

## CONSENT TO ASSIGNMENT OF LEASE

This consent to assignment of lease ("Consent") is dated \_\_\_\_\_, 2014 and is between the COUNTY OF CONTRA COSTA, a political subdivision of the State of California ("County"), RHONE LLC, a California limited liability company ("Assignor"), and PACIFIC WHOLE FOODS CORPORATION, a California corporation ("Assignee").

### RECITALS

- A. The County owns and operates Buchanan Field, a public airport located at Concord, California (the "Airport"), as shown on the Airport Layout Plan, which plan is on file in the office of the County Director of Airports (the "Director of Airports").
- B. The County leased that portion of the Airport commonly known as 2301 Meridian Park Boulevard (the "Premises") to Caffino Express LLC ("Caffino") pursuant to a lease dated October 1, 2010 (the "Lease"). Caffino assigned its rights and obligations under the Lease (the "Leasehold Estate") to Assignor pursuant to an Asset Purchase Agreement between Caffino and Assignor.
- C. Assignor and Assignee are parties to a Merger Agreement dated March 4, 2014, pursuant to which Assignor was merged with and into Assignee. As a result of the merger, the separate corporate existence of Assignor ceased and Assignee became the surviving business. Under the terms of the Lease, the merger constitutes a transfer of the Leasehold Estate that requires the consent of the County.
- D. Assignor and Assignee desire that the County consent to Assignor's assignment of all of its right, title, interest, and obligations, in, to and under the Lease and the Leasehold Estate to Assignee (the "Assignment").
- E. In consideration of all of the terms and conditions contained herein, County agrees to consent to the Assignment.

County, Assignor, and Assignee therefore agree as follows:

### **Agreement**

- 1. Definitions. Defined terms used but not defined in this Consent have the meaning ascribed to them in the Lease.
- 2. Security Deposit. The County will continue to hold the security deposit previously paid to the County under the Lease in accordance with the terms of the Lease.

3. Transaction Fee. The County acknowledges receipt of a Transaction Fee in the amount in the amount of Two Thousand Five Hundred Dollars (\$2,500.00), as required by the Lease.
4. Representations and Warranties of Assignor and Assignee. Each of Assignor and Assignee hereby represents and warrants that:
  - a. Assignee's intended use of the Premises is consistent with Assignor's use of the Premises and is not inconsistent with the use permitted under the Lease and will not require alteration of the Premises.
  - b. Assignee is a California corporation in good standing.
  - c. Assignee has a good reputation in the business community in which it conducts its businesses and has a business reputation and business credit history that is consistent with other business conducted on the Premises.
  - d. Assignee is capable of operating a gourmet coffee/espresso business on the Premises as contemplated by the terms of the Lease and has business experience and management ability that is equal to or greater than that of Assignor.
  - e. Assignee's intended use of the Premises will not increase the use or storage of hazardous substances on the Premises (as compared with such use or storage by Assignor) and will not otherwise adversely affect the County's interest in the Premises.
  - f. Assignee's financial condition is sufficient to support the obligations of Tenant under the Lease.
  - g. The Assignment will not result in a reduction in the Rent paid under the Lease.
  - h. Assignor and Assignee have the legal right and authority to enter into this Agreement and each has received all necessary approvals to do so.
5. Consent of County. In reliance on the representations and warranties of Assignor and Assignee and upon satisfaction of the terms and conditions set forth herein, the County consents to the Assignment.
6. Consent to Assignment Only. This Consent does not amend the Lease. If there is any confusion or contradiction between any term of the Lease and this Consent, the terms of the Lease will prevail.
7. Governing Law. The laws of the State of California govern all matters arising out of this Consent, with venue in the Superior Court of the County of Contra Costa, California.

8. Survival. The provisions of this Consent shall survive both the execution and delivery of this Consent.
9. Recitals. The Recitals are true and correct and are incorporated herein by reference.
10. Notice. From and after the effective date of the Assignment, all notices given to Tenant under the Lease will be mailed to:

Pacific Whole Foods Co.  
Attn: Mr. Hector Esquivel  
 2603 Camino Ramon Suite 200  
 San Ramon, CA 94583

The parties are signing this Consent as of the date set forth in the introductory paragraph.

**COUNTY**

CONTRA COSTA COUNTY, a political  
 Subdivision of the State of California

**ASSIGNOR**

Rhone, LLC

By \_\_\_\_\_  
 Keith Freitas  
 Director of Airports

By \_\_\_\_\_  
 Marawan Raafat  
 Managing Member

**RECOMMENDED FOR APPROVAL:**

By \_\_\_\_\_  
 Karen Laws  
 Principal Real Property Agent

By \_\_\_\_\_  
 Beth Lee  
 Assistant Director of Airports

**ASSIGNEE**

Pacific Whole Foods Co.

By \_\_\_\_\_  
 Hector Esquivel  
 President

By \_\_\_\_\_  
 Rosemary A. Ludtke  
 Secretary

**APPROVED AS TO FORM:**

By Sharon L. Anderson, County Counsel

By \_\_\_\_\_  
 Kathleen M. Andrus,  
 Deputy County Counsel