amended and Restated Credit Agreement, dated as of the date hereof, which amends and restates the Existing Credit Agreement (the Existing Credit Agreement, as amended and restated by the Fourth Amended and Restated Credit Agreement, and as the same may hereafter be amended, modified, supplemented or amended and

restated from time to time, the "Credit Agreement"), on the terms and conditions set forth therein including, among other things, an extension of the maturity date (the "Amendment and Restatement");

WHEREAS, Spokane, Inc., a Washington corporation ("Spokane Inc."), an initial grantor under the Existing Deed of Trust, has assigned to NRI all right, title and interest in the real properties specified in Exhibit B attached hereto (the "Spokane Real Estate Collateral") and, subsequent to such assignment, Spokane Inc. dissolved its own existence; and

WHEREAS, as a condition to the foregoing, Grantor and the Agent have agreed to amend the Existing Deed of Trust, as follows:

NOW, THEREFORE, Grantor and Agent, in consideration of the premises, the mutual covenants and conditions contained in the Credit Agreement, and other valuable consideration, receipt of which is hereby acknowledged, do hereby agree as follows:

1. **Modifications to Deed of Trust.** The Existing Deed of Trust shall be, and the same hereby is, modified and amended to provide as follows:

(a) The term "Credit Agreement" is hereby replaced with the definition of such term in the recitals to this Agreement.

(b) The term "Grantor" is hereby modified to replace all references to Spokane Inc., including all references to "Spokane, Inc., a Washington corporation" or using similar or derivative language, to "Northwest Restaurants, Inc., a Washington corporation", *mutatis mutandis*.

(c) Section 1.1 of the Existing Deed of Trust is hereby amended to replace the reference to "One Hundred Sixty Five Million and No/100 Dollars (\$165,000,000.00)" with "Two Hundred Eighty-One Million Five Hundred Thousand and No/100 Dollars (\$281,500,000.00)".

(d) Section 6.29 of the Existing Deed of Trust is hereby amended to replace the reference to "Three Hundred Thirty Million Dollars (\$330,000,000.00)" with "Five Hundred Sixty-Three Million and No/100 Dollars (\$563,000,000.00)".

2. **Grant.** To confirm the liens of the Trustee and the Administrative Agent in the Property (as defined in the Existing Deed of Trust, as amended by this Agreement) and to secure payment and performance of the Secured Obligations (as defined in the Existing Deed of Trust, as amended by this Agreement) and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby irrevocably GRANTS, TRANSFERS, BARGAINS, SELLS, CONVEYS, and ASSIGNS to Trustee, IN TRUST, WITH POWER OF SALE, and with right of entry and possession as provided in the Existing Deed of Trust, all of Grantor's right, title, interest, claim or demand whatsoever in the Property, and does further grant a security interest to Administrative Agent, for the benefit of the Secured Parties, in all fixtures and personal property described in the Existing Deed of Trust, as well as all other Property in which a security interest may be created under the Washington Uniform Commercial Code.

TO HAVE AND TO HOLD the Property, properties, rights and privileges hereby conveyed or assigned, or intended so to be, unto Trustee, its beneficiaries, successors and assigns, for the benefit of itself, the Agent and the other Secured Parties, forever for the uses and purposes set forth in the Existing Deed of Trust, as amended by this Agreement.

3. **References to Deed of Trust.** All references to the "Deed of Trust" herein and in the Existing Deed of Trust shall hereafter be to the Existing Deed of Trust as modified by this Agreement and as further amended, modified, restated, supplemented, extended or renewed from time to time.

4. **Miscellaneous.**

(a) The Grantor acknowledges that the lien of the Deed of Trust secures the "secured indebtedness" as defined in Section 1.5 of the Existing Deed of Trust.

(b) The Grantor and the Administrative Agent acknowledge and agree that (i) the amendments to the Existing Credit Agreement pursuant to the Amendment and Restatement of the Credit Agreement do not constitute a novation of such credit agreement or the indebtedness described therein; (ii) the issuance of any 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) modifications to the Existing Deed of Trust set forth in this Agreement do not constitute a novation.

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

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


(e) The Grantor agrees that nothing herein contained shall impair the security now held or the secured indebtedness, nor shall anything contained herein waive, annul, vary or affect any provision, condition, covenant or agreement contained in the Existing Deed of Trust except as amended hereby, or affect or impair any rights, powers or remedies under the secured indebtedness, the Existing Deed of Trust, or any of the other Loan Documents. Grantor further agrees that the Administrative Agent reserves all rights and remedies it may have as against all parties liable for repayment of the secured indebtedness.

[Signature pages follow]

IN WITNESS WHEREOF, Grantor and Administrative Agent have entered into this Agreement as of the date first set forth above.


GRANTOR:

NORTHWEST RESTAURANTS, INC.,
a Washington corporation

By: 
Name: Brett Sibert
Title: President

[CORPORATE SEAL]

NORTHWEST RESTAURANTS OREGON, INC.,
an Oregon corporation

By: 
Name: Brett Sibert
Title: President

[CORPORATE SEAL]

Signature Page

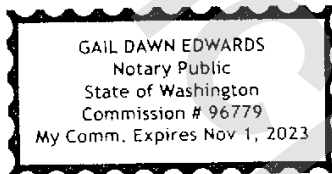
Second Amendment to Amended and Restated Washington Deed of Trust (Leasehold)

STATE OF WASHINGTON

SS.

COUNTY OF KING

I certify that I know or have satisfactory evidence that **Brett Sibert** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledge it as the President of NORTHWEST RESTAURANTS, INC., a Washington corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in this instrument.

Dated: June 8, 2021

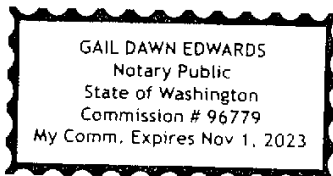
Gail Dawn Edwards
Notary name printed or typed: Gail Dawn Edwards
Notary Public in and for the State of Washington
Residing at Snohomish Cnty
My appointment expires: 11/1/23

STATE OF WASHINGTON

SS.

COUNTY OF KING

I certify that I know or have satisfactory evidence that **Brett Sibert** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledge it as the President of NORTHWEST RESTAURANTS OREGON, INC., an Oregon corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in this instrument.

Dated: June 8, 2021


Gail Dawn Edwards
Notary name printed or typed: Gail Dawn Edwards
Notary Public in and for the State of Washington
Residing at Snohomish Cnty
My appointment expires: 11/1/23

Signature Page

Second Amendment to Amended and Restated Washington Deed of Trust (Leashold)

AGENT:

BANK OF AMERICA, N.A.,
a national banking association, as Agent

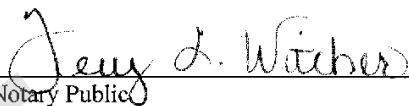
By: 
Name: Erik Truette
Title: Vice President

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

§
§
§

I certify that the following person(s) personally appeared before me this day, and each acknowledging to me that he or she signed the foregoing document: **Erik Truette**.

Date: June 8, 2021


Notary Public
Printed Name: Terry L. Witcher

(Official Seal)



My commission expires: September 1, 2024

Signature Page

Second Amendment to Amended and Restated Washington Deed of Trust (Leasehold)

Store No. 80077 (E080-077)
Skagit County, WA

Exhibit A

Legal Description

Leasehold estate in the following parcel(s) of real property:

LOTS 1 THROUGH 8, INCLUSIVE, BLOCK 46, EXCEPT THE SOUTH 21 FEET OF LOTS 1 THROUGH 5, INCLUSIVE, "MAP OF THE CITY OF ANACORTES, SKAGIT COUNTY, WASHINGTON". AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 4, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE CITY OF ANACORTES, COUNTY OF SKAGIT, STATE OF WASHINGTON.

Tax Parcel Number: P55158

Property Address: 1702 Commercial Ave, Anacortes, WA 98221

Exhibit to
Second Amendment to Amended and Restated Washington Deed of Trust (Leasehold)

143776925-M

Store No. 80077 f/k/a

EXHIBIT B**SPOKANE REAL ESTATE COLLATERAL**

<u>Store#</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>County</u>	<u>Tax Parcel Number</u>	<u>Interest</u>	<u>Current Owner</u>
80084	4016 N. Division Street	Spokane	WA	99207	Spokane	35052.29274	Fee Owned	Northwest Restaurants, Inc.
80087	9229 N. Division Street	Spokane	WA	99218	Spokane	36191.0601	Fee Owned	Northwest Restaurants, Inc.
80082	4016 N Division St	Spokane	WA	99205	Spokane	25121.4507; 25121.4502; 25121.4501	Fee Owned	Northwest Restaurants, Inc.
80083	2819 E 29th Ave.	Spokane	WA	99223	Spokane	35284.0015	Ground Leased	Northwest Restaurants, Inc.
80086	15330 E. Sprague Ave.	Spokane Valley	WA	99037	Spokane	45231.0114	Ground Leased	Northwest Restaurants, Inc.
80088	11921 W. Sunset Hwy.	Airway Heights	WA	99001	Spokane	15252.0169	Ground Leased	Northwest Restaurants, Inc.

Exhibit to
Second Amendment to Amended and Restated Washington Deed of Trust (Leasehold)

143776925-M

Store No. 80077 f/k/a