

FILED SARPY CO. NE.
INSTRUMENT NUMBER
2002-53811

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Verify KH
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2002 DEC 24 A 10:49

Ck Cash Chg DAK
Restaurant No. 1734
Sarpy County, Nebraska STAMP
copy

This instrument was prepared
by and after recording should
be returned to:

Glenn J. Ludwig

REGISTER OF DEEDS

LandAmerica, National Commercial Services
Attention: Susan Regis Gibson
4111 Executive Parkway, Suite 304
Westerville, OH 43081

**FIRST AMENDMENT TO LEASEHOLD
DEED OF TRUST, SECURITY AGREEMENT
AND ASSIGNMENT OF LEASES AND RENTS**

DATED as of December 16, 2002

between

Fazoli's Restaurants, Inc., as Grantor

and

Fleet National Bank
(formerly known as BankBoston, N.A.), as Agent
for itself and the other Banks, as Beneficiary

FROM THE RECORDS OF

L-149525

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**FIRST AMENDMENT TO LEASEHOLD
DEED OF TRUST, SECURITY AGREEMENT
AND ASSIGNMENT OF LEASES AND RENTS**

This FIRST AMENDMENT TO LEASEHOLD DEED OF TRUST, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS (this "*Amendment*") is made as of this 16th day of December, 2002 by and between Fazoli's Restaurants, Inc., a Kentucky corporation having its principal office at 2470 Palumbo Drive, Lexington, Kentucky 40509 ("*Grantor*"), and Fleet National Bank (formerly known as BankBoston, N.A.), a national banking association having its principal place of business at 100 Federal Street, Boston, Massachusetts 02110, as Agent for itself and the other Banks (as defined in the Amended Credit Agreement as defined herein) (in such capacity as Agent, "*Beneficiary*").

WHEREAS, Grantor and Fazoli's Joint Venture, Ltd. (the "*Co-Borrowers*"), Seed Restaurant Group, Inc., Beneficiary and certain of the Banks are parties to that certain Revolving Credit and Term Loan Agreement dated as of March 30, 1999 (as amended and in effect on the date hereof, the "*Original Credit Agreement*") pursuant to which such Banks, upon certain terms and conditions, made certain revolving and term loans to the Co-Borrowers which were evidenced by various notes;

WHEREAS, Grantor, to secure the loans extended to the Co-Borrowers pursuant to the Original Credit Agreement, executed and delivered to Lawyer's Title Insurance Corporation whose mailing address is 30 North LaSalle Street, Suite 3440, Chicago, Illinois 60602 ("*Trustee*"), for the benefit of Beneficiary that certain Leasehold Deed of Trust, Security Agreement and Assignment of Leases and Rents dated as of March 30, 1999 which was recorded as Instrument No. 99-10326 of the Official Records of Sarpy County, Nebraska (the "*Original Leasehold Deed of Trust*");

WHEREAS, the obligations of the Co-Borrowers set forth in the Original Credit Agreement and originally secured by the Original Leasehold Deed of Trust have not been satisfied, discharged or fully repaid, but have been amended and restated in accordance with the terms of a certain Amended and Restated Revolving Credit and Term Loan Agreement dated as of December 16, 2002 by and among the Co-Borrowers, Seed Restaurant Group, Inc., Beneficiary and the Banks (as the same may from time to time be amended, supplemented, extended, restated or otherwise modified, the "*Amended Credit Agreement*") pursuant to which the Banks, upon certain terms and conditions have

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made certain revolving and term loans to the Co-Borrowers which are evidenced by various amended and restated notes; and

WHEREAS, the parties wish to amend the terms of the Original Leasehold Deed of Trust to secure, among other things, the obligations of the Co-Borrowers under the Amended Credit Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. All references to "BankBoston, N.A." contained in the Original Leasehold Deed of Trust shall be deemed to be references to Fleet National Bank, formerly known as BankBoston, N.A.
2. On the bottom line of the cover page of the Original Leasehold Deed of Trust, "\$80,000,000" is hereby deleted and "\$55,000,000" is substituted in place thereof.
3. In line 6 of paragraph (a) on page 1 of the Original Leasehold Deed of Trust, "\$80,000,000" is hereby deleted and "\$55,000,000" is substituted in place thereof.
4. All references to the "Leasehold Deed of Trust" contained in the Original Leasehold Deed of Trust shall be deemed to be references to the Original Leasehold Deed of Trust as amended by this Amendment.
5. All references to the "Credit Agreement" contained in the Original Leasehold Deed of Trust shall be deemed to be references to the Amended Credit Agreement, as such term is defined hereinbelow.

By way of example and without in any way limiting the scope of the foregoing, the references to "Credit Agreement" in the definition of "Obligations" shall be deemed to be references to the Amended Credit Agreement.

6. The definition of "Credit Agreement" in Section 4 of the Original Leasehold Deed of Trust is hereby deleted and the following definition is substituted in place thereof:

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“Amended Credit Agreement” shall mean that certain Revolving Credit and Term Loan Agreement dated as of March 30, 1999, by and among Seed Restaurant Group, Inc., a Kentucky corporation, the Borrowers, the Banks and the Mortgagee, as amended and restated by that certain Amended and Restated Revolving Credit and Term Loan Agreement dated as of December ~~16~~, 2002, pursuant to which the Banks have agreed (a) to make revolving credit loans to the Borrowers, and to issue letters of credit for the account of the Borrowers, in an aggregate outstanding principal amount of up to and including \$15,000,000, and (b) to make two (2) term loans to the Borrowers in an aggregate principal amount of \$40,000,000, as such Amended and Restated Revolving Credit and Term Loan Agreement is originally executed, or if varied, supplemented, amended or restated from time to time, as so varied, supplemented, amended or restated.

7. The definition of “Loan Documents” in the Original Leasehold Deed of Trust is hereby deleted and the following definition is substituted in place thereof:

“Loan Documents” shall mean the Amended Credit Agreement and the following additional documents: the Notes, the Letter of Credit Applications, the Letters of Credit and the Security Documents, as each such additional document is defined in the Amended Credit Agreement.

8. In lines 11 and 13 of Section 5.3 on page 20 of the Original Leasehold Deed of Trust, each of the two references to “\$80,000,000” is hereby deleted and “\$55,000,000” is substituted in place of each.
9. Mortgagor hereby ratifies and confirms the lien and security interest of Mortgagee upon and in any and all property, real, personal or mixed, tangible or intangible, now or hereafter encumbered by the Original Leasehold Deed of Trust as security for the Obligations (as defined in the Original Leasehold Deed of Trust as amended by this Amendment).
10. Except as expressly amended herein, all of the terms and conditions of the Original Leasehold Deed of Trust remain unchanged and in full force and effect.

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11. This Amendment may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

*[Remainder of page intentionally left blank--
signatures on the following page]*

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IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first above-written.

GRANTOR:

FAZOLI'S RESTAURANTS, INC.

By: David Smith
Name: David Smith
Title: Vice President

BENEFICIARY:

FLEET NATIONAL BANK, as Agent

By: Alexandra A. Burke
Name: Alexandra A. Burke
Title: Vice President

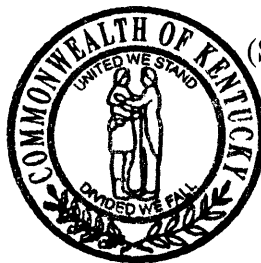
~~Dorothy A. Abberton
Notary Public
Commonwealth of Massachusetts
My Commission Expires
July 24, 2009~~

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STATE OF Kentucky
COUNTY OF Fayette, ss

The foregoing instrument was acknowledged before me this December 10, 2002 by David Smith, Vice President, of Fazoli's Restaurants, Inc., a Kentucky corporation, as his free act and deed and the free act and deed of said corporation. Witness my hand and official seal.

Gena Green
Notary Public
My commission expires:

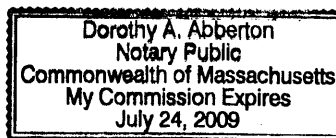


STATE OF Mass.
COUNTY OF Suffolk, ss

The foregoing instrument was acknowledged before me this December 2, 2002 by Alexandra A. Burke, Vice President, of Fleet National Bank, a national banking association, as his free act and deed and the free act and deed of said association. Witness my hand and official seal.

Dorothy A. Abberton
Notary Public
My commission expires:

(SEAL)



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This instrument was prepared by:

T. JOSEPH MCNABB, ESQ.
Bingham McCutchen LLP
150 Federal Street
Boston, Massachusetts 02110

2002-53811 H

Lot 2, Wiltham Place Replat I, an Addition to the City of LaVista, as surveyed, platted and recorded, Sarpy County, Nebraska; more particularly described as follows: Beginning at the Southeast corner of said Lot 2; thence along the Southerly line of said Lot 2, N 89°49'57" W, 207.00 feet (206.62 feet record) to the Southwest corner of said Lot 2, said point being on the Easterly right-of-way line of 84th Street, as now established; thence along the Westerly line of said Lot 2 and along said Easterly right-of-way line the following two courses: 1) N 00°11'46" E, 55.45 feet (55.66 feet record); 2) N 05°24'26" E, 128.02 feet (127.88 feet record) to the Northwest corner of said Lot 2; thence along said Northerly line, S 89°51'07" E, 194.78 feet (194.82 feet record) to the Northeast corner of said Lot 2; thence along the Easterly line of said Lot 2, S 00°00'38" W, 183.00 feet to the Point of Beginning.